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EDITORIAL

## The Cover-Up Continues

The Obama administration has clung for so long to the Bush administration's expansive claims of national security and executive power that it is in danger of turning President George W. Bush's cover-up of abuses committed in the name of fighting terrorism into President Barack Obama's cover-up.

We have had recent reminders of this dismaying retreat from Mr. Obama's passionate campaign promises to make a break with Mr. Bush's abuses of power, a shift that denies justice to the victims of wayward government policies and shields officials from accountability.

In Britain earlier this month, a two-judge High Court panel rejected arguments made first by the Bush team and now by the Obama team and decided to make public seven redacted paragraphs in American intelligence documents relating to torture allegations by a former prisoner at Guantánamo Bay. The prisoner, Binyam Mohamed, an Ethiopian-born British national, says he was tortured in Pakistan, Morocco and at a C.I.A.-run prison outside Kabul before being transferred to Guantánamo. He was freed in February.

To block the release of those paragraphs, the Bush administration threatened to cut its intelligence-sharing with Britain, an inappropriate threat that Secretary of State Hillary Rodham Clinton repeated. But the court concluded that the actual risk of harm to intelligence-sharing was minimal, given the close relationship between the two countries. The court also found a "compelling public interest" in disclosure, and said that nothing in the disputed seven paragraphs — a summary of evidence relating to the involvement of the British security services in Mr. Mohamed's ordeal — had anything to do with "secret intelligence."

The Obama administration has expressed unhappiness with the ruling, and the British government plans to appeal. But the court was clearly right in recognizing the importance of disclosure "for reasons of democratic accountability and the rule of law."

In the United States, the Obama administration is in the process of appealing a sound federal appellate court ruling last April in a civil lawsuit by Mr. Mohamed and four others. All were victims of the government's extraordinary rendition program, under which foreigners were kidnapped and flown to other countries for interrogation and torture.

In that case, the Obama administration has repeated a disreputable Bush-era argument that the executive branch is entitled to have lawsuits shut down whenever it makes a blanket claim of national security. The ruling rejected that argument and noted that the government's theory would "effectively cordon off all secret actions from judicial scrutiny, immunizing the C.I.A. and its partners from the demands and limits of the law."

The Obama administration has aggressively pursued such immunity in numerous other cases beyond the ones involving Mr. Mohamed. We do not take seriously the government's claim that it is trying to protect

intelligence or avoid harm to national security.

Victims of the Bush administration's "enhanced interrogation techniques," including Mr. Mohamed, have already spoken in harrowing detail about their mistreatment. The objective is to avoid official confirmation of wrongdoing that might be used in lawsuits against government officials and contractors, and might help create a public clamor for prosecuting those responsible. President Obama calls that a distracting exercise in "looking back." What it really is justice.

In a similar vein, Mr. Obama did a flip-flop last May and decided to resist orders by two federal courts to release photographs of soldiers abusing prisoners in Afghanistan and Iraq. Last week, just in time to avoid possible Supreme Court review of the matter, Congress created an exception to the Freedom of Information Act that gave Secretary of Defense Robert Gates authority to withhold the photos.

We share concerns about inflaming anti-American feelings and jeopardizing soldiers, but the best way to truly avoid that is to demonstrate that this nation has turned the page on Mr. Bush's shameful policies. Withholding the painful truth shows the opposite.

Like the insistence on overly broad claims of secrecy, it also avoids an important step toward accountability, which is the only way to ensure that the abuses of the Bush years are never repeated. We urge Mr. Gates to use his discretion under the new law to release the photos, sparing Americans more cover-up.

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