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Imperial Shame for America at Abu Ghraib

by Jacob G. Hornberger

The sex-abuse, rape, and torture scandal at the Abu Ghraib prison in Iraq might explain why U.S. officials have steadfastly [opposed joining](#) other nations in the formation of an international war-crimes tribunal. When government officials are actively involved in war crimes, the last thing they want is to be subjected to external scrutiny, investigation, and punishment. Better to keep the wrongdoing in-house, where fallout from disclosures can be minimized and swept under the carpet.

It is impossible to overstate the irreparable damage from the sex-abuse, rape, and torture scandal at Abu Ghraib prison.

First, the sex-abuse, rape, and torture scandal at Abu Ghraib has made it virtually certain that U.S. soldiers taken captive all over the world will be gravely mistreated by their captors, and U.S. government pronouncements opposing such mistreatment will ring hollow not only to the captors but also to the people of the world.

Second, the sex abuse, rape, and torture of Iraqi prisoners has put the American people at greater risk from terrorism than ever before. Why? Because with the possible exception of raping women in front of their families, it is difficult to imagine anything that would inflame anger and hatred more than humiliating Arab men with forced nudity, sex abuse, rape, and torture, especially by U.S. military female personnel.

Even before the 9/11 attacks, The Future of Freedom Foundation was ardently stating that it is imperative for the American people to reexamine and reevaluate America's foreign policy. We have repeatedly maintained that, contrary to what U.S. officials have steadfastly claimed since the September 11 attacks, the anger and hatred that has driven Arab men to commit acts of terrorism against our country is not rooted in America's "freedom and values" but instead in anger and hatred for horribly wrongful acts that have been committed by the U.S. government over a long period of time. The sex abuse, rape, and torture of Iraqi detainees at the Abu Ghraib detention center are just part of this long-established pattern of wrongful conduct.

Third, if Iraqi insurgents needed any better reason than to fight and die to oust a foreign occupier from their land, U.S. officials have provided it to them with the sexual humiliation and torture of Iraqi men. In fact, that might have even been the real reason — the knowledge that the release of those sex abuse photographs all over the Middle East would inflame Iraqi insurgents — that U.S. officials prudently withdrew from Fallujah after relinquishing control of the city to one of Saddam’s old Republican Guard military henchmen.

In fact, I wouldn't even be surprised if the Abu Ghraib nudity, sex-abuse, rape, and torture scandal — and the anger and hatred it produces not only among the insurgents and terrorists in Iraq but also among the ordinary people in that country — spells the beginning of the end of the U.S. occupation of Iraq. As Juan Cole, professor of modern Middle Eastern history at the University of Michigan, [put it](#) in today's (May 3) *Washington Post*, “The public relations damage is profound and permanent. The release of these pictures may be the point at which the United States lost Iraq.” Indeed, it would be difficult to imagine a better recruiting tool for Osama bin Laden and al-Qaeda.

For more than a year, The Future of Freedom Foundation has been publishing articles about growing evidence that U.S. military officials were committing war crimes through the torture of prisoners of war. On April 26, 2003, I wrote,

With all the evidence surfacing regarding Saddam Hussein’s torture chambers, wouldn’t this be a good time to revisit the issue of whether our government should be [involved in the same sort of misconduct](#)?

Or is such conduct evil only when Saddam Hussein does it but good when U.S. officials do it?

The link went to a list of articles that we had posted on our website in April 2003; on that list were news stories appearing in CBS News, *New York Times*, *Washington Post*, *The Nation*, *The Guardian*, *New Yorker*, and many other sources providing strong circumstantial evidence of U.S. war crimes involving torture of prisoners.

Also published in April 2003 was my series of articles entitled “[Obedience to Orders](#),” which produced the biggest firestorm of controversy in FFF’s history. The article made the simple point that officers who graduated from Virginia Military Institute were generally of higher caliber than officers who graduated from the professional military academies. (In the interests of full disclosure, I am a 1972 VMI graduate.) The reason? The graduates of the academies (generally, and obviously with exceptions) are taught to maintain an unswerving obedience to orders, and they know that their rise through the ranks of the military depends on such a mindset. VMI officers, on the other hand, being trained as “citizen-soldiers,” develop a sense of conscience

and independent thinking that (again generally, and with exceptions) trumps blind obedience to orders.

Thus, in my “Obedience to Orders” series, I pointed out that if it is ever established that U.S. military personnel have been involved in the torture of prisoners, it would not surprise me to learn that graduates of the military academies were in the chain of command or, faced with knowledge of what was occurring, remained silent in the face of such war crimes; but that it would surprise me to learn that VMI officers had done so.

Immediately, I was inundated with a barrage of [critical emails](#) from West Point cadets questioning my premise that VMI produced better officers than West Point, but generally failing to focus on the main point I was making. Thus, I responded with a blunt challenge:

So let's put the central and important issue in clear and stark terms, so that there will be no misunderstanding or side issues to distract us: It is wrong, immoral, and illegal to torture or mistreat prisoners of war and criminal suspects. It is a crime or a war crime to do so, whether it's done by an enemy soldier or cop, or by a U.S. soldier or cop. A military officer has a moral and legal duty to refuse to obey an order to that effect, whether it is issued by the president or simply his immediate superior officer.

Black and white. No hemming and hawing. No fuzziness. No side issues.

Now there are those who say, “But I don't have proof that my government is engaged in such wrongdoing. It's all just hearsay. I'm hoping that it really isn't happening.”

Well that just doesn't cut it, now does it? After all, we can all sit here and say that the reports of rapes at the Air Force Academy are just based on hearsay and we can just hope that the Academy administration didn't condemn the women and didn't protect the rapists, but how can that ostrich strategy be reconciled with principles of morality and law? After all, it's not possible, is it, that the ostrich strategy that has covered up rapes and protected rapists at the Air Force Academy might be related to the ostrich strategy on U.S. torture and mistreatment of POWs and criminal suspects?...

Moreover, every officer worth his salt should know that torture and mistreatment of enemy prisoners of war is the worst possible military strategy one's side could employ. If the enemy knows that he is going to be treated well, he is much more likely to surrender. Why else were German soldiers desperately fighting (and dying) near the end of World War II to surrender to U.S. forces rather than to Soviet forces? Therefore, any officer who gives a hoot for the welfare of his men will do his best to ensure that such a wrongful policy is abandoned posthaste. Moreover, while there is no guarantee that

enemy forces will honor the same rules of right conduct, it's much easier to call on them to do so when you are on the moral high ground.

Pentagon brass weighed in on the controversy, with a Pentagon colonel (and West Point graduate) stating in an email message,

Take my word for it, West Pointers are taught from Day 1 that they are duty bound to disobey illegal or immoral orders. Furthermore, you chose to discuss sexual harassment, which I don't find to be relevant, and ignores the less than stellar record of VMI in the integration of women, several years after the public academies.... Your timing is particularly poor given that alumni of our two institutions are currently putting their lives on the line side by side in Iraq.

I [responded](#) to that Pentagon colonel:

With all due respect, the issue of treatment of POWs and disobeying immoral and illegal orders is never more timely than during war. And this includes both the situation at Guantanamo, where the Pentagon is now threatening to send Iraqi POWs, and the two homicides of Afghan POWs in Afghanistan. The only way that wrongdoing of this nature is going to stop is when one officer says "No," followed by a second, and a third.... One way is make it stop from the top, such as at the Pentagon, and another way is to make it stop from the bottom up. I didn't discuss sexual harassment in my article. I discussed rape. There's a difference.

The executive vice-president of the VMI Alumni Association, one Paul Maini, then weighed in on the controversy, emailing a message to one Col. Hudgins at West Point suggesting that matters stated in my article were "insulting, ridiculous, reprehensible, and bizarre."

I responded to Maini's message in [part 3](#) of my series, explaining to him why our Founding Fathers opposed standing armies and favored citizen soldiers for our country, and asking him, quite bluntly,

Now, Mr. Maini, are you saying that it's "insulting, ridiculous, reprehensible, and bizarre" to suggest that the U.S. government is engaged in the torture and mistreatment of POWs and criminal suspects? Or are you saying that my contention that VMI officers are less likely to obey unlawful or immoral orders than officers from the professional academies is "insulting, ridiculous, reprehensible, and bizarre"? Or are you saying that *any* opposition to the U.S. government's torture and mistreatment of POWs and criminal suspects is "insulting, ridiculous, reprehensible, and bizarre"?

Maini never responded. I wonder what he's thinking now, in light of the following reactions to the reprehensible and bizarre sex-abuse, rape, and torture scandal at Abu Ghraib prison:

"I shared a deep disgust that those prisoners were treated the way they were treated. Their treatment does not reflect the nature of the American people."

— President (and commander in chief of U.S military forces) George W. Bush

"We're appalled ... these are our fellow soldiers, these are the people we work with every day, they represent us, they wear the same uniform as us, and they let their fellow soldiers down. We expect our soldiers to be treated well by the adversary, by the enemy ... and if we can't hold ourselves up as an example of how to treat people with dignity and respect, we can't ask that other nations do that to our soldiers."

— Brig. Gen. Mark Kimmet, chief U.S. military spokesman in Iraq

Of course, it's still impossible to know exactly which officers were involved in the wrongdoing at the Abu Ghraib prison because the Pentagon is being cautious and circumspect about revealing their names. What we do know is that military officials have so far decided to court-martial only six soldiers and — surprise, surprise — all of them are enlisted personnel (that is, no officers), and — again, surprise, surprise — all of them are Reserve, rather than regular Army, troops!

The brigadier general in charge of the prison, Janis Karpinski, hasn't been court-martialed. Instead, U.S. military officials have simply "admonished" Karpinski and suspended her from commanding the prison. Karpinski is saying that she's innocent anyway because the real people in charge of the sex abuse, rape, and torture in that part of the prison were personnel from U.S. Military Intelligence, who, she says, wouldn't permit either Karpinski or the Red Cross to visit that section of the prison; there's also evidence of CIA involvement in the wrongdoing. As previously noted, there is no evidence so far that the government is proceeding criminally against these individuals, much less releasing their identities.

It's hard to see how Karpinski gets off the hook, though, given that she was the military commander in overall charge of the prison, with the power and responsibility to command and control all parts of the prison. It's easy to understand, however, why the Pentagon wouldn't want to get her upset with a court-martial, especially given that she can name names and give details, which she did anyway over the weekend in [an interview](#) with the *New York Times*.

In fact, while Gen. Ricardo Sanchez, commander of U.S. forces in Iraq, ordered a study into the scandal a few months ago, he nonetheless has to be somewhat concerned over the

possibility that the U.S. government's [Yamashita doctrine](#) will be applied to him. You'll recall that Gen. Tomoyuki Yamashita was the Japanese general in charge of the Philippines during World War II and was executed after a U.S. military tribunal found him guilty of war crimes. What were his war crimes? None, except for the fact that the men under his command committed war crimes after allied bombing prevented Yamashita from stopping them from committing such war crimes. In the other words, the Yamashita doctrine, as set forth by the U.S. military, is that a military commander is criminally responsible for the war crimes committed by his men, even if he hasn't ordered, authorized, or condoned such acts. Sanchez is obviously in a much worse position than Yamashita, given that he had total control over Iraq and his men and the Abu Ghraib prison at the time the sex crimes and torture were being committed.

Regardless of which people are ultimately punished, it is impossible for the Pentagon to escape moral responsibility for the war crimes committed at Abu Ghraib prison. If Pentagon officers had sent clear and unmistakable orders down the chain of command from the very beginning, stating that sex abuse, rape, and torture of prisoners would not be countenanced and that officers who permitted such wrongful conduct would be severely punished, it is unlikely that the war crimes at Abu Ghraib prison would have been committed. There can be no doubt that the Pentagon's failure to take a clear and unequivocal stand against such misconduct has produced the climate under which U.S. military personnel have thought that it is okay to engage in the mistreatment of prisoners in Iraq and, for that matter, in Afghanistan and Cuba as well.

The temptation of the Pentagon in this scandal might well be to protect itself from the consequences of this scandal, especially if knowledge of what was occurring leads upward to the Pentagon itself. Already, there appear to be attempts to punish lower-ranking individuals while protecting personnel in U.S. Military Intelligence and the CIA, perhaps even even under the standard guise of the need to protect "national security." We shouldn't be surprised if we are treated to a cavalcade of FOX News-like platitudes from the Pentagon about the need to "support the troops" and how this is "just a small minority of bad apples" and how it's time to just "move on."

Nothing could be worse, both for our country and for our troops. A full and complete investigation and criminal prosecution of every single person involved in these war crimes, perhaps even by a independent nonmilitary prosecutor operating within the federal civil court system, and even if the prosecution reaches the highest reaches of the Pentagon, is necessary, not only for our own sakes, not only for the sake of America's integrity, but also for the sake of our troops. A full and complete examination and reevaluation of U.S. foreign policy would be even better.

Mr. Hornberger is founder and president of The Future of Freedom Foundation.

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