

Justice as much a prisoner in Guantanamo as the 'al-Qaeda' suspects

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GUANTANAMO the place is a perfect metaphor for Guantanamo the issue. The military base is hot, humid, cramped and secretive, an unreal world isolated physically and morally from the 'civilised world'. Like the place, the Guantanamo issue is a steaming cauldron of facts, fears, lies, hype and half-truths.

In one of the guardrooms at the base a poster showing the World Trade Center asks 'Are you in a New York state of mind?' The poster encapsulates the justification for Guantanamo. The 9/11 attacks were extraordinary actions which supposedly validate extraordinary reactions. Donald Rumsfeld, for instance, has openly stated that he's not remotely concerned whether the Geneva Convention applies to the detainees, since the only important issue is what they did to the US. In other words, the US feels entirely justified to act in anger and call it law.

Because of its secrecy, Guantanamo has generated a great deal of heat but very little light. Journalists, deprived of real facts, have made do with speculation. Take, for instance, the situation involving the nine British detainees. Over the last two years, a script has been carefully written by Blair and his government. It goes like this: British citizens should be tried in British courts. The government has tirelessly struggled to get detainees released into British custody, but has been thwarted by American intransigence. These efforts have finally borne fruit and five suspects will soon enjoy British justice.

That's the government's line, but that same government claimed that Saddam had weapons of mass destruction. So why should we believe them now? Let me propose a different explanation. Blair realised that the British suspects were a political hot potato. If they were evil, he didn't much want them in this country. Gaining custody would mean having to give them a trial, which would inevitably cause controversy, particularly in Britain's Muslim communities. A better idea would be to let the Americans detain them, while supposedly demanding their release. Playacting of this sort would appeal to those concerned about civil liberties, particularly within the Labour party.

Perhaps the idea that Blair didn't want the detainees returned seems preposterous, but since when has this government been a model of legal propriety? The popular version implies that the Americans are untrustworthy and the British honest. If, as seems more likely, shifty bastards exist on both sides, the accepted story begins to unravel. The truth is that none of us has a clue what's going on.

For me, the really interesting story on Thursday was not that five detainees will return home, but that four will stay at Guantanamo. Clearly, these four have been deemed too dangerous to be released. But is it the case that the Americans don't trust the British to guard them, or that the British don't really want them back? If these men are indeed nasty characters, a trial by the Americans would be a great deal more convenient than having to try them here.

Guantanamo reveals why politics should be kept quarantined from law. Blair and Bush have a political agenda in which the detainees play a prominent part. Blair wants to be friends with Bush, but he also wants to make the British people believe that he upholds civil liberties. Bush is interested in winning the next election and is aware that a trial in late summer will help his chances. Stuck in the middle is the US military, which has been given the task of dealing with the suspects, a job which it doesn't want and is patently unsuited to handle. JAG corps lawyers have been ready to go to trial for a year, but they're waiting on Bush, who's operating according to a political agenda, not a legal one.

Guantanamo also reveals how difficult it is to do the right thing when it comes to trying terrorists. Much has been written about violations of international law. Anguished critics mention the Geneva convention, but few have actually read the protocols. Law unfortunately is reactive, and seldom sagacious. Every Geneva convention has dealt with unacceptable practices in the war which preceded it, in the vain hope that a measure of civility could be retained. Delegates could not predict what might happen in the next war. There

are, consequently, no laws appropriate to mysterious stateless criminals who fly airplanes into buildings.

When the Guantanamo detainees eventually go to trial, some will be revealed as dangerous people who had evil intent. Most of us will breath a sigh of relief that they were captured and tried. But the longer the trial is delayed, the more difficult it will be for the US to convince the outside world that justice has been served. In the meantime, the genuinely innocent among the detainees (and probably more than half are innocent) are being radicalised by their incarceration. Instead of punishing terrorists, the US is creating them.

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