

## Impact case study (REF3b)

<b>Institution: University College London</b>
<b>Unit of Assessment: 20 – Law</b>
<b>Title of case study: Influencing international law, policy and worldwide public debate on the legality of torture</b>
<b>1. Summary of the impact</b> (indicative maximum 100 words)

*The Torture Team* Project has directly influenced international legal proceedings, government investigations and worldwide public debate on the legality of the treatment of suspected terrorists. It has:

- Influenced legal investigations and judicial proceedings in the US and Spain;
- Influenced policy development on detainees, the Geneva Conventions and national and international laws;
- Increased public debate worldwide about principles of international law governing detainees through large-scale public events and extensive media coverage.

This research has also had an impact on creativity and culture in a way that legal research rarely does through the production of theatrical performances based on this research in the US and UK.

<b>2. Underpinning research</b> (indicative maximum 500 words)
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*Torture Team* is a research project undertaken by Professor Philippe Sands, Director of the UCL Laws Centre for International Courts and Tribunals, to investigate how the decision was made by the Bush Administration to allow the United States (US) military to use “enhanced interrogations techniques” with suspected terrorists as part of the US “war on terror”. The research is based on an in-depth analysis of official documents and personal interviews with key members of the US military and Bush Administration carried out by Sands in 2006-07. *Torture Team* [a], published in the UK and US in 2008–09, examines how the US Military went from using interrogations strictly regulated by federal law, the US Army Field Manual 34-52 and the Geneva Conventions to allowing severe interrogation techniques including sleep deprivation, forced nudity, stress positions and water boarding.

Following the terrorist attacks on the United States in 2001, a number of legal memoranda authorising the legality of “enhanced interrogation methods” which contravened US law and the Geneva Conventions were written by senior legal advisers in the Bush Administration. These memos paved the way for the use of enhanced techniques on detainees at Guantanamo Bay, Abu Ghraib and other locations outside the US, and led to the death of two detainees and the torture of others. The US Supreme Court subsequently ruled that Guantanamo detainees were entitled to the protections of the Geneva Conventions and violations of it were war crimes.

Sands’s earlier research, *Lawless World* (2005–06) [c], put the issue of the legality of the Iraq war firmly on the British political agenda. Then from September 2006 to September 2007 Sands researched official documents in the US Library of Congress and conducted hundreds of hours of interviews with a large number of high-ranking lawyers and officials in the US military and the Bush Administration at the centre of drafting and implementing legal memos authorising torture. Professor Sands’s reputation as a leading expert in public international law enabled him to gain access to officials with direct involvement in critical decisions on US interrogation policy, including:

- William J. Haynes II (General Counsel, Department of Defense);
- Douglas J. Feith (Under Secretary of Defense for Policy);
- General Myers (Chairman, US Joint Chiefs of Staff);
- Major General Michael Dunlavey (Commanding Officer, Joint Task Force Guantanamo);
- Lt. Col. Diane Beaver (Legal Counsel, Joint Task Force Guantanamo);
- General Tom Hill (Commander, US Southern Command Region);
- Thomas Romig (Judge Advocate General, US Army);
- Alberto Mora (General Counsel, US Navy).

The *Torture Team* research project was focused on answering several crucial questions:

- Why and how were decisions made which meant that prisoners at Guantanamo Bay were not protected under the Geneva Conventions or existing US law and policy?
- What was the source of the “enhanced interrogation techniques”?

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- What role did lawyers play in providing the justification for enhanced interrogation techniques?
- What might be the extent of lawyers' criminal responsibility for the detainee abuse that resulted?

In reconstructing the process that brought about a fundamental change in U.S. interrogation and detainee policy, Sands's *Torture Team* research [a, b] found that:

- The Bush Administration defence that the torture policy came from requests by military commanders and interrogators on the ground was false.
- The origins of the torture policy lay in actions taken at the very highest levels of the Bush administration, by some of the most senior personal advisers to the President, Vice President and Secretary of Defense.
- The most senior lawyers in the Bush Administration helped to design and implement the enhanced interrogation policies.
- The Joint Chiefs of Staff and normal military decision-making processes were circumvented.
- Senior Bush Administration officials may therefore be criminally responsible for violations of international law.

**3. References to the research** (indicative maximum of six references)

- [a] Philippe Sands, *Torture Team: Uncovering War Crimes in the Land of the Free*, Allen Lane (2008) ISBN: 978-0-141-03132-3  
[http://www.penguin.co.uk/nf/Book/BookDisplay/0,,9780141919379,00.html?strSrchSql=torture+team\\*/Torture\\_Team](http://www.penguin.co.uk/nf/Book/BookDisplay/0,,9780141919379,00.html?strSrchSql=torture+team*/Torture_Team). Submitted to REF2.
- [b] Philippe Sands, "Torture Team: Abuse, Lawyers and Criminal Responsibility", 48 *Washburn Law Journal* 353 (Winter 2009). Available at:  
<http://contentdm.washburnlaw.edu/cdm/ref/collection/wlj/id/5867>
- [c] Philippe Sands, *Lawless World: Making and Breaking Global Rules*, Penguin (2006) 978-0141017990. Available on request.

**4. Details of the impact** (indicative maximum 750 words)

*Torture Team* research successfully challenged the narrative of the US administration around the legality and use of "enhanced interrogation techniques" (torture) on detainees at Guantanamo Bay. It directly impacted on US and Spanish policy and investigations into the legality of America's treatment of suspected terrorists and decisions about whether to prosecute Bush Administration lawyers for war crimes, and it promoted greater public understanding of international criminal law.

**Legal investigations and proceedings**

The *Torture Team* research has been widely used in Congressional investigations, legal proceedings and investigations by civil society groups seeking to hold the US executive to account for its actions and to cause a change in policy and practise.

- **US Congressional Investigations:** The *Torture Team* findings played a key role in US Congressional investigations into torture at Guantanamo Bay. In early 2008 an unpublished draft of Sands's *Vanity Fair* article, "The Green Light" [3], based on his research, was made available to the Chair of the US House of Representatives Judiciary Committee, Congressman John Conyers Jr. Congress then convened hearings to address the role of Bush Administration lawyers in torture [1], and as a result of his research findings, Sands was invited to testify before the US Committee on 6 May 2008 [1, p. 83] and 15 July 2008 [2]. Sands's *Vanity Fair* article became part of the official congressional investigation [1 p. 9], was published in full in the official Congressional record [1, p. 87], and was relied upon by the Congressional Committee to identify which Bush Administration officials would be subpoenaed to testify before Congress in the Guantanamo Bay hearings [1, p. 108]. As a result David Addington, Chief of Staff to the Vice President, and Douglas Feith, former Under Secretary of Defense for Policy for President Bush, were subpoenaed and appeared before Congress. Both Addington [4, pp. 45, 56, 165] and Feith [5, pp. 2, 5, 7, 8, 9] were questioned by Congress specifically about evidence presented in *Torture Team* on their involvement in authorising torture. These

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investigations publicly exposed how US law and the Geneva Conventions had been set aside by Bush Administration lawyers, reiterated US commitment to the Conventions and generated calls for a criminal investigation or public inquiry into the actions of these officials.

- **Spanish Prosecutions:** *Torture Team* led directly to two judicial investigations in Spain [6]. In March 2009 a criminal investigation was opened on six Bush Administration legal advisers, alleging that these officials had enabled and abetted torture by justifying the abuse of terrorism suspects. Gonzalo Boye, the Spanish lawyer who initiated the investigation, said of Professor Sands, “let me just say that he played a very big role in my thinking. His book showed me who the targets were” [7]. In April 2011 the case was stayed by a Spanish court; that decision was appealed and the case is currently before the Spanish Constitutional Court. In a separate case launched in April 2009, the Spanish courts are investigating allegations that four former Guantanamo detainees who are Spanish citizens, residents or subject to Spanish legal proceedings were tortured. This case draws on *Torture Team* research and is on-going [6].
- In 2011 **Human Rights Watch**, an international non-governmental organization, published the report, *Getting Away With Torture: The Bush Administration and Mistreatment of Detainees*, arguing that sufficient grounds exist for the US government to order a broad criminal investigation into alleged crimes committed in connection with the torture and ill-treatment of detainees, the CIA secret detention programme, and the rendition of detainees to torture. Sands’s *Torture Team* research was frequently cited and used as authority in this report [9, pp.14, 40, 42, 79].
- Following the Human Rights Watch report, **The Constitution Project’s Task Force on Detainee Treatment**, a US independent bipartisan panel, was charged with examining the US government’s policies and actions related to the capture, detention and treatment of suspected terrorists during the Clinton, Bush and Obama administrations. The Project’s 2013 report, *Detainee Treatment*, relied on Sands’s research to provide authority for the finding that the US government engaged in torture [8, cited 13 times].

**Worldwide debate and communication:** Sands’s research changed the narrative about torture in the US by putting the emphasis on the role of a small group of politically-appointed lawyers who were able to by-pass the normal decision-making processes, including those within the military. His research has been communicated to millions of people on an international scale, through the large number and wide variety of mediums that have reported the findings [10]. As well as extensive international press and media coverage, the *Torture Team* research has also made the rare crossover into the arts and been the subject of a number of dramatic performances.

**Media coverage:** The *Torture Team* book has sold internationally in excess of 25,000 copies and was nominated for the Orwell Prize in 2009 [11]. Professor Sands also wrote four articles on his research for *Vanity Fair* [3,12], with international circulation of over 1.1 million [18]. The research was reported and discussed extensively in the international media [10]. Notable examples in worldwide print and online journalism include: *Huffington Post*; *Newsweek Magazine*; *The New York Times*; *Financial Times*; *Guardian*; *The Times*; *Der Spiegel* [10]. Sands’s findings received significant international television and radio coverage, including: US National Public Radio show *Fresh Air* (listening figures of 4.5 million) [13]; a *Democracy Now!* interview aired on over 700 US stations [13]; and a *Russia Today* interview viewed on YouTube over 11,000 times [13].

**Public engagement and cultural artefacts:** Sands’s research catalysed numerous large-scale public events designed for non-lawyers, engaging members of the general public with the research findings and increasing understanding of this vital human rights issue. This began in 2008 when Sands was invited to discuss his research findings in The Hay Festival of Literature and Arts Festival [14]. Unusually for academic research, *Torture Team* inspired the creation of several artistic and cultural artefacts. The research was adapted into dramatic performances, including plays attended by several thousand people and starring some of the world’s leading stage and film actors: in May 2008 at London’s Tricycle Theatre, with a cast that included Joanna Lumley, Corin Redgrave and Vanessa Redgrave [15]; in January 2011 at the Long Wharf Theatre, New Haven (USA) that included an interactive audience discussion with Sands following the performance [16]; and a performance at the Hay Festival, with a cast including Ralph Fiennes, Gillian Anderson and Damien Lewis, which was podcast on the Hay Festival website [17].

<b>5. Sources to corroborate the impact</b> (indicative maximum of 10 references)
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- 1) Department of Justice to Guantanamo Bay: Administration Lawyers and Administration Interrogation Rules (Part 1) US House of Representatives, Hearing before the Subcommittee on the Constitution, Civil Rights, and Civil Liberties of the Committee on the Judiciary. Serial number 110-97. First testimony of Professor Sands, 6 May 2008  
<http://judiciary.house.gov/hearings/printers/110th/42212.PDF>
- 2) Second testimony of Professor Sands, 15 July 2008  
<http://judiciary.house.gov/hearings/pdf/Sands080715.pdf>
- 3) Philippe Sands, *Vanity Fair* magazine article based on the Torture Team project research: "The Green Light", *Vanity Fair*, 1 May 2008  
<http://www.vanityfair.com/politics/features/2008/05/quantanamo200805>
- 4) Testimony of David Addington, 26 June 2008  
<http://judiciary.house.gov/hearings/printers/110th/43152.PDF>
- 5) Testimony of Douglas Feith, 15 July 2008  
<http://judiciary.house.gov/hearings/pdf/Feith080715.pdf>
- 6) Spanish court proceedings: <http://ccrjustice.org/spain-us-torture-case>
- 7) Jane Mayer, "The Bush Six" *The New Yorker*, 13 April 2009  
[http://www.webcitation.org/query?url=http%3A%2F%2Fwww.newyorker.com%2Ftalk%2F2009%2F04%2F13%2F090413ta\\_talk\\_mayer&date=2009-04-06](http://www.webcitation.org/query?url=http%3A%2F%2Fwww.newyorker.com%2Ftalk%2F2009%2F04%2F13%2F090413ta_talk_mayer&date=2009-04-06)
- 8) The Constitution Project's Task Force on Detainee Treatment <http://detainee-taskforce.org/read/>
- 9) Human Rights Watch – Getting Away With Torture  
<http://www.hrw.org/reports/2011/07/12/getting-away-torture>
- 10) For a list of worldwide media coverage see "Philippe Sands and Torture Team are making history" at <http://us.macmillan.com/tortureteam/PhilippeSands>. Also see: *The Huffington Post* [http://www.huffingtonpost.com/lou-dubose/nadler-grills-the-torture\\_b\\_101582.html](http://www.huffingtonpost.com/lou-dubose/nadler-grills-the-torture_b_101582.html); <https://www.quantcast.com/huffingtonpost.com>); *Newsweek Magazine* <http://www.thedailybeast.com/newsweek/2008/07/25/the-fiction-behind-torture-policy.html>; *The New York Times* [http://www.nytimes.com/2008/07/13/opinion/13rich.html?\\_r=3&oref=slogin&oref=slogin&](http://www.nytimes.com/2008/07/13/opinion/13rich.html?_r=3&oref=slogin&oref=slogin&); *Guardian* <http://www.guardian.co.uk/books/2008/may/04/politics>; *The Times* <http://www.thetimes.co.uk/tto/arts/books/non-fiction/article2459286.ece>; *Financial Times* [http://www.ft.com/cms/s/0/eaf53f48-2ead-11dd-ab55-000077b07658.html?nclick\\_check=1#axzz2KDWTa4N2](http://www.ft.com/cms/s/0/eaf53f48-2ead-11dd-ab55-000077b07658.html?nclick_check=1#axzz2KDWTa4N2); *Der Spiegel* [http://www.ucl.ac.uk/laws/cict/docs/em\\_738.001\\_001.pdf](http://www.ucl.ac.uk/laws/cict/docs/em_738.001_001.pdf)
- 11) Orwell Prize nomination: <http://theorwellprize.co.uk/longlists/philippe-sands-2/>
- 12) Philippe Sands, "The Tale of the Tape: The Transcript", *Vanity Fair*, 25 July 2008  
[http://www.vanityfair.com/politics/features/2008/07/feith\\_transcript200807](http://www.vanityfair.com/politics/features/2008/07/feith_transcript200807); Philippe Sands, "The Tale of the Tape: The Letter", *Vanity Fair*, 25 July 2008  
[http://www.vanityfair.com/politics/features/2008/07/feith\\_letter200807](http://www.vanityfair.com/politics/features/2008/07/feith_letter200807); Philippe Sands, "Guantánamo: An Oral History", *Vanity Fair*, 11 January 2012  
<http://www.vanityfair.com/politics/2012/01/quantanamo-bay-oral-history-201201>
- 13) National Public Radio interview on 'Fresh Air'  
<http://www.npr.org/templates/story/story.php?storyId=91684540> *Democracy Now!* interview [http://www.democracynow.org/2008/5/8/torture\\_team\\_british\\_attorney\\_philippe\\_sands](http://www.democracynow.org/2008/5/8/torture_team_british_attorney_philippe_sands) Russia Today: [http://www.youtube.com/watch?v=f7\\_bN92BtIE](http://www.youtube.com/watch?v=f7_bN92BtIE)
- 14) Hay Festival: <https://www.hayfestival.com/p-46-philippe-sands-talks-to-jon-snow.aspx>
- 15) Tricycle Theatre (London): <http://www.tricycle.co.uk/home/about-the-tricycle-pages/about-us-tab-menu/archive/archived-theatre-production/torture-team/>
- 16) Long Wharf Theatre (Connecticut, US): <http://www.playbill.com/news/article/146444-Long-Wharfs-Torture-Team-Features-Vanessa-Redgrave-Jeff-McCarthy-Jay-O-Sanders>
- 17) Hay Festival <https://www.hayfestival.com/p-3440-vanessa-redgrave-ralph-fiennes-jay-sanders-philippe-sands-gillian-anderson.aspx>
- 18) Conde Nast circulation figures for *Vanity Fair* magazine:  
<http://www.condenast.com/brands/vanity-fair/media-kit/print>