

100 DAYS

to restore the constitution

Last week, the American people elected Senator Barack Obama the next president, and the nation's first African American president. The Center for Constitutional Rights, born out of the Civil Rights movement in 1966, recognizes this moment as historic. It is clear that the nation is ready for change: to be a society known not for torture and abuse, unjust war, arbitrary detention and overreaching executive power, but for its respect for human rights.

We believe that now, more than ever, it is the time to press forward and insist that the Obama Administration makes restoring the Constitution, and undoing the vast damage done to it, a priority in his first 100 days in office.

During the past eight years, the Bush Administration has systematically dismantled some of the most important rights and protections enshrined in the Constitution. **In his first 100 days, President Obama can – often with the stroke of a pen – restore, protect and expand our fundamental rights.**

The Center for Constitutional Rights (CCR) calls on President Obama and the new Congress during this historic moment to take the following steps:

End Torture, Rendition and Illegal Detention

From Guantánamo Bay to CIA “black sites,” the U.S. has created a system of illegal detentions and justified the use of torture with direct approval from the highest level of government officials, who ignored the rule of law and stripped detainees of basic rights, attempted to redefine the word “torture” and created sham proceedings to keep its dirty deeds hidden from the public.

In the first 100 days of his administration, President Obama must act to:

- Close Guantánamo and resettle its refugees safely where there is no risk of persecution or torture;
- End torture and issue an executive order prohibiting the use of torture;
- Close all secret detention sites and CIA “black sites”;
- End the use of extraordinary rendition and launch a DOJ investigation into its use;
- End the use of any court of evidence obtained through torture; and
- Officially reject all legal memos, executive orders and signing statements that justify the use of torture.

Abolish Preventive Detention

The Bush Administration has found alternative ways to hold people indefinitely without charge, sometimes simply because they believe the person might do something in the future. They have used immigration detention to target certain groups based on racial or religious profiling, abused federal grand jury conspiracy charges, and held activists on the vague charge of “material support.”

In the first 100 days of his administration, President Obama must act to:

- Appoint officials who will not abuse the material witness statute, immigration law, grand juries and conspiracy charges to suppress dissenters;
- Pledge to veto any legislation creating preventive detention or national security courts as alternatives to the existing criminal justice system; and
- Work to repeal repressive legislation like the Patriot Act and the Anti-Terrorism and Effective Death Penalty Act.

Protect Dissent

Increasingly, political dissent is treated as terrorism. Material support laws that criminalize speech and political activity, the Patriot Act, the Animal Enterprise Terrorism Act, and the Homegrown Terrorism Act all allow the government to target activists and stifle dissent.

In the first 100 days of his administration, President Obama must act to:

- Work to repeal the Patriot Act and other repressive legislation;
- Make the FBI strictly adhere to surveillance guidelines and repeal new surveillance guidelines that allow increased surveillance of activists;
- End ICE raids and the federalization of law enforcement; and
- Open DOJ investigations into related government misconduct.

Amend the War Powers Act

The Bush administration illegally invaded Iraq, occupies Afghanistan and has threatened Iran, Syria and Venezuela. It has abused the Authorization to Use Military Force (AUMF) and, like many administrations before it, ignored certain Constitutional and international law requirements before attacking another nation.

In the first 100 days of his administration, President Obama must act to:

- Begin the process of withdrawing troops from Iraq and ending the occupation; and
- End abuse of the AUMF.

Limit State Secrets Privilege

Secrecy and evasion have been hallmarks of the Bush Administration. It has classified more documents than any administration in history, restricted responses to FOIA requests and argued to extend privilege to protect illegal actions like torture and wrongful death by government officials and military contractors. State Secrets privilege was invoked time and again to avoid scrutiny, oversight and responsibility.

In the first 100 days of his administration, President Obama must act to:

- Investigate, prosecute and hold criminal trials to expose the crimes carried out by administration officials and government contractors;
- Propose new State Secrets legislation that creates a mechanism for civil courts to hear classified matters;
- Issue new executive orders that reverse Bush Administration's expansion of the State Secrets privilege and over-classification of documents; and
- Work with Congress to pass legislation making it clear military contractors are accountable for their abuses.

Stop Warrantless Wiretapping

In the past, a warrant was required for the government to spy on people in the U.S., and when an international party was concerned, it was required to go before the FISA court, which almost never refused a request, often granting requests retroactively. President Bush, however, issued a secret executive order in 2002 authorizing the NSA to wiretap Americans without a warrant, using the AUMF as justification. After the program was exposed, the Administration secured immunity from Congress for the telecommunications companies that participated.

In the first 100 days of his administration, President Obama must act to:

- Work to repeal the Patriot Act, FISA Amendments Act and telecom immunity;
- Repudiate Bush executive orders supporting warrantless wiretapping and the legal opinions used to support them; and
- Pledge to end all secret surveillance programs not reviewed by either the courts or congressional committees.

Roll Back Executive Power

The last eight years have seen an unprecedented expansion of executive power. Presidential signing statements on legislation passed by Congress invalidated the separation of powers and created an unauthorized line item veto. The so-called Unitary Executive theory, the “Global War on Terror” paradigm, immunity, impunity and lawlessness all destroyed the balance of power in a coordinated assault on the Constitution.

In the first 100 days of his administration, President Obama must act to:

- Repudiate the “unitary” presidency;
- Renounce the use of signing statements to alter legislation;
- Appoint officials and judges who will uphold the Constitution in all respects; and
- Recognize and respect international law and join the International Criminal Court.

President Elect Obama has the opportunity to, at a very minimum, reestablish the rule of law and safeguard our existing Constitutional and human rights, both domestic and international, including abortion rights, racial justice and protection from government spying, among others. The Center for Constitutional Rights looks forward to working with his administration as we continue our search for justice.

The Center for Constitutional Rights is dedicated to advancing and protecting the rights guaranteed by the United States Constitution and the Universal Declaration of Human Rights. Founded in 1966 by attorneys who represented civil rights movements in the South, CCR is a non-profit legal and educational organization committed to the creative use of law as a positive force for social change. Learn more about us at <http://ccrjustice.org>.