

Tribunal Decision: Bush, Cheney Rumsfeld and 5 Others Responsible for War Crimes

Prosecution's Comment on Decision of KL War Crimes Tribunal

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PROSECUTION'S COMMENT ON THE DECISION IN KUALA LUMPUR WAR CRIMES TRIBUNAL CASE NO 2: CHIEF PROSECUTOR V BUSH, CHENEY, RUMSFELD & 5 OTHERS

The decision today by the KL War Crimes Tribunal has vindicated the integrity of international law. Its unanimous 5-Judges panel decision has resoundingly – like the 4 decisions of the US Supreme Court – declared that it is not for the President of the US to refashion international humanitarian law to suit the country's own illegal ends. In particular the decision makes clear that the President of the US and his cohorts cannot authorise the infliction of torturous acts – in violation of international law, including the Convention on Torture and the Geneva Conventions. As the trial showed, Bush, Cheney and Rumsfeld, with the support and connivance of their legal advisors, threw their captives into a legal black hole, locking them for years in a constitutional limbo. They asserted – but refused to prove – that their captives were guilty of crimes. And tortured them in ways that defies belief.

What is the effect of this decision? As the highest UK Court decided when it refused immunity to Pinochet, the former Chilean President: torture is a universal crime. It is an international war crime against all of mankind. The judges there said that international law makes clear that there is no safe haven for those who carry out or order torture. And that there is an obligation by States to capture and try war criminals if they enter their countries. Indeed the courts in some countries – like Spain and Germany – have already initiated such action.

Now countries will have this conviction – which also so declared – to support any such action they may wish to take. We must emphasise that this trial was carried out with scrupulous regard to fairness and justice on the basis of rules established by the Nuremberg Charter and the International Criminal Court. Although duly served, the accused chose not to be represented, and in accordance with rules for international tribunals, a defence team was appointed on their behalf as *amici curiae*. In addition the memoirs of Bush, Cheney and Rumsfeld, were supplied and cited to the court – which presented their versions and justifications of events. In a sense they “spoke” to the Tribunal through their writings.

How long before war criminals are brought to book? It took many years before some Nazi war criminals were indicted and finally convicted. Pinochet was arrested and arraigned

before a UK court while in London for medical treatment some 8 years after he ended his term as President. For some more powerful persons it may well take longer. But the message is clear: anytime, anywhere, those convicted today for war crimes, may be similarly arrested and charged.

Thus may the rule of international law be vindicated. And justice restored for those they threw into a legal black hole and tortured so viciously.

Dated at Kuala Lumpur 11 May 2012.

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Chief Prosecutor

KL War Crimes Tribunal

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