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A Tale of Two "Terrorists": Bush Duplicity on Tribunals Must End

By Andrew Reding

EDITOR'S NOTE: Two cases — those of Zacarias Moussaoui, the alleged "20th hijacker," and Lori Berenson, an American convicted of aiding Marxist guerrillas in Peru — reflect the double standard of the Bush administration when it comes to international tribunals. Bush's duplicity must end, writes PNS Associate Editor Andrew Reding, for international law is key to any successful fight against lawlessness worldwide.

While Attorney General John Ashcroft seeks the death penalty for French citizen Zacarias Moussaoui, the alleged "20th hijacker" in the attacks on the World Trade Center and Pentagon, President George W. Bush is quietly seeking compassionate leniency for a U.S. citizen convicted of a similar crime in Peru.

If that weren't irony enough, Bush is relying on an international tribunal for the possibility of such relief. Never mind that this president has gone out of his way to express his distaste for the very concept of international tribunals, even hinting he may try to find a way to withdraw President Clinton's signature from the Statute of the International Criminal Court.

There is no hard evidence that Zacarias Moussaoui took part in the planning of the Sept. 11 attacks. So far, the public has been told that he received a check from a roommate of suspected Sept. 11 ringleader Mohammed Atta, and that he wanted to learn to pilot jumbo jets without learning takeoffs and landings. But he was in detention on a visa violation on Sept. 11 and in the weeks prior to the attacks.

That means the United States is seeking the death penalty on merely circumstantial evidence. And it is doing so despite vigorous objections from France, which has banned the death penalty and is refusing to cooperate with the investigation. France is a key member of the European Union, whose support the administration badly needs in its war on terrorism.

The Peruvian case is strikingly similar. Lori Berenson is a U.S. citizen arrested in Lima while sharing a house with members of the Tupac Amaru Revolutionary Movement, a Marxist guerrilla group committed to the violent overthrow of the Peruvian government. There is no hard evidence that Berenson ever took part in violent acts. But she admits to sympathizing with a group that the government — and most Peruvian citizens — consider terrorist.

A military tribunal found Berenson guilty of being a terrorist leader in 1996, and sentenced her to life in prison. Last year, a civil court reexamined the evidence, and

convicted her on the lesser charge of "collaboration with terrorists," reducing her sentence to 20 years. Peruvian President Alejandro Toledo has vowed not to pardon her.

To avoid embarrassing Toledo, Bush is relying on a mechanism he normally disapproves of — an international tribunal. Berenson's case is under review by the OAS Inter-American Commission on Human Rights, which could refer it to the OAS Inter-American Court of Human Rights. Peru has recognized the compulsory jurisdiction of the court, as have most Latin American countries. If the court finds that Berenson's human rights have been violated, Peru may be obligated to release her.

The United States is not a party to that tribunal. That means Zacarias Moussaoui will have no such opportunity to appeal any conviction, including a death sentence, beyond U.S. courts.

And that, apparently, is just what this administration wants.

President Bush has also made it clear that he is opposed to U.S. participation in international tribunals that could in principle try U.S. citizens for crimes committed abroad.

On the other hand, Bush has shown he doesn't mind relying on such courts when they serve U.S. interests. Last summer, Washington helped deliver an adversary — former Yugoslav dictator Slobodan Milosevic — to an international tribunal in The Hague, Netherlands.

In effect, Bush is saying that international human rights law is good only when applied to the detriment of adversaries or to the benefit of U.S. citizens. The equivalent in domestic law would be to allow an individual to sue others without risk of being sued in return. It makes a mockery of the rule of law.

What can the president be thinking? Europeans and Latin Americans aren't blind to this double standard. The very premise of the president's global war on terrorism is that there is such a thing as international law, and that all nations must cooperate to prevent and to punish lawless acts. Without strong support from U.S. allies, that war cannot be won. But to win that support will require a recognition that international law cannot be one-sided.

Confronting international lawlessness necessarily implies accepting international tribunals. Any other approach is doomed to failure and will foster resentment of the United States worldwide.

Andrew Reding is a senior fellow of the World Policy Institute in New York.