

What You Can Do to Put Bush and Cheney Behind Bars

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Remarks on September 14, 2008, at Justice Robert Jackson Conference on Planning for the Prosecution of High Level American War Criminals, Andover, Massachusetts.

I want to thank Dean Lawrence Velvel and also Sherwood Ross and Jeff Demers for putting this event together.

These remarks are posted at the top of AfterDowningStreet.org in a version that has links to materials and action pages that I reference. So you don't have to catch everything I say.

I want everyone in this room to please do something before going to sleep tonight. Take a look at Alan Dershowitz's op-ed in Friday's Wall Street Journal and send a letter to the editor responding to it in your own words. It can be a sentence or three paragraphs. It should be polite and include all of your contact info. You'll find links to the op-ed and the Email address in the version of these remarks at the top of AfterDowningStreet.org. Dershowitz thinks the rule of law is no more important than preventing a situation in which a prosecution results from an election, so he wants Obama not to prosecute. But he could have had both that result and the rule of law by asking Mukasey or McCain to prosecute. Dershowitz also suggests that the crimes of Bush and Cheney, IF there have been any, are no worse than those of any previous administration.

After you write to the Wall Street Journal objecting to Dershowitz's op-ed, please copy it from the Wall Street Journal's website and send it to the editorial page editor of your local newspaper asking when they are going to publish an editorial on the topic. They are far more likely to do that than to print a column favoring prosecution, and if they do they begin a debate they cannot win.

Tomorrow, Monday, September 15th, please go to <http://ConvictBushCheney.org> and do everything it says to do there. The first link will take you to a page that lays out Vince Bugliosi's basic argument with an important addition. The fact is that many gold star families will oppose prosecution, but if we open the field up (admittedly as a second choice) to prosecuting attempted murder as well as murder, we may be able to work with any Iraq War veteran. You will find on the website a list of cities where we know gold star families who want to prosecute for murder, a list of cities where we know Iraq veterans who want to prosecute for attempted murder, a list of states and cities where we know of candidates for the office of prosecutor who want to prosecute, and a list of states and cities where we know of prosecutors who want to prosecute. You will also find a sample letter to send to your state and local prosecutors. Please do so.

The first argument the corporate media will use to attack this effort will be the one found in

the title of Dershowitz's column, the false claim that what you and I care about is vengeance and retribution. There is a way we can weaken that attack and make clear that our motivation is deterrence. We can oppose in the strongest terms the use of the death penalty. The death penalty does not deter. Rather it teaches that violence and revenge are right and good, and it is that mindset that people like Bush and Cheney exploit and without which they never could have launched these wars. What I want is to see Bush and Cheney behind bars for decades and communicating their regrets to their successors.

The second link you'll find at <http://ConvictBushCheney.org> takes you to a page documenting the roles of the various lawyers and advisors and providing you with a how-to kit on making a citizen's arrest. In July Judge William Price in Iowa heard the case of people arrested for trying to make a citizen's arrest of Karl Rove. When he was told what they had done, he said "Well, it's about time!" There is also information there and more to be added soon on filing complaints, removing from state bars, and denying tenure at universities. And I support academic freedom, but using that to defend John Yoo is as misguided as using confidentiality of sources to defend Judith Miller. A liar is not a source. And a facilitator of torture about whom the evidence is public knowledge has lost the right to freedom of any sort, academic or otherwise.

The third link you'll find at ConvictBushCheney.org tells you how to Email or mail the International Criminal Court requesting prosecution, and what points you can use to persuade them.

The fourth link will take you to a kit for passing an ordinance in your town, as Brattleboro, Vt., has done, committing your police to arrest Bush or Cheney if they set foot in the area.

The fifth link is to conviction theme music. No revolutions without dancing, remember.

The sixth link is to buy an ARREST BUSH T-shirt, which is a major way in which you can reach people.

That's six jobs for Monday.

On Tuesday, September 16th, our task is to define the power of the presidential pardon. We can start on Tuesday morning by all making three phone calls to (202) 224-3121 and asking for our representative and then our two senators. What we want is for them to immediately introduce a bill stating roughly this:

The presidential pardon power shall not include the power to self-pardon the president, or to pardon any staff or contractors of the executive branch, including the vice president, of crimes authorized by the president, or to preemptively pardon any individuals of crimes for which they have not yet been convicted.

If they tell you there is not time to pass it, tell them that the point is not to pass it. It would be vetoed or signing statemented or ignored. The failure of this Congress to recognize two years ago that there was nothing to be gained by passing bills has resulted in a great many deaths and tremendous suffering. The point is to get 100 cosponsors onto the thing in a week and put the issue of pardons into the news, and that is completely achievable, and the bill can be reintroduced in the next Congress.

Also on Tuesday, contact the Obama and McCain campaigns, their local offices and national,

their discussion forums and staff. Find out when they will be in your area. Find out what groups are working on bird-dogging them, what groups are submitting surveys to them, etc. Plan any possible way in which you can insist that they publicly oppose the idea of presidential self-pardons and preemptive pardons. The purpose of this is not to use our issue to influence the all-important eighth consecutive Most Important Election of Your Lifetime. The purpose is to use the election to advance something much larger than any single election, the future life of a government of laws rather than a government of men and women.

Wednesday, September 17th, is Constitution Day. If you think we did a lot of work on Monday and Tuesday, you'd better eat a hearty breakfast on Wednesday. Let's start by correcting two widespread beliefs. One is that the Clinton impeachment process took roughly forever. The other is that the Bush-Cheney era is more or less over. If these myths were both true, then four months would equal both eternity and nothing. I'm not a scientist, but I'm guessing that's wrong. Another myth is that we need more information about the crimes of Bush and Cheney. We do not. We need to deter imitation of their crimes, and the fact is that they could be impeached in a morning and convicted the same afternoon. A little creative thinking is enough to realize that pressing for impeachment advances justice whether or not we get to impeachment.

We like to put our creativity into defeatism. When Bush came to Thomas Jefferson's house Monticello this past July 4th a bunch of us who live near there decided to go protest him. And we did, and the protest was in the news around the world and was not reported in the horrible ways some people feared it would be. Some refused to protest because the day's events included a naturalization ceremony for new citizens, and they feared the media would claim they were protesting that. Others refused to protest because Jefferson owned slaves and they feared the media would say they were defending Jefferson. I counted about 14 creative excuses not to act, each one stupider than the next. None were as stupid, though, as refusing to demand impeachment because Pelosi claims she doesn't have the votes. She would have the votes if she asked for them and threatened and bribed for them, as she does for pro-war votes, and a failed impeachment would advance justice far beyond no impeachment at all.

We are told by our televisions and radios every day to stop being citizens and start being pundits and amateur strategists. We have to resist the desire to be pseudo-wise and predict failures. Every good thing ever done in this world has been predicted to fail. Our job is to act.

So, on Constitution Day, go to Washington, or call your representative and demand impeachment. Explain to them the electoral advantage, which is all they care about. Tell them we need the pressure to discourage pardons. Tell them that we need the pressure to discourage crimes and wars during the next four months. Tell them that we need impeachment after the election if not before, after the new Congress starts if not before, after Bush and Cheney leave office if not before, and after they are dead if not before, and that the movement to make it happen will only grow. Tell them that pardons are not the only danger. When Bush and Cheney are dragged into court, we do not want them to be able to say that the people of this country never impeached them. We want an impeachment to strengthen a prosecution.

If Congress will not impeach, will it commit to reissuing the subpoenas and contempt citations in the next Congress that were mocked and ignored during this one? Call the

committee chairs and party leadership and Obama and McCain.

The appeals courts are going to dump the responsibility to enforce subpoenas right back where it always belonged, on Congress. Since the day this country began, Congress — either house and any committee — has had the power of inherent contempt, the power to send the Capitol Police to arrest and detain people for contempt of Congress. It's been almost 75 years since Congress used this power, but it can use it now with Rove, Miers, et alia, or we can declare Congressional oversight dead. And you can kiss your truth and reconciliation commission goodbye too, because we can't give subpoena power to a new institution if we don't have it to give.

Before the business day ends on Wednesday, please do one more thing. Contact some New Hampshire state legislators to urge them to support HR24 on September 24th, which would require the state of New Hampshire to ask Congress to impeach. Yes, of course, Congress might not impeach. But we might elect a few better members to Congress, maybe even from New Hampshire.

On Thursday, let's devote our time to getting organized. There are almost no people in this room who are not white. The median age in this room doesn't exactly suggest Sarah Palin levels of inexperience. Groups working on domestic issues are overwhelmingly outnumbered by groups working on international issues. And yet there are not enough people here from outside the country. We need to build alliances across all of these lines, and make the connections between torture in Gitmo and torture in a U.S. police station, the need to videotape interrogations in Iraq and in Illinois. We need to identify where all the money we need for a million useful things has gone. And we need to focus on wars of aggression, not just specific smaller war crimes. Doing so will bring people into our movement, and deterring wars of aggression is precisely what we have to do to survive. I recommend devoting exactly zero minutes to reading academics who try to distinguish humanitarian wars of aggression from the bad wars of aggression. Instead devote as much time as possible to explaining the simple and accurate concept of a war of aggression to others you can reach.

I also think we should consider the possibilities for prosecution opened up by the full range of crimes, and I've linked to a list of them, including illegal propaganda, illegal spying, mispending of funds, election fraud, etc., etc.

As we reach out to groups and build coalitions, I think we should consider ways to fund lawsuits, but also ways to set up a fund to guarantee the safety and legal defense and financial well-being of whistleblowers. I'm inclined to think that could be done in a way that would have far greater results than decades of Congressional hearings.

Friday, September 19th is the monthly Iraq Moratorium day, which means that at <http://iraqmoratorium.com> you can find events planned all over the country opposing the occupation of Iraq. Please go to one. Meet the organizers. Ask them to work with you on prosecuting Bush and Cheney. You'll also find that the people doing these sorts of events tend to understand the weakest link in our civil society, which is the media. We have to learn to build our own media and support media outlets that support us. With all due respect to all the admirable groups that have bought advertisements in the corporate newspapers that daily destroy all that is good in the world, you can fund those beasts but you'd do as much good for yourself by going hunting with Dick Cheney.

Saturday the 20th is the Million Doors for Peace day, which means that at <http://www.milliondoorsforpeace.org> you can find people in your neighborhood making plans to knock on doors and talk with people about peace. Make flyers about prosecution and bring them along. Add that to the conversation.

And start conversations with peace groups about law suits they can file themselves, with your help. This past May 13th, the Rutgers/Newark Constitutional Litigation Clinic in New Jersey filed suit in the Federal District Court in Newark on behalf of New Jersey Peace Action against President Bush over the War in Iraq. The Complaint seeks a Declaratory Judgment that the President's decision to launch a preemptive war against a sovereign nation violated Article I, Section 8 of the Constitution, which assigns to Congress the power to declare war.

Elizabeth de la Vega tells me there is a procedure called Qui Tam in the federal false claims act that allows individuals to sue if the government spends money fraudulently. This could potentially include not just fraudulent contracts to Halliburton but nonfraudulent contracts in a fraudulent war and a war begun secretly with funds appropriated for other things.

We also haven't talked about suing contractors for torture, but such suits are underway. We need to look into all such possibilities with attorneys and organizations in our states and our circle of contacts.

September 21st is a Sunday, but we can forget about resting. Let's devote the day to getting ourselves straight with the coming elections. That means funding pro-impeachment and prosecution candidates for Congress. I've linked to a list of over 100. And send photocopies of the checks you mail them to the other candidates and the media. It means assisting the Velvet Revolution with its ongoing lawsuit in Ohio attempting to depose key players in the election fraud of 2004. And it means getting prepared mentally and helping others get prepared mentally for the outcome of the election.

It is likely to be close, and it is likely to be stolen. If the guy you really want to lose wins, the world will not be over. Nobody can stop us from restoring democratic rights if we set our minds to it. If the guy you think is the better of the two choices wins, nothing is won in terms of serious checks on presidential power and our job is just beginning. But if the election appears stolen, let's recognize that crime as what it is: the supreme domestic crime, differing only from other domestic crimes in that it contains within itself the accumulated evil of the whole.

At <http://standingforvoters.org> you can find a pledge that candidates can be asked to take, not to accept questionable election results. Regardless of the candidates, however, we should not accept questionable results. We should get organized now to immediately shut the country down until we can schedule an honest and verifiable election

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