

# War Crimes perpetrated under Democratic and Republican administrations: George Bush versus Bill Clinton

## The Rule of International Criminal Law

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### From Calgary to Toronto

Just as fresh revelations keep oozing out about the broad extent of the international criminality perpetrated by the regime of the former US president, Canada is becoming the main site of a corporate-driven effort to re-brand George W. Bush as a legitimate political pundit. On May 29 Mr. Bush joins Bill Clinton on the stage of the Metropolitan Toronto Convention Centre in an event hosted by the TD Financial Group and several other sponsors. The hosts include the Calgary-based Bennett Jones law firm, the global accounting giant Ernst and Young, the Toronto Board of Trade as well as the Toronto-based Globe and Mail newspaper.

The Clinton-Bush gig in Canada's biggest metropolis is happening about a month after the former president "tested the waters" as a public speaker by addressing an audience of 1,400 executives of mostly Texas-based oil conglomerates in an event hosted by Calgary's Chamber of Commerce. Bush's luncheon address was accompanied by the protests of several hundred demonstrators who advanced the case that there is a huge body of evidence already in the public domain that should be sufficient to prohibit Bush from entering Canada or, failing that, to necessitate his arrest on Canadian soil. In a widely published article, which I introduced in early March at an invited lecture at the University of Winnipeg, I outlined the legal and political terrain underlying Bush's first major public foray outside the United States. That paper, which has proliferated widely on many Internet sites, is entitled "Bush League Justice: Should George W. Bush Be Arrested in Calgary Alberta and Tried for International Crimes."

My academic intervention was one part of a larger collective effort aimed at advancing the case that the international crimes of George W. Bush and many of his ministers and advisers have been so obvious and gigantic that citizens must mobilize globally to insist that the rule of international criminal law should be made to prevail over the rule of force and political expediency. Many of the core legal principles awaiting enforcement are those that coalesced in the course of the Nuremberg War Crimes Tribunal. Its chief prosecutor, the renowned US jurist Robert Jackson, initiated the proceedings in 1945 by insisting that humanity's future depended on removing "immunity for practically everyone concerned in the really great crimes against peace and mankind." No longer could "so vast an area of legal irresponsibility" be "tolerated" because "because modern civilization puts unlimited weapons of destruction in the hands of men."

In advancing the legal conception of universal jurisdiction the Canadian government, like that of many other countries, has internalized many elements of international criminal law into domestic legislation. Invoking key provisions of both the Immigration Act and Canada's War Crimes and Crimes Against Humanity Act, Gail Davidson of Lawyers Against War informed Crown Ministers and law enforcement officials prior to the Calgary event that "the former President of the United States and Commander in Chief of the U.S. Armed Forces, is a person credibly accused of torture and other gross human rights violations, crimes against humanity and war crimes." A number of other prominent jurists, including Ramsay Clark, former Attorney General of the United States, backed and extended Davidson's legal intervention.

Clark's friend and client, Splitting The Sky, was handed the responsibility of representing the legendary US jurist's position in the Calgary protests. This prominent Mohawk veteran of the American Indian Movement, the Attica prison debacle of 1971 and British Columbia's Battle of Gustafsen Lake was charged and briefly jailed in Calgary as a result of his concerted effort to conduct a citizen's arrest. As Clark's controversial client will argue in an important trial that has been set to take place in Calgary in March of 2010, citizens have a responsibility to intervene proactively when law enforcement officials refuse to do their duty and thereby end up aiding and abetting criminality. As the Nuremberg rulings make clear, law enforcement officials cannot evade their own responsibility for aiding and abetting international crimes by claiming that they are simply following orders.

Only days after Bush was in Calgary the very same law laws that were overtly violated in permitting the credibly accused war criminal to enter the country were invoked in barring from entry George Galloway, a long-serving British parliamentarian, an untiring peace activist and one of the world's most eloquent champions of Palestinian rights. This decision serves to highlight the propensity of Bush's friend and ally, Prime Minister Stephen Harper, to replicate his role model's zeal in placing himself as well as his Office on the wrong side of the rule of law when it comes to the pursuit of political objectives.

Left versus Right as a Substitute for Law versus Criminality, Peace with Justice versus War Without End

The so-called "conversation" between former presidents comes at a time when hundreds of millions of global citizens have developed the view of George W. Bush as the very embodiment of the rampant criminality that has been spewing unchecked and without accountability from the highest echelons of political, military and financial power especially since the explosive events of September 11, 2001. Al Capone's Chicago was a mere kindergarten of lawlessness compared to the amount of corruption and violence generated on a daily basis primarily by those states and corporations that have become chief protagonists in building up and exploiting the lethal yet lucrative terror economy.

In the eyes of the huge and growing constituency who can no longer stomach the maelstroms of murder and mayhem wrought in our name, the lecture circuit is not the appropriate place for George Bush to tell his side of the story about his actions while controlling the world's most formidable arsenals of military and psychological warfare. Along with the likes of Dick Cheney, Donald Rumsfeld, Paul Wolfowitz, and Condoleezza Rice, Bush should be presenting his self-justifications as the principle defendant in a properly constituted war crimes tribunal.

The role of Bill Clinton in the Toronto event raises a host of significant issues that should not

be evaded. While the former Democratic president enjoys a far rosier public image than that of the discredited Republican president, the reality is that Clinton too is a fugitive from the decrepit and ineffective agencies of international law enforcement. Clinton's most serious infractions involve his leading role in 1999 in NATO's illegal bombing of Serbian Yugoslavia, his tightening of the financial and trade embargo on Iraq resulting in the preventable deaths of over half a million children, and his genocidal decisions concerning how and when to intervene or not intervene in the bloody clashes of ethnically-based proxy armies and militias in Central Africa. Now a decade after Clinton helped sabotage the legitimacy of the United Nations by ignoring the Security Council's jurisdiction in the US-led military dismemberment of multinational Yugoslavia, Hilary Clinton's husband is lending the cache of his family dynasty to efforts to rehabilitate the reputation of the former Republican president who has made himself one of the most reviled individuals on the planet.

There is something fundamentally perverse in presenting Bush and Clinton on the same Toronto stage as if the main options facing humanity are available within the narrow and flawed framework of the two main political parties in the United States. In trying to come to terms with the largely unbroken legacies of the war crimes and crimes against humanity that will forever remain the main hallmark especially of Bush the Younger, we find ourselves poised between alternatives whose divergence far transcends the manufactured mythology of Republican versus Democrat, conservative versus liberal.

The two-dimensional flatness inherent in this way of viewing a world composed of three or more dimensions results in the trivialization of democracy as a mere extension of the kind of marketing competition that pits Pepsi against Coke. The managed and constrained competition in the political arena disguises the vast entitlements of a tiny minority that exercises near monopolistic control over the world's largest concentrations of wealth as well as over the huge political power that accompanies the concentrated ownership of propertied capital. The impoverishment of genuine pluralism to feed to monopolistic dichotomies of left versus right props up a rigged system that corruptly rewards the masters of spin and deceit even as it tends to discredit those seeking to point humanity towards pathways of justice, equity and self-determination. These high roads of justice and law offer the only reliable routes in the journey towards collective security through shared adherence to a genuine rule of international law enforced uniformly even on those at the very pinnacle of political, military and financial power.

The consequences of not following this high road of justice- of allowing instead the rule of political expediency to trump the rule of law by failing to identify, arrest, try and punish those most responsible for perpetrating the highest order of international crime-is to continue our descent into an increasingly pervasive state of warfare, chaos and kleptocracy. Those currently overseeing this descent may misrepresent what is really going on with the rhetoric of hope, change and collective empowerment. But without a genuine determination to make law rule prevail over the rule of force we shall continue see our individual and collective rights and freedoms subjected to unbridled militarism, intimidation and gross exploitation of fear's political economy. Nowhere does the convergence of threats with the tyranny of unregulated violence find fuller expression than in the proliferation of state-sanctioned torture.

Torture, Ethics, Law and the Future of Human Civilization

From the criminal justice system of Spain to the talk show circuit in the United States, the

Toronto event is taking place just as the abomination of torture is emerging as an issue of central importance on many juridical and political fronts. The growing chorus of voices insisting on some sort of public reckoning with the horrors inflicted by agents of the US executive branch in the torture chambers of Bagram, Abu Ghraib, Guantanamo and a host of other secret dark sites has been long gathering force. As evidenced by the Geneva Conventions and the detailed UN laws devoted to the subject, the crime of torture has engendered an especially old and elaborate body of international jurisprudence as well as a significant political constituency whose members are prone to press hard for its enforcement.

Those who insist on extending the instruments of legal accountability to the commanders and operatives of state-inflicted torture well understand that the descent into this hell of violated human dignity animates whole systems for the institutionalized imposition of abusive and illegitimate power. The proliferation of torture generally signals the sharp deterioration in the quality of the perpetrators' moral universe. A dereliction of law to pursue the travesty of torture must be understood for all that this consequential shift has to do with the further empowerment of the most powerful at the primary expense of the most disempowered and dispossessed.

The understanding that state-inflicted torture is the persistent hallmark of the most ruthless forms of tyranny has coalesced again and again in the genesis of the international law for the prevention and punishment of torture. In the late 1950s and early 1960s, for instance, the civil harmony of France was obliterated as the likes of Henri Alleg, Jean Paul Sartre and Albert Camus helped report and interpret the depravity of officialdom in their resort to torture as an expedient to maintain French imperial rule in Algeria.

In recent weeks the many interventions of Dick Cheney have helped to inflame the debate as the former US Vice-President has commandeered great quantities of air time in his zeal to prevent the type of probing investigations that might very well land him and his cronies in jail. Cheney's campaign to justify state-inflicted torture as a necessary and evil expedient of the post-9/11 world constitutes a classic case of a former public official protesting too loudly and too belligerently. There is ample reason to suspect that the bravado of this former CEO of Halliburton Corporation is meant to cloak Cheney's appreciation of his own vulnerability as the official who best epitomizes the unchecked gangsterism that thrived in the dark shadows of George Bush's White House. The depth of Cheney's thinly disguised desperation is suggested by his willingness to put his own daughter Liz in harm's way. The former vice-president has effectively deputized her as his advocate in his dubious campaign to prevent the rule of law from being enforced on his own his actions and those of cronies. The lawlessness of their conduct took place over a eight-year period when Cheney and company were extended virtually unlimited latitude to act in their own self-interest in the name of the US Commander-In-Chief.

The Cheney family's efforts have probably been a factor in the decision of President Barack Obama to invoke his own executive power to slow the flood of new information coming to light about the scope and extent of US torture perpetrated in the name of the Global War on Terror. Obama's decision to favour cover up over transparency was underlined in his recent determination to prevent the open dissemination of a number of still-unreleased photos and videos documenting the precise nature of the human rights violations that have taken place in the United States' own torture chambers and as well as in those of the failing superpower's well armed puppet regimes. While the current US president has suggested there is nothing new or remarkable in the suppressed images, his reassurances have not put

a lid on continuing allegations that the US executive branch is hiding the pictorial record of children in US custody being brutally sodomized in front of their parents.

The growing controversy over the law and politics surrounding the international crime of torture adds acid to the steady corrosion of the official narrative underlying the so-called Global War on Terror. This process finds especially clear expression in the revelations surrounding the case of Ibn Shaikh al-Libi. As revealed by Lawrence B. Wilkerson, former chief staff of the US State Department under Colin Powell, al-Libi was tortured in Egypt in April and May of 2002, “well before” the Justice Department had rendered any legal opinion” on the character and content of torture. The objective of this resort to torture was not to gain information about another terrorist attack on the United States but rather to force the victim to declare a connection between the Iraqi government of Saddam Hussein and those already blamed for the 9/11 attacks.

After being constrained in a coffin for seventeen hours and subjected to a “mock burial,” al-Libi finally put a stop to his suffering by uttering the falsehoods that his torturers were sadistically empowered by the White House to extract. Al-Libi told them that the Iraqi government had trained al-Qaeda operatives in biological and chemical warfare. This falsehood emanating from al-Libi’s bloodied and quivering lips provided the basis for the dishonest international representations made by the Bush White House at the United Nations and elsewhere during the winter of 2003 in the run up to the Bush-led invasion of Iraq. Al-Libi has recently turned up dead in a Libyan prison. The Libyan government has made the claim, questioned by many, that the prisoner took his own life.

This episode puts yet another nail in the coffin of the argument that the US government’s resort to illegal torture was all about saving civilians from catastrophe. The al-Libi case demonstrates that torture was embraced by the Bush White House not to save the innocent but rather to produce the fraudulent propaganda deployed to justify military invasions abroad and police-state incursions at home. The failure to identify torture as integral aspect of the lies and crimes entailed in Iraq’s invasion adds to the complicity of the media conglomerates in reporting as truth the Bush government’s lies that the regime of Saddam Hussein possessed weapons of mass destruction.

The role of corporate media as enablers and sugar coaters of the highest order of international crime could not be made clearer than in the sponsorship by the Globe and Mail of the Toronto encounter between Clinton and Bush. What credibility does the Globe and Mail retain after the Toronto event in its coverage of the fast breaking story of the global movement to enforce the rule of law on credibly accused war criminal George W. Bush? How likely is it that the journalists at the Globe and Mail will report fairly and objectively on the intervention of Lawyers Against War.

On May 26 LAW responded to news of the Bush-Clinton event by forwarding evidence of Bush’s authorization of torture to Prime Minister Stephen Harper, Justice Minister Rob Nicholson, Immigration Minister Jason Kenney, Public Safety Minister Peter Van Loan and the chief officers of the Royal Canadian Mounted Police. In that letter Canada’s top law enforcement officials are informed that the failure to enforce the domestic War Crimes and Crimes Against Humanity Act “violates Canada’s international law obligations.” The lawyers continue, “Such inaction denies remedies to victims, ensures impunity for perpetrators, and encourages other instances of torture.”

The zeal of those at the top echelons of power in the Bush White House to deploy the

coercive crime of torture in order fabricate the story of a connection between bin Laden and Saddam Hussein finds a further possible extension in contested reports about the existence of an executive assassination squad said to have been answerable directly to Dick Cheney. These contested reports point to the possibility that one of the reasons that the Pakistani presidential candidate, Benazir Bhutto, was murdered had to do with her blunt public statement to British broadcaster Sir David Frost that Osama bin Laden has been killed by the double agent Omar Saeed Sheikh.

Regardless of how and why Bhutto was assassinated, her bold and unequivocal assertion in November of 2007 that bin Laden is definitely dead would, if it had been properly reported rather than censored at the source by the BBC, have severely undermined the dark psyops which remain, with the involvement and complicity of the mainstream media, the primary stock in trade of the so-called War on Terror's main promoters and protagonists. News of bin Laden's death at the hands of a notorious double agent would not have served the interests of those seeking to build up the US military presence in the border region of Afghanistan and Pakistan. Accordingly, regardless of whether or not Bhutto's elimination was engineered by Cheney's hit squad or some other covert branch or contractor of the US government, her assassination helped ease the way for the new rounds of aggressive warfare being mounted in the Pakistan's Swat Valley under the leadership of President Barack Obama.

### Wallowing in an Era of Elite Gangsterism

The organizers and sponsors of the talk given by George W. Bush in Calgary advertised the supposed achievements of their invited guest in a colourful pamphlet distributed to those who had paid the \$400 entry fee to hear the former US president. In this document the claim is advanced that Bush built "global coalitions to remove violent regimes in Afghanistan and Iraq that threatened America-liberating more than 50 million people from tyranny." This characterization of history, whose sponsors include the Calgary Chamber of Commerce, the Bennet Jones law firm, Ernst and Young as well as the Frank McKenna, the Deputy Chair of the TD Bank, stands as blasphemy especially to the families of the 1.5 million killed in Bush's wars in Afghanistan and Iraq, the 6,000,000 internally or externally displaced Iraqis, and the many millions more who have been maimed, tortured and forever damaged by the violence committed in the name of an implausible and specious official interpretation of what transpired in New York and Washington on September 11, 2001.

No amount of corporate fluff and propaganda can change the reality that both George Bush and Bill Clinton are both guilty of leading aggressive wars. Their wars were clearly not expressions of self-defense nor were they authorized by the Security Council of the United Nations, the sole agency with the capacity to sanction legal warfare. As belligerents both Clinton and Bush have wallowed in the shame and depravity of the supreme international crime. I draw the language of this accusation from the most important war crimes tribunal ever assembled. In sentencing some of the convicted Nazis the judges at Nuremberg established the principle that "to initiate a war of aggression.... is not only an international crime. It is the supreme international crime differing from other war crimes in that it contains within itself the accumulated evil of the whole." [my emphasis]

The Nuremberg rulings were refined and distilled in 1950 at the United Nations into principles that point with precision to exactly the kinds of illegal acts that have proliferated in the name of the Global War on Terror. One of the Nuremberg Principles stipulates, "The fact that a person who committed an act which constitutes a crime under international law acted as a Head of State or responsible government official does not relieve him from

responsibility under international law.”

The many international crimes that are already known to have taken place at Abu Ghraib, Bagram and Guantanamo Bay under George W. Bush’s signing authority stand at the proverbial tip of an as-yet-largely-uninvestigated iceberg. Images of the cruel lawlessness that thrived in these violent sites of attempted empire building do not conform well with the wall-to-wall spin doctoring producing the massively replicated lies, distortions and strategic omissions that constitute the mental staple of the media conglomerates at the core of the global infoentertainment industry.

The lawlessness being confronted by Lawyers Against War and many hundreds of other organizations in civil society have nothing to do with the doctrinaire marketing of so-called law and order as regularly glorified in the gutter media by fear’s political merchants. The crimes being addressed, rather, are part of a global epidemic of elite gangersterism that has been allowed to go unchecked in the bombing missions, torture chambers and concentration camps whose governance often leads back to the corporate board rooms where many of the core decisions of the military-industrial complex and the national security state are made.

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