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USA: Vice President seeks to justify torture, secret detention and Guantánamo

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Three days after the attacks of 11 September 2001, Vice President Richard Cheney said that the USA would have to work on the “dark side” in countering terrorism. A little over seven years later, with his term in office coming to an end, the Vice President has been casting some light on his involvement in what has gone on in the dark.

In a series of media interviews, Vice President Cheney has spoken about the administration’s detention policies in the “war on terror”, including its secret program for holding and interrogating detainees considered by the USA to have high intelligence value. President George W. Bush confirmed the existence of the program in September 2006 and authorized its continuation by executive order on 20 July 2007. In February 2008, the Director of the Central Intelligence Agency, General Michael Hayden, confirmed that “water-boarding” – a form of torture that simulates drowning – had been among the “enhanced” techniques used in the program. Three detainees, he said, had been subjected to “water-boarding”. Now, in an interview given to the *Washington Times* on 17 December 2008, Vice President Cheney said:

“And after 9/11, we badly needed to acquire good intelligence on the enemy. That’s an important part of fighting a war. What we did with respect to al Qaeda high-value detainees, if I can put it in those terms, I think there were a total of about 33 who were subjected to enhanced interrogation; only three of those who were subjected to waterboarding... Was it torture? I don’t believe it was torture. We spent a great deal of time and effort getting legal advice... I signed off on it; others did, as well, too. I wasn’t the ultimate authority, obviously. As the Vice President, I don’t run anything. But I was in the loop. I thought that it was absolutely the right thing to do. I thought the legal opinions that were rendered were sound. I think the techniques were reasonable in terms of what they were asking to be able to do. And I think it produced the desired result. I think it’s directly responsible for the fact that we’ve been able to avoid or defeat further attacks against the homeland for seven and a half years.”

Two days earlier, in an interview with *ABC News*, the Vice President stated that he believed that resort to water-boarding had been “appropriate”. Again, he acknowledged personal involvement in the “tactics” used in the secret detention program, saying “I was aware of the program certainly, and involved in helping get the process cleared”. Earlier this month, the bipartisan US Senate Armed Services Committee issued the conclusions of its inquiry into abuses against detainees in US custody. Among its findings was that “senior officials in the United States government solicited information on how to use aggressive techniques, redefined the law to create the appearance of their legality, and authorized their use against detainees”.

Under international law, no exceptional circumstances whatsoever, including war or threat of war, or any public emergency, may be invoked as justification for torture or other cruel, inhuman or degrading treatment, or enforced disappearance. Amnesty International considers that the international crimes of torture and enforced disappearance have taken place in the USA's secret detention and interrogation program.

Vice President Cheney stressed in an interview with *FOX News* on 19 December 2008 that the situation faced by the USA after the attacks of 11 September 2001 had been one of war rather than law enforcement. "What we did after 9/11 was make a judgment that the terrorist attacks we were faced with were not a law enforcement problem, they were, in fact, a war. It was a war against the United States – and therefore, we were justified in using all the means available to us to fight that war". The USA has exploited its global war framework to disregard international human rights law and to manipulate the law of war.

Among the outcomes of this policy has been the detention facility at Guantánamo. Vice President Cheney told *ABC News* that "Guantánamo has been very, very valuable. And I think they'll discover that trying to close it is a very hard proposition". The "responsible" time to shut down the detention facility at Guantánamo, he said, would be at the end of the "war on terror". This indefinite timeline has been rejected by the incoming administration, thankfully. President-elect Barack Obama has said that among the benchmarks against which the success of his first two years in office would be assessed would be "have we closed down Guantánamo in a responsible way, put a clear end to torture and restored a balance between the demands of our security and our Constitution?"

While welcoming the priority given to these issues by the incoming President, Amnesty International will continue to campaign to ensure that these goals are met in ways that meet the USA's international obligations, not just its constitutional precedents. There has been a reluctance on the part of the USA to bind itself to international law that long preceded the administration of President Bush and its response to the 9/11 attacks. The new administration and Congress must adopt a new relationship to international law, one that fully recognizes the USA's international legal obligations.

The USA is required by international law to respect and ensure human rights, to thoroughly investigate every violation of those rights, and to bring perpetrators to justice, no matter their level of office or former level of office. The new administration and Congress should commit themselves to establishing an independent commission of inquiry into the USA's "war on terror" detention policies and practices. The establishment and operation of the commission, however, must not be used to block or delay the prosecution of any individuals against whom there is already sufficient evidence of wrongdoing.

See: *USA: Investigation, prosecution, remedy. Accountability for human rights violations in the 'war on terror'*, December 2008, <http://www.amnesty.org/en/library/info/AMR51/151/2008/en>.

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