

**CHIEF PROSECUTOR MARK MARTINS**  
**REMARKS AT GUANTANAMO BAY**  
**18 JUNE 2014**

Good afternoon. Today Abd al Hadi al-Iraqi—an Iraqi national whose records indicate was born as Nashwan Abd al Razzaq in 1961 in the city of Mosul—was arraigned before a United States military commission on charges that, as a senior member of Al Qaeda, he conspired with and led others in a series of unlawful attacks and related offenses in Afghanistan, Pakistan, and elsewhere from 2001 to 2006. These attacks and other offenses allegedly resulted in the death and injury of U.S. and coalition service members and civilians. I emphasize that the charges against Abd al Hadi are only allegations. In this military commission, he is presumed innocent unless and until proven guilty beyond a reasonable doubt.

He also is afforded “all of the judicial guarantees recognized as indispensable by civilized peoples,” the requirement when conducting trials under the law of armed conflict. His trial will take place in accordance with the Military Commissions Act passed by Congress in 2009 and signed into law by the President of the United States that same year. His alleged crimes, which include violations long outlawed by the community of nations, have been codified as offenses triable by military commission within U.S. federal law. To the present date, he has been lawfully, humanely, and securely detained as an unprivileged belligerent, and since 2008, he and his attorney have had recourse to the writ of habeas corpus in federal court.

As alleged in the charge sheet, which is available on the military commissions’ website, Abd al Hadi joined Al Qaeda by 1996 and, in furtherance of the group’s hostile and terrorist aims, participated as a high-ranking leader on various senior councils that set Al Qaeda’s goals and policies. He served as liaison between Al Qaeda and the Taliban. He commanded Al Qaeda’s insurgency efforts in Afghanistan and Pakistan, during which he supported, supplied, funded, and directed attacks against U.S. and coalition forces. These operations violated the law of armed conflict in a variety of ways, in that they involved detonation of vehicle-borne improvised explosive devices and suicide vests in civilian areas, firing upon a medical helicopter as it attempted to recover casualties, rewarding an intentional attack that killed a United Nations aid worker, and other means and methods of war that have long been condemned. Abd al Hadi directed his fighters to kill all coalition soldiers encountered during their attacks, thereby denying quarter to potential captive or wounded coalition troops. In addition to commanding Al Qaeda’s insurgency in Afghanistan and Pakistan, Abd al Hadi was eventually tasked by Usama bin Laden to travel to Iraq to advise and assist Al Qaeda in Iraq’s insurgency there.

For these and other alleged acts, Abd al Hadi is now formally charged with the following offenses under the Military Commissions Act of 2009: denying quarter; attacking protected property; using and attempting treachery or perfidy; and conspiring with Usama bin Laden and other Al Qaeda leaders to commit terrorism. The convening authority referred these charges to a non-capital military commission on June 2, 2014. The maximum penalty for these charges is life imprisonment, except for attacking protected property and attempting to use treachery or perfidy to kill or injure, which carry a maximum penalty of 20 years’ imprisonment each. No trial date has yet been set in this case.

The serious charge of using treachery calls for further brief definition, as members of the public may be unfamiliar with this offense against the law of war—a set of rules concerning hostilities that is also referred to as international humanitarian law. One who uses treachery invites others to believe that he is entitled to protection under the law of war and then betrays that belief in order to kill or injure. Treachery is not merely deception, as war has long included lawful actions of deception. Such lawful deceptions are sometimes termed “ruses of war.” Rather, treachery is a particular type of deception that secures its advantage through an adversary’s compliance with law. It is forbidden because it can destroy the basis for a restoration of peace, thus prolonging or escalating the conflict and multiplying the number of innocents exposed to armed violence. Far from quaint or old-fashioned, the traditional prohibition on treachery is grounded in wisdom acquired from the harsh realities of conflict. It polices the principle of distinction between combatants and noncombatants that is at the heart of international humanitarian law.

The charges against Abd al Hadi are the result of extensive military-to-military and law enforcement cooperation and of determined work by the Federal Bureau of Investigation; the Defense Department’s Criminal Investigation Task Force, Office of General Counsel, and Office of Military Commissions; the State Department; the Justice Department; the intelligence community; and many other components of government. The prosecution of this case combines dedicated trial counsel from the Defense and Justice Departments.

To the family and friends of the fallen, we understand that nothing can fill the empty spaces in your homes. No words can ease the pain of your loss. But know that the United States is committed to justice and accountability for those who violate with impunity those longstanding laws by which humankind has sought to limit the depravity and suffering of war. This arraignment—a session that includes public notification of the nature of the charges, advisement by the judge regarding counsel rights, and commencement of commission proceedings—marks an important milestone in that process.

To counter transnational terror networks, we must use all the lawful instruments of our national power and authority. I have previously stated that there is a narrow but important category of cases in which the pragmatic choice among those instruments is a military commission. This is such a case. The nature of the alleged offenses, the identities of the victims (who were from eight countries), the location in which the offenses allegedly occurred, the context of genuine hostilities with Al Qaeda, and the manner in which the case was investigated and evidence gathered all make a military commission the most appropriate forum to try this case. I am confident that these proceedings—which incorporate every fundamental guarantee of a fair trial that is demanded by our shared values—will help protect peaceful peoples everywhere and serve the interests of justice. Thank you. And now, I’ll take questions.

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In closing, I would like to recognize and thank the Coast Guardsmen, Sailors, Marines, Airmen, Soldiers, and federal civilian and contract employees of Joint Task Force Guantanamo, Naval Station Guantanamo Bay, the 89th Airlift Group, and Joint Base Andrews, without whose efforts the proceedings this week would have been impossible.