

Torture: It's Not Whos We Are – Or Is It?

by Todd Pierce

“Senate Confirms Gina Haspel to Lead C.I.A. Despite Torture Concerns,” is how *The New York Times* put it. Was there ever any doubt of this outcome? In fact, in spite of being nominated by Donald Trump, Bloody Gina Haspel, as some former CIA officers know her, was confirmed as the new CIA director by a Senate vote of 54 to 45, with six Democrats supporting her confirmation. To be sure, the CIA got whom they wanted. (*The New York Times* reported on April 20th on “How the C.I.A. Is Waging an Influence Campaign to Get Its Next Director Confirmed”).



Angels carrying instruments of torture. Early 17th-century fresco, Chapel of Palazzo Altemps, Rome, Italy

Accomplishing Haspel’s confirmation with today’s U.S. Senate was not hard. It was reminiscent of a remark attributed to Minnesota Senator Eugene McCarthy in 1967, on hearing that presumptive presidential candidate Michigan Governor George Romney admitted he had been “brainwashed” by State Department officials and Army generals on a visit to Vietnam—McCarthy is said to have responded that Romney had only needed a “light rinse.” In the United States today, it doesn’t take much of an influence campaign to confirm an indisputable CIA torturer, with so many Americans now eager to defer to the CIA and predisposed to believe anything it says, even, or especially, on torture.

Yet it is still frequently said of the American people that the practice of torture “is not who we are,” when criticizing its practice by U.S. intelligence and military officers. This is said in response to statements that Trump has made in favor of torture, treating him and his views on torture as an aberration from the American “mainstream’s” opinion on torture. However, by its vote in favor of promoting Haspel to CIA director, the Senate demonstrated that it doesn’t really condemn torture by U.S. officials.

In fact, in spite of misconceptions promoted by Trump and now broadly accepted in the mainstream view, *torture is not supposed to be who we are*, because federal law criminalizes

torture as a “war crime” in the War Crimes Act. The act is United States law (codified as: 18 U.S.C. § 2441), making it an offense “whether inside or outside the United States” to commit a war crime if one is a member of the Armed Forces of the United States or a national of the United States, which would include most CIA officers involved in these crimes, such as Gina Haspel. Her confirmation as director of the CIA is perhaps a reward for destroying evidence revealing that her fellow CIA officers had committed war crimes. A war crime is defined as any conduct that is a grave breach of Common Article 3 of the Geneva Conventions when committed in war. As the U.S. government declares our “perpetual war,” that specifically means torture is a war crime.

We know many U.S. officers are guilty of it, because President Obama, without going into greater detail of the elements of torture, admitted it, as in “we tortured some folks,” in that down-home, aw-shucks way he had in explaining away U.S. war crimes while saving his vituperation for Syrians and Libyans and condemning them to hell on earth by waging war against them.

So, the next step is holding our war criminals accountable for torturing, one would think? Granting impunity to war criminals is, itself, a war crime, so U.S. officials wouldn’t compound the war crimes already committed by granting impunity, would they? Yes, Trump would, of course, and has said so. In fact, the perpetrators get promoted, as Haspel was by the Senate.

But torture by U.S. officials began long before Trump came along; in fact, as we must remember, it began under the George W. Bush administration and has continued through the Obama administration down to the present day.



Ray McGovern, a former high-ranking CIA analyst, now a peace/justice activist, tackled violently by Capitol police at the May 9 Senate Confirmation hearing of Gina Haspel as CIA director after asking Haspel a question about her supervision of water boarding. McGovern interview at Globalresearch.ca: tinyurl.com/yb2z8rv2

How can this be so when Obama ordered that individuals held by any U.S. government agency “shall not be subjected to any interrogation technique or approach, or any treatment related to interrogation, that is not authorized by and listed in Army Field Manual 2 22.3?” Here’s how: As *The Guardian* explains in a 2014 article by Jeffrey Kaye, “the United States Army Field Manual (AFM) on interrogation has been sold to the American public and the world as a replacement for the brutal torture tactics used by the CIA and the Department of Defense during the

Bush/Cheney administration.¹

The Guardian continues: “A close reading of Department of Defense documents and investigations by numerous human rights agencies have shown that the current Army Field Manual itself uses techniques that are abusive and can even amount to torture.” Those techniques were listed under Appendix M, which, as human rights and legal groups have recognized, include numerous abusive techniques such as the use of solitary confinement, sleep deprivation, and sensory deprivation.

These abusive techniques are also torture when their use is prolonged even a little, and have been said by victims to be the worst forms of torture; they constitute torture when employed for extended periods of time because of the way they cause the body to shut down so that the mind loses touch with reality and begins to hallucinate.

Furthermore, as Physicians for Human Rights reported years ago, “indefinite detention” itself can rise to the level of torture with the passage of enough time, as has now happened with the so-called “forever prisoners” being held at Guantánamo. A 2016 letter to the Senate from the Bellevue/NYU Program for Survivors of Torture (PSOT), the Center for Victims of Torture (CVT), and Physicians for Human Rights (PHR) called for an end to indefinite detention without charge or trial.² They wrote:

Medical knowledge and experience establish that the protracted uncertainty of indefinite detention inflicts profound psychological and physical trauma. Harmful effects include severe anxiety and dread, pathological levels of stress, dissociation, depression and suicidal thoughts, and post-traumatic stress disorder. Some individuals even manifest physical symptoms such as breathing difficulties, physical pain, and skin disorders. The mental and physical harms of indefinite detention are over and above the already substantial stressors of incarceration, and are exacerbated in individuals who have previously experienced torture and ill-treatment.

In addition, “lack of treatment for physical and mental symptoms and disabilities related to experiences of torture combined with prolonged incarceration where many of these abuses took place, without due process or opportunity to address their confinement status, has dramatically intensified detainee suffering.” In other words, “perpetual torture” is what these prisoners are condemned to for the remainder of their lives. In fact, a former defense counsel at Guantánamo who was actually able to visit his client once in his cell (through a series of mistakes inadvertently made by guards) reported that his client, and the prisoner in the cell next to him, were both in a vegetative state, and that was years ago. His client is still being held in Guantánamo under Trump, just as he was held under Obama.

So, accepting that there will never be any *criminal* liability attaching to the perpetrators of what are undeniably war crimes, surely there must be *civil* liability so that a victim can sue for monetary damages from those officials who were complicit in the victim’s torture? (This would have to be done through a lawyer, as the torture victims are barred from entering the U.S.) Well, it was not possible to bring even a civil suit under Obama. Cases against U.S. officials brought during his administration were all dismissed by the appellate courts, through a complicated

process which required that all suits be brought in the District of Columbia. In that court, there is a provision which effectively grants impunity to officials regardless of how horrendous the war crime.

An early case set the precedent that has been argued ever since. The argument was made by the Department of Justice on behalf of officials who might well have been charged and convicted under the War Crimes Act. Those other prior cases included *Ali versus Rumsfeld*, upheld in District of Columbia Court in 2011; among those allegations against U.S. officials were: beatings, stabbing, mutilation, hooding, confinement in phone-booth-sized wooden box, prolonged sleep deprivation enforced by beatings, inadequate food and water, mock execution and death threats, sexual assault, exposure to dangerously high temperatures for prolonged periods, inadequate medical care, painful restraints and positions, and intimidation with vicious dogs. In that first case, and all those brought against U.S. officials by their victims since, the case was dismissed on the grounds that the defendants charged with the barbaric acts listed above had done them within the “scope of their employment” as U.S. officials – something which will stand as a permanent moral stain on all Americans.

Incredibly, the allegations made in the cases cited by the U.S. Government in defense of its officials do not differ in any material way from the allegations made against many of the defendants convicted of war crimes in the Nuremberg and Tokyo tribunals following World War II. In those tribunals, the defense, which became known as the Nuremberg Defense, was that the officials were “just following orders,” which is much the way Gina Haspel defended herself.

The “accomplishment” of the Bush administration was to turn the United States into a terrorist torture state, as inducing “terror” is the purpose of torture. Obama’s “accomplishment” was to “normalize” our torture/terror state, and bequeath it to his successor, Trump. So, what will Trump do with Guantánamo and with the policy of torture? By all indications, he will seek to return the numbers of prisoners to previous highs, if not higher, if he has the pretext. He will also do everything his predecessors did, as he is doing at this moment with the prisoners there now in the continuation of their torture as just described, with virtually no one complaining, for torture has been so normalized that most people don’t even realize that Obama never did close Guantánamo. Even if they do know, it has become a “part of the fabric of our nation.” Consequently, Trump has a lot of room to expand despotic government: When he took office, the “instruments” were already in place should he choose to put them to use. They could even include military detention for U.S. civilians at his sole discretion.

But after 16 years of “perpetual war,” what else would we expect? We are seeing in the U.S. the cultural change that takes place in conditions where the government constantly incites us to even more war and hatred for the “enemy,” whoever that may be. Both major political parties play a role in this, as well as the media. This is “who we are as a nation” today; militarists unconstrained by law.

The task of the peace and justice community under these conditions is to educate others on the war crimes being committed in our name, ceaselessly demand an end to torture and all other unlawful behavior conducted by government officials in the name of “security,” and end what is now fully acknowledged as a “perpetual war” that has given birth to the “rogue regime” which

we have become.

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¹ Kaye, Jeffrey. “Contrary to Obama’s Promises, the U.S. Military Still Permits Torture.” The Guardian. January 25, 2014. tinyurl.com/ycyrlucs

² “Letter to U.S. Senate on Indefinite Detention.” Physicians for Human Rights. June 2016. tinyurl.com/y8o7fxgt