

France: Judge Bruguière—utilising anti-terrorism as a political instrument

Antoine Lerougetel
26 January 2006

On January 9, Nizar Sassi was released from jail on the orders of Judge Jean-Louis Bruguière. The young Frenchman, indicted for no crime, had been detained by the American authorities for two-and-a-half years and a further one-and-a-half years by the French.

He is one of seven French nationals returned to France from the US detention centre in Guantánamo Bay, Cuba. He was captured in Afghanistan at the end of 2001. The Americans handed him over to the French authorities on July 26, 2004, along with fellow detainees Imad Acheb Kamouni, Mourad Benchellali and Brahim Yadel.

Imad was also released without charges, in July 2005, after a year in one of Bruguière's jails. The month before, the two men's defence lawyers had launched a judicial inquiry into their arbitrary arrest.

Khaled Ben Moustapha and Ridouane Khalid, returned to France on March 7, were tried and sentenced to prison terms. Four French former Guantánamo prisoners remain in jail awaiting trial.

Le Monde reported January 13, "The lawyers acting for the prisoners have contested the legality of the procedures dealing with the activities of the seven men because of the use by the investigating judges—*juges d'instruction*—of information obtained in Guantánamo entirely outside legal processes." The implication is that Bruguière and his team accept uncritically whatever "evidence" is given them from the American authorities, some of it obtained through torture.

The Bush administration set up Camp X-Ray at Guantánamo on January 11, 2002 in order to hold people captured in Afghanistan outside the constraints of US law and basic human rights. The French anti-terrorist apparatus also operates with arbitrary powers of arrest and detention. According to *Le Monde*, December 23: "At present, 99 persons suspected of Islamic activities are being detained in French prisons." The report does not say how long they have been there. Added to these are 39 people presently serving jail sentences for terrorist offences.

French anti-terrorist judges hold and sentence suspects, unconcerned by the right of habeas corpus and normal standards of evidence. These powers have enabled the use of anti-terrorism measures as a means of social and political control and an instrument of foreign policy.

Bruguière has been at the head of the French state's anti-terror apparatus since 1986. His team of five investigating judges have the great powers of arrest and detention pending trial enjoyed by all French *juges d'instruction*. In 1998, 40 percent of all prisoners in French jails were awaiting trial.

Gaullist interior minister Charles Pasqua's 1986 law concentrated the investigation, pursuit and judgement of cases relating to terrorism in Paris. It set up Bruguière's special 14th Section of the Paris Prosecutor's Office to which all anti-terrorist cases in France or concerning French people abroad must be referred. In the 20 years of its existence the court has been endowed with further powers by successive French governments. Minister of the Interior Nicolas Sarkozy's anti-terrorist bill, passed on December 22 last year, represents a major strengthening and broadening of these powers. (See "France: Anti-terrorism legislation tramples on civil liberties

”)

In 1996 a new article in the French criminal code defined as an "act of terrorism" the "participation in a structured group or in a conspiracy with the view to the preparation of one or several material facts" of terrorist acts enumerated in the criminal code. The penalty for this crime of criminal association—*association de malfaiteurs*—10 years under the 1996 criminal code, has been doubled under Sarkozy's new law. The Constitutional Council ruled in 1996 that the "automatic" connection between "assistance to an illegal alien" and presumed involvement in terrorist activities was a breach of the Constitution. It did not, however, censure a provision according to which persons assisting an illegal alien on humanitarian grounds face the same punishment as professional smuggler organisations acting for the purposes of monetary gain.

The comprehensive report on the activities of the 14th Section and Judge Bruguière drawn up in 1999 by international jurists for the International Federation of Human Rights (IFHR) and the French League of Human Rights (LHR) details the practices inherent in this criminal association of conspiracy law:

- * Judges tend to resort to speculation regarding the suspects' "moral" approval of the general objectives of a presumed criminal or terrorist activity.

- * Incidental contacts with prime suspects are considered proof of "participation" (guilt by association).

- * A suspect's failure to "cooperate" with the investigators, e.g., by incriminating co-defendants, is regarded as evidence of his or her support for the targeted organisation.

- * Long, arbitrary pre-trial detention is used as a means of obtaining confessions of questionable value.

The purpose of the law, the IFHR report explains, is clear: "The investigating and the prosecuting authorities—the judicial police, the examining judge and the public prosecutor—are under no obligation whatsoever to link the alleged participation to any execution of a terrorist act or even a verifiable plan of such an execution."

The human rights site "Fortress Europe?—Circular Letter" (FECL) (March 1999) points out: "The problem of proof is inherent in the objective of criminalization of 'participation'... Its very purpose is to provide law enforcement and judicial authorities with an instrument allowing them to strike not only at the perpetrators of specific criminal or terrorist acts, but, above all at an indistinct 'milieu' of possible supporters and sympathisers, whose common feature precisely consists in their not having committed any serious offence."

The FECL warns that a plan proposing that all member states of the European Union would commit themselves to making "participation in a criminal association" a criminal offence—a direct translation of *association de malfaiteurs*—was approved by the EU governments in June 1997 at the Amsterdam summit.

The Algerian military coup d'état, supported by the French government, annulled the 1991 Algerian parliamentary elections won by the Islamic

Salvation Front (FIS). The army coup was opposed by many people of North African descent in France. Bomb attacks in France killing 13 people in 1995 were attributed to the anti-government Algerian Armed Islamic Group (GIA). Many think that Algerian army provocateurs were responsible. The GIA was heavily infiltrated by the Algerian army and it is known that many atrocities purportedly carried out by it in Algeria were the work of army undercover units. The attacks in France would have been designed to justify a crackdown on FIS sympathisers and other opponents of the military dictatorship.

From 1994 the police made highly publicised raids on the North African community. Mohammed Chalabi, a well-known gang leader from the southern suburbs of Paris, was arrested with 90 others. Sweeps in 1995 and 1996 netted other alleged members of the “Chalabi network.” On August 31, 1998 a mass trial of 138 suspects took place in the Fleury-Mérogis prison gymnasium, converted into a court at the cost of 10 million francs.

The IFHR explains that despite the disadvantageous conditions for defence lawyers, largely deprived of access to prosecution documents, none were found guilty of terrorist acts but 87 were convicted of criminal association—*association de malfaiteurs*. Of these 87, 39 were given sentences of less than two years and the prime suspects received six- to eight-year sentences—below the 10-year maximum at that time. Fifty-one were found not guilty of criminal association and were released, in some cases after over three years in jail.

In terms of actually apprehending terrorists, the trial was a fiasco. It did, however, contribute to the stigmatisation of Muslim immigrants as possible terrorists, intimidating sections of the population, fuelling racism and increasing the alienation of young North Africans—thereby making some of them a prey for Islamic fundamentalist groups.

Bruguière’s work facilitated French support for the Algerian military government’s attempt to stifle opposition to its regime. Paul Labarigue, in an article on the French *Réseau Voltaire* site, quotes the minister of the interior, Jean-Louis Debré, saying on September 15, 1995: “The Algerian military security services wanted us to go on a wild goose chase to knock out people who were bothering them.”

An account of the complicity between France and Algeria is given in *Françalgérie, crimes et mensonges d’état* (France/Algeria, state crimes and lies), written by Jean-Baptiste Rivoire and Louis Aggoun, reviewed in *Libération*, 12 July 1994.

A spectacular example of Bruguière using his arbitrary powers politically emerged last year. In a pre-recorded TV interview with Nicolas Sarkozy, in which the minister of the interior justified his proposed new anti-terrorist legislation, he referred to arrests being carried out that day—i.e., the day the show was broadcast five days later. Bruguière, as is his wont, had called in the media to cover his arrest of nine terrorist suspects, timed to coincide with the broadcast, in a transparent attempt to boost Sarkozy’s drive towards a police state. The suspects were released without charge soon after.

Born in Tours in 1943 and scion of a family of magistrates going back 11 generations to the reign of Louis XIII, Bruguière began specialising in anti-terrorism in 1982 and took over the running of the 14th Section of the Paris Prosecutor’s Office in 1986 to apply the first set of anti-terror laws drawn up by the right-wing Gaullist minister of the interior, Charles Pasqua. A series of bombings and terrorist acts by Action Directe, as well as Basque and Corsican groups, were the justification for the laws.

Bruguière is decorated with the *Légion d’honneur* and the National Order of Merit. Considered a world expert on anti-terrorism, he was invited by the Council of Europe in 2002 to take part in a debate on “The terrorist threat: genesis and development after 9/11.” His speech at the Brookings Institution in Washington in May 2003 summarizes his thinking well. He bases his authority on 20 years of fighting terrorism and a role going well beyond that of the traditional conception of a judge, as

supposedly independent of the political and executive arms of the state. He cited the “strong relationships and synergies between the various players in the struggle against terrorism, including the specialized magistrates, the relevant law enforcement agencies, the intelligence services, and the more classical institutional instruments of foreign policy such as the Ministry of Foreign Affairs and the Ministry of Defence.”

He boasts of the superior knowledge of his intelligence network over that of the Americans in relation to the Iraq war: “The military victory in Iraq was a tremendous achievement. But that victory, while it rid the world of an oppressive and obnoxious regime, contributed little to the war on terrorism and may, in fact, have increased the risk of terrorist acts in both the United States and Europe.... This is because there was no link between the Iraqi regime and Al Qaeda, or Iraq and the wider Islamic threat.... The way the Iraq war was managed and presented to the public also increased the risk of terrorism.”

Bruguière intimates that French intelligence contacts in the Arab world had been disrupted: “The international tensions created by the Iraqi crisis diverted the attention of political leaders and may have put at risk the system of international cooperation that is so vital for fighting terrorism.”

He criticises the American emphasis on military means: “Other resources—diplomatic, intelligence, and legal—must be developed for that struggle. Such resources cannot be mustered by a single state but rather demand a multilateral response.... France is strongly committed to such a path.”

Despite France’s differences with Washington over Iraq, which it saw as an attempt to secure US hegemony over the Middle East to its detriment, Bruguière is still proud of his close collaboration with American intelligence services, which have often turned to him for help and advice.

In an extensive interview with *Politique Internationale* (11 March 2004), he speaks of a terrorist threat from an unstructured global network of groups whose numbers are “growing all the time... recruited from a population impregnated with jihadism and particularly sensitive to the crises which are devastating the Near East.” He complains, “We have no identification typology.... We proceed along a shifting terrain the nature of which can only be identified after the event.”

His interviewer exclaims, “Is it hopeless then?”

The judge catches himself and lauds the efficiency of the “excellent cooperation within Europe and on the international level ... which enables us to keep the risks down to a minimum.” He says that the “jihadist fight is nourished by an irreducible, unthinking hatred of the United States.”

Bruguière’s depiction of a nebulous terrorist threat identifies broad layers of society as the potential enemy, not just Muslims but all those opposed to the militarism and colonialism of the imperialist powers and the accompanying destruction of living conditions and democratic rights. Hence the blanket surveillance of the entire population provided for by the new anti-terrorism law.

Despite passing references to political and social conditions out of which develop terrorist sympathies, Bruguière is not interested in the plight of those whose lives are being decimated by poverty, colonialism and war. In this he is fully in line with the law-and-order approach of Nicolas Sarkozy, would-be presidential candidate and chairman of the ruling UMP (Union for a Popular Movement). Bruguière, soon to retire as a judge, is standing in the legislative elections in 2007 as a UMP candidate.



To contact the WSWS and the
Socialist Equality Party visit:

wsws.org/contact