

WHAT ROLE WILL RELEASED TALIBAN DETAINEES HAVE IN AFGHANISTAN'S FUTURE?

A provincial governor and one of the more moderate co-founders of the Taliban, a top military commander (who was betrayed by our war criminal Rashid Dostum, and against whom credible war crimes complaints have been raised), another provincial governor, Deputy Chief of Taliban Intelligence, and a minor judge.

These are – according to an Afghanistan Analysts Network report drawing on years of engagement – the men whom President Obama just traded for the released of Bowe Bergdahl. They will remain under a travel ban in Qatar for a year. Then what?

While the usual sources are declaring all of them – rather than just some of them – among the most dangerous men at Gitmo and warning they'll be attacking American soldiers imminently, I'm more interested in what role these men – four of whom are clearly key leaders, including legitimate military and intelligence leaders – will play in Afghanistan after we leave.

I ask that because, while I believe Obama has botched the legalities of the transfer (he should have noticed Congress, even if not the full 30 days in advance; bmaz should have more to say on that later), I think the most useful way to approach the swap is the way Ken Gude does: we would have had to release these men within a year or so anyway, and so we're better off freeing Bergdahl in the process.

When wars end, prisoners taken custody must be released. These five Guantanamo detainees were almost all members of the

Taliban, according to the biographies of the five detainees that the Afghan Analysts Network compiled in 2012. None were facing charges in either military or civilian courts for their actions. It remains an open question whether the end of U.S. involvement in the armed conflict in Afghanistan requires that all Guantanamo detainees must be released. But there is no doubt that Taliban detainees captured in Afghanistan must be released because the armed conflict against the Taliban will be over.

Sgt. Bergdahl was a U.S. soldier captured in an active zone of combat. The circumstances of his capture make him a Prisoner of War, not a hostage as some have erroneously claimed. In traditional conflicts, both sides would release their prisoners at the conclusion of hostilities. This is not a traditional conflict, however, and the Obama administration rightly had no expectation that Sgt. Bergdahl would have been released when U.S. forces redeployed out of Afghanistan. As that date neared, any leverage the United States possessed would have been severely undermined.

But I'm also fascinated by the messaging problem years of conflating the Taliban and Al Qaeda is now causing.

Regardless of the allegations against some – and the evidence against Mullah Fazl Mazlum – as Taliban (and Haqqani, in the case of the judge) they were also lawful combatants (if that – several were civilians when captured) of a state at war with the United States. If we plan on ending that war, these men will be entitled to engage in the politics and fighting that will determine Afghanistan's future going forward. Several of these men appear to have the kinds of skills Afghans will need to rebuild their

country – though it's unclear what kind of credibility they'll have after years of rotting in an American prison. And of course, it's not even clear what role the Taliban will have after we leave. We certainly haven't defeated the Taliban!

(Some of) these men may be dangerous, in the same way Stanley McChrystal would rightly be viewed as dangerous if captured by our adversaries. But they are also members of an entity that governed Afghanistan when this war started, an entity that is likely to play some role, for better and worse, going forward.

And yet the debate about their release seems to forget that distinguishes them from the terrorists.