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Torture below U.S. moral code Condoning mistreatment of prisoners inconsistent with fundamental values

Editorial

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On July 25, U.S. Sen. John McCain stood on the floor of the Senate and explained why the use of torture by U.S. personnel is so dangerous to this country and its interests:

"I hold no brief for the prisoners," said McCain, who for 5 1/2 years was held as a prisoner of war by the North Vietnamese under terrible conditions. "I do hold a brief for the reputation of the United States of America. We are Americans, and we hold ourselves to humane standards of treatment of people no matter how evil or terrible they may be.

"To do otherwise . . . undermines our security, but it also undermines our greatness as a nation," McCain said. "We are not simply any other country. We stand for something more in the world --- a moral mission, one of freedom and democracy and human rights at home and abroad. We are better than these terrorists, and we will win. The enemy we fight has no respect for human life or human rights. They don't deserve our sympathy. But this isn't about who they are. This is about who we are."

It is hard to imagine a more perfect distillation of the issue --- "this is about who we are" --- or a more credible voice on the matter than that of McCain.

More than two years earlier, some of the top legal officials in the four major service branches --- the U.S. Army, Navy, Marines and Air Force --- made similar appeals to civilians in the Bush administration. At the time, White House officials and civilian legal officials at the Justice Department were concocting bizarre arguments to explain why U.S. laws somehow did not apply to certain prisoners in military custody --- arguing, for example, that torture isn't really torture unless it causes pain equal in intensity to the pain caused by organ failure, impairment of bodily function or even death. Those in uniform warned their civilian counterparts that such arguments were dangerous not just legally and morally, but on practical grounds as well.

"The common thread among our recommendations is our concern for service members," Brig. Gen. Kevin Sandkuhler of the Marines wrote in one recently released internal memo. "The [Justice Department] does not represent the services; thus, understandably, concern for service members is not reflected in their opinion."

The Marine general then listed the consequences of such a policy change --- exposing troops to domestic and international prosecution, harming discipline and self-respect among those in uniform, reducing public support for U.S. efforts here at home and around the globe, and exposing U.S. service members to greater danger should they become POWs themselves.

Army Maj. Gen. Thomas Romig warned that the administration's approach was founded on a risky legal theory --- in essence, that the president can unilaterally void any federal law that he believes interferes with his war-fighting ability. Romig, too, cautioned that the new approach would put "our service personnel at far greater risk."

Rear Admiral Michael Lohr, representing the Navy, also challenged the Justice Department's contorted legal thinking. Even if Justice Department lawyers were correct in claiming that operations at Guantanamo Bay were exempt from U.S. law --- a claim the U.S. Supreme Court

later rejected --- Lohr questioned whether administration officials were "condoning practices that, while technically legal, are inconsistent with our most fundamental values."

"U.S. Armed Forces personnel are continuously trained to take the legal and moral 'high road' regardless of how others may operate . . .," Air Force Maj. Gen. Jack Rives wrote in his own memo of protest. "Approving exceptional interrogation techniques may be seen as giving official approval and legal sanction to the application of interrogation techniques that U.S. Armed Forces have heretofore been trained are unlawful."

That warning proved prescient --- the tolerant attitude of top administration officials toward prisoner abuse did indeed seep down the chain of command to privates and corporals, with serious consequences. Rives was right about something else as well, warning that if news of such techniques became public, "it is likely to be exaggerated/distorted in both the U.S. and international media. This could have a negative impact on the international and perhaps even domestic support for the war on terrorism."

Unfortunately, Bush administration officials didn't listen to that advice. As a result, we have seen scores of low-level enlisted personnel face criminal charges up to and including murder for what they claimed to believe --- but in most cases cannot prove --- were actions sanctioned by their superiors.

We have seen the reputation of the U.S. military smeared around the world, and our nation's moral standing as a champion of human rights greatly diminished.

And most important, we ourselves have blurred what ought to be a bright line between our own behavior and that of those we fight.

This is indeed about who we are --- and about what we might become. Giving in to fear, anger and the human weakness for cruelty is simply un-American.