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Taxi to the Dark Side

By Alex Gibney

The procedures adopted to try Hamdan also violate the Geneva Conventions. The D. C. Circuit dismissed Hamdan's challenge in this regard on the grounds, inter alia, that the Conventions are not judicially enforceable and that, in any event, Hamdan is not entitled to their protections. Neither of these grounds is persuasive... Hamdan v. Rumsfeld, decided by the United States Supreme Court on June 29, 2006

On December first, 2002 ...

Dilawar, a young Afghan taxi driver, took three passengers for a ride. He never returned home.

TAXI TO THE DARK SIDE

[SGT. Thomas Curtis, Mil-Pol, Bagram] When the sun started to go down, the sand started blowing.

It was like a big dust bowl. And I'm thinking,

"Boy, is it gonna be like this every night?"

[PFC. Damien Corsetti, Mil-Intel, Bagram] I remember walking in to there for the first time:

The smell...the smell is the first thing that hits you, And being from D.C., if you've ever been to the National Zoo When you walk into the elephant house there, that's the best way to describe it.

There were a few of us that lived in the prison, and I was one of them. They built it up to be a big, scary place to the prisoners. After the invasion of Afghanistan, U.S. Forces occupied Bagram, An old Soviet airbase as a place to collect and interrogate thousands of detainees

captured throughout Afgan and Pakistan.

[SGT. Thomas Curtis, Mil-Pol, Bagram] These were suspected Taliban. They were being caught by Special Forces throughout the countryside, brought to Bagram to be held, interrogated, determined if they were a high-value prisoner.

[SGT. Anthony Morden, Mil-Pol, Bagram] These were not nice people at all. They were very evil people who, you know, definitely had violent intentions.

On December 5, 2002 ...

Dilawar, the taxi driver, was brought to Bagram.

He was designated a PUC: Person Under Control, No. 421.

[SGT. Anthony Morden, Mil-Pol, Bagram] He was something to do with a trigger man for a rocket attack.

And that's about all I know.

Five days after his arrival, he was dead.

[SGT. Thomas Curtis, Mil-Pol, Bagram] I would say this was around about 05:00 in the morning.

As I walked by Dilawar...I think that's his name, Dilawar Walked by Dilawar's cell,

I noticed that he was just kind of hanging there with his head down. But he was being too still to be, you know, just hanging there and sleep. [SGT. Anthony Morden, Mil-Pol, Bagram] SGT. Curtis opened up the door, and we went in.

He was unresponsive. And we started CPR.

[PFC. Willie Brand, Mil-Pol, Bagram] I was downstairs in general population.

Then I heard a call come in asking for Cammack to come upstairs.

He was a medic, and we carried him downstairs on a stretcher.

And the Cammack was still on top of him while we're carrying him down, still trying to get him back going,

all the way down the stairs. We got him through the front door and they kept working on him,

kept working on him until the doctor got there and pronounced him dead.

[SGT. Thomas Curtis, Mil-Pol, Bagram] I don't know if it was an injury that was aggravated by something,

or whether he was just sick coming in.

[PFC. Damien Corsetti, Mil-Intel, Bagram & Abu Ghraib] They are very frail people,

And I was surprised that it had taken that long for one of them to die in our custody.

[SGT. Thomas Curtis, Mil-Pol, Bagram] There was a definite sense of concern, because he was the second one.

Just a week before Dilawar's death, another detainee at Bagram had died.

[SGT. Thomas Curtis, Mil-Pol, Bagram] You know, you wonder: Is this something we did?

Or did somebody kill him or something? But I just didn't know.

According to the medical examiner, the first detainee to die, Habibullah, had a preexisting pulmonary condition.

But it was the beatings he sustained at Bagram that led to the cause of his death:

A bloodclot that traveled to his lungs.

[PFC. Damien Corsetti, Mil-Intel, Bagram & Abu Ghraib] When the second one died a week later,

That's when it was like, "Oh, crap! Something's going to happen now."

That's two prisoners dying within a week of each other. That's bad.

A preliminary investigation into Dilawar's death, revealed deep bruises all over his body.

But it did not conclude that his treatment at Bagram was to blame.

[SGT. Thomas Curtis, Mil-Pol, Bagram] The next day, they said, "Draw out how he was shackled up here."

And I made that crude drawing.

The ceiling of these isolation rooms was just a simple metal grate,

And it was thick enough you could put handcuffs, you know, through the

wires of that ...

[Military Investigation Reenactment] And you just kind of chain them up like that, out to the sides, like this.

Forced standing for long periods had inflamed tissue damage from blows to Dilawar's legs.

But the initial Bagram press release failed to mention overhead shackling and beatings.

It declared that both detainees had died of natural causes.

[SGT. Anthony Morden, Mil-Pol, Bagram] My opinion is that the military wanted to get this over,

and get this done quickly, before it really got noticed.

Soon after Dilawar's death, the officer in charge of interrogation at Bagram,

Captain Carolyn Wood, was awarded the bronze star for valor.

Following the Iraq invasion, Wood and her intelligence unit, were given a new assignment:

Abu Ghraib.

A FEW BAD APPLES

[Eric Lahammer, Mil-Intel, Bagram & Abu Ghraib] The only thing I can really remember about Abu Ghraib was the heat.

It was like 148 degrees(58 C) or so there and it was all concrete.

Abu Ghraib also had the infamous torture chambers and stuff left from Saddam's era.

I remember walking through those and seeing like fingernail marks on the walls,

And bloodstains, and guillotines and stuff like that.

It was a pretty surreal feeling.

We went to Abu Ghraib, I believe in July. July or August of 2003 to start that prison.

[PFC. Damien Corsetti, Mil-Intel, Bagram & Abu Ghraib] You put people in crazy situations, and people do crazy things.

And Abu was getting mortared every night.

These 120 mm. mortars killing prisoners.

The first time that happened, they should have evacuated those prisoners to somewhere else,

Because the prisoners weren't safe.

[SGT. Ken Davis, 372nd MP Company, Abu Ghraib] People were being told to rough up Iraqis that wouldn't cooperate.

We were also told that they were nothing but dogs.

Then, all of a sudden, you start looking at these people as less than human.

And you start doing things to them you would never dream of.

And that's where it got scary.

[US Chief of Staff, Richard Myers] It was only the night shift. There's

always a few bad apples.

[Donald Rumsfeld, Secretary of Defense] It's been a body blow for all of us.

[Lt. General Ricardo S. Sanchez] This is clearly an isolated incident.

[General Geoffrey D. Miller] The conduct of a very, very small number of our leaders and soldiers.

In the wake of media attention surrounding Abu Ghraib, the military began a series of investigations.

[Secretary of Defense Donald Rumsfeld, Abu Ghraib, 2004] The people who engaged in abuses will be brought to justice.

The world will see how a free system, a democratic system, functions and operates transparently with no cover-ups.

[Rear Admiral John Hutson, (ret) Judge Advocate General] The Secretary and others have said,

"Well, you know, we've conducted 12 investigations"...

Each and all of which were geared to looking downward,

Down toward Lynndie England and Graner, and not looking up.

The soldiers in the photos are military police, or MPs, whose job it was to guard and protect the prisoners.

In their statements, the MPs claimed that Mil-Intel, or MI, Ordered them to weaken, humiliate, and break the prisoners for interrogation purposes.

[SPC. Tony Lagouranis, Mil-Intel, Iraq] Obviously, you know, what they were doing, in those pictures,

was not sanctioned by the Interrogation Rules of Engagement.

And they weren't interrogators. So yes, I did think that they were bad apples.

However, I also think that they were taking cues from Intel.

[SGT. Ken Davis, 372nd MP Company, Abu Ghraib] This reading report said it was happening in Afgan.

I mean, humiliation, trying to break people came from somewhere.

MPs didn't think of it. MPs were not ever trained in such things.

We should never have been "breaking" anybody.

[PFC. Damien Corsetti, Mil-Intel, Bagram & Abu Ghraib] I can tell you, we set the same policies in Abu as we set at Bagram.

The same exact rules.

The same thing was going on.

And they wonder why it happened.

In her sworn testimony about Abu Ghraib,

Capt. Wood said she felt pressured to produce intelligence,

So she brought unauthorized techniques:

Dogs, nudity, sleep deprivation and stress positions to Abu Ghraib from Afgan.

Wood maintained that the Bagram model had tacit approval from superiors.

But U.S. Central Command had never responded to her requests for authorization.

So the mystery remained. Was Abu Ghraib the work of a few bad apples? Or evidence of a new world-wide system of detention and interrogation? [SPC. Tony Lagouranis, Mil-Intel, Iraq] I'm pretty sure that interrogators were telling the guards:

"Strip this guy naked, chain him up to the bed in an uncomfortable position,

You know, do whatever you can." And then they decided to take it one step further

And have some "fun," and take pictures.

[Colonel Lawrence Wilkerson, Chief of Staff to Colin Powell 2002-2005, 31 years in the Military]

You've always got people in the military who are just this side of the Marquis De Sade,

And one of the reasons you want rules

And this code of conduct to help you lead mud rings and mud runs infantry...is

is so that you can use those tools to restrict this tendency in your soldiers.

When you have your friends dying on you left and right,

You can sometimes go beyond the pale.

So a lieutenant, a captain down where the rubber meets the road, needs these tools.

And he needs to be able to punish people who cross the line.

When the secretary walked through my door into my office

About the time the photos of Abu Ghraib were getting ready to come out

And we had rumor that they were coming out,

He said to me, "I need to know what happened and why."

And so then I began to build both an open source

And inside the government, classified and unclassified, document file.

And I began to see legal arguments as to why the President

could pretty much do anything he wanted to in the name of Security.

And the Secretary of Defense, and others beneath him,

were actually looking for the twin pressures that they put on people.

That is to say, the pressure to produce intelligence.

And the fact that they were saying "the gloves are off,"

Created the environment in the field that we later saw reflected in the photographs from Abu Ghraib.

And in my view, far more serious fashion than the photographs we saw,

Were 98 deaths of people in detention,

Which I understand now from my army colleagues is up to some 25

of which have been declared officially by the Army as homicides.

People say, "Well, these photographs from Abu Ghraib, they weren't real

torture."

I look back at those people and say, "Murder is torture. Murder is the ultimate torture."

In the case of Dilawar, he was subject to certainly cruel and unusual punishment,

And ultimately, he was subject to torture because he died.

[Carlotta Gall] "First, we're not chaining people to the ceiling." That's what he says.

Carlotta Gall is a New York Times journalist based in Kabul.

Unsatisfied with the Military's explanation of the two deaths at Bagram, She set out to investigate.

[Carlotta Gall] It took a long time to find the family because the Military didn't tell us who they were.

And we started calling around: Governors.

They are a very simple farming family. They don't speak English.

But they showed me a paper that was given to them with the body.

And that's when I opened it up and read it. It was in English.

And it was signed by a U.S. Major who was the pathologist.

And of the four boxes, she checked the box for Homicide.

I said, "My God, they've killed him."

And we then had to tell the family, "Do you know what's written here?"

And they said, "No, it's in English. We don't understand."

And I think maybe the Red Cross who helped return the body had explained, but they hadn't taken it in.

And then the Pathologist had said it was this blunt force trauma to the legs.

[Carlotta Gall] "Presently have no indication of that." You know, There's been a death certificate signed by his people and he says, "Presently I have no indication of any blunt force trauma."

And it's written on the death certificate which I've seen.

[Tim Golden, New York Times Reporter] The story probably would have gone away had it not been for my colleague, Carlotta Gall, Who tracked down Dilawar's family and found the knife-in-the-back clue That told everyone that this incident had been something other than the Military portrayed.

Tim Golden picked up the trail of the story

And obtained a confidential file of the Army investigation,

Including hundreds of pages of testimony from the soldiers involved.

[Tim Golden, New York Times Reporter] Part of what made the story compelling to me was that

You had these young soldiers with very little training or preparation, thrown into this situation in the aftermath of 9/11, just as the rules were changing.

And they weren't told what the new rules were.

And you had this young Afghan man who came into this system at the wrong time, in the wrong way. And this is what happened to him. [SGT. Thomas Curtis, Mil-Pol, Bagram] I saw his picture in the New York Times article.

Before that picture, I couldn't have picked his face out, you know. My memory of him was chained up, with the hood on, no sleeping.

Following questions raised by the New York Times, And under scrutiny about the Abu Ghraib scandal, The Army finally stepped up the Dilawar investigation, And began charging soldiers with maltreatment, maiming and homicide.

[SGT. Thomas Curtis, Mil-Pol, Bagram] When you're working, you know, with an organization like the Military, You know, they are going to hold somebody accountable.

You can sweep some things under the rug, but, you know, this was a death. There was two deaths. And okay, fine, they are going to charge people.

[SGT. Anthony Morden, 377th Mil-Pol Unit, Bagram, Afgan] It seemed like the Military, now after they got a black eye from Abu Ghraib, wanted to get a public opinion that they were policing their soldiers. And so they said,

And so they said, "We had this incident that happened a couple of years ago.

We could still prosecute some of them."

[PFC. Willie Brand, 377th Mil-Pol Unit, Bagram, Afgan] I had nothing to do with the Military for two years, And all of a sudden I'm getting a call saying that I'm being court-martialed.

I mean that was a huge surprise for me.

[John Galligan, Willie Brand's attorney] From a defense perspective, I immediately said "This is a political show trial."

Willie Brand is a good soldier. Good soldiers tend to obey orders. Good soldiers tend to be people who do what they are trained to do.

[Tim Golden, New York Times Reporter] The interrogators on the ground for the most part didn't know what the rules were.

They'd never been interrogators before.

[PFC. Damien Corsetti, 519th Mil-Intel Unit, Bagram, Afgan] My interrogation training consisted basically of, They taught us some approaches...you know...how to get people to talk. And then..."Here, go watch these guys interrogate"...

which were the people that we were replacing...

For about five or six hours before I did my first interrogation.

[William Cassara, Damien Corsetti's attorney] Damien was picked for this job because he's big,

He's loud, and he's scary. That was his qualification.

[PFC. Damien Corsetti, 519th Mil-Intel Unit, Bagram, Afgan] "Soldiers are

dying. Get the information."

That's all you're told. "Get the information."

[Tim Golden, New York Times Reporter] Soldiers said that when prisoners like Dilawar came into Bagram, They were immediately assaulted.

They blasted music at them. Often, they had dogs barking at them.

And they would use some of the most menacing Interrogators to create this sense of threat.

One of those was Damien Corsetti.

[PFC. Damien Corsetti, 519th Mil-Intel Unit, Bagram, Afgan] With the screening, you're trying to instill what's called "The Shock of Capture", When the person first comes in. And that's when they are most apt to give you information

'cause they're just like, "Oh, crap, what's going on?"

It's not just a disorientation procedure, it's actually a terrorizing procedure.

It's designed to terrify you into spilling the beans, as it were.

Being spat at. Being sworn at. Having the dogs barking around. Cameras flashing in your face.

[SGT. Thomas Curtis, Mil-Pol, Bagram] Keep in mind, in their culture, That dog's more shocking to them than it is to us.

Kind of like a woman telling them what to do. You know, it's a cultural thing.

So you get more bang for your buck, you know, with a dog.

[Moazzam Begg, British subject detained at Bagram and Guantanamo 2002-2005]

And then to be re-shackled, completely naked,

and to do what they call "The Body Search,"

The cavity search, and then to be questioned naked, shivering.

[PFC. Willie Brand, Mil-Pol, Bagram] After they are read their rules and everything,

They are taken to their cell, to where they're going to be put in sleep deprivation for 24 hours.

That's standard for everybody.

Then, from there, MI directs us that they can go to general population, or if they have to stay in isolation.

And if they are going to stay in isolation, If they are going to be allowed to sleep.

And if they can, then when.

To weaken the defenses of detainees,

Interrogators ordered Mil-Pol to find ways of keeping the prisoners awake.

[SGT. Thomas Curtis, Mil-Pol, Bagram] You know, they are in that room not saying anything...

"Oh, well, maybe he knows a little bit more.

Let's let him, you know, lose a little bit more sleep."

Which is the idea of keeping them like this, so you won't sleep. You'll stand.

Because as soon as you let your body go, that pressure on your wrist and your arms

You're going to feel that with those cuffs on.

[PFC. Damien Corsetti, 519th Mil-Intel Unit, Bagram, Afgan] The only time the MPs would ever help us do anything would be to keep them on a sleep schedule.

You know, they are guaranteed so much sleep.

Is that sleep consistent? Is it uninterrupted?

You know, there's 15 minutes here, 15 minutes there.

Who knows? That's how it was proposed to us.

[SGT. Thomas Curtis, Mil-Pol, Bagram] There would be a board, when you walked into the room, on his wall.

You might see an arrow going up to the ceiling.

And there would be maybe a "1" by it. So that would be an hour up.

He's got to stand up for one hour.

And then you may see a "2" with an arrow pointing down.

That means he can sit down for two hours.

[Tim Golden, New York Times Reporter] The prisoners were kept in these big pens downstairs.

And their numbers would be scribbled on the door of the airlock, which was the little passageway that they were taken out of when they were brought up to the isolation cells upstairs.

[Moazzam Begg, British subject detained at Bagram and Guantanamo 2002-2005] Detainees were actually chained, with their hands above their heads, in these airlocks. His number, "421," was something I could see often, because his back was towards me

In the airlock, and the numbers were written on the backs of the detainees in black marker.

And we all had that. As well as on the front.

My number in Bagram was 180. But later it became "558."

Thank you. It's good to be with you. It's good to be here in Bagram.

[SGT. Thomas Curtis, Mil-Pol, Bagram] I'm sure any high-ranking officer who toured would see the shackles,

because they are going to tour to look.

You know, they are curious just like everybody else is.

[PFC. Damien Corsetti, 519th Mil-Intel Unit, Bagram, Afgan] There are always officers coming and going through the facility.

We kind of joked about it as being The Greatest Show on Earth.

Everyone wanted to come and look at the terrorists.

Mr. Rumsfeld's office called our office frequently.

Very high commanders would want to be kept up-to-date on a daily basis on certain prisoners there.

The Brass knew. They saw them shackled. They saw them hooded. And they said, "Right on! You're doing a great job!" When the Red Cross toured Bagram, the sleep deprivation chart was erased. And the prisoners were unshackled. [Tim Golden, New York Times Reporter] Traditional military procedure did not allow you to shackle somebody to a fixed object. Certainly not chaining their arms overhead. Initially they were handcuffing people into the airlock of the cells for punishment. And that was to be strictly limited. 15 minutes. Half an hour. But it quickly "evolved". And when you walked in there, They just had a pair of long handcuffs dangling from the wire mesh ceiling of the cell. Ready for whoever came in.

Manner of Death:

The Army Coroner who examined Dilawar discovered massive tissue damage in his legs.

She later testified that his legs had been pulpified.

But what could have caused that kind of damage?

In a videotape that surfaced as part of the homicide investigation, Colonel David Hayden, the top Army lawyer for U.S. Forces in Afgan, described a policy of shackling and striking detainees.

[SGT. Thomas Curtis, Mil-Pol, Bagram] I didn't actually hear a higher-up say,

"Go and kick them in the leg if they do this and they do that."

But the higher-ups said, "In order to get control of them, That's an option that you can use."

[PFC. Willie Brand, Mil-Pol, Bagram] It's just your knee going into the side of their thigh about mid-way up.

There's supposed to be a pressure point right there. And it controls them really easy.

[Tim Golden, New York Times Reporter] Throughout the investigation, and even in the trials,

a lot of the guards and interrogators described Dilawar as a very combative detainee, as a tough character.

And that's just never been reconciled with all the other evidence that there was about this guy.

He weighed 122 pounds when he died.

The men who had been passengers in Dilawar's taxi told us later that he had just been absolutely terrified at Bagram.

That they heard him through the walls of the isolation cells screaming for his mother and father.

[Moazzam Begg, British subject detained at Bagram and Guantanamo 2002-2005]

He'd been in a very uncomfortable position
muttering some things, sometimes praying, sometimes asking for help,
Or seemingly asking for help, because I couldn't understand his language.
A number of witnesses remember the night before Dilawar died.
[SGT. Thomas Curtis, Mil-Pol, Bagram] Just that one night he got kicked in
the leg, maybe like 10 times.
[Tim Golden, New York Times Reporter] Some of the soldiers said they
started using the knee strikes essentially to shut them up,
Because he was yelling and screaming.
[SGT. Anthony Morden, Mil-Pol, Bagram] The damage that was done was done
from multiple strikes.
And a lot of that could have been avoided had you known the person
before you had fought with them, and used that exact technique.
[Moazzam Begg, British subject detained at Bagram and Guantanamo 2002-2005]
When they eventually came to take him to an isolation cell,
I believe his body had become almost limp.
One of the reasons why they began punching him was that they felt he was
putting it on.
He was in the airlock standing there with a hood over his head.
He had his hands tied above his head, and he was moaning.
[SGT. Anthony Morden, Mil-Pol, Bagram] He started to fight right there in
the airlock.
And the airlock has a front gate and a back gate.
but on both sides There is barbed wire. But both sides are concertina wire.
Neither of us officers wanted to get into the concertina wire.
So we pulled him out of the airlock and put him on the floor, and put him
into restraints.
What kind of force did you have to use to subdue him?
[SGT. Anthony Morden, Mil-Pol, Bagram] Physical force. He was struck.
[SPC. Glendale Walls, Interrogated Dilawar at Bagram] There were like four
MPs on this guy.
And one of the MPs just kept giving him kidney shots.
The other two, they'd slam him to the ground.
And then the fourth one like jumped on his back.
He got a big gash on his nose.
[Moazzam Begg, British subject detained at Bagram and Guantanamo 2002-2005]
There was no reason to hit him. Remember, he was shackled.
[SGT. Thomas Curtis, Mil-Pol, Bagram] Even when control wasn't an issue, it
became "Well, I'm just going to do this to get mine in."
And that's probably why they got in trouble.
Because you really couldn't justify kicking the guy that much if he was
just chained up.
Dilawar was taken to an isolation cell where the knee strikes continued.
In her statement at trial, the Army Coroner said his lower limbs

looked like they had been run over by a bus.

Had he lived, it would have been necessary to amputate his legs.

[PFC. Willie Brand, Mil-Pol, Bagram] Then it kind of raised the question of like,

"This is what we did to him." It's not just like this is what I did to him, or this is what Cammie did to him, or Morden or anybody. Just, "This is what we've done."

[Tim Golden, New York Times Reporter] It's almost hard to fathom now.

You had soldiers like Willie Brand who seems like this very gentle, kind of soft-spoken guy,

But who testified that he struck Dilawar so many times in the leg that his knee got tired,

and he had to switch to the other one.

[SGT. Anthony Morden, Mil-Pol, Bagram] Sometimes I feel that I should have gone with my own morality

more than what was common.

One MP testified that the strikes became an amusement inflicted on Dilawar just to hear him scream "Allah."

[SGT. Thomas Curtis, Mil-Pol, Bagram] Some would say, "Well, hey, you should have stopped this. You should have stopped that

When you saw he was injured, or saw he was being kicked on this...

Why didn't you do something?" That would be a good question!

And my answer would be, "Well, you know, it was us against them."

I was over there. I didn't want to appear to be going against my fellow soldiers.

Which...is that wrong? You could sit here and say that was dead wrong.

Go over there and say that!

No one ever investigated who set the rules at Bagram.

Investigators never asked Capt. Wood what senior officers

had given orders to treat detainees in ways that were forbidden according to the Army Field Manual.

MP Capt. Beiring was the only officer prosecuted in the case.

His dereliction of duty charge was dismissed when the judge determined

That no one had made clear what Capt. Beiring's duty was.

In spite of repeated requests for proper training, rules of engagement for his soldiers,

His superiors gave him neither.

[SPC. Glendale Walls, 519th Mil-Intel, Interrogated Dilawar at Bagram] We were all worried about not having that written guidelines.

But they kept reassuring us that it was coming.

[PFC. Damien Corsetti, Mil-Intel, Bagram] We knew exactly why we weren't getting clear guidance,

just in case something like this happened.

[SPC. Glendale Walls, 519th Mil-Intel, Interrogated Dilawar at Bagram] If I

had to do it again, I'd probably say "No."

I'm not doing anything until I see something in writing.

Do you think that looking back, you think you were misled?

[SPC. Glendale Walls, 519th Mil-Intel, Interrogated Dilawar at Bagram] I think we all were.

A week after September 11th, Vice-President Dick Cheney appeared on Meet the Press

to describe how interrogation policies were about to change.

PAY BACK:

[Vice-President Dick Cheney] They have to work so that the Dark Side, if you will.

We've got to spend time in the shadows in the Intelligence World.

A lot of what needs to be done here will have to be done quietly, without any discussion,

using sources and methods that are available to our Intelligence Agencies.

If we're going to be successful! That's the world these folks operate in.

And so it's going to be vital for us to use any means at our disposal basically to achieve our objective.

[Scott Horton, Chair, Committee on International Law, NYC Bar Association]

It's very clear that it starts in the office of Vice-President Cheney.

He had a very strong view that we were not as aggressive in dealing with people in interrogations as we could or should be.

"Taking the gloves off." Being rough with detainees.

If Dick Cheney was the primary architect of a new policy, John Yoo was the chief draftsman.

He wrote guiding opinions that argued for a flexible approach to treating suspected terrorists.

[John Yoo, Dept. of Justice, Office of Legal Counsel 2001-2003] The United States used to treat terrorism as a criminal justice problem.

The September 11th attacks showed that the struggle with Al Qaeda had moved into warfare.

And I think when a foreign entity for political purposes, can kill 3,000 Americans, and cause billions of dollars of damage,

And try to eliminate the leaders of the American government,

That sounds like war to most people. It doesn't sound like crime.

President Bush declared a war on terror.

But he raised questions about whether suspected terrorists should be protected by the laws of war:

The Geneva Conventions.

Atrocities that shocked the conscience of the world gave rise to the modern Geneva Conventions.

International treaties meant to provide fundamental protections for every human being captured in wartime.

In effect for over 50 years, Geneva offered legal protections and prohibited interrogators from using torture, murder, or even humiliating and degrading treatment. After 9/11, John Yoo worked closely with Dick Cheney's office and Alberto Gonzales, counsel to the President.

They wrote a series of memos arguing that the Geneva Conventions did not apply to suspected terrorists.

And they gave legal cover for the CIA and Special Forces to embark on a secret program of previously forbidden interrogation techniques.

["President" George Bush] More than 3,000 suspected terrorists have been arrested in many countries.

Many others have met a different fate. Let's put it this way:

They are no longer a problem to the United States and our friends and allies!

The problem for the President, Gonzales warned, was that some of the new interrogation techniques were banned under U.S. and International law.

[Rear Admiral John Hutson (Ret., Former Judge Advocate General, 30 Years Military experience)] One of the points that he makes is that we don't want the Geneva Conventions to apply, because if they do, these things can be war crimes.

[Alberto Mora, General Counsel to the Navy, 2001-2006] What's well known is the principle of command responsibility.

This was established in the Nuremberg trials after World War II.

And it established the principle of International Criminal Law.

That individuals who order illegal treatment will be held accountable for the illegal treatment, even if they're not immediately applying that kind of abusive treatment.

To be certain that Americans interrogating prisoners would not be accused of torture,

John Yoo co-authored a memo that would clarify the meaning of the term.

[Senator Carl Levin, Senate Armed Services Committee] The only prohibited acts would be extreme acts, which are equivalent to serious physical injury, such as organ failure, impairment of bodily functions, or even death.

That's an illegal memo. That's the so-called "torture memo."

[Alberto Gonzales, Attorney General Confirmation Hearing] That was an arguable interpretation of the law.

I'm sure we had discussions about it. And ultimately, it was accepted.

Because that was the ultimate decision and position of the Office of Legal Counsel.

[Alberto Mora, General Counsel to the Navy, 2001-2006] The office of Legal Counsel memorandum was unbounded.

Meaning that nowhere did it state that the application of cruel and unhuman and degrading treatment was prohibited.

And at one point I asked John Yoo, "Can the President authorized torture?" And his response was "Yes."

[John Yoo, Dept. of Justice, Office of Legal Counsel 2001-2003] I think the lawyer's job is to tell people what laws do or do not apply, so that they know what space they have to make their policy decision.

Military lawyers were outraged by the implications of John Yoo's memo.

[Scott Horton, Chair, Committee on International Law, NYC Bar Association]

My first involvement in this came

when I was visited by a group of very senior JAG officers [JAG=Judge Advocate General]

more than a year before the first story about Abu Ghraib broke,

Who were very troubled about what was going on.

And the focus of their concern was failing in the responsibilities that the military leadership had to soldiers in the field.

That was responsibility to provide

fair, clear guidance to them as to how to behave in these difficult circumstances.

And what they saw was an intentional decision taken at the height of the Pentagon

to put out a fog of ambiguity, coupled with great pressure to bring results.

To be prepared to be violent with the detainees.

But, you know, this violence with the detainees is a criminal act.

[Senator John McCain] They may be Al Qaeda. They may be Taliban.

They may be the worst people in the world, and I'm sure that some of them are.

But there are certain basic rules, and international agreements that the United States has agreed to

That we will observe. You go ahead and please respond. You wanted to.

[Lt. General Randall M. Schmidt, Author of "Schmidt Report"] Okay, very quickly, let me clarify. The President's policy:

"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."

[Senator John McCain] That is a legalistic statement and one that is ridden with loopholes.

And it is clear to me that the interrogators did not understand that "humane treatment" might be in the eye of the beholder.

In the field in Afgan, there was a great deal of confusion about exactly what the rules were.

[SPC. Glendale Walls, 519th Mil-Intel, Interrogated Dilawar at Bagram] They

told us when dealing with the PUCs
as they called them, the Persons Under U.S. Custody,
"They don't fall under Geneva Conventions."

Basically, the only thing we weren't allowed to do is beat 'em up.
"Person Under Control," "Person Under Custody." Something like that.
You know, they call them anything to dehumanize them so that you don't look
at them as people.

[SGT. Thomas Curtis, Mil-Pol, Bagram] I don't remember hearing anything
about Geneva Convention.

Of course I'm familiar with it, but they didn't go over that in any kind of
detail.

[PFC. Damien Corsetti, Mil-Intel, Bagram] I didn't know what the Field
Manual for Interrogation,

I didn't know the proper nomenclature for it. I'd seen it.

There was a copy lying around, I'm sure, somewhere.

And if I had chosen to, I could have picked it up and read it. But I was
working 16-hour days.

To sit down and read a Field Manual was not top of my priorities over
there.

[Vice-President Dick Cheney] It is a mean, nasty, dangerous, dirty business
out there.

And we have to operate in that arena.

I'm convinced we can do it. We can do it successfully.

But we need to make certain that we have not tied the hands,
if you will, of our Intelligence Communities in terms of accomplishing
their mission.

[Fox News] These terrorists play by a whole different set of rules.
It's going to force us...in your words...to get mean, dirty and nasty? in
order to take them on?

[Vice-President Dick Cheney] Uh-hmm. Right.

Guided by a legal opinion from John Yoo,

The Bush Administration began shipping some high-value detainees
to the U.S. Naval Base in Guantanamo Bay, Cuba.

[Rear Admiral John Hutson (Ret.), Former Judge Advocate General, 30 Years
Military Experience] Initially I thought, "Good, safe place! Put them
there, barbed wire all over."

Then it became apparent the reason we were doing it was because we were
going to argue that there's no law.

You know, Cuban law didn't apply. U.S. law didn't apply.

Well, that was a big step down the slippery slope.

[John Yoo, Dept. of Justice, Office of Legal Counsel 2001-2003] I think
what the policy makers are trying to do

was to try and find a place that was physically close to the United States
so it can be well-protected but still would benefit from the rule

that the United States Military has ultimate say and control over any prisoners held outside the country.

["President" George W. Bush] One by one the terrorists are learning the meaning of American "Justice."

The Government argues unpersuasively that abstention is appropriate under Councilman, which concluded that,

As a matter of comity, federal courts should normally abstain from intervening in pending courts-martial against service members, see 420 U. S., at 740.

Neither of the comity considerations Councilman identified weighs in favor of abstention here.

First, the assertion that military discipline and, therefore, the Armed Forces efficient operation, are best served if the military justice system acts

without regular interference from civilian courts, see *id.*, at 752, is inapt because Hamdan is not a service member.

Second, the view that federal courts should respect the balance Congress struck when it created an integrated system of military courts and review procedures is inapposite,

since the tribunal convened to try Hamdan is not part of that integrated system. Rather than Councilman, the most relevant precedent is *Ex parte Quirin*,

where the Court, far from abstaining pending the conclusion of ongoing military proceedings, expedited its review because of (1) the public importance of the questions raised,

(2) the Courts duty, in both peace and war, to preserve the constitutional safeguards of civil liberty, and (3) the public interest in a decision on those questions without delay, 317 U. S., at 19.

The Government has identified no countervailing interest that would permit federal courts to depart from their general duty

to exercise the jurisdiction Congress has conferred on them *Hamdan v.*

Rumsfeld, decided by the United States Supreme Court on June 29, 2006

The appeals court relied on a statement in *Johnson v. Eisentrager*, 339 U. S. 763 , n. 14, suggesting that this Court lacked power even to consider the merits of a Convention argument

because the political and military authorities had sole responsibility for observing and enforcing prisoners rights under the Convention.

However, *Eisentrager* does not control here because, regardless of the nature of the rights conferred on Hamdan, cf. *United States v. Rauscher*, 119 U. S. 407,

They are indisputably part of the law of war, see *Hamdi*, 542 U. S., at 520~521, compliance with which is the condition upon which UCMJ Art. 21 authority is granted

Hamdan v. Rumsfeld, decided by the United States Supreme Court on June 29,

2006

In December, 2001, a man named Mohamed al-Kahtani [Muhammed al-Qahtani] was swept up in Afgan and sent to Guantanamo.

After eight months in detention, the Army "discovered" that he "may have" trained to be the 20th hijacker.

Suddenly, Kahtani became the most important detainee in Guantanamo.

[Brigadier General Jay Hood, Commander Joint Task Force, Guantanamo

2004-2006] Here we had a man who was supposed to have been

on that plane that was flown into the Pennsylvania countryside.

So I think there was a sense of urgency to find out what this guy knew in order to be able to prevent any future attacks.

[Lt. General Randall M. Schmidt, Author of "Schmidt Report"] He successfully resisted standard interrogation techniques at Guantanamo for eight months.

And he is the genesis for the request by the Joint Task Force at Guantanamo for more techniques

that might be able to get past his resistance training.

In September 2002, John Yoo and Alberto Gonzales traveled to Guantanamo.

Soon after their visit, and just before Dilawar's arrival at Bagram,

Donald Rumsfeld personally approved a new menu of psychological interrogation techniques for use on Mohamed al-Kahtani.

Exactly how the techniques would be applied was often left to the imagination of the interrogators.

[Gita Gutierrez, Lawyer for Mohammed al-Qahtani] His interrogations are well documented in a log,

and from November, 2002 until early January, 2003,

He was subjected to this regime.

It involved very severe sleep deprivation.

He was only permitted to sleep 4 hours a day

From 7:

for 50 days with one exception.

He was held in severe isolation and sensory deprivation.

There are a number of instances in the log where you will see the phrase "invasion of space by a female."

And that was actually an interrogation tactic designed to break his faith.

[Lt. General Randall M. Schmidt, Author of "Schmidt Report"] The

Interrogator approached Detainee from behind,

and rubbed his back, whispered in his ear, and ran fingers through his hair.

That was authorized under the utility technique.

[Gita Gutierrez, Lawyer for Mohammed al-Qahtani] He was subjected to what I would call "sexual assault" by female interrogators.

[Lt. General Randall M. Schmidt, Author of "Schmidt Report"] He was forced

to wear women's lingerie.

There were multiple allegations of homosexuality, and that his comrades were aware of that.

He was forced to dance with a male interrogator.

Subject to strip searches for control measures, not for security.

And he was forced to perform dog tricks. All of this to lower his personal sense of worth.

[Gita Gutierrez, Lawyer for Mohammed al-Qahtani] They've tried to characterize it as individual interrogators pushing the envelope, or starting to get (quote) "creative."

[Gita Gutierrez, Lawyer for Mohammed al-Qahtani] The combination of his lack of food intake and forcible hydration led him at one point to actually his heart slowed down to 35 beats a minute, and he was rushed to the hospital to be revived.

[Professor Alfred McCoy, Author of "A Question of Torture"] Mohamed al-Kahtani, in many ways, that single interrogation, protected interrogation,

Contains within it, if you will, the entire genealogy, the entire history of CIA torture over the last 50 years.

The CIA launched a mind control project, a veritable Manhattan Project of the Mind, in the 1950s.

In-house, the CIA worked on exotic techniques. Hypnosis.

And then they worked on sodium pentathol. And then they worked on electro-shock. And ultimately, they discovered LSD.

All of that broke stuff, in-house, went nowhere, except to lawsuits.

But what did work, was the CIA outsourced all the dull, behavioral research to the most brilliant behavioral scientists at the top universities in the United States and Canada.

At McGill, experiments by famed psychologist Donald O. Hebb caught the eye of CIA researchers.

[Professor Alfred McCoy, Author of "A Question of Torture"] Dr. Hebb found that he could induce a state akin to acute psychosis in 48 hours.

All he did, he had student volunteers sit in a very pleasant air-conditioned cubicle

With goggles, gloves and ear muffs. Actually, you know what they looked just like? The Guantanamo detainees!

If you see those outfits that the Guantanamo detainees have where they have the gloves and the goggles and the ear muffs?

You know, everybody thinks that's security. No, no, no. That's sensory breakdown.

Within a day there would be hallucinations. Within two days, breakdown.

[Dr. Donald O. Hebb, McGill University, Quebec] I began to think while we were doing our experiments

that it is possible that something that involves physical discomfort

or even pain might be more tolerable than simply the deprivation conditions that we studied.

[Professor Alfred McCoy, Author of "A Question of Torture"] The CIA was fascinated by this. They jumped on it immediately.

[Dr. Donald O. Hebb, McGill University, Quebec] I had no idea what a potentially vicious weapon this could be.

[Professor Alfred McCoy, Author of "A Question of Torture"] They identify two key techniques:

They identified sensory disorientation, and they identified self-inflicted pain: standing.

For days at a time while fluids flowed to the legs.

And they put them together in the Kubark Counterintelligence Interrogation Manual.

And they propagated it around the world and through the U.S. Intelligence community.

Think about what al-Kahtani was subjected to, okay?

First of all, he's in dark; he's in light. He's in cold; he's in heat.

What they are doing is they are attacking his universal sensory receptors.

They are also scrambling his time. So that's Phase One.

In Guantanamo under the regime of General Miller,

he turned Guantanamo into a veritable behavioral scientific laboratory.

And Donald Rumsfeld gave orders for techniques beyond the Field Manual.

And they percolated. And they percolated in an ambiguous way

that allowed people to kind of do what they thought needed to be done.

And they explore Arab male sensitivity to gender and sexual identity.

So that's the thing about being homosexual. The underwear on the head. All that sort of stuff.

[SPC. Tony Lagouranis, Interrogator, Iraq] People were saying, "Arabs really are very sensitive to sexual humiliation."

Well, who the hell isn't sensitive to sexual humiliation?

You know, nobody wants to be stripped down naked and forced to masturbate with a hood over your head. It's ridiculous!

[Professor Alfred McCoy, Author of "A Question of Torture"] Then they created behavioral science consultation teams

where they had military psychologists integrate into the ongoing interrogation

to discover individual fears and phobias. And all of that was visited on al-Kahtani.

[Senator John McCain] You are aware of communications between General Miller and Secretary Rumsfeld specifically about this one prisoner?

[Lt. General Randall M. Schmidt, Author of "Schmidt Report"] To our knowledge there was a considerable amount of communication up and down the chain.

[Professor Alfred McCoy, Author of "A Question of Torture"] As you know,

from General Schmidt's report,
he concluded that these techniques individually did not constitute torture.
But he said that the sum of these techniques ...

[Lt. General Randall M. Schmidt, Author of "Schmidt Report"] The cumulative effect of simultaneous applications of numerous, authorized techniques had abusive and degrading impact on the detainee. And he recommended that General Miller be disciplined.

[Professor Alfred McCoy, Author of "A Question of Torture"] But he said it did not constitute torture.

[Lt. General Randall M. Schmidt, Author of "Schmidt Report"] We made a distinction between what torture and inhumane treatment would be, given the general guidelines, and then what might be abusive and degrading. Something might be degrading, but not necessarily torture. And it may not be inhumane. It may be humiliating, but it may not be torture.

No torture, no physical pain injury. There was a safe, secure environment the entire time.

[Professor Alfred McCoy, Author of "A Question of Torture"] And that, of course, is the genius of the CIA's psychological paradigm. Psychological torture is all a matter of definitions. And it's very slippery indeed.

[Senator] That sounds remarkably similar to what occurred at Abu Ghraib. People being led around in chains. People being forced to wear lingerie. Perhaps a coincidence, perhaps not.

[Professor Alfred McCoy, Author of "A Question of Torture"] If you look at those Abu Ghraib photographs, again, it's always the same techniques. First of all, there's the sexual activity with the woman's garments. And the masturbation and all the rest. That's the cultural sensitivity. They are short-shackled; they are long-shackled; they are shackled upside-down. These are stress positions. The most famous of all Abu Ghraib photographs, of course, Of that hooded Iraqi standing on a box, arms outstretched. He's told if he steps off the box, if he moves, he'll be electrocuted. That's the point of the fake electrical wires. So it's the absolute immobility for protracted periods. And then with arms extended. As we would say to the viewers, "Don't try this at home." But do try it! Just stand for ten minutes with your arms stretched out, not moving. Carolyn Wood was an example of the way new techniques spread and mutated like a virus. Long before Wood took charge of interrogation at Abu Ghraib, her unit was involved with harsh techniques at Bagram,

including stress positions, forced standing, and sleep deprivation.
[Tim Golden, New York Times Journalist] One of the memoranda shows that in early December, 2002,
the interrogators at Bagram just looked on the Internet... they are in touch with the guys at Guantanamo..
and they learned that these guys at Guantanamo had gotten new techniques from the Secretary of Defense,
and they just started using them. Even though the techniques had clearly been approved exclusively for use at Guantanamo.
[Professor Alfred McCoy, Author of "A Question of Torture"] When General Miller himself traveled from Guantanamo to Iraq in August, 2003,
he brought with him a CD and a manual on the "advanced" techniques they had developed at Guantanamo.
And he gave them to General Sanchez's command.
So there are these multiple paths that you can trace whereby these interrogators' techniques go through this global migration, through Afgan, to Iraq, from Guantanamo directly to Iraq. And the net result is Abu Ghraib.
Well before the abuses at Abu Ghraib became public, government officials had been quietly raising concerns about harsh techniques in use at Guantanamo.
[Senator Carl Levin, Senate Armed Services Committee] There were emails back to the Department of Justice from FBI personnel down at Guantanamo saying,
"You won't believe what's going on down here. We've got to disassociate ourselves as FBI people from what is going on here in Guantanamo."
This email says "The DOD has their marching orders from the Secretary of Defense"
..."Marching orders from the Secretary of Defense!"...
to engage in practices which the FBI finds to be deeply offensive and dangerous."
But the emails are what is called "redacted", which means that there's big holes in these emails.
Now some of these emails are totally redacted, so we don't know what they say at all.
That's an example of a lot of the documents that we got here. You know, you can't see anything on these documents.
There's one after another where there's nothing.
[Alberto Mora, General Counsel to the Navy, 2001-2006] In early December, 2002,
I had heard that there was detainee abuse going on. I called the Army General Counsel and asked him whether he had any information.

I said, "I'm receiving reports that some of the detainees are being abused at Guantanamo.

Do you know anything about this?"

And his response back was, "I know a lot about it. Come on down to my office."

They pushed a stack of documents across the desk.

The top document was Memorandum from the General Counsel, Department of Defense to Secretary Rumsfeld.

And it was that cover memo that requested authorization of the application of certain interrogation techniques.

And the top memo gave Secretary Rumsfeld's approval for the application of some of those techniques.

It's the memo with Secretary Rumsfeld's handwritten notations on the bottom saying that he stands 8-10 hours a day...

"How come these detainees are only required to stand up to four hours a day?"

I was astounded! But my first reaction was that this was a mistake! Somebody just didn't read the documents carefully enough.

[Tim Golden, New York Times Journalist] I think people in the Pentagon thought of Alberto Mora as a loyal, Republican, political appointee.

He would never have been considered a rabble-rouser or a liberal.

He said he expected that he would raise these issues, and people in positions of authority would say,

"Oh! Thanks for letting us know." And that would be the end of it.

[Reporter] I want to ask you about a memo that was written by Alberto Mora. Do you recall on this memo that you wrote a little notation on the bottom about standing more than four hours,

- because you stand at your desk ...- [Secretary of Defense Donald Rumsfeld] [Cuts him off] I do! I do!

[Reporter] This attorney argued that that could be interpreted by some as a wink-and-a-nod

that it would be okay to go beyond the techniques that were prescribed in the memo.

[Secretary of Defense Donald Rumsfeld] Oh, no, no, no, no, no. There's no wink-and-a-nod about anything.

There was one provision in there that they would have people stand for several hours,

and it was a semi-humorous remark that a person in his seventies stands all day long.

I just mused that in...and maybe it shouldn't have gone out, but it did...and I wrote it. And life goes on.

[Reporter] But his point was that you should have gotten much better advice from your legal staff...

[Secretary of Defense Donald Rumsfeld] [Interrupts Reporter again] I heard

your question the first time!

[Alberto Mora, General Counsel to the Navy, 2001-2006] What was of concern to me was the techniques, how their individual and in combination could rise to the level of torture. Okay, you're permitting certain interrogation techniques. But certainly there must be some limit which is set on the severity of the techniques. Light deprivation could mean placing the detainee in a dark room for 15 minutes, or it could mean a month. Or two months. Or three months until he goes blind.

"Detainee's specific phobia techniques": the snakes, the bats, the rats, lock somebody up in a coffin...you're limited only by your imagination. Any one of these techniques individually could yield the results of torture.

Certainly, in combination, you could reach that fairly quickly.

[Dr. Donald O. Hebb] See, if you put a person into this procedure, and keep them there for more than the six or eight days that I would think might be the maximum tolerability, then the price is pretty high.

The price is someone's sanity?

[Dr. Donald O. Hebb] Presumably, it could be.

[Alberto Mora, General Counsel to the Navy, 2001-2006] The medical literature had a phenomenon called "force drift," that made it almost inevitable

That the interrogators would continue applying greater and greater increments of force to achieve their desired results.

[Col. Lawrence Wilkerson, former Chief of Staff to Colin Powell] For example, take Secretary Rumsfeld's memo.

And to say that, "Well, look, he said that dogs have to be muzzled." Well, that's a man who doesn't understand the Military on the ground. Because when that E-6 is sitting there with that muzzled dog, and there is absolutely no impact on that person being interrogated, He's going to take that muzzle off. That's reality. That's human nature. Alberto Mora threatened to go on record with his concerns unless the techniques were rescinded.

[Secretary of Defense Donald Rumsfeld] When, after the facts, it turns out that there is concern about it that concerns me, then I'm happy to rescind it and take another fresh look at it. And talk to more people about it. And see what ought to be done.

[Alberto Mora, General Counsel to the Navy, 2001-2006] To his credit, Secretary Rumsfeld did rescind the interrogation techniques.

And then, for over a year and a half, I heard no reports from any quarter about detainee abuse anywhere.

When Abu Ghraib hit, my first thought was, "Had I been circumvented? Had their been authorizations for the abuse of prisoners that I had not learned about?"

Had the orders really been rescinded?

According to interrogators, the use of shackling, dogs, stress positions and sensory assault, continued to be widespread.

Tony Lagouranis was an interrogator who arrived in Iraq after the Military became aware of the abuses at Abu Ghraib.

[SPC. Tony Lagouranis, Interrogator, Iraq] Among the Interrogation Guidelines they gave us,

it said that dogs are authorized to be used on detainees.

You know, stress positions. Sleep deprivation.

All of those things that I did, or I would consider harsh techniques, or violating Geneva Conventions,

I was told to do. So we were told to do that to these people by our Superiors.

[Rear Admiral John Hutson (Ret., Former Judge Advocate General, 30 Years Military experience)] The spine of the United States Armed Forces is the chain of command.

What starts at the top of the chain of command drops like a rock down the chain of command.

And that's why Lynndie England knew what Donald Rumsfeld was thinking without actually talking to Donald Rumsfeld.

In the wake of Abu Ghraib, journalists began to look harder at previous cases of abuse ...

To try to understand what had caused them and who was responsible.

[Col. Lawrence Wilkerson, former Chief of Staff to Colin Powell] People like Tim Golden at the New York Times

got a hold of it and started looking at the case of Dilawar, in particular. The taxi driver.

It became at least plausible to me that this man wasn't even guilty of anything other than being there when the sweep occurred.

And here was a guy who was murdered in detention.

[Speaker] In memory for those whose lives were taken, for those who gave selflessly of themselves.

Four years ago our nation came under attack ...

[Tim Golden, New York Times Reporter] 9/11 was very much in the air. And I think the officers tried to keep it in the air.

They tried to remind these kids that these people are our enemies.

But it's hard to see how these young soldiers could have been expected to figure out

who their real enemies were among a bunch of militiamen and farmers in a society that was completely foreign to them.

[SPC. Glendale Walls, Interrogated Dilawar at Bagram] If I remember

correctly, his story had something to do with the rocket attack at a military base. And he was supposed to be the driver of the get-away car. [Tim Golden, New York Times Reporter] He had taken his new car, which he was obviously excited about, And driven to Khost, the provincial capitol, where he went to look for taxi passengers. And he in fact found these three men in Khost, at the marketplace, - Who were headed back to Yakubi. - Yakubi! Yakubi! You have to imagine that Dilawar was driving home from this provincial capitol, which was about as far as his world stretched. He gets stopped at Fire Base Salerno by a group of Afghan militiamen. And the men apparently found an electric stabilizer in the trunk of the car. At least they claimed to. Camp Salerno had been rocketed from some distance earlier in the day. And the Afghan militiamen immediately arrested the four guys on suspicion of having had some involvement in that attack. He's taken to Bagram this great distance away. You get a bunch of guys who are back at this detention site, and they are told that we have evidence that they have been involved in a rocket attack on American forces. So I think that kind of tripped a wire in them. [Tony Lagouranis, Military Interrogator, Iraq] You're in this atmosphere where you're with nothing but military people. And you feel sort of morally isolated. And you lose your moral bearings. Then you're frustrated because you're not getting intelligence from a prisoner that you believe is guilty And has intelligence to give you. So, of course, you want to start pushing the limits, And see how far you can go. [SPC. Glendale Walls, Interrogated Dilawar at Bagram] A lot of the pressure came from the fact that we had a few high value detainees that gave a lot of good information. And when we started to lose those detainees due to going to Guantanamo Bay, That they expected this to come from everybody. [PFC. Damien Corsetti, 519th Mil-Intel Unit, Bagram] We would interrogate some of these guys just to interrogate them. And it was ridiculous. I mean, you'd get some of these guys in and you're like, "This is the wrong man. This is not who we're supposed to have." Especially being a screener, you could tell from the moment you got him in. You're like, "We're not supposed to have him." [SPC. Glendale Walls, Interrogated Dilawar at Bagram] We had one prisoner came in who was mentally challenged.

And SGT. Loring kept saying that, you know, this is a cover. This is al Qaeda's cover. This is what they do. And I went in there and talked to him and, basically, they had this guy in a diaper. He'd eat his own feces. But Loring kept saying it was an act. [PFC. Damien Corsetti, 519th Mil-Intel Unit, Bagram] They'd be like, "Hey, we want you to go yell at this guy." So I'd grab my box of Frosted Flakes that I was eating for breakfast that morning, and I'd go into the room, and I'd be like, "Alright, I have to yell at you today." So I'd be like "dehydrogenated salt substitute." And just start yelling that at them. And they'd be like, They'd look at me all crazy, and I'd be like, "Yeah! That's your fault they put that in my cereal now." Or I'd yell at them if Elvis was really the King of Rock, or if he was dead. Or stuff like that. And I'd write that in my interrogation summaries. And I'd send that up to higher that that's what I did for that two hours. [SPC. Glendale Walls, Interrogated Dilawar at Bagram] You really can't get a feel for a person until after you talk to him a couple of times. So on the first three times I talked to him, it was just verifying his story. Looking for loops. Looking for holes. After the third time I talked to him, and his story was still consistent, I kept telling him I thought he was innocent. [Tim Golden, New York Times Reporter] And they wanted these people to be guilty because that would look better for their unit. They could say that we arrested 60 people this month. And they were all terrorists. [Moazzam Begg, Detained at Bagram and Guantanamo] "When was the last time you saw Osama bin Laden?" "When was the last time you saw Mohamed Atta?" Now, this was a standard question that they would ask of every detainee. [Tony Lagouranis, Military Interrogator, Iraq] It's very hard to go into an interrogation with very little evidence... and we almost never had evidence on these guys...and elicit a confession. You can go in and get intelligence, but if you're asking this guy to completely incriminate himself, it's very difficult. So you have to start using harsher and harsher techniques in order to elicit the confession. [SPC. Glendale Walls, Interrogated Dilawar at Bagram] I was yelled at for being too nice to him by SGT. Loring. That I needed to put more pressure on him.

As he liked to say, "I needed to take him out of his comfort zone."
[Tim Golden, New York Times Reporter] After a while, particularly in the fourth and fifth interrogations, as the sleep deprivation that he was being subjected to really started to knock him out, the interrogations got more intense.

SGT. Salcedo, who was an inexperienced interrogator but a kind of can-do soldier ...

Had this man who refused to look at her because she was a woman. She said she got very frustrated by this, and grabbed him by the sides of the face, And sort of turned him to face her and look at her, and take her seriously. But, of course, he was an Afghan man from a tribal, conservative culture, who didn't look at strange women.

[SPC. Glendale Walls, Interrogated Dilawar at Bagram] SGT. Salcedo was getting a little aggravated.

So I kind of stepped in between them. And that's when I grabbed him by the shirt.

And I brought him over to the wall.

[Tim Golden, New York Times Reporter] They tried to make him stand up against the wall, and he was sliding down. They pushed him back against the wall.

[SPC. Glendale Walls, Interrogated Dilawar at Bagram] He wasn't making any kind of sense. Most of it seemed to just be rambling. The interpreter was telling me that his wife came to visit him in his cell. Which, of course, didn't happen.

[PFC. Damien Corsetti, Mil-Intel, Bagram] If you've ever seen anybody sleep-depped, ugh, past two days they begin to just be bumbling idiots. Three days they are just worthless.

[SPC. Glendale Walls, Interrogated Dilawar at Bagram] I knew something was wrong.

And the next thing I heard was that he died.

[Tim Golden, New York Times Reporter] Not long after Dilawar was killed, We learned that the Afghan guerilla commander, whose men had arrested Dilawar and the others, had in fact been detained by the Americans himself. And it turned out that he was rocketing their base, And then picking up innocent Afghans and turning them over to the Americans.

Essentially to try and ingratiate himself with U.S. forces. The three passengers were sent to Guantanamo. And they didn't get out until March of 2004, Which was 15 months after they had been captured riding in the taxi.

It's hard to know what reason the Americans would have had to send these guys on

When they had quite clearly concluded that Dilawar, at least, was an innocent man when he was killed.

It certainly makes you wonder about whether they just sent these guys on to cover their butts.

Even assuming that Hamden is a dangerous individual who would cause great harm or death to innocent civilians given the opportunity, the Executive nevertheless must comply with the prevailing rule of law in undertaking to try him and subject him to criminal punishment...

Hamdan v. Rumsfeld, decided by the United States Supreme Court on June 29, 2006

[Donald Rumsfeld, Secretary of Defense] "These" are not mere innocents.

"These" are among the worst of the worst.

"These" are among the most dangerous, best-trained, vicious killers on the face of the earth.

[Dick Cheney, Vice-President] "They" are terrorists. "They" are bombmakers.

"They" are facilitators of terror. "They" are members of al Qaeda, the Taliban.

[Ari Fleischer, Bush White House Press Secretary] And if "they" were free, they would engage in murder once again.

["President" George W. Bush] The only thing I know for certain is that "these" are bad people.

[Tom Wilner, Lawyer For 11 Kuwaitis in Guantanamo] Despite Rumsfeld's and Cheney's and President Bush's allegations

that "these guys" are the worst of the worst, that they were all captured on the battlefield,

Recent studies of the whole compendium of Government's documents show that only five percent of these people were picked up by the United States. Only 8% of them are accused of being members of the al Qaeda.

Over 90% of them were picked up by Northern Alliance or Pakistani forces in exchange for bounties.

[Donald Rumsfeld, Secretary of Defense] We have LARGE rewards out.

We have leaflets that are dropping like snowflakes in December in Chicago.

An analysis of declassified government documents revealed that only

7% of Guantanamo detainees were captured by U.S. and Coalition forces.

The other 93%, like Dilawar and his passengers, were turned over by Afghan warlords and Pakistanis.

Sometimes for cash payments of thousands of dollars.

[John Yoo, Office of Legal Counsel 2001-2003] You know, the Military is not interested in spending whatever it is...\$40,000 a year

Detaining people who are not members of al Qaeda in Guantanamo Bay.

It has as much interest as everyone else does in making sure that people who are detained are actually members of al Qaeda,

rather than wasting resources and time detaining innocent people.

[Tom Wilner, Lawyer For 11 Kuwaitis in Guantanamo] I think it's natural in times of war to pick up people.

You want to pick up anyone you suspect of being dangerous.

What's different here is that the Government, for the first time in our history didn't follow its own regulations, which require that a hearing be held, promptly after capture, if there is any doubt.

[Major Dan Mori, Military Defense Law for Guantanamo detainee David Hicks] In the war in Afgan, back in 2001, the U.S. Military was prepared to follow the Geneva Conventions and conduct those tribunals.

Unfortunately, the civilian leadership within the Department of Defense, told them to stop.

Once somebody in Afgan might have said, "Okay, this person's a high-value target,"

for whatever reason. Whether it was based on some other Afghani who hated that person

and wanted him out so he could take over his opium crop.

Then that began the road to GTMO.

And there was no way for that person to challenge it. And there still hasn't been.

Moazzam Begg, a British subject suspected of ties to al Qaeda operatives, was picked up by local intelligence agents in Pakistan.

[Moazzam Begg, Detained at Bagram and Guantanamo] I was in my house in Islamabad at the time that I was abducted.

A hood was placed over my head. My hands and legs were shackled.

And I was physically carried into the back of the vehicle.

I didn't see my family again after that point. I was sent to Kandahar, and then to Bagram.

And when I was put onto the transport plane to Guantanamo.

I'd already been covered from almost head to toe in some sort of a covering:

Face mask, ear muffs, blackened goggles.

And then, just in case I could see anything, a hood to cover it with.

Being seated in the aircraft was excruciatingly painful.

They'd already used now the three-piece suit, and that is the shackle

That goes around the waist and is padlocked to the back.

It was impossible to move. Impossible to breathe properly. Impossible to hear anything.

And so I managed to scream and plead with one of the guards to get me a needle to put me to sleep.

[Clive Stafford Smith, Lawyer for Guantanamo detainees, including Moazzam Begg] We fought for 2-1/2 years for just the right to go see the prisoners,

and then fought for months more to get security clearance so the Military would let you in there.

I mean, this is bizarre! It never occurred to me that when I went to law school in America, that we'd be sitting around talking about whether we could have access to our clients.

And whether our clients had been tortured!

[Tom Wilner, Lawyer For 11 Kuwaitis in Guantanamo] Habeas corpus is really the essence of the rule of law.

Not giving people a basic hearing when you take away their liberty is one of the reasons we fought the revolution. That the King can't deprive somebody of liberty without a hearing!

4. The military commission at issue lacks the power to proceed because its structure and procedures violate both the UCMJ and the four Geneva Conventions signed in 1949. Pp. 49~72.

(a) The commissions procedures, set forth in Commission Order No. 1, provide, among other things, that an accused and his civilian counsel may be excluded from, and precluded from ever learning what evidence was presented during, any part of the proceeding the official who appointed the commission or the presiding officer decides to close. Grounds for closure include the protection of classified information, the physical safety of participants and witnesses, the protection of intelligence and law enforcement sources, methods, or activities, and other national security interests. Appointed military defense counsel must be privy to these closed sessions, but may, at the presiding officers discretion, be forbidden to reveal to the client what took place therein. Another striking feature is that the rules governing Hamdans commission permit the admission of any evidence that, in the presiding officers opinion, would have probative value to a reasonable person. Moreover, the accused and his civilian counsel may be denied access to classified and other protected information, so long as the presiding officer concludes that the evidence is probative and that its admission without the accuseds knowledge would not result in the denial of a full and fair trial. Pp. 49~52.

(b) The Government objects to this Courts consideration of a procedural challenge at this stage on the grounds, inter alia, that Hamdan will be able to raise such a challenge following a final decision under the DTA, and that there is no basis to presume, before the trial has even commenced, that it will not be conducted in good faith and according to law. These contentions are unsound. First, because Hamdan apparently is not subject to the death penalty (at least as matters now stand) and may receive a prison sentence shorter than 10 years, he has no automatic right to federal-court review of the commissions final decision under DTA 1005(e)(3). Second, there is a basis to presume that the procedures employed during Hamdans trial will violate the law: He will be, and indeed already has been,

excluded from his own trial. Thus, review of the procedures in advance of a final decision is appropriate. Pp. 52~53.

(c) Because UCMJ Article 36 has not been complied with here, the rules specified for Hamdans commission trial are illegal. The procedures governing such trials historically have been the same as those governing courts-martial. Although this uniformity principle is not inflexible and does not preclude all departures from courts-martial procedures, any such departure must be tailored to the exigency that necessitates it. That understanding is reflected in Art. 36(b), which provides that the procedural rules the President promulgates for courts-martial and military commissions alike must be uniform insofar as practicable, 10 U. S. C. 836(b). The practicability determination the President has made is insufficient to justify variances from the procedures governing courts-martial. The President here has determined, pursuant to the requirement of Art. 36(a), that it is impracticable to apply the rules and principles of law that govern the trial of criminal cases in the United States district courts to Hamdans commission. The President has not, however, made a similar official determination that it is impracticable to apply the rules for courts-martial. And even if subsection (b)s requirements could be satisfied without an official practicability determination, that subsections requirements are not satisfied here. Nothing in the record demonstrates that it would be impracticable to apply court-martial rules here. There is no suggestion, e.g., of any logistical difficulty in securing properly sworn and authenticated evidence or in applying the usual principles of relevance and admissibility. It is not evident why the danger posed by international terrorism, considerable though it is, should require, in the case of Hamdans trial, any variance from the courts-martial rules. The absence of any showing of impracticability is particularly disturbing when considered in light of the clear and admitted failure to apply one of the most fundamental protections afforded not just by the Manual for Courts-Martial but also by the UCMJ itself: The right to be present. See 10 U. S. C. A. 839(c). Because the jettisoning of so basic a right cannot lightly be excused as practicable, the courts-martial rules must apply. Since it is undisputed that Commission Order No. 1 deviates in many significant respects from those rules, it necessarily violates Art. 36(b). Pp. 53~62. ...Hamdan v. Rumsfeld, decided by the United States Supreme Court on June 29, 2006

In 2004, 2-1/2 years after the first detainees had arrived in Guantanamo, The Supreme Court rejected the Bush Administration's claims that it could hold detainees indefinitely

Without allowing them to challenge their detention in the courts.

After the decision, the Military installed special new tribunals to judge whether detainees should remain in Guantanamo.

[Tom Wilner, Lawyer For 11 Kuwaitis in Guantanamo] The Combatant Status

Review Tribunals, which the Government hurriedly put in place nine days after we won before the Supreme Court, are a joke!

[Clive Stafford Smith, Lawyer for Guantanamo detainees, including Moazzam Begg] You have no rights! You have no right to a lawyer.

You have no meaningful right to witnesses. You don't really know what the charges are

And you certainly don't know what the secret evidence is against you.

They may not ever know! But that doesn't eliminate the opportunity they have to make a case for why, if they were returned in the future, why they would not continue to pose a threat.

[Clive Stafford Smith, Lawyer for Guantanamo detainees, including Moazzam Begg] Many of my clients are found not guilty at the CSRT Tribunals.

And then the Military thinks that doesn't sound so good. They were being called "Not Enemy Combatants, NEC,

But now they are NLEC, which means "No Longer Enemy Combatants,"

because we want to say they were guilty to begin with,

but now they've had a change of heart so they're not guilty anymore. But we were right in the first place.

These men aren't necessarily innocent men.

That's not an accurate characterization. You're more accurate in their long title:

"No longer identified as an enemy combatant."

They are being held separate from the remainder of the detainees

until the United States Government can find a country they can be returned to.

[Military PR guy] Some of these guys were policed off the battle field.

And if they weren't here, they'd probably be on the battlefield killing American soldiers.

They are here for a reason. And it's our job to insure that they stay here until such time as it's "deemed" that they don't need to be here any longer.

[Clive Stafford Smith, Lawyer for Guantanamo detainees, including Moazzam Begg] Guantanamo is hiding the fact that the really bad dudes...

Aiman Al, and of course Osama bin Laden...have never been captured.

So you have Guantanamo Bay as, "Here are 750 really evil guys" as a PR stunt, effectively.

To say, "Look, we're really achieving something in the war on terror."

[PR Guy] And that is the main entrance to Camp X-Ray.

It would be extremely difficult for anybody to make an escape out of here.

Each one is 8 x 8 x 8. One individual per cell.

If you remember the individuals in the orange jumpsuits,

there's like three or four kneeling facing that way, and three or four kneeling facing that way.

If you take a shot from right here, you'll have the same image.

And no detainee has ever died at GTMO from anything. Since this interview 4 Guantanamo detainees have committed suicide

And I think the doctors gave you an update: We've performed well over 100 surgeries.

So one good thing for them being here is they are quite healthy, and getting anything fixed they need getting fixed.

[PR Girl] We've introduced some new sports-type activities here in Camp 4. We've recently built this half-basketball court.

And off to the left of that, you will see a soccer court.

It is a privilege to live in Camp 4. They are compliant with the camp rules in order to live here.

And we have introduced things like cake on Wednesday nights.

Pepsi on Monday nights. Ice cream on Sunday nights.

Let's go in and take a look at the Bed.

[Clive Stafford Smith, Lawyer for Guantanamo detainees, including Moazzam Begg] On the bed, they have the so-called "CI's", or "comfort items," like a toothbrush! But also included is a game of Checkers.

And I did ask them, "Who is my partner to play Checkers with?" He's in solitary confinement by himself.

What's the problem with the press photographing them?

Talking with them? Observing them?

[Brigadier General Jay Hood, Commander Joint Task Force, Guantanamo 2004-2006] The desire to not provide a platform

To have the men we're holding espouse vile, Islamic rhetoric. A violent, vile, Islamic rhetoric!

[PR Guy] This is a tactic of al Qaeda: hunger strike to elicit media attention,

and to bring pressure on the United States Government.

When these numbers go up significantly, you guys start talking about it.

You guys start asking about it.

81 detainees were on Hunger Strike during our tour So they understand that.

[PR Guy] Camp 5 is a 100-bed, maximum security segregation interrogation facility.

[Clive Stafford Smith, Lawyer for Guantanamo detainees, including Moazzam Begg] If they're held in Camp 5, an average day is always the same.

Which is you're held 24 hours in solitary confinement.

[Moazzam Begg, 20 months in isolation, Guantanamo] Here in the cell, it was 8' x 6', and I couldn't physically take 3 steps in any direction.

I certainly believed that I was going to spend the greater part of my life, and perhaps even face execution, which was what I was told quite often.

[Clive Stafford Smith, Lawyer for Guantanamo detainees, including Moazzam Begg] What's particularly pernicious in Guantanamo Bay

is there is no sense of when it's going to end, or if it's going to end.

And the reason that prisoners go on hunger strike, for example, and may starve themselves to death,
Is, in the words of Omar Deghayes, "I'm dying slowly here in Guantanamo as it is.

So I may as well take my life into my own hands."

[Brigadier General Jay Hood, Commander Joint Task Force, Guantanamo 2004-2006] I have no intention of holding somebody here any longer than he is a threat to our country

Or that he has intelligence or information that could be valuable to us in the global war on terror.

We continue to collect information of value from the men we're holding today.

[Moazzam Begg, 20 months in isolation, Guantanamo] One of the reasons why I was held in isolation was

to do with this issue of witnessing these deaths in Bagram.

And they asked me which soldiers had been involved, and where they were at the time.

And so they brought in photographs of the people from the unit.

And I pointed out who I believed was involved.

They asked me...one of the strangest requests I've ever had during the time I was in incarceration

And that was, "Would I be willing to stand up as a witness for the prosecution in a trial against these soldiers?"

And I thought, "How ironic this is." You know.

"Is this the only court that I'm going to get to see after all these years in incarceration?"

The cruel ironies of the Dilawar story echoed an ongoing debate in the halls of Congress

about detainee abuse, national security, and the rule of law.

For one senator, John McCain, a former prisoner of war,

the matter of detainee abuse was both political and personal.

[John McCain, North Vietnam, 1968] I would just like to tell my wife I'm going to get well,

I love her, and I hope to see her soon.

And I'd appreciate it if you'd tell her that. That's all.

[Jack Cloonan, FBI Special Agent 1977-2002] If this man, after 6-1/2 or 7 years of torture, says that it's not efficient,

it's inhumane, and it breeds contempt for the United States,

He can stand up and be a moral voice on this issue.

[Senator John McCain] We sent them to fight for us in Afgan and Iraq.

We placed extraordinary pressure on them to extract intelligence from detainees.

But then we threw out the rules that our soldiers had trained on, and replaced them with a confusing and constantly changing array of

standards.

And when things went wrong, we blamed them. And we punished them.

I believe we have to do better than that.

I strongly urge you to do justice to your men and women in uniform.

Give them clear standards of conduct that reflect the ideals they risk their lives for.

On October 5, 2005, as increasing numbers of detainee abuse cases came to trial.

Senator John McCain proposed the Detainee Treatment Act.

The bill sought a total U.S. ban on torture. As well as cruel, inhuman and degrading treatment.

And it sparked a national debate. One in which the Devil was in the details.

[Senator John McCain] Is it still permissible to use a wet towel and dripping water

to induce the misperception of suffocation?

[Lt. General Randall M. Schmidt, Author of "Schmidt Report"] The use of the wet towel, dripping water to induce the misperception of suffocation was one of the techniques requested by the JTF in their laundry list given up.

It was never approved. It has never been a technique approved.

[Professor Alfred McCoy, author A Question of Torture] One of the techniques that made the transition from the regime of the physical to the psychological...

in fact the only one...was waterboarding. Because in the medieval era, under the Inquisition,

it was done because of its horrible, physical aspects. It was done to purge and punish the heretic.

You force water down the throat of the victim. The victim thinks that he's drowning. It's horrible.

Your body tells you that you're dying.

Right after 9/11, the CIA got approval from the White House for waterboarding.

An early test case involved the interrogation of Ibn Sheikh al Libi, a man suspected of being the Emir of an al Qaeda training camp.

Initially, the FBI was in charge of his interrogation.

But the Administration was impatient with the slow results of the FBI's law enforcement techniques.

So they turned al Libi over to the CIA.

[Jack Cloonan, FBI Special Agent 1977-2002] He is secured. He was either duct-taped or hooded.

And he was going to be put into a box...

a plywood box for his own protection [makes disbelief sound]...for transfer to the airport.

[Professor Alfred McCoy, author A Question of Torture] They throw him on an aircraft, and they rendered him through extraordinary rendition, to Egypt. They later subjected him to two weeks of brutal torture, involving all of these techniques, including waterboarding. And they got information from al Libi stating that Saddam Hussein's regime had trained al Qaeda in chemical and biological warfare.

[Scott Horton, Attorney] One of the things we know about torture is that someone who is tortured will tell his interrogator what he thinks the interrogator wants to hear.

[Col. Lawrence Wilkerson, former Chief of Staff to Colin Powell] The moment al Libi was waterboarded, he started blurting things out. Well, rather than questioning what he was saying, and going into it in detail to see if what he was saying could be corroborated, they immediately stopped and ran off to report what al Libi had said. And ended the torture. And bang...it gets up to the highest decision-makers. And all of a sudden Colin Powell is told, "Hey, you don't have to worry about your doubts anymore, because we've just gotten confirmation that there were contacts between al Qaeda and Baghdad. In February, 2003, then Secretary of State Colin Powell went before the United Nations to make the case for the war in Iraq.

[Colin Powell, Secretary of State] I can trace the story of a senior terrorist operative telling how Iraq provided training in these weapons to al Qaeda. Fortunately, this operative is now detained, and he has told his story.

[Professor Alfred McCoy, author A Question of Torture] A year later, the CIA branded al Libi a fabricator, and rescinded all of the intelligence reports with that information in it. So, in other words, you will get information, but you'll get false information.

[Scott Horton, Attorney] I think Colin Powell said that was the most embarrassing day of his entire life.

[Rear Admiral John Hutson (ret) Judge Advocate General] All the experts say that torturing people is not the best way to get information. Breaking down the barriers between you and them, gaining their confidence is the best way to get it. It takes some experience. It takes some talent. It takes some patience. And then they might actually tell you something that is worthwhile. And then if you want to prosecute them and execute them, go ahead.

[Jack Cloonan, Counterterrorism Task Force] If you want to be able to build

a rapport with somebody,
You are their salvation, because their life as they know it is over.
"Is there something I can do for your kids? You concerned about them?
Do you want them educated? I'll get them educated.
What do you want? Tell me what you want. Script for me your exit strategy."
"How do you extricate yourself from this terrible situation that, by the way, you put yourself in?"
"Now, you can't go back home, can you?"
No. So let's make peace with that. Let me help you find the strategy to give you a life."
And that's the way it worked!
The amount of information that they were able to provide us, pre-9/11, to me it was extremely valuable. Who else was going to tell us about how you joined al Qaeda?
What did buy-out mean? How did they communicate?
Did they use Emaar-set satellite phones. Did Bin Laden use a body double?
So when we got all that information, we were able to do certain operations. Cumbersome though it may be, it still to me was the way to do it.
And we don't have to apologize to anybody.
We don't know what revenge is coming down the road.
And if I wanted to incite the faithful, I'd just take that one picture with the dog collar on,
and just point to that. And look at the young brothers and say,
"You're duty bound now to get revenge."
[Professor Alfred McCoy, author A Question of Torture] The advocates of torture generally focus on the hypothetical.
They have this ticking bomb scenario they talk about ...
[Clive Stafford Smith, lawyer for Guantanamo detainees] which is, imagine that there's a ticking time bomb in Times Square.
It's about to go off. We've got the guy in custody.
He says he wants a lawyer. Do we respect his right to a lawyer?
Or to save a million lives do we apply the electrodes to his testicles?
[Professor Alfred McCoy, author A Question of Torture] 24, week after week, has on-camera displays of brutal torture ...
[Kiefer Sutherland] Just tell me what your connection with the terrorists is?
designed to stop some terrorist with a ticking bomb from killing hundreds of thousands, if not millions, of Americans.
[Superior] You're talking about torturing this man?
[Kiefer Sutherland] I'm talking about doing what is necessary to stop this warhead from being used against us.
[Clive Stafford Smith, Lawyer for Guantanamo detainees, including Moazzam Begg] It's just nonsense, though! Because then you ask,
"Hey, name me one time in the last 500 years when we've had someone in

custody with a ticking time bomb?"

[Jack Cloonan, Counterterrorism Task Force] The likelihood of that ever happening is so remote.

Even if you're in that situation, who is to say if you beat 'em up, that you're going to get that information?

If a guy is that committed, I think he'll die before he gives it up.

[Professor Alfred McCoy, author A Question of Torture] Right after the release of the Abu Ghraib photos in mid-2004, 35% of Americans polled believed that torture was acceptable under some circumstances.

Even after the Abu Ghraib photographs.

And I think that shows the way that this kind of popular culture has built a constituency for torture, which allows the Bush White House to get away with the way it twists laws and treaties, and doesn't spark popular outrage.

On a conservative radio show,

Vice-President Dick Cheney openly defended the practice of waterboarding.

[Scott Hennen, WDAY North Dakota] Would you agree, a dunk in water is a no-brainer if it can save lives?

[Dick Cheney, Vice President] Well, um, it's a no-brainer for me, but for a while there I was criticized as being the Vice President for torture.

["President" George W. Bush] We do not condone torture!

[Scott Horton, Attorney] "We do not torture"! Footnote: "As we define torture.

Which means exactly what we wish it to mean, and nothing else."

In the elections of 2006, the Bush Administration openly campaigned for harsh techniques the rest of the world defined as torture.

Bush and Cheney played on the fears of voters and politicians.

If Congress didn't give them the power to do whatever was necessary, how could Americans be safe?

["President" George W. Bush] In addition to the terrorists held at Guantanamo, a small number of suspected terrorist leaders and operatives captured during the war have been held and questioned outside the United States

in a separate program operated by the Central Intelligence Agency.

Some ask, "Why you are acknowledging this program now?"

Some believe our Military and Intelligence personnel involved in capturing and questioning terrorists

could now be at risk of prosecution under the War Crimes Act!

Simply for doing their jobs in a thorough and professional way!

This is unacceptable!

The President was forced to disclose his secret CIA program when the

Supreme Court acted to limit his wartime powers.

In the historic Hamdan decision,

the Court ruled that interrogations and trials of terrorists would be governed by the Geneva Conventions.

["President" George W. Bush] This debate is occurring because of the Supreme Court's ruling that said we must conduct ourselves under the Common Article III of the Geneva Convention.

And that Common Article III says that there will be no outrages upon human dignity.

It's a, it's a, it's a, like...it's very vague! What does that mean?

[Senator Carl Levin, Senate Armed Services Committee] Do you believe that the use of testimony

which is obtained through techniques such as waterboarding, stress positions, intimidating use of military dogs,

sleep deprivation, sensory deprivation, forced nudity would be consistent with Common Article III?

[Alberto Gonzales, Attorney General] Well, sir, I think that most importantly, I can't imagine that such testimony would be reliable.

[Senator John McCain] Mr. Attorney General, do you believe that statements obtained through illegal, inhumane treatment should be admissible?

[Alberto Gonzales, Attorney General] Senator, well, again...I'll say this: the concern I would have about such a prohibition is, "What does it mean?" "How do you define it?"

And WHO would define it? The Bush Administration introduced a new law that would elude the restrictions of the Supreme Court.

[Col. Lawrence Wilkerson, former Chief of Staff to Colin Powell] In a legal sense, I think they wanted to discard the Constitution.

And they wanted to write a new one. But you can't do that.

So what you do is you throw a new interpretation on the old one.

And the new interpretation is the Executive in wartime

And perhaps this war is going to last forever...is all powerful.

Congress gave the President most of what he wanted.

He would agree to abide by the Geneva Conventions so long as HE could define their meaning and application.

A few detainees at Guantanamo might be put on trial. But the rest would no longer have access to habeas corpus:

The fundamental legal right to challenge their detention.

Planning a run for President, even Senator McCain voted for the bill soon after the Bush Administration threatened to discredit him with Conservative voters.

[The Cafferty File...Immunity from War Crimes?] Buried deep inside this legislation is a provision that will pardon President Bush and all the members of his Administration of any possible crimes connected to the torture and mistreatment of detainees dated all the way

back to September 11, 2001.

At least President Nixon had Gerald Ford to do his dirty work. President Bush is trying to pardon himself.

The pardon did not extend to frontline soldiers.

[PFC. Willie Brand, Convicted: Assault, Maiming, Maltreatment] The trial was a very confusing time for me, because I've never been through a trial before.

I didn't know what was really going on. I kind of just understood that, you know,

I was facing a lot of time in jail. That's the only thing I really understood about the whole thing.

[SGT. Anthony Morden, Pled Guilty to: Assault, Dereliction of Duty] Well, I was sent to jail, to a Military Correctional facility.

I've lost my full-time job. I have a bad-conduct discharge which has hindered me in getting a new job in the same field.

I...financially it's just devastated me.

I'm just glad it's over. That's it. Glad I can get on with my life.

I had to plead guilty to assault, and two counts of dereliction of duty. In exchange, they would say that I could go to jail for no more than four months.

Rather than spend the money that was being spent for that trial, I think it could have been better spent in working on Army doctrine to make sure that other people go into battle properly equipped, properly led, and with a full understanding as to what their new roles and responsibilities are.

[William Cassara, Damien Corsetti's Attorney] When a detainee is abused, or a detainee claims abuse, they want somebody to take the fall for it.

And it's not going to be the person with eagles or stars on their shoulder. No officer was ever convicted in the Dilawar case.

Following her service at Abu Ghraib, Capt. Carolyn Wood was given a staff position

at the Army Interrogation School in Fort Huachuca, Arizona.

[Scott Horton, Attorney] What does that reflect in terms of Senior Leadership's intentions?

Not to eradicate the abuse, but to perpetuate the abuse.

I think the probabilities exist that there will be other terrorist attacks. That more Americans will die.

And the argument that we have to apply abuse to detainees in order to protect American lives,

I find to be violative of our deepest values And to the very safety of our country.

We fight not only to protect lives. We fight to protect our principles.

[Col. Lawrence Wilkerson, former Chief of Staff to Colin Powell] If you

say, over the course of Afgan,
GTMO and Iraq, we've detained 50,000 people, I'd say that less than 1% were
terrorists.
Were some of them insurgents? Probably.
Were almost all of them in Iraq, in particular, going to become insurgents
after their treatment? Yes.
[Moazzam Begg, Detained at Bagram and Guantanamo] I was kidnapped,
abducted, forced into prison,
tortured, and threatened with further torture, without charge. Without
trial.
Even many soldiers had said to me afterward,
"Wasn't it hell when you weren't a terrorist when you came in here, by the
time you leave,
I'm sure you would be because of the way you've been treated."
[Jack Cloonan, Counterterrorism Task Force] I think there's a certain level
of prejudice
that this religion, and the people who have hijacked it,
have such a disregard for life, that we turn around and say,
"If they think so very little of life...and clearly 9/11 exemplified
that...screw them!" Anything goes."
[Tim Golden, New York Times Reporter] It's not surprising that at the end
of all this, Dilawar, the victim, was really lost.
I mean, Dilawar was almost invisible in the trials. I mean, you never saw
pictures of him.
Nobody ever mentioned this man's wife and child who were left without a
husband and father.
He was not part of the picture at all.
[Tim Golden, New York Times Reporter] There's a lot of other people out
there who are going to run into this system unless it's fixed.
And you only need one to sort of remind yourself of what it's capable of.
[Alberto Mora, former Navy General Counsel] American values are premised
upon the notion of human dignity, and the sanctity of the individual.
To allow for cruelty to be applied as a matter of official policy,
is to say that our forefathers were wrong about these inalienable rights.
[SPC. Tony Lagouranis, Mil-Intel, Iraq] Americans obviously want to believe
that we're somehow more moral than the rest of the world.
For some reason we have a real strong desire to feel that way.
And I think that's eroding. I don't really know what effect that's going to
have on us.
And I think a lot of people have just decided, "Well, you know, it's
different now after 9/11.
We can't be good anymore. We have to get tough."
And so we'll have to see what that does to us.
What do you say?

[SPC. Tony Lagouranis, Mil-Intel, Iraq] I think that's bullshit, frankly. I mean, I think that we still need to try and be as good as we can be.

[Frank B. Gibney] I find it utterly inconceivable that our highest officials...

Rumsfeld, Bush and Cheney...would not only countenance torture but would actually advocate it.

That really destroyed my faith in the American government.

Because through World War II and the Korean War, where I also served, We had the sense that we were on the side of the good guys.

You'd always get justice from the United States of America.

People would get decent treatment. And there was a rule of law.

We never forgot that. That behind the facade of wartime hatreds, There was a central rule of law which people abided by.

It was something we believed. It was what made America different.

Produced & Narrated By Alex Gibney