

dence, he has found instances where several prisoners, shown the photograph of another prisoner, each identify the man in the picture as al Qaeda, but give him different names. The government concludes that they all know the man, but by different aliases, rather than concluding that *none* of them actually knows the man. Remes also maintains that the use of torture, which is known to produce false confessions from people who have no information, makes anything they say unreliable. “That means that if they *are* terrorists, they are rendered practically unconvictable,” he says, “and if they are not, they have suffered a gross injustice.”

Forty percent of the detainees who remain at Guantánamo are Yemenis, he notes, because the United States has been unable to work out an agreement with Yemen for their return; by contrast, 90 percent of the Saudis and all of the Europeans have been returned, even though the U.S. government viewed most of these men as enemy combatants. “My point being,” Remes says, “that whether or not you are an enemy combatant seems to have nothing to do with whether or not you get released.” Two of his clients were cleared for release in February 2006. They are still at Guantánamo. Other men who have not been cleared for release have been sent home.

The reality at Guantánamo, he says, is that—so far—release has hinged on diplomacy, not justice. “People always ask me, ‘Are your clients guilty or innocent?’ And I ask them, ‘Guilty of what?’ And people really can’t articulate what it means to be guilty. They may say, ‘Well, guilty of terrorism.’ And I ask, ‘Well what do you mean?’ And there is a pause. And then they say, ‘Well, attacking the United States.’ But few if any of these men have attacked the United States. The ones who allegedly did are on trial before the military commissions or they are dead.

“Certainly if you were involved in the World Trade Center attack or the bombing of the USS *Cole* or U.S. embassies or you threw a grenade at an American soldier or shot at an American convoy, you have attacked the United States,” Remes continues. “No question that you should be brought to justice. But taking the Taliban’s side in the civil war against the Northern Alliance, or doing relief work, or spreading the word of Islam in Afghan-

istan—how do these make you an enemy of the United States? “The government has been so successful since 9/11 in portraying these men as the worst of the worst, as vicious killers, that people simply take that as a given. Most of these men were fish caught in a net when the U.S. started bombing Afghanistan and the Northern Alliance started advancing.”

At that point, Remes explains, “the U.S. was offering \$5,000 bounties to any Afghan that could turn over terrorists. So you had a lot of Afghan bounty hunters picking up Arabs and selling them to the United States, simply asserting that the men were Taliban or al Qaeda. Similarly, many men were picked up by Pakistani border guards when they came through the mountains and sold to the United States.” Five thousand dollars, he notes, is a huge sum in Afghanistan: “The U.S. propaganda was, ‘You’ll be set for life.’” Almost all of the men held at Guantánamo were seized in this way, he says; only about 5 percent were captured by U.S. forces.

Remes believes that “a lot of what is going on at Guantánamo and Abu Ghraib, and in the court system here, is less about whether these individuals are terrorists than it is about whether the executive branch can do whatever it wants, free from any accountability to the other branches of government. I don’t buy the thesis that the administration’s big mistake was not going to Congress to authorize what it was doing. Whether an activity has political legitimacy or not is beside the point. It’s what’s being legitimized that counts.”

The story of what happened to one man at Guantánamo—Parhat, the Uighur who released his wife from having to share in his captivity—may come to a resolution soon. A federal appeals court is expected to rule in January on the possibility of releasing him and the 16 other Uighurs into the United States. But the issues underlying Parhat’s story—how a democratic society preserves its values and protects its citizens when faced with an unconventional threat—will not go away, and the president-elect and his eventual successors will likely be grappling with them for years to come. ▽

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## Principled and Pragmatic Counterterrorism

IF AMERICANS WANT TO CONTAIN TERRORISM, we must not abandon our democratic values, says Louise Richardson, the departing executive dean of the Radcliffe Institute for Advanced Study (she becomes principal of the University of St. Andrews, in Scotland, in January). There is a false belief, she has written in *What Terrorists Want*, that democratic societies, because of the “freedoms granted citizens” are “peculiarly vulnerable to terrorism” and that those freedoms “therefore must be curtailed.”

This is wrong on principle, she said in a recent interview, but also for pragmatic reasons. Like declaring war, it not only rewards “the adversary’s action by demonstrating its power,” it undermines one of the best counterterrorist strategies known, which is to separate terrorists from the communities in which they operate. Terrorists understand this, she says. A message from an al Qaeda leader to a deputy in Iraq, for example, urged him to end beheadings not because they were immoral or gruesome, but because they were undermining support in the Muslim community. Likewise, the treatment of prisoners at Guantánamo is “an ethical

and moral travesty that undermines our claim that we believe in democracy, that we believe in individual rights, when we so clearly deny due process to hundreds of people,” Richardson says. “We’re in a competition, if you like, with the extremists for the support of these moderate populations, and we have been losing that battle.” By overreacting, “we can do ourselves far more harm than terrorists can ever do to us.” (For more on Richardson’s alternative approach to containing terrorist threats, see the Web Extra, “Counterterrorism and Democracy,” at <http://harvardmagazine.com/extras/counterterrorism>.)



Louise Richardson

