

# The Shifting Sands of Obama's Bergdahl Defense

If America's newly free POW really was a deserter, the White House is in deep trouble.

BY JOHN HUDSON

**O**n Sunday, National Security Advisor Susan Rice said former American prisoner of war Bowe Bergdahl served with "honor and distinction" before he was captured by the Taliban in Afghanistan.

Two days later, the secretary of the Army said the branch will investigate whether Bergdahl deserted his fellow soldiers -- an allegation that if true would transform the public perception of the POW and drastically complicate the White House's attempts to defend its prisoner exchange, which involved the release of five Taliban operatives from Guantanamo Bay.

On Tuesday, a fresh wave of lawmakers, including a top Senate Democrat, criticized the Obama administration's handling of Bergdahl's release. Complaints centered on four basic issues. Some critics oppose the very idea of trading five Guantanamo detainees for a U.S. soldier given the age-old mantra that the United States does not negotiate with terrorists (though historically, it sometimes has). Others say the administration broke the law by failing to comply with legislation requiring the president give 30-days notice to Congress before moving any prisoners out of Guantanamo Bay. Still others believe that given Bergdahl's potential status as a "deserter," the administration gave up too much in releasing five hardened Taliban operatives in exchange for his release. Lastly, some members of Congress believe the White House should've never championed Bergdahl as a hero given the unknown circumstances of his abduction.

For its part, the White House has rebuttals for each charge. But its emphasis has evolved over the last three days. At the outset, the administration argued that Bergdahl's "safety and health were in jeopardy," justifying a hasty swap without the required congressional notification. Citing privacy concerns, the administration would not provide details about Bergdahl's condition. On Tuesday, the White House defended its unilateral actions on constitutional grounds.

"Delaying the transfer in order to provide the 30-day notice would interfere with the executive's performance of two related functions that the Constitution assigns to the President," said White House spokesperson Caitlin Hayden. "Protecting the lives of Americans abroad and protecting U.S. soldiers."

Meanwhile, the country's understanding of Bergdahl and his service to the country has changed dramatically. On Saturday, the White House hosted a Rose Garden event to celebrate Bergdahl's release, which President Obama attended. On Sunday, Susan Rice told ABC that Bergdahl served the U.S. "with honor and distinction." His fellow soldiers, however, said he deliberately left base before his abduction and often complained bitterly about the U.S. mission in Afghanistan. They also noted that some U.S. soldiers were killed in the hunt for Bergdahl. Following those mounting criticisms, Gen. Martin Dempsey, the chairman of the Joint Chiefs of Staff, suggested that the Army may pursue a desertion investigation into Bergdahl, which Army Secretary John McHugh confirmed on Tuesday. "As Chairman Dempsey indicated, the Army will ... review this in a comprehensive, coordinated effort that will include speaking with Sgt. Bergdahl to better learn from him the circumstances of his disappearance and captivity," said McHugh.

Rice's remarks championing Bergdahl effectively boxed the White House in and created daylight between it and the Pentagon as military officials responded to tough questions about Bergdahl's past.

The dramatic speed in which Bergdahl went from hero to something more complicated led to criticisms of the White House. "Knowing the background of this soldier to somehow give them this type of hero status, what does that do the mothers and fathers of those other soldiers who were killed in Afghanistan, especially those who were out trying to find [Bergdahl]?" Rep. Peter King (R-N.Y.) said on CNN on Tuesday. "And to have Susan Rice say he conducted himself with honor and distinction, it makes you wonder about all of the things the president is saying."

Later in the broadcast, White House Press Secretary Jay Carney defended Rice's remarks, saying she was commenting on his service in general, not on allegations about his disappearance. "Sgt. Bergdahl put on the uniform of the United States voluntarily and went to war for the United States voluntarily," Carney said. "That takes honor and is a mark of distinction."

But the issue over how the administration portrayed Bergdahl is just one among many on the minds of Congress members. Many are still furious over being left in the dark about the prisoner exchange itself. "It's very disappointing that there was not a level of trust sufficient to justify alerting us," Sen. Dianne Feinstein (D-Calif.) told reporters at the Capitol on Tuesday. Other lawmakers pledged to grill the administration on this topic during newly-scheduled hearings at the House and Senate Armed Services Committees.

"In executing this transfer, the President ... clearly violated laws which require him to notify Congress thirty days before any transfer of terrorists from Guantanamo Bay and to explain how the threat posed by such terrorists has been substantially mitigated," said Rep. Howard "Buck" McKeon (R-Calif.), chairman of the House Armed Services Committee, and Sen. James Inhofe (R-Okla.), ranking member of the Senate Armed Services Committee, in a joint statement.

A spokesperson for Inhofe said the senator is also upset that the administration negotiated with the Taliban for Bergdahl's release. "The senator is very concerned that the president has set a new precedent of negotiating with terrorists and releasing some of the most senior Taliban members when we still have troops in harms way," said the spokesperson. "This will be a concern he would like addressed in any briefing or hearing on the prisoner exchange."

Democrats, for the most part, are defending the president. In a statement, Senate Armed Services Committee Chairman Carl Levin of Michigan said the administration's level of consultation was adequate given the circumstances.

"We received a detailed classified notification from the Secretary of Defense that satisfies the many substantive certification requirements of the National Defense Authorization Act," said Levin. "The president put Congress on notice on Dec. 23, 2013, that he intended to exercise his powers as commander in chief, if necessary, 'to act swiftly in conducting negotiations with foreign countries regarding the circumstances of detainee transfers.' ... Given that notice, members of Congress should not be surprised that he acted as he did in the circumstances that existed."

But Inhofe's spokesperson noted that the NDAA requires a detailed statement on the basis of the transfer and why the transfer is in the national security interests of the U.S., which was not met by the administration.

While the investigation into Bergdahl's kidnapping will not likely be complete anytime soon, expect the issue over congressional notification to play out heatedly over the next few weeks.

## The Silencing of Egypt's Jon Stewart

The rise and fall of a funnyman in a strongman state.

BY H.A. HELLYER

Egyptians moved their clocks forward an hour a couple of weeks ago following a decision by the country's new rulers to reinstitute daylight saving time, which had been eliminated following Hosni Mubarak's ouster in 2011. For the rather embattled group of revolutionaries who reject the domination of both the military and the Muslim Brotherhood, this inspired a joke: "They are taking away the revolution's only lasting achievement!" It's dark humor, to be sure, but humor in itself can be something quite potent -- and to some in Cairo, quite threatening.

Egypt just got a rude wake-up call about that fact. On Monday, Bassem Youssef -- the man described as Egypt's "Jon Stewart," who ran a program gleefully satirizing the country's predominant political narrative -- announced that his show was, at least for now, over. The program, called *El-Bernameg*, had already been forced to suspend shooting a few weeks ago, under the pretext that it would unduly











