

1. **Title of the Resolution:** A moratorium on psychologist involvement in interrogations at US detention centers for foreign detainees.
2. **Mover:** Neil Altman, Ph.D.
3. **Mover's Organizational Representation within APA:** Division 39 representative to the Council of Representatives
4. **The Issue:** That psychologists participating in interrogations of foreign detainees at US detention centers may be working within a framework in which there is inadequate protection of detainee human rights.
5. **Relation to APA Priorities:** This resolution fits with the priority of promoting human welfare through social justice policy and education.
6. **Estimated Costs/Staff Resources:** Minimal, only as needed to publicize the resolution.
7. **Main Motion:** This motion calls on APA to call for a moratorium on psychologist involvement in interrogations taking place at US detention centers for foreign detainees.

Whereas, the American Psychological Association (APA), as an accredited NGO at the UN, is committed to the spirit, purposes, and principles of the UN and other relevant UN instruments;

Whereas, in 2006, the APA Resolution Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment reaffirmed the APA's long-standing commitment to basic human rights including its position against torture and other cruel, inhuman, or degrading treatment or cruel, inhuman, or degrading punishment;

Whereas, in 2006, the APA Resolution Against Torture and Other Cruel, Inhuman, or Degrading Treatment affirmed that psychologists regardless of their roles, shall not knowingly engage in, tolerate, direct, support, advise, or offer training in torture or other cruel, inhuman, or degrading treatment or cruel, inhuman, or degrading punishment; that psychologists shall not provide knowingly any research, instruments, or knowledge that facilitates the practice of torture or other forms of cruel, inhuman, or degrading treatment or cruel, inhuman, or degrading punishment; that psychologists shall not knowingly participate in any procedure in which torture or other forms of cruel, inhuman, or degrading treatment or cruel, inhuman, or degrading punishment is used or threatened;

Whereas, in 2006, the APA Resolution Against Torture and Other Cruel, Inhuman, or Degrading Treatment affirmed that should torture or other cruel, inhuman, or degrading treatment or cruel, inhuman, or degrading punishment evolve during a procedure where a psychologist is present, the psychologist shall attempt to intervene to stop such behavior, and failing that exit the procedure; and that psychologists

shall be alert to acts of torture and other cruel, inhuman, or degrading treatment or cruel, inhuman, or degrading punishment and have an ethical responsibility to report these acts to the appropriate authorities;

Whereas, the US government in the Military Commissions Bill of 2006 has declared that certain people held at detention centers are “enemy combatants” and as such may not be guaranteed human rights protections, particularly in relation to due process, and humane interrogation techniques, as established under the Geneva Conventions and other UN documents, treaties, conventions, and protocols that protect the human rights of people without exception.

Whereas, current interrogation methods at U.S. centers holding “enemy combatants” may include techniques defined as torture or other cruel, inhuman, or degrading treatment or punishment under the 2006 APA Resolution Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment;

Whereas, psychologists working in U.S. detention centers for foreign detainees are placed at risk (ethically and psychologically), particularly in relation to involvement in interrogations interpreted as legal under U.S. law but inclusive of torture and other cruel, inhuman, or degrading treatment or punishment as defined under international law and the 2006 APA Resolution Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment;

Therefore, Be it resolved that APA adopts this resolution calling for a moratorium on all psychologist involvement, either direct or indirect, in any interrogations at U.S. detention centers for foreign detainees. This moratorium is necessary as detainees may be currently denied protections outlined under the Geneva Conventions and interrogations techniques in violation of the 2006 APA Resolution Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment may be considered acceptable practice according to the Military Commissions Bill of 2006;

And Be it Further Resolved that APA disseminates and publicizes this resolution along with its 2006 Resolution against Torture both within the Association and to the wider public.

- 8. Expected Outcomes/Products:** Improved ethical and legal guidance for psychologists working in US detention centers holding foreign detainees.
- 9. Co-sponsors:** Joseph Aponte, Kentucky; Bernice Lott, Div. 9; Allen Omoto, Div. 9; Dolores Morris, Div. 39; Judith Van Hoorn, Div. 48; Laura Barbanel, Div. 39; G. Rita Dudley-Grant, Div. 42; Laurie Wagner, Div. 39; Maurine Kelly, Div. 39; Sharon Brennan, New York; Jacquelyn White, Div. 35; Jean Lau Chin, Div. 35; Linda M. Woolf, Div. 48; Barbara Cowan, New York; Trish Crawford, British Columbia, Bert Karon, Div. 39.

American Psychological Association Resolution
Moratorium on Psychologist Involvement in Interrogations
at U.S. Detention Centers for Foreign Detainees

Justification Statement

1. Purpose and Rationale

The purpose of this resolution is twofold: 1) To protect individuals from the possible use of torture and other cruel, inhuman, or degrading treatment during interrogations at U.S. detention centers for foreign detainees, and 2) to protect psychologists, both ethically and psychologically, from involvement in such interrogations.

In a letter to Senator John McCain dated September 21, 2006, seven leading health professions including Dr. Gerald Koocher, President, American Psychological Association (APA) identify themselves as “medical and psychological professionals who are deeply committed to our nation’s traditional safeguards against torture and abuse of prisoners and detainees” (see Attachment 1). This proposed resolution and moratorium is designed to further safeguard prisoners and detainees from torture and abuse during interrogations and to safeguard psychologists from either intentional or unintentional involvement in abusive interrogations.

In August of 2006, the APA affirmed its condemnation of torture and other cruel, inhuman or degrading treatment or punishment regardless of time, place, and setting. The 2006 APA Resolution Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (see Attachment 2) updated, clarified, and strengthened APA’s policy in line with APA’s role as a United Nations (UN) non-governmental organization (NGO). Specifically, the 2006 Resolution:

- Reaffirms and renews APA’s condemnation of torture and other cruel, inhuman, or degrading treatment or punishment wherever it occurs.
- Affirms the centrality of United Nations and other human rights documents as the basis for APA policy. (The Resolution names and supports without reservation several relevant documents.)
- Defines torture according to the United Nations Convention Against Torture.
- Condemns psychologists’ involvement in torture and all other cruel, inhuman or degrading treatment or punishment, unequivocally and in all circumstances.
- Clarifies that psychologists do not tolerate such behavior, directly or indirectly, including as bystanders. The resolution is highly specific in stating that, regardless of their roles, psychologists shall not engage in, tolerate, direct, support, advise, or offer training in torture or other cruel, inhuman, or degrading treatment; shall not knowingly provide research, instruments, or knowledge that facilitates these practices.
- Places upon psychologists the ethical obligation to report such behavior to appropriate authorities.

- Reaffirms APA's support for the McCain Amendment.

The Military Commissions Bill of 2006 (see Attachment 3) opens the door to the legal use of harsh interrogation techniques with foreign detainees housed at U.S. detention centers both within and outside of the U.S. The Military Commissions Bill of 2006 contains two provisions which leave unclear the extent to which “tough interrogation tactics” (Gonzales, 2006) used by the CIA and potentially the military will continue to be used, which may be inclusive of abusive methods that could be defined as torture and other cruel, inhuman or degrading treatment. First, the Military Commissions Bill of 2006 provides wide discretionary power for the President to interpret the Geneva Conventions. It states:

(3) INTERPRETATION BY THE PRESIDENT.—

- (A) As provided by the Constitution and by this section, the President has the authority for the United States to interpret the meaning and application of the Geneva Conventions and to promulgate higher standards and administrative regulations for violations of treaty obligations
- (B) The President shall issue interpretations described by subparagraph (A) by Executive Order published in the Federal Register.
- (C) Any Executive Order published under this paragraph shall be authoritative (except as to grave breaches of common Article 3) as a matter of United States law. (p. 33).

Second, the Military Commissions Bill of 2006 changes the United States Code as follows. The U.S. Code, Title 18, Chapter 118, Article 3 previously defined War Crimes as follows:

- (3) which constitutes a violation of common Article 3 of the international conventions signed at Geneva, 12 August 1949, or any protocol to such convention to which the United States is a party and which deals with non-international armed conflict;

The Military Commissions Bill of 2006 changes the U.S. Code as follows:

(b) REVISION TO WAR CRIMES OFFENSE UNDER FEDERAL CRIMINAL CODE.—

(1) IN GENERAL.—Section 2441 of title 18, United States Code, is amended—

- (A) in subsection (c), by striking paragraph (3) and inserting the following new paragraph (3): which constitutes a grave breach of common Article 3 (as defined in subsection (d)) when committed in the context of and in association with an armed conflict not of an international character; (page 34)

Thus, the Military Commissions Bill of 2006 includes a significant change in wording. Previously, any “violation” of common Article 3 was prohibited under the U.S. Code. Now only “grave breaches” of common Article 3 are prohibited.

The above two changes open the door for ambiguity regarding the types of interrogations techniques to be used with “unlawful enemy combatants” or as defined by the President of the United States. When Attorney General Alberto Gonzales has been asked to provide specific information concerning “tough interrogation tactics”, he has declined to provide information on the basis of national security (Gonzales, 2006). As such, it is unclear as to whether interrogations will involve torture and other cruel, inhuman, or degrading, either physical or psychological, as defined according to the 2006 APA Resolution Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.

As noted by Allen S. Keller (Program. Dir., Bellevue/NYU Program for Survivors of Torture), Gerald P. Koocher (President, American Psychological Association), Burton J. Lee (Physician to the President for George Herbert Walker Bush*), Bradley D. Olson (Chair, Divisions for Social Justice, American Psychological Association*), Steven S. Sharfstein (Immediate Past President, American Psychiatric Association*), Brigadier General Stephen N. Xenakis, (USA-Ret.) and Philip G. Zimbardo (Prof. Emeritus, Stanford; past President, American Psychological Association*) in a letter to Senator John McCain, dated September 21, 2006 (see Attachment 1):

We strongly believe, therefore, that the legislation addressing military commissions and the War Crimes Act must not allow harsh and abusive interrogation tactics by any government agency, including the CIA – methods that unquestionably violate the traditions and values you have long defended. There must be no mistake about the brutality of the “enhanced interrogation methods” reportedly used by the CIA. Prolonged sleep deprivation, induced hypothermia, stress positions, shaking, sensory deprivation and overload, and water-boarding (which may still be authorized), among other reported techniques, can have a devastating impact on the victim’s physical and mental health. They cannot be characterized as anything but torture and cruel, inhuman, and degrading treatment . . .

The American Psychological Association distributed the above mentioned letter to all Division Officers and the Public Policy Office distributed a Call for Action recommending that APA members contact their Senators to oppose passage of the legislation (see Attachment 4).

With the passage of the Military Commissions Act of 2006, interrogations techniques involving the possible use of torture and other cruel, inhuman, or degrading techniques, both physical and psychological, may be in use or may be used in the future at U.S. detention centers both within and outside of the U.S with foreign detainees. As abusive interrogation techniques are condemned and prohibited under the 2006 APA Resolution Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, it is recommended that a moratorium be passed prohibiting psychologist involvement, either direct or indirect, in any interrogations at U.S. detention centers with foreign detainees.

Since many of the forms of “psychological torture” (McCoy, 2006, p. 9-10), such as the use of sensory deprivation and overload, rely on psychological research (see McCoy, 2006, pp. 7-10 and 21-54, for documentation such uses to which psychological research has been put), APA has a special responsibility to make clear that it does not sanction the use of knowledge gained in psychological research for purposes that violate international law and international standards of human rights.

Such a moratorium would not only be in accordance with the 2006 APA Resolution Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment but also reflect APA’s commitment as a UN NGO and the Association’s support for the United Nations Declaration and Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, the United Nations Principles of Medical Ethics, the United Nations Basic Principles for the Treatment of Prisoners, the United Nations Principles on the Effective Investigation and Documentation of Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment, the U.S. Congressional Resolution opposing torture, which President Reagan signed on October 4, 1984, and the McCain Amendment.

2. Importance to Psychology and to Society as a Whole

As clearly indicated in the 2006 APA Council Resolution cited above, the promotion of human rights is consonant with the aims and practices of the discipline of psychology. Indeed, all members of the APA have important contributions to make to the individuals and groups with whom they work, and to society when abiding by the “Ethical Principles of Psychologists and Code of Conduct” (APA, 2002). The APA “Ethical Principles of Psychologists and Code of Conduct” (adopted August 21, 2002, effective June 1, 2003) commits American Psychologists to “respect and protect civil and human rights” (and) “the dignity and worth of all people.” In fact, APA has a strong legacy of resolutions and actions on specific issues in compliance with UN declarations, conventions, and other instruments on human rights (Rosenzweig, 1988).

Furthermore, since 2000, APA has been accredited as a non-governmental organization (NGO) at the UN. Under the guidelines for NGO participation, APA shares with other accredited NGOs a commitment to the Charter of the UN, to the Universal Declaration of Human Rights, and to contribute its expertise and resources to the implementation of the various human rights declarations, conventions, and other standards of the UN.

3. Representative Scientific or Empirical Findings Related to the Resolution

In 1948, the United Nations General Assembly adopted the *Universal Declaration of Human Rights*. Article V of the Declaration states, “No one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment.” This international condemnation of torture and other forms of gross maltreatment was further supported, expanded, and clarified by the adoption of the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment by the General Assembly in 1984.

The issue of torture, and cruel, inhuman, or degrading treatment or punishment remains a global concern, and international organizations and NGOs have not remained silent. Rather work to combat torture continues and includes the adoption of additional international conventions, statutes, and the creation of support structures for victims much of which focuses on the protection of detainees and prisoners.

- *Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment* (adopted by the UN General Assembly in 1988)
- *Basic Principles for the Treatment of Prisoners* (adopted by the UN General Assembly in 1990);
- *Rome Statute of the International Criminal Court* (adopted by a UN Diplomatic Conference of Plenipotentiaries in 1998);
 - Article 7 states that the systematic or widespread practice of torture and “other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health” constitute crimes against humanity;
- *Torture Victims Relief Act of 1998*;
- *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (Istanbul Protocol, developed by 40 cooperating agencies and supported by the UN in 1999);

- *United Nations Human Rights Council* (established March 2006).

The Justification Statement written in support of the 2006 Resolution Against Torture and Other Cruel, Inhuman, or Degrading treatment or Punishment discusses broadly the theoretical and empirical literature concerning the definitions of ‘torture’ and “cruel, inhuman, or degrading”; provides a broader discussion of psychological forms of torture and other cruel, inhuman, or degrading treatment, or punishment; discusses the empirical literature concerning the psychological effects of torture and other cruel, inhuman, or degrading treatment or punishment; and treatment issues. The Justification statement for the 2006 resolution is included as Attachment 5. A further summary of the empirical literature on the psychological effects of torture and other cruel, inhuman, and degrading treatment and punishment is available in the Society for the Psychological Issue’s Policy Statement on the Use of Torture and Other Cruel, Inhumane, or Degrading Treatment as Interrogation Devices, included as Attachment 6.

4. Likelihood of the Resolution having a Constructive Impact on Public Opinion or Policy

As a scientific and professional organization, APA public policy stances have both national and international significance. Through a moratorium, APA can communicate to the public a clear messages about the fundamental human values on which American psychological research, practice, and consultation are based and evaluated. Within the national context and through its non-governmental status at the UN, APA can play a very constructive role in educating the public on psychological research regarding the long-term, multiple psychological and physical effects of torture on individuals. Moreover, the APA can play a constructive role in providing training and research concerning effective but humane methods of interrogation and the value of such methods related to issues of national security.

References

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- McCoy, A. (2006) *A Question of Torture: CIA Interrogation from the Cold War to the War on Terror*. New York: Metropolitan Books.
- Rosenzweig, M. R. (1988). Psychology and United Nations human rights efforts. *American Psychologist*, 43, 79-86.
- United States Code, Title 18, Chapter 118 (2006). Retrieved October 19, 2006, from http://www.access.gpo.gov/uscode/title18/parti_chapter118.html.

