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Evil begets evil: the continuing price of torture

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By Charles R. Church

Some will recall that Zayn Al Abidin Muhammad Husayn, commonly called Abu Zubaydah, was falsely regarded as the nation's first so-called high-value detainee (HVD). Pursuant to the Bush Administration's Rendition, Detention and Interrogation (RDI) program, he was trundled off to the first of various CIA secret "black sites," this one in Thailand, where he was held captive, interrogated and tortured. Ten enhanced interrogation techniques (EITs) were approved specifically for him by the Justice Department's Office of Legal Counsel in one of the two legal memoranda issued on Aug. 1, 2002. The factual predicate on which that memo was based came from a Psychological Assessment (PA) supplied by the CIA. As later shown by the Senate Select Committee on Intelligence Executive Summary (SSCI ES) published late in 2014, nearly all of the so-called facts alleged by the PA were demonstrably false. Most importantly, the CIA belatedly admitted that Abu Zubaydah was not even a member of Al Qaeda, let alone its third or fourth ranking member, as the PA had asserted to obtain legal authority to employ the EITs. (Perhaps I should remind you that, with others, I represent Abu Zubaydah, though not a word of what I say here came from him, since everything he tells his counsel is presumptively Top Secret. Rather, I write based on publicly available sources, which I spend so much of my time studying.)

As the guinea pig for the EITs, Abu Zubaydah was tortured to a fare-thee-well. Waterboarding (83 times), not "simulated drowning," but actual drowning, until the interrogators decided to stop; "walling," being slung backwards against a wall by means of a towel wrapped about his neck; confinement for long periods in a coffin-like box or a smaller "dog box," in which he could be cramped only when painfully contorted; extended sleep deprivation; subjection to extreme cold while naked — the list could go on.

In exchange for hosting the black site where this took place, Thailand received three things: "our gratitude, a sizable amount of money and our assurances that we would do everything within our power to keep their support secret," according to a piece run by the Los Angeles Times on April 22, 2018. But that secrecy soon unraveled, as the piece further reported. "When CIA officials worried the location of the 'black site' had leaked to U.S. media and that too many Thai officials were also in on the secret" they shut it down in Dec. 2002.

From there, as The Rendition Project's site (<https://www.therenditionproject.org.uk/> ^[3]) tells us, Abu Zubaydah was rendered to additional CIA "black sites" in Poland, Guantánamo Bay (until the Agency flew Abu Zubaydah elsewhere when it correctly feared that the

Supreme Court was about to grant habeas corpus rights to all detainees at the base), Morocco, Lithuania and Afghanistan. The gaps in the dates between the detentions in these countries make plain that others, also greedy for “a sizable amount of money,” held him for a time. But this game of shuttling him around ended when the world began catching on. On Sept. 6, 2006, George W. Bush finally spoke publicly of people secretly confined by our nation in far-off lands while declaring that they all now would be moved to Guantánamo, where they would be held under military control. Abu Zubaydah and all the rest of the purported HVDs have continued to be confined there, some being prosecuted and others, like Abu Zubaydah, simply being held for an indefinite term that may well extend until they die. Unless the courts intervene — finally.

The Los Angeles Times piece, titled “The CIA closed its original ‘black site’ years ago. But its legacy of torture lives on in Thailand,” tells us that the collaboration with the CIA ushered in an era of impunity for Thai security forces. Rights advocates charge the army and police of adopting the CIA’s methods to punish Muslim separatists and other dissidents. Like U.S. detainees, unpopular or unacceptable Thais have been subjected to mock executions, held in painful stress positions, deprived of sleep and/or waterboarded.

Yet, as we have so often seen, successive Thai governments denied there was a CIA “black site” there, just as other hosts to our secret prisons have. Indeed, Thailand’s prime minister in November of 2005 briefly threatened to sue The Washington Post, which broke the story. Horror stories abound. In 2004, a human rights lawyer who represented five men who had accused the police of torturing them into falsely confessing to an attack disappeared — permanently. Five police officers accused in the lawyer’s disappearance were acquitted. Further, in 2011, one of the lawyer’s clients was convicted of making false statements about his torture, and sentenced to two years in prison. Earlier, the then-chair of the Thai Senate’s foreign affairs committee was approached by U.S. lawyers representing a Libyan couple detained in Bangkok in 2004. The woman, though six months pregnant, was bound, gagged and photographed naked as American intelligence officers looked on, as a letter sent recently by Sen. John McCain claimed to Gina Haspel, Trump’s nominee to direct the CIA.

Ronald Reagan, not my favorite president by a long shot, said, “After 200 years ... she’s still a beacon, still a magnet for all who must have freedom.” To which I reply, given the events recounted in this column and the news of the day: nonsense! We have been both torturers and teachers of the dark art of torture. And given the other countries that held Abu Zubaydah and others, how long will it be until additional reports arrive of torturers in those lands whom we also taught our infamous techniques?

Charles Church is a human rights lawyer who lives in Salisbury. Note: he serves on two legal teams that represent AZ; any views Church expresses are his own, and not necessarily those of the teams.

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