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BILL MOYERS: Welcome to the Journal.

The rhetoric of politics grew so intense over recent weeks — so intense, personal and parochial — that some very big national issues dropped from sight. Issues the next president won't be able to avoid, so with this hour tonight we'll look at two of them.

Later in the broadcast we'll hear the case for universal health care made by nurses who have some ideas for fixing our broken system. But first, our subject is how to fight the war on terror without undermining our values.

In this new book — *Torture Team* — the international lawyer Philippe Sands, a long time friend of America, describes what happened when the White House abandoned the policy of Abraham Lincoln, who in the middle of the Civil War told his generals that "military necessity does not admit of cruelty... nor of torture to extort confessions."

After 9/11, writes Philippe Sands, our highest government officials sanctioned a 'culture of cruelty' that put our troops, our Constitution, and our own standing in the world at risk. This week, members of the House Judiciary Committee began hearings trying to find out how the President came to approve "enhanced interrogation methods" — that's the official code for the use of cruelty in the pursuit of confession. The administration has been fighting to stop a public accounting of the internal decisions behind that policy. The officials who took part in those discussions fear they could one day face prosecution if their actions turn out to have been illegal. Those key officials talked to Philippe Sands for his book, and this week he was asked to testify at those hearings in Congress.

REP. JERROLD NADLER: This hearing of the subcommittee on the Constitution, Civil Rights and Civil Liberties will come to order.

BILL MOYERS: Representative Mike Pence of Indiana chided critics who questioned using tough interrogation such as 9/11 mastermind Khalid Sheikh Mohammed, also known as KSM.

REP. MIKE PENCE: Some, of course, have suggested that relationship-building interrogation techniques are preferable and even more reliable in the long-run than stress methods. They raise the question, though, what about the hard cases? And I can tell by your grin you acknowledge the somewhat absurd thought that you could move people who have masterminded the death of more than 3000 Americans by Oprah Winfrey methods."

PHILIPPE SANDS: I did smile because, frankly, the image that weeks and weeks of rapport-building with KSM is somehow going to produce results is counterintuitive. But the reality is we don't know. And I spoke in my investigation to a lot of interrogators — military, FBI — who basically said, "coercion doesn't work. You get information that they want to give you that they think is going to stop the pain from happening."

BILL MOYERS: Philippe Sands is known in top legal circles for his work on torture cases spawned by such infamous dictators as Chile's Pinochet and Liberia's Charles Taylor, and by genocide around the world. He's a counselor to the Queen of England, and director of the Center on International Courts and Tribunals in London, where he closely studied the British fight against terrorists of the IRA.

PHILIPPE SANDS: The thinking in the British military and the thinking across the board politically — it's really not a left-right issue, it's a broad consensus in the United Kingdom

— is that coercion doesn't work. The view is taken in the United Kingdom that it extended the conflict with the IRA probably by between 15 and 20 years

BILL MOYERS:Philippe Sands testified this week just as his new book *Torture Team* is being published, and he is with me now.

PHILIPPE SANDS:Terrific to be with you.

BILL MOYERS:Let me go right to a story that happened after your testimony. It's the story of the suicide bomber in Baghdad who drove his bombing vehicle into an Iraqi police station. It turns out that he had been held at Guantanamo for over three years. Pentagon records say that he had told people he wanted to kill as many Americans as he possibly can. And a lot of people — you go to the blogs this morning — a lot of people are thinking, why give someone like that the benefit of the doubt?

PHILIPPE SANDS:Well, firstly, we give people the benefit of the doubt because that's the nature of our system. We are a country, United Kingdom, United States, who believe fundamentally in democratic values. We don't assume guilt. We assume innocence. There are people at Guantanamo who pose a threat, undoubtedly. But there are also a great many more people who don't pose a threat. And in those circumstances, I think using this as an example to somehow come down on the merits of the Guantanamo system is not a sensible thing to do. I think Guantanamo has been a problem as Abu Ghraib has been a problem, because it has undermined America's claim to moral authority in facing up to the very real challenge of terrorism. And, locking them up and throwing away the key is only going to exacerbate the problem. And it's a problem that we faced in Britain, for example, in relationship to the IRA back in the 1970s and the 1980s. That's not the way to go.

BILL MOYERS:You told the committee this week that the British experience in fighting the terrorists of the IRA actually extended the conflict 15 to 20 years. What's the evidence for that?

PHILIPPE SANDS:The story's a simple one. Back in '71, '72, the British moved as the United States has done now, to aggressive techniques of interrogation. They used pretty much the same techniques: hooding, standing, humiliation, degradation. Five techniques, they were called. And.

BILL MOYERS:What kind of techniques?

PHILIPPE SANDS:Five. They're known as the Five techniques. They went up to court, actually, and they were ruled to be illegal-- in 1978 by the European Court on Human Rights. But there was a bigger problem, even beyond their illegality, in my view. And that was this: That what the use of those techniques did was to really enrage part of the Catholic community, who felt that IRA detainees alleged to be terrorists, were being abused. And it turned people who were perhaps unhappy with the situation into being deeply and violently unhappy with the situation. And if you speak to British politicians who were involved in that period, and the British military, what they'll tell you is that there is a feeling that the use of those types of techniques extended the conflict.

BILL MOYERS:Did you learn that people will say anything to stop the torture?

PHILIPPE SANDS:Well, actually, I think it's self-evident that that is what happened. If you speak to interrogators, they will tell you that aggressive techniques of interrogation don't work. They don't produce meaningful information. And just the other day, I was listening to a very interesting tape of John McCain. And he explained how he, in the end, had signed a confession, owning up to crimes against children and women in North Vietnam, basically because he had reached a point, he thought he wouldn't be broken, where he had reached a point where he simply couldn't bear it any more, and he wanted the pain to stop. And the only thing he could do was to tell them what they wanted to know. And that's, that's what interrogators will tell you. Abuse produces information that is the information the detainee thinks you want to know, and nothing more than that. It's not reliable.

BILL MOYERS: Going back to the hearings, one member of the committee, Representative Trent Franks of Arizona, a Republican, said--and I quote-- "The results of a total of three minutes of severe interrogations of three of the worst terrorists were of immeasurable benefit to the American people. A full 25 percent of the human intelligence we've received on Al Qaeda came from just three minutes worth of rarely used interrogation tactics."

PHILIPPE SANDS: Well, I remember that very well. And I appreciated very much everything that Representative Franks had to say. But I've described that to my friends in London as a sort of Monty Python moment in the hearing. Because he alleged that there had been three individuals water boarded. They had been water boarded for no more than one minute each. And they had spilled the beans. And I was sitting there watching him and thinking, well, that's new information. I've never heard that before. Where on earth does that come from? Counterintuitively, I can't imagine how a waterboarding of one minute is suddenly going to produce useful information. We don't even know if it is useful. But also, imagine the scene. You've got guys there with stopwatches. We're gonna waterboard him for one minute, and then we will stop. And in that one minute, everything will come up. I don't know where he got all that from. I thought he sounded as though he made up on the spot. We don't have any objective evidence that any of these interrogation techniques have produced any useful information. KSM, you've referred to, has owned up to virtually everything under the sun that has happened that is bad for the United States in the last five years. And I find that counterintuitive to common sense. I would say I don't have actual information on KSM. I do have actual information on detainee O63. I spent time, as I describe in the book, with the head of Mohammed al-Qahtani's Exploitation Team. And the bottom line of it was, contrary to what the administration said, they got nothing out of him.

BILL MOYERS: There's another witness who appeared this week when you did, David Rivkin, a lawyer, lots of government experience, lots of experience in the law. And he directly challenged you in his testimony.

DAVID RIVKIN: "I think that it is a moral copout to argue that coercive techniques did not work. Because if they don't work, there would be nothing to debate. Coercive techniques do work. There's plenty of evidence to that effect."

PHILIPPE SANDS: Look, Bill, I've spent 20 years during courtroom work as a litigating lawyer. I like to see evidence on things. I like arguments to be based on evidence. David Rivkin is unable to provide any evidence. I have honed in on the interrogation of one man, detainee O63. The administration has publicly declared they got a mass of information out of him that related to all sorts of extraordinarily important things to protect the Americans.

I then spoke to the people who were involved in his actual interrogation and the head of his Exploitation Team. That's not what they told me. If the evidence I had been given had been different, then I would reach possibly a different conclusion. Not as to the legality or the utility of torture, but what do we do in the face of evidence that it works? But there isn't evidence that it works. The British experience is that it doesn't work. The Spanish experience is that it doesn't work. The Egyptian experience is that it doesn't work, in the sense of producing meaningful information that is going to protect a country. Sure, it produces information. But as John McCain said in his interview in 1997, it produces the wrong information. Because someone who's subject to that sort of pain and suffering is going to do anything they can to stop it from happening. And they will tell the person who is abusing them what the person wants to hear, and nothing more and nothing less.

BILL MOYERS: Philippe, you spent a long time and made a lot of trips and talked to a lot of people to do this book. What was driving you? Why did you-- you've got enough to do. Why did you want to do this particular book?

PHILIPPE SANDS: I did it totally off my own back. I was fascinated by a simple question. How could lawyers at the upper echelons of the administration, trained at Harvard Law School and other distinguished institutions, have approved torture? In what circumstances could that happen? I didn't understand how it happened. And it combined with a real sense of injustice that the truth of the story had not come out. Because what the administration said, and I was really catalyzed by a press conference I read in June, 2004, as the administration struggled to contain the disaster of Abu Ghraib. The administration spun a

story. You're a press man. You know how governments work. I know how governments work. And the story was this: The desire for aggressive interrogation came from the bottom up. People on the front line, people at Guantanamo, elsewhere, told us they needed to move to new techniques. Who are we at the top, to say no? And in that context, we approved certain techniques. And that struck me--

BILL MOYERS:That's the official story?

PHILIPPE SANDS:That's the official story, that it came from the bottom up, and they were doing nothing more than what normal, prudent, sensible government would do. And that...

BILL MOYERS:This offended your sensibility? This--

PHILIPPE SANDS:Well, it didn't offend, I mean, it may have been true. I hope I went into my inquiries with an open mind. But it struck me as counterintuitive, because I know the American military. I've got a lot of friends in the American military. And they are deeply committed to the rules of the Geneva Conventions and other international rules, and don't go about the abandonment of President Lincoln's disposition. So what I decided to do was I took the famous memorandum by Donald Rumsfeld, signed in December 2002, where he writes on the bottom "why standing limited for four hours a day, I stand for eight hours a day--and I tracked back the entire decision making process, identified the 10 or 12 people I needed to meet. And one by one, tracked them down, went and found them, spoke to them and I'm truly grateful to them. Once I'd had my first conversation, which I think was with Diane Beaver who was the lawyer--

BILL MOYERS:Right.

PHILIPPE SANDS:--down at Guantanamo, I was then able to get right up to the very top. And one by one, I followed from Diane Beaver, the lawyer at Guantanamo, her boss, Mike Dunleavy (who's the head of interrogations, through General Hill, who is the head of Southern Command in Miami, up through General Myers, the Joint Chiefs of Staff, up to Doug Feith, the head of policy at the Pentagon, and then right up to the main man in my book, Jim Haynes. Jim Haynes was Mr. Rumsfeld's lawyer. And Jim Haynes wrote the very famous, the infamous, iconic, why is standing limited to four hours memo. And he went to Harvard Law School. And I just couldn't understand how someone so well trained could authorize abusive interrogation like that.

BILL MOYERS:And did he talk to you?

PHILIPPE SANDS:He did talk to me. I had two meetings with him. The fact of the meeting was on the record, the content of those meetings were off the record. But as I say in the book, concluding chapter includes taking to account everything he said to me. I think you'll agree that they're fascinating characters and you'll see that on some of them I developed a real empathy, actually in ways that surprised me.

PHILIPPE SANDS:So take Diane Beaver. I had written a previous book where I treated her legal advice. She had been the person down at the bottom who'd signed off on aggressive interrogation. I didn't like her legal advice at all. I thought it was really bad advice and wrong advice. And I was rather uncomplimentary, perhaps even rude about it, in my last book. And then I met her. And she explained to me the circumstances in which she found herself. I don't think it justifies what happened. But she described to me the pressure she felt herself under, the anniversary of 9/11 coming up.

This man, detainee 063, al-Qahtani, present and caught. Tremendous pressure coming from the upper echelons of the administration. She described to me a visit that the administration has never talked about in which the three most important lawyers in the administration, Mr. Gonzales, who's the president's lawyer, Mr. Addington, who is the vice president's lawyer, and Mr. Haynes, who is Secretary Rumsfeld's lawyer-- came down to Guantanamo at the end of September, talked to them about interrogations and other issues, watched an interrogation, and left with the message, do whatever needs to be done. Now, put yourself in Diane Beaver's situation. You're getting a signal from the main man at the top of the administration: do whatever needs to be done. That takes the lid off

and opens the door.

BILL MOYERS: Was there a single architect of the decision, the person who said, "Take the gloves off?"

PHILIPPE SANDS: There was one lawyer in particular who everyone kept referring to as being, if you like, the brains. I'm slow to use that word for such an awful series of events. But the driving force behind it, and that was David Addington. I know Diane Beaver and Mike Dunleavy, who was her boss, the head of interrogation at Guantanamo, told me that when they came down, it was obvious that Addington was the main person. He was the leader of the team. He was, I think they were very anxious around him, with his big booming voice, his big beard. Nothing is known about him in detail. He's never, previously, I gather, appeared before Congress. And he's now, just been subpoenaed. I think he may well have been the driving force. But he wasn't speaking off his own back. I mean, he was speaking for the vice president. And I think that the finger of responsibility in the end, will most likely go to the vice president. But Mr. Rumsfeld was deeply involved. And, of course, the president has indicated just within the past month, that he signed off on everything.

BILL MOYERS: You subtitle the book Rumsfeld's Memo and the Betrayal of American Values. Tell me briefly about that memo and why it betrayed American values.

PHILIPPE SANDS: The memo appears to be the very first time that the upper echelons of the military or the administration have abandoned President Lincoln's famous disposition of 1863: the U.S. military doesn't do cruelty.

BILL MOYERS: And that's the basis, isn't it, for the military handbook that soldiers use--

PHILIPPE SANDS: It is.

BILL MOYERS: --to follow, to try to stay within the rules of the game?

PHILIPPE SANDS: Yeah. It's called the U.S. Army Field Manual, and it's the bible for the military. And the military, of course, has fallen into error, and have been previous examples of abuse. But never before--

BILL MOYERS: There were prison camps in the Civil War that were abominable.

PHILIPPE SANDS: Absolutely. No one is saying it hasn't happened before. But apparently, what hasn't happened before is the abandonment of the rules against cruelty. And the Geneva Conventions were set aside, as Doug Feith, told me, precisely in order to clear the slate and allow aggressive interrogation.

BILL MOYERS: And Rumsfeld's memo was the catalyst for this?

PHILIPPE SANDS: Rumsfeld's-- well, the timing was that the Geneva Conventions were set aside in February 2002 by decision of the president, at the insistence of Doug Feith and a small group, including some lawyers. And the memo by Donald Rumsfeld then came in December, 2002, after they had identified Muhammed al-Qahtani. But it was permitted to occupy the space that had been created by clearing away the brush work of the Geneva Conventions. And by removing Geneva, that memo became possible. Why does it abandon American values? It abandons American values because this military in this country has a very fine tradition, as we've been discussing, of not doing cruelty. It's a proud tradition, and it's a tradition born on issues of principle, but also pragmatism. No country is more exposed internationally than the United States. I've listened, for example, to Justice Antonin Scalia saying, if the president wants to authorize torture, there's nothing in our constitution which stops it. Now, pause for a moment. That is such a foolish thing to say. If the United States president can do that, then why can't the Iranian president do that, or the British prime minister do that, or the Egyptian president do that? You open the door in that way, to all sorts of abuses, and you expose the American military to real dangers, which is why the backlash began with the U.S. Military.

BILL MOYERS: And you say, from there, it slipped into a culture of cruelty?

PHILIPPE SANDS:It slipped into a culture of cruelty. There was a, it was put very pithily for me by a clinical psychologist, Mike Gellers, who is with the Naval Criminal Investigation Service, spending time down at Guantanamo, who described to me how once you open the door to a little bit of cruelty, people will believe that more cruelty is a good thing. And once the dogs are unleashed, it's impossible to put them back on. And that's the basis for the belief amongst a lot of people in the military that the interrogation techniques basically slipped from Guantanamo to Iraq, and to Abu Ghraib. And that's why, that's why the administration has to resist the argument and the claim that this came from the top.

BILL MOYERS:For a long time, it was thought that the, it went up the chain from Bagram in Afghanistan, to Abu Ghraib, and then to Guantanamo. But you're saying it started in Washington and went down?

PHILIPPE SANDS:It started with a few bad eggs. The administration has talked about a few bad eggs. I don't think the bad eggs are at the bottom. I think the bad eggs are at the top. And what they did was open a door which allowed the migration of abuse, of cruelty and torture to other parts of the world in ways that I think the United States will be struggling to contain for many years to come.

BILL MOYERS:You said that the backlash came from the military.

PHILIPPE SANDS:I think it's, I tell a really complex story. It's more sort of like a thriller, actually, because you've got different--

BILL MOYERS:We'll read it.

PHILIPPE SANDS:You've got different camps who are struggling down at Guantanamo. And I think it would be wrong in any way to give the sense that there was unanimity to move towards abuse or that there was even strong support towards moving towards abuse. There was a strong body of belief down at Guantanamo amongst the military community, amongst the military lawyers, with the FBI, with the Naval Criminal Investigation Service, that this is a bad thing. Abuse doesn't work, abuse undermines authority, abuse undermines morale. We are going to stop it. Initially, they weren't successful. But once the abuse began, a backlash followed. And the folks down at Guantanamo identified a man in Washington who was the general counsel of the Navy, a man by the name of Alberto Mora, who truly is a heroic individual, in my view, who intervened very courageously, no personal advantage, directly with Jim Haynes, and said, "This must stop. If it doesn't stop, I'm going to reduce this into writing, and I'm going to cause a big fuss." And eventually, it did stop. But only after 54 days of abusive interrogation of Mohammed al-Qahtani, and not before the door had been opened, and the dogs had slipped their leash.

BILL MOYERS:The legal affairs correspondent of The National Journal, a very respected fellow named Stuart Taylor, says that we should focus on amending the law to prevent future abuse of torture, but not hold those responsible for past interrogations of questionable legality. What do you think about that?

PHILIPPE SANDS:Well--

BILL MOYERS:I mean, some people have said that the committee that you appeared before is on a witch hunt to go after these lawyers and the politicians. And some of the critics on the blogs are saying that you're aiding and abetting that.

PHILIPPE SANDS:I think the crucial issue is you've got to ascertain the facts. I was asked by the committee what should happen. My answer to that question was, "Let's sort out the facts. Once we've sorted out the facts, then it will be for others to decide what to do."

PHILIPPE SANDS:I'm satisfied here a crime was committed.

BILL MOYERS:A crime?

PHILIPPE SANDS:A crime was committed.

BILL MOYERS: By?

PHILIPPE SANDS: The Geneva Conventions were plainly violated in relation to this man. And in our system laws, if a man violates the law and commits a crime, he is punishable.

BILL MOYERS:So who violated the law?

PHILIPPE SANDS:I think it goes to the top. And I think that the lawyers contributed to the violation of the law-

BILL MOYERS:But the--

PHILIPPE SANDS:And the lawyers themselves face exposure. But just coming back to this bigger point, I'm not saying there, I'm not on a witch hunt. I'm not saying that there should be a campaign of investigation and prosecution and sentencing, and conviction, and so on and so forth. What I'm saying is let's start by sorting out the facts. Once the facts have been sorted out, let's see exactly what they say, and it will be for others to decide what needs to be done. But until that's done, you can't close on the past and you can't move forward.

BILL MOYERS:But David Rifkin says in the hearing, "I think it would be madness to prosecute anybody, given the facts involved." ... "The efforts to go-- the efforts to go after the lawyers borders, to put it mildly, on madness. Those lawyers were not in any chain of command. They had no theoretical or practical ability to direct actions of anyone who engaged in abusive conduct."

PHILIPPE SANDS:He's just wrong. The lawyers were deeply involved in the decision making process. The lawyers that I've identified, from John Yoo at Department of Justice, preparing a legal memorandum which abandons American and international definitions of torture, and reintroduces a new definition that has never been passed by any legislature, that is totally unacceptable. What was he doing there? Was he really giving legal advice? No he wasn't. He was rubber stamping a policy decision. This is not careful, independent legal advice. What was Jim Haynes doing when he recommended to Donald Rumsfeld the authorization for the approval of 15 techniques of interrogation? He was saying to the Secretary of Defense, I'm your lawyer. I'm telling you this is fine. You can do it. If he hadn't done that, Mr. Rumsfeld would not have signed the piece of paper that Jim Haynes wrote. Jim Haynes is directly involved in the decision making process. And the lawyers, as such, play an absolutely key role. Now, at the end of the day, they're not the most important people. The most important people are the people whose signatures are actually appended. They are the politicians who actually decided the issue. But in this case, without the lawyers, they would never have had a piece of paper to sign.

BILL MOYERS:Do you think that people like David Addington and John Yoo and Jim Haynes, and the other lawyers you've mentioned who advised and were on the torture team, should ultimately be held responsible in court for what they did in government at this period of time?

PHILIPPE SANDS:If they were complicit in the commission of a crime, then they should be investigated. And if the facts show that there is a sufficient basis for proceeding to a prosecution, then they should be prosecuted. Lawyers are gatekeepers to legality and constitutionality. If the lawyers become complicit in a common plan to get around the law, to allow abuse, then yes, they should be liable.

BILL MOYERS:There are people who say, "I don't want to hear about this." A lot of Americans say, "I don't want to hear about this." It's like being diagnosed with cancer. You don't really want to hear the terrible news. You know, this is something that was done in a particular period of intense fear and uncertainty. We had been attacked, 3,000 people killed right here in New York. And I just want the government to take care of it. I don't want to hear about the cruelty, the torture, the enhanced interrogation techniques. Do you understand why they would say that?

PHILIPPE SANDS:I do understand that. And here's what I'd say. I would want the government to take care of it in a way that is going to protect me over the long term. And if understand that using abuse produces pictures of the kind that have appeared at Abu Ghraib, and of the kind that have appeared at Guantanamo and are going to make it more difficult for me to protect the American public, I want to know about that. And if it is indeed the case that those pictures are going to make it more difficult to protect the American public, I want to sort it out, that we remove that obstacle to protecting the American public, and we ensure that it doesn't happen again in the future, and as necessary, make sure that those who erred in putting in policies that allow that to happen, face appropriate responsibility. You know, Bill, what has really agitated me the most about thisâ€”at the end of the day, I've been reflecting on it this week in particular, just being before the committee, some very pertinent questions from both side of the House, Democrat and Republican. It's not just that a crime was committed. It's that there's been a failure to take responsibility. There's been a cover up from the top in terms of pointing the finger to people who should not take blame for what has happened.

BILL MOYERS:But soldiers down the line?

PHILIPPE SANDS:Soldiers on the front lines who are doing their best in difficult circumstances, to protect the United States, should not be blamed for what was decided at the top. But there's an even bigger issue at a very personal level. It's not about legality, about criminality. It's about taking individual responsibility. If people like Doug Feith and Jim Haynes had said to me, "Look, Philippe. September the 11th came. The anniversary was coming. We were getting information that there were going to be more attacks. We had people that we were told had information that we need to do something about. And we therefore felt, in those circumstances, it was right to use all means appropriate and necessarily to get the information. But, with the benefit of hindsight, we realize we fell into error, we made a mistake. We accept responsibility for that. We will learn from those mistakes. We'll make damn sure it doesn't happen again." I didn't get that at all. There was not a hint of recognition that anything had gone wrong, nor a hint of recognition of individual responsibility. When you read these chapters, when you read my account with Doug Feith and with others, you will see the sort of weaseling out of individual responsibility, the total and abject failure to accept involvement. Read Mr. Feith's book. on how to fight the so-called war on terror. And it's as though the man had no involvement in the decisions relating to interrogation of detainees. And yet, as I describe in the book, the man was deeply involved in the decision making from step one. So it's about individual responsibility. And there's been an abject failure on that account.

BILL MOYERS:Do you think torture's still going on?

PHILIPPE SANDS:I don't think torture is still going on at Guantanamo. I'd have to say my own view is that there has not been systematic torture at Guantanamo. I think it was isolated to two or three cases. I think the Guantanamo facility violates international law in many other ways and is wrong in many other ways. But I don't think that there was systemic torture at Guantanamo. I think there was probably far more systemic torture in Afghanistan, at Bagram and in Kandahar, but not in the military. And I think the military has now stopped. But it's important not to forget that although the military now, following in particular, the intervention of the United States Supreme Court in 2006, very important judgment in the case of Hamdan v. Rumsfeld, which said, Common Article Three of the Geneva Conventions can be invoked by all detainees at Guantanamo. So on the military side, it has stopped. But there remains the other side, the dark side, as Vice President Dick Cheney called it, the CIA. And just in the past few weeks, the President of the United States has vetoed legislation which would allow the CIA, which would prohibit the CIA from using the very techniques of interrogation that are the subject of this book, as necessary in the future. And I think that has disturbed a lot of people.

BILL MOYERS:But truth has consequences. And in the hearing the other day, Representative King of Iowa said to you, you're hurting the war on terror. You and all the critics, all the journalists, all the people who are trying to stir up this debate, and expose what happened in the inner workings of the administration.

REP. STEVE KING:"Wallowing in self-guilt as a nation, and bringing hearings before this Congress and pumping this into the media constantly, when we've identified that these are narrow, very narrow, exceptional circumstances, and at our knowledge on it isn't complete, that it extends the outrage, That this panel and this testimony, and those things that

supplement it across this media, also extend the outrage and may be extending this global war against these people, whom we won't call terrorists, we'll call them Islamic jihadists."

BILL MOYERS:Now, he's saying too much truth about what really went on can be explosive in our ability to deal with the threat we face.

PHILIPPE SANDS:I think he's ahistorical. And he's revealing--

BILL MOYERS:Ahistorical?

PHILIPPE SANDS:Ahistorical. He has no sense of history. He's revealing his lack of understanding in other contexts, where similar analogous situations have arisen. And again, I come back to my own experience in Britain. I was a kid growing up in London when the streets of London were being bombed. For a period of 1970s, the view was, let's hit them hard. Let's hit them very hard. And it soon became clear that that is not a technique that works. The technique ultimately that worked-- and prime ministers over time, John Major, Tony Blair, have put in-- tried a different approach. And the different approach is you understand what's at the root cause of the conflict. You talk to these people, sometimes secretly.

You try to reconcile that errors have been made. And that is a crucial part of bringing closure to a painful past. It happened in South Africa. It happened in Chile. It's happened in many other countries around the world. And if nothing else, an inquiry such as the House Judiciary Committee is doing, is playing into the establishment of the facts, which is a first prerequisite to moving on. So I directly contradict the views of the representative. It's exactly the opposite. Until you begin to come to terms with the past, and accept if errors were made, that they were made, and who has responsibility for them-- not necessarily in a prosecutorial way, but in some appropriate way-- then you're able other move on. But without that, you can't move on.

BILL MOYERS:I read comments just this week by a noted Arab scholar, who said that if you walk the streets of Cairo today, stop at the book stalls, stop at the book stores, you see, looking out at you everywhere, photographs of Abu Ghraib and Guantanamo. That the-- this torture, these enhanced interrogate-- interrogation techniques — this cruelty-- has seized the imagination of the Arab world. And that long after all of us have gone, including the torture team, the next generation of Arabs will living with those images. What's your own sense of that?

PHILIPPE SANDS:Well, that, I'm very sad to say, is my observation. I do travel a lot. I travel, you know, in South America, I travel in Asia, I travel in the Arab world. I do a lot of work for governments around the world. And it's sad but true. The image of the United States today is that it's a country that has given us Guantanamo and Abu Ghraib. Now, that is not the America that I know. I've spent a lot of time here, you know. I'm married to an American. My kids were born in the United States. I know what the true America is. And for me, this is a distressing story, because it has allowed those who want to undermine the United States a very easy target for doing it. It's even worse than that, Bill. I mean, I've been in situations-- in a globalized world with the internet, the legal advices that have been written by people like John Yoo at the Department of Justice, and the memos written by Jim Haynes, that have been put in front of the desk of Donald Rumsfeld, have gone all over the world. They've been studied all over the world. Other governments are able to rely upon them, and to say equally, look, this is what the United States does. If the U.S. does it, we can do it. It's undermined the United States' ability to tackle corruption, abuse, human rights violations in other countries, in a massive way. And it will take 15 or 20 years to repair the damage. And that's why, irrespective of the complexion of whichever next president happens to hold that high office-- and I think irrespective of whether it's Mr. McCain or Mr. Obama, or anyone else, there will be a recognition of a need to move on. And moving on means recognizing that errors were made.

BILL MOYERS:So the next president has to wrestle with this, and so do we?

PHILIPPE SANDS:I think we're all going to be wrestling with this. And I think we have a responsibility to wrestle with it in a constructive way, precisely because I think we do face real global challenges. And the threat of terror is real. And the importance of putting the

spotlight on the past is to make us learn for the future and to make sure it doesn't happen again.

BILL MOYERS:Well, in that respect, Torture Team, your book, is a very important beginning, because you did do your homework. You went out and talked to all of these people, who were on the torture team.

PHILIPPE SANDS:Well, that's very kind of you to say. And it will be for others to judge. But I learned an important lesson, which is that you can't always deal with materials as they appear in newspapers or in documents. You need to take the trouble to go and spend many, many hours with people, talk to them, get to know them, understand what motivated them, understand that these are not bad people.

These are not people who wanted to do bad things. These are people who found themselves in a very difficult situation, under intense pressure from the top. I think once you've spoken to people, you begin to get a clearer picture. And I hope I have accurately conveyed the conversations in a fair and balanced way. There are people I liked, there are people I didn't like. There are people whose views I shared. There are people whose views I didn't share. But I thought it was terribly important to lay out in the book the range of views that were expressed, and often not even to comment on them. But to let people's views inform the reader, and the reader can then form a view as to whether they agree or disagree. But I have put the other side of the argument, against my own argument. And there will be many, I'm sure, who will disagree with me. And that's fine. Because that's what our societies are about, debating these important issues. I know what I think, though. What happened was wrong, and it needs to be sorted out.

BILL MOYERS:And it's only the beginning. There will be more hearings in June before the same committee, with David Addington saying he will be there, and many of the others: John Yoo and Haynes, and others, saying they will come voluntary and testify.

PHILIPPE SANDS:Yes. What has happened is that-- this is part one, as it's described in the judiciary committee's-- guidance note. I was told it's probably the first time that a hearing has been held on a book that hasn't even published, which I'm gain some pleasure on. The next hearing is slated in for the 26th of June. I think John Yoo is going to appear at that hearing. He has agreed, if I understand it, to come voluntary. And Mr. Addington, they're hoping, will appear on the same day.

But they've also issued letters to Mr. Feith and Mr. Ashcroft, and in fact, all of the people that I write about. And thus far, they've all agreed to appear voluntary. So I think it's the beginning of a lengthier story that will allow the American people to form a view on what happened, and form a view then, on the vital next question, the consequence question, what should happen next.

BILL MOYERS:And I hope you'll come back and talk about these unfolding events.

PHILIPPE SANDS:I would be delighted to come back. And I'm delighted that you've-- taken on what I think is a very important issue, and which has, I should say, great amount of attention from around the world. One shouldn't imagine for a moment that the interest in this is limited to within the borders of the United States. As you've already explained, people around the world are looking at this. And I think people around the world have a passionate hope that the United States and not anyone else, puts the house in order here and allows the U.S. to sort itself out.

BILL MOYERS:The book is Torture Team. The author is Philippe Sands. Thank you very much for being with me.

PHILIPPE SANDS:Thank you very much, Bill.

BILL MOYERS:We turn now to health care. You don't need me to tell you that 47 million Americans are uninsured, and it's not news to you that medical costs are increasing faster than the rate of inflation, or that more Americans than ever are afraid a single major illness could bankrupt them. It's little wonder that when the Gallup poll asked people on

the eve of this election year to name the most important thing that can be done to cope with health care, 63% mentioned universal coverage — more than any other fix. Critics were quick to cry "Socialism! Socialism!", and even before Senator Hillary Clinton unveiled her healthcare plan, they attacked it, too, as "socialized medicine." It took the McClatchy News Service, which some of us consider the finest news organization still on its feet, to reach back into history for some context on this debate. McClatchy's Kevin G. Hall reminded us that Senator Clinton's "socialistic" plan bears a striking resemblance to changes proposed in 1974 by President Richard Nixon, who was, some will remember, a Republican. Here's what Nixon said in his final State of the Union address:

PRESIDENT RICHARD NIXON:I shall propose a sweeping new program that will assure comprehensive health-insurance protection to millions of Americans who cannot now obtain it or afford it, with vastly improved protection against catastrophic illnesses."

BILL MOYERS:Nixon's plans were foiled by the White House crimes known as Watergate, which forced his resignation.

Thirty-four years later, we're no closer to health care for everyone, despite the number of Americans who need it. But now, some very determined people are taking up the fight for universal health care. They're nurses — who day in and day out — encounter the human consequences of a broken system. Here's our report, by Producer Peter Meryash and Correspondent Rick Karr.

RICK KARR:Let's consider a hypothetical cardiac patient: Male, sixty-seven years old, high-stress job, and a history of serious heart problems. And let's say, hypothetically, that he'll be changing jobs soon. Intensive care unit nurse Geri Jenkins says a patient like this might have a tough time getting new health insurance.

GERI JENKINS: He's had four major heart attacks. He's had a quadruple bypass. He's got an implantable defibrillator in his chest. He has atrial fibrillation. He gets cardio vertigo and his heart rhythm goes out of whack. He would be uninsurable for having a preexisting condition.

RICK KARR:That is, he'd be uninsurable if he were an average American. But this case actually isn't hypothetical: The patient is Richard Bruce "Dick" Cheney — the vice-president — and because he's a government employee, he can't be denied health insurance no matter how serious his heart condition is.

Last year, Cheney was rushed to the hospital with an irregular heartbeat — at least his fifth trip to the hospital since being in office — and the incident made national news....

NEWS REPORTER VOICE:This just in: We are told Vice President Dick Cheney has been diagnosed with an irregular heartbeat.

RICK KARR:It also caught the attention of a union called the California Nurses Association — or CNA — whose members see a sharp contrast between what they call the "Cadillac healthcare" the Vice President gets as a government official and what's available to MOST Americans.

ROSE ANN DEMORO: Dick Cheney can have the choice of doctors. He can go to any hospital. He can have excellent standard of care. And he's alive today because of it. And there are a lot of people who aren't.

RICK KARR:Rose Ann DeMoro is executive director of the CNA. Under her leadership, the union launched an ad campaign that's designed to shock: It claims that if Cheney were just a regular American, he'd probably be dead by now. The ad has run in newspapers across the country and on the internet and it calls for radical change in the country's healthcare system so that everyone can have access to the kind of care that saved the Vice President's life.

ROSE ANN DEMORO:What the nurses are saying is, there shouldn't be a double standard. There should be an excellence in care that applies to all people. We, as the public, pay for

Dick Cheney's care. Why not-- why is the government not providing the same type of care to all Americans?

RICK KARR:The Vice President isn't the only government employee who gets what the nurses call "Cadillac healthcare." It's all government employees — members of Congress, workers at the Justice Department, and Interior, and the EPA — a total of more than two million people on the federal payroll. Like Vice President Cheney, they get to choose from a wide selection of health plans — and you, the taxpayers, pay about seventy percent of their monthly premiums. Everyone within a plan — no matter how sick they are — is charged the same rate. There's no waiting period before coverage kicks in. And perhaps most importantly, no one can be denied coverage because of a pre-existing medical condition. Rose Ann DeMoro says compare that to the approximately forty-seven million Americans — that's one in six of us — who are uninsured or the ninety million with insurance who say they've had trouble getting the healthcare that they need.

RICK KARR:The California Nurses Association is one of the few union success stories these days. It's been growing: It now represents some eighty thousand members in all fifty states, not just California. Like other unions, it fights for better wages and benefits and working conditions. But its members don't think the union's mission stops there: They believe it's their duty to fight for better health care for all Americans, which means that along the way, they've picked fights with some huge corporations, and powerful politicians, like they did with their ad about Vice President Cheney.

His office slammed the "CheneyCare" ad with a no-comment comment, saying, "Something this outrageous does not warrant a response." But Rose Ann DeMoro says the ad represents exactly the kind of political advocacy that a nurses' union should be doing.

ROSE ANN DEMORO:Every registered nurse in this country advocates for her patient at the bedside. She's there. She's the last line of defense for the patients. She fights for the patients against hospital corporations, often putting her own job in jeopardy. And you can't fight for your patient without changing the social structure in which that care is delivered. So, registered nurses, organized by us, have become a pretty dramatic force in this country to change the healthcare system.

RICK KARR:DeMoro says that CNA members see every day on the job how the current system works, and they've decided that it's badly broken.

ROSE ANN DEMORO:If you look at healthcare in America, there is no healthcare system. There's a healthcare industry. That's major objective is profit-making. Which means not providing the patient all of the care that they need, discharging patients early, patients without insurance being treated differently than wealthy people, frankly. And that is the healthcare system in America. Those who can afford it get to live and those who can't suffer needlessly.

RICK KARR:It's a strong indictment, but it's backed up by the numbers: The US has more preventable deaths than any other industrialized nation. And in fact, more than twenty thousand Americans die needlessly every year, according to a recent report, because they don't have health insurance.

But the CNA's "CheneyCare" campaign isn't just about the uninsured. The union says that even those of us who do have insurance face potentially fatal problems with the system. That's because insurance companies, driven by profits, are the ones deciding which medical treatments are paid for — and which aren't.

For example, the CNA took up the cause of seventeen-year-old Nataline Sarkisyan. She suffered from leukemia, and chemotherapy had destroyed her liver. Intensive care unit nurse Geri Jenkins — who's also one of four co-presidents of the CNA — says Sarkisyan's doctors thought that she needed a liver transplant.

GERI JENKINS:Her doctors felt she had a 65 percent chance of survival at six months. And who's better to make that decision? A pediatric transplant specialist? Or an insurance company who's not actively involved in the case and knows the nuances of her care? We think it's much better to let the actual healthcare provider who has all that knowledge

make the decision.

RICK KARR:The insurance company — Cigna — said "no" — that it wouldn't approve paying the hundreds of thousands of dollars that a liver transplant could've cost. So the CNA set up protests to call attention to Nataline Sarkisyan's plight — and even marched right into Cigna's lobby. During the protest, the insurer reversed its position and agreed to pay for the liver transplant. But that didn't help Nataline Sarkisyan: She died that night.

GERI JENKINS:It was too late. And we think that's just a c-- classic example of what happens. And it happens hundreds, if not thousands of times a day all across America, with people who think they have insurance, but when the-- the crunch happens, someone denies them what they need.

RICK KARR:The nurses launched their "CheneyCare" campaign — in part — to uncover more stories like Nataline Sarkisyan's. The union set up a web site that asks Americans to write in with their own health-care horror stories.

ROSE ANN DEMORO:It's a war on our soil against the American people, what's going on with the insurance industry. And the Dick Cheney's and all of the politicians who get the healthcare that the public provides, we're saying, "Why are Americans not worthy of the same type of care that you have?"

RICK KARR:When it comes to this kind of high-profile political battle over health-care policy, the CNA has a pretty good track record. Take the fight that the nurses had with California's governor: A few years before Arnold Schwarzenegger took office in two thousand three, the state had passed a new law that set strict limits on the number of patients a nurse could take care of at any one time. Schwarzenegger — once he was in office — moved to scale back the nurse-to-patient ratio. At the time, his approval rating was over sixty percent — but the CNA decided to take him on, anyway.

GERI JENKINS: And we just were there. Everywhere he went, we were there. We were like the bad penny you couldn't get rid of. We were there, at every event he went to, every time he showed up in public, every time he went to a fundraiser trying to solicit huge amounts of money from his corporate donors. We were there.

RICK KARR:When Schwarzenegger addressed a women's conference in Long Beach, local TV news showed members of the CNA marching outside the convention center while inside, some union members unfurled a banner protesting the Governor's opposition to nurse-to-patient ratios. That's when Schwarzenegger lashed out at the nurses.

GOV. ARNOLD SCHWARZENEGGER: Pay no attention to those voices over there, by the way. Those are the special interests. If you know what I mean. The special interests just don't like me in Sacramento because I am always kicking their butts. That's why they don't like me. Ha, ha, ha.

ROSE ANN DEMORO:He was so cocky and confident and so above it all in terms of decorum that he thought that he could say whatever he wanted. Well, I swear I was outside and the press-- the media came. It was like paparazzi running out of the building. And they're saying, "Did you hear what he said? Did you hear what he said?" And you knew at that moment, it was kind of stunning actually that it was a seminal turning point in his career in California, and perhaps his political ambition. And that just unfurled. That galvanized all of the nurses in California.

RICK KARR:Within a few months, Schwarzenegger had backed off his bid to rescind the nurse-to-patient ratios. Meanwhile, his approval rating fell to around forty percent.

ROSE ANN DEMORO:And at that point in time, he said nothing more about registered nurses. And he kept very quiet in California about the California Nurses Association. I think that the nurses, you know, the shoe was on the other foot, frankly, in terms of who kicked who's butt. And he knew it.

RICK KARR:Since then, the CNA has taken the fight to other states, pushing for a similar

cap on nurse-to-patient ratios in half a dozen, most recently in Arizona.

It's been organizing across the country, and it hasn't been timid about opposing other unions. In March, for example, when the Service Employees International Union, or SEIU, tried to organize more than eight thousand hospital workers in Ohio the CNA moved in to stop the vote. The Service Employees charge that the CNA's opposition is really union-busting and even launched a web-site called Shame On CNA dot com. But DeMoro says the SEIU is too willing to compromise with health-care conglomerates and that the CNA would be a better representative for Ohio nurses.

The CNA's been critical of the three remaining presidential candidates, too. It's bought T-V ads in primary states: the nurses say that NONE of the remaining candidates are pushing for true reform because ALL of them would keep the big insurance companies in the picture. Instead, the nurses want what they call "Medicare for all" — a single, government-run system that would provide every American with the same coverage that Vice President Cheney has — and get the insurance companies out of the way.

GERI JENKINS: I think when you interject into the middle of the delivery of healthcare an entity whose sole purpose is to make a profit, it totally skews the whole intent of what insurance is supposed to be, or what care is supposed to be.

RICK KARR: The nurses base their argument on a surprising fact: From every dollar that insured Americans spend on health care, insurance companies keep thirty cents — none of which goes to actual health care. Instead, it pays for executive salaries, shareholder dividends, advertising and marketing, and other "overhead". And that's before a penny flows to the for-profit hospital conglomerates that look out for their own bottom lines — and run most of the country's health-care system.

GERI JENKINS: When you have 60 percent of the healthcare in this country being delivered by for-profit corporate entities, whose major focus is their bottom line, then you better hope there's a nurse there to make sure you're okay and to look out for you and advocate for you when you're at that — those — most vulnerable moment in your life.

ROSE ANN DEMORO: Since nurses are in every community across the country, and since they're such a trusted profession, we think we're structurally situated to actually change this hit system systemically for once and for all. And we're not gonna stop until that happens.

BILL MOYERS: Those California Nurses are a combative lot — and not just in their fight for universal health coverage. They're also in that fierce battle with a rival employee's union — the SEIU — over organizing new members. The competition has led to some heated confrontations in meetings and the courtroom, creating a distraction from the hopes of other labor leaders for a united front in the political campaigns this fall. That's a story for another day, but we've posted some information about it on our web site at pbs.org.

Next week, we'll look at another battle affecting your health — this one about what's driving the high cost of the daily meds so many of us depend on.

ANNOUNCER: With one little pill, taken just once a day, people with allergic reactions...

MELODY PETERSEN: The drug industry is driven by marketing and profits which is fine if you selling cold cuts or computers, or something like that, but it's definitely not alright with medicines. That's the problem with the industry.

BILL MOYERS: We hope you'll join us next week. I'm Bill Moyers.

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