

When the rule of law no longer rules

A Paris investigatory court (*Chambre de l'instruction de la Cour d'appel*) summoned the former Guantánamo commander Major General Geoffrey Miller to appear on 1 March. Miller, one of the best known promoters of the torture of terror suspects, was called to give evidence on the torture program.

The French investigations, which have been running for over ten years, are looking into the abuse of French citizens Nizar Sassi and Mourad Benchellali at Guantánamo during the time Miller was commander. As in similar cases in Spain, the UK and Germany, there is no doubt that European courts can – must, in fact – address the torture committed by the US army and the CIA.

Unsurprisingly enough, Miller did not turn up for his hearing. But the French proceedings are far from over. Our partner lawyers in France will ensure the case continues.

French human rights lawyers and organizations currently have their hands full with the situation at home. The state of emergency declared after the Paris attacks in November 2015 and extended in February 2016 is not a merely abstract problem. Hundreds of people have been arrested and placed under house arrest, and, as is so often the case, the terrorist label has been readily applied to any undesired protesters. To take just one example, in December 2015 the climate activist Joel Domenjoud and 25 others were arrested before the climate summit in Paris and forced to register with the police three times a day.

Just as bad as Guantánamo

Guantánamo has been back in the spotlight over the past few weeks. With his time in office coming to an end, Barack Obama has made renewed efforts to close the center. For the 34 detainees who even the US government admit pose no danger, this could mean freedom after over ten years of unlawful detention – as long as there are states willing to accept them. The other 57 detainees can't expect much of an improvement in their situation if they are moved to the US. They are to be placed in special high-security prisons or prison wings, which human rights organizations and many lawyers say would be just as much of a breach of their rights as their detention in Cuba.

The public has even less interest in people held in such prisons as in those at Guantánamo, even though their fate is also worthy of our attention. We only have to look to the case of the Black Panther activist Albert Woodfox who was released in summer 2015 after 43 (!) years of solitary confinement. Woodfox had been convicted based almost entirely on the testimonies of three prisoners.

Pariah states?

Examples like this one – and there's no shortage of others – show how this kind of “the ends justify the means” thinking leads to injustice. Innocent people are imprisoned and abused without due process because they are labeled terrorists, criminals, enemies of the state or all of the above. When hundreds or thousands of people are affected by these kinds of wrongs, one could speak of illegitimate or pariah states. Except that this label is only applied to the North Koreans of this world.

Why the need to address all that now here in Europe? Because to date the victims of torture have not gotten justice from the US and their allies. Because the Republican candidates in the US are competing with one another to propose the most abhorrent ways to deal with terrorism suspects. Because for various reasons people in France, the UK and Switzerland are thinking aloud about leaving the European Court of Human Rights. And because in dealing with people seeking refuge in Germany and Europe, it sometimes seems the law is only allowed to play a role when it's convenient.