

Meeting with Chuck Fager

Theme : No Torture/ no Impunity : Non à la torture, non à l'impunité .

Discussion linked to an appeal for the involvement of European people and people from elsewhere in opposing torture in the years to come. Chuck professes not to be aware in detail of human rights activities in Europe, but he hopes to interest members of ACAT and to increase his knowledge of European human rights organisations through the series of meetings he has been holding here.

Text of Chuck's talk :

No Torture/ no Impunity

On the trail of new Pinochets

I heard Scott Horton, an eminent American human rights lawyer, say that the current regime of state-organised torture would end on 20 Janvier 2009 when the new (American) president takes office. He had been at several meetings between the principal candidates and senior army officers and interrogators about ending these practices: all the main candidates seem to be ready to end torture.

That seems like good news but there is reason to be cautious. The present President of the United States uses torture as a weapon. The next president could set aside that weapon and say "I won't use it"

That would be OK, but not good enough: the weapon would always be there, the covert "industrial torture machine", That is the private organisations and agencies under contract to the army and the CIA, will still be well entrenched and beyond the reach of public control. And the temptation for a president to revive the use of torture as a weapon would be there sooner or later: another terrorist attack, in reaction to political pressure etc; temptation and power always go together.

What we want is for this weapon to be put beyond reach of those who govern America. How can we achieve this?

I don't have an infallible solution, but I believe that we need to campaign simultaneously within and outside the United States ; and moreover that the most important efforts will come from outside.

WITHIN THE UNITED STATES

Pressure on the new administration and on Congress.

There will certainly be pressure, but I'm not very optimistic about its effects : Congress usually compromises, and the complex of industries involved in torture and in the military is very powerful. (The complex of torture industries is not recent – it has been developing since the 1950s). For many years they have lied with impunity to Congress and to the public. I guess the most likely result of pressure will be lots of talk, cosmetic changes but great reluctance to change anything significant.

OUTSIDE THE USA

The primary objective is to achieve the application of international legislation against torture, to make sure that the cost and consequences of being involved in torture are too grave for governments to want to use it. Defenders of human rights and American anti-torture activists can campaign at this level.

Of course, this kind of action has already begun, and it isn't surprising that an early example came from France – when the ex-Secretary of State for Defense was forced to leave Paris suddenly last October to escape accusations of war crimes. I hope that similar actions will be repeated often in many countries.

The case of Pinochet is a model for this. The Spanish judge Baltasar Garzon issued the arrest warrant. A British magistrate enforced it. The arrest and detention of Pinochet were followed by actions which resulted in his loss of immunity for him and many of his associates, and which enabled the recovery of millions of dollars of stolen money.

To return to the subject of torture in the United States, the list of suspects is much longer than you might imagine, beginning with elected politicians holding very high office, but also including members of ministerial bureaux, those who work with those offices, in particular lawyers who have justified or organised torture programmes.

Then there are numerous high-ranking military officers and in lower ranks who put the policy into practice, doctors and psychiatrists who have helped with interrogations.

Also there are members of other governments who have co-operated with American torture programmes, private companies under contract to governments, such as Blackwater, who have set up illegal secret armies.

And then there are individuals within civil society who have supported torture, such as some clergy and right-wing activists, whose names could be made public, subjected to public disapproval and accused of complicity.

Very many of those responsible, above all those at the highest levels, know very well that they are potentially vulnerable. At the moment, until the end of the current administration, their main aim is to gain immunity. It's been a classic tactic since pro-torture regimes have operated: those responsible seek legal protection from prosecution. Given the weakening of the legal system in the USA I think they have a chance of succeeding.

But the United States is still part of the global community. Assurances of immunity given by a President, or amnesties, won't apply outside American frontiers. Prosecutions and other legal actions would be possible. Obviously international processes may not reach everyone on the list, perhaps particularly those in the highest places. Meanwhile judicial action and cases against even a small number of those responsible at lower levels who circulated orders or of the generals who acted on them would be a powerful deterrent.

I believe this is the way to smash the weapon of torture – making its use hazardous for its practitioners. When the liberty and wellbeing of torturers is put at risk their will to practise torture will be weakened. And without the co-operation of practitioners those who sanction torture will have fewer ways of putting it into practice.

The actions of judge Garzon against Augusto Pinochet seem to me to be a good model. I've learnt with great interest that he plans to bring a similar action against the current American President.

Meanwhile there are large numbers of senior Americans sanctioning torture who also deserve to be on his list and I hope very much that he (and you too) will not forget the people lower down who carried out the orders of their superiors.

The charges in Munich against the pilots of the company "Aero Contractors" which works for the CIA from its HQ close to our Quaker House in North Carolina is another good example. Yet another is the charges by an Italian judge in 2006 against 26 CIA agents implicated in the kidnapping and torture of Mustafa Osama Nasr.

Even though the current American administration has taken no notice of these charges, we can reasonably hope that its resistance will begin to crumble within a year. These inquests are, I do hope, just a beginning.

If the pilots, generals and lawyers admit their involvement in the rendition and torture and put their careers in jeopardy, the number of volunteers for such missions will decrease. And even if the prosecutions only involve middle-ranking officials or military officers the fear of prosecution will spread more widely. I hope that the accusations will be continued and widened in the coming year. And let's not forget the doctors who have participated in torture or the lawyers who have dishonestly tried to justify it.

I appeal to other judges, prosecutors and concerned citizens like you in France and in the EU as well as in other countries to make yourselves aware of the inquiries and prosecutions. And when 20 January 2009 arrives, I hope you will be ready to join in an international campaign to restore justice in the United States.

I make this appeal simply to underpin the application of international law. It is in a very personal sense an appeal for aid. For the last 7 years the American style of government and its respect for law and human rights have been tragically undermined. I say this with deep shame and sadness – but it's a fact.

I and my colleagues together will do what we can at home, that I can promise. But I do fear very much that our justice system may have lost its capacity to cleanse itself of this bad infection. Our two major political parties are heavily implicated in these crimes. The courts have been overrun by partisans of the regime. Until recently the media have paid little attention to the problem. So if America is to regain its tradition of respect for human rights and if the world is to be protected from the disastrous consequences of American imperialism and military action the most important help will come from the international community. And from whom better than the active citizens in France and other countries who work with ACAT ?