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The 'W.' Stands for 'War Criminal'

The House and a shot not yet heard 'round the

by Nat Hentoff

June 24th, 2008 12:00 AM

In a June 6 letter to Attorney General Michael Mukasey—largely ignored by a press immersed in the future of Hillary Clinton—56 Democrats in the House of Representatives asked for "an immediate investigation with the appointment of a special counsel to determine whether actions taken by the President, his Cabinet, and other Administration officials are in violation of the War Crimes Act (18 U.S.C. 2441) . . . and other U.S. and international laws."

This isn't front-page news?

The letter began with a brief account of the notorious facts about Abu Ghraib ("sexual exploitation and torture") and Guantánamo ("an independent investigation by the

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International Committee of the Red Cross documented several . . . acts of torture . . . including soaking a prisoner's head in alcohol and lighting it on fire"). Nor was "coercive interrogation" in Afghanistan omitted: "In October 2005, *The New York Times* reported that three detainees were killed during interrogations in Afghanistan and Iraq by CIA agents or CIA contractors."

This is not a call for articles of impeachment. Bush will soon be gone, and the new president and Congress have far too much to do to get mired in that quicksand. These are grave criminal charges, and since international crimes are involved as well as the U.S. War Crimes Act and the Anti-Torture Act, other nations whose laws include "universal jurisdiction" could prosecute.

But why would House Judiciary Committee chairman John Conyers Jr. and Intelligence Committee members Jerrold Nadler (my congressional representative) and Jan Schakowsky—among other signers—make such dramatic and historic charges of "war crimes" now, after most congressional Democrats have not shown the same interest? House Speaker Nancy Pelosi, for example, is not on the list of signers; she and Senate Democratic majority leader Harry Reid have never, in their

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opposition to the administration, come anywhere near these shocking accusations.

As of this writing, I've seen no alarm evident among Republicans, but if the story has legs, the response will begin with a derisive claim that this is a cheap, transparent, and bush-league trick to propel the election of Barack Obama.

But in the letter, these latter-day Thomas Paines (assuming you agree with them) assert that what impelled them to act immediately was that, "within the last month, additional information has surfaced that suggests the fact that the officials meet in the White House and approve the actions, including waterboarding against detainees, but *and approved of the meetings taking place*. . . . Bush administration may have systematically implemented detainee interrogation policies that constitute *unlawful* law." (Emphasis added.)

If Bush, Cheney, Gonzales, et al. are ever in the courtroom, I am sure that the prosecutors will show, among other things, the very specific names of the perpetrators of these crimes, as published in *Torture Team: Rumsfeld's American Values* by Phillippe Sands (Palgrave Macmillan) and the evidence found in University of Houston professor Karen J. Greenberg and Joshua L. Dratel's *The Bush Administration's Unlawful Responses to the 'Terrorist' Threat* (University Press).

The latter is a book I wish every voter in November to read. The same publisher's 1,249-page *The Torture Papers* by Karen J. Greenberg and Joshua L. Dratel. Such a book will be of interest to future historians around the world.

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I am further encouraged because chairman John Conyers, *Post* reported, "is looking into the role played by these crimes.

Conyers, calling treatment of detainees "a truly Bush's "enhanced" interrogation techniques were Department legal opinions," and so "the need for

And since the letter from the 56 House Democrats Michael Mukasey—who claims that he cannot prosecute alleged war crimes because, by golly, they were legal opinions—these House patriots are saying counsel rather than handle the investigation himself

To give you a snapshot of Michael Mukasey's definition of an essential requirement of fairness and impartiality, general recently told an annual conference of the American Bar Association of suspected terrorists by military commissions "is a violation of the traditions of the American legal system" (*New York Times*, Supreme Court, declaring the commissions unconstitutional and a sign of ignorance.

The administration lawyers, whom Conyers is attacking, advised the Guantánamo military commissions after advising that detainees are entitled to the protections of habeas corpus and that they have to be tried in our federal courts.

In *Beyond the Law*, Paust says of these lawyer (many of whom are premier law schools): "Not since the Nazi era has there been such a direct involvement in international crimes concerning the persons detained during war. . . . Such a direct involvement in such a way as to deprive persons of the protections under the laws of war [and our Constitution] is a loss of honor and integrity to [presidential] power and to the lawyer's civil and criminal responsibility. . . .

"[These were lawyers] . . . directly advising how to deny habeas corpus (denials of such protections are violations of the Constitution). . . . dig this: The administration lawyers advised that the commissions allegedly would avoid the restraints of various

the President and others with respect to future
to the planned "coercive" interrogation tactics
(Emphasis added).

Some of these lawyers have gone on to promise
Cheney's chief of staff, David Addington.

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