

ABDUL AZIZ NAJI*

ALGERIAN GUANTÁNAMO REFUGEE IN NEED OF PROTECTION



Abdul Aziz Naji describes his situation as “dancing between fires.” If he were returned to Algeria, he would face threats to his life and safety from both the Algerian government and from fundamentalist insurgents. He was brought to Guantánamo as the victim of a Pakistani house raid in the chaotic aftermath of the U.S. invasion of Afghanistan. Yet, he remains in Guantánamo because no country will advocate for his release.

Summary

Abdul Aziz Naji is an Algerian imprisoned for more than six years. He worked with a social service provider in Pakistan for several months before losing his leg as a result of a tragic accident. Following a year-long hospitalization and recuperation, he was taken by Pakistani forces in a house raid in the months after the U.S. invasion of Afghanistan. Abdul Aziz remains in prison largely because there is no country that will advocate for his release. He faces threats from the Algerian government because of the stain of Guantánamo and the risk of recruitment from Algerian fundamentalists, who will likewise associate him with terrorism. He also faces the risk of retaliation from these fundamentalists because of his prior service in the Algerian army. Abdul Aziz is an amputee who needs appropriate care, not indefinite imprisonment without charge.

Personal History

Abdul Aziz was born in Batna, Algeria in 1975. After sixth grade, he began work in his father's blacksmith shop and later completed his required military service in the Algerian Army. After his service, Abdul Aziz, like many young Muslims, traveled to Mecca on pilgrimage and then, during early 2001, worked briefly with a charitable organization, which he identified as “Askar Tiba,” which he knew to be one of the main charities providing humanitarian assistance to needy Muslims and Christians in Kashmir. Abdul Aziz was only involved for a few months with its charitable activities, but it was important to his religious belief in offering to volunteer his services. While carrying food and clothing to poor villages one night with a group of other volunteers, Abdul Aziz stepped on a landmine (one of many unexploded ordnance that lace the region) and sustained a serious injury, resulting in the loss of his lower right leg. He was taken to a hospital in Lahore, Pakistan where he was treated for several months and fit with a prosthetic leg. He spent many months after that in rehabilitation, living with a few generous families in the city who offered to board him.

An amputee with few resources and in need of the most basic assistance, Abdul Aziz was directed by acquaintances to an Algerian in Peshawar to help find a wife. While visiting this man in May 2002, he and his host were arrested during a raid of the man's house by Pakistani police, one of the many house raids in the area. The reason for the arrests was never explained. In fact, the Pakistanis told Abdul Aziz that they would release him. But instead, he was taken by Americans stationed in Peshawar and brought to Guantánamo.

Allegations

The U.S. government has not brought any charges against Abdul Aziz. Only vague, unsubstantiated allegations have been made. The tribunals that have been established ostensibly to validate the detention of

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Guantánamo prisoners after years of detention have not provided any meaningful opportunity for review of his case: Abdul Aziz's "hearing" was governed by three military officers; virtually all purported evidence was classified and inaccessible to the detainee; and evidence obtained by torture was used. Even if these proceedings were to be deemed legitimate, they do not support a case that Abdul Aziz should be detained.

In the tribunals, the U.S. government alleged that Abdul Aziz was a member of a group called Lashka-e-Tayyiba (LET), and that Askar Tiba and LET are the same organization. It is not clear that they are the same organization – and Abdul Aziz did not know them to be connected. Regardless, Abdul Aziz was not a member of either organization. He sought out Askar Tiba only to provide humanitarian assistance. Even if the organizations are the same, LET's provision of social services took place at that time with the blessing of the Pakistani government. According to an expert in the Middle East Policy Institute in Washington, DC, LET did (and still does) have a military wing, but it is completely separate from its humanitarian assistance operations, which provide social services in regions few government agencies can reach. LET's charitable efforts were well-known in the region; and many young Muslims volunteered in the organization's social welfare mission, without having any involvement in the group's military activities. Indeed, the U.S. government has never contended that Abdul Aziz was captured on a battlefield or ever engaged in armed conflict, and Abdul Aziz's testimony is clear that his work was limited to providing humanitarian assistance.

Fear of Torture or Persecution in Algeria

Abdul Aziz' family lives in Algeria, and he wants very much to be with them. But if he were to return, he would face a double threat, which he has described as "dancing between fires." If he were forcibly returned to Algeria, it is likely that he would be subjected by the government to long-term imprisonment, arbitrary detention, torture and potentially death, simply because he has been branded by the U.S. as being associated with terrorism. Indeed, Abdul Aziz was visited by an Algerian delegation while in Guantánamo which asked him if he was a member of Groupes Islamiques Armés (GIA), a militant Algerian organization. He was alarmed that they would ask him such a thing, as it signaled that the mere fact of his incarceration in Guantánamo had triggered for the Algerian government an assumed – and false – association with GIA.

On the other hand, if Abdul Aziz were returned to Algeria, he would also likely be a target of violence or recruitment by fundamentalists fighting the Algerian government. For them, too, the fact of his incarceration in Guantánamo would trigger an assumed association with terrorism. Ironically, he fearfully disclosed to his counsel just recently that members of GIA had attempted to recruit him and had terrorized him when he was a teenager in Algeria. His service in the Algerian army in the mid-1990s fighting fundamentalists opposed to the government could add a further threat, as insurgents have specifically targeted and murdered former service members. Abdul Aziz has described incidents that occurred near his family's home where insurgents set up roadblocks, stopped buses, and killed passengers who had worked for the military.

Urgent Need for Humanitarian Protection

Abdul Aziz has been detained without charge for six years in Guantánamo. He has no expectation of being charged, nor does he have any clarity about what the future holds for him. His case demonstrates that geopolitics largely determine whether one remains in or is released from Guantánamo. No Algerians have been released because the U.S. and the Algerian governments have not reached agreement about transfer, and some of these men, like Abdul Aziz, also reasonably fear that repatriation to Algeria would mean certain torture and persecution. Abdul Aziz' detention is particularly difficult because of his health problems. The well-made prosthetic leg he received in Pakistan was badly damaged when he was beaten by U.S. forces in Bagram and Guantánamo. He was eventually provided a new one, but it is of poor quality and does not fit him properly, making his daily activities extremely difficult. Abdul Aziz remains highly motivated to work and support himself, and retains a remarkable equanimity of spirit for one denied freedom for so long.