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Overseas, Expectations Build for Torture Prosecutions

By [Scott Horton](#)

America's closest allies overseas never understood the Bush Administration's obsession with torture. "It's as if an old friend had a stroke and suddenly went delusional," a British Tory politician told me. And as the final hours of the Bush presidency tick down, the expectation builds in Europe that Obama will do the right thing. That would, of course, be to prosecute the Bush Administration figures responsible for introducing torture as a matter of formal policy. As they all point out, this is what the United States formally committed to do when it adopted the Convention Against Torture, which was largely the product of American advocacy to begin with.

From a column published today in the [Süddeutsche Zeitung](#), Germany's leading news daily (my translation):

The departing American president is leaving his successor not only foreign and domestic problems, but also a perplexing juridical legacy. During the election campaign the question was already being debated: how would the Obama administration act with respect to the prosecution of Bush Administration figures involved in the torture of suspects held in the war on terror. In April 2008, Obama stated that after a thorough investigation of the facts by the Justice Department a decision would be reached as to whether this was simply stupid policy or something more sinister which approached the level of criminal conduct. In his latest interview with ABC, he clarified that with respect to national security matters he would rather look forward than backwards into the past. However, he noted, if someone had broken the law, this would have consequences since no one stands above the law.

No matter how things proceed, this marks a break with the prior broad public debate and with Obama's prior comments. For the first time in U.S. history serious political and legal attention is being dedicated to whether a departing president and his administration have committed crimes of torture and whether individuals should be held to account under criminal law. This is noteworthy and laudable.

In the leading Francophone daily of Belgium, [Le Soir](#), the paper offers several pages of analysis of the basis for a criminal prosecution of Bush Administration figures on account of their introduction of torture policies, under the banner headline "Bush Faces Possible Prosecution."

In France, [public radio](#) offers a detailed dissection of a potential criminal prosecution of Donald Rumsfeld and other Bush Administration officials through an interview with Michael Ratner of the Center for Constitutional Rights. (I was also interviewed for the program.)

Barack Obama and his advisors need to recognize that the prosecutions will occur. The only issue now is whether America will face the additional humiliation of having the prosecutions brought by our closest allies because we lack the moral strength and resolve ourselves to do what is necessary.

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