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## Concerns Grow over Bagram's Prison within a Prison

By William Fisher

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The administration of President Barack Obama is considering using Afghanistan's U.S.-run Bagram Air Base prison to indefinitely detain terrorism suspects captured far from a battlefield and who have not been charged with a crime — without any judicial oversight.

A senior U.S. official reportedly [told the Los Angeles Times](#) that the Obama administration wants to detain and interrogate non-Afghan terrorism suspects captured in countries outside Afghanistan in a section of the Bagram prison, even after it turns the prison over to Afghan control.

The U.S. government has stated its intention to turn over control of the Bagram detention facility to the Afghan government early next year. In May, a federal court ruled that unlike at Guantánamo, prisoners in U.S. custody at Bagram, including those who were captured far from any battlefield and brought to Afghanistan, cannot challenge their detention in U.S. courts. That decision paves the way for the U.S. government to use Bagram to detain terrorism suspects indefinitely.

"The Guantánamo problem is not solved simply by recreating a Guantánamo somewhere else. Closing Guantánamo is essential but it is equally important that the Obama administration put an end to the illegal indefinite detention policy behind Guantánamo," said Melissa Goodman, staff attorney with the ACLU National Security Project.

"The entire world is not a battlefield. We cannot just capture people far from any zone of armed conflict and lock up them up indefinitely without any access to the courts or due process. Such a policy not only flies in the face of our justice system, but opens up the possibility that mistakes will be made and the wrong people will be imprisoned — which is exactly what we have seen at Guantánamo," she added.

The ACLU filed a Freedom of Information Act (FOIA) lawsuit in September 2009 demanding information about Bagram, which has thus far been shrouded in much secrecy. In response to the lawsuit, the government turned over some important information but continues to withhold key details about the prisoners detained at Bagram, as well as information about the implementation of its new detainee status review procedures and about a separate "secret jail" on the base.

The secret facility is reportedly run by either the Joint Special Operations Command or the Defense Intelligence Agency, and detainees maintain they have been abused there. It is unclear whether guards and interrogators at the secret facility are subject to the same rules that apply at the main Bagram detention facility.

"The possibility of continuing to hold and interrogate detainees at Bagram is even more disturbing given the lack of transparency about the facility," said Goodman. "Plans to continue holding prisoners in U.S. custody at Bagram must be accompanied by the disclosure of key information about what currently goes on there."

In a related development, four Bagram detainees were given their first opportunity to appear at a pre-trial hearing last week. According to Reuters and the Associated Press, the detainees — three adult brothers and their elderly father — were brought before a panel of three Afghan judges on Jun. 1. The proceeding was the first pre-trial hearing in advance of the first trial ever to be held at the U.S.- controlled detention facility.

But legal advocacy groups are expressing concern about the lack of transparency surrounding the trial procedures, the apparent failure to provide detainees with adequate access to their lawyers before the hearing, and lack of arrangements for appropriate translation services.

Tina Foster, the attorney who represents a number of Bagram detainees through the International Justice Network (IJN), told IPS, "Once again the Obama administration has simply made a grand pronouncement of policy without any transparency or accountability. Given the failures of the Obama-Bush track record on Military Commissions, it's hard to imagine these would be anything other than Kangaroo court proceedings."

And Daphne Eviatar, senior counsel at Human Rights First (HRF), said her group was "dismayed that the proceeding so far has been chaotic and (that) so little information has been made available about how this trial will proceed and whether more such trials are planned."

Since the U.S. military first began detaining suspected insurgents at Bagram eight years ago, none have been accorded a trial by U.S. authorities. Some have been transferred to an Afghan-run detention facility and provided summary trials there. HRF has in the past criticized such trials for not meeting the minimum standards of due process.

In the past year, the group says, the U.S. military has begun to provide more meaningful hearings for detainees at Bagram that allow the suspects to call "reasonably available" witnesses and to be represented by "personal representatives" chosen by the U.S. military.

However, HRF points out that the detainees still have no right to legal representation or to see much of the evidence used against them, as much of it remains classified. The organization has repeatedly asked to see the rules governing these new Detainee Review Board procedures, but the military has not responded.

News reports of the first hearing last week also revealed that the trial procedures are inadequately developed. One defense lawyer reportedly complained that he had not an opportunity even to meet his client or to review his client's file. And when the hearing began, it became clear that the government had failed to provide the necessary translators to make it comprehensible.

The trial was being conducted in Dari, rather than in the detainees' native language, which is Pashto. Although there were translators available to translate to English, there were none who could translate the proceedings into Pashto.

Eviatar told IPS that, "We support the idea of trials being presided over by Afghan judges, (but) only if those trials are fair trials and if they're conducted in a language that the detainees understands, or at least with interpreters who can translate the proceedings into the detainee's language."

"Obviously, a trial held in Dari without interpreters available to translate to Pashto, when the detainees speak and understand Pashto and not Dari, won't be comprehensible to the detainees, and therefore by definition won't be fair," she added.