



**Guantanamo Briefing: From Crisis to Solution**  
**Friday, May 10, 2013**  
**10:00-11:00am**

**Briefing Co-sponsored by Congressman Connolly (VA-11), The National Religious Campaign Against Torture, New America Foundation, and The Constitution Project**

Statement of Center for Constitutional Rights Attorney Pardiss Kebriaei

Thank you to Representative Moran, the co-sponsors, my fellow panelists, and all of you for being here.

I've represented men at Guantanamo and been going down to the base since 2007. One of the first men I met was an Algerian by the name of Djamel Ameziane, who has been held without charge for over 11 years, like most of the 166 men who remain. In 2008, during the course of his habeas proceedings in district court, the Justice Department under President Bush conceded that there were no longer any "military rationales" for Djamel's detention. In 2009, the Obama administration's Guantanamo Review Task Force unanimously approved him for transfer, along with dozens of other men.

Yet as we speak, Djamel is in solitary confinement in a cell at Guantanamo. He is now 46 years old. He has lost over a decade of the most productive years of his life. He is a son and brother to family members who haven't seen him since 2002, who buried his father while he has been in prison thousands of miles away. His detention continues indefinitely, despite that he has never been charged and will never be charged, despite that two administrations have determined that his detention is not militarily necessary.

Last week, we got a letter from Djamel. He is on hunger strike, like most of the men at Guantanamo. He wrote that he has lost over 50 pounds. He wrote of a recent medical visit, where the doctor told him that when his body reaches the point of deteriorating, he will be forcibly fed with a tube and restraints. For the past four weeks, he, like most of the men, have been forced into their cells for 22- to 23-hours a day, after living in communal conditions without incident since 2009, after the Obama administration ordered a review of conditions at the base to ensure that they were Geneva Conventions-compliant. He described the situation as "unbearable," like "our first days at Guantanamo." "All of this for the crime of going on a hunger strike because we no longer want to be abused," he wrote.

Djamel's continued detention and pain are senseless. The NDAA's national security waiver allows for the transfer of men like him – the 86 men whose detention the administration has determined is no longer necessary, and where any security risks can be mitigated. Senator Carl

Levin wrote in a letter to the administration this week that the waiver provision provides a “clear route” for transfers to third countries in appropriate cases, and was meant to ensure that the certification requirements under Section 1028(b) do not effectively bar all transfers. Before those requirements were enacted, the administration successfully transferred about 70 men who had been cleared to their home countries or to third countries. Their transfers were pursuant to agreements between the United States and receiving countries that included security measures, which our clients accepted. The same types of agreements could satisfy the waiver provision under Section 1028(d) of the NDAA. The Secretary of Defense can and should exercise his authority to certify transfers under that provision.

Nor do Djamel and other men who have been approved for transfer remain detained because they have nowhere to go. Of the 86 who have been approved for transfer, about a dozen men fear persecution in their home countries and need resettlement, like Djamel. In 2009 and 2010, there were a number of countries in Europe and elsewhere that offered safe haven to men who could not return home. The problem now is not that countries are all unwilling to take people in, but that the administration has stopped asking, and backtracked on the promise of closure that galvanized the support and goodwill of the international community in 2009.

Early this year, for example, the administration closed the office of the State Department’s Special Envoy that had been tasked with negotiating with other countries for the resettlement and repatriation of cleared men. That office should be reopened, and more broadly, the administration should appoint a senior official in the White House to spearhead the process of transferring detainees, as Senator Levin and others have recently called for.

The administration should also lift its self-imposed moratorium on all repatriations to Yemen that has been in place since 2009, ostensibly without review. Of the 86 men who have been cleared for transfer, 56 are from Yemen, many of whom want to return home. They are individuals with their own backgrounds and circumstances, whom we need to stop treating collectively, based solely on their nationality and conditions in their country, and start viewing individually. That shift can start with the President himself, by lifting the ban the UN’s top human rights experts recently condemned as a “clear violation of the principle of non-discrimination.” The costs of maintaining the ban should have been evident last year, with the death of a Yemeni man by the name of Adnan Latif. Mr. Latif had been approved for transfer by the Bush and Obama administrations, a federal judge in this district had granted his habeas petition, and yet he remained at Guantanamo because of the administration’s own policy. He, like the men now, had gone on hunger strike to protest his detention. He, like over 20 men now, was force-fed as a life-sustaining measure. He died, leaving behind a teenage son he had not seen since the boy was three.

There are Yemenis like Adnan who remain at Guantanamo. They include men like Mohammed Al-Hamiri, who I met when I was at the base last month. Mohammed landed at Guantanamo after being captured by local police in Pakistan, not US forces, and likely turned for a bounty, like most prisoners ever held. He has never been charged. The Obama administration has unanimously approved him for transfer. When we met, he was 107 pounds and is being forcibly fed. He went on hunger strike before the current crisis, after Adnan’s death. The administration

failed to act in time for Adnan, but there is a moment now, a window of time, where we can do things differently.

In parallel with taking immediate steps to effect transfers, the President and the Secretary of Defense should also address the current conditions in the camps, which have regressed dramatically. In 2009, the President ordered a review of conditions at Guantanamo to ensure compliance with CA 3 of the GCs. The DOD team tasked with the review specifically found that “further socialization would be essential to maintaining humane treatment over time,” the key aspects of which would include more human-to-human contact, recreation with several detainees together, intellectual stimulation, and group prayer. Conditions now have moved in the opposite direction. For nearly a month, most detainees have been held in 22- to 23-hour solitary confinement. They are limited to recreation time alone in a small pen. They have been stripped of their books, and deprived of news. They are prohibited from group prayer. These conditions not only call into question the United States’ compliance with CA 3, but they have escalated the crisis and deepened the men’s resolve to continue their strike.

Some of our clients have said they would rather die than live like this – in perpetual detention after 11 years, in now inhuman conditions. But their hunger strikes are not acts of suicide. They are acts of last resort to be heard, and for release.

Thank you.