

Human Rights Watch

Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

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The United States can begin to regain its moral authority in combating terrorism when the Guantanamo Bay detention facility is closed. But that's only if the government stops sending detainees back to places like Tunisia.

In late July, I visited that country to see what happened to the first two Guantanamo detainees returned there. The picture is bleak. Tunisian authorities held both Abdallah Hajji and Lotfi Lagha for several weeks in tiny isolation cells after the United States flew them from Guantanamo on June 18. Each is facing serious charges of terrorism before Tunisian courts whose proceedings are anything but fair. Hajji told his lawyer that upon arrival police deprived him of sleep for 48 hours, threatened to rape his wife, and slapped him until he signed a statement he was not able to read. Tunisian authorities deny he was mistreated but won't let him be seen by any independent monitor in a position to comment publicly.

None of this should surprise Washington. The US State Department's annual human rights report notes that security forces in Tunisia tortured and physically abused prisoners and detainees, and listed the following forms of abuse: sleep deprivation, electric shock, submersion of the head in water, beatings with hands, sticks, and police batons, suspension from cell doors and rods, and cigarette burns.

How does the Bush administration square the transfer of these men to Tunisia with its legal obligation not to send persons to countries that torture? "We get assurances that are specific and credible and we follow up on those assurances," US Ambassador to Tunisia Robert F. Godec told me in Tunis. "We have to be confident these people will be treated humanely when they are returned."

However, the experience of Hajji and Lagha in the 10 weeks since their arrival shows that diplomatic assurances from a country that routinely abuses detainees are worth little. Both the sending and receiving countries have an interest in denying mistreatment.

Hajji, a 51-year-old father of eight, moved from Tunis with his family to Pakistan in 1990. In 1995 a Tunisian military court sentenced Hajji in absentia to 10 years in prison for belonging to a terrorist organization abroad. Pakistani authorities arrested him in April 2002 and delivered him to the US government, which sent him to Guantanamo. He is slated for a retrial in Tunisia on September 26.

Lagha, 38, grew up in southern Tunisia and left for Italy in 1997. At some point he traveled east to Pakistan, where authorities arrested him in December 2001 and handed him to US authorities. Lagha had no prior court record for politically motivated offenses, but upon his arrival in Tunisia authorities charged him with belonging to a terrorist organization abroad.

Hajji says he would have preferred to remain in Guantanamo had he known that Tunisia would jail and retry him, according to his lawyer. For five weeks he was in a cell he described as a "tomb" so dark that he could not tell day from night, and was forbidden all contact with other inmates. In August, authorities moved him to a cell with two other inmates.

We know less about Lagha. His brothers visit him but can exchange little beyond pleasantries because guards openly record their conversations. Lagha has reportedly said he too prefers Guantanamo to Mornaguia prison. He was unable to see a lawyer for several weeks after his arrival in Tunisia despite the grave charges he faces.

Ten more Tunisians are among the 360 detainees remaining at Guantanamo. Tunisian courts have already sentenced at least eight of them in absentia to long prison terms on terror charges.

Ambassador Godec says the Tunisians provided assurances of humane treatment for these men but he refuses to comment on their reception thus far. He will not say whether anyone informed Hajji in Guantanamo of the charges awaiting him at home, whether Washington knew either man would be detained upon arrival, or whether US officials have visited either person in prison or checked Hajji's allegations of mistreatment.

The United States has no easy solutions for the Guantanamo detainees it clears for release but who have legitimate fears of ill-treatment

at home. At a minimum it must provide these men who have been cut off for years from the outside world the information, including their court records, which will enable them to express an informed preference about return. Many may elect to go home, but those who don't want to return because they fear abuse should have an opportunity to challenge their transfer before a federal court, including any assurances of humane treatment that are part of the transfer agreement, or help to identify a safe third country that will take them.

This may prolong their time in Guantanamo. But if the US refuses them this choice after five harsh years of detention without charge and sends them instead to likely abuse at home, it will be giving itself a new black eye even as it tries to heal older wounds by finally shutting down Guantanamo.

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