

# Bush invokes 9/11 to justify torture, domestic spying and war

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In a speech Thursday, President Bush invoked the terrorist attacks of September 11, 2001 as an all-purpose justification for his prevailing on a series of issues now in dispute in Congress: the confirmation of Michael Mukasey as attorney general despite his refusal to disavow torture; the passage of legislation to give sweeping new domestic spying powers to the federal government; and the approval of yet another emergency spending bill providing nearly \$200 billion for the wars in Iraq and Afghanistan.

Bush's address was less a speech than a semi-hysterical diatribe, combining scare-mongering, crackpot history and bullying of his opponents in Washington. As in all presidential speeches of the past several years, he spoke before a carefully vetted audience at the Heritage Foundation, one of the main right-wing think tanks.

The desperate character of the speech was signaled by his repeated references to the 9/11 attacks, as well as last year's alleged Al Qaeda plot to blow up airliners flying across the Atlantic from Britain to the US, and—the ultimate bogeyman—a supposed Al Qaeda plot to “build a totalitarian Islamic empire—encompassing all current and former Muslim lands, stretching from Europe to North Africa, the Middle East and Southeast Asia.”

Bush suggested that any opposition to his policies of torture, spying and war represented a capitulation to this existential terrorist threat. He declared, “I know that when I discuss the war on terror, some here in Washington, DC dismiss it as political rhetoric—an attempt to scare people into votes. Given the nature of the enemy and the words of its leaders, politicians who deny that we are at war are either being disingenuous or naive.”

He denounced the Senate Judiciary Committee for holding up the nomination of Judge Mukasey as attorney general, with demands that he take a position on whether the waterboarding of suspected terrorists constitutes torture. In a lengthy letter to the committee Tuesday, Mukasey expressed personal “repugnance” for waterboarding, but refused to comment on whether it was torture, and hence illegal.

This flies in the face of both the Geneva Conventions and US laws, both of which classify waterboarding as torture and prohibit it completely, under any circumstances.

The Mukasey nomination is a conflict that the Democratic majority in the Senate clearly wanted to avoid. Democratic Senator Charles Schumer of New York originally proposed the judge as a replacement for Attorney General Alberto Gonzales, and praised him in introducing him to the Judiciary Committee two weeks ago.

But when the issue of torture arose on the second day of his confirmation hearing,

Mukasey's refusal to condemn waterboarding as illegal became a political sticking point. Most Senate Democrats and several Republicans—including former Vietnam War POW John McCain—have called for an official ban on waterboarding and even enacted it into law in 2005, although this applied only to the military and not to the CIA.

The White House is adamantly opposed to such a ban, not only because it plans to continue waterboarding prisoners, but because numerous administration officials, from the CIA leadership up to Bush himself, could be held criminally liable for their actions over the past six years. Mukasey stated this concern explicitly in his October 30 letter, saying that any comment on the legality of waterboarding could arouse fears among executive branch officials about “personal legal jeopardy.”

Similarly, both House and Senate Democrats caved in to White House pressure and adopted the so-called Protect America Act last August—legislation that legalized, for a six-month period, more extensive spying on domestic telecommunications and Internet traffic by the CIA, NSA and other US intelligence agencies.

The Bush administration is now pressing for a bill that would make these expanded powers permanent, but the effort has encountered a significant obstacle, with resistance to the White House demand for a provision giving blanket immunity to telecommunications companies for collaborating in illegal surveillance of the private communications of American citizens.

The congressional Democrats have agreed to immunity for future cooperation by the telecommunications firms, but not to immunity that is retroactive, covering the past transfer of vast amounts of telephone and Internet data to the NSA and other federal agencies without any legal authorization, simply on the basis of an executive order from Bush.

There is also a potential logjam over the Iraq-Afghanistan spending, although no leading Democrat in Congress has proposed to block the legislation, and the Democratic-controlled Congress approved the last such measure in May. But there have been suggestions that the latest emergency funding bill will not be taken up until the New Year, when it could well become the focus of public attention during the height of the presidential nominating contest. Bush is pressing for a vote before Christmas.

Bush sought to connect the war funding to the Mukasey nomination and domestic surveillance issues in order to bully his opponents with the threat that they would be accused of neglecting the troops. He concluded with a McCarthy-style smear that managed to link antiwar protesters with terrorism. “When it comes to funding our troops,” he declared, “some in Washington should spend more time responding to the warnings of terrorists like Osama bin Laden and the requests of our commanders on the ground, and less time responding to the demands of MoveOn.org bloggers and Code Pink protesters.”

The Mukasey nomination is the most immediate concern of Bush, Vice President Cheney and their inner circle, as a series of prominent Senate Democrats have come out in opposition to his confirmation, including, by late Thursday, Edward Kennedy, John Kerry, deputy leader Dick Durbin and presidential candidates Hillary Clinton, Barack Obama, Christopher Dodd and Joseph Biden. Majority Leader Harry Reid indicated that if the Judiciary Committee did not approve the nomination he would not permit a vote by the full Senate.

Cheney touched on the issue in a speech Thursday, traveling to Indianapolis to address a

meeting of the American Legion, a reliably pro-war venue from which all critics could be excluded. The vice president went beyond Bush to explicitly defend the torture interrogations conducted by the CIA, claiming that they had produced information that had proven critical for forestalling hundreds of potential terrorist attacks. (This contention did not jibe, however, with another piece of administration propaganda, a CIA leak to the *New York Times* claiming that the agency had only inflicted waterboarding on three prisoners, and none currently.)

In arguing for the immediate confirmation of Mukasey, Bush claimed that it would be wrong to have any public discussion about what interrogation techniques were forbidden to US agencies because this would help Al Qaeda “train their operatives to resist questioning, and withhold vital information we need to stop attacks and save lives.” By that logic, however, it would be wrong to rule out in advance any method of interrogation, no matter how barbaric, including electrical shocks, the rack, drugs or even dismemberment.

Bush also claimed that Mukasey should not be asked to take a legal position on specific interrogation techniques because he has not yet been “read into the program,” i.e., because, as a retired federal judge, Mukasey does not yet have access to classified information.

The complete absurdity of this argument was demonstrated at the press briefing Thursday by White House press secretary Dana Perino. After reiterating Bush’s claim that it was “very unfair” to ask Mukasey to give an opinion on waterboarding, Perino added that it would be perfectly all right for the Senate to ask such questions after Mukasey had been “read into the program,” that is, after he took office. “If they want to ask him more questions about that,” Perino said, “they should confirm him and then they’d have the opportunity to do so.”

Moreover, Mukasey has not been asked whether specific acts of the CIA constitute torture. He has been asked whether, as a general principle, waterboarding is torture, to which he responded—in a transparent and provocative evasion—that he didn’t know what waterboarding was and therefore could not comment.

Despite this professed ignorance, however, there is no doubt that Judge Mukasey and every other politically literate American knows what waterboarding is and knows that it constitutes torture. Mukasey’s hometown newspaper, the *New York Daily News*, provided a graphic description of waterboarding in an op-ed column published Wednesday, written by Malcolm Nance, a former adviser on terrorism to the US departments of Homeland Security, Special Operations and Intelligence.

The column, entitled, [“I know waterboarding is torture—because I did it myself,”](#) is based on Nance’s experience as a master instructor and chief of training at the US Navy Survival, Evasion, Resistance and Escape School (SERE) in San Diego, where Navy Seals are trained both to perform and resist waterboarding.

Nance rejects the conventional description of waterboarding in the US media as “simulated drowning.” He writes: “that’s a misnomer. It does not simulate drowning, as the lungs are actually filling with water. There is no way to simulate that. The victim *is* drowning.... Waterboarding is slow-motion suffocation with enough time to contemplate the inevitability of blackout and expiration. Usually the person goes into hysterics on the board. For the uninitiated, it is horrifying to watch. If it goes wrong, it can lead straight to terminal hypoxia—meaning, the loss of all oxygen to the cells.”

“The lack of physical scarring allows the victim to recover and be threatened with its use again and again,” he continues. “Call it ‘Chinese water torture,’ ‘the barrel,’ or ‘the waterfall.’ It is all the same. One has to overcome basic human decency to endure causing the effects. The brutality would force you into a personal moral dilemma between humanity and hatred. It would leave you questioning the meaning of what it is to be an American.”

The public embrace of this torture technique by the US government is a terrible sign of the decay of democratic rights in America, one which is increasingly recognized throughout the world. On the same day as Bush’s speech, Manfred Nowak, UN Special Rapporteur on torture, declared in a speech in Australia that the US policy was undermining worldwide efforts against torture.

“I am very concerned about the undermining of the absolute prohibition of torture by interrogation methods themselves in Abu Ghraib, in Guantanamo Bay and others, but also by rendition and the whole CIA secret places of detention,” he said. “All that is really undermining the international rule of law in general and human rights but also the prohibition of torture,” said Nowak. “It has a negative effect because the US is a very powerful and important country and many other countries take the US as a model.”

Nowak concluded, “In my opinion, this ill-conceived, security-oriented counterterrorism strategy is having a very, very negative effect, not only on human rights in the USA, but for the first time I would say in a long period of time, the US is really engaging in systematic violation of human rights, but also a very negative effect on many other countries.”

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