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## Perils of the Dark Side

U.S. excesses in the terror war are causing a self-defeating backlash

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When she scheduled this week's trip to Europe, Condoleezza Rice no doubt expected another round of the transatlantic bonhomie she has come to enjoy as U.S. Secretary of State, as the sharp antipathies of the Iraq war have dissipated. Instead, Rice will find European publics and politicians full of fresh anger about how the U.S. is conducting the war on terror: not just old complaints about Guantánamo and Abu Ghraib, but new ones about cia "black sites" in Europe that allegedly house secret prisoners, and an active program of shuttling captured terrorist suspects around using European airports. Some European countries are investigating exactly what the U.S. has been up to on their territory. E.U. officials are threatening dire punishments for any country that has abetted Washington. The issue is raw.

There is cause for anger: after Sept. 11, 2001, Vice President Dick Cheney said that defeating terrorists meant that "we also have to work ... sort of the dark side ... A lot of what needs to be done here will have to be done quietly, without any discussion." Since then, the U.S. government appears to have quietly defined down torture so that only the most horrific practices are barred. Legal gray zones such as Guantánamo and the network of "black sites" were set up to avoid the scrutiny of U.S. courts. Some of this can be explained as a natural reaction to the trauma following the attacks on New York City and Washington. But with Cheney himself lobbying to exclude the cia from future restrictions on torture abroad, excuses about the special nature of that time ring hollow. The irony is that the controversy Washington has unleashed by its conduct threatens to undermine real achievements in the struggle against terror.

A case in point is rendition. That's a practice that involves the transfer of a terror suspect from one country to another outside the formal extradition process. The overwhelming majority of renditions have the consent of all countries involved; "extraordinary rendition," effectively a kidnapping without the acquiescence of the host country, had never been carried out by the U.S. in connection to terrorism before 2001, and is likely still rare. In classic rendition cases, a suspect is brought to the U.S. for trial, as was Ramzi Yousef, the ringleader of the 1993 bombing of the World Trade Center. More often, the individual is moved with U.S. help to another country prepared to prosecute him. In a perfect world, where every country had a functioning judiciary, rendition would not be needed. But that is not the case. And some governments — Pakistan, for example — need to shield their cooperation with the U.S. from their anti-American publics.

Renditions have been performed for decades and approved by U.S. courts. The problem is that the standards governing them appear to have weakened. In the past, renditions were overseen by a small army of vigilant lawyers, and the U.S. both required and monitored assurances that countries would treat their prisoners in accordance with international human rights norms — for example, that they would not be abused or tortured. President Bush says the U.S. does not condone torture. But in one 2002 case, Maher Arar, a Syrian-born Canadian, was intercepted while changing planes in New York City and shipped via Jordan to Syria. He was held for a year, and says he was beaten. Before 2001, it would have been inconceivable for the U.S. to send anyone to a country with Syria's

long record of torture.

Public discontent means Congress may yet feel impelled to regulate or abolish rendition. A greater potential downside of the Bush team's walk on the "dark side" is the fraying of the international coalition of intelligence services — including those in Europe — that have been cooperating in unprecedented ways. This solidarity is one of the unsung successes of the last four years and a key reason why there has been no second terrorist attack on the scale of 9/11. Countries that may publicly poke a finger in Uncle Sam's eye can still work with him hand-in-glove behind the scenes. France, whose opposition to Washington's Iraq policy requires no précis, hosts a secret joint operations center with the cia in Paris called Alliance Base, and has a relationship with the Agency that would astonish the "freedom fries" crowd.

European intelligence services will want to preserve this cooperation, but the issue will not be theirs alone to decide. As public revulsion with U.S. practices grows, European political leaders may yet be forced to restrict intelligence cooperation — perhaps not immediately, but soon. In that case, the Bush Administration's lack of self-restraint will exact a cost in greater insecurity we will all have to pay.