

# Britain: Former law lord says US “guilty of lawlessness on a truly grand scale”

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One of Britain’s top judges, the recently retired Lord Steyn, said Tuesday that the Bush administration’s policy of rendition and its treatment of detainees at Guantánamo are war crimes. He added that anyone who knowingly participates in or facilitates such practices is also guilty.

Steyn was interviewed by Channel 4 news presenter Jon Snow on December 6 regarding the CIA’s practice of kidnapping and flying terrorist suspects through European airports to secret detention centres outside the US, where they are subject to torture.

According to press reports, such “black sites” have been located in at least eight countries, including two former Soviet bloc countries in Eastern Europe. Some media reports have identified those countries as Poland and Romania, and ABC television in the US said terrorist suspects being held there were moved to facilities in North Africa only last week, ahead of the European trip by US Secretary of State Condoleezza Rice.

Steyn dismissed Rice’s assertion that existing international law was unsuited for dealing with twenty-first century terrorism, and said her claim that the US was not involved in torture could not be sustained.

“Specifically, when you refer to torture it is very important to know what is meant by torture,” he said. “I’m speaking purely as a lawyer. The US administration has adopted a definition of torture which is extremely narrow. It involves causing death, total organ failure and so forth. The true definition is much wider and it includes coercive questioning.”

Questioned by Snow as to whether the US military camp in Guantánamo Bay, Cuba was a “template for what is happening,” Steyn replied, “I think Guantánamo Bay is the clue to much of what we have seen unravelled even over this weekend. We have seen a scale of lawlessness unravel which in my opinion is the logical extension of Guantánamo Bay, because Guantánamo Bay involved taking prisoners from Afghanistan, and many other places, to an island where there would be a lawless black hole where they can never escape from, where they have no right to trial. This logically

is not very different from what the Americans call rendition which, in truth, is abduction. It is not authorised by international law and the connection between this and Guantánamo Bay is very close.”

Snow was asked whether Rice’s assertion that the practise of rendition was legal was valid. Steyn replied emphatically, “It is undoubtedly not legal.” All prisoners “must be dealt with in accordance with the Geneva Conventions,” he said, and “the Geneva Convention is not something you can opt into or opt out as you like. Those are binding conventions.”

Regarding the Bush administration’s claim that those it was holding in Guantánamo and elsewhere were not prisoners of war, but illegal combatants because they did not wear uniforms, Steyn said he could not accept this. “In any event, if the Geneva Conventions are not binding, then customary international law is of the same effect.” This body of law “binds the United States and it binds the United Kingdom government,” he added.

Snow put it to Steyn that “Even the British government has gone some way to saying what is happening is legal.”

Steyn replied, “Well, it is true that the British government has said through the defence secretary that what the Americans are doing in Guantánamo Bay is legal, but that is a very surprising thing for the British government to have said. I have a copy here of what the defence secretary said. Mr Hoon said: ‘There is no doubting the legality in the way these combatants have been imprisoned.’ He added: ‘There is no doubting the legality of the US to move them for trial.’ That’s at Guantánamo Bay. That’s a very surprising thing for the British government to have said, and I’m not sure the British government would want that to be repeated today.”

Steyn accepted Snow’s point that the “international legal system has so far totally failed” to hold the Bush administration to account.

“That is true, of course,” he replied, noting that a ruling by the US Supreme Court in favour of Guantánamo detainees had been essentially reversed by a subsequent decision “to the effect that it was lawful to try these prisoners by military commissions on the island.”

The cumulative effect of Guantánamo and rendition “is lawlessness on a truly grand scale,” he continued, adding that this had set back all the precedents upholding human rights that were established after the Second World War “for a very, very long time.”

Steyn drew a direct connection to the international response to the crimes of the Nazi regime in Germany. “I’m specifically referring to Nuremberg, to the United Nations Charter, the Universal Declaration of Human Rights, the international covenants,” he continued.

He stated that the Bush administration’s flouting of international law has “hugely damaged” institutions such as the International Criminal Court. However, responsibility for this did not rest with the US alone. Those countries which had allowed the US to take such actions could also face charges of war crimes, he insisted.

The Nuremberg trials had established not only that those directly participating in torture were guilty of war crimes, he explained. “The person who authorises someone to do the beating may be guilty of torture and of a war crime. And what’s more, somebody who set up a system calculated to cause such events to take place himself could be guilty of war crimes.

“... If prisoners are tortured at Guantánamo Bay or at black sites—if they are—those who commit those acts will be guilty of war crimes, and those who authorise it can be similarly guilty of a war crime.”

Moreover, if the British government, or any others, knew that planes landing at airports under their jurisdiction contained detainees that might be tortured, “there is the risk that the British authorities may themselves be guilty of war crimes,” he said.

Steyn suggested that this might be difficult to prove retroactively. In fact, there is a wealth of evidence already in the public domain pointing to British collaboration in US renditions. It is, moreover, impossible to believe that British intelligence was unaware of the CIA flights. In any event, Britain, no less than the US, is implicated in planning and carrying out a war of aggression—the basic crime laid down in the indictment against Nazi leaders at Nuremberg.

Steyn concluded: “From a legal perspective, I would say we are at least entitled to ask of our government that it must stand up to the international rule of law, that it must do so unambiguously and publicly. That necessarily involves that there should be no kow-towing to the lawlessness of the US administration.”

In his interview, Steyn explained that one of his major concerns was that America’s actions “have outraged a very large part of the world.” He continued, “They’ve outraged the devout Muslim world, the moderate Muslim world. It is just simply a fact that events, for example, like Abu Ghraib

would have outraged moderate Muslims throughout the world.”

Steyn speaks for a section of the British bourgeoisie that fears the consequences of the unilateralist and reckless policies of the US and British governments and their open disregard for international law. As seen in his references to Nuremberg, he is concerned over the abrogation of the international legal framework that helped maintain relatively peaceful and stable relations between the major powers in the postwar period.

He is also concerned that trampling on democratic rights and undermining the authority of the judiciary threatens social and political instability at home. Steyn is now chairman of the human rights group Justice, and took a leading role in opposing the Blair government’s efforts to criminalize the act of “glorifying” terrorism, calling it an attack on free speech, as well as Prime Minister Blair’s measures to extend the period in which a person can be held without charge.

He denounced as a “fairy tale” Blair’s assertion following the July 7 terror bombings in London that “the rules of the game are changing.” The “maintenance of the rule of law is not a game,” he responded. “It is about access to justice, fundamental human rights and democratic values.”

His concerns are shaped not only by his decade as one of the country’s senior law lords. Steyn was born in South Africa in 1932. After studying at Oxford, he returned there to establish a law practice in 1958.

He has written that the country’s legalised tyranny led to him to leave once again in 1973, just three years before the Soweto uprising. As such, Steyn has had direct experience of revolutionary consequences arising from a regime that governs without democratic legitimacy. Steyn’s fear is that the Blair government, in its repudiation of long-standing democratic norms, is fatally undermining, both legally and ideologically, central pillars of bourgeois rule.



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