

October 19, 2011

To: Robert Nicholson, Minister of Justice and Attorney General of Canada

Re: Letter in Support of Private Prosecutions Filed Against George W. Bush for Torture

We, the undersigned human rights non-governmental organizations and individuals, are writing this statement in full support of the private prosecutions against George W. Bush, former President of the United States, being lodged on behalf of three former Guantánamo detainees, and one current detainee, who allege that they were tortured by U.S. officials, and seek a criminal investigation and prosecution against Mr. Bush upon arrival in Canada, for substantive breaches of the Canadian Criminal Code and United Nations Convention Against Torture (CAT).

The criminal cases submitted under sections 504, 269.1, 21 and 22 of the Canadian Criminal Code, and the Indictment with an appendix of supporting material attached thereto, (collectively, the “Bush Dossiers”) set forth reasonable and probable grounds to believe that a person who is scheduled to be present on Canadian territory has committed an act of torture.

The Case Against George W. Bush

The Bush Dossiers allege that George W. Bush, in his capacity of former president of the United States, bears individual responsibility for acts of torture and/or cruel, inhuman and degrading treatment committed against detainees held in U.S. custody or rendered to other countries by the U.S., in that he ordered, authorized, condoned, planned or otherwise aided and abetted such acts, or failed to prevent or punish subordinates for the commission of such acts.

As set forth in detail in the Bush Dossiers, including through documentary evidence in the form of *inter alia* official memoranda issued by Mr. Bush or subordinates in his chain of command, U.S. government reports (including the Central Intelligence Agency Inspector General Report), and reports by the International Committee of the Red Cross and the United Nations, including those of the Special Rapporteur on Torture, there are reasonable and probable grounds to believe that Mr. Bush has committed acts of torture, including:

- Bush authorized the U.S. Central Intelligence Agency to capture suspected terrorists, and detain them in secret detention sites, where they would be subjected to so-called “enhanced interrogation techniques”
- Bush issued a directive authorizing the transfer of suspects to the custody of foreign nations, including nations that are notorious for torturing detainees

- Bush authorized “enhanced interrogation techniques,” such as waterboarding, stress positions, sleep deprivation, and manipulation of food and temperature, which have been found to amount to torture
- Bush authorized the detention of suspected terrorists at Guantánamo Bay, without access to counsel or courts, and subjected them to treatment and interrogation techniques that have been found to amount to torture
- Bush authorized the detention of individuals in U.S.-run detention facilities outside the United States, including in Afghanistan, where detainees were deprived of the protections of the Geneva Conventions and were subjected to acts which constitute torture under international law

Notably, the case presented against Mr. Bush by the complaints is also supported by statements made by George W. Bush himself, acknowledging his role in the creation of the CIA secret detention program and the approval of interrogation techniques that have been found to constitute torture. Indeed, Mr. Bush recounted in his memoir that when he was asked in 2002 if it was permissible to waterboard a detainee held in secret CIA custody outside the United States, he answered “damn right.”

The Plaintiffs

Hassan bin Attash is a Yemeni born in Saudi Arabia who is currently detained at Guantánamo, and one of 22 juveniles the United States has held there in violation of international law. Pakistani police captured Hassan in Karachi in September 2002, when he was about 16. The Pakistanis turned the youth over to the U.S., which flew him to the infamous CIA detention in Afghanistan facility known as the “Dark Prison.” Prisoners there, including Hassan, were held in total darkness, chained to their cell walls, deprived of food, water, and sleep, and continuously subjected to loud heavy-metal or rap music. Before interrogations, Hassan alleges he would be suspended by his wrists from a hook above his head, his toes barely reaching the floor. Prevented from using a toilet, he urinated and defecated on himself. Hassan alleges that he would then be interrogated naked, his arms chained behind his back to a metal ring on the wall, and periodically doused with cold water. After several days, the U.S. rendered Hassan to Jordan, where he alleges that he suffered even more sadistic tortures for 16 months. Among the most painful, Hassan’s keepers would lay him on his back, raise his feet above his head, thrash the soles of his feet until they were raw, and then pour hot salt water on his tattered feet. Hassan alleges that his keepers would then force him to run barefoot across the courtyard, his feet covered with blood, beating him as he ran. In January 2004, the U.S. brought Hassan back to the Dark Prison, where he alleges that he was subjected to further sensory overload and deprivation. The U.S. then took him to yet another interrogation facility at Bagram, and in September 2004, brought him to Guantánamo, where he alleges that he was further tortured and suffered more physical and psychological abuse, including beatings, solitary confinement, extremes of heat and cold, and sleep deprivation. Long isolated from the general detainee population, Hassan bears scars of his horrific tortures.

Sami el-Hajj is a Sudanese national and journalist correspondent for Al-Jazeera who was arrested in Pakistan in December 2001. Thereafter, Sami el-Hajj was detained and alleges he was subjected to torture in U.S. facilities in Bagram and Kandahar, Afghanistan before being transferred to Guantánamo Bay in 2002, where he was held without charge until his release in May 2008. He was subjected to repeated mistreatment and numerous interrogation techniques – including sleep deprivation, cuffing and shackling in stress positions, hooding, beatings, subjection to extremes of heat and cold and deprivation of food and/or liquids – during his detention in U.S. facilities at Guantánamo and Afghanistan.

Muhammed Khan Tumani, a citizen of Syria, came into U.S. custody when he was age 17. He and his father were seized in Pakistan after local villagers turned them over to Pakistani authorities, who in turn handed them over to the United States, during a time in which the United States was offering large bounties for the capture of Arab men. Muhammed and his father were detained first in Pakistan, where Muhammed alleges interrogators beat him, broke his nose, fractured his hand, shocked him with electric cables, threatened him with rendition to torture in Egypt and Jordan, and told him that they would kill, or had killed his family members. Both men were then transferred to a U.S.-run prison in Kandahar, Afghanistan, and then to the U.S. Naval Base at Guantánamo Bay, Cuba, where Muhammed was detained without charge for seven and a half years. At Guantánamo, Muhammed alleges that he continued to undergo abusive interrogations and was held in solitary confinement in Camp 6 for several years, and apart from his father for the duration of his detention. He attempted suicide and self-destructive acts on several occasions, which the military characterized as manipulative behavior and a personality disorder, and for which he was punished with continued isolation. Muhammed was eventually cleared to leave Guantánamo by a government task force under the Obama Administration and resettled in Portugal in August 2009. Muhammed was never charged with any crime. His father was cleared and resettled in Cape Verde a year later. Because of restrictions on their ability to travel, father and son have yet to be reunified or permitted a visit.

Murat Kurnaz, a Turkish national who was born in and resided in Germany, was arrested at the age of 19 by Pakistani officials on December 1, 2001, while on his way to the airport in Peshawar. He was detained for several days by the Pakistani security services and was relocated to three different prisons. He was banned from making contact with the outside world and was interrogated. For an alleged fee of \$3000, Murat was handed over to the U.S. and brought to a military camp in Kandahar, Afghanistan, where he was physically abused and tortured by the US Soldiers, including through regular beatings, the use of electronic shocks, being submerged in a bucket of water while being punched in the stomach, and being suspended from hooks, while handcuffed, for days. In early February 2002, Murat was transferred to Guantánamo, where he was first detained in a cage. At Guantánamo, Murat alleges that he was subjected to beatings, including intense beatings by the Emergency Reaction Force, and was exposed to

extreme heat and cold, deprived of sleep and oxygen, and kept in solitary confinement for several weeks. He was released without charge in August 2006.

Accordingly, evidence exists to establish a reasonable basis for concluding that while in U.S. custody, **Hassan bin Attash, Sami el-Hajj, Muhammed Khan Tumani and Murat Kurnaz** were subjected to severe mistreatment, unlawful conditions of confinement and interrogation techniques, which amount to torture, in violation of international law. The complaints set out that these techniques had been approved at the highest level of the chain of command, by Mr. Bush, and implemented by officials acting on his behalf. We submit that such techniques – as deployed against each of the plaintiffs in this matter and outlined in their respective complaints – constitute torture.

On February 7, 2002, Mr. Bush determined that the Geneva Conventions did not apply to the conflict with al Qaeda, and that Common Article 3 of the Geneva Conventions, prohibiting inhumane treatment and acts of torture, did not apply to either al Qaeda or Taliban detainees. As was officially acknowledged by a bipartisan U.S. Senate Armed Services Committee report, Mr. Bush's memorandum paved the way for the abuse of detainees held in the context of the so-called "war on terror" and the use of techniques such as waterboarding and stress positions.

Mr. Bush played a central role in the creation of CIA secret detention program, which he personally authorized through a September 17, 2001 Presidential directive. Under this program, the disappeared detainees were subjected to a regime now widely acknowledged to amount to torture. It is further recalled that prolonged disappearance or prolonged incommunicado detention has been found to constitute torture by various U.N. bodies, as set forth in the Indictment.

The CIA Inspector General Report from 2004 confirms that Mr. Bush was fully briefed on the specific "enhanced interrogation techniques" used by the CIA – techniques which the United Nations, the International Committee of the Red Cross, and the Council of Europe, amongst others, have all found to amount to torture and cruel, inhuman, or degrading treatment.

Mr. Bush's personal responsibility for these techniques is not a question: in his memoir, *DECISION POINTS*, Mr. Bush states unequivocally that he authorized the torture, including waterboarding, of individuals held in U.S. custody. He further admits and acknowledges his role in selecting and approving the interrogation techniques.

We therefore urge the Minister of Justice and Attorney General of Canada to act in accordance with Canada's obligations under domestic and international law by detaining George W. Bush while he is present in Canada, and opening a preliminary investigation into the allegations brought against him.

SIGNED

Theo van Boven, former UN Special Rapporteur on Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment (2001-2004)
Manfred Nowak, former UN Special Rapporteur on Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment (2004-2010) and Professor of Constitutional Law and Human Rights, University of Vienna
Sister Dianna Ortiz
Luis Guillermo Pérez, Secretary General of the International Federation for Human Rights (FIDH)
Michael Ellman, Ex-Chair, Solicitors International Human Rights Group and former FIDH Board Member
Asociación Pro Derechos Humanos (APRODEH), Peru
Bill of Rights Defense Committee, United States
Center for Peace and Democracy Development, Serbia
Centre for Research on Globalization, Canada
Centro de Capacitacion Social de Panamá (CCS), Panama
Centro Nicaraguense de Derechos Humanos (CENIDH), Nicaragua
Citizens against Corruption (CAC), Kirghizistan
Colectivo de Abogados José Alvear Restrepo (CAJAR), Colombia
Comisión de Derechos Humanos de Guatemala (CDHG), Guatemala
Comision Ecumenica de Derechos Humanos (CEDHU), Ecuador
Comité de Acción Jurídica (CAJ), Argentina
Corporación de Promoción y Defensa de los Derechos del Pueblo (CODEPU), Chile
Defending Dissent Foundation, United States
Desis Rising Up & Moving, United States
European Center for Constitutional and Human Rights, Germany
Finnish League for Human Rights, Finland
Fundación Regional de Asesoría en Derechos Humanos (INREDH), Ecuador
Global Justice Center, United States
Human Rights Association, Turkey
Human Rights Center (HRIDC), Georgia
Human Rights Monitoring Institute (HRMI), Lithuania
Instituto Latinoamericano de Servicios Legales Alternativos (ILSA), Colombia
International Association of Democratic Lawyers (IADL)
International Civil Liberties Monitoring Group, Canada
International Commission for Jurists (ICJ), Switzerland
International Federation for Human Rights (FIDH), France
International Rehabilitation Council for Torture Victims (IRCT), Denmark

Internationale Liga für Menschenrechte, Germany
Iranian League for the Defence of Human Rights (LDDHI), France
Justiça Global, Brazil
Lawyers Against the War, Canada
Liga Argentina por los Derechos del Hombre (LADH), Argentina
Liga Mexicana por la Defensa de los Derechos Humanos, Mexico
Ligue des Droits et Libertés (LDL), Canada
National Lawyers Guild, United States
No More Guantánamos, United States
Observatorio Ciudadano, Chile
Organización Femenina Popular, Colombia
Organisation Marocaine des Droits de l'Homme (OMDH), Morocco
Pax Christi USA, United States
Philippine Alliance of Human Rights Advocates (PAHRA), Phillipines
Physicians for Human Rights, United States
REDRESS, United Kingdom
Reprieve, United Kingdom
Torture Abolition and Survivors Support Coalition International, United States
Union for Civil Liberty, Thailand
Victoria Coalition for the Survivors of Torture, Canada
War Criminals Watch, United States
Witness Against Torture, United States
World Organisation Against Torture (OMCT), Switzerland