The Bush administration and John Walker Lindh: who are the real "conspirators"?

David Walsh
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The Bush administration is proceeding with its brutal legal vendetta against John Walker Lindh, the young American who joined the Taliban in Afghanistan last year and surrendered to Northern Alliance forces in November. Walker (who generally goes by his mother's name) arrived in the US late Wednesday after being taken off the USS Bataan warship—where he has been imprisoned—by helicopter and transferred to another military plane at the airport in the southern Afghan city of Kandahar. He was restrained during the flight to the US. Walker made an initial appearance Thursday in US District Court in Alexandria, Virginia. US Magistrate Judge W. Curtis Sewell set a preliminary hearing for February 6.

On January 15 the US government charged Walker with four criminal counts. The charges include two counts of providing material support to terrorist organizations, conspiring to kill US nationals abroad and engaging in prohibited transactions with the Taliban.

The charges, which carry a maximum penalty of life imprisonment, are based almost entirely on Walker's own alleged confession, extracted from him by the military and FBI on board the US military vessel where he was held incommunicado for more than six weeks. The 20-year-old was neither granted access to the lawyer engaged by his parents nor was he apparently informed that an attorney was available. The International Committee of the Red Cross was prevented from delivering letters to Walker.

On January 16 Attorney General John Ashcroft defended the charges brought against Walker and indicated that the government had not "foreclosed charging other crimes against this individual," including those which carry the death penalty. The attorney general asserted that Walker had waived his right to remain silent, hypocritically declaring, in regard to the parents' efforts to provide their son with legal counsel, that "No other individual has a right to impose an attorney on him or to choose an attorney for him."

In his reactionary and ignorant, albeit defensive, comments to the press Ashcroft did his best to poison public opinion against the young man. "John Walker Lindh chose to fight with the Taliban," Ashcroft said, "chose to train with Al Qaeda, and to be led by Osama bin Laden. We may never know why he turned his back on our country and our values, but we cannot ignore that he did." He added: "Youth is not absolution for treachery, and personal self-discovery is not an excuse to take up arms against one's country. Misdirected Americans cannot seek direction in murderous ideologies and expect to avoid the consequences."

Ashcroft's denunciations of Walker follow the comment made by George W. Bush on December 21 that Walker was "the first American al Qaeda fighter that we have captured." This assertion prompted Anthony Arend, a professor at the Georgetown University law school in Washington, to tell a reporter: "He shouldn't have said it.... It can prejudice various people and make selecting a jury more difficult."

In response to Ashcroft's inflammatory remarks, Avern Cohn, a district judge from Detroit, in a letter to the *New York Times*, observed that the attorney general "appears to have violated Justice Department guidelines on release of information relating to criminal proceedings that are intended to ensure that a defendant is not prejudiced when such an announcement is made.... Mr. Ashcroft's statement and news conference seem to suggest that there is really no need for a trial. Moreover, evidence has yet to be presented to a grand jury."

The judge is referring to a section of the Code of Federal Regulations which prohibits the type of prejudicial comments made by the attorney general January 16 and in subsequent interviews with the media. The regulation instructs Justice Department personnel not to "furnish any statement or information for the purpose of influencing the outcome of a defendant's trial, nor shall personnel of the Department furnish any statement or information, which could reasonably be expected to be disseminated by means of public communication, if such a statement or information may reasonably be expected to influence the outcome of a pending or future trial." Furthermore: "Disclosures should only include incontrovertible, factual matters, and should not include subjective observations." The regulation specifically prohibits the release of "Statements, admissions, confessions, or alibis attributable to a defendant."

In his comments Ashcroft clearly violated both the letter and the spirit of this regulation. The Bush administration treats Justice Department guidelines with the same contempt it reserves for the Geneva Convention on the treatment of prisoners of war. At every step the administration reveals its authoritarian and anti-democratic proclivities.

In a statement to the press on the eve of Ashcroft's comments, attorney George Harris—a member of the legal team hired by Walker's parents—had appealed to the US government to stop commenting about his client to the media.

The decision by the government not to pursue treason charges is an indication that it feels itself on shaky legal grounds. Ashcroft's demonization of Walker, echoed by an endlessly servile media, is in part an effort to compensate for the deficiencies of the government's arguments. There is reason to believe that the Justice Department, holding the threat of possibly charging him with a capital crime over his head, may be hoping that Walker and his lawyers can be pressured into agreeing to plead guilty. It is likely that the government is desirous to avoid a trial which could prove politically embarrassing.

Legal experts expect that Walker's lawyers will first of all challenge the admissibility of their client's alleged confession, which forms the basis of the government's case. *USA Today* noted: "His lawyers could argue that Walker, who had been shot in one leg and medicated for two weeks before his FBI interview, did not intend to waive his right to an attorney. They could also argue that Walker's statements were coerced. He reportedly had been held in isolation since being wounded in a failed prison uprising."

We already know, because the incident was captured on videotape, that Walker was taunted and threatened with death during his interrogation by

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CIA agents at the Mazar-i-Sharif prison. What were his conditions aboard a US navy vessel, entirely isolated and with the full force of the American war machine bearing down on him?

A former Air Force lawyer, Scott Silliman, told the *San Francisco Chronicle*: "There is no right to silence in military questioning. Then you throw FBI agents at him [Walker], and he's got to make a voluntary waiver of his rights. Did he understand?" Douglas Kmiec, law school dean at Catholic University and generally a shameless apologist for the Republican Party, commented: "There is a very sizable question whether a federal court would rule these statements as subject to exclusion because they were made in custody [without a lawyer present]."

The criminal complaint filed by the Justice Department against Walker fails to substantiate the charges that have been brought against him. It largely recounts or purports to recount Walker's experiences since May 2001 when the young American left a religious school where he was studying and joined a paramilitary camp run by the Harakat ul-Mujahideen (HUM), to fight in Kashmir on behalf of Islamic fundamentalist forces against the Indian military.

In late May, according to the complaint, Walker traveled to Afghanistan and made his way to a Taliban recruiting center in Kabul. As he spoke Arabic but not any of the Afghan languages or dialects, he was assigned to the al Qaeda group of Osama bin Laden. Walker allegedly attended a training camp, operated by bin Laden, where he received military training. He was apparently offered several options, including the possibility of conducting operations in the US or Israel; he declined that offer and chose instead to fight on the front lines against the Northern Alliance.

Walker, along with his unit, rotated in two-week shifts in the Takhar trenches against the Alliance. When US bombs began to fall the members of his group retreated to Kunduz and, after a withdrawal was negotiated with General Abdul Rashid Dostum, surrendered their arms and were trucked to Mazar-i-Sharif prison. Shortly after he was interrogated by CIA agents, fighting broke out at the prison and Walker, wounded in the leg, retreated to the basement with his comrades. He was thus not a witness to the massacre of the prisoners carried out by Northern Alliance and US forces. Walker stood at one point in cold water for 20 hours before a surrender was arranged and he was transported to a hospital near Mazar-i-Sharif.

The notion that Walker "conspired to kill American nationals" is ludicrous. He joined the forces fighting to defend the Taliban regime against the Northern Alliance in what was then a civil war. The United States was not engaged in a conflict with Afghanistan and indeed has never officially declared war. In the wake of September 11, the US began bombing the positions of his unit; then came his surrender. If anything, the American military "conspired" to kill Walker and his comrades who were not in any position to respond.

The remaining charges deal with Walker's alleged dealings with and support for "foreign terrorist organizations." As we have noted before, to apprehend those principally responsible not merely for "transactions with," but the very existence of these terrorist organizations, the Justice Department needs to look considerably closer to home. The Taliban regime and Islamic fundamentalism both in Afghanistan and Pakistan are largely the products of American intervention in the region. These forces were deliberately incited, funded and armed by Washington in the 1970s and 1980s as part of the ongoing destabilization effort aimed against the Soviet Union. The consequences have been tragic, both for the peoples of the region and the victims of the World Trade Center and Pentagon terrorist attacks on September 11.

The venom directed at Walker is part of the attempt by American authorities to throw dust in the public's eyes and cover their own tracks. Walker is obviously a disoriented young man, whose quest for "spiritual purity" led him down a terribly mistaken path. He is not the first nor will he be the last young person to be repulsed by the state of American society, but in the current ideological climate—with its worship of money, greed and ruthless individualism—he was unable to find his way to any progressive alternative. There is no need to feel any sympathy for his allegiance to Islamic fundamentalism, a deeply reactionary political and social force. Nonetheless, the attempt by the Bush administration and the right-wing media (*Wall Street Journal*, *Washington Times*, the Murdoch-owned television and press) to transform Walker into a "hard-core militant" and "traitor" is as vile as it is inaccurate.

Robert Pelton, the individual who shot the tape of Walker on his hospital bed, told a television interviewer, "He's actually a very gentle, sort of unassuming person. He's not a militant person at all." He later commented to NBC, "He didn't seem like a very bellicose person. He was very sensitive. I mean, his whole concern was more the moral and religious ... and not the fighting part ... This guy struck me as a [person] that should be going to poetry readings."

The Bush administration is pursuing Walker so relentlessly, first, because it intends to make an example of him for the purpose of demonstrating its power to pulverize those who resist its policies. Moreover, the central fact of the case is disturbing to the political and media establishment: that a well-educated young man from the Bay Area should turn his back so resolutely on the values of American capitalism. For all its denunciations and assertions that Walker is universally despised, the establishment is concerned that there may be more than a few youth who will find something admirable in Walker's opposition, if not in the cause he espoused. Also, US authorities are determined to silence Walker one way or another because what he knows about the conflict in Afghanistan (including the massacre at the prison) and what he might communicate to the American public are potentially damaging.

The US government and the media are attempting to focus the anger over September 11 onto Walker, suggesting that he is a sinister figure somehow responsible for the deaths of thousands of people. Walker is no more to blame for the terrorist attacks than is an impoverished Pakistani who joined the Taliban out of some mistaken sense that he could strike a blow against American imperial power. In general, Walker's role in the operations of bin Laden and the war in Afghanistan is so infinitesimal that one would need a magnifying glass to discover it.

Who are the genuine criminals and conspirators? John Walker, a misguided idealist and Taliban foot soldier, or the government and oil industry officials who, in the selfish and reckless pursuit of American geopolitical interests, have inflicted only misery and suffering on the Afghan and Pakistani populations? Will Carter, Reagan, Brzezinski—the architects of the US policy in the region—face prosecution? Or CIA and American military officials who collaborated with Osama bin Laden and his co-thinkers in the 1980s? Or executives of Unocal, the US oil company, which supported the Taliban in its consolidation of power in 1996, in the interest of a pipeline deal? Or officials of the Clinton administration, who gave tacit blessing to the Taliban regime? Or the elder George Bush and his cohorts like Frank Carlucci, who have had the closest contacts with the Saudi ruling elite and the bin Laden family?

Moreover, there is the conspiracy of silence surrounding the events of September 11 themselves. Will any investigation be launched to ascertain whether officials in the US military and intelligence apparatus had foreknowledge of the terrorist attack?

Any serious discussion of the Walker case, in all its tragic dimensions, must address itself to these and other questions.

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