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Extraordinary Rendition

March 23, 2005

This past January, my wife Deb, daughter Sarah and I were passing through customs in Miami in route back to the US from Honduras. The person in front of us in the immigration line was about 25 years old and basically looked like most of the other travelers. Shortly after handing his passport to the immigration agent, several police came and the man was quietly ushered through a door and disappeared. Sarah said, “That makes me scared because that is exactly what happened to a client of mine...and he disappeared for over a year.”

She then told me this story about a client that she is working with, a man named Maher Arar.

Maher Arar is a Canadian citizen who was born in Syria. He is a 34 year old graduate of McGill University whose family immigrated to Canada when he was a teenager. He has a Canadian passport. He has a wife and two children and has not lived in Syria for 16 years. He was arrested at JFK Airport in NYC on September 26, 2002, as he was changing planes in route back to Canada from a family vacation in Tunisia. When he

handed the customs agent his passport, he was detained and then ushered through a door and just disappeared.

Unknown to him, his name was placed on a terrorist watch list because he had once signed a lease with the brother of a suspected Al Qaeda member.

After the arrest, he was held in NYC for 13 days without any meaningful legal process and he was unable to contact his family. He soon found out that they were taking him to Syria and being aware of the barbaric practices of the police in Syria, he begged them to take him elsewhere because he believed that he would surely be tortured there.

He was never formally charged with any crime.

Later, he was placed in handcuffs and leg irons by plain clothes officials and transferred to an executive Gulf Stream V jet. The plane flew to Washington, Portland, Maine, stopped in Rome and then landed in Amman, Jordan.

During the flight the US flight crew identified themselves as the “Special removal unit.”

Ten hours later he was bussed to Syria where he was given to the Syrian “security forces” who the US State Department has reported as being known torturers. After a day of

threats they just started whipping him with 2 inch electrical cables. He was kept in a windowless underground cell that he compared to a grave.

He eventually confessed to anything that his tormentors wanted him to say although none of it was true.

A year later, in October 2003, he was released when the Canadian government finally took up his case.

He was never charged with or convicted of any crime, just detained and tortured.

Amar is presently being represented by a small group of Lawyers who are defending him pro bono. They have sued the US government and individual officers including John Ashcroft for unlawful treatment and imprisonment.

Their legal work, however, is very difficult because the US government has invoked the rarely used “state secrets privilege.” The government says that to go forward in open court would jeopardize the “Intelligence, foreign policy and national security interests of the United States.” So they will not give out any information.

In short, this man was mistakenly arrested, was not afforded even the most basic of legal rights, and lost a year of his life in addition to the pain and suffering that he and his family faced during that time...and he did nothing wrong.

We would hope that a story like this is just a case of bad luck and mistaken identity that it would never happen again.

Actually this was no mistake at all. It is a normal procedure in a US program called **Extraordinary Rendition.**

How many of you have even heard of the program?

Extraordinary Rendition is now a, not so secret, procedure used by the US government whereby foreign suspects are sent to another country for interrogation and torture.

This program was developed by the CIA in the mid-1990s when Clinton was president. At that time they were already trying to track down and dismantle militant Islamic organizations in the Middle East, particularly Al Qaeda. The CIA was reluctant to grant suspects due process under American Law because it could jeopardize its sources and methods. The solution that the agency devised, with the approval of the Clinton administration, was to send suspects to Egypt, where they were handled by the Egyptian police which had a reputation for brutality.

This appealed to the Egyptians because they had been trying to crack down on Islamic extremists in that country and also some of the top Al Qaeda members were Egyptian. It was good for the US because torture is banned under both US and International law.

Rendition was originally used on a very limited basis. Specifically on suspects that had already been charged with a crime and for whom the overwhelming belief was that they were indeed guilty.

After 9/11, President Bush declared a global war on terrorism. At that point the program changed dramatically. A former CIA official calls the present program an, “abomination.” He goes on to say, “What began as a program aimed at a small set of suspects, came to include a wide and ill-defined population that the Administration terms, “illegal enemy combatants.” Many of them have never been charged with a crime. It is estimated that over 150 people have been rendered since 2001. Ed Markey, a democrat from Massachusetts and a member of the Select Committee on Homeland Security has pushed to get the exact numbers. The CIA refuses to answer; they just say that they are in compliance with the law.

This is how the Rendition program is set up:

When a foreign suspect is caught, either in the US or in another country, they would be detained without legal rights for several weeks. They would often be blindfolded, shackled, interrogated and sedated until the US “Special Removal Unit” arrived. They were given very little food and often kept in small rooms with no bed and lights that were kept on 24 hours per day, 7 days per week.

The Special Removal Unit often traveled in a private Gulf Stream V jet that had clearance to land at US military airfields around the world. The jet has been registered to a series of dummy corporations such as Bayard Foreign Marketing of Portland.

They would then transport the suspect to places like Egypt, Jordan and Morocco and Syria. These countries are supposed to give some assurances that they will not torture the prisoners.

Upon arriving in foreign countries, rendered suspects often vanish. Detainees are not provided with lawyers, and many families are not informed of their whereabouts.

The suspects are detained, sometimes for several years. Many are repeatedly tortured during this time in an effort to obtain valuable information. At some point the suspects are either killed, sent to US military prisons such as Guantanamo Bay or Afghanistan, or maybe just released.

Hundreds of these prisoners finally end up at the notorious naval base prison in Guantanamo Bay. A recent LA Times article reports that at least 10% of the 625 war prisoners captured in Afghanistan and now detained in Guantanamo Bay have no meaningful connection with the Taliban or Al Qaeda. A number of them had been arrested by Afghani bounty hunters that got paid per arrest.

The Bush administration began jailing war prisoners in Guantanamo Bay shortly after 9/11. Most of the detainees are in their early 20s and are being held without charge and in contravention of their democratic and legal rights. The prisoners have been deemed “enemy combatants” by US authorities in order to deny them official prisoner-of-war status and the most rudimentary human rights.

Human Rights groups have pointed out that these detainees are being held in direct violation of at least 10 treaties that the US has signed, including The Geneva Convention, the International Covenant on Civil and Political Rights and the US Constitution.

In April of 2002, a new massive jail was built on the naval base to house more prisoners. VP Cheney’s former company, Halliburton got the contract.

The jail was constructed for \$9.7 million by low-wage workers from India and the Philippines out of used international shipping containers. Each container houses 5 prisoners in separate 6x8 foot cells. Half of each cell space is taken up by a metal bed

which is welded into place. There is no air conditioning and the prisoners are confined to their cell except for two 15 minute shower exercise sessions...per week. These cells are smaller than the death row facilities in Texas where inmates are allowed 1 hour per day for shower and exercise.

Amnesty International has described the conditions at this facility as “cruel, inhumane and degrading treatment in violation of international law.”

The Justice Department and Defense department also are now using the rendition program. The US also uses a Special Mission Unit which is a military assassination squad let loose on the world to hunt down terrorists and assumedly other enemies without regard to national boundaries, declarations of war, or legal niceties of any sort. Our Secretary of Defense, NeoCon Rumsfeld, has a global vision for these hunter killer teams but we will leave that for another paper.

The first individual to be subjected to rendition was Talaat Qassem, one of Egypt’s most wanted terrorists. He was arrested with help of US intelligence and the Croatian police in Zagreb in September, 1995. He was interrogated by US agents on a ship in the Adriatic Sea and then sent back to Egypt. He disappeared while in custody and is suspected of being executed without trial.

Mamdouh Habib, an Egyptian-born citizen of Australian nationality, was detained in October of 2001, interrogated in Pakistan for 3 weeks and then flown by private Gulfstream V jet to a US airbase in Afghanistan and then on to Guantanamo Bay, from where he was finally released without charge in January 2005...4 years later. Habib is one of a handful of people subjected to rendition who are being represented pro-bono by human rights lawyers.

Habib claims that he was rendered to Egypt by the US and the US has no evidence that they sought promises from Egypt that he would not be tortured. Habib said that he was beaten regularly with blunt instruments like a cattle prod. He was told that if he did not confess to belonging to Al Qaida he would be anally raped by specially trained dogs.

Habib said that he was shackled and forced to stand in three torture chambers: one room was filled with water up to his chin, requiring him to stand on tiptoe for hours, another chamber, filled with water up to his knees with a ceiling so low that he was forced into a prolonged painful stoop, and in the third, he stood in water up to his ankles in sight of a generator and electric switch that the interrogators said they would use to electrocute him if he did not confess. Habib made multiple confessions, all of them false.

Habib's story, although denied by the US government has a number of pieces of evidence that support his claims including flight logs documenting the travels of a white Gulf Stream V jet. This jet apparently went on over 300 flights from Dulles Airport and many of them landed at restricted US military bases.

As the news about these renditions gets out, there has been much debate about whether this is reasonable practice.

The Bush administration has argued that the threat posed by stateless terrorists who draw no distinction between military and civilian targets is so dire that it requires tough new rules of engagement. This shift in perspective labeled the New Paradigm in a memo written by then White House Council Alberto Gonzales places a high premium on the ability to quickly obtain information from captured terrorists and their sponsors in order to avoid further atrocities against the US.

Five days after the 9/11 attacks VP Cheney stated on “Meet the Press,” that the government “needed to work through, sort of, the dark side.” He went on to say, “A lot of what needs to be done here will have to be done quietly, without any discussion, using sources and methods that are available to our intelligence agencies. It is vital for us to use any means necessary to achieve our objective.”

Is rendition legal?

Most observers would say, “no.”

A 1998 US law and the Geneva Convention hold that the US may not send suspects to places for the expressed purpose of torturing them. The US may send a prisoner to

another country to be interrogated as long as there is some assurance that torture will not be used even though it is assumed that torture will be utilized.

To justify these acts, the administration appears to be relying on a very fine reading of an imprecise clause in the United Nations Convention Against Torture (ratified by the US in 1994) requiring substantial grounds for believing” that a detainee will be tortured.

So as long as the accepting country does not expressly admit that they torture people or plan to do so, the US feels that it is within the law. It is like an agreement with a wink and a handshake but they all know what really happens.

Proponents of extraordinary rendition argue that:

1. Torturing terrorist suspects, however distasteful, is necessary to help prevent further attacks. We need to find things out quickly and torture is the best way to do it.
2. Another argument in favor of rendition is the reality of finances. It makes financial sense for foreign suspects to be held and tried on foreign soil at their own expense.
3. President Bush tells us that “fighting terrorist is hard, very hard. You people have to understand that.” In his defense, he is right.

Critics argue that:

1. Torture is unethical, unconstitutional, and skirts the Geneva Convention.

The Geneva Convention breach is potentially a serious problem. The US State Department has warned Bush that he could be prosecuted for war crimes by an international court. Please note that Bush has opposed joining the International Crime Court.

Italy has just this month come out and said that they do not support the rendition program and will allow no associated flights to land on Italian soil.

2. Secondly, rendition and the accompanying torture go against our system of due process. This program treats suspects as if they are guilty and then makes little effort to find out the truth. We live in a country where many guilty people go unpunished because we respect and defend the rights of individuals.

3. If a suspect is tortured, he cannot be tried in an American court. Any information obtained while being tortured is inadmissible. It is like finding the bloody knife using an illegal search.

4. Apart from ethical and legal considerations, most people feel that while torturing suspects frequently results in a confession, the confessions tend to be useless because a suspect will say anything just to end his suffering. The confessions are not reliable and they can never be used in court.

The FBI and CIA sharply disagree on the use of torture. The FBI argues that you get much better results by treating suspects with respect, allowing them due process, and arranging plea bargains with defense lawyers.

A few month after 9/11, the US gained custody of its first high-ranking Al Qaeda figure, Ibn Al-Libi. He had run Bin Laden's terrorist training camps in Afghanistan.

After several days, the FBI agents felt that they were developing a good rapport with him. The CIA was not convinced however so they rendered Libi to Egypt. He was seen boarding a plane in Afghanistan restrained by handcuffs and leg irons and his mouth covered with duct tape.

After that, the FBI lost track of him, yet he evidently played a crucial background role in Colin Powel's momentous, and as it turns out, largely incorrect address to the UN Security Council in Feb 2003, which argued for a preemptive war against Iraq.

In his speech, Powel did not mention Libi by name but he announced to the world that “ a senior terrorist operative who was responsible for one of Al Qaeda’s training camps in Afghanistan had told US authorities that Saddam Hussein had offered to train Al Qaeda operatives in the use of chemical or biological weapons.”

Last summer, Newsweek reported that Libi, who eventually was transferred to Guantanamo Bay, was the source of the information. Libi had since admitted that he lied about it. By then, the 9/11 Commission had confirmed that there was no known evidence of a working relationship between Saddam and Al Qaeda.

FBI agent Dan Coleman was disgusted when the truth came out regarding Libi’s false confession. He said, “It was ridiculous for the interrogators to think that Libi would have known anything about Iraq. The reason they got bad information out of him was because they beat it out of him. You never get good information like that.”

Jack Cloonan another FBI agent that first worked on the Libi case said, “At least we (the FBI) got information in ways that wouldn’t shock the conscience of the court. And no one will need to seek revenge for what we did. We need to show the world that we can lead, and not just by military might.”

There are many other reports of torture and subsequent bad information. Craig Murray, the former British Ambassador to Uzbekistan said that the US accepts quite a bit of

intelligence for the Uzbeks that have actually been extracted from suspects who have been tortured. Murray said that this information is pure rubbish. Murray knew of at least 3 instances where suspected militants were rendered from Afghanistan to Uzbekistan. Although he does not know for sure, he feels that they were almost certainly tortured. In Uzbekistan, partial boiling of a hand or arm is quite common. He knew of 2 cases where prisoners were boiled to death.

5. Lastly, torturing prisoners begs for revenge, especially with the type of people that we are dealing with. They do not give up and change their ways, they take a vow to get us back.

In the summer of 1998, the US was involved in a rendition in Albania. Wiretaps showed that 5 Egyptians had been in contact with Osama bin Laden's deputy. The 5 were eventually captured by the Albanian security forces working in collaboration with the US agents. The men were flown to Cairo for interrogation. One of the suspects later alleged that he had electrical shocks applied to his genitals, was hung from his limbs and was kept in a cell that had dirty water up to his knees. Shortly after this became public, a letter was published in a London Arab-language daily by a group calling itself International Islamic Front for Jihad. They threatened to retaliate against the US for their part in the rendition. Two days later the US Embassies in Kenya and Tanzania were blown up killing 240 people.

Many people believe that the rendition system is just breeding more terrorists. We like to think that terrorist acts are just out of the blue and for no reason, but most acts are actually revenge related...they are paybacks for some prior event.

I suspect that many young boys have already been chosen by their families and religious leaders, to avenge the cruel treatment of their fathers and they will retaliate, maybe 20 years from now but it will happen.

So, why is our government involved in renditions?

That is a difficult thing to figure out. It is not a good thing that does not work but rather a bad thing that does not work **and** has hugely negative consequences. It is, in my opinion, another poorly thought out plan that has tremendous “Blowback.” Blowback is an old CIA term for “the unintended consequences of covert operations kept secret from the American people.”

My paper tonight has been specifically focused on the rendition program but it is also forces us to consider a larger picture of what is going on in the country that we call home. Dr Boersma’s excellent paper last month also gave us an alarming glimpse of things that are going on in our government.

I remember wondering, when I was younger, what it would be like to live in a country like the Soviet Union, where there was a huge gap between what the government of the country was doing and what citizens thought was happening. The citizens saw their country as the good guys but the rest of the world saw them as a very powerful, determined, and ominous threat that was out solely for their own interests and their own agenda. Their government controlled and fabricated the news and we called that propaganda. Their government had a KJB that was ruthless and traveled by its own rules and we called it inhumane. Their government tried to invade other countries and we called that immoral. Their government acted as if they were above the law and could not be questioned and we called it dangerous. I remember thinking that the whole world could see this, but the Russian citizens could not...how could they miss it?

I no longer wonder what it would be like to be in a country like that because I now believe that I am living in a similar situation.

The majority of US citizens see us as the saviors of the world...the good guys. Outward displays of patriotism are at a 50-year high and to even question the government is to call one's patriotism and Christianity into question. Our government fabricates and manipulates the news and we are told that it is necessary for national morale. Our security forces use illegal and brutal tactics, like extraordinary rendition, and we are told that is necessary for national security. We preemptively invade Iraq and we are told that

it is a step for peace. Most of the world sees our president as a dangerous threat and we re-elect him and strengthen his political position.

The whole world can see what is happening to us, but we seem to be blind to it.

I have never been more concerned for our country than I am now. How far can this go before we are stopped? Will we have the wisdom and courage to self examine and redirect ourselves or will others come in and do it for us?

Much of the research for this paper was done by Jane Mayer and published in the New Times Magazine a few months ago.