

US RESOLVES TO CLEAN UP ITS ILLEGAL DETENTION AT PARWAN

While it is good news that the Administration is finally going to do something about the non-Afghan detainees at Bagram, the WaPo sure lets its anonymous Administration sources put the best spin on the move.

It is not, apparently, a response to our closest ally finding us in potential violation of the Geneva Convention. It is not the fact that Congress just required the Administration to give detainees the kind of due process it has been refusing (which the WaPo doesn't even mention). Nope! It is, according to the WaPo, because the Administration has decided to enact orderly transfers now.

The Obama administration is considering the repatriation of most, if not all, of the non-Afghan detainees held at the main American-run prison in Afghanistan, an effort to oversee their transfer before U.S. officials relinquish control of the facility, according to administration officials.

The foreign prisoners, who number close to 50, were in some cases picked up on the battlefield in Afghanistan and in others detained in third countries and taken to the prison by the CIA, according to U.S. and foreign officials.

With the U.S. government planning to hand over control of the prison, American officials believe that Afghan authorities are unlikely to have any interest in either continuing to hold the foreigners or in putting them on trial. By beginning the repatriation process soon, officials believe they can negotiate transfers with the detainees' home countries, arrange for post-

transfer monitoring, and secure diplomatic assurances that detainees will not be abused when they return home.

That said, the WaPo includes a rather amusing summary of anonymous officials insisting that our hand is not being forced by things like Yunus Rahmatullah's successful habeas petition in the UK.

Administration officials said they are willing to transfer Rahmatullah, but do not want the basis of such a move to be a foreign court ruling.

And it includes a number of pieces of evidence to suggest these detainees weren't a threat in the first place.

A small number of detainees [out of 50] may be deemed to pose a terrorist threat, requiring their continued detention or close supervision by their home country if released from the Afghan prison, officials said. Additionally, a number of them are Yemeni, complicating their possible repatriation.

[snip]

The foreign detainees include two Yemenis and one Tunisian who attempted to secure their release by filing for writs of habeas corpus in the U.S. District Court in Washington in 2009. All three claimed they were captured outside Afghanistan, held at secret CIA prisons overseas, before being transferred to the detention center in Bagram.

Judge John D. Bates ruled that these non-Afghan prisoners had the right to pursue habeas cases; however, the federal court of appeals overturned that decision in 2010.

A U.S. official said the three men were among those who could be repatriated.

So before we start the process of giving detainees actual, meaningful review of their detention, we're going to first repatriate a bunch who we've known not to pose a threat.

Whatever. I guess if we have to allow the Administration to engage in these fictions to get out of the illegal detention business, I'll take it.