

EXHIBIT 29

Association of Humanitarian Lawyers



PETITION

SUBMITTED TO THE
INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
ORGANIZATION OF AMERICAN STATES

BY

THE ASSOCIATION OF HUMANITARIAN LAWYERS

ON BEHALF OF

UNNAMED, UNNUMBERED PATIENTS AND MEDICAL STAFF, BOTH LIVING AND DEAD,
OF THE FALLUJA GENERAL HOSPITAL AND A TRAUMA CLINIC

AGAINST

THE UNITED STATES OF AMERICA

Karen Parker
Attorney for Petitioners

CONTENTS

BRIEF STATEMENT OF THE CASE

THE ORGANIZATIONAL PETITIONER

ORGANIZATIONAL PETITIONER MEETS ARTICLE 26 REQUIREMENTS

REQUEST FOR ARTICLE 25 PRECAUTIONARY MEASURES

EXHAUSTION OF DOMESTIC REMEDIES

FACTS

VIOLATIONS

CONCLUSION

DOCUMENTS

Tab 1. Statement of Louise Arbour, United Nations High Commissioner for Human Rights, 16 November 2004.

Tab 2. B. Dominick, "In Fallujah, U.S. Declares War on Hospitals, Ambulances," The New Standard (Australia), 12 November 2004.

Tab 3. "Aid convoy barred from "starving" Falluja," Al-Jazeera, 15 November 2004.

Tab 4. M. Georgy, K. Sengupta, H. McGavin, [News stories], The Independent (UK), 15 November 2004.

Tab 5. United Nations, Emergency Working Group -- Falluja Crisis, "Up-date Note," 11 November 2004 and 13 November 2004.

Tab 6. "Hospitals hit as fighting rages in Falluja," Al -Jazeera, 9 November 2004.

Note: Tables are not included on this version.

BRIEF STATEMENT OF THE CASE

On Sunday, 7 November 2004, troops belonging to the United States Special Forces seized the Falluja General Hospital in Falluja, Iraq. The hospital patients were taken from their rooms, ordered to lie on the floor and they had their hands bound behind their backs. There are also credible reports that a medical clinic was attacked, killing 20 doctors and unnumbered patients. Survivors are presumed in urgent need of attention. Organizational Petitioner files this Petition on an emergency basis as provided by Article 25 of the Rules of Procedure of the Inter-American Commission on Human Rights (Rules). Organizational Petitioners allege that the reports of the impact of that attack on patients and medical staff, in conjunction with

current conditions at the hospital and clinic, if true, justify Article 25 remedies and constitute violations of Articles I (right to life, liberty and personal security); Article V (right of freedom from abusive attacks on personal life); Article XI (right to preservation of health and well-being); and Article XXV (right to protection from arbitrary arrest) of the American Declaration of the Rights and Duties of Man, adopted by the 9th International Conference of American States (1948)(American Declaration).

The United States is a member of the Organization of American State and is therefore bound by the American Declaration.

Petitioners have not raised the issues presented herein in a forum that would invoke the duplication doctrine set out in Article 33 of the Rules.

THE ORGANIZATIONAL PETITIONER

The Association of Humanitarian Lawyers (AHL) is a California Organization duly registered with the California Secretary of State, and has private, non-profit status under United States law. Formerly known as International Disability law, its mission is to educate about and seek compliance with human rights and humanitarian law. AHL specifically seeks to protect the rights of persons injured or disabled in armed conflict and to protect medical personal, medical facilities and medical supplies from harm.

ORGANIZATIONAL PETITIONER MEETS ARTICLE 23 REQUIREMENTS

Organizational Petitioner alleges that it complies with Article 23 of the Rules, which allows petitions on behalf of third persons by groups legally recognized in a member State of the Organization of American States. Organizational Petitioner asserts that the to-date unnamed and unnumbered Individual Petitioners are precisely the persons that AHL seeks to protect and that the acts in questions are those that AHL seeks to prevent or remedy.

REQUEST FOR ARTICLE 25 PRECAUTIONARY MEASURES

Article 25 of the Rules provides for measures to be undertaken in emergency situations. This rules provides, in pertinent part:

1. In serious or urgent cases, and whenever necessary according to the information available, the Commission may, on its own initiative or at the request of a party, request that the State concerned adopt precautionary measures to prevent irreparable harm to persons.

Organizational Petitioner is convinced that the situation is sufficiently grave to assume that surviving Individual Petitioners are at great risk of loss of life and other irreparable harm.

EXHAUSTION OF DOMESTIC REMEDIES

Petitioners allege excuse from exhaustion of domestic remedies as required by Article 31 of the Rules because this is an urgent case governed by Article 25 of the Rules. Petitioners also assert that United States domestic law does not provide remedies for victims of violations of human rights that occur during armed conflict and will make a showing of that if so requested by the Commission.

FACTS

Respondent State does not deny that at about 10:00 p.m. Sunday, November 7, 2004 its Special Forces stormed Falluja General Hospital, and both patients and staff were ordered to sit or lie down. Their hands were then bound behind their backs. The front page of the San Francisco Chronicle, November 8, 2004 has a photograph taken by N. Y. Times photographer Shawn Baldwin at the hospital showing the United States forces guarding a number of patients who are lying on the floor with their hands bound. This operation was admitted by Respondent to be among the first one undertaken by its military forces in its goal of seizing Falluja away from the hands of the enemy. There is strong evidence to indicate loss of life, injury, worsening of medical condition and other ills for the patients and staff at this hospital due to the conduct of Respondent.

Petitioners allege that the information regarding the clinic is sufficiently reliable to indicate that the Respondent's military forces carried out an aerial bombardment on a medical trauma clinic, killing perhaps up to twenty doctors and unnumbered patients. In this regard Reuters has issued a photograph of a sign reading "Nazzai Emergency Hospital" that is all that remains of that facility and two adjacent building used my medical care providers. The opposition forces have no capacity for aerial attacks.¹ American officials have allegedly defended these acts by claiming that Falluja General Hospital is an "enemy field hospital" but Petitioners assert that facts available to the Respondent clearly indicate that this facility is a civilian one, and statements issued at other times by Respondent indicates this knowledge.²

There are numerous accounts, as well as photographs,³ of American forces shooting at or destroying ambulances.

On Monday, November 15, 2004 the Iraqi Red Crescent allegedly tried to bring badly needed supplies to injured civilians, including the patients, but were barred from doing so. Its convoy retreated to the surrounding camps of internally displaced persons.

There is clear evidence that Abrams tanks are being used in military attacks near and around the medical facilities, thereby possibly further endangering patients and remaining medical staff as these tanks have been used to fire weapons containing depleted uranium. Depleted uranium weapons are radioactive, have a devastating effect on life and health of all persons in the area, and will continue to have a deadly effect long after the conflict is over. It is for this reason that in 1996 the United Nations Sub-Commission on the Promotion and Protection of Human Rights found use of these weapons "incompatible" with existing human rights and humanitarian law standards.

The urgency of the situation is indicated by an appeal of the United Nations High Commissioner for Human Rights, who issued a statement in this regard.

VIOLATIONS

Petitioners allege the above acts show violations of Articles I (right to life, liberty and personal security); Article V (right of freedom from abusive attacks on personal life); Article XI (right to preservation of health and well-being); and Article XXV (right to protection from arbitrary arrest)

War can provide an exception to certain of these rights. For example, an enemy soldier killed in battle does not have a right of action under the right to life provisions in human rights law. In some instances civilian casualties may be viewed as "incidental" ones and not, therefore, violations of either human rights or humanitarian law. However, when a military force carries out an illegal military action, then the resulting violations are simultaneously violations of human rights and humanitarian law. Thus, in order for the Respondent Government to defend against the charges brought by Petitioners, applicable humanitarian law must be consulted to see if there are exceptions that relate to this Petition. There are not.

The violations alleged by Petitioner result from military operations that are specifically forbidden in applicable humanitarian law. Article 18 of Geneva Convention IV of 1949 provides, in pertinent part:

Civilian hospitals organized to give care to the wounded and sick, the infirm and maternity cases, may in no circumstances be the object of attack, but shall at all times be respected and protected by the Parties to the conflict.

Article 19 of the same convention provides:

The protection to which civilian hospitals are entitled shall not cease unless they are used to commit, outside their humanitarian duties, acts harmful to the enemy. Protection may, however, cease only after due warning has been given, naming, in all appropriate cases, a reasonable time limit, and after such warning has remained unheeded.

The fact that sick or wounded members of the armed forces are nursed in these hospitals, or the presence of small arms and ammunition taken from such combatants which have not yet [been] handed to the proper service, shall not be considered to be acts harmful to the enemy.

The facts clearly show that Falluja General Hospital was at all times a civilian hospital and that the Respondent had to have known this. Further, Respondent has publicly admitted that the attack on Falluja General Hospital was a key part of its first phase of military operations to seize Falluja. Various accounts attribute a rationale of preventing opposition forces from obtaining medical care. In any case, there was clearly no Article 19 warning. And while some enemy wounded were in the hospital, Article 19 provisions to not allow that facts to be construed an act harmful to the enemy. Thus, the Respondent may not invoke an exception to the right to life and security of the person and other American Declaration Article I rights.

Even if Falluja General Hospital were an enemy field hospital, Respondent could not legally carry out what it did. This is clear from Article 19 of Geneva Convention I of 1949, which provides, in pertinent part:

Fixed establishments and mobile medical units of the [enemy's] Medical Service may in no circumstances be attacked, but shall at all times be respected and protected by the Parties to the conflict.

Petitioners further conclude that the attacks on the medical facilities show violations of the right to freedom from abusive attacks as provided in Article V, violations of the right to health as provided in Article XI, and, as many patients and doctors were detained for some periods of time, a violation of the right freedom from arbitrary arrest as provided in Article XXV. The failure of the United States to provide for or allow provision for immediate, emergency relief for the unnamed, unnumbered Petitioners is an on-going violation of Article XI, and places them all at great risk of loss of life, irreparable harm and further violations. The possible use of illegal weapons containing depleted uranium would indicate an aggravated violation of the right to health and well-being as hospital patients would likely be particularly effected by exposure to DU radiation.⁴

CONCLUSION

Petitioners respectfully request the Commission to take appropriate action on this Petition with due consideration of the urgency of the matter. At a minimum, Petitioners urge the Commission to require of the Respondent full compliance with the American Declaration as it is to be interpreted during armed conflict invoking humanitarian law. Petitioners also request the Commission consider an on-site investigation under its Applicable authority. Petitioners also request leave to submit additional documentation as this becomes available, and assert a willingness to address any issue raised by the Commission for further examination or argument.

Respectfully submitted,

Karen Parker, J.D.
Attorney for Petitioners

Notes:

¹ Petitioners assume that Nazzai Emergency Hospital is the "trauma clinic" referred to in other accounts, but it may be that two clinics were attacked.

² As will be apparent under the discussion of the violations, Petitioners would still file this Petition even if Falluja General Hospital were an "enemy field hospital."

³ Petitioners are collecting photographs that will be submitted separately.

⁴ If the facts show that DU weapons were in fact used in Falluja, Petitioners will provide the Commission with United Nations resolutions and reports on these weapons.