

PRESS RELEASE

As Deadline Approaches, the United States and Afghanistan Remain Divided on Detention

United States Pushes for Continued Detention Power as Afghanistan Creates Troubling New Internment Regime

Kabul, Afghanistan, September 6, 2012—The U.S. and Afghan governments remain divided on the eve of what some expected to be the complete handover of the U.S. run detention center in Afghanistan on September 9th. Since an agreement signed in March, the United States has continued to capture and detain Afghans in Bagram, and expects to retain this authority until 2014.

“We cannot allow allies and friendly countries to have detention centers here. This is illegal,” said Afghanistan’s national security advisor Rangin Dadfar Spanta.

U.S. authorities interpret the handover deal differently: “The March 9, 2012, Detentions MOU does not limit the authority of U.S. forces to capture and detain the enemy,” said one official.

The continued tensions over U.S. detention power in Afghanistan have been documented in a new report from the Open Society Foundations, *Remaking Bagram: The Creation of an Afghan Internment Regime and the Divide over U.S. Detention*.

Open Society Foundations researchers found that despite the March agreement, the United States has sent approximately 600 new detainees to Bagram in the last six months. They also intend to retain detention capacity in two blocks in Bagram, later transferring detainees to the Afghan authorities.

Remaking Bagram also highlights how the March agreement fails to address the problem of non-Afghan detainees, or “third country nationals,” who could remain in U.S. custody for the foreseeable future—raising the troubling specter of another Guantanamo Bay in Afghanistan.

In order to receive the transferred detainees, the Afghan government has created a system of detention without trial, or internment, which closely resembles the U.S. system in Bagram. Senior

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Afghan officials told the Open Society Foundations that Afghanistan's internment regime is unconstitutional.

"The U.S. military wants to keep its foot in the door of Bagram, and they've been avoiding Afghan demands for sovereignty in order to do so," said Rachel Reid, senior advisor on Afghanistan at the Open Society Foundations. "But if Afghanistan truly wants to bring legitimacy to national security detentions, creating their own unlawful internment regime is a bad way to start."

The Afghan government is already holding more than 50 Afghans in internment. While some Afghan officials have said that internment will end with the transition in September, other officials have said it is here to stay, raising fears about how this power may be used in the future.

"Consider the fact that even our regular laws are ignored by powerful people," Abdul Qawi Afzali of the Legal Aid Organization Afghanistan cautioned, "What will happen when you give them the actual, legal power to detain people like this law does?"

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