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Chinese Detainees Are Men Without a Country

15 Muslims, Cleared of Terrorism Charges, Remain at Guantanamo With Nowhere to Go

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In late 2003, the Pentagon quietly decided that 15 Chinese Muslims detained at the military prison in Guantanamo Bay, Cuba, could be released. Five were people who were in the wrong place at the wrong time, some of them picked up by Pakistani bounty hunters for U.S. payoffs. The other 10 were deemed low-risk detainees whose enemy was China's communist government -- not the United States, according to senior U.S. officials.

More than 20 months later, the 15 still languish at Guantanamo Bay, imprisoned and sometimes shackled, with most of their families unaware whether they are even alive.

They are men without a country. The Bush administration has chosen not to send them home for fear China will imprison, persecute or torture them, as the United States charges has happened to other members of China's Muslim minority. But the State Department has also been unable to find another country to take them in, according to U.S. officials and recently filed court documents.

Other detainees cleared of terrorism charges have also languished for years at Guantanamo Bay, but all have been sent home or are in the process of being transferred. For the Chinese Uighurs (pronounced WEE-gurs), there is no end in sight. About 20 countries -- including Sweden, Finland, Switzerland, Turkey and a Latin American country -- have turned down U.S. overtures to give them asylum, according to U.S. officials.

The State Department says it is still working behind the scenes to find the Uighurs a home. A senior official called their situation "unfortunate."

This month, lawyers and human rights groups appealed to the United States to take in the stranded Uighurs. "It's not like these people were once considered to be a threat and now are not," said Tom Malinowski of Human Rights Watch. "These people need to be released, either in another country or the U.S. They're America's responsibility."

But the Bush administration has balked at allowing them to enter the United States, even under restricted supervision, or to appear in a court that is hearing two of the men's cases, according to U.S. officials and court documents.

In the meantime, the men are still treated as prisoners. Sabin P. Willett, a Boston lawyer who volunteered to take the cases of two Uighurs in March, finally met with them last month, after he and his team went through their own FBI clearances. One of the Uighurs was "chained to the floor" in a "box with no windows," Willett said in an Aug. 1 court hearing.

"You're not talking about your client?" asked Judge James Robertson of the U.S. District Court in Washington.

"I'm talking about my client," Willett said.

"He was chained to a floor?" Robertson asked again.

"He had a leg shackle that was chained to a bolt in the floor," Willett replied.

For more than three years, Willett's clients -- Abu Bakker Qassim, 36, and Adel Abdu Hakim, 31 - had been denied legal counsel. Then, in March, another detainee with an attorney asked his lawyer to help them find representation through a legal process called "next friend authorization."

Most facts in the Uighur cases are still classified secrets. Lawyers are not allowed to provide information unless facts are revealed in court papers or hearings. But the basics are beginning to come to light -- and Robertson is now pressing for action. This past Friday, the judge ordered the government to disclose the status of efforts to relocate the two men at a hearing on Thursday.

All 15 Uighurs have actually been cleared for release from Guantanamo Bay twice, once after a Pentagon review in late 2003 and again last March, U.S. officials said. Seven other Uighurs were ruled to be enemy combatants and will continue to be detained.

Even after the second decision, however, the government did not notify the 15 men for several months that they had been cleared. "They clearly were keeping secret that these men were acquitted. They were found not to be al Qaeda and not to be Taliban," Willett said. "But the government still refused to provide a transcript of the tribunal that acquitted them to the detainees, their new lawyers or a U.S. court."

Through the next friend authorization process, Willett and his team have now taken on the cases of 10 other Uighur detainees -- although they know only the first names of nine of their new clients.

Uighurs are a Muslim minority whose heartland is in northwestern China. They are a Turkic people who speak a language similar to others in neighboring Central Asian nations and have long sought autonomy in China's Xinjiang province -- a region Uighurs refer to as East Turkistan.

Uighur dissidents have engaged in sporadic attacks against the Chinese government in Xinjiang province. Chinese authorities accuse Uighur separatists of committing a series of bombings and assassinations since 1990, according to the Council on Foreign Relations.

Ironically, many view the United States as a "beacon of hope" that "will assist in the Uighurs' quest for fundamental freedom and human dignity," said Nury Turkel, a U.S.-trained lawyer and president of the Uighur American Association in Washington.

"They are not soldiers. They are not criminals. They are just Uighur people," Willett argued in court. ". . . There might not be a more pro-U.S. Muslim group in the world. The Uighurs have traditionally suffered under religious and political oppression at the hands of the Communist Chinese, and I can remember a time when that made a person someone we liked in this country."

Information on how the Uighurs ended up at Guantanamo is scarce and limited to U.S. summations from interrogations. Qassim and Hakim fled the city of Ghulja in China to Central Asia in 2001. They met in Kyrgyzstan and traveled to Pakistan, then to Afghanistan, where they received training in use of small arms, according to a recent court statement by Brig. Gen. Jay W. Hood, commander of Joint Task Force Guantanamo.

After the United States attacked Afghanistan in 2001, they fled to Pakistan, where they were captured by bounty hunters, according to their lawyers and court papers.

Transcripts from the tribunals, obtained through the Freedom of Information Act, indicate why the Uighurs ended up in Guantanamo Bay and what their intentions were.

"That is true, I went to Afghanistan," said one detainee who is clearly a Uighur based on information in the transcript. "The reason is number one: I am scared of the torture from my home

country. Second: if I go there I will get some training to fight back against the [deleted] government."

"We have nothing to do with the Taliban or the Arabs. We have nothing to do with the U.S. government or coalition forces. We never thought about fighting with the Americans," another testified. "I want you to understand what our goal is: just to fight against the [deleted] government. If there is nothing happening in the future, we would like to stay wherever, abroad, to do our business."

In court papers, the administration acknowledged the dangers facing Uighurs if they are returned to China. Yet Chinese officials were allowed to visit and question the Uighurs two years ago, according to their lawyers. In recently declassified material, Hakim said that a Chinese interrogator was allowed to take a photo of him with the help of Guantanamo personnel and despite his efforts to resist.

The Justice Department has argued in court that it has no obligation to release the Uighurs because of "wind-up power," which gives a government the time necessary at the end of a conflict to figure out what to do with detainees. As a precedent, it cited the treatment of Italians held in the United States after World War II.

Lawyers and human rights groups are concerned that incarceration has tainted the Uighurs forever.

"These people are branded by being in Guantanamo. Even if cleared for doing nothing wrong, it doesn't erase the stain," said Barbara Olshansky, deputy legal director of the Center for Constitutional Rights, the New York-based nonprofit organization that found volunteer attorneys for Qassim and Hakim. "It's a terrible toll to place on people for our mistakes."