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911 MILITARY TRIAL: Pentagon Clears Way for Military Trial of Five charged in 9/11 Attacks

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Global Research, April 06, 2012
World Socialist Web Site 6 April 2012

Region: USA
Theme: Law and Justice, Terrorism

The Pentagon formally charged Khalid Sheikh Mohammed and four other detainees held at the Guantanamo Bay prison camp in Cuba Wednesday in connection with the September 11 terrorist attacks on New York City and Washington.

The presentation of the charges, which carry a maximum sentence of death, sets the stage for a military tribunal excluding elementary rights that exist in a civilian court, or even in a traditional court martial.

From the standpoint of the US state and its intelligence apparatus, this pseudo-legal forum holds obvious attractions. It will allow the authorities, first, to quash any dispute over the decade of illegal detention and prolonged torture to which the defendants have been subjected and, second, to control testimony and evidence so as to prevent any inconvenient revelations surrounding the September 11 events themselves and the longstanding connections between Al Qaeda and the CIA.

It has been publicly acknowledged that Khalid Sheikh Mohammed was water-boarded 183 times and subjected to other forms of torture and brutality while held in a secret CIA "black site," leading to his confessions not only to 9/11 but a large number of other crimes, some of which never took place and others that he could not have committed.

A glimpse into the mechanics of the tight control the military will exercise over the tribunal was provided in a report Thursday by Carol Rosenberg of the *Miami Herald* on arrangements that have been made for relatives of 9/11 victims to watch the proceedings via closed-circuit broadcasts.

"The broadcasts are on a 40-second delay in case someone in court divulges classified information, time enough for an intelligence center to muffle the proceedings behind white noise," Rosenberg reports.

In addition to Mohammed, who was accused by the US 9/11 commission of being "the principal architect of the 9/11 attacks" and who confessed in a Combatant Review Tribunal at Guantanamo to being "responsible for the 9/11 operation from A to Z," the other defendants include Walid bin Atash, Ramzi Binalshibh, Ali Abdul Aziz Ali and Mustafa Ahmed al Hansawi.

The five are to be tried jointly, with all of them facing the death penalty. A civilian lawyer for Ali Abdul Aziz Ali issued a statement denouncing this procedure, noting that his client is charged neither with killing anyone nor plotting to kill anyone, but only with wiring money to the 9/11 hijackers.

“Mr. Ali would not be eligible for the death penalty if this case were tried in federal court,” said Connell. “This attempt to expand the reach of the death penalty to people who neither killed nor planned to kill is another example of the second-class justice of the military commissions.”

There is nothing new about either the names or the charges. Rather than the initiation of a capital military tribunal, Wednesday’s announcement signaled the resumption of a procedure that was temporarily interrupted by the election of the Obama administration in November 2008.

On February 11, 2008, the Department of Defense handed down charges virtually identical to those issued Wednesday. These allege that the five are “responsible for the planning and execution of the attacks of Sept. 11, 2001, in New York, Washington, D.C., and Shanksville, Pa., resulting in the killing of 2,976 people” and committed the crimes of “terrorism, hijacking aircraft, conspiracy, murder in violation of the law of war, attacking civilians, attacking civilian objects, intentionally causing serious bodily injury, and destruction of property in violation of the law of war.”

The move toward prosecution by one of the military tribunals created under Bush’s Military Commissions Act was halted by the Obama administration, which came into office vowing to scrap the act and to close down Guantanamo, either releasing those held there or bringing them before civilian courts in the United States. This shift was supposed to change the image of the US as a rogue state internationally, as well as appease the broad sections of the American electorate who voted for Obama with the expectation that he would put an end to the illegality, torture and aggressive war associated with the Bush administration.

Faced with an uproar from the Republican right as well as significant sections of Democrats, however, Obama steadily retreated from this election promise and ultimately bowed to congressional legislation barring the use of any federal funds to transfer detainees from Guantanamo to the United States for trial.

In March of last year, Obama lifted his 25-month stay on military tribunals at Guantanamo, effectively scrapping his vow to close the infamous facility. He also signed an executive order creating a process for holding some Guantanamo detainees without charges or trial, making the gross violation of due process and habeas corpus with which the detention camp is identified the official policy of his administration.

And a year ago, on April 4, 2011, Attorney General Eric Holder formally renounced the administration’s earlier vow to try Khalid Sheik Mohammed and the four others in a civilian court, acknowledging that they would be prosecuted at Guantanamo under the Military Commissions Act.

Wednesday’s announcement met with condemnation from civil liberties groups. The American Civil Liberties Union issued a statement warning the Obama administration that it “is making a terrible mistake by prosecuting the most important terrorism trials of our time in a second-tier system of justice.” The military commissions, it charged, “were set up to achieve easy convictions and hide the reality of torture, not to provide a fair trial.” Any verdict would be “tainted”, the ACLU said, adding that the use of the military tribunals “means that justice will never truly be achieved, in the eyes of our nation or the rest of the world.”

The Obama administration's support for military commissions is not a "terrible mistake," but rather represents one more step in its relentless assault on democratic rights that has gone hand in hand with the unchecked growth of militarism. Most recently, this has included the Democratic president's signing into law legislation (the National Defense Authorization Act—NDAA) asserting his "right" to condemn American citizens to indefinite military detention on his sole say-so that they are enemies of the state, and his arrogation to himself of the power to order the assassination of US citizens anywhere in the world on the same basis.

The attacks of September 11 and the killing of nearly 3,000 was an appalling crime. The proceedings that are being initiated at the Guantanamo detention camp, however, are not about justice for the victims or uncovering the truth of an event that still remains shrouded in mysteries and cover-ups.

The crimes carried out by the US government in the decade since the attacks, including the illegal abduction, torture and detention of not only those charged with the crime, but thousands of people who had nothing to do with it, ensure that the military tribunal will represent a mockery of justice.

Its task is to render the pre-ordained verdict, while ensuring that nothing comes out of the drumhead proceedings in Cuba that might cast light on the unanswered questions about how these attacks were allowed to take place and complicity between US intelligence agencies and Al Qaeda.

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