

Obama's victory for torturers

Bill Van Auken
10 September 2010

A federal appeals court's dismissal Wednesday of a lawsuit on behalf of victims of the CIA's "extraordinary rendition" program represents a victory for the Obama administration's defense of torture and dictatorial executive powers.

In a six-to-five ruling, the Ninth Circuit Court of Appeals accepted the argument made by the Obama administration—echoing the position taken by the Bush administration before it—that to allow the case to go forward would compromise "state secrets" and thereby endanger "national security."

Under both administrations, the Justice Department intervened in a lawsuit that had been brought not against the government, but against Jeppesen Dataplan, Inc. This Boeing subsidiary organized, and profited from, the secret CIA flights in which individuals abducted by the US spy agency were transported in shackles and hoods, often having been drugged, to so-called "black sites"—secret overseas prisons where they were tortured by CIA and foreign intelligence agency interrogators.

The intervention into the case of *Mohamed v. Jeppesen Dataplan Inc.* implicates the administration in the defense and cover-up of heinous crimes for which no one has been held accountable.

The US treatment of the lead plaintiff, Binyam Mohamed, was as savage as anything practiced by the worst fascist-military dictatorship. After being abducted in Pakistan and flown by the CIA to Morocco, he was, according to the legal complaint: "routinely beaten, suffering broken bones and, on occasion, loss of consciousness due to the beatings. His clothes were cut off with a scalpel and the same scalpel was then used to make incisions on his body, including his penis. A hot stinging liquid was then poured into open wounds on his penis where he had been cut. He was frequently threatened with rape, electrocution, and death."

After a year and a half of this torture, he flown once

again by the CIA to one of its "black sites" housed in the Bagram Air Base in Afghanistan. There he was again subjected to beatings while held in a cold six-foot square cell that was kept pitch black 23 hours a day. Loud noises, including recordings of women and children screaming in terror, were piped into the cell.

After this torment, he was held for another four years at the US detention camp in Guantánamo Bay, Cuba before being released in February 2009 to Britain, where he was a legal resident. No credible evidence was ever produced linking him to terrorism and the British government immediately released him.

When lawyers for the Obama Justice Department announced in the Ninth Circuit Court of Appeals' San Francisco courtroom in February 2009—just weeks after the inauguration—that they would "stay the course" with the stonewalling defense of torture adopted under Bush, even the justices appeared taken aback, repeatedly asking whether this was really the new administration's position. Many among the Democratic president's "left" apologists scrambled to find a justification.

Eighteen months later, it is clear that the intervention in the extraordinary rendition case is merely part of a wholesale defense of the crimes and criminals of the Bush era, carried out by an administration that has continued two wars of aggression, upheld the policy of rendition and gone still further in the adoption of extra-constitutional powers.

The actions taken by the administration over the past year and a half have made it clear that, even more than its predecessor, its policies are dictated by the massive US military and intelligence apparatus.

In addition to defending torture and extraordinary rendition in the case brought on behalf of Binyam Mohamed and other victims of the CIA, the administration has carried out a similar intervention in a case brought against the National Security Agency's

domestic spying operations. As in the rendition case, the administration argued that allowing the case to go forward would compromise “state secrets” that presumably must be kept from Americans who are subjected to illegal electronic surveillance.

Along similar lines, the Obama administration went to the Supreme Court seeking to overturn a lower court decision ordering the release of photos of torture and abuse of detainees at the infamous Abu Ghraib prison and other US facilities. Initially, the Obama White House had indicated it would not oppose the photos’ release. It reversed its position, however, apparently in response to protests from the military brass.

In May of last year, former US General Antonio Taguba, who conducted the military inquiry into Abu Ghraib, told the British daily *Telegraph* that the suppressed photos depicted “torture, abuse, rape and every indecency.”

In suppressing legal challenges to and evidence of these atrocities, the Obama administration has adopted them as its own. It has assured that those who carried out and those who ordered torture, extraordinary rendition, illegal spying on US citizens and other crimes enjoy complete immunity from prosecution and that they can continue carrying out such acts with impunity.

Moreover, with its aggressive wielding of the “state secrets” privilege, the Obama administration is continuing to build upon the scaffolding of a police-state dictatorship that was erected under Bush.

While this privilege has been employed by various administrations since the 1950s, it had been directed in the past at suppressing specific “secret” documents or access to individual witnesses. Under Bush and now Obama, it is used to prevent entire cases from even being heard. The result is that the executive branch is able to deny the judiciary any real power to hold it accountable for its crimes merely by insisting that to subject them to independent review would expose state secrets and endanger national security.

By bowing to the claims of the Obama White House, the ninth circuit is essentially saying that the doors of the courts are closed to anyone who wants to bring the government to account for crimes carried out under the color of “national security” or the “war on terror.”

The upholding of this wretched principle would reduce the independence of the US judiciary to the

level enjoyed by its counterparts in Pinochet’s Chile or Hitler’s Germany.

The Obama administration is pursuing this legal crusade not merely to cover up the crimes of the past, but to secure impunity for its own illegal acts. This administration has gone beyond the Bush White House in arrogating to itself dictatorial powers, claiming the right to target a US citizen for assassination on the grounds of unproven allegations of ties to terrorism. In other words, it claims that the president can order the killing of any American on his sole say-so that he is guilty of unspecified, much less proven, crimes.

The decision by the appeals court in California underscores the profound decay of American democracy, under the pressure of capitalism’s crisis, two colonial wars and the unchecked growth of social inequality. It once again makes clear that every institution of the American establishment—including the White House, the judiciary, the Congress, both major parties, the corporations and the media—is implicated in unspeakable war crimes.

It is vital for both the defense of democratic rights and the moral health of society that these crimes be thoroughly investigated and prosecuted. To the extent that they are not, the danger grows that the methods that have been employed in the “war on terror” will be increasingly adapted for use at home for the suppression of the struggles of the working class.

Holding accountable those who ordered, carried out and covered up for these crimes is a task that must be undertaken by the working class itself as part of the struggle to build its own mass independent political movement in the fight for socialism.

Bill Van Auken



To contact the WSWWS and the Socialist Equality Party visit:

wsws.org/contact