



ICRC

INTERNATIONAL COMMITTEE OF THE RED CROSS

REGIONAL DELEGATION FOR
UNITED STATES AND CANADA

Washington, 14 February 2007
WAS 07/76

Dear Sir,

Please find enclosed a report on the findings and recommendations of the International Committee of the Red Cross following its visits to fourteen “high value detainees” transferred to Guantanamo in September 2006. The report covers the period during which these persons were held in the detention program run by the Central Intelligence Agency.

We hope that you will find the report useful and thank you in advance for the action you will take on the matters raised.

Yours sincerely,

Geoff Loane
Head of Regional Delegation

John Rizzo
Acting General Counsel
Central Intelligence Agency
Langley, Virginia.

1100 Connecticut Ave. N.W., Suite 500, Washington, DC 20036
Tel: (202) 587-4600 • Fax: (202) 587-4696

Strictly Confidential

ICRC REPORT ON THE TREATMENT OF FOURTEEN
“HIGH VALUE DETAINEES” IN CIA CUSTODY

February 2007

This report is strictly confidential and intended only for the Authorities to whom it is presented. It may not be published, in full or in part, without the consent of the International Committee of the Red Cross.

[Editors' Note: These lines appear at the bottom of every page of the original version of the report]

Contents

Introduction

1. Main Elements of the CIA Detention Program
 - 1.1. Arrest and Transfer
 - 1.2. Continuous Solitary Confinement and Incommunicado Detention
 - 1.3. Other Methods of Ill-treatment
 - 1.3.1. Suffocation by water
 - 1.3.2. Prolonged stress standing
 - 1.3.3. Beatings by use of a collar
 - 1.3.4. Beating and kicking
 - 1.3.5. Confinement in a box
 - 1.3.6. Prolonged nudity
 - 1.3.7. Sleep deprivation and use of loud music
 - 1.3.8. Exposure to cold temperature/cold water
 - 1.3.9. Prolonged use of handcuffs and shackles
 - 1.3.10. Threats
 - 1.3.11. Forced shaving
 - 1.3.12. Deprivation/restricted provision of solid food
 - 1.4. Further Elements of the Detention Regime
2. Conditions of Detention In Later Stages
3. Health Provision and Role of Medical Staff
4. Legal Aspects Related to Undisclosed Detention
5. Fate of Other Persons who Passed Through the CIA Detention Program
6. Future use of the CIA Detention Program

Conclusion

Annex 1.

Annex 2.

INTRODUCTION

The International Committee of the Red Cross (ICRC) has consistently expressed its grave concern over the humanitarian consequences and legal implications of the practice by the United States (US) authorities of holding persons in undisclosed detention in the context of the fight against terrorism¹. In particular, the ICRC has underscored the risk of ill-treatment, the lack of contact with the outside world as a result of being held incommunicado, the lack of a legal framework, and the direct effects of such treatment and conditions on the persons held in undisclosed detention and on their families.

The ICRC made its first written interventions to the US authorities in 2002, requesting information on the whereabouts of persons allegedly held under US authority in the context of the fight against terrorism. Since then, it has made regular written and oral interventions to the US authorities on the issue of undisclosed detention (see Annex 2). In particular, the ICRC transmitted two reports on undisclosed detention on 18 November 2004 and 18 April 2006 respectively which consolidated the information previously transmitted² and included more recent allegations of undisclosed locations, hidden detainees and third country detention. Both reports annexed a non-exhaustive nominal list of persons allegedly held in undisclosed detention by the US authorities³.

Despite repeated requests at various levels of the US Government (USG), the ICRC has not received a response to most of these written interventions. The main written response by the US authorities is the Note Verbale of 8 June 2005 which responds to three earlier written interventions⁴. The US authorities have never responded to the two ICRC consolidated reports.

On 6 September 2006, President Bush publicly announced that fourteen “high value” detainees had been transferred from the High Value Detainee Program run by the Central Intelligence Agency (hereafter CIA detention program) to the custody of the Department of Defense in Guantanamo Bay Internment Facility (hereafter Guantanamo). The fourteen detainees (hereafter the fourteen) were reportedly held in the CIA detention program from the time of their arrest, or shortly thereafter, until their arrival in Guantanamo⁵. Throughout their time in CIA custody—which ranges from 16 months to almost four and a half years—these persons were held in undisclosed detention.

Prior to this public announcement, the ICRC had never been informed by the US authorities of the existence of the CIA detention program, nor of the presence in US custody of the fourteen. This is despite the fact that thirteen of the fourteen had been included in the abovementioned ICRC written requests to the US authorities concerning undisclosed detention, the first of which were made in January 2003⁶. The remaining detainee was not known to the ICRC.

The ICRC was granted access to the fourteen in Guantanamo, and met with each of them in private for the first time from 6 to 11 October 2006.

The ICRC regards the confirmation of the present whereabouts of the fourteen by the US authorities, and the subsequent access granted to the ICRC, as positive steps. However, it deplores the fact that these persons were held in undisclosed detention

during a prolonged period by the US authorities and the conditions of detention and treatment to which they were subjected during that time. It is also gravely concerned by the lack of information provided to the ICRC regarding their fate despite regular and repeated requests.

The ICRC recognizes the right of the US authorities to take measures to address legitimate security concerns, including the detention and interrogation of individuals suspected of posing a threat to national security. However, the ICRC believes that the US can achieve these objectives while respecting its obligations and historical commitment to respect international law.

The aim of the present report is to provide a description of the treatment and material conditions of detention of the fourteen during the period they were held in the CIA detention program, as reported to the ICRC during its private interviews with these persons. Section One reports in detail the main elements of the CIA detention program, including arrest and transfers, incommunicado detention and other conditions and treatment, in particular during the initial stages of interrogation; Section Two outlines the conditions of detention and treatment in the later stages; Section Three considers the provision of health care and the role of medical staff during the entire period of undisclosed detention; Section Four details the legal aspects related to undisclosed detention; Section Five discusses the issue of the persons other than the fourteen who passed through the CIA detention program; and, finally, Section Six addresses the issue of future use of the CIA detention program.

A separate ICRC report has been transmitted to the Department of Defense regarding the material conditions and treatment of the fourteen since their arrival in Guantanamo⁷.

I. MAIN ELEMENTS OF THE CIA DETENTION PROGRAM

Following the transfer of the fourteen from CIA custody to the custody of the Department of Defense in Guantanamo in September 2006, the ICRC met with each of these persons in private from 6 to 11 October, and from 4 to 14 December, 2006. The information provided in this report is based on the information gathered during those interviews, to the extent that each detainee agreed for it to be transmitted to the authorities.

The fourteen, who are identified individually below, described being subjected, in particular during the early stages of their detention, lasting from some days up to several months, to a harsh regime employing a combination of physical and psychological ill-treatment with the aim of obtaining compliance and extracting information. This regime began soon after arrest, and included transfers of detainees to multiple locations, maintenance of the detainees in continuous solitary confinement and incommunicado detention throughout the entire period of their undisclosed detention, and the infliction of further ill-treatment through the use of various methods either individually or in combination, in addition to the deprivation of other basic material requirements.

It is essential to a proper understanding of this report that all of the elements of treatment and material conditions of detention individually outlined below be considered as forming a whole, as each constitutes an integral part of the situation of the detainees in the CIA detention program. In addition to the information contained in the following section, it is also necessary to consider the prolonged duration of the detention, the conditions of detention and treatment in the later stages of detention, and the role of health personnel and, in particular, the lack of legal framework governing the undisclosed detention of the fourteen. When understood in their totality, the undisclosed detention regime to which these persons were subjected becomes all the more disturbing.

The ICRC wishes to underscore that the consistency of the detailed allegations provided separately by each of the fourteen adds particular weight to the information provided below.

The general term “ill-treatment” has been used throughout the following section, however, it should in no way be understood as minimising the severity of the conditions and treatment to which the detainees were subjected. Indeed, as outlined in Section 4 below, and as concluded by this report, the ICRC clearly considers that the allegations of the fourteen include descriptions of treatment and interrogation techniques—singly or in combination—that amounted to torture and/or cruel, inhuman or degrading treatment.

2. ARREST AND TRANSFER

The following fourteen persons are referred to in this report, in chronological order according to date of arrest:

<u>Name</u>	<u>Nationality</u>	<u>Place of arrest</u>	<u>Date of arrest</u>
1) Abu Zubaydah	Palestinian	Faisalabad, Pakistan	28 March 2002
2) Ramzi Mohammed Binalshib	Yemeni	Karachi, Pakistan	11 September 2002
3) Abdelrahim Hussein Abdul Nashiri	Saudi	Dubai	October 2002
4) Mustafha Ahmad Al Hawsawi	Saudi	Rawalpindi, Pakistan	01 March 2003
5) Khaled Shaik Mohammed	Pakistani	Rawalpindi, Pakistan	01 March 2003
6) Majid Khan	Pakistani	Karachi, Pakistan	05 March 2003
7) Ali Abdul Aziz Mohammed	Pakistani	Karachi, Pakistan	29 April 2003
8) Walid Bin Attash	Yemeni	Karachi, Pakistan	29 April 2003
9) Mohammed Farik Bin Amin	Malaysian	Bangkok, Thailand	08 June 2003
10) Mohammed Nazir Bin Lep	Malaysian	Bangkok, Thailand	11 August 2003
11) Encep Nuraman (aka Hambali)	Indonesian	Ayutthaya, Thailand	11 August 2003
12) Haned Hassan Ahmad Guleed	Somali	Djibouti	04 March 2004
13) Ahmed Khalafan Ghailani	Tanzanian	Gujarat, Pakistan	25 July 2004
14) Mustafah Faraj Al-Azibi	Libyan	Mardan, Pakistan	02 May 2005

The fourteen were arrested in four different countries. In each case, they were reportedly arrested by the national police or security forces of the country in which they were arrested.

In some cases US agents were present at the time of arrest. All fourteen were detained in the country of arrest for periods ranging from a few days up to one month before their first transfer to a third country (reportedly Afghanistan, see below) and from there on to other countries. Interrogation in the country of arrest was conducted by US agents in nearly all cases. In two cases, however, detainees reported having been interrogated by the national authorities, either alone or jointly with US agents: Mr Abdelrahim Hussein Abdul Nashiri was allegedly interrogated for the first month after arrest by Dubai agents, and one detainee who did not wish his name to be transmitted to the authorities was allegedly interrogated by both Pakistani and US agents. During their subsequent detention, outlined below, detainees sometimes reported the presence of non-US personnel (believed to be personnel of the country in which they were held), even though the overall control of the facility appeared to remain under the control of the US authorities.

Throughout their detention, the fourteen were moved from one place to another and were allegedly kept in several different places of detention, probably in several different countries. The number of locations reported by the detainees varied, however ranged from three to ten locations prior to their arrival in Guantanamo in September 2006.

The transfer procedure was fairly standardised in most cases. The detainee would be photographed, both clothed and naked prior to and again after transfer. A body cavity check (rectal examination) would be carried out and some detainees alleged that a suppository (the type and the effect of such suppositories was unknown by the detainees), was also administered at that moment.

The detainee would be made to wear a diaper and dressed in a tracksuit. Earphones would be placed over his ears, through which music would sometimes be played. He would be blindfolded with at least a cloth tied around the head and black goggles. In addition, some detainees alleged that cotton wool was also taped over their eyes prior to the blindfold and goggles being applied. Mr Abu Zubaydah alleged that during one transfer operation the blindfold was tied very tightly resulting in wounds to his nose and ears. He does not know how long the transfer took but, prior to the transfer, he reported being told by his detaining authorities that he would be going on a journey that would last twenty-four to thirty hours.

The detainee would be shackled by hands and feet and transported to the airport by road and loaded onto a plane. He would usually be transported in a reclined sitting position with his hands shackled in front. The journey times obviously varied considerably and ranged from one hour to over twenty-four to thirty hours. The detainee was not allowed to go to the toilet and if necessary was obliged to urinate or defecate into the diaper.

On some occasions the detainees were transported lying flat on the floor of the plane and/or with their hands cuffed behind their backs. When transported in this position the detainees complained of severe pain and discomfort.

In addition to causing severe physical pain, these transfers to unknown locations and unpredictable conditions of detention and treatment placed mental strain on the

fourteen, increasing their sense of disorientation and isolation. The ability of the detaining authority to transfer persons over apparently significant distances to secret locations in foreign countries acutely increased the detainees' feeling of futility and helplessness, making them more vulnerable to the methods of ill-treatment described below.

The ICRC was informed by the US authorities that the practice of transfers was linked specifically to issues that included national security and logistics, as opposed to being an integral part of the program, for example to maintain compliance. However, in practice, these transfers increased the vulnerability of the fourteen to their interrogation, and was performed in a manner (goggles, earmuffs, use of diapers, strapped to stretchers, sometimes rough handling) that was intrusive and humiliating and that challenged the dignity of the persons concerned.

As their detention was specifically designed to cut off contact with the outside world and emphasise a feeling of disorientation and isolation, some of the time periods referred to in the report are approximate estimates made by the detainees concerned. For the same reasons, the detainees were usually unaware of their exact location beyond the first place of detention in the country of arrest and the second country of detention, which was identified by all fourteen as being Afghanistan. This report will not enter into conjecture by referring to possible countries or locations of places of detention beyond the first and second countries of detention, which are named, and will refer, where necessary, to subsequent places of detention by their position in the sequence for the detainee concerned (eg. third place of detention, fourth place of detention). The ICRC is confident that the concerned authorities will be able to identify from their records which place of detention is being referred to and the relevant period of detention.

Moreover, the ICRC notes that four detainees believed that they had previously been held in Guantanamo, for periods ranging from one week to one year during 2003/4. They reported recognising this location upon return there in September 2006, as each had been allowed outdoors on a daily basis during their earlier time there. The ICRC has been assured by DoD that it was given full notification of and access to all persons held in Guantanamo during its regular detention visits. The ICRC is concerned, if the allegations are confirmed, it had in fact been denied access to these persons during the period in which they were detained there.

1.2. CONTINUOUS SOLITARY CONFINEMENT AND INCOMMUNICADO DETENTION

Throughout the entire period during which they were held in the CIA detention program—which ranged from sixteen months up to almost four and a half years and which, for eleven of the fourteen was over three years—the detainees were kept in continuous solitary confinement⁸ and incommunicado detention. They had no knowledge of where they were being held, no contact with persons other than their interrogators

or guards. Even their guards were usually masked and, other than the absolute minimum, did not communicate in any way with the detainees. None had any real—let alone regular—contact with other persons detained, other than occasionally for the purposes of inquiry when they were confronted with another detainee. None had any contact with legal representation. The fourteen had no access to news from the outside world, apart from in the later stages of their detention when some of them occasionally received printouts of sports news from the internet and one reported receiving newspapers.

None of the fourteen had any contact with their families, either in written form or through family visits or telephone calls. They were therefore unable to inform their families of their fate. As such, the fourteen had become missing persons. In any context, such a situation, given its prolonged duration, is clearly a cause of extreme distress for both the detainees and families concerned and itself constitutes a form of ill-treatment.

In addition, the detainees were denied access to an independent third party. In order to ensure accountability, there is a need for a procedure of notification to families, and of notification and access to detained persons, under defined modalities, for a third party, such as the ICRC. That this was not practiced, to the knowledge of the ICRC, neither for the fourteen nor for any other detainee who passed through the CIA detention program, is a matter of serious concern.

1.3. OTHER METHODS OF ILL-TREATMENT

As noted above, the fourteen were subjected to an extremely harsh detention regime, characterised by ill-treatment. The initial period of interrogation, lasting from a few days up to several months was the harshest, where compliance was secured by the infliction of various forms of physical and psychological ill-treatment. This appeared to be followed by a reward based interrogation approach with gradually improving conditions of detention, albeit reinforced by the threat of returning to former methods.

The methods of ill-treatment alleged to have been used include the following:

- **Suffocation by water** poured over a cloth placed over the nose and mouth, alleged by three of the fourteen.
- **Prolonged stress standing position**, naked, held with the arms extended and chained above the head, as alleged by ten of the fourteen, for periods from two or three days continuously, and for up to two or three months intermittently, during which period toilet access was sometimes denied resulting in allegations from four detainees that they had to defecate and urinate over themselves.
- **Beatings by use of a collar** held around the detainees neck and used to forcefully bang the head and body against the wall, alleged by six of the fourteen.
- **Beating and kicking**, including slapping, punching, kicking to the body and face, alleged by nine of the fourteen.

- **Confinement in a box** to severely restrict movement alleged in the case of one detainee.
- **Prolonged nudity** alleged by eleven of the fourteen during detention, interrogation and ill-treatment; this enforced nudity lasted for periods ranging from several weeks to several months.
- **Sleep deprivation** was alleged by eleven of the fourteen through days of interrogation, through use of forced stress positions (standing or sitting), cold water and use of repetitive loud noise or music. One detainee was kept sitting on a chair for prolonged periods of time.
- **Exposure to cold temperature** was alleged by most of the fourteen, especially via cold cells and interrogation rooms, and for seven of them, by the use of cold water poured over the body or, as alleged by three of the detainees, held around the body by means of a plastic sheet to create an immersion bath with just the head out of the water.
- **Prolonged shackling** of hands and/or feet was alleged by many of the fourteen.
- **Threats of ill-treatment** to the detainee and/or his family, alleged by nine of the fourteen.
- **Forced shaving** of the head and beard, alleged by two of the fourteen.
- **Deprivation/restricted provision of solid food** from 3 days to 1 month after arrest, alleged by eight of the fourteen.

In addition, the fourteen were subjected for longer periods to a deprivation of access to open air, exercise, appropriate hygiene facilities and basic items in relation to interrogation, and restricted access to the Koran linked with interrogation (see Section 1.4 Other Aspects of the Detention Regime).

The following section provides various examples of each of the methods of ill-treatment alleged to have been used on the fourteen during their time in CIA detention. The examples provided are only samples to illustrate each particular method and are not in any way meant to be a representation of all of the allegations recorded.

For the purposes of clarity in this report, each method of ill-treatment mentioned below has been detailed separately. However, each specific method was in fact applied in combination with other methods, either simultaneously, or in succession. Not all of these methods were used on all detainees⁹, except in one case, namely that of Mr Abu Zubaydah, against whom all of the methods outlined below were allegedly used.

In order to provide as complete and accurate a picture as possible, some excerpts from the interviews conducted with some of the fourteen, as recorded by the ICRC, are attached in Annex 1.

The information contained in the following section was reported to the ICRC by twelve of the fourteen. Two detainees did not report allegations of the other methods of ill-treatment outlined in Section 1.3. These two detainees were, nevertheless, subjected to ill-treatment in the form of continuous solitary confinement and incommunicado detention.

1.3. SUFFOCATION BY WATER

Three of the fourteen alleged that they were repeatedly subjected to suffocation by water. They were: Mr Abu Zubaydah, Mr Khaled Shaik Mohammed and Mr Al Nashiri.

In each case, the person to be suffocated was strapped to a tilting bed and a cloth was placed over the face, covering the nose and mouth. Water was then poured continuously onto the cloth, saturating it and blocking off any air so that the person could not breathe. This form of suffocation induced a feeling of panic and the acute impression that the person was about to die. In at least one case, this was accompanied by incontinence of the urine. At a point chosen by the interrogator the cloth was removed and the bed was rotated into a head-up and vertical position so that the person was left hanging by the straps used to secure him to the bed. The procedure was repeated at least twice, if not more often, during a single interrogation session. Moreover, this repetitive suffocation was inflicted on the detainees during subsequent sessions. The above procedure is the so-called 'water boarding' technique.

In all three cases this caused considerable pain, particularly for Mr Abu Zubaydah who had undergone surgery just three months earlier. He stated that he vomited on several occasions during this procedure.

Mr Abu Zubaydah described the suffocation method of ill-treatment, used in his third place of detention, as follows: "*I was put on what looked like a hospital bed, and strapped down very tightly with belts. A black cloth was then placed over my face and the interrogators used a mineral water bottle to pour water on the cloth so that I could not breathe. After a few minutes the cloth was removed and the bed was rotated into an upright position. The pressure of the straps on my wounds caused severe pain. I vomited. The bed was then again lowered to a horizontal position and the same torture carried out with the black cloth over my face and water poured on from a bottle. On this occasion my head was in a more backward, downwards position and the water was poured on for a longer time. I struggled without success to breathe. I thought I was going to die. I lost control of my urine. Since then I still lose control of my urine when under stress.*" The suffocation procedure was applied during five sessions of ill-treatment that took place during an approximately one-week intense period of interrogation allegedly in Afghanistan in 2002. During each session, apart from one, the suffocation technique was applied once or twice; on one occasion, it was applied three times.

Mr Khaled Shaik Mohammed gave the following description of this method of ill-treatment, used in his third place of detention: "*I would be strapped to a special bed, which can be rotated into a vertical position. A cloth would be placed over my face. Water was then poured onto the cloth by one of the guards so that I could not breathe. This obviously could only be done for one or two minutes at a time. The cloth was then removed and the bed was put into a vertical position. The whole process was then repeated during about 1 hour*". The procedure was applied during five different sessions during the first month of interrogation in his third place of detention. He also

said that injuries to his ankles and wrists occurred during the suffocation as he struggled in the panic of not being able to breathe. As during other forms of ill-treatment he was always kept naked during the suffocation. Female interrogators were also present during this form of ill-treatment, again increasing the humiliation aspect. Mr Khaled Shaik Mohammed described a device attached to one of his fingers, the reading of which was checked regularly by a person he assumed to be a doctor. From the description, this appears to have been a pulse oxymeter, a medical device for measuring the saturation of oxygen in the blood (also see Sect. 3 Health Provision and the Role of Medical Staff).

1.3.2. PROLONGED STRESS STANDING

Ten of the fourteen alleged that they were subjected to prolonged stress standing positions, during which their wrists were shackled to a bar or hook in the ceiling above the head for periods ranging from two or three days continuously, and for up to two or three months intermittently. All those detainees who reported being held in this position were allegedly kept naked throughout the use of this form of ill-treatment.

For example, Mr Khaled Shaik Mohammed alleged that, apart from the time when he was taken for interrogation, he was shackled in the prolonged stress standing position for one month in his third place of detention (he estimates he was interrogated for approximately eight hours each day at the start of the month gradually declining to four hours each day at the end of the month).

Mr Ramzi Binalshib alleged that he was shackled in this position for two to three days in Afghanistan his second place of detention and for seven days in his fourth; Mr Al Nashiri for at least two days in Afghanistan and again for several days in his third place of detention; Mr Majid Khan for three days in Afghanistan and seven days in his third place of detention, Mr Bin Attash for two weeks with two or three short breaks where he could lie down in Afghanistan and for several days in his fourth place of detention; Mr Bin Lep for seven days in Afghanistan and Mr Hambali for four to five days, blindfolded with a type of sack over his head, while still detained in Thailand.

Mr Bin Attash commented that during the two weeks he was shackled in the prolonged stress standing position with his hands chained above his head, his artificial leg was sometimes removed by the interrogators to increase the stress and fatigue of the position.

One detainee who did not wish his name to be transmitted to the authorities alleged that he was shackled in this position for two to three months, seven days of prolonged stress standing followed by two days able to sit or lie down.

While being held in this position some of the detainees were allowed to defecate in a bucket. A guard would come to release their hands from the bar or hook in the ceiling so that they could sit on the bucket. None of them, however, were allowed to clean themselves afterwards. Others were made to wear a garment that resembled a diaper. This was the case for Mr Bin Attash in his fourth place of detention. However,

he commented that on several occasions the diaper was not replaced so he had to urinate and defecate on himself while shackled in the prolonged stress standing position. Indeed, in addition to Mr Bin Attash, three other detainees specified that they had to defecate and urinate on themselves and remain standing in their own bodily fluids. Of these, only Mr Bin Lep agreed that his name be transmitted to the authorities.

Many of the detainees who alleged that they had undergone this form of ill-treatment commented that their legs and ankles swelled as a result of the continual forced standing with their hands shackled above their head. They also noted that while being held in this position they were checked frequently by US health personnel.

Although this position prevented most detainees from sleeping, three of the detainees stated that they did fall asleep once or more while shackled in this position. These include Mr Khaled Shaik Mohammed and Mr Bin Attash; the third did not wish his name to be transmitted to the authorities. When they did fall asleep held in this position, the whole weight of their bodies was effectively suspended from the shackled wrists, transmitting the strain through the arms to the shoulders.

1.3.3. BEATING BY USE OF A COLLAR

Six of the fourteen alleged that an improvised thick collar or neck roll was placed around their necks and used by their interrogators to slam them against the walls. For example, Mr Abu Zubaydah commented that when the collar was first used on him in his third place of detention, he was slammed directly against a hard concrete wall. He was then placed in a tall box for several hours (see Section 1.3.5., Confinement in boxes). After he was taken out of the box he noticed that a sheet of plywood had been placed against the wall. The collar was then used to slam him against the plywood sheet. He thought that the plywood was in order to absorb some of the impact so as to avoid the risk of physical injury. Mr Abu Zubaydah also believed that his interrogation was a form of experimentation with various interrogation techniques. Indeed some forms of ill-treatment were allegedly used against him that were not reported to have been used on other detainees. He claimed that he was told by one of the interrogators that he was one of the first to receive these interrogation techniques.

Mr Bin Attash alleged that during interrogation in Afghanistan: *“on a daily basis during the first two weeks a collar was looped around my neck and then used to slam me against the walls of the interrogation room. It was also placed around my neck when being taken out of my cell for interrogation and was used to lead me along the corridor. It was also used to slam me against the walls of the corridor during such movements”*.

Mr Khaled Shaik Mohammed alleged that, in his third place of detention: *“a thick plastic collar would be placed around my neck so that it could then be held at the two ends by a guard who would use it to slam me repeatedly against the wall”*.

1.3.4. BEATING AND KICKING

Nine of the fourteen alleged that they had been subjected to daily beatings during the initial period, involving repeated slapping, punching and, less often, kicking, to the body and face, as well as a detainee having his head banged against a solid object. These beatings lasted up to half an hour and were repeated throughout the day and again on subsequent days. They took place during periods ranging from one week up to two to three months.

For example, one detainee who did not wish his name to be transmitted to the authorities alleged that: *“In Kabul the treatment got worse. I was punched and slapped in the face and on the back to the extent that I was bleeding. While having a rope round my neck and being tied to a pillar my head was banged against the pillar repeatedly.”* The interrogators then allegedly took a picture of the detainee to show to another suspect, in order to threaten the same treatment to that person (see Section 1.3.10. Threats).

Mr Khaled Shaik Mohammed alleged that on a daily basis during the first month of interrogation in his third place of detention: *“if I was perceived not to be cooperating I would be placed against a wall and subjected to punches and slaps in the body, head and face”*.

Mr Bin Attash alleged that: *“every day for the first two weeks [in Afghanistan] I was subjected to slaps to the face and punches to the body during interrogation. This was done by one interrogator wearing gloves. He was then replaced by a second interrogator who was more friendly and pretended that he could save me from the first interrogator”*.

One detainee who did not wish his name to be transmitted to the authorities said that: *“during the early days of the interrogation [in Kabul] I was often subjected to punches and slaps to the face by the interrogator. Two Afghan guards held me by the shoulders during the beatings.”*

1.3.5. CONFINEMENT IN A BOX

One of the fourteen reported that confinement inside boxes was used as a form of ill-treatment. Mr Abu Zubaydah, alleged that during an intense period of his interrogation in Afghanistan in 2002 he was held in boxes that had been specially designed to constrain his movement. One of the boxes was tall and narrow and the other was shorter, forcing him to crouch down. Mr Abu Zubaydah stated that: *“As it was not high enough even to sit upright, I had to crouch down. It was very difficult because of my wounds. The stress on my legs held in this position meant that my wounds both in the leg and stomach became very painful. I think this occurred about three months after my last operation”*. He went on to say that a cover was placed over the boxes while he was inside making it hot and difficult to breathe. The combination of sweat, pressure and friction from the slight movement possible to try to find a comfortable

position, meant that the wound on his leg began to reopen and started to bleed. He does not know how long he remained in the small box; he says that he thinks he may have slept or fainted. The boxes were used repeatedly during a period of approximately one week in conjunction with other forms of ill-treatment, such as suffocation by water, beatings and use of the collar to slam him against the wall, sleep deprivation, loud music and deprivation of solid food. During this period, between sessions of ill-treatment he was made to sit on the floor with a black hood over his head until the next session began.

1.3.6. PROLONGED NUDITY

The most common method of ill-treatment noted during the interviews with the fourteen was the use of nudity. Eleven of the fourteen alleged that they were subjected to extended periods of nudity during detention and interrogation, ranging from several weeks continuously up to several months intermittently.

For example, Mr Bin Attash alleged that he was kept naked for two weeks in Afghanistan, followed by one month of being clothed. However, after being transferred to his next place of detention, he was allegedly again kept naked for another one month.

Mr Hambali alleged that he was kept naked for four to five days while still detained in Thailand and was then held for one week naked in Afghanistan. He was then provided with clothes, which were again removed after one week after which he remained naked for another month before clothes were finally provided.

Mr Abu Zubaydah alleged that after spending several weeks in hospital following arrest he was transferred to Afghanistan where he remained naked, during interrogation, for between one and a half to two months. He was then examined by a woman he assumed to be a doctor who allegedly asked why he was still being kept naked. Clothes were given to him the next day. However, the following day, these clothes were then cut off his body and he was again kept naked. Clothes were subsequently provided or removed according to how cooperative he was perceived by his interrogators.

Mr Khaled Shaik Mohammed alleged that he was kept naked for one month in Afghanistan. Mr Majid Khan alleged that he was kept naked for three days in Afghanistan and for seven days in his third place of detention. Mr Bin Lep alleged that he was kept naked for three to four days while still detained in Thailand followed by nine days naked in Afghanistan.

One of the detainees who did not wish his name to be transmitted to the authorities alleged that while detained in Afghanistan he was kept naked for two to three months with clothes being provided approximately every seven days for a two day period and then being again removed.

Most of the detainees commented that the provision of clothes was determined by how cooperative they were perceived by the interrogators.

1.3.7. SLEEP DEPRIVATION AND USE OF LOUD MUSIC

Eleven of the fourteen alleged that they were deprived of sleep during the initial interrogation phase from seven days continuously to intermittent sleep deprivation that continued up to two or three months after arrest. Sleep was deprived in various ways, and therefore overlaps with some of the other forms of ill-treatment described in this section, from the use of loud repetitive noise or music to long interrogation sessions to prolonged stress standing to spraying with cold water.

For example, Mr Abu Zubaydah alleged that, while detained in Afghanistan, “*I was kept sitting on a chair, shackled by hands and feet for two to three weeks. During this time I developed blisters on the underside of my legs due to the constant sitting. I was only allowed to get up from the chair to go to the toilet, which consisted of a bucket*”. He alleged that he was constantly deprived of sleep during this period, “*if I started to fall asleep a guard would come and spray water in my face*”, he said. The cell was kept very cold by the use of air-conditioning and very loud “*shouting*” music was constantly playing on an approximately fifteen minute repeat loop twenty-four hours a day. Sometimes the music stopped and was replaced by a loud hissing or crackling noise.

One detainee who did not wish his name to be transmitted to the authorities alleged that loud music played for twenty-four hours a day throughout the one year period he believed he was held in Afghanistan. He reported that during the last month it changed to sounds of wind, waves and birds.

1.3.8. EXPOSURE TO COLD TEMPERATURE/COLD WATER

Detainees frequently reported that they were held for their initial months of detention in cells which were kept extremely cold, usually at the same time as being kept forcibly naked. The actual interrogation room was also often reported to be kept cold. Requests for clothing or for blankets went unanswered. For example, Mr Abu Zubaydah alleged that his cell was excessively cold throughout the nine months he spent in Afghanistan.

Seven of the fourteen reported that they were also subjected to dousing with cold water during interrogation sessions. In four cases the water was allegedly thrown or poured onto the detainee with buckets or a hose-pipe while held in a stress standing position with their arms shackled above their head for prolonged periods. Several thought that this was in order to clean away the faeces which had run down their legs when they defecated while held in the prolonged stress standing position (see Section 1.3.2. Prolonged Stress Standing). In three cases cold water was also poured over the detainee while he was lying on a plastic sheet raised at the edges by guards to contain the water around his body creating an immersion bath with just the head exposed. In one case a detainee was strapped to a tilting bed and cold water was poured over his body while he was threatened with “water boarding” (although that procedure was not actually carried out on that individual).

For example, one detainee who did not wish his name to be transmitted to the authorities alleged that, during his detention in Afghanistan, his interrogators “*threw cold water on me with buckets*” during the early days of the interrogation; Mr Ramzi Binalshih alleged that he was: “*splashed with cold water from a hose*” during interrogation in his fourth place of detention and that in his eighth place of detention he was: “*restrained on a bed, unable to move, for one month, February 2005 and subjected to cold air-conditioning during that period.*”

Another detainee who did not wish his name to be transmitted to the authorities alleged that: “*when I was taken for interrogation I would first be splashed with cold water by the guards while still in the {cell in the prolonged stress standing} position. I’m not sure if this was to clean me or as part of the interrogation process—or both. I was then blindfolded and walked the fifteen minutes to another room, separate from the interrogation room, where I was made to lie on a plastic sheet, which was then raised at the edges. Cold water was then poured onto me using a kettle or hose for between fifteen and thirty minutes. I was still blindfolded. My interrogator told me that a woman was also present during the cold water treatment. I think I heard a female voice on at least one occasion*”. He alleged that this was repeated on an almost daily basis, with breaks of two days approximately once a week, during two to three months while he was detained in Afghanistan.

Mr Bin Attash described the following from his detention in Afghanistan: “*on a daily basis during the first two weeks I was made to lie on a plastic sheet placed on the floor which would then be lifted at the edges. Cold water was then poured onto my body with buckets. They did not have a hosepipe to fill the sheet more easily. This jail was not so well equipped for torture*”. He was kept enveloped within the sheet with the cold water for several minutes. In his next place of detention, he was allegedly doused every day during the month of July 2003 with cold water from a hosepipe. He commented that: “*in this place of detention they were rather more sophisticated than in Afghanistan because they had a hosepipe with which to pour water over me*”.

1.3.9. PROLONGED USE OF HANDCUFFS AND SHACKLES

Many of the detainees alleged that they were kept for long periods continuously shackled and/or handcuffed. For example, Mr Khaled Shaik Mohammed was allegedly kept continuously shackled, even when inside his cell for nineteen months.

One detainee who did not wish his name to be transmitted to the authorities alleged that he was kept for four and a half months continuously handcuffed and seven months with the ankles continuously shackled while detained in Kabul in 2003/4. On two occasions, his shackles had to be cut off his ankles as the locking mechanism and ceased to function, allegedly due to rust.

Mr Bin Attash alleged that he was kept permanently handcuffed and shackled throughout his first six months of detention. During the four months he was held in his third place of detention, when not kept in the prolonged stress standing position, his

ankle shackles were allegedly kept attached by a one meter long chain to a pin fixed in the corner of the room where he was held.

1.3.10. THREATS

Nine of the fourteen alleged that they had been subjected to threats of ill-treatment. Seven of these cases took the form of a verbal threat, including of ill-treatment in the form of “water boarding”, electric shocks, infection with HIV, sodomy of the detainee and the arrest and rape of his family, torture, being brought close to death, and of an interrogation process to which “no rules applied”. The other two threats were made by visual means, namely of ill-treatment which would make the detainee resemble a co-detainee (through use of a photo of a co-detainee showing physical signs of ill-treatment), and of a return to past methods of ill-treatment (through displaying during interrogation a neck collar previously used for ill-treatment). In all cases, the threats were made to induce cooperation with the interrogation.

For example, Mr Khaled Shaik Mohammed alleged that, in his third place of detention, one of his interrogators stated that the greenlight had been received from Washington to give him a “*hard time*” and that, although they would not let him die, he would be brought to the “*verge of death and back again*”.

Mr Abu Zubaydeh alleged that, in his third place of detention, he was told by one of the interrogators that he was one of the first to receive these interrogation techniques, “*so no rules applied*”.

Mr Hambali alleged that, in his third place of detention, he was threatened with a return to previous methods of ill-treatment (namely, having his head slammed against the wall by use of a collar, see Section 1.3.3 Beatings by use of a collar), by his interrogators showing him the collar during interrogation sessions. Similarly, Mr Khaled Shaik Mohammed stated that the collar previously used had been placed on the table in front of him during interrogation sessions in his third place of detention.

Mr Al Nashiri alleged that, in his third place of detention, he was threatened with sodomy, and with the arrest and rape of his family.

1.3.11. FORCED SHAVING

Two of the fourteen alleged that their heads and beards were forcibly shaved. Mr Abu Zubaydah alleged that his head and beard were shaved during the transfer to Afghanistan.

Mr Ramzi Binalshibh alleged that, in his eighth place of detention, first his head was shaved and then some days later his beard was also shaved off. He was particularly distressed by the fact that the people who shaved him allegedly deliberately left some spots and spaces in order to make him look and feel particularly undignified and abused.

1.3.12. DEPRIVATION/RESTRICTED PROVISION OF SOLID FOOD

Eight of the fourteen alleged that they were deprived of solid food for periods ranging from three days to one month. This was often followed by a period when the provision of food was restricted and allegedly used as an incentive for cooperation. Two other detainees alleged that, whilst they were not totally deprived of solid food, food was provided intermittently or provided in restricted amounts.

For example, Mr Abu Zubaydah alleged that in Afghanistan, during the initial period of two to three weeks while kept constantly sitting on a chair, he was not provided with any solid food, but was provided with Ensure (a nutrient drink) and water. After about two to three weeks he began to receive solid food (rice) to eat on a daily, once a day, basis. Approximately one month later, during a resumption of intense questioning he was again deprived of food for approximately one week and only given Ensure and water.

Mr Binalshib alleged that during a period of three weeks in his fourth place of detention he was deprived of solid food for three to four weeks and only provided with Ensure and water.

One detainee who did not wish his name to be transmitted to the authorities alleged that during the initial two to three months of his detention in Afghanistan, although not totally deprived of solid food, he was given just one meal every two to three days. Later this increased to one meal a day, until the last month in that place of detention, when he finally received three meals a day. He believes he was detained in Afghanistan for approximately one year.

Mr Bin Attash alleged that he was not provided with any solid food during the first two weeks of his detention in Afghanistan; only Ensure and water being provided during that period. During the third week the Ensure continued, but he was also given one solid meal a day. This consisted of either bread and gravy or rice and potatoes. He was held in Afghanistan for three weeks. In his next place of detention food was adequately provided.

Mr Khaled Shaik Mohammed alleged that during the first month in his third place of detention, he was not provided with any solid food apart from on two occasions as a reward for perceived cooperation. A drink of Ensure was provided once every four hours. If he refused to drink then his mouth was forced open by a guard and the Ensure was poured down his throat. After about one month solid food began to be provided twice a day.

Mr Majid Khan alleged that he did not receive any solid food for seven days in Afghanistan.

One detainee who did not wish his name to be transmitted to the authorities alleged that during the one week he was held in his first place of detention he was not provided with any food and was only given Ensure and water to drink. After arriving in where he believes was Kabul, he was kept another two days without food, after which he was provided with meals irregularly for the next two months, after which meals were provided on a regular basis.

Mr Bin Lep alleged that he was not provided with any solid food until twelve days after his arrest.

Mr Hambali alleged that throughout his four to five days of detention in Thailand, where he was allegedly held in US custody, he was not provided with any solid food. During the two months he was detained in Afghanistan he received solid food irregularly, sometimes twice a day and sometimes only once in two to three days. Ensure was provided throughout to supplement the lack of solid food.

1.4. FURTHER ELEMENTS OF THE DETENTION REGIME

The conditions of detention under which the fourteen were held, particularly during the earlier period of their detention, formed an integral part of the interrogation process as well as an integral part of the overall treatment to which they were subjected as part of the CIA detention program. This report has already drawn attention to certain aspects associated with basic conditions of detention, which were clearly manipulated in order to exert pressure on the detainees concerned.

In particular, the use of continuous solitary confinement and incommunicado detention, lack of contact with family members and third parties, prolonged nudity, deprivation/restricted provision of solid food and prolonged shackling have already been described above.

The situation was further exacerbated by the following aspects of the detention regime:

- Deprivation of access to the open air
- Deprivation of exercise
- Deprivation of appropriate hygiene facilities and basic items in pursuance of interrogation
- Restricted access to the Koran linked with interrogation

These aspects cannot be considered individually, but must be understood as forming part of the whole picture. As such, they also form part of the ill-treatment to which the fourteen were subjected.

Little or no access to open air was granted to the fourteen throughout their detention period. For most, their arrival in Guantanamo was the first time they had been allowed outdoors at all since their arrest (apart from during transfer from one place of detention to another). Two detainees said they were taken outdoors twice during their periods of detention in Afghanistan and only four detainees claimed that they received a regular outdoor period during any part of their detention. These four believed that they were previously detained in Guantanamo for periods ranging from one week to one year during 2003/4. During this time they were allowed to go outdoors on a daily basis. Apart from these few exceptions, none of the fourteen received any access to open air throughout their period in the CIA detention program.

Access to exercise was also severely limited, particularly during the early months and years of detention for the detainees arrested during 2002 and 2003. According to many of the detainees it was after several months or years of detention that the authorities constructed or provided such facilities. For example, Mr Bin Attash was kept for approximately two and a half years without any possibility to exercise outside his cell apart from a one month period in his fifth place of detention which was equipped with a gym/exercise area. Mr Hambali was allegedly detained for nine months before he was provided with any possibility to exercise outside of his cell. Mr Khaled Shaik Mohammed was allegedly held for nineteen months before he was provided with access to a small gym located outside his cell in his fifth place of detention.

Basic materials such as toothbrushes, toothpaste, soap, towels, toilet paper, clothes, underwear, blankets and mattress were not provided at all during the initial detention period, in some instances lasting several months. The timing of initial provision and continued supply of all these items was allegedly linked with compliance and cooperation on the part of the detainee. Even after being provided, these basic items allegedly were sometimes removed in order to apply pressure for purposes of interrogation.

In the early phase of interrogation, from a few days to several weeks, access to shower was totally denied and toilet, as mentioned above, was either provided in the form of a bucket or not provided at all—in which case those detainees shackled in the prolonged stress standing position had to urinate and defecate on themselves and remain standing in their own bodily fluids for periods of several days (see Section 1.3.2. Prolonged Stress Standing).

During the initial stages of detention, particularly during the most intense interrogation phase, the fourteen were not provided with access to the Koran. The cultural and religious significance of this lack of access added significant psychological pressure to the detainees. Later, usually about two months after arrest, Korans were provided and the direction of Mecca was indicated. Detainees alleged, however, that throughout their detention period the timing of the prayer schedule was inaccurate. Several detainees alleged that on occasion their Korans, along with other items, were removed according to the needs of the interrogation. For example, Mr Bin Attash was provided with a Koran in his third place of detention, approximately two months after arrest. He was able to keep the Koran for one month. It was then removed as the interrogation again became harsher and was finally returned to him one month later. Mr Khaled Shaik Mohammed alleged that he was not allowed to pray until approximately one month after his arrest. He was provided with a Koran in April 2003, approximately six weeks after arrest. It was confiscated on four occasions during his stay in his third place detention. Mr Hambali was provided with a Koran about four days after his arrival in his third place of detention, approximately two months after arrest. He stated that: *“A few days later the air conditioning was made very cold and everything was removed from my cell, including the Koran. I was only left with a T-shirt and shorts”*.

2. CONDITIONS OF DETENTION IN LATER STAGES

The ICRC notes that conditions of detention and treatment, following the initial period during which the methods described above were used, gradually improved. The timing for the implementation of these improvements varied for each detainee and appears linked to the needs of the interrogation. The introduction of improvements appears to mark the transition from the phase where compliance was obtained by force to what resembled a more incentive-based approach (see Section 1.3 for examples of approximate timeframes).

Following the initial stages of interrogation described above, all detainees were provided with clean clothes on a weekly basis, were gradually provided with solid food three times per day (although some complaints of quality and quantity lasted throughout), and were provided with books in English or their mother tongue and magazines.

In the latter stages of detention, usually six to eight months after arrest, all fourteen were provided with toilet facilities in their cells, to which they had unlimited access, some also had unlimited access to washbasins, and all were able to shower either on a weekly basis or more often. After a period which varied between several months to two and a half years following the arrest, all detainees were allowed to move from their cells to a closed indoor area in which they were able to use exercise machines. Also in the latter stages of detention, the cell temperature was usually maintained at a proper level. In the final place of detention prior to their arrival in Guantanamo, some detainees were able to watch a film on a weekly basis and/or use a portable DVD player.

Although each of these aspects represents an improvement in the situation in which the fourteen were held, such improvements must be understood against the earlier background of severe ill-treatment and ongoing threats of such treatment, continuous solitary confinement and incommunicado detention, ongoing transfers, and the lack of legal framework governing their detention.

3. HEALTH PROVISION AND THE ROLE OF MEDICAL STAFF

During the course of their detention, detainees described three principal roles for health personnel whom they encountered. Firstly, there was a direct role in monitoring the ongoing ill-treatment which, in some instances, involved the health personnel directly participating while certain methods were used. Secondly, there was a role in performing a medical check just prior to, and just after, each transfer. Finally, there was the provision of healthcare, to treat both the direct consequences of ill-treatment detailed in previous sections, and to treat any natural ailments that arose during the prolonged periods of detention.

Throughout the course of the initial phase of the detention, the ICRC received allegations that health personnel were directly involved in monitoring the health effects of ill-treatment. In some cases it was alleged that, based on their assessments, health

personnel gave instructions to interrogators to continue, to adjust, or to stop particular methods. As with other personnel within the detention facilities, the health personnel did not identify themselves, but the detainees presumed from their presence and function that they were either physicians or psychologists.¹⁰

For certain methods, notably suffocation by water, the health personnel were allegedly directly participating in the infliction of the ill-treatment. In one case, it was alleged that health personnel actively monitored a detainee's oxygen saturation using what, from the description of the detainee of a device placed over the finger, appeared to be a *pulse oxymeter*. For example, Mr Khaled Shaik Mohammed alleged that on several occasions the suffocation method was stopped on the intervention of a health person who was present in the room each time this procedure was used.

Other detainees who were shackled in a stress standing position for prolonged periods in their cells were monitored by health personnel who in some instances recommended stopping the method of ill-treatment, or recommended its continuation, but with adjustments. For example, Mr Bin Attash (the detainee has had a right-sided below knee amputation) alleged that while being held in a form of stress standing position with his arms shackled above his head, and his feet touching the floor, had his lower leg measured on a daily basis with a tape measure by a person he assumed to be a doctor for signs of swelling; the health person finally ordered that he be allowed to sit on the floor, albeit with his arms still shackled above his head. Mr Hambali alleged that, after a period of the same form of prolonged stress standing, a health person intervened to prevent further use of the method, but told him that "*I look after your body only because we need you for information*".

As well as the monitoring of specific methods of ill-treatment, other health personnel were alleged to have directly participated in the interrogation process. One detainee, who did not wish his name to be transmitted to the authorities, alleged that a health person threatened that medical care would be conditional upon cooperation with the interrogators.

The second alleged role of the health personnel was to perform a medical check prior to and after each transfer from one detention location to another. The purpose and results of this medical examination appear not to have been divulged to the detainees.

The third alleged role was to provide medical care to detainees, either for injuries resulting directly from the various forms of ill-treatment employed, or treatment for common ailments that arose throughout the course of the detention.

With regard to this third role, when such medical treatment was necessary it appears from the descriptions given that the care was appropriate and satisfactory. In two specific cases, detainees indicated that exceptional lengths were taken to provide very high standards of medical intervention.

Medical ethics are based on a number of principles¹¹ which include the principle of beneficence (a medical practitioner should act in the best interest of the patient—*salus aegroti suprema lex*), non-maleficence (first do no harm—*primum non nocere*) and dignity (the patient and the person treating the patient have the right to dignity). These

principles guide any relationship between a medical doctor and a person whom he or she is relating to as a medical doctor.

There are accepted roles for health professionals working in recognised, official, places of detention such as police stations and prisons wherein the health professionals have the health care and best interests of the detainee as their primary consideration.¹² To this end, when a person enters an official detention facility or system, a medical assessment of their medical status is required in order to meet their current and ongoing health needs. In the case of a normal, lawful interrogation, a physician may be asked to provide a medical opinion, within the usual bounds of medical confidentiality, as to whether existing mental or physical health problems would preclude the individual from being questioned. Secondly, a physician may rightly be requested to provide medical treatment to a person suffering a medical emergency during questioning. This accepted role of the physician, or any other health professional, clearly does not extend to ruling on the permissibility, or not, of any form of physical or psychological ill-treatment. The physician, and any other health professionals, are expressly prohibited from using their scientific knowledge and skills to facilitate such practices in any way. On the contrary, the role of the physician and any other health professional involved in the care of detainees is explicitly to protect them from such ill-treatment and there can be no exceptional circumstances invoked to excuse this obligation.¹³

With the exceptions detailed in the above paragraph, any interrogation process that requires a health professional to either pronounce on the subject's fitness to withstand such a procedure, or which requires a health professional to monitor the actual procedure, must have inherent health risks. As such, the interrogation process is contrary to international law and the participation of health personnel in such a process is contrary to international standards of medical ethics. In the case of the alleged participation of health personnel in the detention and interrogation of the fourteen detainees, their primary purpose appears to have been to serve the interrogation process, and not the patient. In so doing the health personnel have condoned, and participated in ill-treatment.

4. LEGAL ASPECTS IN RELATION TO UNDISCLOSED DETENTION

As described in the following paragraphs, it is a basic tenet of international law that any person deprived of liberty must be registered and held in an officially recognised place of detention.

International humanitarian law (IHL) applicable to international armed conflicts contains numerous provisions and provides extensive requirements concerning the registration of persons deprived of their liberty, ICRC visits to places of detention and the transmission of information related to such persons to, *inter alia*, their next of kin¹⁴. The entire system of detention provided for by the Geneva Conventions of 1949, in which the ICRC plays a supervisory role, is based on the idea that detainees must be registered and held in officially recognised places of detention. While under

the Geneva Conventions ICRC access to certain detainees may be restricted for reasons of imperative military necessity, such restriction should be of a temporary and exceptional nature only¹⁵.

Customary rules of IHL and human rights soft law instruments contain similar explicit provisions on the obligation of registration of detainees and the prohibition of unacknowledged detention, as well as provisions on contacts with family, applicable in situations of non-international armed conflicts and other situations of violence¹⁶. All of the above-mentioned rules aim at preventing, *inter alia*, enforced disappearance, which is prohibited under international law, including customary IHL. As far as IHL is concerned, the phenomenon of enforced disappearance violates, or risks violating, a range of customary rules, most notably the prohibition of arbitrary deprivation of liberty and the prohibition of torture and/or other cruel, inhuman or degrading treatment (CID)¹⁷.

In the ICRC's view, the fourteen were placed outside the protection of the law during the time they spent in CIA custody. Indeed, one of the main effects of the transfers was to place the fourteen in secret detention facilities in unspecified locations in a number of different countries, outside the reach of any judicial or administrative system. As such, they were, for instance, apparently both precluded from knowing the reasons for their detention and denied access to any mechanism capable of independently reviewing the lawfulness of their detention. They were also denied contact with their families, including any information to the families of their detention. The totality of the circumstances in which the fourteen were held effectively amounted to an arbitrary deprivation of liberty and enforced disappearance, in contravention of international law.¹⁸

As regards conditions of detention and treatment of the fourteen, the effects of their being in undisclosed detention were severe and multifaceted, as the present report shows. The absence of scrutiny by any independent entity—including the ICRC—inevitably creates conditions conducive to excesses that would not otherwise be permitted. Persons held in undisclosed detention are especially vulnerable to being subjected to ill-treatment. Indeed, the allegations of the fourteen include descriptions of treatment and interrogation techniques—singly or in combination—that amounted to torture and/or cruel, inhuman or degrading treatment.

In that regard, the ICRC wishes to remind the US authorities that international law absolutely prohibits CID and torture. Torture is defined by the 1984 UN Convention against Torture as: “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity”¹⁹. In particular, the provisions of common article 3 to the Geneva Conventions, which reflects elementary considerations of humanity, stipulate that persons taking no active part in the hostilities “shall in all circumstances be treated humanely”, and that “cruel

treatment and torture”, “outrages upon personal dignity, in particular humiliating and degrading treatment” are prohibited at any time and in any place whatsoever.

5. FATE OF OTHER PERSONS WHO PASSED THROUGH THE CIA DETENTION PROGRAM

During his speech of 6 September 2006, President Bush also stated that the CIA detention program held a limited number of persons at a given time, and that a number of other persons had also been detained by the CIA in the context of the fight against terrorism. President Bush added that: “many of them have been returned to their home countries for prosecution or detention by their governments” once the US authorities had determined that they had “little or no intelligence value”.

In subsequent discussions with various US Government departments, it was again stated to the ICRC that the majority, if not all, other detainees who went through this program have been transferred to their countries of origin.

It is the ICRC’s understanding that these transfers are all subject to formal agreements between the USG and the respective countries which include, *inter alia*, assurances of humane treatment on the part of the countries of origin. The ICRC has a number of legal and operational concerns about this practice. In particular, the ICRC regrets that the USG has not informed the ICRC of the countries of destination so that the ICRC can seek access from the relevant authorities in order to monitor human treatment and to ensure communication with their families.

In light of the conditions of detention and treatment of the fourteen during the period they were held in the CIA detention program, as reported above, the ICRC remains gravely concerned by the fact that a significant number of other persons have passed through this detention program and may have been subjected to similar, if not the same, conditions and treatment. The ICRC has not received any clarification of the fate of these persons, and has therefore not been able to seek access to them following their reported transfer to their home countries. Consequently, it has not been able to assess the detention regime experienced by these persons whilst in CIA custody, nor to assess whether they are currently assured humane treatment by the detaining authorities in their respective countries of origin, nor whether they have been given the possibility of re-establishing contact with their families.

The ICRC welcomes the fact that it has been able to begin discussions with the CIA on this question. It considers the issue to be a humanitarian priority and anticipates a continuation of the discussions aimed at resolving this question.

6. FUTURE USE OF THE CIA DETENTION PROGRAM

According to information provided to the ICRC by the US authorities, no persons were held in the CIA detention program as of October 2006. Nevertheless, in his

speech of 6 September 2006, President Bush made clear that the CIA detention program had not been discontinued and could again be used in the future.

The ICRC is concerned by the maintenance or resumption of any type of undisclosed detention, particularly in view of the information described in the body of this report, including the legal aspects. It urges the US authorities to end the practice of undisclosed detention.

Without prejudice to this position, the ICRC requests that, should persons nevertheless be held in the CIA detention program in the future, it be notified of their detention and be granted access to conduct its traditional visits to the persons detained. In addition, it urges the authorities to ensure that conditions of detention and treatment are humane.²⁰ Finally, the ICRC wishes to remind the CIA that persons whose continued detention is deemed necessary for imperative reasons of security should be afforded an independent and impartial review of deprivation of liberty that appropriately addresses their status. Review processes should enable the internees to challenge the reasons for their continued internment by application of appropriate procedural safeguards²¹

CONCLUSION

All of the fourteen were subjected to a process of ongoing transfers to places of detention in unknown locations and continuous solitary confinement and incommunicado detention throughout the entire period of their detention. The fourteen were placed outside the protection of the law during the time they spent in the CIA detention program. The totality of the circumstances in which they were held effectively amounted to an arbitrary deprivation of liberty and enforced disappearance, in contravention of international law.

Moreover, and in addition to the continuous solitary confinement and incommunicado detention which itself was a form of ill-treatment, twelve of the fourteen alleged that they were subjected to systematic physical and/or psychological ill-treatment. This was a consequence of both the treatment and the material conditions which formed part of the interrogation regime, as well as the overall detention regime. This regime was clearly designed to undermine human dignity and to create a sense of futility by inducing, in many cases, severe physical and mental pain and suffering, with the aim of obtaining compliance and extracting information, resulting in exhaustion, depersonalisation and dehumanisation.

The allegations of ill-treatment of the detainees indicate that, in many cases, the ill-treatment to which they were subjected while held in the CIA program, either singly or in combination, constituted torture. In addition, many other elements of the ill-treatment, either singly or in combination, constituted cruel inhuman or degrading treatment.

The alleged participation of health personnel in the interrogation process and, either directly or indirectly, in the infliction of ill-treatment constituted a gross breach

of medical ethics and, in some cases, amounted to participation in torture and/or cruel, inhuman or degrading treatment.

In light of the above, the ICRC remains gravely concerned by the fate of the other persons previously held in the CIA detention program, who remain unaccounted for. It continues to request that the relevant US authorities provide clarification concerning the fate of all persons for whom it has information.

The ICRC also remains gravely concerned about the announcement by President Bush that the US authorities intend to continue the practice of undisclosed detention by holding persons arrested in the context of the fight against terrorism in the CIA detention program in the future.

The ICRC urges the US authorities to end the practice of undisclosed detention and to ensure that all persons detained in the context of the fight against terrorism are held in conformity with the rules and principles of international law.

Without prejudice to its position on undisclosed detention, the ICRC requests that, should persons nevertheless be held in the CIA detention program in the future, it be notified of their detention and granted access to these detainees. Moreover, it urges the US authorities to provide the ICRC with notification and access to all detainees held under US authority in the context of the fight against terrorism. Such access, of a purely humanitarian nature, should not be seen as inconsistent with any legitimate security concerns of the US authorities in relation to the concerned detainees.

To this end, the ICRC recommends the following:

- that the US authorities take all measures to eliminate abusive conditions of detention and treatment in all places of detention under their authority;
- that all persons detained in the context of the fight against terrorism be treated humanely at all times;
- that all persons detained in the context of the fight against terrorism be permitted to communicate with family members within a reasonable time;
- that all persons detained in the context of the fight against terrorism be held in a legal framework affording all fundamental guarantees;
- that the ICRC be notified of all arrests carried out by the US authorities or by third country authorities acting on behalf of or in cooperation with the US authorities in the context of the fight against terrorism;
- that the ICRC be granted access to all persons held under US authority in the context of the fight against terrorism;
- that the US authorities investigate all allegations of ill-treatment and take steps to punish the perpetrators, where appropriate, and to prevent such abuses from happening again.
- that the US authorities inform the ICRC of the identities of the other persons who have passed through the CIA detention program, the country to which they have been returned and any other relevant details to allow the ICRC to seek access to these persons.

The ICRC trusts that the information in the present report will provide a useful tool for the relevant US authorities to take the necessary measures to ensure that all persons deprived of liberty in the context of the fight against terrorism are treated in accordance with the provisions of international law and internationally recognised standards. The ICRC looks forward to continue its dialogue with the US authorities on this issue.

ANNEX 1

The following examples of excerpts from some of the interviews conducted with the fourteen are in no way meant to represent the entirety of any one those interviews or to be representative of all of the interviews carried out. These excerpts are reproduced verbatim. They are presented only to illustrate how the various alleged methods of ill-treatment described in Section 1. of the report were reportedly used in combination with each other.

- i) Abu Zubaydeh reported the following regarding his detention in Afghanistan where he was held for approximately nine months from May 2002 to February 2003. He had previously been held in hospital for what he believes were several weeks and had several operations to severe gunshot injuries sustained at the time of arrest:

“I woke up, naked, strapped to a bed, in a very white room. The room measured approximately 4m x 4m. The room had three solid walls, with the fourth wall consisting of metal bars separating it from a larger room. I am not sure how long I remained in the bed. After some time, I think it was several days, but can’t remember exactly, I was transferred to a chair where I was kept, shackled by hands and feet for what I think was the next 2 to 3 weeks. During this time I developed blisters on the underside of my legs due to the constant sitting. I was only allowed to get up from the chair to go to the toilet, which consisted of a bucket. Water for cleaning myself was provided in a plastic bottle.

I was given no solid food during the first two or three weeks, while sitting on the chair. I was only given Ensure and water to drink. At first the Ensure made me vomit, but this became less with time.

The cell and room were air-conditioned and were very cold. Very loud, shouting type music was constantly playing. It kept repeating about every fifteen minutes twenty-four hours a day. Sometimes the music stopped and was replaced by a loud hissing or crackling noise.

The guards were American, but wore masks to conceal their faces. My interrogators did not wear masks.

During this first two to three week period I was questioned for about one to two hours each day. American interrogators would come to the room and speak to me

through the bars of the cell. During the questioning the music was switched off, but was then put back on again afterwards. I could not sleep at all for the first two to three weeks. If I started to fall asleep one of the guards would come and spray water in my face.

After about two or three weeks I began to receive food, rice, to eat on a daily basis. They gave it once a day. I could eat with my hand, but I was not allowed to wash. It was also around this time that I was allowed to lie on the floor. I remained naked and in shackles, but I could sleep a little. It went on like this for about another one and a half months.

During the first few days a doctor came and gave me an injection. I was told it was an anti-biotic. After about one and a half to two months I was examined by a female doctor who asked why I was still naked. My measurements were taken and the next day, I was provided with orange clothes to wear. This was followed however, by more threats that worse was to follow.

Indeed, the next day guards came into my cell. They told me to stand up and raise my arms above my head. They then cut the clothes off of me so that I was again naked and put me back on the chair for several days. I tried to sleep on the chair, but was again kept awake by the guards spraying water in my face.

When my interrogators had the impression that I was cooperating and providing the information they required, the clothes were given back to me. When they felt I was being less cooperative the clothes were again removed and I was again put back on the chair. This was repeated several times.

Eventually, (I don't remember after how long), I was allowed to have a mattress and was given a towel to use as a sheet to cover myself with while sleeping. I was allowed some tissue paper to use when going to toilet on the bucket.

There then followed a period of about one month with no questioning. During this period I was given food, rice and beans, on a daily basis, varying between once or twice a day. They also continued to give me Ensure to drink. My cell was still very cold and the loud music no longer played, but there was a constant loud hissing or crackling noise, which played twenty-four hours a day. I tried to block out the noise by putting tissue in my ears.

There then followed a period of about one month with no questioning. Then, about two and a half or three months after I arrived in this place, the interrogation began again, but with more intensity than before. Then the real torturing started. Two black wooden boxes were brought into the room outside my cell. One was tall, slightly higher than me and narrow. Measuring perhaps in area 1m x 0.75m and 2m in height. The other was shorter, perhaps only 1m in height. I was taken out of my cell and one of the interrogators wrapped a towel around my neck, they then used it to swing me around and smash me repeatedly against the hard walls of the room. I was also repeatedly slapped in the face. As I was still shackled, the pushing and pulling around meant that the shackles pulled painfully on my ankles.

I was then put into the tall back box for what I think was about one and a half to two hours. The box was totally black on the inside as well as the outside. It had a bucket inside to use as a toilet and had water to drink provided in a bottle. They put a

cloth or cover over the outside of the box to cut out the light and restrict my air supply. It was difficult to breathe. When I was let out of the box I saw that one of the walls of the room had been covered with plywood sheeting. From now on it was against this wall that I was then smashed with the towel around my neck. I think that the plywood was put there to provide some absorption of the impact of my body. The interrogators realized that smashing me against the hard wall would probably quickly result in physical injury.

During these torture sessions many guards were present, plus two interrogators who did the actual beating, still asking questions, while the main interrogator left to return after the beating was over. After the beating I was then placed in the small box. They placed a cloth or cover over the box to cut out all light and restrict my air supply. As it was not high enough even to sit upright, I had to crouch down. It was very difficult because of my wounds. The stress on my legs held in this position meant my wounds both in the leg and stomach became very painful. I think this occurred about 3 months after my last operation. It was always cold in the room, but when the cover was placed over the box it made it hot and sweaty inside. The wound on my leg began to open and started to bleed. I don't know how long I remained in the small box, I think I may have slept or maybe fainted.

I was then dragged from the small box, unable to walk properly and put on what looked like a hospital bed, and strapped down very tightly with belts. A black cloth was then placed over my face and the interrogators used a mineral water bottle to pour water on the cloth so that I could not breathe. After a few minutes the cloth was removed and the bed was rotated into an upright position. The pressure of the straps on my wounds was very painful. I vomited. The bed was then again lowered to a horizontal position and the same torture carried out again with the black cloth over my face and water poured on from a bottle. On this occasion my head was in a more backward, downwards position and the water was poured on for a longer time. I struggled against the straps, trying to breathe, but it was hopeless. I thought I was going to die. I lost control of my urine. Since then I still lose control of my urine when under stress.

I was then placed again in the tall box. While I was inside the box loud music was played again and somebody kept banging repeatedly on the box from the outside. I tried to sit down on the floor, but because of the small space the bucket with urine tipped over and spilt over me. I remained in the box for several hours, maybe overnight. I was then taken out and again a towel was wrapped around my neck and I was smashed into the wall with the plywood covering and repeatedly slapped in the face by the same two interrogators as before.

I was then made to sit on the floor with a black hood over my head until the next session of torture began. The room was always kept very cold.

This went on for approximately one week. During this time the whole procedure was repeated five times. On each occasion, apart from one, I was suffocated once or twice and was put in the vertical position on the bed in between. On one occasion the suffocation was repeated three times. I vomited each time I was put in the vertical position between the suffocation.

During that week I was not given any solid food. I was only given Ensure to drink. My head and beard were shaved everyday.

I collapsed and lost consciousness on several occasions. Eventually the torture was stopped by the intervention of the doctor.

I was told during this period that I was one of the first to receive these interrogation techniques, so no rules applied. It felt like they were experimenting and trying out techniques to be used later on other people.

At the end of this period two women and a man came to interrogate me. I was still naked and, because of this, I refused to answer any questions. So they again repeatedly slapped me in the face and smashed me against the wall using the towel around my neck. The following day I was given a towel to wear around my waist, but I was still very cold.

Then, little by little, things started to get better. I was again given rice to eat. Then my mattress was returned. I was allowed to clean my cell. The tall box was removed, but the short one remained in the room outside my cell, I think as a deliberate reminder as to what my interrogators were capable of. One week after the end of torture I was given a pair of green shorts and a top to wear. The food also improved with the addition of beans and fruit.

I was provided with water and allowed to wash inside the cell. However, the loud noise continued throughout the nine months I spent in that place. I was never given any outdoor time.”

- ii) **Walid Bin Attash reported the following regarding his detention in Afghanistan, where he was held for approximately three weeks from mid-May to the start of June 2003 and in his subsequent place of detention, where he was held from June to October 2003:**

“On arrival at the place of detention in Afghanistan I was stripped naked. I remained naked for the next two weeks. I was put in a cell measuring approximately 1m x 2m. I was kept in a standing position, feet flat on the floor, but with my arms above my head and fixed with handcuffs and a chain to a metal bar running across the width of the cell. The cell was dark with no light, artificial or natural.

During the first two weeks I did not receive any food. I was only given Ensure and water to drink. A guard would come and hold the bottle for me while I drank. During the third week the Ensure continued, but I was also provided with one meal each day. This consisted of either gravy and bread or rice and potatoes. The toilet consisted of a bucket in the cell, which was removed once a day. I was not allowed to clean myself after using the bucket. Loud music was playing twenty-four hours each day throughout the three weeks I was held there.

After some time of being held in this position my stump began to hurt so I removed my artificial leg to relieve the pain. Of course my one good leg then began to ache and soon started to give way so that I was left hanging with all my weight on my wrists. I shouted for help but at first nobody came. Finally, after about one hour a guard came

and my artificial leg was given back to me and I was again placed in the standing position with my hands above my head. After that the interrogators sometimes deliberately removed my artificial leg in order to add extra stress to the position. For the first two weeks I was held in this position apart for two or three times when I was allowed to lie down, but I cannot remember for how long.

Usually, throughout the interrogation, the methods they used were specifically designed not to leave marks. However, when I was in this position the cuffs cut into my wrists and made wounds. When this happened the doctor would be called.

For interrogation I was blindfolded and removed from the cell and taken to another room. Every day for the first two weeks I was subjected to slaps to my face and punches to my body during the interrogation. This was done by one interrogator wearing gloves. He was then replaced by a second interrogator who was more friendly and pretended that he could save me from the first interrogator.

Also on a daily basis during the first two weeks a collar was looped around my neck and then used to slam me against the walls of the interrogation room. It was also placed around my neck when being taken out of my cell for interrogation and was used to lead me along the corridor. It was also used to slam me against the walls of the corridor during such movements.

Also on a daily basis during the first two weeks I was made to lie on a plastic sheet placed on the floor which would then be lifted at the edges. Cold water was then poured onto my body with buckets. They did not have a hose-pipe to fill the sheet more easily. This jail was not so well equipped for torture. I would be kept wrapped inside the sheet with the cold water for several minutes. I would then be taken for interrogation to a separate room. At the end of the interrogation I would be placed under hot lights to dry out thoroughly and warm up. This was sometimes done during the interrogation.

The interrogators threatened to infect me with HIV. I was given at least two injections by the doctor during this period, but I have no idea what they were for.

Female interrogators were also present which I found highly humiliating in my naked state. The female interrogators did not take part in physical ill-treatment.

After about two weeks the torture stopped. I was given some clothes, a tracksuit, to wear and was no longer kept in the standing position with my hands above my head. I was still shackled, by my ankles, but was allowed to sit or lie down in my cell. I was also provided with a blanket.

After approximately three weeks in Afghanistan I was transferred to another place. I was blindfolded and earphones were placed over my ears. I was transported in a sitting position, shackled by the ankles and by the wrists with my hands in front of my body. I think that the flight lasted probably more than eight hours. On this occasion the transfer was done using a military plane. If I shifted my position too much during the journey somebody hit me by hand on the head.

I arrived in the next place of detention during June 2003. I think I was detained underground as I had to walk down some stairs in order to reach the cell. My blindfold was then removed. The cell was about 4m x 5m. I was kept chained by my ankle

shackles to a pin fixed in the floor. For the first month here I was not subjected to any torture.

I was not allowed to shower. Meals were provided three times a day in addition to Ensure and multivitamins. Toilet consisted of a bucket in the cell which was removed everyday. Loud music was playing twenty-four hours each day. I was provided with a Styrofoam mattress.

After about one month the torture began again. I was stripped naked and remained naked throughout the month of July. Also during this time I was again kept for several days in a standing position with my arms above my head and fixed with handcuffs and a chain to a metal ring in the ceiling. My lower leg was examined on a daily basis by a doctor using a tape measure for signs of swelling. I do not remember for exactly how many days I was kept standing, but I think it was about ten days. The doctor finally ordered that I be allowed to sit on the floor, I was still kept with my arms extended above my head. This was very painful on my back. During the standing I was made to wear a diaper. However, on some occasions the diaper was not replaced and so I had to urinate and defecate over myself. I was washed down with cold water everyday.

In this place of detention they were rather more sophisticated than in Afghanistan because they had a hose-pipe with which to pour the water over me. After having been washed down with cold water in my cell I was taken for interrogation. On one occasion I heard sounds of a person being tortured next door. In this place of detention, female interrogators were again present while I was naked. One of them was particularly aggressive in her questioning. [He would not go further into detail on this subject]. However, I was not subjected to any more beatings.”

- iii) **Khaled Shaik Mohammed reported the following regarding his transfer to and detention in Afghanistan, where he was held for three days at the start of March 2003 and in his subsequent place of detention, where he was held from 06 March to 22 September 2003:**

“During the transfer from Pakistan to Afghanistan my eyes were covered with a cloth tied around my head and with a cloth bag pulled over it. A suppository was inserted into my rectum. I was not told what the suppository was for. I was dressed in a shalwar kameez, shackled hands and feet and put sitting in a vehicle for the journey to the airport. I was then put in a sitting position on a plane. The transfer was OK, with no particular problems to report. The flight was short, only about 1 hour. I arrived at night. The transfer from the plane to the place of detention took about 15–20 minutes. During my time in this place of detention I could hear planes taking off and landing. I think the place was Bagram.

After arrival my clothes were cut off of me, the bag and blindfold were removed and photographs were taken of me naked. I remained naked throughout the three days I stayed in this place of detention.

I was checked by a doctor and asked about my medical history. I told the doctor about the pain I was still suffering from the beating in Pakistan. [During the two days

he was detained at Rawlapindi he was questioned by a CIA agent who allegedly punched him several times in the stomach, chest and face. The same agent reportedly threw him on the floor and trod on his face three times. He was not allowed to sleep during his detention in Pakistan].

I was then placed in a cell, about 2m x 4 m, naked, where I was kept in a standing position with my hands cuffed and chained to a bar above my head. My feet were flat on the floor. At first I was questioned for about one hour with no other forms of ill-treatment. After about one hour I was taken to another room where I was made to stand on tiptoes for about two hours during questioning. Approximately thirteen persons were in the room. These included the head interrogator (a man) and two female interrogators, plus about ten muscle guys wearing masks. I think they were all Americans. From time to time one of the muscle guys would punch me in the chest and stomach. This was repeated during two nights.

Also during this period I was on four occasions taken to a separate room away from the main interrogation room. Here cold water from buckets was thrown onto me for about forty minutes. Not constantly as it took time to refill the buckets. After which I would be taken back to the interrogation room.

On one occasion during the interrogation I was offered water to drink, when I refused I was again taken to another room where I was made to lie on the floor with three persons holding me down. A tube was inserted into my anus and water poured inside. Afterwards I wanted to go to the toilet as I had a feeling as if I had diarrhoea. No toilet access was provided until four hours later when I was given a bucket to use.

Whenever I was returned to my cell I was always kept in the standing position with my hands cuffed and chained to a bar above my head.

On one occasion I was taken to another cell and was allowed to sleep for a little while, I think for only about one hour, before being returned to my cell standing, naked with my hands shackled above my head.

Music was always playing in the corridor outside my cell, but it was not very loud.

For a toilet a bucket was provided inside the cell. A guard came and lowered my hands to allow me to use it. However, I was not allowed to clean myself afterwards and was immediately again returned to the former position.

I was not allowed to pray. I could not bathe or wash. I was not provided with any time outdoors. Some Afghani style bread was given to me on some occasions, as a reward for when they thought I was cooperating.

After three days in Afghanistan I was dressed in a tracksuit. My eyes were covered with a cloth tied around my head. A cloth bag was then pulled over my head. Headphones were placed over my ears—playing music, but not too loud. I was transported about ten minutes by vehicle and then placed in a plane sitting, leaning back, with my hands and ankles shackled in a high chair. I fell asleep. The first proper sleep in over five days. I therefore don't know how long the journey lasted.

On arrival the transfer from the airport to the next place of detention took about one hour. I was transported sitting on the floor of a vehicle. I could see at one point that there was snow on the ground. Everybody was wearing black, with masks and

army boots, like Planet-X people. I think the country was Poland. I think this because on one occasion a water bottle was brought to me without the label removed. It had e-mail address ending in “.pl”. The central-heating system was an old style one that I would expect only to see in countries of the former communist system.

After arrival my clothes were again cut off of me, the bag and blindfold were removed and photographs were again taken of me naked. I was put in a cell with cameras where I was later informed by an interrogator that I was monitored 24 hours a day by a doctor, psychologist and interrogator. I think the cell was underground. I had to go down steps to get to it. It was about 3m x 4m with wooden walls.

It was here that the most intense interrogation occurred, led by three experienced CIA interrogators, all over 65 years old and all strong and well trained. There were the “emirs.” Although of course they never revealed their own names, I gave them names by which I could refer to them, all beginning with ‘Abu’. I think that ‘Abu Captain’ was of South American origin, whereas ‘Abu Hanan’ was perhaps of Moroccan origin and ‘Abu White’ was of Eastern European descent.

As the interrogation again resumed I was told by one of the “emirs” that they had received the green-light from Washington to give him “*a hard time*”. They never used the word “torture” and never referred to “physical pressure”, only to “*a hard time*”, I was never threatened with death, in fact I was told that they would not allow me to die, but that I would be brought to the “*verge of death and back again*”.

Apart from when I was taken for interrogation to another room, I was kept for one month in the cell in a standing position with my hands cuffed and shackled above my head and my feet cuffed and shackled to a point in the floor. Of course during this month I fell asleep on some occasions while still being held in this position. This resulted in all my weight being applied to the handcuffs around my wrists resulting in open and bleeding wounds. The cuffs around my ankles also created open, bleeding wounds. [Scars consistent with this allegation were visible on both wrists as well as on both ankles.] Both my feet became very swollen after one month of almost continual standing.

Initially I was interrogated for approximately eight hours each day. This gradually became less until after one month it was about four hours each day.

For the interrogation I was taken to a separate room. The number of people present varied greatly from one day to another. Other interrogators, including women, were also sometimes present along with the ‘emirs’. A doctor was also usually present. If I was perceived not to be cooperating I would be put against a wall and punched and slapped in the body, head and face. A thick flexible plastic collar would also be placed around my neck so that it could then be held at the two ends by a guard who would use it to slam me repeatedly against the wall. The beatings were combined with the use of cold water, which was poured over me using a hose-pipe. The beatings and use of cold water occurred on a daily basis during the first month.

In addition I was also subjected to ‘water-boarding’ on five occasions, all of which occurred during that first month. I would be strapped to a special bed, which could be rotated into a vertical position. A cloth would be placed over my face. Cold water

from a bottle that had been kept in a fridge was then poured onto the cloth by one of the guards so that I could not breathe. This obviously could only be done for one or two minutes at a time. The cloth was then removed and the bed was put into a vertical position. The whole process was then repeated during about one hour. Injuries to my ankles and wrists also occurred during the water-boarding as I struggled in the panic of not being able to breathe. Female interrogators were also present during this form of ill-treatment and a doctor was always present, standing out of sight behind the head of bed, but I saw him when he came to fix a clip to my finger which was connected to a machine. I think it was to measure my pulse and oxygen content in my blood. So they could take me to breaking point.

After each session of torture I was put into a cell where I was allowed to lie on the floor and could sleep for a few minutes. However, due to shackles on my ankles and wrists I was never able to sleep very well.

The harshest period of the interrogation was just prior to the end of the first month. The beatings became worse and I had cold water directed at me from a hose-pipe by guards while I was still in my cell. The worst day was when I was beaten for about half an hour by one of the interrogators. My head was banged against the wall so hard that it started to bleed. Cold water was poured over my head. This was then repeated with other interrogators. Finally I was taken for a session of water boarding. The torture on that day was finally stopped by the intervention of the doctor. I was allowed to sleep for about one hour and then put back in my cell standing with my hands shackled above my head.

Music was playing 24 hours/day in the corridors, but not very loud. I was allowed to pray after about one month. Koran was given in April 2003. It was confiscated on four occasions during my stay in that place of detention. The toilet consisted of a bucket in the cell, which I could use on request, but I was not allowed to clean myself after toilet during the first month. I was allowed to shower twice during the first month. After these two showers I was allowed to sleep for a little while on the floor of my cell before being returned to the standing position with hands cuffed above my head. During the first month I was not provided with any food apart from on two occasions as a reward for perceived cooperation. I was given 'Ensure' to drink every 4 hours. If I refused to drink then my mouth was forced open by the guard and it was poured down my throat by force. At my request the Ensure was later provided a little warmed. I was weighed every day during the first month. This was done on a weekly basis later. At the time of arrest I weighed 78kg. After one month in detention I weighed 60kg.

I wasn't given any clothes for the first month. Artificial light was on 24 hours a day, but I never saw sunlight. I was never taken outdoors.

After about one month I was moved to another cell. I was given clothes to wear. I was no longer kept in a standing position. I was only shackled by the ankles. I could shower once a week. The interrogation became less harsh. No more physical assault, but threats along the lines of "*we will take you to another room*" or by having the plastic collar put on the table in front of me during the questioning. I was provided

with a Styrofoam mattress. They started to give me food twice a day. To begin with the it consisted only of rice and beans. Later, after June 2003, I began to receive some meals with sardines, canned meat and bread buns. The guards would sometimes bring the food already bitten, and would handle me roughly when they took me to the shower. These things improved after I complained to one of the ‘emirs’.

On June 4th I was moved to a third cell. This move occurred after I complained about the constant music that was still being played outside my cell. The new cell was a cage like structure built inside an underground room. I preferred it as there was no music and, as it was a cage structure instead of solid walls, the ventilation was better. I was again kept shackled by the feet, but not the wrists. Water was provided in two bottles. One for drinking, one for the toilet. Toilet paper was provided. Toilet still consisted of a bucket inside the cell. It was removed on a daily basis.

During the harshest period of my interrogation I gave a lot of false information in order to satisfy what I believed the interrogators wished to hear in order to make the ill-treatment stop. I later told the interrogators that their methods were stupid and counterproductive. I’m sure that the false information I was forced to invent in order to make the ill-treatment stop wasted a lot of their time and led to several false red-alerts being placed in the US.”

NOTES

1. The ICRC has defined “undisclosed detention” broadly, to include: the detention of individuals by US authorities in undisclosed locations; the non-disclosure or hiding of detainees from the ICRC by US authorities and/or the denial of ICRC access to detainees known to the ICRC; and detention by third country authorities working in cooperation with US authorities, including the practice of rendition, when carried out in violation of the rules and principles of international law.

2. A list of the nine main written interventions was attached in annex to the 2004 report. In the 2006 report, a list of the 17 main written interventions was attached in annex.

3. This list contained 42 names in 2004, and 59 names in 2006. In both cases, the list included two children.

4. The content of this Note VerbaLe is acknowledged by the ICRC in its consolidated report of 18 April 2006.

5. The terms “detainee” and “detention” are also intended to cover “internees” and “internment”.

6. For four of these detainees, the first written request was made in January 2003; for nine detainees the first request was in 2004 (two in March, six in July 2004 and one in November 2004); and for one detainee the first request was made in November 2005. A complete list of the interventions made for each of these detainees has been attached in Annex 2. In the ICRC consolidated report on undisclosed detention of April 2006, these persons are identified in annex as identities number 3, 4, 7, 11, 12, 18, 19, 22, 23, 24, 25, and 38.

7. Report of ICRC Washington on the ICRC Visit to Fourteen Newly Arrived “High Value” Internees in Guantanamo Bay Internment Facility 06 October to 11 October 2006, WAS 06/210, 31 October 2006.

8. ‘Solitary confinement’ is the confinement of a detainee and the *partial* (where the restriction is nevertheless severe) or *complete* denial of contact with other detainees and/or the outside world. While solitary confinement often implies other forms of restrictions it does not necessarily require them.

9. The ICRC does not have access to the initial interrogation plan and use of techniques approved by the CIA. It has been informed by the Director of the CIA, General W. Hayden, that the objective of the CIA detention program was focused exclusively on the holding of foreign nationals for the purpose of extracting intelligence information in relation to the fight against terrorism, as directed by President Bush. Gen. Hayden outlined that the initial interrogation plan for a detainee was drafted by the interrogation team and submitted to the CIA headquarters for approval. Currently (and this may always have been the case, although the ICRC is not aware), both the interrogation plan and specific use of techniques must be approved by the Director or Deputy Director of the CIA.

10. Health personnel is nevertheless a broader term and should be understood to include physicians, psychiatrists, psychologists, nurses and other para-health staff.

11. Principles of Medical Ethics Relevant to the Role of Health Personnel, Particularly Physicians, in the Protection of Prisoners and Detainees Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, UN 1982; International Code of Medical Ethics World Medical Association 1949 (amended 1983); Declaration of Tokyo, World Medical Association 1975; Regulations in times of armed conflict, World Medical Association 1956, amended 2004; Resolution on the responsibility of physicians in the denunciation of acts of torture or cruel or inhuman or degrading treatment of which they are aware, World Medical Association 2003; International Council of Nurses Position Statement on Torture, Death Penalty and Participation by Nurses in Executions, Revised 2006; International Council of Nurses Position Statement on Nurses’ Role in the Care of Detainees and Prisoners. Revised 2006; International Council of Nurses Position Statement on Nurses and Human Rights. Revised 2006; World Psychiatric Association Declaration of Madrid, Amended 2002.

12. UN Standard Minimum Rules for the Treatment of Prisoners, United Nations 1955; Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, UN General Assembly 1988.

13. Principles of Medical Ethics Relevant to the Role of Health Personnel, Particularly Physicians, in the Protection of Prisoners and Detainees Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, UN 1982.

14. Articles 71, 122, 126 of the Geneva Convention III (GC III); articles 25, 106, 107, 116, 138, 143 of the Geneva Convention III (GC IV).

15. Article 126 (2) GC III; article 143 (3) GC IV.

16. E.g. principles 16, 19 of the Body of Principles for the Protection of all Persons under any Form of Detention or Imprisonment (1998); rule 37 of the Standard Minimum Rules for the Treatment of Prisoners (1977).

17. Enforced disappearance has been defined in article 2 of the Convention for the Protection of all Persons from Enforced Disappearance (2006): “enforced disappearance is considered to be the arrest, detention, abduction or any other form of deprivation of liberty committed by agents of the State or by persons or groups of persons acting with the authorization, support or acquies-

cence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law”; as well as in the UN Declaration on the Protection of All Persons from Enforced Disappearance (1992): “enforced disappearances occur, in the sense that persons are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of Government or by organized groups or private individuals, acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law”.

18. E.g. articles 21, 118 GC III; articles 42, 78 GC IV; common article 3 to the Geneva Conventions; article 9 (1) of the International Covenant on Civil and Political Rights (ICCPR, 1966).

19. Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984).

20. The ICRC notes the remarks by General Hayden on 18 October 2006 that certain procedures would not be used in subsequent detention programs and the affirmation that common article 3 of the four Geneva Conventions applied as a matter of law to the treatment of any future CIA detention program. It was also indicated that the CIA did not intend to undertake detention of the duration previously used and that a significant reduction may be considered.

21. For an elaboration on the procedural principles and safeguards that should be applied as a minimum to all cases of deprivation of liberty for security reasons, please see the ICRC document entitled “*Procedural principles and safeguards for interment/administrative detention in armed conflict and other situations of violence*”, Jelena Pejic, International Review of the Red Cross, Vol. 87, number 858, pp. 375–391 (June 2005).

ANNEX 2

ICRC written interventions to the US authorities requesting information on the fourteen

Name	Date of ICRC request for information
Abu Zubaydah	Note Verbale of ICRC Geneva, 8 January 2003 Note Verbale of ICRC Washington, 25 March 2004 ICRC Report on Undisclosed Detention, 18 November 2004 ICRC Report on Undisclosed Detention, 18 April 2006
Ramzi Mohammed Binalshib	Note Verbale of ICRC Geneva, 8 January 2003 Note Verbale of ICRC Washington, 25 March 2004 Report of ICRC Kabul, 16 July 2004 ICRC Report on Undisclosed Detention, 18 November 2004 ICRC Report on Undisclosed Detention, 18 April 2006
Abdelrahim Hussein Abdul Nashiri	Note Verbale of ICRC Geneva, 8 January 2003 Report of ICRC Kabul, 16 July 2004 ICRC Report on Undisclosed Detention, 18 November 2004 ICRC Report on Undisclosed Detention, 18 April 2006
Mustafha Ahmad Al Hawsawi	Note Verbale of ICRC Washington, 25 March 2004 Report of ICRC Kabul, 16 July 2004 ICRC Report on Undisclosed Detention, 18 November 2004 ICRC Report on Undisclosed Detention, 18 April 2006
Khaled Shaik Mohammed	Note Verbale of ICRC Washington, 25 March 2004 Report of ICRC Kabul, 16 July 2004 ICRC Report on Undisclosed Detention, 18 November 2004 ICRC Report on Undisclosed Detention, 18 April 2006
Majid Khan	Report of ICRC Kabul, 16 July 2004 ICRC Report on Undisclosed Detention, 18 November 2004 ICRC Report on Undisclosed Detention, 18 April 2006
Ali Abdul Aziz Mohammed	Report of ICRC Kabul, 16 July 2004 ICRC Report on Undisclosed Detention, 18 November 2004 ICRC Report on Undisclosed Detention, 18 April 2006
Walid Bin Attash	Report of ICRC Kabul, 16 July 2004 ICRC Report on Undisclosed Detention, 18 November 2004 ICRC Report on Undisclosed Detention, 18 April 2006
Mohammed Farik Bin Amin	Report of ICRC Kabul, 16 July 2004 ICRC Report on Undisclosed Detention, 18 November 2004 ICRC Report on Undisclosed Detention, 18 April 2006
Mohammed Nazir Bin Lep	Report of ICRC Kabul, 16 July 2004 ICRC Report on Undisclosed Detention, 18 November 2004 ICRC Report on Undisclosed Detention, 18 April 2006
Encep Nuraman (aka Hambali)	Note Verbale of ICRC Washington, 25 March 2004 Report of ICRC Kabul, 16 July 2004 ICRC Report on Undisclosed Detention, 18 November 2004 ICRC Report on Undisclosed Detention, 18 April 2006
Haned Hassan Ahmad Guleed	—
Ahmed Khalafan Ghailani	ICRC Report on Undisclosed Detention, 18 November 2004 ICRC Report on Undisclosed Detention, 18 April 2006
Mustafah Faraj Al-Azbi	Letter of ICRC Washington, 3 November 2005 ICRC Report on Undisclosed Detention, 18 April 2006