PROF. JAMIE MAYERFELD ON THE JUST SECURITYWEB SITE, "BRETT KAVANAUGH AND THE RISK OF A RETURN TO TORTURE"

Submitted by Stephen Dunne on August 16, 2018 - 3:45pm

Professor Jamie Mayerfeld writes an opinion piece in the Just Security web site about the U.S. using enhanced torture techniques in contrast to what the Constitution says about treaties.

When the Bush administration authorized "enhanced interrogation techniques" against foreign suspects, one of its justifications was the claim that international law has limited authority over the United States. President Trump's Supreme Court nominee Brett Kavanaugh shares this approach to international law, a matter that should concern us, given Trump's promise to “bring back waterboarding and ... a hell of a lot worse than waterboarding.” In Bihani v. Obama, Kavanaugh's opinion in regards to the detention of Bihani was that international law norms are not part of domestic U.S. law unless they are written in congressional statutes or included in a limited subset of U.S. treaties. His claims are controversial since the U.S. Constitution declares that “all treaties” made by the United States "shall be the Supreme Law of the Land." Additionally, in 2009, he joined an opinion that introduced the concept of “battlefield preemption” to dismiss claims against private military contractors who had tortured prisoners in Abu Ghraib. Kavanaugh's views undermine human rights, because a core purpose of international law is to protect individuals from the worst abuses of state power.

For the full piece please click here.

Also re-published in Slate.

People Involved: Jamie Mayerfeld
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