

Once again: the New York Times and the case of John Walker Lindh

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24 July 2002

The day after the US Justice Department concluded its case against John Walker Lindh—the American youth captured with Taliban forces in Afghanistan—the *New York Times* praised the plea bargain agreement that will send the 21-year-old to federal prison for two decades as a model of judicial fairness. The plea agreement, the *Times* declared in its July 16 editorial, “honors the demands of criminal justice, national security and America’s commitment to constitutional rights.”

According to the *Times*, the case “shows that the federal courts, with their strong guarantees of defendants’ rights, are fully capable of handling cases stemming from the war in Afghanistan and the broader battle against terrorism.” The Justice Department got its guilty plea and long prison sentence, the *Times* declares, “without violating Mr. Lindh’s rights.”

All one can say in response to this dishonest drivel is: If the Lindh case is an example of how the US judicial system “honors the demands of ... America’s commitment to constitutional rights,” then it “honors” this commitment entirely in the breach.

From beginning to end the government prosecution of Lindh was a travesty of justice and due process. There was never any truth to the Bush administration’s accusations that Lindh was a terrorist or accomplice of Osama bin Laden. He was, rather, caught up in the twists and turns of US foreign policy in Afghanistan and the eruption of American militarism following September 11.

When Lindh joined the Taliban in May 2001, the US was not at war with the Afghan regime and he had no way of knowing that it soon would be. He found himself in a situation where the movement he had joined out of identification with a fundamentalist strand of Islam was suddenly under US military attack.

After his capture by US-backed Northern Alliance forces in November 2001, Lindh was sent, along with hundreds of other captured fighters, to the Qala-i-Janghi prison fortress near Mazar-i-Shariff, where he and other prisoners were threatened with death by their CIA interrogators. Lindh

barely survived the US-Northern Alliance massacre of prisoners at Qala-i-Janghi by hiding in a cellar. After he surrendered, wounded and half-dead, he was subjected to what can only be described as physical and mental torture by US military and FBI personnel.

Lindh’s interrogators refused to treat his wounds and repeatedly questioned him, ignoring his requests for an attorney and brushing aside his right, as a captured combatant and a US citizen, to remain silent. Such were the conditions under which FBI agents extracted a confession from Lindh. It wasn’t until January 25, just before his first court appearance in the US—and 54 days after Lindh’s parents first hired an attorney to represent him—that the young man was finally allowed to meet his lawyer.

The Bush administration and the media did everything they could to turn public opinion against Lindh. In violation of Justice Department prohibitions against issuing public statements prejudicial to a case, Attorney General Ashcroft denounced Lindh as a traitor who had met with bin Laden. Bush made similar statements. The media joined the campaign, dubbing Lindh the “American Taliban” and broadcasting demands from right-wing commentators that the young man be executed.

As the venue for the trial, the Justice Department picked 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. Controversial rulings were to be reviewed by the right-wing Fourth Circuit Court of Appeals, which earlier this month upheld the government’s claim that national security concerns justified concealing the names of detainees in Guantanamo. Finally, the trial judge made it clear he was willing to admit Lindh’s confession and other illegally obtained evidence.

Thus Lindh, his family and lawyers were bullied into making a deal and accepting an onerous sentence. This is what the *Times* calls “justice.”

The *Times*’ stamp of approval for the conduct of the Justice Department and the courts is consistent with its

position from the outset of the Lindh case. When Lindh's capture sparked a government-media witch-hunt, the *Times* joined in, praising Ashcroft's decision to charge him with "aiding a terrorist organization," a crime punishable by life imprisonment.

In an article last December, "The *New York Times* and the case of John Walker," the *World Socialist Web Site* wrote, "Far from raising the question of [Lindh's] democratic rights, the *Times* essentially intervenes to further poison public opinion against Walker under conditions in which virtually nothing is known about his case, nothing has been proven against him and the full force of the state, armed to the teeth and in unrestrained military mode, is bearing down upon him—a 20-year-old who has seen things that no 20-year-old should have to see. In this the 'liberals' at the *Times* demonstrate a horrifying callousness."

In its July 16 editorial, the *Times* endorses the Justice Department's decision to seek a plea bargain, because "by agreeing to the plea, the government eliminated any risk of acquittal." The choice of words here is extraordinary for two reasons.

First, the *Times* tacitly admits, as many legal analysts and some government prosecutors have acknowledged, that the most serious charges against Lindh were unfounded and no evidence existed—even from his confession—that he attacked any Americans or played a significant role in the Taliban or Al Qaeda.

But even more significantly, the *Times* editors, with their talk of a "risk" of acquittal, inadvertently reveal their bias. Newspapers are supposed to present an objective and impartial account of criminal proceedings, adhering to the principle that the defendant is innocent until proven guilty. Guilt or innocence is supposed to emerge from the presentation and rebuttal of evidence at trial, with the final decision resting with a jury of the defendant's peers.

But the *Times* had clearly made up its mind in advance of any trial. It had already convicted Lindh and wanted him punished. Hence its use of words that belong in the mouths of prosecutors, not news reporters.

Why did the *Times* want Lindh convicted and put away? The reasons have nothing to do with democratic rights, due process or respect for the Constitution. Rather, they are bound up with the *Times*' political support for the Bush administration's so-called "war on terrorism."

The thrust of the July 16 editorial is that the Lindh case proves the government can handle terror-related cases in the courts and does not have to resort to military tribunals or blatantly unconstitutional methods such as those used against US citizens Jose Padilla and Yasser Esam Hamdi, who have been labeled "unlawful enemy combatants" and are being held indefinitely under military auspices without

charges, evidence, hearings or access to lawyers.

According to the *Times*, the outcome of the Lindh case proves that traditional judicial processes are sufficient and extra-judicial intervention not necessary. This is a thoroughly cynical argument, since it requires the depiction of a legal witch-hunt as a model of due process. But the *Times*' claim is also false from a simple factual standpoint. The newspaper conveniently ignores one important aspect of the plea bargain, which lends the agreement a very different significance than that attributed to it by the editorial: a provision allowing the government at any time to declare Lindh an "unlawful enemy combatant" and detain him indefinitely once his prison sentence is complete.

The *Times* is basically arguing that the Bush administration can have its cake and eat it too. It is saying, in effect, "You can railroad suspects through the regular court system without the political fallout associated with such transparently anti-democratic methods as military tribunals."

From the beginning of Bush's crusade against terrorism, the *Times* has argued that one can support US military actions around the world—which involve the violation of international laws and conventions, as well as outright war crimes—while at the same time upholding democratic rights and procedures at home. In point of fact, the *Times*' position on the Lindh case proves the opposite: support for US militarism abroad is incompatible with the defense of democratic rights at home.

The *Times*' support for the witch-hunt against Lindh underscores a critical fact of American political life: the indifference on the part of what passes for the liberal establishment to the defense of democratic rights. The newspaper's primary concern is to preserve certain formal accoutrements of democracy that have played an important role in maintaining the stability of the profit system—a system that has enriched the privileged social layers for which the *Times* speaks. To the extent that the *Times* editors present themselves as defenders of democratic rights, it is only the appearance of democracy they are concerned with, not the substance. They, in keeping with the corrupted layer of ex-liberals they represent, are not particularly bothered by the actual erosion of the democratic rights of the broad mass of working people.



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