

WITNESS FOR JUSTICE

UNITED CHURCH OF CHRIST
JUSTICE AND WITNESS MINISTRIES

700 Prospect Ave.
Cleveland, OH 44115-1110
Phone: 216.736.3700
Fax: 216.736.3703



Rev. Sala W.J. Nolan Gonzales
Minister for Criminal Justice and Human Rights

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Justice is a Frog in a Pot of Water

Rev. Sala W.J. Nolan Gonzales

In the middle of the night, our nation passed a bill to ensure that Americans have health insurance and that the worst exclusions cannot be used against them. This is important at more levels than first appear. Yes, coverage is important. But how a nation treats its most vulnerable is a sign of its character. Those of us who are old, poor, or sick are vulnerable. It is a statement of our character that we would do what is right to address these needs.

There are other vulnerable populations, including those in institutions. We rarely think of prisoners as vulnerable, but they are. Lethal force, extreme punishments, and harsh interrogation have become so pervasive in our justice system that we hardly notice them. Torture and isolation are a pot of water being heated slowly to a boil. Justice is the frog in the pot.

In October 2009, Imam Luqman Ameen Abdullah was killed in an FBI shooting in the Detroit area. The Imam's body was found with his hands cuffed behind his back. He died from 21 gunshot wounds, mostly to his scrotum, abdomen, and back. The autopsy was held until February. Community activists are calling for an independent investigation. How is it that a handcuffed Imam is shot 21 times by authorities? Just what was FBI protocol?

In domestic prisons, we isolate men and women for long periods: 24/7 in a cell too small to pace, no one to talk to, nothing to do, sometimes for decades. Now most states have facilities that hold all prisoners in isolation, although decades of research clearly demonstrate the permanent destructive effects of solitary confinement.

In 2002, Jay Bybee, then chief of Justice's Office of Legal Counsel, and his deputy John Yoo concluded that the President could ignore a federal

law banning torture. Waterboarding is known to us, but other extreme approaches – sleep deprivation, for example -- were also used by the CIA, more often and with more prisoners.

The Justice Department has just issued a report recommending Bybee and Yoo be referred to their state bar associations for violating professional standards, but their behavior is deemed "ambiguous." The same Justice report describes how prisoners were kept awake. Detainees were "shackled in a standing position, naked except for a diaper, with their hands handcuffed at head level to a chain bolted to the ceiling," and CIA monitors made sure "they carried all their weight on their feet rather than hanging from the chains, which could result in injuries." Officials who condoned harsh interrogation appear not to have asked for details.

A system of justice is not destroyed when stormtroopers break down our doors. It comes in little decisions, memorandae, deferred investigations, one punishment at a time. Justice is a frog in a pot of water, slowly warming to a boil.

We can do better than this. We are called to a higher standard -- to be aware, to speak, to demand that actions in our name are just and merciful. That is the meaning of health care reform. Today, the pot of water is a little cooler for the frog.

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