

September 15, 2008

The Honorable Sheldon Whitehouse
The United States Senate
Hart Senate Office Building Room 502
Washington, D.C. 20510

The Honorable Chuck Hagel
The United States Senate
Russell Senate Office Building Room 248
Washington, D.C. 20510

The Honorable Diane Feinstein
The United States Senate
Hart Senate Office Building Room 331
Washington, D.C. 20510

The Honorable John D. Rockefeller IV
The United States Senate
Hart Senate Office Building Room 531
Washington, D.C. 20510

Dear Senators:

We are writing to express our strong support for Amendment Number 5369 to the Defense Authorization Act requiring that the Administration notify the International Committee of the Red Cross (ICRC) when it detains any prisoner and also provide ICRC access to every prisoner. Your support for this important amendment is crucial and we welcome your leadership on this issue.

Few human rights protections are as important as the principle that prisoners must not be “disappeared” – held secretly with no oversight or outside accountability. Around the world this has been recognized as a predictable formula for abuse. ICRC notification and access is a critical protection against such abuse and a norm that the United States has a strong interest in upholding. As Senator McCain has noted, ICRC access “protects” U.S. servicemembers who “enter battle with the knowledge that should they be taken prisoner, there are laws intended to protect them and impartial international observers to inquire after them.”

Recent hearings before the Senate Armed Services Committee have revealed the extent to which Administration officials worked to conceal prisoners from the ICRC. This has harmed, rather than aided U.S. national security. U.S. military investigations into the abuse of prisoners in Iraq demonstrate that had U.S. officials granted ICRC monitors the access that military regulations normally require and heeded the monitors’ advice, the mistreatment of prisoners could have been prevented and we could have avoided much of the damage caused to America’s international standing.

The amendment does not demand instantaneous ICRC access to prisoners, but rather the kind of timely access provided by the U.S. military. Nor does the legislation require that the United States announce to the world the names of all prisoners it is holding. The ICRC works privately with governments. While many believe strongly that the United States should in all cases publicly acknowledge within a reasonable time that it is holding a prisoner, this amendment only requires the minimal safeguards of private registration and some small measure of independent scrutiny to deter the abuse of secretly held prisoners.

We welcome your support for this important measure and we will strongly urge all Senators to join you in supporting the ICRC access amendment.

Sincerely,

American Civil Liberties Union
Human Rights Watch
Human Rights First
National Religious Campaign Against
Torture

The Center for Victims of Torture
Center for American Progress Action
Fund
Physicians for Human Rights
Open Society Policy Center