

Island of Law's Souls

Contributed by Albert Bates
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"What is the law?"
Dr. Moreau

Browsing the torture authorization memos released last week, and also getting confirmation that Bush-Cheney-Rumsfeld-Rice-Tenet-Ashcroft-Gonzales-Addington-Bybee-Yoo-Bradbury-Feith-Chertoff-Rizzo-Muller-Hadley-Libby-Holder&your-name-goes-here tortured women and children , such as waterboarding Khaled Sheikh Mohammed 3 times daily for a month, forcing prisoners to stand up for 11 days, or forcing them to line up and masturbate for hours in front of female National Guard troops, or crushing young boys testicles, which really shouldn't be that surprising, because it is just a continuation of the pathology that began when little George would stuff a firecracker up the rectum of a frog, light it and hang around for fun part. Which itself is just the Republican version of throwing a silver dollar across the Delaware, or chopping down the cherry tree, right? If you can paint Reagan as a cowboy hero you can do anything. But Reagan was just into old movies. Dick and George were into racier fare. Now that the CIA cleaned out their hot video collection the boxed set you have to go to Crawford, Texas or Aspen, Colorado to get the screaming in full surround.

Spoke President Barack Obama on April 16, 2009:

In releasing these memos, it is our intention to assure those who carried out their duties relying in good faith upon legal advice from the Department of Justice that they will not be subject to prosecution. The United States is a nation of laws. My Administration will always act in accordance with those laws, and with an unshakeable commitment to our ideals. Okay, then, so what laws is the United States required to follow?

Geneva Conventions

Article 7. The official position of defendants, whether as Heads of State or responsible officials in Government Departments, shall not be considered as freeing them from responsibility or mitigating punishment.

Article 8. The fact that the Defendant acted pursuant to order of his Government or of a superior shall not free him from responsibility, but may be considered in mitigation of punishment if the Tribunal determines that justice so requires. UN General Assembly Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984, ratified by the US Senate, placing it on a legal par with a federal criminal statute):

Article 2: countries under the Convention are obliged to take effective legislative, administrative, judicial and other measures to prevent acts of torture.

Articles 5 through 7: it is a well-established principle of state-conditioned universal jurisdiction that a state party to the Convention is obliged to either institute criminal proceedings against the torturer or to extradite the person to another state to stand trial there. The principles of jurisdiction based on nationality or territoriality do not constrain these precepts.

Article 7(1) imposes upon every state that is a party to this Convention a solemn duty to extradite anyone found in its jurisdiction whom is alleged to have committed torture or to submit the case to its competent authorities for the purpose of prosecution.

Article 12 requires the parties to the Convention to promptly and impartially investigate allegations of torture. Moreover, the state must investigate the prospect of torture practices within its jurisdiction if there [are] reasonable grounds to believe that an act of torture has been committed.

The prosecution of Donald Rumsfeld in Germany was halted by a judge who said that jurisdiction lay in the first instance with the United States, and absent any indication that the United States would not prosecute, the case was suspended. The German court is now being petitioned by international human rights organizations to re-open that case.

In Spain, the judge who prosecuted Augusto Pinochet this past week defied the Spanish political leadership and kept alive an investigation into whether Jay Bybee, Alberto Gonzales and other Cheney flaks broke international law when they crafted the illegal interrogation guidelines. High officials are far from exempt, and if you offer a particularly weak link Gonzales, say a lenient plea, who knows where it might lead? Defense from these prosecutions are now the rear-guard action Leon Panetta, Dick Armie, Eric Holder and others are frantically entrenching for.

Unfortunately for them, Congress passed the Joint Resolution Regarding Opposition of the United States to the Practice of Torture by Foreign Governments in 1984. That law requires the United States to work with other governments and international NGOs to combat the practice of torture worldwide. It would include CIA surrogate torture cells at black sites in Afghanistan, Uzbekistan, Poland, Syria or elsewhere.

The prima facie documented evidence released this year shows that the ex-President and his Cabinet were directly

involved in patently illegal activities, including torture and war crimes.

For the Obama administration to meaningfully reassert the rule of law in the United States, a full investigation and prosecution is required, however and this is where it gets interesting it is not necessary for the US to do it. It just can t obstruct. Our judges have to extradite the defendants, regardless of who they are, to countries which do prosecute. That is what happened to Pinochet. It may be happening again now.

Personally, given the economic mess we are in, I suspect that show trials of historic significance (a la Nuremberg, the Nixon and Clinton impeachments and the O.J. trial) would provide an amusing divertissement that could rescue newspapers, take the spotlight off the Treasury bailout debacle, and maybe even pry a school-and-TV-dulled populace away from American Idol. If they can link in frequent trial updates with dramatic plot twists such as Diebold-rigged presidential elections, energetic-nanocomposite girder insulation, nanocomposite-weaponized anthrax, the mysterious death of Paul Wellstone, and White House death squads operating within the US and abroad, (no tinfoil hats in any of that, these are all matters of public record now), I might even go out and get a new TV myself. That s entertainment!

Dr. Moreau: What is the law?

Sayer of the Law: Not to eat meat, that is the law. Are we not men?

Beasts (in unison): Are we not men?

Dr. Moreau: What is the law?

Sayer of the Law: Not to go on all fours, that is the law. Are we not men?

Beasts (in unison): Are we not men?

Dr. Moreau: What is the law?

Sayer of the Law: Not to spill blood, that is the law. Are we not men?

Beasts (in unison): Are we not men?

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