

The Guantanamo conundrum

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THE Bush administration's persistent refusal to accord POW status to the 158 Taliban and Al Qaeda prisoners so far transported to the Guantanamo enclave in Cuba is as much a symptom of its big power arrogance as an assertion of its 'right' to define international law its own way.

The 1949 Geneva Convention, to which the US is a signatory, is crystal clear on the status of combatants captured in the course of war. All captives, whether legal or illegal, are presumed to be POWs until otherwise determined by a court of law competent to decide on the rules of law concerning combat. Anyone in doubt on the legal status of combatants taken captive on the battlefield, or as a result of hot pursuit of them as part of combat, must seek competent advice from a court of law or tribunal convened for this purpose.

The Bush administration is showing no such regard for legality or human dignity of the people captured by the American forces in Afghanistan, or their status in the eyes of international law and conventions. It has arrogated to itself the role of an accuser, prosecutor, judge and the hangman — all rolled into one. No amount of persuasion, cajoling or criticism

its international obligations and undertakings — something totally at variance with the Wilsonian high principles of morality and transparency in America's dealings with the outside world. United States pulled out of the International Court of Justice during the Reagan administration because the world court had found it guilty of violating Nicaragua's sovereign right.

Washington, under the current administration, has reneged on its commitment under the Kyoto Accord on environment by heaping scorn on it that it did not sufficiently safeguard the interest of US corporate world of which the administration is a watchdog. Likewise, it has denigrated the concept of an international criminal court — wanted by 130 sovereign states — because it cannot countenance American citizens being tried under the jurisdiction of such a court.

people as POWs. Nonsense, says the war lobby. They are sources of information — lemons — that must be squeezed to the last drop to eke out every possible bit and iota of valuable intelligence.

Measured against this yardstick, the Geneva convention is, indeed, a great inconvenience and encumbrance because it protects the rights of the POWs as well as their dignity — both anathema to the Washington hawks. The convention says a POW cannot be forced to give

revenge. They must be shackled, blind-folded and made to kneel before American soldiers in the glare of TV cameras to knock the fear of God in the hearts of all Muslims who are only taught to kneel and bow before Allah. They must know that in a unipolar world the will of the only superpower is as sacrosanct as that of God. Worst still, to rob them of any lingering shred of decency and dignity, they must be on display, day and night, in open cages, so that all must know the price of defiance to

altruism as of concern that the new code of ethics, concerning captives, coined by the war lobby in Washington could easily be replicated, one day, by others against America and the Americans. What would prevent potential terrorists, for instance, from applying the same standards of captivity against American hostages by declaring them, a la Rumsfeld, as "unlawful combatants"?

There is an early indication of such role reversal — or the administration of America's new medicine on its own nationals — in the still unfolding episode of the Wall Street Journal's Daniel Pearl. He has been made hostage by some vengeful persons apparently bent on exacting a price from America for its own kind of justice.

Indeed there is no similarity between the Al Qaeda captives and Daniel Pearl. But what is to persuade the kidnappers

ed the prisoners of war regime for more than half a century. Even the lowliest flunky of the Bush administration knows that the first sentence their boss uttered after the twin-tower tragedy of September 11 was that America was at war. Why are they, then, so hell-bent on improvising their own definition of international law?

One, obvious, explanation is crass arrogance. The US has conducted this war from the very beginning according to its own script, its agenda and its priorities. No one, not even an overly loyal and deferential ally like Britain, has been allowed any role in the conduct of hostilities. Therefore, the war lobby feels not a whit inclined to amend America's unilateralist conduct in this conflict. Giving in to the human rights advocates, or to the Europeans to whom such wilful disregard of international law is a dangerous precedent, would be tantamount to relenting the US control on the prosecution of what is to them a long haul operation against terrorism. Washington hawks do not want to see their hands tied, especially when they have other targets in Afghanistan's neighbourhood well in their sights. So it is going to be America's war, its own way, on its own terms, from beginning to end.

The other explanation is the Bush administration's increasing



from friends and foes is, currently, making any impression on the administration and its tribunes. They are all at one that these captives — or “detainees” in Washington parlance — are “unlawful combatants” and thus unworthy of being treated as POWs.

It is easy to understand the administration’s logic for its blatant refusal to submit to the will of international law, and global opinion, on the subject. It is not so much a case of hubris as of necessity that is goading U.S. to flout its international legal obligation with such wanton impunity.

Not that the US is doing this for the first time. It has, by now, become a habitual offender on

Indeed the compulsion of necessity, in this case, is overwhelming for the war lobby that has been wagging the administration’s tail on practically everything, domestic or extra-territorial, since September 11.

To the administration hawks and warmongers — personified by messers Cheney and Rumsfeld — the punitive expedition vis-a-vis Afghanistan has been nothing but a vendetta from the word go. To this cabal those captured in Afghanistan are war booty, a veritable trophy that the US alone should decide how to utilize, according to its own convenience and conviction. Hence pox be on the house of the Geneva conventions if their rules seek to define these

up any more information than his name, rank and serial number. Anything beyond that infringes on his right of privacy — something Washington is not prepared to grant them. And the war cabal abhors any idea of treating these people with dignity.

What dignity? Cheney says these are a “very dangerous” people who could still kill millions of Americans, if given a chance. No one should dare to ask him how could these people, sub-human in his discerning eyes, ever get out of their cages wedged between rows of razor wire fences to endanger the lives of Americans.

Heaping indignity on the captives is part of the war of

Pax Americana.

History has never, to date, forgiven Amir Taimur, the legendary forebear of the great Moghuls, for having caged the vanquished Ottoman Sultan Bayazid in an act of blind vengeance because Bayazid had scorned and insulted him. The US, too, is behaving like a wounded beast, in this case, oblivious to the verdict of history.

That Colin Powell and some of his associates at the State Department are sensitive and alive to the verdict of history is proof that all is not lost on humanity’s front in the land of freedom and liberty.

But even this magnanimity to history is not so much out of

to abide by known standards of morality when the mightiest power on earth is so rabidly disinclined from honouring its universal commitments? The kidnappers could well turn around and say that they have never been signatories to any convention or treaty that they could be held accountable for. What it amounts to, in unsophisticated jargon, is a return to the law of the jungle where the mighty preys upon the imbecile, and his own edict is the ultimate law.

It is hard to suppose that those insisting that the detainees of Guantanamo are not POWs are doing so out of their ignorance of international law, or the Geneva conventions which have regulat-

The other explanation is the Bush administration’s increasing discomfiture on the domestic turf with Congress on the snowballing of Enron scandal. Dick Cheney, in particular, feels badly cornered in this matter. The Democrats, smelling blood, are on the prowl, and Congress, sensing a national disaster, is breathing down his neck. A battle royal, the like of which has not been seen since the Watergate scandal, is looming on the horizon. And Cheney is the one leading the pack of hounds in the war lobby. As such, he would not want to succumb where he thinks the administration is not answerable to outsiders. The captives of Guantanamo are hostages to the US domestic politics. ■