

Torture of Iraqi Prisoners

By G.P.Joshi¹

From the very beginning, the US intervention in Iraq has been based on falsehood and arrogance. The Americans thought they would find weapons; they didn't. They assumed that they would be hailed as liberators by Iraqis; they weren't. They felt that they would succeed in establishing a local democratic regime in the country; they failed. And to top it all, Americans said they were there because Saddam Hussein was the worst despot, practicing torture on innocent Iraqis; they have shown themselves to be equally bad, if not worse. As a professor in the Middle East Institute in the Columbia University said: "The United States looks increasingly foolish." Yes sir, it does. In fact, it looks more than foolish; it looks increasingly ugly and hideous.

Its no use saying, as President Bush did, that these were the actions of a few and did not reflect the conduct of the US army. The report of Major General Taguba brought out that Iraqi prisoners at Abu Ghraib were subjected to "sadistic, blatant and wanton criminal abuses" and also that the abuse was common and routine- "a fact of Army life that the soldiers felt no need to hide." The gravity of violations and the fact that they were being practiced for long make it a case of "collective wrongdoing" and the "failure of Army leadership at highest levels."

If one goes by the 'Geneva Convention relative to the Treatment of Prisoners of War', the responsibility for misconduct cannot be put at the doors of a few delinquent army officers. It has to be owned by the US Government. Article 12 of this Convention clearly says: "Prisoners of war are in the hands of the enemy Power, but not of the individuals or military units who have captured them. Irrespective of the individual responsibilities that may exist, the Detaining Power is responsible for the treatment given them."

In fact, the victims of torture at Abu Ghraib were not even enemy soldiers captured as prisoners during war; they were mostly civilians. General Taguba's inquiry report divided them into three categories- common criminals, security detainees and a few insurgent leaders. Civilians in the hands of the occupying power, who do not indulge in activities hostile to

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such power, are to be treated as “protected persons” within the meaning of the ‘Geneva Convention relative to the Protection of Civilian Persons in Time of War’. Article 43 of this Convention entitles a protected person to have his internment reconsidered by an appropriate court or administrative board designated by the detaining power for that purpose. Obviously, such mechanisms either do not exist or cases of detainees have not been reconsidered in Iraq. General Taguba’s inquiry found that more than 60% of the inmates at Abu Ghraib were not regarded even by the US Army authorities as a threat and deserved to be released.

What happened at Abu Ghraib reflects adversely not only on the discipline but also on the training of the US army,. The 372nd Military Police Company doing the guard duty at the prison were not trained for the job assigned to them. Brigadier General Janis Karpinski, who was in charge of Abu Ghraib when the incidents occurred, is actually a business consultant in civilian life. She was drawn out of the reserve list, sent to Iraq and put in charge of the military prisons in that country. It was admitted by many witnesses during inquiry that they were not given any “training guidelines.” It appears that the US authorities were not unduly perturbed by the requirements of international humanitarian laws like Geneva Conventions, which insist on provisions of laws regarding humane treatment of the prisoners to be known to those who are deployed on guarding prisons. Contents of these provisions have to be made known to the prisoners too. For this purpose, the contents must be posted in the prisoners’ own language at places where all may read them. None of this was done at Abu Ghraib. Some of the accused army personnel during investigations admitted their complete ignorance of the international humanitarian and human rights instruments.

Article 39 of the ‘Geneva Convention relative to the Treatment of Prisoners of War’ says that every prison shall be put under the immediate authority of a responsible officer belonging to the regular armed forces of the detaining power. The idea is that it shall be the responsibility of such an officer and through him of his government to ensure that prisoners are not only not subjected to torture or other humiliating or degrading treatment, but are looked after according to the prescribed norms. The other idea in prescribing this provision is that an officer of the regular army can be held accountable if the standards are violated. The inquiry into abuse of prisoners at Abu Ghraib revealed that in addition to the regular military personnel, private civilian contractors employed by the US army had free

and unrestricted access to all places inside the prison. In fact, they were also involved in interrogating prisoners. These people asked the military policemen on guard duty to facilitate interrogations by “setting conditions” that clearly violated all rules and norms. One civilian contractor was even accused of raping a young male prisoner, but it has not been possible to proceed against him because the military law has no jurisdiction over him.

It is doubtful if the appeal made by President Bush to the Arab world on May 5, asking them to understand that what happened in that prison does not represent the “America that I know” and assuring them that justice will be done will plug the outrage. The problem is that the America that they know is much different from the America that Mr. Bush knows. The appeal is not likely to close this gap in perceptions. The hope, if there was any, that Iraq will return to normalcy in the near future, may receive a big set back as a result of what happened at Abu Ghraib.