

KARZAI FRUSTRATED BY US LIES RELATING TO PARWAN PRISON AGREEMENT

Afghan President Hamid Karzai lashed out yesterday, calling for the US to live up to the agreement signed last March that hands over complete control of the prison at Parwan to Afghanistan. As I pointed out while Lindsey Graham was throwing a tantrum over the prospect of this agreement (and a simultaneous one on night raids), the agreement called for a phased process, handing over control over a six month time frame. The agreement was signed a short time later and it did indeed call for a six month process. It also, at least according to the New York Times article on the agreement, allows the US to veto any decision by the Afghans on release of a prisoner. The six month process for the handover was set to end in September, but the US did not live up to its obligations under the agreement and still held a significant number of prisoners. At the same time, the US was urging Afghanistan to create, contrary to its constitution (and international law), a system for indefinite detention of prisoners without trial. Remarkably, the US also began at that time to argue that the agreement only held for prisoners in custody as of the time of signing and that the US retained control of those the US arrested after the agreement was put into place.

Now, after two months of wrangling over finalizing the handoff, Karzai has had enough. From the New York Times:

President Hamid Karzai ordered Afghan forces to take control of the American-built Bagram Prison and accused American officials of violating an agreement to fully transfer the facility to the Afghans, according to a statement from

his office on Monday.

The move came after what Mr. Karzai said was the expiration of a two-month grace period, agreed to by President Obama, to complete the transfer of the prison at Bagram Air Base.

At issue in particular are 57 prisoners held there who had been acquitted by the Afghan courts but who have been held by American officials at the prison for more than a month in defiance of release orders, Aimal Faizi, the spokesman for President Karzai, said in an interview.

Similar language opens the Washington Post story on Karzai's orders:

President Hamid Karzai has ordered his aides to institute the "full Afghanization" of the U.S.-run prison at Bagram air base, charging that American forces are continuing to detain Afghans despite a bilateral agreement in March to transfer all prisoners to Afghan authorities.

In a Pashto-language statement tweeted from the presidential palace late Sunday after Karzai met with his top security officials, the president complained that some prisoners ordered released by Afghan courts are still being held by U.S. forces.

"These acts are completely against the agreement that has been signed between Afghanistan and the U.S. president," the statement said.

It said the Afghan defense minister, the attorney general and the national police general in charge of the Bagram prison should "take all required actions for full Afghanization of Bagram prison affairs and its complete transfer of authority to Afghans."

I want to return now to the convergence of two details mentioned above. Note that at the same time the US was negotiating the prisons agreement, it also was negotiating an agreement with Afghanistan on night raids. That agreement was indeed signed shortly after the prisons agreement, and I noted at the time that it, like many other US agreements was in reality a sham in which the US tried to claim it was handing over responsibility while not really doing so. And it turns out that even after claiming it has handed over responsibility for night raids to Afghanistan, we learn in the New York Times article on Karzai's outburst yesterday that the US is still arresting 100 prisoners a month, most of them in night raids. It appears that these are the new prisoners the US is now claiming lie outside the agreement on control of the Parwan prison, as well:

Afghan officials were also concerned about the status of new detainees being captured by American troops. The Afghans feel those detainees should be transferred to their control under the deal signed by the two countries this year.

Mr. Faizi said hundreds of new prisoners were being held by American authorities in a closed-off section of Bagram Prison, which the American military calls the Detention Facility in Parwan. American forces, mainly Special Operations troops carrying out night raids, have been arresting more than 100 suspected insurgents a month, Afghan officials said.

After so openly defying the spirit of the prison and night raid agreements signed within the past year, why on earth would Afghanistan think the US is negotiating in good faith now on the Status of Forces Agreement meant to set the conditions for US forces remaining in the country after the planned end of combat operations at the end of 2014?

Some will argue that Afghanistan has a documented history of torture in its prisons and that the US is right to move slowly in handing over complete control of the prison. In direct contradiction to that argument, though, is current behavior noted in the Times article:

Rights advocates welcomed Mr. Karzai's move. Tina Foster, the executive director of the International Justice Network, who represents some Bagram detainees, met recently with Afghan officials to try to visit her clients in the prison. The Afghans approved the visits, but the United States military blocked them, she said.

"When we met with Karzai's staff it was clear that the Afghans are tired of being treated like servants in their own country," Ms. Foster said. "Symbolic gestures are not going to cut it anymore. They want the keys to the prison, and the ability to determine the fates of the prisoners held there."

Now we have two direct examples of the US acting like criminals with respect to the prison at Parwan: indefinite detention without charges and blocking access to human rights groups while Afghanistan is arguing against both moves. Which country has a greater respect for international law at this point?