

Standards of Judgment for the International Commission of Inquiry on Crimes Against Humanity Committed by the Bush Administration of the United States

When the possibility of far-reaching war crimes and crimes against humanity exists, people of conscience have a solemn responsibility to inquire into the nature and scope of these acts and to determine if they do in fact rise to the level of war crimes and crimes against humanity. That is the mission of the International Commission of Inquiry on Crimes Against Humanity. This tribunal will, with care and rigor, present evidence and assess whether George W. Bush and his administration have committed crimes against humanity.

-- From the Charter of The International Commission of Inquiry on Crimes Against Humanity Committed by the Bush Administration of the United States

The need for this tribunal, as an instrumentality of world humanity, arises from the *historical, moral and political responsibility of people of conscience* to sit in judgment of this administration: to inquire and assess whether this administration has committed crimes that do in fact rise to the levels of crimes against humanity as popularly understood and conceived, that is, *acts that, by their scale or nature, shock the conscience of humankind.*

Crimes against humanity are brutal crimes that are not isolated incidents but that involve large and systematic actions often cloaked with official authority. These include mass murder, extermination, enslavement, deportation, and other inhumane acts perpetrated against a population, conducted in wartime or not. Apartheid and persecution on political, ethnic, and gender grounds have also been considered inhumane acts causing great suffering, and therefore crimes against humanity.

We see the need to proceed from this first-principles definition of crimes against humanity precisely because of the singular nature of some of this administration's actions and the lack of relevant precedent in existent law. This is especially true for judging categories of crimes other than wars of aggression and torture, where precedent and conventional standards do exist within international law.

We are not pre-determining a minimum quantitative level required to constitute a "mass scale" -- or "large and systematic action" -- within our definition of crimes against humanity. Rather, we are focusing on the overall nature and scope of the impact of these actions and policies. Nor are we making a criterion of explicit intentionality. The jury of conscience will inquire into and assess whether the Bush administration policies involve foreseen or foreseeable risk of catastrophic or genocidal proportions. The question is not whether the Bush administration is intentionally setting out to make millions suffer with its global warming and global health policies, for example. Rather, the question is, whether such suffering is clearly the predictable consequences of policies guided by ideological and political goals?

Such culpability must also distinguish actions specific to the Bush administration from general systemic causes and the actions of previous administrations (even where such actions themselves may rise to the level of crimes against humanity).

Proceeding from the tribunal's Charter and its mission, the character of this commission is *sui generis* -- a unique response by people of conscience to the unprecedented historical responsibility before us. The Commission's Charter states, "The tribunal's legitimacy is derived from its integrity, its rigor in the presentation of evidence, and the stature of its participants." Its political and moral authority is based on high standards which are not arbitrary and capricious but predefined and consistent. These standards are critical to safeguarding findings of this commission from arbitrariness, a priori political motivations, or other forms of subjectivity.

Though it is not a court of law with power to impose sanctions, the "judicial" character of the Commission's conduct, proceedings, and verdict is foundational to its integrity and its historic mission. As the Charter states, "Well-established international law will be referenced where applicable, but the tribunal will not be limited by the scope of customary international law." This commission is neither attempting to develop new international law *per se*, nor tortuously applying current law to force-fit its proceedings and findings into existing legal frameworks. Rather, through the rigorous presentation of expert and witness testimony, documents, and other evidence, the Commission aims to establish the truth about major acts and policies of the Bush administration in the areas specified in the Charter. In addition, "representatives of the administration will be invited to present a defense."

The historic and political responsibility before this tribunal lies in delivering findings of fact and a verdict on the central question before the commission: "whether George W. Bush and his administration have committed crimes against humanity." As the Charter mandates, "The Commission's jury of conscience will come to verdicts and its findings will be published." The jury of conscience will carefully assess the evidence and base its conclusions on the sufficiency of the evidence. In assessing sufficiency, we are aware that some acts constitute crimes against humanity in and of themselves, while other particular acts may be instances of more general patterns of conduct that constitute such crimes.

We must continuously return to the fact that the need for this Commission flows precisely from the real and horrendous crimes being committed and our historical, moral and political responsibility as people of conscience. We reaffirm that "The Commission will conduct its work with a deep sense of responsibility to the people of the world."