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Iraq and U.S. wrangle over executions of Chemical Ali and two others

By Bobby Caina Calvan | McClatchy Newspapers

BAGHDAD – U.S. officials want him dead, and many Iraqis would not object to seeing him hanging from the gallows, like his cousin Saddam Hussein. But the fate of the man known as the notorious Chemical Ali, remains in doubt as the United States and the Iraqi government are in a battle of wills over the custody of three condemned men who should already be dead.

The standoff could ultimately be a test of sovereignty for the government of Prime Minister Nouri al Maliki, who on Sunday demanded that the United States hand over the men so a death warrant already affirmed by the country's top court can be meted out as punishment for the killing of 180,000 Kurds, some by lethal gas, during a 1988 assault that has symbolized the brutality of Saddam's regime.

Privately, some U.S. military officials say they have no problem handing over Ali Hassan Majeed, better known as Chemical Ali, but the fates of the two other men – in particular, Sultan Hashim Ahmed, a former general who willingly surrendered to U.S. forces, and Hussein Rashid Mohammed, a former Republican Guard commander – has opened a rift between Maliki and U.S. officials.

"The discussion is over. The execution should be done," Maliki said during a news conference Sunday. "Unfortunately, the U.S. Embassy

played a role in preventing the hand over."

An appeals court affirmed the death sentences on Sept. 4, and the executions were supposed to take place within a month, as ordained by Iraqi law. But the holy month of Ramadan stood in the way, and the executions appear to have been postponed indefinitely – while a pitched debate takes place in the highest ranks of Iraq's government.

Until the Iraqi government sorts out the matter, the three men will remain in the custody of coalition forces, said Mirembe Nantongo, a spokeswoman for the U.S. Embassy in Iraq.

"There continue to be differences in viewpoint within the government of Iraq regarding the necessary Iraqi legal and procedural requirements for carrying out death sentences issued by the Iraqi High Tribunal," said Nantongo.

"The U.S. is not refusing to relinquish custody," she said. "We are waiting for the government of Iraq to come to consensus as to what Iraqi law requires before preparing a physical transfer."

President Jalal Talabani, a Kurd who opposes the death penalty, has refused to sign off on the death sentence as part of the presidency council that includes the country's two vice presidents, one of whom also has opposed the execution order.

"The cabinet or any other

executive authority has no right to do the execution by the presidential council," said Tariq al Hashimi, a Sunni vice president.

But Maliki and others say the constitution gives no authority to the presidency council to commute the sentences as it is doing by refusing to sign the death warrants.

Both sides have found provisions in the Iraqi constitution to support their positions.

The differences could threaten efforts toward reconciliation in a country beset by factionalism and sectarian violence.

During his Sunday news conference, Maliki said that sectarian strife has waned, and was heartened that "the dead bodies found in streets or in morgues have dropped."

Maliki also announced plans to draft an amnesty program that could release thousands of detainees, a key demand of a major Sunni bloc in the Iraqi parliament.

However, Maliki risks alienating Sunnis and other factions in the Shiite-dominated government by digging in his heels on the executions.

The U.S. military has custody of the three men, and Maliki accused the United States of picking and choosing who should be executed. He suggested that the U.S. military is refusing to hand over the men to spare the life of Hashim, a former ally.

Maliki's insistence on Sunday that all three men be handed over has surprised some U.S. officials, noting the continuing discussions about

parceling out the death sentences on a case-by-case basis.

"Chemical Ali, let's get him done ... then move on to the others," said a U.S. government source who declined to be identified because of the sensitivity of the issue.

U.S. officials said they are not blocking any of the executions and are awaiting an "authoritative request" from the Iraqi government.

Maliki's office has repeatedly asked for the transfer of the three men to Iraqi custody, said an Iraqi government official who was not authorized to speak publicly on the matter. An Oct. 29 letter to the U.S. Embassy requesting the handover has yet to get a response, the official said.

"If we don't execute there will be no respect for the judicial process," the Iraqi source said. "One of the new accomplishments of democracy is the judicial process"

The Iraqi official was under the impression that the United States was trying to save former defense minister, Sultan Hashim, who is believed to have assisted U.S. commanders in the early days of the 2003 U.S. invasion.

"All of a sudden you are going to have sympathy with your former ally," the official said. "We're your new ally and you need to respect us."

Leila Fadel and McClatchy special correspondents Hussein Kadhim and Mohammed Al Dulaimy contributed to this report.