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strangers.**September 13, 2009**

U.S. to Expand Review of Detainees in Afghan Prison

By [ERIC SCHMITT](#)

WASHINGTON — The Obama administration soon plans to issue new guidelines aimed at giving the hundreds of prisoners at an American detention center in [Afghanistan](#) significantly more ability to challenge their custody, Pentagon officials and detainee advocates say.

The new Pentagon guidelines would assign a United States military official to each of the roughly 600 detainees at the American-run prison at the [Bagram](#) Air Base north of Kabul. These officials would not be lawyers but could for the first time gather witnesses and evidence, including classified material, on behalf of the detainees to challenge their detention in proceedings before a military-appointed review board.

Some of the detainees have already been held at Bagram for as long as six years. And unlike the prisoners at the Guantánamo Bay naval base in Cuba, these detainees have had no access to lawyers, no right to hear the allegations against them and only rudimentary reviews of their status as “enemy combatants,” military officials said.

The changes, which are expected to be announced as early as this week after an obligatory Congressional review, come as the Obama administration is picking through the detention policies and practices of the Bush administration, to determine what it will keep and what it will abandon in an effort to distance itself from some of the harsher approaches used under President [George W. Bush](#). Human rights groups and prisoner advocates cautiously hailed the policy changes but said the government’s track record in this area had been so poor that they wanted to see concrete results before making hard judgments.

The decision has an immediately pragmatic side, too, coming as the administration is preparing to appeal a federal judge’s [ruling](#) in April that some Bagram prisoners brought in from outside Afghanistan have a right to challenge their imprisonment.

Some of the changes in the American detention policies are already under way. The Pentagon is closing the decrepit Bagram prison and replacing it this fall with a new 40-acre complex that officials say will be more modern and humane. In a recent policy reversal, the military for the first time is notifying the International Committee of the Red Cross of the identities of militants who were being held in secret at a camp in Iraq and another in Afghanistan run by [United States Special Operations forces](#).

The Bagram prison has become an ominous symbol for Afghans — a place where harsh [interrogation methods](#) and sleep deprivation were used routinely in its early years, and where two Afghan detainees died in 2002 after being beaten by American soldiers and hung by their arms from the ceilings of isolation cells. Bagram also became a holding site for terrorism suspects captured outside Afghanistan and Iraq.

Since July, the prisoners at Bagram have refused to leave their cells to shower, meet with family members or Red Cross officials, or take part in other activities, to protest their indefinite imprisonment, human rights advocates said.

Pentagon officials said the new guidelines governing each detainee's custody status reflect a broader shift to separate extremist militants from more moderate detainees instead of having them mixed together as they are now.

"We don't want to hold anyone we don't have to hold," said one Defense Department official, who spoke on the condition of anonymity because the guidelines have not been formally announced. "It's just about doing the right thing."

The official declined to estimate how many detainees might be freed once they have new evidence and witnesses to testify on their behalf.

Sahr MuhammedAlly, a senior associate for law and security at the advocacy group Human Rights First who in April interviewed several former Bagram detainees in Afghanistan, called the proposed changes an improvement. But she said that "it remains to be seen whether they'll be able to prevent arbitrary and indefinite detention."

Tina Foster, the executive director of the International Justice Network, which is representing four Bagram detainees in a pending court case, expressed deep reservations.

"On paper, it appears they're going to be changes that will allow detainees more opportunity to present their side of the story," Ms. Foster said in a telephone interview. "But I think the procedures are just words on pieces of paper unless someone is there to ensure they're being followed and the detainee has the ability to understand them and avail themselves of them."

Military officials and human rights advocates also said there were questions about how quickly and comprehensively the guidelines could be put into practice, given concerns about shortages of qualified personnel to represent the detainees.

The changes have come as the administration is expected as early as Monday to file a formal written brief explaining its opposition to a ruling by a federal district judge, [John D. Bates](#), in April. In it, he ruled that three detainees at Bagram had the same legal rights that the Supreme Court last year granted to prisoners held at Guantánamo Bay.

The prisoners — two Yemenis and a Tunisian — say that they were captured outside Afghanistan and taken to Bagram, and that they have been held for more than six years without trials. Arguing that they were not enemy combatants, the detainees want a civilian judge to review the evidence against them and order their release, under the constitutional right of [habeas corpus](#).

The Obama administration, like the Bush administration, has rejected this argument. Officials say the importance of Bagram as a holding site for terrorism suspects captured outside Afghanistan and Iraq has risen under the Obama administration, which barred the [Central Intelligence Agency](#) from using its secret prisons for long-term detention and ordered the military prison at Guantánamo closed within a year.

The new policy guidelines will bolster the government's case, said the Defense Department official, who added, "We want to be able to go into court and say we have good review procedures."

The Obama administration had sought to preserve Bagram as a haven where it could detain terrorism suspects beyond the reach of American courts, agreeing with the Bush administration's view that courts had no jurisdiction over detainees there.

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