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Sent: Thursday, November 29, 2001 9:47 AM  
To: intlawprofessor-1@law.wuacc.edu (E-mail)  
Subject: [Intlawprofessor-1] FW: No War Against Afghanistan! (rev.)

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From: Boyle, Francis  
Sent: Thursday, November 29, 2001 9:44 AM  
To: 'AALS Section on Minority Grps. mailing list' (E-mail)  
Subject: No War Against Afghanistan! (rev.)

# NO WAR AGAINST AFGHANISTAN!

by Professor Francis Boyle

Speech at Illinois Disciples Foundation on 18 October  
Revised Text by Author on 29 November

I want to start out with my basic thesis that the Bush administration's war against Afghanistan cannot be justified on the facts or the law. It is clearly illegal. It constitutes armed aggression. It is creating a humanitarian catastrophe for the people of Afghanistan. It is creating terrible regional instability.

Right now we are having artillery barrages across the border between India and Pakistan which have fought two wars before over Kashmir and yet today are nuclear armed. The longer this war goes on, the worse it is going to be not only for the millions of people in Afghanistan but also in the estimation of the 1.2 billion Muslims of the world and the 57 Muslim states in the world, none of which believe the Bush administration's propaganda that this is not a war against Islam.

## THE FACTS

Now let me start first with the facts. As you recall, Secretary of State Colin Powell said publicly they were going to produce a white paper documenting their case against Osama bin Laden and their organization Al Qaeda. Well, of course, those of us in the peace movement are familiar with white papers before. They're always laden with propaganda, half-truths, dissimulation, etc. that are usually very easily refuted after a little bit of analysis. What happened here? We never got a white paper produced by the United States government. Zip, zero, nothing.

What did we get instead? The only statement of facts that we got from an official of the United States government was Secretary of State Colin Powell himself. And let me quote from Secretary Powell. This is the October 3 edition of the *New Speak Times*: "The case will never be able to be described as circumstantial. It's not circumstantial now." Well, as a lawyer, if a case isn't circumstantial, it's nothing. The lowest level of proof you could possibly imagine is a circumstantial case.

Yes, the World Court has ruled that a state can be found guilty on the basis of circumstantial evidence, provided there is proof beyond a reasonable doubt. But here we have Secretary of State Colin Powell admitting on behalf of the United States that the case against Bin Laden and Al Qaeda is not even circumstantial.

If it's not even circumstantial, then what is it? Rumor, allegation, innuendo, insinuation, disinformation, propaganda. Certainly not enough to start a war. In the same issue of the *New Speak Times*, the US Ambassador who went over to brief our NATO allies about the Bush administration's case against Bin Laden and Al Qaeda was quoted as follows: "One

Western official at NATO said the US briefings, which were oral, without slides or documentation, did not report any direct order from Mr. Bin Laden, nor did they indicate that the Taliban knew about the attacks before they happened."

That's someone who was at the briefings. What we did get was a white paper from Tony Blair. Did anyone in this room vote for Tony Blair? No. And the white paper is in that hallowed tradition of a white paper based on insinuation, allegation, rumors, etc.

Even the British government admitted the case against Bin Laden and Al Qaeda would not stand up in court, and as a matter of fact it was routinely derided in the British press. There was nothing there. Now I don't know myself who was behind the terrorist attacks on September 11. And it appears we are never going to find out. Why? Because Congress in its wisdom has decided not to empanel a joint committee of both Houses of Congress with subpoena power giving them access to whatever documents they want throughout any agency of the United States government -- including FBI, CIA, NSA, DSA -- and to put these people under oath and testify as to what happened under penalty of perjury. We are not going to get that investigation, and yet today we are waging war against Afghanistan on evidence that Secretary of State Powell publicly stated is not even circumstantial.

## **THE LAW**

Now let's look at the law. Immediately after the attacks, President Bush's first statement in Florida was to call these attacks an act of terrorism. Now under United States domestic law, we have a definition of terrorism, and clearly this would qualify as an act or acts of terrorism. Under international law and practice, there is no generally accepted definition of terrorism, but certainly, under United States domestic law, this qualified as an act of terrorism.

What happened? Well, again according to the *New Speak Times*, President Bush consulted with Secretary Powell and all of a sudden they changed the rhetoric and characterization of what happened here. They now called it an act of war. And clearly this was not an act of war. There are enormous differences in how you treat an act of terrorism and how you treat an act of war. We have dealt with acts of terrorism before. And normally acts of terrorism are dealt with as a matter of international and domestic law enforcement.

In my opinion, that is how this bombing, these incidents, should have been dealt with -- international and domestic law enforcement. Indeed, there is a treaty directly on point. Although the United Nations was unable to agree on a formal definition of terrorism, they decided, let's break it down into its constituent units and deal with it piece-wise. Let's criminalize specific aspects of criminal behavior that we want to stop.

The Montreal Sabotage Convention is directly on point. It criminalizes the destruction of civilian aircraft while in service. The United States is a party. Afghanistan is a party. It has an entire legal regime to deal with this dispute. The Bush administration just ignored the Montreal Sabotage Convention. There was also the Terrorist Bombing Convention. That is also directly on point, and eventually the Bush administration just did say, well, yes, our Senate should ratify this convention. It's been sitting in the Senate for quite some time, lingering because of the Senate's opposition to international cooperation by means of treaties

on a whole series of issues.

Indeed, there are a good 12-13 treaties out there that deal with various components and aspects of what people generally call international terrorism, that could have been used and relied upon by the Bush administration to deal with this issue. But they rejected the entire approach and called it an act of war. They invoked the rhetoric deliberately of Pearl Harbor, December 7, 1941.

It was a conscious decision to escalate the stakes, to escalate the perception of the American people as to what is going on here. And of course the implication here is that if this is an act of war, then you don't deal with it by means of international treaties and agreements. You deal with it by means of military force. You go to war. So a decision was made very early in the process. We were going to abandon, junk, ignore, the entire framework of international treaties and agreements that had been established for 25 years to deal with these types of problems and basically go to war. An act of war has a formal meaning. It means an attack by one state against another state -- which, of course, is what happened on December 7, 1941. But not on September 11, 2001.

And again, I repeat here Secretary Powell saying there isn't even a substantial case.

The next day, September 12, the Bush administration went into the United Nations Security Council to get a resolution authorizing the use of military force, and they failed. It's very clear, if you read the resolution, they tried to get the authority to use force, and they failed.

Indeed, the September 12 resolution, instead of calling this an armed attack by one state against another state, calls it a terrorist attack. And again there is a magnitude of difference between an armed attack by one state against another state -- an act of war -- and a terrorist attack. Terrorists are dealt with as criminals. They are not treated like nation states. Now what the Bush administration tried to do on September 12 was to get a resolution along the lines of what Bush Sr. got in the run up to the Gulf War in late November of 1990.

I think it is a fair comparison: Bush Jr. to Bush Sr. Bush Sr. got a resolution from the Security Council authorizing member states to use "all necessary means" to expel Iraq from Kuwait. They originally wanted language in there expressly authorizing the use of military force. The Chinese objected -- so they used the euphemism "All necessary means." But everyone knew what that meant. If you take a look at the resolution of September 12, that language is not in there. There was no authority to use military force at all. They never got any. Having failed to do that, the Bush administration then went to the United States Congress and, using the emotions of the moment, tried to ram through some authorization to go to war under the circumstances.

According to a statement made by Senator Byrd in the *New Speak Times*, however, if you read between the lines, it appears that they wanted a formal declaration of war along the lines of what President Roosevelt got on December 8, 1941, after Pearl Harbor. And Congress refused to give them that. And for a very good reason. If a formal declaration of war had been given, it would have made the president a constitutional dictator. We would now all be living basically under martial law. . . . Congress might have just picked up and gone home. And you'll recall, as a result of that declaration of war on December 8, 1941, we had the

infamous Koromatsu case where Japanese-American citizens were rounded up and put in concentration camps on the basis of nothing more than a military order that later on turned out to be a gross misrepresentation of the factual allegation that Japanese-Americans constituted some type of security threat. If Bush had gotten a declaration of war, we would have been on the same footing. And the Koromatsu case has never been overturned by the United States Supreme Court. Instead, Congress gave President Bush, Jr., what is called a War Powers Resolution Authorization. The War Powers Resolution of 1973 was passed over President Nixon's veto, namely 2/3rds majority in both houses of Congress, and designed to prevent another Tonkin Gulf Resolution and another Vietnam war.

Now, if you read the resolution, which he did get -- and only one courageous member of Congress, Barbara Lee, an African-American representative from Oakland, voted against it as a matter of principle -- this resolution, although it is not as bad as a formal declaration of war, is even worse than the Tonkin Gulf Resolution. It basically gives President Bush a blank check to use military force against any individual organization or state that he alleges -- notice his *ipsa dictum* -- was somehow involved in the attacks on September 11 or else sheltered, harbored, or assisted individuals involved in the attacks on September 11.

In other words, Bush now has a blank check from the United States Congress pretty much to wage war against any state he wants to. And it was then followed up by Congress with a \$40 billion appropriation as a down payment for waging this *de facto* war. Very dangerous, this War Powers Resolution Authorization. No real way it can be attacked in court at this point in time. In the heat of the moment, Congress gave him this authority. It is still there on the books. . . .

Bush, Jr.'s resolution of September 14 basically gives him a blank check to wage war against anyone he wants to with no more than his *ipsa dictum*. It's astounding to believe -- even worse than Tonkin Gulf. In addition, Bush, Jr. then went over to NATO to get a resolution from NATO, and he convinced NATO to invoke Article 5 of the NATO Pact. Article 5 of the NATO Pact is only intended to deal with the armed attack by one state against another state. It is not, and has never been, intended to deal with a terrorist attack. The NATO Pact was supposed to deal in theory with an attack on a NATO member state by a member of the Warsaw Pact and the Soviet Union. With the collapse of both the Warsaw Pact and the Soviet Union, there was no real justification or pretext anymore for the continued existence of NATO.

### **SELF-DEFENSE?**

The Bush administration was attempting to get some type of multi-lateral justification for what it was doing when it had failed at the United Nations Security Council to get authorization. The Bush administration tried again to get more authority from the Security Council, and all they got was a presidential statement that legally means nothing. They tried yet a third time, September 29 -- before they started the war -- to get authorization to use military force, and they got stronger language. But still they failed to get any authorization from the Security Council to use military force for any reason.

Then what happened? The new US Ambassador to the United Nations, John Negroponte, sent a letter to the Security Council asserting Article 51 of the United Nations Charter. Now

some of us are familiar with Negroponte. He was US Ambassador in Honduras during the Contra War. He has the blood of 35,000 Nicaraguan civilians on his hands, and the only way Bush could get him confirmed was that he rammed him through the Senate the day after the bombings. So whenever you see Negroponte on the television talking to you, remember this man has the blood of 35,000 people, most of whom are civilians, on his hands. That's seven times anything that happened in New York. Seven times.

The letter by Negroponte was astounding. It said that the United States reserves its right to use force in self-defense against any state that we feel is necessary in order to fight our war against international terrorism. So, in other words, they failed on three separate occasions to get formal authority from the Security Council, and now the best they could do is fall back on another alleged right of self-defense as determined by themselves -- very consistent with the War Powers Resolution authorization that Bush did indeed get from Congress on September 14.

I was giving an interview the other day to the *San Francisco Chronicle*, and the reporter said, "Is there any precedent for the position here being asserted by Negroponte that we are reserving the right to go to war in self-defense against a large number of other states as determined by ourselves?" I said yes, there is one very unfortunate precedent. That's the Nuremberg Tribunal of 1946 where the lawyers for the Nazi defendants took the position that they had reserved the right of self-defense under the Kellogg-Briand Pact of 1928, the predecessor to the UN Charter -- and self-defense as determined by themselves. In other words, no one could tell them to the contrary. So at Nuremberg, lawyers for the Nazi defendants had the hutzpah to argue the entire Second World War was a war of self-defense as determined by themselves, and no one had standing to disagree with that self-judging provision. Well, of course, the Nuremberg Tribunal rejected that argument and said no: what is self-defense can only be determined by reference to international law. That has to be determined by an international tribunal. No state has a right to decide this for themselves.

Clearly, what is going on now in Afghanistan is not self-defense. Let's be honest. We all know it. At best, this is reprisal, retaliation, vengeance, catharsis -- call it what you want. It is not self-defense. And retaliation is never self-defense. Indeed, that was the official position of the United States government. Even during the darkest days of the Vietnam War, when former Under Secretary of State Eugene V. Rosca tried to get the State Department to switch their position, they refused and continued to maintain, no, retaliation is not self-defense. And this is not self-defense what we are doing in Afghanistan. Since none of these justifications and pretexts hold up as a matter of law, then what the United States government today is doing against Afghanistan constitutes armed aggression. It is illegal. There is no authority for this.

Indeed, if you read on the Internet, certainly not in the mainstream US news media, you will see that is the position being taken in almost every Islamic country in the world. Where are the facts? Where is the law? They aren't there. This is apparent to the entire world. It's apparent in Europe. It's apparent in the Middle East. It is obvious to the 1.2 billion Muslims of the world. Are any Muslim leaders involved in military action against Afghanistan? Unlike what happened with Iraq, no. Have any of them volunteered military forces to get involved here? A deafening silence. They all know it is wrong.

Now the government of Afghanistan made repeated offers to negotiate a solution to this dispute. Even before the events of September 11, negotiations were going on between the United States and the government of Afghanistan over the disposition of bin Laden. They had offered to have him tried in a neutral Islamic court by Muslim judges applying the law of Shareel. This was before the latest incident. We rejected that proposal. After September 11 they renewed the offer. What did President Bush say? No negotiations. There's nothing to negotiate. Here is my ultimatum. Well, the problem is again the United Nations Charter requires peaceful resolution of disputes. It requires expressly by name "negotiations."

Likewise that Kellogg-Briand Pact under which Nazis were prosecuted at Nuremberg, to which Afghanistan and the United States are both parties, requires peaceful resolution of all disputes and prohibits war as an instrument of national policy. And yet that's exactly what we are doing today -- waging war as an instrument of national policy. And then again, as he came back from Camp David with the latest offer by the government of Afghanistan, "We are willing to negotiate over the disposition of Mr. bin Laden," I don't know how many of you saw the President get off the helicopter. It was surreal. He went ballistic. "There'll be no negotiations. I told them what to do. They better do it."

Those are not the requirements of the United Nations Charter and the Kellogg-Briand Pact. Indeed, if you read the ultimatum that President Bush gave to the government of Afghanistan in his speech before Congress, you will see it was clearly designed so that it could not be complied with by the government of Afghanistan. No government in the world could have complied with that ultimatum, and indeed, striking similarities with the ultimatum given by Bush. Sr. to Tarik in Geneva on the eve of the Gulf War. That was deliberately designed so as not to be accepted, which it was not. Why?

## **WHY WAR?**

The decision had already been made to go to war. Now that being said, what then really is going on here? If there is no basis in fact, and there is no basis in law for this war against Afghanistan, why are we doing this? Why are we creating this humanitarian catastrophe for the Afghan people? And recall, it was Bush's threat to bomb Afghanistan that put millions of people on the move without food, clothing, housing, water or medical facilities, and that has created this humanitarian catastrophe now for anywhere from 5 to 7 million Afghans. And all the humanitarian relief organizations have said quite clearly, the so-called humanitarian food drop -- as Doctors Without Borders, Nobel peace prize organization, put it -- is a military propaganda operation, which it clearly is.

Bush calling for the children of America to send \$1 to the White House -- this is propaganda. This is not serious. And the winter is coming in Afghanistan. Latest estimate is that maybe 100,000 or more are going to die if we don't stop this war. So what's really going on here? Why are we bombing Afghanistan? Why are we doing this? Is it retaliation? Is it vengeance? Is it some bloodlust? No, it isn't.

The people who run this country are cold, calculating people. They know exactly what they're doing and why they're doing it. And during the course, now, since the bombing started, it's become very clear what the agenda is. Secretary of Defense Rumsfeld flew to Uzbekistan and concluded an agreement with the dictator who runs that country, accused of

massive violations of human rights, that the United States government will protect Uzbekistan. Now, first, Secretary of Defense has no constitutional authority to conclude such agreement in the first place. Putting that issue aside, however, it's very clear what's going on here. The Pentagon is now in the process of establishing a military base in Uzbekistan. It's been in the works for quite some time.

They admit, yes, special forces have been over there for several years training their people -- Partnership for Peace with NATO -- and now it's becoming apparent what is happening. We are making a long-term military arrangement with Uzbekistan. Indeed, it has been reported -- and you can get press from that region on the Internet, India, Pakistan -- that Uzbekistan now wants a status of forces agreement with the United States. What's a status of forces agreement? It's an agreement that permits the long-term deployment of significant numbers of armed forces in another state.

We have status of forces agreements with Germany, Japan, and South Korea. We have had troops in all three of those countries since 1945. And when we get our military presence, our base, that is right now being set up in Uzbekistan, it's clear we're not going to leave. It's clear that this agreement, this unconstitutional agreement between Rumsfeld and Karimov, is to set the basis and say we have to stay in Uzbekistan for the next 10-15-20 years to defend it against Afghanistan where we've created total chaos. This is exactly the same argument that has been made to keep the United States military forces deployed in the Persian Gulf now for ten years after the Gulf War. We are still there. We still have 20,000 troops sitting on top of the oil in all these countries. We even established a fleet to police this region in Bahrain. More currently, six to date. We never had any intention of leaving the Persian Gulf. We are there to stay.

Indeed, planning for that goes back to the Carter administration. The so-called rapid deployment force, renamed the US Central Command, carried out the war against Iraq and occupied and still occupies these Persian Gulf countries and their oil fields and is today now executing the war against Afghanistan and deploying US military forces to build this base in Uzbekistan. Why do we want to get in Uzbekistan? Very simple. The oil and natural gas resources of Central Asia, reported to be the second largest in the world after the Persian Gulf. There has been an enormous amount of coverage of this in the pages of the *Wall Street Journal* -- not the *New Speak Times*.

The movers and shakers paid enormous attention to Central Asia and the oil resources there. Indeed, shortly after the collapse of the Soviet Union and the assent independence of the states in 1991, you saw all sorts of articles in the *Wall Street Journal* about how Central Asia and our presence in Central Asia has become a vital national security interest of the United States. We've proceeded to establish relations with these states of Central Asia. We sent over special forces. We're even parachuting the 82nd Airborne in Kazakstan. All reported in the *Wall Street Journal*. And in addition, then, since Central Asia is landlocked, you have to get the oil and natural gas out. How do you do that? Well one way is to send it west but we wish to avoid Iran and Russia's highly circuitous route costs a lot of money, very insecure.

The easiest way to do it -- construct pipelines south through Afghanistan into Pakistan and right out to the Arabian Sea. Unocal was negotiating to do this with the government of Afghanistan. That's all in the public record. Just as the Persian Gulf War against Iraq was

about oil and natural gas, I'm submitting this war is about oil and natural gas and also outflanking China and getting a military base south of Russia. We are going to be there for a long time. At least until all that oil and gas has been sucked out and it's of no more use to us.

In my opinion, that's really what is going on here. We should not be spending a lot of time about who did what to whom on September 11. We need to be focusing on this war, on stopping this war. We need to be focusing on stopping the humanitarian tragedy against the millions of people of Afghanistan right now, today. And third, we need to be focusing on what could very easily become a regional war.

The Pentagon launched this thing. Obviously, they felt they could keep it under control. That's what the people in August of 1914 thought, too, when you read Barbara Tuchman's *The Guns of August*. Everyone figured the situation could be kept under control, and it wasn't, and there was a world war -- 10 million people died. We're already seeing, after President Bush started this war, artillery duels between India and Pakistan. Massive unrest is in all of these Muslim countries, and the longer the war goes on, I submit, the worse it is going to become, the more dangerous it is going to become, the more unstable it is going to become. In addition, finally, comes the Ashcroft Police State Bill. No other word to describe it.

Bush failed to get that declaration of war which would have rendered him a constitutional dictator. But it's clear that Ashcroft and his Federalist Society lawyers took every piece of regressive legislation off the shelf, tied it all into this antiterrorism bill, and rammed it through Congress. Indeed, members of Congress admit, yes, we didn't even read this thing. Another Congressman said, right, but there's nothing new with that, except on this one they're infringing the civil rights and civil liberties of all of us, moving us that much closer to a police state in the name of fighting a war on terrorism, security this, that, and the other thing. Notice the overwhelming message from the mainstream news media: well, we all have to be prepared to give up our civil rights and civil liberties.

Even so-called liberal Alan Dershowitz oh-let's-now-go-along-with-the-national-identity card. Outrageous. Larry Tribe, writing in the *Wall Street Journal*: well, we're all going to have to start making compromises on our civil rights and civil liberties. That's what's in store in the future for us here at home the longer this war against Afghanistan goes on, and as Bush has threatened, will expand to other countries. We don't know how many countries they have in mind. At one point they're saying Malaysia, Indonesia, Somalia, Iraq, Libya. Deputy Secretary Wolfowitz talking about ending states, which is clearly genocidal. I could take that statement at the World Court and file it and prove it as genocidal intent by the United States government. So the longer we let this go on, the more we are going to see our own civil rights and civil liberties taken away from us.

As you know, aliens -- what we call aliens -- foreigners -- their rights are already gone. We now have 700 aliens who've just been picked up and disappeared by Ashcroft and the Department of Justice. We have no idea where these people are. They're being held on the basis of immigration law, not criminal law. Indefinite detention. What's the one characteristic they all had in common -- these foreigners -- they're Muslims and Arabs, the scapegoats for this. Everyone needs a scapegoat, and it looks like we have one. . . .

## A COUP AGAINST THE CONSTITUTION

Since September 11th, we have seen one blow against the Constitution after another, after another. Recently, we've had Ashcroft saying that he had, unilaterally, instituted monitoring of attorney-client communications without even informing anyone -- he just went ahead and did it, despite the Fourth Amendment ban on unreasonable searches and seizures without warrant and the Sixth Amendment right to representation by counsel.

This is one of the more outrageous and dangerous measures. It applies both to alleged terrorist suspects here in the United States, who are not US citizens and, also, abroad. As for those here in the United States, clearly aliens here are entitled to the protections of the Due Process clause of the Fifth Amendment to the United States Constitution, as well as to the Article III (Section 2, Clause 3) basic constitutional rights in criminal cases, including indictment, trial before a Federal District judge or jury, [rights relating to] venue and things of that nature. It would take me an entire law review article to go through all the problems with this executive order.

Moreover, there is the International Covenant on Civil and Political Rights, to which the United States Government is a party. It's a treaty and it, again, affords basic due process protections to *everyone* here in the United States, irrespective of their citizenship.

As for the applicability to alleged al Qaeda members, or even former al Qaeda members, over in Afghanistan, [there is] an even more serious problem there. The third and fourth Geneva Conventions, of 1949, clearly apply to our conflict now with Afghanistan. These alleged al Qaeda members would be protected either by the third Geneva Convention (if they are fighters incorporated into the army there in Afghanistan), or by the fourth Geneva Convention (if they are deemed to be civilians). Both conventions have very extensive procedural protections on trials that must be adhered to. This is not to say that a trial cannot happen. It can happen, but there are very extensive rules and protections. Basic requirements of due process of law, set forth in both of these treaties, must be applied, under these circumstances. [Failures] to apply these treaties would constitute war crimes.

Second is the question of reprisals. This executive order is *extremely dangerous*, because what it is basically saying to the Taliban government and to al Qaeda is, "We are not going to give you the protections of either the third and fourth Geneva Conventions' guarantees on trials." What that means is that they could engage in reprisals against captured members of the United States Armed Forces. As you know, we have soldiers on the ground, now -- Special Forces -- in Afghanistan and we also have pilots flying over Afghanistan. Any of them could be captured by the Taliban government, by al Qaeda.

If a U.S. military [person] were to be captured, clearly, he or she would be entitled to all the benefits and protections of the third Geneva Convention, on prisoners of war. But the problem now is that President Bush has basically said, openly, publicly and officially, that we are not going to give prisoner-of-war benefits, or fourth Geneva Convention civilian benefits, to al Qaeda members, to former al Qaeda members, or to those who have sheltered, harbored or assisted them. That opens us up for reprisals. It opens up our own armed forces to be denied prisoner-of-war treatment. So, what we're doing here is exposing them to a similar type of treatment, which would be a summary trial, in secret, subject to the death

penalty. What we've seen, since September 11th, if you add up everything that Ashcroft, Bush, Gonzales and their coterie of Federalist Society lawyers have done here, is a *coup d'etat* against the United States Constitution. There's no question about it.

When you add in the Ashcroft police state bill that was passed by Congress (and several members of Congress admitted, "We never even read this thing when we voted for it.") -- that's really what we're seeing now, a constitutional *coup d'etat*. There's no other word for it.

This is really like the old Star Chamber proceedings, in the British Empire, where someone accused of treason would be called before a chamber in quiet, in secrecy. (It was called the Star Chamber because there were stars on the [ceiling]). There would be a summary hearing and the person would be sentenced to death. That was that.

The important point to keep in mind is that the president and secretary of defense are bound by the third and fourth Geneva Conventions for anyone over in Afghanistan or Pakistan. They have no discretion there.

As for here, in the United States, they are bound by the Constitution and the Bill of Rights, and they are bound by the International Covenant on Civil and Political Rights. There is no exception that the president can unilaterally announce *ipse dixit*. That's exactly what this executive order is attempting to do. It's like we're becoming a banana republic here in the United States, with "disappeared" people, which was the phenomenon that we all saw down in Latin American dictatorships in the 1970s and 1980s, with the support, by the way, of the United States Government. The latest figure I've read is upwards of eleven hundred aliens, Arabs, Muslims, who have just disappeared somewhere. We don't know where they are or the conditions under which they are being held. We have no idea whether they have access to attorneys. We do know one of them died, under highly suspicious circumstances, while in custody. There have been reports that he was tortured to death.

I should point out that the phenomenon of disappearance is considered a crime against humanity [by] the International Criminal Court. This is very dangerous.

The critical question is: When will the FBI, the CIA and the National Security Agency start to turn these powers, that they have under the Ashcroft police state bill, against American citizens? Clearly, that will be the next step.

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