Submission to Oireachtas Joint Committee on Foreign Affairs

Date: Tuesday 20 December 2005

Delegation of Peace Activists: Edward Horgan, Mary Kelly, Tim Hourigan and Deirdre Morgan

Subject: Irish Involvement in Iraq War and Occupation and in Transport of Prisoners for Torture, at Shannon

Dear Members of the Oireachtas,

The purpose of our meeting with you is to inform your committee of grave matters of public importance, and to engage in dialog on these matters with you, and to ask your committee to investigate, or cause to be investigated the matters we put before you. In this respect we do not expect you to act *only* on our say so, and on the information we provide, but rather ask you to carry out your own thorough investigations. We consider it a democratic privilege to be allowed address you, and we hope your committee will treat these matters with due importance.

Due to time and resource constraints, this submission will of necessity be incomplete. We will update it for the benefit of your committee as additional information become available to us.

Introduction and summary

On 20th March 2003, the Government of Ireland decided to authorise, and Dáil Éireann approved a motion approving, the use of Shannon airport by US troops for the purposes of the Iraq War. This was in contravention of the spirit of Articles 28 and 29 of Bunreacht na hÉireann , in contravention of the articles of the Hague Convention on Neutrality, and in contravention of the spirit and several articles of the UN Charter.
There are four primary issues that we wish to raise with this committee:

- Ireland's involvement in the Iraq War, and the resultant breaches of international laws on neutrality
- The use of Shannon airport the US Government and CIA associated aircraft for the purposes of 'rendering' prisoners for torture, and the breaches of international laws associated with this practice
- Breaches of Irish laws at Shannon airport particularly the Criminal Justice (UN Convention against Torture) Act 2000, but also serious breaches of common laws, and breaches of duty by Gardai and other agents of the Irish State, at Shannon airport, resulting in their failures to investigate the most serious of crimes.
- The threats to public safety, and security at Shannon airport arising from the misuse of this civilian airport, and other airports such as Baldonnel, by US military, and the wider threats to the Irish public, especially in Dublin, resulting from Ireland's unwarranted assistance to one of the belligerents in

the war against Iraq, that is the United States, thereby causing a risk of retaliation on behalf of the victims of this war.

While these are portrayed above in a legalistic manner, as befitting the role of the members of your committee as legislators, we wish to emphasise that our primary concerns are always the humanitarian concerns, and our duties as citizens to prevent unlawful killings, torture and other human rights abuses, wherever they are occurring, but especially to prevent Irish complicity and active participation in the most serious crimes imaginable.

Friends and Enemies:
Because we don't have time to delve deeply into history, perhaps a simple geographical matter is appropriate. Ireland is closer to Iraq than it is to most of the United States. While we all agree that the Irish people have a special friendship with the people of the United States, we are compelled to ask how can we justify declaring the people of Iraq to be our enemies? There is no clearer way to declare a people your enemy than to help to kill up to 100,000 of them. In this increasingly interdependent world, we believe that our neighbours are all humankind, and that assisting with the killing or torture of your neighbour amounts to the most serious of crimes. Members of this group have close kinship, and friendship ties, with both the people of the United States and the people of Great Britain, and have no kinship ties, and only a small number of friendship ties with the people of Iraq. Our advocacy therefore on behalf of the people of Iraq, is being pursued in spite of our close personal ties with the US and the UK, and without any vested interests in such matters. On the contrary, our peace activism at Shannon airport and elsewhere has cost some of us many thousands of Euro, and an inordinate amount of our precious personal and family time.

Neutrality:
Neutrality, in our view, is only important in so far as it helps to promote peace and security for the Irish people, and international peace, and is therefore not an end in itself. Neutrality is however an important matter of international law, which gives privileges to neutral states. However, neutrality also imposes responsibilities. Constitutionally, Ireland does not have to be neutral, but having publicly and internationally declared our state to be neutral we are obliged to comply with our neutrality obligations, the most basic one of which is that foreign troops on their way to war may not be allowed to pass through our territory. (See Hague Convention v 1907 on Neutrality attached Articles 1, 2, 5, and 11).

Judge Kearns ruled in the High Court on 28 April 2003 that what was happening at Shannon was in clear contravention of international laws on neutrality. However, even since that Irish High Court ruling, Irish Government ministers have been repeatedly stating that Ireland is still a neutral state. This arguably could be deemed to be contempt of the judiciary by the Government, and amounts to a fraudulent attempt to acquire the benefits of neutral status under international law. It is comparable to the fraudulent use of the Red Cross symbol. But our primary concerns are with the reality of what is happening at Shannon and the reality of what this is doing to the people of Iraq, rather than the theories of international law.
A much more detailed discussion and analysis of the laws and status of neutrality is contained in the submissions made by the plaintiff and defendants in the Horgan v

Ireland et al case, and this case and these issues are expertly discussed by Professor Gernot Biehler, of Trinity College Dublin, in his recently published book, *International law in Practice: An Irish Perspective* (London: Thomson Round Hall, 2005).
The finding of Judge Nicholas Kearns on the issue of Irish neutrality is also definitive on this matter.

"The court is prepared to hold therefore that there is an identifiable rule of customary law in relation to the status of neutrality whereunder a neutral state may not permit the movement of large numbers of troops or munitions of one belligerent State through its territory en route to a theatre of war with another."

Safety of Irish Citizens:
The issue of the safety of the Irish citizens arises because they are now being exposed daily at Shannon airport to the serious risk of death and injury because large amounts of weapons and explosives, and other warfare materials are being transported through Shannon airport. On 1st December 2005 a US C17 Air Force Aircraft made an emergency landing at Shannon, during the course of which a number of factories in the Shannon Industrial Estate were evacuated because of the dangerous materials being carried on this aircraft. It is reported also that the pilot had proposed to ditch the aircraft into the waters of the Shannon estuary in the event of a failure of his brakes. These extraordinary precautions indicate that this aircraft was carrying very dangerous materials. Yet public statements issued by the Shannon airport and US authorities claimed that this aircraft was only carrying Helium gas, which is both non-flammable and non-explosive. These statements are not credible under the circumstances, and cast doubts about the assurances given by US authorities concerning cargoes and people being carried on US aircraft landing at Shannon.
A further example occurred on 14th February 2002, when a World Airways cargo aircraft on charter to US military made an emergency landing at Shannon on a scheduled refuelling stop. The pilot reported smoke inside the aircraft. Units of the Fire Brigades arrived from Limerick, Ennis and Shannon Town to support the Airport Fire Services. However, the fire services, including Aer Rianta airport fire services were denied access to the aircraft by US military personnel who were reportedly armed. The contents of the cargo of this aircraft were not known to the authorities at Shannon. Serious safety issues also arise for the people of Dublin, because of the risk of retaliation by those who perceive themselves to be victims of the US-led war. Most serious of all of course is the actuality of death and destruction in Iraq.

Accounting for expenditure at Shannon airport.

A considerable amount of additional public money has been expended towards the security of US military use of Shannon airport. It is not clear what agreements were made for these, e.g. the payments for the installation of a hi-tech microwave motion detection system at Gate 42, nor whether these agreements have been subjected to Dail scrutiny.

Breaches of County Clare Planning Regulations:
Attached letter to the Planning Department of Clare Co. Council outlines the failure of Aer Rianta or the Irish Government to ensure that planning regulations in relation to the change of use of Shannon airport resulting from its use for the landing of military aircraft carrying very dangerous materials, but also the responsibility on the

authorities to ensure that adequate precautions are taken to protect the public in the event of an accident involving a military aircraft carrying explosives. You will find from a separate study of the documents discovered from the Department of Foreign Affairs, that military cargoes and munitions that have passed through or over Shannon airport included a plane load of Patriot Missiles, in 2001, and two separate cargoes of Cruise type missiles, each carrying 42 and 45 Cruise missiles, on 2 June 1999, and 11 June 1999, during the Kosovo war. If any of these aircraft has crashed and exploded on landing, then the main terminal building at Shannon could have been destroyed and most of the people in it killed. Modern military airport buildings and facilities are specially constructed and located so as to cater for such eventualities, and blast deflection walls etc are included. At Shannon airport, the main dividing walls between the terminal building and the parking area for aircraft consist of plate glass, which would cause catastrophic effects in the event of an explosion.

Responsibility of Oireachtas Members and of Irish citizens.

Each of you as members of the Oireachtas, and additionally as members of this Joint Committee, have very special responsibilities to ensure that you personally, by your decisions, or by your inactions, do not facilitate unlawful killing and torture.
We come to you as individual citizens of Ireland, members of civil society. In addition to our role as citizens each of us has various skills, knowledge, and experiences, which we believe place an added responsibility on us to expose the truth of what is happening at Shannon airport and the consequences of what is happening for so many innocent victims in Iraq and elsewhere. Our presence before you here today, when we would otherwise be celebrating with our families and friends, is an indication of our commitment. Edward Horgan, is a parent and grandparent, and is a former military peacekeeper, an expert in safety and security management and an expert on international relations, particularly on United Nations reform. He has worked with the UN, OSCE and EU in Africa, Asia and the Middle East. He has also worked as an industrial fire chief, and has considerable experience in military logistics including air movements of troops. Mary Kelly, is also a parent and grandparent, and is a qualified nurse, and has worked and lived in the Middle East, South America and Romania. Tim Hourigan has expertise in financial matters and in the aircraft leasing industry and has worked in Japan and Australia. Deirdre Morgan, is a third year law student at University College Cork. Each of us would dearly love not to have to spend our precious time monitoring and exposing the truth of what is happening at Shannon airport. We feel obliged to do so, first, because we are aware that the authorities of the State are failing in their duties at Shannon airport, and secondly, the knowledge that we have, carries with it the responsibility to act on that knowledge.

Critical issue is the unlawful killing of tens of thousands of people.
The issue of US troops using Shannon is the paramount issue. Over 650,000 armed US troops, in uniform, accompanied by large amounts of munitions and war materials, have passed through Shannon airport over the past three years, and it is a fact that many of these same troops have been directly involved in the unlawful killing of up to 100,000 Iraqi people, up to 46% of whom may have been children. Those of you who have children of your own might give some special consideration to those dead children, and the horrific manner in which many of them died. These 650,000 thousand troops brought about 650,000 M-16 type automatic rifles, about

650,000,000 rounds of 5.56 mm high velocity ammunition, and tens of thousands of tons of other munitions of war through Shannon airport. To claim that Ireland is still a neutral state while being actively complicit in such support for a war, that has been declared unlawful by the United Nations, is to twist the truth and Irish neutrality beyond breaking point.
Our concern is that these people may have been unlawfully killed, and unjustly and unjustifiably, and that killings occurred in part because of the assistance given by the Irish Government to the US-led military attack on Iraq, and that Dáil Éireann approved this assistance and this complicity in these killings in Iraq. Ireland as a state actively participated, or assisted, or helped their US friends, in contravention of the criteria of the Hague Convention on Neutrality, by inviting and allowing US troops and materials of war to transit through Shannon airport and Irish airspace for the purposes of the Iraq War. Our main concern as peace activists therefore is not the legality or illegality of the situations at Shannon airport, but the *fact* of the involvement of Ireland, Dáil Éireann , and by default the Irish people in the unlawful, and unjustified killing of tens of thousands of innocent people. Because the numbers of those killed in Iraq have been deliberately 'not accounted for', we do not wish to get into arguments over the estimates of just how many were killed in Iraq. Our argument is that very many, very innocent people, were killed, unlawfully and unjustifiably, and that very many of those unlawfully killed were Iraqi children, who by definition cannot have been terrorists, or combatants of any sort. These are our primary concerns as peace activists.

The National Interest

There has been a worrying tendency in Ireland by certain interests to portray Ireland's involvement in the Iraq War as simply a pragmatic matter of national economic interest, and verbal gymnastics have been played with words such as "participation" and military versus political neutrality. Comments have been made such as, that if Ireland did not grant these landing facilities, and gain economic advantage by so doing, that some other country would do so, at our expense or loss. The same could be said for the Heroin trade in Dublin. There has also been a tendency to argue that the people of Iraq are of little concern to us in Ireland, and that we should support the people of the United States, against the enemies of the United States, which is portrayed as the leader of the so-called 'civilised world'. While we fully accept the close historical and in very many cases, the kinship ties, between Ireland and both the United States and Britain, and while we accept also, that the United States and Britain represent some of the most advanced democracies in the world, we recognise that the confrontational and exploitational approach of the US and UK towards international affairs, the "them or us" approach, has been very counterproductive, in an increasingly interdependent world.

We strongly believe that it is in the long-term best interests of the Irish people especially, as a small nation, and in the interests of all humanity, that peace should be promoted by peaceful means only, and that armed force should only be used as a last resort, as a policing international law enforcement instrument, under the very strict control of an international jurisprudential system, of which a transformed UN should be central. While we sympathise with the victims of violent terrorists attacks on the United States in September 2001, we wish to emphasise that any response to this outrage should have been both justified, proportional, in self-defence, and carried out

in accordance with the spirit and letters of the UN Charter and other aspects of international law. We wish to point out in particular, that Iraq played no part in these attacks on the United States, that the decision to make war against Iraq was based on information and propaganda that was false and flawed, and that this war was unjustified. In addition, the effects of this war have been grossly disproportionate towards any possible benefits that might have accrued from it. This is not an attempt to condone or justify the past crimes committed by the Saddam Hussein regime in Iraq. Many of Saddam Hussein's crimes were actively supported by the United States and Britain, especially his war against Iran, and indeed Ireland contributed substantially to this Iraq war effort by exporting large amounts of beef, at the eventual taxpayers expense, that was primarily used to feed the Iraqi army that was invading and occupying part of Iran.
The United Nations, and the US-led military coalition in the Gulf War 1991, had ample opportunity and justification to remove the Saddam Hussein regime from power in 1991, but deliberately choose not to do so. Their justification for removing him was the suppression and killing of thousands of Shia Muslims in the south of Iraq, and the Kurds in Northern Iraq. The UN and the US-led coalition betrayed these very vulnerable peoples by supporting Saddam Hussein in the aftermath of the Gulf War in 1991, instead of supporting the victims of oppression and attempted genocide, as obligated under the UN Charter.

From the point of view of pragmatic self-interest, and for altruistic reasons, and towards the promotion of international peace and justice, Ireland should never have associated itself with a military alliance, formally or informally, or have assisted with attacks on other states, with or without UN approval for such attacks. As a small state with a tiny army of about 10,000 troops, Ireland's role in international affairs should be confined to self-defence within the Island of Ireland, and peace-keeping and promotion of international development, and justice, internationally. It is also incorrect to suggest that Ireland is obliged to assist with any wars that may be approved by the UN Security Council. If that were the case then Ireland should have participated in the Korean War, waged under the UN flag, which was fought for very questionable reasons, and cost almost four million lives, and which conflict is still unresolved over fifty years later. As a neutral state Ireland can, and has in the past achieved far more as a peace promoting state, and its neutral status have been a very important factor in this. No has ever suggested that Switzerland should participate in UN collective security actions.

This Oireachtas Joint Committee on Foreign Affairs, and its members are essentially, a very important committee which is engaged with and involved with matters of legislation and the rule of law, both Irish internal laws, and international laws, and the primary function of the Oireachtas, as we understand it, is to legislate. Therefore, in addition to placing the evidence of what is happening at Shannon airport before this Oireachtas Committee, we also wish to place this evidence/information/facts in the context of the existing Irish and international legislation that is in force, and if necessary to ask the Committee to examine whether such legislation is being contravened at Shannon, and if such legislation needs to be improved and reinforced, that this committee should seek to amend and improve this legislation, rather than ride a coach of fours through both Irish and International laws for alleged reasons of national interest. We are asking the Committee therefore to address the matters that are the primary concerns and responsibility of this committee, and its individual

members. Of particular concern is the manner in which the Irish Government has been misusing UN resolutions in attempts to justify serious breaches of the spirit and letter of the UN Charter. UN Security Council Resolutions 1441 of Nov. 2002 and 1483 of May 2003 as cited as part justification for Ireland's assistance to the US in its war against Iraq. However, UNSC Resolution 1441 specifically refused to authorise a war against Iraq, without a further resolution that was not forthcoming, and UNSC Resolution 1483 of May 2003, which purported to give legitimacy to the US-led occupation of Iraq, was itself in breach of the spirit and letter of the UN's own charter, and more specifically in breach of the UN General Assembly Resolution of 1970 which stated as follows:
"no territorial acquisition resulting from the threat or use of force shall be recognised as legal". Since this was established as a "Principle of the United Nations" and a principal of international law, the UN Security Council was arguably in breach of its own Charter when it attempted to legalise the US occupation of Iraq after its unlawful war against Iraq.

Seville Declaration:
We wish to remind the committee that the Irish Government introduced a solemn declaration known as "The Seville Declarations: National Declaration by Ireland" into the formal European Union Nice Treaty which stated as follows:
"*Para. 6. The Government of Ireland have made a firm commitment to the people of Ireland, solemnised in this Declaration, that a referendum will be held in Ireland on the adoption of any such decision and on any future Treaty which would involve Ireland departing from its traditional policy of military neutrality."*
We wish to point out that this solemn declaration has been most grievously dishonoured by the flagrant breaches of Irish neutrality at Shannon airport. We wish to point out that a treaty, or covert agreement has been made by the Irish Government with the US Government which clearly departs from and ends Ireland's "traditional policy of military neutrality", and that no referendum has been held on this matter. We therefore call on the Irish Government to hold such a referendum on Irish neutrality immediately in order to comply with its solemn Nice Treaty Declaration, and in the meantime to restore Irish neutrality by denying the use of Shannon airport to US military forces and covert US CIA activities.

Casualties in Iraq:
Attached are three separate 'independent' reports on casualties in Iraq. Two of these the MEDACT report and the Lancet Report estimate the deaths as a result of the war beginning on 20 March 03, and subsequent occupation at about 100,000, while the much more restrictive Iraq Body Count gives an estimate of about 30,000 but this is based only on published media reports of casualties, and only on media reports that are available online, and verified in a very restrictive way. It takes no account of the deaths that are not reported in this manner.
Of special interest is Reuters report dated 18th Dec 2005, citing US military spokespersons that:
"The U.S. military says it is making headway against the largely Sunni Arab insurgency which has killed tens of thousands of Iraqis in the past three years and made life dangerous and miserable for millions more."
If this latest report were taken in conjunction with the Iraq Body Count report, it would mean that no casualties have been caused by the combined actions of the US and its other foreign allies and by Iraqi US-installed security forces. This is clearly not

the case. The estimates of up to 100,000 dead therefore are most likely to be the most accurate. However, we urge the Committee to investigate the death toll in Iraq independently for themselves, because we believe that since Dáil Éireann formally approved the use of Shannon airport by the US military for the Iraq war, that the members of Dáil Éireann should also inform themselves of the catastrophic results of that decision/resolution.

Irish Government Decision on US use of Shannon airport and Dail Resolution passed on 20th March 2003.

In the statement by An Taoiseach to Dáil Éireann on 20th March 2003 (copy attached), Mr Ahern stated that: "The Government then and now maintain that merely to permit the use of a civilian airport in this manner is not of sufficient degree or substance to constitute participation in the war."

This statement is in direct contradiction of the Hague Convention V on Neutrality, and on all knowledgeably interpretations of international treaties, and customary international law on neutrality. The High Court ruling by Judge Kearns on 28th April 2003 also finds against An Taoiseach's opinion on this matter.

An Taoiseach went on to say that: "The provision of facilities does not make Ireland a member of a military coalition. Not does anyone regard us as such. We remain militarily neutral. The decision we have taken on this issue is our own." An Taoiseach is correct only in his comment that the "decision we have taken on this issue is our own", because Irish neutrality is a political decision, which the Government, with the approval of the Oireacthas is entitled to take, under article 28 of Bunreacht na hÉireann. However international laws on neutrality specifically rule that the provision of such facilities is not compatible with neutrality. International law, and a very large number of Irish people, do regard the US military use of Shannon airport as participation in the Iraq war and as direct breach of the laws of neutrality.

An Taoiseach's statement implies or states that the use of Shannon airport by US military has been "a longstanding" arrangement and that "Ireland has made overflight and landing facilities available to the US for the last fifty years." He goes on to mention the use of Shannon by the US during Kosovo war, "without specific UN endorsement." What An Taoiseach seems to be implying is that if Ireland got away with breaking international law in 1999, then we should be allowed break the same international laws into the future. It is wrong to suggest that Ireland provided longstanding landing and overflight arrangements to US troops in times of war over a period of fifty years. Between 1945 and 1991, successive Irish governments imposed very strict limitations on the use of Irish territory even in peacetime. It allowed unarmed US troops to transit Irish territory only if they were, unarmed, and not engaged in war, and even not engaged in military training operations. The documents discovered by Edward Horgan in the Horgan v Ireland case (see attached folder of documents marked Foreign Affairs Documents, Horgan v Ireland) clearly demonstrate that in times of war, US or any foreign troops engaged in any wars were not allowed to use Irish territory. This was accepted by Judge Kearns. The laws of neutrality apply specifically to wartime rather than peacetime, but a country's behaviour in peace time influences its chances of being respected as a neutral state in time of war. Ireland's behaviour at Shannon airport since the Kosovo war in 1999, virtually guarantees that in time of future wars, Ireland will be internationally regarded as a potential or actual belligerent, and therefore subject to attack by other belligerents. Neutrality is like an insurance policy, it will be voided in time of war if the premiums are not kept up to date in times of peace.

The first breach of Irish neutrality was arguably in the 1991 Gulf War against Iraq. While it is argued that because this particular war was approved by a UN Security Resolution, Ireland was obliged to provide facilities for this war. This is arguably not the case. Ireland is entitled to avoid participation in any war, even wars declared by the UN. It should be pointed out also, that the UN Security Council is capable of being in breach of its own Charter and of international law, as it arguably was during the Korean War and during what have been described as genocidal sanctions imposed by the UN on Iraq throughout the 1990s. In such cases, countries such as Ireland have higher international law obligations towards the UN Charter and towards humanity. The High Court documents mentioned above clearly demonstrate that the conduct of the Irish Government in relations to the Kosovo War and the Iraq War of 2003 was in flagrant breach of international laws on neutrality. The High Court documents mentioned above, and attached for information purposes, clearly show that the Irish Government authorised the passage of two planeloads of Cruise-type missiles though Irish territory while the Kosovo War was in progress, and while such Cruise missiles were being used to destroy a civilian TV station, and the Chinese Embassy in Belgrade. This was a blatant breach of neutrality by the Ireland.

Legal and Court Proceedings taken against peace activists at Shannon airport

We wish to point out to the Committee the inexplicable anomaly that exists, and is still ongoing, between the dozens of investigations and legal and court actions taken by the State, the Gardai, and Shannon Airport authorities, against peace activists who were endeavouring to expose the truth, while the Gardai and the Minister for Justice have repeatedly insisted that they cannot take legal or preventative actions, or even institute investigations against the most serious crimes of mass murder and torture, that are being facilitated at Shannon airport, and the failure to take any preventative actions against the commission of such most serious crimes. On the contrary, all the actions by the Irish Government and the Gardai at Shannon appear to have been designed to facilitate the possibility of such crimes being continued to be committed, by providing special security, smoking areas, public declarations by ministers that the US/CIA aircraft will not be searched by Irish security forces, and public statements that US government assurances and denials that US personnel are committing crimes, will be accepted without any further investigations by Irish security personnel or by the Irish Government.
The following is a partial list only of legal actions taken by the State and Shannon airport authorities against peace activists. This list will be updated and a more complete version forwarded later. It main purpose here, is to demonstrate that the Irish Government and its security forces have had no hesitation in taking the most serious legal actions against friendly, non-violent, peace activists, for the purposes of ensuring the truth remains hidden, while taking steps to ensure that no evidence is collected, and no steps are taken against US and Irish citizens who may be participating in, or complicit in the commission in the most serious crimes of mass murder and torture.

Of particular importance are the actions by Gardai and Shannon airport in arresting peace activists for taking photos from public places of US military aircraft, and suspected CIA aircraft at Shannon, and the confiscation of such camera and

observation equipment, and in some cases, the alleged destruction of such evidence by Gardai.

The following persons have had legal proceedings or temporary arrests or periods of detention imposed on them at Shannon airport since 2002:

Edward Horgan, Mary Kelly, Tim Hourigan, Deirdre Clancy, Karen Fallon, Damien Moran, Nuin Dunlop, Ciaron O'Reilly, Caoimhe Butterly, Barry Corcoran, Conor Cregan, Danny Quirke, Desmond Wheeler, Eamon Crudden, Jarlath McGrath, John Fowler, Paul Movill, Rebecca James-Garcia, Robert Morgan, Roisin Garvey, Eoghan Burke, Tracey Ryan, Eoin Rice, Eamonn Murphy, John Dunne, Nuria Dunne, St John O'Donovan, Mags Liddy, Niall Harnett, James McBarron, Fintan Lane, Eoin Dubsky, Martha Fabregat, Aron Baker, Eibhlin ni Hir, Kitty Kavanagh, Julie Kelly, Fiachra O'Luain, Rab Fulton, Joe Greene,
(Please note that this list is incomplete).

Attached please find copy of Aer Rianta injuction (2003 No. 1468P) as just one example of actions taken against peace activists.

Report by Edward Horgan to Superintendent Kerin dated 12 December 05
This report is included for the information of the Committee because it lists some important concerns of this group of peace activists and individuals with regard to the failure of the Gardai at Shannon to carry out their duties with regard to serious crimes. This represents the most recent complaint by peace activists to the Gardai at Shannon, and it also presents addition evidence of breaches of the law at Shannon.
Of particular importance is the statement by Edward Horgan that **there exists at Shannon Garda Station a logbook of US aircraft that pass through Shannon Airport on a daily basis.** This detailed and comprehensive logbook was seen by both Edward Horgan and Tim Hourigan in the second week in April 2005. The existence of this logbook tends to refute the repeated statements by Gardai, and Government ministers that they had no evidence of CIA aircraft using Shannon airport for the purposes of facilitating the transport of prisoners for torture. No response to, or acknowledgement of, this report has been received to date by Edward Horgan.

Documentary Evidence:
An important piece of additional documentary evidence is attached also.
This is a photocopy of a handwritten listing of aircraft that passed though Shannon airport, particularly over the period 9-1-03 to 19-1-03 inclusive. This document is just one of many such documents that are available to the Gardai at Shannon airport, if they choose to get them. It shows especially that CIA operated aircraft, Gulfstream V executive jet, reg no N379P, now known to have been used widely internationally for the transport of prisoners for torture was at Shannon airport on 18th January 2003.

The following section has been prepared by Deirdre Morgan*

Deportation for Torture: The implications of 'extraordinary rendition' for Ireland with regards to the ECHR and UNCAT.
Paper presented by Deirdre Morgan*

* Deirdre Morgan Third Year Student of Law at University College Cork.

Introduction.
The purpose of this presentation paper is to open up a discussion on the implications of the use of Shannon Airport by US military and CIA contracted airplanes.
As Appendix 1(ie list of countries involved in rendition as emailed.) shall show and as my colleagues have outlined in their presentations that there is significant evidence to support the contention that Shannon Airport has been used by the US in carrying out their "extraordinary renditions" which is basically deporting "suspected terrorists" for torture. In order to tease out the issues in the Irish context this paper will be divided into three areas:
Part 1 will discuss the absolute prohibition on torture, the legal status of this prohibition and the binding effect this has on Ireland under international and national legislation.
Part 2 will outline the extraterritorial nature of the prohibition under Article 3 of the ECHR as incorporated into domestic law by the ECHR Act 2003.
Part 3 will outline the positive obligations on the state to protect individuals and to provide a prompt impartial investigation, where there are reasonable grounds of belief of torture. (Art 12-16 of UNCAT as incorporated into domestic law by the Criminal Justice United Nations Convention against Torture (UNCAT) Act 2000 and Art 13 of the European Convention of Human Rights and fundamental freedoms (ECHR) read in conjunction with Art 3 of the ECHR as incorporated by the ECHR Act 2003.)

PART 1 :The Legal Status of the absolute prohibition on torture
"NO ONE SHALL BE SUBJECTED TO TORTURE OR TO INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT."

The right to freedom from torture, inhuman and degrading treatment is an absolute right, the express wording reinforces this status. This can be understood as meaning that ill-treatment within the terms of Article 3 of the ECHR is never permitted, even for the highest reasons of public interest.[1] Not even the Right to Life [2] enjoys this absolute prohibition. The reason for this solid position is that the use of torture is directly in conflict with the Rule of Law on which democracy relies.

Torture has been prohibited in common law for many years[3]and is considered to be a peremptory norm of Jus Cogens under customary international law. A norm of Jus Cogens must be one "accepted and recognised by the international community of states as a whole"[4] and has the highest standing in customary international law, so as to supercede all other treaties and customary laws (except laws that are also jus cogens). Torture as a criminal act of Jus Cogens holds Universal Jurisdiction so territorial or nationality issues are irrelevant as any state has the right to exercise its

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[1] Terrorism cannot justify violations of physical integrity-Tomasi v France (1992) para 115 or the use of psychological interrogation techniques – Ireland v UK (1978) para 163.
[2] Art2 of ECHR (1950) .
[3] See David Hope `''Torture" ICLQ 53.4 807 October 2004 : the first 14 pages give a concise legal history of torture, discussing how torture has been abolished under Common Law in the UK for centuries.
[4] LA Shearer Starke's International Law 11th Edition 1994 Pg 850. Jus Cogens being the highest form of international law holding both material and psychological elements.

jurisdiction as “all nations have an equal interest in the apprehension and prosecution”[5] of torturers.

The strengthening of this position is its codification in numerous international and regional treaties[6], some of these treaties specifically express that the prohibition of torture cannot be derogated from.[7] Torture also takes an important role in Humanitarian Law and common Art 3 to the Geneva Conventions(1929), prohibits "violence of life and person, in particular murder of all kinds, mutilation, cruel treatment and torture" as well as "outrages upon personal dignity, in particular humiliating and degrading treatment." The use of force to obtain information is specifically prohibited in Art 31 of the Fourth Geneva Convention (1949): "No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties." This international concern was revisited in a 1975 General Assembly(GA) declaration.[8]

Most importantly was the United Nations Convention Against Torture (CAT 1984)[9] according to this Convention, 'no exceptional circumstances whatsoever' (Art2.2) can justify torture. The high number of signatories and ratifications and the sentiment expressed in the preamble of CAT embracing the GA declaration “[d]esiring to make more effective the struggle against torture or other cruel inhuman or degrading treatment or punishment throughout the world” reflects the strong support and dedication of the international community to the prohibition of torture. Ireland incorporated UNCAT with the Criminal Justice (UNCAT) Act 2003 so as to make UNCAT binding in and on the state.

The consensus for the importance of the prohibition of torture in both customary and treaty law was reiterated in the ICTY in 98. "The existence of this corpus of general and treaty rules proscribing torture shows that the international community, aware of the importance of outlawing this heinous phenomenon, has decided to suppress any manifestation of torture by operating both at the interstate level and at the level of individuals. **No legal loopholes have been left**."[10]

Two of the more pertinent Treaties namely the ECHR and UNCAT have been incorporated into Irish law by domestic legislation The ECHR Act 2003[11] and The

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[5] Steiner and Alston “International Human Rights in Context” 2000 Pg 1199

[6] The prohibition is contained in Art 5 of the Universal Declaration of Human Rights (UDHR 1948), Art 7 of the International Covenant on Civil and Political Rights (ICCPR 1966),and in regional treaties such as the European Convention for the Protection of Human Rights and Fundamental Freedoms Art 3 (ECHR 1950), Art 5 of the African Charter on Human and Peoples' Rights(1981), and Art 5 of the American Convention on Human Rights (1969).

[7] ECHR (1950) Art 15(2) expressly prohibits derogation from Art 3 on torture.

[8] 9th December 1975 General Assembly Resolution on The Protection of all persons being subjected to Torture and Other Cruel Inhuman or degrading Treatment or Punishment. UN Res 3452

[9] Steiner and Alston (no.4 above) pg 1200 “ The torture convention was agreed not in order to create an international crime, which had not previously existed but to provide an international system under which the international criminal the torturer could find no safe haven.”

[10] Prosecuter v Furundzija 10 Dec 98 ICTY Para. 146

[11] Came into force on the 31st of December 2003

Criminal Justice Act 2000[12]. The relevance of their applications shall be discussed below.

PART 2: the extraterritorial nature of the prohibition under Article 3 of the ECHR as incorporated into domestic law by the ECHR Act 2003.

Article 3 should be read in conjunction with Article 1of the ECHR, which obligates that Ireland "shall secure to everyone within their jurisdiction the rights and freedoms" within the Convention.[13] This extends Irelands obligation beyond its physical territory.

The principle of extraterritorial obligation was explored in the unanimous decision of the European Court of Human Rights in Soering –v- UK[14] Soering ran a real risk of being convicted sentenced to death and subjected to a long pre-execution delay of six to eight years. The Court held that the extraditing state did have some responsibility under the convention for the potential and subsequent mal-treatment of extradited individuals. For a state "knowingly to surrender a fugitive [or person] to another state where there are substantial grounds for believing that he would be in danger of being subjected to torture [or inhuman or degrading treatment] however heinous the crime" would "plainly be contrary to the spirit and intendment of [Art 3]"[15] This judgment has been subsequently extended to include deportation.[16] The obligation of non-refoulement is also incorporated through Section 4 of the Criminal Justice (UNCAT) Act 2000. The principle of non- refoulement obligates a state not to return an individual to a state where he/she are in danger of being tortured. Non-refoulement has crystallized into a rule of customary international law.[17]

This landmark case clearly places a responsibility on the state even in cases of an extraterritorial nature to protect persons "were substantial grounds have been shown for believing that the person concerned if extradited [deported] faces a real risk of being subjected to torture or inhuman or degrading treatment in the requesting country."[18]
The reasoning of Soering carries most weight when applied to states not party to the convention[19] as is the case in the present discussion.

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[12] 14th June 2000
[13] " For international law purposes, presence within State territory is a juridically relevant fact sufficient in most cases to establish the necessary link with the authorities whose actions may be imputable to the State in circumstances giving rise to State Responsibility." Pg 146 The Refugee in International Law 2nd Edition Guy S. Goodwin-Gill, Clarendon Paperbacks, Oxford 1996. SEE ALSO Art2(1) ICCPR.
[14] (1989)11 EHRR 439.
[15] (1989)11 EHRR 439 at 161
[16] Cruz Varez –V- Sweden (1991) 14 EHRR 1.Court accepted expulsion of an asylum seeker as well as extradition could give rise to issues under Article 3. Where there are substantial grounds person runs a real risk of torture, inhuman or degrading treatment.
[17] Pg 143, The Refugee in International Law 2nd Edition Guy S. Goodwin-Gill, Clarendon Paperbacks, Oxford 1996.
[18] Para 91 Soering (1989)11 EHRR 439.
[19] As being party to the convention presupposes a convention standard of human rights.

In assessing whether these grounds are met the court will consider a number of different factors[20] of both the requesting country and the personal circumstances of the victim.[21] A subsequent case Vilvarajah v UK[22] placed a further onus on the state to be aware of
"the foreseeable consequences" with reference to those facts known or which ought to have been known to the Contracting State at the time of expulsion.

"Guantanamo Bay phenomenon".

A crucial factor considered in Soering was the "death row phenomenon"[23] , which arguably presents itself again in Guantanemo Bay today. I would submit that the uncertain conditions surrounding 'deportation for torture' would suffice as causing sufficient mental anguish to amount to torture.[24] Detaining somebody who is aware that the detention and transportation is to bring them to place where they will be subjected to torture is in and of itself torture. Facing the prospect that one is to be brought to a Guantanemo Bay type detention centre and that this is a place in which detainees are prevented from enjoying the rights of prisoners of war as they are termed 'unlawful combatants', and that rather than being charged and allowed due process of law are tried in front of military courts with no lawyers or observers present, one surely experiences a form of torture. [25] As Lord Hope of Craighead observes" Silence breeds suspicion, and grounds for suspicion thrive when the rule of law is absent. How can we expect to eliminate torture elsewhere if there is no sure way of knowing whether or not it has been practised at Guantanamo Bay by the

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[20] Committee against Torture, Communications No.13/1993, Mutombo v. Switzerland, 27 April 1994 .7 IJRL 322(1995) concerned an asylum claim of a Zaire national who claimed to have been tortured. The Committee shed some light on the "substantial grounds" requirement. " It follows that the existence of a consistent pattern of gross, flagrant or mass violations of human rights in a country does not as such constitute a sufficient ground for determining that a person would be in danger of being subjected to torture on his being returned to that country[or another country]; additional grounds must exist that indicate that the individual concerned would personally be at risk. Similarly the absence of a consistent pattern of gross violations of human rights does not mean that a person cannot be considered to be in danger of being subjected to torture in his specific circumstances" para 9.3

[21] 1. Court will assess issues in light of all material placed before it or obtained independently if necessary.2Existence of risk must be assessed primarily with reference to information available at time of expulsion but the court is not precluded from taking account of information that comes to light subsequent to expulsion. (Cruz Varas.) 3.All circumstances taken into account: nature and context of treatment, manner and method of execution, duration, physical or mental effect, sex, age and state of health of victim extending (Soering.) Absence of a fair trial can also be considered in the Soering factors. " Considerations such as the risk of an unfair trial and proportionality must be relevant under Article 3 where a person is returned for trial for a non- capital offence also."[21]

[22] (1991) 14 EHRR 248

[23] para 91 Soering "The establishment of such a responsibility inevitably involves an assessment in the conditions in the requesting country, whether under general international law under the convention or otherwise. In so far as any liability incurred by the extraditing contracting state by reason of its having taken action which has an indirect consequence the exposure of the individual to proscribed ill –treatment."

[24] It should be noted that when considering the severity of torture that EctHR jurisprudence in Ireland v UK and the Greek case that Art 3 of the ECHR covers "the infliction of mental suffering by creating a state of anguish and stress by means other than bodily assault".

[25] See www.hrw.org

Americans."[26] This legal alienation was recently reinforced by the US refusal to allow the UN Special Reporteur on Torture access to deteinees when he planned to visit Guantanemo Bay leading to UN refusal to visit as it would be of no benefit to their determinations.

Amnesty International has been challenging the USA with secretly "rendering" detainees to countries with dubious torture records such as Syria, and has accused the US of "actively engineering" deportations to Jordan, Morocco and Egypt. " Officials have been reported in earlier press articles to have openly stated that the USA may deliberately send some detainees to countries where they are abused during interrogation."[27]

The conditions and policies practiced by the US in "The War on Terror" are well documented by the media and NGOs, so that it would be reasonable to assume that substantial grounds of a real risk of foreseeable consequences pertain in the face of covert and legally ambiguous practices.

No Defences

The Prohibition of torture is absolute under Art 2.2 and 2.3 of CAT. There are no exceptions. States have attempted to include defences such as the Defence of Necessity and Self Defence[28] but these are not widely accepted by the international community.

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[26] See David Hope ``Torture" ICLQ 53.4 807 October 2004 para 92-99 discussion of Guantanamo Bay.

[27] Press ReleaseAI Index: AMR 51/139/2003No:25914/11/2003 USA: "Deporting for torture?" see also 'Nobody is talking' James Meek Friday February 18, 2005 The Guardian

[28] The Israeli Supreme Court in 1999 although it prohibited the use if force it ruled that torture was allowed in "exceptional cases." These cases are "ticking time bomb " scenarios, this necessity inclusion is in direct conflict with International Law standards. Commentators have pointed to the rarity in reality of this "ticking time bomb" scenario.[Henry Shue "torture" Philosophy and public affairs Vol 7 No2 (Winter 1978) 124-143. The "ticking time bomb" scenario suggests that an element of immediacy is essential and must be distinguished from defences raised under a regime of systematic torture, the prohibition on torture is absolute, in both cases. So if any defence is allowed we should consider if torture would succeed in this situation anyway, if the accused is radical enough to set a bomb we are left in a quandary of a) he will never tell or b) he will give false information. Since 1999 the NGO B'tselem has recorded that more than 85% of Palestinian detainees are still being subjected to systematic torture. [Palestine Monitor.org] The concluding observations of the Committee against Torture recommended Israel was "precluded from raising before this Committee exceptional circumstances as justification for acts prohibited by article 1 of the Convention. This is plainly expressed in article 2 of the Convention"[Concluding observations of CAT: Israel 09/05/97] and that Israel should incorporate the Convention by Legislation, which it hasn't attempted to date. The US memo also tried to suggest the defence of good faith to negate the grounds for specific intent although this would be within the context of domestic law. The Author concluded that this "specific intent-type standard" is more appropriate for CAT, if this is accepted that would be the standard applied in the USA regardless. [US Department of Justice Memorandum August 1, 2002, Washington DC 20530 Pg 15 Footnote 7.] This conclusion is unsubstantiated considering the Committees observations in responding to Israel's position. In Art 1.2 of CAT refers to wider application in domestic law being beyond prejudice not a narrower application.

The result of the redefinition with the inclusion of defences for torture is ultimately that "[p]olicymakers apparently tried to have it both ways, approving highly coercive interrogation techniques, but with limits designed to assuage their consciences and satisfy

This general acceptance of no defence in the public interest or national security was confirmed in Cahal v UK[29] were the UK government argued Cahal's remaining in the UK would compromise UK national security. The ECtHR held that considerations of national security had no application where violations of Article 3 were concerned and that its guarantee is not circumscribed by 'the activities of the individual in question however undesirable or dangerous'[30] The court in Cahal went on to note "[a]rticle 3 enshrines one of the most fundamental values of a democratic society. The court is well aware of the immense difficulties faced by states in modern times in protecting their community from terrorist violence. However even in these circumstances, the convention prohibits in absolute terms torture or inhuman or degrading treatment or punishment, irrespective of the victims conduct."[31]

In discussing Ireland's responsibility, it is important to consider that Ireland is "not being held directly responsible for the acts of another state but for the facilitation through the process of extradition [deportation], of a denial of the applicant's rights by another state"[32]

PART 3 The positive obligations on the state to protect and to provide a prompt impartial investigation, where there are reasonable grounds for belief of torture.

Article 3 in the ECHR and the relevant provisions of UNCAT are not limited to negative obligations on states, but include positive steps that have to be taken in order to prevent torture and other related acts being committed. "The Court acknowledged that Article 3[relating to the doctrine of extraterritorial application] places a number of positive obligations on state parties to the European Convention, including a duty to provide redress for actions of torture [and a proper and effective investigation]."[33]

Article 12 of the UNCAT places an obligation on the state to protect individuals and to provide a prompt impartial investigation, where there are reasonable grounds to believe that torture is likely. As outlined above in part 2 and as my fellow speakers

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their lawyers." [The Logic of torture(Human Rights Watch, 28-6-2004) www.hrw.org/english/2004/06/28/usint8967] Though once these dubious methods are introduced they are hard to control and so end up being systematic and often straying beyond the lawyer's boundaries, which Abu Ghraib, Guantanemo and Israel are examples of .

[29] (1997) 23 EHRR 413 The principle in Cahal was extended and confirmed by the following cases D V UK(1997) 24 EHRR 423 Holds that a violation of Article 3 may result in connection with an expulsion even when the danger to the applicant arises from a source other than the public authority of the receiving state. at para 49. Ocalan v Turkey (2003) 37 EHRR 10 Where a death penalty is implemented following an unfair trial amounted to a violation of Article 3.
Amekrane v UK No 5961/72, 16 YB 356 (1973) Where a Moroccan was returned to Morocco and received the death penalty. This was settled out of court where his wife was paid wife £35,000 though " it was argued that it was inhuman treatment to do so in a situation in which the applicant faced a real risk of death without first giving him the chance to question his return in court or to seek sanctuary in another, more sympathetic country."
[30] at para 80 and confirmed in Ahmed v Austria (1997) 24 EHRR 278
[31] at para 80 court has used identical language at Egmez v Cypress App 3087/96 2002 34 EHRR 753 at para 77.
[32] O'Boyle in O' Reilly,ed Human Rights and Constitutional Law 1992 Pg 97
[33] Article:Marius Emberland AJI L Vol96No3(Jul2002) 699-705: Al Adsani v UK Pg 703-04

have outlined the 'deportation for torture' policy adhered to by the US would amount to "reasonable grounds" within Article 12 to suspect torture is likely to occur. Article 16, paragraph 1.[34] read in conjunction with article 12 allows for inhuman and degrading treatment to be substituted for torture as also providing an obligation were there are reasonable grounds to investigate.

This obligation was considered by Committee against Torture in Hajrizi Dzemajl et al –v-Yugoslavia[35] were a violation of Articles 12 and 16 was found when the state failed to provide adequate protection and due diligence by failing to provide an adequate investigation
The ECHR jurisprudence has outlined states obligations with regard to Article 3 States are obliged to take every reasonable step to prevent a real and immediate threat to the life and integrity of a person, when the actions threatening it could be perpetrated by a person or group of persons with the consent or acquiescence of public authorities. Second, States have an obligation to provide an effective remedy, including a proper and effective investigation, with regard to actions committed by non-State actors undertaken with the consent or acquiescence of public authorities.[36]
In Osman v UK were the Article 2 The right to Life was read in conjunction with Article 3 it was held there is " a positive obligation on the authorities to take preventive operational measures to protect an individual whose life is at risk from the criminal acts of another individual" [37] In a case where the State was aware of the ill-treatment Z. v. UK and failed to take steps, that State "had therefore failed in its positive obligation under article 3 of the Convention to provide the applicants with adequate protection against inhuman and degrading treatment."[38] Article 13 was read in light of Article 3 of the ECHR in Aksoy v Turkey[39] , where it was found " [t]he nature of the right safeguarded under Article 3 of the convention has implications for Article 13. Given the fundamental importance of the prohibition of torture and the especially vulnerable position of torture victims, Article 13 imposes, without prejudice to any other remedy available under the domestic system, an obligation on States to carry out a thorough and effective investigation of incidents of torture."

Conclusion
It should be noted that when considering what constitutes torture that EctHR jurisprudence in Ireland v UK and the Greek case and Art 3 of the ECHR includes "the infliction of mental suffering by creating a state of anguish and stress by means other than bodily assault". I would submit that the mental anguish suffered while waiting in a plane in Shannon would constitute torture or inhuman treatment under both the ECHR and UNCAT as incorporated into Irish Law.
I would further submit that, given the well-known facts of the US behaviour in regards to Guantanemo Bay, Abu Gharib and "extraordinary rendition", that this

[34] It should be noted that when considering the severity of torture that EctHR jurisprudence in Ireland v UK and the Greek case that Art 3 of the ECHR covers "the infliction of mental suffering by creating a state of anguish and stress by means other than bodily assault".
[35] Communications No. 161/2000, U.N. Doc CAT/C/29/D/161/2000(2002)
[36] Mahmut Kaya v. Turkey 58/1996/677/867
[37] Osman v. United Kingdom, paras. 115-116.7
[38] Z. v. United Kingdom, para. 98.
[39] (1997) 23 EHRR 553 para 98 of judgment.

would suffice as amounting to substantial grounds of real risk to the individuals involved.
Consequentially the State is obliged under both the ECHR and UNCAT to prevent persons being deported to torture and to investigate the situations which surround this practice.

End of section by Deirdre Morgan on Deportation for Torture

List of Attachments and purpose thereof:

The purpose of the following attachments is firstly to provide information and reference sources to the committee, to inform the committee and give a basis for further investigation by the committee. The second purpose is to provide the committee with specific evidence of what is happening at Shannon in order to counter the false statements being made by Gardai and Government ministers that there is no evidence on which to base an investigation on crimes and wrongdoing being committed at Shannon and elsewhere. The third purpose is to compile a database of reference material that may be used by this Oireachtas Joint Committee, and by other individuals, groups and organisations to whom we will be forwarding this report and the information collected.

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, the Irish Human Rights Commission, etc. Each will be receiving copies of our reports and information when they are completed in due time. 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."

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 initial 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.

1. Charter of the United Nations
2. Bunreacht na hÉireann (not included)
3. Hague Convention V 1907 on Neutrality
4. UN Convention Against Torture
5. Criminal Justice (UN Convention against Torture) Act, 2000

6. Extracts from Handbook of Humanitarian Law in Armed Conflicts ed. Dieter Fleck,
7. Nice Treaty Seville Declaration
8. UN General Assembly Resolution no 2626 1970 (unlawful occupations of territory)
9. UN Sec Co Resolution 1441, 2002, Iraq.
10. UN Sec Co Resolution 1454, 2002 (Sovereignty and Territorial Integrity of Iraq)
11. UN Sec Co Resolution 1483, 20 May 2003 (Occupation of Iraq)
12. Judgement of Mr. Justice Kearns 28 April 2003, Horgan v Ireland et al.(not enclosed)
13. Documents Discovered from Department of Foreign Affairs in Horgan v Ireland Case. (separate folder)
14. High Court Injunction against peace activists, (2003 No. 1468P) (Separate folder)
15. Lancet Report
16. MEDACT report Collateral Damage, 2002
17. MEDACT report Enduring Effects of War 2004
18. Iraq Body Count December 2005
19. Times – Take no Prisoners article 20 Nov. 2001
20. Newsweek "Aboard CIA" prisoner rendition article, Newsweek.
21. List of reports on "extraordinary rendition" by Dr Coilin O'hAiseadha,
22. Liberty letter to Mr Straw
23. Liberty letter to Police
24. Sample of Copies of Complaints to Gardai at Shannon by Peace Activists
25. Clare Co Council – Breaches of Planning at Shannon
26. Complaint to Supt. Kerin
27. Documentary evidence of US CIA aircraft at Shannon airport
28. Dick Marty – Council of Europe Report
29. 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)

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).

We wish to thank all the Members of the Oireachtas Joint Committee on Foreign Affairs, for inviting us to address the Committee and to make this presentation. Defending human rights should not be seen as a temporary activity but rather as a permanent responsibility of all citizens and especially of legislators. This submission therefore is a beginning rather than a conclusion.
The ultimate and most basic human right is the right to life. If this is denied or removed, there are no opportunities to restore it or to respect the subsidiary human rights that cannot exist without life.
That is why we consider the unlawful killing of so many people in Iraq as the most grevious crime, and the sort of crime that the UN was founded to prevent in 1945. There is much to be done, and in so far as is possible, to be undone.

We wish to sum our report to this Oireachtas Committee on a theme of justice.

If you think, that inviting and allowing 650,000 armed US troops pass through Shannon airport, on their way to kill up to 100,000 Iraqi people, and
that allowing dozens of CIA aircraft to refuel at Shannon for the purpose of rendering prisoners for torture;
if you think that this is ok and not a serious matter of foreign affairs and international law;
then go ask the relatives of the 100,000 dead,
and the survivors of those who were tortured, what they think.

If the concept of justice means anything to you, then for humanity's sake, stop the use of Shannon airport to facilitate mass murder and torture, and stop it now.
The decision of Oireachtas na hEireann to approve the Use of Shannon airport by US troops for the Iraq War in 2003 has been the most shameful act of any Irish Government since the foundation of the state, in 1922.
We do not yet know who has approved the use of Shannon airport for the purposes of facilitating the transport of prisoners for torture, but many people are complicit in allowing this to continue. We ask you to ensure that these matters are not only investigated, but that they are stopped.
The purpose of our submission was to inform you of what we know or believe to be happening at Shannon airport. It is now your duty to verify these matters for yourself, and take appropriate actions.
Fobbing it off by saying that what is passed is history, and we should look to the future, is no more valid now that it would have been in the case of the Holocaust.

Signed:

Edward Horgan

Mary Kelly

Tim Hourigan

Deirdre Morgan