

ADMINISTRATION CONTINUES TO CLING TO PRECEDENT OF SLAVERY, GENOCIDE, AND ILLEGAL BELLIGERENCY TO LEGITIMIZE ITS ACTIONS

It has increasingly become clear that the Obama Administration treats the category of “terrorist” more flexibly than the Bush Administration did. With the introduction of the term “countering violent extremism,” for example, the Administration broadened the potential application of terrorist tools to those who were simply, according to them, “extremists.” Then there’s the odd treatment of a bunch of Colombian right wing terrorists, who were extradited on drug charges (but not terrorism), and then entirely disappeared from the docket, with allegations that at least one of them had been freed. And while the Obama Administration has charged some white people with using WMD (a terrorism crime), the disparity in its use is stark.

Carol Rosenberg has been tracking another telling example of the Obama Administration’s flexible interpretations of terrorist-like activity: DOD’s citation of a legally suspect ruling about an attack on Seminoles as precedent for trying material support for terrorism in military commissions.

Pentagon prosecutors touched off a protest – and issued an apology this week – for likening the Seminole Indians in Spanish Florida to al Qaeda in documents defending Guantánamo’s military commissions.

Citing precedents, prosecutors reached

back into the Indian Wars in arguments at an appeals panel in Washington D.C. Specifically, they invoked an 1818 military commission convened by Gen. Andrew Jackson after U.S. forces invaded then-Spanish Florida to stop black slaves from fleeing through a porous border – then executed two British men for helping the Seminole Indians.

Navy Capt. Edward S. White also wrote this in a prosecution brief:

“Not only was the Seminole belligerency unlawful, but, much like modern-day al Qaeda, the very way in which the Seminoles waged war against U.S. targets itself violate the customs and usages of war.”

In other words, our government is siding with slavery, genocide of Native Americans, and Andrew Jackson’s illegal belligerency—it is citing our own country’s illegal behavior—to find some support for the claim that material support is a military crime.

Not surprisingly, the Seminole tribe objected (see Rosenberg’s collection of documents in the case [here](#)). And now Jeh Johnson (he of the claim that Martin Luther King would have empathized with the attacks on Afghans) has apologized to the tribe—but reiterated our reliance on the precedent.

The Pentagon’s top lawyer has sent the Seminole Tribe of Florida what amounts to an apology for Guantánamo war court lawyers likening al Qaida to the Native American tribe in 1818.

But Defense Department general counsel Jeh Johnson made clear in the single-page letter that the U.S. government was standing by its precedent from Gen. Andrew Jackson’s Indian Wars in its bid to uphold the life-time conviction of Osama bin Laden’s media secretary at

Guantánamo's Camp Justice.

And so it is that our government clings desperately to one of the darkest chapters of our history to legitimize its current actions. Rather than reflect on what that means—how damning it is that we can point only to Andrew Jackson's illegal treatment of Native Americans to justify our current conduct—the government says simply, "a precedent is a precedent!"

Apparently, our country has learned nothing in the last 200 years.

Update: Jackson corrected for Johnson, thanks to JTIDAH0.