

OUR NEW TEACHERS ABOUT RULE OF LAW

The Gray Lady is dedicating space this week to reflections on Gitmo. In addition to a debate on it (more on that tomorrow), it offered Lakhdar Boumediene and Murat Kurnaz space to tell their stories, albeit in the opinion section.

Both men told of their terrible treatment.

But both also discussed what they learned about American rule of law by being falsely imprisoned for years.

Boumediene describing losing faith in American justice, which not even the knowledge that the case bearing his name is taught in American law schools has yet returned, given the number of men who remain unjustly imprisoned.

The fact that the United States had made a mistake was clear from the beginning. Bosnia's highest court investigated the American claim, found that there was no evidence against me and ordered my release. But instead, the moment I was released American agents seized me and the five others. We were tied up like animals and flown to Guantánamo, the American naval base in Cuba. I arrived on Jan. 20, 2002.

I still had faith in American justice. I believed my captors would quickly realize their mistake and let me go. But when I would not give the interrogators the answers they wanted – how could I, when I had done nothing wrong? – they became more and more brutal.

[snip]

About 90 prisoners have been cleared for transfer out of Guantánamo. Some of them are from countries like Syria or China – where they would face torture if sent home – or Yemen, which the United States

considers unstable. And so they sit as captives, with no end in sight – not because they are dangerous, not because they attacked America, but because the stigma of Guantánamo means they have no place to go, and America will not give a home to even one of them.

I'm told that my Supreme Court case is now read in law schools. Perhaps one day that will give me satisfaction, but so long as Guantánamo stays open and innocent men remain there, my thoughts will be with those left behind in that place of suffering and injustice. [my emphasis]

Kurnaz describes watching Germans, upon his return, teaching Americans about something once renewed in Germany by the Nuremberg trials: the rule of law.

I LEFT Guantánamo Bay much as I had arrived almost five years earlier – shackled hand-to-waist, waist-to-ankles, and ankles to a bolt on the airplane floor. My ears and eyes were goggled, my head hooded, and even though I was the only detainee on the flight this time, I was drugged and guarded by at least 10 soldiers. This time though, my jumpsuit was American denim rather than Guantánamo orange. I later learned that my C-17 military flight from Guantánamo to Ramstein Air Base in my home country, Germany, cost more than \$1 million.

When we landed, the American officers unshackled me before they handed me over to a delegation of German officials. The American officer offered to re-shackle my wrists with a fresh, plastic pair. But the commanding German officer strongly refused: “He has committed no crime; here, he is a free man.”

I was not a strong secondary school

student in Bremen, but I remember learning that after World War II, the Americans insisted on a trial for war criminals at Nuremberg, and that event helped turn Germany into a democratic country. Strange, I thought, as I stood on the tarmac watching the Germans teach the Americans a basic lesson about the rule of law. [my emphasis]

Gitmo has come to embody many things in this country over the last decade: Bush's incompetence and criminality, our bigotry and inhumanity, and—as most would like to treat it now—a big political tussle between Obama and Republicans.

But at every turn—from the Bush Administration grasping claiming the piece of land existed outside the rule of law, to the corrupt legal process that created memos authorizing torture there, to Jim Haynes' insistence that “we can't have acquittals,” to the DC Circuit's continued efforts to make sure detainees get no meaningful review of their detention—Gitmo has been about shedding the rule of law. It has been about finding ways for America to defy the law even while maintaining the pretense we still uphold it.

In this country, we have mostly ignored that lesson of Gitmo (not liking what it says about us, I guess). But it's a lesson our former captives know well.