

BETWEEN:

YUNUS RAHMATULLAH

Claimant

v

(1) THE MINISTRY OF DEFENCE

First Defendant

(2) THE FOREIGN & COMMONWEALTH OFFICE

Second Defendant

RE-AMENDED PARTICULARS OF CLAIM

I Introduction

1. The Claimant seeks damages arising out of:
 - 1.1 the Defendants' participation in his unlawful detention, torture and/or inhuman and degrading treatment in Iraq
 - 1.2 his subsequent unlawful rendition to, and detention, torture and/or inhuman and degrading treatment at a United States ("US") detention facility or facilities in Afghanistan, including that at Bagram Theater Internment Facility in Bagram Airbase ["Bagram"],
 - 1.3 the Defendants' subsequent acts and omissions while the Claimant was unlawfully detained and subject to torture and/or inhuman and degrading treatment.

2. The claim gives rise to the following causes of action:-
 - 2.1 False imprisonment
 - 2.2 Torture and trespass to the person

- 2.3 Complicity in torture and inhuman and degrading treatment
 - 2.4 Conspiracy to injure and conspiracy to use unlawful means
 - 2.5 Misfeasance in public office
 - 2.6 Negligence
 - 2.7 Breaches of Articles 3, 5, 6 and 8 of Schedule 1 to the Human Rights Act 1998
 - 2.8 If the Defendants contend, and the court accepts, that the claims or any of them are governed by Iraqi or Afghan law, equivalent wrongs under those laws.
3. For ease of reference this pleading is divided under the following headings:
- II The parties
 - III The factual basis of the Claimant's claim
 - IV Causes of action
 - V Damages and other remedies

II The Parties

The Claimant

4. The Claimant, Mr Yunus Rahmatullah, also known as "Salah", is a Pakistani national who spent much of his childhood growing up in Qatar with his family. The Claimant underwent his schooling in Qatar in Arabic and at the time of his capture was fluent in Arabic. In January or February 2004, the Claimant was captured and deprived of his liberty by UK soldiers in Iraq acting under the direction and control of the First Defendant and/or for whom the First Defendant is and was vicariously liable.
5. Shortly after his detention, the Claimant was subjected to violent assault by the aforesaid soldiers and thereafter detained and further mistreated by UK forces before being transferred to the custody of US forces. In or about March 2004, the Claimant was subjected to unlawful extraordinary rendition from Iraq to Afghanistan. In the course of his detention in UK and US custody he suffered torture and/or inhuman and degrading treatment.

6. On 15 May 2014 after over 10 years of detention, the Claimant was transferred from Bagram to the custody of the Government of Pakistan. He was detained in Huda Jail, Quetta, Pakistan, before finally being released from custody on 17 June 2014. The Claimant sets out to the best of his recollection the treatment to which he was exposed following his capture by UK Forces in January or February 2004 until his release on 17 June 2014. To date it has not been possible to identify with precision the exact dates or times that events occurred, their duration or to identify all the individuals involved. That is by reason of the trauma which the Claimant has suffered, the conditions of his detention (including the use of goggles and hooding to prevent him visually identifying the specific individuals involved), and because the individuals did not identify themselves to the Claimant nor has the Defendant subsequently identified them. Moreover, the Claimant's extreme traumatising has limited his ability to give full instructions as he finds it extremely distressing to recall his experiences. There has only been a short time to talk to the Claimant between his release and the deadline for services of these re-amended Particulars of Claim.
7. Further, because of the significant volume of relevant material likely to be in the possession of the Defendants but not yet in the public domain or disclosed to the Claimant, the Claimant reserves the right to re-amend these Particulars of Claim and / or supplement the factual narrative set out herein following receipt of disclosure.
8. For the avoidance of doubt the Claimant was in Iraq for economic reasons and was not a member of Lashkar-e-Taiba, a proscribed organisation operating mainly from Pakistan, purportedly with links to Al-Qaeda.

The Defendants

9. The First Defendant is the Ministry of Defence and the Second Defendant is the Foreign and Commonwealth Office ("the Foreign Office"). They are the appropriate Defendants in civil proceedings relating to the acts and omissions of servants and agents of the Ministry of Defence and the Foreign Office

respectively, including of the Secretary of State for Defence (“the Defence Secretary”) and the Secretary of State for the Foreign and Commonwealth Office (“the Foreign Secretary”).

III. The factual basis for the Claimant’s claim

Background

10. The Claimant had arrived in Iraq in the latter part of January or early part of February 2004 and was living in a rented apartment in the Al Saidiya neighbourhood of Baghdad. At the time of the Claimant’s capture he had agreed to start a rice importation business in Iraq with a Punjabi man called Amanatullah Ali, who was living in the same building as the Claimant in Baghdad.

Capture

11. Approximately ten days after his arrival, the Claimant was sleeping in his bedroom on the ground floor of that apartment. At approximately 1am he was awoken by gunfire. A number of vehicles pulled up outside the apartment, including one that was large like a tank but with six big tyres and no tread and another that was an army vehicle with an open back. The Claimant heard helicopters above the property. A number of soldiers stormed into the apartment. The soldiers were all wearing sand-coloured military uniforms with a camouflage pattern and carrying large rifles with telescopic lenses and laser pointers. The soldiers began hitting the Claimant with the butts of their rifles, repeatedly striking him in the stomach and head, causing him to lose consciousness.
12. The Claimant briefly regained consciousness to find that he was outside on the ground. The Claimant’s hands were tied behind him with plastic zip ties and his legs bound with zip ties. The Claimant glanced around and saw more open back vehicles, similar to Land Rovers or Jeeps. He was then hooded and thrown into the back of a vehicle. The Claimant was lying on the floor of the

vehicle, which did not appear to have any seats. Inside the vehicle the Claimant was beaten on his nose and around his eyes, causing him to lose consciousness once again.

13. On regaining consciousness the Claimant found he was lying on his back with his arms still tied behind him. He could feel that he was lying on what he believed to be dead bodies in plastic bags on the floor of the vehicle. Later the Claimant realised that he was drenched in blood that was not his own, since the quantity of blood was more than could have come from him alone and was all over his body, including on parts of his body where he had not sustained injuries.
14. After some time the Claimant was taken out of the vehicle and transferred into what he believed was a helicopter. Inside the aircraft he was again beaten on his head with the soldiers' weapons until he lost consciousness.

Detention at First Detention Facility, possibly Camp Nama

15. When the Claimant regained consciousness he found that the helicopter had landed. His hood was removed and water was thrown onto his face. The Claimant could see that he was on a military base. The Claimant was never told and never learnt the name of this base. The Claimant could see a very long, straight road approximately 1km in length, which had black and yellow stripes along the edge. About five metres from the stripes was a very high fence. There were helicopters behind the Claimant and he saw large vehicles with six wheels and more open backed vehicles. There was a structure in front of him, which looked like a closed latrine. The Claimant saw dog pens.
16. The soldiers on the military base wore beige sand-coloured camouflage uniforms with the British flag on the right arm. The Claimant recognised the British flag from his school geography lessons. The Claimant also saw writing on the uniforms, which at the time led him to believe that the soldiers were part of the British Air Force, although he is now unable to recall what the writing said.

17. The Claimant's hands were still tightly tied behind him. The cuffs dug into his flesh and his hands were swollen, painful and shaking. His hands continued to feel painful for two weeks and the mark of the cuffs remained visible on his wrists for the next two months.
18. The Claimant was asked questions in quick succession with the aid of an Arabic interpreter. He was not given time to answer. The interrogators threatened to kill him. The interrogators informed him that the Punjabi man who had shared his accommodation had also been captured and that two other men who had lived in the apartment had been shot and killed. Later in his detention he was shown photographs of the bodies and faces of these two men.
19. Following this interrogation the Claimant was tied to a vehicle by a rope. One end of the rope was attached to the plastic ties around his hands and the other end of the rope was attached to the back of the vehicle. The vehicle accelerated quickly and the Claimant was dragged along the ground for approximately 20 metres. The Claimant tried to shield his face from injury by turning onto his left side. Consequently, his left arm, left shoulder and the left side of his face were badly scraped and bled significantly. The Claimant temporarily lost sensation in the left side of his body. The Claimant's clothes were torn. Later large bruises appeared on the Claimant's arm.
20. The Claimant's hands remained tied and the soldiers picked him up and threw him into a pen containing a number of large dogs. The dogs were muzzled but attacked the Claimant with their claws, scratching him and causing bleeding wounds to the back of his right shoulder, his lower back and the side of his right leg. The soldiers allowed the dogs to attack the Claimant for around 20 minutes and then tied the dogs up about half an arm's length from the Claimant, who was still in the same pen as the dogs. The Claimant was left in the pen with the dogs for around five to six hours. During this time soldiers would intermittently enter the pen and beat the Claimant.

21. After five to six hours in the dog pen the Claimant was taken to see the Punjabi man, Mr Ali, who was lying motionless on the ground. The soldiers told the Claimant that the man was dead and said "you killed him". The Claimant denied this. The Claimant later learned that Mr Ali was not dead, but had been unconscious.
22. The Claimant was then taken to a small building and thrown into a tiny room, which was approximately one metre in length by one metre in width. The Claimant's arms were tied to the wall on either side of the room at a height slightly above his shoulders. The room was windowless and very dark. The soldiers told the Claimant not to sleep and not to move his head. The Claimant was exhausted and weak and found it impossible not to move his head. Whenever the Claimant moved his head, soldiers would enter the room and hit him on his mouth, stomach and legs. The Claimant estimates that the soldiers came into the cell to punish him in this manner every five minutes over a period of 30 minutes.
23. After approximately 30 minutes the soldiers used a pair of scissors to cut and rip the Claimant's clothes from his body until he was completely naked. Two soldiers in uniform and an interrogator in civilian clothing then opened the door and stood in the doorway. They spoke to the Claimant through an interpreter, who spoke in Arabic. The Claimant was fluent in Arabic and could speak a small amount of English at this time. He understood some words and short sentences spoken in English. He understood when the soldiers said in a threatening manner in English "Don't speak more than you are asked, tell us all we want to know and follow our rules." The soldiers wore the same uniform as those who had mistreated the Claimant when he first arrived at the military base.
24. The soldiers then drenched the Claimant in cold water and turned on the air-conditioning at full blast. The Claimant was extremely cold; he felt as though the blood in his body was freezing and felt his hands become hard. The Claimant asked to use the bathroom but no one came to take him to use it. He

was forced to urinate and defecate in his cell which were cleaned infrequently. Occasionally the soldiers would enter the cell to punch and kick the Claimant.

25. That night the Claimant's hands were bound behind his back, his feet were bound and he was hooded. The Claimant was extremely weak and his body felt numb, preventing him from being able to walk unaided. Two soldiers took the Claimant by his arms, one on each side, and dragged him to another room. The Claimant was placed in a chair with his hands tied behind the chair and his feet bound with plastic ties. The Claimant's hood was then removed and he could see five or six people in front of him, some of whom wore a uniform, others wore civilian clothing and the rest were wearing the uniform trousers and a t-shirt. One soldier was stood behind the Claimant.
26. One of the interrogators had a very red face and wore glasses. He spoke a small amount of accented Arabic. He told the Claimant that he had learnt Arabic since coming to Iraq.
27. The Claimant was asked his name. The Claimant responded by asking who the soldiers were, and why he had been detained. The soldiers told the Claimant that they were British forces and that they had brought him here because he had harmed them. The soldiers asked the Claimant many questions. If they did not like his answer they would signal to the soldier stood behind the Claimant, who then hit the Claimant. He was struck on the top of his neck, his arms and in the face. The Claimant was interrogated for approximately two hours until he was unable to speak and was bleeding.
28. At this point, the soldier standing behind him tilted the Claimant's head backwards and placed a cloth over his mouth and nose. The soldier poured water onto the Claimant's face through the cloth. The Claimant tried to swallow the water but was unable to do so quickly enough. Water poured into his nose and mouth causing the Claimant to experience a sensation of drowning and that he could not breathe. After the soldier stopped, the people stood in front of the Claimant resumed their questioning. However, the Claimant was still in too weak a state to speak so the interrogators gestured to the soldier behind who

again placed the cloth over the Claimant's face and poured water over his face until he choked. This process was repeated multiple times until eventually the Claimant lost consciousness.

29. When the Claimant regained consciousness the soldiers threw him to the floor and left the room, taking away the chair. The Claimant's hands and feet were still bound. The Claimant again lost consciousness and was awoken by soldiers entering the room and grabbing him. The soldiers picked him up and smashed his forehead hard against the plywood wall. Subsequently, the Claimant lapsed in and out of consciousness.
30. Eventually the five or six people returned to the room and began asking the Claimant the same questions. The Claimant was still too physically weak and exhausted to answer. The interrogators appeared to be angry that the Claimant was not answering their questions. More soldiers entered the room and started to kick the Claimant all over his body. The Claimant started to bleed, including from his nose and mouth and he lost consciousness.
31. When the Claimant regained consciousness he found himself in a small room with an earthen floor covered in a plastic sheet. He was provided with a glass of water and one jam biscuit. About one and a half days later, the Claimant was given food for the second time. The food consisted of a very small plate of rice with a single bite of chicken on top. The person who brought the food to the Claimant spread the ashes of his cigarette on top of the food and said: "*This is the seasoning for your food.*"
32. Over the course of the first few days he was held in this location, the Claimant was taken for interrogation on a number of occasions. On approximately the third occasion the Claimant heard the soldiers say in English that they were going to 'mop the floor with him'. On another occasion he was placed in the interrogation room and his hands were untied and his wrists bound by metal handcuffs. The Claimant was then suspended with his arms above his head, although his arms were not fully stretched out and his feet were touching the floor.

33. The Claimant was then taken to a room that was approximately three metres by four metres and in which there were around five or six other detainees. All of the detainees were completely naked. At one point two of the detainees started to talk to each other. On the detainees doing so, guards rushed into the room and severely beat the men in full view of the Claimant.
34. After some time in the communal cell the Claimant was taken out and placed in an enclosed chamber that was approximately 40cm high. It was impossible to stand or even sit in the chamber so the Claimant was forced to lie flat on his back. The Claimant felt like he was in a coffin. The ceiling or lid of this chamber had holes in the top and very cold water was poured slowly in through the holes, which then dripped slowly on to the top of the Claimant's head.
35. Some time later the Claimant was taken back to the interrogation room and asked the same questions again. Eventually the interrogators told him that because he was not cooperating they would hand him over to the Americans to be held at Abu Ghraib. At that time the Claimant had not heard of Abu Ghraib, however it was made clear to him that this was a place to be feared. The Claimant was returned to the room with plastic sheeting on the floor for a period of time.

Detention at Second Detention Facility, possibly Abu Ghraib

36. Some time later soldiers came to the Claimant's cell, whereupon he was hooded and taken to a vehicle where he was placed on the back seat. The Claimant could not see where the vehicle drove, but he could hear sounds that were not present on the military base such as lots of different voices talking, which sounded as though the vehicle was driving through a bazaar. The Claimant could also hear helicopters.
37. The Claimant was taken out of the vehicle and placed into a room where he sat on the floor. At no point during his detention at this second facility was the Claimant told where he was. It is possible that he was detained at Abu Ghraib

and that his transfer to the third facility, described herein below, was a transfer within Abu Ghraib.

38. After around 10 – 15 minutes during which he remained sitting on the floor in the room a soldier entered the room and told the Claimant to stand up and remain that way. The Claimant tried to remain standing but he was physically exhausted, so after a short while he collapsed involuntarily. Two soldiers then entered the room and began beating the Claimant. The soldiers tied the Claimant's right hand up against the wall whilst his left hand was left hanging loose. After some time the soldiers returned and untied the Claimant. The Claimant was too weak to stand so the soldiers dragged him into another room.
39. The Claimant was placed onto a chair with his hands bound in front of him. Four people wearing civilian clothing stood in front of him whilst two soldiers stood behind him. An interpreter also stood in front of the Claimant. One of the men told him that he was now being held by US forces having until then been with British forces. He threatened the Claimant with punishment if he did not tell them what they wanted to know. The interrogators then started to question him. The Claimant spent approximately four to five hours inside the interrogation room. There was a table in front of the Claimant with a bottle of water on it. The interrogators told the Claimant that if he did not speak to them he would not get any water.
40. After the interrogation session the Claimant was taken to a dark room where he was subjected to loud noises that sounded like music. The Claimant could also hear a voice loudly saying: "*If you don't speak to us we will take you to Guantanamo Bay.*" The Claimant had heard that in Guantanamo Bay prisoners were subjected to terrible punishments and he feared being sent there. The Claimant was also subjected to threats of sexual assault and violence and was told that he would be tortured and killed. The Claimant became disoriented.
41. At times the American soldiers would come and take the Claimant out to different rooms in which he was tortured and/or interrogated. For example, in one room the Claimant was placed naked onto a table and was hit, on more

than one occasion, on his waist and feet with a kind of rubber flex. The Claimant was beaten on the soles of his feet until they were badly swollen and he was barely able to walk. On another occasion, as particularised below, the Claimant was suspended upside down and repeatedly dunked into a tank of water.

42. The Claimant was subjected to interrogations for up to 10 hours at a time. One man was present at all of the Claimant's interrogations. This man was a white American and spoke no Arabic, but called himself Abu Omar.
43. Following at least one of the interrogations the Claimant was taken to a small room where his clothes were cut from him until he was completely naked. The room was very cold. The Claimant was told not to sit down, however he was exhausted and could not maintain a standing position. Each time the Claimant collapsed, the soldiers would enter the cell to kick him and force him to stand up. On some occasions they came into the cell, hit the Claimant and left. On other occasions they entered and smashed the Claimant's head against the wall.
44. The Claimant was taken to a different room where his hands were tied tightly and hoisted above his head and attached to the wall. The Claimant was left tied up there for several hours. A woman soldier then came into the cell and forcefully tied a rope around the Claimant's neck. The woman pulled the rope tight until it dug into the Claimant's flesh, choking him. She untied the Claimant's hands from the wall and dragged him along the floor by the rope around his neck to the interrogation room.
45. The Claimant was interrogated for around three to four hours. The rope was still tied around his neck throughout the interrogation. The Claimant was given an army ration packet containing rice, which was the first food that he had been given for a long period of time. The Claimant was then left alone for around one or two days. The Claimant called out to ask to go to the toilet but no one came to take him. Eventually a soldier came into the cell and gave the Claimant a

bottle to urinate into. After the Claimant had finished the soldier returned, took the bottle and poured the urine over the Claimant.

46. At some stage the Claimant was taken to be interrogated again. The Claimant's feet were bound and then attached by ropes to a bar above him. The Claimant was suspended upside down in the air above a tank of cold water. The Claimant was asked questions through an Arabic interpreter. The Claimant was then dunked into the freezing cold water. This process was repeated multiple times. The Claimant felt terrified. By the end of the interrogation the cold, fear, and exhaustion had made it impossible for the Claimant to speak.
47. Eventually the Claimant was taken down from the bar and dragged to another room, which was the size of a cupboard and made of wood. The room was so small that the Claimant was unable to sit or stand and could only crouch in a painful position, which particularly hurt his knees. The Claimant was detained there for at least five or six days, possibly more. The Claimant was given basic army rations once per day.
48. After the Claimant was finally removed from the cupboard room, a rope was tied around his neck and he was dragged back into the interrogation room. In the interrogation room there was a chair and a table with food on it, including chicken and other meat. The Claimant was told that if he wanted to eat he should not lie and he should tell them what he knew. Another soldier entered and threw a copy of the Quran on the floor in a disrespectful manner.
49. After a few hours of interrogation the Claimant was taken into a room where he was horrified to see six or seven naked detainees piled on top of each other. The Claimant was then thrown on top of the detainees. The Claimant was detained for approximately two or three days in that room. He is currently too traumatised to provide further details about that period of detention.
50. Subsequently the Claimant was taken for further interrogation. He was then moved to a larger cell, approximately two metres by one metre. The Claimant was left naked. A few days later he was taken again for interrogation. On this

occasion there were several soldiers in the room in addition to people in civilian clothes. One of the soldiers standing in the room was a tall, muscular black man. The interrogators pointed at this soldier and threatened that he would sexually assault the Claimant if the Claimant did not speak to them. The interrogators asked the same questions that they had asked previously, and the Claimant provided the same answers as he had before. The soldiers were dissatisfied with the Claimant's responses and began to kick him all over his body. The Claimant was kicked so violently that he started vomiting blood. The soldiers kicked the Claimant hard in his chest, causing the Claimant to become unconscious.

51. When the Claimant regained consciousness he was in a doctor's room with an intravenous ("IV") drip attached to his arm and an oxygen mask on his face. The Claimant went through three to four IV pouches. After his condition improved slightly, he was taken back to the larger cell where he was able to lie down. The cell had no natural light but contained an artificial light that was kept on at all times. As a result, the Claimant was unable to tell night from day in the cell, however, he believes that he was detained there for several days. After this time he was spoken to softly by four people, two soldiers in military uniform and two wearing civilian clothing, who informed him that they would be taking him somewhere else. They warned him that if he did not do as he was told he would be punished in a manner worse than his previous punishment. He was returned to the larger cell where he remained for some time, possibly as long as one to two weeks.

Detention in third detention facility - Abu Ghraib

52. On the day of his transfer, the Claimant's hands were tied behind his back, his feet were tied and he was hooded. He was taken from the cell, put into a vehicle and driven for two to three minutes. He was then taken out of the vehicle and put into a helicopter. After flying for approximately five minutes the helicopter landed. The Claimant was put into another vehicle, which drove for around two minutes before he was taken out and led into a building. The Claimant was taken to a room where his clothes were cut off and he was

provided with red coloured clothes to wear. The Claimant was then taken to another room. He heard the door being locked behind him. His hood was removed and he saw that there were other detainees in the cell. The detainees told him that he was in a prison called Abu Ghraib.

53. The Claimant was detained in the communal cell for between two to four days. On one of the days an issue arose amongst the detainees and soldiers threw tear gas canisters into the cell and stormed in. They grabbed the Claimant and some other detainees and dragged them into another room. The Claimant was struck with a rubber instrument whilst lying on the floor. He was then lifted onto a table and beaten further on his feet and waist. The Claimant asked why he was being hit, denying that he had been involved in the problem that had arisen between the other detainees. He was taken back to the communal cell. His feet were so swollen that he was unable to walk.
54. After approximately three days the Claimant was hooded and taken to an interrogation room. When his hood was removed he saw Abu Omar and another interrogator. They began to interrogate him in the course of which they threatened to torture and kill him. They also kicked and punched him.

Rendition to Afghanistan

55. In March 2004, UK officials acquired express knowledge that it was the intention of the US to render the Claimant to Afghanistan. Despite this knowledge, no steps were taken by or on behalf of the UK authorities to seek to veto the Claimant's rendition or to seek his return to UK custody. This is notwithstanding that the UK Government had previously signed a Memorandum of Understanding with the Governments of the US and Australia which expressly provided:

"2. US, UK, and Australian forces will, as mutually determined, accept (as Accepting Powers), prisoners of war, civilian internees, and civilian detainees who have fallen into the power of any of the other parties (the Detaining Power), and will be responsible for maintaining and

safeguarding all such individuals whose custody has been transferred to them. Transfers of prisoners of war, civilian internees, and civilian detainees between Accepting Powers may take place as mutually determined by both the Accepting Power and the Detaining Power.

...

"4. Any prisoners of war, civilian internees and civilian detainees transferred by a Detaining Power [the UK] will be returned by the Accepting Power to the Detaining Power without delay upon request by the Detaining Power.

"5. The release or repatriation or removal to territories outside Iraq of transferred prisoners of war, civilian internees, and civilian detainees will only be made upon the mutual arrangements of the Detaining Power and the Accepting Power."

56. On a date unknown between March 2004 and June 2004, the Claimant was rendered to Afghanistan by US forces. Prior to transfer the Claimant's eyes, face and entire body were taped tightly with duct tape, leaving just a small hole underneath his nose. He was then placed into a vehicle and driven a short distance. He heard the noise of a large plane, before being placed onto the aircraft. The Claimant received an injection in his left arm that caused him to lose consciousness.
57. When the Claimant regained consciousness the tape had been removed from his face. He saw that the door to the aircraft was open and the plane had landed. He was provided with some water and the rest of the tape around his body was removed. Blacked-out goggles were placed over his eyes and ear muffers were placed over his ears. As a result, he was unable to see or hear anything. His hands and feet were bound with plastic ties.
58. The Claimant was placed in a vehicle and driven to a large building. He was taken inside a room that contained people wearing both military and civilian clothing. He was made to stand inside a small red circle whilst the plastic ties

were removed from his wrists and feet and the goggles and ear muffers from his head. His clothes were then forcibly removed.

59. The Claimant was shouted at and told that his name was now "890". In 2007, the US military changed this number and gave the Claimant the Internment Serial Number (ISN) 1433. He was then photographed while naked before being led to a shower room where his head was forcibly shaved and he was provided with orange trousers and a shirt. The goggles and ear muffers were placed back over his head and his hands and feet bound with plastic ties.
60. The Claimant was placed in a filthy solitary cell containing rats and cockroaches. He was told that if he misbehaved the rats and cockroaches would be placed in his clothes. He was warned that if he fell asleep he would be assaulted.
61. After a period of time soldiers entered the cell and he was led away to undergo interrogation. Once inside the interrogation room the goggles and ear muffers were lifted slightly. The room was filled with American flags and the interrogator informed him that he was now in America and the next stop would be Guantanamo Bay.
62. The Claimant was held in the solitary cell for approximately 10 days. Throughout this time the goggles, ear muffers and plastic ties remained on, meaning that he could neither see nor hear. He was not allowed to rest. On numerous occasions the Claimant would have to request that he wanted to use the toilet. The toilet consisted of only a hole in the ground with no door or privacy. He would be allowed to use the toilet for only one minute before being dragged back to the cell, even if he had not finished.
63. During this period he was taken to interrogation again. He was shown a picture of the Punjabi man, Amanatullah Ali, who had been captured at the same time as him. The Claimant could barely recognise the man from the photo, since it showed him severely injured. He had been previously told this man was dead. He was surprised and confused to see him in this picture.

64. After approximately 10 days the Claimant was moved to a different cell. Although the cell was very cold, he was provided with only a small blanket. The goggles, ear muffers and restraints remained on at all times, except when he was undergoing interrogations. The Claimant spent approximately 15 days inside this cell during which time he was taken frequently for interrogation. During those interrogations he was threatened that, if he did not cooperate, his family would be brought to the facility and locked up forever.
65. After approximately 15 days inside this cell the Claimant was taken to the second floor of the building, which he understood was called 'ISO5'. The goggles, ear muffers and restraints were removed. The Claimant remained in this solitary cell for approximately three months, during which time he had no contact with anyone except for the soldiers. The cell measured approximately two metres by two metres. Initially the soldiers would prevent him from sleeping; they would play loud music and, if the Claimant drifted off to sleep, soldiers would kick the door loudly. The soldiers controlled the lights to expose the Claimant to either long periods of light or long periods of darkness. Each time the Claimant tried to pray the music would be turned up in volume and water would be thrown at him. During detention in this cell, the Claimant constantly felt very cold. He was anxious, worried, stressed and frightened.
66. The Claimant's treatment during detention in ISO5 was particularly harsh. He understood that interrogators would send detainees to ISO5 if they were uncooperative, as punishment and to scare them. On occasion while he was detained in ISO5, interrogators would place him in a small cell, similar to a cage, to punish or intimidate him.
67. After approximately three months the Claimant was taken to a different solitary cell which he understands was known as 'Overfloor One'. He spent around two months in this cell during which time he was interrogated regularly. He was subjected to further threats, including threats of being sent to Guantanamo Bay. The Claimant asked where he was being held and was informed that he was in America.

68. After two months in 'Overfloor One' the Claimant was taken to a shower room. When he objected to having no privacy, his clothes were forcibly removed and he was thrown into the shower. While his hair and body were still covered in soap, the soldiers turned off the water and told him to re-dress.
69. Approximately one to two days later the Claimant was taken to a communal cell, containing approximately 20 other detainees. There were sixteen communal cells in this location arranged in two rows of eight cells, which were back to back. All the cells were within a large building which had chains and pulley machinery on the roof. The Claimant believes that the building was an aircraft facility and that these communal cells were known collectively as 'the Main Floor'. Detainees held in these cells were able to see into the cells to their left and right. The cells were similar to cages and had no walls. Guards could walk on walkways above the cells, from where they could observe and maintain watch over the detainees.
70. The Claimant understands that the first cell he was placed in was known as 'Cell 4'. He was warned that if he attempted to speak with any other detainee he would be punished. On one occasion he tried to speak discretely to someone inside the cell. When the guards saw this they forced him to stand with his arms held straight out to the side in a 'T' position for 30 minutes. On occasion the Claimant was removed from Cell 4 and placed in a very small 'airlock' cell, measuring approximately one and a half metres by one metre, and approximately two and a half meters in height for six hours. His hands and feet were bound tightly to his waist, making it impossible for him to move or stand up on his own. His eyes and ears were covered by goggles and ear muffers. The Claimant was in constant pain, extremely worried, anxious and stressed while in the 'airlock'.
71. The Claimant was held in Cell 4 for approximately one year. He was provided with food three times a day but only given a short time to eat. There was a toilet inside the cell but this was not separated from the main cell; consequently, the Claimant found it humiliating to use. Guards would take groups of 10 detainees

at a time to the showers. The detainees would be tied together and dragged to the showers. Their hands and feet were untied briefly to allow them to wash. The showers were communal, thus offering no privacy at all. Further, guards, including female guards, would remain present while the detainees were washing and would laugh and make comments. Detainees were insulted, sworn at and told "*This is how we treat Muslims*" while being abused. Any detainee that refused to undress would be assaulted. The guards would frequently turn off the water before the detainees had been given the chance to rinse the soap from their bodies.

72. In 2005, the Claimant was moved from Cell 4 to Cell 9. He was informed that Cell 9 was reserved for those detainees who were not going to be released any time in the near future. As a result, the Claimant felt hopeless. He felt like he would die in prison, without ever having lived a full life. By this time the Claimant was suffering from a number of health problems including open wounds on the right side of his chest and on his feet due to the beatings he had received in Iraq. The Claimant had not received any medical attention for these injuries, either in Iraq or Afghanistan. Consequently the wounds had become infected. The Claimant also suffered problems with his eyes.
73. The Claimant remained in Cell 9 for approximately two years. He believed that his captors would kill him in detention. This caused him significant tension and stress.
74. In Cell 9 the Claimant was allowed to talk to other detainees within the communal cell. This was the first time he discovered he was being held in Bagram Internment Facility in Afghanistan.
75. Approximately six months after being moved to Cell 9, in approximately 2006, the detainees protested about the conditions of their detention, in particular the fact they were completely deprived of any exposure to daylight. After six months of protesting, the guards began taking detainees outside once a week for approximately five minutes at a time. Detainees were bound and made to

wear goggles and ear muffers. This was the first time the Claimant had felt daylight for approximately two and a half years.

76. After a few months the detainees protested again about the conditions of their detention. The protest was peaceful and consisted of all the detainees standing at the same time. They asked for privacy to be able to use the toilet and an improvement in the standard of food, which had caused some detainees to fall ill. The detainees further asked that they not be prevented from praying by the soldiers, who would make loud noises and mock detainees during prayer, while walking along the top of the cells. On occasion, the soldiers would order detainees to keep their hands in the air for long periods of time whilst they were attempting to pray. In response to the protest the soldiers erected plywood dividers between the cells to prevent the detainees from communicating with those in the cells to their left or right. Guards also entered the cells with dogs and sticks and, if they saw a detainee standing, they would inject them with a substance that caused temporary paralysis.
77. The Claimant was injected with the paralysing substance on two occasions. As a result of the injection he could still see, hear and feel but was unable to move any part of his body. The Claimant felt he had permanently lost use of his arms and legs and was deeply distressed and anxious as a result. On both occasions, after receiving the injection, the Claimant was transferred to an isolation cell for around a month. The Claimant was initially unable to move at all. Over a period of at least three days the paralysis would slowly but gradually wear off. On the third day the Claimant was able to move but to do so caused extreme pain.
78. On each occasion on the first day after being so injected, the Claimant was not given any food. He was later given military rations to eat. The rations were thrown inside his cell and ordered to eat. However, at first the Claimant was unable to move his arms and hands sufficiently to eat. When he was able to place food in his mouth he had difficulty swallowing and to move his hands caused him great pain.

79. The isolation cells used for punishment by the guards consisted of a small plywood room with no toilet facilities. Guards would refuse to take the Claimant to the toilet so he was forced to defecate and urinate on the floor of the cell. At one stage he was provided with an empty bottle in which to urinate. However, once he had used the bottle guards would enter the cell and empty it all over the cell floor, where the Claimant had to sleep. The cell was never cleaned throughout the time he spent in this cell, leaving the Claimant in the stench of his urine and faeces. The Claimant felt completely humiliated and degraded by this treatment.
80. Whilst held in the communal cells the Claimant was intermittently taken for interrogation. On each occasion soldiers would enter the cell and place goggles and ear muffers over his head before leading him to the interrogation room. The Claimant was assaulted during the interrogations, including being hit over the head, stomach and feet with a plastic bottle. He was later informed that he had been questioned by a number of groups including the FBI, CIA, Military Intelligence ('MI') and Criminal Investigation Task Force ('CITF').
81. The interrogations at Bagram continued for approximately three years, occurring between one and three times a week. The Claimant would be forced to repeat the same account on each occasion and the interrogations lasted between six and eight hours each. On occasion the interrogators would activate an air conditioning unit at a very cold setting for up to two hours before and/or during the questioning. After three years the interrogations began to lessen in frequency to approximately once every two to three months.
82. After two years of being held in Cell 9, in approximately 2007 the Claimant and the other detainees were moved to another location, which the Claimant understood was known as 'Casebin'. The Claimant understands that they were the first detainees to be held in this newly built facility. The facility consisted of two rows of nine cells facing each other. The cells were referred to as 'Kilo 1', 'Kilo 2' etc.

83. There was a toilet inside the cell. The guards provided the detainees with a short curtain, about 40cm in length, which the detainees used to cover their bodies when they used the toilet. Their heads and feet would still be visible, however, which the Claimant found humiliating. Guards would allow the detainees to pray only at certain times, which did not accord with the correct Muslim prayer times. The detainees were unable to perform ablutions, which caused the Claimant significant tension and stress because it interfered with his religious practice.
84. The Claimant was aware of changes in the guards throughout the time he was held at Bagram. Initially the guards were part of the US Army. By 2006 the guards had changed to US Air Force personnel. In 2007, when he was moved to 'Casebin', the guards were a mixture of US Air Force and Marine Corps. The Marines, which were a relatively small group of guards, were particularly harsh in their treatment of detainees. They would prevent detainees from sleeping by kicking and beating anyone whom they caught sleeping. The Marines also threatened to torture the detainees, including the Claimant.
85. Once they had moved to the 'Casebin' the detainees were provided with copies of the Quran. If the Marines found detainees reading the Quran, however, they would throw water over it to stop them from reading. The detainees were allowed outside for 20 minutes twice a week. During this time their feet and hands remained bound. Although the detainees were not made to wear goggles or ear muffers at this time, they were warned to only look at the ground otherwise they would be returned to the cells. The Claimant yearned to look up and see the sky. The detainees were guarded throughout their time outside. There was a line on the ground, which the detainees were not allowed to cross.
86. The process for washing remained largely the same as on the Main Floor. The detainees would be taken to use the showers communally. The guards did introduce small curtains that would cover part of the detainees' bodies once inside the shower, but this still did not provide proper privacy, which humiliated the Claimant.

87. The detainees were searched regularly by the guards. Each time they left the cell to go to the showers or to recreation they would be subjected to humiliating and intimate searches, including to their genital areas. The Claimant found these searches extremely humiliating. He also saw them as strictly punitive. Guards would also search the cells and would flip over beds and throw the detainees' Qurans on the floor in a disrespectful manner. This happened on each occasion the detainees left the cells.
88. In addition, whenever the guards brought food they would leave it directly outside the cells for two to three hours, so that the detainees could see it but could not reach it. During the holy month of Ramadan, the guards would not bring food until after the first prayer, meaning that detainees were unable to eat until the evening.
89. In 2006, as a result of the treatment by the guards the Claimant and other detainees went on hunger strike. As a result of his participation, the Claimant was placed in isolation for one month and force-fed through a tube against his will. During force-feeding, the Claimant's hands, feet and neck were bound to a chair using instruments similar to a belt. A tube was then inserted through his nose by people he believes were military medics. Force-feeding caused the Claimant to experience severe pain.
90. The Claimant subsequently went on hunger strike on a number of other occasions during his detention at Bagram. The Claimant was subjected to force-feeding as described above on at least six separate occasions. The last occasion on which he was subjected to his practice was in approximately 2010.
91. In 2007 there was a spate of protests throughout the year. To punish the detainees, guards would burst into the cells by force and assault the detainees, including the Claimant. On the occasions detainees were taken from the cells, the guards would drag them and trip them up as they walked. Sometimes guards would call detainees to the door of the cell and squirt pepper spray in their eyes. The Claimant was sprayed in his eyes in this manner on a number

of occasions. The pepper spray made his eyes burn, causing temporary blindness that sometimes lasted for an entire day.

92. On some occasions the guards would decide to punish the entire cell. They would throw a canister of tear gas into the cell, causing detainees breathing difficulties that resulted in some of the detainees fainting. On these occasions the Claimant suffered from severe breathing difficulties and collapsed to the ground, but did not lose consciousness. Guards would also single out detainees and place them in isolation for months at a time. This happened to the Claimant on at least two occasions in 2007. The isolation cells were very cold. There was no bed inside the cell, which meant that the Claimant had to sleep on a freezing floor, without a blanket. The Claimant was provided with rotten fruit and a foul smelling piece of fruit loaf three times a day. When he ate the fruit loaf he suffered stomach pains. The Claimant was not provided with water so he was forced to drink from the latrine in the cell using his hands. Drinking from the latrine caused him to suffer from chest pains, gas and diarrhoea. The Claimant was never given clean water to drink nor was he given medical treatment for the ailments he suffered. As a result, the Claimant was anxious, stressed and worried.
93. In 2008 the Claimant was transferred from 'Casebin' back to the Main floor. The Claimant was no longer guarded by US Marines but by personnel from the US Army, Navy and/or Air Force. Soon after, the conditions of detention improved slightly. Overcrowding was a significant problem by this time, resulting in 25 people being detained in a cell that could hold a maximum of 20.
94. In 2009 the entire detainee population in the jail protested for approximately two months, demanding to face trial or be released if there was no evidence against them. Although some detainees went on hunger strike throughout this period, the Claimant did not do so as he was too weak. During Ramadan in August 2009 the authorities tried to break the protests. A meeting was called between the prison Colonel (whom the Claimant understood was called 'Colonel Creety') and representatives of the detainees, during which the Colonel insulted the

Claimant's religion and promised to make the holy month of Ramadan "hell" for the detainees.

95. Following the meeting the treatment of the detainees worsened. Guards would regularly break into the cells and stun detainees with a Taser gun. This happened to the Claimant on more than one occasion. Guards would also break the fingers and toes of detainees, and would force them to the ground, blindfold them and drag them out of the cells. The Claimant's fingers and toes were bent to the extent that he believes they were broken. On occasion guards would withhold food from the detainees for two days at a time. As a result, the Claimant remained hungry and was extremely weak. He was unable to stand, and could only lie down.
96. As a consequence of overcrowding the cells became so full that not all detainees could lie down at the same time in the cells. The toilets were insufficient for the detainees' needs and at one point guards turned off the water supply to the toilet in the Claimant's cell causing waste to flow from the toilets into the cell. At prayer time the guards would cut off the water supply so that the Claimant and others were unable to perform their ablutions. Once they had finished praying the water would be switched back on.
97. In 2008 the prison authorities had placed clocks along the outside of the cells so that detainees were able to tell the time. In 2009 however these clocks were removed. As the cells contained no natural light, the Claimant and others could no longer tell when it was time to pray. At the same time the detainees' blankets were removed and the air conditioning turned up to a very cold setting. As a result, it was very difficult for the Claimant to sleep. He would typically wake up every 30 minutes and could never sleep in peace. Every night the authorities would perform a headcount of the prisoners. The increased prison population meant that the process took a number of hours, throughout which time the detainees were forced to stand.
98. The Claimant was not interrogated at all in 2008. In 2009 he was interrogated twice. The first interrogation was conducted by two people who were not

American. The men wrote questions on a piece of paper and these were then translated into Urdu by a translator. The Claimant did not hear the men speak and was unable to see the language they were writing on the paper. The second group consisted of five people all of whom spoke Urdu. The Claimant does not know the nationality of these people.

99. In approximately 2009/10 the Claimant began suffering from persistent problems with his teeth and significant pain due to mouth ulcers. Approximately six months after the pain first started, he was provided with some painkillers. In 2009, the Claimant was taken to a dentist who alleged the Claimant was not suffering from any ailments. He ordered the Claimant be returned to his cell. The Claimant continues to suffer from these problems to date.
100. In early 2010, while detained on the Main Floor, the Claimant underwent an operation to his right upper leg. Following the operation the Claimant was in such pain that he was unable to walk. The Claimant subsequently underwent a further seven similar operations on his right leg and two operations to his abdomen/groin.
101. In January 2010 the prison authorities moved all those detainees in the Main Floor and Casebin to a new facility called the Detention Facility in Parwan ('DFIP'). The Claimant was transferred to DFIP on 29 January 2010. After 10pm on that date, guards entered the Claimant's cell and short-shackled his hands very tightly to his waist, causing him great pain. The Claimant was unable to stand up on his own and had to be carried by guards. The Claimant was unable to move his arms or his hands. The Claimant's feet were also bound and goggles and ear muffers were placed over his head. This treatment also happened to the other detainees in the cell.
102. Following this each detainee was assigned two guards, who then led the detainees outside the cell and onto a coach. If anyone made any movement on the coach the guards would spray the detainees, including the Claimant, with a foul smelling spray that caused them to vomit.

103. The journey lasted approximately 20 minutes. The Claimant was then pulled forcefully from the coach. The guards kept trying to trip up the detainees, including the Claimant. The Claimant fell as a result and, as he was restrained and unable to break his fall, he suffered injuries to his face.
104. Inside the DFIP were 4 buildings known as 'Alpha', 'Charlie', 'Delta' and 'SHU' the latter of which the Claimant later understood stood for 'Special Health Unit'. The Claimant was taken to Cell 8 of SHU, which was a communal cell. Although the building was new and the cell was clean, the food was much worse than he had previously been provided with, and the water was dirty and brown. For around a year whilst he was in the DFIP the Claimant and others protested at the poor standard of food and water.
105. By the time the Claimant was transferred to the SHU, his physical and mental health had deteriorated significantly. He was confused about why he had been moved and became very anxious about the future. He had difficulty sleeping, was depressed and suffered from severe stress. He still suffered from pain in his right leg and continued to experience difficulty in walking after his operation.
106. The Claimant spent approximately six to seven months in a mental health facility in Bagram. For some of the time he was treated with medication which he believed made his condition worse and made it difficult for him to sleep. He was provide with poor quality food at irregular hours. He was taunted that he was crazy.
107. In or around March 2010 the Claimant was informed that towards the end of 2009 the Detainee Review Board had recommended him for transfer to Pakistan for release.
108. On 5 June 2010, a US Detainee Review Board made a further determination that the Claimant's continued detention was "*not necessary to mitigate the threat he poses*"; that he should be transferred to Pakistan for release and that he was not an "*Enduring Security Threat*". On 15 June 2010, the recommendation of the Review Board was approved by Brigadier General Mark

S Martins of the US Army. The Claimant was never informed of the 5 June 2010 recommendation or the 15 June 2010 approval during his detention at Bagram.

109. By June 2011 the Claimant was being subjected to particularly harsh treatment, including being kept in isolation for approximately 60 days and being denied access to Pakistani officials visiting the prison. He was informed by guards that he not allowed to meet with the Pakistani delegation and that he would never see Pakistan again.
110. In 2011 a new Colonel was appointed whom the Claimant understands was called 'Colonel Cook'. Following her appointment the quality of the food deteriorated, causing the detainees, including the Claimant, to suffer severe diarrhoea frequently. As a result, the Claimant felt very weak and lost approximately ten pounds in weight.
111. On occasion the guards would tell the Claimant that he was due to be released but this turned out to be untrue and caused the Claimant distress. From time to time guards would take a group of detainees from the cell for a medical check-up. The detainees would be given clothes and be taken to a waiting room for a week. After a week the detainees would then be informed that their release had been cancelled and returned to the cells. Although this did not happen personally to the Claimant, the guards' actions heightened general tension and distress amongst the detainees.
112. In 2013 a new Colonel, whom the Claimant understands was called 'Colonel Jones', was appointed to the prison. He introduced recreation time two to three times per week and the guards became more respectful of the detainees. However in 2014 a new Colonel arrived, Colonel Hussey, and the conditions of detention deteriorated once again. In particular, the quality of the food deteriorated. Whereas in 2013 detainees would be provided with up to five different dishes a week, they would only be given three different dishes a week in 2014. The food was not cooked properly and insufficient quantity was provided for the approximately 15 detainees in the Claimant's cell. Recreation

time was reduced to one hour three times per week and headcounts at the prison increased. Four to five nights a week guards would prevent the detainees, including the Claimant, from sleeping by shouting and stamping on the floors directly above the cells. Colonel Hussey would also threaten the detainees.

113. In 2014 the Claimant was interrogated by agents, whom he understood were from the CIA and Military Intelligence. He was threatened that if he did not speak, he would be forced to do so. Many of the other detainees were also being interrogated around this time. One prisoner, known as Abdullah ISN 22809, disappeared from the cells. When the Claimant asked Colonel Hussey where the detainee had gone he was told that his disappearance was to set an example to the remaining detainees to cooperate and answer questions.
114. In early May 2014 the Claimant and other detainees started a hunger strike in protest at Abdullah's disappearance. They did not eat or drink for six days, causing some of them to faint, including the Claimant. As a result, he was taken to a medical facility and given an IV drip. During the hunger strike the detainees were deprived of sleep by the guards who would bang on the cell door. The detainees were informed that their actions would not bring Abdullah back. They were threatened with being force-fed and with death. Although the Claimant was not subjected to force-feeding on this occasion, two other detainees were, causing the other detainees stress and anxiety. Eventually the authorities promised to bring back Abdullah and he was eventually returned to the cells two weeks later.
115. Shortly after the Claimant and approximately nine other Pakistani detainees were taken for a meeting with representatives of the International Committee of the Red Cross (ICRC). They were informed that the US had signed their release documents. Further details of the Claimant's contact with the ICRC are set out below.
116. On 14 May 2014, the Claimant was taken for a meeting with a Captain Braunlich. The Claimant was presented with two pieces of paper, one in Pashto

and one in English, and was asked to sign the same. When the Claimant informed Captain Braunlich that he wanted to read the documents before signing, he was told that there was no need to do so. Despite this the Claimant read the document in Pashto. Since he could not quite understand the document in Pashto, he also read the English document, which he could understand. He understood from the documents that he was being asked to agree not to make any complaint about or criticise the US for his treatment. When the Claimant refused to sign the documents he was told that any refusal to sign would create problems regarding his release.

117. After discussions in which Captain Braunlich sought to persuade him in a very forceful manner to sign the documents, the Claimant reluctantly signed the document in Pashto. After more than 10 years in detention he was desperate to be released. The Claimant wanted to write on the document that he was signing reluctantly but was stopped from doing so by Captain Braunlich, who handed him a blank piece of paper and told him to write his concerns on the same. The Claimant wrote on the separate piece of paper that he was reluctantly signing the form.
118. On 15 May 2014 US military forces entered the cell and placed a chain tightly around the Claimant's waist. His hands were then cuffed to the chain around his waist very tightly, making it impossible for him to move his arms or hands. The cuffs around his wrists were so tight they caused his hands to become swollen, causing him severe pain. The Claimant was then subjected to an invasive body search whilst wearing his clothes before being led out of the cell and onto a bus, which contained other detainees.
119. The bus drove for approximately 20 minutes before coming to a stop. The Claimant and the other detainees were then led onto a US military aircraft. The flight lasted approximately 60 to 90 minutes during which time the Claimant was forced to sit tightly bound, causing him pain. The Claimant understands that they landed in a place called 'Ashian'. After disembarking from the aircraft the Claimant was informed that he was in Islamabad, Pakistan.

120. Shortly after arriving in Islamabad, the Claimant was transferred to Huda Jail in Quetta, where he was asked questions for a number of hours before being told to thumbprint a piece of paper. When the Claimant objected to thumb-printing the document without knowing its contents, his thumbprints and fingerprints were forcibly placed onto the paper.

Contact with the Outside World During Detention

121. The Claimant first met with representatives of the ICRC in 2005, when he was transferred from Cell 4 to Cell 9. The ICRC representative was harsh and unkind and asked him questions in the same manner as the interrogators. The representative informed the Claimant that they would get in touch with his family. As a result, the Claimant was hopeful he would finally be able to speak to his family and inform them of his whereabouts. However, approximately 60 days later he was told that the US had refused to allow them to contact his family. This dashed the Claimant's hopes, causing him significant tension and concern. He could not understand why the US had prevented him from speaking to his family. The Claimant noticed in subsequent interrogations that the interrogators were asking about information that he had only told the ICRC. As a result the Claimant mistrusted the ICRC representatives. He later understood that other detainees had been punished on the basis of information they had provided to the ICRC. As a consequence the Claimant and other detainees would frequently boycott ICRC visits, although the Claimant did meet with ICRC representatives intermittently during his detention.

122. The Claimant met with representatives of the ICRC, three to four days prior to going on hunger strike in early May 2014 in protest against the disappearance of the detainee known as Abdullah ISN 22809. The Claimant informed the ICRC representatives that he and other detainees were about to commence a hunger strike in protest at Abdullah's disappearance and requested that they contact his lawyers in Pakistan and REPRIEVE about what was occurring. The representatives assured him that they would do so. The Claimant also made a similar request to his Personal Representative. Following the hunger strike the Claimant met again with the ICRC representatives and asked them whether

they had done as he had requested. The ICRC representatives informed the Claimant that they had taken no action as it was against US rules to pass on information to REPRIEVE or to his Pakistani lawyers.

123. During the first six years of his detention, other than limited contact with ICRC representatives as referred to above, the Claimant had no direct contact with the outside world, including his family or lawyers. It was not until May 2010, that his family, through their own researches and with the assistance of the NGO REPRIEVE, learned that he was being held in Afghanistan. Following this the Claimant was permitted only one short telephone call to his family approximately every two months. These calls were monitored by the Afghan and/or US authorities, so the Claimant was unable to speak freely, in particular in relation to his legal proceedings.

Access to Medical Care

124. During detention the Claimant's access to medical care was limited and controlled in an arbitrary manner. The Claimant received little or no medical treatment, except in the form of tablets and analgesia. Such medical care as he received failed to improve his condition. Approximately once every three to five months the Claimant would request medical attention. Upon making a request the Claimant would receive a number from the guards, and approximately two months later he would be given access to a doctor. Frequently the guards would refuse to provide a number to him after he made a medical request, claiming that he was medically fit and did not need to see a doctor, thus denying him effective access to medical attention.

Eventual Release

125. The Claimant was finally released from detention on 17 June 2014, after over 10 years in detention. The Claimant has experienced, and continues to experience, significant difficulty re-adjusting to life in the outside world after release. He feels the world has changed considerably since his detention and that he no longer fits in. The prospect of seeking employment and starting a

family after years of debilitating abuse, mistreatment and detention seems particularly daunting.

126. Simple features of daily life outside of custody represent substantial challenges for the Claimant. Upon his release from Huda Jail in Quetta, the Claimant was shocked to see vast open spaces, an open road, markets and cars. Over the last ten years the Claimant had not been allowed to move more than the most minimal distance without being held by a guard on either arm. When he first stepped out of the prison gates, he was unable to walk unaccompanied. As a result, he had to call for his cousin, who was walking a few steps ahead, and ask him to walk beside him at all times. He was also surprised to see children playing happily and without inhibition, since this was a sight he had been deprived of throughout his detention.
127. The Claimant is extremely distressed by the exceptionally cruel and sustained mistreatment he experienced over the course of more than a decade, which he feels was a complete affront to his humanity. He experiences a constellation of severe psychiatric symptoms that interfere with every aspect of his psychological functioning, including but not limited to reliving traumatic episodes, quasi-psychotic experiences, emotional detachment, and cognitive problems. He is not able to engage in any meaningful way in a normal life.
128. The Claimant feels like a stranger in his family. During the 10 years of his detention his family has changed considerably. When he first re-entered his family home following his release, the Claimant did not recognise his own mother, who was in the room, and asked his relatives to take him to see her. Some of his relatives passed away during his detention; others he knew as children have now grown to become adults.

Knowledge on the part of the Defendants of the practice of extraordinary rendition and exposure to mistreatment and torture

129. The Claimant contends that at all material times the Defendants were aware of the following facts and matters, or alternatively that they ought to have known of the same:

- 129.1 That the US was operating a rendition programme whereby individuals could be detained unlawfully, without any recourse to judicial process and thereafter rendered to third countries (including the US detention facility at Bagram) where they would be detained by US military authorities arbitrarily, indefinitely, incommunicado and without access to legal representation for the purpose of (amongst other things) seeking to obtain intelligence from them;
- 129.2 That the position of the US Government was that the protections of the Geneva Conventions did not apply to such individuals;
- 129.3 That the conduct of interrogations of such individuals could involve the use of aggressive methods amounting to inhuman or degrading treatment and torture;
- 129.4 That the conditions of transfer and detention of such individuals would be likely to involve systemic abuse and mistreatment at the hands of US military and civilian authorities which could amount to torture;
- 129.5 That the strategic targets of the rendition programme were those alleged to be members and associates of terrorist organisations and, in particular, those perceived to have links with Al Qaeda;
- 129.6 That the interrogation of individuals suspected by the US authorities to be linked to Al Qaeda could be 'out-sourced' to the security services of other countries (such as those in Egypt, Libya, Pakistan or Jordan) which are known to practice torture systematically against terrorist suspects;
- 129.7 That the identification to US authorities of individuals as being suspected of involvement in Islamic terrorism (and particularly if they were said to be linked to Al Qaeda) would expose the said individuals to a real and immediate risk of rendition, arbitrary detention, mistreatment and torture by the CIA or others.

130. In support of this contention, at the present time and pending disclosure, the Claimant relies on the following:

130.1 The chronology of events set out at Schedule 1 hereto. The chronology is compiled entirely on the basis of public documents of which the Claimant is presently aware and is not exhaustive. Reliance is also placed on the assumption that the Defendants would at material times have had knowledge of additional facts and matters;

130.2 Any relevant evidence adduced in *R (Binyam Mohamed) v Secretary of State for Foreign and Commonwealth Affairs* Case No. CO/4241/2008 [2008] EWHC 2048 (Admin).

131. In respect of Camp Nama, where the Claimant is believed to have been held for a period of time following his capture in Iraq and prior to his rendition to Afghanistan, the Defendants were aware of and complicit in abuses that took place there. In particular:

131.1 Personnel from two RAF squadrons and one Army Air Corps squadron were given guard and transport duties at Camp Nama;

131.2 British servicemen serving at Camp Nama witnessed abuse taking place there, including:

(a) A man having his prosthetic leg pulled off and being beaten about the head with it;

(b) Iraqi prisoners being held for prolonged periods in cells the size of large dog kennels;

(c) Prisoners being subjected to electric shocks;

(d) Prisoners being routinely hooded;

(e) Inmates being taken into a soundproofed shipping container for interrogation, and emerging in a state of physical distress.;

131.3 At least one British serviceman sought to raise concerns about the treatment of detainees at Camp Nama with his officer, and was told "*You didn't see that – do you understand?*";

131.4 Human Rights Watch has reported that detainees in Camp Nama were subject to beatings, exposure to extreme cold, threats of death, humiliation and various forms of psychological abuse or torture. The

New York Times has reported that prisoners were beaten with rifle butts and had paintball guns fired at them for target practice;

- 131.5 Despite the knowledge that UK officials had of the abuse, many of the detainees at Camp Nama were brought there by squads formed from Special Air Service and Special Boat Service squadrons.

VIII. The Claimant's claims

Trespass to the person / assault and false imprisonment

132. Officers of the First Defendant's armed forces, without lawful justification or excuse, inflicted unlawful, unjustified and/or excessive force on the Claimant and detained him without lawful justification as described in paragraphs 11 to 35 above. In particular those officers:

- 132.1 Detained the Claimant from the moment they laid hands upon him following entry into the apartment and throughout the period before he was handed to the US;
- 132.2 Repeatedly struck the Claimant with rifle butts and kicked him in the stomach and head during his initial arrest, causing him to fall unconscious;
- 132.3 Used their weapons to beat the Claimant severely on his head during his transfer by helicopter, causing him to lose consciousness;
- 132.4 Tied the Claimant to a vehicle by a rope at the first detention facility and dragged him along the ground for approximately 20 metres;
- 132.5 Threw him into a pen with a number of large dogs whereupon the dogs were permitted to attack the Claimant with their claws;
- 132.6 Thereafter forced the Claimant to remain in the dog pen for around five to six hours during which time he was intermittently beaten;
- 132.7 Placed the Claimant into a solitary cell and beat him on the mouth, stomach and legs;
- 132.8 Forcefully removed the Claimant's clothes, leaving him naked for extended periods;
- 132.9 Drenched the Claimant in cold water and then turned on the air-conditioning at full power;
- 132.10 Repeatedly assaulted the Claimant during interrogation;

- 132.11 Subjected the Claimant to mock-drowning by way of 'water-boarding', during interrogation causing him to lose consciousness;
- 132.12 Smashed the Claimant's head hard against a plywood wall causing him to lose consciousness;
- 132.13 Suspended the Claimant with his arms above his head; and
- 132.14 Forced the Claimant into an enclosed chamber.

Joint and/or direct liability for false imprisonment and trespass to the person, conspiracy to use unlawful means, conspiracy to injure

133. The Defendants, their servants or agents:

- 133.1 acted in concert or combination with US authorities and/or officials in causing him injury and / or assisted, encouraged and/or were otherwise complicit in; and/or
- 133.2 by common design with the US authorities and/or officials procured, arranged, assisted and/or encouraged (including doing acts in furtherance of this common design as particularised above)

the Claimant's unlawful detention, and mistreatment in Iraq and thereafter Afghanistan (including his rendition to that country) thereby making the Defendants, their servants or agents, liable as joint and/or primary tortfeasors and/or vicariously liable for the same torts.

134. The Defendants, their servants or agents engaged officials of the US as their agents and/or utilised those officials for their own purposes of interrogating, detaining, mistreating and/or transferring the Claimant, and are primarily liable for any tort committed by these or other third parties that the Defendants instigated, procured, ordered, authorised or subsequently ratified and/or are vicariously liable for any torts committed within the scope of these agents' actual, implied or apparent authority.

135. In particular and pending disclosure, the Claimant relies upon the actions of UK forces in transferring him to US custody, notwithstanding that the said forces knew, or ought to have known, that the US had a practice of subjecting detainees/internees suspected of having links with Al Qaeda to:

- 135.1 extraordinary rendition;

- 135.2 unlawful incommunicado detention;
 - 135.3 torture, inhuman and degrading treatment; and
 - 135.4 that the Claimant would or was likely to be subjected to such practices, if he were to be transferred to US custody.
136. In acting as aforesaid, the UK forces, their servants or agents, intended that the Claimant would be subjected to unlawful detention and mistreatment or alternatively were recklessly indifferent to the same and acted with the intention of securing an advantage to themselves or to the UK Government in terms of (a) obtaining intelligence from the Claimant, and / or (b) maintaining or improving their relationship with US authorities. Pending disclosure, the Claimant relies on the following facts and matters from which the said intention or recklessness is to be inferred:
- 136.1 The Defendants' officials were present in the first detention facility. They witnessed and engaged in his mistreatment.
 - 136.2 The Defendants' knowledge of the US' rendition and detention operations as set out in paragraphs 129 - 131 above and in Schedule 1 hereto.
 - 136.3 The knowledge of the Defendants' officials who had attended detention facilities in Afghanistan and who interrogated individuals held there. Such officers must have been aware that individuals were subject to inhuman and degrading treatment amounting to torture and must also have been aware that detainees had probably been subjected to and risked other worse treatment of which they had no direct knowledge.
 - 136.4 The fact that UK authorities had attended detention facilities in Afghanistan from at least January 2002 and from April 2002 established a permanent presence in a compound at Bagram airbase.
 - 136.5 Press reports and reports by organisations such as Amnesty International of human rights abuses being committed in US detention facilities, which appeared from about January 2002.
 - 136.6 Reports received from foreign Governments and other sources.
 - 136.7 Reported testimony of individuals held at or released from Guantanamo Bay and other US detention facilities.

Torture

137. By virtue of the *ius cogens erga omnes* status of the prohibition on torture in international law, the Defendants and their servants or agents were under a duty not only to eschew the practice of torture on their own part but in addition a duty:

137.1 ~~To instigate an effective investigation of any allegations of torture directly or indirectly involving UK officials;~~

137.2 Not to consent to or acquiesce in acts of torture by other persons.

137.3 Not knowingly, negligently, recklessly or with the intention of gain, to procure, assist, abet, encourage, subsequently ratify, form and/or act in furtherance of a common design with, engaged as its agent or utilise for their own purposes any other person or persons directly engaging in acts of torture (or otherwise be complicit in the same).

137.4 Not to expose a person to a real risk of torture in circumstances where they knew or ought to have known of that risk.

137.5 To set in motion all procedures and measures to forestall or expeditiously put to an end any acts of torture when it is within the power of public officials to do so.

138. The Claimant contends that torture is an actionable tort at common law and that breach of the duties set out above renders a person a joint tortfeasor and liable in damages as such.

139. The Claimant further contends that the right to be free from torture is a fundamental or constitutional right at common law and that breach of the duties set out above by a public officer violates this right and renders the acts or omissions of a public officer unlawful and ultra vires.

140. In breach of these obligations the servants or agents of the First Defendant induced, assisted, encouraged, acquiesced in, procured, instigated, ordered, authorised, subsequently ratified, formed and acted in pursuance of a common design to and/or were otherwise unlawfully complicit in abuse and mistreatment of a severity amounting to torture, to which the Claimant was subjected, and / or exposed him to a real and immediate risk of the same, and / or the First and

Second Defendants failed to take reasonable steps to bring an immediate end to the same. Furthermore the Defendants are vicariously liable for the said torts of their servants or agents and were otherwise in breach of the said obligations as further particularised below.

141. In breach of the said obligations UK forces assisted, encouraged, acquiesced in, procured, instigated, ordered, authorised, subsequently ratified, formed and acted in pursuance of a common design to and/or were otherwise complicit in the torture of the Claimant during his detention by US forces and/or exposed him to a real and immediate risk of the same by delivering him into the custody of the US forces, knowing, or in circumstances where they ought to have known, that he would be subjected to torture.
142. In so acting the servants and agents of the First Defendant knew or were at least recklessly indifferent to the fact that those detained by or at the behest of US authorities were subjected to mistreatment amounting to torture and to the complicity of UK forces in such abuse.
143. The Defendants also breached the obligations set out above and were complicit in the Claimant's mistreatment and torture by:
 - 143.1 Failing to request the Claimant's return to UK custody in accordance with paragraph 4 of the 2003 MoU set out above, notwithstanding the Defendants' knowledge that the US authorities intended to unlawfully render the Claimant to Afghanistan and notwithstanding the Defendants' knowledge of the US' use of torture and inhuman and degrading treatment in the interrogation of detainees;
 - 143.2 Failing to take any steps to secure the US authorities' compliance with paragraph 5 of the 2003 MoU, requiring removal of prisoners of war, civilian internees and civilian detainees to territories outside Iraq to be effected only upon the mutual arrangement of the Detaining and Accepting Powers;
 - 143.3 Failing to instigate and pursue specific and comprehensive enquiries of the US authorities, notwithstanding the Defendants' knowledge of the

US practice of extraordinary rendition and the use of torture and inhuman and degrading treatment in the interrogation of detainees;

143.4 Failing to introduce measures that would forestall or put to an end to UK forces' complicity in torture of individuals such as the Claimant, including by:

- (a) requiring adequate and effective assurances from the US authorities as to the treatment of detainees before detainees were transferred from UK to US custody;
- (b) requiring members of the UK forces to make and report any information and suspicion that they had about abuse and mistreatment of detainees; and
- (c) requiring that detainees transferred from UK to US custody be given consular access and access to legal counsel throughout their time in US custody.

144. In so acting the Defendants and / or their servants and agents were at least recklessly indifferent to the fact that those detained by or at the behest of US authorities were subjected to mistreatment amounting to torture and to the complicity of UK forces in such abuse.

Misfeasance in public office

145. By reason of the matters aforesaid the Defendants and / or their servants and agents are liable to the Claimant for misfeasance in public office and the Defendants are vicariously liable for the acts and omissions of their servants and agents.

146. For these purposes the Defendants' servants and agents are public officers and the acts and omissions complained of against them occurred in their purported exercise of their powers as such.

147. The Defendants, their servants and agents acted with the intention of injuring the Claimant or with reckless indifference to the injury (including that caused by his indefinite arbitrary detention) that would be suffered by him at the hands of US authorities:

- 147.1 by subjecting him to the assaults, torture, inhuman and degrading treatment set out at paragraphs 11 - 35 above;
- 147.2 by forming and acting in pursuance of a common design to mistreat, unlawfully render and/or torture the Claimant;
- 147.3 by transferring him into US custody knowing, or in circumstances where they ought to have known, that he would, or was likely to be, subject to:
 - (a) extraordinary rendition
 - (b) torture
 - (c) inhuman and degrading treatment
- 147.4 by failing to take reasonable steps, prior to transferring the Claimant into US custody, to secure an effective undertaking from the US authorities that the Claimant would not be subject to:
 - (a) extraordinary rendition
 - (b) torture
 - (c) inhuman and degrading treatment
- 147.5 by failing to take reasonable, or any steps, following the Claimant's transfer into US custody to ensure that the Claimant would not be subject to:
 - (a) extraordinary rendition
 - (b) torture
 - (c) inhuman and degrading treatment

148. Further, the failings particularised in paragraph 147 above occurred in circumstances where the Defendants were under a duty, under:

- 148.1 common law
 - 148.2 Article 45 of the Fourth Geneva Convention relative to the protection of civilian persons in time of war ("GC4"), and/or
 - 148.3 Articles 3, 5, 6(1) and 8 of schedule 1 to the Human Rights Act 1998
- to take such steps, and the Defendants appreciated such duty but decided not to take such steps.

149. Pending disclosure, the Claimant relies on the facts and matters set out at paragraphs 129 - 131 above and in Schedule 1 to these Particulars of Claim from which it is to be inferred that the Defendants knew or ought to have known that the Claimant, if transferred to US custody, would or was likely to be subject to:

149.1 extraordinary rendition

149.2 torture

149.3 inhuman and degrading treatment

and that by transferring the Claimant to US custody notwithstanding such knowledge it is to be inferred that the First Defendant and/or its servants or agents intended to injure the Claimant or were recklessly indifferent thereto; and that by failing to take any or any reasonable steps to secure effective undertakings from the US authorities prior to transfer and/or by failing, post transfer, to take any or any reasonable steps to secure the Claimant's return to UK custody, it is to be inferred that the First and/or Second Defendants and/or their servants or agents intended to injure the Claimant or were recklessly indifferent thereto.

150. In so acting, or failing to act, the Defendants sought to exploit the detention and treatment of the Claimant for the advantage of the UK Government.

151. Further, the Defendants, their servants and agents, knew or were recklessly indifferent to the illegality of their actions, and specifically:

151.1 Their obligations at common law not to engage in, procure, request, encourage, condone, acquiesce in, subsequently ratify or otherwise facilitate arbitrary detention, trespass to the person and torture;

151.2 Their obligations at common law to forestall torture;

151.3 The UK's obligations under international law, in particular (a) the *ius cogens era omnes* status of the prohibition of torture, (b) the Geneva Conventions, and (c) the prohibition on arbitrary detention;

151.4 The obligations of the Defendants, their servants and/or agents under section 134 of the Criminal Justice Act 1988 and s.5 of the International Criminal Courts Act 2000.

152. The knowledge or reckless indifference of the Defendants, their servants and/or agents to their legal obligations is to be inferred from the facts and matters set out in paragraphs 129 - 131 above and in Schedule 1 to these Particulars of Claim.

153. Knowledge or reckless indifference as to the legality of the acts or omissions of the Defendants, their servants and/or agents can further be inferred from:

153.1 the UK's acts in agreeing the 2003 MoU in purported furtherance of its obligations under common law, the Geneva Conventions, and/or Articles 3, 5 and 8 of Schedule 1 to the Human Rights Act 1998. This was done in recognition of the known US position on the application of the Geneva Conventions, the US authorities' use of extraordinary rendition, torture and inhuman and degrading treatment. Notwithstanding the said recognition;

153.2 the Defendants failed to take any or any reasonable steps under the 2003 MoU to secure the Claimant's return to UK custody, or to secure US compliance with the Geneva Conventions and/or international law in respect of the Claimant.

154. It is to be inferred from the matters set out at paragraphs 129 – 131 above that the Defendants knew:

154.1 that it was essential to establish obligations of the nature purportedly set out in the 2003 MoU if the UK was to comply with its obligations under the Geneva Conventions, the common law and/or Articles 3, 5 and 8 of Schedule 1 to the Human Rights Act 1998 when transferring prisoners of war, civilian internees and civilian detainees to US custody;

154.2 but that the US authorities would not comply with the obligations purportedly set out in the 2003 MoU.

155. Further, or alternatively, knowing that it was essential to establish obligations of the nature purportedly set out in the 2003 MoU if the UK was to comply with its obligations under the Geneva Conventions, the common law and/or Articles 3, 5 and 8 of Schedule 1 to the Human Rights Act 1998 when transferring

prisoners of war, civilian internees and civilian detainees to US custody, the Defendants nonetheless knowingly failed to take any or any reasonable steps to secure US compliance with such obligations in respect of the Claimant.

156. The Defendants, their servants or agents caused the Claimant loss and damage in that their conduct caused or contributed to, or led to the continuation of his unlawful detention, and to his ill-treatment and exposure to ill-treatment including torture and to his suffering personal injury and psychiatric damage. It is contended that had the Defendants, or either of them, taken reasonable steps to:

156.1 secure effective undertakings from the US authorities prior to the Claimant's transfer to US custody; and/or

156.2 secure the Claimant's return to UK custody following his transfer;

and/or had the First Defendant, its servants or agents not transferred the Claimant into US custody, the Claimant would have been released and / or his mistreatment would have been brought to an end or there is a real and substantial chance that the same would have occurred. Furthermore the Claimant will rely upon the fact that the wrongful acts and omissions of the Defendants themselves materially contributed to the extent and exacerbation of the psychiatric damage the Claimant has suffered.

Negligence

157. The Defendants and / or their servants and agents owed to the Claimant, as a detainee within its custody and/or control, a duty of care:

157.1 Not to cause him to suffer, and / or expose him to a real risk of arbitrary detention, inhuman or degrading treatment or torture including by or on behalf of the security services or military authorities of the US Government.

157.2 To ensure he was not subjected to and/or to prevent and/or to stop arbitrary detention, torture or to inhuman or degrading treatment or punishment, unlawful assaults and/or battery;

157.3 To take steps within the scope of their power and responsibilities that might be expected to bring to an end the arbitrary detention, inhuman treatment and torture of the Claimant;

- 157.4 To ensure the Claimant received proper, adequate and appropriate medical treatment and care as a victim of torture and/or inhuman and degrading treatment.
158. This duty on the Defendants was non-delegable in light of the Claimant's vulnerability and/or dependence and/or their control over the Claimant as a detainee. Alternatively the Defendant is vicariously liable for the failings of its servants and agents.
159. The duty of care arises from an assumption of responsibility on the part of the Defendants and/or their servants or agents and / or the fact that the relationship between the Defendants and/or their servants or agents and the Claimant was sufficiently proximate; harm to him was reasonably foreseeable; and it would be fair, just and reasonable to recognise a duty of care. Pending disclosure, the Claimant relies, in particular, on the following facts and matters:
- 159.1 that the Claimant was captured and detained by UK forces and thereafter transferred by them into the custody of the US authorities in circumstances where they knew or ought to have known that he would or was likely to be subject to extraordinary rendition, torture and inhuman and degrading treatment, flagrant denial of justice; and
- 159.2 the legal duties on public officials established by the *ius cogens, erga omnes* prohibition of torture, which forms part of the common law as well as international law.
160. Without prejudice to such further information as may emerge on disclosure it is alleged that the Defendants and/or their servants and agents acted in breach of the duties of care owed to the Claimant in failing to act with reasonable care in that they:
- 160.1 Failed at all material times to have in place any or any adequate written doctrine or policy on the treatment of civilian detainees and interrogation techniques in warfare including but not limited to a clear written statement of the Parliamentary ban on the use of wall-standing, hooding, subjection to noise, deprivation of sleep, and deprivation of food and drink by the British military and/or any clear guidance on the

- use of sight deprivation and/or any adequate policy on the use of harsh approaches;
- 160.2 Failed at all material times to ensure that training provided to its personnel on the laws and customs of war including in particular as to the treatment of prisoners of war and civilian detainees was adequate, appropriate and legally correct;
 - 160.3 Failed to take all reasonable steps to ensure that its personnel had been trained, given adequate briefings and/or direction in the handling of civilian detainees during operations;
 - 160.4 Failed adequately or at all to supervise, train and/or discipline its soldiers to prevent and/or allowed or permitted unlawful prisoner capture, handling and interrogation techniques;
 - 160.5 Failed to have in place a proper system for ensuring that detainees were provided with adequate food, water and medical treatment during their detention;
 - 160.6 Failed to have any or any adequate policies and/or any or any adequate and proper system for ensuring that the Claimant received proper, adequate and appropriate medical treatment and care as a victim of torture and/or inhuman and degrading treatment;
 - 160.7 Failed to have in place any or any adequate policies and/or any or any adequate and proper system for ensuring that captured persons were not transferred to US forces when there was a foreseeable and real risk of arbitrary detention, torture, and/or inhuman and degrading treatment.
 - 160.8 Failed to take any or any reasonable steps prior to the Claimant's transfer to US custody to ensure that once transferred he would not be subject to unlawful rendition, torture and/or inhuman and degrading treatment;
 - 160.9 Transferred the Claimant into US custody in circumstances where they knew or ought to have known that the Claimant would or was likely to be subject to extraordinary rendition, torture and inhuman and degrading treatment;
 - 160.10 Failed, having transferred the Claimant to US custody, to take any or any reasonable steps to secure his return to UK custody once it

became known that the US authorities intended to render the Claimant to Afghanistan; and

160.11 Failed, having transferred the Claimant to US custody, to take any or any reasonable steps to ensure that the Claimant was not subjected to unlawful rendition, torture and/or inhuman and degrading treatment.

161. By reason of the Defendant's failures as aforesaid the Claimant was exposed to arbitrary detention and/or torture and/or inhuman or degrading treatment during his capture and detention and was detained in inhuman and/or degrading conditions. The Claimant contends that had these breaches of duty not occurred he would have been released from detention, and / or that he would not have been subject to unlawful rendition and/or his mistreatment would have been brought to an end or that there is a real and substantial chance that the same would have occurred. The Defendants, who are, at least, vicariously liable for the said breaches of duty, are liable in damages in consequence.

Breach of Article 3

162. Jurisdiction under the European Convention on Human Rights and under the Human Rights Act 1998 arises in the Claimant's case, in part because, at the time of his capture and until he was transferred by UK forces into the custody of US forces he was under the physical power and control of UK forces.

163. The Claimant was subjected to torture and/or inhuman and degrading treatment in that he was:

163.1 unlawfully beaten on transfer to the detention facility by UK forces whilst in their custody and control as further described in paragraphs 11-14 and 132.1-132.3 above;

163.2 subjected to unlawful assaults by UK forces during his detention at the first detention facility in Iraq as further described in paragraphs 15-35 and 132.4-132.14 above ;

163.3 subjected to beatings, hung upside down for long periods, whipped, threatened with rape and his head was submerged in water whilst held in US detention in Iraq;

- 163.4 held in isolation, in a confined space with no windows or ventilation for prolonged periods, often blindfolded;
- 163.5 held in conditions of both extreme cold and heat and was forced to remain naked for several weeks;
- 163.6 subjected to unlawful rendition by the US authorities;
- 163.7 held in incommunicado detention by the US authorities for more than six years;
- 163.8 force-fed through a tube whilst in US detention in Afghanistan;
- 163.9 denied necessary medical treatment during periods of his detention;
and
- 163.10 subjected to the mistreatment further described in paragraphs 36 - 120 above.

164. The Defendants, their servants and/or agents acted in breach of their obligations under s.6 of the Human Rights Act 1998 in conjunction with Article 3 of Schedule 1 to the Human Rights Act 1998 in that:

- 164.1 they failed to take any or any reasonable steps, prior to the Claimant's transfer to US custody, to avert the risk of the Claimant being subject to torture and/or inhuman and degrading treatment following transfer;
- 164.2 UK forces deliberately transferred the Claimant into the custody of the US authorities even though they knew or, at the very least, there were substantial grounds for believing that there was a real risk that the Claimant would be subject to unlawful rendition, torture and/or inhuman and degrading treatment following transfer; and
- 164.3 by transferring the Claimant into US custody and by failing to take any or any reasonable steps to secure his return or to procure the cessation of the various forms of mistreatment and violence set out above, the Defendants, their servants and/or agents actively facilitated and/or failed to prevent the Claimant's unlawful rendition, torture and/or inhuman and degrading treatment.

~~50.4 the Defendants have failed to conduct any or any effective investigation into the Claimant's credible allegations of torture and inhuman and degrading treatment.~~

Breach of Article 5

165. The Claimant repeats the matters concerning jurisdiction set out at paragraph 162 above.

166. The Claimant was subjected to unlawful and arbitrary detention contrary to Article 5 of Schedule 1 to the Human Rights Act 1998 in that he:

166.1 was subject to unlawful detention by UK forces in Iraq;

166.2 was subjected to extraordinary rendition; and

166.3 was subjected to unacknowledged detention for a period of over six years notwithstanding that on 5 June 2010, the US Detainee Review Board concluded that his continued detention was “not necessary to mitigate the threat he poses” and that he is not an “Enduring Security Threat”.

167. The Defendants, their servants and/or agents acted in breach of their obligations under s.6 of the Human Rights Act 1998 in conjunction with Article 5 of Schedule 1 to the Human Rights Act 1998 in that:

167.1 they failed to take any or any reasonable steps, prior to the Claimant’s transfer to US custody, to avert the risk of the Claimant being subject to unlawful and arbitrary detention;

167.2 UK forces deliberately transferred the Claimant into the custody of the US authorities even though they knew or, at very least, there were substantial grounds for believing that the Claimant was at real risk of a flagrant unlawful and arbitrary detention following transfer; and

167.3 by transferring the Claimant into US custody and by failing to take any or any reasonable steps to secure his return, the Defendants, their servants and/or agents actively facilitated and/or failed to prevent the Claimant’s unlawful and arbitrary detention following transfer.

168. For the avoidance of doubt, the Claimant relies on the principle that “in the case of a series of wrongful acts or omissions, the breach extends over the entire period starting with the first of the acts and continuing for as long as the acts or omissions are repeated and remain at variance with the international obligation concerned” (*El-Masri v Macedonia* 34 BHRC 313 at [240]).

Breach of Article 6(1)

169. The Claimant repeats the matters concerning jurisdiction set out at paragraph 162 above.

170. The Claimant was transferred from the custody and/or control of the Defendants into the custody and/or control of the United States despite the existence of a real and foreseeable risk that he could face a flagrant denial of justice in the form of:

- (a) indefinite detention without being charged with a criminal offence; and/or
- (b) at the time of transfer, in light of publicly available information, it was evident that the US had a practice of subjecting detainees/internees suspected of being members and/or associates of terrorist organisations and, in particular, those perceived to have links with Al Qaeda to trial before a military commission, which would amount to a flagrant denial of justice in light of the fact that:
 - (i) the military commission did not offer guarantees of impartiality or independence of the executive;
 - (ii) it did not have legitimacy under either US or international law and thus was not established in law for the purposes of Article 6(1) and/or
 - (iii) there was a sufficiently high probability of admission of evidence obtained under torture.

171. The Defendants, their servants and/or agents acted in breach of their obligations under s.6 of the Human Rights Act 1998 in conjunction with Article 6 of Schedule 1 to the Human Rights Act 1998 by transferring the Claimant into US custody when it was a real and foreseeable risk that the Claimant would be subject to a flagrant denial of justice and by failing to take any or any reasonable steps to secure his return under the MoU or otherwise despite their initial breach of Article 6 and the fact that the Claimant continued to face a real risk of or an actual flagrant denial of justice in US custody.

Breach of Article 8

172. The Claimant repeats the matters concerning jurisdiction set out at paragraph 162 above.

173. The Claimant was subjected to unlawful and disproportionate interference with his right to private and family life contrary to Article 8 of Schedule 1 to the Human Rights Act 1998. In this regard, the Claimant relies upon the facts and matters set out at paragraphs 11- 136 above.

174. The Defendants, their servants and/or agents acted in breach of their obligations under s.6 of the Human Rights Act 1998 in conjunction with Article 8 of Schedule 1 to the Human Rights Act 1998. In this regard, the Claimant relies upon the facts and matters set out at paragraphs 11 – 136 above.

Applicable Law

175. The claims brought under the Human Rights Act 1998 are based upon the UK exercising jurisdiction over the Claimant regardless of the fact that the acts and omissions which found the claim took place outside England and Wales.

176. In relation to the tortious claims, the Claimant's primary case is that they should be governed by the law of England and Wales, that law being substantially more appropriate pursuant to section 12 of the Private International Law (Miscellaneous Provisions) Act 1995.

177. If the Defendants aver that the law applicable to any matter in the claim is Iraqi or Afghan law, it will be for the Defendants to plead and prove the specific provisions of such foreign law and any material difference between English law and those laws upon which they intend to rely. The Claimant will, if necessary, contend that all of the causes of action set out above in English law have equivalents in Iraqi and/or Afghan law and that the conduct set out above was unlawful under Iraqi and/or Afghan law.

178. In pre-action correspondence between the parties, the Defendants have responded by reference only to English law, and have not suggested that they

are governed by any other law. In the circumstances, it would be disproportionate for the Claimant to provide full particulars of the Iraqi and/or Afghan law upon which he would rely, if necessary. Absent particularisation of foreign law by the Defendants the claims should precede on the presumption that the substantive dispute between the parties should be governed by the law of England & Wales.

179. It is averred that in the particular circumstances of these claims reliance upon foreign law is inappropriate and otiose, not least because:-

179.1 It is presumed that the laws of all relevant countries will provide a remedy to victims of serious human rights violations and, absent evidence to the contrary, it should be assumed that they will do so consistently with common law. Not least having regard to:

179.1.1 The *jus cogens* status of the prohibition against torture, reflected not least by Article 2 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the 'Torture Convention') to which Afghanistan is (and at all material times was) and Iraq is now a signatory;

179.1.2 The *jus cogens* status of the prohibition against refoulement of individuals to face the risk of torture, reflected no least by Article 3 of the Torture Convention;

179.1.3 The *jus cogens* status of the prohibition against prolonged arbitrary detention, reflected not least by Article 9 of the International Covenant on Civil and Political Rights to which Iraq and Afghanistan are (and were at material times) signatories;

179.2 That insofar as a law of a foreign country did not provide a right to a remedy to a victim of serious violations of fundamental human rights, it would be contrary to public policy for the Court to recognise and apply the same (pursuant to section 14 of the Private International Law (Miscellaneous Provisions) Act 1995).

180. However, for the avoidance of doubt the Claimant would if necessary contend that the conduct set out above was unlawful under at least the following provisions of Iraqi law:

Article 22(b) of the Iraqi Constitution July 1970 (in force until 4 March 2004)

"It is not permitted to arrest or detain or search a person, except in conformity with the provisions of the law".

Article 15 of the Law of the State of Iraq (in force from 8 March 2004 until 16 July 2005)

"...(C) No one may be unlawfully arrested or detained, and no one may be detained by reason of political or religious beliefs.

(D) All persons shall be guaranteed the right to a fair and public hearing by an independent and impartial tribunal, regardless of whether the proceeding is civil or criminal. Notice of the proceeding and its legal basis must be provided to the accused without delay.

....(F) The right to a fair, speedy, and open trial shall be guaranteed.

(G) Every person deprived of his liberty by arrest or detention shall have the right of recourse to a court to determine the legality of his arrest or detention without delay and to order his release if this occurred in an illegal manner."

Article 202 of the Civil Code

"Every act which is injurious to persons such as murder, wounding, assault, or any other kind of infliction of injury obligates payment of compensation by the perpetrator".

Article 204 of the Civil Code

"Every infringement which causes damage other than that mentioned in the preceding Articles necessitates the payment of compensation."

Article 205 of the Civil Code

*“1. The right to compensation may also include moral damage: any encroachment on the freedom, honour, reputation, social status or financial position shall make the aggressor liable to pay compensation.
2. The compensation may be paid to the spouse or the relatives of the victim for any moral damage caused by the death of a victim.
3. Compensation for moral damage may not be transferred to others unless the value thereof has been specified according to an agreement or final judgment.”*

Article 207 of the Civil Code

*“1. In all cases the court will estimate the damages commensurately with the injury and the loss of gain sustained by the victim provided that the same was a natural result of the unlawful act.
2. Deprivation from (loss of) benefits of things will be included in the estimation of the damages and the liability may cover the wage (fee/remuneration).”*

181. The conduct set out above was unlawful under at least the following provisions of Afghan law:

Article 24 of the Afghan Constitution January 2004

“Liberty is the natural right of human beings. This right has no limits unless affecting others freedoms as well as the public interest, which shall be regulated by law.

Liberty and human dignity are inviolable.

The state shall respect and protect liberty as well as human dignity.”

Article 25 of the Afghan Constitution January 2004

“Innocence is the original state. The accused shall be innocent until proven guilty by the order of an authoritative court.”

Article 27 of the Afghan Constitution January 2004

“No deed shall be considered a crime unless ruled by a law promulgated prior to the commitment of the offense. No one shall be pursued, arrested, or detained without due process of law. No one shall

be punished without the decision of an authoritative court taken in accordance with the provisions of the law, promulgated prior to commitment of the offense."

Article 29 of the Afghan Constitution January 2004

"Persecution of human beings shall be forbidden. No one shall be allowed to or order torture, even for discovering the truth from another individual who is under investigation, arrest, detention or has been convicted to be punished.

Punishment contrary to human dignity shall be prohibited."

Article 30 of the Afghan Constitution January 2004

"A statement, confession or testimony obtained from an accused or of another individual by means of compulsion shall be invalid. Confession to a crime is a voluntary admission before an authorized court by an accused in a sound state of mind"

Article 31 of the Afghan Constitution January 2004

"Upon arrest, or to prove truth, every individual can appoint a defense attorney. Immediately upon arrest, the accused shall have the right to be informed of the nature of the accusation, and appear before the court within the time limit specified by law."

Article 774 of the Civil Code of Afghanistan January 1977

"A person who commits a harmful act such as murder, beating resulting in injuries, etc. or bodily harm, is obliged to compensate the damages sustained"

Article 776 of the Civil Code of Afghanistan January 1977

"Whenever damage is inflicted to another person intentionally or by mistake, the perpetrator should compensate for the damages."

Article 777 of the Civil Code of Afghanistan January 1977

"In case of any other damages inflicted to others, excluding those defined in the above articles, the perpetrator is obliged to pay compensation."

Article 778 of the Civil Code of Afghanistan January 1977

"1. Compensation shall also include an estimation of spiritual damage."

Article 779 of the Civil Code of Afghanistan January 1977

"The court determines the amount of compensation in proportion to the damage incurred provided that the damage is directly caused by the harmful action"

IV. Injury, Loss and Damage

182. By reason of the aforesaid, the Claimant has suffered loss, including loss of liberty, damage, distress, humiliation and personal injury.

183. As a result of his detention and mistreatment the Claimant has suffered pain and both physical and psychiatric injury in the form of:

PARTICULARS

During detention:

- 183.1 Bruising to his stomach, head, nose, eyes, feet, chest, mouth;
- 183.2 Repeated trauma to the head;
- 183.3 Burning sensation to his eyes and temporary blindness;
- 183.4 Wounds to the back of his right shoulder, his lower back and the side of his right leg;
- 183.5 Prolonged open and infected wounds on the right side of his chest and on his feet;
- 183.6 Enforced temporary paralysis on two occasions;
- 183.7 Involuntary, uncontrolled and drastic weight loss;
- 183.8 Sprained and/or broken fingers and toes;

- 183.9 Repeated loss of consciousness;
- 183.10 Severe swelling to his hands and feet;
- 183.11 Repeated loss of breath;
- 183.12 Severe scraping to his left arm, left shoulder and left side of his face as well as temporary loss of sensation to the left arm; and
- 183.13 Severe pain from being force-fed;

During Detention and Continuing to Date:

- 183.14 Persistent liver and stomach problems including frequent diarrhoea;
- 183.15 Persistent problems with his teeth and significant pain due to mouth ulcers;
- 183.16 Severe anxiety;
- 183.17 Difficulty concentrating;
- 183.18 Difficulty sleeping;
- 183.19 Frequent nausea;
- 183.20 Loss of appetite;
- 183.21 Frequent flashbacks of his mistreatment in Iraq and Afghanistan;
- 183.22 Frequent panic attacks;
- 183.23 Symptoms of several acute psychiatric disorders including but not limited to Depression, Generalised Anxiety and Post-Traumatic Stress Disorder. (It has not been possible, in the short time since the Claimant's release, to obtain a full psychiatric report. Once a report has been produced the Claimant will give further detail of his psychiatric injury); and
- 183.24 Frequent head pains.

184. The Claimant seeks damages for the following:

- 184.1 Damages for the assault, battery and ill-treatment by UK forces following his capture in Iraq and prior to his transfer to US detention.
- 184.2 Damages for the personal injuries sustained as a result of his detention and ill-treatment by US officials at detention facilities in Iraq and at Bagram.
- 184.3 Damages for unlawful detention.

- 184.4 Basic damages for trespass to the person, conspiracy to injure, conspiracy to use unlawful means and misfeasance in public office.
- 184.5 Damages under section 8 of the Human Rights Act as just satisfaction for the violations of the Claimant's Convention rights.
- 184.6 Special damages namely the financial losses consequent upon his loss of liberty and injuries.

185. Further the Claimant seeks aggravated damages to compensate for:

- 185.1 the very significant harm caused to the Claimant through the deliberate use of torture, inhuman and degrading treatment, serious violence, threats and other forms of mistreatment by the First Defendant's officers, which were deliberately calculated to cause the Claimant severe physical pain, injury, humiliation and fear;
- 185.2 the cruelty and humiliation to which he was exposed as a result of the Defendants' wrongdoing and the abusive, unconstitutional and arbitrary conduct particularised above;
- 185.3 the arbitrary and prolonged nature of the Claimant's detention, which resulted in him being unlawfully deprived of his liberty for over ten years;
- 185.4 the harsh and unsanitary conditions to which he was subjected, including the deliberate deprivation of sanitary facilities and the deliberate manipulation of light, sound and heat exposure to cause the Claimant maximum distress, fear and disorientation;
- 185.5 the failure to address his needs as a torture victim during his detention, including the Defendants' failure to take appropriate steps to seek his release and/or to ensure that he was no longer subjected to torture and other inhuman or degrading treatment and/or received appropriate medical and psychiatric treatment;
- 185.6 the significant and irreparable harm caused to the Claimant's private and family life and personal relationships as a result of his enforced separation from his family and friends for over 10 years;
- 185.7 the failure of the Defendants to acknowledge their role in the same;
- 185.8 the Defendants' attempts to justify their unlawful actions by wrongly suggesting the Claimant was a member of Lashkar-e-Taiba; and

185.9 the failure of the Defendants to apologise for their unlawful actions.

186. Further the Claimant seeks exemplary damages to compensate for the unconstitutional, oppressive and arbitrary conduct of the Defendants particularised above. The Claimant repeats the matters set out in paragraphs 1-185 above. The Claimant relies in particular upon the arbitrary, abusive and oppressive nature of the Defendant's conduct in the original capture and detention of the Claimant, and in their decision to transfer him into the custody of the US knowing full well the arbitrary detention and ill-treatment to which he would be subjected. The Claimant further relies on the fact that, from the moment of his initial capture and detention, senior officers and employees of the Defendants had express knowledge of the significant likelihood that the Claimant would be subjected to unlawful rendition, torture, inhuman treatment, arbitrary detention and a flagrant denial of justice if he was transferred to the US authorities, but deliberately permitted the transfer to take place and took no meaningful steps thereafter to prevent such grave harm from occurring.

187. Further the Claimant seeks vindictory damages as a public demonstration of the grave mistreatment of him by the Defendants. The Claimant repeats and relies upon the matters set out at paragraphs 185 - 186 above.

188. Further the Claimant seeks a declaration that the acts and omissions of the Defendants particularised above were unlawful.

189. Further the Claimant seeks interest pursuant to section 35A of the Senior Courts Act 1981 at such rate and for such period as the Court thinks fit.

AND THE CLAIMANT CLAIMS

- (1) Damages including aggravated, vindictory and exemplary damages;
- (2) A declaration that the conduct of the Defendants was unlawful in the respects identified above;
- (3) Costs;
- (4) Interest as aforesaid;
- (5) Further or other relief.

PHILIPPA KAUFMANN QC
RUTH BRANDER
TRISTAN JONES

PHILLIPPA KAUFMANN QC
RUTH BRANDER
TRISTAN JONES

PHILLIPPA KAUFMANN QC
ADAM STRAW
EDWARD CRAVEN
MARIA ROCHE

Dated this 21st day of October 2013

Amended this 13th day of November 2013

Re-amended this 25th day of July 2014

STATEMENT OF TRUTH

The Claimant believes that the facts stated in these Particulars of Claim are true. I am duly authorised by the Claimant to sign this Statement.

Signed.....

Name: Sapna Malik

Position: Partner, Leigh Day, Solicitors for the Claimant

Date: 25 July 2014

IN THE HIGH COURT OF JUSTICE

CLAIM NO. HQ13X01841

QUEEN'S BENCH DIVISION
BETWEEN

YUNUS RAHMATULLAH

Claimant

v

(1) THE MINISTRY OF DEFENCE

First Defendant

(2) THE FOREIGN & COMMONWEALTH OFFICE

Second Defendant

SCHEDULE 1

**CHRONOLOGY OF EVENTS EVIDENCING KNOWLEDGE ON THE PART OF
THE DEFENDANTS OF US PRACTICE OF EXTRAORDINARY RENDITION AND
USE OF TORTURE / INHUMAN AND DEGRADING TREATMENT**

Date	Event	Reference
17 Sept 2001	President Bush signs classified Presidential Finding granting CIA new competences relating to the detention of terrorist suspects abroad, and "selected foreign counterparts" were briefed on the finding. This was the beginning of the "High Value Detainee" programme which would see the use of undisclosed "black sites" for detention and interrogation. The UK Secret Intelligence Service ('SIS') was briefed about the US agencies new counter-terrorism powers by, at the latest, late October 2001	Intelligence and Security Committee Report 'Rendition' 2007 ("ISC 2007"), para 54
By 28 Sept 2001	UK SSFCO has approved deployment of SIS officers to Afghanistan to support the US-led military and covert action. From this time UK officials witnessed first-hand the conditions of detention in place in US detention facilities	
13 November 2001	Presidential Military Order No.1 was announced by the White House. The PMO intended to authorise detention of suspected members of Al Qaeda, who are not US citizens, at designated locations worldwide where they	

	could be tried by military commissions not subject to principles of law and evidence applicable in criminal cases.	
Late November 2001	MI6 reported to Government Departments, including the Private Offices of the Prime Minister and Foreign Secretary briefing them that the US authorities intended to use military tribunals set up on the PMO No 1 to try terrorist suspects captured outside Afghanistan and that this would potentially include UK citizens. In evidence to the Security and Intelligence Committee, the Security Services stated that they regarded this to be “largely” about “military tribunals in Afghanistan...”	
9 Jan 2002	Personnel from the SYS arrived at Bagram Internment Facility. The following day they commenced interrogations and a SYS officer reported back to London his “observations on the circumstances of the handling of [the] detainee by US military before the beginning of the interview”.	
11 Jan 2002	Instructions are sent out to SYS officers and copied to all SIS and SYS officers in Afghanistan stating: “with regard to the status of prisoners, under the various Geneva Conventions and protocols, all prisoners, however they are described, are entitled to the same levels of protection. You have commented on their treatment. It appears from your description that they may not be being treated in accordance with the appropriate standards. Given that they are not within our custody or control, the law does not require you to intervene to prevent this. That said, HMG’s stated commitment to human rights makes it important that the Americans understand that we cannot be party to such ill treatment nor can we be seen to condone it. ”	
11 January 2002	The US Department of Defence News Briefing defended practices of hooding, shaving, chaining and tranquilizing detainees on transfer from Afghanistan to Guantanamo.	
11 January 2002	US transferred first detainees from Guantanamo to Afghanistan. The first British national was transferred to Guantanamo.	Gibson Report of December 2013
17 January 2002	Security Service and FCO staff are granted access to Guantanamo. Article in the Washington Post criticised the conditions at Guantanamo.	Gibson Report of December 2013
27 January 2002	Media reported that British nationals Shafiq Rasul, Asif Iqbal and Feroz Ali Abbasi were being held in Guantanamo.	Gibson Report of December 2013

29 January 2002	Amnesty International wrote to the Foreign Secretary (Jack Straw) with concerns about a variety of aspects of the detention of suspected Al Qaeda and Taleban prisoners at Guantanamo.	Gibson Report of December 2013
31 Jan 2002	Meeting of UK Permanent Secretaries considers reports of mistreatment by US authorities at Guantanamo Bay	Intelligence and Security Committee Report 'The Handling of detainees by UK Intelligence Personnel in Afghanistan, Guantanamo Bay and Iraq' 2005 ("ISC 2005"), para 58
Early 2002	SIS become aware someone has been transferred to a country of which he is not a national in a 'rendition to detention' operation by the US. SIS questions the appropriateness of the transfer with the U.S authorities	ISC 2007, para 59
5 Feb 2002	Moazzam Begg, a dual British and Pakistani citizen, is interviewed by two SYS officers in the presence of US officials while detained in Pakistan. A SYS officer informs Mr Begg that he would be treated as a Pakistani citizen whilst in Pakistan and was not entitled to consular assistance from HMG	
7 Feb 2002	A statement by the US President suggested that the Geneva Conventions did not apply to members of the Taleban members as they were unlawful combatants, not prisoners of war, and are therefore not entitled to the legal protections enjoyed by either prisoners of war or civilians.	Gibson Report of December 2013
21 Feb 2002	Mr Begg handed over by the Pakistani authorities to the US authorities, following which he was unlawfully rendered to Afghanistan. For the first 7 weeks he is detained in Kandahar	
1, 2 and 4 March 2002	UK Security Services interviewed Mr Richard Belmar, a British citizen, whilst he was held in US/Pakistani custody in Karachi. On one of these occasions they observed Mr Belmar being led into the interview room blindfolded and Mr Belmar said that he was aching. Security Service officers who interviewed Mr Belmar believed that if they disengaged, he would be transferred to US custody, then to Kandahar and ultimately to Cuba.	<i>Richard Belmar –v- Security Services & Ors.</i> Defence, paras 33 & 43

6 March 2002	Legal representatives for Feroz Ali Abbasi commence judicial review proceedings asserting that the UK Government was under a duty to make representations to the US Government on his behalf to secure his release from Guantanamo. The application was dismissed on 15 March 2002.	Gibson Report of December 2013
10-13 Mar 2002	Mr Begg interviewed by SYS officers. He is brought to the interview in hand and leg cuffs and with a hood over his head. He is further interviewed by SYS officers between 10-13 March 2002. It is reported to SIS that the US authorities consider that Mr Begg responds to 'strict treatment' which included being hooded, sleep deprivation and withholding blankets	<u>Moazzam Begg -v- Security Service & Ors.</u> Defence, paras 56 & 57
11 Mar 2002	Washington Post publishes an article entitled "US Behind Secret Transfer of Terror Suspects". The article reports that, since September 2001, the US had secretly transported dozens of people with suspected links to terrorism to countries other than the US, bypassing extradition procedures and legal formalities. Suspects had been taken to countries where they could be subjected to interrogations and tactics including torture and threats to their families. The following day the Guardian newspaper runs a similar story	
Mar 2002	A SIS officer in Afghanistan reports information regarding the treatment of a detainee to London but no action is taken either locally or by the SIS in London	ISC 2005, para 52
6 April 2002	Mr Belmar was unlawfully rendered from Pakistan to Bagram airbase, Afghanistan on or about 6 April 2002 and remained there until October 2002.	
10 April 2002	Mr Binyam Mohamed, a British resident, was detained in Pakistan and interrogated by Pakistani and US officers. Prior to an MI5 officer visiting Mr Mohamed during his detention in Pakistan in May 2002, the British Security Services had received reports from the CIA that he was being subjected to an interrogation regime that included the deliberate use of continuous sleep deprivation, shackling, inducements and threats, including the threat that he would be removed from US custody and made to 'disappear'. The reports noted that these techniques were causing Mr Mohamed 'significant mental stress and suffering' and he had been placed under self-harm observation.	
15 April 2002	Amnesty International published a Memorandum to the US Government on the rights of detainees in US custody in Afghanistan and Guantánamo Bay, in which they expressed concern about allegations that detainees had been mistreated in US custody. The memo further notes that the US had transferred and held people in conditions that might amount to cruel,	<u>Husayn (Abu Zubaydah) v Poland</u> (Application No. 7511/13), para.211

	inhuman or degrading treatment and that violated other minimum standards relating to detention, and that they had refused to grant people in its custody access to legal counsel and to the courts in order to challenge the lawfulness of their detention.	
Mid-Apr 2002	Mr Begg is transferred to Bagram.	
Apr 2002	A SYS officer in Afghanistan is present at an interview conducted by US military during which the detainee complains about his detention and conditions. The ISC 2005 report notes at para 53 <i>"an SIS officer was present at an interview conducted by the US military of a detainee in Afghanistan who complained of time in isolation and who had previously had a nervous breakdown. The detainee was aware that he was in isolation for his own protection ***"</i> .	ISC 2005, para 53
April 2002	Omar Deghayes, a Libyan national was detained in Pakistan. In May 2002, the British Security Service interviewed Mr Deghayes in Islamabad.	
June 2002	SYS raise concerns as to Mr Begg's treatment (particularly hooding, sleep deprivation and withholding of blankets) by the US authorities with the US.	<u>Moazzam Begg –v- Security Service & Ors.</u> Defence, para 67
On or about 7 June 2002	Mr Deghayes was unlawfully rendered to the Bagram detention facility in Afghanistan. He was interviewed by British Security Service officers later that month. He was brought to the interview room manacled and hooded and he looked pale and shaky. He told officers that he had not eaten for two days and that he was suffering from malaria. When interviewed by British Security Service officers about 9 days later, Mr Deghayes was noticeably thinner than when the same officer had interviewed him back in May 2002 and he complained of internal bleeding. Mr Deghayes referred in the interview to head braces and lock-down positions as being the order of the day and said that he had been treated better by the Pakistanis.	<u>Deghayes – v- Security Services & Ors.</u> Defence, paras 41, 45 and 46
11 June 2002	SYS informed the US authorities that they remained keen to interview Mr Mohamed and requested details of his current location. On 15 July 2002, the US authorities informed UK officials that Mr Mohamed was to be moved to Afghanistan. The Security Services did not object to this course of action.	<u>Binyam Mohamed –v- Security Services & Ors.</u> Defence, para 51.
22 June – 12 July 2002	The Security Services interviewed Mr Belmar on seven occasions whilst he was detained in Bagram. It has been admitted that during four of the interviews Mr Belmar was restrained by metal leg cuffs and long chain handcuffs. On one occasion he was hooded	<u>Richard Belmar –v- Security Services & Ors.</u> Defence,

	when he was brought into the interview room. Further, it was admitted that the Security Service officers who interviewed Mr Belmar were aware that he was moved from a cage to the interview room.	para 64, 67, 171
July 2002	SYS raises with the FCO serious concerns about Mr Begg's treatment. Mr Begg is interviewed at Bagram by SYS officers between 3 -11 July 2002 and describes his maltreatment. A SYS officer reports to senior management that, whilst in Afghanistan, a US official had referred to "getting him ready" which appeared to involve sleep deprivation, hooding and the use of stress positions. Mr Begg, when re-interviewed later that month, provides a list of grievances, which included the use of constant bright lights.	<u>Moazzam Begg -v- Security Service & Ors.</u> Defence, paras 63-68
21 July 2002	Mr Mohamed was unlawfully rendered by the US to Morocco, where he was brutally tortured and detained incommunicado for approximately 18 months.	
5 August 2002	Mr Deghayes was transferred from Bagram to detention in Guantanamo Bay, where he was detained until 20 December 2007. The Security Service's servants or agents were aware of the probability that he would be transferred to Guantanamo Bay.	<u>Omar Deghayes - v- Security Services & Ors.</u> Defence, para 52
By 19 August 2002	The Security Service was aware that Mr Mohamed was being held in a covert location where he was being 'debriefed'. Direct access was not possible, but the Security Service was able to send questions to the US authorities to be put to him. It could be inferred that he was being held in a covert location and that he was being held incommunicado. In evidence to the Security and Intelligence Committee, the Security Services claimed that they first learnt of the allegation that Mr Mohamed had been transferred to Morocco in 2005. However, they admitted that they had assumed he was being taken into military custody at Bagram airbase. The Security Services admitted that they should have sought assurances in this case.	<u>Binyam Mohamed -v- Security Services & Ors.</u> Defence, para 61(4) ISC 2007 para 63
Oct 2002	Mr Belmar was unlawfully rendered to Guantanamo Bay, Cuba in October 2002. He was interviewed by Security Service officers on several occasions between 13 November 2002 and 9 February 2004.	
Late 2002	SIS and SYS become aware of another case involving the transfer of an individual to a third country	ISC 2007, para 67
26 Dec 2002	Washington Post published an article entitled 'US Decries Abuse but Defends interrogations'. This describes the conditions for those detained in Bagram "those who refuse to cooperate inside this secret CIA interrogation centre are sometimes kept standing or kneeling for hours, in black hoods or spray-painted	Washington Post

	<i>goggles, according to intelligence specialists familiar with CIA interrogation methods. At times they are held in awkward, painful positions and deprived of sleep with a 24-hour bombardment of lights – subject to what are known as ‘stress and duress’ techniques’.</i> The article details that the US military had announced that month that it had begun a criminal investigation into the handling of two prisoners who died in Bagram.	
29 December 2002	An article in the Observer detailed treatment of Moazzem Begg at Bagram.	Gibson Report of December 2013
7 Feb 2003	Mr Begg is unlawfully rendered from Afghanistan to Guantanamo Bay	
28 February 2003	UN Commission on Human Rights received reports from non-governmental organisations concerning ill-treatment of US detainees. The International Rehabilitation Council for Torture (“the IRCT”) submitted a statement in which it expressed its concern over the United States’ reported use of “stress and duress” methods of interrogation, as well as the contraventions of <i>refoulement</i> provisions in Article 3 of the Convention Against Torture. The IRCT report criticised the failure of governments to speak out clearly to condemn torture; and emphasised the importance of redress for victims. The Commission on Human Rights communicated this document to the United Nations General Assembly on 8 August 2003.	<i>Husayn (Abu Zubaydah) v Poland</i> (Application No. 7511/13), para.209
6 March 2003	BBC reported a military coroner’s report which found that two Afghan prisoners were killed while in US custody at Bagram and that “ <i>blunt force trauma had contributed to the deaths</i> ”.	Gibson Report of December 2013
9 March 2003	The New York Times published an article reporting the interrogation techniques available to US interrogators in light of the capture of Khalid Shaikh Mohammed. The article noted that routine techniques included hooding for hours at a time and forced uncomfortable positions in extreme cold or heat. The article further noted that interrogations of Al Qaeda operatives occurred at isolated locations outside the jurisdiction of US law, including at CIA interrogation centres in Bagram.	The New York Times: ‘Threats and responses: interrogations; questioning terror suspects in a dark and surreal world’
20 Mar 2003	Military operations in Iraq commence	
23 Mar 2003	MOU signed by UK, US & Australia	
April 2003	Mr Begg is visited by SYS officers. HMG admits that Mr Begg was held in isolation for prolonged periods of his detention at Guantanamo Bay and that he had no access to natural light for at least certain periods of his	<u>Moazzam Begg –v- Security Service & Ors.</u>

	detention	Defence, paras 74, 76 & 78
28 April 2003	Mr Deghayes was interviewed by a Security Service officer at Guantanamo Bay, while shackled to the floor by one foot.	<u>Omar Deghayes – v- Security Services & Ors.</u> Defence, para 56
June 2003	<p>Pakistani and Afghan nationals, the first to be released from Guantanamo, make public allegations that they had been seriously ill-treated in Guantanamo Bay and Afghanistan.</p> <p>Two SIS officers interviewed an Iraqi detainee suspected of involvement in the Iraqi WMD programme and being held at a US detention facility in Baghdad. The detainee was brought in hooded and shackled by the US military, and remained so during the one-hour interview.</p> <p>Officers interviewed another Iraqi associated with the Iraqi WMD programme in a US facility. They reported that the living conditions were unacceptable and that the general treatment of detainees left much to be desired. The SIS raised concerns with the US authorities.</p>	<p>ISC 2005 para 63</p> <p>ISC 2005, para 87(a)</p> <p>ISC 2005, para 87(b)</p>
June 2003	Statement by a member of the Iraq Survey Group that, in June 2003, a British interrogator reported to him that a detainee who had been captured and interrogated by the Special Mission Unit Task Force was severely beaten.	Senate Armed Services Committee Inquiry into the Treatment of Detainees in US custody, November 2008.
10 June 2003	The ISC first raised detainee issues with the Prime Minister.	Gibson Report of December 2013
26 June 2003	The Parliamentary Assembly of the Council of Europe passed Resolution no. 1340 (2003) on rights of persons held in the custody of the United States in Afghanistan or Guantánamo Bay. In the resolution the Assembly expressed deep concern at the conditions of detention of persons held in US military custody, which it considered “unacceptable”.	<i>Husayn (Abu Zubaydah) v Poland</i> (Application No. 7511/13), para.223
30 June 2003	Amnesty International published a press release stating that the conditions of detention at the Camp Cropper Centre at Baghdad International Airport and at Abu Ghraib “may amount to cruel, inhuman or degrading	AI press release: “Iraq: conditions in US prisons

	<i>treatment or punishment, banned by international law."</i>	may break international law"
July 2003	Amnesty International issued a memorandum on concerns relating to law and order in Iraq, including in relation to reports of torture/ill-treatment at Camp Cropper and Abu Ghraib.	AI, 'Iraq: memorandum on concerns relating to law and order'
July 2003	Camp Cropper, a holding facility for security detainees operated by the US Army near Baghdad International Airport in Iraq, was used to hold detainees for interrogation by members of the Iraq Survey Group ("ISG"). UK members of the ISG participated in the interrogation of detainees at Camp Cropper.	<u>Defendant's Response to Part 18 Request for further Information in the matter of XYZ -v- the Ministry of Defence (HQ10X00963)</u>
July 2003	The International Committee of the Red Cross (ICRC) sent the Coalition Forces in Iraq a working paper detailing approximately 50 allegations of ill-treatment in the military intelligence section of Camp Cropper. Shortly afterwards, the military intelligence section was closed, and detainees were transferred to the "High Value Detainees" section at Baghdad Airport.	ICRC Report on the treatment by the coalition forces of POWs and other protected persons by the Geneva Conventions in Iraq during arrest, internment and interrogation, February 2004
18 Aug 2003	Amnesty International publishes the report "United States of America, The threat of a bad example: Undermining international standards as "war on terror" detentions continue", The report states that " <i>the US has also instigated or involved itself in 'irregular renditions', US parlance for informal transfers of detainees between the USA and other countries which bypass extradition or other human rights protection</i> ".	Amnesty International Report
20 Aug 2003	Amnesty reports that they are " <i>concerned that the detention of suspects in undisclosed locations without access to legal representation or to family members and the 'rendering' of suspects between countries without any formal human rights law protections is in violation of the right to a fair trial, places them at risk of ill treatment and undermines the rule of law.</i> "	Amnesty International
26 August	The US military opened a hearing into allegations that	AP 'Four US

2003	four US Army reservists abused Iraqis prisoners of war at Camp Bucca.	soldiers charged with abusing Iraqi prisoners' USA Today 26 July 2003
Sept 2003	Mr Begg claims, during welfare visit from the UK, that he was physically abused when held in Bagram by the US authorities and that he witnessed other non-UK detainees being beaten.	<u>Moazzam Begg –v- Security Service & Ors.</u> Defence, 97.10 – 97.11
9 October 2003	The International Committee of the Red Cross issued a public statement noting a “ <i>deterioration in the psychological health of a large number of detainees</i> ”.	Gibson Report of December 2013
December 2003	In July 2004, <i>The Telegraph</i> revealed that senior British Army officers had demanded that Iraqi prisoners be withdrawn from an American detention camp in December 2003, because of concern about their treatment by United States troops.	Sean Rayment, ‘British ‘rescued Iraqis from US maltreatment’’, <i>The Telegraph</i> , 4 July 2004
2003 – mid 2004	The Guardian published an article on 1 April 2013 revealing that British Forces were present and witnessed abuses at Camp Nama between 2003 and mid-2004, and were aware of continuing abuses at Camp Balad thereafter.	Ian Cobain ‘Camp Nama: British personnel reveal horrors of secret US base in Baghdad’. <i>The Guardian</i> , 1 April 2013
2003-2005	In July 2006 Human Rights Watch published a report documenting the “mounting evidence” of abuses committed against Iraqi detainees in US custody between 2003 – 2005.	HRW, “No blood, No foul: Soldiers’ accounts of detainee abuse in Iraq”, July 2006
January 2004	A SIS officer becomes aware of a possible contravention of the Geneva Conventions by US military at Baghdad airport. A senior representative of the SIS raised concerns with the US Officer in command of the facility.	ISC 2005, para 92
16 January 2004	US government announced investigation of reported incidents of detainee abuse at a coalition detention facility.	Gibson Report of December 2013

21 January 2004	CNN revealed details regarding the US Army's investigations into reports of abuse of Iraqi detainees at Abu Ghraib prison. The article quoted a Pentagon official saying that US soldiers had reportedly posed for photographs with partially unclothed Iraqi prisoners.	CNN
Between January and March 2004	A UK military interrogation team was deployed to Abu Ghraib prison. In February 2004 a UK military officer reported that he had observed a US held detainee at Abu Ghraib prison being heavily manhandled whilst being moved from a cell to an interrogation room.	ISC 2005, para 96
February 2004	The Security Service suspended interviewing detainees at Guantanamo. ICRC produced its report on the Treatment by the Coalition Forces of Prisoners of War and other Protected Persons by the Geneva Conventions in Iraq during Arrest, Internment and Interrogation. ICRC reported substantial concerns about US treatment of prisoners at Abu Ghraib.	Gibson Report of December 2013
9 Feb 2004	Mr Begg is again interviewed by SYS officers. Mr Begg complains to the officer <i>inter alia</i> that: he had been in isolation since arriving at Guantanamo Bay; had not seen daylight for 4 months since he was kept in a cage 6' x 8' and exercised at night. The SYS officers considered him to be pale, lethargic, withdrawn and depressed.	<u>Moazzam Begg -v- Security Service & Ors.</u> Defence, para 112
29 Feb 2004	The then Foreign Secretary is said to have raised with Gen. Colin Powell detainees' complaints regarding their treatment.	<u>Moazzam Begg -v- Security Service & Ors.</u> Defence, para 114
March 2004	Home Secretary (David Blunkett) raised concerns about conditions at Guantanamo with his US counterpart.	Gibson Report of December 2013