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CANADA: Briefing to CAT on the Failure to Prosecute George W. Bush for Torture From Lawyers against the War

Lawyers Against the War (LAW) is a Canada-based committee that advocates for adherence to international humanitarian law and against impunity for violators. LAW engages in education, produces legal analyses and has participated in legal actions to hold members of the Bush administration accountable for torture and other grave crimes.

Introduction: Visits to Canada by George W. Bush

George W. Bush (Bush) was President of the United States of America and Commander in Chief of the U.S. Armed Forces from January 20, 2001 to January 20, 2009. Evidence indicates that during his term in office, Bush authorized, directed, supervised, failed to supervise or otherwise was a party to the widespread and systemic use of torture by the U.S. and is therefore an alleged torturer.

As a party to the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (Convention)¹ Canada has an obligation to take effective measures to prevent and punish torture. A significant part of that duty obliges Canada to ensure that alleged torturers such as Bush do not receive safe haven from prosecution for torture in Canada. This report chronicles Canada's failure to enforce Canadian law and adhere to Convention duties triggered by visits to Canada by Bush.

Since his term as president of the U.S. and commander in chief of the U.S. Armed Forces came to an end, Bush has entered Canada on a number of occasions including, but not limited to, visits to:

- Calgary in the province of Alberta on March 28, 2009,
- Toronto in the province of Ontario on May 29, 2009,
- Edmonton in the province of Alberta on October 20, 2009,
- Saskatoon in the province of Saskatchewan on October 21, 2009,
- Montreal in the province of Quebec on October 22, 2009,

- Surrey in the province of British Columbia on October 20, 2011.

This report is focused on visits by Bush to Calgary Alberta on March 28, 2009 and to Surrey British Columbia on October 20, 2011. The law and principles cited in this report apply to all visits to Canada by Bush and others members of the former Bush administration who have been accused on reasonable grounds of criminal involvement in torture.

On both occasions LAW sent letters to the Prime Minister and ministers of Justice, Immigration, Public Safety, and Foreign Affairs advising them of Canada's legal duties to take effective measures to prevent and punish the torture authorized and directed by the Bush administration and to ensure that Bush not receive safe haven in Canada from prosecution for torture. LAW² advised of the obligation to bar Bush, as an alleged torturer, from entering Canada pursuant to the Immigration and Refugee Protection Act.

LAW advised Canadian officials of the legal obligation to "...arrest the alleged torturer [Bush] and to carry out proper criminal investigations, as provided for in Article 6, and to submit the case to its competent authorities for the purpose of prosecution, as stipulated in Article 7(1)"³ once the jurisdictional requirements of the Article 5 of the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (Convention)⁴ were satisfied by Bush's presence in Canada.

On the occasion of Bush's visit to Surrey British Columbia, Canada was also advised of the duty to arrest and prosecute the former president once he entered the country by letter and legal brief sent jointly by the Canada-based Canadian Centre for International Justice (CCIJ) and the New York-based Center for Constitutional Rights (CCR) and by a letter and legal brief from Amnesty International Canada (Amnesty). CCIJ and CCR sent a 69 page draft indictment backed up by some 4,000 pages of evidence of the widespread and systemic torture used by the U.S. under the command of Bush in U.S. controlled prisons around the world.⁵ Amnesty's letter calling on Canada to arrest and prosecute Bush was accompanied by a 27 page legal brief outlining the evidence of torture, Bush's complicity, and Canada's legal duty to arrest and prosecute Bush.

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