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U.S. war prisons legal vacuum for 14,000

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BAGHDAD, Iraq - In the few short years since the first shackled Afghan shuffled off to Guantanamo, the U.S. military has created a global network of overseas prisons, its islands of high security keeping 14,000 detainees beyond the reach of established law.

Disclosures of torture and long-term arbitrary detentions have won rebuke from leading voices including the U.N. secretary-general and the U.S. Supreme Court. But the bitterest words come from inside the system, the size of several major U.S. penitentiaries.

"It was hard to believe I'd get out," Baghdad shopkeeper Amjad Qassim al-Aliyawi told The Associated Press after his release - without charge - last month. "I lived with the Americans for one year and eight months as if I was living in hell."

Captured on battlefields, pulled from beds at midnight, grabbed off streets as suspected insurgents, tens of thousands now have passed through U.S. detention, the vast majority in Iraq.

Many say they were caught up in U.S. military sweeps, often interrogated around the clock, then released months or years later without apology, compensation or any word on why they were taken. Seventy to 90 percent of the Iraq detentions in 2003 were "mistakes," U.S. officers once told the international Red Cross.

Defenders of the system, which has only grown since soldiers' photos of abuse at Abu Ghraib shocked the world, say it's an unfortunate necessity in the battles to pacify Iraq and Afghanistan, and to keep suspected terrorists out of action.

Every U.S. detainee in Iraq "is detained because he poses a security threat to the government of Iraq, the people of Iraq or coalition forces," said U.S. Army Lt. Col. Keir-Kevin Curry, a spokesman for U.S.-led military detainee operations in Iraq.

But dozens of ex-detainees, government ministers, lawmakers, human rights activists, lawyers and scholars in Iraq, Afghanistan and the United States said the detention system often is unjust and hurts the war on terror by inflaming anti-Americanism in Iraq and elsewhere.

Building for the Long Term

Reports of extreme physical and mental abuse, symbolized by the notorious Abu Ghraib prison photos of 2004, have abated as the Pentagon has rejected torture-like treatment of the inmates. Most recently, on Sept. 6, the Pentagon issued a new interrogation manual banning forced nakedness, hooding, stress positions and other abusive techniques.

The same day, President Bush said the CIA's secret outposts in the prison network had been emptied, and 14 terror suspects from them sent to Guantanamo Bay, Cuba, to face trial in military tribunals. The U.S. Supreme Court has struck down the tribunal system, however, and the White House and Congress are now wrestling over the legal structure of such trials.

Living conditions for detainees may be improving as well. The U.S. military cites the toilets of Bagram, Afghanistan: In a cavernous old building at that air base, hundreds of detainees in their communal cages now have indoor plumbing and privacy screens, instead of exposed chamber pots.

Whatever the progress, small or significant, grim realities persist.

Human rights groups count dozens of detainee deaths for which no one has been punished or that were never explained. The secret prisons - unknown in number and location - remain available for future detainees. The new manual banning torture doesn't cover CIA interrogators. And thousands of people still languish in a limbo, deprived of one of common law's oldest rights, habeas corpus, the right to know why you are imprisoned.

"If you, God forbid, are an innocent Afghan who gets sold down the river by some warlord rival, you can end up at Bagram and you have absolutely no way of clearing your name," said John Sifton of Human Rights Watch in New York. "You can't have a lawyer present evidence, or do anything organized to get yourself out of there."

The U.S. government has contended it can hold detainees until the "war on terror" ends - as it determines.

"I don't think we've gotten to the question of how long," said retired admiral John D. Hutson, former top lawyer for the U.S. Navy. "When we get up to 'forever,' I think it will be tested" in court, he said.

The Navy is planning long-term at Guantanamo. This fall it expects to open a new, \$30-million maximum-security wing at its prison complex

there, a concrete-and-steel structure replacing more temporary camps.

In Iraq, Army jailers are a step ahead. Last month they opened a \$60-million, state-of-the-art detention center at Camp Cropper, near Baghdad's airport. The Army oversees about 13,000 prisoners in Iraq at Cropper, Camp Bucca in the southern desert, and Fort Suse in the Kurdish north.

Neither prisoners of war nor criminal defendants, they are just "security detainees" held "for imperative reasons of security," spokesman Curry said, using language from an annex to a U.N. Security Council resolution authorizing the U.S. presence here.

Questions of Law, Sovereignty

President Bush laid out the U.S. position in a speech Sept. 6.

"These are enemy combatants who are waging war on our nation," he said. "We have a right under the laws of war, and we have an obligation to the American people, to detain these enemies and stop them from rejoining the battle."

But others say there's no need to hold these thousands outside of the rules for prisoners of war established by the Geneva Conventions.

U.N. Secretary-General Kofi Annan declared last March that the extent of arbitrary detention here is "not consistent with provisions of international law governing internment on imperative reasons of security."

Meanwhile, officials of Nouri al-Maliki's 4-month-old Iraqi government say the U.S. detention system violates Iraq's national rights.

"As long as sovereignty has transferred to Iraqi hands, the Americans have no right to detain any Iraqi person," said Fadhil al-Sharaa, an aide to the prime minister. "The detention should be conducted only with the permission of the Iraqi judiciary."

At the Justice Ministry, Deputy Minister Busho Ibrahim told AP it has been "a daily request" that the detainees be brought under Iraqi authority.

There's no guarantee the Americans' 13,000 detainees would fare better under control of the Iraqi government, which U.N. officials say holds 15,000 prisoners.

But little has changed because of these requests. When the Americans formally turned over Abu Ghraib prison to Iraqi control on Sept. 2, it was empty but its 3,000 prisoners remained in U.S. custody, shifted to Camp Cropper.

Life in Custody

The cases of U.S.-detained Iraqis are reviewed by a committee of U.S. military and Iraqi government officials. The panel recommends criminal charges against some, release for others. As of Sept. 9, the Central Criminal Court of Iraq had put 1,445 on trial, convicting 1,252. In the last week of August, for example, 38 were sentenced on charges ranging from illegal weapons possession to murder, for the shooting of a U.S. Marine.

Almost 18,700 have been released since June 2004, the U.S. command says, not including many more who were held and then freed by local military units and never shipped to major prisons.

Some who were released, no longer considered a threat, later joined or rejoined the insurgency.

The review process is too slow, say U.N. officials. Until they are released, often families don't know where their men are - the prisoners are usually men - or even whether they're in American hands.

Ex-detainee Mouayad Yasin Hassan, 31, seized in April 2004 as a suspected Sunni Muslim insurgent, said he wasn't allowed to obtain a lawyer or contact his family during 13 months at Abu Ghraib and Bucca, where he was interrogated incessantly. When he asked why he was in prison, he said, the answer was, "We keep you for security reasons."

Another released prisoner, Waleed Abdul Karim, 26, recounted how his guards would wield their absolute authority.

"Tell us about the ones who attack Americans in your neighborhood," he quoted an interrogator as saying, "or I will keep you in prison for another 50 years."

As with others, Karim's confinement may simply have strengthened support for the anti-U.S. resistance. "I will hate Americans for the rest of my life," he said.

As bleak and hidden as the Iraq lockups are, the Afghan situation is even less known. Accounts of abuse and deaths emerged in 2002-2004, but if Abu Ghraib-like photos from Bagram exist, none have leaked out. The U.S. military is believed holding about 500 detainees - most Afghans, but also apparently Arabs, Pakistanis and Central Asians.

The United States plans to cede control of its Afghan detainees by early next year, five years after invading Afghanistan to eliminate al-Qaida's base and bring down the Taliban government. Meanwhile, the prisoners of Bagram exist in a legal vacuum like that elsewhere in the

U.S. detention network.

"There's been a silence about Bagram, and much less political discussion about it," said Richard Bennett, chief U.N. human rights officer in Afghanistan.

Freed detainees tell how in cages of 16 inmates they are forbidden to speak to each other. They wear the same orange jumpsuits and shaven heads as the terrorist suspects at Guantanamo, but lack even the scant legal rights granted inmates at that Cuba base. In some cases, they have been held without charge for three to four years, rights workers say.

Guantanamo received its first prisoners from Afghanistan - chained, wearing blacked-out goggles - in January 2002. A total of 770 detainees were sent there. Its population today of Afghans, Arabs and others, stands at 455.

Described as the most dangerous of America's "war on terror" prisoners, only 10 of the Guantanamo inmates have been charged with crimes. Charges are expected against 14 other al-Qaida suspects flown in to Guantanamo from secret prisons on Sept. 4.

Plans for their trials are on hold, however, because of a Supreme Court ruling in June against the Bush administration's plan for military tribunals.

The court held the tribunals were not authorized by the U.S. Congress and violated the Geneva Conventions by abrogating prisoners' rights. In a sometimes contentious debate, the White House and Congress are trying to agree on a new, acceptable trial plan.

Since the court decision, and after four years of confusing claims that terrorist suspects were so-called "unlawful combatants" unprotected by international law, the Bush administration has taken steps recognizing that the Geneva Conventions' legal and human rights do extend to imprisoned al-Qaida militants. At the same time, however, the new White House proposal on tribunals retains such controversial features as denying defendants access to some evidence against them.

In his Sept. 6 speech, Bush acknowledged for the first time the existence of the CIA's secret prisons, believed established at military bases or safehouses in such places as Egypt, Indonesia and eastern Europe. That network, uncovered by journalists, had been condemned by U.N. authorities and investigated by the Council of Europe.

The clandestine jails are now empty, Bush announced, but will remain a future option for CIA detentions and interrogation.

Louise Arbour, U.N. human rights chief, is urging Bush to abolish the CIA prisons altogether, as ripe for "abusive conduct." The CIA's techniques for extracting information from prisoners still remain secret, she noted.

Meanwhile, the U.S. government's willingness to resort to "extraordinary rendition," transferring suspects to other nations where they might be tortured, appears unchanged.

Prosecutions and Memories

The exposure of sadistic abuse, torture and death at Abu Ghraib two years ago touched off a flood of courts-martial of mostly lower-ranking U.S. soldiers. Overall, about 800 investigations of alleged detainee mistreatment in Iraq and Afghanistan have led to action against more than 250 service personnel, including 89 convicted at courts-martial, U.S. diplomats told the United Nations in May.

Critics protest that penalties have been too soft and too little has been done, particularly in tracing inhumane interrogation methods from the far-flung islands of the overseas prison system back to policies set by high-ranking officials.

In only 14 of 34 cases has anyone been punished for the confirmed or suspected killings of detainees, the New York-based Human Rights First reports. The stiffest sentence in a torture-related death has been five months in jail. The group reported last February that in almost half of 98 detainee deaths, the cause was either never announced or reported as undetermined.

Looking back, the United States overreacted in its treatment of detainees after Sept. 11, said Anne-Marie Slaughter, a noted American scholar of international law.

It was understandable, the Princeton University dean said, but now "we have to restore a balance between security and rights that is consistent with who we are and consistent with our security needs."

Otherwise, she said, "history will look back and say that we took a dangerous and deeply wrong turn."

Back here in Baghdad, at the Alawi bus station, a gritty, noisy hub far from the meeting rooms of Washington and Geneva, women gather with fading hopes whenever a new prisoner release is announced.

As she watched one recent day for a bus from distant Camp Bucca, one mother wept and told her story.

"The Americans arrested my son, my brother and his friend," said Zahraa Alyat, 42. "The Americans arrested them October 16, 2005. They left together and I don't know anything about them."

The bus pulled up. A few dozen men stepped off, some blindfolded, some bound, none with any luggage, none with familiar faces.

As the distraught women straggled away once more, one ex-prisoner, 18-year-old Bilal Kadhim Muhssin, spotted U.S. troops nearby.

"Americans," he muttered in fear. "Oh, my God, don't say that name," and he bolted for a city bus, and freedom.

EDITOR'S NOTE - The Associated Press staff in Baghdad and AP writers Andrew Selsky in San Juan, Puerto Rico; Matthew Pennington in Kabul, Afghanistan; Anne Plummer Flaherty in Washington, and Charles J. Hanley in New York contributed to this report.