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Senator John McCain on the Use of Torture Remarks on the Floor of the U.S. Senate 12 May 2011

“Mr. President, the successful end of the ten-year manhunt to bring Osama bin Laden to justice has appropriately heightened the nation’s appreciation for the diligence, patriotism and courage of our armed forces and our intelligence community. They are a great credit and inspiration to the country that has asked so much of them, and like all Americans, I am in their debt.

“But their success has also reignited debate over whether the so-called, ‘enhanced interrogation techniques’ of enemy prisoners, including waterboarding, were instrumental in locating bin Laden, and whether they are necessary and justifiable means for securing valuable information that might help prevent future terrorist attacks against us and our allies and lead to the capture or killing of those who would perpetrate them. Or are they, and should they be, prohibited by our conscience and laws as torture or cruel, inhuman and degrading treatment.

“I believe some of these practices – especially waterboarding, which is a mock execution, and thus to me, indisputably torture – are and should be prohibited in a nation that is exceptional in its defense and advocacy of human rights. I believe they are a violation of the Detainee Treatment Act of 2005, the Military Commissions Act of 2006, and Common Article Three of the Geneva Conventions, all of which forbid cruel, inhuman and degrading treatment of all captured combatants, whether they wear the uniform of a country or are essentially stateless.

“I opposed waterboarding and similar so-called ‘enhanced interrogation techniques’ before Osama bin Laden was brought to justice. And I oppose them now. I do not believe they are necessary to our success in our war against terrorists, as the advocates of these techniques claim they are.

“Even more importantly, I believe that if America uses torture, it could someday result in the torture of American combatants. Yes, I know that Al-Qaeda and other terrorist organizations do not share our scruples about the treatment of enemy combatants, and have and will continue to subject American soldiers and anyone they capture to the cruelest mistreatment imaginable. But we must bear in mind the likelihood that some day we will be involved in a more conventional war against a state and not a terrorist movement or insurgency, and be careful that we do not set a standard that another country could use to justify their mistreatment of our prisoners.

“And, lastly, it is difficult to overstate the damage that any practice of torture or cruel, inhuman and degrading treatment by Americans does to our national character and historical reputation – to our standing as an exceptional nation among the countries of the world. It is too grave to

justify the use of these interrogation techniques. America has made its progress in the world not only by avidly pursuing our geopolitical interests, but by persuading and inspiring other nations to embrace the political values that distinguish us. As I've said many times before, and still maintain, this is not about the terrorists. It's about us.

"I understand the reasons that governed the decision to approve these interrogation methods, and I know that those who approved them and those who employed them in the interrogation of captured terrorists were admirably dedicated to protecting the American people from harm. I know they were determined to keep faith with the victims of terrorism, and prove to our enemies that the United States would pursue justice tirelessly, relentlessly and successfully, no matter how long it took. I know their responsibilities were grave and urgent, and the strain of their duty was considerable. I admire their dedication, and love of country. But I dispute that it was right to use these methods, which I do not believe were in the best interests of justice or our security or the ideals that define us and which we have sacrificed much to defend.

"I don't believe anyone should be prosecuted for having used these techniques in the past, and I agree that the Administration should state definitively that no one will be. As one of the authors of the Military Commissions Act, which I believe prohibits waterboarding and other 'enhanced interrogation techniques,' we wrote into the language of the law that no one who before the enactment of the law should be prosecuted. I don't think it's helpful or wise to revisit that policy.

"Many advocates of these techniques have asserted their use on terrorists in our custody, particularly, Khalid Sheikh Mohammed, revealed the trail to bin Laden – a trail which had gone cold in recent years, but would now lead to his destruction. The former Attorney General of the United States, Michael Mukasey, recently claimed that 'the intelligence that led to bin Laden... began with a disclosure from Khalid Sheikh Mohammed, who broke like a dam under the pressure of harsh interrogation techniques that included waterboarding. He loosed a torrent of information – including eventually the nickname of a trusted courier of bin Laden.' That is false.

"With so much misinformation being fed into such an essential public debate as this one, I asked the Director of Central Intelligence, Leon Panetta, for the facts. And I received the following information:

"The trail to bin Laden did not begin with a disclosure from Khalid Sheikh Mohammed, who was waterboarded 183 times. We did not first learn from Khalid Sheikh Mohammed the real name of bin Laden's courier, or his alias, Abu Ahmed al-Kuwaiti – the man who ultimately enabled us to find bin Laden. The first mention of the name Abu Ahmed al-Kuwaiti, as well as a description of him as an important member of Al-Qaeda, came from a detainee held in another country. The United States did not conduct this detainee's interrogation, nor did we render him to that country for the purpose of interrogation. We did not learn Abu Ahmed's real name or alias as a result of waterboarding or any 'enhanced interrogation technique' used on a detainee in U.S. custody. None of the three detainees who were waterboarded provided Abu Ahmed's real name, his whereabouts, or an accurate description of his role in Al-Qaeda.

“In fact, not only did the use of ‘enhanced interrogation techniques’ on Khalid Sheikh Mohammed not provide us with key leads on bin Laden’s courier, Abu Ahmed; it actually produced false and misleading information. Khalid Sheikh Mohammed specifically told his interrogators that Abu Ahmed had moved to Peshawar, got married, and ceased his role as an Al-Qaeda facilitator – which was not true, as we now know. All we learned about Abu Ahmed al-Kuwaiti through the use of waterboarding and other ‘enhanced interrogation techniques’ against Khalid Sheikh Mohammed was the confirmation of the already known fact that the courier existed and used an alias.

“I have sought further information from the staff of the Senate Intelligence Committee, and they confirm for me that, in fact, the best intelligence gained from a CIA detainee – information describing Abu Ahmed al-Kuwaiti’s real role in Al-Qaeda and his true relationship to Osama bin Laden – was obtained through standard, non-coercive means, not through any ‘enhanced interrogation technique.’

“In short, it was not torture or cruel, inhuman, and degrading treatment of detainees that got us the major leads that ultimately enabled our intelligence community to find Osama bin Laden. I hope former Attorney General Mukasey will correct his misstatement. It’s important that he do so because we are again engaged in this important debate, with much at stake for America’s security and reputation. Each side should make its own case, but do so without making up its own facts.

“For my part, I would oppose any legislation, if any should be proposed, that is intended to authorize the administration to return to the use of waterboarding or other methods of interrogation that I sincerely believe are torture or cruel, inhuman and degrading, and as such, unworthy of and injurious to our country. This debate is ongoing, but I don’t believe it will lead to a change in current policy prohibiting these methods.

“So, perhaps this is just a debate for the history books. But it is still important, because Americans in a future age, as well as their leaders, might face these same questions. We should do our best to provide them a record of our debates and decisions that is notable not just for its passion, but for its deliberativeness and for opinions that were informed by facts and formed with scrupulous care by both sides for the security of the American people and the success of the ideals we cherish. We have a duty to leave future American generations with a history that will offer them not confusion but instruction as they face their crises and challenges, and try to lead America safely and honorably through them. Both sides can’t be right, of course. But both sides can be honest, diligent and sincere.

“Let me briefly elaborate my reasons for opposing the return to these interrogation policies.

“Obviously, to defeat our enemies we need intelligence, but intelligence that is reliable. We should not torture or treat inhumanely terrorists we have captured. I believe the abuse of prisoners harms, not helps, our war effort. In my personal experience, the abuse of prisoners sometimes produces good intelligence, but often produces bad intelligence because under torture a person will say anything he thinks his captors want to hear – whether it is true or false – if he believes it will relieve his suffering. Often, information provided to stop the torture is

deliberately misleading. And what the advocates of cruel and harsh interrogation techniques can never prove is that we could not have gathered the same intelligence through other, more humane means – as a review of the facts provides solid reason to be confident that we can. The costs of assuming otherwise can be hugely detrimental.

“It has also been reported, and the staff of the Senate Intelligence Committee confirms for me, that a man named Ibn al-Sheikh al-Libi, who had been captured by the United States and rendered to Egypt, where we believe he was tortured, provided false and misleading information about Saddam Hussein’s weapons of mass destruction programs. That false information was ultimately included in Secretary of State Colin Powell’s statement to the UN Security Council, and, I assume, helped to influence the Bush Administration’s decision to invade Iraq.

“Furthermore, I think it supremely unfair to the men and woman in our intelligence community and military who labored for a decade to locate Osama bin Laden to claim falsely that they only succeeded because we used torture to extract actionable intelligence from a few detainees several years ago. I have not found evidence to suggest that torture – or, since so much of our disagreement is definitional, interrogation methods that I believe are torture, and which I believe are prohibited by U.S. law and international treaty obligations we are not just a party to, but leading advocates of – played an important part in finding and killing bin Laden. Rather, I think his death at the hands of the United States argues quite the contrary: that we can succeed without resort to these methods.

“It is also the case that the mistreatment of enemy prisoners endangers our own troops who might someday be held captive. While some enemies, and Al-Qaeda surely, will never be bound by the principle of reciprocity, we should have concern for those Americans captured by more conventional enemies, if not in this war then in the next. Until about 1970, North Vietnam ignored its obligations not to mistreat the Americans they held prisoner, claiming that we were engaged in an unlawful war against them and thus not entitled to the protections of the Geneva Conventions. But when their abuses became widely known and incited unfavorable international attention, they substantially decreased their mistreatment of our POWs.

“Some have argued that if it is right to kill bin Laden, then it should also be right to torture him had he been captured rather than killed. I disagree. First, the Americans who killed bin Laden were on a military mission against the leader of a terrorist organization with which we are at war. It was not a law enforcement operation or primarily an intelligence operation. They could not be certain that bin Laden, even though he was unarmed, did not possess some means of harming them – a suicide vest, for instance – and they were correctly instructed to take no unnecessary chances in their completion of their mission.

“Second, bin Laden was a mass murderer. Had we captured him, he would have eventually received the ultimate sanction for his terrible crimes, as captured war criminals in previous wars have. But war criminals captured, tried and executed in World War II, for instance, were not tortured in advance of their execution, either in retaliation for their crimes or to elicit information that might have helped us locate, apprehend and convict other war criminals. This was not done because civilized nations have long made a distinction between killing and injuring in the heat of combat, on the one hand, and the deliberate infliction of physical torment on an incapacitated

fighter, on the other. This distinction is recognized not only in longstanding American values and practices, but also in the Geneva Conventions that provide legal protections for our own fighting men and women.

“All of these arguments have the force of right, but ultimately, even they are beside the most important point. There are many arguments to be made against torture on practical grounds. As I have said, I believe torture produces unreliable information, hinders our fight against global terrorism, and harms our national interest and reputation. But ultimately, this debate is about far more than technical or practical issues. It is about far more than whether torture works or does not work. It is about far more than utilitarian matters. Ultimately, this is about morality. What is at stake here is the very idea of America – the America whose values have inspired the world and instilled in the hearts of its citizens the certainty that, no matter how hard we fight, no matter how dangerous our adversary, in the course of vanquishing our enemies we do not compromise our deepest values. We are America, and we hold ourselves to a higher standard. That is what is really at stake.

“Though Osama bin Laden is dead, America remains at war, and to prevail in this war we need more than victories on the battlefield. This is a war of ideas as well, a struggle to advance freedom in the face of terror in places where oppressive rule has bred the malevolence that feeds an ideology of violent extremism. Prisoner abuses exact a terrible toll on us in this war of ideas. They inevitably become public, and when they do they threaten our moral standing, and expose us to false but widely disseminated charges that democracies are no more inherently idealistic and moral than other regimes. I understand that Islamic extremists who resort to terror would destroy us utterly if they could obtain the weapons to do so. But to defeat them utterly we must also prevail in our defense of the universal values that ultimately have the greatest power to eradicate this evil ideology.

“Though it took a decade to find him, there is one consolation for bin Laden’s ten-year evasion of justice. He lived long enough to see what some are calling the Arab Spring, the complete repudiation of bin Laden’s worldview and the cruel disregard for innocent life and human dignity he used to advance it. In Egypt and Tunisia, Arabs successfully reclaimed their rights from autocracies to determine their own destiny without resort to violence or the deliberate destruction of innocent life. And now Arabs are trying, valiantly, by means as just as their cause, to do the same in Syria and elsewhere.

“As the United States discusses and debates what role we should play to influence the course of the Arab Spring, can we not all agree that the first and most obvious thing we can do is stand as an example of just government and equal justice under the law – as a champion of the idea that that an individual’s human rights are superior to the will of the majority or the wishes of government? Individuals might forfeit their life and liberty as punishment for breaking laws, but even then, as recognized in our Constitution’s prohibition of cruel and unusual punishment, they are still entitled to respect for their basic human dignity, even if they have denied that respect to others.

“I don't mourn the loss of any terrorist's life. Nor do I care if in the course of serving their malevolent cause they suffer great harm. They have earned their terrible punishment in this life

and the next. What I do mourn is what we lose when by official policy or official neglect we allow, confuse or encourage those who fight this war for us to forget that best sense of ourselves, that which is our greatest strength – that when we fight to defend our security we also fight for an idea, not a tribe, not a land, not a king, not a twisted interpretation of an ancient religion, but for an idea that all men are endowed by their Creator with inalienable rights.

“It is indispensable to our success in this war that those we ask to fight it know that in the discharge of their dangerous responsibilities to our country they are never expected to forget that they are Americans, and the valiant defenders of a sacred idea of how nations should be governed and conduct their relations with others – even our enemies.

“And those of us who have given them this onerous duty are obliged by our history, and the many terrible sacrifices that have been made in our defense, to make clear to them that they need not risk our country's honor to prevail; that they are always – through the violence, chaos and heartache of war, through deprivation and cruelty and loss – they are always, always, Americans, and different, stronger and better than those who would destroy us.

“Thank you.”

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