

Guantánamo detainee convicted in rigged military trial

Patrick Martin
7 August 2008

The first of the drumhead military tribunals to be held at Guantánamo Bay concluded Wednesday with the conviction of Salim Ahmed Hamdan on charges that could bring a sentence of life imprisonment. The military commission was denounced around the world as a travesty of due process with no legitimacy under international law.

The Bush administration celebrated the verdict. White House deputy spokesman Tony Fratto issued a statement declaring, “We’re pleased that Salim Hamdan received a fair trial. The military commission system is a fair and appropriate legal process for prosecuting detainees alleged to have committed crimes against the United States or our interests. We look forward to other cases moving forward to trial.”

The conviction sets the stage for a much accelerated and expanded set of show trials at Guantánamo, likely culminating in the imposition of numerous death sentences. If the Bush administration has its way, some of the highest profile prisoners, such as alleged 9/11 conspirators Khalid Sheikh Mohammed and Ramzi bin Al-Shibh, will be brought to trial before the November 4 general election. This would serve to refocus public attention on the “war on terror” in an effort to give a boost to the flagging fortunes of Republican Party candidates.

By the accounts of both Hamdan and his military prosecutors, the 40-year-old Yemeni was a low-level employee of Osama bin Laden in Afghanistan, working for \$200 a month as a driver for several years prior to the terrorist attacks of September 11, 2001. No evidence was presented that Hamdan had any special knowledge of the 9/11 attacks or any other terrorist operations of Al Qaeda.

Hamdan fled with his family from the bin Laden compound after the US invasion of Afghanistan. He was captured on November 24, 2001 by US troops and reportedly helped them in subsequent efforts to find bin

Laden and other top Al Qaeda leaders before he was transferred in April 2002 to Guantánamo Bay.

These circumstances explain the mixed verdict returned by a jury of six US military officers, who convicted Hamdan on charges of providing material support for terrorism, by virtue of his employment by bin Laden, while acquitting him of two conspiracy charges related to the international operations of Al Qaeda, including 9/11, and to armed resistance to US soldiers within Afghanistan itself.

The sentencing phase of the trial began Wednesday afternoon, with Hamdan expected to make his own plea for leniency the following day. Even if he receives a lesser sentence, he will remain in US custody at the discretion of the Pentagon for as long as the US government classifies him as an “enemy combatant.”

Michael J. Berrigan, the deputy defense counsel, noted that the conspiracy charge rejected by the jury was the only charge initially brought against Hamdan in 2003. The “material support” charge was added after it became clear that efforts to portray the nearly illiterate driver as a central figure in Al Qaeda were likely to fail.

From beginning to end, the Hamdan trial was a mockery of judicial procedures. The jury was secret. The proceedings were essentially closed to the public, held at Guantánamo Bay with a handful of media representatives in attendance. Much of the testimony was given in secret, with four witnesses who were not identified by name, and two witnesses, apparently Special Forces operatives, whose testimony was taken out of the hearing of the observers. There was an official ban on using the name of the Central Intelligence Agency, although CIA operatives participated in Hamdan’s detention, interrogation, torture and eventual removal to Guantánamo. CIA agents were apparently among the unidentified witnesses.

According to an account in the *Los Angeles Times*, the six members of the jury, all uniformed officers, included

“an Apache helicopter pilot who has been shot at by insurgents during missions over Iraq, Kosovo and Panama.” The article continued: “Another, an Air Force colonel, was asked no questions during the vetting process. The Navy captain heading the jury by virtue of seniority was privy to classified briefings about Afghanistan during the period when Hamdan was captured there. The alternate, an Army lieutenant colonel who was excused Friday when the trial concluded, conceded she had ‘a suspicion’ that Hamdan must be guilty of something to have ended up imprisoned” at Guantánamo.

The presiding judge, Captain Keith Allred, ruled that basic constitutional rights did not apply to Hamdan, such as the right to a trial by jury (rather than six senior military officers), the right to confront witnesses, and the right not to be forced to testify against himself. (Ten government agents described statements made by Hamdan after he was beaten, subjected to sleep deprivation or otherwise subjected to coercive and humiliating treatment).

The prosecutor, Army Col. Lawrence Morris, took his post only after his predecessor, Air Force Col. Morris Davis, resigned over the obvious unfairness of the procedure and in response to incidents in which superior officers made it clear that they expected convictions only, and no acquittals, in any Guantánamo trial.

Captain Charles D. Swift, who represented Hamdan in a series of appeals challenging the constitutionality of the military commissions, called the proceeding at Guantánamo “a made-up tribunal to try anybody we don’t like.”

Deputy counsel Berrigan said, “This is not a day the administration should glory in. It’s a day that America should be ashamed of.”

Hamdan’s attorneys said they would begin the process of appeal laid out under the 2006 Military Commissions Act, the bipartisan legislation that sanctioned the Guantánamo tribunals. The first appeal is to the Pentagon official overseeing the tribunal. After the predictable rejection at that stage, Hamdan is required to appeal to a special military court, then to the US federal appeals court for the District of Columbia, and then the US Supreme Court.

A former Guantánamo official who went public last year with his criticisms of the military tribunals, Army Lt. Col. Stephen Abraham, ridiculed the decision to select Hamdan, a poor, illiterate chauffeur who had no operational or planning role, as the first to stand trial for

the crimes committed by Al Qaeda. “We can only trust that the next subjects,” he said in an email to the Associated Press, “will include cooks, tailors, and cobblers without whose support terrorist leaders would be left unfed, unclothed, and unshod, and therefore rendered incapable of planning or executing their attacks.”

Both the Republican and Democratic presidential candidates hailed the conviction of Hamdan, while bemoaning the long delay in bringing him to trial. Particularly noteworthy was the fervent embrace of the drumhead proceeding by Democratic candidate Barack Obama. The former instructor in constitutional law at the University of Chicago said nothing about the gross perversion of democratic rights and due process at Guantánamo.

In a statement characterized by prostration before the military and full acceptance of the Bush administration’s bogus “war on terror,” Obama declared: “I commend the military officers who presided over this trial and served on the hearing panel under difficult and unprecedented circumstances. They and all our Armed Forces continue to serve this country with valor in the fight against terrorism.”

Obama criticized the Bush administration, not for its gross violation of the democratic and human rights of Hamdan and other Guantánamo prisoners, but for “dangerous flaws in the administration’s legal framework” that led to lengthy legal challenges.

“It’s time to better protect the American people and our values by bringing swift and sure justice to terrorists through our courts and our Uniform Code of Military Justice,” Obama said. “And while it is important to convict anyone who provides material support for terrorism, it is long past time to capture or kill Osama bin Laden and the terrorists who murdered nearly 3,000 Americans.”

In this way, Obama sought to demonstrate yet again to the US ruling elite that he will be just as ruthless as Bush or McCain in the use of violence and repression to defend the interests of American imperialism.



To contact the WSWS and the
Socialist Equality Party visit:

wsws.org/contact