

Obama administration to try accused 9/11 plotters by military commission

Alan Gilman
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The Obama administration has reversed its previous position of trying Khalid Sheikh Mohammed, the alleged plotter of the September 11 terrorist attacks, in a civilian federal court and will instead prosecute him and four other alleged accomplices in Guantanamo Bay under the Military Commissions Act.

The announcement of the decision Monday afternoon, a capitulation to pressure from the Republican Party and sections of the Democratic Party, represents another stage in the ongoing attack on democratic rights in the US. It follows an announcement in March that the administration was resuming military commissions at Guantanamo Bay.

The Military Commissions Act, signed into law by President Bush in 2006, established a system of military tribunals to try prisoners designated as “unlawful enemy combatants.” This category includes both those now imprisoned at Guantanamo Bay and anyone else, whether or not a US citizen, whom the president so declares.

The closing of Guantanamo and the rejection of the Military Commissions Act had been one of the centerpieces of Obama’s presidential campaign. Obama boasted, “As president, I will close Guantanamo, reject the Military Commissions Act, and adhere to the Geneva Conventions...”

One of Obama’s first acts as president was to sign an executive order on January 22, 2009, closing the Guantanamo Bay Detention Facility within one year. But almost immediately the administration began to backtrack. By July 2009 the administration granted its Guantanamo Closing Commission an additional six months to study the issue.

In November 2009 Attorney General Eric Holder announced that Sheikh Mohammed would be tried in federal court in New York City. This elicited an

immediate campaign by the Republicans, as well as several prominent Democrats, such as New York Senator Charles Schumer, to oppose any such proceeding. Instead they insisted that military tribunals held outside of the United States were the only appropriate venue to try Mohammed and other alleged terrorists.

In December 2009 Obama ordered the federal government to acquire the Thomson Correctional Center, an empty super-maximum prison in Illinois to house a “limited” number of Guantanamo detainees. This measure, which required congressional approval, was itself entirely reactionary, as it would have established on US soil a facility for allowing military trials and indefinite detention. It came under attack by members of both parties in Congress.

Beginning in March 2010 this bipartisan campaign resulted in the Democratically-controlled Congress passing a series of measures preventing the funding for any Guantanamo replacement facility within the United States, and by December 2010, preventing any funding for the transfer of any detainee to the US.

In announcing the decision to abandon a federal trial for Mohammed, Holder said he was returning the case to the defense department “reluctantly” and blamed the move on Congress, which he complained has erected a series of barriers to bringing detainees into the United States, even for prosecution.

The real barrier, however, is the fear that a federal trial would expose the brutal methods to which “unlawful enemy combatants” were subjected, as well as the unreliability and uselessness of any “evidence” obtained through torture. The usual rules of evidence, which are designed (at least in theory) to admit only trustworthy and reliable evidence, do not apply to military commissions.

The government, which admits it waterboarded Sheikh Mohammed 183 times, now is not precluded from relying on statements made by him even though they were obtained through torture. Moreover, the government will be able to greatly restrict the information available to the defense, further undermining the ability of the defendants to refute and expose the government's charges. The fundamental constitutional guarantee of a right to confront one's accusers is eliminated.

The US government also wants to ensure that no information is revealed to the public documenting complicity of US intelligence agencies with Al Qaeda.

The military commissions are a fraud, structured in a way to ensure that the desired result is achieved. The entire process gives the lie to any claim that there is any system in place under which "justice" can be done.

Obama's "pledge" to close down Guantanamo and end military commissions was intended to placate domestic and international opposition to the flagrantly illegal and barbaric practices the US government had pursued in the so-called "war on terror." The suggestion was that the government had turned over a new leaf.

This provided a temporary veneer, but in reality it served as a cover for the intensification of the anti-democratic measures implemented by the Bush administration. This latest capitulation by Obama is simply one in a series of measures that he his administration has carried out to maintain and expand the police state apparatus. These include:

- * Refusing to prosecute a single Bush administration official for employing lies to invade Iraq and engaging in torture, abductions and the use of secret prisons.

- * Continuing the practice of rendition in order to kidnap alleged terrorists and transfer them to other countries, where they are routinely tortured.

- * Using the claim of "state secrets" to block victims of rendition, torture and spying from going to court for redress.

- * Upholding the supposed right of the president to declare people "enemy combatants" and unilaterally condemn them to indefinite detention in military jails.

- * Becoming the first president to sign an order to assassinate an American citizen.

- * Imprisoning, charging with a capital offense, and sanctioning the torture of a United States soldier,

Private Bradley Manning, for the alleged "crime" of exposing US war crimes.

- * Leading a bogus persecution campaign against journalist and WikiLeaks founder Julian Assange, who dares to expose the real motives behind US policies.

This record demonstrates that Obama and his administration, rather than being in any way a defender of democratic rights, have become their calculated opponent.



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