

Bush admits secret prisons, demands Congress sanction drumhead tribunals

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President Bush on Wednesday acknowledged the existence of secret US prisons run by the Central Intelligence Agency where detainees have been abused and denied all legal rights. Bush made clear that he had authorized the CIA prisons and insisted that they continue to operate.

This is an extraordinary admission by a US president, as the existence of secret prisons is a clear violation of international law, which requires that powers holding prisoners captured in wartime allow the International Red Cross access to all incarceration sites.

Bush's acknowledgement came in a speech in which he announced that his administration had transferred 14 prisoners from such CIA facilities to Guantánamo Bay, where they are under the auspices of the Pentagon. Bush said he was pushing for a new congressional act that would sanction military commissions to prosecute these prisoners, allegedly top lieutenants of Osama bin Laden who planned the 9/11 attacks as well as the attack on the US destroyer Cole and the bombing of two US embassies in East Africa.

The administration is pushing this bill in response to last June's ruling by the US Supreme Court, which struck down the military commissions established by executive decree shortly after September 11, 2001, on the grounds that they violated fundamental civil liberties guaranteed by the US Constitution as well as Common Article 3 of the Geneva Conventions.

The administration's bill would provide congressional sanction for the military commissions banned by the Supreme Court, retaining provisions explicitly denounced by the high court while making a verbal affirmation of the Geneva Conventions. The bill would allow the commissions to use evidence obtained through coercion as well as hearsay evidence, and deny defendants the right to see classified evidence used against them.

Employing double-talk and lies, Bush acknowledged that the CIA interrogators, having failed to pry loose information by normal means from Abu Zubaydah, one of the fourteen transferred prisoners, resorted to "an alternative set of procedures," which obtained results. In the next breath, Bush

insisted that the US "does not torture."

Not only does this empty claim contradict the acknowledgement of "alternative procedures" to extract information from resistant prisoners, it flies in the face of previous admissions by government sources that the CIA subjected its prisoners to such methods as "waterboarding"—a form of torture in which prisoners are made to think they are drowning.

As Barbara Olshansky of the Center for Constitutional Rights said in an interview on the "Democracy Now" radio program on Thursday, "the president... is asking the American public and Congress to approve a program of torture going forward."

In his speech on Wednesday, Bush called Common Article 3 "vague and undefined." The provision prohibits "cruel treatment and torture," "outrages upon personal dignity" and "humiliating and degrading treatment." It further prohibits "the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized people."

Bush warned that "some believe our military and intelligence personnel involved in capturing and questioning terrorists could now be at risk of prosecution under the War Crimes Act..."

In other words, the US has been violating international law, particularly the Geneva Conventions, and the Supreme Court ruling could expose government officials, including Bush himself, to war crimes prosecution. Therefore, Congress must pass legislation to provide a pseudo-legal cover for what the government has done and will continue to do.

There are some indications that the military commissions could be used against US citizens as well as non-citizens. The White House has stated this is not the case. However, Olshansky noted in her interview that a draft of the administration's bill previously leaked to the press used the word "people" instead of "aliens" or "non-citizens," indicating that the military commissions' jurisdiction would

extend to Americans.

Bush did not attempt to explain why these alleged terrorists could not be tried in normal civilian courts. The answer, however, is not difficult to fathom. A civilian court would be obliged to throw out all evidence extracted through torture or other illegal means, and since those held in secret CIA prisoners had been denied all due process rights, this elementary principle would exclude the entire government case against them.

Moreover, a public civilian trial would run the risk, from the standpoint of the Bush administration and the US ruling elite, of enabling the defendants to expose the illegal and abusive methods used against them.

There is a definite political logic to the administration's moves. Since 2001, the Bush administration has argued that the president, as commander in chief, has virtually unlimited powers—powers that trump constitutional rights and international law. Among the first steps in this direction were the decisions to establish the military commissions and assert that the Geneva Conventions would not apply to individuals the administration declared were members of Al Qaeda.

Since then, the government has engaged in widespread violations of international and domestic law: torture, illegal detentions (including of US citizens), extraordinary rendition, massive spying operations directed against the American population. A series of Supreme Court rulings have placed certain limits on the assertion of unlimited powers, and among these was the June ruling against the military commissions.

In its efforts to obtain congressional sanction for its military commissions, the administration has faced resistance mainly from a handful of Republican senators. John McCain, John Warner and Lindsey Graham—all of whom have close ties to sections of the military—have favored a tribunal system somewhat less brazen in its disregard for due process rights. They would, for example, bar evidence obtained through coercion as well as the use of secret evidence.

There are several factors motivating the opposition of these senators, including concerns that the open repudiation of international law is severely damaging the credibility of American imperialism and its ability to posture as a defender of democracy. It was McCain who pushed, in 2005, the Detainee Treatment Act, which ostensibly banned all inhumane methods in interrogation. (See “McCain-Bush ‘anti-torture’ measure gives legal cover for continued abuse”). There is also concern within the military that an open policy of abuse could encourage other countries to use similar tactics against captured US soldiers.

Such considerations were evidently behind pressure within

the military that led this week to the publication of a new Army Field Manual that maintains formal adherence to the language of Common Article 3 of the Geneva Conventions. The new draft also specifically prohibits certain techniques—such as the use of dogs and waterboarding—that have been employed at Abu Ghraib and by the CIA.

The Bush administration had wanted to eliminate the Geneva Convention language from the Army Field Manual. It also wanted to include a secret, classified appendix that would allow for more abusive techniques.

The answer of the administration to its evident defeat on this issue is to more aggressively assert its right to torture under the auspices of the Central Intelligence Agency, which is not covered by the Army Field Manual.

By transferring alleged planners of 9/11 and other terrorist attacks from CIA custody to Guantánamo, the administration hopes to intensify pressure on Congress to pass its military commissions bill, while branding Democrats who oppose it as allies of those who plotted the mass murder of innocent Americans.

The Democrats have followed the lead of the Republican critics of the administration's military commissions bill. Senate Minority Leader Harry Reid indicated the position of his party when he praised the administration for its decision to try the 14 transferred prisoners, arguing only that the commission be set up according to a “bipartisan proposal” being drafted by the Senate Armed Services Committee.

What no one in the political establishment is raising is the extraordinary threat posed to democratic rights by the administration's proposals. All sides in the official debate accept the premises of the so-called “war on terror” and the necessity to eviscerate the Bill of Rights.



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