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(HEW)

February 23, 2004

Tausif Paracha



United States Department of State

Ambassador-at-Large for
War Crimes Issues

Washington, D.C. 20520

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Dear Mr. Paracha:

Thank you for your letter to Secretary Powell expressing concern related to a detainee held under U.S. control at an airbase in Afghanistan.

The United States and its Coalition partners are at war with the al Qaida network and remnants of the Taliban who continue to support them. The al Qaida network today is a multinational enterprise with operations in more than 60 countries. Active hostilities are ongoing daily in Afghanistan and around the world. We continue to fight against enemy combatants who are planning and conducting attacks against the international community. In this context, operational and security concerns compel me to refrain from confirming or commenting on the circumstances of capture, transfer or detention of specific individuals believed to be held as enemy combatants in the course of that conflict.

Let me assure you, however, that President Bush has affirmed on any number of occasions that al Qaida and Taliban detainees are treated humanely, and, to the extent consistent with military necessity, in a manner consistent with the principles of the Third Geneva Convention of 1949. As a result, representatives of the International Committee of the Red Cross (ICRC) routinely visit detainees individually and privately. United States Government personnel are not permitted to torture detainees or participate in torture by others. Torture is a violation of the laws of the United States. Allegations of torture will be thoroughly investigated. In cases where the United States Government transfers detainees to other countries for detention or questioning on our behalf, we seek and receive assurances that the detainees will not be tortured and will be treated humanely.

The authority to detain enemy combatants for the duration of hostilities exists in law independent of the civil or criminal justice system. In this war, as in every war, enemy combatants are not provided counsel or access to courts for the purpose of challenging their detention while hostilities are ongoing. While some enemy combatants may face criminal prosecution before the end of hostilities, nations at war traditionally have waited until hostilities cease to bring such charges. If and when an enemy is charged with a crime, he would then be entitled to access to counsel and be afforded other privileges necessary to receive a fair trial.

Sincerely,

Pierre-Richard Prosper

UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: FRANK E SCHMELZER
DATE/CASE ID: 24 SEP 2004 200303827

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