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HUMAN RESOURCE EXPLOITATION

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THE CASE FOR HUMAN RESOURCE EXPLOITATION (NEE TORTURE):
JUST MEANS FOR JUST ENDS

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“By itself,” [O’Brien] said, “pain is not always enough. There are occasions when a human being will stand out against pain, even to the point of death. But for everyone there is something unendurable—something that cannot be contemplated. Courage and cowardice are not involved. If you are falling from a height it is not cowardly to clutch at a rope. If you have come from deep water it is not cowardly to fill your lungs with air. It is merely an instinct, which cannot be disobeyed. It is the same with the rats. For you, they are unendurable. They are a form of pressure that you cannot withstand, even if you wished to. You will do what is required of you.”²

The theory of “just war” states that certain preconditions are necessary to morally and legitimately wage war. This is reflected in the doctrine of *jus ad bellum* which requires, among other things, the presence of a just cause, a reasonable chance of success, the legitimacy of the participating nations, and the proportionality of the response in order to properly consummate belligerent acts. In addition, the principle of *jus in bello* obliges combatants to utilize just and measured means in the prosecution of war itself.³ These considerations have been codified in both national and international law—i.e., the Geneva Convention with respect to the Treatment of Prisoners of War, the U.N. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the constitutional guarantees contained in the Bill of Rights, to name a few.⁴ These rules of conduct bring certainty to the operation of war, thereby stabilizing the eccentricities of geopolitical intrigue and the dynamism inherent in hostile exchange.

These concepts would appear elementary, at least to nations that share these ideals. But a problem arises when one of the participants does not subscribe to the commands of the just war. In such an instance, there is no universal “vocabulary” for the belligerents to follow; and even if such lexis is acknowledged, that non-participating combatant might forsake its use. This problem is exacerbated when the contestants experience an asymmetrical relationship with one another. Such a situation exists when a just entity stands against

incomplete and unreasonable actors—i.e., terrorists. Terrorism is, by definition, diametrically opposed to the dictates of just war.⁵ Terrorists do not occupy distinct borders, share similar goals, or engage in conventional forms of diplomacy; and, most importantly, they do *not* refrain from the use of immoral or unjust means of war. Quite the contrary, the use of such insidious tactics are the primary weapons of terrorists. They seek to maximize the impact of violence against civilians in order to transmit a larger political message.

Faced with so implacable a foe, it would appear that the just state is faced with a proverbial prisoner's dilemma.⁶ For while the concepts of national defense and self-preservation demand that action be taken to repel the terrorist threat, the precepts of just war also require that hostilities be waged "above board." The problem, however, is not necessarily insurmountable. The question now becomes: how can a just state effectively prosecute a war against terrorists, while still holding true to the precepts of the just war? The answer is that innovative methods of war must be devised to neutralize terrorists. For regardless of the tool which the terrorist hand wields—i.e., a bomb, plane, car, gun, etc.—it is the individual actor which must be confronted. To be sure, the primary weapon of the terrorist *is* his very own body. Accordingly, he must be exploited as a valuable resource. The terrorist must be manipulated in such a way as to prevent the planning, organization, and performance of present and future hostile acts.

Simply put, Human Resource Exploitation (HRE) is required.⁷ For those unfamiliar with the term, HRE is the modern variant of torture.⁸ Torture, however, is a clumsy term. It is the vestige of a more cruel and superstitious world, where its application was frequently used to promote questionable ends.⁹ And in those instances where it was used to promote worldly interests, other factors, such as emotion, personal gain, and whim, dominated its use. Rather than being systematized into a rational process furthering the goals, expansion, and development of the just state in the face of overwhelming strain, torture has followed a—pardon the pun—tortuous path.

The first recorded use of state sponsored torture was by the Egyptians in the 14th century B.C. Ramses II sanctioned the torture of "some poor unfortunate prisoners in an attempt to learn the dispositions of enemy forces during the Hittite invasion of Egypt."¹⁰ Yet in most instances, its use was reserved for slaves and foreigners; enemies caught on the battlefield would be executed outright. When applied, its methods were undefined and harsh. In the 5th century B.C., the Greeks were reluctant to torture free citizens, so outsiders and servants were substituted for their masters in civil and criminal affairs. A *basanistes* (a civic torturer) was utilized to perform the task, as it was considered beneath "free men to indulge in such practices."¹¹ Crimes against the state, on the other hand, would be met with strict penalties, even for full-fledged citizens. In the 1st century A.D., torture was promulgated under Roman law. It was used as a political, penological, and religious tool to extract information, force confessions, and punish individuals. But the Caesars mainly used it as a tool of intimidation, and to consolidate personal power.¹² In Europe, during the Middle Ages, torture was used as a quasi-judicial/religious device to obtain confessions and punish heretics, thereby purifying society of evil.¹³

Conversely, HRE, as this author envisions it, is a scientifically organized and applied science. It is to be utilized by just nations, or their proxies, for ends consistent with the prosecution of the war on terror, and the preservation of the state in the midst of intense circumstances—i.e., the classic "Ticking Time Bomb" case.¹⁴ HRE is used to gather information, extract intelligence, or aid in the furtherance of specific secular objectives—

namely the defeat of terrorism. Furthermore, the means employed should be measured and proportional to those ends. HRE does not embrace the use of brute forms of physical torture—i.e., the iron maiden, the rack, electrocution, beheading, severe beating, etc.—as those methods are unjust, and impede the goal of effective information extraction.¹⁵ As such, the primary weapons of HRE are psychological forms of pressure and duress.¹⁶ The terror suspect would be placed in isolation, stripped of his identity, deprived of routines, and finally, psychologically manipulated and interrogated in such a way as to provide useful intelligence.¹⁷ The aim of effective intelligence gathering, therefore, could be achieved, while still holding true to just war doctrine.

Of course the notion of utilizing even these antiseptic methods of HRE might appear barbaric to some; but the amount of debate generated in the wake of 9/11 at least tacitly acknowledges its viability.¹⁸ Indeed, many of these observers advocate the use of HRE in specific instances; and if a staunch civil libertarian of Alan Dershowitz' ilk supports HRE, even under specific conditions, then there must be something to it.¹⁹ At any rate, once the U.S. government adopts such a policy, it could be subjected to institutional oversight. Possible deleterious side effects could be minimized, while at the same time the pressing need for solutions to the war on terror could be applied. The immediacy of the terrorist dilemma demands that HRE be drafted, adopted, and applied on a timely basis. Then, the government will be able to more effectively protect the citizenry, and defeat the scourge of terrorism wherever it may be, and in whatever form it may take.

NOTES

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² Orwell, George. *Nineteen Eighty-Four*, (New York, N.Y.: Harcourt, Brace & World, Inc., 1949), 287.

³ Holmes, Robert L. *On War and Morality*, (Princeton, N.J.: Princeton University Press, 1989).

⁴ Geneva Convention with respect to the Treatment of Prisoners of War. Adopted on August 12, 1949 by the Diplomatic Conference for the Establishment of International Conventions for the Protection of Victims of War, available from <http://www.unhchr.ch/html/menu3/b/92.htm>, accessed on March 15, 2002; United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Adopted on December 10, 1984 by the General Assembly, resolution 39/46, available from http://www.unhchr.ch/html/menu3/b/h_cat39.htm, accessed on March 15, 2002; and, the Bill of Rights of the U.S. Constitution. Ratified on December 15, 1791 by the several states. Lieberman, Jethro K. "Bill of Rights," *Microsoft Encarta Encyclopedia 2000*, [CD-ROM] (Redmond, W.A.: Microsoft, 1999).

⁵ Terrorism is defined as "political killing rendered illegitimate...either by the availability of peaceful alternatives or by its targeting of innocent civilians...[or] low-level warfare directed, contrary to the principles of the just war, against harmless civilians, often owing to the terrorists' lack of adequate resources to defeat military force." *The Oxford Companion to Philosophy*, Ted Honderich, ed., (Oxford: Oxford University Press, 1995), s.v. "violence, political."

⁶ A prisoner's dilemma is defined as "a...situation in which prisoners are offered various deals and prospects of punishment...[each of which is] against his interest and therefore irrational." *Ibid.*, s.v. "prisoner's dilemma."

⁷ I have borrowed the term, "Human Resource Exploitation," from a declassified S.A.S./S.O.G./G.B. handbook entitled, *Human Resource Exploitation Training Manual* – 1983. The manual was distributed to Latin American nations participating in the School of the Americas training program at Fort Benning, Georgia, U.S.A., available from <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB27/02-01.htm>, accessed on March 15, 2002.

⁸ Human Resource Exploitation (HRE), with respect to its applicability in the prevention, or in the acquisition of intelligence calculated to lead to the prevention of present or future terrorist acts, is the intentional infliction of severe, moderate, or mild coercive, persuasive, or intimidating psychological or psychic force, pressure, or duress for the express purpose of extracting, gleaning, securing, or otherwise obtaining necessary, or thought to be necessary, information, property, data, facts, intelligence, or any other such needed material, in whatever form, which directly or indirectly leads to the prevention of present or future terrorist acts.

⁹ Innes, Brian. *The History of Torture*, (New York, N.Y.: St. Martin's Press, 1998), 12-51, 66-121.

¹⁰ *Ibid.*, 13.

¹¹ *Ibid.*, 12-21.

¹² *Ibid.*

¹³ "Torture in Europe Through the Ages," available from <http://www.augustana.edu/academ/history/witchcraft/tor6.htm>, accessed on March 15, 2002.

¹⁴ The "Ticking Time Bomb" scenario can be stated thusly: suppose reliable intelligence reveals the presence of a bomb that will detonate very shortly and cause untold human and physical destruction. Suppose also that a suspect is apprehended who possesses clear information as to the type, location, and/or disarming protocols of the particular weapon. Let us presume furthermore that sound methods of HRE would successfully disgorge the necessary information from the subject, thereby diverting the danger. In this case, HRE would not only be morally acceptable, it would be a practical necessity. Levin, Michael. *The Case For Torture*, available from <http://ontology.buffalo.edu/smith//courses01/rrtw/levin.htm>, accessed on March 15, 2002.

¹⁵ Some have commented that once we go down the road of HRE that "we," as a nation and a people, will become corrupted, thereby losing our status as a just nation. I totally disagree. The U.S. also employs a policy of capital punishment which is handled efficiently and judiciously through the use of institutional safeguards. Individuals subjected to HRE will similarly be accorded due respect, and the high professional standards of the U.S. government. Consequently, no negative label need attach itself to the use of HRE. Alexander Cockburn's "The Wide World of Torture," *The Nation*, 273 (Nov. 26, 2001) 17: 10.

¹⁶ "Experience indicates that the use of force is not necessary to gain cooperation of sources. Use of force is a poor technique, yields unreliable results, may damage subsequent collection efforts, and can induce the source to say what he thinks the interrogator wants to hear...However, the use of force is not to be confused with psychological ploys, verbal trickery, or other nonviolent...ruses employed by the interrogator in the successful interrogation of reticent or uncooperative sources." *Human Resource Exploitation Training Manual* – 1983, available from <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB27/02-05.htm>, accessed on March 15, 2002.

¹⁷ *Ibid.*

¹⁸ See, for example, James R. Petersen's "Thinking About Torture: is it time to get out the rubber hoses?", *Playboy*, 49 (March 2002) 3: 50-51, Danielle Haraburda's "What Are We Willing To Sacrifice For Revenge?", *U-Wire Today* – *The Nation's College Newspaper*, available from <http://www.uwiretoday.com/columns012502010.html>, accessed on March 15, 2002, Steve Rendell's "Pro-Pain Pundits: Torture Advocates Defy U.S., International Law," *EXTRA!*, January/February 2002, available from <http://www.fair.org/extra/0201/pro-pain.html>, accessed on March 15, 2002, Alisa Solomon's "The Case Against Torture," *The Village Voice*, 46 (Dec. 4, 2001) 48: 56-57, "Torture Today," *America*, 185 (Nov. 19, 2001) 16: 3, Flore de Preneuf's "Time To Torture?," *Salon.com*, available from http://www.salon.com/news/feature/2001/11/16/brutality/index_np.html, accessed on March 15, 2002, Jonathan Alter's "Time To Think About Torture," *Newsweek*, 138 (Nov. 5, 2001) 19: 45, Alexander Cockburn's "FBI Eyes Torture," *Out of Bounds Magazine: Counterpunch*, available from <http://www.counterpunch.org/torture1.html>, accessed on March 15, 2002, Toby Harnden's "CIA Can Get Back To Its Dirty Tricks," *Sydney Morning Herald*, October 23, 2001, available from <http://www.smh.com.au/news/0110/23/text/world5.html>, accessed on March 15, 2002.

¹⁹ Dershowitz, Alan. "Let America Take Its Cues From Israel Regarding Torture," *Jewish World Review*, January 30, 2002, available from <http://www.jewishworldreview.com/0102/torture.asp>, accessed on March 15, 2002.