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U.S. Says It Fears Detainee Abuse in Repatriation

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A long-running effort by the Bush administration to send home many of the terror suspects held at Guantánamo Bay, Cuba, has been stymied in part because of concern among United States officials that the prisoners may not be treated humanely by their own governments, officials said.

Administration officials have said they hope eventually to transfer or release many of the roughly 490 suspects now held at Guantánamo. As of February, military officials said, the Pentagon was ready to repatriate more than 150 of the detainees once arrangements could be made with their home countries.

But those arrangements have been more difficult to broker than officials in Washington anticipated or have previously acknowledged, raising questions about how quickly the administration can meet its goal of scaling back detention operations at Guantánamo.

"The Pentagon has no plans to release any detainees in the immediate future," said a Defense Department spokesman, Lt. Cmdr. Jeffrey Gordon of the Navy. He said the negotiations with foreign governments "have proven to be a complex, time-consuming and difficult process."

The military has so far sent home 267 detainees from Guantánamo after finding that they had no further intelligence value and either posed no long-term security threat or would reliably be imprisoned or monitored by their own governments. Most of those who remain are considered more dangerous militants; many also come from nations with poor human rights records and ineffective justice systems.

But Washington's insistence on humane treatment for the detainees in their native countries comes after years in which Guantánamo has been assailed as a symbol of American abuse and hypocrisy - a fact not lost on the governments with which the United States is now negotiating.

"It is kind of ironic that the U.S. government is placing conditions on other countries that it would not follow itself in Guantánamo or Abu Ghraib," said a Middle Eastern diplomat from one of the countries involved in the talks. He asked not to be named to avoid criticizing the United States in the name of his government.

The push for human rights assurances now, some officials said, also reflects a renewed effort by the State Department to influence the administration's detention policy, even as the United States continues to face wide criticism for sending terror suspects to be interrogated in countries known to practice torture.

Neither the State Department, which is the lead agency in the repatriation talks, nor the Pentagon would comment on them in detail. United States officials who agreed to discuss them would do so only on the condition of anonymity, either because they were not authorized to speak publicly or to avoid disrupting the negotiations.

Those officials said the talks had been particularly difficult with Saudi Arabia and Yemen, two nations that account for almost half of the detainees now at Guantánamo.

The Saudi government was among the first to seek the return of its citizens from Guantánamo, and its discussions with United States officials have proceeded in fits and starts for more than three years.

Five Saudi prisoners were sent home in May 2003 in an arrangement that some officials said could be a template for future transfers.

But several American officials have since acknowledged privately that the repatriation was part of a secret, high-level pact with the Saudi and British governments, in which the Saudi authorities later freed five British citizens and two other men Saudi Arabia had convicted on what British officials said were trumped-up charges of terrorism.

United States officials said they had no indication that any of the five repatriated Saudis were abused after returning home. But as discussions have moved forward on the 128 Saudis still at Guantánamo, Saudi Arabia's record on human rights has emerged as a central obstacle, several American officials said.

According to a State Department human rights report released in March, the Saudi authorities have used "beatings, whippings and sleep deprivation" on Saudi and foreign prisoners. The report also noted "allegations of beatings with sticks and suspension from bars by handcuffs."

Mindful of such allegations, officials of the State Department's human rights bureau, among others, have insisted that any transfer deal include clear assurances that the prisoners will not be tortured and will be treated in accordance with international humanitarian law, and that those pledges can be verified, officials familiar with the discussions said.

The negotiations have bogged down over questions of how those commitments should be formalized and monitored. United States officials at one point suggested that the prisoners be visited by the International Committee of the Red Cross, but the Saudi government does not now allow the Red Cross access to its prisons, and the proposal was set aside, officials said.

Although Saudi Arabia ratified the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in 1997, it also does not accept the jurisdiction of a committee that the convention established to investigate allegations of systematic torture.

A spokesman for the Saudi Embassy in Washington, Nail al-Jubeir, said he could not comment on specifics of the negotiations, but recalled that the United States had earlier insisted that foreign governments agree to imprison the repatriated Guantánamo detainees, regardless of whether they had committed crimes at home.

"The people coming back from Guantánamo will be questioned and investigated, and if they have blood on their hands, they will face the Saudi justice system," Mr. Jubeir said. But he added, "If we have nothing to hold them on, why hold them?"

United States officials said they had hoped to begin repatriating Saudi detainees last year in groups of about 20 at a time. They noted that some - including Mohammed al-Qahtani, who was captured in Afghanistan months after he tried to meet up with some of the 9/11 hijackers in Florida - were expected to remain at Guantánamo for years, if not decades, to come.

By last summer, the Defense Department had approved 18 Saudi detainees for repatriation, and the number has since increased to about two dozen, officials said. But their transfers have been held up by continuing differences between the governments, the officials said.

"We're operating in an environment where we don't want to send people to a country where we are going to find out two weeks later that they've been tortured," a State Department official said.

Referring to Saudi Arabia, he said, "We hope to reach the point soon where we are comfortable with the humanitarian arrangements."

Other major difficulties have emerged in Washington's negotiations with the government of Yemen, which has about 105 citizens at Guantánamo. (The Pentagon has refused to make public the nationalities of all of the Guantánamo prisoners.)

The State Department report cited the use of sleep deprivation, threats of sexual assault and other abuses by Yemeni state-security agents. Despite efforts by the Yemeni Interior Ministry to curb torture in its prisons, the department said, there were also reports that ministry agents "routinely" used of torture to extract confessions from criminal defendants.

Even so, some American officials said a more immediate obstacle to the possible transfer of Guantánamo prisoners was a basic lack of security in Yemeni prisons. The most vivid example, they said, was the escape on Feb. 3 of 23 men, including some important operatives of Al Qaeda, from a high-security prison run by the country's intelligence service in the capital, Sana. (Eight have surrendered or been recaptured.)

Barely a month later, Yemeni security officials announced that they had thwarted two more escape attempts involving a dozen Qaeda operatives at other prisons.

A spokesman for the Yemeni Embassy in Washington, Mohammed al-Basha, said his government was eager to have Yemeni detainees repatriated and was "fully committed" to international laws governing their treatment.

Of the Afghans captured during and since the American-led overthrow of the Taliban, nearly 100 remain at Guantánamo; their repatriation may be easier. The United States is paying \$12 million to refurbish part of an old Soviet-built prison outside Kabul to house transferred detainees; the work is to be completed by December.

Since 2002, the Defense Department has sent 187 Guantánamo detainees to their home countries to be released and 80 more for continued incarceration. Panels of military officers at Guantánamo who reviewed the status of 463 prisoners last year recommended 120 transferred to foreign custody and 14 released outright.

But only 15 of those 134 prisoners have thus far been sent home, a military spokesman said. The rest - along with 22 others whose transfer or release was approved earlier and 9 more who have been deemed "no longer enemy combatants" - remain at Guantánamo.

Among those that remain are 22 Chinese Muslim separatists from the Uighur ethnic minority. United States officials have said they would respect the men's request not to be sent back to China because of the possibility that they would be mistreated. But the State Department has been unable to find a third country that will accept them as refugees.

Human rights concerns have also been a sticking point in the possible transfer of Guantánamo detainees to countries including Egypt, Algeria and Uzbekistan, United States officials said.

The one clear case in which repatriated detainees have suffered serious abuse involves seven Russians sent home from Guantánamo in May 2004. At the time, American officials were primarily concerned with ensuring that the men would continue to be detained. Instead, they were jailed briefly and released without charge.

But at least four of the men were later rearrested by various security forces. Three reported being beaten or tortured into confessing to an involvement in terrorism, and although one was later acquitted after a jury trial, he has since been arrested again.

