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Global outcry at US treatment of prisoners fails to stamp out abuse:

FT SERIES: THE DISORDERLY WORLD: Events this year at Abu Ghraib prison in Baghdad have set back world efforts to eliminate torture, reports Frances Williams.

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The treatment of detainees in Guantanamo Bay, Iraq and Afghanistan will head the agenda of Jakob Kellenberger, president of the International Committee of the Red Cross, when he meets top US officials in Washington in the new year, just as it did on his last US visit almost exactly a year ago.

A few months later, in graphic pictures and descriptions of abuses at the Abu Ghraib prison near Baghdad, the world saw for itself some of Mr Kellenberger's concerns.

Yet the public outcry over Abu Ghraib appears to have been no more successful than ICRC representations behind the scenes in stamping out practices it has called "tantamount to torture". The United Nations high commissioner for human rights has said these practices may constitute war crimes.

More reports of ill treatment have emerged in the past few days. Both UK-based Amnesty International and Human Rights Watch in New York say they have evidence of continued abuse of detainees in Iraq, which they plan to publish next month. Many human rights experts believe the Bush administration's response to the abuses at Abu Ghraib - and revelations of its earlier internal debate on interrogation methods - have set back global efforts to promote compliance with international law. They may also have put US soldiers at greater risk of torture if captured, they add.

The Geneva Conventions and the United Nations torture convention, both of which the US is party to, unequivocally ban torture and other forms of cruel, inhuman and degrading treatment, in all circumstances.

Yet, as Mr Kellenberger recently lamented: "After decades of improvements in international standards, discussions on whether torture might in some situations be allowed have resurfaced."

An August 2002 memo addressed to Alberto Gonzalez, then White House counsel and now nominee for US attorney general, reportedly argued that the US president had "commander-in-chief authority" to order torture and that torture "may be justified in order to prevent further attacks on the US".

This "ticking bomb" argument was used by Israel to justify the use of "moderate physical pressure" on Palestinian detainees. But the experience of using this argument, before Israel's Supreme Court finally outlawed coercive interrogation in 1999, was that once torture was permitted in "exceptional" cases, it quickly became routine.

US administration officials have also sought to restrict the definition of torture. The notorious August 2002 memo said that torture was confined to inflicting severe pain "equivalent in intensity to the pain accompanying serious physical injury, such as organ failure, impairment of bodily function, or even death".

By defining torture in such strict terms, it is easier to deny that torture has been approved or used. A number of deaths in US custody are now being investigated by the US military. The US has denied allegations that some detainees have been transferred to the custody of governments

known to practise torture - a violation of the torture convention.

"Cruel, inhuman or degrading treatment" is also prohibited under international law. Here too, however, the US interpretation appears to differ from other countries.

The Schlesinger report on Abu Ghraib, published last August, noted that "augmented" interrogation techniques approved for Guantanamo detainees "migrated to Afghanistan and Iraq where they were neither limited nor safeguarded".

But it left unanswered whether these techniques, which included the use of dogs, stripping detainees naked, and subjecting them to painful stress positions, were in violation of international law.

Legal experts note that "milder" interrogation methods approved by the US Defense Department in April 2003, such as use of extreme heat and cold, loud music and sleep deprivation, have been "absolutely prohibited" by the European Court of Human Rights and Israel's Supreme Court.

President George W. Bush has apologised for the Abu Ghraib abuses. But human rights groups argue that the administration's response has not reflected the gravity of the offences, which may count as war crimes under the Geneva Conventions. Only a few army reservists have been put on trial, with senior officers receiving only disciplinary sanctions.

Human Rights Watch and Amnesty say they will continue to press for an independent investigation, along the lines of the 9/11 commission, into allegations of torture of detainees in US hands, including an inquiry into culpability up the chain of command.

Not only is the US not acting appropriately to prevent and punish torture by its own citizens, they argue, the US stance is also eroding Washington's moral authority in opposing torture abroad.

As Israel's Supreme Court said in its 1999 judgment: "Although a democracy must often fight with one hand tied behind its back, it nonetheless has the upper hand. Preserving the rule of law and recognition of an individual's liberty constitutes an important component in its understanding of security."

America's fundamental values are at stake. This article is part of a year-end series on the future of multilateral relations