

To: Mr Maurice Manning, Chairperson,
Irish Human Rights Commission
4th Floor,
Jervis House
Jervis Street
Dublin 1

Mr Gerry Finn, Assistant Caseworker,
Irish Human Rights Commission

From: Edward Horgan

Re: Requests for investigation of Rendition for Torture and other matters at
Shannon airport and:
Requests for enquiries under section 9(1)(b) of the Human Rights Commission
Act, 2000.

Date: 20 March 2006

Your Ref: 06-088/ENQ

Dear Sirs,

1. I refer to your letter dated 2 March 2006 and thank you for your continuing interest in this very important matter. The delay in responding to the IHRC request for additional information is due to the very limited time and financial resources at the disposal of peace activists compared to the resources available to the state to cover-up its unlawful activities. Because we are private individuals, and because we are also assisting other enquiries into rendition for torture at Shannon airport, including the European Parliamentary enquiry and the European Council enquiry, we can only respond within those limitations, but will nonetheless endeavour to provide your commission with as much information as possible. We are also incurring costs for this research including phone charges, stationary and travel, and we have no access to funds apart from our own private funds, and would appreciate some assistance towards these costs.
2. We are also very concerned that the official organs of the state, particularly the Gardai and the Departments of Justice, Foreign Affairs, Defence and Transport, whose duties it is to fully investigate such matters and to take all necessary measures to prevent the territory of Ireland being used for any purposes related directly or indirectly to torture, have repeatedly failed to carry out those duties. In addition they have actively prevented others, particularly, Edward Horgan and Tim Hourigan from investigating and exposing the committing and facilitation of crimes of torture at Shannon airport.
3. This is one of the particular areas that we wish your committee to investigate or enquire into, because if the statutory bodies who are specifically tasked and obliged to prevent abuses of human rights are consistently failing to do so, then the ability of ordinary citizens, and NGOs, to do so is very seriously restricted, especially when, as we now believe is the case, these same state authorities are in addition failing to act on credible reports that human rights

abuses are taking place, and are also taking steps to ensure that others are not in a position to expose such human rights abuses. To use non-legal terminology, the dogs in the street, know that several dozen prisoners are likely to have been taken through Shannon airport and Irish airspace by the US under its extraordinary rendition for torture programme, that many of these prisoners have been tortured, and that some of them have probably died under torture.

4. I have also read the documentation you forwarded to me concerning the role, remit and authority of the IHRC, and thank you for sending these documents to me. I now appreciate just how limited the role of the IHRC is, and while I appreciate that this role is limited by law, that is, the Human Rights Commission Act, 2000, I am nonetheless very disappointed at what I perceive to be the scope and remit of the IHRC.
5. I am concerned by several limiting features of this IHRC Act 2000, including its definition of 'human rights' in Section 2 of the act, which purports to limit the term 'human rights' only to those rights guaranteed by the Irish constitution and the rights covered by treaties or conventions to which the State is a party. On the face of it, this could be seen to exclude certain categories of people, i.e. those who are not for whatever reason protected by the Irish constitution, or who fall outside of the terms of treaties or conventions to which the State is a party. There are many provisions of customary international law, that do not come within these two narrow categories but which nonetheless prohibit torture and human rights abuses. This is of particular importance in the matters we have brought to your attention because of the subversive and hidden nature of the crimes being committed by states, including Ireland, and because of the status, or lack of official status, of many of the victims of the alleged and actual torture being perpetrated on the victims of the so-called torture 'rendition' process.
6. The fact that the IHRC is appointed by the Government of Ireland, and is only independent in so far as the Act, passed by the Oireachtas at the behest of the Irish Government, allows it to be independent, imposes further significant restrictions on the rights of certain individuals and groups, for example, prisoners who are declared to be 'enemy combatants' but at the same time are considered by the United States not to be 'prisoners of war'. This device, arguable contrary to international law, is used by the US to evade its responsibilities to prevent torture and human rights abuses, and to actively engage in acts that constitute torture and human rights abuses.
7. Section 8 of the act appears to place very significant restrictions on the functions of the commission, and these limitations should be the subject of a separate submission to the Government by your Commission on amendments that are necessary to this act. This could be done under Section 8(a) of the Act. In particular, the IHRC should be empowered in a broader sense to investigate any serious matters of a human rights nature that the commission itself feels should be investigated and reported on, in addition to the matters or functions authorised by, or limited by, Section 8 of the Act.
8. A strict literal reading of Section 9 of the IHRC Act 2000, virtually disempowers the commission from investigating almost anything. Section 9 (3) (a) directs that the Commission 'shall' refuse to conduct an enquiry if the matter concerned is 'vexacious'. Since many or most of the matters complained of may involved the state, and are critical of the state, then they

will, almost by definition, be considered to be ‘vexacious’ by the state, and could therefore fall outside the remit of this Commission. (This has already been the experience of two of the persons concerned with this submission, Edward Horgan and Tim Hourigan, each of whom made serious complaints to the Garda Complaints commission, and had those complaints dismissed as being ‘vexacious’. These complaints were related to matters of US misuse of Shannon airport, including rendition for torture).

9. Section 9 (3) (b) directs that the Commission ‘shall’ refuse to conduct an enquiry if the “person making the request has insufficient interest in the matter concerned”. Since every living person has a very direct interest, and very specific duties, under the UN Convention Against Torture, in the prevention of torture, and the prevention of abuses of human rights, this section should be deleted.
10. Section 9 subsections (4) and (5) appears to place the defense and protection of human rights in a subservient position to other legal proceedings, and enables the State to use legal proceedings to delay or prevent any enquiry or actions by the IHRC, or others.
11. The only provision for censure or punishment under the Act appears to be in Section 9, and could be construed as potentially offputting to any potential ‘whistle blowers’ or complainants, rather than any possible individuals or organisations, including the State, who may be guilty of most serious abuses of human rights. The Act does not appear, on the face of it, to apply any possible punishment or sanction on those deemed to be perpetrating abuses of human rights in Ireland or facilitating the abuse of human rights elsewhere.
12. We are aware that other organisations are also interested in carrying out investigations into the issue of ‘rendition’ for torture in Europe and elsewhere. These organisations include the Council of Europe, the European Commission, the European Parliament, the United Nations Human Rights Commission, Amnesty International, Human Rights Watch, UK Based Liberty Group, etc. Each will be receiving copies of our reports and information when they are completed in due time.
13. In particular we refer to investigations being carried out by Mr Dick Marty, a Swiss Senator carrying out investigations into these matters for the Council of Europe. Mr Marty was quoted in Guardian report as stating that “if it was proved that European Governments knew the rendition process ... was going on, they would stand accused of having breached their human right obligations to the Council of Europe.”
14. Because of the short time available to us to prepare this submission, and because of the very limited resources in time and otherwise at our disposal, this report should be seen as an interim partial report, that will be updated as information comes to hand, or is collected from archives and from monitoring events at Shannon and elsewhere. These additional follow-on reports will also be sent to the other organisations.
15. We request that your committee should access the following reference material from within your own resources. Most of this material is available online or directly from the sources indicated. I will endeavour to assist you in gaining access to any of these documents if required.
 - a. Charter of the United Nations
 - b. Bunreacht na hÉireann
 - c. Hague Convention V 1907 on Neutrality

- d. UN Convention Against Torture
- e. Criminal Justice (UN Convention against Torture) Act, 2000
- f. Extracts from Handbook of Humanitarian Law in Armed Conflicts ed. Dieter Fleck,
- g. Nice Treaty Seville Declaration
- h. UN General Assembly Resolution no 2626 1970 (unlawful occupations of territory)
- i. UN Sec Co Resolution 1441, 2002, Iraq.
- j. UN Sec Co Resolution 1454, 2002 (Sovereignty and Territorial Integrity of Iraq)
- k. UN Sec Co Resolution 1483, 20 May 2003 (Occupation of Iraq)
- l. Judgement of Mr. Justice Kearns 28 April 2003, Horgan v Ireland et al.(not enclosed)
- m. Documents Discovered from Department of Foreign Affairs in Horgan v Ireland Case. (separate folder to be forwarded later)
- n. High Court Injunction against peace activists, (2003 No. 1468P) (Separate folder to be forwarded later)
- o. Lancet Report on Iraqi dead
- p. MEDACT report Collateral Damage, 2002
- q. MEDACT report Enduring Effects of War 2004
- r. Iraq Body Count December 2005
- s. Times – Take no Prisoners article 20 Nov. 2001
- t. Newsweek “Aboard CIA” prisoner rendition article, Newsweek.
- u. List of reports on “extraordinary rendition” by Dr Coilin O’hAiseadha,
- v. Liberty letter to Mr Straw
- w. Liberty letter to Police
- x. Sample of Copies of Complaints to Gardai at Shannon by Peace Activists
- y. Clare Co Council – Breaches of Planning at Shannon
- z. Complaint to Supt. Kerin
- aa. Documentary evidence of US CIA aircraft at Shannon airport
- bb. Dick Marty – Council of Europe Report
- cc. Copies of photographs of US military aircraft, aircraft chartered by US government as troop carriers, and other US aircraft, taken by peace activists at Shannon (not yet included)
- dd.** Copies of more recent correspondence and media information releases. [Where possible copies of the relevant documents listed above but not readily available on the internet will be forwarded later]

ee. Additional Reference Materials not attached:

- Evans, Malcolm D. ed., *International Law* (Oxford, OUP, 2003).
- Biehler, Gernot, *International law in Practice: An Irish Perspective* (London: Thomson Round Hall, 2005).
- Deller, Nicole, et al, eds., *Rule of Power or Rule of Law: An Assessment of U.S. Policies and Actions Regarding Security-Related Treaties*, (New York, Apex Press, 2003).
- Oppenheim L: *International Law: a treatise*. Vol.II: Disputes, war and neutrality (London, Longmans, 1952, 7th edn. by Lauterpacht H.
- Reus-Smit, Christian, *The politics of international law* (Cambridge, CUP, 2004).

16. We specifically request that all our correspondence with the IHRC, including this document, be circulated to each member of the IHRC without delay, and we wish to reiterate the urgency of the matters raised in our previous communications, and in particular we wish to point out again, that there are up to 150 persons, who had been held in so-called 'black site' prisons in European states up to November 2005, in which European prisons they were likely to have been tortured. It is now known that these prisoners have been transferred to other prisons in North Africa and elsewhere, where they are even more likely to be tortured, and very likely to be killed, in order to prevent the facts of their unlawful torture and imprisonment becoming public knowledge. The information we have provided to you so far also clearly indicates that the Irish Government has been implicated in these matters through the continuing use of Shannon airport by US military aircraft and CIA 'rendition for torture' aircraft. While we realise that there are limitations in your resources and in your remit under the Human Rights Commission Act, 2000, we urge you to use all necessary means at your disposal to overcome these limitations and take adequate investigative actions to prevent the continuing use of Shannon airport, or any part of Irish territory or airspace for the purposes of abusing human rights. We urge you not just to review, consult, make recommendations, and promote human rights, but to act to protect human rights that have been and are still being abused by the US rendition for torture programme – 'don't just stand there, do something'.
17. These important issues provide an opportunity for the IHRC to test the effectiveness of the Commission. If the IHRC fails to deal with these very clear abuses of human rights then its very existence as an Irish human rights organisation could be questioned due to the very limited remit of its mandate. Even within the limited mandate of the stated function of your commission, we urge you to:
 - a. Review the Irish laws in relation to the use of Irish airports, Irish territory and Irish airspace, with particular reference to their use by the military forces of foreign governments for the purposes of making war on other states, or peoples outside the Irish jurisdiction.
 - b. Review the current practices at Shannon airport, whereby the Irish Government has invited the US military to use the facilities of Shannon airport and Irish airspace for the specific purposes of the wars and occupations of the two sovereign states, Afghanistan and Iraq, without a mandate or approval from the United Nations Security Council.
 - c. Make recommendations to the Irish Government for the immediate withdrawal of the use of Shannon airport and Irish airspace and territory from the US military and the US Government for any military attack on and state or peoples, or for any unlawful purposes such as the rendition of prisoners for torture.
 - d. Promote understanding and awareness that Shannon airport has been used in the recent past, and is being used at present, for purposes that include the unlawful killing of innocent people, and for the unlawful torture of prisoners.
 - e. Promote understanding and awareness that the rendition of prisoners for torture and the unlawful killing of civilians in unlawful wars are most serious breaches of human rights.

18. Council of Europe Report, and the Response of the Irish Government to this report.

Because other organisations such as the Council of Europe have already done some investigative work on the torture rendition issue it is important to examine any findings and responses to such additional investigations.

On 22 November 2005 the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe issued a report entitled “Alleged secret detention centres in Council of Europe member states Information Memorandum (revised) by Mr Dick Marty, Chairperson of the Committee” This report is available from the COE Website. The Irish Government issued a reply to this report and to the specific requests submitted by Mr Marty to specific Governments. I attach a copy of the reply of the Irish Government for your attention, and suggest that the IHRC should use the information contained in this COE report and the Irish Government’s reply as a further means of examining the use of Shannon airport for torture rendition from a particular Irish perspective. The following is a considered evaluation of the reply by Edward Horgan for your consideration and evaluation.

Article 52 Request in respect of Unacknowledged Deprivation of Liberty, Reply of the Government of Ireland.

In Para 1, Introduction, the Irish Gov states that: “The conclusion records the absolute prohibition under Irish law of the unacknowledged deprivation of liberty, and confirm that the practice within the State fully conforms to this.”

I wish to assert that the practice within the Irish State does not at all conform to the prohibition of unacknowledged deprivation of liberty within the Irish State, and that in view of the use of Shannon airport for the rendition of prisoners, the Irish Government is knowingly stating a falsehood, in making the above statement.

In Para II, The Law A.

Controls on officials of foreign agencies, the Irish Government asserts that, “The actions of all persons present in the territory of Ireland are governed by Irish law, including that relating to the deprivation of liberty”. While Irish law may impose some very limited controls over such matters, the practice of the Irish law enforcement agencies, especially at Shannon airport has been to allow foreign US agents and agencies a virtual blank check to engage in extra judicial activities including unlawful deprivation of liberty and torture at Shannon airport, and the Irish Government have been reckless as to whether any such activity has been perpetrated. In particular the very public statements made by both the Irish Minister for Justice and the Irish Minister for Foreign Affairs that US military aircraft and CIA controlled aircraft will not be searched by Irish authorities at Shannon airport, amounts to a statement by the Irish Government granting special immunity to the US Government and its agents to use Shannon airport for the purposes of rendering prisoners for torture, or for any other unlawful purposes.

The Irish Government statement states that US Government technical and administrative staff engaged in ‘preinspection’ duties at Irish airports “enjoy the

relevant privileges and immunities under the 1967-76 Acts in respect of acts performed in the exercise of their duties under the 1986 agreement.” No attempt is made to explain what these privileges and immunities are, and I Edward Horgan and others have witnessed US agents carrying out duties both within and outside of Shannon airport which indicates that these US agents have been acting outside the remit of what is normally expected in a foreign sovereign state, and especially that of a foreign neutral state.

Of special importance is the response in **Para II, 3 a, (2) Aircraft not in flight.**

“Civil aircraft used by foreign officials which land on Irish territory are not entitled to any state immunity.” As outlined above, this has been contradicted by the recent custom and practice at Shannon airport.

Of even more significance is **Para II, 3 b, Foreign State aircraft.**

“It is a requirement of Irish law that prior permission must be sought for a foreign military aircraft to land in Irish territory. In such circumstances, the foreign military aircraft enjoy immunity from search by Irish officials unless permission is conditional upon the waiver of this immunity. In addition, persons on board such an aircraft, who commit an offence while they are on board, enjoy immunity.”

This statement by the Irish Government is cause for grave concern. There is now strong suspicions, and evidence at other foreign airports, that in addition to special CIA aircraft, that US military aircraft, particularly C130 Hercules aircraft have been used repeatedly for the rendition of prisoners for torture. This statement by the Irish Government that all such foreign military aircraft have immunity from search, unless such immunity is waived, and that persons who commit offences while on board such aircraft, even on Irish territory also have immunity, is not backed up by any reference as to how or where such immunity exists, or arises from, either in Irish or in international law. It appears to be in direct contradiction of the terms of both the international law provision in the UN Convention against Torture and the Irish law provisions in the UN Convention against Torture Act 2000. The Irish Government should be asked to justify this exceptional level of immunity apparently granted to the US military without reference to the Irish parliament or the Irish people, and in contravention of the Hague Convention on Neutrality.

In Para II, B, Safeguards to prevent unacknowledged deprivation of liberty the Irish Government simplistically quotes the protection offered under Article 40.4.1 “No person shall be deprived of his personal liberty save in accordance with law”. It also asserts that “Irish law provides numerous mechanisms to prevent an unlawful deprivation of liberty”. This statement runs counter to the practice at Shannon airport whereby no attempts have been made to investigate, search or arrest any US personnel who may have been involved in very serious crimes both on Irish territory and outside Irish jurisdiction, including crimes against humanity and torture, while on the other hand, peace activists, including Edward Horgan have been unlawfully detained at Shannon airport simply for engaging in lawful peaceful protests, and for attempting to collect information on the unlawful detention and torture of prisoners at Shannon airport. It is also asserted that the power of the Irish police service to deprive a person of his or her liberty “is highly regulated”. This assertion is falsified by the experiences of Edward Horgan and others at Shannon airport.

Para II, B, 2. refers to Ireland-US extradition agreement 2001, but does not give details of this agreement. There may also be other secret or informal agreements with the US concerning the deprivation of liberty by foreign agents in Ireland, which have not been disclosed either to the Irish public or to the COE or to the EU. It is essential that all such formal or informal agreements should be made public in the interests of prevention of torture. Of particular importance are likely to be formal and informal agreements and arrangements agreed or discussed by Irish and US Government leaders and officials particularly around the time of 17 March 2002.

It is also stated that “It is not lawful for the Minister or the State to consent to the transit of a prisoner through Irish territory other than in the two circumstances outlined above.” While this may be so, there are no provisions for preventing the Minister or the State from so doing, and there are significant grounds for believing that the Minister and the State have actually consented by deed or by default in the unlawful transit of prisoners through Ireland for the purposes of torture. Since the Irish state are the final arbiters of such matters within the Irish state, and are also likely offenders in these matters, it is very important that adequate investigations and follow up be carried out by international organisations above the level of the Irish state, particularly by the EU, the COE and the UN, and by the IHRC within Ireland. Not only is the letter of the law, including international law, important in these matters, but the practice, enforcement, and implementation of national and international laws are also essential.

It is further asserted that “No minister can *lawfully* consent to the transit through Irish territory of a prisoner where he or she *knows*, or has *substantial* grounds for believing, that there is a *real risk* of that prisoner being tortured or subjected to inhuman or degrading treatment (emphasis added)”. All the qualifying words that are emphasised in the statement run counter to the duties and obligations on Irish Ministers to, not only not engage in acts of torture, but also to, take all necessary steps to prevent torture, not only on Irish territory but also to prevent torture taking place anywhere. These duties are very clearly contained in the UN Convention Against Torture.

In Para II, B, 4. Prevention of unlawful deprivation of liberty: It is asserted that: “An Garda Siochana are under a common law duty to detect and prevent crime.” It is clear to this observer and to many others that this common law duty has not been carried out by the Gardai at Shannon airport over the past four years in the matters of detection and prevention of the crimes of torture. As recently as 18 March 06 a Garda Sergeant at Shannon airport refused a request from Edward Horgan to search a specific US Hercules C130 military aircraft at Shannon airport, for the purpose of ensuring that it was not carrying prisoners. The Air Transport Navigation Act is cited as to the detailed powers of Gardai and airport security staff (authorised officers). However, it is not the existence of these laws and regulations that is at stake here but their proper and lawful implementation.

The provision for habeas corpus applications under Article 40.4.2, is also cited as a safeguard to prevent the unlawful detention and torture of prisoners. However, it is not explained how a prisoner, who is bound, gagged, blindfolded, and tied to the floor of an aircraft, and who has no access either to a legal representative or even

to the lawful officials of the state including the police, how such a prisoner could avail of the right of habeas corpus, or make such an application to the Irish High court.

Para II, B, C, Adequate Response to alleged infringements:

The Government response acknowledges that: “the Gardai are empowered and obliged to investigate crime”. In the case of alleged rendition of prisoners through Shannon airport it is clear that this has not occurred in any genuine way, and that the Gardai appear to have been acting on instructions from higher authority including directions from the Irish Government not to fully, or even with any genuine intent, carry out an investigation into the rendition of prisoners through Shannon airport. The evidence for this comes from the experiences of peace activists, including Edward Horgan and Tim Hourigan who have made repeated requests for specific aircraft to be searched, and for Gardai to conduct investigations into the misuse of Shannon airport, and no such searches or investigations have occurred. The response, in the few cases where responses were given was that those making the complaints and requests had not produced credible evidence that Shannon airport had been used for rendition of prisoners. This spurious device of attempted to shift the responsibility for investigating crime from the police, to members of the public, while at the same time taking steps to ensure that those same members of the public were denied any opportunity to carry out any investigation. By this behaviour the Gardai also abrogate their responsibility and the responsibility of the State to prevent the most serious crime of torture, and provide unlawful immunity to the US Government for the rendition of prisoners through Shannon airport.

Page 14 of the response purports to list the remedies open to any person suffering unacknowledged deprivation of liberty, including the victims right to pursue civil damages, and their rights under the Irish Constitution, rights to take action for damages for assault, and the right of access to the Criminal Injuries Compensation Tribunal. No attempt is made to explain how a prisoner being rendered for torture could possibly avail of these opportunities when the police force that is an essential part of protecting these very rights, is now being actively used to prevent these rights being exercised, and actively complicit in the process known as rendition of prisoners for torture. This complex web of deceit not only by the Irish state and its agents, but, by possibly dozens of states across several continents creates serious pressures on those states and authorities to prevent these unfortunate prisoners ever availing of their rights of redress. As a result, there is an increased likelihood that many of the prisoners taken for torture through Irish airports, and other European airports, will be murdered while in prison to prevent any such redress, or any international retribution on the perpetrating states.

III. The question of unacknowledged deprivation of liberty.

This is the key paragraph in which the Secretary General of the COE requests of the Irish Government: “an explanation ... as to whether, in the period running from 1 January 2002 ... until the present, any public official or other person acting in an official capacity has been involved in any manner – whether by action or omission – in the unacknowledged deprivation of liberty of any individual, or transport of any individual while so deprived of their liberty, including where such deprivation of liberty may have occurred by or at the instigation of any foreign

agency. Information is to be provided on whether any official investigation is under way and/or on any completed investigation.”

In reply to this request, the Irish Government response contains several misleading statements and a number of statements that are likely to be knowingly false. Perhaps an insight into the Irish Government’s stance on this issue is contained in the statement that: “Officers from the Department of Foreign Affairs met on several occasions in order to formulate a process which would answer the Secretary General’s questions in the most comprehensive way.” It should be noted that these officers did not meet to carry out a thorough investigation into the rendition of prisoners through Shannon airport, which has been the primary allegation made repeatedly by human rights NGOs including Amnesty International and peace activists against the Irish Government. These Foreign Affairs officers met “to formulate a process which would answer”, rather than carry out any comprehensive investigation. This is contrary to the letter and intent of the Council of Europe request.

It should be noted that: “In December 2005, the Secretary General of the Department of Foreign Affairs wrote to his colleagues in all relevant Departments attaching the Article 52 request, explaining its context and requesting their cooperation in preparing a comprehensive reply.” Since the Irish Department of Foreign Affairs is likely to be one of the principle culprits in an Irish context in facilitating the rendition of prisoners through Shannon airport any investigation coordinated by this department is most likely to be designed and implemented in such a manner as to conceal rather than expose any evidence of prisoners being taken through Shannon by the US Government agents with the active cooperation of the Irish Government. No attempt was made by the Irish Government to conduct an independent judicial enquiry, as is frequently the practice in such serious matters in Ireland, for much less serious matter such as planning corruption. Instead, the ‘poachers’ were designated as the ‘gamekeepers’. “The Department of Foreign Affairs chaired an interdepartmental coordinating meeting ... on 12 January in order to explain the context of the Secretary General’s request, and to reinforce the commitment to ensuring a comprehensive reply by the due date.” It should be noted once again that no mention is made here of investigating rendition for torture at Shannon. It is also very important that enquiries by the Council of Europe, the European Parliament and the IHRC into rendition for torture should request copies of all correspondences and minutes of meetings held by the Departments of Foreign Affairs, Justice, Defence and Transport, concerning these matters.

The Irish Government’s response goes on to state that: “internal investigations were set in train within the Departments concerned in order *to prepare categorical replies* to the Secretary General’s questions (emphasis added).” Please note again that the stated purpose of these investigations was not to investigate the rendition of prisoners through Shannon airport or any unacknowledged deprivation of liberty. It may be of special significance that the “Army Director of Legal Services and the Army Director of Intelligence” were included in these consultations. It is likely to be of particular importance to ascertain why these two individuals were involved in this enquiry whose principle purpose is likely to have been to prevent information being discovered rather than to expose the truth in these matters.

The Government's response then goes on to give a detailed response on their efforts to investigate whether unacknowledged detention occurred in *lawful* places of detention in Ireland, even though no complaint or even suggestion has been made by anyone in Ireland that these locations or institutions have been misused for unlawful detention. While it includes the Department of Transport in this enquiry, it appears to do so only in the context of the powers of immigration authorities and airport security staff powers of detention and appears to ignore the whole area of rendition for torture, which is the prime reason for the Council of Europe investigation. The response also claimed that: "while customs officers and airport police officers have rights of arrest and detention, in practice their rights of detention are exercised only by An Garda Siochana." The experience of Edward Horgan, on at least three occasions when he was detained by airport police officers, has been that the above statement is untrue. The only allegations made against Irish airport authorities is that they unjustifiably arrested and/or detained peace activists on several occasions, and no allegations of torture have been associated with these complaints, and no such torture is likely to have been perpetrated by airport security staff. There was therefore no need to investigate this matter in the context of rendition for torture except in so far as these arrests of peace activists were perpetrated for the purpose of preventing the exposure of rendition for torture at Shannon airport.

In Para. III. A. 2. Format of Enquiry.

The Irish Government's response states that official places of detention "were then asked to investigate the possibility that unacknowledged deprivation of liberty might have occurred in those facilities". No investigation has been mentioned into the likelihood that unacknowledged deprivation of liberty may have occurred in unacknowledged, unofficial, and unlawful places of detention, particularly on board US CIA and US military aircraft at Shannon airport, or if such investigations have been carried out, by agents of the Irish Government. Edward Horgan believes that the Irish Army Intelligence section may have carried out such investigations, and that this section is aware that prisoners have been rendered for torture through Shannon airport, and that the Garda (police) intelligence section is also so aware.

In Para III. A. 3. Result of investigation into possibility of involvement by action:

The response by the Irish Government states, probably correctly that: "these investigations have confirmed that no unacknowledged deprivation of liberty has occurred in any of the State's detention facilities" because it has always been clear that in Ireland these facilities have not been used for this unlawful purpose. This conclusion however makes no mention of unacknowledged deprivation of liberty in *unacknowledged* places of detention especially in US aircraft while refuelling at Shannon airport.

Para. III. B. Involvement by omission:

It is in this section that the responses of the Irish Government are exposed as both inadequate and/or false.

This section begins with the assertion that: “when the Government became aware in 2004 of allegations regarding extraordinary rendition”. The process known as extraordinary rendition was public knowledge in Ireland and internationally long before 2004, and it is not credible that the Irish Government only became aware of it in 2004. The full extent of all correspondence between the Irish Government and the US Government should be sought by the COE and EU investigations in order to establish the truth in these matters. The veiled threat issued by Ms Condoleza Rice, US Secretary of State, when on a visit to Europe in December 2005, that she might expose the complicity of European Governments in the torture rendition programme suggests that these governments including Ireland were well aware of rendition through their airports long before 2004. The Irish Government response states that it was made clear to the US Government that: “permission would not be granted for the transit of an aircraft participating in an extraordinary rendition operation or for any other unlawful act.” This statement is contradicted by the repeated public statements by Irish ministers for Justice and Foreign Affairs, that no US aircraft, including CIA controlled aircraft that were widely known to be transporting or rendering prisoners for torture, would be searched at Shannon airport. This was reinforced also by the fact that at Shannon airport the Gardai did not search any US aircraft in spite of many specific requests to do so by peace activists. Therefore it is clear that by omission, Irish officials, including, the Army Director of Intelligence, Garda Commissioner, Garda Head of Intelligence, Superintendent Kerin, Ennis Garda Station, and other individual members of the Gardai stationed at Shannon town and Shannon airport have been repeatedly guilty of involvement by omission in the rendition of prisoners for torture, both through Shannon airport, and in the wider international context by facilitating the refuelling and servicing of US aircraft at Shannon and by failing to search these aircraft to ensure that prisoners were not being held or tortured on board these aircraft.

The actions of the Irish Government ministers, particularly the public statements that US aircraft would not be searched at Shannon airport must be judged as involvement by action in the process of rendition of prisoners for torture. It is also likely that other actions by Irish Government ministers, particularly private assurances to the US Government and secret agreements between the Irish and US Governments, particularly an agreement made about the month of March 2002, contributed to the knowledge of the Irish Government of rendition of prisoners for torture through Shannon airport, and to their active and passive complicity in the torture of these prisoners.

19. Separate issues of Ireland’s Participation in the Iraq War:

We wish to draw your attention separately to the even more serious matter of Irish Government’s and Ireland’s participation in the Iraq War. As a Human Rights Commission, you must be aware, that the right to life is the most basic right of all, without which, no other human rights can exist for each individual human being. Removal of the right to life, that is killing people, without moral, legal, or any other conceivable justification, is therefore the most serious abuse of human rights possible. Your Commission cannot but be aware the Ireland, through the actions of the Irish Government, has participated in the Iraq War, primarily through inviting and granting the use of Shannon airport and Irish airspace to the US military for the purposes of conducting an unlawful war against the people of

Iraq.¹ Since most if not all of your committee members have considerable legal training and experience, it is inconceivable that you are not aware that Ireland has participated in and facilitated the US military in its unlawful war in Iraq.

While we consider that the issue of rendition for torture is a most serious issue, and we are pleased that your commission has already made some statements on this issue, we are far more concerned about Ireland's participation in the unlawful Iraq War. By way of comparison, we believe, based on credible international reports and investigations that the rendition for torture programme has involved about 10,000 prisoners so far, all of whom have suffered trauma, and some degree of torture, and approximately 2000 of whom have been killed as a direct result of this torture, or by wanton neglect, or unlawfully executed to prevent the fact of their torture becoming public knowledge. In the war on the Iraqi people, so far, credible international reports and investigations reveal that well over 100,000 people have been killed, and most of the 24,000,000 people of Iraq have been traumatised, to varying degrees. We urge the Irish Human Rights Commission to carry out a separate investigation into Ireland's participation in the Iraq War and the gross violations of human rights that this has entailed.

20. Finally, we wish the IHRC to consider that this further submission as an interim report, and that we will be submitting further details as our time and resources allow. We wish to reiterate, however, that the IHRC should not need our initiative to investigate these matters, just as the Gardai, and the Irish Government authorities, should not be demanding that peace activists should produce so-called "credible evidence" of torture, or of extraordinary rendition for torture through Shannon airport. The issues of torture of prisoners and the unlawful killing of over 100,000 people in Iraq, with the complicity of the Irish Government, are of such unprecedented importance, that all agencies and all individuals whose official responsibilities, and separate moral responsibility, require them to pro-actively investigate and prevent any possibility of such gross human rights violations occurring.

Yours sincerely,

Edward Horgan

On behalf of the Shannon peace activist group, Tim Hourigan, Deirdre Morgan, Mary Kelly and Edward Horgan.

¹ We use the phrase 'against the people of Iraq' because we believe that wars are not perpetrated against countries, but against the peoples of those countries. Inanimate and imagined communities such as counties do not bleed, or become traumatised, as only people or other living beings can suffer, and war is the most extreme form of suffering that one group of people can inflict on another.