

# George W: No Immunity for Former Presidents Under Law

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February 7, 2011, Geneva and New York – Today, two torture victims were to have filed criminal complaints, with more than 2,500-pages of supporting material, in Geneva against former U.S. President George W. Bush, who was due to speak at an event there on 12 February. Swiss law requires the presence of the torturer on Swiss soil before a preliminary investigation can be opened. When Bush cancelled his trip to avoid prosecution, the human rights groups who prepared the complaints made it public and announced that the Bush Torture Indictment would be waiting wherever he travels next. The Indictment serves as the basis on which to prepare country-specific, plaintiff-specific indictments, with additional evidence and updated information. According to international law experts at the New York-based Center for Constitutional Rights (CCR) and the Berlin-based European Center for Constitutional and Human Rights (ECCHR), former presidents do not enjoy special immunity under the Convention Against Torture (CAT).

“Waterboarding is torture, and Bush has admitted, without any sign of remorse, that he approved its use,” said Katherine Gallagher, Senior Staff Attorney at CCR and Vice President of the International Federation for Human Rights (FIDH). “The reach of the Convention Against Torture is wide – this case is prepared and will be waiting for him wherever he travels next. Torturers – even if they are former presidents of the United States – must be held to account and prosecuted. Impunity for Bush must end.”

While the U.S. has thus far failed to comply with its obligations under the Convention Against Torture to prosecute and punish those who commit torture, all other signatories, too, are obligated to prosecute or extradite for prosecution anyone present in their territory they have a reasonable basis for believing has committed torture. If the evidence warrants, as the Bush Torture Indictment contends it does, and the U.S. fails to request the extradition of Bush and others to face charges of torture there, CAT signatories must, under law, prosecute them for torture.

In a statement this weekend, the groups who organized the complaints said, “Whatever Bush or his hosts say, we have no doubt he cancelled his trip to avoid our case. The message from civil society is clear – If you’re a torturer, be careful in your travel plans.”

The complaints that had been scheduled to be filed on Monday asked that the General Prosecutor of the Canton of Geneva investigate allegations that men were tortured as part of the Bush administration’s well-documented torture program. Bush proudly recounted in his recently published memoir that when asked in 2002 to if it was permissible to

waterboard a detainee – a recognized act of torture – he replied “damn right.”

Monday, 7 February, is the ninth anniversary of the day Bush decided the Geneva Conventions did not apply to ‘enemy combatants.’

According to the Bush Indictment, which was written on behalf of torture victims by CCR and ECCHR, former President Bush bears individual and command responsibility for the acts of his subordinates which he ordered, authorized, condoned or otherwise aided and abetted, as well as for the violations committed by his subordinates which he failed to prevent or punish.

“Bush is a torturer and deserves to be remembered as such,” said Gavin Sullivan, Solicitor and Counterterrorism Program Manager, ECCHR. “He bears ultimate responsibility for authorizing the torture of thousands of individuals at places like Guantánamo and secret CIA ‘black sites’ around the world. As all states are obliged to prosecute such torturers, Bush has good reason to be very worried.”

CCR, ECCHR and FIDH were joined by more than 60 human rights organizations and prominent individuals who signed on to support the call for George W. Bush’s prosecution, including former UN Special Rapporteur on Torture, Theo van Boven, former UN Special Rapporteur on Independence of Judges and Lawyers, Leandro Despouy, and Nobel Peace Prize recipients Shirin Ebadi and Pérez Esquivel. A number of the human rights organizations which signed on are facing the on-going harms of the “counterterrorism” policies advanced under the Bush administration and then adopted or employed in their own countries. The complaint included 2500 pages of supporting materials.

Manfred Nowak, former UN Special Rapporteur on Torture (2004-2010), was to submit an expert opinion on the complaints concluding that the conduct to which both plaintiffs were subjected constitutes torture, that Switzerland had an obligation to open a preliminary investigation, and that George W. Bush enjoys no immunity.

The Bush Torture Indictment, the official “letter of denunciation” summarizing the case and other materials are available here: <http://ccrjustice.org/ourcases/current-cases/bush-torture-indictment>.

The Center for Constitutional Rights, in addition to filing the first cases representing men detained at Guantánamo, has filed universal jurisdiction cases seeking accountability for torture by Bush administration officials in Germany, France and submitted expert opinions and other documentation to ongoing cases in Spain in collaboration with ECCHR. The Center for Constitutional Rights is dedicated to advancing and protecting the rights guaranteed by the United States Constitution and the Universal Declaration of Human Rights. Founded in 1966 by attorneys who represented civil rights movements in the South, CCR is a non-profit legal and educational organization committed to the creative use of law as a positive force for social change. Visit [www.ccrjustice.org](http://www.ccrjustice.org). Follow @theCCR.

The European Center for Constitutional and Human Rights (ECCHR) is an independent, non-profit legal organization that enforces human rights by holding state and non-state actors to account for egregious abuses through innovative strategic litigation. For more information visit [www.ecchr.eu](http://www.ecchr.eu)

*The International Federation of Human Rights (FIDH) is a non-governmental federation for*

164 human rights organizations. FIDH's core mandate is to promote respect for all the rights set out in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. Its priority areas include protecting human rights defenders and fighting impunity. For more information on FIDH, see [www.fidh.org](http://www.fidh.org).

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