

Torture as a Human Rights Violation: The Abu Ghraib Scandal

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Abstract

This policy memo examines torture as a human rights violation through the Abu Ghraib scandal, in which the U.S. Army and the Central Intelligence Agency tortured prisoners at Abu Ghraib prison during the Iraq War. It reviews how the abuse came to light and who was held accountable: only 11 U.S. soldiers were convicted, while no one in the White House or National Security Council was brought to court, even though a bipartisan Senate Armed Services Committee inquiry traced the abuse to interrogation policies approved by senior officials. Drawing on the crimes-of-globalization perspective and the five central themes of critical criminology, the memo argues that low-ranking actors were punished more severely than the decision-makers who began the process, which helps explain why such abuses occur and are rarely followed by justice. It proposes (a) stricter international oversight of how countries treat prisoners of war, with the United Nations or a committee it creates controlling investigations; (b) removing torture from U.S. military policy, with stricter oversight of detention sites, punishments for unnecessary or excessive interrogations, and adherence to the Detainee Treatment Act of 2005; (c) building a bond with the captive as a more effective alternative to torture; (d) two-level monitoring of anti-torture policies by the implementing party and a second party that holds it accountable; and (e) a “God Complex Policy” to help federal courts prosecute individuals in power by tying the top decision-maker to the bottom-level actor and rating everyone involved on a scale of 1 to 10. The memo concludes that accountability and systematic change are the most important factors in preventing torture.

Keywords: torture, Abu Ghraib, human rights, critical criminology, crimes of the powerful, accountability

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Torture is one of the most common crimes against humanity that is still accepted by many powerful governments throughout the world. In the past, many state and non-state actors have used torture to obtain information from the individuals being interrogated. These individuals are suspected of direct or indirect involvement in something that has happened or will occur. However, it is arguably unnecessary, and quite contradictory, to combat human rights violations such as terrorist attacks with torture, a human rights violation in and of itself. Severe forms of torture not only affect an individual physically and psychologically, whether temporarily or permanently, but are also rarely as effective as they are destructive (Başoğlu, 1992). This policy memo focuses on the past and its effects on the present through the example of torture during the Iraq War, specifically the Abu Ghraib scandal and similar incidents. The goals are to understand the different aspects of torture, to give U.S. federal courts a way to secure convictions for torture, and to develop a different, effective administrative alternative to torture that would achieve the same desired outcome.

The Abu Ghraib Scandal

The Abu Ghraib scandal made worldwide headlines for the U.S. Army's and Central Intelligence Agency's use of torture against prisoners at Abu Ghraib prison in Iraq during the Iraq War. Sexual and physical abuse, rape, sodomy, severe mutilation, and murder were all committed as means of torture and psychological suppression (Hersh, 2004b). In January 2005, *The New York Times* reported that abuses included urinating on detainees, inflicting severe limb wounds, pouring phosphoric acid, and tying ropes to body parts and dragging the detainee. These acts, and many others, rarely resulted in true information being extracted, and all were forms of human rights violations. This is not the first time the United States has been accused of

systematic torture: it occurred within the United States, committed by citizens, at the end of slavery (in the form of lynchings and beatings), as well as against prisoners during World War II, the Cold War, the Korean War, the Vietnam War, and the Gulf War (McCoy, 2006). It was not until the abuse made widespread international headlines in April 2004 that repercussions came for the United States. An outcry arose within the United States and the United Kingdom, as well as from the United Nations, the Red Cross, Amnesty International, and Human Rights Watch. Because prisons in Iraq were already similar to Abu Ghraib, the reaction from Iraqi civilians was not as strong as the reaction in countries with strict prison-related human rights laws. However, the actions were still widely seen as unacceptable and were quickly reviewed by many international agencies.

Abu Ghraib was formerly Saddam Hussein's prison for political rivals but was taken over by the U.S. Army during the invasion of Iraq in 2003. The prison was then turned into a detention center for captured Iraqis from 2003 to 2006. Abu Ghraib was a key site for the U.S. military, as it was a highly confined, easily defensible complex located just 20 miles west of Baghdad. At the time the first evidence of torture was uncovered, more than 3,800 detainees were held at the prison. The path to that abuse began with decisions made far above the prison. On February 7, 2002, President Bush signed a memorandum determining that the Third Geneva Convention did not apply to the conflict with al-Qaeda and that Common Article 3 of the Geneva Conventions, which sets minimum standards for humane treatment, did not apply to al-Qaeda or Taliban detainees (Amann, 2005; Senate Armed Services Committee [SASC], 2008). National Security Council principals, including National Security Adviser Condoleezza Rice and Secretary of Defense Donald Rumsfeld, reviewed the CIA's interrogation program in 2002, and on December 2, 2002, Rumsfeld approved aggressive interrogation techniques for use at

Guantanamo Bay (SASC, 2008). The CIA also interrogated detainees at Abu Ghraib while keeping its involvement largely hidden (Hersh, 2004a).

A classified report by Major General Antonio Taguba documented the misconduct at Abu Ghraib, but the information was not released to the public until April 2004, when *The New Yorker* published an article by Seymour Hersh detailing the classified report. In the end, only 11 U.S. soldiers were convicted of crimes related to the Abu Ghraib scandal (Bierman, 2015). L-3 Services Inc., a private contractor that provided translation services at the prison, paid \$5.28 million to settle claims by 71 former detainees, a settlement reported in January 2013 (Associated Press, 2013). CACI Premier Technology, a private contractor that provided interrogation services at the prison, has been in court since 2008.¹ Paul Kern, the former commanding general of the U.S. Army Materiel Command, stated, “We have investigated; we had all the papers, thousands of pages, and we came to a really hard conclusion, which is failure of command” (as cited in FRONTLINE, 2005).

Accountability in court stopped with the soldiers who carried out the abuse. The official record went further. In November 2008, the Senate Armed Services Committee, chaired by Democrat Carl Levin with Republican John McCain as ranking member, approved without objection a report concluding that the abuse at Abu Ghraib “was not simply the result of a few soldiers acting on their own” (SASC, 2008, p. xxix). The committee found that Rumsfeld’s December 2002 authorization “was a direct cause of detainee abuse” at Guantanamo Bay and “influenced and contributed to the use of abusive techniques . . . in Afghanistan and Iraq”

¹ *Update (September 2026)*. After this paper was written, a federal jury in *Al Shimari v. CACI* found CACI liable and awarded three former detainees a total of \$42 million (November 12, 2024). The U.S. Court of Appeals for the Fourth Circuit affirmed the verdict on March 12, 2026. On August 28, 2026, following the Supreme Court’s June 2026 decision in *Cisco Systems, Inc. v. Doe*, the Fourth Circuit reversed the judgment and remanded the case with instructions to dismiss it (Center for Constitutional Rights, n.d.; Dodge, 2026).

(SASC, 2008, p. xxviii). Together with later policies approved by senior military and civilian officials, it “conveyed the message that physical pressures and degradation were appropriate treatment for detainees in U.S. military custody” (SASC, 2008, p. xxix). Even so, after all the investigations and reports, no one in the White House or National Security Council was brought to court.

Human Rights and Crimes of Globalization

People caught up in war, including wounded soldiers, prisoners of war, and civilians, are entitled to a set of protections drafted and accepted by nearly every country in the world, called the Geneva Conventions, most recently revised in 1949 following World War II. There are certain things a person can do to lose specific rights, but legality and basic human rights rarely come into question, for two reasons. The biggest reason is that even when violations are discovered, especially in the case of the Abu Ghraib scandal, the matter becomes a question of international regulations, restrictions, prosecutions, and intent. These questions become significant in cases of international human rights violations, with jurisdiction being the biggest factor. The other question is what, specifically, a violator should be charged with, because (as mentioned) a potential victim of human rights violations could lose certain rights if they had done something that broke the law, whether state or international—the argument of fighting terror with terror discussed previously (Rejali, 2007).

The final part of the human rights question relates to the Abu Ghraib scandal and to why the United States was involved in Iraq to begin with. Some researchers argue that the Iraq War is a crime of globalization in itself, contending that the arguments the United States used to invade Iraq were invalid. The point of this memo is not to argue whether the U.S. invasion of Iraq was a crime of globalization; however, the argument must be analyzed because the torture happened in

Iraq for the purpose of extracting information that would help win the war. Crimes of globalization extend beyond human trafficking, drug smuggling, and terrorism—an act that people generally assume is committed only by subnational terror groups (Rothe & Friedrichs, 2015). If one took the side of these researchers, the argument would be that torture was a way for the United States to physically and psychologically stake its globalization claims, using its international power to avoid punishment for such acts. This was the case in the scandal, as the United States came away from the incident relatively unscathed. Under this argument, the Abu Ghraib scandal would be considered a crime of the powerful committed by the U.S. military and the government directing it.

Critical Criminology and Abu Ghraib

Critical criminology is a key concept for understanding why the Abu Ghraib incident occurred and why events like it are not followed by justice. There are five central themes of critical criminology, all of which apply to Abu Ghraib. The first theme describes the need to understand how equality and inequality are produced, as well as the process of obtaining ultimate social power. Those in power are, by definition, already unequal to the individuals they lead. Because of this, it is easy for individuals in positions of power to disregard the needs of those below them and to form an aura of leadership buoyed by social control. The second theme explains crime as a political concept, recognizing that not all crimes are treated equally: the acts of the powerless are treated much more severely than the acts of the powerful. One can see very clearly in the Abu Ghraib incident how the low-ranking soldiers were punished more severely than the decision-makers who effectively began the process.

The third and fourth themes of critical criminology theorize that capitalism is the root cause of all crime and that the criminal justice system serves those who hold power within it.

These two themes are the weakest of the five but offer further evidence for themes one and two. Individuals in power are typically immersed in the workings of capitalism and have more wealth than most. In fact, politics aside, those in the elite class of capitalism are often untouched by the criminal justice system, as individuals in that class are often seen as stakeholders in the society we have built today. Removing these stakeholders, even to an extent, is feared to have immense consequences for society. The fifth and final theme of critical criminology is that the creation of a more equal and capable society will be the ultimate solution to crime. If every individual has a fair chance of succeeding in the system in which they live, this theory argues, most crime can be eliminated. To summarize critical criminology, the inequalities within society are produced by individuals' unequal ability to succeed in the current capitalist system (Cullen et al., 2018, pp. 228–231). The higher-ranking officials who systematically caused the incidents at Abu Ghraib, officials with status, power, and capitalist wealth, were left almost completely untouched by the criminal justice system. By understanding that this inequality exists in a system that is meant to provide opportunity for all, we can attempt to follow the fifth theme of critical criminology and create a society that abides by a more inspiring system. Creating policy that produces accountability, no matter the level of social power, is key to creating a more equal system of actions (crime) and reactions (justice).

Policy Recommendations

This proposal has analyzed the problems of torture and the systematic U.S. involvement in the Abu Ghraib scandal. It offers the following solutions to prevent future violations of human rights by tying together the aspects of crime and power noted in critical criminology.

Reducing Torture in International Wars

Stricter oversight of how countries treat their prisoners of war must be put in place. International peace organizations need to take proactive approaches to investigating and handling any instances of human rights violations such as torture. Likewise, these organizations need to be given the authority to investigate and to create unbiased, accurate reports. The United Nations itself, or a branch committee it creates, needs to have control over investigating reports that claim violations such as torture are occurring.

Evicting Torture From U.S. Policy

The United States needs to treat the Abu Ghraib incident as a lesson and maintain stricter oversight of bases where prisoners of war are kept. This is hard to do because most prisoners of war are kept at forward operating bases (FOBs) in and around the war zone. However, fully removing torture from military policy and creating punishments for unnecessary or excessive interrogations will help evict any chance of human rights violations, together with consistent updating of, and adherence to, the Detainee Treatment Act of 2005 (2005).

Effective Methods of Extracting Information

There are more effective methods of extracting information than torture. In a 2014 interview, U.S. Army interrogator Andrew (who remained anonymous, giving only his first name) described how, during the Iraq War, it was possible to bond with the captive (Hackel, 2014). This bond is meant to be manipulative and to extract information, but with no harmful physical or psychological effects. Spending time with the captive, finding common ground, constantly reminding captives of their rights under the Geneva Conventions, and subconsciously changing their view of the group they fight for, helping them visualize a life outside of the

insurgency, were all effective in getting Andrew's captives to provide helpful, informative, and accurate information.

Monitoring Implemented Policies

It is essential for policies not only to be implemented but also to be monitored on two levels: first, the implementing nation or nongovernmental organization (NGO) monitors the effectiveness of the policies; second, an NGO or subcommittee monitors the nation or NGO that is implementing the policies. The first party cannot simply throw policies at a problem, especially one as serious as torture, and not monitor their effectiveness. Understanding the importance of monitoring implemented policies will help in recognizing which policies do or do not work, what changes can be made, or whether there are conclusions to be drawn about the first party itself. For example, when discussing torture, reviewing the policies made by the first party may reveal flaws within the party itself and in how it handles torture. If the U.S. military were to administer anti-torture policies and instances of torture were still being reported, the administration could filter through data to find out where the flaws occur. However, the administration can also implement policies and then not monitor, report, or change any significant flaws. If new policies produce findings that show a specific unit using severe forms of inhumane torture, that unit needs to be held accountable by its administration.

The second party must be the force that holds the first party accountable for fully enacting and consistently monitoring policies. This is important because it prevents the first party from concealing any flaws that are revealed after implementation. The second party acts as a check on the first party, in case the first party is irresponsible in handling newly revealed, potentially damaging information. The second party can also help the first party throughout the process. For example, the United Nations can send peacekeeping troops with U.S. ambassadors

to help defuse a political crisis, or a court-martial can assist a military administration in punishing units that disobey new anti-torture policies. For real change to occur, it is essential that the first party create and administer solutions to problems and that the second party watch over or assist the first party.

The God Complex Policy

Finally, there must be a way for U.S. federal courts to successfully prosecute individuals in power who break the law. In this instance, the bipartisan Senate inquiry traced the abuse at Abu Ghraib to interrogation policies approved at the highest levels of the Department of Defense, beginning with Secretary Rumsfeld's December 2002 authorization (SASC, 2008), yet no official at that level faced charges. This research produced a theoretical policy to help federal courts hold decision-makers at that level accountable. It is called the "God Complex Policy," named after the unshakable belief, characterized by consistently inflated feelings of personal ability, privilege, or infallibility, that people in positions of power can generally be said to show. In a case of complex, multilevel deviance, the top and bottom of the ladder take precedence over all else. The top decision-maker and the bottom-level actor who carried out the decision are tied together: the individual who made the decision and the individual who completed the act are each rated a 10. Individuals between these two points are then caught in this loop and unable to escape. By establishing the two points, it is factual that anyone between them is at least knowledgeable of the situation. Everyone from top to bottom is then rated on a scale of 1 to 10 according to how involved they were. This will help federal courts determine whom it is most important to bring to justice and ensure that almost everyone involved is held accountable.

Conclusion

In these policy solutions, accountability and systematic change are the most important factors in preventing torture. While no one can fully control what subnational groups stand for in these respects, formally governed states (especially those with as much influence as the United States) can set the right example by prohibiting torture in any situation and taking accountability for their actions, both past and present. This can be done either individually or with the help of NGOs, as either approach would require strict policies for both the standards of the state or organization itself and how it handles instances of torture. By putting new policies forward, human rights such as protection from torture can be safely settled back into the minds of people protected by international law.

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This paper was originally written in December 2020 for CJ 570: Criminology and Crime Policy, taught by Professor Rousseau at Boston University. It was revised in September 2026.