

“Cruel, Inhuman and Degrading” What the McCain Amendment Bans

“The obvious cruelty inherent in this practice should have provided ... notice that their alleged conduct violated Hope’s constitutional protection against cruel and unusual punishment. Hope was treated in a way antithetical to human dignity.... [It was] both degrading and dangerous.”

-- U.S. Supreme Court, *Hope v. Pelzer* (2002)[1]

McCain Amendment Standards

Makes US Army Field Manual binding authority for all DOD interrogations
Bans “cruel and unusual” conduct under the 5th, 8th and 14th Amendment in all interrogations conducted by the US anywhere in the world

Seven Techniques Reportedly in Use Clearly Banned by McCain Amendment

This list is not exhaustive. Many techniques are banned by the McCain Amendment (e.g., any form of mock execution). But there are seven techniques that have been widely reported to have been used by U.S. officials that are now clearly banned because they violate both the U.S. Army Field Manual and constitute “cruel and unusual punishment” under the Constitution

Waterboarding

Water, suffocation used on bound prisoner creating overwhelming fear of death
Used by the Spanish Inquisition, the Argentine junta and other despots
“Mental torture” under Army Manual because it is a form of mock execution
“Torture” under federal torture law because it creates “threat of imminent death”
Meets Justice Dept. standard of “barbaric” act of “torture” through threat of death

Sleep Deprivation

Classic form of torture used by Stalin and other brutal regimes
Explicitly a form of “Mental Torture” under the U.S. Army Field Manual
Banned by the UK and by a unanimous Israeli Supreme Court
Expressly prohibited by the US Supreme Court

Prolonged, Painful Stress Positions

Can involve forced standing or kneeling for 40 or more hours
Banned in UK and by unanimous Israeli Supreme Court
Explicitly called “Physical Torture” by the Army Field Manual
Bush Justice Dept. said it violated 8th Amend. in its Hope v. Pelzer brief
Supreme Ct. denounced it as “obvious cruelty” antithetical to human dignity

Temperature Manipulation, Hypothermia

US used ice water and freezing conditions, rectal thermometers to avoid death; CIA reportedly killed a prisoner using this technique used by Stalin, Syria and North Korea among others
Clearly capable of causing severe damage and death
Deliberate and dangerous exposure to heat criticized by Supreme Court.

Punching, Striking, Violent Shaking and Beatings

CIA reportedly using “shaking” technique with blows to face and stomach
Israeli shaking technique killed prisoner; banned by unanimous Supreme Court
Constitutes assault and is a criminal offense
Plainly illegal under the Constitution to beat, strike, shake prisoners

Using Dogs to Terrorize

Terrorized blindfolded prisoners in Iraq to extent that many urinated on selves
Banned in directive issued by Pentagon, but that order can be waived by SecDef
Clearly degrading and traumatizing

Nakedness and Sexual Humiliation

Used in dictatorships like Syria, Uzbekistan and North Korea
Clearly intended to degrade and humiliate
Would never be accepted as legitimate if used on US soldier
Clearly illegal under the US Constitution