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BOOK REVIEW

## Atrocities in Plain Sight

By ANDREW SULLIVAN

### THE ABU GHRAIB INVESTIGATIONS

**The Official Report of the Independent Panel and Pentagon on the Shocking Prisoner Abuse in Iraq.**

Edited by Steven Strasser.

Illustrated. 175 pp. PublicAffairs. Paper, \$14.

### TORTURE AND TRUTH

**America, Abu Ghraib, and the War on Terror.**

By Mark Danner.

Illustrated. 580 pp. New York Review Books. Paper, \$19.95.

scandals, chronology can be everything. The facts you find out first, the images that are initially imprinted on your consciousness, the details that then follow: these make the difference between a culture-changing tipping point and a weatherable media flurry. With the prisoner abuse at Abu Ghraib, the photographs, which have become iconic, created the context and the meaning of what took place. We think we know the contours of that story: a few soldiers on the night shift violated established military rules and subjected prisoners to humiliating abuse and terror. Chaos in the line of command, an overstretched military, a bewildering insurgency: all contributed to incidents that were alien to the values of the United States and its military. The scandal was an aberration. It was appalling. Responsibility was taken. Reports were issued. Hearings continue.

But the photographs lied. They told us a shard of the truth. In retrospect, they deflected us away from what was really going on, and what is still going on. The problem is not a co-ordinated cover-up. Nor is it a lack of information. The official government and Red Cross reports on prisoner torture and abuse, compiled in two separate volumes, "The Abu Ghraib Investigations," by a former Newsweek editor, Steven Strasser, and "Torture and Terror," by a New York Review of Books contributor, Mark Danner, are almost numbingly exhaustive in their cataloging of specific mistakes, incidents and responsibilities. Danner's document-dump runs to almost 600 pages of print, the bulk of it in small type. The American Civil Liberties Union has also successfully engineered the release of what may eventually amount to hundreds of thousands of internal government documents detailing the events.

That tells you something important at the start. Whatever happened was exposed in a free society; the military itself began the first inquiries. You can now read, in these pages, previously secret memorandums from sources as high as the attorney general all the way down to prisoner testimony to the International Committee of the Red Cross. I confess to finding this transparency both comforting and chilling, like the photographs that kick-started the public's awareness of the affair. Comforting because only a country that is still free would allow such airing of blood-soaked laundry. Chilling because the crimes committed strike so deeply at the core of what a free country is supposed to mean. The scandal of Abu Ghraib is therefore a sign of both freedom's endurance in America and also, in certain dark corners, its demise.

The documents themselves tell the story. In this, Danner's book is by far the better of the two. He begins with passionate essays that originally appeared in The New York Review of Books, but very soon leaves the stage

and lets the documents speak for themselves. His book contains the two reports Strasser publishes, but many more as well. If you read it in the order Danner provides, you can see exactly how this horror came about - and why it's still going on. As Danner observes, this is a scandal with almost everything in plain sight.

The critical enabling decision was the president's insistence that prisoners in the war on terror be deemed "unlawful combatants" rather than prisoners of war. The arguments are theoretically sound ones - members of Al Qaeda and the Taliban are not party to the Geneva Convention and their own conduct violates many of its basic demands. But even at the beginning, President Bush clearly feared the consequences of so broad an exemption for cruel and inhumane treatment. So he also insisted that although prisoners were not legally eligible for humane treatment, they should be granted it anyway. The message sent was: these prisoners are beneath decent treatment, but we should still provide it. That's a strangely nuanced signal to be giving the military during wartime.

You can see the same strange ambivalence in Secretary of Defense Donald Rumsfeld's decision to approve expanded interrogation techniques in December 2002 for Guantánamo inmates - and then to revoke the order six weeks later. The documents show that the president was clearly warned of the dangers of the policy he decided upon - Colin Powell's January 2002 memo is almost heart-breakingly prescient and sane in this regard - but he pressed on anyway. Rumsfeld's own revocation of the order suggests his own moral qualms about what he had unleashed.

But Bush clearly leaned toward toughness. Here's the precise formulation he used: "As a matter of policy, the United States Armed Forces shall continue to treat detainees humanely and, *to the extent appropriate and consistent with military necessity*, in a manner *consistent with* the principles of Geneva." (My italics.)

Notice the qualifications. The president wants to stay not within the letter of the law, but within its broad principles, and in the last resort, "military necessity" can overrule all of it. According to his legal counsel at the time, Alberto R. Gonzales, the president's warmaking powers gave him ultimate constitutional authority to ignore any relevant laws in the conduct of the conflict. Sticking to the Geneva Convention was the exclusive prerogative of one man, George W. Bush; and he could, if he wished, make exceptions. As Assistant Attorney General Jay S. Bybee argues in another memo: "Any effort to apply Section 2340A in a manner that interferes with the president's direction of such core war matters as the detention and interrogation of enemy combatants thus would be unconstitutional." (Section 2340A refers to the United States law that incorporates the international Convention Against Torture.)

The president's underlings got the mixed message. Bybee analyzed the relevant statutes against torture to see exactly how far the military could go in mistreating prisoners without blatant illegality. His answer was surprisingly expansive. He argued that all the applicable statutes and treaty obligations can be read in such a way as to define torture very narrowly. Bybee asserted that the president was within his legal rights to permit his military surrogates to inflict "cruel, inhuman or degrading" treatment on prisoners without violating strictures against torture. For an act of abuse to be considered torture, the abuser must be inflicting pain "of such a high level of intensity that the pain is difficult for the subject to endure." If the abuser is doing this to get information and not merely for sadistic enjoyment, then "even if the defendant knows that severe pain will result from his actions," he's not guilty of torture. Threatening to kill a prisoner is not torture; "the threat must indicate that death is 'imminent.'" Beating prisoners is not torture either. Bybee argues that a case of kicking an inmate in the stomach with military boots while the prisoner is in a kneeling position does not by itself rise to the level of torture.

Bybee even suggests that full-fledged torture of inmates might be legal because it could be construed as "self-defense," on the grounds that "the threat of an impending terrorist attack threatens the lives of hundreds if not thousands of American citizens." By that reasoning, torture could be justified almost anywhere on the battlefield of the war on terror. Only the president's discretion forbade it. These guidelines were formally repudiated by the administration the week before Gonzales's appearance before the Senate Judiciary

Committee for confirmation as attorney general.

In this context, Rumsfeld's decision to take the gloves off in Guantánamo for six weeks makes more sense. The use of dogs to intimidate prisoners and the use of nudity for humiliation were now allowed. Although abuse was specifically employed in only two cases before Rumsfeld rescinded the order, practical precedents had been set; and the broader mixed message sent from the White House clearly reached commanders in the field. Lt. Gen. Ricardo S. Sanchez, in charge of the Iraq counterinsurgency, also sent out several conflicting memos with regard to the treatment of prisoners - memos that only added to the confusion as to what was permitted and what wasn't. When the general in charge of Guantánamo was sent to Abu Ghraib to help intelligence gathering, the "migration" of techniques (the term used in the Pentagon's Schlesinger Report) from those reserved for extreme cases in the leadership of Al Qaeda to thousands of Iraqi civilians, most of whom, according to intelligence sources, were innocent of any crime at all, was complete. Again, there is no evidence of anyone at a high level directly mandating torture or abuse, except in two cases in Gitmo. But there is growing evidence recently uncovered by the A.C.L.U. - not provided in Danner's compilation - that authorities in the F.B.I. and elsewhere were aware of abuses and did little to prevent or stop them. Then there were the vast loopholes placed in the White House torture memos, the precedents at Guantánamo, the winks and nods from Washington and the pressure of an Iraqi insurgency that few knew how to restrain. It was a combustible mix.

What's notable about the incidents of torture and abuse is first, their common features, and second, their geographical reach. No one has any reason to believe any longer that these incidents were restricted to one prison near Baghdad. They were everywhere: from Guantánamo Bay to Afghanistan, Baghdad, Basra, Ramadi and Tikrit and, for all we know, in any number of hidden jails affecting "ghost detainees" kept from the purview of the Red Cross. They were committed by the Marines, the Army, the Military Police, Navy Seals, reservists, Special Forces and on and on. The use of hooding was ubiquitous; the same goes for forced nudity, sexual humiliation and brutal beatings; there are examples of rape and electric shocks. Many of the abuses seem specifically tailored to humiliate Arabs and Muslims, where horror at being exposed in public is a deep cultural artifact.

Whether random bad apples had picked up these techniques from hearsay or whether these practices represented methods authorized by commanders grappling with ambiguous directions from Washington is hard to pin down from the official reports. But it is surely significant that very few abuses occurred in what the Red Cross calls "regular internment facilities." Almost all took place within prisons designed to collect intelligence, including, of course, Saddam Hussein's previous torture palace at Abu Ghraib and even the former Baathist secret police office in Basra. (Who authorized the use of these particular places for a war of liberation is another mystery.) This tells us two things: that the vast majority of soldiers in Iraq and elsewhere had nothing to do with these incidents; and that the violence had a purpose. The report of the International Committee of the Red Cross says: "Several military intelligence officers confirmed to the I.C.R.C. that it was part of the military intelligence process to hold a person deprived of his liberty naked in a completely dark and empty cell for a prolonged period to use inhumane and degrading treatment, including physical and psychological coercion."

An e-mail message recovered by Danner from a captain in military intelligence in August 2003 reveals the officer's desire to distinguish between genuine prisoners of war and "unlawful combatants." The president, of course, had endorsed that distinction in theory, although not in practice - even in Guantánamo, let alone Iraq. Somehow Bush's nuances never made it down the chain to this captain. In the message, he asked for advice from other intelligence officers on which illegal techniques work best: a "wish list" for interrogators. Then he wrote: "The gloves are coming off gentlemen regarding these detainees, Col. Boltz has made it clear that we want these individuals broken."

How do you break these people? According to the I.C.R.C., one prisoner "alleged that he had been hooded and cuffed with flexicuffs, threatened to be tortured and killed, urinated on, kicked in the head, lower back and

groin, force-fed a baseball which was tied into the mouth using a scarf and deprived of sleep for four consecutive days. Interrogators would allegedly take turns ill-treating him. When he said he would complain to the I.C.R.C. he was allegedly beaten more. An I.C.R.C. medical examination revealed hematoma in the lower back, blood in urine, sensory loss in the right hand due to tight handcuffing with flexicuffs, and a broken rib."

Even Bybee's very narrow definition of torture would apply in this case. Here's another - not from Abu Ghraib:

A detainee "had been hooded, handcuffed in the back, and made to lie face down, on a hot surface during transportation. This had caused severe skin burns that required three months' hospitalization. . . . He had to undergo several skin grafts, the amputation of his right index finger, and suffered . . . extensive burns over the abdomen, anterior aspects of the outer extremities, the palm of his right hand and the sole of his left foot."

And another, in a detainee's own words: "They threw pepper on my face and the beating started. This went on for a half hour. And then he started beating me with the chair until the chair was broken. After that they started choking me. At that time I thought I was going to die, but it's a miracle I lived. And then they started beating me again. They concentrated on beating me in my heart until they got tired from beating me. They took a little break and then they started kicking me very hard with their feet until I passed out."

An incident uncovered by the A.C.L.U. and others was described in The Washington Post on Dec. 22. A young soldier with no training in interrogation techniques "acknowledged forcing two men to their knees, placing bullets in their mouths, ordering them to close their eyes, and telling them they would be shot unless they answered questions about a grenade incident. He then took the bullets, and a colleague pretended to load them in the chamber of his M-16 rifle."

These are not allegations made by antiwar journalists. They are incidents reported within the confines of the United States government. The Schlesinger panel has officially conceded, although the president has never publicly acknowledged, that American soldiers have tortured five inmates to death. Twenty-three other deaths that occurred during American custody had not been fully investigated by the time the panel issued its report in August. Some of the techniques were simply brutal, like persistent vicious beatings to unconsciousness. Others were more inventive. In April 2004, according to internal Defense Department documents recently procured by the A.C.L.U., three marines in Mahmudiya used an electric transformer, forcing a detainee to "dance" as the electricity coursed through him. We also now know that in Guantánamo, burning cigarettes were placed in the ears of detainees.

Here's another case from the Army's investigation into Abu Ghraib, led by Lt. Gen. Anthony R. Jones and Maj. Gen. George R. Fay:

"On another occasion DETAINEE-07 was forced to lie down while M.P.'s jumped onto his back and legs. He was beaten with a broom and a chemical light was broken and poured over his body. . . . During this abuse a police stick was used to sodomize DETAINEE-07 and two female M.P.'s were hitting him, throwing a ball at his penis, and taking photographs."

Last December, documents obtained by the A.C.L.U. also cited an F.B.I. agent at Guantánamo Bay who observed that "on a couple of occasions, I entered interview rooms to find a detainee chained hand and foot in a fetal position to the floor, with no chair, food or water. Most times they had urinated or defecated on themselves, and had been left there for 18 to 24 hours or more." In one case, he added, "the detainee was almost unconscious on the floor, with a pile of hair next to him. He had apparently been literally pulling his own hair out throughout the night."

This kind of scene can also be found at Abu Ghraib: "An 18 November 2003 photograph depicts a detainee dressed in a shirt or blanket lying on the floor with a banana inserted into his anus. This as well as several

others show the same detainee covered in feces, with his hands encased in sandbags, or tied in foam and between two stretchers." This, apparently, was a result of self-inflicted mania, although where the mentally ill man procured a banana is not elaborated upon.

Also notable in Abu Ghraib was the despicable use of religion to humiliate. One Muslim inmate was allegedly forced to eat pork, had liquor forced down his throat and told to thank Jesus that he was alive. He recounted in broken English:

"They stripped me naked, they asked me, 'Do you pray to Allah?' I said, 'Yes.' They said 'F - - - you' and 'F - - - him.'" Later, this inmate recounts: "Someone else asked me, 'Do you believe in anything?' I said to him, 'I believe in Allah.' So he said, 'But I believe in torture and I will torture you.'"

Whether we decide to call this kind of treatment "abuse" or some other euphemism, there is no doubt what it was in the minds of the American soldiers who perpetrated it. They believed in torture. And many believed it was sanctioned from above. According to The Washington Post, one sergeant who witnessed the torture thought Military Intelligence approved of all of it: "The M.I. staffs, to my understanding, have been giving Graner" - one of the chief torturers at Abu Ghraib - "compliments on the way he has been handling the M.I. holds [prisoners held by military intelligence]. Example being statements like 'Good job, they're breaking down real fast'; 'They answer every question'; 'They're giving out good information, finally'; and 'Keep up the good work' - stuff like that." At Guantánamo Bay, newly released documents show that some of the torturers felt they were acting on the basis of memos sent from Washington.

Was the torture effective? The only evidence in the documents Danner has compiled that it was even the slightest bit helpful comes from the Schlesinger report. It says "much of the information in the recently released 9/11 Commission's report, on the planning and execution of the attacks on the World Trade Center and Pentagon, came from interrogation of detainees at Guantánamo and elsewhere." But the context makes plain that this was intelligence procured without torture. It also claims that good intelligence was received from the two sanctioned cases of expanded interrogation techniques at Guantánamo. But everything else points to the futility of the kind of brutal techniques used in Iraq and elsewhere.

Worse, there's plenty of evidence that this kind of treatment makes gathering intelligence harder. In Abu Ghraib, according to the official documents, up to 90 percent of the inmates were victims of random and crude nighttime sweeps. If these thousands of Iraqis did not sympathize with the insurgency before they came into American custody, they had good reason to thereafter. Stories of torture, of sexual humiliation, of religious mockery have become widespread in Iraq, and have been amplified by the enemy. If the best intelligence comes from persuading the indigenous population to give up information on insurgents, then the atrocities perpetrated by a tiny minority of American troops actually help the insurgency, rather than curtail it.

Who was responsible? There are various levels of accountability. But it seems unmistakable from these documents that decisions made by the president himself and the secretary of defense contributed to confusion, vagueness and disarray, which, in turn, led directly to abuse and torture. The president bears sole responsibility for ignoring Colin Powell's noble warnings. The esoteric differences between legal "abuse" and illegal "torture" and the distinction between "prisoners of war" and "unlawful combatants" were and are so vague as to make the abuse of innocents almost inevitable. Justice Sandra Day O'Connor wrote for the majority of the Supreme Court in *Hamdi v. Rumsfeld* that "the government has never provided any court with the full criteria that it uses in classifying individuals" as enemy combatants. It is one thing to make a distinction in theory between Geneva-protected combatants and unprotected Qaeda operatives. But in the chaos of a situation like Iraq, how can you practically know the difference? When one group is designated as unworthy of humane treatment, and that group is impossible to distinguish from others, it is unsurprising that exceptions quickly become rules. The best you can say is that in an administration with a reputation for clear lines of command and clear rules of engagement, the vagueness and incompetence are the most striking features.

Worse, the president has never acknowledged the scope or the real gravity of what has taken place. His first instinct was to minimize the issue; later, his main references to it were a couple of sentences claiming that the abuses were the work of a handful of miscreants, rather than a consequence of his own decisions. But the impact of these events on domestic morale, on the morale of the vast majority of honorable soldiers in a very tough place and on the reputation of the United States in the Middle East is incalculable. The war on terror is both military and political. The president's great contribution has been to recognize that a solution is impossible without political reform in the Middle East. And yet the prevalence of brutality and inhumanity among American interrogators has robbed the United States of the high ground it desperately needs to maintain in order to win. What better weapon for Al Qaeda than the news that an inmate at Guantánamo was wrapped in the Israeli flag or that prisoners at Abu Ghraib were raped? There is no escaping the fact that, whether he intended to or not, this president handed Al Qaeda that weapon. Sometimes a brazen declaration of toughness is actually a form of weakness. In a propaganda war for the hearts and minds of Muslims everywhere, it's simply self-defeating.

And the damage done was intensified by President Bush's refusal to discipline those who helped make this happen. A president who truly recognized the moral and strategic calamity of this failure would have fired everyone responsible. But the vice president's response to criticism of the defense secretary in the wake of Abu Ghraib was to say, "Get off his back." In fact, those with real responsibility for the disaster were rewarded. Rumsfeld was kept on for the second term, while the man who warned against ignoring the Geneva Conventions, Colin Powell, was seemingly nudged out. The man who wrote a legal opinion maximizing the kind of brutal treatment that the United States could legally defend, Jay S. Bybee, was subsequently rewarded with a nomination to a federal Court of Appeals. General Sanchez and Gen. John P. Abizaid remain in their posts. Alberto R. Gonzales, who wrote memos that validated the decision to grant Geneva status to inmates solely at the president's discretion, is now nominated to the highest law enforcement job in the country: attorney general. The man who paved the way for the torture of prisoners is to be entrusted with safeguarding the civil rights of Americans. It is astonishing he has been nominated, and even more astonishing that he will almost certainly be confirmed.

But in a democracy, the responsibility is also wider. Did those of us who fought so passionately for a ruthless war against terrorists give an unwitting green light to these abuses? Were we naïve in believing that characterizing complex conflicts from Afghanistan to Iraq as a single simple war against "evil" might not filter down and lead to decisions that could dehumanize the enemy and lead to abuse? Did our conviction of our own rightness in this struggle make it hard for us to acknowledge when that good cause had become endangered? I fear the answer to each of these questions is yes.

American political polarization also contributed. Most of those who made the most fuss about these incidents - like Mark Danner or Seymour Hersh - were dedicated opponents of the war in the first place, and were eager to use this scandal to promote their agendas. Advocates of the war, especially those allied with the administration, kept relatively quiet, or attempted to belittle what had gone on, or made facile arguments that such things always occur in wartime. But it seems to me that those of us who are most committed to the Iraq intervention should be the most vociferous in highlighting these excrescences. Getting rid of this cancer within the system is essential to winning this war.

I'm not saying that those who unwittingly made this torture possible are as guilty as those who inflicted it. I am saying that when the results are this horrifying, it's worth a thorough reassessment of rhetoric and war methods. Perhaps the saddest evidence of our communal denial in this respect was the election campaign. The fact that American soldiers were guilty of torturing inmates to death barely came up. It went unmentioned in every one of the three presidential debates. John F. Kerry, the "heroic" protester of Vietnam, ducked the issue out of what? Fear? Ignorance? Or a belief that the American public ultimately did not care, that the consequences of seeming to criticize the conduct of troops would be more of an electoral liability than holding a president accountable for enabling the torture of innocents? I fear it was the last of these. Worse, I fear he

may have been right.

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