

THE RULE OF LAW ORAL HISTORY PROJECT

The Reminiscences of

Pardiss Kebriaei

Columbia Center for Oral History

Columbia University

2013

## PREFACE

The following oral history is the result of a recorded interview with Pardiss Kebriaei conducted by Gabriel Daniel Solis on February 2, 2012, and by David P. Briand on October 4, 2013. This interview is part of the Rule of Law Oral History Project.

The reader is asked to bear in mind that s/he is reading a verbatim transcript of the spoken word, rather than written prose.

VJD

Session One

Interviewee: Pardiss Kebriaei

Location: New York, NY

Interviewer: Gabriel Daniel Solis

Date: February 2, 2012

Q: Today is February 2, 2012. I'm here with Pardiss Kebriaei, in your office at the Center for Constitutional Rights [CCR], and we're doing an oral history interview for the Rule of Law Oral History Project at Columbia University.

Thank you, Pardiss.

Kebriaei: Thank you very much.

Q: If you could start by telling me a little bit about your background, your upbringing, and where you went to school. I saw on the website that you studied cello performance, so I'm interested in where you grew up, how you eventually got to study cello, and how you eventually ended up here at CCR.

Kebriaei: Sure. Well, my background is Iranian. I was born in Iran and moved with my family right before the revolution in Iran in 1979. We were immigrants and moved, of all places, to Oklahoma. I think it was a bit of a shock to my older sister but I was too young to know the difference. I actually spent my formative years in Oklahoma between college towns. My dad's a professor. We were between Norman and Stillwater, and then we moved to Texas. We moved to San Antonio right before I started high school, so I went to high school in San Antonio and then

left for college. I went to school at Northwestern University, outside of Chicago, and I did play the cello. I majored in history and cello performance. I had picked up the cello when I was in fifth grade and loved the instrument immediately. It was something I kept up during elementary school and high school, and I wanted to pursue it in college.

I majored in music at Northwestern and was always interested in other things—Middle Eastern history in particular—so I pursued a dual degree. That took five years. Then I was at a crossroads as to whether I was going to go forward academically or if I was going to pursue music. My heart is still very much with the cello, but I decided at that point that there were other things I wanted to do as well, and I didn't want to devote my entire life to rehearsing the same bars of music to try to get into an orchestra.

At that point I applied to law school, and I was very torn about that decision. I did it because, to me, the law was and continues to be a tool to promote issues that are important to me like human rights issues and social justice issues. I think where that inclination came from has to do with my parents and my experience growing up. I'm not someone who grew up or went into the law because I necessarily have always believed in the justice system in the United States or because the rule of law is necessarily the driving force for me. It's really the human rights issues and violations that I'm motivated by, and the people who are being violated, and wanting to try to find different ways to work on their behalf. I think the law can be a powerful way of working on their behalf and advocating for them. So that's why I went to law school.

I went to the University of Pennsylvania for law school and graduated in 2002. I went immediately into human rights work. I started out at a reproductive rights organization called the Center for Reproductive Rights, in New York. I was there for five years doing international reproductive justice work. Then this opportunity at the Center for Constitutional Rights came up in 2007, and it was a position with the Guantánamo Global Justice Initiative here. That is not a typical transition from reproductive rights, but Guantánamo was an issue that, obviously, I was very much aware of and following, and disturbed by, since 2001. CCR is also an organization that, as a law student interested in social justice, I'd always been aware of and inspired by, so it was a great opportunity for me at that point.

I started at CCR in the summer of 2007, and I've been here ever since.

Q: So since 2001 you had been following some of the issues around extrajudicial detentions and things like this at Guantánamo?

Kebriai: That's right. Just like everyone, I had seen the images of people in jumpsuits being taken off planes, crouched on the floor, and heard Donald [H.] Rumsfeld talk about how we were detaining the "worst of the worst" at Guantánamo. As a law student at the time, too, I was trying to follow the legal debate about enemy combatants, the laws of war, and the applicability of the Geneva Conventions. It was sort of fascinating as a legal issue because everything was sort of developing and being formulated as we were going, in real time. There wasn't really a framework already established. It was being talked about, debated, and developed as we were speaking. I remember, very much, the images I saw on TV. I was very disturbed by this

incommunicado nature of the detentions, holding nearly eight hundred people on a U.S. military base and just being told by Rumsfeld to trust the government that they were all terrorists. What I was disturbed by at the time has really proven true. As a lawyer, I've gotten involved in these cases and represented men there, and gotten to know them and their stories and discovered, through the process of litigating their cases, the lack of a real basis for so many of their detentions. Also, the torture they've been through has really affirmed my initial fears, and what I was disturbed by as a law student watching all of this.

Q: What did you start to work on when you got here in 2007?

Kebriai: It took me a while to learn the ropes and get involved, but I did have to jump right in in terms of representing men who were detained. CCR has led the coordination of pro bono counsel in the U.S. who represent men at Guantánamo. We filed the first case along with a group of capital defense attorneys in 2002, a case called *Rasul v. Bush*. That case was the first that established the right of the men to challenge the legality of their detention in U.S. courts. That decision in the Supreme Court, establishing that right, came down in June of 2004, so it was only after 2004 that there was actually a right to have a lawyer and a right to bring a case. It was at that point that CCR got a number of requests, and increasingly more and more requests, from lawyers across the country wanting to get involved in representing them.

We led the work in 2002, and then became sort of the coordinating hub for it in 2004 when the right to lawyers and to bring cases was actually established. When I joined, CCR had already been doing this work for a number of years, and was involved both as the central coordinator and

was litigating cases on behalf of a specific number of individuals who were detained. We were directly representing them. When I got here, I was assigned to a few of our cases. I started off with a case on behalf of a Yemeni, a man from Yemen, whose name was Muhammaed Taher. He is one of the few Yemenis who have thankfully been released. That was one case.

I also took on the cases a little bit later on of two men from Syria. One is Muhammed Khan Tumani. They are father and son, actually—Muhammed Khan Tumani and Abd al Nisr Khan Tumani. They are a father and son from Syria. Those cases with those two men have really sort of defined my experience in relation to Guantánamo. They have been absolutely consuming emotionally and intellectually—just in every way consuming. They're also, thankfully, both released and resettled in third countries. I worked on behalf of an Algerian citizen who is still detained whose name is Djamel Ameziane. He's one of the group of men of about thirty or so who is from a country that he can't go back to because of a fear of torture, in large part because of the stigma of his detention. He requires third country resettlement in order to ever be released.

So there were a few cases that I got initially involved in, and then became lead attorney on. Those were some of them.

Q: Do you mind talking in a little more detail about the cases that you mentioned of the three men who have been released—the Yemeni, and the father and son from Syria? I'm especially interested in the conditions of their release and how you were able to negotiate their resettlement, and to where. Also, if you can speak to how they're doing today, if you still keep in contact with them.

Kebriai: Yes, sure. These three men—Muhammaed Taher, the Yemeni, and Muhammed Khan Tumani and Abd al Nisr Khan Tumani, the two Syrians—had something in common, which is that they were among men who have been cleared by the [Barack H.] Obama administration to leave Guantánamo. They had habeas cases that they had filed in 2005 and 2006. They had been trying to pursue those cases, but actually their release came about because of a task force that was set up by the Obama administration when President Obama came into office that was tasked with reviewing the files of everyone detained at Guantánamo and determining who could be released, who they believed needed to continue to be detained, and who should be charged. These three men were among a large group of men who were determined to be cleared to leave. Actually, at this point, there are 171 men still detained, and eighty-nine of them have been cleared. They remain only because, for one, some of them need third country resettlement, so they're stuck until that happens. Furthermore, a great number of them are Yemeni and there's a ban at the moment on any repatriation to Yemen because the U.S. government determines Yemen to be too unstable right now, at this time, to be able to handle their repatriation.

These three guys were cleared and were released. I guess I'll start with Muhammed because he's one of the people who affected me the most. He was released in August of 2009. He was seventeen when he was detained—when he was captured by local Pakistanis in Pakistan as he was fleeing the violence in Afghanistan. He was with his father and they were crossing the border into Pakistan. They were staying overnight in a home in Pakistan. The next day, they were turned over by the individuals they were staying with to Pakistani officials, and then eventually they were turned over to U.S. officials. That happened as part of a practice that was

really common at the time of the U.S. paying large sums of money to Pakistanis to turn over Arabs who were fleeing from Afghanistan. There's evidence of this in the form of fliers, for example, that the U.S. was dropping at the time. One I've seen that is available on the internet is a piece of paper divided into three sections. On the far left-hand side there's an Arab man, in the middle there's a dollar sign, and on the right-hand side there's the Arab man behind bars. Basically the message is, "If you help us put this person behind bars, we'll give you money."

Q: I've seen that.

Kebriaei: That's what happened to them. You know, we say about many of the men at Guantánamo that they were innocent and their detentions were unjustified. But when you've actually sat across from people, shared meals with them, investigated their stories, talked to their families, and really know first-hand—what we've been saying all these years about unjustified, immoral, illegal detentions—it's a different experience. That's what really happened with the Khan Tumanis, for me. Their strength is amazing. What they've endured in prison is incredible. Muhammed was seventeen when he was detained. He was in detention for seven and a half years. He's now twenty-eight or twenty-nine, and he's just now starting to rebuild his life.

It was incredibly painful to represent him in detention, and see him at Guantánamo, and hear about his solitary confinement and his trauma at having been held for years apart from his father, who was with him at Guantánamo, but from whom he was prevented from having any contact at all. They were held in separate camps and were never allowed to see each other. Muhammed and Abd al Nisr both talk about hearing each other in the rec yard, or hear one of them shuffling

down the hall in shackles and feeling the presence of the other person but never really being able to have a meal, or hug, or talk to each other. That was a traumatizing experience for both of them, and continues to be.

Now they're both released. Muhammed is in Portugal and his father Abd al Nisr is in Cape Verde. Muhammed was released in 2009 and Abd al Nisr was released in 2010, so it's been two years since Muhammed's release and a year since Abd al Nisr's release, and they have yet to be able to see each other. The image I have in my mind of Muhammed's release is that the day before he was put on a plane to leave, we had asked for—he had asked, and then I asked the military on his behalf—to be allowed an hour with his father so that he could ask his father for his blessing to allow him to leave. He felt incredibly guilty about the fact that he would be the first to go, and that Portugal had offered resettlement only to him, and not to his father. This moment of release that he'd been waiting years for was, at the same time, incredibly painful because he had to go on his own, and he knew he would have to leave his elderly father behind.

So he asked—we asked—for the military to allow him to see his father and ask for his blessing. They were allowed an hour. I was there. Muhammed was sitting, and we were waiting for his father to arrive. He walked in, in shackles, being led by two guards. The rules were that they could embrace once, upon seeing each other, and once upon leaving. They were allowed two hugs. I had some food so they could have a meal together. At one point Abd al Nisr asked for some water, and Muhammed poured his dad a glass of water and went to hand it to him, and he was told no. Even that level of contact, passing a glass of water, was prohibited.

They had this hour together, and it was both painful to see but also a moment of real beauty in the midst of all that ugliness of what they'd experienced. They had a meal together. They talked. Abd al Nisr gave his blessing. They embraced and, as much as was possible, I think Muhammed had the peace of mind he needed to be able to go.

That's how he left. He arrived in Portugal, and his experience there, I have to say, has been mixed. Certainly I, as his advocate, am thankful every day that he's not in Guantánamo. I think he's one of the lucky few who have been released. But like any human being, release is not enough. He's a young man who wants more. He wants to live his life. He wants to rebuild his life. He wants to go to school. He wants a family. He wants to get married. There really hasn't been a plan in Portugal by that host government to really facilitate all of that the way it should be happening. I think it will happen, and I have a lot of hope for him, but it's been a struggle to just get him the basic rights that he's entitled to, as any refugee would be entitled to. At the same time, it has also been a struggle to educate the government about him and to try to cut away at the stigma that has been attached to Muhammed—like all men who have been released—about just having been at Guantánamo and educating the government about the fact that his detention was not justified. As I was saying, he was cleared by the Obama administration but never went through his habeas case fully. He wasn't ever fully cleared by a court. So, explaining why that's so and trying to explain Muhammed's side of the story in terms of why he was captured and why his detention is unjustified has been a struggle. That's Muhammed's experience.

Abd al Nisr is in Cape Verde. He's an elderly man. He was a cook in Syria. I think he's thankful that he's been released and he's thankful to the Cape Verde government for accepting him, but

Cape Verde is also a country where there are few resources to help someone in Abd al Nisr's situation. He speaks only Arabic, so in terms of having anyone there who can interpret for him, and any kind of Arab-speaking community or any kind of Muslim community—it's totally lacking in those ways. I think he's just felt very isolated. If you can imagine the difficulty of an old man going from prison in Guantánamo to another island, and just being isolated, when his wife and family are in Syria, and his son is across the ocean in Portugal, and he can't even see him. It continues to be lonely and isolating, and just challenging.

Clearly they're both thankful for their release, but they want more, as anyone would. Setting them up in a way that really allows them to rebuild and to heal has been challenging.

I've had less contact with him Muhammaed Taher, who's now in Yemen. Yemen has its own challenges right now. There are just a handful of men who have been released to Yemen, but those who have been released have had trouble finding jobs again and getting the kind of psychological care that they might need. It's been challenging as well, but I think what's better for them in some ways is that they're home, whereas people who need resettlement—these are people who have never lived outside their home countries, and then went from Guantánamo to completely foreign environments and foreign cultures. In some cases, they haven't been able to reunify with their families yet, so I think it's been more challenging for them.

Q: Do you think there will ever be a time when Muhammed and Abd al Nisr will ever be able to come together again? Will they ever be able to be with their family who are still in Syria, and if

not, can you explain what's preventing the obvious kind of necessity of being together with one's family and community?

Kebriai: I think one starting point is the way they were transferred. Typically, under international law, refugees are allowed the right to reunification with their families. The issue with Guantánamo detainees who have been resettled is that they have never really been accepted, fully, as refugees. The men who have been resettled in Europe have arrived on special visas that haven't allowed them the full rights they would otherwise be entitled to as refugees. I think that initial sort of special status they've been given has one thing to do with it. Another is the stigma that's just surrounded them. The way they were received by these host countries has also had to do with the resistance of some countries to just allowing them basic rights that anyone else would—it has prevented host countries from treating them the way they would other immigrants or refugees.

Also, what we believe is that there have been agreements negotiated between the United States and third countries for resettlement, and that some of the terms of those agreements have included restrictions on travel. I don't know that restrictions on family members joining has been written into that, and I don't believe it has been, because I know reunification has happened for some men—but for a situation like Muhammed and Abd al Nisr, because they were both at Guantánamo, by virtue of the restrictions on their travel and because they've both had this stigma to deal with, I think their situation is a little bit special and there are additional barriers that they've had to deal with in terms of being reunified that other men haven't necessarily had to deal with. There are examples in, for example, Ireland and Germany. I think there are some men in

Albania who were married and have children who have been allowed to have their families come join them. But for Muhammed and his father, because they were both Guantánamo detainees at one point, they've had that to deal with, and the sort of constant supervision and monitoring of both Cape Verde and Portugal to deal with. There have been travel restrictions that have been imposed, or have been requested—I think by the U.S. government—that the host countries have agreed to.

That's the background as to why I think they haven't been able to see each other. They continue to struggle for that. Someday it will happen, but it's going to be a continual struggle, and we'll have to continue working the way we have, just to put as much pressure as we can on those two governments to help make that happen. But I think and I hope it will eventually happen.

As for their family in Syria, I think Syria is going through its own challenges right now as well. So as far as the ability of their family, Muhammed's mother—to leave Syria and join Abd al Nisr, there are security and safety issues they may have to deal with, and it just makes things a little bit more complicated.

Q: As their counsel, do you have any say whatsoever in the terms of their resettlement? They're not public?

Kebriaei: They're not public. They're sort of undisclosed agreements that were negotiated between the U.S. and host countries, and we have not been able to get access to them. What we've claimed is that because there's been a pattern of restrictions in the cases of, I think,

everyone we know who's been resettled in Europe, at least, that that has indicated, or that's evidence that the U.S. is asking for certain, common restrictions, and it's not country-specific—or restrictions that each country is asking for. As for actually being able to see the agreements—there's one case of a man from the Sudan where investigators working on his case somehow got a copy of the agreement for his repatriation and I think we saw some of the terms. If I'm remembering this correctly, some of the terms that were written into his agreement included travel restrictions. From that, we've sort of extrapolated that those kinds of conditions have been asked for and imposed in other cases, but we've never actually seen them.

Q: You worked on the case of *Al-Zahrani v. Rumsfeld*?

Kebriaei: Yes.

Q: Would you mind speaking about that case and what the current status is? I know that recently, maybe last year, you filed an appeal of the initial dismissal of the case. Can you talk a little bit about the background of the case, the grounds for dismissal, and the appeal?

Kebriaei: Thanks for asking about that. Actually, the accountability work that I've been part of and that CCR has been trying to do is an important piece of this, in terms of trying not just to win the release of people, but to hold the U.S. government accountable for what it's done for the past decade. Those accountability efforts have been extremely, extremely challenging in the courts. I think of every case on behalf of someone who's been tortured, wrongfully detained, or killed in the context of this war on terror since 9/11, there isn't one example of a case that's actually gotten

to the merits in court. The vast majority have been dismissed by the courts on grounds that these cases involve, or touch on, national security, foreign policy, and military matters, and that they are issues within the realm of the executive branch and the president, and that the courts should not interfere. That's been one basis. It's called "special factors." Special factors exist in these cases that preclude courts from getting involved.

Another basis is state secrets. The government has been claiming that many of these cases involve sensitive national security information that's classified, and that there's a risk of disclosing information that could be harmful to national security. The courts have been siding with the government in many cases on those grounds. Another ground is just immunity for officials, particularly in the cases of non-citizens who have been detained at places like Guantánamo, or Bagram, or are brought outside of U.S. soil. The government has been claiming that, number one, the Constitution does not extend to many places outside of U.S. soil. The U.S. Supreme Court has clearly established that the Constitution applies to Guantánamo, but as far as violations that occurred pre-2008—which is when *Boumediene v. Bush* was decided, when the Supreme Court said clearly that the Constitution, as far as the suspension clause and constitutional habeas, does apply to Guantánamo—the government has been taking the position in these accountability cases that, "Well, it may have been clear in 2008, because the Supreme Court issued its decision on *Boumediene* that the Constitution applies to Guantánamo," and by "Constitution" I mean just the suspension clause.

But pre-2008, it wasn't clear that the Constitution applied. If there were violations that we're talking about pre-2008 in terms of torture, wrongful detention, and killing, officials couldn't have

known pre-2008 that their conduct violated the Constitution. Therefore, there should be immunity for those officials because they couldn't have known—even if they believed or it's reasonable to think that their conduct was illegal, it's a separate question in terms of whether they knew their conduct violated the Constitution.

There's this bizarre way that the government and the courts have been parsing the law here to say that, basically, in many of these cases, officials have immunity for conduct in violation of the Constitution. *Al-Zahrani* is a case on behalf of the families of two men who died at Guantánamo in June of 2006. There were actually three deaths that occurred that month. We represent the families of two of the men. The military called these deaths suicides. At the time, the day after the deaths, military and government spokespeople came out and made a public statement, and called the deaths "a good PR move," and said they were "asymmetric warfare," and that these men were—you couldn't trust them. Just really callous and unbelievable things. They basically said that they found the men in their cells, hanging from nooses that they had fashioned out of their bed sheets. The military claimed these were suicides. There was an investigation by the military that went on for a couple of years that, ultimately, concluded that they were suicides.

In 2010, Scott Horton at *Harper's* magazine published an article that included the testimony of four soldiers who were stationed at the base at the time who came forward and basically said, "We're not sure that things happened the way the military said they did." That's putting things in a very conservative way, but at a minimum, their accounts seriously call into question whether these men killed themselves or whether they died at the hands of the military. If you read the article and you read their accounts, the alternate scenario that comes together is that these men

were actually transported from their cells to a secret site outside of the main prison camp at Guantánamo, which soldiers at the time called Camp No. If they were asked about whether it existed, they were told to say, "No, it doesn't," so it became known sort of informally as Camp No. The theory is that the men were killed there. We don't know what happened there, or how exactly they died, but their accounts seriously call into question whether they died in their cells, as the military said.

Our case initially proceeded on this premise of suicide. At the time we filed, the only information we had was the military's report that said they were suicides. Our claim was that even if the men had killed themselves, the military was still responsible because they died under the command and in the custody of the U.S. military after they'd been tortured for years, and that their detention was also wrongful. We brought claims for torture and wrongful detention, and the case was dismissed. Right before dismissal but after we'd finished the first round of briefings in the case, Scott Horton's article came out, and we filed a motion shortly after dismissal for the court to reconsider its dismissal on the basis of the new article, and on the basis of this claim that the men actually had been killed, and not committed suicide, as the military had said.

That motion was also denied, so now we're on appeal in the D.C. Circuit [U.S. Court of Appeals for the District of Columbia Circuit], and we're basically just asking—or what the families are asking—is for the court to just reopen the case. We're not even at the point of saying that the court should grant a remedy, or declare that the men were killed, and that what happened was a violation of the Constitution, but just to reopen the case so that the new evidence of these four soldiers' accounts can be considered.

It's an extremely basic request. We're up on appeal on that question. Right now we're waiting for a decision, and in all likelihood the circuit court will agree with the court below and say that the case should remain closed because of the grounds that we were talking about—in terms of if the case has to do with national security, or there's a risk of disclosing sensitive information—that the courts shouldn't get involved. In all likelihood, the case will remain closed. Then it will be a matter of the families deciding whether they want to go forward and petition to the Supreme Court or not.

Q: How is it working with the families? I think it's one thing working with families of people who are still at Guantánamo Bay, and another to work with family members of people who have died at Guantánamo Bay. Can you speak a little bit about how it is working with them, and communicating information to them about the legal procedures?

Kebriaei: Yes. We're in pretty regular touch with the family of one particular person who died. His name was Yasser al Zahrani. He was also a minor when he was detained. He was seventeen when he was detained and he was twenty-two when he died. His father is Talal al Zahrani. We have a video of him speaking about his son and what he hopes to gain from the case on our website, CCRJustice.org. Talking with him, it's hard to get a full sense of everything he's been through. We've come into this case a few years after Yasser died. To really be able to understand what it feels like to have your son—to get word that your son is at Guantánamo, first of all, that he's thousands of miles away in this prison, and you have no access to him, and then to write him letters and get one or two letters in return over four years—I have no idea what that experience

must be like. But then to find out your son has died—and the way he found out was on the news. His family member saw on the news that there was coverage of the deaths in the United States, heard Yasser's name, and called Talal al Zahrani, the father, and said, "I think I heard Yasser's name as one of the men who had died." That's how the family found out. They never got a call from the U.S. government. They still, to this day, have not gotten a call. They were never contacted directly by the U.S. government. That experience kind of speaks for itself. What that must feel like, I have no idea.

We got in touch with Talal and the family a few years after that. When you consider the emotional toll of Yasser's detention and then the emotional toll of the death, being told that their son had committed suicide, and then, four years later, after trying for years and years and years to get answers to know what happened and to get any kind of real information about what happened—to then read this article by soldiers who were stationed at the base where the men were killed article—that kind of roller coaster, again, I think just speaks for itself.

That's what I think. I think a lot about what it must feel like, and I can't possibly really relate to what they're going through, and that we're coming into this in a very limited way to try to help them legally—not even anything very realistic about their chances in court. It's not that they're necessarily going to get justice in court, but it's really just a way of trying to tell the story and get some kind of acknowledgment that a wrong was committed, even publicly if not by the courts. I think that's as much as we can realistically try to do right now.

I guess it's a very long way of saying I don't know. I can't even begin to understand what they're going through. What it's felt like working with them—at times it's kind of disempowering because I, like my colleagues at CCR, want to be able to do more and want to be able to offer more than just saying, "Yes, we can bring a case, but the chances are extremely slim, and your case may not even get reviewed by a court because of these threshold grounds." Just having the responsibility to be up-front and a sort of realistic about that, but saying that to a grieving family who's gotten nothing from the United States government, or the U.S. public for that matter, is just extremely hard for most of them.

I think we have a strong relationship, and I think the family is committed to pursuing the case. They're aware of the limitations, but as they say, they just want the truth to get out, and we'll do everything we can for them through the court and through statements like this just to tell their story, to raise awareness, and, hopefully, to get other people troubled so that they may also look into this and investigate on their own. When you look back on history, it's sometimes only decades later that things have been discovered or revealed. I have hope, again, that something good will come of all of this. If my colleagues and I didn't, then it would be really hard to keep doing this work. But it's difficult.

Q: How do you understand not only the adoption but the in many ways expansion of some of the practices of the [George W.] Bush administration by the Obama administration? You were working on these cases while Bush was president, and then transitioned to Obama. Everyone knows he said on his second day of office that he was going to close down Guantánamo. That never happened. He's expanded the use of drones. What is your understanding of this? I know

that you were working on behalf of Mr. [Nasser] al-Awlaki, so I'm just curious. What do you think about this? If you're interested, you could speak a little bit about *al-Awlaki v. Obama*.

Kebriaei: With respect to Guantánamo, it's clear that Guantánamo is still open. President Obama promised to close it, so I think the fact that the prison remains open and that he signed the National Defense Authorization Act that continues restrictions on the transfer of anyone out of Guantánamo, that makes it practically impossible for people to be transferred out. On January 11, 2012, we marked the tenth anniversary of Guantánamo. That speaks for itself. The prison has continued under two administrations, and despite President Obama's promise on his second day of office, to great fanfare, that he would close the prison, and recognition of the prison as an international symbol of immorality and injustice, it still exists. It doesn't just exist. I just came back from being there, a couple of weeks ago, and it has a very permanent feel. It no longer feels like this makeshift prison where we're meeting with clients in these kind of wooden shacks. It's very concrete, and it's a very permanent feeling. There are all kinds of systems that have now been set up over the past decade, and to dismantle all of those things now feels—it just feels like Guantánamo is going to be around for a long time.

In terms of Guantánamo, I think there has been an absolute continuation, despite the rhetoric. Yes, there have been words and statements that President Obama has made, and I guess the official position of the administration is still that they want to close the prison, but all it takes is just looking at the numbers and just understanding that the prison—there are still 171 people there. It's not just the numbers, but the policy of Guantánamo is still alive and well—to see that there has been a complete continuation.

In terms of targeting policy, I think there has been a significant escalation in practice, and I think that's been acknowledged by many people. It's not just something that CCR is saying. The statistics are, in numbers like in Pakistan between 2004 and 2008, I think, the number of strikes that occurred in the first year of President Obama's term in 2009 were at least double what occurred in a four-year period under President Bush. So it's not just that the frequency of strikes in places like Pakistan has increased, but that the scope of targeting has also increased, so that it's not just Pakistan. First of all, it's not just in war zones like Afghanistan and Iraq, it's not just in Pakistan, but now we're seeing Yemen reports, last summer, of the U.S. setting up a new CIA [Central Intelligence Agency] base from which to operate drones, and in the Horn of Africa. We're seeing strikes in Somalia. There has been a very real expansion and escalation of that policy. Then when you also consider the billions of dollars that are going into the technology and the resources that are being put into training pilots to operate drones, you can sort of see that drone warfare is really going to be the way forward for the U.S.

The *al-Awlaki* case was a case that CCR and the ACLU [American Civil Liberties Union] litigated last year. We represented the father of Anwar al-Awlaki whose name is Nasser al-Awlaki. Before he was killed, our initial case was to challenge a reported authorization that was reported in mainstream papers, despite the U.S. government saying that the whole program is secret and classified. Through a series of coordinated, deliberate leaks, it became known that the U.S. had authorized the killing of Anwar in Yemen, and that he had been put on these secret lists maintained by the CIA and secret military forces called the Joint Special Operations Command.

Our case was actually a very narrow one. It was just to ask the court to establish the legal framework for any use of legal force by the U.S. government against a U.S. citizen. Our position was that in a place like Yemen, the U.S. is not at war within it, or against Yemen, within Yemen against Al Qaeda, and the standard that should apply to any use of lethal military force in Yemen should be a straight constitutional standard where you can only kill a U.S. citizen—well, you can't really kill anyone, but at least it's clear in the case of a U.S. citizen—that you could only kill in the absence of due process, and the absence of charging, and trying, and sentencing that person to a capital offense. You can only kill in cases of narrow circumstances of self-defense. That's where the person presents an imminent threat of deadly harm and lethal force is really a last resort, and that the facts that had been reported—that al-Awlaki had been on these kill lists that are only reviewed every few months at a time, and then, also, the allegations that had been made against him that he was accused of inciting violence through his sermons and statements. Whatever one may think of those, those don't make someone an imminent threat. They may, in terms of some of the statements, be abhorrent, or one may think what they will of the content of them, but that doesn't make someone targetable for killing.

So that was our case. We wanted the court to establish the constitutional framework for the use of lethal force, and to say that the U.S. couldn't kill a U.S. citizen in the absence of due process, other than in the case of an imminent threat. We filed in the district of Washington, D.C., and the court dismissed the case on the same grounds I've been talking about—that the case presented political questions and sensitive national security questions that were outside the competence of the court. The judge also said that our client—the father of Anwar al-Awlaki—was not the

appropriate person to bring the case because we hadn't proven that Anwar al-Awlaki—who was under threat of death and in hiding—couldn't actually access the court himself.

Unfortunately, the case was dismissed in December of 2010. Then Anwar al-Awlaki was killed, reportedly by a CIA drone, in September of 2011—just a few months ago. Anwar al-Awlaki was actually targeted and killed in the same strike as another U.S. citizen, Samir Khan, who was killed but who wasn't targeted, but he was considered collateral damage by the U.S. government. Then, two weeks later, Anwar al-Awlaki's son, Abdulrahman al-Awlaki, was killed in another strike on October 14. He was killed with his cousin. Abdulrahman's death was first reported in the papers as the death of a "twenty-one-year-old militant." The family had remained kind of quiet until that point. Then, when they saw those reports, they felt compelled to issue a statement and to release Abdulrahman's birth certificate and say, "No, actually, this person was sixteen. He was born in 1995, in Denver, Colorado. He was a kid. He was a teenager who had nothing to do with anything." He was killed, and his seventeen-year-old cousin was killed in the same strike. There were a number of other people killed as well. Those are two more examples of the use of targeted killing and drone strikes in Yemen. Those are just two examples. There are other examples of U.S. strikes in Yemen. Given the CIA base there, I think it's clear that the practice is going to continue.

Q: I think we might be at an hour now.

Kebriaei: I think so.

Q: Well, there's so much more to talk about, obviously, but thank you for running through these cases with me. I'd like to maybe come back.

Kebriaei: Sure, absolutely. It would be my pleasure.

Q: Thank you.

[END OF SESSION]

VJD

Session Two

Interviewee: Pardiss Kebriaei

Location: New York, NY

Interviewer: David P. Briand

Date: October 4, 2013

Q: Today is October 4, 2013. I'm interviewing Pardiss Kebriaei for the Columbia Center for Oral History's Rule of Law Oral History Project. Thank you very much for coming.

Kebriaei: Thank you for having me.

Q: I'm glad we were able to do this.

Kebriaei: Me, too.

Q: I wonder if we could start with you in Guantánamo, back in June, at the height of the hunger strike. Could you give a little background as to how that massive hunger strike started, and then what it was like being down there at that time?

Kebriaei: So the hunger strike started in February. February 6 of 2013 is sort of the trigger date that our clients had given us. The literal trigger point was apparently searches—widespread searches of the men's Korans by guards at the base. There had sort of been an escalation in the weeks leading up to that date, of just a change in practices that we heard—just guards and the authorities cracking down in ways that we hadn't seen for years. So there was definitely a tension building, but it really kind of peaked with these searches. It sort of sparked this strike.

You know, of course, the condition of these guys. It's been over eleven years of detention without charge. Frustrations have been building. All this stuff was predictable, but the trigger point was the Koran searches. It set off the largest and longest hunger strike at Gitmo ever. At its peak there were over 130 men. What our clients told us was that most of the men in Camp 6, which was—and now I think the population is divided a little bit differently—but at the time held the largest number of men—over 130. It was a communal camp at the time. They said all but two men had gone on strike—two who were elderly and very sick.

So we said at the beginning, this is a massive strike—prison-wide, over 130 men. In terms of background and how this all—at the very beginning the authorities denied that there was anything of this scale going on. They called it a propaganda campaign; they said it was just an effort by detainees and their lawyers to get attention. They just completely, flat-out denied that there was anything of this scale going on. And then over the weeks, we started going down to the base; we were talking to our clients; we just brought more and more information out. Reporters were also asking a lot of questions—people like Carol Rosenberg, who's been on Guantánamo forever, started asking questions and pushing the authorities. Finally, at a certain point—I don't remember when, but I think it took two months, maybe, into the strike—where the military's numbers started sort of matching ours.

The other thing they were doing was that they were playing with the semantics of this hunger strike. You know, what does it mean to be on hunger strike? So we spent time looking into, well, how does Guantánamo even define who's on hunger strike? What we found, based on standard

operating procedures—SOPs—from a while back, was that there's an element of discretion involved in the determination. So it includes factors like the number of meals you've rejected and other sort of medical and objective criteria, but there is also a discretionary piece by the commander at the base, who's a non-medical person—clearly an interested party. There's an element of discretion in the determination, as well. So that, I think, had something to do with the numbers, and clearly the administration—the camp administration—had an interest in keeping the numbers low and countering this perception that there was a crisis and an emergency at the base.

So there were over one hundred guys—well over—and at a certain point the government, the military, agreed that there were over one hundred—they never said 130—but over one hundred. There were over forty men who were being force-fed, ultimately. Force-feeding is a policy that's been in place at Guantánamo for years. But in late 2005, early 2006, Guantánamo introduced the restraint chairs—the force-feeding chairs—and that's the particularly cruel and inhumane aspect of how force-feeding happens at Guantánamo. It's literally—the manufacturer calls these chairs "padded cells on wheels." Guys get strapped in—wrists, ankles, waist, shoulders, I think even forehead. A tube of eight or ten millimeters is inserted up their noses, down their throats, into their stomach. They sit strapped in for an hour while the feeding happens. It's liquid formula—Ensure—that gets pumped into their stomachs. Then, we understood, they remain strapped for another hour to insure that they don't regurgitate the formula—to make sure it goes in.

So that was happening to over forty men. That, too, is the largest number of guys who had ever been force-fed. That was physically what was happening. In mid-April, as a tactic—clearly, to

break the strike—the authorities raided Camp 6, split up the men, put them into lockdown and solitary confinement, and basically just divided everyone. One thing that made this clear was that Al Jazeera actually, at some point around then, released leaked documents—standard operating procedures, the SOPs—that were developed during the strike, that explicitly said that isolation is a way of breaking solidarity and breaking the strike. So that was clearly a tactic.

From April 15, for, I think over two months at least, most of the hunger strikers were in conditions of solitary confinement. This is after years—years. Since 2009 there were significant changes that happened in conditions at Guantánamo. After Obama took office, he issued a review of conditions at Gitmo to insure that they were Geneva Conventions-compliant, to insure that they were humane—and things did change. Namely, Camp 6 became a communal camp.

Q: It was sort of the model camp, right?

Kebriaei: It was sort of the model camp. It's still Guantánamo, but cell doors were open, guys could come and go, they could spend time outside. In April, we saw a situation we hadn't seen since 2008, really, and early 2009, which was men being locked into their cells for twenty-two to twenty-four hours a day. That did exist at Gitmo. It exists in solitary-confinement prisons in the U.S., but it's nothing we'd seen for years.

So that continued. Then we just heard about other tactics, large and small. Things like withholding clean drinking water from hunger strikers. Our clients—there's actually a man, an Afghan. His last name is al Madhwani [Musa'ab al Madhwani], who filed a motion in district

court [U.S. District Court for the District of Columbia] asking the court to order the military to give him clean drinking water. His report was that guards were sort of playing psychological games with the men. They were saying there wasn't water available, or the shipment was delayed, or that they would bring it but they would delay bringing it. These are men who'd been on hunger strike at that point—when his motion was filed I think it was March or early April—well into the strike. Men were losing weight. They were physically weak.

So that was happening. We heard about searches, genital searches, which actually continue, in part, today. The military went from just standard body searches, if they were doing—to what our clients describe as genital searches, where they were completely invasive; what they describe as sort of an assault; searches that would happen every time the men were moved from their cells to meet with attorneys or to take calls from family members. One of the men I met with during the hunger strike—he's a Yemeni who's been cleared. His name is Sabri Mohammed [Sabri Mohammed Ebrahim al Qurashi]. He's been cleared since 2009. He was one of the hunger strikers. He showed up at this meeting in June and was just physically shaken. It took him thirty minutes to calm down from having gone through these searches. He described it to me. From his cell to the meeting room he was searched four different times—as he was being brought out of the cell block; out of the camp; I think, into the car; and then when he arrived at the meeting site. Four times, and the last two, he said, were the worst. And then he told me he'd have to go through it again after our meeting on the way back. So eight searches for a distance of ten-to-fifteen minutes, by car.

Q: These are sort of retaliatory, invasive searches.

Kebriaei: There was only one way, I think. I feel very strongly about this—that there is only one way to explain these new procedures and practices that arose during the course of this hunger strike, that we hadn't seen before for years—which was clearly a campaign of sort of cumulative tactics, large and small, through isolation—withholding water, searches, even small things like withholding pens from the men—to both break their will and to limit information coming out of the prison. Because the men really were making it a point to write letters to their attorneys. There were attorneys who were very active in asking for phone calls going down to the base, in ways that—things had been inactive to some degree before the hunger strike, but there was much more communication. It sort of woke people up. I think the hunger strike woke us all up, and it was working. I think it was working. There was more attention on Guantánamo than there had been in years. It was visible, after having been invisible for years, and that was a problem for the government and the military. So they were doing things to try to limit information and then break the strike.

Q: Do you consider it successful—the hunger strike?

Kebriaei: I do. I do. I really give credit, entirely, to our clients. We—advocates and lawyers—have been stumped as to what to do at this point. There were victories in the courts. We've won the right to habeas for them. It's ultimately become a meaningless right—largely a meaningless right. There's still the opportunity to bring a new generation of litigation in successive habeas petitions, but the standards that have been set by the D.C. Circuit have so watered-down real fairness and real protection that it's—there are dissenting judges on the D.C. Circuit who have

said it's a game that's rigged in the government's favor, so it's sort of impossible for the government to lose at this point in the D.C. Circuit. Though again, that's not precluding all possibilities, and I think there are new ways that we need to start thinking about litigation.

Politically, we had just hit a wall. I think Obama has made the same great statements since 2009, and it was just very difficult to think about how to create the pressure necessary to force action. It was really the hunger strike that did it. After—it was at the end of May, Obama gave a speech—May 23—a major national security speech at the National Defense University, and that was sort of his official response to the strike. The strike achieved things that we hadn't been able to achieve for years, namely—and they weren't actually huge steps, but they were steps—he lifted a ban on all transfers to Yemen, which he had imposed in early 2010, following an attempted attack on a U.S. airliner by a Nigerian man [Umar Farouk Abdulmutallab] who had alleged connections to AQAP [Al Qaeda in the Arabian Peninsula] in Yemen. He lifted that ban and said, "We're going to look at cases—Yemenis case by case," which is the logical and right way to do it, anyway. He said that.

He said that he was going to appoint two special envoys, one in the State Department and one in the Defense Department, to be in charge of negotiating transfers. And then he made some vague statements about, "We're going to try to transfer people as soon as possible, to the greatest extent possible." He asked some compelling and important questions. He described, during that speech, the situation at Gitmo at the time—which was we're holding—and it continues now—that we're holding over one hundred people—166 people remain. Most have not been charged. No more than about twenty will ever be charged. Eighty-four of them have been approved for transfer by

his administration. At the time, over one hundred were on hunger strike, starving themselves. Over forty were being force-fed. And he asked, "What are we doing? Is this who we are?" It was an important question yet to be answered.

But, I think the hunger strike forced that speech; I think it forced that action. Since then the numbers have dropped. We're now in October. The military has actually stopped giving official numbers, but I think there are probably over a dozen—maybe eighteen, nineteen people—still on strike; about that many still being force-fed. There were some guys who were striking who were on hunger strike well before February. They were long-term, and I think those guys are continuing and will continue. The numbers have dropped, but since May there've also been two men transferred—two Algerians who were transferred. As for why the numbers have dropped, one of the things we've heard from our clients is that there is a group of men who stopped because they were protesting to be heard; they felt heard to some extent; they saw some movement. They were—what we heard from our clients was that, "We were never in this to die. We didn't want to die. We wanted to be heard. We want to be released. We want to be returned to our families." So they suspended their strike because they saw some forward movement and are now waiting to see what happens.

Other men, I think—you know, the brutality of the administration's response at the base and the tactics had a role to play. Being brought out of isolation and returning to communal detention was made dependent on breaking your strike. So men were basically told, "End your hunger strike and you'll get out of isolation." So for some of them, that had something to do with it. Yet again, there is this small group of men who are continuing.

Q: What was your experience when you went down in June?

Kebriaei: I had gone down in April and June. April—just to back up—until that point we had heard reports. I had had a couple of phone calls. I was getting letters, and I really expected an emergency. There's been a certain ongoing emergency at Guantánamo for years, but I imagined a sort of immediate crisis in men—I expected to see our clients in really bad shape. What I was really struck by, actually, was that physically they were changing. I met, I think, two or three men—three men on my first trip down in April, during the hunger strike, and they had all lost between twenty and thirty—maybe more—pounds, and they didn't look well. But their spirits were really good. Their spirits were high and there was just a sense of solidarity. They felt like they were together in this. They were sort of clear-eyed and clear-headed about what they were trying to do. There was sort of a hopefulness. There was something very life-affirming, actually, about my visits with them then.

In June—at that point we were several months into the hunger strike, and just physically and psychologically they were in a more difficult place. The physical changes—I remember walking into the room with Sabri Mohammed, who's the man who had gone through the genital searches, or was describing them to me—and in April he'd lost a little bit of weight. When I walked in in June, his collarbones were sticking out and his face was really gaunt. It was really kind of shocking to see, physically, how much he had changed. Then, at the time, of course—it was June. He was one of the men who was being held in solitary confinement. So, in June I think I saw much more of a struggle in a way, of guys—just because they'd been going through, they'd

been striking—they'd been refusing food for months. They were largely being held in solitary confinement. They'd been isolated from each other, so they didn't have the support—the mental and emotional support they'd had from each other before. The camp administration was just being really brutal at the time.

It was a very hard visit. With Sabri and with another client—Mohammed al Hamiri, who also is Yemeni and also has been cleared—I just saw and heard this tension between—they had decided to strike, and it was with the recognition that if they continued, it would ultimately lead to death. I think they were just grappling with what that meant, if they were to continue, but also feeling—there was this tension between feeling like they had no other resort, no other way of forcing the issue—but, at the same time, not wanting to die. I heard that so many times. So I think there was just this grappling that I was seeing and hearing in June, because it was further along in the strike. They were weaker, and I think they were recognizing that if they continued, the consequences could be fatal—but desperately not wanting that; wanting to be released. So that was really striking, during that visit.

Q: Do you have a sense of what the environment down there is like now and how your clients are doing now?

Kebriaei: After June, I was basically told by them—and these are men who've wanted visits, I have good relationships with, always ask, "When's the next time you're coming down?"—"Please don't come down until they stop the searches." Because it was just too much of an ordeal; it was too difficult, in their physical state, to be moved. So they said, "Let's just write letters and unless

there's news about release or something, let's just communicate through letters for now." So I have not been down since June for that reason. What I hear from them—I've had a few phone calls and I've gotten many letters—the news of the transfers has definitely been encouraging, to some extent. There has been movement and we haven't seen that for years.

At the same time, I think they expected more. It's taken months, and there's been two transfers; no word or plan or timeline of when additional ones will occur. No word for the Yemenis of what the plan is there. The ban has been lifted, but the government continues to say that there's not going to be this mass transfer of Yemenis. Of the 166 people there, eighty-nine are Yemeni and fifty-six of those eighty-nine have been cleared. So those guys in particular—they know the prison—half of it—is a prison for Yemenis. So I think among the Yemenis, in particular, they're wondering, "What is the plan? Are we ever going to go home?" So there's also a greater frustration, I think, because there's been movement—some movement—and it's almost been teasing because it's made them think things are moving forward and there's hope but there is still such lack of clarity about really when or if—when or if—they will be released. So, I've heard a lot of frustration. My most recent phone calls, a couple of weeks ago—a lot of frustration from some clients who are just saying, "What is going on? What's happening to us?" I think they just expected more. We all expected more.

Yes, there was a response by Obama. Yes, there were some steps taken. But they were far too small and they've been far too few at this point. At this point. We're talking about a prison that's been open for over eleven years, and we're talking about a promise that was made five years ago to close the prison within a year. We're now in the year 2013. So it is not enough to just lift a ban

that the president himself imposed and appoint two people in offices that were open but then shut down—he basically just reversed his own bad decisions from the past. We're back to the status quo, basically. So that's not a lot of movement.

I'm happy for the two Algerians who have been released, but we've got to see more. We keep hearing the same line from the administration—which I think also just doesn't bode well—which is that "Congress won't let us. We're trying our best, but the restrictions that Congress passed in the—" There's a law, the National Defense Authorization Act, which is sort of a spending bill, the annual spending bill. There are restrictions that Congress passed in that bill on all transfers out. What we've always said, and what was proven with these transfers to Algeria, is that yes, there are restrictions; yes, it's more difficult. But there is still authority within that law. There is a waiver provision that the administration can exercise, and that there is still existing authority and what it is going to take is political will and courage. That was proven. After years of protesting that they couldn't transfer anyone out because Congress had tied their hands, the administration did it. If they can do it with two men, they can do it with at least the other men that they've cleared. There are eighty-four men whom they've cleared—they cleared in 2009—and basically said, "Detentions are no longer necessary—militarily necessary—and any risks can be mitigated." So it really is a political will problem, I think, at this point.

Q: How many of the 164 that are left does the administration even plan to try?

Kebriaei: In 2009, when Obama took office, they did a review. This task force was set up—an inter-agency task force—and they made decisions about everyone who was left at Guantánamo

at the time. At the time, their decisions were that of the existing population, about thirty-four of them would be charged. Charges have not been brought against anything close to that number, but they said thirty-four could be charged. There have been decisions, actually, in the D.C. Circuit, which is not a good court for us. But actually, there have been some important decisions where those decisions have limited the kinds of charges that can be brought. As a result of those decisions, the thirty-four number is probably even less. I think it's no more than—it's a vague number. Maybe two dozen or fewer.

It's important to think about that number in the context of the 166 who remain, and it's also important to think about it in the context of the nearly eight hundred who've ever been held at Guantánamo, in terms of just making clear who the government has held. Seven-hundred-ninety or more men at Guantánamo, ever, and the government doesn't plan to charge more than about two dozen of them. That speaks for itself. Then, of the existing population, more than half have been told they don't need to be there.

So that's who we've got at Guantánamo, and I think one of the continuing failures of this administration—despite its statements that it wants to close Guantánamo—is that it has done nothing. It has done no public education to support its promise to close the prison. It's been necessary—and it hasn't happened yet—for the administration to clearly explain why Guantánamo needs to close; who's been held; who continues to be held; and why it's not only legally the right thing to do, morally the right thing to do, but as a matter of security. It's necessary and can happen. There was some of that that happened in President Obama's speech in May. It was the most I've heard him really ever say about—it was the first time I heard him make

the case for closing Guantánamo. Which is sort of amazing. But it was in 2013, despite having promised to close it in 2009.

Q: He campaigned a bit on it, too.

Kebriaei: Right. But those questions of—or just the description of—we've got this no-man's-land, this prison on this no-man's-land; people being held in perpetuity; men starving themselves; we're force-feeding them. These are guys we're never going to charge. This is as the war in Afghanistan is winding down. Just what are we doing? How long are we going to keep doing this? I thought he made an important case. It's still not enough, but he was sort of starting to make the case. That needs to continue to happen and it should have happened years before.

Q: Switching gears a little bit—one of your clients is Ghaleb Nassar al Bihani. Can you talk about how you got involved in his defense and the background of his imprisonment?

Kebriaei: Yes. Ghaleb al Bihani is known by his ISN [Internment Serial Number] of 128. He's from Yemen. He is one of the men the government says it—he's not been cleared. He's one of the men the government says it's not going to charge but it can't release. Sort of too dangerous to release. It made that determination in 2010, so it's an outdated determination. But that's still his status right now. He filed a habeas petition in 2005. He lost. The government's allegations are that he was an assistant cook for a group—not Al Qaeda, not the Taliban, but a group that was associated with the Taliban, and a group that no longer exists. So they say that he was a kitchen hand in 2001 for a group that no longer exists.

Q: Prior to the invasion.

Kebriaei: Prior to the invasion. This group, it was the 55th Air Brigade. They ended up surrendering to the Northern Alliance and they disbanded. On the basis of those allegations, which he's disputed—but even accepting them as true, even accepting them as true—that is the basis for his eleven-and-a-half-year detention without charge that still has no clear end. He brought a habeas challenge in 2005. He lost in the district court. He appealed. His case is sort of the infamous decision of the D.C. Circuit where they said international law doesn't apply. So the government says these are law-of-war detentions, but the laws of war don't apply here. That decision was actually narrowed, but that was really the first opinion of the D.C. Circuit, and there were procedural steps that were taken after that to narrow that language to dicta—which is important because that's a really dangerous statement for the D.C. Circuit to have made.

He petitioned for cert and the Supreme Court denied his request, as they have done in every single detainee request since *Boumediene*. They have washed their hands of these cases, which is a problem. It's effectively—the Supreme Court's inaction since 2008 has made the D.C. Circuit the court of last resort, which is a problem.

His cert petition was denied in April of 2010. Before we knew of the denial, he came to CCR and asked for our help. I think we thought at the time that his cert petition might be granted. It was the first petition for cert since *Boumediene*. His case was the first appeal, so it was an important case. The court's decision had been terrible. For him and for the precedent that we thought this

was going to set in terms of the law, it was important for us to get involved. So we did. We got involved in 2010, and then cert was denied.

I've met with him since then at Guantánamo. He's in probably the most difficult category at Gitmo because he hasn't been cleared yet. He's not someone the government is going to charge. He's Yemeni. So if and when transfers of Yemenis begin, the government is going to start with—and we're still a ways away from that—but they're going to start with the men they've cleared, and he has not been cleared yet. So what's happening for him now—and we're waiting to see how meaningful this is going to be—but the government has set up yet another alphabet-soup sort of administrative review process. So they had the CSRTs—the Combatant Status Review Tribunals—in 2004; then they had the Administrative Review Boards in 2005 and 2006; and now they've set up the Periodic Review Boards—the PRBs. That process is beginning for him. It's beginning for the guys at Gitmo who are not going to be charged and who have not already been cleared. It's another administrative review to review their cases and make decisions about whether they should continue to be detained, or whether they can be approved for transfer. That process is just beginning for him now.

On paper, there are some problems with it in terms of limits on his ability to see all the government's information against him. He theoretically has a right to participate. He has a right to have private counsel—me—help him in that process. But there are significant restrictions on his ability to participate and on my ability to help him. They go to restrictions on access to classified information; extra discretion that's given to the government to deem certain information that's classified—to deem it still protected—to keep me from talking about it

publicly. So, there are constraints, but he will go through with it—go through with the process—because it's a chance at being approved for transfer and he'll be a step closer to release. We're starting that for him now.

He has diabetes, acute diabetes. His blood sugar has been as high as seven hundred—which, if you know anything about diabetes, is just off the charts. So he's very sick, physically; has a lot of pain. He gets migraines in connection with his diabetes. He has trouble walking. Then, I think, he struggles with depression and mental health issues to some extent just because it's been difficult to deal with his physical pain and to not know when he's going to leave, *if* he's going to leave. Our work for him is challenging, to explain to the public—we have a hard enough time making people understand and feel that it's wrong to hold people the government doesn't even think it needs to hold—the eighty-four men who've been cleared. But then to make the case and explain why it's wrong to hold him, as well—someone who's not been cleared—is just another level. It's another challenge.

Q: Do you think people really miss the human side of the detainees? You go down there often. You meet with them face-to-face. You share in their experiences. But for most other people, it's a group of undifferentiated men with unfamiliar names, from unfamiliar places.

Kebriaei: And they're not U.S. citizens. I think that has something to do with it, too.

Q: Right.

Kebriaei: I think that has a huge role. I sort of go back and forth a little bit, because there are stories we do know about in the context of this “war on terror” since 9/11—not in the detention context, necessarily, but in the torture context. For example, Maher Arar, a Syrian man, Canadian citizen; rendered by the U.S. to Syria; tortured there underground for a year; apologized to by the Canadian government; given some compensation; still someone the U.S. government won't even allow on its soil to testify in Congress about the U.S. extraordinary rendition policy. People have seen his face, or there has been an opportunity to see his face on video. There's been an opportunity to hear his testimony, by video, to Congress. There are facts available about what the U.S. did to him and yet we still—at least the government, the administration, which has constituents that should pressure it to do things—has not initiated criminal prosecutions against any high-level official for torture of him, but, more broadly, torture in CIA sites in the detention context. There has just been zero accountability; there have been zero apologies. There has just been nothing in the form of recognition and redress on the torture front and there's a lot that we know about torture and about some of the victims.

So that makes me struggle with, well, what will it take to move people and to force some sort of action on these issues? It makes me think that even if—and this is, I guess, my more cynical view—people could speak more directly to our clients and their stories were better known, would it really make a difference? I don't know if it's saturation just from these issues over the past decade or more; if it's, sort of, war-weariness; if it's just with the economic crisis and everything else going on; if it's just too much for people to process; or what it is. Sometimes—again more cynically—I don't think it's necessarily a problem of people not having information, or knowing, or having stories to make them see what's going on. On the other hand, when I meet

with some of our clients currently at Guantánamo and who have been released, I think constantly—if the public could be a fly on the wall and just have a window into this conversation; this meal that we're having; this person's life and what they're saying—there is no way that they would continue to tolerate what the government is doing.

The images of our clients—the only images that exist, really, are mug shots by the Defense Department, Red Cross photos in their prison uniforms, and then some of us have tried to get family photos and things like that. There are excerpts of letters, there are those kinds of photos, but so much of what we can bring out from the prison is so heavily censored, still. Then, of course, I think another big difference between the U.S., for example, and the U.K., other countries in Europe, is that there are no former detainees here. In Europe—in London, Portugal, Nice, cities in Hungary, and Albania, and Germany—there are former detainees living, and some of them are speaking out; some of them on panels. There is an opportunity for exposure—direct exposure—and that exposure has just never happened in the United States. That interaction has never happened in the United States. So there is just a lack of direct access, direct exposure, being really confronted by the people the U.S. has held and is holding, and the cost—the human cost, the human impact. Yes, that has a big part to play, I think, in why Guantánamo still largely remains invisible to the U.S. public. It's back out of the news. Sort of a flurry of stuff during the hunger strike and then the numbers dropped; the NSA [National Security Agency] scandal happened; then Syria happened. It's just the news cycle. It's now cycled out again. We're back to square one, in a way.

Q: I think maybe the last time Guantánamo was really big in the news before the hunger strike was when [Adnan] Latif died. When these deaths of detainees occur—it's terrible to say—that's really the only time it gets a lot of press.

Kebriaei: Exactly. It took his death—a man who had been twice cleared, by the Bush administration and the Obama administration—whose case the DOJ [Department of Justice] still appealed. He won his case in the district court and DOJ appealed his case, after having cleared him to leave, and after knowing that he had suicidal tendencies. I don't know, ultimately, how he died. The investigation of his death has been by the military, hasn't been independent, and the findings have been heavily redacted. So it remains unclear to me what the circumstances were of his death. But, yes. I think his death was a moment that sort of made people wake up. But it did take a death, and I think it took the prospect of death for others at Guantánamo to make people pay attention again. And it just shouldn't take that. It shouldn't take people dying or people starving themselves to death for the public to pay attention—and for President Obama, ultimately, to take action. We're not trying to be alarmist. It shouldn't take that, but it will happen again. It's predictable. You have an aging population—an increasingly sick population at Guantánamo—and more people will die unless the president closes the prison.

But it's hard to know how to—we say that. Obama asks the question; he seems disturbed by it. But then—act! Just do it. It's just maddening to think, what will it take? When is enough, enough?

Q: You worked on another case concerning other detainee deaths back in 2006?

Kebriaei: 2006.

Q: Could you talk a little bit about that, please?

Kebriaei: Yes. The first deaths at Guantánamo were in June of 2006. They were of three men—Yasser al Zahrani, from Saudi Arabia; Sala al Salami, from Yemen; and Mani al Utaybi, of Saudi Arabia. They were deaths that the military said were sort of coordinated suicides. There were callous statements that were made after the deaths, where there were State Department and military officials who called them a "good PR move." The commander at the base at the time said it was "asymmetric warfare." There were just those kinds of statements made after the deaths. The military's theory was that they hung themselves. The families never really believed that, or just questioned the circumstances from the very beginning. Yasser al Zahrani actually was someone who was set to be released from Guantánamo soon. I think he was on his way out, but didn't know.

Q: He was still a young man at that point.

Kebriaei: He was seventeen when he was taken into custody, so he was in his early twenties—twenty-one—when he died. So we brought a case on behalf of the families of Sala al Salami and Yasser al Zahrani. Mani al Utaybi's family did not want to be involved. I think they just didn't want anything more to do with the U.S. government.

So we brought a case. The facts at the time—they died in 2006. There was no information other than a press statement and those kinds of statements I described from the military. There was a Freedom of Information Act [FOIA] request that was filed to force the government to release some of its findings—

Q: Was that the ACLU?

Kebriaei: The lawyers for Sala al Salami actually filed the FOIA request; then it was litigated. It took two years, until 2008, for the government to be compelled, basically, to release its findings of its investigation. The findings were very confusing. There were thousands of pages that were released, but heavily redacted and just with lots of inconsistencies and gaps. There were a lot of questions raised, things that didn't make sense. Actually, Seton Hall Law School did an analysis of those findings and issued a report—they issued several reports, actually—analyzing the findings—the military's findings—and raising the questions.

But that was all that was available at the time. The men themselves were dead. The families had had no access to them. They died at a time when they didn't have lawyers visiting them, so they were just—the sort of normal limitations that we have on being able to get information, but there were particular circumstances here that made it really impossible to know what had happened. But, we brought a case challenging the deaths as wrongful. It was dismissed in the district court the way that virtually every other case seeking accountability after the fact of a violation in this national security-post-9/11 context has resulted in. They've all been dismissed. We appealed to the D.C. Circuit and the dismissal was affirmed.

But before we appealed, in January of 2010, Scott Horton, who is an independent journalist and writes for *Harper's* magazine, released an article that included the direct accounts of three guards who were stationed at Guantánamo at the time of the deaths. There were direct, eye-witness accounts, not necessarily of the men themselves. They weren't eye-witness accounts in the sense of having seen, directly, what happened to them, but they were very credible accounts—and again, direct ones, and eye-witness—of things that just really undermined the government's theory. The government had said that these men hung themselves in their cells. One of the soldiers, Joe Hickman [Army Staff Sergeant Joseph Hickman], who had sort of a top post at a supervisory sort of position among guards at Guantánamo—so he was someone who was credible, was in a position of some supervision and authority at Guantánamo—not someone who would make things up. He said that he saw a van pick up three men, one by one, from the very camp where the men were being held, and drive them out in the direction of a secret site, which was known informally among the guards at Gitmo as “Camp No.” And Camp No because when you're asked, "Does it exist?" you're supposed to say, "No, it doesn't."

He saw this van pick up three men, one by one, and drive in the direction of that camp and affirmed—because Hickman actually drove his car out to see exactly where the van was going and then saw the same van drive back from the camp to the medical clinic, and back up and sort of unload things. The government said that the men were transported from their cells—they were found in their cells, hanging. They were put on backboards and then carried from their cells to the medical clinic. There's another guard whose account Horton has who said, "I didn't see any

traffic between the camp and the medical clinic," in the one walkway that connects the two buildings.

There were reports from them of a meeting that was held after the deaths; the morning when the guards were rounded up together, and the commander at the time—I think it was Bumgarner [Army Colonel Michael I. Bumgarner]—said to the men, "There's been these deaths. You're going to hear reports that they were found hanging. Don't dispute those reports. Don't talk to the press. Basically, your positions are on the line." And he also said—one of the men actually—I don't know that Bumgarner said this, but one of the men said that he had heard from soldiers in the medical clinic that the men had actually arrived with rags stuffed in their throats, and there was nothing said about that by Bumgarner when he called the guards together. He just basically said, "This is what you're going to hear and don't dispute it."

So there were a number of things in their accounts that came together that at least raised serious questions about the military's narrative. We took that article and filed another motion in the district court, asking the court basically to reconsider its dismissal on the basis of the new evidence. And that motion was denied. We appealed, the dismissal was affirmed on appeal, and basically at that point the U.S. court litigation ended.

What's been the most important thing to our clients from the beginning is just getting the truth out and having acknowledgment of the loss of their sons. So we filed a petition with the Inter-American Commission on Human Rights, which is a human rights body for the Americas region. That covers the United States. We brought a petition with them alleging that these men were

wrongfully held—separate from their deaths—wrongfully held; suffered cruel and inhuman treatment and torture; and that their deaths were wrongful. And what's interesting about human rights language sometimes is that it's broader. It can be broader. And there is a "right to truth" that we asked for in the petition as well—an obligation on the U.S. government to fully and independently investigate what had happened and to release the findings because the families and the public had a right to know what happened.

So that petition is pending, still. The way it works in the Inter-American Commission is that there are a couple of different stages, and the first stage is just getting the petition admitted. That's where it stands right now. It's a very long process. At best, it will result in the petition going forward; the commission finding that there were violations; and issuing a decision that recognizes that the U.S. committed violations; that it should be responsible for them; but it has a duty to investigate and release its findings in a meaningful way; that there should be compensation to our clients; and other sorts of remedies like that. It's not an enforceable decision that will come out, but I think it will still be very meaningful to our clients. Because, at this point, it's been since 2006—it's been over a decade since their sons died and they still—there are these open wounds and open questions about what happened. These were their children.

The double standards in terms of how the administration, and I think how we think about life and people's families, are just striking. Yasser al Zahrani was seventeen when he was taken from his family. His father has his picture in his home. Does he not at least deserve at least an explanation? At least an explanation about what happened to his son. He wasn't even contacted directly by the government—the U.S. government—after his son died. He found out by watching

the news on television. His family, his extended relatives, saw a report about three men who had died at Guantánamo, thought they heard Yasser's name, and called Talal, the father, and said, "Did you hear this?" That's how he found out. Then the bodies were returned with bruises, and burns, and some of the organs had been removed during the autopsy. They were just returned in body bags, beat up.

After the death of Adnan Latif, actually, his attorney, David [H.] Remes, and a filmmaker, Laura Poitras, went to Yemen when the body was being returned. They sort of followed the body as it was returned to Yemen, and there's a short video—a nine-minute video—available about it. You see this body flown back to its home in this black body bag with nothing more than a number—Latif's ISN number—on duct tape, on the front. His family was standing around the body bag to receive it. I mean, that's how they got their son back.

Q: You talked about the families of al Zahrani and the others hearing about their sons' death on the news. That was also how Abdulrahman al-Awlaki's grandfather heard about his death about a drone strike, too. This is another one of your cases.

Kebriaei: Yes. We also work on targeted killing and we filed—our work on this, for the background, is in 2010, the government announced an authorization to kill a U.S. citizen in Yemen, Anwar al-Awlaki. It announced that—there's a leak of an authorization that had happened where, behind closed doors, the administration's national security team, and the CIA, and the Joint Special Operations Command of the military, which is a covert unit of the military—that Anwar had been placed on their kill lists. We brought a case with the ACLU in

2010 challenging the authorization. The argument was basically that Anwar—whatever the government was saying about him, those were accusations; they were accusations that had never been tested in court; that he was a U.S. citizen, clearly entitled to due process; and that if the government was going to kill him, they had to charge and try him with a crime, or they had to limit the use of lethal force to circumstances where there is an imminent threat and lethal force was a last resort. We said that that standard was not apparently being met in the facts that had been reported, because Anwar had been placed on kill lists months in advance. There was sort of a standing order for his killing and that sort of flew in the face of this idea of imminence—using lethal force in self-defense in response to a real, imminent threat.

The court issued a really long decision opinion, sort of being disturbed by the government's position and its claim of authority that they could unilaterally, secretly determine someone to be an enemy and authorize their killing in advance, in a country that the U.S. is not at war with. But it dismissed our case because it found that the questions raised political questions, and that they were matters for the political branches to decide, and that it would be inappropriate for the courts to interfere. The case wasn't appealed. Our client didn't want to appeal for various reasons, and in 2011—September 30 of 2011—the U.S. carried out drone strikes that killed Anwar al-Awlaki, killed another U.S. citizen—Samir Khan—and killed two other people—at least two other people. Two weeks after that, they carried out another series of strikes that killed Anwar al-Awlaki's sixteen-year-old son, Abdulrahman. Nasser al-Awlaki, who is our client—Anwar's father, his grandson.

Q: This was at an open-air café.

Kebriaei: He was sitting outside, in an open field, eating dinner with his seventeen-year-old cousin. One minute there, one minute not. Nasser describes having gone to the site a while later—because it took him a while to be able to go back—and talking to locals in the area and hearing from them that the body was—the bodies; there were seven people killed—were dismembered and just in parts, and strewn here and there. The body parts were gathered together and buried together. They were unrecognizable; they were just pieces of flesh and bone. He is someone the government had never said two words about. He was this sixteen-year-old kid. He had a Facebook page. He—

Q: He was born in Denver, right?

Kebriaei: Born in Denver. He wanted to come to the U.S. to study like his grandfather. His grandfather actually was a Fulbright scholar. He had come to the United States to study. He was a professor. He returned back to Yemen and established a university in Yemen. He became the Minister of Agriculture in Yemen. He was a very established, intelligent, educated man who loved the United States. He loved his time here. He has stories about his host family and the people he met and the trips he took. He wanted Abdulrahman to have the same experience.

But this sixteen-year-old kid—who would be eighteen now and starting college and coming here to study—was killed by the U.S. in a drone strike. And all the United States has had to say about that death, two years after the fact, still, is that—for two years they didn't acknowledge it; they just didn't say anything about it, which is their position with targeted killings in general—part of

the problem with the program. Separate from what you think—whether it should be carried out, standards, all of that—is that there has been very little transparency about it, and no acknowledgment until very recently that the government was even doing this. Their position was just silence. Silence about it. That's changed a little bit, but for two years the government said nothing. In fact, the initial reports about Abdulrahman was that he was a twenty-something-year-old militant. And it took his family releasing his birth certificate to say, "No, he was born in 1995, in Denver. He's someone you never—who had done nothing. He was a kid who played soccer," to set the record straight. But the reports were just—same terms we hear with drone strikes in the news all the time, which is just "militants, militants, militants."

But all the government has said now—they've acknowledged that they killed him. They've acknowledged that they've killed four American citizens. They acknowledged Anwar, Samir Khan, Abdulrahman, and a fourth, whom we didn't know about—Jude Kenan Mohammad, who was killed in a drone strike in Pakistan in 2011. All they've said is, "We didn't specifically target him. We didn't mean to." I guess. It raises a lot of questions. What does that mean? But the language—Attorney General [Eric H.] Holder [Jr.] sent a letter to Patrick [J.] Leahy, May 22 of this year, 2013—the day before Obama's National Defense University speech—openly acknowledging what everyone knew, but openly acknowledging that the U.S. had killed these three men and the fourth we didn't know about. And went on and on about his accusations about Anwar—justifying his killing—and said three words about Samir Khan, Abdulrahman and Jude Kenan Mohammed, which is “not specifically targeted.” That's it. That's all we know from the government.

So we've filed another case. It's pending. It's on behalf of—it concerns the three deaths of Anwar, Samir Khan, and Abdulrahman—and the argument is basically that they're U.S. citizens entitled to constitutional rights. If the government was going to kill them, it had to meet the constitutional standard—not controversial—which is, you've got to charge, try, and convict someone for a capital crime. Or, in these narrow circumstances of imminence. So it's pending. The government has moved to dismiss it. We had oral argument in July of this year, and we're now waiting for the decision.

Q: As we wrap up here, I guess we could talk a little bit about sort of a Guantánamo resettlement success story, with the Khan Tumanis. I think the last time you were interviewed for this project, you talked about their resettlement in Portugal and Cape Verde. Can you say how they're doing now?

Kebriai: Yes. Sure. I'd be happy to, because it's sort of the one, pseudo good story; happy story.

So Muhammed—just background on him again. He was seventeen when he was taken into custody—a child. He and his father were both transferred to Guantánamo. They were held apart for the duration of their detention, in part because the government never believed that they were father and son. They said things like, they've done DNA tests and it shows that their relationship is more like uncle and nephew. But they never had any evidence to show about that. So they disputed the relationship, and I think in part as a result of that, they were held apart at Gitmo. They were transferred separately. Muhammed was ultimately resettled in Portugal, and Abd al Nisr, his father, was resettled in Cape Verde. It's a heartbreaking story—before I get to the good

part, it's heartbreaking—because they have still not seen each other. Muhammed was transferred—they were both cleared by Obama in 2009, transferred. Muhammed was transferred in August of 2009, and Abd al Nisr was transferred in July of 2010. Muhammed had to leave first, without his father, and had to say goodbye to his father and make a decision to leave him—not knowing, at the time, if his father would be following as well. Now, four years later, they still have not seen each other.

Q: And geographically, they're so close.

Kebriaei: They're so close. They're out of Guantánamo. They've been cleared. As a result—we haven't seen the paperwork, but it's clear—that as a result of the terms of their transfer—there were terms imposed on the Portuguese and Cape Verdean governments by the United States that have prohibited them seeing each other. It's not because they don't want to see each other, it's because the governments haven't allowed it. So their reunification is still yet to happen.

Then Abd al Nisr—you know, he's an older man on another island; a Syrian who's never lived outside of that region; by himself; in a country that is lower-income; has very little infrastructure to deal with reintegrating a former Guantánamo detainee from Syria. I think he's struggled with isolation and lack of support and loneliness. And just the idea of going from one island to another—it's kind of heartbreaking, in a way.

The good part of the story is that Muhammed is slowly moving on with his life. He is married. He's about to expect his first child. It's amazing. He told me recently, he said, "You remember

when I was in Guantánamo and you said, 'Just have hope it'll happen. You're going to have your own child someday. You're going to be a father.'" And it's happening. He's about to have a son. So that's amazing. It's amazing. It's been a mix of struggle and pain, but it's slowly starting to happen and it's taken years. The process of rebuilding and coping with what these guys have been through takes a long time, and there has been very little support for men who have been repatriated and resettled. Very little support in terms of resources for men who have been resettled. We're deeply appreciative of the countries that have accepted them, but a lot of them have just been unequipped to deal and have just not known what to do in terms of how to structure resources and make things available. Then, financially, they've really struggled with offering financial support to these guys until they can get on their feet and get work. And then in the home countries of many men, there have been economic problems, problems finding jobs, and just returning. So it's been very hard, and it's taken a very long time, but I think finally, now, at least for Muhammed, we're starting to see that he's really moving forward.

Q: There is also the lasting psychological harm, and physical harm, of the detention.

Kebriaei: Right.

Q: There are a lot of reports of detainees, after their resettlement and release—just the aches, the trouble sleeping—

Kebriaei: Yes. Muhammed really struggled in the first year after his release. He would talk about feeling like he was still in detention even though he was in Lisbon. That just takes a long time to

deal with, and I think part of the extra difficulty for men who have been resettled is that they were mostly on their own, in a totally foreign environment, and there was just the fear of being known for having been at Guantánamo—and trying to make friends, meet people, and develop a social network, but feeling like there is this whole part of their lives that they were afraid to talk about, for fear of the reaction, and for fear of retaliation and risk. I know with Muhammed—as a young man—he would talk to me about meeting guys in Lisbon, young Portuguese men—making friends, playing soccer, even going to the mosque—and just feeling afraid to tell them his real name. He has an alias, actually. Then, feeling like there was no one he could really be open with about what he'd been through, and to talk to about his father—why his father wasn't with him, and why his father is in Cape Verde. So there was just a whole part of his life that he had to sort of erase and couldn't talk about, and had to deal with on his own. For men who have been resettled and aren't returning to their home countries, where there isn't a ready support system, it's been extra hard.

Q: One last thought here. It's 2013. The Obama administration has not followed through on the president's promise to close the detention center at the base. Is this going to be an issue for the next administration; the administration after that? What do you see as the future for the Guantánamo detainees? Maybe, perhaps, not just the Guantánamo detainees, because we haven't really talked about Bagram yet, either. So in this new, post-9/11 national security paradigm, with the NSA revelations, with targeted killings and drone strikes—what do you see as the future there?

Kebriaei: I think it will take implementing the vision that President Obama talked about in his May 23 speech, which is an end to this global war paradigm. That is the paradigm that has justified, that continues to justify, the detentions at Guantánamo, the detentions at Bagram and who knows where else, and drone strikes. I think that, ultimately, it will take the United States ending the conflict in Afghanistan, and as a result of that—because this sort of global war idea has been connected to Afghanistan. So once that conflict ends, and if it ends—that's the conflict to which all these others associated groups have been connected. So I think it will take dismantling this whole framework, and if that doesn't happen—I think there are eighty-four men who can be released, and will be released, or should be released, but for the remainder—the government's position right now is very much that we are legally entitled to continue holding people at Guantánamo. We're electing to release some men, but we have the legal authority, because we continue to be in this global, armed conflict. So until that justification shifts to a paradigm of pre-9/11 where the United States deals with terrorism—most acts of terrorism—through law enforcement, the way most countries in the world do, I don't think Guantánamo can fully—well, Guantánamo might be able to close, but the policy will exist, and the possibility of future detentions at a new Guantánamo will exist.

That's really what needs to happen, ultimately, for the whole policy—to end the policy. Whether that happens remains to be seen. It remains to be seen. In his speech on May 23, I think Obama was trying to get at that—this idea of perpetual war is unsustainable. No country can continuously be at war, and we've been at war since 9/11. It's now the longest war in U.S. history, and that is just not tenable. So he was hinting at a world where terrorist groups are dealt with in the ways that the U.S. responded pre-9/11—through law enforcement—but we're not

there yet. What he said in the speech was that we are still at war with Al Qaeda, and we continue to have legal authority. So it was sort of a future vision, but it was still in the future. There was some rhetoric that was right, but the reality, for now, is the status quo.

So whether there's will to make that a reality before Obama leaves office, I don't know. I don't know. I think Syria raised questions about what the future is going to hold. I think there are members of Congress who are *adamantly* opposed; who depend on continuous war. I think there are corporations that depend on continuous war. I think there are a lot of people in positions of power who depend on the continuation of this very paradigm. So I think it will take a lot of strength and courage to end it. It's actually hard to see, just because we've lived it for so long. But I just hope—I just hope—because if it doesn't happen now, I don't know when—. We criticize Obama a lot, but I do think there are members of this administration who at least have hinted that they recognize that they don't think this is sustainable and they want to end it. At least there's been the language—which I don't even know that we would get in another administration. So I think we're at a crossroads, and we'll just have to see.

Q: Okay. Well, thank you very much.

Kebriaei: Thank you very much.

Q: Okay.

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