

Continuity and Rupture from Bush to Obama: Empire's Law and the Politics of American Empire Today

Dr. Amy Bartholomew
Department of Law
Carleton University
Ottawa, Canada
Amy_Bartholomew@carleton.ca

What difference has the Obama administration made to the politics of the 'global war on terror'? Are the ruptures with Bush mostly rhetorical or are there encouraging signs of a more liberal American Empire afoot, one that is more genuinely committed to human rights, international law and 'intercultural dialogue' with and beyond the Middle East?

I will pursue this by asking: What role does law and legality play in the 'war on terror' today? This is a crucial question for humanity and especially for those who bear the most direct brunt, those in the Middle East and North Africa and Muslims across the world. I will consider whether Obama's version of American Empire represents continuity in terms of challenging legitimate legality at all levels – domestic, transnational and international -- and whether this may secure the constitution of another form of rule begun under Bush, one that is divorced from legitimate legality and which threatens to constitute a different form of rule/law that I call 'empire's law'. Empire's law is rule *by* law, rather than rule *of* law trading on the idea and discourses of 'legality' while treating law as a mere instrument to deployed at will.

While, of course, the conclusions I am able to draw in this paper may look different by January 2010 and will, even then, be tentative, my initial analysis of the Obama administration is anything but hopeful. There are mounting signs that his 'leadership' of American Empire will continue the radically new direction staked out under Bush. If this continues, the implications for nation-states, resistance movements, and peoples aspiring to statehood will be menacing both within and beyond the Middle East. While focusing on the US, of course I will seek to draw out the relationship with and implications for the Middle East.