

Chapter 4

Unlawful Detention

“They are like dogs and if you allow them to believe at any point that they are more than dogs then you’ve lost control of them.”

– US Major General Geoffrey Miller¹

The Coalition and the Iraqi government are holding thousands of Iraqi citizens in arbitrary and unlawful detention. The great majority of the detainees have not been charged with a crime, nor are they allowed to defend themselves against accusations or have a trial in a court of law.

Heavily-armed soldiers make the arrests. Frequently, they are English-speaking US troops, whose orders the Iraqis may not even understand. The soldiers often take many people simultaneously into custody – during neighborhood sweeps and house searches, at checkpoints, and in round-ups of all kinds. They nearly always make arrests without judicial warrants or evidence of wrong-doing.

The Red Cross has described house arrests as follows: “Arresting authorities entered houses usually after dark, breaking down doors, waking up residents roughly, yelling orders, forcing family members into one room under military guard while further searching the rest of the house and further breaking doors, cabinets and other property. They arrested suspects, tying their hands in the back with flexi-cuffs, hooding them, and taking them away. Sometimes they arrested all adult males present in the house, including elderly, handicapped or sick people. Treatment often included pushing people around, insulting, taking aim with rifles, punching and kicking and striking with rifles. Individuals were often led away in whatever they were wearing at the time of arrest – sometimes in pajamas or underwear – and were denied the opportunity to gather a few essential belongings such as clothing, hygiene items, medicines or eyeglasses.”² The Red Cross has also mentioned many allegations of theft of personal property, including money and automobiles, by arresting troops.³ The Red Cross noted in 2004 that 70-90% of those taken into custody appeared to have been arrested “by mistake.”⁴

Thousands of Iraqis Arbitrarily Held

Since the early days of the occupation, US forces have taken thousands of Iraqis into custody for “security” reasons. By January 2004, the official detainee list numbered 8,500.⁵ In late 2005, mass detention operations before the elections swelled the prisoner numbers still further.⁶ Though the Coalition announced major releases during the summer of 2006, the Baghdad security operations in early 2007 boosted detainees to a record 18,000 by the end of March.⁷ In addition, the US and its partners hold many hundreds in intake facilities, where detainees are not yet registered and counted.⁸ Others are likely to

be held, as in the past, in secret detention centers, CIA interrogation sites and other “ghost” locations.⁹

The detainees include women, the elderly, and even two hundred juveniles, according to a July 2006 *IRIN News* estimate.¹⁰ Reports speak of children as young as ten years old having been held for long periods.¹¹ Many have suffered from serious trauma as a result of their prison experience.¹² US General Janis Karpinski, former commander of prison guards in Iraq, told military interviewers that she met a boy in a US prison who was listed as an eleven-year-old but looked closer to eight. The boy was crying, she said, and asking for his mother.¹³

In April, 2007, the US announced that the average length of detention was one year, but that eight thousand Iraqis had been held longer than a year and 1,300 for more than two years.¹⁴ Because of regular releases and new arrests, US forces have deprived a very large number of Iraqis of their freedom and exposed them to the harsh prison system, since the occupation began. No one has counted the total, but Amnesty International comments that in aggregate “tens of thousands of internees” have been held in arbitrary and extrajudicial detention.¹⁵

Outsourcing Detention to Iraqi Authorities

In the second half of 2004, after the Coalition had transferred sovereignty to the interim government, Iraqi authorities asked for control over all detainees. The Coalition refused. But in the aftermath of the Abu Ghraib scandal, political and legal developments in the US had imposed limits on military detention practices in Iraq.¹⁶ So commanders turned over hundreds of prisoners to the Iraqi Ministries of Defense, Justice and Interior, the latter a highly militarized department with little civilian police experience and a harsh sectarian reputation.¹⁷ Iraqi-held prisoners were not legally under US or Coalition authority, but they were still largely under US control or influence.¹⁸ Scores of US advisors were working with Iraqi authorities, including at detention sites. During Iraqi interrogations, US intelligence personnel could be present and even in a supervisory role, while preserving deniability.¹⁹ Iraqi military and security forces were of course making their own arrests while Coalition arrests continued at a rapid pace. As a result, the country-wide prisoner count grew by a factor of four from April 2005 to April 2007.²⁰

Iraqi-controlled detention centers are reportedly extremely crowded and operate with scant regard for legal standards. Iraqi authorities have not allowed international monitoring visits by human rights organizations or the Red Cross.²¹ Even an Iraqi government legal committee was denied access to the notorious Kadhimiya detention center in early 2007.²² Though Iraqi law does not allow the Ministry of Interior to hold prisoners, it continues to do so. During 2006, several scandals revealed Iraqi prisons to be exceptionally brutal. Reports in 2007 indicate that, if anything, conditions have gotten worse.²³ Human Rights Watch has commented that, to its knowledge, the plentiful US advisors have done nothing to promote detainee rights in this abusive atmosphere.²⁴

In mid-2005, the Iraqis held about 5,000 detainees.²⁵ By May 2006, the number in Iraqi custody had grown to 13,300.²⁶ And by March 2007, driven by the Baghdad security operations, there were almost 20,000 in Iraqi prisons and detention centers.²⁷ This rapid growth has led to abusive over-crowding.²⁸ In April 2007, Iraqi inspectors found 827 prisoners jammed into a Mahmudiya facility built for 300 and in Muthana air base they found 272 in a jail intended for 75. In some cases six people were crowded into a cell intended for one.²⁹ New prisons are being built, but the number of prisoners probably has overtaken the building program.

Unclear Legal Status

The US holds the vast majority of its prisoners in an unclear legal status – without definition of their rights. US authorities have used the vague terms “enemy combatants,” “security detainees,” “security internees,” and “persons under custody.” The Coalition has refused to use the standard terminology -- “prisoners of war” or “criminal detainees” – for which legal rights are clearly specified under international law, domestic US law, and military doctrine. In effect, the detaining authorities do not recognize the rights of those they are holding. In this legal no-man’s-land, Iraqi prisoners have no recourse, no way of demanding rights, and no way of proving their innocence or gaining their release.

US authorities rarely bring charges against detainees or bring them to trial in Iraqi courts. Official Coalition figures from November 2005 report that only 1,301 detainees had received trials since the beginning of the occupation³⁰ – probably less than one in fifty of all those held until that time. The US insists on its right to hold these prisoners, based on what it chooses to call “military necessity” or “imperative reasons of security.” In international law these terms are generally thought to have a limited meaning, for a short duration in wartime emergencies. It is thoroughly implausible that jailing tens of thousands of persons without charge or trial can be defended in these terms.

Responding to complaints about arbitrary arrest, the Coalition developed a system of review, which in theory gave all prisoners a chance to have their case examined. The Combined Review and Release Board (CRRB), set up in August 2004, is composed of both Iraqi and Coalition representatives, but it has recommending powers only and is not binding upon the Coalition.³¹ Prisoners’ status is said to be reviewed at least every six months. The system for those held by UK forces is similar. Though reviews are more frequent, no Iraqi officials are part of the review panel. The prisoners cannot appear before either of these panels, nor can they have a lawyer represent them. The evidence (if any) is secret. Rules of due process do not apply. So the panels do not remotely fulfill the ordinary practices under domestic US and UK laws or the requirements of international law.³²

Many legal authorities and international human rights bodies believe that long periods of incarceration without due process, especially in secret facilities and without any contact with families, constitutes by itself illegally abusive treatment.³³ Families also suffer – from worry, anguish and often economic difficulty.

Coalition commanders eventually release most prisoners, after months of detention, interrogation and uncertainty. Releases are often as arbitrary as the original arrests. One prisoner may be released after a month, another after six months, another after a year or more, with no clear difference between the cases – and absolutely no explanations, apologies or proper compensation given for the months of incarceration. Even the manner of the release can be punitive. US forces have released some prisoners injured or sick from bad treatment. At Camp Nama, near Baghdad, after weeks of punishing interrogation, some prisoners were driven deep into the Iraqi desert and released there at night.³⁴ UK forces have also allegedly released penniless prisoners at night, along a deserted highway, miles from the nearest city.³⁵

Secret Imprisonment

International law requires occupation forces to register prisoners promptly, make them accessible to Red Cross visits, and inform families and friends of their whereabouts. These rules prevent “incommunicado detention,” since a lack of independent oversight often leads to bad conditions and abuse.³⁶ But in Iraq, Coalition commanders have frequently ignored these requirements. They have failed to keep an up-to-date and accurate central prisoner register and they have failed to fully and regularly disclose prisoner names.³⁷ They have held hundreds and perhaps thousands of hidden or unregistered detainees in local prison camps or in secret interrogation centers, where the detainees have remained incommunicado and invisible for weeks or even months, a practice in direct breach of US army doctrine which sets a twelve hour limit to holding of detainees prior to registration.³⁸ Even in central prisons like Abu Ghraib, interrogators have kept “ghost detainees” by moving them around to avoid any encounter with Red Cross inspectors.³⁹ Some prisoners have allegedly been transferred out of Iraq to secret interrogation centers in foreign locations.⁴⁰

In one case, documented by the UK Prime Minister’s office, an elderly Iraqi woman was “lost” after being arrested in a round-up at the beginning of the war. Finally, after many months in what Downing Street admitted was a “black hole” of invisible detention, the woman was “found” – still in custody – and released from a US-run prison, where she had suffered both physical and psychological abuse.⁴¹

Commanders have denied human rights organizations access to virtually all prisons in Iraq – in spite of several visit requests.⁴² Commanders have also refused requests by UN human rights experts to visit Coalition prisons.⁴³ And they have selectively denied Red Cross access to detention sites other than the central prisons, including, reportedly, local facilities, special interrogation centers and other sites where detainees are most at risk.⁴⁴ In March, 2005, a Human Rights First lawyer expressed great concern about the field prisons where “conditions are terrible,” the “worse abuses” occur and Red Cross access is “limited to nonexistent.”⁴⁵

Coalition Prisons

Coalition forces hold prisoners throughout Iraq in dozens of places and many types of facilities. Some are held in prison buildings with long rows of cells, some in makeshift quarters like school buildings and army barracks, but most are held in prison camps with tents for shelter, surrounded by razor wire and elevated guard towers. Most prisoners have been held at five central facilities.⁴⁶

Abu Ghraib Prison, a complex of buildings near Baghdad, was a notorious jailhouse of the former regime. Abu Ghraib became the main US interrogation center and it also became a worldwide symbol of prisoner abuse and inhumane conditions. Its stone cellblocks and extensive tent camps have been described as unsanitary, seriously overcrowded and lacking adequate quarters for prisoners.⁴⁷ One US soldier assigned to guard duty at Abu Ghraib wrote in a letter that military interrogators had “instructed us to place a prisoner in an isolation cell with little or no clothes, no toilet or running water, no ventilation or window, for as much as three days.”⁴⁸ On May 24, 2004, at the height of the torture scandal, the White House announced that Abu Ghraib’s prison buildings would be soon torn down,⁴⁹ but instead they were kept in service and were reported to hold about 4,700 detainees in November, 2005.⁵⁰ The main prison buildings are finally said to have been emptied over the summer of 2006 and turned over to Iraqi authorities on September 2.⁵¹ Some detainees were shifted to Camp Bucca and those remaining – an estimated 3,000 – have reportedly been moved to a new US prison at Camp Cropper.⁵²

Camp Bucca, the biggest US detention facility, is a 100-acre prison camp in the desert near Umm Qasr, in the south. Bucca was the subject of the first official US military inquiry into abuse and torture in May 2003, very soon after the site was built.⁵³ Initially, US military planners intended the facility to hold 2,000 to 2,500 prisoners.⁵⁴ But as of March 2006, an estimated 8,500 Iraqis were held there⁵⁵ and by March 2007 the number had jumped to 13,800.⁵⁶ Amnesty International reported in 2003 that detainees at Camp Bucca were being “held in tents in the extreme heat and were not provided with sufficient drinking water or adequate washing facilities. They were forced to use open trenches for toilets and were not given a change of clothes - even after two months' detention.”⁵⁷ By 2006, some tents had been replaced by tin-roofed huts and sanitation had marginally improved, but this vast complex in the scorching desert, subject to sandstorms, remains a hell-hole for prisoners. The whole complex is divided into “compounds,” each surrounded by barbed wire and guard towers and holding about 800 prisoners. Prisoners have rioted several times to protest maltreatment, poor conditions, and religious insults by guards. In January 2005, guards opened fire from observation towers during one protest, killing four detainees and wounding six more.⁵⁸

Fort Suse, a former Iraqi military barracks located near Sulimaniye in the north, was reconstructed and opened in 2005 to accommodate the rising number of Coalition prisoners.⁵⁹ In late 2005 it held about 1,200 inmates.⁶⁰ It was handed over to Iraqi authorities in September 2006.

Camp Cropper near Baghdad was an important center for interrogation during the early months of the occupation and the Red Cross reported “at least 50 incidents of abuse” in early July 2003.⁶¹ The prison is best-known for holding “high value” prisoners, mainly

top political and military leaders of the former regime⁶² who were held in solitary confinement, devoid of sunlight, under conditions that the Red Cross considered “serious violations” of the Geneva conventions.⁶³ In August 2006, the US detention command opened a \$60 million expansion and the facility can now hold several thousand inmates. Reportedly, 3,000 were brought in from Abu Ghraib during the summer of 2006.⁶⁴ In April 2007, US prison authorities said that 3,300 were being held there.⁶⁵ According to the *New York Times*, though Camp Cropper is supposed to symbolize “reform” in the US detention system, “several detainees there have died mysteriously in the past year.”⁶⁶

Camp Shu’aiba, a detention center located at a major British base south of Basra, has generally held less than 200 detainees. In August 2006 it reportedly held just 85.⁶⁷ Though the numbers are relatively low compared with the prisons under US authority, the British have not had a good record as jailors. In 2003, an officer’s order to “work prisoners hard” led to serious abuse of British detainees at a nearby site⁶⁸ and there have been several investigations and court martials as a result of prisoner mistreatment. In late 2005, reports spoke of hunger strikes and prisoner “disturbances” at Camp Shu’aiba, protesting beatings by guards and holding of inmates without trial.⁶⁹ At the same time, families blocked the road to the facility in protest at a lack of family visits.⁷⁰ Attempted suicides by despondent prisoners have also been reported.⁷¹

Other Sites include six relatively large detention centers – a facility known as MNF Center and five prisons maintained by US forces at brigade or divisional level.⁷² Coalition forces have held prisoners in dozens of smaller sites, including secret interrogation centers such as the former Camp Nama near Baghdad. In Nama, detainees were forced to stand for days in cargo containers in the blazing sun with temperatures rising to 135 degrees Fahrenheit, deprived of their clothes and not allowed to sleep.⁷³ Camp Diamondback at the Mosul airport in the north is another secret scene of notoriously bad conditions.⁷⁴ Additionally, prisoners are held in makeshift prison camps, collection points, and other local detention centers, including many of the sixty “forward operating bases” close to the theater of military operations.⁷⁵

Prison Conditions

While torture and abuse have been the worst aspect of Coalition prisons, authorities have also subjected detainees to unacceptable and inhumane conditions of incarceration, which violate international human rights standards. Reports have spoken of poor food and bad quality water, prisoners exposed to extremes of temperature, grossly overcrowded cells, and seriously inadequate sanitation arrangements.⁷⁶ General Paul Mikolashek reported that at Abu Ghraib, garbage and sewage covered the grounds of the outdoor camps, bathing facilities were minimal, fresh water was in short supply and detainee meals were frequently contaminated with dirt and rodent droppings.⁷⁷ In order to pressure prisoners and to “soften them up” for interrogation, guards at many facilities have reportedly withheld or greatly curtailed access to food and water, punitively limited visits to the latrine, confined inmates to fetid isolation cells, and removed mattresses, sheets and prisoners’ clothing.⁷⁸

Conditions in the Coalition prisons are greatly worsened by the language barrier between guards and detainees, which results in what the Red Cross has called “frequent misunderstandings” that are “compounded by a widespread attitude of contempt on the part of the guards.”⁷⁹ The Red Cross has reported further that “a failure to understand or a misunderstanding of orders given in English was construed by guards as resistance or disobedience,” leading to abusive punishments.⁸⁰

At Camp Nama, a temporary detention site at the Baghdad International Airport, run by a secret US military unit called Task Force 6-26, prisoners were crammed into dozens of small cells, overwhelmed by the smell of human waste, and often forced to squat or crouch for sleeping because of overcrowded conditions.⁸¹ In Tal Afar, at a police station under direct supervision of US forces, “forty-seven prisoners were squeezed into a cell so tight that they had to take turns sleeping; four or five others were crammed into the latrine.”⁸² In this jail, one of the detainees was a twelve year-old boy; another man was a schoolteacher who had been arrested after a roadside bomb detonated near the taxi he had hired. He had never seen a lawyer.”⁸³

Prisoners have repeatedly protested, rioted, gone on hunger strikes and otherwise taken extreme measures to call attention to their unacceptable prison conditions. The March 2004 report by General Antonio Taguba, investigating prison abuse, makes it clear that Coalition prisons were seriously overcrowded and that during 2003 there had already been a number of protests, to which guards had responded by opening fire on prisoners.⁸⁴ In one such incident at Abu Ghraib on November 24, 2003, guards killed three and wounded nine.⁸⁵

Two of the world’s most respected medical journals, *The Lancet* and the *New England Journal of Medicine*, have run articles detailing the unethical and illegal behavior of military medical staff at Coalition prisons.⁸⁶ Doctors, nurses and other medical personnel have failed to monitor and correct unhealthful sanitary conditions and inadequate provision of food and shelter.⁸⁷ Most seriously, they have not reasonably attended to the medical needs of prisoner. Not only have they failed to conduct routine examinations, but they have failed to attend to prisoners’ wounds, sores, broken limbs and other serious conditions.⁸⁸ Military medical personnel have also failed to report prisoners’ medical condition or filled out false reports and death certificates.⁸⁹ They have failed to provide prisoners with needed medicines.⁹⁰ And they have turned over prisoners’ medical records to interrogators, to allow them to exploit the vulnerabilities of detainees.⁹¹ Few Coalition military doctors or medical professionals have come forward to give evidence about these serious violations of medical ethics and international law, though the crimes have been well-documented by civilian medical researchers. Nor has any military medical professional been brought to trial for these acts, so damaging to the prisoners put under their care.

Practices Condemned in Iraq and at the UN

In September, 2005, Iraqi Justice Minister Abdul Hussein Shandal said “No citizen should be arrested without a court order. There is abuse [of human rights] due to

detentions, which are overseen by the Multinational Force and are not in the control of the Justice Ministry.”⁹² UN Secretary General Kofi Annan repeatedly called attention to the Coalition’s policies of arbitrary imprisonment, referring in 2005 to “the detention of thousands of persons without due process;” Annan also noted that “prolonged detention without access to lawyers and courts is prohibited under international law, including during states of emergency.”⁹³ In March 2006, Annan again reiterated these concerns, making a clear judgment that the Coalition’s arguments about security are unacceptable.”⁹⁴ UN High Commissioner for Human Rights, Louise Arbour has made the same point and the UN Assistance Mission in Iraq has frequently criticized the mass-detention operations and the large number of detainees without access to judicial review.⁹⁵

Conclusion

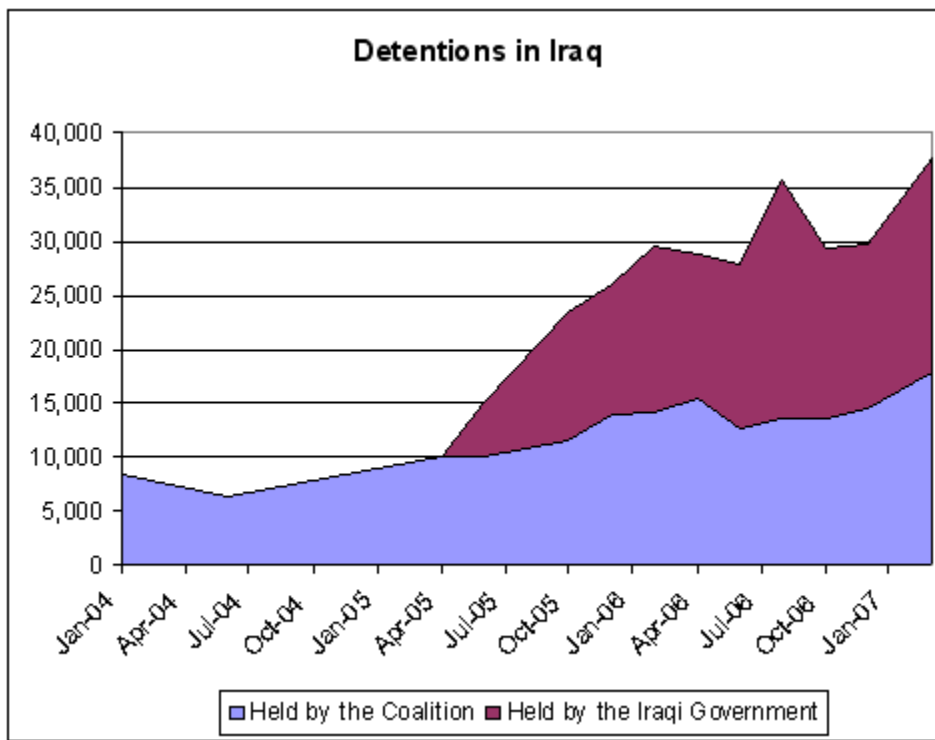
The Geneva Conventions and the International Covenant on Civil and Political Rights set clear standards for the legal status and treatment of prisoners of war and criminal detainees. Under these standards, it is illegal to hold persons arbitrarily and incommunicado. All detainees are guaranteed the right to legal counsel and due process of law. They have a right to decent and humane standards of incarceration, they have a right of contact with the Red Cross, and they must not to be mistreated. Domestic laws of the United States, the United Kingdom and other Coalition members, as well as the laws of Iraq, also afford protections against arbitrary, extrajudicial and incommunicado detention. The International Convention for the Protection from Enforced Disappearance qualifies the widespread or systematic practice of unlawful arrests and detentions as a crime against humanity.⁹⁶

The United States and the United Kingdom have argued unconvincingly that they have been given unlimited detention authorization under a letter from US Secretary of State Colin Powell, attached to UN Security Council Resolution 1546. The letter speaks of “internment where this is necessary for imperative reasons of security.” UN Secretary General Kofi Annan rejected this interpretation and the UN continues to raise questions about the legality of this policy.

Tens of thousands of people have been held in abusive detention, removed from their families and kept incommunicado for long periods. The policy has terrorized the Iraqi population. It has done great harm and seriously violated international law.

Detentions in Iraq (numbers rounded to nearest hundred)			
	Held by the Coalition	Held by the Iraqi Government	TOTAL
Jan-04	8,500	-	8,500
Jun-04	6,400	-	6,400
Nov-04	8,300	-	8,300
Apr-05	10,000	-	10,000
Jun-05	10,000	5,000	15,000
Oct-05	11,600	11,800	23,400
Dec-05	14,000	12,000	26,000
Feb-06	14,200	15,300	29,500
Apr-06	15,400	13,300	28,700
Jun-06	12,600	15,200	27,800
Aug-06	13,600	22,000	35,600
Oct-06	13,600	15,700	29,300
Dec-06	14,500	15,200	29,700
Mar-07	17,900	19,800	37,700

Sources:
 January 2004 - June 2005: Amnesty International "Beyond Abu Ghraib," p. 17
 October 2005 - March 2007: UNAMI human rights reports, except for December 2005 which is a GPF estimate



¹ As quoted by Brigadier General Janis Karpinski, reported in “Iraq Abuse Ordered From the Top” *BBC* (June 15, 2004)

² International Committee of the Red Cross, *Report of the International Committee of the Red Cross (ICRC) on the Treatment by the Coalition Forces of Prisoners of War and Other Protected Persons by the Geneva Conventions in Iraq during Arrest, Internment and Interrogation* (February, 2004) [“ICRC Report”], p. 7

³ *Ibid.* pp. 21-22

⁴ The ICRC reported that it was given this estimate by Coalition Military Intelligence officers, *ibid.*, p. 8

⁵ The true number of detainees at that time was widely believed to be higher. Amnesty International, *Beyond Abu Ghraib* (March, 2006) p. 17

⁶ UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (November 1-December 31, 2005). See also Will Dunham, “US Holds Bulging Prisoner Population in Iraq” *Reuters* (December 28, 2005)

⁷ UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (November 1-December 31, 2006) p.18

⁸ See the discussion about these facilities below and about the slow process of registration. In March 2005, it was estimated that 1,300 persons were being held in transient facilities. Edward Wong, “US Jails in Iraq Are Bursting with Detainees” *New York Times* (March 4, 2005)

⁹ Human Rights Watch, *No Blood, No Foul* (July 2006), provides extensive information about two such secret detention facilities – Camp Nama and Camp Diamondback – that were operating in 2005.

¹⁰ UN Integrated Regional Information Networks, *Child Prisoners Left Without Support* (July 30, 2006) See also “The Other Prisoners” *Guardian* (May 20, 2004), an article with considerable evidence about women prisoners.

¹¹ Neil Mackey, “Iraq’s Child Prisoners” *Sunday Herald* (August 1, 2004)

¹² United Nations Integrated Regional Information Networks, *op.cit.*

¹³ “US Held Youngsters at Abu Ghraib” *BBC* (March 11, 2005)

¹⁴ Walter Pincus, “US Holds 18,000 Detainees in Iraq” *Washington Post* (April 15, 2007)

¹⁵ Amnesty International, *op.cit.* p. 16. Janis Karpinski, who was in command of prison guards in 2003, thinks that average detainee turnover could be 4-6 months, which would suggest a detainee total of well over 100,000 (private communication January, 2007).

¹⁶ In October, 2004, for instance, the US Congress passed a law requiring the Department of Defense to provide regular reporting of the number of those held in military custody. (“Behind the Wire” pp. i and ii) In this same period, the US Supreme Court took an important decision in the case *Raisul v. Bush* that also impacted detention policy.

¹⁷ Human Rights Watch, *The New Iraq* (January, 2005) pp. 6-7. See esp. Robert Perito, “Reforming the Iraqi Interior Ministry, Police and Facilities Protection Service” *United States Institute for Peace* (February 2007)

¹⁸ Amnesty International, *op.cit.* pp. 8-9.

¹⁹ *Ibid.* pp. 6 and 9.

²⁰ We estimate that the total rose from around 13,000 to around 29,000 in this period.

²¹ The International Committee of the Red Cross has been in negotiations with Iraqi authorities to gain access since 2004. There were some reports in early 2007 that agreement was close. But in late May 2007, the head of the ICRC, Jakob Kellenberger, told the press that he was not optimistic about a breakthrough in the talks. See Stephanie Nebehay, “ICRC Still Seeking Access to Iraqi-Run Prisons,” *Reuters* (May 24, 2007)

²² Joshua Partlow, “New Detainees Strain Iraq’s Jails” *Washington Post* (May 15, 2007)

²³ *Ibid.*

²⁴ Human Rights Watch, *op.cit.* p.3

²⁵ UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (January 1-February 28, 2006) p. 6.

²⁶ UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (July 1- August 31, 2006) p. 14.

²⁷ UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (January 1- April 30, 2007) p. 22.

²⁸ *Ibid.*, p. 22

²⁹ Partlow, “New Detainees” *op. cit.*

³⁰ Multinational Force in Iraq, *Central Criminal Court of Iraq* (November 28, 2005)

³¹ Amnesty International, *op.cit.* pp. 22-24

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- ³² Amnesty International, *op.cit.* pp. 22-24. The UK panel is known as the Divisional Internment Review Committee.
- ³³ *Ibid.*, pp. 37-38
- ³⁴ Eric Schmitt and Carolyn Marshall, "In Secret Unit's 'Black Room,' a Grim Portrait of U.S. Abuse" *New York Times* (March 19, 2006)
- ³⁵ In one incident, described by the head of the Iraqi Red Crescent in Basra, UK authorities released him and 200 other detainees from Camp Bucca at night along the road from Basra to Zubai. They had to walk 25 miles to the nearest town. See Robert Verkaik, "Kidnap and Torture: New Claims of Army War Crimes in Iraq" *Independent* (May 18, 2007)
- ³⁶ See comments in Amnesty International, *Beyond Abu Ghraib* (March, 2006) pp. 31, 33, and 34.
- ³⁷ Human Rights First, *Behind the Wire* (March, 2005) p. 7
- ³⁸ Josh White and Scott Higham, "Army Calls Abuses 'Aberrations'" *Washington Post* (July 23, 2004) In some cases, the Pentagon and the CIA have removed prisoners from Iraq and transferred them to other locations, evidently to naval ships or third countries for detention and interrogation. One such prisoner was reported to be transferred to Egypt and others to secret prisons on the island of Diego Garcia, in other Arab countries or in Eastern Europe.
- ³⁹ See Julian Borger, "Jailed Iraqis hidden from Red Cross, Says US Army" *Guardian* (May 5, 2004). The Taguba Report first made reference to this practice. See also Human Rights First, *Ending Secret Detentions* (June, 2004) and American Civil Liberty Union, *Enduring Abuse* (April, 2006), esp. Section 5, pp. 45-49. It is clear that the ICRC has had some degree of access to Coalition prisoners, as the leaked report of February, 2004 makes clear (29 visits to 14 facilities), but the access was far from satisfactory or complete, as the report also makes clear.
- ⁴⁰ Amnesty International, *Beyond Abu Ghraib* (April, 2006) p. 6. Human Rights First estimates that at least a dozen detainees in Iraq have been transferred abroad ("Behind the Wire" *op.cit.* p. 6).
- ⁴¹ Gaby Hinsliff, "Blair Envoy Reveals Plight of Iraqis Left in Jail Maze" *The Observer* (April 9, 2006)
- ⁴² Information from Amnesty International and Human Rights Watch. These organizations have apparently had access to prisons in Kurdistan. Amnesty was evidently allowed one visit to a prison in Mosul early in the occupation.
- ⁴³ Five independent experts of the UN Commission on Human Rights have made several requests for visits See Amnesty International, *op.cit.* p. 34-35
- ⁴⁴ Ed Vulliamy, "Red Cross Denied Access to PoWs" *The Observer* (May 25, 2003); Human Rights First, *Behind the Wire* (March 2005); in 2006 Amnesty International writes that the ICRC "does not have access to brigade and division internment facilities of the MNF – that is, military bases where detainees are mainly held during the first days or weeks of their detention." *Beyond Abu Ghraib* (March 2006) p. 34
- ⁴⁵ Matt Kelley, "US Holds About 10,500 Prisoners in Iraq" *Associated Press* (March 30, 2005)
- ⁴⁶ The information in this section is largely drawn from Human Rights First, *Behind the Wire* (March, 2005) and Amnesty International, *op.cit.*
- ⁴⁷ See Article 15-6 Investigation of the 800th Military Police Brigade (March, 2004) [Taguba Report] p. 38
- ⁴⁸ Seymour M. Hersh, "Torture at Abu Ghraib" *New Yorker* (May 10, 2004)
- ⁴⁹ George W. Bush, Speech at the US Army War College, Carlisle, Pennsylvania (May 24, 2004)
- ⁵⁰ Amnesty International, *op.cit.* p. 18. This number was taken by Amnesty from the official MNF web site.
- ⁵¹ "Inmates Transferred out of Abu Ghraib as Coalition Hands Off Control" *Associated Press* (September 3, 2006) See also Nancy A. Youssef, "Abu Ghraib No Longer Houses any Prisoners, Iraqi Officials Say" *McClatchy Newspapers* (August 26, 2006)
- ⁵² Patrick Quinn, "US War Prisons Legal Vacuum for 14,000" *Associated Press* (September 16, 2006)
- ⁵³ CID Report of Investigation, Department of the Army, 10th Military Police Detachment, Third Military Police Group, Camp Bucca, Um Qasr (June 8, 2003)
- ⁵⁴ Jackie Spinner, "Remote Facility in Iraq Shows New Face of US Prison System" *Washington Post* (June 21, 2004)
- ⁵⁵ Global Security, *US Military Occupation Facilities – Umm Qasr* (April 2006). Amnesty International reported 7,365 prisoners at Bucca in November, 2005, see *Beyond Abu Ghraib* (March 2006) p. 18
- ⁵⁶ Walter Pincus, "US Holds 18,000 Detainees," *op. cit.*
- ⁵⁷ Spinner, *op. cit.*
- ⁵⁸ Bradley Graham, "Prisoner Uprising In Iraq Exposes New Risk for US" (February 21, 2005); Bradley Graham, "US to Expand Prison Facilities in Iraq" *Washington Post* (May 10, 2005)

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- ⁵⁹ Multinational Force in Iraq, *New Theater Internment Facility Opens in Northern Iraq* (October 30, 2005)
- ⁶⁰ Amnesty International, *op.cit.* p. 18
- ⁶¹ Douglas Jehl, "Earlier Jail Seen as Incubator for Abuses" *New York Times* (May 15, 2004)
- ⁶² Amnesty International, *op.cit.* p. 40
- ⁶³ "ICRC Report", *op.cit.* p. 4
- ⁶⁴ Quinn, "US War Prisons" *op.cit.*; Graham, "US to Expand" *op.cit.*
- ⁶⁵ Pincus, "US Holds 18,000 Detainees" *op. cit.*
- ⁶⁶ Damien Cave, "American Colonel Accused of 'Aiding Enemy' at Prison in Iraq," *New York Times* (April 26, 2007)
- ⁶⁷ UN Assistance Mission for Iraq (UNAMI), *Human Rights Report* (July 1- August 31, 2006) p. 14
- ⁶⁸ Audrey Gillan, "Senior Behavior Infected Soldiers" *Guardian* (February 11, 2005)
- ⁶⁹ Audrey Gillan, "Allegations of Ill-Treatment After Protest by Iraqi Detainees" *Guardian* (December 24, 2005)
- ⁷⁰ *Ibid.*
- ⁷¹ *Ibid.*
- ⁷² Amnesty International counted 650 persons held at the brigade or divisional level on a list published in November 2005. See *Beyond Abu Ghraib* p. 17
- ⁷³ Eric Schmitt and Carolyn Marshall, "In Secret Unit's 'Black Room,' a Grim Portrait of US Abuse" *New York Times* (March 19, 2006); Human Rights Watch, *No Blood, No Foul* (2006) pp. 6-24
- ⁷⁴ Human Rights Watch, *op.cit.* pp. 38-47
- ⁷⁵ See "ICRC Report", *op.cit.* p. 5. We have compiled the list of prisons additionally from reports of Amnesty International, Human Rights Watch and Human Rights First. A "forward operating base" is a small, temporary base located close to a theater of operations. For commentary on local sites, see White and Higham, *op. cit.* GlobalSecurity.org had a list of forward operating bases in Iraq that numbered 62 when searched in August, 2006.
- ⁷⁶ Christian Peacemaker Teams, *Iraq. Report and Recommendations on Iraqi Detainees* (January 2004); White and Higham, *op. cit.* Department of the Army, The Inspector General, "Detainee Operations Inspection (July 21, 2004) [The Mikolashek Report]
- ⁷⁷ White and Higham, *op. cit.* ; The Mikolashek Report, *op.cit.*
- ⁷⁸ Taguba Report documents a case in which Military Interrogation personnel at Abu Ghraib asked guards to remove mattresses, sheets and clothing and it otherwise talks about demands by MI and by the CIA that guards pressure prisoners by creating unbearable conditions.
- ⁷⁹ "ICRC Report", *op.cit.* p. 17
- ⁸⁰ *Ibid.*
- ⁸¹ Schmitt and Marshall. *op.cit.*
- ⁸² George Packer, "The Lesson of Tal Afar" *New Yorker* (April 10, 2006)
- ⁸³ *Ibid.*
- ⁸⁴ Taguba Report, pp. 27-31. This list with brief descriptions covers the period June 2003-January 2004.
- ⁸⁵ Taguba Report. pp. 28-29.
- ⁸⁶ Robert Jay Lifton, "Doctors and Torture" *New England Journal of Medicine* (July 29, 2004) and Steven H. Miles, "Abu Graib: its legacy for military medicine" *The Lancet*, Vol 364 (August 21, 2004), pp. 725-729. The *Journal of the American Medical Association* has also run an article on this matter. See C. Reis et al, "Physician Participation in Human Rights Abuses in Southern Iraq" *JAMA*, Vol 291, 2004, pp. 1480-1486.
- ⁸⁷ Miles, *op.cit.* p. 726
- ⁸⁸ *Ibid.*
- ⁸⁹ *Ibid.* pp. 726, 728
- ⁹⁰ *Ibid.* p. 726
- ⁹¹ *Ibid.* p. 728 and Lifton, *op.cit.*
- ⁹² As quoted in Mariam Karouny and Alastair Macdonald, "Iraq Slams US Detentions, Immunity For Troops" *Reuters* (September 14, 2005)
- ⁹³ Report of the Secretary-General pursuant to paragraph 30 of resolution 1546, S/2005/373 (June 7, 2005) para. 72

⁹⁴ Report of the Secretary General Pursuant to Paragraph 30 of Resolution 1546, S/2006/137(March 3, 2006)

⁹⁵ All UNAMI Human Rights reports provide commentary on the detention system.

⁹⁶ Adopted by the UN General Assembly in December 2006, the Convention is now open for state ratification.