

Obama's Guantanamo "war court" in session

Bill Van Auken
14 April 2012

Behind the razor wire-topped fences of the Guantanamo Bay prison camp in Cuba, the proceedings of the so-called "war court" have fully resumed under the new management of the Obama administration.

Pretrial hearings are being held in two major cases that are to be heard under the direction of a military judge, Army Col. James Pohl, and argued before a hand-picked jury of US military officers, with the defendants facing the death penalty.

The first is the capital murder trial of Abd al Rahim al Nashiri, charged as the architect of the October 12, 2000 suicide bombing attack on the USS Cole off the coast of Yemen, in which 17 American sailors lost their lives. The second is the death penalty trial of Khalid Sheik Mohammed and four other men accused of organizing the September 11, 2001 terrorist attacks. In the 9/11 case, an arraignment date has been set for May 5.

The character of this brand of military "justice" was evident in the motions put forward in the Nashiri case this week. Lawyers for the 47-year-old Saudi, who has been held first by the CIA and then the military since November 2002, asked the judge for their client to be exempted from the standard requirement at Guantanamo that inmates be shackled to the floor when meeting with legal counsel.

The lawyers argued that, thus shackled, Nashiri was unable to participate in preparing his defense because it revived the trauma of being similarly shackled during the years of torture to which he was subjected while in CIA custody. The motion touched off a brief controversy over whether the media would be allowed to hear Nashiri describe his torture, or if the testimony would be taken in secret. The military judge sidestepped the issue by granting the defense request without hearing Nashiri's testimony.

The motive for preventing the airing of these issues is clear. A heavily redacted 2004 CIA inspector general's

report provides an indication of the criminal methods to which Nashiri was subjected. The report acknowledges that Nashiri was waterboarded 83 times, a form of induced drowning which was prosecuted as a war crime after the Second World War.

Another technique, described in the report as "unauthorized," involved the revving of a power drill next to the detainee's head as he stood naked and hooded. Similarly, a gun was cocked and placed to his head repeatedly in what the agency described as "mock executions."

Interrogators threatened to bring Nashiri's mother to the torture center and sexually abuse her in front of him. He was hung from his arms, which were bound behind his back, until interrogators feared he would dislocate both shoulders. His skin was rubbed raw with a scrub brush and interrogators deliberately stepped on his ankle shackles, causing them to cut into his flesh. They also gripped him by the neck, cutting off his carotid artery until he would pass out, and then revived him, repeating the process. Extreme cold, sleep deprivation and blaring noise were also employed.

Interrogators were also accused of using smoke as an "enhanced interrogation technique" instrument, but in their defense, they insisted that they smoked cigars merely to cover the stench of the cell where Nashiri was kept confined round-the-clock.

The torture succeeded in extracting confessions by Nashiri not only to the Cole bombing, but to numerous other acts and plots, including an admission that Osama bin Laden was in possession of an atomic bomb. When he appeared before a military tribunal in 2008, he insisted that he made false confessions to make the torture stop.

In a brief filed before the Guantanamo military commission last July, Nashiri's lawyers argued that the US government lacked the "moral authority" to try him. "By torturing Mr. Al-Nashiri and subjecting him

to cruel, inhumane and degrading treatment, the United States has forfeited its right to try him and certainly to kill him,” the brief said. “Through the infliction of physical and psychological abuse, the government has essentially already killed the man it seized almost 10 years ago.”

No US official—from the White House, to the Justice Department lawyers who condoned these methods, to the CIA interrogators—has been charged with any offense for this systematic torture. The Obama administration has repeatedly intervened to quash lawsuits seeking redress for torture victims.

The war courts convened in Nashiri’s case and that of Sheikh Mohammed and his co-defendants are not new. They are merely resuming operations after a temporary interruption brought about by the 2008 election of Barack Obama.

Candidate Obama vowed to restore American “ideals” and “values” by closing Guantanamo, restoring habeas corpus and either trying or releasing the detainees held there. One of his first acts in office was to issue an executive order declaring that the prison camp would be shut within a year.

The ongoing military proceedings against Nashiri, Sheikh Mohammed and the others were halted and it was announced that they would be brought before civilian courts. In the face of opposition from the Republicans and a large section of right-wing Democrats in Congress, however, Obama capitulated, signing legislation that essentially turned Guantanamo and drumhead military tribunals into permanent features of the American state.

These tribunals, which have been repeatedly reconfigured in an effort to give them a veneer of due process, are rigged to produce the verdict desired by the state, from the military composition of the juries to rules of evidence that allow the introduction of summaries that include information gained through torture, to the completely controlled character of the proceedings. While ostensibly public, the proceedings are to be broadcast on a 40-second delay, allowing unseen intelligence operatives to delete any testimony deemed inconvenient by overriding it with white noise.

Even in the highly unlikely event that the defendants were acquitted, they would merely be returned to their cells at Guantanamo to be held again as “enemy combatants” for as long as the perpetual “war on

terror” continues.

That such a police state tribunal is now a permanent institution, written into American law, stands as a stark warning. More recently, Obama signed into law legislation proclaiming the president’s power to order anyone, including an American citizen, to be subjected to indefinite military detention without judicial review based on the unproven assertion that he or she is a “terrorist.” His attorney general publicly proclaimed the “right” of the president to order the assassination of alleged terrorists, including US citizens.

The malignant spread of police state methods that has continued from the Bush through the Obama administration is the product not merely of a particular political or legal ideology, but rather the outcome of profound objective contradictions within American and world capitalism.

Under conditions of a protracted crisis of the profit system and unprecedented levels of social inequality, genuine democratic procedures have become unworkable. Fearing the growth of social protest and a renewal of class struggle, the financial elite is preparing new methods of repression to defend its power and privilege.

The war courts that are coming into session at Guantanamo may well prove a preparation for their wider use against American workers, overturning every basic democratic and constitutional right going back more than two centuries.

This threat can be answered only by the working class mobilizing its independent strength in a political struggle to put an end to capitalism and reorganize social and economic life to meet the needs of the vast majority, rather than the profit interests of a tiny elite.

Bill Van Auken



To contact the WSWS and the
Socialist Equality Party visit:

wsws.org/contact