

**Briefing for House Committee on Foreign Affairs
Subcommittee on International Organizations, Human Rights and
Oversight**

**City on the Hill or Prison on the Bay? The Mistakes of Guantanamo
and the Decline of America's Image, Part II**

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Testimony of Sabin Willett

Good Afternoon, Chairman Delahunt, and members of the subcommittee. Thank you for holding this hearing.

I am a lawyer from Boston. At Bingham McCutchen LLP, most of our clients are America's corporate mainstream: banks, bondholders and businesses. But we also represent Uighur prisoners at Guantanamo. I do this work for a simple reason. When I go to see my clients in the Guantanamo prison, I have to walk beneath my flag. I'm not happy about it being there. I want it back.

This subcommittee has already heard about the Uighur dissidents from Communist China who were caught up in the so-called War on Terror. This Spring you read reports from China's state news agency describing Tibetan monks as "terrorists." That is the word the Communists have used for the Uighurs too. Ever since 9/11.

One of my clients is Huzaifa Parhat. He's never been charged with anything. He never will be. In fact, he's been cleared for release for years. Two weeks ago he began his seventh year at Guantanamo.

He believes in freedom of worship and denounces state-enforced abortion. He doesn't care for communism. In China, beliefs like Huzaifa's are called "intellectual terrorism." Uighurs are regularly tortured for it. Some are put to death. I can remember when we Americans admired people who stood up for such beliefs in the face of tyranny. Now we offer them -- what do they call it? -- a "single occupancy" cell in Camp Six.

Interrogators advised in 2003 that his capture was a mistake. State has been trying to find a country to which to send him. But our allies read the same shrill rhetoric about Guantanamo that you have read. And the shadow of the communists falls over all the capitals of Europe. Nobody else wants Huzaifa. I used to think of us Americans, Mr. Chairman, as broad-shouldered, able to admit mistakes and put them right, but my government thinks we are a small people, so panicked by real enemies that we lock up imaginary ones. Forever.

When did we become such a small people?

Huzaifa lives in a place called Camp Six. My information, which dates from March, is that all the Uighurs but one are kept there. The men call it the dungeon above the ground. Each lives alone in an isolation cell. There is no natural light or air. There is no way to tell whether it is day or night. Outside the cell is a noisy bedlam of banging doors and the indistinct shouts of desperate men crouching at door cracks. A mad-house. Inside the cell, nothing.

Mr. Chairman, can you remember the last time you were alone -- I mean *really* alone? Nothing to read, no phone, music, computer, television, radio, activity; no companion, no one to talk to. That's been Huzaifa's life for most of the time since December, 2006.

For two hours in twenty four, the MPs shackle and lead Huzaifa to the rec area. This is a two-story chimney, about four meters square. It is his only chance to talk to another human being, or see the sun. But his rec time might be night; it might be after midnight. Weeks go by during which he never sees the sun at all. Mr. Chairman, you try talking to a man who only wants to see the sun. You will never forget the experience.

In the cell he can crouch at the door, and yell through the crack at the bottom. The fellow in the next cell may respond, or he might be curled in the fetal position, staring at the wall. Another Uighur told us of the voices in his head. The voices were getting the better of him. His foot was tapping on the floor. I don't know what's happened to him: he doesn't come out of the cell to see us any more.

A letter from a third was released last December. He wondered, did someone need to commit suicide before anyone notices? A friend has a client who used to be thought of by the command as a model prisoner, well grounded, level headed. Now he has lost hope; he has lost control; he seethes with anger. His mind is wrecked by isolation.

Huzaifa believes he will die in Guantanamo. Last year he asked us to pass a message to his wife that she should remarry.

The Uighurs are not the enemy. Under Article I of our Constitution, Mr. Chairman, you in Congress, and you in Congress alone, have the power to name the enemy. The President is the chief general and admiral, but you are the "deciders." It is your job to say who the enemy is; his to snap a salute. And you never declared war on the Uighurs. Nor on "terror," for that matter.

But suppose, for a moment, that the Uighurs *were* the enemy. Would you leave them in Camp Six? In a prison? In isolation? Not if you've read the service Field Manuals. Not if you were Generals Ridgway, Westmoreland, Schwartzkopf or Powell, you wouldn't. Yet this afternoon in Camp Six, we Americans are applying the same isolation techniques that North Korea used on our own airmen in 1952. The cells are shinier, and the paint fresher, but the cruel destruction of the human soul is the same. In 1952, our ambassador

went to the General Assembly of the United Nations to denounce this kind of thing as barbaric. How quaint of him.

The worst prison in America, holding the absolute worst, convicted, violent criminals, does not treat them this way. Even the Unabomber has more human contact.

Perhaps the camp commandant would say Huzaifa has misbehaved in some way. The command hasn't told me. In the grinding, endless heat of Guantanamo, tensions simmer. MPs wanting any post but GTMO -- guards who were twelve years old when Huzaifa was brought there -- handle, or mishandle a Koran, or gawk at a prisoner on the toilet, who, caged like an animal, behaves like one. Or someone thinks so. After six years, it hardly matters. The tensions boil over.

Have the Uighurs boiled over, in their seventh year? Five years after being told they were innocent and would be released? Would I boil over? Would you? In the service Field Manuals you will find provisions for disciplining those who disobey camp rules. The maximum period for solitary is two weeks.

I'd like to tell you about another detainee during wartime. In 1944, he was held at Fort Mackay, near where I go to work in Boston. He had served a Fascist tyrant in league with the most dangerous madman in this history of Europe; he had shot to kill Americans during a desperate world war we feared might change our civilization forever.

Still, the commandant did not throw the Italian prisoner away in a camp six. He lived communally. When hostilities with Italy ended in 1944, he couldn't be repatriated -- Italy was still in flames -- so we Americans did the next best thing. Leave was given to visit the North End. He went to Mass. He played bocci along the Esplanade. He was given a job, and earned pay. At Carson's beach, girls passed him notes through the fence. There were no proposals of torture, and not a few of marriage.

Do Uighurs in 2008 frighten us more than the Axis forces frightened Navy Captain Errol Willett in 1944, or are we just a smaller people than our grandparents were?

When Congress stripped the Uighurs' habeas rights in 2005, my clients filed under the new Detainee Treatment Act. I know something about that Act, having litigated one of the lead cases. It is a train wreck. It took us a year and three rounds of briefing just to establish what the record is, and the government has filed another appeal. So we are nowhere. Another DTA case, Paracha, is two and a half years old. The courts haven't done a thing with it. One court waits for a second to decide the habeas appeal; the government runs to the second to say, let's wait and see how the first court plays out the DTA.

The Uighurs -- those who will still see me -- nod politely when I tell them about the courts. But they long ago concluded that American courts are merely a debating society. Nothing ever comes of them. A sign at Guantanamo says, "Honor Bound to Defend

Freedom.” It would take a better advocate than me to persuade the Uighurs we Americans are serious about that.

Mr. Chairman, what will you do about Guantanamo? You have fifty or sixty stateless people there cleared for release. That is, for freedom. Are we Americans honor bound to defend that value, or are we just talking? The rest of the world won't take them unless we take some too. Will you make that happen? Even Mr. Casey has acknowledged that after six years, some should be paroled to the United States. The Uighurs are one place to start.

That will take some gumption. The administration's propaganda is effective, and most of your constituents think that anyone at Guantanamo must be a terrorist. But our flag asks a little gumption of us sometimes. Generally where the Congress shows the courage of leadership, the people come around. This seems like the right time for it.

Because outside, the world is turning. My client's wife has remarried. Inside the wire, nothing every changes. Huzaifa Parhat has been a prisoner at Guantanamo from the attack on the Arizona at Pearl Harbor, straight through to the signing of the surrender aboard the U.S.S. Missouri in Tokyo Bay, and almost back again. He's in his cell in Camp Six this afternoon.

Thank you.