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January 20, 2014

Dr. Emilio Álvarez Icaza
Executive Secretary
Inter-American Commission on Human rights
Washington, D.C. 20006

Re: Request for Thematic Hearing During the 150th Period of Sessions on Health and Human Rights Impacts of the U.S.-led Decade of War in Iraq

Dear Dr. Álvarez Icaza:

In accordance with Article 64 of the Rules of Procedure of the Inter-American Commission on Human Rights, we respectfully submit this request for a thematic hearing on the human rights impacts of the war in Iraq on behalf of the Organization of Women's Freedom in Iraq, Iraq Veterans Against the War, and the Federation of Workers Councils and Unions in Iraq, who joined together on the 10th anniversary of the war to seek accountability for the shared harms of the war for which there has been no acknowledgment or accountability from the United States.

The undersigned organizations previously submitted a request for a thematic hearing on this issue before the Commission during its 149th Period of Sessions. As that request was denied, the petitioning organizations once again request that the Commission take up this critical issue. As demonstrated by the letter of support submitted to the Commission in September 2013, the request has thus far been supported by 9,427 individuals from 76 different countries, including 2,135 individuals who hand-signed petitions in Baghdad, Basra and Samarra, Iraq, and by 125 human rights organizations. The letter of support and list of signatories can be viewed at <http://righttoheal.org/wp-content/uploads/2013/09/FINAL-letter-of-support-for-RTH-hearing.pdf>.

Accompanying this request is also a report detailing the long-lasting and inter-generational health and environmental effects resulting from the U.S.'s use of certain munitions during the war, the post-traumatic stress experienced by Iraqis and veterans alike, the effects of war crimes on Iraqis and the accompanying "moral injury" increasingly documented among U.S. servicemembers, and the gender-based violence experienced on all sides of the war, among civilians as well as within the U.S. military. The report relies on scientific studies, news reports and first-person testimonies of Iraqis and U.S. veterans.

Why a Hearing Before the Commission Is Necessary

A hearing before the Commission on these matters is urgently needed as there is no hospitable forum in the United States in which to adequately and appropriately address these issues. As detailed in the accompanying report, the rule of law and basic human rights principles have also been casualties of the past decade that has seen the waging of aggressive war, policies of rendition and torture, indefinite and arbitrary detentions, increasing secrecy and even targeted, extra-judicial killings. So far efforts at redress and accountability for grave violations of fundamental rights arising out of these policies have met dead ends judicially and roadblocks politically.

It is in this context of utter impunity and lack of any means of real redress that the undersigned organizations appeal to the Commission for an airing of these matters to help identify and acknowledge the harms as violations of the U.S.'s obligations under the American Convention on Human Rights and the American Declaration on the Rights and Duties of Man. Specifically, as the accompanying report demonstrates, in the course of the Iraq war and its aftermath, the U.S. has violated the rights to life (article 4) and humane treatment (article 5), the right of association (article 16), the rights of the child (article 19), and the rights to equal protection before the law (article 24) and judicial protection (article 25) under the American Convention. Similarly, the U.S. has violated the rights to life, liberty and personal security (article I), equality before the law (article II), protection for mothers and children (article VII), the preservation of health and to well-being (article XI), work under proper conditions and to fair remuneration (article XIV), and association (article XXII) under the American Declaration.

Extraterritorial Application of the American Convention on Human Rights and the American Declaration of the Rights and Duties of Man

The Commission has long understood the American Convention on Human Rights and the American Declaration of the Rights and Duties of Man to have extraterritorial application. Under Article 1(1), the American Convention explicitly covers “all persons subject to [the] jurisdiction” of the State parties. While the American Declaration does not include a provision designating its jurisdiction, the Commission has applied the same jurisdictional standards as under the American Convention.¹ Indeed, recognizing that “individual rights are inherent to the human being” and that all the American states are obligated to respect those rights, the Commission has affirmed that in some cases, “the exercise of [the Commission’s] jurisdiction over extraterritorial events is *not only consistent with but required by* the applicable rules.”²

Specifically, the Commission has held that a State Party “may be responsible under certain circumstances for the acts and omissions of its agents which produce effects or are undertaken outside that state’s own territory.”³ The Commission’s decisions have addressed different ways in which a State’s liability for extraterritorial violations may arise such as when a State is exercising authority and effective control in

¹ *Coard, et al. v. United States*, Case 10.951, Inter-Am. Comm’n H.R., Report No. 109/99, OEA/Ser.L/V/II.106, doc. 3 rev. at ¶ 37 (1999) (finding the U.S. violated several articles of the American Declaration based on actions taken in Grenada); *Armando Alejandro Jr. and Others v. Cuba*, Case 11.589, Report No. 86/99, OAS/Ser.L/V/II.104, doc. 10 rev. at ¶ 23 (1999) (finding jurisdiction where the state party acted in international airspace).

² *Id.* (emphasis added).

³ *Victor Saldaño v. Argentina*, Inter-Am. Comm’n H.R., Report No. 38/99, OEA/Ser.L/V/II.95, doc. 7 rev. at 289 ¶ 17 (1998).

the territory of another state⁴ and/or when there is a “causal nexus between the extraterritorial conduct of the State and the alleged violation of the rights and freedoms of an individual.”⁵

The focus of the determination of “authority and control” warranting jurisdiction is not tied to any “formal, structured, and prolonged legal relation” between States.⁶ Applying this standard, the Commission has held that it had jurisdiction over human rights violations committed by U.S. actors occurring in Grenada, Guantánamo Bay, and Bermuda.⁷ Additionally, in a case concerning the U.S. military intervention in Panama, the Commission held that when “use of military force has resulted in noncombatant deaths, personal injury, and property loss, the human rights of the noncombatants are implicated” and the Commission is authorized to consider the subject-matter of cases arising therefrom.⁸

As such, the Commission has jurisdiction over the human rights violations described herein. During the wars, the U.S. exercised authority and control over physical territory in Iraq. Moreover, as demonstrated in this request, there is a clear nexus between the U.S. actions and inactions and the harm suffered by both servicemembers and civilians in Iraq.

Why the Commission Should Grant This Request

In addition to the Commission’s mandate and interest in helping to ensure compliance by Member States with basic, fundamental rights principles, the U.S.’s policies of the last decade also have serious implications for the region. As set out in the report, it has been increasingly reported that the U.S. government is using tactics honed in the Iraq war in its ever-expanding “war on drugs” throughout Latin America.⁹ The reverse is also true as it has been documented that violent tactics notoriously used by U.S.

⁴ *Id.* at ¶ 19 (“jurisdiction is a notion linked to authority and effective control, and not merely to territorial boundaries”).

⁵ *Ecuador ex rel. Molina v. Colombia*, Inter-State Petition IP-02, Inter-Am. Comm’n H.R. Report No. 112/10, OEA/Ser.L/V/II.140, doc. 10 (2010), *see also*, *Alikhani v. United States*, Case 4618/02, Inter-Am. Comm’n H.R. Report No. 63/05, ¶ 42 (2005) (finding jurisdiction where the victim was arrested in international airspace); *Coard, et al. v. United States*, Case 10.951, Inter-Am. Comm’n H.R., Report No. 109/99, OEA/ser.L/V/II.106, doc. 3 rev. at ¶ 37 (1999) (finding the U.S. violated several articles of the American Declaration based on actions taken in Grenada); *Armando Alejandro Jr. and Others v. Cuba*, Case 11.589, Report No. 86/99, OAS/Ser.L/V/II.104, doc. 10 rev. at ¶ 23 (1999) (finding jurisdiction where the state party acted in international airspace).

⁶ *Ecuador ex rel. Molina v. Colombia*, *supra* note 5, ¶¶ 98-99; *see also* *Victor Saldaño v. Argentina*, *supra* note 3, at 289 ¶ 19 (1998) (“jurisdiction is a notion linked to authority and effective control, and not merely to territorial boundaries” and the focus should be on whether the State has “authority and control” over the alleged victim).

⁷ *Alikhani v. United States*, *supra* note 5; Decision on Request for Precautionary Measures (Detainees at Guantánamo Bay, Cuba), Inter-Am. C.H.R., OEA/Ser.L/V/II.117, doc 5 rev. 1 P 80 (Mar. 13, 2002).

⁸ *Salas and Others v. United States (U.S. Military Action in Panama)*, No. 10.573, Report No. 31/93, Oct. 14, 1993.

⁹ Thom Shanker, *Lessons of Iraq Help U.S. Fight a Drug War in Honduras*, The New York Times, May 5, 2012, available at <http://www.nytimes.com/2012/05/06/world/americas/us-turns-its-focus-on-drug-smuggling-in-honduras.html?pagewanted=all>.

military and civilian officials in covert counter-insurgency operations in the 1980's and 1990's in Central America have been applied in Iraq.¹⁰

These are among the reasons that a hearing before the Inter-American Commission on Human Rights is urgently needed – in addition to the fact that it is imperative that the Commission hear the voices of those most affected by war. A hearing is required to identify the constellation, magnitude and scope of grave human rights violations resulting from an unaccountable war-making apparatus that poses a continued danger to both the region and the world if it is not checked or in some way called to account for the massive devastation it has wrought.

If the Commission grants this request for a hearing, we propose to provide the Commission with testimony by both war-affected Iraqis and U.S. servicemembers on issues of mutual concern, as well as by experts on some of the issues mentioned above and explored in more detail in the accompanying report.

Please let me know if you require any further information. We thank the Commission in advance for its consideration of this request.

Sincerely,



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¹⁰ See Mona Mahmood, Maggie O'Kane, Chavala Madlena and Teresa Smith, *Revealed: Pentagon's Link to Iraqi Torture Centres: General David Petraeus and 'Dirty Wars' Veteran Behind Commando Units Implicated in Detainee Abuse*, The Guardian, March 6, 2013, available at <http://www.guardian.co.uk/world/2013/mar/06/pentagon-iraqi-torture-centres-link>.