

Wednesday, March 11, 2009

Officer in charge, RCMP War Crimes Section
110 Place d'Orléans, Room 2200
Ottawa, Ontario, K1A 0R2
VIA FACSIMILE: (613) 590-2130, March 2, 2009

Attention Officer in Charge of RCMP War Crimes Section;

George W. Bush is reported to be planning to visit Calgary Alberta on or before March 17, 2009 as a guest of the Calgary Chamber of Commerce.

We are writing to report that:

- George W. Bush, former President of the United States and Commander in Chief of the Armed Forces, is inadmissible to Canada under the *Immigration and Refugee Protection Act* (IRPA), section 35(1)(a) because of overwhelming evidence that he has 'committed, outside Canada, torture and other offences referred to in sections 4 to 7 of the *Crimes against Humanity and War Crimes Act* (CAHWC); and,
- the George W. Bush Administration has engaged in "systematic or gross human rights violations, or a war crime or a crime against humanity within the meaning of subsections 6(3) to (5) of the CAHWC.

We request that the RCMP War Crimes Section immediately take the following steps:

- begin an investigation of George W. Bush for aiding, abetting and counseling torture between November 13, 2001 and November 2008 at Guantánamo Bay prison in Cuba, Abu Ghraib prison in Iraq, Bagram prison in Afghanistan and other places; and,
- advise the Prime Minister, Attorney General of Canada and Ministers of Immigration and Public Safety that the George W. Bush administration is a "government that has engaged in torture and other war crimes and crimes against humanity and therefore G.W. Bush, as former President, is also inadmissible under section 35(1)(b) of the IRPA.

Overwhelming evidence of these allegations against both G.W. Bush and the Bush Administration is widely available. These allegations have triggered Canada's duty to act to use all legal means to ensure the appropriate investigations, remedies and responses. Canada's international legal duties specifically prohibit treating these acts as legal, as ignoring the IRPA and allowing Bush into Canada would do.

Under sections 4 to 7 of the *Crimes Against Humanity and War Crimes Act*, "crimes against humanity" include murder, enforced disappearance, deportation, imprisonment, torture and imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law, committed against any civilian population or any identifiable group. War crimes include willful killing, torture and inhuman treatment, unlawful confinement and willfully depriving a prisoner of war or other protected person of fair trial rights.

If there are reasonable grounds to believe a person has been complicit in any of these crimes, entry to Canada must be denied. Reasonable grounds, according to the Supreme Court of Canada are "something more than suspicion but less than...proof on the balance of probabilities."

Many have concluded that the available evidence establishes conclusively that Bush and the Bush Administration committed torture and other war crimes and crimes against humanity and that Canada and other states now have a duty to condemn, investigate, prosecute and punish those crimes.

U.N. General Assembly President Miguel d'Escoto Brockmann, on March 4, 2009 concluded,
"The [Bush Administration] aggressions against Iraq and Afghanistan and their occupations constitute atrocities that must be condemned and repudiated by all who believe in the rule of law in international relations,"

U. N. Special Rapporteur Martin Scheinin, in February 2009 concluded,
"...the United States has created a comprehensive system of extraordinary renditions, prolonged and secret detention, and practices that violate the prohibition against torture and other forms of ill-treatment....States must not aid or assist in the commission of acts of torture, or recognize such practices as lawful, ...Under international human rights law, States are under a positive obligation to conduct independent investigations into alleged violations of the right to life, freedom from torture or other inhuman treatment, enforced disappearances or arbitrary detention, to bring to justice those responsible for such acts, and to provide reparations where they have participated in such violations."¹ (underlining added)

The RCMP has a duty to investigate and prevent such crimes at common law² and also under the War Crimes Program. This program, as you know, was established specifically to meet the challenge of investigating crimes committed outside Canadian territory. The mandate of the War Crimes Program to, "...ensure that the Government of Canada has properly addressed all allegations of war crimes..." is achieved by, "...the RCMP, with the support of DOJ [Department of Justice], investigating allegations involving reprehensible acts that could lead to a possible criminal prosecution."³

Lawyers Against the War is ready, on request, to provide references to evidence of torture. We are confident that other organizations such as the European Center for Constitutional and Human Rights, National Lawyers Guild, American Civil Liberties Association and the Center for Constitutional Rights would also be ready to assist by providing references to evidence.

We request a reply before March 17, 2009

Respectfully,

Gail Davidson, Lawyers Against the War

Copied to: Prime Minister Stephen Harper; Attorney General Rob Nicholson; Peter Van Loan, Minister of Public Safety; Jason Kenney, Minister of Immigration; Lawrence Cannon

Minister of Foreign Affairs; Jack Layton-Leader of NDP; Joe Comartin, NDP Justice Critic; Paul Dewar, NDP Foreign Affairs Critic; NDP Don Davies, Critic on Immigration; Liberal Leader Michael Ignatieff; Bob Rae, Liberal Foreign Affairs Critic; Dominic LeBlanc, Liberal Justice Critic; Maurizio Bevilacqua, Liberal Immigration Critic; Leader of the Bloc Quebecois Gilles Duceppe; Real Menard, BQ Justice critic; Serge Menard, BQ Public Security critic; Thierry St-Cyr, Bloc Immigration critic ; Paul Crete, Bloc Foreign Affairs critic.

¹ *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, Martin Scheinin, A/HRC/10/3,4 February 2009.

² *RCMP Act*, R.S. 1985, c. R-10, s. 18 and *Royal Canadian Mounted Police Regulations*, 1988, SOR/88-361, s. 17. See also "[common law] recognizes the existence of a broad conventional or customary duty in the established constabulary as an arm of the State to protect the life, limb and property of the subject." *Shacht v. R.* [1973] 1 O.R. 221 at pp. 231-32.

³ Overview of Operations, mandates and Structure, Canada's Crimes Against Humanity and War Crimes Program: <http://www.justice.gc.ca/en/ps/wc/oms-ams.html>