

OTHER VIEW | L.A. TIMES

Justice and 9/11

When Attorney General Eric H. Holder Jr. announced in 2009 that Khalid Shaikh Mohammed and four other accused Sept. 11 conspirators would be tried in a civilian federal court, we said that his decision “makes an eloquent statement about the Obama administration’s determination to avenge the victims of terrorism within the rule of law.” But the five never made it to civilian court; instead, thanks to domestic politics, they are being tried for murder and other charges before a military commission in Guantanamo Bay.

The commission is not, as some of its detractors assert, a kangaroo court rigged to guarantee the conviction and execution of the defendants. But both substantively and symbolically, it is an unacceptable alternative to a civilian trial of the kind that has successfully convicted other terrorists.

The commission’s proceedings began inauspiciously when the defendants refused to enter pleas and staged a silent protest against the legitimacy of the tribunal. Defense lawyers have complained that they are being restricted in talking with clients about their treatment by CIA interrogators, and the ACLU is challenging a “protective order” proposed by the government that would treat the defendants’ statements about their interrogation as “presumptively classified” and thus subject to censorship.

There is no guarantee that the defendants wouldn’t behave in a similarly obstructive way in a civilian trial. Nor would the prosecutors in a federal court be prevented from asking the judge to withhold classified information. And civil libertarians who see the prosecution of the self-proclaimed Sept. 11 mastermind and his confederates as an opportunity to ventilate the CIA’s use of waterboarding and other abusive interrogation methods might find a civilian judge just as reluctant as a military one to put the CIA on trial.

That said, the differences between the two kinds of proceedings are important. The current military system, revised by Congress in 2009, is more credible than the commissions unilaterally established by the George W. Bush administration. It requires proof of guilt beyond a reasonable doubt, prohibits double jeopardy and, most important, bars the admission of evidence obtained as the result of torture or “cruel, inhuman, or degrading treatment.” (Mohammed was repeatedly waterboarded.) Yet in other respects it is less protective of defendants than a civilian trial. While evidence resulting from torture is inadmissible and confessions are required to be voluntary, critics say other sorts of “coerced” statements – particularly from third parties – could be allowed. The commission system is also more accepting of hearsay evidence.

As important as these particular defects is the fact that the trial of the Sept. 11 defendants is taking place under the aegis of the same military that is imprisoning them, and which has held them without successfully putting them on trial for almost a decade. Regardless of improvements in the commission system since the Bush administration, it simply doesn’t afford the defendants the gold standard of American justice. If Mohammed were sentenced to death after a civilian trial, the United States could point to the fact that it had provided full due process even to someone who murdered nearly 3,000 innocent people. It can’t credibly make that claim about a military commission. And while, understandably, the families of Sept. 11 victims might not care about international opinion, the Obama administration recognized that it was in this country’s interest – especially after revelations about torture and the imprisonment of accused terrorists at “black sites” – for Mohammed and the others to receive a trial that was not only fair but perceived to be fair.

That is not going to happen. Much of the blame belongs to Congress, which effectively thwarted the administration’s original plan for a civilian trial by barring the transfer of Guantanamo detainees to the United States. But the administration also committed errors. In announcing that the trial would be held in New York City, Holder provoked a backlash from residents and public officials who feared the city would again become a target for terrorists. It would have been politically wiser if the administration had proposed a civilian trial at a more remote and protected site. Later, after the hardening of opposition to a civilian trial anywhere, the president decided not to expend political capital pressing for his original plan.

ARTIST’S VIEW



POLITICS | SEN. TOM O'MARA

College affordability plan

One of our local legends, Mark Twain, is credited with the following advice to young people just getting started in life, “Twenty years from now you will be more disappointed by the things you didn’t do than by the ones you did do. So...Explore. Dream. Discover.”

It’s college graduation season locally, statewide and across America, soon to be followed by the class of 2012 moving on from their high schools, so Twain’s words seem timely and traditional. But here at the start of the second decade of the 21st century, a long ways down the road from the days of Mark Twain, other thoughts inevitably intrude too.

A Gallup Poll last August showed that nearly 70 percent of Americans strongly agree or agree that a college degree is “essential for getting a good job in this country.” I don’t find that surprising. But it’s also important to keep in mind a recent Associated Press analysis showing that more than half of all college graduates are unemployed or underemployed – and at the same time most of them face significant college loan debt.

In so many ways, far more than can be covered in a short column like this one, the above juxtaposition captures one key struggle for the next generation: college is fundamental to a successful future, but securing that future sure has become expensive and uncertain. Sixty-one percent of students who attend college in New York leave school in debt. In 2010, graduates from New York colleges had an average loan debt of \$26,271, 10th highest in the

nation. Five years ago the average debt for New York schools was 20th highest in the country.

Nationally, college tuitions have increased well beyond the rate of inflation, income and health care costs. Estimates are that by 2016 the average cost of a public college will have more than doubled in 15 years.

The amount of student debt is now more than \$1 trillion, surpassing the amount owed on credit cards and auto loans.

While this graduation season rightly remains a time of celebration, we can’t overlook today’s reality that high college costs, looming future debt and an unpredictable economic outlook have combined to create a time of deep uncertainty for many young people and their families.

So we address it on numerous fronts.

Not long ago, Corning Community College formally inducted Dr. Katherine P. Douglas as its new president. I was glad to have this chance to welcome President Douglas and look forward to the excitement and success of her tenure at the helm of one of the nation’s finest community colleges.

A recent report from the American Association of Community Colleges, “Reclaiming the American Dream: Community Colleges and the Nation’s Future,” captures the challenge (and the opportunity) facing these colleges and young people today. It’s timely reading and can be found online at: <http://www.aacc.nche.edu/AboutCC/21stcenturyreport/index.html>

Just last week, I joined my Senate colleagues in unveiling a new “College Affordability

Plan” as a way to keep this critical challenge at the forefront of New York government’s attention. It’s a diverse strategy that seeks to ease the cost burden for students and families alike by doubling existing tuition tax credits and deductions to keep pace with rising costs. Among other affordability initiatives, it calls for expanding the availability of low-interest student loans – and cut interest rates in half – through the creation of a new public-private partnership.

It seeks to encourage more of our bright, talented young men and women to stay in New York after they graduate in order to preserve the quality of our work force and, subsequently, strengthen our communities and economy alike. You can read more about the Senate’s “College Affordability Plan” on omara.nysenate.gov (click on the “College Affordability Plan” logo in the left-hand column of the home page).

There are no quick or easy solutions. Most importantly the discussion needs to be ongoing at every level of government, as well among colleges and universities themselves.

The overriding point is that we still have plenty of reasons to be hopeful for the next generation and the dreams that young Americans have always had, from Mark Twain’s day to now, to pursue opportunities and define success in their own ways.

But here in 2012, we also have our work cut out for us to take better care of the future they’re moving toward.

■ Tom O’Mara is a Republican state senator from Big Flats.

COMMENTARY | DANIEL AKST

Friction can smooth it out

What do college applications, financial derivatives and Kentucky fried chicken all have in common?

Friction. Or more accurately, the lack thereof, which is what makes all three so dangerous. A little friction, it turns out, can be a very useful thing.

Take applying to college. In my day, you got yourself a raccoon coat, sent out half a dozen applications and called it a day. Preparing each application was laborious; you had to send away for them, and some were dauntingly elaborate.

But today, thanks in part to innovations such as the Common Application, which makes it easy to apply to many schools at once via the Internet, students apply to lots more places. This generates a lot of needless competition and anxiety. Colleges now get 85 percent of their applications online.

The digital revolution has been the death of friction in other arenas, too. It has facilitated all sorts of financial machinations, such as the complex derivatives (bets on the price of some underlying asset) that played a role in the economic crisis of 2008. It would have been difficult for derivatives to flower in such lethal variety and profusion without networked computers. Digitization has also enabled rapid-fire trading on the stock market, and made it easier for capital to flee one part of the world for another almost instantly. Things that were once difficult have become a bit too easy.

Some people thought such innovations would reduce risk, but instead the financial world seems to have become more volatile. Need I mention the way a single European currency reduced financial friction among nations on the continent? Capital flowed all too easily to Greece, Italy and other countries now in financial trouble. Trade probably got a boost, but too often it was in just one direction: from northern countries to southern ones. A little more friction and Europe might not be in this mess.

Then there’s the matter of fried chicken. Once upon a time you had to go and catch your food. Later you could buy a bird, but you still had to pluck it, butcher it, bread it, fry it and then clean up the mess. Now we just stop at a fast-food joint on the way home, our consumption lubricated all too effectively by technology and affluence. The lack of friction is helping make us fat.

Credit cards and the end of blue laws that closed most stores on Sundays have had the same friction-reducing effect. They are examples of ways that making our lives easier has also made them harder. If you had to depend on cash, a streetcar and the limited shopping hours that were available in decades past, you’d spend less.

Some thoughtful people think society actually needs to add a little strategic friction. Several economists have proposed a small tax on financial transactions; one, Edgar Feige, has even suggested an ingeniously simple version that would replace the U.S. income tax. The big impact would be on the financial doings of banks and securities traders, making the tax quite progressive.

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