

THE INSTITUTE FOR LEGAL RESEARCH
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PRESENT

Lecture on “The Rule of Law in the Age of Terrorism – An Audit”

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Tuesday, January 30, 2007, 12:30 pm
Seminar Room, 2240 Piedmont Avenue

In August 2006, the new U.S. ambassador to Australia, Robert D. McCallum – former third-ranking official at the U.S. Justice Department from July 2003 – conducted a media round table to introduce himself to the Canberra press gallery. He was questioned vigorously about whether the detention and proposed trial of Australian citizen, David Hicks, at Guantanamo Bay conformed to the rule of law. The Ambassador replied that, “The record of the United States and the respecting of the rule of law is better than any country in the world, and we are extraordinarily proud of it and should be, so there is no basis, no basis whatsoever in my mind to assert that there is a disregard.”

The title of Philippe Sands’ new book, *Lawless World: America and the Making and Breaking of Global Rules from FDR’s Atlantic Charter to George Bush’s Illegal War*, gives the clue that not everyone shares the Ambassador’s assessment of the recent record. Sands is highly critical of the “legal black hole” of Guantanamo.

How do such diametrically opposed views both so confidently invoke the rule of law? Are they both talking about the same thing? Has the phrase become so indeterminate as to be virtually meaningless? Has it always been meaningless?

The highly-charged post-September 11 atmosphere has had many consequences. One of them is the level of commitment in the Western democracies to important political values. One of them is the rule of law. It is time for an audit of both the content of the rule of law concept and its salience for the countries which make up the coalition of the willing.

Copies of Mr. Neal’s paper are available in the Center’s library or at
<http://www.law.berkeley.edu/centers/cslls/baglunch/>