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U.S. Policy on Torturing Enemy POWs: Holding the Enemy Accountable

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### Abstract

Since the beginning of Operation Iraqi Freedom, the enemy insurgent forces continue to neglect its moral responsibility to treat humanely United States and Coalition, both military and civilian, forces as Prisoners of War. The treatment of Prisoners of War prescribed in accordance with the rules of the Geneva Convention and the International Laws of Land Warfare states the proper handling of Prisoner of War, the United Nations and The Hague supports and upholds the international laws. United States and Coalition Forces, both military and civilian, must have the confidence that they will survive enemy captivity, if captured and have the opportunity to face repatriation not death.

### U.S. Policy on Torturing Enemy POWs: Holding the Enemy Accountable

Many of today's U.S. service members still have vivid memories of the graphically televised videos of beheaded SSG William Cleveland being inhumanely dragged through the streets of Mogadishu by Somali citizens after his MH-60 helicopter was shot down while supporting Operation Gothic Serpent in Mogadishu, Somalia on 3 October 1993. Our armed forces, as well as our coalition brothers, protect our world's freedom and assists underdeveloped nations to gain their freedoms so justly deserved; soldiers and civilians must possess the confidence that the conflict in which they are fighting is equal in regards to the fair and humane treatment of captured enemy combatants under the Conventions of the Geneva Convention. According to the Canadian Broadcasting Corporation (CBC), "more than 200 coalition foreigners, military and civilian, have been captured in Iraq since the beginning of the US occupation in 2003. Although, some have found freedom, over half have died while being held captive by the enemy" (Canadian Broadcast Corporation [CBC], 2006). Currently there are four United States service members listed and thought to be either Missing in Action (MIA) or Killed in Action (KIA) with remains unknown in Iraq (Army Times, 2007). The Iraqi insurgents are not exempt from the international laws regarding the proper handling of Prisoners of War and must be held accountable.

### Opposing View

Many of the Iraqi insurgents and populace believe that the improper handling of American and coalition, including both military and civilians, held captured by Iraqi insurgent forces is justified as retaliation for the U.S. and coalition forces participating in combat operations in their country. This justification is based on the theory that they are not a military force supporting the country and thus exempt from abiding by the Geneva Convention. This lack

of regard for international law by the enemy insurgents is why they must be held accountable for their improper handling of Prisoners of War.

#### Geneva Convention

The United States and nearly all of the world's nations support and enforce the 1949 incorporation of the Geneva Convention and its subsequent amendments. A few nations, including the Iraqi insurgent forces, choose not to comply with the laws of the convention. The improper treatment of captured combatants and non-combatants by the enemy forces fighting the Global War on Terror (GWOT) since 2001 is unacceptable and when the time comes, The International War Tribunals, The Hague in Netherlands, will hold them accountable for international war crimes for the neglect and inhumane treatment of combatants.

While the United States handles captured enemy combatants on the battlefield and throughout the world fairly and humanely by continuing to operate in accordance with the international laws prescribed by the United Nations and continue to provide fair and humane treatment.

Even though these captured criminals seldom warrant the status of Prisoner of War, they are still treated humanely. They become known as enemy detainees detained by the United States government due to the suspected links to terrorist groups, militias, and the lack of no national status as a combatant. If these enemy combatants are linked to terrorist activities against our Nation's borders, our citizens or against our Armed Forces Members, they will receive punishment possibly by a military tribunal or the federal court system. Maximum punishment for terrorist threats or acts towards our nation could result in the death penalty.

When the enemy insurgents capture our coalition forces on the battlefield, they fail to properly care for these forces disregarding the individual as human being, and often treat them

inhumanely. This is evident by the number of graphic media televised executions over the past six years. Most instances when enemy forces capture a soldier, it is usually less than a week that the murdered body will be recovered in the streets of a city in Iraq and the method of torture and murder will be exposed to the world. They are failing to recognize the captured member's status as a POW under The Geneva Convention or Laws of War and provide the required care such as visits by the International Red Cross (IRC). The IRC is a non-biased, non-political international group who is authorized to verify the captured status of both coalition and enemy POWs, also, ensure that the captured POW is treated in accordance with the Geneva Convention.

The Geneva Conventions of 1949 created four conventions and subsequently enacted two additional protocols with popular acceptance by almost 200 nations. The third Convention deals with the humane handling of the Prisoners of War. Article 13 of Convention III, in relation to the treatments of Prisoners of War states:

Those Prisoners Of War at all times must be humanely treated. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited, and is regarded as a serious breach of the present Convention. In particular, no prisoner of war shall not face any physical mutilation or subjected to medical or scientific experiments of any kind, which are not justified by the medical, dental, or hospital treatment of the prisoner concerned and carried out in his interest (Trombly, Part II/Para 4).

Although the insurgents are not a national force and are a militia supporting terrorist extremist, Article 13 still states that they must respect the captive's welfare. The safety of POWs must never be compromised and they shall always have protection, especially involving acts of violence or intimidation, public curiosity, humiliation and against exploitation (Trombly, 2003,

Art 13/para 2). The enemy leaders should also limit propaganda by media exposure as an agenda for trying to persuade other Middle Eastern supporters against the U.S. The past and any future executions are war crimes and the murders must receive prosecution under The International Judicial Systems of The Hague.

#### Law of Land Warfare

Field Manual 27-10, The Law of Land Warfare, is the United States interpretation of the Geneva Convention of 1949 and closely mirrors the international rules governing the handling of POWs in Chapter 3. It defines a Prisoner of War as a persons belonging to one of the following categories, who have fallen into the power of the enemy:

- a. Members of the armed forces of a party to the conflict as well as members of militias or volunteer corps forming part of such armed forces.
- b. Members of other militias and members of other volunteer corps including those of organized resistance movements, belonging to a party to the conflict and operations in or outside their own territory even if this territory is occupied (FM 27-10 [FM], 1956).

The improper and inhumane treatment of U.S. and coalition POWs held captive by the Iraqi enemy insurgents for propaganda purposes falls under the rules of the Laws of Land Warfare. The international community must enforce these rules and punish the enemy not just the United States. The idea of cruelly torturing soldiers or civilians for the ideological perception of bringing the Islamic fundamentalist of the Middle East together collectively is unreasonable. Technological advances with the Internet have enabled Al-Jazeera broadcasting to televise the brutal beheadings of human beings. They should also receive harsh reprimands by the international rules that govern our world. International media agencies that provide

fundamentalist support and televise inhumane treatment, torturing, or public display of POWs should be charged with international violations.

#### Overall Coalition Forces Captured, Released, or Killed

In early 2006, a young female, Jill Carroll, a reporter for the Christian Science Monitor was abducted and her translator was killed. Her captors initially demanded the release of all Iraqi female prisoners or Jill Carroll would die. She was released after two months; no Iraqi prisoners were released. A couple of months later in June 2006 the world observed a graphic video in which two Fort Campbell soldiers were cruelly beheaded in a barbaric display of opposition to the United States (CBC, 2006, para 14). Actions by the enemy to retaliate against U.S. forces due to a single negative event causing injury or death to the citizens of Iraq is not a cause to capture and treat other U.S. forces improperly and inhumanely.

Since the beginning of the Iraqi War in 2003, the statistics on POWs held are grim while in captivity. There have been 21 coalition and 36 non-coalition deaths, 37 coalition and 102 non-coalitions released or repatriated, and 16 coalition and 10 non-coalition listed as POW, MIA or status unknown. Most of the non-coalition forces, including civilians, were negotiated and released as non-combatants supporting Iraqi infrastructure repairs (Wikipedia). United States POWs that have been captured continue to be the majority of the deaths while in captivity.

#### Conclusion

In conclusion, forces that cannot comply or observe The Conventions of The Geneva Convention and The Laws of Land Warfare need to be held accountable for their inhumane handling and deaths of numerous U.S. Soldiers and civilians by The International Judicial Systems of The Hague. Enemy forces that are not supported or recognized by a government of

nations still must conform to international laws and regulations. These combatants should be punished regardless of whether they signed the Geneva Convention or not. All people of nations who uphold democracy must have the confidence that their survival in an environment involving captivity will provide fair and humane treatment while in captivity, eventually resulting in a positive repatriation back to their homeland.

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