

Legal witch-hunt of John Walker Lindh ends with plea bargain

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On July 15, after his lawyers negotiated an agreement with government prosecutors, John Walker Lindh pled guilty to violating a 1999 federal regulation banning the provision of services to the Taliban, a felony charge with a maximum sentence of ten years. Because Lindh, as a Taliban soldier, carried grenades and an assault rifle, he agreed to an additional ten years for using a firearm in the commission of a felony.

Lindh is scheduled to be sentenced October 4 to the maximum 20 years in prison, with credit for the seven months already spent in custody. Because of a mandatory 15 percent credit for “good time,” Lindh cannot be incarcerated more than 17 years.

The plea agreement was revealed at the outset of what was to be a week-long hearing into whether interrogations of Lindh while in the custody of the US would be admitted into evidence at the trial, which was scheduled to begin August 26. Lindh was captured by Northern Alliance troops on November 25, 2001. He had objected to the evidence on the grounds that his American interrogators held him under inhumane conditions and denied him his rights to remain silent and to consult his attorney.

In a prepared press release, Attorney General Ashcroft called the plea agreement “an important victory in America’s war on terrorism,” adding that Lindh “will now spend the next twenty years in prison; nearly as long as he has been alive.”

The US media generally hailed the guilty plea and long prison term as a triumph of justice. The *New York Times* in an editorial called the outcome “a reasonable conclusion” that “honors the demands of criminal justice, national security and America’s commitment to constitutional rights.”

Nothing could be further from the truth. The federal prosecutors had no evidence that Lindh attacked or harmed any American. His constitutional rights were violated from start to finish. In the end, Lindh, his family and lawyers were forced to reach a plea bargain so their client could avoid spending the rest of his life in prison on the basis of trumped-up charges, laid for political purposes by the Bush administration.

Despite the government’s rhetoric about Lindh “choosing terror,” all the government prosecutors could prove is that while in Central Asia studying Islam, Lindh became involved with Islamic fundamentalism and was persuaded during the

summer of 2001 to join the Afghan army to defend the Taliban against the rebel Northern Alliance. When Lindh reported to the front lines during the first week of September, he had no reason to suspect that hostilities were about to erupt, with the United States waging an undeclared war against Afghanistan.

It is highly doubtful Lindh even knew he might be violating a regulation of the US government when he joined the Afghan army. This is the extent of the “crime” for which Lindh was convicted and is to be sentenced to two decades in a federal penitentiary. Even if one were to grant that Lindh was guilty of the charges to which he pled, the gross disparity between his sentence and his “crime” points to the political motivations behind his prosecution.

The *World Socialist Web Site* has no political sympathy for the Taliban, a thoroughly reactionary and anti-democratic outfit. It is not Lindh who is to blame for its emergence, however, but the US government itself. The Taliban and Al Qaeda are successors to the Mujahedin cultivated by successive US administrations, starting with that of Jimmy Carter. Zbigniew Brzezinski, Carter’s national security adviser, oversaw a plan launched in 1978 to fund and promote Islamic fundamentalist opponents of the Soviet Union, who initiated guerrilla warfare against the pro-Soviet regime in Kabul and fought against the Soviet Red Army after it invaded Afghanistan. It was Ronald Reagan, not Lindh, who compared the Mujahedin to the US founding fathers.

Successors to the reactionary elements bred by US foreign policy during the 1980s were involved in the crimes of September 11 which took the lives of 3,000 people. Lindh was sitting in a foxhole in northern Afghanistan when the attacks took place on the World Trade Center and the Pentagon. He had nothing to do with those or any other terrorist acts.

Many Americans go overseas to fight in foreign conflicts, often with the approval of the United States government. Had Lindh gone to Afghanistan a decade earlier, before the Soviet withdrawal, to fight alongside Islamic fundamentalists he might have received a paycheck from a US agency. Hollywood glorified just such a US fighter in the 1988 film *Rambo III*. Lindh’s “crime” was being caught up in the shifting winds of US foreign policy.

Lindh is not the only American citizen who “provided

services" to the Taliban since Clinton issued the 1999 regulation, but he is the only one who has been prosecuted. As Lindh's defense attorneys pointed out, after 1998 the New Jersey-based Telephone Systems International completed a telecommunications system in Afghanistan and Unocal tried to make a deal to construct a \$2 billion oil pipeline. The University of Nebraska maintained exchange programs with Afghanistan, and Laili Helms, the niece of former CIA Director Richard Helms, acted as an envoy for the Taliban in the United States until September 11.

The process against Lindh was grossly unfair from the beginning. He was denounced by President Bush and Secretary of Defense Donald Rumsfeld while he was being held incommunicado for 55 days after his capture. Attorney General Ashcroft violated both the regulations of his own department and the ethical guidelines applicable to all attorneys by trying to poison public opinion against Lindh at press conferences announcing the filing of charges.

The criminal complaint and the indictment included charges of conspiracy to murder Americans and terrorist training which government prosecutors later admitted were unsupported by the evidence.

The government deliberately brought Lindh to Alexandria, Virginia, a few miles from the Pentagon, where prosecutors could be assured of a pro-prosecution judge and jurors drawn from communities dominated by families of military and intelligence officials—some of whom suffered direct injuries on September 11—and where controversial rulings would be reviewed by the Fourth Circuit Court of Appeals, the most right-wing federal appellate court in the United States.

United States District Judge T.S. Ellis III, despite the seriousness of the charges and the web of secrecy over much of the evidence, put the case on his "rocket docket." The compressed time schedule made it difficult for Lindh's lawyers to prepare their case and would have resulted in Lindh's presenting his defense during the first anniversary of the September 11 attacks.

At every hearing, Ellis sided with the prosecutors and treated Lindh's defense attorneys, assembled from one of the most prominent law firms in the United States, with barely concealed hostility. Ellis regularly made remarks revealing he already considered Lindh to be guilty of terrorism.

Ellis's actions at a status conference on Friday, July 12, the last court day before Lindh's guilty plea, included an angry exchange with lead defense counsel James Brosnahan, who objected to Ellis limiting the evidence of government mistreatment of Lindh. The exchange was widely interpreted by observers as a signal that Ellis intended to allow all of Lindh's interrogations into evidence, despite the government's failure to extend to Lindh his Miranda rights, the horrific conditions under which he was held by US authorities, and the fact that he was interrogated while being denied access to legal counsel.

Despite great difficulties, Lindh's lawyers were in the midst

of presenting a thorough defense. Further proceedings, including those scheduled for this week, would have been very damaging to the government. They would have exposed the US military's brutalization and massacre of Taliban captives, principally at the Qala-i-Janghi fortress near Mazar-i-Sharif, and the inhumane treatment of Lindh, especially when he was stripped, taped to a stretcher, and kept inside a dark, freezing container for the two days prior to his FBI interviews.

The plea agreement was drafted to provide the government with a claim to vindication while setting a precedent for further attacks on democratic rights. According to media reports, Bush personally followed the plea negotiations, which were initiated by the prosecutors several weeks ago, and approved the text of the plea agreement that Lindh signed.

In the agreement, Lindh "withdrew" his claim of mistreatment while a prisoner of the US military. Lindh acknowledged "that he was not intentionally mistreated by the US military." In light of the uncontradicted record of Lindh's stay at Camp Rhino, this particular representation has all the credibility and dignity of a confession extracted by the Spanish Inquisition.

Of much more consequence in the plea agreement is the provision that "for the rest of the defendant's natural life, should the Government determine that the defendant has engaged in [proscribed] conduct ... the United States may immediately invoke any right it has at that time to capture and detain the defendant as an unlawful enemy combatant."

There is no realistic possibility that Lindh will rejoin the Taliban army. But this provision has another purpose. The Bush administration is learning from its experience in the Lindh case that fundamental democratic rights, including access to attorneys, legal process and open court hearings, conflict with its ability to deal with people as it wishes. In the case of two other US citizens, Taliban captive Yasser Esam Hamdi and the purported dirty bomb suspect, Jose Padilla, Bush administration officials are using the "unlawful enemy combatant" label to do as they please—holding both men indefinitely without attorneys, charges, evidence or hearings.



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