



# How the Use of Torture Changed American Foreign Policy Realities

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## **ABSTRACT**

On September 11, 2001, the United States experienced the deadliest terrorist attack in human history. The events of that day inflicted a devastating emotional toll on Americans, changed international perceptions of terrorism, and raised questions about America's foreign policy and role in the world. Despite the longstanding public opposition to torture based on norms derived from American liberalism (including a general concern for civil liberties and rights of the accused), widespread acceptance of the use of torture emerged in the aftermath of 9/11 (Mayer & Armor 2012). This research paper attempts to examine the complex relationship between state-sanctioned torture and foreign policy, specifically asking: how did the United States' use of torture in the aftermath of 9/11 impact the politico-strategic realities of American foreign policy? This article offers an overview of America's torture policies and subsequently explores their unintended impacts. The analysis finds that the impacts observed from America's use of torture post-9/11 decreased the feasibility of counterterrorism policies, alienated traditional allies, and weakened the influence of American soft power around the globe. The article concludes with a discussion of implications and presents an argument against torture for realists that does not depend on human rights.

## Overview of US Torture Policies

Through a secret memorandum issued on September 17, 2001, the Bush administration granted the Central Intelligence Agency (CIA) the authority to capture and detain suspected enemy combatants in the War on Terror. The program, officially called ‘Rendition, Detention, and Interrogation’, involved the disappearance, extrajudicial detention, and torture of foreign individuals at CIA black sites—a complex network of overseas detention centres, including Guantánamo Bay (Schmidt & Sikkink 2018). In May 2002, the Bush administration worked directly with John Yoo, the Deputy Assistant Attorney General for the Office of Legal Counsel, to develop legal justifications for policies pertaining to the War on Terror. Several top-secret documents authored and signed by Yoo under this directive are widely known today as the “Torture Memos” (Bybee 2002). These memos legalized a number of mental and physical torture methods as legitimate ‘enhanced interrogation’ techniques. These techniques included waterboarding, sleep deprivation, cramped confinement, boxed confinement with insects, and stress positions which forced individuals to maintain painful stances over an extended period of time (Bybee 2002).

‘Enhanced interrogation’ regularly exceeded what was officially sanctioned in the ‘Torture Memos’. The most infamous report available on such proceedings surfaced in 2004, revealing torture conducted by the US Army and CIA at Abu Ghraib prison in Iraq. Reports by international NGOs exposed evidence of torture techniques including the deprivation of food, drink, and medical care, exposure to

extreme heat and cold, sexual humiliation, and medically unnecessary rectal feeding (Amnesty International 2004). Despite the Bush administration’s claims that these occurrences were “exceptions” rather than “a pattern or practice”, subsequent leaked internal documents confirmed the administration’s policy positions supporting the de facto acceptance of torture (Amnesty International 2004). The Abu Ghraib scandal widely publicized American torture policies to domestic and international audiences, thus resulting in a partisan split within the United States, with Democrats largely opposing the policies (Mayer & Armor 2012, 441). On January 22, 2009, days after his inauguration, President Barack Obama declared that the enhanced interrogation techniques of the Bush era constituted torture, and immediately prohibited their use through Executive Order 13491 (The White House 2009). For nearly a decade, however, torture played a central role in the American response to 9/11.

## Impacts on Counterterrorism Policies

The initial authorization of torture by the Bush administration was motivated by the expectation that enhanced interrogation techniques would provide information to prevent further terrorist attacks against the United States (Bybee 2002). However, declassified reports released in 2014 show that the CIA’s use of torture was not an effective means of acquiring accurate intelligence or procuring cooperation from detainees (United States Senate Select Committee on Intelligence 2014). This section contends that America’s use of torture impacted its foreign policy by decreasing the

feasibility of counterterrorism policies, which aimed to destroy terrorist organizations and hamper their abilities to conduct terror attacks.

The initial reports of torture—particularly the graphic images released from Abu Ghraib in 2004—provided anti-American extremists with a powerful recruiting incentive (Johnson et al. 2016). A State Department report leaked in the spring of 2006 found that torture committed against detainees at Guantánamo Bay and Abu Ghraib was the single most motivating factor for foreign jihadists to join insurgents in Afghanistan and Iraq (Johnson et al. 2016, 123). A Saudi government document, leaked in 2009, reported that in the days immediately following the Abu Ghraib photo release, over 250 Saudis attempted to join extremist groups overseas (Johnson et al. 2016, 123). Although their numbers never constituted a majority of fighters, the determination of these highly-motivated foreign fighters had an outsized impact on American security forces. According to government reports, over 90 percent of suicide bombings against American troops between 2003-2005 were conducted by these foreign fighters (Johnson et al. 2016, 124). As such, torture may be considered “an aggravating factor for terrorist violence”, which made American counterterrorism objectives of destroying terrorist organizations in Afghanistan and Iraq increasingly difficult (Morris 2019).

In addition to increasing the number of anti-American fighters, revelations of American torture reduced the likelihood of American forces achieving cooperation from local populations. A fundamental aspect of American foreign policy in Iraq and Afghanistan was centred

around local communities cooperating with the American military rather than extremists. The support of local populations was not only beneficial for morale, but also provided troops with crucial on-the-ground intelligence, which was required to effectively identify and target legitimate threats (Johnson et al. 2016, 125). The revelations of torture resulted in significant political consequences for the United States, particularly in Iraq. Upon the release of the Abu Ghraib photos, Iraqi support for the American military intervention to overthrow the government of Saddam Hussain nosedived from 63 percent to only 9 percent (Hamm 2007). While American and Iraqi narratives to justify the intervention were initially constructed around the liberation of oppressed people and the spread of democracy, the widespread knowledge of torture overwhelmed these perceptions and solidified America’s reputation as a “hated occupier” in the region (Hamm 2007).

Such changing perceptions extended far beyond the populations of Afghanistan and Iraq, which were directly exposed to large-scale conflict with American troops. Reports of American torture, which largely targeted and victimized Muslims, sparked outrage in Muslim communities around the world and significantly hampered American foreign intelligence capabilities throughout the Middle East and North Africa (Morris 2019, 195). This shift represented a significant blow to one of Washington’s major goals around counterinsurgency and counterterrorism: destroying terrorist organizations by denying them local support. Formerly US-friendly groups, such as the Kurds, a distinct ethnic group which had been important

American allies in the 1991 Gulf War, became increasingly hesitant to provide logistical and intelligence support to the Americans. For these groups, the use of torture by American forces resulted in a new moral ambiguity, contradicting their previously held beliefs that only one side of the conflict failed to follow standards concerning the humane treatment of captives (Johnson et al. 2016, 124).

Today, the negative impacts of torture on American foreign policy goals are recognized by those who supported and oversaw systematic torture operations. In a 2013 interview, Stanley McChrystal, former Commanding General of the Joint Special Operations Command in Iraq, claimed that the torture revelations “hurt [America] more than anything else in the war in Iraq” (McChrystal & Rose 2013). He claimed that as the war dragged on, jihadists increasingly cited torture as their primary motivation for entering the conflict. He describes a shift in perspective: “it was proof [that] everything they thought bad about the Americans was true” (McChrystal & Rose 2013). American torture provided anti-American groups with a tool that inspired more extremists to enter the conflict and reduced support and intelligence from local populations. Ultimately, the US produced the opposite of its intended effect, significantly hampering foreign policy goals concerning counterinsurgency and counterterrorism in the Middle East and North Africa.

### **Alienation of Traditional Allies**

Following WWII, American foreign policy increasingly adopted a framework that emphasised the importance of international coopera-

tion in conflict. This is best exemplified by the invocation of NATO’s Article 5 in the aftermath of 9/11, which specified that an attack on one member was an attack on all, triggering the responsibility of collective defence (Council on Foreign Relations 2022). Troops from 27 coalition countries directly supported America’s War on Terror, and others provided intelligence and engaged in “counterterrorism cooperation” (Council on Foreign Relations 2022). Despite this initial support, reports of American-led torture increasingly alienated traditional allies and undermined cooperation between NATO members.

While the longstanding norm of opposition to torture quickly withered among the American public, the same cannot be said for the citizens and governments of America’s allies (Banham 2016, 914). Inter-ally relations were particularly impacted when citizens of allied states were subjected to torture while in American custody. This was demonstrated by the United Kingdom’s reaction to nine of its citizens being detained and tortured at Guantánamo Bay between 2004 to 2005. Following threats by the United Kingdom to reduce military and political support to the United States, the individuals were repatriated; however, this was not done before an increase in international public outrage over the use of torture (Banham 2016, 917).

The international community’s outrage was so significant that it delayed and inhibited the troop deployments of multiple allied states, weakening American foreign policy objectives by delaying critical counterterrorism efforts. In the case of the Netherlands, strong public op-

position to torture delayed parliamentary approval for the deployment of Dutch troops to Afghanistan by over three years (Johnson et al. 2016, 125). The Dutch only deployed troops after Washington provided explicit assurances against the use of torture on detainees (Johnson et al. 2016, 125). Some of America's closest allies, which had provided support in the War on Terror from the very beginning, also limited support due to domestic concerns over torture. At a military conference in 2005, a joint statement from military lawyers representing Canada, Australia, New Zealand, and the United Kingdom declared that if torture persisted, cooperation "across the range of military, intelligence, and law enforcement activities in the war on terror would continue to decline" (Johnson et al. 2016, 125). Internationally, public opposition to American torture made the continued support of American efforts abroad politically damaging for politicians in allied nations.

Possibly the most jarring examples of impacts on cooperation occurred regarding the detainment and custody of suspected terrorists and enemy combatants. Despite pledges from high-ranking American politicians to allies stating that detainees would be treated humanely, foreign intelligence reports consistently documented instances of American torture. In 2005, the United Kingdom's House of Commons Foreign Affairs Committee released a report stating that "the UK can no longer rely on US assurances that it does not use torture, and we recommend that the [UK] government does not rely on such assurances in the future" (Keating 2014, 73). The subsequent strategic shift of alienated allies resulted in coalition forces not

turning over detainees to the American military for fear that they would be charged with aiding and abetting torture (Johnson et al. 2016, 125). In instances where coalition forces captured an enemy combatant but did not have the adequate facilities to detain them, combatants were released rather than being transferred to American custody (Keating 2014, 73). The distrust and subsequent alienation of traditional allies resulted in potential threats returning to the battlefield, undermining American military and stability objectives.

When extremists accused of providing support to terrorist networks and plotting against the US were captured by traditional allies in their own countries, concerns about torture prevented extraditions that would have otherwise been routine. Spain, Italy, Finland, France, and the Netherlands all denied extradition requests on the grounds that legal guarantees against torture made by the United States had been violated (Keating 2014, 73). The impacts of America's torture policies on extradition requests have remained consequential to this day. In recent years, multiple traditional American allies, including the UK and the Netherlands, have denied extradition requests on the grounds that international law "prohibits the extradition of torture victims to countries that played a role in abuse" (Reuters Staff 2015). While the torture in question occurred nearly two decades ago, these individuals are granted indefinite protection from facing legal proceedings in the United States, regardless of the strength of evidence against them. America's torture policies damaged its relations with its allies as well as its ability to successfully extradite suspects, ul-

timately reducing American intelligence gathering capabilities.

### **Weakening of American Soft Power**

While the importance of soft power in foreign policy is not a uniquely American reality, there is a general agreement among scholars that no other modern state has as effectively used soft power resources to steer international norms and institutions (Nye 2004, 257). Since 1945, the United States has used its hegemonic status and soft power legitimacy as primary tools in instances where it considers the promotion of democracy, human rights, and international law to align with its interests (Keating 2014, 80). The use of torture both distanced the United States from international standards and severely impacted its legitimacy and ability to pressure others into adhering to these norms (Sundstrom 2006).

In response to accusations made by the United States of non-compliance with human rights and democratic standards, states with historically poorer human rights records have been quick to point out American hypocrisy when the state's internal affairs were put on the agenda. For instance, in an attempt to counter American criticisms over reported corruption in a Zimbabwean by-election, government officials claimed that "the United States had lost the moral rights to judge others" following the newly reported torture allegations (Keating 2014, 73). In subsequent years, countries including China, India, Iran, Russia, Syria, and North Korea rebuffed condemnations and undermined American diplomacy by citing America's history of torture (Schmidt & Sik-

kink 2018). This dynamic has allowed chronic human rights abusers to justify their actions as simply something that all states do, by crafting discourses that attempt to normalize their use of torture, while simultaneously undermining US soft power (Keating 2014, 76).

Not only did the reputational hit and decline of American soft power prevent future progress; it also undermined significant existing foreign policy developments built from reputational diplomacy. In the mid 2000s, American officials increasingly saw Syria's personalist dictator Bashar al Assad as "more democratic and reform-minded than his father", who had died in 2000 following nearly thirty years of dictatorial rule (Johnson et al. 2016, 131). While American diplomatic maneuvering in Syria initially resulted in significant progress towards respect for human rights and international law in the country, America's torture policies seriously damaged its credibility and diplomatic effectiveness in the region (Johnson et al. 2016, 131). The fallout and perceived decline of American diplomatic legitimacy resulted in an emboldened Assad who, to this day, continues to undermine American foreign policy objectives in the Middle East.

One of the long-term consequences of the use of torture is that American adversaries have been able to continually cite hypocrisy and a lack of accountability as a means of delegitimizing the actions of the US. This has become an especially common strategy used by America's latest strategic rival, China, which continues to highlight the record of American torture through its state media agency Xinhua (Huaxia 2022). The agency argues that the United States



justifies its own use of torture as a “necessary evil”, while condemning it in other countries as “barbaric” (Sundstrom 2006, 441). Xinhua’s stories about American torture are published in English, in addition to its standard Mandarin; this linguistic choice highlights that the stories are designed for both domestic and international consumption, allowing Xinhua to cultivate a general distrust towards the US and weaponize anti-American sentiment globally (Hamm 2007, 260). By highlighting the US’ wrongdoings, China is able to raise its own comparative international standing by delegitimizing the US, weakening its soft power, and subsequently reducing its diplomatic effectiveness (Nye 2004, 258). Torture ultimately resulted in the US becoming less influential and less secure, not only undermining key foreign policy objectives relating to counterterrorism, but also the promotion of American policies and values (Johnson et al. 2016, 127).

## Implications

Through an examination of the complex relationship between state-sanctioned torture and foreign policy, this article argues that the use of torture impacted American foreign policy by decreasing the feasibility of counterterrorism policies, alienating traditional allies, and weakening the influence of American soft power around the globe. These conclusions serve as prime examples of the complexities of foreign policy. Unintended consequences can have significant lasting implications that shape global outcomes, especially when concerning hegemonic powers. Despite a robust literature and official government reports arguing that torture

is not an effective strategic tool for gathering reliable intelligence, public opinion polls shows that nearly 50 percent of Americans continue to support its use in the fight against terror (Mayer & Armor 2012, 440-441). Prominent politicians continue to promote torture in domestic and foreign cases as an important and essential tool in the fight against terrorism. When asked about waterboarding in 2016, then-presidential candidate Donald Trump expressed strong support, claiming “I don’t think it’s tough enough” (Johnson et al. 2016, 132). Trump’s statement highlights an unfortunate reality: for many Americans, torture is not viewed as an intelligence gathering tool, but rather as a tool of revenge to satisfy an angry and fearful public (Mayer & Armor 2012, 445). From this perspective, the brutality and ineffectiveness of torture does not deter its proponents because brutality is the goal and intelligence gathering is of secondary concern. To effectively sway this group, a new perspective is required, one with an argument grounded in the pragmatic considerations of realpolitik rather than abstract moral principles and values. While also being immoral and ineffective, torture is a strategically costly endeavor with major drawbacks that undermine American foreign policy objectives.

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