By George Friedman

The Obama administration published a series of memoranda on torture issued under the Bush administration. The memoranda, most of which dated from the period after 9/11, authorized measures including depriving prisoners of solid food, having them stand shackled and in uncomfortable positions, leaving them in cold cells with inadequate clothing, slapping their heads and/or abdomens, and telling them that their families might be harmed if they didn't cooperate with their interrogators.

On the scale of human cruelty, these actions do not rise anywhere near the top. At the same time, anyone who thinks that being placed without food in a freezing cell subject to random mild beatings - all while being told that your family might be joining you - isn't agonizing clearly lacks imagination. The treatment of detainees could have been worse. It was terrible nonetheless.

Torture and the intelligence gap

But torture is meant to be terrible, and we must judge the torturer in the context of his own desperation. In the wake of 9/11, anyone who wasn't terrified was not in touch with reality. We know several people who now are quite blasé about 9/11. Unfortunately for them, we knew them in the months after, and they were not nearly as composed then as they are now.

Sept. 11 was terrifying for one main reason: We had little idea about al Qaeda's capabilities. It was a very reasonable assumption that other al Qaeda cells were operating in the United States and that any day might bring follow-on attacks. (Especially given the group's reputation for one-two attacks.) We still remember our first flight after 9/11, looking at our fellow passengers, planning what we would do if one of them moved. Every time a passenger visited the lavatory, one could see the tensions soar.

And while Sept. 11 was frightening enough, there were ample fears that al Qaeda had secured a "suitcase bomb" and that a nuclear attack on a major U.S. city could come at any moment. For individuals, such an attack was simply another possibility. We remember staying at a hotel in Washington close to the White House and realizing that we were at ground zero - and imagining what the next moment might be like. For the government, however, the problem was having scraps of intelligence indicating that al Qaeda might have a nuclear weapon, but not having any way of telling whether those scraps had any value. The president and vice president accordingly were continually kept at different locations, and not for any frivolous reason.

This lack of intelligence led directly to the most extreme fears, which in turn led to extreme measures. Washington simply did not know very much about al Qaeda and its capabilities and intentions in the United States. A lack of knowledge forces people to think of worst-case scenarios. In the absence of intelligence to the contrary after 9/11, the only reasonable

assumption was that al Qaeda was planning more - and perhaps worse - attacks.

Collecting intelligence rapidly became the highest national priority. Given the genuine and reasonable fears, no action in pursuit of intelligence was out of the question, so long as it promised quick answers. This led to the authorization of torture, among other things. Torture offered a rapid means to accumulate intelligence, or at least - given the time lag on other means - it was something that had to be tried.

Torture and the moral question

And this raises the moral question. The United States is a moral project: its Declaration of Independence and Constitution state that. The president takes an oath to preserve, protect and defend the Constitution from all enemies foreign and domestic. The Constitution does not speak to the question of torture of non-citizens, but it implies an abhorrence of rights violations (at least for citizens). But the Declaration of Independence contains the phrase, "a decent respect for the opinions of mankind." This indicates that world opinion matters.

At the same time, the president is sworn to protect the Constitution. In practical terms, this means protecting the physical security of the United States "against all enemies, foreign and domestic." Protecting the principles of the declaration and the Constitution are meaningless without regime preservation and defending the nation.

While this all makes for an interesting seminar in political philosophy, presidents - and others who have taken the same oath - do not have the luxury of the contemplative life. They must act on their oaths, and inaction is an action. Former U.S. President George W. Bush knew that he did not know the threat, and that in order to carry out his oath, he needed very rapidly to find out the threat. He could not know that torture would work, but he clearly did not feel that he had the right to avoid it.

Consider this example. Assume you knew that a certain individual knew the location of a nuclear device planted in an American city. The device would kill hundreds of thousands of Americans, but he individual refused to divulge the information. Would anyone who had sworn the oath have the right not to torture the individual? Torture might or might not work, but either way, would it be moral to protect the individual's rights while allowing hundreds of thousands to die? It would seem that in this case, torture is a moral imperative; the rights of the one with the information cannot transcend the life of a city.

Torture in the real world

But here is the problem: You would not find yourself in this situation. Knowing a bomb had been planted, knowing who knew that the bomb had been planted, and needing only to apply torture to extract this information is not how the real world works. Post-9/11, the United States knew much less about the extent of the threat from al Qaeda. This hypothetical sort of torture was not the issue.

Discrete information was not needed, but situational awareness. The United States did not

know what it needed to know, it did not know who was of value and who wasn't, and it did not know how much time it had. Torture thus was not a precise solution to a specific problem: It became an intelligence-gathering technique. The nature of the problem the United States faced forced it into indiscriminate intelligence gathering. When you don't know what you need to know, you cast a wide net. And when torture is included in the mix, it is cast wide as well. In such a case, you know you will be following many false leads - and when you carry torture with you, you will be torturing people with little to tell you. Moreover, torture applied by anyone other than well-trained, experienced personnel (who are in exceptionally short supply) will only compound these problems, and make the practice less productive.

Defenders of torture frequently seem to believe that the person in custody is known to have valuable information, and that this information must be forced out of him. His possession of the information is proof of his guilt. The problem is that unless you have excellent intelligence to begin with, you will become engaged in developing baseline intelligence, and the person you are torturing may well know nothing at all. Torture thus becomes not only a waste of time and a violation of decency, it actually undermines good intelligence. After a while, scooping up suspects in a dragnet and trying to extract intelligence becomes a substitute for competent intelligence techniques - and can potentially blind the intelligence service. This is especially true as people will tell you what they think you want to hear to make torture stop.

Critics of torture, on the other hand, seem to assume the torture was brutality for the sake of brutality instead of a desperate attempt to get some clarity on what might well have been a catastrophic outcome. The critics also cannot know the extent to which the use of torture actually prevented follow-on attacks. They assume that to the extent that torture was useful, it was not essential; that there were other ways to find out what was needed. In the long run, they might have been correct. But neither they, nor anyone else, had the right to assume in late 2001 that there was a long run. One of the things that wasn't known was how much time there was.

The U.S. Intelligence failure

The endless argument over torture, the posturing of both critics and defenders, misses the crucial point. The United States turned to torture because it has experienced a massive intelligence failure reaching back a decade. The U.S. intelligence community simply failed to gather sufficient information on al Qaeda's intentions, capability, organization and personnel. The use of torture was not part of a competent intelligence effort, but a response to a massive intelligence failure.

That failure was rooted in a range of miscalculations over time. There was the public belief that the end of the Cold War meant the United States didn't need a major intelligence effort, a point made by the late Sen. Daniel Moynihan. There were the intelligence people who regarded Afghanistan as old news. There was the Torricelli amendment that made recruiting people with ties to terrorist groups illegal without special approval. There were the Middle East experts who could not understand that al Qaeda was fundamentally different from anything seen before. The list of the guilty is endless, and ultimately includes the American people, who always seem to believe that the view of the world as a dangerous place is something made up by contractors and bureaucrats.

Bush was handed an impossible situation on Sept. 11, after just nine months in office. The country demanded protection, and given the intelligence shambles he inherited, he reacted about as well or badly as anyone else might have in the situation. He used the tools he had, and hoped they were good enough.

The problem with torture - as with other exceptional measures - is that it is useful, at best, in extraordinary situations. The problem with all such techniques in the hands of bureaucracies is that the extraordinary in due course becomes the routine, and torture as a desperate stopgap measure becomes a routine part of the intelligence interrogator's tool kit.

At a certain point, the emergency was over. U.S. intelligence had focused itself and had developed an increasingly coherent picture of al Qaeda, with the aid of allied Muslim intelligence agencies, and was able to start taking a toll on al Qaeda. The war had become routinized, and extraordinary measures were no longer essential. But the routinization of the extraordinary is the built-in danger of bureaucracy, and what began as a response to unprecedented dangers became part of the process. Bush had an opportunity to move beyond the emergency. He didn't.

If you know that an individual is loaded with information, torture can be a useful tool. But if you have so much intelligence that you already know enough to identify the individual is loaded with information, then you have come pretty close to winning the intelligence war. That's not when you use torture. That's when you simply point out to the prisoner that, "for you the war is over." You lay out all you already know and how much you know about him. That is as demoralizing as freezing in a cell - and helps your interrogators keep their balance.

U.S. President Barack Obama has handled this issue in the style to which we have become accustomed, and which is as practical a solution as possible. He has published the memos authorizing torture to make this entirely a Bush administration problem while refusing to prosecute anyone associated with torture, keeping the issue from becoming overly divisive. Good politics perhaps, but not something that deals with the fundamental question.

The fundamental question remains unanswered, and may remain unanswered. When a president takes an oath to "preserve, protect and defend the Constitution of the United States," what are the limits on his obligation? We take the oath for granted. But it should be considered carefully by anyone entering this debate, particularly for presidents.

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