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The US and the War Crimes in the War on Terror



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“The strong do what they can and the weak suffer what they must.”

– Thucydides, 5th Century BC.

For the past two decades, the International Criminal Court has concentrated on the war crimes and criminals who have operated in Africa. Over the past month, however, the court has issued an arrest warrant for Russian President Vladimir Putin and his Commissioner or Children’s Rights. Our own Department of Justice is even considering a federal indictment of Syrian leaders responsible for the torture and execution of an

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American human rights worker, Layla Shweikani. The war crimes of Syrian President Bashar al-Assad are well known, but this would mark the first time that the United States has criminally charged Syrian officials with human rights abuses. There is no indication, however, that the ICC or the Department of Justice will take on the war crimes committed by the United States during its Global War on Terror in the wake of the 9/11 attacks in New York City and Washington.

The mainstream media has been giving increased attention to the issue of war crimes as well as the 20th anniversary of the start of the Iraq War, but there has been no attempt to link the issues. The war itself could be labeled a war crime or a “crime against the peace,” which was the charge against Germany introduced at the Nuremberg Trials in 1945 and 1946. The most prominent war crimes were the Central Intelligence Agency’s detentions and renditions program as well as the sadistic program of torture and abuse, which have been devoid of any accountability whatsoever. One of the leaders of the program, Gina Haspel, even became Donald Trump’s CIA director.

Nor has there been any focus on the U.S. military’s role in renditions and detentions, including the detaining of individuals suspected of involvement in 9/11. There are many reasons for closing down the wartime prison at Guantanamo Bay, but the obvious one deals with prisoners there who have never been charged with a crime over a period of 20 years and/or were subjected to numerous forms of torture and abuse. It was Vice President Dick Cheney who convinced President George W. Bush to locate the prison at Guantanamo Bay in Cuba in an effort to put it out of reach of the U.S. legal system. A federal appeals court is still dealing with the issue of whether the Gitmo prisoners have due process rights under the Constitution, but the relevant opinions have not been released because they reportedly contain classified information. Once again, we are witnessing the application of security classifications to hide embarrassing information.

The most unusual and bizarre defense of the CIA’s program came from the current national legal director of the American Civil Liberties Union, David Cole, who wrote an exculpatory brief for the CIA in the *New York Times* in 2015. Cole, the first recipient of the ACLU’s prize for contributions on civil liberties, argued that the CIA got a “bum rap” from the Senate intelligence committee’s comprehensive report on torture and abuse, and concluded that the CIA was “treated unfairly” in the report. Nowhere did Cole mention that the CIA began its various tortures before the Department of Justice issued its so-called Torture Memoranda that “sanctioned” certain measures and even lied to the White House

about specific details of the program, particularly the fact that many of the techniques were being used at once.

Cole never mentioned the more unconscionable aspects of CIA's torture and abuse such as "rectal feeding" and "rectal hydration" that involved a "pureed" blend of hummus and raisins that was "rectally infused." The CIA justified these techniques as "medically necessary," and never acknowledged that such techniques were performed in some cases on individuals who were probably innocent. There also were examples of rectal plugs inserted into innocent captives upon capture, which led to their claims of being raped.

Three former CIA directors (George Tenet, Porter Goss, and Michael Hayden) as well as former deputy directors (John McLaughlin and Steve Kappes) testified that these techniques worked; they didn't. Cole makes no mention of CIA director John Brennan, who explained that "The president told us to do it, and we did what we were told." That should have had an obvious Nuremberg ring to a constitutional scholar such as Cole.

The CIA even fast-tracked a deceitful book on the torture and abuse program that allowed five former CIA directors and deputy directors as well as other senior officers to make their case for "enhanced interrogation techniques," the CIA euphemism for torture. The book, titled "Rebuttal," was designed to challenge the Senate intelligence committee's authoritative study of torture and abuse that CIA director Brennan did his best to kill.

"Rebuttal" was part of a full-court press that the CIA adopted to have an impact on public opinion, which was a violation of the CIA's charter that doesn't permit this type of propaganda campaign at home. Tenet created a website called CIASAVEDLIVES.com, and former deputy director Michael Morell wrote a book titled "The Great War of Our Time" to defend torture and abuse. He noted that only National Security Adviser Condi Rice objected to one of the CIA's techniques that couldn't be used because it "crossed the White House's moral line." I shudder to think about what that could have been.

In addition to charges that could have been brought, one proper punishment for these former CIA officials would have included being forced to watch the 92 torture tapes that recorded the sadistic techniques that were used. Fortunately for them, however, the director of interrogations, Jose Rodriguez, defied orders from the White House to protect the tapes. He ordered their destruction, Haspel sent out the cable with Rodriguez's order, and various CIA overseas officials carried out the assignment.

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