

**INTERNATIONAL  
COMMISSION OF INQUIRY ON**

# **CRIMES AGAINST HUMANITY**

**COMMITTED BY**

**THE BUSH ADMINISTRATION  
OF THE UNITED STATES**

## **VERDICT and Findings of Fact**

**September 13, 2006**

Bush Crimes Commission  
305 West Broadway, #199  
New York, NY 10013

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# Preface

With this international commission we are looking at the crimes against humanity, which we have been experiencing for some years, ever since the Bush administration came into office, but whose antecedents really go back far into American history. It is a history of a very aggressive foreign policy, a history which starts with the extermination of the Indians driving them out of this continent, killing them, which proceeds with the invasion of Mexico, and goes on to send troops into the Caribbean and then into the Philippines. And we've seen in this post-World War II America, what was called by Henry Luce, the "American Century," the military dominance of the United States in the world.

The problem is that it has not been moral dominance. The military dominance has gone along with an immorality, which in these last years especially, has now reached the point of crime, crimes against humanity, a phrase which came into general understanding after World War II when the Nuremberg trials talked about the Nazis and their crimes against humanity. And it's a shame that we are at this point in American history where the charge that was made against the Nazis is now a charge that people all over the world, and now more and more people in the United States, are beginning to level against this administration.

Here is an administration that has taken this country into two wars in five years, ruthlessly sending troops, first into Afghanistan and then into Iraq, under the guise of a war on terrorism, but in fact waging war, carrying out acts of terrorism, against the populations of Afghanistan and Iraq. The Bush Administration has been reserving to itself the right to unilaterally act whenever it felt obliged to act, presumably in the interests of democracy and liberty, but actually in the interests of business, big business, the oil business in this instance.

I remember during the Vietnam War, there was an artist who did a poster, which was distributed by the thousands. The poster had simple words on it. It said, "War is good for business. Invest your son." That's the situation we're in now. Our sons, daughters are being invested for business purposes. People all over the world know this, and now the American people recognize the immorality of what we are doing.

The destruction of life abroad is accompanied by the destruction of our liberties at home. Whenever the government was engaged in war, in near war, or in a foreign policy crisis, then it has used this as an excuse to say to the nation: "The First Amendment doesn't count anymore. We are in danger." Precisely at that time is when people most need their freedom of speech, when constitutional rights are most required, yet exactly at that point are they crippled and destroyed, as is happening now with this administration with its Patriot Act, with its surveillance, with its barging into libraries to demand the names of people who take out books, with its detention of people without any due process and without trial.

The Bush Administration has been following a course, which can only now be described as a series of crimes against humanity. The Constitution provides for impeachment for what it calls "high crimes and misdemeanors." It has never been made exactly clear what this means. Generally, the presidents that have been impeached or threatened with impeachment have had that

happen, not as a result of high crimes, but as a result of relatively small actions which irritated the opposite political party. But in this case, this is a clear case for the removal of a president for committing “high crimes.” What could be a higher crime than sending the young people of the country into a war against a small country on the other side of the world, which is no danger to the United States, and in fact a war which is condemned by people all over the world and a war which results in, not only the loss of American lives and the crippling of young Americans, but results in the loss of huge numbers of people in Iraq? These are high crimes.

Along with it, of course, comes the incapacity of the government to use its resources, because the resources are being used for war. We are in the midst right now of international catastrophes, of hurricanes, of earthquakes, which are taking the lives of tens of thousands of people. It is a crime that we have military equipment and soldiers fighting a war, when they could be used in other parts of the world to save peoples’ lives. These are crimes, which I think the American people now are more and more recognizing. If Congress doesn’t act, and Congress has been so reluctant to act, with the Democratic Party so feeble and really cowardly in its subservience to the Administration and its policies, in such a situation, where the political mechanisms of the government are inadequate to address these crimes, then it is the responsibility of the people to speak up and to demand that these crimes be recognized and that the people responsible for these crimes be removed from office and brought to justice.

The Declaration of Independence, which is our founding philosophical document for democratic ideas, says that “governments are established by the people” and that the purpose of government is to ensure that people have an equal right to “life, liberty, and the pursuit of happiness.” And when governments become destructive of these ends, when governments become destructive of these ends, “it is the right of the people to alter or abolish the government.” That is the situation we are in today. This government is destructive of the rights of people, of their right to life, their right to liberty. It is also destructive of the right to life of people abroad, which is why the rest of the world has opposed this war in Iraq. The government is destructive of the health of people, because, while people are dying of disease in Africa and Asia, and the Middle East, and even in this country, this government with enormous wealth at its disposal is using that wealth to wage.

We’re facing a situation which really is intolerable from a moral point of view, a situation which, not being redressed by Congress or by the Supreme Court, a situation in which democracy must arise. Democracy must come alive, as historically in the past, where the government has failed to act on behalf of human rights, where the government has failed to act for racial equality. Black people in the South had to take it upon themselves to create the kind of commotion in the country that would bring about a change. When working people were facing 12-hour days and couldn’t survive and the government was not doing anything about this, the working people themselves had to go out on strike and stop the machinery of the economic system. Those are situations when democracy came alive. And we face that kind of situation today. My hope is that this tribunal will be an important step in advancing a movement which will demand that the crimes taking place now stop, that the people responsible for it be removed from office, and that democracy be restored in the United States.

Howard Zinn

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# Introduction

The extraordinary Commission of Inquiry convened to consider charges that the President George W. Bush and his administration have committed war crimes and crimes against humanity has now reached a verdict: Guilty.

On wars of aggression, illegal detention and torture, suppression of science and catastrophic policies on global warming, potentially genocidal abstinence-only policies imposed on HIV/AIDS prevention programs in the Third World, and the abandonment of New Orleans before, during, and after Hurricane Katrina, President George W. Bush and his administration have been found guilty of war crimes and crimes against humanity.

This verdict comes at crucial moment. As Michael Ratner, President of the Center for Constitutional Rights, emphasized at the Commission hearings: “We want this trial to be a step in the building of mass resistance to war, to torture, to the destruction of earth and its people. It’s a serious moment. . . . We still have a chance, an opportunity to stop this slide into chaos. But it is up to us. We must not sit with our arms folded, and we must be as radical as the reality we are facing.”

Acts of the Bush Administration have continued to reinforce this assessment. The crimes cited in the indictments have continued. We have witnessed a continuing onslaught of horrors in Iraq from the massacres in Haditha and Mahmudiya to the exposure of rapes and murders by U.S. forces. Torture continues at secret overseas sites. New Orleans still lies in ruins, much of its Black population “resettled.” New evidence concerning the deadly impact of U.S. AIDS policy in Africa has come to light. New crimes have been committed such as the destruction of Lebanon with U.S. weapons and backing. And now even more serious crimes loom with open threats to launch a new war of aggression on Iran.

This administration has flouted and defied the Geneva Conventions. It has arrogated to itself the right to suspend *habeas corpus*, engage in mass warrantless searches, and defines the powers of the “commander-in-chief” to be above the law. Bush’s Attorney General, Alberto Gonzales, has sought to legitimize torture and exempt those who employ torture from prosecution.

At the 1967 Vietnam War Crimes Tribunal, Bertrand Russell gave a profound mandate: “We meet at an alarming time. Overwhelming evidence besieges us daily of crimes without precedent. We investigate in order to expose; we document in order to indict; we arouse consciousness in order to create mass resistance.” Establishing the truth of the Bush Administration’s acts and their implications for humanity is our moral and political responsibility in this time.

## Background of the Commission

Bush’s new doctrine of “preventive war,” massive civilian casualties in Afghanistan and Iraq, the opening of a concentration camp at Guantánamo Bay in Cuba, and the appearance of government documents seeking to legitimize torture, the potentially catastrophic and genocidal policies on

global warming and HIV/AIDS prevention all made clear that a serious investigation and adjudication was demanded.

Recognizing the need for this inquiry to establish the truth about charges of war crimes and crimes against humanity, the *Not In Our Name* statement of conscience convened the International Commission of Inquiry on Crimes Against Humanity Committed by the Bush Administration. The Commission was initiated with a Charter (see Appendices) that was itself signed by many noted voices of conscience.

The Charter begins, “When the possibility of far-reaching war crimes and crimes against humanity exists, people of conscience have a solemn responsibility to inquire into the nature and scope of these acts and to determine if they do in fact rise to the level of war crimes and crimes against humanity.”

The Charter also forthrightly states the Commission’s intent that “[t]he holding of this tribunal will frame and fuel a discussion that is urgently needed in the United States: Is the administration of George W. Bush guilty of war crimes and crimes against humanity?”

The Commission took oral testimony and accepted documentary evidence from 44 witnesses at public hearings held at the Manhattan Center, the historic Riverside Church, and the Columbia School of Law during October 2005 and January 2006. These witnesses were an amazing array of former government officials, noted experts, journalists, and victims.

Scott Ritter, the former UN weapons inspector testified to the complete lies and fabrications of the Bush administration in making the case for war in Iraq, Brigadier General Janis Karpinski, the former commander of all prisons in Iraq established the chain of command from the torture chambers of Abu Ghraib to the highest offices of the land, and Craig Murray, the former British ambassador to Uzbekistan testified to the use of torture by U.S. allies in the War on Terror. Murray exemplified the moral clarity needed by society when he stated, “I would personally rather die than have anyone tortured to save my life”

### **Standards for the Commission**

The Commission’s legitimacy derives from its integrity, its rigor in the presentation of evidence, and the stature of its participants.

Precisely because of the singular nature of some of this administration’s actions and the lack of relevant precedent in existent law, it was necessary to proceed from a “first principles” definition of crimes against humanity. As a basis for its verdicts and findings of fact, these principles were codified in its *Standards of Judgment* document (see Appendices), which sets forth the definition of “crimes against humanity” to be used by the Commission:

“[C]rimes against humanity as popularly understood and conceived [are] *acts that, by their scale or nature, shock the conscience of humankind.*”

“Crimes against humanity are brutal crimes that are not isolated incidents but that involve large and systematic actions often cloaked with official authority. These include mass murder, extermination, enslavement, deportation, and other inhumane acts perpetrated against a population, conducted in wartime or not. Apartheid and persecution on political, ethnic, and gender grounds have also been considered inhumane acts causing great suffering, and therefore crimes against humanity.”

While the Commission has referenced existing international law where applicable, it neither attempted to develop new law nor to force-fit its findings into existing legal frameworks. Rather, through the rigorous presentation of expert and witness testimony, documents, and other evidence, the Commission has sought to establish the truth about major acts and policies of the Bush administration, acts that could by their nature or scope, rise to the level of war crimes and crimes against humanity.

That is, first and foremost, it is the task of the Commission to establish the truth.

Finally, the Standards gives a charge to its panel of judges (referred to in the Charter as a “jury of conscience”): “The historic and political responsibility before this tribunal lies in delivering findings of fact and a verdict on the central question before the commission: ‘whether George W. Bush and his administration have committed crimes against humanity.’ As the Charter mandates, ‘The Commission’s jury of conscience will come to verdicts and its findings will be published.’ The jury of conscience will carefully assess the evidence and base its conclusions on the sufficiency of the evidence.”

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It was a great strength that the hearings were held in the United States itself and were not limited to one issue. By taking the charges together, a whole emerges that is greater than the sum of its parts: the conscious, systematic malevolence at the core of the Bush agenda.

Realizing and confronting the reality that war crimes and crimes against humanity are being committed by your government, in your name, brings to the fore the moral and political responsibility to bring these crimes to halt -- and make sure that they are never repeated.

C. Clark Kissinger  
New York, NY

*C. Clark Kissinger was an initiator of the Not In Our Name statement of conscience as is the Convener of the Bush Crimes Commission.*



**FINDINGS OF THE INTERNATIONAL COMMISSION OF INQUIRY ON CRIMES  
AGAINST HUMANITY COMMITTED BY THE  
BUSH ADMINISTRATION OF THE UNITED STATES**

The Commission's panel of jurists has reached a unanimous decision that George W. Bush and his administration have committed war crimes and crimes against humanity.

We find the Bush Administration guilty of all five indictments presented for which we have received evidence: wars of aggression, torture and indefinite detention, global warming policies and actions, attacks on public health HIV/AIDS programs and reproductive rights, and preparation for and response to Hurricane Katrina.

Each of these constitutes a shocking crime in itself, and taken together the full horrors are all the more unconscionable. It is also clear that this is an administration that demonstrates an utter disregard for truth and flagrantly lies about the reasons for its actions.

In arriving at this decision the jurists were particularly alarmed by the degree to which the Bush Administration's actions in all five indictments were informed by the extreme right. It was the politics and perspective of the extreme, often religious, right that appeared in most cases to provide the ideological framework for the Bush Administration within which the lives of the poor, people of color and frequently non-Christians, were devalued to the extent that their human rights were flagrantly violated. Thus, although the specific conduct differs among the indictments, the result is the same: human life was debased and devalued by gratuitous acts of violence, torture, narrow self interest, indifference, and disregard.

The findings outlined below were reached after careful assessment of the evidence presented to the Commission in October 2005 and January 2006 as well as documents submitted by

the prosecutors after the hearings at the request of the jurists during the hearings.<sup>1</sup> The findings are based on our application of the *Standards of Judgment for the International Commission of Inquiry on Crimes Against Humanity Committed by the Bush Administration of the United States*. As required by this standard, the Commission relied on fundamental principles of morality and justice, and, where appropriate, customary international law and international law principles including the United Nations Charter, The United Nations Declaration of Human Rights, Principles of the Nuremberg Tribunal, the Geneva Conventions, the Torture Convention, the Torture Victims' Protection Act, the War Crimes Act, and the international law of War Crimes and Crimes Against Humanity.

Finally, the Commission has fulfilled its responsibility outlined in the Charter of the International Commission of Inquiry: "When the possibility of far-reaching war crimes and crimes against humanity exists, people of conscience have a solemn responsibility to inquire into the nature and scope of these acts and to determine if they do in fact rise to the level of war crimes and crimes against humanity." We find that the acts of the Bush Administration in the five indictment areas do "rise to the level of war crimes and crimes against humanity."

Members of the panel:

Adjoa Aiyetoro  
Dennis Brutus  
Abdeen Jabara  
Ajamu Sankofa  
Ann Wright

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<sup>1</sup> The final decision and judgment differs from the preliminary findings released on February 2, 2006, in several respects: (1) the Commission has reached a conclusion on the Global Health indictment after reviewing the documents requested at the January hearing and received after the February 2 preliminary findings; (2) the findings made for each indictment are more detailed; (3) in one instance, the Commission found a violation although it also found that the charge made by the prosecution was not supported by the evidence.

**FINDINGS OF THE INTERNATIONAL COMMISSION OF INQUIRY ON CRIMES  
AGAINST HUMANITY COMMITTED BY THE BUSH ADMINISTRATION OF THE  
UNITED STATES (hereinafter The Commission)**

## **FINDINGS:**

### **WARS OF AGGRESSION INDICTMENT**

#### **Count 1: The Bush Administration authorized a war of aggression against Iraq.**

As to count 1, we find that the Bush Commission authorized, under the doctrine of “preemptive war” and a policy of “regime change”, a war of aggression against Iraq.

The doctrine of “preventive war” is not recognized as a justification for war under international law. The goal of “regime change” is also not recognized as a legitimate purpose for waging war under international law. Notwithstanding these facts, the Bush Administration launched a full scale war against Iraq, a sovereign state; it did so not in self-defense or under the authorization of the United Nations Security Council. The Bush Administration knew prior to the 2003 invasion that Iraq had no connection to Al Qaeda, was disarmed, had no weapons of mass destruction, and was incapable of mounting a credible defense much less an attack on the United States. Accordingly, the Iraq war is an aggressive war in violation of international law.<sup>2</sup>

The Bush Administration steadfastly asserted only one justification for its invasion of Iraq: it claimed that Iraq had weapons of mass destruction<sup>3</sup>. The Bush Administration fixed and manipulated intelligence on the existence of weapons of mass destruction in Iraq in order to mislead deliberately and persuade the United States population and their elected representatives to support the war of aggression. Accordingly, what the Bush Administration called *intelligence* to justify the invasion of Iraq was politically motivated propaganda deliberately concocted to prosecute a war of aggression.<sup>4</sup>

#### **Count 2: The Bush Administration authorized conduct of the war that involved the commission of “war crimes.”**

As to Count 2, we find that the Bush Administration authorized conduct of the war that involved the commission of war crimes.

As discussed above, the war is a war of aggression against the Iraq people. A war of aggression is termed the supreme international war crime in international law because it is the world’s most egregious war crime. This is so because it contains within it the combined atrocities of all war crimes. In addition to committing the supreme international war crime, the Bush Administration,

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<sup>2</sup> Testimony of Amy Bartholomew, The Commission; Testimony of Phil Shiner, World Tribunal on Iraq, (WTI).

<sup>3</sup> Testimony of Scott Ritter, The Commission

<sup>4</sup> Testimony of Scott Ritter, David Swanson, Larry Everest, and Ray McGovern, The Commission; Declaration of the Jury of Conscience, World Tribunal on Iraq, and Legal appendix by Richard Falk;

pursuant to its war of aggression in Iraq, has committed additional enumerated war crimes that include but are not limited to the following:

1. The use of force beginning with the campaign of “Shock and Awe” was not a necessary means or necessary measure to attain a lawful objective and it was a severe example of overwhelming, indiscriminate, and disproportionate use of military force against a nation state.<sup>5</sup>
2. The indiscriminate use of weapons such cluster munitions, incendiary bombs, depleted uranium, and chemical weapons for which it is reasonably foreseeable would have caused and indeed caused significant civilian injuries.<sup>6</sup>

**Count 3: The Bush Administration authorized the occupation of Iraq involving, and continuing to involve, the commission of “war crimes.”**

As to Count 3, we find that the Bush Administration authorized the occupation of Iraq involving and continuing to involve, the commission of war crimes.

In the spring of 2003, the Bush Administration announced a military victory in Iraq signaled by its destruction of the Iraqi Ba’athist government at which point the United States proceeded to occupy Iraq.

For the duration of the United States occupation of Iraq, the United States is failing to safeguard the lives of Iraqi civilians that have resulted from the devastation created by its intentionally bombing of civilian infrastructure, termed “Shock and Awe” and created by its ongoing criminal acts that include but are not limited to the following:

1. Because the invasion of Iraq was the supreme war crime, the resultant occupation of Iraq itself is a war crime.<sup>7</sup> The occupation consisted of additional war crimes such as: collective punishment upon the Iraqi people in the form of post invasion intentional and targeted attacks upon civilian populations, hospitals, medical centers, residential neighborhoods, electrical power stations and water purification facilities<sup>8</sup> the wide spread use of torture against the Iraqi people,<sup>9</sup> mass arrests and detention of civilians and civilian home demolitions<sup>10</sup> and the destruction and desecration of the cultural and archeological heritage of the Iraqi people<sup>11</sup>
2. Killing and injuring individual civilians through random fire during military operations or in response to attacks by resistance forces, e.g. killing of over 40 people in a wedding near Al Qaim, and over 600 people in Fallujah, half of them women and children. The Bush Administration declared the City of Fallujah, a population of 350,000 people, a free fire zone. As a result, the Bush Administration bombed 70 % of the city in 2004. The

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<sup>5</sup> Testimony of Phil Shiner, WTI

<sup>6</sup> Testimony of Dahr Jamail, Dr. Fasy, and Stephen Bronner, The Commission

<sup>7</sup> Center for Economic and Social Rights CESR Report, June 10, 2004;

<sup>8</sup> Testimony of Camilo Mejia, Dennis Halliday, and Dahr Jamal, The Commission; Testimony of Ramsey Clark, WTI;

<sup>9</sup> Declaration of the Jury of Conscience, WTI;

<sup>10</sup> CESR Report, June 10, 2004;

<sup>11</sup> Declaration of the Jury of Conscience, WTI;

Bush Administration also extensively and indiscriminately bombed Ramadi, Samara, Haditha, Alkaim, Abuhisma, Sania, Najaf, Kut, Baghdad, Musul and other Iraqi cities causing substantial civilian deaths and severe injuries.<sup>12</sup>

3. The failure of civil reconstruction, the impeding of medical care during the occupation, and the facilitation of the corporate looting of Iraq through the rewriting of Iraq's laws.<sup>13</sup>;
4. Deliberately bombing civilian and neutral broadcasting outlets and otherwise restricting press and media coverage of actual events.<sup>14</sup>; and
5. Extrajudicial killings at checkpoint.<sup>15</sup>

## **TORTURE, RENDITION, ILLEGAL DETENTION and MURDER INDICTMENT**

### **Torture:**

**Count 1: The Bush Administration authorized the use of torture and abuse in violation of international humanitarian and human rights law, customary international law, and domestic constitutional and statutory law.**

As to Count 1, we find that the Bush Administration authorized the use of torture and abuse in violation of international humanitarian and human rights law, customary international law, and domestic constitutional and statutory law.

In December 2001, the Bush Administration implemented the Special Access Program that authorized the secret seizure, detention, and interrogation of persons and subjected them to torture. The torture included but was not limited to: water boarding, beatings, the administration of electric shocks, extreme temperatures, denial of pain medication for injuries, severe burning, deprivation of food and water, and threats of death and sexual assault of family members.<sup>16</sup>

In January 2002, the Bush Administration declared that Geneva Conventions protections will not be honored for the "war on terror" prisoners held at the Guantánamo detention center in Cuba. In August 2002, the Administration attempted to redefine "torture" to escape liability and/or insure immunity for those who authorized or committed torture. Under the Bush Administration's new torture definition, torture only exists when a person is put at risk of complete organ failure or death. The Bush Administration also examined the ways that it could avoid liability under circumstances where its actions exemplified its new definition of torture, including raising the defenses of necessity and self-defense.<sup>17</sup>

The United States Secretary of Defense, Donald Rumsfeld, admitted that Guantánamo prisoner, Al-Qahtani was tortured at Guantánamo. Other Guantánamo detainees were subjected to ex-

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<sup>12</sup> Testimony of Dahr Jamail, The Commission; CESR Report, June 10, 2004; New York times article on Haditha, May, 2006 ;

<sup>13</sup> Testimony of Dahr Jamail, The Commission; CESR; Declaration of the Jury of Conscience, WTI; Testimony of Ramsey Clark, WTI;

<sup>14</sup> Declaration of the Jury of Conscience, WTI; Testimony of Jeremy Scahill, The Commission

<sup>15</sup> Declaration of the Jury of Conscience, WTI;

<sup>16</sup> Testimony of Barbara Olshansky, The Commission

<sup>17</sup> Testimony of Barbara Olshansky, The Commission

tremes of temperature, deprived of food and water, shackled for days to the floor in extreme positions calculated to cause pain, and denied medical care. As a direct result of this torture, detainees suffered permanent injuries including the loss of limbs and broken bones. Other detainees suffered severe personality decompensation and are now suffering from a range of mental illnesses. The techniques of torture used at Guantánamo were transferred by General Geoffrey Miller to and used on the detainees imprisoned at Abu Ghraib in Iraq.<sup>18</sup>

Persons held under United States custody in Iraq, Afghanistan, and Guantánamo as well as those held under the custody of the United States during rendition were subjected to torture, and cruel, inhuman and degrading treatment as a matter of policy and systemic practice.<sup>19</sup>

Secret detention itself is a form of torture for the person detained and for the families who were faced with a situation that amounted to that of enforced disappearance of an individual<sup>20</sup>.

### **Rendition:**

#### **Count 2: The Bush Administration authorized the transfer (“rendition”) of persons held in U.S. custody to foreign countries where torture is known to be practiced.**

As to Count 2, the Commission finds that the Bush Administration authorized the seizure, transfer, and detention (“rendition”) of persons to foreign countries where torture is known to be practiced.<sup>21</sup>

In late 2001, at the request of CIA Director, George Tenet, the President authorized the creation of CIA-run secret detention centers in countries outside the United States where post 9/11 detainees would be sent (“rendered”) and subjected to practices that would be unlawful in the United States.<sup>22</sup>

The original rendition program was conceived by the CIA and authorized in the 1990’s by the Clinton Administration. The strategic target of the CIA rendition program has always been, and remains the global network known as Al-Qaeda. Post 9/11, under the Bush Administration, the CIA has taken a much larger role in the rendition program to include its participation in interrogation of detainees rather than just placing them behind bars. Secretary of State, Condoleezza Rice referred to this program as “extraordinary rendition.”<sup>23</sup>

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<sup>18</sup> Testimony of Barbara Olshansky, The Commission

<sup>19</sup> Testimony of Jumah al-Dossari and Barbara Olshansky, The Commission; Report: Alleged Secret Detentions and Unlawful Inter-state Transfer involving Council of Europe Member States, Rapporteur: Mr. Dick Marty, Switzerland, ALDE June 2006, Committee on Legal Affairs and Human Rights, Parliamentary Assembly.

<sup>20</sup> Information Memorandum II, Committee on Legal Affairs and Human Rights, Alleged secret detentions in Council of Europe Member States, January 22, 2006, Rapporteur: Mr. Dick Marty p. 2, see comments by United Nations High Commissioner on Human Rights, Ms. Louise Arbour.

<sup>21</sup> Testimony of Craig Murray, The Commission

<sup>22</sup> Testimony of Barbara Olshansky The Commission; Testimony of Craig Murray, The Commission; Federal Register: November 16, 2001 Vol. 66, No.222, Presidential Documents pp. 57831-36.

<sup>23</sup> Testimony of Craig Murray, The Commission; Information Memorandum II, Committee on Legal Affairs and Human Rights, Alleged Secret Detentions in Council of Europe Member States, January 22, 2006, Rapporteur: Mr. Dick Marty p. 3

The result has been that captured suspects are placed outside of the reach of any judicial system and are subjected to enhanced interrogation techniques that are in themselves forms of torture.<sup>24</sup>

The Bush Administration undertook an untold number of these “extraordinary renditions” where the abductees, while under US custody or control, were tortured by CIA agents or foreign operatives. Typical of these renditions is the case of Egyptian citizen, Hassam Mustafa Nasr, known as Abu Omar. He was abducted by the CIA in Milan Italy on June 17<sup>th</sup> 2003 and transferred to Egypt where he was detained. Abu Omar was tortured after his abduction and prior to his being sent to Egypt during which time the CIA participated in the torture investigation. CIA operatives acknowledged that rendered suspects were being tortured in Egypt. Maher Arar, a Canadian citizen, born in Syria was detained in the United States and rendered to Syria against his wishes where he was tortured and held for ten and a half months. Mamdouh Habib was picked up in Pakistan and sent to Egypt where he was tortured for four months before being transferred to Guantánamo by the United States.<sup>25</sup>

### **Illegal Detention:**

**Count 3: The Bush Administration authorized the indefinite detention of *persons* seized in foreign combat zones and in other countries far from any combat zone and denied them the protections of the Geneva Conventions on the treatment of prisoners of war and the protections of the US Constitution.**

As to Count 3, the Commission finds that the Bush Administration authorized the indefinite detention of person seized in foreign combat zones and in other countries far from any combat zone and denied them the protections of the Geneva Conventions on the treatment of prisoners of war and the protections of the US Constitution.

On November 13<sup>th</sup> 2001, the Bush Administration created a “trial system” for trying non-citizen detainees where the United States does not provide these detainees due process protections that are well established in domestic and international law. The “trial system” is to be held in Guantánamo where detainees are deprived due process rights under the fourth, fifth, sixth, and eighth amendments of the United States Constitution.

Persons have been or are currently detained in these detention centers without charge and are being held indefinitely. These US controlled detention centers are in Guantanamo Bay, Cuba as well as in several sites in Eastern Europe and North Africa. The Bush Administration declared

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<sup>24</sup> Testimony of Craig Murray, The Commission; Report, Section C, 2.1 Para. 35 and 26 of Alleged Secret Detentions and Unlawful Inter-state Transfer Involving Council of Europe Member States, Rapporteur: Mr. Dick Marty, Switzerland, ALDE June 2006, Committee on Legal Affairs and Human Rights, Parliamentary Assembly; Also see: Human Rights Watch Briefing Paper October 2004, The United States Disappeared: The CIA’s Long-Term Ghost Detainees; Amnesty International Report, April 5, 2006: Below the Radar: Secret Flights To Torture and Disappearance

<sup>25</sup> Testimony of Barbara Olshansky, The Commission; Information Memorandum II, Committee on Legal Affairs and Human Rights, Alleged secret detentions in Council of Europe Member States, January 22, 2006, Rapporteur: Mr. Dick Marty p. 8 and 13

that the Geneva Conventions do not apply to these detainees who were defined as “enemy combatants”, a term not valid under international law.<sup>26</sup>

## **Round ups**

**Count 4: The Bush Administration authorized the round-up and detention in the United States of tens of thousands of immigrants on pretextual grounds and held them without charge or trial in violation of international law and domestic constitutional and civil rights law.**

As to Count 4, the Commission finds that the Bush Administration authorized the round-up and detention in the United States of thousands (the exact number is unknown) of immigrants on pretextual grounds and held many of them illegally long past the resolution of their immigration status.

The FBI and INS, under the rubric of very large immigration sweeps, rounded up and detained immigrants, mostly Arabs, Muslims or South Asian men. The sweeps were a flagrant example of racial profiling. The detainees could not call their family, nor call their consulate. Very few were permitted out on bond. They were in a legal black hole. Many were brutalized by guards and held in virtual solitary confinement. These actions were in violation of international law and domestic constitutional law.

In September 2001, the Bush Administration authorized the seizures and detention of US immigrants in US detention centers. The seizures and detentions in the United States were called “material witness” seizures by the US Justice Department. The Commission finds that the Bush Administration held possibly hundreds of people under the material witness statute without charge or trial in violation of international and domestic constitutional and civil rights law. In many cases, people who merely looked Arab or South Asian were picked up first based on uncorroborated tips and then held if they had a minor immigration violation or were designated as a material witness. No one knows exactly how many are still being held in the United States pending deportation or as material witnesses; evidence strongly suggests that it may be hundreds. They are held without charge and denied basic principles of due process and judicial review. These practices contravene the International Covenant for Civil and Political Rights.

Another category of detainees are people who entered the United States for purposes other than becoming a permanent resident, for example, on a visitor or student visa (non-immigrants). Thousands of such individuals were subjected to the National Registration Act, a post 9/11 law. This act was intended to register and monitor non-immigrants from countries designated by the Secretary of State entering or already in the United States but in fact was used as a means of ar-

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<sup>26</sup> Testimony of Barbara Olshansky, The Commission; Report, Section C, 2.1 Para. 35 and 26: Alleged Secret Detentions and Unlawful Inter-state Transfer Involving Council of Europe Member States, Rapporteur: Mr. Dick Marty, Switzerland, ALDE June 2006, Committee on Legal Affairs and Human Rights, Parliamentary Assembly; Also see: Human Rights Watch Briefing Paper October 2004, The United States Disappeared: The CIA’s Long-Term Ghost Detainees; Amnesty International Report, April 5, 2006: Below the Radar: Secret Flights To Torture and Disappearance

resting and deporting these individuals. In addition, the Act was enforced in an discriminatory manner only against Muslims and Arab visitors, and in an arbitrary manner in that some people were deported to countries from which they had previously been granted political asylum. The discriminatory and arbitrary enforcement of the Act contravene the International Covenant for Civil and Political Rights.<sup>27</sup>

## **Indefinite Detentions**

**Count 5: The Bush Administration used military force to seize and detain indefinitely without charges U.S. citizens, denying them the right to challenge their detention in U.S. courts.**

As to Count 5, the Commission finds that the Bush Administration used military force to seize and detain indefinitely without charges U.S. citizens, denying them the right to challenge their detention in U.S. courts.

The Bush Administration seized and detained within the United States persons who are United States citizens. The Bush Administration has classified these seized persons as “enemy combatants.” For example, Yaser Hamdi, A US citizen, was *detained* in Afghanistan and placed in United States custody. There is also Jose Padilla, a US citizen, who was arrested in O’Hare airport by *law enforcement agent and later transferred to military custody at the request of the President*. These detainees were taken into US military custody after they had been declared “enemy combatants” by the Bush Administration. All such “enemy combatant” detainees were denied a judicial hearing on the facts or on the legality of their detention. In each case and in violation of the US Constitution and the Geneva Conventions, the United States took the position that the president has the authority to hold “enemy combatants” and decide their status unilaterally.

The US Supreme Court subsequently gave meaning to the Bush Administration’s made up term “enemy combatant.” The Court limited the meaning to persons who, while in Afghanistan, had taken up arms against the United States in alliance with the Taliban or other terrorists and as long as hostilities existed. The Bush Administration proceeded to violate the Supreme Court’s definition as exemplified by the fact that Mr. Padilla was not arrested in Afghanistan or anywhere near a battlefield, and was not shown to have ever taken up arms against the United States in Afghanistan or elsewhere.<sup>28</sup>

## **Murder**

**Count 6: The Bush Administration committed murder by authorizing the CIA to kill those that the president designates either US citizens or non-citizens, anywhere in the world.**

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<sup>27</sup> Testimony of Barbara Olshansky, The Commission

<sup>28</sup> Testimony of Barbara Olshansky, The Commission; (Also see: Supreme Court, US decision on Hamdan v. Rumsfeld, No. 05-184, 2006)

As to Count 6, the Commission finds that the Bush Administration committed murder by authorizing the CIA to kill those that the president designates, either US citizens or non-citizens, anywhere in the world and where this authorization was acted upon causing death.

Secretary of Defense, Donald Rumsfeld, issued a secret directive to Special Operations forces allowing them to “capture terrorists for interrogation or, if necessary, to kill them” anywhere in the world.<sup>29</sup> The Bush Administration had already issued a presidential finding authorizing the killing of terrorist leaders, but the secret Rumsfeld directive increased such efforts.<sup>30</sup> The Bush Administration, claiming that terrorists are military combatants, never rescinded a preexisting presidential executive order signed by US President Ford in 1976 that banned all assassinations.

In February 2002, a Predator drone missile was launched by the CIA; it targeted for assassination someone intelligence agents thought was bin Laden. The drone hit its target, but killed three innocent Afghan farmers instead.<sup>31</sup> The first successful assassination takes place in November 2003 when the CIA launched a Hellfire drone missile that killed US citizen Kamal Derwish and five others in Yemen. The United States considered the dead men to be enemy combatants in its global war on terror.<sup>32</sup>

## **GLOBAL WARMING INDICTMENT**

### **Denial and Distortion of Scientific Consensus and Findings**

**Count 1: The Bush Administration has consistently denied the scientific consensus around global warming and its causes. Administration officials have misrepresented, distorted, and suppressed scientific information on the subject, especially as it would impact public opinion.**

As to Count 1, the Commission finds that the Bush Administration has consistently denied the scientific consensus around global warming and its causes. Administration officials have misrepresented, distorted, and suppressed scientific information on the subject, especially as it would impact public opinion.

The Bush Administration, early in its existence, requested the National Academy of Sciences (NAS) to review the findings of the United Nations Intergovernmental Panel on Climate Change (IPCC). The IPCC is composed of 2,000 scientists; they had been studying global warming since 1989. The Bush Administration also wanted the NAS to provide it a further assessment of what climate science says about the reality of global warming/climate change. The NAS subsequently

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<sup>29</sup> Manhunt by Seymour Hersh, New Yorker, December 16, 2002

<sup>30</sup> Bush Has Widened Authority of CIA to Kill Terrorists by James Risen and David Johnson, New York Times, 12/15/2002

<sup>31</sup> Manhunt by Seymour Hersh, New Yorker, December 16, 2002

<sup>32</sup> US Citizen Killed by CIA Linked to NY Terror Case by Michael Powell and Donna Priest, p. A01, Washington Post, November 9, 2002

strongly confirmed the findings of the IPCC that had affirmed the existence of global warming and climate change. In addition, the American Geophysical Union (AGU), the world's largest organization of earth scientists had also released a strong report describing the human causes of disruption of the Earth's climate.

Despite the scientific consensus evidenced in the IPCC, NAS, and the AGU reports on the existence of global warming and the human behavior that is causing it, the Bush Administration contended in full contradiction and misrepresentation of the scientific consensus presented to it, that uncertainties in climate projections existed and that fossil fuel emissions are too great to warrant mandatory action to slow emissions.

The Bush Administration successfully lobbied to have the chief of the IPCC, Dr. Robert Watson, removed from the IPCC.<sup>33</sup>

An example of the Bush Administration actively suppressing information showing the existence of global warming is illustrated by its pressuring the Environmental Protection Agency to remove any reference discussing the existence to global warming and extreme climate change and its causes from its 2002 annual air pollution report.<sup>34</sup>

An example of the Bush Administration actively distorting the science on global warming and extreme climate change was evident when a whistleblower, Rick Piltz, a senior associate from a federal climate change program publicly disclosed proof of the Bush Administration editing federal documents to distort the science. The New York Times printed excerpts of the documents in June 2005. The documents showed that a Mr. Philip A. Cooney, chief of the White House Council on Environmental Quality, also a former manager for the American Petroleum Institute who had led the oil industry's drive to prevent restrictions on greenhouse emissions, and who had no scientific training; redrafted the federal climate change official report to deny the validity of the scientific consensus on global warming and extreme climate change. Cooney and his staff had made 100 to 450 pertinent editorial changes per report.<sup>35</sup>

Among the topics that the Bush Administration is attempting to keep from the public are the national and regional deleterious outcomes to the earth and its human population from global warming and extreme climate change: for example, increased heat waves and corresponding public health threats, droughts and conflicts from water shortages, flooding that will destroy coastal infrastructure and wetlands as occurred due to Katrina and other hurricanes, irreversible destruction of coral reefs indispensable to sea life, massive economic dislocation with the elimination of major coastal industries and government and corporate action that could be taken to prevent, mitigate, and adapt to the coming disasters.

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<sup>33</sup> Testimony of Ted Glick, The Commission; 2004 UCS Report, Scientific Integrity in Policymaking

<sup>34</sup> 2004 UCS Report, Scientific Integrity in Policymaking

<sup>35</sup> 2004 UCS Report, Scientific Integrity in Policymaking

As a result of the Bush Administrations behavior to misrepresent, distort, and suppress information on global warming and extreme climate change, the actual problem solving of global warming has been set back ten years.<sup>36</sup>

## **Obstructionism on International Efforts**

**Count 2: The Bush Administration has refused to take any measures to curb the emissions of greenhouse gases, guided by narrow corporate interests. It has withdrawn from any international efforts that would impose binding restrictions, however minimal. It has done this with full knowledge of the catastrophic effects of global warming and the disproportionate U. S. share of world greenhouse emissions, the leading cause of global warming.**

As to Count 2, the Commission finds that the Bush Administration has refused to take any measures to curb the emissions of greenhouse gases, guided by narrow corporate interests. It has withdrawn from any international efforts that would impose binding restrictions, however minimal. It has done this with full knowledge of the catastrophic effects of global warming and the disproportionate U. S. share of world greenhouse emissions, the leading cause of global warming.

The United States, under the Bush Administration, withdrew from the Kyoto Protocol which is an international effort to reduce greenhouse emissions and end global warming. It did so despite the fact that the United States has only 5% of the world's population and is responsible for nearly 25% of greenhouse emissions.<sup>37</sup>

Despite a pledge by George Bush during the 2000 Presidential campaign to mandate mandatory emission reductions of carbon dioxide on the US based coal fired power plants, President Bush reversed this pledge two months after his inauguration in 2001.<sup>38</sup> In March 2001, under the leadership of Vice President, Dick Cheney, the Bush Administration presented its energy plan. This plan, the Report of the National Energy Policy Development Group, called for the construction of 1,300 to 1,900 new power plants, most of them coal fired.<sup>39</sup>

The motives of the Bush Administration are clear. The Bush Administration is deliberately targeting the information that expert policy-makers have on climate change in an effort to protect the most powerful industries on the planet: the oil, gas and coal industries, in full disregard of the harm to the environment and to the most vulnerable people globally. According to a World Health Organization study, 160,000 people are dying every year as a result of extreme climate change related to floods, hurricanes, droughts, disease, and food shortages.<sup>40</sup>

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<sup>36</sup> Testimony of Daphne Wysham, The Commission

<sup>37</sup> Testimony of Ted Glick, The Commission

<sup>38</sup> Groups Blast Bush for reversing position on Emissions, Inside Politics, CNN, March 15, 2001

<sup>39</sup> See [www.whitehouse.gov/energy](http://www.whitehouse.gov/energy)

<sup>40</sup> Testimony of Daphne Wysham, The Commission

For the peoples of Africa, the threat is worse, because the temperature increases over many areas of the continent will be double the global average. This suggests that 182 million people in sub-Saharan Africa could die of diseases directly attributable to climate change by the end of the century.<sup>41</sup>

Indigenous people of the Pacific Islands, The United States Great Lakes, Southwest, and Great Plains regions are experiencing the severe difficulties reported by the UN. Indigenous people of the Arctic region, specifically the Inuit and the Yupik, are experiencing enormous difficulties as well. They are experiencing life threatening accidents due to falling through thinning ice, community displacements, previously unknown health problems such as sunburn, skin cancer, cataracts, immune system disorders and heat related health problems.<sup>42</sup>

Despite the scientific consensus on the present known toll in human death and suffering attributed to global warming and extreme climate change and the prospects for far more catastrophic and irreversible injury to the Earth and its human population, the Bush Administration has used its enormous power through deliberate deception, to diffuse and confuse the focused attention of the world on the multilateral framework of the Kyoto protocol and the climate convention. The Bush Administration used its power to exacerbate the problems associated with extreme climate change by promulgating policies and practices that actually increased global warming and extreme climate change and that simultaneously limited the capacity of the world's people to respond before irreversible injuries result.<sup>43</sup>

## **SUMMARY**

The Commission considers the deliberate acts and failures to act by the Bush Administration regarding global warming to be systemic. We also consider the global consequences of this behavior to be both grave and foreseeable. The Administration's behavior also constitutes breaches of UN treaties that the US has signed and ratified related to protecting the global environment: they are the UN Framework Convention on Climate Change that commits the US to developing policies aimed at returning its greenhouse gas emissions to 1990 levels. We also find, as it pertains to the fundamental rights of sovereign indigenous people of the Americas that the Bush Administration is violating indigenous people's fundamental human rights as protected by the American Declaration of the Rights and Duties of Man.

We find that the disproportionate role that the United State plays in polluting the earth is directly causing global warming and extreme climate change. We also find that the systemic nature of the Bush Administration's deliberate refusal to act reasonably to curb global warming combined

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<sup>41</sup> Climate Change Will be Catastrophe for Africa, by Paul Vallely, The Independent (UK), May 16, 2006

<sup>42</sup> Testimony by Tom "Mato Awanyankapi" Goldtooth, The Commission; Inuit Petition Inter-American Commission on Human Rights to Oppose Climate Change Caused by the United States of America, Sheila Watt-Cloutier, Petitioner, December 7, 2005; Also see: Tiohtia Declaration, International Indigenous Peoples Forum on climate Change Statement to the State Parties of the COP 11/MOP 1 of the United Nations Framework Convention on climate Change UNFCCC, November 28-December 9, 2005

<sup>43</sup> Testimony of Daphne Wysham, The Commission

with its deliberate acts that directly increase global warming and extreme climate change place the world's people at imminent risk of unspeakable and irreversible destruction in the near future. Accordingly, we find that the Bush Administration is committing a crime against humanity.

## **GLOBAL HEALTH INDICTMENT**

### **Imposition of Abstinence-Only HIV prevention Programs**

**Count 1: The Bush Administration is using its political influence, aid, and funding in the sphere of HIV/AIDS prevention and treatment to advance policies and programs that worsen the AIDS pandemic. Guided by a Christian fundamentalist ideological agenda, the administration is promoting and forcing deadly abstinence-only HIV prevention and sex education programs instead of proven comprehensive programs that comprise consistent and correct use of condoms.**

As to Count 1, the Commission finds that the Bush Administration is using its political influence, aid, and funding in the sphere of HIV/AIDS prevention and treatment to advance policies and programs that worsen the AIDS pandemic. We also find that the Administration, guided by a Christian fundamentalist ideological agenda, is promoting and forcing deadly abstinence-only HIV prevention and sex education programs instead of proven comprehensive programs that comprise consistent and correct use of condoms.

The Bush Administration's abstinence-only policy influences global HIV prevention efforts. It is called the Emergency Plan for AIDS Relief (PEPFAR). It is a moralistic, Christian fundamentalist, and non public health oriented approach, promulgated in February 2004; it focuses on 15 countries in sub-Saharan Africa, the Caribbean, and Asia that are severely stricken by the AIDS pandemic.

PEPFAR requires that grantees devote at least 33% of prevention spending to abstinence-until marriage programs. These policies are inherently coercive in that they withhold needed information and they also promote inaccurate opinions and harmful outcomes. The PEPFAR law includes no comparable minimum for condom distribution; hence prevention funds are steered to abstinence only programs.<sup>44</sup>

The Bush Administration developed PEPFAR through a closed-door process that did not include participation of key stakeholders in the global AIDS policy debate. The Bush Administration continues to be the primary donor for HIV/AIDS programs in Uganda and in the world.<sup>45</sup>

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<sup>44</sup> Global Implications of U.S. Domestic and International Policies on Sexuality by Francoise Girard, The International Working Group on Sexuality and Social Policy IWGSSP Working Papers, No. 1 June 2004, p.10; Journal of Adolescent Health 38 2006 72-81, Review article: Abstinence and abstinence-only education: A review of U.S. policies and programs by John Santelli, M.D., M.P. H. et al, p.77-79

<sup>45</sup> Condom Crisis in Uganda: Shortages Spread to Other Countries, US Policies Undermine HIV Prevention Programs, August 2005, by Jodi L. Jacobson, Center for Health and Gender Equity Center for Health and Gender Eq-

The PEPFAR policies are reversing the well-recognized successes that Uganda had achieved in preventing the spread of HIV between 1991 and 2001.<sup>46</sup>

Global inequality drives health disparity. AIDS funds represent a substantial sum of money to Uganda, and other desperately impoverished that are already critically financially dependent on western international financial institutions dominated by the United States. Substantial economic dependence on the West, coupled by the Bush Administration's manipulation of AIDS funding to promulgate a religious doctrine at the expense of sound public health policy and science, has shattered coercively and dramatically Uganda's preexisting successful AIDS domestic priorities. As a practical matter, many third-world countries, such as Uganda, have little or no choice because of a lack of public health funds and infrastructure but to comply with PEPFAR.<sup>47</sup>

In 2005, the Ugandan Minister of Health, the Hon. Maj. Gen. Jim K. Muhwezi reported that despite the historical record of Uganda's success in reducing HIV, the Uganda government, in an effort to prevent a drying up of AIDS resources, since 2003, started downplaying its own proven successful track record and re-wrote its own history in an obvious attempt to please the United States that had started pouring millions of dollars into ideologically driven PEPFAR HIV-prevention programs that provided misleading information about the effectiveness of condoms and that failed to equip people, particularly women with the essential skills needed to negotiate safer sex.

Ambassador Stephen Lewis, the United Nations secretary general's special envoy for HIV/AIDS in Africa since 2001, and the former Canadian ambassador to the United Nations, stated the PEPFAR policies in the Uganda will cause significant numbers of HIV and other STD infections in Uganda which should never have occurred.<sup>48</sup>

## **Imposition of "Gag Rule"**

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uity Report, Debunking the Myths in the U.S. Global AIDS Strategy: An Evidence-Based Analysis, p.10 March 2004

<sup>46</sup> Human Rights Watch, Distortions of Uganda's HIV Prevention Efforts <http://hrw.org/reports/2005/uganda0305/8.htm>]; New York Times editorial on Uganda and condoms entitled The Missing Condoms, September 4, 2005; Human Rights Watch, Distortions of Uganda's HIV Prevention Efforts <http://hrw.org/reports/2005/uganda0305/8.htm>; Global Implications of U.S. Domestic and International Policies on Sexuality by Francoise Girard, The International Working Group on Sexuality and Social Policy IWGSSP Working Papers, No. 1 June 2004; Human Rights Watch, Uganda and the U.S. Global AIDS Initiative- <http://hrw.org/reports/2005/uganda0305/8.htm>; Condom Crisis in Uganda: Shortages Spread to Other Countries, US Policies Undermine HIV Prevention Programs, August 2005, by Jodi L. Jacobson, Center for Health and Gender Equity

<sup>47</sup> Testimony of Dr. Alan Berkman and Naina Dhingra, The Commission

<sup>48</sup> Press release from Hon. Maj. Gen. Jim Muhwezi, September 2005; source Human Rights Watch, Ugandans Resist Anti-Condom Agenda; New York Times article, US Blamed for Condom Shortage in Fighting AIDS in Uganda, by Lawrence K. Altman, August 30, 2005.

**Count 2: The Bush Administration has re-instated the “gag-rule” restricts foreign organizations that receive US funds from using their own, non-US. Funds to provide legal abortion services or even provide accurate medical counseling of reproductive health clinics dependent on international funding in very poor parts of the world. In man areas, these clinics have also been the only source of HIV/AIDS prevention and care, including the supply of much-needed and life saving condoms.**

As to Count 2, the Commission finds that The Bush Administration has re-instated the “gag-rule” that restricts foreign organizations that receive US funds from using their own, non-US funds to provide legal abortion services or even provide accurate medical counseling of reproductive health in clinics dependent on international funding in very poor parts of the world. In many areas, these clinics have also been the only source of HIV/AIDS prevention and care, including the supply of much-needed and life saving condoms.

The Bush Administration put the gag-rule in place on the first business day of its administration in 2001. The gag rule denies foreign organizations receiving U.S. family planning assistance the right to use their own non-U.S. funds to provide legal abortion, counsel or referral for abortion, or lobby for the legalization of abortion in their own country. NGO’s must withhold information from women about the option of legal abortion and where to obtain safe abortion services using their own, non US government funds to do so. Also, these NGOs are banned from disseminating any information regarding the health hazards of unsafe abortion, or provide legal abortion services with non-U.S. funding.

The gag rule is a public health disaster in the developing world and places people at grievous risk of injury, disease and death: about 70,000 women die each year from unsafe abortions, many of them leaving young children behind. By preventing high-risk pregnancies, family planning could save at least 25% of these women’s lives.

The gag rule has exacerbated and intensified a condom shortage across the developing world and decreased the effectiveness of HIV prevention programs. Although the global gag rule does not apply to HIV/AIDS assistance, most family planning organizations have been denied HIV/AIDS resources because implementing partners have been chilled by the gag rule and abstinence only policies; the partners are frightened of retribution, and scrutiny from the right wing ideologically driven Bush Administration. This is a disastrous outcome given the fact that family planning providers are crucial to HIV/AIDS prevention programs.<sup>49</sup>

In 2005, 5 million people were infected with HIV globally. The Commission finds that the Bush Administration’s reproductive health global policy is complicit in putting millions of people around the world at risk for HIV by intentionally obstructing the dissemination of crucial medical information about condoms as a well proven effective means of HIV prevention, to vulner-

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<sup>49</sup> Testimony of Naina Dhingra, The Commission

able, powerless and poor people, in the midst of an HIV pandemic. This behavior is unethical, morally reprehensible, and shocks the conscience.<sup>50</sup>

## **Distortion of Science**

### **Count 3: The Bush Administration and its political operatives have distorted sound science and attempted to suppress medical research studies in HIV prevention when it conflicts with the ideology of the Christian Right.**

As to Count 3, the Commission finds that the Bush Administration and its political operatives have distorted sound science and attempted to suppress medical research studies in HIV prevention when it conflicts with the ideology of the Christian Right.

As early as 1997, the Joint United Nations programme on HIV/AIDS found evidence that sexual health education for children and young people that included the promotion of condom use and safer sexual practices, which is one the main scientifically proven forms of HIV/AIDS prevention, did not increase participant's sexual activity. Indifferent to this data, the Bush Administration pursued its AIDS global agenda when it clearly knew or should have known that its abstinence-only HIV/AIDS prevention strategies had not demonstrated that they did or could prevent the spread of HIV.

The Institute of Medicine, a body of experts that acts under a United States Congressional charter as an advisor to the U.S. federal government, noted in 2001, that there was no evidence supporting abstinence-only program, and that investing "millions of dollars of federal...funds...in abstinence-only programs with no evidence constitutes poor fiscal and health policy." The Institute simultaneously concluded that scientific studies have shown that comprehensive sex and HIV/AIDS programs and condom availability programs can be effective in reducing high-risk sexual behaviors.

In contravention of federal government experts' recommendations, the Bush Administration required that the abstinence-only programs in Uganda be administered according to the precise guidelines evaluated and criticized by the Institute of Medicine. These policies continue notwithstanding an ever-growing scientific consensus of the ineffectiveness and potential harms of these programs.

In 2001, under pressure from anti-condom activists within the Bush Administration, the Centers for Disease Control (CDC) removed a 1999 fact sheet on condom use that encouraged sexually active youth to use condoms to prevent HIV and other sexually transmitted diseases. In 2002, the CDC replaced the fact sheet with biased information regarding condom use that dissuades use.

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<sup>50</sup> Testimony of Naina Dhingra and Dr. Tom Fasy, The Commission; Journal of Adolescent Health 38 (2006) 72-81, Abstinence and Abstinence-only Education: A review of U.S. policies and programs by John Santelli, M.D., M.P. H. et al, p. 78

This action demonstrates a willingness to censor vital, life saving information in the face of the HIV pandemic.<sup>51</sup>

Absent any scientific support and notwithstanding peer review scientific research to the contrary, The Bush Administration, in December 2002, at the United Nations Fifth Asia-Pacific Population conference in Bangkok claimed that the promotion of abstinence-only is preferred as the healthiest choice for sexually active unmarried adolescents. In addition, the Bush Administration has erroneously linked condom failure with the relatively high prevalence of human papillomavirus (HPV) as a means to dissuade people from the use of condoms. This deliberate misinformation is spread despite the solid science that HPV is spread by exposure to areas not covered or protected by condoms.

The Commission is persuaded that the Bush Administration's ideologically driven policy has caused countless deaths in the five years since the Bush Administration has been in power. Uganda's AIDS Commissioner, Kihumuro Apuuli announced that HIV infections have almost doubled in Uganda over the past two years, from 70,000 in 2003 at the approximate time that PEPFAR was initiated in Uganda to 130,000 in 2005.<sup>52</sup>

## **Restriction of Generics**

**Count 4: The Bush Administration has used its political and economic power to coerce other countries into agreements that severely restrict and manufacture and supply of generic drugs, the only affordable option for most HIV positive people in the Third World.**

As to Count 4, the Commission finds that the Bush Administration has used its influence in ways that frustrate the supply of generic HIV/AIDS drugs, the only affordable option for most HIV positive people in the Third World.

Until 2003, the prior Clinton and current Bush Administrations had consistently obstructed a World Trade organization pact on the export of inexpensive generic drugs. Since September 2003, the United States requires that the requests for importation of generics be made in "good faith" and "for no commercial gain" and that the generic drugs so exported be packaged and labeled differently to prevent re-exportation. These conditions create bureaucratic obstacles to generic HIV/AIDS drug importation.<sup>53</sup>

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<sup>51</sup> Advocates for Youth, CDC's Condom Fact Sheets: A Comparison

<sup>52</sup> A disaster for Abstinence Ideology, by Esther Kaplan, May 2006; Testimony of Dr. Alan Berkman, The Commission; Human Rights Watch, studies discrediting abstinence-only approaches in the U.S.; <http://hrw.org/reports/2005/uganda0305/8.htm> ; Center for Health and Gender Equity Report, Debunking the Myths in the U.S. Global AIDS Strategy: An Evidence-Based Analysis, p.10 March 2004; Also see Journal of Adolescent Health 38 (2006 72-81, Review article: Abstinence and abstinence-only education: A review of U.S. policies and programs by John Santelli, M.D., M.P. H. et al, p.79; Abstinence Promotion: Censorship, Moralizing, Politics, & the Risk to Young People; Testimony by Vanessa Brocato, The Commission;

<sup>53</sup> Global Implications of U.S. Domestic and International Policies on Sexuality by Francoise Girard, The International Working Group on Sexuality and Social Policy IWGSSP Working Papers, No. 1 June 2004, p. 13

The body of evidence as a whole demonstrates that Bush Administration's Global Health Agenda violates International law:

## **SUMMARY**

Access to accurate HIV/AIDS prevention information is a human right that the Bush Administration is intentionally violating. Its coercive abstinence-only and gag-rule policies are imposed on impoverished and politically and economically dependent countries of the world with catastrophic and foreseeable injury to children in violation, the UN Convention on the Rights of the Child. The policies also obstruct the purpose of Article 12 of the International Covenant on Economic, Social and Cultural Rights.

The Commission finds that grave injuries and the risk of grave injuries confront the worlds' people who are subjected to the Bush Administration's HIV/AIDS and family planning global health policies. The injuries are preventable, racially discriminatory in their disproportionate impact on people of color, religiously intolerant, and systemic. As a result, the Commission finds that the Bush Administration's HIV/AIDS and family planning policies constitute a crime against humanity.

## **HURRICANE KATRINA INDICTMENT**

### **The Levees**

**Count 1: Knowing failure of the Bush Administration to adequately maintain and upgrade the levees directly contributed to the foreseeable loss of life and suffering of many people when Hurricane Katrina struck.**

As to Count 1, the Commission finds that knowing failure of the Bush Administration to adequately maintain and upgrade the levees directly contributed to the foreseeable loss of life and suffering of many people when Hurricane Katrina struck.

The Federal Government is responsible for monitoring the design and construction of the levees in the United States at every step. Since the late 1960's, the federal government has been very well aware of New Orleans vulnerability to flooding due to levee breaches. "[The New Orleans] levees were never intended to protect against category four hurricanes such as Katrina according to Corps of Engineer's official, Lt. General Strook.

In addition, the 17<sup>th</sup> Street Canal Levee was built at 93% to 98% of the strength needed to meet a category 3 hurricane and far below the 130% standard requirement for a category 3 hurricane. As early as 2003, civil engineers were well aware that the levees could not handle a lingering category 3 storm.

Since 2003, under the Bush Administration, the flow of federal dollars to deal with flood relief issues in New Orleans fell to trickle due to the pressures on federal funding caused by the war in Iraq.<sup>54</sup>

## **Foreknowledge of Hurricane Katrina**

**Count 2: Despite foreknowledge of Hurricane Katrina striking land as a greater than category 3 storm and the devastation that this would cause, the Bush Administration failed to implement an emergency evacuation plan for people in the path of the storm and unable to evacuate on their own.**

As to Count 2, the Commission finds that despite foreknowledge of Hurricane Katrina striking land as a greater than category 3 storm and the devastation that this would cause, the Bush Administration failed to implement an emergency evacuation plan for people in the path of the storm and unable to evacuate on their own.

President George Bush falsely claimed that no one could have predicted the Katrina disaster. Prior to the 9/11 attacks on the World Trade Center, FEMA ranked the potential of hurricane caused damage to New Orleans as among the likeliest, most catastrophic disasters facing the United States. Since 2002, Dr. Ivor van Heerden, the director of Louisiana State University's Center for Public Health Impacts of Hurricanes led a multidisciplinary team looking at precisely what would happen if a major storm hit New Orleans. Their research included how the city would flood and how many people would ignore evacuation warnings. Their predictions, analyses, and summary of expected devastation were almost 100% accurate.

In 2003, Louisiana State oceanographer, Joseph Suhayda modeled the grave disaster that would be caused by a lingering category 3 or a category 4 or 5 hurricane. He shared his findings with emergency preparedness officials throughout Louisiana.

In 2004, FEMA conducted a hurricane simulation for New Orleans. In that simulation, a category 3 hurricane named Pam slammed into New Orleans with sustained winds of 120 mph. Water from Lake Ponchartrain poured over the levees and the entire city was quickly under water. FEMA drafted a comprehensive disaster response plan in response to the simulation. The plan stated that there could be thousands of fatalities, floating coffins, and large quantities of hazardous waste that would result in airborne and waterborne contamination. In addition, in 2004, New

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<sup>54</sup> Testimony of Prof. John Clark, The Commission; Looking Forward After Katrina: Environmental Health Problems and Recommendations for Officials, U.S. Public Interest Research Group (PIRG), Education Fund, September 21, 2005; Exhibit 6, Louisiana's Levee Inquiry Faults Army Corps, by John Schwartz and Christopher Drew; Exhibit 3, CRS Report for Congress, New Orleans Levees and the Floodwalls: Hurricane Damage Protection, by Nicole T. Carter; Exhibit A, Why the levee Broke, by Will Bunch, Attyood, September 1, 2005, <http://www.alternet.org/story/24871>; Ex. 4: Katrina Compounded by Matthew Rothschild, September 1, 2005, <http://progressive.org/?q=node/2377>; Ex. 7: News, Hurricane Katrina, Scientists' Fears Come True as Hurricane Floods New Orleans, 9 September 2005, vol. 309 Science; Testimony of Beverly Wright, The Commission

Orleans residents advocated to both the federal and local governments for the creation and implementation of a comprehensive emergency evacuation plan. Yet no such plan was ever implemented.

The record of the Bush Administration's failure to act is well established:

On August 25, 2005, category 1 Katrina hit Florida, killing 9 people. That same day the National Hurricane Center indicated that Katrina is likely to become a dangerous storm in 3 days. President Bush is in Crawford, Texas.

On August 26, Katrina became a category 2 hurricane and was forecasted to become a category 3 by August 26. On August 26, the Bush Administration announced a state of emergency for parts of Louisiana not threatened by Katrina. On August 27, Katrina became a category 3 hurricane and was predicted to become a category 4 within 24 hours. However, on August 27, Pres. Bush was still in Crawford, Texas. The Gov. of Louisiana, Kathleen Blanco, contacted Pres. Bush and requested federal assistance on August 27<sup>th</sup>. Pres. Bush's, August 26 declaration of a state of emergency omitted the Louisiana Parishes at risk that were identified by Gov. Blanco.

On August 28, the National Hurricane Center Director, Max Mayfield briefed Pres. Bush on hurricane Katrina. Gov. On August 28, Blanco sends a second request to Pres. Bush for federal relief, listing again the parishes at risk. On August 28, weather experts predicted that Katrina will soon hit landfall as a category 5 hurricane. Katrina hit the Gulf as a high category 4 hurricane on August 28. President remained in Crawford hailing the draft Iraqi constitution as an inspiring success. There is no record of Bush ever declaring a state of emergency for areas that were put a risk by Hurricane Katrina or that were identified by Gov. Blanco.

Despite several days of warnings of a monstrous hurricane heading for the Gulf that would devastate New Orleans and the Gulf region causing large losses of life and human suffering and despite the availability of a comprehensive federal disaster response draft plan in case of such a predicted disaster scenario that would mitigate the loss of life and human suffering, the Bush Administration did not initiate its disaster response plan prior to or during the duration of Katrina and admitted as much.<sup>55</sup>

### **Failure to launch rescue operations**

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<sup>55</sup> Ex. 10:Exclusive: Were the Warnings signs of Katrina Ignored?, Disaster Response Plan Predicted Hurricane Katrina's Catastrophic Results, by Pierre Thomas, <http://abcnews.go.com/GMA/print?id=1117497> ; Ex. 4: Katrina Compounded by Matthew Rothschild, September 1, 2005, <http://progressive.org/?q=node/2377> ; Ex. 11: FEMA's "Pam" Simulation Foretold Katrina Disaster, From Robert Longley, Your Guide to U.U. Gov. Info/Resources, Preparedness action plans not implemented in time, [http://usgovinfo.about.com/od/defenseandsecurity/a/femapam\\_p.htm](http://usgovinfo.about.com/od/defenseandsecurity/a/femapam_p.htm) , News Release FEMA, Hurricane Pam Exercise Concludes U.S. Department of Homeland Security, July 23, 2004, Contact: David Passey, Number 940-368-0210, R6-04-93; Ex. 7: News, Hurricane Katrina, Scientists' Fears Come True as Hurricane Floods New Orleans, 9 September 2005, vol. 309 Science; Ex. 15. White House Press Release dated August 27<sup>th</sup> 2005; Ex. 17: Bobharris.com, Basic Human Decency Shouldn't Have To Be An Act of Rebellion, <http://www.bobharris.com/content/view/637/1/> ; Hurricane Katrina Timeline, [http://www.dkosopedia.com/index.php/Hurricane\\_Katrina\\_timeline](http://www.dkosopedia.com/index.php/Hurricane_Katrina_timeline); Testimony of Malik Rahim, The Commission

**Count 3: The Bush Administration neither launched an immediate rescue operation nor provided the emergency shelter, food and water needed to save peoples lives and prevent needless suffering.**

As to Count 3, the Commission finds that the Bush Administration neither launched an immediate rescue operation nor provided the emergency shelter, food and water needed to save peoples lives and prevent needless suffering.

On August 28, 2005, the National Weather Service sent an urgent weather message nationwide, warning of devastating damage that it described comprehensively. Katrina hit New Orleans on August 29. Electrical power in the Superdome where the city's poor, disabled, and homeless were crammed failed at 5am. Entire New Orleans neighborhoods were submerged in water. In late afternoon, on August 29, a levee broke near St. Bernard-Orleans parish. President Bush was playing golf. Five hours after Katrina hits FEMA dispatched 1000 employees to region, giving them two days to arrive.

On September 12, 2005, the Congressional Research Service, in response to an inquiry from Congressmen John Conyers (D. Mich.), determined that the Bush Administration had not taken the steps needed to trigger Stafford Act emergency assistance and disaster assistance.<sup>56</sup>

**Federal Authorities Block Emergency Relief**

**Count 4: Federal authorities block provision of emergency services, including rescue and provision of food and water on the part of other levels of government and private sources despite the obvious need for this kind of relief.**

As to Count 4, the Commission finds that federal authorities block provision of emergency services, including rescue and provision of food and water on the part of other levels of government and private sources despite the obvious need for this kind of relief.

On August 29, the 17<sup>th</sup> Street Canal levee broke. However, FEMA instructs outside fire and rescue departments not to enter disaster area and refuses to allow firefighters into New Orleans. On August 31, the Department of Homeland Security blocked assistance from foreign countries.

The first 100 persons rescued from the flooding in New Orleans and delivered to the Houston Astrodome were rescued by an 18 year old, not FEMA, who had commandeered an abandon bus. Four days after Katrina it landfall, the Bush Administration requested assistance from the airline industry to evacuate Katrina victims. As of September 1, the Bush Administration had not directed the U.S military to immediately assist people without food or water in the city center.

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<sup>56</sup> Hurricane Katrina Timeline, [http://www.dkosopedia.com/index.php/Hurricane Katrina timeline](http://www.dkosopedia.com/index.php/Hurricane_Katrina_timeline) ; Environmental Health Perspectives Vo. 114, Number 1, January 2006

The military prevented a caravan of nearly 100 buses from Houston, Texas carrying food and water for people trapped in New Orleans to get the supplies to the Convention Center. The military stopped caravan in sight of the Convention Center. The supplies never got to the Convention Center. On September 3, FEMA blocked life saving aid to Jefferson Parish. On September 13, a frustrated FEMA employee appeared on Nightline, speaking for himself, said, “right now as we talk, unfortunately, Homeland Security is actually impeding...the rescue effort.”<sup>57</sup>

## **Federal Authorities Enforce Repressive Conditions**

**Count 5: Federal authorities enforced repressive conditions and eventually carried out an evacuation that separated families, including small children from their parents, and left many people not knowing where their loved ones were located and even if they had survived the storms.**

As to Count 5, the Commission finds that the federal authorities enforced repressive conditions and eventually carried out an evacuation that separated families, including small children from their parents, and left many people not knowing where their loved ones were located and even if they had survived the storms.

A direct consequence of the federal government’s belated involvement in evacuations, were the avoidable instances of family separation and missing persons.

The primary focus of early federal intervention in New Orleans was the protection of property at the expense of rescuing people from the rapidly unfolding natural disaster caused by Katrina. The federal government contracted with private security agencies that acted, with impunity, as legitimate local law enforcement in ways that violated residents’ civil rights and that terrified disaster victims and systematically thwarted their attempts to survive at risk of being shot. The Bush Administration promulgated a “Zero Tolerance” order on September 1 that told local law officials to move against anyone engaged in, looting and other crimes. Consequently, the police went after desperately hunger people attempting to get food and water to survive.<sup>58</sup>

## **SUMMARY**

The Bush Administration’s response to the Katrina natural disaster violated and obstructed the purpose of international law. The persons most injured by the Bush Administration’s response to the Katrina natural disaster were the poor, people of color, and especially people of African de-

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<sup>57</sup> Hurricane Katrina Timeline, [http://www.dkosopedia.com/index.php/Hurricane\\_Katrina\\_timeline](http://www.dkosopedia.com/index.php/Hurricane_Katrina_timeline) ; Testimony of Beverly Wright, The Commission; Taped testimony of Anthony Zumbado, The Commission; testimony of Abigail B., The Commission; Testimony of Emma Lofton Woods-hotel space, cruise ships, and unused trailers were used for FEMA and Red Cross personnel only, The Commission

<sup>58</sup> Testimony of Jeremy Scahill, Malik Rahim, and Devon Turner, The Commission

scent who were already living under circumstances of institutional racism that the Bush Administration's failed response profoundly exacerbated.

The foreseeable consequences of the Bush Administration's Katrina response violated the legal principles embodied in the International Convention on the Elimination of All Forms of Discrimination. In addition the failures of the Bush Administration obstructed the efforts of the International Covenant on Economic, Social, and Political Rights because of its deliberate indifference to provide medical services, food, and shelter to the residents of the Gulf in a manner that was within its capacity to provide and that would have saved lives and prevented enormous suffering.

Further this record is clear. The Bush Administration demonstrated a gross and wanton indifference to human life that caused thousands of Gulf coast residents to die and suffer needlessly. The suffering continues, systemically causing continuous grievous injuries due to displacement and related issues. Accordingly, the Bush Administration has committed crimes against humanity.

# **The International Commission of Inquiry on Crimes Against Humanity Committed by the Bush Administration of the United States**

**W**hen the possibility of far-reaching war crimes and crimes against humanity exists, people of conscience have a solemn responsibility to inquire into the nature and scope of these acts and to determine if they do in fact rise to the level of war crimes and crimes against humanity. That is the mission of the International Commission of Inquiry on Crimes Against Humanity. The final session will be held January 20-22 in New York City. This tribunal will, with care and rigor, present evidence and assess whether George W. Bush and his administration have committed crimes against humanity. Well-established international law will be referenced where applicable, but the tribunal will not be limited by the scope of existing international law.

**T**he tribunal will deliberate on four categories of indictable crimes: 1) Wars of Aggression, with particular reference to the invasions and occupations of Iraq and Afghanistan. 2) Torture and Indefinite Detention, with particular reference to the abandonment of international standards concerning the treatment of prisoners of war and the use of torture. 3) Destruction of the Global Environment, with particular reference to systematic policies contributing to the catastrophic effects of global warming. 4) Attacks on Global Public Health and Reproductive Rights, with particular reference to the genocidal effects of forcing international agencies to promote “abstinence only” in the midst of a global AIDS epidemic.

**T**he Commission’s jury of conscience will be composed of internationally respected jurists and legal scholars, prominent voices of conscience, and experts and monitors in relevant fields. The tribunal’s legitimacy is derived from its integrity, its rigor in the presentation of evidence, and the stature of its participants. Representatives of the Bush administration will be invited to present a defense.

**P**rior to the meeting of the Commission, teams with sufficient expertise will prepare preliminary indictments in each of the four areas, setting forth the scope of the Bush administration’s actions and how they contravene legal and moral norms for international behavior. At the meeting of the Commission, there will be four prosecution teams that organize the presentation of the evidence. This evidence will be documents as well as eyewitness testimony by victims and observers of the crimes alleged. The formal proceedings will be held in a public venue and all attempts will be made to publicize and broadcast its deliberations internationally. The Commission’s jury of conscience will come to verdicts and its findings will be published.

**T**he holding of this tribunal will frame and fuel a discussion that is urgently needed in the United States: Is the administration of George W. Bush guilty of war crimes and crimes against humanity? The Commission will conduct its work with a deep sense of responsibility to the people of the world.

*The Commission is sponsored by the **Not In Our Name** statement of conscience, joined by the following individuals and organizations:*

James Abourezk, former United States Senator  
As'ad AbuKhalil, professor of politics & public administration, California State University-Stanislaus  
Dirk Adriaensens, BRussells Tribunal executive committee and coordinator SOS Iraq  
After Downing Street  
Dr. Nadjie Al-Ali, social anthropologist at the Univ. of Exeter, founding member of Act Together: Women's Action on Iraq & and member Women in Black UK  
Anthony Alessandrini, organizer with the World Tribunal on Iraq and New York University Students for Justice in Palestine  
Edward Asner  
Michael Avery, president of the National Lawyers Guild and professor, Suffolk Law School  
Russell Banks, novelist  
The Rev. Luis Barrios, Ph.D., associate professor at John Jay College of Criminal Justice & Anglican Priest  
Amy Bartholomew, professor of law at Carleton University  
Greg Bates, Common Courage Press  
Tony Benn, former chairman of the British Labour Party  
Phyllis Bennis, Institute for Policy Studies  
Michael S. Berg, grieving father of Nick Berg killed in Iraq May 7, 2004, and one man for Peace  
Ayse Berkday, from the organizing team of the World Tribunal on Iraq  
William Blum, author of *Killing Hope: US Military and CIA Interventions Since World War II* and *Rogue State: A Guide to the World's Only Superpower*  
Francis Boyle, author of *Destroying World Order* and professor at the University of Illinois College of Law  
Jean Bricmont, BRussells Tribunal executive committee  
Center for Constitutional Rights  
Marjorie Cohn, professor at Thomas Jefferson School of Law and executive vice president of the National Lawyers Guild  
Lieven De Cauter, BRussells Tribunal executive committee  
Patrick Deboosere, BRussells Tribunal executive committee  
Eve Ensler, playwright  
Peter Erlinder, William Mitchell College of Law and lead defense counsel, United Nations Criminal Tribunal for Rwanda, Arusha, Tanzania  
Larry Everest, author of *Oil, Power & Empire: Iraq and the U.S. Global Agenda* and *Behind the Poison Cloud: Union Carbide's Bhopal Massacre*  
Richard Falk, professor emeritus of International Law, Princeton, and Visiting Professor in Global and International Studies, UC-Santa Barbara  
Thomas M. Fasy, MD, Mount Sinai School of Medicine, New York City  
Lawrence Ferlinghetti, member, American Academy of Arts & Letters and founder & editor in chief, City Lights Books, San Francisco  
The Rev. Dr. James E. Fitzgerald, minister for mission and social justice, The Riverside Church  
Ted Glick, former coordinator, Independent Progressive Politics Network  
Dr. Elaine C. Hagopian, former president of Association of Arab-American University Graduates (AAUG) and primary founder of the Trans-Arab Research Institute (TARI)  
Sam Hamill, director, Poets Against War  
International Movement for a Just World (JUST), Malaysia  
Abdeen Jabara, past president, American-Arab Anti-Discrimination Committee  
Dahr Jamail, U.S. independent journalist who has reported extensively from Iraq since the invasion  
C. Clark Kissinger, contributing writer for *Revolution* and initiator of the *Not In Our Name* statement of conscience  
The Reverend Doctor Earl Kooperkamp, Rector, St. Mary's Episcopal Church, West Harlem, New York  
Joel Kovel, editor-in-chief, *Capitalism Nature Socialism: A Quarterly Journal of Socialist Ecology*, and author of *The Enemy of Nature*  
Jesse Lemisch, professor of history emeritus, John Jay College of Criminal Justice  
Rabbi Michael Lerner, editor of *Tikkun* magazine and author of *The Left Hand of God: Taking Back America from the Religious Right*

Rev. Davidson Loehr, Ph.D., First Unitarian Universalist Church of Austin, Texas National Lawyers Guild  
National Lawyers Guild, San Francisco Bay Area Chapter  
Rev. Davidson Loehr, Ph.D., First Unitarian Universalist Church of Austin, Texas  
Robert Meeropol, Executive Director, Rosenberg Fund for Children  
New Jersey Civil Rights Defense Committee  
New Jersey Workers Democracy Network  
National Lawyers Guild  
National Lawyers Guild, San Francisco Bay Area Chapter  
Not In Our Name Project  
Barbara Olshansky, deputy legal director of the Center for Constitutional Rights and author of *Secret Trials and Executions*  
James Petras, professor emeritus of sociology at Binghamton University, New York  
Jeremy Pikser, screenwriter  
Michael Ratner, president of the Center for Constitutional Rights and author with Ellen Ray of *Guantanamo: What the World Should Know*  
Stephen F. Rohde, civil liberties lawyer and co-founder of Interfaith Communities United for Justice and Peace  
Marc Sapir, MD, MPH, co-convener of the UC Berkeley Teach In on Torture and executive director of Retro Poll  
Sister Annette M. Sinagra, OP  
Peter Singer, Professor of Bioethics, Princeton University  
State of Nature on-line magazine  
U.S. Tour of Duty  
Inge Van de Merlen, BRussells Tribunal executive committee  
Gore Vidal  
Anne Weills, civil rights attorney in Oakland, National Lawyers Guild  
Leonard Weinglass, criminal defense attorney  
Naomi Weisstein, professor emeritus of Neuroscience, State University of NY at Buffalo  
Howard Zinn, historian

[institutions for identification only]

*Web site:* [www.bushcommission.org](http://www.bushcommission.org)    *E-mail:* [commission@nion.us](mailto:commission@nion.us)



# **Standards of Judgment for the International Commission of Inquiry on Crimes Against Humanity Committed by the Bush Administration of the United States**

When the possibility of far-reaching war crimes and crimes against humanity exists, people of conscience have a solemn responsibility to inquire into the nature and scope of these acts and to determine if they do in fact rise to the level of war crimes and crimes against humanity. That is the mission of the International Commission of Inquiry on Crimes Against Humanity. This tribunal will, with care and rigor, present evidence and assess whether George W. Bush and his administration have committed crimes against humanity.

*-- From the Charter of The International Commission of Inquiry on Crimes Against Humanity Committed by the Bush Administration of the United States*

The need for this tribunal, as an instrumentality of world humanity, arises from the *historical, moral and political responsibility of people of conscience* to sit in judgment of this administration: to inquire and assess whether this administration has committed crimes that do in fact rise to the levels of crimes against humanity as popularly understood and conceived, that is, *acts that, by their scale or nature, shock the conscience of humankind.*

Crimes against humanity are brutal crimes that are not isolated incidents but that involve large and systematic actions often cloaked with official authority. These include mass murder, extermination, enslavement, deportation, and other inhumane acts perpetrated against a population, conducted in wartime or not. Apartheid and persecution on political, ethnic, and gender grounds have also been considered inhumane acts causing great suffering, and therefore crimes against humanity.

We see the need to proceed from this first-principles definition of crimes against humanity precisely because of the singular nature of some of this administration's actions and the lack of relevant precedent in existent law. This is especially true for judging categories of crimes other than wars of aggression and torture, where precedent and conventional standards do exist within international law.

We are not pre-determining a minimum quantitative level required to constitute a "mass scale" -- or "large and systematic action" -- within our definition of crimes against humanity. Rather, we are focusing on the overall nature and scope of the impact of these actions and policies. Nor are we making a criterion of explicit intentionality. The jury of conscience will inquire into and assess whether the Bush administration policies involve foreseen or foreseeable risk of catastrophic or genocidal proportions. The question is not whether the Bush administration is intentionally setting out to make millions suffer with its global warming and global health policies, for example. Rather, the question is, whether such suffering is clearly the predictable consequences of policies guided by ideological and political goals?

Such culpability must also distinguish actions specific to the Bush administration from general systemic causes and the actions of previous administrations (even where such actions themselves may rise to the level of crimes against humanity).

Proceeding from the tribunal's Charter and its mission, the character of this commission is *sui generis* -- a unique response by people of conscience to the unprecedented historical responsibility before us. The Commission's Charter states, "The tribunal's legitimacy is derived from its integrity, its rigor in the presentation of evidence, and the stature of its participants." Its political and moral authority is based on high standards which are not arbitrary and capricious but predefined and consistent. These standards are critical to safeguarding findings of this commission from arbitrariness, a priori political motivations, or other forms of subjectivity.

Though it is not a court of law with power to impose sanctions, the "judicial" character of the Commission's conduct, proceedings, and verdict is foundational to its integrity and its historic mission. As the Charter states, "Well-established international law will be referenced where applicable, but the tribunal will not be limited by the scope of customary international law." This commission is neither attempting to develop new international law *per se*, nor tortuously applying current law to force-fit its proceedings and findings into existing legal frameworks. Rather, through the rigorous presentation of expert and witness testimony, documents, and other evidence, the Commission aims to establish the truth about major acts and policies of the Bush administration in the areas specified in the Charter. In addition, "representatives of the administration will be invited to present a defense."

The historic and political responsibility before this tribunal lies in delivering findings of fact and a verdict on the central question before the commission: "whether George W. Bush and his administration have committed crimes against humanity." As the Charter mandates, "The Commission's jury of conscience will come to verdicts and its findings will be published." The jury of conscience will carefully assess the evidence and base its conclusions on the sufficiency of the evidence. In assessing sufficiency, we are aware that some acts constitute crimes against humanity in and of themselves, while other particular acts may be instances of more general patterns of conduct that constitute such crimes.

We must continuously return to the fact that the need for this Commission flows precisely from the real and horrendous crimes being committed and our historical, moral and political responsibility as people of conscience. We reaffirm that "The Commission will conduct its work with a deep sense of responsibility to the people of the world."

# Witnesses

**Annette A.**, New Orleans survivor of Hurricane Katrina

**Saleh Ajaj**, Victim of arbitrary detention in the US after 9/11

**Anthony Alesandrini**, World Tribunal on Iraq

**Jay Arena**, Housing rights advocate from New Orleans

**Abigail B.**, School bus driver from Houston blocked by authorities from rescuing people from New Orleans

**Amy Bartholomew**, Professor of law, Carleton University

**Dr. Alan Berkman**, Professor of epidemiology, Columbia University School of Public Health

**Vanessa Brocato**, International Policy Associate, Sexuality Information and Education Council of the United States (SIECUS), author of SIECUS PEPFAR

**Stephen Bronner**, Professor of political science, Rutgers University

**Dr. Robert Bullard**, Director, Environmental Justice Resource Center at Clark Atlanta University, Author, "Quest for Environmental Justice: Human Rights & the Politics of Pollution"

**Eric Carter**, Common Ground Collective, New Orleans

**John Clark**, Professor of Environmental Studies, Loyola University, New Orleans

**Naina Dhingra**, Advocates for Youth

**King Downing**, National Coordinator of the ACLU's Campaign Against Racial Profiling

**Larry Everest**, Author, "Oil, Power & Empire: Iraq and the U.S. Global Agenda"

**Dr. Thomas Fasy**, Professor of pathology, Mount Sinai School of Medicine, Campaign Against Depleted Uranium

**Chris Fox**, Chairman, Department of Environmental Science & Technology, Community College of Baltimore County

**Lindsey German**, Convenor, UK Stop the War Coalition

**Ted Glick**, Climate Crisis Coalition

**Tom Goldtooth**, Indigenous Environmental Network

**Arron Guyton**, Common Ground Collective, New Orleans

**Denis Halliday**, ex-UN Assistant Secretary-General, former head of UN Humanitarian Mission In Iraq

**Dahr Jamail**, Independent journalist, reported extensively from Iraq

**Tanya Jones**, Filmmaker from New Orleans

**Brig. Gen. Janis Karpinski**, former commander Abu Ghraib prison, author of "One Woman's Army : The Commanding General of Abu Ghraib Tells Her Story"

**Mark Krasnoff & Monique Verdin**, Cajun community activists and filmmakers

**Eric Lerner**, New Jersey Civil Rights Defense Committee

**Larry McBride**, who was left to drown in a New Orleans prison when Katrina struck

**Ray McGovern**, former CIA analyst

**Camilo E. Mejia**, Iraq Veterans Against the War

**Dr. Stephen Miles**, Professor, Center for Bioethics, University of Minnesota Medical School, author “Oath Betrayed: Torture, Medical Complicity and the War on Terror”

**Craig Murray**, former British Ambassador to Uzbekistan, author “Murder in Samarkand”

**Barbara Olshansky**, Center for Constitutional Rights and co-ordinator of Guantanamo detainee defense

**Malik Rahim**, Common Ground Collective, New Orleans

**Scott Ritter**, former UN weapons inspector, author, “Iraq Confidential”

**Jeremy Scahill**, correspondent for Democracy Now! and The Nation, eyewitness to the Iraq occupation and the aftermath of Hurricane Katrina

**Sarah Sohn**, Legal fellow with Immigration Equality

**Dr. Ida Susser**, Professor, Columbia University School of Public Health

**David Swanson**, Co-founder of AfterDowningStreet.org, on the Downing Street memo

**Josh Tulkin**, Organizing Director for the Chesapeake Climate Action Network, on the relationship between Hurricane Katrina and global warming

**Devon Turner**, Hurricane Katrina survivor from the Louisiana wetlands

**Emma Lofton Woods**, Volunteer aid worker in New Orleans

**Beverly Wright**, Director, Deep South Center for Environmental Justice at Xavier University

**Daphne Wysham**, Institute for Policy Studies, Sustainable Energy & Economy Network

**Tony Zimbardo**, MSNBC videographer and producer, provided video testimony of aftermath of Hurricane Katrina in New Orleans

# Panel of Jurists

**Adjoa A. Aiyetoro**, Assistant Professor of Law, University of Arkansas at Little Rock. She has served as Executive Director, National Conference of Black Lawyers (NCBL), the Director of Administration for the Congressional Black Caucus Foundation, Inc., a consultant to the Lawyers' Committee for Civil Rights Under Law and the Chief Legal Consultant for the National Coalition of Blacks for Reparations in America (N'COBRA).

**Dennis Brutus**, professor emeritus, Department of Africana Studies, University of Pittsburgh. Currently visiting scholar. Centre for Civil Society University of Kwazulu-Natal, Durban, South Africa. Holds several honorary doctorates, former political prisoner on Robben Island in South Africa. Published several books including Poetry and Protest; a Dennis Brutus reader, Haymarket Press Chicago. University of Kwazulu Press, Durban.

**Abdeen Jabara**, former President, American-Arab Anti-Discrimination Committee. In the mid-1980s, he played a major role in exposing the Nixon administration's Operation Boulder program, a program begun in the 1960s that included surveillance, deportations and other incidents involving the Arab and Arab-American community in the United States.

**Ajamu Sankofa**, lives in Brooklyn, NY. He is a human rights public policy specialist and community organizer. He is the former executive director of the NYC chapter of Physicians for Social Responsibility. He is a consultant for the National Coalition of Blacks for Reparations in America, Legal Defense, Research and Education Fund and he chairs the NYC local organizing committee of Health Care-Now.

**Ann Wright**, is a retired United States Army Colonel, retired official of the U.S. State Department, and now full-time anti-war activist. She currently sits on the Board of Directors for organizations Operation Truth/Iraq and Afghanistan Veterans of America, and Veterans for Common Sense. Wright is most noted for being one of three U.S. State Department officials to publicly resign in direct protest of the invasion of Iraq in March, 2003.

# Prosecutors

Wars of Aggression: **Stephen Bronner, Larry Everest, Ray McGovern**

Torture and Detention: **Marjorie Cohn, Eric Lerner, Barbara Olshansky**

Global Environment: **Ted Glick**

Health and Reproductive Rights: **Ida Susser, Jonathan Garcia**

Destruction of New Orleans: **Carl Dix, King Downing, Dionne Franklin, Chokwe Lumumba**



# **WE GO IN THE FINAL HOUR, TO THE MOST IMPORTANT LINE OF BATTLE: THE PEOPLE THEMSELVES**

*by Harry Belafonte*

Thank you very much. I would first express my great sense of privilege, and opportunity to be part of this evening's tribunal and what we will be seeing and hearing. I would like to also extend my respects to the panel and to the tasks you have before you, and what we will be hearing.

It is most gratuitous that this should be taking place at the end of a week of celebration of the memory of Dr. Martin Luther King Jr. This nation has never, ever produced a greater citizen, who stood and still stands for the principles for why we are all gathered here: the pursuit of justice, the pursuit of human rights, the pursuit of human dignity.

Theodore Roosevelt once said that when the powers of state, that having been mandated to reach out and to protect the interest of the people, begin to usurp the Constitution and undermine our laws, that it is the responsibility of the citizens to rise up and to speak against this process. And, to in fact, insist upon the changing of the guard, the changing of regime. And those, (applause), those citizens who fail to hear that call, in fact should be charged with patriotic treason (Applause). I think none gathered here this evening can be so charged.

It is important when all the instruments of government collapse, we go in the final hour, to the most important line of battle: the people themselves. The people of this nation, I think, and I know it, are awake, and are being more awakened every day. They are hearing and sensing the danger that sits on the horizon. Looking at the international oppressions that we are a part of, looking at how we have violated international humanity and law, one day this tribunal I hope, will reach out, and in its investigation look at the oppression and illegal experiences people in this nation are experiencing themselves.

On 9/11, we were all stunned by the tragic events that took place when the Twin Towers collapsed, and this terrorism was put upon our people. Two thousand lost their lives. Two thousand who were innocent, two thousand who did not cause war. And we said they were terrorists and we should hunt them down and bring them to justice. Tell me, where for you does the line blur?

When a nation as powerful as this, the most powerful in the history of human existence, and those who have dubiously come to power and who are reigning over the will of this nation, when they lie and mislead the citizens of this country, when they put before us fear and then govern by terrorism -- where does the line blur for you? When our sons and daughters are sent to die in foreign battlefields, each day we claim the lives of tens and thousands of innocent men, women, and children, in other places -- where for you does terrorism end and where does it begin, and who are the terrorists?

Those who would choose to detract the real meaning of this tribunal, the real meaning of this people's moment, would suggest to you that we are somehow perhaps irrelevant. Well, I guess Paul Revere was considered at one point irrelevant, when he called for the alarm against the red coats.

I know very well that at the beginning, Dr. Martin Luther King was considered irrelevant. I know that there are so many that have called for the awakening of our citizens to look at what is happening to us and to seize our rights to put us back into democratic governance. Always in the beginning, we are minimalized, marginalized and relegated to the dustbins of history. We have prevailed before and we will prevail again. I am honored to be a part of this process, and anything I can do to help broaden its base, to help broaden its inquiry, and to help save the soul of our nation, I welcome the opportunity and I will so serve. Thank you.

# **TOMORROW IS TODAY: THE FIERCE URGENCY OF INDICTING – AND DRIVING OUT – THE BUSH ADMINISTRATION**

By Michael Ratner

When Clark Kissinger called me yesterday and said, I'll be sharing a platform with Harry Belafonte, I said, "well, maybe you want to put me on for tomorrow." But here I am, and of course I'm proud to be even in any kind of association with Harry Belafonte. And I'm sure you're all familiar with Harry Belafonte's comments that he made to President Chavez in Venezuela a few days ago. And if you don't remember them, I'll repeat them. "No matter what the greatest tyrant in the world, the greatest terrorist in the world, George W. Bush, says, we're here to tell you that not hundreds, not thousands, but millions of the American people support your revolution." Now what's remarkable about that, and of course Harry Belafonte was heavily attacked for that. But, as he has never been willing to do, he did not retreat from the statement. And if you go on the net you come to what he said, at the Children's Defense Fund, a few days later, and what he says was, "so I made my remarks, they may stir up controversy, but then it's time to talk about new definitions, new points of view." And that's what Harry Belafonte was doing, and that is what we are doing here today, and over the next two days, at these Commissions.

The other important point about being here, at Riverside of course, is that in April 1967, this is the place, this church, where Martin Luther King openly, and notoriously I should say, opposed the war in Vietnam. The speech was called "Beyond Vietnam: A time to break the silence." It's a historic place for that reason, and he began that speech with these words: "A time comes when silence is betrayal. That time has come for us, in relation to Vietnam." And then in that speech, he lays out a 5-point program. But the ultimate point of that program was: remove all foreign troops from Vietnam. Incredibly, even though it was Martin Luther King saying that, in 1967, it took 9 more years, millions of Vietnamese deaths, and thousands of American deaths, to do so. We today model our conduct on that of Dr. Martin Luther King. As he said then, we say today, a time comes when silence is betrayal. That time has come for us, in relationship to the war in Iraq. It is time for us to bring the troops home now.

A people's trial, a people's commission, is not without important precedents. Almost 40 years ago, in 1968, there was another people's trial. It was held in Sweden and Denmark. Originally it was to be held in France. But the French wouldn't allow it; they prohibited it, because it was about Vietnam, and of course the French had been very deeply involved in the subjugation of Vietnam. The witnesses at that people's trial were well-known progressives, including Jean-Paul Sartre. They gathered in Stockholm and Copenhagen, and they were there to judge another human outrage in our history, the brutal and inhuman Vietnam War. Bertrand Russell, the famous English philosopher, was one of the key participants in that trial. In fact, it was called the Russell War Crimes Tribunal. Russell opened that trial, and here is what he said: "We meet at an alarming time. Overwhelming evidence besieges us daily of crimes without precedent. We investigate in order to expose; we document in order to indict; we arouse consciousness in order to create

mass resistance.” And so, as Russell said then, we say today: we are putting the Bush administration on trial. We investigate in order to expose; we document in order to indict; we arouse consciousness in order to create mass resistance. We want this trial to be a step in the building of mass resistance to war, to torture, to the destruction of earth and its people. It’s a serious moment. Our country and our world are at a tipping point. Tipping toward permanent war, the end of human rights, and the impoverishment and death of millions. We still have a chance, an opportunity to stop this slide into chaos. But it is up to us. We must not sit with our arms folded, and we must be as radical as the reality we are facing.

The witnesses you will hear over the next few days are the truth-tellers: the witnesses to the carnage this country and this administration has wrought. This truth challenges us — challenges us all to act. We, particularly the American people, have not heard or seen the truth. And if some do, in their comfort and complacency, they often turn away. The truth is hidden. It is hidden through cover-up language, euphemisms, legalisms, obfuscations, false investigations, the blaming of low-level individuals: all meant to hide the reality of the criminal involvement of high officials of this administration. The criminal involvement in war, torture, global and human destruction.

Let’s take a look at a few of these examples, and there are many. The failure in this country, and the media, my pundits everywhere we look, to look at the reality- a reality this commission will examine. I’m sure most of you are familiar with the first example: the war in Iraq. Supposedly, the war was to eliminate Iraq’s weapons of mass destruction. Now it is said: that was a mistake. It was bad intelligence. The administration says it, and much of Congress says, the Press says it, “Had we only known — but we thought they had weapons of mass destruction. So we must in the future get better intelligence.” As if that explains or excuses why we went to war. But of course, that explanation — the failure of intelligence — and still the current explanation of today, by the elites, hides the real reasons for war. It blames some negligent officials, individuals, at the CIA, for leading us into war. All we need to do according to them is correct that, and we won’t be in mistaken wars any longer. Mistaken wars will come to an end. If you believe that, you believe in the tooth fairy. We all know that is not the truth. In fact, in 1967, Martin Luther King predicted it. He said we will be marching and protesting wars for the rest of our lives as long as we are on the wrong side of history. And we are on the wrong side of history.

Sometimes I ask myself: why did we progressives know the weapons of mass destruction story was a cover for war? But Congress and the media claimed they could not? Because they — all of them, Democrats, Republicans, the media — they were all reading from the same page. And that page is U.S. world exploitation and domination. And of course what does the truth tell us about the war in Iraq? It tells us that it’s an aggressive war, a crime against peace, and according to the judgment at Nuremberg, that kind of war is the most heinous of all war crimes. I can give you other examples: Clark had referred to one. For example, the fact that they say that we do not torture. All of a sudden in this country, torture is not torture. Or at worst it is abuse. And even that abuse, it is no worse than a fraternity prank. Or if it was abuse, it was because abusive techniques were only for use in Guantánamo. What sense does that make? Used in Guantánamo — and somehow they migrated to Iraq? But what does “migrated to Iraq” mean? Are they birds, like a bird migrates? Without any human agent, torture techniques move from one place to another? Or we are told that it is a few bad apples, but no responsibilities for the higher-ups. And yet the media has gone along with this, with these lies and these cover-ups. Even worse, serious media dis-

cussion and respectability is given to the legal justifiers. For example, John Yoo, a lawyer for the administration, who wrote that you could torture in the name of national security — much like the Pinochet defense, torture in the name of national security. I was utterly shocked the other day when I picked up the New York Times and there on the back page they had asked half a dozen people what questions would you ask the potential new Supreme Court Judge Alito? And there they asked John Yoo, ‘what question would he ask him’. They are giving credibility to a man who should not be on the back of the New York Times but should be in the docks but who should be in the docks facing justice.

Let there be no doubt this administration is engaged in massive violations of the law. Torture is an international crime. It is a grave breach of the Geneva conventions. And almost no one is telling you that. And in this country it is anathema to do so.

A third and last example of the hiding of reality, of the blaming of individuals, instead of the nature of this country and it’s leaders is the example of what happened in New Orleans and Katrina. It is the preparation for and aftermath of Katrina. What do we hear and read? It was an unpredictable act of god. It was the failure of FEMA. FEMA had a bad manger. All sorts of excuses similar to what we heard about the so-called intelligence failures in the Iraq war. But to blame FEMA, to blame the individuals, obscures what we know occurred in New Orleans. What we saw in New Orleans and the Superdome was something very different — it was the legacy of slavery, the legacy of Jim Crow, the legacy of separate but equal, and it was the legacy and the current practice and policy of our country today that human beings are seen as disposable particularly if they are poor and black. That is the reality of New Orleans, and that is the reality faced everyday in this country. And again, that is the reality this Commission will bring you.

The war, torture, and the effects of Katrina are not looked at as failures or as products of the system. The truths are hidden and by hiding it we are disempowered; so we are here this weekend to hear truth tellers to empower people. It is not just a few bad apples, it is not mistakes or bad choices, it is not just bad managers and getting better ones; but something much more fundamental. It’s that awful alchemy as Dr. Martin Luther King described it in this very church — the giant triplets of racism extreme materialism and militarism.

I want to say a few words about one aspect of the current period that is extremely frightening. Probably the most frightening although it does have roots in prior administrations. The short hand for the expression of this period and the scare and fear that I feel is, “The king can do no wrong” or the word might be tyranny, police state or dictatorship. I recall that after 9/11, within a few months afterwards, I wrote an article. It was entitled, “Moving toward a police state — or have we arrived?” And I remember being nervous about it because this was pretty aggressive to be saying a few months after 9/11. Was I gonna get trashed for it? Did it really reflect reality? I wasn’t sure. I had some evidence in front of me. I had the Patriot Act. I had internal detentions. I had the President’s military order that allows him to pick up people anywhere in the world and detain them in Guantánamo or elsewhere. But I still was willing to say ‘moving toward a police state’, not have ‘we arrived’. And a police state to me is one where authority is not under law, where the legislature is overridden, and where our courts are ignored. Where one can be jailed without a court proceeding or trial and where the president, king or what have you, can do as he pleases — wire tap, torture, and disappear people. Unfortunately, and dangerously that is the situation we are in today.

You are familiar with much of the evidence, some of which I have laid out, some of which the next two days will address. There is however one piece of important evidence I want to bring to your attention. In which the president, their president, not our president, is open and notorious about his aims, public if you will; and if you miss it you have to be an ostrich with your head in the ground. What he has done is basically lay the plan for what has to be called a coup-de-tat in America. And it's a small (Applause) it is a small paragraph and it's contained in what we call a 'signing statement.' It was signed on December 30<sup>th</sup> and it's the signing statement to what we call the McCain amendment. You probably all remember the McCain amendment. That's the amendment that prohibits cruel, inhuman, and degrading treatment, or supposedly prohibits it. The president as you recall, resisted the McCain amendment. But in the end he had to sign it because it was part of a broader military authorization to pay for what we're doing in Iraq. And when the president signs legislation, he sometimes and more recently with President Bush, he issues a signing statement as to what his understanding of the law is. The president's statement on McCain is only one short paragraph. But it is historic. It is unprecedented. And if you're looking for the grab for power that allows you, permits you, compels you to call this a tyranny it is that paragraph.

It makes three points and I'll paraphrase. First, speaking as the president, 'My authority as commander in chief allows me to do whatever I think is necessary in the war on terror including use torture. Second, the Commander in Chief cannot be checked by Congress. Third, the Commander in Chief cannot be checked by the courts.' There it is. There you have it. That boring stuff I learned as a junior high school student about checks and balances or about limited law or about authority under law - out the window. Gone. In other words, the republic and democracy is over. In Germany what did they call that? They called that the furor's law. Why? Because the furor was the law. That's what George Bush is saying here. George Bush is the law.

This assertion of power is so blatant so open, and so notorious, that it is finally shocking some people like former Vice President Gore to speak up. And I'm sure many of you are familiar with what he said in his recent speech on Martin Luther King's birthday. Quote: "The President of the United State has been breaking the law repeatedly and persistently." He was referring to the NSA spying scandal. And then he went on to say, "A president who breaks the law is a threat to the very structure of our government." And then he said, "An executive who acts free of the will of Congress as this president says he can, or the check of the judiciary, as this president says he can, becomes the central threat that the founders sought to nullify in the Constitution." And then he quotes James Madison. "To the effect that what President Bush has done is the very definition of tyranny." So there you have it. It's not just us, its not just progressives, but even someone like former Vice President Gore is saying the very definition of tyranny.

I believe that the president and this grab for power will be repudiated. But it will not just happen. The pendulum does not swing back automatically. It will take an aroused public and an aroused people. And so the question is really - where do we go from here? One place I can tell you not to go is: don't go to the Democrats in Washington. I have to tell you (Applause) I've have never in my life been kicked in the teeth so badly as I was on the Guantánamo cases when we took that to the Democrats in Washington. Now I'm just gonna say it here, there is a million reasons I can tell you don't go there, but this one is called the Graham-Levin Bill. And after we win the right to go court for the detainees at Guantánamo, and we win that in the Supreme Court, Republican

Senator Graham and Democrat Senator Levin get together - and what do they decide to do a few weeks ago? But strip the courts of any jurisdiction to hear the Guantánamo cases. That's what they do - Democrats and Republicans together. And then they say you can use evidence from torture to keep those people in jail. Kicking us right in the teeth! Kicking the courts in the teeth. And so if you think that we're going to get far by going there, you've got it wrong. Lessons of history teach us that we don't move our leaders without the passion and the protest of the people.

I want to close with a sense of hope. It's been a rough four years, it's been a rough twenty years, it's been a rough forty years since Dr. King spoke. But I want to close with a sense of hope. This administration is unraveling. There is a split in the elites. Gore is one of the best examples. Everywhere we see former administration officials speaking out. They realize the administration has gone too far. They want to save some remnant of democracy. We see indictments from Scooter Libby to Delay coming fast and furious. We see General Miller, responsible for torture in Guantánamo and Iraq, taking the 5<sup>th</sup> amendment essentially so he won't have to testify. We see General Sanchez, who was head of troops in Iraq, retiring without that 4<sup>th</sup> star. It's a real opening for us but it is not simply to go back to the normal. It's not simply to save a remnant of democracy. The malady is much deeper than that. We need a radical transformation of our society. My hopes for today and for the future is that the truth will arouse resistance and with resistance there will be some change. I mean resistance of every sort, mobilizing, protesting, disobeying and disobedience. And then again, when I was reading Dr. King's speech, the thought that he closed with, and that I want to close with, is that sometimes we can wait too long to take action. Or as Dr. King said, "you can be too late." And we, unless we act, may be too late. So let me end with Dr. King's directive to us all: "We are now faced with the fact, my friends, that tomorrow is today. We are confronted with the fierce urgency of now. There is such a thing as being too late. We still have a choice today. Now let us begin. Now let us rededicate ourselves to the long and bitter, but beautiful struggle for our new world." Thank you. We'll do this together.

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