

**From:**

**The Center for Constitutional Rights (CCR)**

**The International Federation for Human Rights (FIDH)**

**The European Center for Constitutional and Human Rights (ECCHR)**

**Appeal for Justice**

**National Litigation Project, Allard K. Lowenstein International Human Rights Clinic, Yale Law School (NLP)**

New York, Paris, Berlin, April 2<sup>nd</sup> 2009

**Formal Communication for Consideration and Action To:**

- **Mr. Manfred Nowak, United Nations Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment**
- **Mr. Anand Grover, United Nations Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health**
- **Mr. Martin Scheinin, United Nations Special Rapporteur on the promotion and protection of human rights while countering terrorism**

**Re: Formal Communication to United Nations Special Procedures Regarding U.S. Army General Bantz Craddock's Criminal Responsibility for Brutal Force-Feeding Practices at U.S. Guantánamo Bay Detention Center Amounting to Torture or Cruel, Inhuman, or Degrading Treatment**

Dear Rapporteurs Nowak, Grover, and Scheinin,

This formal communication is submitted to you by the Center for Constitutional Rights (CCR), the International Federation for Human Rights (FIDH), the European Center for Constitutional and Human Rights (ECCHR), Appeal for Justice, and the National Litigation Project, Allard K. Lowenstein International Human Rights Clinic, Yale Law School.

Through this communication, we wish to draw your attention to the alleged criminal command responsibility of **U.S. Army General Bantz John Craddock**, the former Commander of United States Southern Command (USSOUTHCOM), now current Commander of U.S. European Command (USEUCOM), Supreme Allied Commander Europe (SACEUR) for NATO, and commanding officer of Allied Command Operations. As USSOUTHCOM Commander, General Craddock oversaw the US detention facilities at Guantánamo Bay Naval Station from November 9, 2004 until October 18, 2006, during which time detainees suffered, among other things, torture, prolonged arbitrary detention, inhuman force-feeding, inadequate medical care, and even death.

In particular, as Commander of USSOUTHCOM, General Craddock had authority and control over subordinates at Guantánamo who participated in the implementation of abusive practices of force-feeding. Peaceful hunger strikers were and still are being force-fed on a six-point restraint

chair,<sup>1</sup> with deliberate and excessive violence exercised with the aim of breaking the detainees' strike, punishing them for striking, and discouraging future hunger-striking, rather than providing them with the medical assistance they need and the humane treatment to which they are entitled. Under international law, the force-feeding of Guantánamo detainees – both as administered and in combination with the detainees' general conditions of confinement – constitutes torture in violation of international human rights treaty and customary law, including Common Article 3 of the Geneva Conventions, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the International Covenant on Civil and Political Rights, all ratified by the United States. At the very least, it constitutes cruel, inhuman, and degrading treatment and punishment in violation of such international treaty and customary law.

General Craddock was aware of the manner in which his subordinates administered the force-feeding of detainees but failed to stop them. Under the doctrine of command responsibility, long recognized by national and international law,<sup>2</sup> General Craddock is responsible for their actions.

**In accordance with the mandates with which the Human Rights Council of the United Nations has entrusted you, we ask that you (1) request that the U.S. government provide you with all information in its possession relating to the present allegations of abuse, and a full response to those allegations; (2) request that the Attorney General of the United States promptly appoint an individual of unquestioned integrity, impartiality, and independence to conduct a criminal investigation into General Craddock's role in the abuses described herein, and to initiate such criminal proceedings against him relating to these abuses as the facts and the law may support; and (3) request that President Obama take all necessary and appropriate actions to halt the abuses described herein, which continue to this day.**

## **1. Force-Feeding Conducted on Guantánamo Detainees**

### **a. Hunger Strikes at Guantánamo**

Throughout the world, prisoners go on hunger strikes to protest their detention and conditions of confinement, or because of their despair at having to endure their detention and conditions of confinement. Many of the Guantánamo detainees have gone on hunger strikes for these reasons.

#### **i. Inhuman Conditions, Torture, and Abuse at Guantánamo**

Starting in January 2002, the U.S. government shipped hundreds of men to Guantánamo. For two-and-one-half years, until the U.S. Supreme Court's decision in *Rasul v. Bush* in June 2004,<sup>3</sup> these men were detained incommunicado, without access to counsel or notice of the reasons for their detention. There are about 240 detainees at Guantánamo today.

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<sup>1</sup> Photos of "Chair" from website of manufacturer E.R.C., Inc., <http://www.restraintchair.com/>. (See Appendix A).

<sup>2</sup> See, e.g., *Prosecutor v. Delalic, Mucic, Delic, Landzo* (the *Celebici* case), ICTY Trial Chamber Judgment (16 November 1998), Case No. IT-96-21 at 333 and 340; *Prosecutor v. Hadžihanović et al.* Case No. IT-01-47-AR72, Decision on Interlocutory Appeal Challenging Jurisdiction in Relation to Command Responsibility, 16 July 2003. Additional Protocol I of 8 June 1977 to the Geneva Conventions of 12 August 1949, Articles 86 and 87.

<sup>3</sup> <sup>3</sup> See *Rasul v. Bush* (03-334), 542 U.S. 466 (2004), 321 F.3d 1134, reversed and remanded. para.5: (Justice Kennedy, writing for the majority said, "Guantánamo Bay is in every practical respect a United States territory" over which the United States has long exercised "unchallenged and indefinite control.") available at <http://www.law.cornell.edu/supct/html/03-334.ZC.html>.

In the course of their detention, Guantánamo detainees have been subjected to interrogation techniques and conditions of detention that have now been widely recognized, including by the United Nations,<sup>4</sup> as violations of U.S. and international law prohibiting torture and cruel, inhuman, or degrading treatment. The Guantánamo indefinite detention and interrogation system was qualified by the International Committee of the Red Cross (ICRC) as “tantamount to torture,”<sup>5</sup> and as a system that “cannot be considered other than an intentional system of cruel, unusual and degrading treatment and a form of torture.”<sup>6</sup>

In April 2002, detainees were moved to Camp Delta, a large prison complex containing several separate detention facilities, including Camp 1. The cells in most of the facilities are identical – six-by-eight feet, made of steel with steel-mesh walls, with a steel sink next to a “squat” toilet in the floor, next to the bed. In Camp 1, florescent lights are on 24-hours a day and there is no air-conditioning, but only exhaust fans. Camp 5 was modeled on super-max prison designs in the United States and became operational in May 2004. It is a 100-bed maximum-security facility where detainees are confined in sealed, concrete cells that have only an opaque slit for a window, another one-way “window” facing the interior of the prison that allows guards to look in and keep watch, and two slots near the middle and foot of the solid steel cell door, through which meals are passed and detainees’ arms and legs are shackled before they are removed from their cells, and which ensure that even these basic interactions involve a minimum of human contact. Florescent lights are on continuously day and night.

Under General Craddock’s command, and still to this day, the detainees spend most of each day, every day, confined alone in their cells in the conditions described, effectively cut off from the rest of the world, effectively deprived of virtually all communication with their families. Family visits and even phone calls were prohibited. Letters, while permitted through the International Red Cross, were screened and censored by the government and took several months or longer to reach family members. These conditions also remain largely unchanged, with the exception of family phone calls that are now permitted under certain restrictions through the ICRC once or twice per year.

In addition to their inhumane conditions, detainees were subjected to specific methods and acts of physical and psychological torture and abuse, many of which were recommended and approved at the highest levels up to former Secretary of Defense Donald Rumsfeld, and implemented by officers at Guantánamo who were under the command and supervision of General Craddock, for use in connection with interrogations at Guantánamo. Detainees were, *inter alia*, held in solitary confinement for periods exceeding a year; deprived of sleep for days, weeks and even months; exposed to prolonged temperature extremes; beaten; routinely “short-

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<sup>4</sup> United Nations Economic and Social Council, *Situation of detainees at Guantánamo Bay*, Report of the Chairperson of the Working Group on Arbitrary Detention, Ms. Leila Zerrougui; the Special Rapporteur on the independence of judges and lawyers, Mr. Leandro Despouy; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Mr. Manfred Nowak; the Special Rapporteur on freedom of religion or belief, Ms. Asma Jahangir and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Mr. Paul Hunt, E/CN.4/2006/120, 15 February 2006.

<sup>5</sup> Neil A. Lewis, *Red Cross Finds Detainee Abuse in Guantánamo*, NY Times, Nov. 30, 2004, at A1, available at <http://www.nytimes.com/2004/11/30/politics/30gitmo.html>.

<sup>6</sup> *Id* at para.10.

shackled,” with their wrists and ankles bound together and to the floor for hours and even days; threatened with transfer to a foreign country for torture; sexually harassed, humiliated, and raped or threatened with rape; deprived of adequate and confidential medical treatment, or offered treatment on the condition that they “cooperate” with interrogators; and subjected to religious and cultural abuse, including desecration of the Qur’an and forced shaving.

Some of the most brutal physical abuse reported by Guantánamo detainees is attributed to the Instant (or Immediate) Response Force (“IRF”). IRF squads, which are comprised of military police, function as a disciplinary force within the camps. Squad members wear riot gear, carry Plexiglas shields and frequently use tear gas or pepper spray. Video footage taken by the military at Guantánamo shows five-member IRF teams punching detainees, kneeling them in the head, tying one to a gurney for interrogation, and forcing a dozen to strip from the waist down. All-female IRF squads have also been formed, on information and belief as part of a conscious policy aimed at taunting and traumatizing Muslim detainees.

To this day, detainees are still inhumanely detained. Contrarily to the findings of a U.S. Secretary of Defense report of February 20, 2009 mandated by President Obama, the conditions in camps V and VI and in Camp Echo are harshly punitive and violate international and U.S. legal standards for the humane treatment of persons deprived of their liberty.<sup>7</sup> The Solitary confinement, sensory deprivation, environmental manipulation, and sleep deprivation are daily realities for these men and have led to the steady deterioration of their physical and psychological health. As a last resort to protest these abusive and inhuman conditions, detainees at Guantanamo started striking from 2002 until this day.

## **ii. Guantanamo Hunger Strikers’ Protests and Demands**

The first hunger strikes occurred as early as in the first few months of 2002. The Center for Constitutional Rights (CCR), co-author of the present communication, explained in a 2005 report that:

Statements by released detainees from the United Kingdom, Afghanistan, and Pakistan suggest that one or more additional short hunger strikes occurred in early 2002 in response to the mistreatment of the Qur’an by a military police officer . . . The first coordinated large-scale mass protest at Guantánamo began on February 27, 2002 when prisoners initiated a rolling hunger strike. This hunger strike appears to have started when an MP removed a homemade turban from a prisoner during his prayer.<sup>8</sup>

This latter hunger strike had as many as 194 participants over a two-month period and ended with one final participant forcibly fed through a tube inserted in his nose on May 10, 2002.<sup>9</sup> The

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<sup>7</sup> See Center for Constitutional Rights, *Current Conditions of Confinement at Guantanamo, Still in Violation of the Law* (February 23, 2009), available at [http://ccrjustice.org/files/CCR\\_Report\\_Conditions\\_At\\_Guantanamo.pdf](http://ccrjustice.org/files/CCR_Report_Conditions_At_Guantanamo.pdf). (See Appendix B).

<sup>8</sup> Center for Constitutional Rights, *The Guantánamo Prisoner Hunger Strikes and Protests: February 2002 – August 2005* (September 2005), available at <http://ccrjustice.org/learn-more/reports/report%3Aguantanamo-prisoner-hunger-strikes-and-protests%3A-february-2002-august-2005>. (See Appendix C).

<sup>9</sup> *Lone Detainee in Guantanamo Continues Hunger Strike*, Associated Press, May 10, 2002.

strikes have occurred— and continue to occur— across the camps and for months at a time. Some men have carried out their strikes for much longer periods, including for years at a time.

During the two years General Craddock was Commander of USSOUTHCOM (November 2004 – October 2006), there was virtually no time when there was not a detainee on hunger strike, and there were at least four waves of large-scale hunger strikes involving from dozens to hundreds of detainees.

From late June 2005 through most of July 2005 in particular, the beatings of several prisoners by military guards sparked a wave of strikes that turned into large-scale protests in all five camps at the detention center. The strike was first publicly announced on July 20, 2005 by two Afghani citizens, Habir Russol and Moheb Ullah Borekzai, who had been released from Guantánamo two days earlier.<sup>10</sup>

While the June-July 2005 hunger strike was one of the longest and most organized strikes involving approximately 200 prisoners, in an effort to downplay the scope of the strike, a Pentagon spokesperson stated that he was unaware of any hunger strike taking place at the base. The Defense Department eventually admitted the contrary.<sup>11</sup>

Guantánamo hunger strikers protest against indefinite detention, lack of due process, denial of legal rights, specific ongoing abuses, and inhumane living conditions, among other things.<sup>12</sup> The prisoners described the June-July 2005 hunger strike as follows:

- The protest was “a peaceful, nonviolent strike until demands are met;”
- The strike called “for starvation until death;”
- The prisoners planned to boycott showers;
- They planned to boycott their recreation time;
- Some prisoners planned on refusing to wear clothes in order to be equal to the living conditions of prisoners in other camps who are denied clothing;
- The protesters called for “no violence, by hand or even words, to anyone, including guards.”<sup>13</sup>

Additional demands include access to fair trials, respect for their religion, and improvements in their conditions, including effective medical treatment, access to sunlight, and the ability to contact their families. As one detainee said, “[w]e ask only for justice; treat us, as promised under the rules of the Geneva Conventions for Civilian Prisoners while we are held, and either try us fairly for a valid criminal charge or set us free.”<sup>14</sup> The June/July 2005 strike ended when authorities at Guantánamo promised to comply with the 1949 Geneva Conventions, but strikes resumed the next month after officers reneged on their promise. CCR reported that:

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<sup>10</sup> Daniel Conney, *Two Men Claim Hunger Strike at Guantanamo*, Associated Press, Jul. 21, 2005.

<sup>11</sup> See Center for Constitutional Rights Complaint in *Al-Zahrani v. Rumsfeld*, p.27, ¶ 67. (See Appendix D)

<sup>12</sup> Center for Constitutional Rights, *CCR Confirms That Guantánamo Prisoners Planned Hunger Strike*, Press Release, Jul. 21, 2005, available at <http://www.ccr-ny.org/v2/newsroom/releases/pReleases.asp?ObjID=3R0i6u0Odn&Content=607>.

<sup>13</sup> *Id.*, according to attorneys from Shearman & Sterling, pp. 9-10.

<sup>14</sup> Center for Constitutional Rights Complaint, *Supra* note 18. (See Appendix D).

The August [2005] strike once again involved hundreds of prisoners, some of whom eventually had to be hospitalized and dozens of whom were force-fed with nasal tubes. Officers at Guantánamo refused to provide information on the condition of detainees, and even attempted to obstruct hunger strikers' lawyers from visiting them at the base.<sup>15</sup>

Instead of meeting the detainees' demands – which were largely echoed by the international community – to be treated humanely according to the Geneva Conventions, to not be arbitrarily detained, and to be afforded recognized legal rights, the U.S. government's standard policy at Guantánamo since the hunger strikes began has been to force-feed the strikers with violent practices, and with the aim of breaking the strikes.<sup>16</sup> This policy is still in place to this day.

### **b. The Introduction and Approval of Brutal Force-Feeding Practices**

The U.S. government has sought to justify its policy of force-feeding hunger strikers at Guantánamo by arguing that it “support[s] the preservation of life by appropriate clinical means.”<sup>17</sup> Until early February 2006, Guantánamo officials had acknowledged only having forcibly restrained detainees to feed them a handful of times. In those cases, the officials said, doctors had restrained detainees on hospital beds using Velcro straps.<sup>18</sup>

As of February 2006, a spokesman for the Southern Command said restraint chairs had been used in the feeding of 35 detainees, and that three were still being fed that way; the number of prisoners refusing to eat had reportedly fallen from 41 on December 15, 2005 — when the chairs were first used on a trial basis — to five.<sup>19</sup>

In December 2005, General Craddock approved the use of six-point “restraint chairs” in force-feeding detainees. The prisoners described the restraint chairs' procedure as follows:

Prisoners subjected to the process describe a tortuous experience, where men are strapped into the chairs – marketed by their manufacturer as a “padded cell on wheels” – and restrained at the legs, arms, shoulders, and head. A tube described by the men as the thickness of a finger is forcibly inserted up their noses and down into their stomachs and as much as 1.5 liters of formula is pumped through the tube. (...) Men are kept strapped to the chairs for an hour after “feeding” to prevent them from purging the formula. No sedatives or anesthesia are given during the procedure. The tubes are generally inserted and withdrawn twice a day, and the same tubes, covered in blood and stomach bile, are reportedly used from one patient to another without adequate sanitization.<sup>20</sup>

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<sup>15</sup> *Id.*

<sup>16</sup> Adam Zagorin, *At Guantánamo, Dying is not Permitted*, TIME, Jun. 30, 2006 [hereinafter “TIME 6/30/06”], (“Dr. Ronald Sollock, the camp's chief physician, told TIME bluntly that gentler force-feeding techniques of the past were a ‘failure.’”), available at <http://www.time.com/time/nation/article/0,8599,1209530,00.html>.

<sup>17</sup> W. Dunham, *US defends Guantánamo Force Feeding*, BOSTON.COM NEWS, March 10, 2006; G.J. Annas, *Hunger Strikes at Guantánamo — Medical Ethics and Human Rights in a “Legal Black Hole,”* 355 NEW ENG. J. MED. 1377, 1380 (28 September 2006).

<sup>18</sup> Tim Golden, *Tough U.S. Steps in Hunger Strike at Camp in Cuba*, N.Y. TIMES, Feb. 9, 2006 [hereinafter “NYT 2/9/06”].

<sup>19</sup> Eric Schmitt and Tim Golden, *Force-Feeding at Guantánamo is Now Acknowledged*, New York Times, Feb. 22, 2006 [hereinafter “NYT 2/22/06”].

<sup>20</sup> Center for Constitutional Rights, *supra* note 8 (See Appendix B).

The Time magazine revealed that according to the government’s own doctors at Guantánamo and detainee Yusuf al-Shehri’s medical records, 1.5 liters of formula “can be more than their stomachs can comfortably hold. This can produce what is euphemistically called ‘dumping syndrome,’ an uncomfortable, even painful bout of nausea, vomiting, bloating, diarrhea, and shortness of breath. And those are precisely the symptoms that al-Shehri and many other force-fed prisoners have reported to their lawyers.”<sup>21</sup> The force-feedings also result in prisoners vomiting up substantial amounts of blood.

U.S. physicians, including in some reported cases, the head of the prison hospital, participate in these force-feeding practices.<sup>22</sup> Guards play an important role in the process as well. General Craddock himself explained that soldiers strapped some of the detainees into restraint chairs to be forcibly-fed.<sup>23</sup> In most instances, detainees report being severely abused and brutalized by the guards during the force-feeding, as a means to break their willingness to strike.

**c. Facts Specific to Individual Guantanamo Detainees**  
**i. Yasser Al-Zahrani**

The following descriptions are excerpts from a civil complaint filed on behalf of Yasser Al-Zahrani in January 2009 by his attorneys at CCR. Mr. Al-Zahrani died in Guantanamo on June 10, 2006.<sup>24</sup>

As a form of protest against his and other detainees’ conditions and years of unlawful detention, Mr. Al-Zahrani went on hunger strike at least once for a period of six months. While publicly available records do not indicate whether Mr. Al-Zahrani was on hunger strike after the use of restraint chairs were introduced in force-feeding detainees in January 2006, in his letters he described “large feeding tubes that tore apart the stomach and noses of those who were on hunger strike because of the insertion by force on the ‘chairs of torture,’ and by placing them in a very cold climate and dragging them on the steel, and by leaving them chained for long hours in cloth stained by blood, vomit, urine, and more . . . This is after the American government had ordered the administration of the camp to stop the strike by any means” . . . On information and belief, Mr. Al-Zahrani was subjected to abusive force-feeding with or without the use of a restraint chair.

**ii. Ali Abdullah Ahmed Al-Salami**

The following descriptions are excerpts from a civil complaint filed on behalf of Salah Ali Abdullah Ahmed Al-Salami in January 2009 by his attorneys at CCR. Mr. Al-Salami died in Guantanamo on June 10, 2006.<sup>25</sup>

To protest his conditions and unlawful and indefinite detention – or “because he has been detained for 4 years and he wants to go home,” as he stated to medical personnel – Mr. Al-Salami went on hunger strike several times during his imprisonment: in July 2002, not long after he had been transferred to Guantánamo; from July to October 2005; and from

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<sup>21</sup> TIME 6/30/06.

<sup>22</sup> *Lawyer: Guantánamo Detainees Tortured, Force-Fed, Induced to Vomit*, DEMOCRACY NOW!, Oct. 20, 2005.

<sup>23</sup> NYT 2/22/06.

<sup>24</sup> Center for Constitutional Rights Complaint, *Supra* note 12, at p. 34, ¶ 96. (See Appendix D).

<sup>25</sup> *Id.*, at p. 44, para. 142.



December 2005 until just days before his death in June 2006, during which he was forced with the use of a restraint chair.

Military officials described Mr. Al-Salami as “a long and dedicated striker, perhaps being tube fed longer than any other detainee in the camp.” In February 2006, when a group hunger strike dropped to its lowest number of participating prisoners, in part because of the threat of being subjected to restraint chairs, Mr. Al-Salami was one of just three prisoners who continued his strike. Two months before, in December 2005, his weight had dropped so low that he had to be hospitalized. While records of his weight are not publicly available for December 2005, his medical records from January 2006 indicate that he weighed about 120 lbs., down from 172 lbs. when he first arrived at Guantánamo on or about June 2002.

On information and belief, Mr. Al-Salami was physically and emotionally abused during his force-feedings. His medical records indicate that the tube in his nose caused bleeding and severe inflammation and infection in his nasal passage to the point that his feedings were put on hold for a period of time. In addition to the physical trauma of the experience, on information and belief, Mr. Al-Salami was humiliated and degraded by guards who would mock him and make jokes about the tube in his nose while he was strapped to the restraint chair.

Mr. Al-Salami’s medical records indicate that he “voluntarily accepted oral food” on June 3, 2006, thus ending his final hunger strike after four years of protest. It was just one week before his death.

The unlawful and indefinite nature of Mr. Al-Salami’s detention and the inhumane conditions of his confinement had severely damaging effects on his physical and psychological health.

[...]As early as July 2002, medical staff were on notice that Mr. Al-Salami was experiencing certain physical and psychological difficulties, and that he had a health history that made him particularly vulnerable to his conditions at Guantánamo.

A psychiatric record from July 1, 2002, after Mr. Al-Salami had refused ten consecutive meals in protest of his conditions, notes that he “complained of anxiety with accompanying shortness of breath related to being in ‘tight spaces,’ which he’s had for 4 years ... decreased duration and quality of sleep related to anxiety ... nightmares of ‘being in a box’ ... [and] suicidal ideations with no intent or plan and denies any previous ideation in the past.” The record also noted that Mr. Al-Salami’s past medical and psychiatric history “was remarkable for ... treatment for anxiety and ‘internal problems’ 2 years ago.”

A medical evaluation sheet from July 2, 2002 notes that Mr. Al-Salami was experiencing "dizziness, sleep/appetite disturbance, crying spells, depression" and that he had taken medication for depression in the past. The medical staff indicated that Mr. Al-Salami did not have suicidal ideation, but further explained, "no plan, wants to live, but sadness."

In a medical record from July 3, 2002, Mr. Al-Salami again expressed feeling "anxiety ... A/V hallucinations of voices and the ceiling coming down ... broken sleep due to nightmares ... low appetite, but forces himself to eat ... [and] low concentration."



A nurse's note from July 4, 2002 reported that Mr. Al-Salami complained of difficulty sleeping, anxiety regarding his confinement, and dizziness.

While the records are incomplete, medical records from December 2005, the same month Mr. Al-Salami was hospitalized at 120 lbs., indicate that medical personnel continued to be on notice of Mr. Al-Salami's difficulties.

On December 24, 2005, a medical technician ordered a psychiatric visitation for Mr. Al-Salami, noting, "[t]he detainee has mood swings. At one time he states he is well and appears to be well. A few minutes later, he is observed to be acting differently." In apparent contradiction with this description, however, the technician concludes, "[p]atient is stable."

A medical record from December 28, 2005 notes that Mr. Al-Salami "intends to continue food refusal and accepts potential outcome of death or permanent physical damage as a result of food refusal."

A medical progress note from December 31, 2005 reports, "[i]n discussions with pt, pt stated that he was a hunger striker. The pt stated that he wanted to commit suicide b/c he does not want to be a prisoner anymore and he lost hope." The technician's assessment was "depression: pt with suicidal thoughts of ending his life with additional plan to include hunger striking." The treatment plan was to start Mr. Al-Salami on Zoloft and consult with psychiatry [on Monday]. The technician emphasized, "Please note plan."

In January 2006, a technician noted, "NEEDS Psych Eval. Will contact today."

On June 10, 2006, following Mr. Al-Salami's death, a Senior Medical Officer at the detention hospital at Guantánamo wrote a "Narrative Summary" of Mr. Al-Salami's medical history at Guantánamo. The summary makes no mention of the psychological issues indicated in the records above and reports that Mr. Al-Salami had "no known psychiatric history." The officer noted that Mr. Al-Salami was in good health in his most recent medical exam.

[...] During the NCIS investigation into the deaths, the Commander of the Joint Detention Group at Guantánamo at the time, stated to an investigator, "As I look back on the events leading up to 10 June there were several events that took place that I now feel should have triggered me to think something was going on, on Alpha block. First, 693 [Mr. Al-Salami] had gone off hunger strike just a week or two prior. 693 had been a long and dedicated hunger striker, perhaps being tube fed longer than any other detainee in the camp."

### **iii. Ahmed Zaid Salem Zuhair<sup>26</sup>**

Ahmed Zuhair, a Saudi citizen unlawfully detained since June 2002, is the longest continuous hunger striker at Guantanamo Bay. In June 2005—more than three years after his abduction—Mr. Zuhair began a hunger strike that continues to this day, longer than any other at Guantánamo. In Mr. Zuhair's words:

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<sup>26</sup> Mr. Zuhair is represented by the National Litigation Project, Allard K. Lowenstein International Human Rights Clinic, Yale Law School.

This hunger strike is the only way I have to speak out. I do not strike because I enjoy hunger, thirst, fever, fatigue, pain, lightheadedness, or my body consuming itself. I do it to protest the injustice all the prisoners endure—the attacks on my religion, the disrespect shown to the Qur‘an, the denial of medical treatment, the torture, and the cruelty of the interrogators. My strike is a form of peaceful protest against this injustice.

Mr. Zuhair has vowed to continue the hunger strike until he is repatriated. Guantánamo personnel initially force-fed Mr. Zuhair in a bed, a technique officials concede he did not resist.

Mr. Zuhair’s treatment steadily worsened through the summer of 2008 as Guantánamo personnel escalated attempts to break the will of hunger strikers. These efforts consisted primarily of three means. First, Guantánamo personnel began regularized, indiscriminate use of a specialized restraint chair designed only for use on those who violently resist force-feeding. The chair has six-point restraints that personnel often apply in an excruciatingly tight manner on Mr. Zuhair’s forehead, limbs, and torso. Guantánamo personnel forcibly insert a feeding tube into Mr. Zuhair’s stomach via his nose without using anesthesia or lubricant and often administer feeding in a manner that causes him to vomit afterwards. The process is needlessly painful and caused him to vomit up significant portions of the feeding solution. Consequently, by November 2008, his weight loss had become so severe that his attorneys filed an emergency motion in front of the court to get an injunction against use of the restraint chair and get an independent medical examination of Mr. Zuhair. Second, medical personnel at Guantánamo have explicitly told Mr. Zuhair on multiple occasions that he will not receive medical treatment unless and until he ends his hunger strike. Third, in August 2008, riot squad personnel began to administer force-feedings instead of medics, acting in a wantonly violent and medically unsound manner that has left detainees shackled to restraint chairs for hours on end covered in their own blood and vomit. This brutal practice was curbed only after detainees smeared themselves with their own excrement in protest.

#### **iv. Specific Facts Regarding Other Force-Fed Guantanamo Detainees**

**Yusuf al-Shehri:**<sup>27</sup> 20-year old detainee Yusuf al-Shehri, jailed since age 16, was regularly strapped into the restraint chair. A plastic tube 50% larger, and more painful to insert, than the commonly used variety was inserted up through his nose and down his throat, carrying a formula into his stomach. One note in al-Shehri’s medical records reads: “[The prisoner] was informed that dying is not permitted.”

Al-Shehri’s lawyer filed court documents citing lesions and bleeding caused when guards held him by the chin and hair, strapped down, as a medical staffer “forcefully inserted the tube in his nose and down his throat.” The lawyer also charges that al-Shehri was subject to verbal and religious abuse during force-feeding, asserting that the tubes “were viewed by the detainees as objects of torture.” The records also show that instead of leaving the tube in place to avoid the possible trauma of repeated insertions, al-Shehri had his introduced and withdrawn at each of his two daily feedings. Al-Shehri also reported symptoms consistent with ‘dumping syndrome.’

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<sup>27</sup> TIME 6/30/06.

**Emad Hassan:**<sup>28</sup> Hassan, a Yemeni detainee, described the chair to his lawyers in interviews on January 24 and 25, 2006. “The head is immobilized by a strap so it can’t be moved, their hands are cuffed to the chair and the legs are shackled,” the notes quote Mr. Hassan as saying. “They ask, ‘Are you going to eat or not?’ and if not, they insert the tube. People have been urinating and defecating on themselves in these feedings and vomiting and bleeding. They ask to be allowed to go to the bathroom, but they will not let them go. They have sometimes put diapers on them.”

**Isa al-Murbati:**<sup>29</sup> Al-Murbati, a Bahraini detainee, described his experience with force-feeding to his lawyer, Joshua Colangelo-Bryan, in an interview on January 28, 2006. On January 10, 2006, a lieutenant came to al-Murbati’s isolation cell and told him that if he did not agree to eat solid food, he would be strapped into the chair and force-fed. After he refused to comply, soldiers picked him up by the throat, threw him to the floor and strapped him to the restraint chair. Mr. Murbati was fed two large bags of liquid formula, which were forced into his stomach very quickly. Colangelo-Bryan reported that, “he felt pain like a ‘knife in the stomach.’”

**Fawzi al-Odah:**<sup>30</sup> According to attorney Thomas Wilner, Fawzi al-Odah, a Kuwaiti detainee, told him in early February 2006 that around December 20, 2005, guards began taking away items like shoes, towels and blankets from the hunger strikers. Mr. Odah also said that lozenges that had been distributed to soothe the hunger strikers’ throats had disappeared and that the liquid formula they were given was mixed with other ingredients to cause diarrhea. Mr. Odah reported that on January 9, 2006, an officer read him what he described as an order from the Guantánamo commander, Brig. Gen. Jay W. Hood of the Army, saying hunger strikers who refused to drink their liquid formula voluntarily would be strapped into metal chairs and tube-fed. Mr. Odah heard “screams of pain” from a hunger striker in the next cell as a thick tube was inserted into his nose. At the other detainee’s urging, al-Odah told his lawyers that he planned to end his hunger strike the next day.<sup>31</sup>

**Jum’ah al-Dossari:**<sup>32</sup> In late January, 2006, al-Dossari, a Bahraini detainee, told his attorney, Mr. Colangelo-Bryan, that more than half of a group of 34 long-term hunger strikers had abandoned their protest after being strapped in restraint chairs and having their feeding tubes inserted and removed so violently that some bled or fainted. Colangelo-Bryan reported: “He said that during these force-feedings too much food was given deliberately, which caused diarrhea and in some cases caused detainees to defecate on themselves . . . Jum’ah understands that officers told the hunger strikers that if they challenged the United States, the United States would challenge them back using these tactics.”

#### **d. Guantanamo Detainees Still Force-Fed in 2009**

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<sup>28</sup> NYT 2/22/06.

<sup>29</sup> *Id.*

<sup>30</sup> NYT 2/9/06.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

Despite the change of administration, the policy of force-feeding in restraint chairs with excessive violence, continues to this day under American President Barak Obama. Two detainees have been fed exclusively through tubes in their noses since August 2005.<sup>33</sup>

In a February 23, 2009 report, CCR reported:

According to information given by Maasoum Abdah Mouhammad to his attorney Matthew O'Hara in early February 2009, at least 16 men, including Mr. Mouhammad, were participating in a hunger strike in Camp 6 and were refusing to leave their cells for force feedings. As a result, they had been attacked and forcibly extracted from their cells by IRF teams. Mr. Mouhammad reported men being dragged, beaten, and stepped on, and their arms and fingers twisted painfully. After twenty days of hunger striking, an individual is forcibly overfed using the feeding tube, a process that is repeated for a number of consecutive days. Once the forcible overfeeding using the tube is interrupted, detainees resume hunger striking. Mr. Mouhammad described that men were vomiting while being overfed. Some of the striking detainees had kept their feeding tubes in their noses even when not being force-fed just to avoid having the tubes painfully reinserted each time. Mr. Mouhammad reported that interrogators were pressuring and coercing the men on hunger strike to eat, making promises that they would be moved to the communal living camp if they began eating. Mr. Mouhammad described these experiences as "torture, torture, torture." (Matthew O'Hara, Feb. 3, 2009 Unclassified Attorney Notes Regarding Maasoum Abdah Mouhammad (on file with author))

Ahmed Abdul Aziz was beaten by an IRF team so badly that he was taken to the hospital on January 8, 2009, after refusing tube feeding. Ahmed Ghappour, his attorney, met with him on January 19, 2009 and could see that his left knee was still visibly injured, bruised, crooked and swollen to at least a third of its normal size. Mr. Abdul Aziz was unable to bend his knee, and his right ankle was swollen, causing him to walk with a limp. His shoulder appeared to be dislocated and he could not lift his arm more than 60 degrees from the waist in any direction. His left thumb was swollen and he was unable to make a grip strong enough to hold a pen. Mr. Ghappour received a letter from Mr. Abdul Aziz in early February 2009 indicating that he had still not received proper medical care for his condition following the beating resulting from his refusal to be force-fed. (Ahmed Ghappour, Unclassified Attorney Notes regarding Ahmed Abdul Aziz (on file with author)).<sup>34</sup>

## **2. Abusive Force-Feeding Practices at Guantanamo and Detainees' Detention Conditions Amount to Torture or Cruel, Inhuman, or Degrading Treatment or Punishment**

Force-feeding as practiced in Guantanamo amounts to torture or, at the very least, cruel, inhuman, or degrading treatment or punishment. U.S. government officials use involuntary feeding for the purpose of punishment and coercion rather than out of medical necessity. They fail to follow vitally important procedures required by law and medical ethics to assess whether a prisoner who refuses to eat should be fed involuntarily. Most glaringly, they have used brutally violent tactics calculated to cause prisoner-patients severe pain, suffering, and humiliation. U.S.

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<sup>33</sup> Carol Rosenberg, *Hunger strikers surge to 10 percent at Guantánamo*, MIAMI HERALD, January 8, 2009.

<sup>34</sup> Center for Constitutional Rights, *supra* note 8.

government officials have not only violated the law, but medical ethics as well. The latter is particularly significant given the importance that courts place on medical necessity and the deference afforded to medical professionals in determining whether involuntary feeding is appropriate, and whether it amounts to torture or cruel, inhuman, or degrading treatment or punishment.

#### a. Violations of International Human Rights Law

The above-described procedures and experiences of force-feeding endured by detainees at Guantánamo constitute torture or, at minimum, cruel, inhuman, or degrading treatment authorized and practiced by U.S. Government officials.

The prohibition against torture and cruel, inhuman or degrading treatment or punishment is today so well-established under international human rights law that it is recognized as a *jus cogens* norm under international customary law. After being codified in the Universal Declaration of Human Rights in 1948 (Article 5) and in the 1977 International Covenant of Civil and Political Rights (Article 7), the 1980 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment (CAT) provides for the definition of torture in Article 1.1, now commonly regarded as customary international law.<sup>35</sup>

In February 2006, the United Nations Special Procedures mandate-holders, including some to whom the present communication is today submitted, stated that, with respect to the force-feeding practices in place at Guantánamo, “[t]he excessive violence used in many cases during transportation, in operations by the Initial Reaction Forces **and force-feeding of detainees on hunger strike** must be assessed as amounting to torture as defined in article 1 of the Convention against Torture” (emphasis added).<sup>36</sup>

Additionally, the European Court of Human Rights (ECtHR) provides some legal foundation for recognizing certain instances of force-feeding as torture or cruel, inhuman or degrading treatment.

While it recognized an exception where force-feeding is permitted for specified medical purposes,<sup>37</sup> the ECtHR has required that the method by which a detainee is force-fed should not exceed the “the threshold of a minimum level of severity envisaged by the Court’s case law under Article 3 and must comply with procedural guarantees.”<sup>38</sup> In *Nevmerzhitsky v. Ukraine*,

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<sup>35</sup> Convention Against Torture article 1, ¶1 (10 December 1984): “For the purposes of this Convention, the term “torture” means 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. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”

<sup>36</sup> ECOSOC, *supra* note 4, at ¶88. See also *USA: Further Information on legal concern/health concern/torture*, Amnesty International, Feb. 14, 2006.

<sup>37</sup> See *Herczegfalvy v. Austria*, Eur. Ct. H.R., Ser. A No. 244 (1992).

<sup>38</sup> *Nevmerzhitsky v. Ukraine*, Eur. Ct. H.R., Comm. No. 54825/00 (2005), at ¶¶ 93-94. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment has recognized that the act of force-feeding alone does not constitute torture or cruel, inhuman, and degrading treatment, but the treatment of hunger

decided in 2005,<sup>39</sup> the ECtHR held that the use of handcuffs, a mouth widener, and a rubber tube in the force-feeding of a Ukrainian detainee amounted to torture under Art. 3 of the European Convention of Human Rights (ECHR).<sup>40</sup> The methods used to force-feed the detainee in *Nevmerzhitsky* were foreseen in an official Ukrainian decree applying to the permissible force-feeding of hunger strikers, but were found to amount to torture due to their severe character and the absence of medical necessity.<sup>41</sup> The absence of medical necessity was determined by the failure of the Ukrainian government to provide a written report of the medical commission showing a threat to the life of the applicant due to his state of health, in addition to a decision from the head of the detention center, both of which were required under the Ukrainian decree.<sup>42</sup>

In the *Nevmerzhitsky* case, the Court addressed the Declaration of Malta by the WMA as relevant sources in assessing this case. The ECtHR also refers to other established principles and case law, such as the conflict between protecting an individual's right to physical integrity and the state's obligation to protect the right to life under Art. 2 of the ECHR, which was addressed in *X v. Germany*.<sup>43</sup>

In the most recent case involving force-feeding, an ECtHR Judgment of June 2007 *Ciorap v. Moldova*,<sup>44</sup> the court held there was no evidence of medical necessity and, therefore, it "can not be said that the authorities acted in the [detainee's] best interests in subjecting him to force-feeding."<sup>45</sup> Moreover, the ECtHR recognized a duty of doctors to create sufficient evidence of a medical necessity (such as a test or other investigation) when deciding to initiate the force-feeding. The ECtHR in this case upheld *Nevmerzhitsky* by holding that the detainee's "**repeated force-feeding, not prompted by valid medical reasons but rather with the aim of forcing the applicant to stop his protest, and performed in a manner which unnecessarily exposed him to great physical pain and humiliation, can only be considered as torture.**"<sup>46</sup>

Guantánamo detainees, while being arbitrarily held and tortured or inhumanely treated, have been force-fed for months at a time, in a violent manner causing suffering and humiliation. The violence with which detainees are treated while force-fed is in no way justified by security or, much less, medical reasons. Instead, violence is used to compel detainees to stop striking. Asked whether the restraint chairs methods represented an "effective deterrent" to hunger striking, General Craddock answered, "Yeah."<sup>47</sup>

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strikers should be based upon a doctor-patient relationship. The public authorities or professional organizations of some states require the doctor to intervene to prevent death if a patient's consciousness becomes seriously impaired, other states have left it upon the doctor's discretion to treat the patient based on relevant facts. The Committee is clear on that force-feeding is unacceptable if it interferes with the relationship by imposing a policy on a doctor managing hunger strikers.

<sup>39</sup> *Nevmerzhitsky*, Comm. No. 54825/00 (2005).

<sup>40</sup> *Id.*, at ¶¶ 97-99.

<sup>41</sup> *Id.*, at ¶ 98.

<sup>42</sup> *Id.*, at ¶ 96.

<sup>43</sup> *X v. Germany*, Eur. Comm. H.R., 7 EHRR 152 (1984).

<sup>44</sup> *Ciorap v. Moldova*, Eur. Ct. H.R., Application no. 12066/02 (2007). Available at <http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=CIORAP&sessionid=20928278&skin=hudoc-en>.

<sup>45</sup> *Id.* at ¶. 83.

<sup>46</sup> *Id.* at ¶. 89.

<sup>47</sup> TIME 6/30/06.

Under the European Court of Human Rights’ reasoning described above, which is reflective of norms internationally recognized as international law and of the WMA Declarations, the force-feeding practices at Guantánamo constitute torture, or, at minimum, cruel, inhuman, or degrading treatment or punishment under international human rights law. Considered in conjunction with the general conditions of detention at Guantanamo, there is no doubt that the practices in place amount to torture.

### **b. Violations of Medical Ethics**

Recognized canons of law and ethics, both international and domestic, agree that physicians must play an integral role in addressing the needs of prisoners who refuse to eat. Under these accepted norms, Craddock and other U.S. government agents with authority over the Guantanamo Bay Naval Base had a duty to create the circumstances in which competent physicians could administer to their patients independently from coercion by state officials and other detainees. Instead, the policy and practice implemented under Craddock’s authority violated just about every guideline set forth by the World Medical Association’s Declaration of Malta and Declaration of Tokyo, international ethical codes that have been endorsed by the American Medical Association. Despite the Department of Defense’s blatant disregard of medical codes of conduct, to this day, high-level government officials insist to the courts and to the public that their brutal treatment of prisoners is done in the interest of the prisoners’ welfare.<sup>48</sup> Yet, conduct committed in violation of accepted medical ethics cannot possibly be considered medically appropriate. And without the shield of medical propriety to hide behind, the U.S. government’s force-feeding practices are exposed for what they really are: torture or, at minimum, cruel, inhuman, or degrading treatment in violation of the law.

#### *Force-Feeding Accompanied by Threats, Coercion, Force or Use of Physical Restraints*

Acknowledging that in some situations involuntary artificial feeding may be considered medically necessary (see discussion below), under no circumstances can the brutal and illegal treatment practiced at Guantanamo be considered ethically proper or medically necessary.

Under the Tokyo Declaration, treatment such as the beatings inflicted by the IRF teams, the violent and cruel insertion of oversized feeding tubes, and the punitive use of restraint chairs clearly constitute torture as defined by the WMA: “the deliberate, systematic or wanton infliction of physical or mental suffering by one or more persons acting alone or on the orders of any authority, to force another person to yield information, to make a confession, or for any other reason.”<sup>49</sup> Tokyo clearly mandates that physicians “shall not countenance, condone or participate in the practice of torture or other forms of cruel, inhuman or degrading procedures”; they shall not “provide any premises, instruments, substances or knowledge to facilitate the practice of torture or other forms of cruel, inhuman or degrading treatment or to diminish the ability of the victim to resist such treatment”; nor shall they “be present during any procedure

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<sup>48</sup> *Al-Adahi v. Obama*, No. 05-280, 2009 WL 311110, at \*8 (D.D.C., 2009), (referencing August Meneley Decl., at ¶ 13 and Oral Argument made on January 26, 2009).

<sup>49</sup> World Medical Association. *Declaration of Tokyo* (1975). Adopted by the World Medical Association, Tokyo, Japan. October 1975. Available at <http://www.cirp.org/library/ethics/tokyo>, at Preamble. (See Appendix E).



during which torture or any other forms of cruel, inhuman or degrading treatment is used or threatened.”<sup>50</sup>

The Malta Declaration neatly disposes of any disingenuous claim to medical necessity by unequivocally stating that “[e]ven if intended to benefit, feeding accompanied by threats, coercion, force or use of physical restraints is a form of inhuman and degrading treatment.”<sup>51</sup>

#### *The Use of Force-Feeding to Punish, Intimidate, or Coerce*

Malta is equally clear that the use of force-feeding “to intimidate or coerce other hunger strikers to stop fasting” is strictly prohibited.<sup>52</sup> As described above, Craddock himself suggested that Guantanamo’s violent force-feeding policy was intended as a “deterrent” to the hunger strikes.<sup>53</sup> As we show above and further explain below, the U.S. government’s use of brutal force and its blatant disregard for the proper medical procedures make clear that those charged with designing and implementing the force-feeding policy at Guantanamo do not act and have not acted out of concern for the prisoners’ welfare. Regardless of whether the state’s primary interest is obtaining information from the prisoners, disciplining them, and/or avoiding negative publicity in relation to detainee treatment, detention, and detention conditions, the physicians’ conduct in service of that interest is in flagrant violation of their ethical obligations.

#### *Force-Feeding v. Artificial Feeding*

While some of the men held in Guantanamo may consent to artificial feeding and others, lacking competence to make informed decisions, may indeed require involuntary artificial feeding, none should be subjected to the force-feeding formerly and currently practiced at the U.S. prison.

Force-feeding is the feeding of a person through the use of active coercion. As in Guantanamo, it is often ordered by detention authorities wishing to put a stop to a collective hunger strike, without regard to each individual prisoner’s medical need for nutritional treatment. Also as in Guantanamo, active coercion commonly includes the use of force, the tying down of limbs, and the forcible insertion of a nasogastric tube.<sup>54</sup>

In contrast, “artificial feeding does not involve this element of brutal coercion. It may be prescribed freely by a physician, or be imposed on the physician by a judicial authority (such as a judge), whether the fasting person agrees or not.”<sup>55</sup> In treating hunger strikers (*informed*

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<sup>50</sup> *Id.*, art. 1-2, 4.

<sup>51</sup> World Medical Association, *Declaration on Hunger Strikers*, adopted in Malta in November 1991 and last revised in Pilanesberg in October 2006, art. 21, available at <http://www.wma.net/e/policy/h31.htm> [hereinafter “Malta”]. (See Appendix F).

<sup>52</sup> *Id.*

<sup>53</sup> TIME 6/30/06 (“A lot of detainees said, ‘I don’t want to put up with this. This is too much of a hassle,’” says Craddock. Asked whether the new methods represented an “effective deterrent” to hunger striking, he answered “Yeah.”).

<sup>54</sup> WMA Course: “Doctors working in prison: human rights and ethical dilemma,” available at <http://195.159.153.18/index.cfm?m=2&s=1&lang=2&kursid=50&file=kurs/K050/intro.cfm> [hereinafter “WMA Course”].

<sup>55</sup> WMA Course.

prisoners who are *competent to voluntarily* refuse to eat as a means of protest),<sup>56</sup> medical ethics permit such artificial feeding only in rare cases, usually those in which the hunger striker “is no longer fully conscious and too weak to express a view.”<sup>57</sup>

There are detainees at Guantanamo who have refused to eat as a form of peaceful protest, and who insist that if the U.S. military wishes to tube-feed them, it must do so humanely. Others are incapable of giving informed consent and require artificial feeding in the clinical interest of the patient. In these limited cases, medical ethics may permit artificial feeding. However, the decision to artificially feed can be made only by an appropriately trained medical professional in a therapeutic relationship with the patient, pursuant to his or her independent clinical judgment, and in compliance with strict procedural guidelines. Under no circumstances should the patient be subjected to brutal force.<sup>58</sup>

When conducted in accordance with these strict rules, involuntary artificial feeding is not considered force-feeding.

### *Medical Duty to Establish Competency, Motivation, and Voluntariness*

When a prisoner refuses to eat, Malta requires that the physician’s first step be an assessment of the individual’s mental capacity by “verifying that [the] ... individual intending to fast does not have a mental impairment that would seriously undermine the person’s ability to make health care decisions.”<sup>59</sup> This evaluation of competency “is absolutely necessary, and will determine all further actions.”<sup>60</sup> Prisoners who are deemed, based on the physician’s independent clinical judgment, not to be “sound of mind, in full possession of .. [their] mental faculties ... [or] free of any psychiatric or mental disorder”<sup>61</sup> must “be given treatment for their mental health problems rather than be allowed to fast in a manner that risks their health.”<sup>62</sup>

Malta also requires that physicians, “as early as possible,” “acquire a detailed and accurate medical history of the person who is intending to fast,” explain to the individual the “medical implications of any existing conditions,” verify that the hunger striker understands the “potential health consequences of fasting and forewarn them in plain language of the disadvantages,” and “explain how damage to health can be minimized or delayed by, for example, increasing fluid intake.” To ensure that the patient has understood, the physician must ask “the patient to repeat back what they understand.”<sup>63</sup> To shield the patient from coercive pressure from guards or other detainees, physicians have a duty to do their utmost to conduct the interview “privately, out of

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<sup>56</sup> See Malta. (See Appendix F).

<sup>57</sup> Background paper on the Declaration of Malta (2006), available at <http://www.wma.net/e/publications/pdf/wmj10.pdf> (pp. 36-43, 40).

<sup>58</sup> Malta. (See Appendix F).

<sup>59</sup> *Id.*, art. 9.

<sup>60</sup> Allen, Scott and Reyes, Hernan, “Clinical and Operational Issues in the Medical Management of Hunger Strikers,” in Goodman, Ryan and Roseman, Mindy (ed.), Interrogations, Forced Feedings, and the Role of Health Professionals, at 191, Human Rights Program at Harvard Law School (2009) [hereinafter “Allen, Scott and Reyes, Hernan”].

<sup>61</sup> WMA Course.

<sup>62</sup> Malta, art. 9. (See Appendix F).

<sup>63</sup> *Id.*, art. 10

earshot of all other people, but with an interpreter if necessary.” Furthermore, the interpreters should not be “connected with the detaining authorities or the patient’s peer group,” and they should be “aware of the confidentiality expected of them.”<sup>64</sup>

Because of their sensitive nature, these assessments must be done by physicians trained in the ethics of medical practice in relation to hunger striking, as well as in recognizing and treating the physiological and psychological consequences of prolonged hunger striking.<sup>65</sup> As Malta emphasizes, and health in custody experts echo, good communication and trust between the physician and patient is so vital in this situation that “without trust, medicine cannot be practiced.”<sup>66</sup> Ethical guidelines indicate that when that trust cannot be fostered, medical professionals who work for the custodial institution are incapable of properly assessing the patient’s mental and physical health, so that independent physicians must be brought in to conduct the evaluation.<sup>67</sup>

In Guantanamo, most of these policies are nonexistent, and the few that might exist on paper are ignored in practice. Most importantly, if trust ever existed between patients and medical professionals, it has long been irreparably violated thanks to Guantanamo health personnel’s active and passive complicity with torture and abuse. The level of mistrust runs so deep that at least one detainee, having witnessed the participation of medical personnel in his brutal torture, to this day refuses any medical assistance from personnel at the base. Under such conditions, no medical professional affiliated with the U.S. government is capable of properly assessing the mental and physical health of a Guantanamo prisoner who refuses to eat. Consequently, until the Department of Defense consents to individual examinations by independent physicians of all fasting detainees, its policies must be considered unethical.

Some policies at Guantanamo run explicitly counter to those required by Malta. For example, in addition to stating that “force-feeding contrary to an informed and voluntary refusal is unjustifiable,” and that physicians must “try to prevent coercion or maltreatment of detainees and must protest if it occurs,” Malta provides that in the event that a doctor cannot accept a patient’s informed and voluntary decision to refuse nourishment, the patient is entitled to the care of another physician who is willing to abide by the hunger striker’s refusal.<sup>68</sup> Instead of ensuring that the base is staffed by health professionals who are trained in the ethics of medical treatment of hunger strikers, the Department of Defense has done exactly the opposite: it deploys to Guantanamo Bay only those health professionals who, having no objection to force-feeding, are willing to violate medical ethics.<sup>69</sup>

At Guantanamo, the years of arbitrary and indefinite detention in solitary confinement with virtually no access to family members, coupled with the high incidence of depression and mental

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<sup>64</sup> Council of Europe Office in Sarajevo, *supra* note 59, at 37.

<sup>65</sup> *Id.* at 6.

<sup>66</sup> Allen, Scott and Reyes, Hernan, *supra* note 62, at 190.

<sup>67</sup> *Id.* at 191.

<sup>68</sup> Malta, art. 2-3, 15. (See Appendix F).

<sup>69</sup> Dr. Susan Okie, *Glimpses of Guantanamo – Medical Ethics and the War on Terror*. 353 New Eng. J. Med. 2529-2534 (15 December 2005) (Navy Captain John S. Edmondson told the author that military health care personnel were “screened” before deployment to Guantanamo “to ensure that they do not have ethical objections to assisted feeding.”) The U.S. DoD uses the term “assisted feeding” a euphemism for force feeding.

illness among the population, increase the likelihood that some of the men may in fact be incapable of making an informed decision to refuse food or medical assistance. These particular conditions make scrupulous, comprehensive, and independent health assessments all the more necessary. Yet, instead of taking extra precautions to screen for and treat the most mentally vulnerable, government officials aggravate their illnesses and push them to even greater levels of despair by indiscriminately punishing all fasters through violent force-feeding and isolation in Camps V and VI.

The artificial feeding of a patient who is incapable of providing informed consent is ethically permissible only when performed in the clinical interest of the patient. The DoD's practices of initiating force-feeding two or three times a day shortly after patients first refuse to eat; of violently forcing patients, some of whom are clearly too weak to resist, into six-point restraint chairs with straps tied punitively tight; and of leaving them in those chairs, covered in their own blood and vomit, long after the feeding has ceased cannot, in any light, be defended as being "in the clinical interest" of the patients in question.

### **3. General Craddock Had Command Responsibility over the Illegal Force-Feeding**

Justice Robert Jackson, Chief U.S. prosecutor at the Nuremberg Trials rightfully proclaimed: "*We do not accept the paradox that legal responsibility should be the least where power is the greatest.*"<sup>70</sup> Today, it is well established under international law that individual criminal responsibility is not limited to persons who have directly committed an international crime and personally perpetrated its material elements.<sup>71</sup> The doctrine of command responsibility of superiors, based on a superior's culpable omission, has long been recognized by national and international law.<sup>72</sup> It now constitutes customary international law. In addition, it is also recognized under American law and applied in U.S. courts.<sup>73</sup>

According to this doctrine, a military commander (or civilian superior) is personally criminally responsible for acts 1) committed by his subordinates over which he had direct or indirect command or control, 2) if he knew or had reasons to know that his subordinates were about to

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<sup>70</sup> The Avalon Project, Yale Law School, available at [http://avalon.law.yale.edu/imt/imt\\_jack01.asp](http://avalon.law.yale.edu/imt/imt_jack01.asp).

<sup>71</sup> *Prosecutor v. Zejnil Delalić et al. ("Čelebići")*, Case No. IT-96-21-T, Judgement, at 319A, (16 November 1998) (Trial Chamber at the ICTY held that "[t]he principles of individual criminal responsibility enshrined in Article 7, paragraph 1, of the Statute reflect the basic understanding that individual criminal responsibility for the offences under the jurisdiction of the International Tribunal is not limited to persons who directly commit the crimes in question.")

<sup>72</sup> See, e.g., *Prosecutor v. Hadžihasanović et al.* Case No. IT-01-47-PT, Decision on Joint Challenge to Jurisdiction, (12 November 2002); Additional Protocol I to the Geneva Conventions of 12 August 1949, Articles 86 and 87 (8 June 1977).

<sup>73</sup> *In Re Yamashita*, United States' Supreme Court, 327 U.S. 1 (1946) (The American Congress quoted the Supreme Court language in *Yamashita* on indirect liability when enacting the Torture Victim Protection Act (TVPA) of 1992); *William Ford at al. v. Jose Guillermo Garcia et al.*, 289 F.3d 1283, 1288-89; *Maximo Hilao v. Estate of Ferdinand Marcos*, 103 F.3d 767, 777 (9<sup>th</sup> Cir. 1996). See also *Kadic v Karadzic*, 70 F.3d 232, 239, 242 (2d Cir. 1995); *Paul v Avril*, 901 F.Supp. 330,335 (S.D.Fla. 1994); *Xuncax v. Gramajo*, 886 F.Supp. 162, 171-172 (D.Mass. 1995).

commit such crimes or had done so, and 3) the superior failed to take the necessary and reasonable measures to prevent such acts, and / or to punish the perpetrators.<sup>74</sup>

As demonstrated below, General Craddock had command responsibility over his subordinates at Guantánamo, he knew that they were implementing unlawful force-feeding, and yet he did not take any measure to prevent or stop the abuses and / or punish his subordinates.

**a. General Craddock Possessed Authority and Control over Subordinates Implementing Force-feeding**

As Commander of United States Southern Command (USSOUTHCOM) from November 9, 2004 until October 18, 2006,<sup>75</sup> Army Gen. Craddock was the link in the chain of command between the Secretary of Defense and the commander of Joint Task Force Guantánamo. He thus had authority and control over the commander of the base. Before being promoted to the rank of four-star general, Craddock “served as Rumsfeld’s chief military assistant from 2002 to 2004.”<sup>76</sup> He replaced General James T. Hill, who served as Commander of USSOUTHCOM from August 18, 2002 to July 27, 2004.<sup>77</sup> Navy Admiral James Stavridis currently holds the position.<sup>78</sup> USSOUTHCOM is responsible for U.S. military operations in Central and South America and

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<sup>74</sup> See, e.g., *Prosecutor v. Hadžihasanović et al.* Case No. IT-01-47-AR72, Decision on Interlocutory Appeal Challenging Jurisdiction in Relation to Command Responsibility, (16 July 2003). In *Celebici*, at 344, the three essential legal requirements to be found when establishing a superior’s responsibility for failure to act were described as: (1) The superior must exercise direct and/or indirect command or control whether *de jure* and/or *de facto*, over the subordinates who commit serious violations of international humanitarian law, and/or their superiors; (2) The superior must know or have reason to know, which includes ignorance resulting from the superior’s failure to properly supervise his subordinates, that these acts were about to be committed, or had been committed, even before he assumed command and control; (3) The superior must fail to take the reasonable and necessary measures, that are within his power, or at his disposal in the circumstances, to prevent or punish these subordinates for these offences. The *Celebici* case, *supra* note 2.

<sup>75</sup> Ivy Kupec, “Admiral Stavridis assumes command of U.S. Southern Command,” U.S. SOUTHERN COMMAND PUBLIC AFFAIRS, Oct. 19, 2006, available at <http://www.southcom.mil/AppsSC/news.php?storyId=56>, “Admiral Stavridis,” (10/19/2006).

<sup>76</sup> Jim Mannion, “Bush Taps Army General for Top NATO Military Command,” AGENCE FRANCE-PRESSE, Jul. 14, 2006, available at <http://www.defensenews.com/story.php?F=1952830&C=europe>.

<sup>77</sup> “SOUTHCOM commander announces his retirement,” Jul. 27, 2004, available at <http://www.southcom.mil/AppsSC/files/3UI3I1169401171.htm..>

<sup>78</sup> See [www.southcom.mil/](http://www.southcom.mil/) and “Admiral Stavridis,” 10/19/2006.

the Caribbean. The senior leadership of USSOUTHCOM consists of a Commander, Deputy Commander, Chief of Staff, and Command Sergeant Major.<sup>79</sup>

Joint Task Force Guantanamo (JTF-GTMO) is one of three task forces that report to USSOUTHCOM.<sup>80</sup> The Commander of JTF-GTMO reports to the Commander of USSOUTHCOM.<sup>81</sup> Within JTF-GTMO, JTF-170, the intelligence task force of JTF-GTMO, reports to the Commander of JTF-GTMO.<sup>82</sup> In addition to military personnel, contractors at JTF-GTMO also answer to the orders of USSOUTHCOM.<sup>83</sup>

At all relevant times during his term as Commander of SOUTHCOM, General Craddock possessed and exercised effective command and control over his subordinates at the U.S. detention facility at Guantánamo. He had the legal authority and practical ability to exert control over subordinates who participated in the prolonged arbitrary detention, torture, cruel, inhuman or degrading treatment, deprivations of due process, and inadequate medical and other care of plaintiffs here. General Craddock's command over subordinate forces included the authority and responsibility to give orders to, set policy for, and manage the affairs of forces under his control, and to remove and discipline personnel who were violating the rights of detainees.

#### **b. General Craddock Knew of the Ongoing Crimes**

There is no question that General Craddock knew of the abusive detention conditions, the denial of basic rights, and the ongoing abuses in great detail. The Department of Defense's close monitoring of the hunger strike makes clear that the military command at Guantánamo was fully aware of the nature of the prisoners' allegations, and never stopped closely monitoring the strikes.

General Craddock first publicly justified force-feeding in a meeting with defense journalists in February 2006. Craddock said that soldiers discovered the detainees were purging themselves through the nose tubes after being fed. Strapping the detainees to a restraint chair for an hour, Craddock said, allowed their bodies to absorb the nutrients so purging was not effective.<sup>84</sup>

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<sup>79</sup> Available at <http://www.southcom.mil/AppsSC/pages/leadershipStaff.php>.

<sup>80</sup> The other two are Joint Task Force Bravo and Joint Interagency Task Force South, available at <http://www.southcom.mil/AppsSC/pages/team.php>.

<sup>81</sup> Five other component commands report to USSOUTHCOM: Special Operations Command South, U.S. Marine Corps Forces, South 12 AF (Air Forces Southern), U.S. Naval Forces Southern Command, and U.S. Army South. See <http://www.southcom.mil/AppsSC/pages/team.php>.

<sup>82</sup> "On 11 Oct 2002, Major General Michael E. Dunlaevy, the Commander of Joint Task Force (JTF) 170, the intelligence task force at GTMO, requested that the CDR USSOUTHCOM, GEN James T. Hill, approve 19 counter resistance techniques that were not specifically listed in FM 34-52." From "Army Regulation 15-6: Final Report - Investigation into FBI Allegations of Detainee Abuse at Guantanamo Bay, Cuba Detention Facility." ("Schmidt Report").

<sup>83</sup> Griff Witte and Renae Merle, *Contractors Are Cited in Abuses at Guantanamo*, WASHINGTON POST, Jan. 4, 2007 ("During our period of performance at Guantanamo, our employees were under the direct authority of the U.S. Southern Command," said Lockheed spokesman Tom Jurkowsky. "We had no authority to, nor did we, direct the actions of any military member, active or reserve."), available at <http://www.washingtonpost.com/wp-dyn/content/article/2007/01/03/AR2007010301759.html>.

<sup>84</sup> Julian E. Barnes, *Military says special chair stops Gitmo hunger strikes*, U.S. NEWS & WORLD REPORT, Feb. 22, 2006 ("US NEWS 2/22/06").

The *Times* reported that he said, “[the hunger strike] was causing problems because some of these hard-core guys were getting worse.” In explaining the use of restraint chairs, Craddock said, “The way around that is you have to make sure that purging doesn’t happen.”<sup>85</sup>

According to the *Times*, “Craddock said he had reviewed the use of the restraint chairs, as had senior officials at the Department of Defense, and they concluded that the practice was ‘not inhumane.’ General Craddock left no doubt, however, that commanders had decided to try to make life less comfortable for the hunger strikers, and that the measures were seen as successful.”<sup>86</sup>

“Pretty soon it wasn’t convenient, and they decided it wasn’t worth it,” Craddock said of the hunger strikers. “A lot of the detainees said: ‘I don’t want to put up with this. This is too much of a hassle.’”<sup>87</sup> Asked whether the new methods represented an “effective deterrent” to hunger striking, he answered, “Yeah.”<sup>88</sup>

*Time* reported that Craddock “joked that at least hunger strikers got to choose the color of their feeding tube (yellow was a favorite), and the flavor of the lozenges used to soothe throats irritated by the feeding tubes.” Craddock was quoted as saying, “Look, they get choices... and that’s part of the problem.”<sup>89</sup> *US News & World Report* reported: “Curiously, Craddock said that the soldiers give the detainees a choice of colors for feeding tubes: yellow, clear, and beige. ‘They like the yellow,’ he said.”<sup>90</sup> Craddock also said in addition to using the chair, they have cut the number of strikers by separating the detainees who refuse food, to deter them from supporting each other in their strike efforts.<sup>91</sup>

As his comments amply demonstrate, Craddock was aware of and approved the force-feeding of detainees during the hunger strike as well as the methods used, and allowed the violations to occur, deeming them “not inhumane.” He has acknowledged reviewing the use of restraint chairs used during force-feeding sessions; from his knowledge of the details of the feeding tubes colors, one might easily conclude that in reviewing the procedure he would have been made aware of their size, as well.

In addition, General Craddock was aware, and was made aware from the beginning, and continuously, of the debilitating effects of force-feeding on the detainees, and of the inhuman and violent ways the procedures were inflicted on strikers, with the intent to cause suffering as a means of discouraging the strikers from protesting, rather than out of medical necessity. In confidential reports to federal authorities in 2004, the ICRC described the physical and psychological treatment of detainees as amounting to torture.

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<sup>85</sup> NYT 2/22/06.

<sup>86</sup> *Id.*

<sup>87</sup> NYT 2/22/06.

<sup>88</sup> TIME 6/30/06.

<sup>89</sup> *Id.*

<sup>90</sup> US NEWS 2/22/06.

<sup>91</sup> *Id.*



In addition, the ICRC, which had exclusive unfettered access to detainees, consistently put the Pentagon on notice that Guantánamo detainees' treatment and living conditions amounted to cruel treatment and even torture, and warned of the damaging effects on detainees. During their visits ICRC representatives would meet with commanders at Guantánamo once a week to discuss their findings. At the end of every visit they would also provide an "out-brief" to the commander at Guantánamo and a report of their findings to the Deputy Assistant Secretary of Defense for Detainee Affairs. According to the normal reporting procedures within the military chain of command, General Craddock should have been made aware of these reports.

**c. General Craddock Failed to Take Reasonable Measures to Stop or Prevent the Crimes**

Despite being fully aware of the abusive force-feeding practices conducted on Guantanamo detainees already mistreated and arbitrarily detained, which he discussed publicly in detail, General Craddock took no steps to prevent the various forms of mistreatment the detainees were subjected to. He failed to take any of the reasonable measures within his power and authority to stop the inhuman force-feeding or improve the detainees' treatment or protect them from the foreseeable harmful consequences of their torture or cruel, inhuman, or degrading treatment. Force-feeding continued under Craddock's command until the time he left his post in 2006.

By his omissions, General Craddock failed in his legal obligation as commander of USSOUTHCOM with authority and control over Guantanamo, under domestic and international law, to ensure that his subordinates never perpetrate abuses against detainees in the custody of the U.S. military.

In addition, General Craddock failed to take all necessary measures to ensure that his subordinates provide adequate medical care in compliance with ethical and legal standards, and to prevent the personnel under his command from breaching their professional duty of care to detainees.

**d. General Craddock Failed to Punish his Subordinates**

Failure to report, investigate, or punish a serious crime is itself a crime under customary international law. In the present case, General Craddock did not report on, launch any investigation, and / or punish his subordinates at Guantanamo perpetrating the abuses under his watch.

Instead, through his omissions and failures of command or duty, General Craddock participated to creating a climate of impunity in which subordinate soldiers and other agents were given a green light to terrorize detainees and carry out force-feeding in an inhuman or degrading manner, with the clear intention to deter them from protesting and demanding the respect of their rights and the end of their torturous confinement through their hunger strike.

**4. Ongoing Impunity of General Craddock**

There is compelling evidence that when prosecuted under international and U.S. law, General Craddock would be found individually responsible, under the command responsibility doctrine, for serious crimes of torture or cruel, inhuman, or degrading treatment or punishment resulting from the general conditions of detention at Guantanamo coupled with the abusive force-feeding of detainees. In addition, General Craddock may also be liable for authorizing, ordering, and /or aiding and abetting the unlawful practice of force-feeding at Guantanamo, since he reviewed the use of the restraint chairs himself.

Clearly, there are serious grounds justifying the opening of a criminal investigation against General Craddock. Yet, there has been no domestic or international investigation, commission of inquiry, much less prosecution of General Craddock, despite the publicly available evidence of his personal responsibility for the treatment and inhuman force-feeding of Guantanamo detainees during his time at the USSOUTHCOM.

Instead of holding Craddock accountable, the Bush Administration rewarded him with the prestigious nomination of Commander of U.S. European Command (USEUCOM) / Supreme Allied Commander Europe (SACEUR) for NATO, NATO commanding officer of Allied Command Operations.<sup>92</sup> According to NATO, “[t]he Supreme Allied Commander Europe is one of the two strategic commanders for NATO and the commanding officer of Allied Command Operations (ACO). He is responsible to NATO’s Military Committee, the highest military authority in NATO, for the overall direction and conduct of military operations for NATO.”<sup>93</sup>

On March 19, 2009, President Obama decided to replace General Craddock as SACEUR by current USSOUTHCOM Commander US Admiral Stavridis.<sup>94</sup> This replacement will take place in a matter of weeks pending the US Senate’s confirmation. The authors of this communication are not aware as to what General Craddock’s next position, if any, will be.

## **5. Plaintiff’s Requests For Urgent Measures**

### **a. Request that the U.S. Department of Justice Open a Criminal Investigation of General Craddock**

We, CCR, FIDH, ECCHR, Appeal for Justice, and NLP request that you immediately request from the United States government all information in its possession relating to the present allegations of abuse, and to General Craddock’s personal role in the allegations described above and the reasons for the lack of investigation into his personal role, as well as a full response to those allegations.

In addition, we request that the Attorney General of the United States, in compliance with the United States’ international obligations under the Convention Against Torture and other treaties,

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<sup>92</sup> Tech. Sgt. Devin L. Fisher (USAF, Special to American Forces Press Service), “Craddock Takes Reins of U.S. European Command,” AMERICAN FORCES PRESS SERVICE, News Articles, Dec. 4, 2006, available at [www.defenselink.mil/news/newsarticle.aspx?id=2292](http://www.defenselink.mil/news/newsarticle.aspx?id=2292).

<sup>93</sup> [www.nato.int/shape/bios/saceur/mission\\_saceur.htm](http://www.nato.int/shape/bios/saceur/mission_saceur.htm).

<sup>94</sup> Schmitz, “Obama Choice Surprises Europeans,” DER SPIEGEL, March 19, 2009, available at <http://www.spiegel.de/international/world/0,1518,614258,00.html>.

promptly appoint an individual of unquestioned integrity, impartiality, and independence to conduct a criminal investigation into General Craddock's role in the abuses described herein, and to initiate such criminal proceedings against him relating to these abuses as the facts and the law may support

We ask you to remind the Obama Administration that, according to the United States' international obligations to prosecute allegations of torture, cruel, inhuman, or degrading treatment, or grave breaches of the Geneva Conventions, any "truth commission" or "commission of inquiry" into these allegations must effectively lead to criminal prosecutions, and that amnesty is not permitted for such crimes under international human rights law.

**b. Request that the Obama Administration Bring its Hunger Striking Policies into Ethical and Legal Compliance**

Sadly, neither the end of General Craddock's tenure nor the recent change in government has brought relief to the men on hunger strike at Guantanamo. The Obama Administration continues the unlawful and unethical force-feeding practices of the Bush Administration against more than fifty men who peacefully protest their confinement and detention conditions using the only means available to them – their bodies.

We, CCR, FIDH, ECCHR, Appeal for Justice, and NLP, ask that you issue an urgent appeal to the Obama administration, requesting that it bring its hunger striker policies into legal and ethical compliance by instituting the following urgent measures:

- allowing independent medical professionals full and free access to review and monitor the status of all detainees who refuse food or treatment, in accordance with the international ethical standards described in this complaint;
- ensuring that all detainees, regardless of their decisions regarding food, are provided with proper and adequate medical treatment by competent medical professionals exercising independent clinical judgment, and where detainees are incapable of trusting military physicians, affording them access to independent medical professionals;
- prohibiting and ceasing the use of the restraint chair;
- prohibiting and ceasing the use of IRF teams and other violence against detainees;
- removing detainees from Camp V and VI, where living conditions are the harshest, and ensuring that detainees are held and treated humanely;
- ensuring that all military staff, medical and non-medical, is appropriately trained to respond to hunger strikes and other situations of food refusal in compliance with international ethical standards;

We thank you for your consideration and remain at your disposal for further information and communication.

Sincerely,

Michael Ratner, President, Center for Constitutional Rights (CCR)  
Souhayr Belhassen, President, International Federation for Human Rights (FIDH)

Wolfgang Kaleck, Secretary General, European Center for Constitutional and Human Rights (ECCHR)

David Remes, Legal Director, Appeal for Justice

Ramzi Kassem, Robert M. Cover Clinical Teaching Fellows, National Litigation Project, Allard K. Lowenstein International Human Rights Clinic, Yale Law School (NLP)

APPENDIXES:

Appendix A. Photographs of the six-point restraint chair

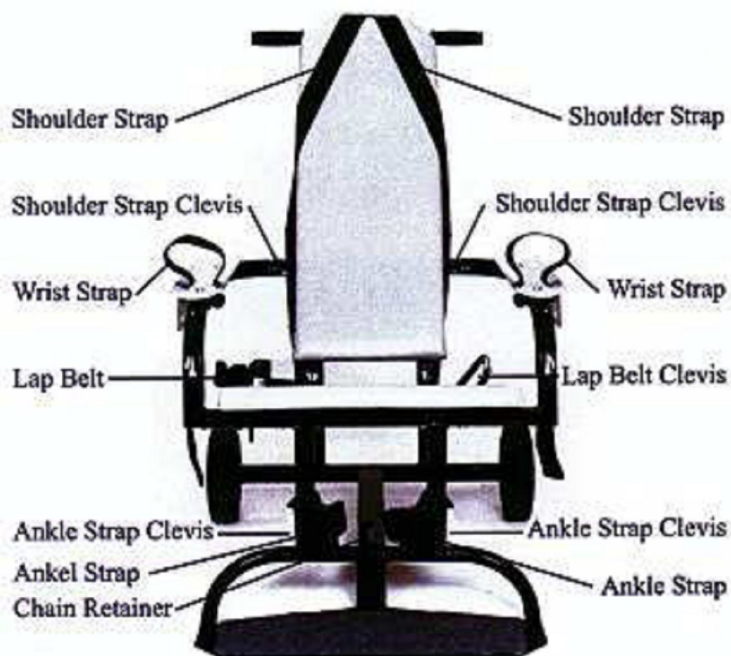
Appendix B. Center for Constitutional Rights February 2009 Report, *Current Conditions of Confinement at Guantanamo, Still in Violation of the Law*

Appendix C. Center for Constitutional Rights September 2005 Report, *The Guantánamo Prisoner Hunger Strikes and Protests: February 2002 – August 2005*

Appendix D. Center for Constitutional Rights Complaint in *Al-Zahrani v. Rumsfeld*

Appendix E. World Medical Association. *Declaration of Tokyo* (1975)

Appendix F. World Medical Association, *Declaration on Hunger Strikers*, adopted in Malta in November 1991



It's like a  
padded cell  
"on wheels"

