

RECONSTRUCTIONIST RABBINICAL ASSOCIATION

RESOLUTION ON THE USE OF TORTURE AND ABUSE OF DETAINEES BY THE UNITED STATES

ADOPTED AT RRA CONVENTION MARCH 15, 2005

BACKGROUND INFORMATION

Since the revelations of prisoner abuse at Abu Graib, there has been rising concern about the use of torture and abuse of prisoners by members of the United States military, or at the direction of U.S. officials, particularly in Iraq, Afghanistan and Guantanamo. This concern has been fueled by the Bush Administration's claims that the Geneva Conventions do not apply in these situations, and by suggestions by the President's former legal counsel and newly-appointed United States Attorney General, Alberto Gonzales, that the President can authorize the use of torture. This has led to concern that the United States not only has made mistakes, but is reversing its long-standing policies prohibiting torture and its long-standing adherence to the Geneva Conventions. Therefore this is an important time for American religious leaders to take a stand on this issue.

The strongest basis in Jewish tradition against torture and abuse of prisoners is derived from Genesis 1:27, which says that God created humanbeings "in the image of God," "B'tzelem Elohim", and from the Jewish understanding that every human being must be treated accordingly. Rabbinic texts deal with torture primarily in stories in which Jews are the victims of torture, e.g. the stories of the death of Akiva and of other rabbis of his time. However, there are very strong prohibitions in Talmud against humiliating others ("boshet" and "halbanat panim").

In recent times the issue of torture has been taken up by the Israeli Supreme Court. (For a discussion of, and quotations from, the relevant court decision, please see the "Rabbinic Letter Against Torture and other Cruel, Inhuman and Degrading Treatment of Detainees" being circulated by Rabbis for Human Rights of North America, attached to this resolution.)

RESOLVED:

WHEREAS The United States is a signatory to the Geneva Convention and to the Convention against torture and other cruel inhuman and degrading treatment and;

WHEREAS the use of torture and other cruel, inhuman or degrading treatment of human beings is in direct violation of Jewish tradition and, in particular, of the Jewish view that every human being is created in the image of God and;

WHEREAS torture shatters and defiles the image of God and;

WHEREAS it has become clear that the United States government and armed forces have been engaging in the use of torture and/or abuse of prisoners under their control,

THEREFORE BE IT RESOLVED: that the Reconstructionist Rabbinical Association calls upon the President and the Attorney General of the United States to ban the use of torture and other cruel, inhuman and degrading treatment in any and every setting under United States control.

BE IT FURTHER RESOLVED that the Reconstructionist Rabbinical Association calls upon the government of the United States:

- 1) To affirm publicly its commitment to upholding the letter and spirit of the laws regulating interrogation and detention, including the Constitution of the United States, Acts of Congress, and the international treaties that it has signed and ratified, including the Geneva Conventions.
- 2) To allow every person in the custody of the U.S. military, military contractors, or intelligence officials visits by the International Committee of the Red Cross, in accordance with U.S. obligations under international law.
- 3) To reject the practice (referred to as “extraordinary rendition”) in which certain prisoners are sent to countries which use extreme forms of torture in interrogations.
- 4) To create an independent commission to investigate and report on the detention and interrogation practices of U.S. military and intelligence agencies.

BE IT FURTHER RESOLVED that the RRA endorses the “Rabbinic Letter Against Torture and other Cruel, Inhuman and Degrading Treatment of Detainees” being circulated by Rabbis for Human Rights - North America, and encourages RRA members to sign this letter.

BE IT FURTHER RESOLVED that the RRA encourages its members:

- 1) To write to, and to set up meetings with, their Senators and Congressional Representatives to share this resolution and to address the issues of torture and abuse of prisoners with them.
- 2) To address these issues from the pulpit and in their workplaces.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President and Attorney General of the United States, members of the U.S. Senate and to major Jewish newspapers and news agencies. The RRA also encourages its members to submit the resolution to their local Jewish newspapers.

RABBINIC LETTER AGAINST TORTURE AND OTHER CRUEL, INHUMAN AND DEGRADING TREATMENT OF DETAINEES

2005/ 5765

Dear President Bush and Members of Congress,

On behalf of Rabbis for Human Rights North America, we write out of a deep sense of concern about the erosion of America's longstanding commitment that torture is absolutely reprehensible.

All of us have been shocked by the published pictures of the behavior of some American soldiers at Abu Ghraib. We applaud the fact that this administration is prosecuting some of the worst offenders there as well as several soldiers who were responsible for the deaths of Afghani prisoners under their protection in that other theater of war.

What is most disturbing, though, is that the documents that have been made public as these cases move forward demonstrate that the use of torture and other cruel, inhuman and degrading treatment had been approved at the highest levels of the Administration, that commanders in the field have permitted much of this behavior, that directives from the Department of Defense appear to advocate the use of torture and other abuses, and that even today the position of the Administration is that the members of Al-Qaeda and other terrorist groups are not covered by the Geneva Conventions. Recent reports from the Red Cross and from FBI agents, for example, raise new concerns about American treatment of detainees at Guantanamo.

We are not addressing the technical legal arguments that characterize this discussion. Rather, we want to express our moral concerns about the human situation – concerns that stem from the heart of America's values, the essence of democracy, and the soul of Jewish tradition.

We understand that the most fundamental ethical principle, which results from our belief in God as Creator of the world and Parent of all humanity, is that every human being is seen as reflecting the Image of God. Torture shatters and defiles God's Image. The purpose of torture is to remove a person's pride, humiliate that person, or make his or her life so painful that the person does or says whatever the interrogator wants. Torture 'works' by attempting to deprive a human being of will, spirit, and personal dignity. The humanity of the perpetrators, as well as the victims, is inevitably compromised by the use of torture.

Jewish tradition calls for humane treatment even of one's adversaries. In the Book of Exodus (23:4), the Bible teaches, "When you encounter an enemy's ox or donkey, you must take it back to him." Here the religious test is, strikingly, not how one would treat a friend, but how one relates to one's enemy.

Classical Rabbinic texts are rigorous in prohibiting acts of humiliation. In Jewish tort law, an additional penalty is assessed against one who has physically injured another person when it is found that the victim also suffered, humiliation (*boshet*), while being wounded. Even verbal humiliation is said to be the equivalent of shedding blood. We are particularly appalled by the infliction of sexual humiliation on prisoners under United States custody. Jewish tradition

upholds a high standard of personal modesty. Indeed the Bible's term for prohibited sexual behavior is to "uncover the nakedness" of another. However, even non-sexual acts that overpower people and attempt to break their will and diminish their dignity are acts of humiliation that Jewish tradition abhors. It is significant that nowhere in the 3000-year long corpus of Jewish law is there *any* allowance for acts of physical coercion in interrogations.

Consider the ruling of the Supreme Court of Israel, which outlawed the use of torture in interrogations, despite the fact that terrorist organizations have Israel's annihilation as their express goal, carry out attacks that murder scores of men, women, and children, and do not distinguish between civilian and military targets. Despite this constant reality of cruelty and merciless savagery, the Supreme Court of Israel found no reason why tactics other than face-to-face interrogation should be allowed against any prisoner. After the fact, if/when an interrogator is charged with a violation, he is permitted to raise a defense of necessity – i.e., his actions were necessary to prevent an imminent attack endangering human life; but no permission is given before the fact, even in a country facing life-threatening terror.

At the conclusion of their decision, the Israeli jurists acknowledge that forswearing inhumane means such as torture, even for honorable ends, "...is the destiny of democracy, as not all means are acceptable to it, and not all practices employed by its enemies are open before it. Although a democracy must fight with one hand tied behind its back, it nonetheless has the upper hand. Preserving the rule of law and recognition of an individual's liberty constitutes an important component in its understanding of security. At the end of the day, they strengthen its spirit and its strength and allow it to overcome its difficulties."

First, as Jewish leaders representing all the movements of our Jewish community, in consonance with world consensus and with the teachings of Jewish tradition in every age, we call for a complete repudiation and prohibition of torture and other cruel, inhuman or degrading treatment for any purpose, in any instance. We call on the U.S. government to state in unequivocal terms that the use of any tactics of physical abuse, the deprivation of food, water, sleep, disorientation, religious degradation or purposive humiliation of a prisoner is prohibited. This must be a basic understanding for the treatment of any captive, whether or not he or she originates from a country or belongs to a group that is a signatory to the Geneva conventions. All those in the custody of U.S. military, military contractors, or intelligence officials must be provided with visits by the International Committee of the Red Cross, in accordance with U.S. obligations under international law.

Secondly, we note that in the trial of Specialist Charles A. Graner, Jr., his defense lawyers argued that he was simply following the lessons he had learned in civilian life as a prison guard. It is shocking to think that the prelude to Abu Ghraib may have been the treatment of our people in our own prisons. The demonstration of the administration's commitment to human dignity must begin at home, to insure that the same principles of human dignity we are urging the administration to adopt regarding foreign captives be equally applied to American prison inmates. Otherwise, we become what we claim to abhor.

Lastly, we call for full investigation of all allegations of torture and other cruel, inhuman or degrading treatment committed in settings under United States control or direction and for proper

legal sanctions to be applied against individuals who are found to have committed acts of torture. We support the creation of a bipartisan commission to investigate and report on the detention and interrogation procedures of US military and intelligence agencies and to set a course of corrective action.

We look forward to hearing your views on this question and hope that you will provide much needed moral leadership for our nation.

With blessings of Shalom,

Rabbi Gerry Serotta
Chair

Rabbi Brian Walt
Executive Director

RHR Honorary Advisory Council

Rabbi Brad Artson
Rabbi Elliot Dorff
Rabbi Amy Eilberg
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A full list of signatories will be posted on the website of Rabbis for Human Rights North America at www.rhr-na.org