



**Economic and Social  
Council**

Distr.  
GENERAL

E/CN.4/Sub.2/2005/NGO/13  
8 July 2005

ENGLISH ONLY

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COMMISSION ON HUMAN RIGHTS  
Sub-Commission on the Promotion  
and Protection of Human Rights  
Fifty-seventh session  
Item 2 of the provisional agenda

**QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL  
FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND  
SEGREGATION, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO  
COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT  
OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS  
RESOLUTION 8 (XXIII).**

**Written statement\* submitted by International Educational Development, Inc.,  
a non-governmental organization on the Roster**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[1 July 2005]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## The Situation in Iraq

1. On November 19, 2004, the Association of Humanitarian Lawyer filed an emergency petition at the Organization of American States Inter-American Commission on Human Rights on behalf of “unnamed, unnumbered patients and medical staff, both living and dead, of the Falluja General Hospital and a trauma clinic.” International Educational Development/Humanitarian Law Project joined the action shortly thereafter. We argued that these actions violate a number of provisions of the American Declaration of the Rights and Duties of Man, and that the United States has no defense under humanitarian law rules to these violations. This is because the Geneva Conventions specifically prohibit attacks on medical facilities, personnel, and patients -- the time-coveted rule of medical neutrality.

2. The case, registered as “Petition No. P-1258-04, United States,” is in process, and we submit supplemental documents as we uncover relevant facts. At time of writing (June 2005), we are preparing another supplemental document, to be submitted before the Sub-Commission session, based on information obtained by journalist Dahr Jamail and other sources about the complete devastation of Falluja’s medical infrastructure and the detention of Falluja’s medical doctors. It is clear that the media is still not allowed unfettered access to Falluja, and contrary to Geneva Convention rules, the Iraqi Red Crescent is not allowed fully to carry out its rights under humanitarian law to provide relief.

3. The Sub-Commission cannot afford to remain silent on this issue, especially because since the wholesale assault on Falluja’s medical facilities, personnel and patients, the United States military forces have carried out similar assaults in other areas of Iraq. This effectively means that the United States is openly defying the most fundamental rules of humanitarian law as set out in the Geneva Conventions since the first one in 1864.

4. While the international community has rightly expressed outrage over the treatment of United States held detainees, there has been little outcry over blatant attacks on protected medical targets, with some notable exceptions. For example, Sir Nicholas Young, the head of the British Red Cross, stated after the assault on Falluja’s hospitals, that this example of erosion of respect for medical neutrality “threatened to obliterate” humanitarian law.<sup>1</sup> We agree. Addressing violations of medical neutrality in other conflicts will be much more difficult for States that have not spoken up and taken action on the violations in Iraq. Voluntary compliance by parties in other conflicts may cease -- why should they comply when the United States does not. In this sense, the United States military operations against protected medical facilities and persons is a devastating frontal assault on the Geneva Conventions that is far more serious than torture in United States controlled detention facilities: as bad as those violations are, the United States at least acknowledges them as violations and indicates that it is not general US policy. How embarrassing that the United States has not been made to answer to any international or national body regarding hospitals in Iraq except in response to our petition at the OAS.<sup>2</sup>

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<sup>1</sup> The High Commissioner for Human Rights and the head of the International Committee of the Red Cross issued statements, although there is no indication of any follow-up actions. A member of the United States Congress, Representative Jim McDermot (Democrat, Washington) had a guest editor letter published in the Seattle Post-Intelligencer in which he indicated “serious breaches” of the Geneva Conventions, but there has not been calls in Congress for any investigation into attacks on hospitals in Falluja or elsewhere in Iraq.

<sup>2</sup> The only statement, apparently responding to a reporter, that the United States made regarding the attacks on Falluja General Hospital was that the United States considered Falluja General hospital an opposition “field hospital.” Even if true, and it is patently not, Article 19 of Geneva Convention I provides that enemy medical facilities “may in no circumstances be attacked.” (Emphasis added.)

5. We note that attacks such as occurred against medical facilities and personnel in Falluja meet the definition of “grave breaches” as set out in Article 147 of the 4<sup>th</sup> Geneva Convention: there was “willful killing,” “inhuman treatment,” “willful causing great suffering or serious injury to body or health” and “extensive destruction or property . . .not justified by military necessity and carried out unlawfully and wantonly.”<sup>3</sup> We remind the Sub-Commission and the international community that the Geneva Conventions require all “High Contracting Parties” to “ensure respect for the [Geneva] Convention[s] in all circumstances” (Geneva Conventions I - IV, Common Article 1). All States must “search for persons alleged to have committed, or to have ordered to be committed, . . .grave breaches, and shall bring such persons, regardless of their nationality, before its own courts . . . [or] hand such person over for trial to another High Contracting Party.” Geneva Conventions I - IV, Article 49 (I); Article 50 (II); Article 129 (III) and Article 146 (IV). We expected that High Contracting Parties to the Geneva Conventions would have taken action required of them by now. And while the Sub-Commission is not a party to the Geneva Conventions, it ought to speak out firmly about any war crime of this degree of severity.

6. The assaults in Falluja were compounded by the use of illegal weapons by US forces: weapons containing depleted uranium, phosphorus bombs and perhaps napalm.<sup>4</sup> There is much photographic evidence compiled by journalist Dahr Jamail and others that many of the dead did not die of simple bullet wounds but were burned beyond recognition. Some survivors have serious burns. Exposure to depleted uranium will undoubtedly complicate the health of the survivors -- already weakened by many years of sanctions and without adequate food, water, shelter and medical care. The abject failure to provide adequate food, medical supplies and water for the people of Falluja both within Falluja or forced to flee and in camps outside of Falluja defies the duty to do so established by Article 55 of Geneva Convention IV. United States action to prevent supplies being brought to the civilian population both in and without of Falluja by others violates Article 59 of Geneva Convention IV, compounding the assault on the Geneva Conventions.<sup>5</sup> Further, because so many doctors were either killed, injured, fired upon, detained, and otherwise prevented from doing the little they could (considering that there is no functioning hospital or supplies), many surviving doctors have left Falluja, and even Iraq, for safe haven.

7. In our written statement at the Commission (E/CN.4/2005/NGO/132) we urged a full investigation by appropriate United Nations officials, especially the High Commissioner for Human Rights. We noted that the UNEP’s Post-Conflict Environmental Assessment team has requested access to Iraq for assessment, especially on the depleted uranium issue, since 2003 and has not yet been granted it by the United States. We also called on Mr. Paul Hunt, the Special Rapporteur on the Right to Health, to undertake action to assess the situation and make recommendations, although at time of writing he is still seeking access to US-held prisoners in Guantanamo. The Sub-Commission can urge Mr. Hunt and other special rapporteurs to investigate the Falluja human and legal catastrophe as one of great priority.

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<sup>3</sup> Geneva Convention IV of 1949 (protection of civilians) applies to the hospital cases as the facilities in question were all civilian hospitals treating primarily civilians. There can be no “military necessity” defense for military operations against medical facilities.

<sup>4</sup> News reports based on US-supplied information indicate that Falluja General Hospital was “secured” following 2 hours of assaults by, inter alia, Abrams and Bradley tanks -- both of which fire depleted uranium weapons.

<sup>5</sup> Subsequent failure to aid the sick and wounded or to provide subsistence food and water would also qualify as acts “willfully causing great suffering or serious injury to body or health” and hence, also grave breaches.

8. In conclusion, the Sub-Commission must soundly condemn the United States for attacks on protected medical targets in Iraq, and, with full recognition of the level of gravity of the violations, call upon an international tribunal under the auspices of the United Nations to look into these grave breaches. To fail to even mention these breaches is another step to the obliteration of the Geneva Conventions.

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