

Pakistan's Nuclear Proliferation

In a speech at the National Defense University in Washington, D.C., on February 11, President Bush warned against the spread of nuclear, biological, and chemical weapons and suggested measures to dismantle a growing black market in nuclear fuel and technology. He called the possibility of a sudden attack by weapons of mass destruction "the greatest threat before humanity today" and predicted that America and the rest of the world would have to face it for decades to come.

Mr. Bush said that the rules governing nuclear proliferation should be strengthened, including introducing a ban on the shipment of nuclear technology to countries that currently lack processing equipment. The 1970 Treaty on the Non-Proliferation of Nuclear Weapons has allowed nonnuclear states to develop atomic power plants with the understanding that they would not be used as fronts for weapons-making, but Mr. Bush says that recently disclosed nuclear-weapons programs in Iran and North Korea prove that the treaty is no longer effective. He called for new rules that would require nations to declare their nuclear facilities and capabilities and to open themselves to international inspections. Nonsignatories would be prohibited from importing equipment for nuclear programs.

The President's warnings reflect a real problem, even if his underlying political objective is to move the context of the ongoing debate about weapons of mass destruction from the embarrassing failure to find them in Iraq to what he called "a massive threat . . . that isn't countered by Cold War strategies." He also appeared keen to shift the focus from the shortcomings of the intelligence community in Iraq to the role of U.S. intelligence agencies in detecting the illicit proliferation network of Abdul Qadeer Khan, the architect of Pakistan's nuclear program.

A week before Mr. Bush's speech, Dr. Khan stunned the world when he admitted on television to leaking nuclear-weapons secrets to—among others—North Korea, Libya, and Iran. Widely considered a national hero in Pakistan for his role in developing the country's nuclear arsenal, Khan made his "confes-

sion" on February 4, after a meeting with President Pervez Musharraf. He assured his countrymen that, in all his foreign endeavors, he had acted "without authorization" from General Musharraf's government, promised not to do so again, and asked for forgiveness. The meeting between Musharraf and Khan, and the latter's subsequent TV appearance, were carefully choreographed by the government. Musharraf looked stern in his military fatigues and spoke through pursed lips, while Khan appeared to be bending toward him in supplication.

The proceedings were reminiscent of Moscow, 1936, except that Khan's life and liberty were not in any danger. His *de facto* invincibility became obvious when the government immediately decided to grant him "clemency," while repeating Khan's assertion that his actions were "unauthorized." A spokesman for Pakistan's Foreign Ministry declared that the affair was over and asserted that the admission itself proved Pakistan to be a "responsible nuclear weapons state."

Such assurances were at odds with Musharraf's point-blank refusal to hand over any documents to any international agency or to allow members of the U.N. Atomic Energy Agency (IAEA) into Pakistan to investigate the affair. The Pakistani president sounded a defiant note when he declared that his is a sovereign country, and, therefore, "no document will be given, no independent investigation will take place." Vowing never to roll back Pakistan's nuclear assets, Musharraf also lashed out at fellow Muslim nations Iran and Libya for caving in to international inspectors and turning over documents on their nuclear programs. In a subsequent interview, he even blamed Washington for not warning him of Khan's activities in a more timely manner.

The initial reaction from Washington was extraordinarily mild. "President Musharraf has assured us that Pakistan was not involved in any kind of proliferation," said White House spokesman Scott McClellan:

The investigation by the government of Pakistan demonstrates



their commitments to addressing the issue of proliferation, and this proliferation is no longer. The actions of Pakistan have broken up this network and that's important.

In the same spirit, State Department spokesman Richard Boucher stated that the Bush administration welcomed Pakistan's announcement and praised Musharraf's alleged cooperativeness:

It marks the sign of how seriously the government takes the commitments that President Musharraf has made to make sure that his nation is not a source of prohibited technologies for other countries. Pakistan, in this process, has been working very closely with the IAEA and with other governments, as they investigate and as they look at the information that is coming out of, especially, the IAEA on what's been going on. So we welcome President Musharraf's actions, as do other members of the international community.

McClellan's and Boucher's statements continue the United States' long-standing appeasement of Pakistan's nuclear transgressions. In 1972, following its third war with India, the government in Islamabad secretly decided to develop nuclear weapons. Its program was ostensibly peaceful, but, in 1974, Western suppliers embargoed all further exports of technology. Following the Soviet invasion of Afghanistan, however, the Reagan administration lifted all sanctions and provided generous military and financial aid. By 1983, the CIA strongly suspected that China had supplied Pakistan with a bomb design, but the White House looked the other way. That same year, a Dutch court

convicted Khan *in absentia* on a charge of stealing confidential material—allegedly used to jump-start Pakistan’s nuclear program in 1976—from the British-German-Dutch nuclear conglomerate URENCO and sentenced him to four years in prison. Soon thereafter, Pakistan was able to complete a 40-megawatt heavy-water reactor that provided a source of plutonium-bearing spent fuel. The process reached its logical conclusion on May 28, 1998, when Pakistan detonated a string of nuclear devices and became the first Islamic country to join the nuclear club.

Two months after September 11, the BBC’s *Newsnight* and the *Guardian* reported that the Bush administration had thwarted an investigation of Khan and his associates. Former CIA operatives told the BBC that they could not investigate the development of “Islamic bombs” by Pakistan because the funding appeared to originate in Saudi Arabia. Greg Palast and David Pallister, the authors of the report, concluded that the Bush administration “spike” of the investigation followed from the dual policy of not alienating Saudi Arabia and of courting the support of the authorities in Islamabad for the military action in Afghanistan.

In the same spirit, two years ago, Defense Secretary Donald Rumsfeld declared that the United States was not concerned about the potential for misuse of Pakistan’s nuclear weapons and declared that he did not “personally believe that there is a risk.” In another context, such assurances could be understood as a necessary political expedient *vis-à-vis* a major Muslim power whose support is needed in the “War on Terror.” Such a policy, however, is no longer tenable. An administration that went to war in Iraq in order to take away her alleged WMD’s cannot afford to be perceived as complicit in Pakistan’s efforts to escape international censure and scrutiny. As former U.S. chief weapons inspector David Kay put it, “I can think of no one who deserves less to be pardoned.” He called the disclosures “a wake-up call.”

This issue provides a test of Mr. Bush’s declared resolve to prevent the proliferation of nuclear weapons. He should not allow Musharraf to deny international scrutiny of his country’s nuclear program. In exchange for not publicly embarrassing the general, President Bush should insist that Pakistan submit her nuclear program to international inspection and allow some degree of scrutiny

by the United States over her existing nuclear arsenal. In private, Bush should not even pretend to believe the assertion that one man could have maintained an illicit nuclear-proliferation network with some of the most dangerous regimes in the world without the Musharraf government’s knowledge, participation, and active encouragement.

At the time of this writing, the magnitude of the problem remains unknown. It is yet to be established whether Khan’s direct or indirect contacts have included Islamic terrorist cells or groups or people connected with them, nor what technological blueprints, materials, or hardware may have exchanged hands. Khan is known to have supplied Libya with the high-speed centrifuges needed to make uranium bomb fuel and even designs for the bomb itself. Who else has benefited from his services? Such concern is justified in light of Khan’s open support for Muslim solidarity. He was eager to defy the West and to pierce the “clouds of the so-called secrecy,” as he once put it. A senior Pakistani politician told the *New York Times* that Khan felt that giving nuclear technology to a Muslim country was not a crime. Islamic activists in Pakistan have threatened to mount street protests if Khan goes on trial.

The sentiment is shared by many members of Pakistan’s ruling elite, which is not surprising, considering that Pakistan is the first modern state to be established on openly Islamic principles. Even her name, “Land of the Pure,” implies that only the “pure” ones—Muslims—are true citizens. Pakistan still suffers from many defects derived from her origins. She is divided by caste, with the highest status reserved for the alleged descendants of Arab conquerors, called *ashraf*. This social structure predicated on the supposed superiority of Islamic imperialism suggests that Islam is the cause, or at least an aggravating feature, in an array of problems that includes underdevelopment, illiteracy, oppression, pov-

erty, disease, and rigidity of thought. As long as the country’s Islamic character is explicitly upheld by Musharraf and his successors, Pakistan cannot evolve into a democracy, an efficient economy, or a civilized polity without undermining the religious rationale for her very existence. Unlike neighboring India, Pakistan has never been a functional democracy. To this day, she discriminates against Christians and other religious minorities, and she covertly aids terrorists in Jammu and Kashmir.

Mr. Bush’s stated objective of seeing Pakistan develop into a “moderate” Islamic state cannot be advanced if Washington continues to turn a blind eye to the transgressions of the regime in Islamabad. Soft-pedaling Pakistan’s role as a nuclear proliferator would be particularly counterproductive. It could only encourage Musharraf’s unrepentant cockiness and postpone the long-overdue reform of his army, which remains under the command of officers whose loyalties are often inimical to Western interests and who have allowed countless Taliban and Al Qaeda fighters to slip across the border from Afghanistan to stay out of the U.S. military’s reach. Musharraf’s government has released many Islamic militants detained after September 11, and it has backtracked on its promise to control the Islamic schools that are breeding new terrorists.

A degree of cooperation with Pakistan in Mr. Bush’s War on Terror is perhaps inevitable, just as various Cold War alliances with nasty Third World regimes were sometimes necessary, but the relationship should not go beyond the pragmatic. It will be unfortunate if the facts surrounding Pakistan’s passing of nuclear secrets to some of the least-pleasant regimes on earth continue to be clouded by American denials and the feigned optimism that have, for decades, characterized Washington’s relations with its supposed allies in the Muslim world.

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RACE

The Illinois Negro Code

by Steve Berg

Most people believe the history of race relations in the United States is neatly divided by geography. Those states north of the Mason-Dixon Line were paragons of equality and liberty, where race was not an issue and diversity flourished in all its glory. In the benighted states to their south, however, the entire social structure was based on slavery and racist oppression. Consequently, the War Between the States was fought purely over the issue of slavery, and, as is usual in trial by combat, the arms of the virtuous side were strengthened by the Hand of the Almighty, which led to their victory over those rebellious slaveholding cretins. For some unknown reason, the books written by court historians do not start with the words "once upon a time."

In reality, things were much different, as the history of Illinois demonstrates.

Article VIII, Section 12, of the first Illinois state constitution (1818) states that "every person in the state has a right to justice, and to a remedy to wrongs committed against his person, property, or reputation." However, limits were soon placed on this enumerated right. In fact, Article V of this same constitution prohibited "negroes, mulattoes, and Indians" from serving in the state militia. This meant that these people were not allowed to keep or bear arms. In "An Act Concerning Practice," which was put in force on February 2, 1827, the first of the legal restrictions on citizenship rights for blacks was established. Section 3 states: "A negro, mulatto, or Indian shall not be a witness in any court, or in any case, against a white person. A person having one fourth part negro blood shall be adjudged a mulatto." This section effectively prevents any of the aforementioned from having recourse in a court of law against the depredations of any white person. (This is reminiscent of the status of *Dhimmi*s under Islamic law.) The second clause of this section did state, however, that ne-

groes and mulattoes are persons.

The constitution of 1818 has a curious attitude toward slavery. Since slavery was not allowed in the Northwest Territories, Illinois should never have had any slaves within its borders. Article VI generally forbids slavery, except as punishment for crimes. Yet Section 2 specifically allows slaves from other states to work in the Shawneetown salt works, though only for a term of one year, after which they were to be freed.

Strife over slavery surfaced early in Illinois. In fact, there was a movement for another constitutional convention as early as 1822, with the idea of making Illinois a slave state. After some chicanery, the General Assembly passed a resolution calling for a convention. A spirited campaign ensued, and the proposal failed at the polls in 1824. Still, harsh laws concerning blacks continued to be put on the books.

In another law, passed on February 7, 1827, and put into effect on June 1, 1827, blacks and women were denied the right to sit on juries. The English common-law tradition holds that it is important that a person be judged by a jury of his peers if justice is to be served. Under Illinois law, during this time period, a woman could testify in court in most cases, yet she was denied the right to have other women serve on her jury. For blacks, the situation was worse. They could not testify even in their own defense if a white person was involved, and their jury would consist of white men.

By the early 1830's, Illinois law books already had a section entitled the "Negro Code." On March 30, 1819, the General Assembly passed "AN ACT respecting Free Negroes, Mulattoes, Servants, and Slaves"—a comprehensive law that governed the conditions under which free blacks, as well as slaves and servants, could come into the state. Illinois was a very poor state in those days, and the government did not want anyone coming in to the state who might be a burden on the state's rudimentary welfare system. Section 3 specifically forbids the bringing of slaves into the state for the purpose of freeing them and having them become public charges. People bringing slaves into the state were required to post a \$1,000 bond for each to ensure that they were not to be freed and placed on the pub-

lic dole.

Under this law, no black or mulatto was allowed to reside in Illinois unless he could produce a court certificate from some jurisdiction in the United States attesting to his free status. This certificate was to be recorded in the county of his residence. Should the free black man have a family, his certificate needed to be endorsed after the birth of each new child by a court clerk. While the burden of keeping these records seems extreme today, it may actually have provided some protection against individuals being seized as fugitive slaves and hauled off to another state. How much protection this certificate would provide is unclear, however, since Section 4 says: "Provided, nevertheless, That nothing in this act contained, shall be construed to bar the lawful claim of any person or persons to any such negro or mulatto." In other words, there would be little legal recourse for any free black if someone claimed him as a slave and produced some bogus documentation.

Any free black was required to show a certificate of freedom in order to gain employment in Illinois. Those employers who disregarded this requirement were to be fined \$1.50 per person, per day.

In fairness to the state of Illinois, this law also prescribed fair treatment of servants. When their terms of indenture were up, they were to be provided with clothes and other necessities. A servant would have to consent before his contract could be transferred to another master. There were provisions for what to do when servants misbehaved and also for masters who failed in their duties. Servants who acquired property during their terms of indenture were allowed to keep it.

On the other hand, there were harsh penalties if slaves or servants were found more than ten miles away from their master's residence without a pass. Such an infraction could be punished with up to 35 lashes. Servants could be lashed for infractions for which free people were merely fined. The going rate was 20 lashes for each eight dollars of fine. Nobody was supposed to get more than 40 lashes at any one time. And, in Section 23,

be it further enacted, That riots, routs, unlawful assemblies, tres-