

## **ICRC Access: It Matters**

### **Background:**

The International Committee of the Red Cross (ICRC) has a mandate under international law to act as a neutral observer in conflicts. The ICRC's role is to protect from abuse civilians, prisoners, and others who are not actively involved in the fighting. For decades, the ICRC has acted to ensure that captured soldiers are not simply "disappeared," but rather given the rights guaranteed to them under international law.

Traditionally, the U.S. has respected the importance of the ICRC and its role in protecting the rights of detainees. ICRC access is credited with saving the lives of numerous American soldiers – including, in 1993, that of U.S. Warrant Officer Michael Durant, whose abuse at the hands of a Somali warlord ended when the U.S. demanded assurances of ICRC access and asserted that it would give captured Somalis the same protections.

Since Sept. 11, 2001, however, the U.S. Central Intelligence Agency (CIA) has opened several secret prisons in Eastern Europe and other parts of the globe for holding terrorism-related detainees. Few people knew exactly what was going on in those prisons. Many former detainees claimed to have been tortured in them, but, of course, most are unable to prove their allegations. The ICRC did not have access to these prisons, nor did any other neutral third party.

On January 22, 2009, President Obama issued an executive order that opened the doors to all U.S. detention facilities. This was a good first step, but it is not permanent. A future president could close the doors just as quickly with the stroke of a pen on a new executive order. The next step is to urge Congress to codify ICRC access to prisoners so that it is the law of the land..

### **Why we should report all detainees to the ICRC and give the ICRC access to them:**

1. Providing ICRC access to all detainees is the right thing to do. We should not "disappear" people.
2. ICRC access protects our soldiers from being tortured and abused. The current conflict is not our last, and if we show the world that the U.S. doesn't follow international norms in protecting the rights of prisoners, then our own soldiers will not be given their rights when they are captured by foreign enemies.
3. ICRC access helps to prevent the abuse of detainees. It is much easier to torture or otherwise mistreat a detainee when an interrogator is operating in a legal vacuum without any independent entity checking up on the detainee's welfare.
4. ICRC access helps protect U.S. interrogators both from false accusations of abuse – and from actually becoming torturers.
5. Reporting all detainees to the ICRC, and ensuring ICRC access to them, is an essential step toward restoring U.S. credibility on the issue of torture. Few people will believe we don't torture so long as we are holding prisoners incommunicado in secret prisons with nobody to ensure they're not being mistreated.