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No Longer Enemies, Chinese Still Held at Guantanamo

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MIAMI, Jan 26 (Reuters) - The U.S. military decided at least 10 months ago that a handful of Chinese Muslims held at the Guantanamo prison camp are not enemy combatants, and a federal court has deemed their continued detention illegal.

But the nine men, ethnic Uighurs who oppose their country's Communist rule, are still stuck at the U.S. base amid a legal battle over presidential authority and court jurisdiction. And even if the U.S. Supreme Court grants their lawyers' request to free them, no nation has agreed to take them.

"They're going crazy," said one of their lawyers, Neil McGaraghan, during a recent visit to the U.S. military base in Cuba. "The government can't seem to figure out what to do."

The men are from the northwest Chinese region of Xinjiang, known as East Turkestan until it was annexed by the Manchu Empire in 1884. Its Uighur inhabitants, a Muslim Turkic people, want more autonomy; some want independence from China.

The two who sued for release in U.S. federal court, Abu Bakker Qassim and Adel Abdu Hakim, were captured in Pakistan in late 2001 after fleeing U.S. bombing in Afghanistan. They were turned over to U.S. forces -- sold by bounty hunters, their lawyers said -- and taken to Guantanamo in 2002.

A military review panel determined in March that the nine Uighur prisoners posed no threat to the United States, were no longer considered enemy combatants and should be freed.

But the U.S. government said the law forbids sending the men home because they would face persecution there.

China is struggling to control what it calls the violent separatist activities of the Uighurs in Xinjiang. The U.S. military and human rights groups such as Amnesty International, who rarely agree on anything related to Guantanamo, concur on the likely fate of Uighur prisoners in their homeland.

"I feel like the Chinese would hurt or kill them," said Capt. Pat Salsman, spokesman for the Pentagon's Office for the Administrative Review of the Detention of Enemy Combatants.

'NOT AGAINST AMERICANS'

Court documents said the men got military training in Afghanistan under the Taliban. Military officials said they were learning to fight, "but not against Americans."

Another of the men's lawyers, Sabin Willett, said they may be considered separatists but are not plotting to overthrow the Chinese government. At any rate, he said: "They don't want to go to China. They just want out of here."

The U.S. State Department has tried for months to find someone to take them. They're still trying, spokeswoman Janelle Hironimus said. "We can't discuss how many nations have been approached," she said.

In Washington, U.S. District Judge James Robertson ruled in December that the men's continued detention at Guantanamo is illegal since they are no longer considered enemy combatants, but said he had no authority "to do what I believe justice requires" and order their release.

Robertson said he could not grant the Uighurs' request for asylum in the United States because the law gives that authority to the president. The Bush administration has vigorously opposed bringing them to the United States.

The Uighurs' lawyers are appealing Robertson's ruling, and last week asked the Supreme Court to immediately hear the case on the grounds that it is of vital public concern.

"The public has a major stake when the federal judiciary decides it cannot stop the president from continuing to break the law," Willett said.

The Justice Department counters that the president has the authority to hold the men until they can be resettled in an orderly manner.

As the legal battle continues, most of the Uighur prisoners live apart from the rest of the Guantanamo population, fenced in and under guard at a small seaside complex called Camp Iguana, but with more privileges than the other detainees.

They were euphoric when they learned -- several months after the decision -- that they were no longer branded enemy combatants. "I felt I've evaporated from the world and now I've come back to life," their lawyers quoted one as saying.

But now, "They're very, very frustrated," Willett said.