

# “Truth Commission” proposal on Bush crimes reveals precarious state of US democracy

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The controversy generated by Senator Patrick Leahy's effort to organize a "truth commission" to probe the illegal activities carried out by the Bush administration underscores the fragility of social relations in the US and the real threat of police-state dictatorship.

The Vermont Democrat, chairman of the Senate Judiciary Committee, presided over a hearing March 4 in Washington at which a number of witnesses discussed the pros and cons of the truth commission proposal.

The Obama administration has signaled its hostility to the idea. At a February 9 press conference the new president commented, "Generally speaking, I'm more interested in looking forward than I am in looking backwards." A senior Obama administration official told *Newsweek's* Michael Isikoff this week that the truth commission was "a distraction. ... At a time when we are trying to get health-care, energy and other proposals through—and you need bipartisan support—looking backward only generates more partisan opposition and noise."

The absence of enthusiasm among Democrats, the open hostility of Republicans and the media's lack of interest combined to give Wednesday's hearing something of a farcical character. According to the *Washington Post*, "About half of the audience seats in the committee room were full. The press tables: mostly empty.... Of the 19 members of the committee, only three, including Leahy, the chairman, bothered to question the witnesses." These were "solid signs," observed the *Post*, that "the Truth Commission was foundering on the shoals of indifference."

The enormous crimes of the Bush administration are well-documented, including the launching of an aggressive war on the basis of lies; the torture and abuse of prisoners in Iraq, Afghanistan, Guantánamo Bay and a host of secret sites around the globe, and the use of illegal wiretapping against US citizens and other flagrant violations of democratic rights. There is no shortage of statutes under which George W. Bush, former Vice President Dick Cheney and others could be prosecuted.

The Democrats in Congress were accomplices to the criminality, and now the Obama administration, with minor

adjustments, intends to continue these policies. In addition to dispatching more troops to an expanding neo-colonial war in Afghanistan and Pakistan, the new government has recently intervened in several court cases involving torture and illegal wiretapping, defending the previous administration's actions and invoking "state secrets privilege" to argue that the cases should not even be heard.

Newly-appointed CIA director Leon Panetta reassured his employees this Thursday in an email, according to media accounts, that those who took part in "harsh" interrogations "are not in danger of being punished."

Leahy's project of a truth commission has the character largely of damage control. On the one hand, there is public opinion to assuage—some two-thirds of the population in polls support an inquiry into Bush administration abuses. On the other, Leahy and sections of the political elite are anxious that America's image overseas be repaired through a ritualized admission that "mistakes" were made.

In his opening statement, Leahy declared that "Nothing has done more to damage America's place in the world than the revelation that this nation stretched the law and the bounds of executive power to authorize torture and cruel treatment." He went on, however, to chide those who were "fixated on prosecution" and propose "a middle ground to get to the truth of what went on during the last several years, in a way that invites cooperation."

Thomas Pickering, former US ambassador to the United Nations under President George H. W. Bush and career diplomat, echoed these sentiments: "To the extent that the Guantánamo detention camp, Abu Ghraib, secret detention sites, and torture and abuse enhance the efforts of our adversaries to recruit others to join their ranks and to make a case against us, we cannot simply turn the page. We must engage in a genuine effort to take stock of these policies and actions. We must acknowledge any mistakes that were made and commit not to repeat them."

Republican Senator Arlen Specter of Pennsylvania, the ranking minority member of the judiciary committee, opposed the call for a truth commission and instead proposed that if

there were evidence of criminal conduct, the wrongdoers ought to be prosecuted. He argued, "You have a Department of Justice that is fully capable of conducting an investigation."

Referring to the recently released memos written by officials in the Bush Justice Department's Office of Legal Counsel, which essentially authorized the establishment of dictatorial rule, Specter called them "shocking" and suggested that the OLC officials' actions "may fall within criminal conduct."

Witnesses opposed to the truth commission idea at Leahy's hearings, including former Reagan and Bush justice department official David Rivkin, made comments along similar lines.

A criminal investigation is precisely what the Democrats do not want to pursue, and Specter and the Republicans know it. The Pennsylvania senator is calling Leahy's bluff, fully cognizant that the Obama administration will not allow such investigations or indictments.

Leahy responded to Specter's comments about prosecutions of wrongdoing with "Be careful what you wish for," but this is simply hot air. His own offer of immunity to those who might testify before such a truth commission and his calls for "cooperation," not indictments, reveal the more than half-hearted nature of the effort.

Michael Ratner, president of the Center for Constitutional Rights, told the radio program *Democracy Now!*, "I think essentially that the Leahy commission is an excuse for non-prosecution. ... [I]n the face of what we've seen in this country, which is essentially a coup d'état, a presidential dictatorship and torture, it's essentially a mouse-like reaction to what we've seen. And it's being set up really by a liberal establishment that is really, in some ways, in many ways, on the same page as the establishment that actually carried out these laws. And it's saying, 'OK, let's expose it, and then let's move on.'"

Constitutional scholar Jonathan Turley commented on his blog: "What is most disturbing is the contemporary effort to avoid a criminal investigation of war crimes in favor of a Truth and Reconciliation Commission. ... We are a nation of laws. Bush officials have already confirmed the acts of torture and we are obligated by treaty to prosecute such war crimes."

Whether or not Leahy's commission ever sees the light of day, the very suggestion that such a body be set up in the US is significant and revealing. Historically, truth commissions have been organized in countries emerging from military dictatorships, other types of authoritarian regimes or civil war. The best known, perhaps, were established in Chile and South Africa.

In those cases, new bourgeois administrations, operating on the basis of fragile "democratic" institutions, sought to appease popular outrage by exposing some of the misdeeds of the old regimes while allowing the military (in Chile) or *apartheid* (in South Africa) criminals to get off scot-free. In effect, the commissions codified the fact that the offending officials were too powerful and too well-connected to prosecute. The Leahy commission likewise would offer a blanket amnesty to Bush,

Cheney and other figures who conspired to do away with the Constitution and set up a presidential dictatorship.

In this regard, the testimony at last Wednesday's Judiciary Committee hearing offered by Jeremy A. Rabkin, an ultra-right law professor at George Mason University, was especially telling. An opponent of the truth commission proposal, Rabkin, in his prepared statement, briefly discussed the experiences in Chile and South Africa. He noted as well that in numerous countries, "truth commissions were established as an alternative to prosecutions because prosecutions would have endangered precarious transitions to democratic (or civilian) government."

Rabkin continued: "We are not remotely in that situation in the United States. If actual crimes were committed by officials of the Bush administration, there is no reason at all why they cannot be prosecuted in the ordinary way we prosecute crimes. ... It is absurd to imagine that the Obama administration might have to fear a military coup—or even violent protests across America by talk-radio listeners—for proceeding with prosecutions where the Justice Department thinks they are appropriate."

Professor Rabkin protests too much. Whether or not a military coup would be attempted in response to the prosecution of Bush administration or CIA officials, the very fact that Rabkin feels obliged to deny such a possibility speaks to the advanced decay of democratic rule in America. These are the topics of conversation in official circles.

The driving force of this process is the immense social divide in the US, the accelerating economic crisis and the precipitous decline in particular of American capitalism. The mounting social contradictions cannot be reconciled with Constitutional rights and democratic norms. Leahy's "truth commission" will do nothing to halt these explosive tendencies.



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