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WHO'S AT GUANTANAMO, ANYWAY?

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Who's at Guantanamo, anyway?

That's what I was wondering one hot day last July when I walked across a prison yard so silent and sterile as to be a little eerie. Nothing grew in the yard: no grass or flower or tree or even weed. A sailor had offered my escort the formal greeting: "Honor Bound." The soldier returning salute was supposed to respond, "To Defend Freedom," but he mumbled. It's hard to get the word, "freedom" out there.

We were walking toward a hut. Inside was a man chained to the floor. His name was Adel. My firm had filed a habeas case for him the previous March, but I'd never seen him or spoken to him before. Was he a terrorist? One of the worst of the worst?

You might be excused for thinking so. Three weeks before I got to Guantanamo, the Vice President said, "The people that are there are people we picked up on the battlefield, primarily in Afghanistan. They're terrorists. They're bomb makers. They're facilitators of terror. They're members of Al Qaeda and the Taliban." Even Karl Kastle on National Public Radio describes Guantanamo as a "terrorist detention facility."

But something was off, right from the first minute. Something about the young man's gentle smile, his calm didn't fit. On that day last July I discovered what our President, and his lawyers at the justice department, had kept secret from the public, and even from the court. That the military had concluded that Adel was innocent. Not a terrorist. Not an enemy soldier. Not a criminal. Never been on a battlefield. He'd been sold to U.S. forces from the soil of Pakistan, a nation with whom we have never been at war.

That's who's at Guantanamo. And he's not alone.

The Geneva Conventions

Let us begin with a few readings from scripture. Today's lessons are taken from the international law of armed conflict. Here is the first. From the third Geneva Convention. A soldier of the enemy is no criminal. When he tries to kill an American soldier on the battlefield, he engages in an honorable profession. Any soldier, of any enemy. He may be a Nazi of the Third Reich; a suicide bomber of the Empire of the Rising Sun; he may be a Viet Cong fighter who wore no uniform; he may be a member of the Taliban. When you declare a war you make of your opponent a soldier, which is to say, a person of honor. It is not for me to question the wisdom of Congress's decision to authorize the military to go after Al Qaeda and those responsible for the 9/11 attacks. But they did. And under Geneva, the enemy soldier must be treated as our own soldier would, housed, fed, attended by doctors, as a

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soldier would; granted letters from home, as a soldier would; sent home when hostilities end, as a soldier would be.

Here is a second inflexible premise of Geneva. Torture is unthinkable. The prisoner, whether a lawful combatant under article 17 of the third, or unlawful under article 31 of the fourth convention, cannot even be coercively interrogated. That means no beatings, no waterboardings, no smearing of menstrual blood, no threats, no intimidation, no stress positions, no round-the-clock assaults with light or Limp Bizkit or Rotweilers, no withholding of benefits or even promises of privileges.

To round us out, a third rule. A nation engaging in international armed conflict must release prisoners of war promptly upon the end of hostilities, or determination that a given prisoner is not an enemy soldier. This rule follows from the first. You hold a prisoner of war in protective custody to stop him shooting at you. When the shooting stops, you let him go.

For long years, these rules were honored in this Country. No more.

On December 22, 2005, a federal judge ruled in Adel's case. It was the first ruling on the merits of any Guantanamo habeas case. The judge said the imprisonment was illegal. But he went on to say that it could do nothing about it. Adel is a refugee from communist china, a dissident. He cannot be returned there because the Chinese would torture him, or worse. The judge concluded he could not order his release within the continental US, because that would be to infringe on the President's control of immigration.

For the first time in the history of our judiciary, a federal judge concluded that he was powerless to relieve an illegal imprisonment.

Our military has known that Adel is not an enemy soldier for years. It concluded a review process, which was a formality, on March 26, 2005. Three days later, it filed a paper in the court meant to suggest he was a terrorist. The paper fooled the court until we met him last July. That month we asked for his immediate release. The President refused, arguing that he has a "wind up power." Releasing the innocent is "winding up" his warmaking power and so he can do it in an "orderly" fashion. How long does this power last, the judge asked? "As long as it takes," said the president's lawyer.

What authority was there for this? The authority of history, the government said. When World War II ended, it took some time to repatriate the German and Italian and Japanese prisoners of war. This was the same thing. Hearing of this later, one of my partners said, "You should talk to Louie."

Was he a lawyer?

Better: a barber, and like all barbers, an historian.

Louie is an *old* barber – he remembers Boston of 1944, when, before VE day, the Italian POWs had been turned loose on the streets. The resonant fact in Louie's mind half a century ago was that these Italians were permitted to flirt with young girls, a fact made more intolerable by the failure of the young girls to mind.

Turned loose? We dug into the archives. When Italy surrendered in 1943, eighteen months before VE day, Italian prisoners held at Fort Mackay in South Boston could not be repatriated

– the Italian peninsula remained in chaos – but yet they had to be released under Geneva's predecessors, the Geneva Convention of 1929 and Hague IV Convention of 1907. So they were released from the camps, billeted in a soldier's barracks, and given jobs and leave among the community. There were no reports of torture, although there were some of betrothal.

Our Justice Department cited only one written authority for unlimited detention power, an article. We looked everywhere for it. We went to the Boston Public Library and the Atheneum and because up in Boston we have no access to Princeton we had to settle for the Widener Library at Harvard and none of them had this article. Finally we found it, deep in the stacks of the New York Public Library. The article talked about this wind up power. It cited one historical example. This example indeed dealt with the power of indefinite postwar incarceration of prisoners. The example was Joseph Stalin.

If it makes anyone else here a little uneasy when our Department of Justice – when your Department of Justice relies on Stalin as authority for its conduct, you are in good company. The former general counsel of the Navy agrees with you. A major assigned to prosecute a war crimes case writes,

“When I volunteered to assist with this process and was assigned to this office, I expected there would at least be a minimal effort to establish a fair process and diligently prepare cases against significant accused. Instead, I find a half-hearted and disorganized effort by a skeleton group of relatively inexperienced attorneys to prosecute fairly low-level accused in a process that appears to be rigged.”

Who is at Guantanamo?

A professor at Seton Hall this month published a study analyzing the data from the Military's own tribunals. He ignored completely and utterly anything and everything any prisoner or prisoner's lawyer contended. He relied exclusively on the military's conclusions. Here's what he found.

Vice President Cheney says these men were picked up on the battlefield. What do the data show? Five percent were picked up on the battlefield. Ninety five percent were not.

How did we get the rest? We distributed leaflets. Here is a smiling Afghan. He says:

“Get wealth and power beyond your dreams... You can receive millions of dollars helping the anti-Taliban forces catch al-Qaida and Taliban murderers. This is enough money to take care of your family, your village, your tribe for the rest of your life. Pay for livestock and doctors and school books and housing for all your people.”

Eighty-six percent were sold to us by people who got the flyers.

Vice President Cheney says they men are Al Qaeda fighters. What do the data show? Eight percent are al Qaeda fighters. Ninety two percent are not.

Vice President Cheney says they committed hostile acts against Americans or their allies. What do the data say? 55% of the detainees committed no hostile act against the US or its allies or any one else. By the way, “hostile act” is construed extremely broadly. Fleeing

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from the bombing by US forces is a hostile act. Being sold to US forces is a hostile act. Possessing a Kalashnikov rifle is a hostile act. It has been estimated that there were upwards of 10 million Kalashnikovs in Afghanistan in 2001, and only 8 million adult males. An adult Afghan male who hadn't possessed a Kalashnikov was harder to find than an adult Texan male who hadn't possessed a hunting rifle. If you walked into a restaurant in Kabul, you found Kalashnikovs hanging on the coat rack.

So how many, say, fired a shot at US forces? A vanishingly small percentage.

For 60% of the detainees, the only hook by which they are deemed enemy combatants is that they were "associated with" the Taliban. But you have to understand that in 2001 in Afghanistan, the Taliban was pervasive. Except in a few strongholds of the Northern Alliance, they controlled every village, every town, every guesthouse. If you traveled to Kabul and stayed in a guesthouse, you associated with the Taliban. If you were conscripted against your will into a Taliban militia, you "associated with" the Taliban. For two Saudis held at Guantanamo, their association with the Taliban is that the Taliban held them in prison as enemies of its regime.

I'm not making this up.

Who's at Guantanamo? Privates, orphans, the poor, conscripts, cooks, drivers. The mayors, the ministers, the Taliban generals – they're not there. Take Sayed Rahmutullah Hashemi. He joined the Taliban as a young man. He became a party spokesman. Osama bin Laden came to his office. Is Rahmutullah at Guantanamo? No. He is a Freshman at Yale.

Some of his former Taliban colleagues are now in the Afghan parliament we helped create. The desperately poor kids they employed as drivers and cooks sit in Guantanamo.

The last lie, the whopper, the huge one, is that Guantanamo holds terrorists. The President, the Vice President, their amen chorus in the Senate, they all tell you relentlessly, that these people are terrorists. I don't say that there is no terrorist there, although four years later not a single person has been convicted of a single terrorist act – but when you review the data, when you search it for anything remotely like a terrorist act – an act of violence against persons or property, when you search the military records for bombing or bombmaking or the teaching of bombmaking or the fundraising for it – when you search hundreds and hundreds of military records for this, you find that that is, most of all, who *isn't* at Guantanamo.

Here let me make a confession to you, not as a lawyer, but as a citizen. If there is anyone in Guantanamo who conspired in the 9/11 murders, then I would like to see him tried. If he is guilty I hope he is convicted. If tried and convicted by a court martial duly constituted under the Uniform Code of Military Justice, I would shed no tear for the ultimate sentence.

All that we lawyers have been asking for, for four years, is a hearing. A chance to show whether someone really is an enemy combatant or not.

Odd things used to happen when Guantanamo cases used to come up for an actual hearing, and there was a chance of finding out who's at Guantanamo. Shafiq Rasul is an example. After the government had worked to dismiss the habeas case, and succeeded, and succeeded again, and through two years held Rasul in prison, what happened after his case came under Supreme Court scrutiny?

They released him.

What happened to Moazzem Begg? Another worst of the worst? What happened to Moazzem Begg after the fortuity that he happened to get a lawyer and she started doing the fearless things lawyers do, and the story of what our government had done to Moazzem Begg became public?

They released him.

Mamdouh Habib?

When the story of his torture in Egypt surfaced, they released him.

They told us these people were the worst of the worst, and yet rather than prove it, rather than protect you and me from them, they released them before a judge could see any facts.

The Nazi war criminals were tried in the sunlight. When Robert Jackson summed for the prosecution, he said this:

“Of one thing we may be sure. The future will never have to ask, with misgiving: “What could the Nazis have said in their favor?” History will know that whatever could be said, they were allowed to say. The extraordinary fairness of these hearings is an attribute of our strength.”

The world has never doubted the judgment at Nuremberg. But in no Gitmo habeas case has the President been willing to let a federal judge hear a single fact about the worst of the worst.

The War on Terror

I invite you to examine for a moment this global war on terror. The proposition is that so long as an undeclared global war is pending against a common noun, the President has the following powers.

First, he can seize anyone, anywhere in the world, and transport him or her to Guantanamo Bay, where he may hold him without criminal charge or process. He may do so even after he has determined that the person was taken by mistake, as in Adel's case. As long as the war on terror lasts.

Second, he can bug your phone, or your computer, or your bedroom, without a warrant, as long as the war on terror lasts.

Third, although on December 30, 2005 he signed an act of Congress that forbids anyone in our government from participating in torture, anywhere on earth, he can ignore this law as long as the war on terror lasts.

So I want you to ask a question. How long will the war on terror last?

One way to get a sense of how long it will last, is to consider how long terror has lasted already.

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We can all agree that terrorism has flourished in the Middle East since the Balfour Declaration in 1917. Palestinians engaged in terrorist acts against Jews and, latterly, Israelis. Israelis, and before 1948, Zionists, engaged in terrorist acts against Palestinians. Palestinians murdered 59 Jews in Hebron in August, 1929, to pick one obscenity from a thousand. The Israeli Baruch Goldstein murdered 29 Palestinians at prayer in February 1994, to pick another from a thousand more.

How far do you want to go back with terrorism? To Tsarist Russia, when the “anarchists” – we’d call them terrorists today – attacked civilians and in 1881, murdered Tsar Alexander II?

To 1867, when the Fenians, precursors of the Irish Republican Army, began bombings in England?

To the Paris of the 1790s, when the Committee of Public Safety wreaked havoc on civilians – a time known as the “Terror?”

To 1717, when the pirate Blackbeard terrorized Charleston, South Carolina?

Shall we go back to the 17th Century, when the murder of civilians, the destruction of homes and crops and livestock was the commonest form of conflict on this continent between the indigenous people and the invading Europeans, and an English general won naming rights for a small college in my home state – perhaps you’ve heard of Amherst – a general whose chief exploit was the deployment of bioterrorism through distribution of smallpox-infested blankets to the natives.

Shall we go back to the late 15th Century, and ask the Arawaks – if we could find one – whether terrorism was practiced by Columbus?

Or shall we simply go all the way back to the Zealots, in the 1st Century A.D., murdering Romans and Jewish citizens viewed as collaborators?

How long has terror lasted? Since history was recorded.

Where is terror today? In Chechnya and Tibet, in India and Indonesia and the Philippines, the Basque areas of Spain, Somalia, Rwanda, El Salvador, in regions of Turkey, all over Iraq, Israel, the Palestinian territories, In the 16th Street Baptist Church in Birmingham, Alabama. In Oklahoma City. In a farmer’s field in Pennsylvania and on Manhattan Island.

You never quite know who might be a terrorist. Egyptian President Anwar Al-Sadat in the 1940s founded a “murder society” to attack British civilians in the canal zone. Ariel Sharon, stood at the gates of Sabra and Shatilla. Menachem Begin, another Prime Minister of Israel, in 1946 he blew up the King David Hotel in Jerusalem and laid waste to the village of Deir Yassin.

We need to acknowledge, if we are thoughtful people, that terror is everywhere, and has been with us always, and involves all kind of people who later get called “men of peace.”

My point is not that we should not struggle against terrorism. It is to ask, does any person in this room, does any single thoughtful person on this campus think she will live to see the *end* of terrorism? And thus the end of the global war against it? Do you think you’ll watch on TV as the Emperor of Terror comes aboard a Navy warship to sign the instrument of

surrender? A phenomenon that has run down from the 1st Century to the 21st, you think George Bush is the measure of? Your grandchildren will never see that ticker-tape parade. So can we at least be honest with ourselves. When we say the President has special powers during the global war on terror, we are saying he has them forever. Always and forever can the President lock people up at Guantanamo without meaningful judicial review. Always and forever he can ignore the Congress's ban of torture, as he vowed to do last December 30. Always and forever he can ignore the FISA court, and tap your phone, download your I-Mac, and go snuffling through your trash. Especially here. There are all kinds of strange people wandering around old Nassau with funny hats on their heads, talking strange languages. Muslims, I hear. Who knows what they're up to? And the non-Muslims talk to the Muslims sometimes. Better bug their phones too. Or maybe we should just detain them. Take them to Guantanamo, where the writ of habeas corpus has been abolished.

The Writ of Habeas Corpus

Now what is habeas corpus? A quaint Latin subjunctive, I used to think, the last refuge of a serial murderer who has exhausted all the courts of Texas or Florida.

But the writ of habeas corpus is much more than that. For seven centuries it protected the least of us from the greatest, the humble subject or citizen from her king or president. Its roots run back to Runnymede itself. This ancient common-law right is so important that it is the only one singled out by the Constitution of the United States for recognition.

Habeas is this simple proposition: that whenever it imprisons a human being, the executive can be required to justify that imprisonment in law. Power, desire, fiat – these are not justifications. There must be law. And if there is no law, a judge must order the prisoner freed.

You'd think that point was settled. And yet we find the President's lawyers advocating the proposition that he may seize people on the streets of Sarajevo or Doha or Bangkok, shackle them, hood them, send them to a desert island, and there hold them in prison, forever, without saying why. That he may conduct tribunals in which the defendant never sees a lawyer – or even the critical evidence. We find all of this done in the name of security, under the premise that our generation faces a threat that our grandfathers did not: as if Americans were not killed at Pearl Harbor and Normandy; as if Americans did not fear the U-boats off Long Island or the Japanese Kamikazis; as if Washington felt no threat in 1862 by the encampment of an enemy army at Sharpsburg, Maryland, fifty-six miles away. And we find, on December 30, a pliant and docile Congress, a parliament of mice, doing his bidding and trying to abolish a legal right that has been a hallmark of freedom for seven centuries.

The Uighurs

Which brings me back to Adel, who is a strange footnote to this whole sordid business. He is at Guantanamo this afternoon, and will be there tonight, and when you wake up in the morning, and the next day, and the next.

Adel's case demonstrates it's all a show. It doesn't matter whether they are enemy combatants or not, whether the military tribunals clear them or they don't. They sit in prison at the President's pleasure anyway.

But the Uighurs are a distant people. They come from a part of central Asia none of us has ever seen. And in the dark corners of our hearts, maybe a few of us are willing to forget that these Uighurs bleed if you cut them, that they have children, and parents and wives, that they long for a good joke and nice lamb kebab, and a six-year old to wiggle in the lap, and a garden to dig in, and the noise and clatter of a family meal, and the touch of a hand that wears no rubber glove. If a few Uighurs get caught up in the war on terror, well, stuff happens. Small price to pay, eh?

Captain Yee

So let's talk about the price in more approachable terms. Since we are in the Garden State, let's talk about a real son of New Jersey. His name is James Yee. He used to be a captain in the United States Army. Yee is an all-American story. Lutheran church. High school wrestling team. Joined the long gray line at West Point.

In his twenties he converted to Islam. He was assigned to be the chaplain at Guantanamo Bay in 2002. In September 2003, in Jacksonville Florida, on his way to join his wife and daughter on his first leave from the base, He was arrested. They took his papers and his laptop. They cuffed him and hooded him as they do to the Guantanamo prisoners, and they took him to the brig at the Charleston Navy Yard, where he was put in solitary. He was charged with treason, with aiding the enemy, and with taking classified information from the base.

Imagine being Captain Yee for a moment. You have sworn an oath to defend the constitution. You have promised to do so with your life. You have devoted your whole education, your entire career, to the Army. You have been promoted to captain. And in the space of 24 hours you are put in solitary confinement, accused of betraying your nation, and held to face the death penalty.

Base Commander Major Gen. Geoffrey D. Miller led the charge against Captain Yee. This is the same General Miller who exported Guantanamo torture tactics to Abu Ghraib. Who recently beat a retreat to the Fifth Amendment during the courts martial of soldiers under his command. General Miller was up to his medals in Captain Yee's case. He all but wrote the press release. And how the press responded – they bayed for Captain Yee like hounds. It was all over Fox and CNN and USA Today. Traitor ! Terrorist! Muslim! Classified documents! They staked out his home in Seattle. They interviewed his neighbors. Yee's wife was frightened half to death. General Miller's people told her he was a terrorist, he was disloyal, he was having affairs with other women.

After a month of this hysteria, Captain Yee's lawyer made a request. The classified documents that my client took from the base, may I see them? No, said the military. The lawyer is a former Lt. Commander in the Coast Guard, but the military said, you don't have clearance. All right, said the lawyer, show me the nonsecret documents. We haven't determined which is which yet, said the military. This was more than a month after Capt. Yee had been thrown in solitary. Chew on that one for a bit.

The lawyer pressed for a hearing, the prosecutors for delay. Captain Yee's solitary imprisonment continued.

But here is the difference between Captain Yee and my client, Adel. Captain Yee is a citizen. The government has not yet succeeded in stripping all rights from citizens. They've tried –

ask Messrs. Hamdi and Padilla – but they haven't yet succeeded. There is, at least in theory, still a constitution that protects citizens, global war on terror notwithstanding. So finally the military judge insisted that the government proceed to trial. At this point, what did General Miller do? First, he came skulking around for a deal. Plead guilty and we'll reduce the sentence. But General Miller was dealing with something unfamiliar to him: a man of honor. Captain Yee said, you can throw me in solitary for seventy days or seventy thousand, and I will not plead guilty. You charged me with treason, General. You threatened me and my wife and wrecked my career. Bring it.

He didn't bring it. General Miller dropped it. The treason, the classified information, the aiding the enemy. All dropped. He didn't proceed to trial on those charges, or lesser charges, because there was no evidence, none, of the slightest wrongdoing. There was never any evidence. Not a shred. Not one iota. Not a single witness. Not a single piece of paper. Nothing. Ever. From beginning to end it was a public relations exercise, a conscious and deliberate falsehood, a lie conceived and prosecuted by the architect of Abu Ghraib, Major General Geoffrey D. Miller. Please remember that name. It deserves to be remembered.

When the charges were dropped, it wasn't much of a story on Fox, or CNN, or in USA Today.

Did General Miller apologize to this Army Captain, this officer under his command whom he had betrayed? Whom he'd thrown in to the brig for 76 days? No, he slunk ahead with one last charge: adultery. Adultery is indeed an offence under the Uniform Code of Military Justice. In the military it generally is ignored. Sometimes there are quiet administrative reprimands. There's your war on terrorism: a trumped up charge against a Muslim, with a lot of noisy press, followed by a shameful retreat, and one last parting shot, a mean-spirited adultery charge. That is your government, hard at work on the war on terror, here in New Jersey.

The adultery was reversed, by the way, by a more senior general.

Why Care?

Now you might ask, why care about this? I don't mean legally, I mean ethically. Why volunteer your time to represent these men? It's the war on terror, isn't it? So what if somebody is roughed up a little in Kandahar or Bagram – there are horrors in Darfur and New Orleans. So what if a few Uighurs pay the price – we have reservists from Vermont losing mortgages. Injustices abound in the world. Why care about this particular one? The question ought to be asked.

I can tell you why the JAG officers care. Because of American troops in the field. You want 19-year-old Americans treated like human beings? Or do you want to see Iraqi thugs dressing up prisoners in Gitmo orange and cutting off their heads on the Internet? Does anyone think there isn't a connection? Not JAG.

With me there is another point, and I make no bones about it. I want my flag back. My country has been hijacked and I want it back. If we care about being a civilized people, then it is precisely in times of fear that we have to hold fastest to our rule of law. We already have the tools to deal with fanatics who blow up buildings and murder the innocent. We knew how to deal with Timothy McVeigh and not surrender our souls.

During the Viet Nam war, a protestor stood outside the White house, with a candle. Every night, for weeks. He stood in the cold, in the rain. One day a reporter came up to him, and asked, "Do you really think, with your candle, you're going to change White House Policy?" "No," he said, "I'm sure I won't change White House policy. But that's not why I'm doing this."

"Then why are you doing this?" the reporter asked.

"So that White House policy doesn't change me."

Can I bring you any good news? Only a little. Adel's story made its way to the press, and thence to Sweden, where a Uighur woman was living as a refugee. On July 28, 2005, I listened on a telephone as she wept. She is Adel's sister, and for long years thought he was dead. You see, no one knows who is in Guantanamo. A few weeks later, with the help of some judicial pressure, we organized a very unusual event at Gitmo. A phone call between these two people, Adel and his sister. I saw Adel again late in August, after that call. The sleepy-eyed man had come to life. Before, he told me, "it was as though I had evaporated from the earth." A phone call – so small a thing.

Closing

May I say, by the way that you have invited to speak to you this afternoon the least competent lawyer in America. This is a rather dismaying to me, and not without its disagreeable implications for the Wilson School, but it is an objective fact. Incompetence may be all around you, but only I have failed to obtain release of men whose imprisonment a federal judge says is unlawful. And so I count myself lucky to have received your invitation, and fear you may think me ungracious if I close with you truthfully.

Because the truth is, I hold you responsible for Guantanamo. Personally. Until you close it down, you're the ones keeping it open. It is no good wringing one's hands about the Bush administration. Democracy is the civic expression of the law of principal and agent. You and I are responsible for what he does. If at Bagram Air Base they murder a taxi driver called Dilawar by hanging him from his arms, if at Abu Ghraib they leer at naked men stacked like cordwood and take their photographs, if at Guantanamo they leave a man in solitary confinement until he talks to himself and tears the hair from his scalp, if a woman smears on a devout muslim what she says is her menstrual blood, if they ship a man to Egypt and there make shift to drown him until he signs a confession, if they use the strappado on a man in Morocco, if they imprison men in secret even after their own tribunal has acquitted them, and hide that fact from court and countrymen, and if you and I have not done all that we can to renounce this, and to stop it happening – if we have not written and telephoned and emailed our congressman and our senators and our president and our local newspapers, and if we have not given a hundred dollars or fifty or even ten to Amnesty International and the Center for Constitutional Rights, then you and I are responsible for it. We might as well have done it ourselves.

"Things fall apart; the centre cannot hold," Yeats wrote. "Mere anarchy is loosed upon the world ... The best lack all conviction, while the worst Are full of passionate intensity."

The best lack all conviction. We make wars for lies and the best do not demand the truth. We watch our young men killed, maimed, paralyzed every day and the best do not demand an end. A habeas corpus judge rules that innocent men are held at Guantanamo and eight days

later the Congress abolishes habeas corpus. The best lack all conviction. We drop bombs on villages in Pakistan oblivious even to our own interest. Do we think the dozens of women and children slain that day had no fathers, brothers, sons? Do we not think that for every enemy it struck down, America in that bombing gave birth to a dozen, two dozen, to fifty people sworn to hate us forever, sworn to believe forever the worst that is said of us?

The best lack all conviction. That is the problem.

A nation that hides behind the high water mark and permits its stewards to act like animals so long as they do it just over the horizon is not a strong nation, but a puny and a feeble one. And it is a damned foolish nation if it does not think it will soon reap at home what it sows abroad.

The rule of law is not coming back on its own. It will come back only when the best get conviction again. When you go out and grab hold of it by the ears and drag it back. In the ballot box and the courtroom and the newspaper and the classroom and the public street. You in this room are young and bright and strong and you can, if you choose, drag it back. But only if you have conviction.

I have a favor to ask. Can you remember where you were in January, 2002? Think back. Now reflect for a moment on what has happened in your life since then. Where you've been. What you've done. Whom you've loved. Who has loved you. With me? Have that in mind? Okay, here's my request. On behalf of Adel, who is a real man, with real people to love, and real people who love him, grant me thirty seconds. Imagine that none of those things in your life happened, none of those events, because every single one of those days since January 2002, you had been cut off in a prison, just outside the map of the world. Even though the military determined there was no basis to hold you. And imagine the Congress of the United States voted to deny you the chance to ask a judge to make it right. Spend thirty seconds thinking about that.

Thirty seconds is longer than you think. Thank you. I am grateful for that half a minute. And for your kind invitation to come here today.

So who's at Guantanamo? The truth is, the answer to the question, is – You. And me. Until we shut it down, it imprisons all of us.

One more thing. I was last at Guantanamo in January. As my escort led me into the prison facility, to Camp Five, where I was to meet a client, we saw big construction cranes against the sky. You see, they're building Camp Six.

Thank you very much.

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