

LINDSEY GRAHAM AND JOHN MCCAIN: HYPOCRISY TOURISTS IN KABUL

Today's New York Times dutifully bleats to us that Afghan President Hamid Karzai has been "warned" over his plan to release 88 prisoners from the Detention Facility in Parwan over the objections of the US. The warning:

"If these releases go ahead, it will do irreparable damage to the relationship," said Senator Lindsey Graham, Republican of South Carolina. "There will be a backlash in the U.S. Congress."

Those doing the warning were hypocrisy tourists Lindsey Graham and John McCain. Missing their third amigo, Joe Lieberman, the duo settled for stand-in John Barrasso to join them on the trip. It appears, however, that Barrasso opted out of the opportunity to open his mouth, as he is not quoted in the Times piece and doesn't appear in the video interview ToloNews conducted while they were in Kabul:

[youtuber
youtube='http://www.youtube.com/watch?v=B92u6yqw
w0Y']

The hypocrisy emanating from [Linsey, as he is identified in the ToloNews video] Graham and McCain is staggering. Back in December of 2011, Graham led the charge to put remarkably strong rights protection for the Parwan prisoners into the NDAA, as Marcy noted, but Obama then proceeded to gut that language with his signing statement.

The entire issue of the prison at Parwan and the "independence" of Afghanistan to make its own decisions on the fate of prisoners put into the facility by US forces has been a point of

contention for years and has seen significant deception on the part of the US. For example, in September of 2012, the US pretended, as they had several times before, to hand over “complete” control of the prison to Afghans, but still claimed to have veto power over the release of any prisoners. The US pretended again in March, 2013 to do the handover of the prison.

The current controversy again seems to come down to whether this veto power still exists and to the underlying wish of the US for Afghanistan to practice indefinite detention without charges, which Afghanistan has resisted instituting.

The relevant section 1024 of the NDAA calls for review of Afghan prisoner status:

But the NDAA wasn't all bad when it comes to U.S. military detention policy. In fact, section 1024 of the law, spearheaded by Senators John McCain and Lindsey Graham, provides detainees held indefinitely in Afghanistan with the right to a military defense lawyer and a neutral military judge to evaluate whether their detention is lawful and necessary. The provision was not particularly controversial and garnered little media attention; Congress apparently understood that for the U.S. to maintain any legitimacy while imprisoning some 3,000 Afghans in their own country it has to provide them basic rights to defend themselves.

As Marcy noted, though, Obama's signing statement sought to undercut that authority for an Afghan review. Graham and McCain, on their hypocrisy tour, appear to be agitating for the US veto power that Afghanistan never seems to have agreed to. From the ToloNews article accompanying the video:

“I believe that the administrative review board, what Mr. Dadras is doing, is taking the rule of law backwards in

Afghanistan, that the 88 people have Afghan blood on their hands," Senator Graham said.

"What they are proposing is the violation of our agreement that we have with the Afghan government, and it undercuts an independent judiciary...these 88 should have their day in court, they should be judged by the Afghan legal system, and the Afghan people deserve to have their day in court, and to release these people by the actions of one man would be a giant step backwards," he said.

"It would damage the relationship, it would; people in America would be very upset to hear that someone was released without trial and I think Afghans would be upset to know that 88 very dangerous criminals were released without going to trial."

Never mind that it was Graham himself who put the provision into the NDAA granting reviews of prisoners to determine whether there is sufficient evidence to send them to trial. And his claim the prisoners "should be judged by the Afghan legal system" is bullshit. As noted in the quote of Daphne Eviatar's analysis above, Graham's NDAA language called for a neutral military judge, not a civilian judge from the legal system. Karzai's independent review commission that made these decisions seems a somewhat better deal for prisoner rights than a military judge (which would seem to be Graham trying to replicate the Guantanamo military commission system in his NDAA language).

Two points cement the extreme hypocrisy of the US position espoused by Graham and McCain.

First, in the January 1 New York Times article on the controversy, there is a tidbit that makes me think what the US really wants for many of these prisoners is detention without charge:

But American and Afghan security officials, who spoke on the condition of anonymity because of tensions between the countries, said they had already given the commission enough evidence to send all the detainees in question to trial, or at least to hold them pending further investigation.

When it gets down to fine points, the US admits that perhaps for these prisoners, there isn't quite enough evidence to send them to trial. But the US claims there is enough "to hold them pending further investigation". And of course, there are no charges filed yet while this investigation proceeds. Keep in mind that at least some of these prisoners have been held already for years. What prospect is there that any new evidence will be brought to bear? The US seems to me to be using this weasel language to call for indefinite detention without charges, once again.

The second point is in today's Times article. In the third paragraph from the bottom, we have this:

The commission has also ordered more than 100 other detainees to stand trial, a fact that commission members have cited as evidence they are willing to keep people suspected of being killers in prison.

It is not that the commission is simply freeing all prisoners. The fact that they have ordered trial for over 100 of the prisoners while ordering the release of the 88 the US disputes suggests to me that they have decided that insufficient evidence exists or is likely to be developed within a reasonable time for the disputed prisoners.

Afghanistan has said that they will not hold prisoners for whom insufficient evidence exists to send them to trial. The US finds this

unacceptable and is going so far as to send hypocrisy tourists to Kabul to deliver a warning to Karzai that he is putting billions of dollars of US aid at risk by following the legal process Afghanistan has developed.

Update: bmaz just reminded me of this terrific illustration by the incomparable @twolf10 prepared for the blog previously (just consider it a product of a previous hypocrisy tour...):

