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Santiago Canton
Executive Secretary
Inter-American Commission on Human Rights
Organisation of American States
1889- F Street, N.W.
Washington D.C. 20006

KL 3E

5 March 2002

Dear Sir

Center for Constitutional Rights, Center for Justice and International Law and Others
Request for Precautionary Measures

We refer to Request for Precautionary Measures filed with the Commission on the 25 February 2002.

Enclosed please find Observations to Precautionary Measures. In addition, the following individuals and institutions would like to join as petitioners after carefully reviewing the petition for precautionary measures filed on behalf on the detainees on Guantanamo on February 25, 2002.

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DOS-001788

Petitioners submitted a Request for Precautionary Measures in the above matter on 25 February, 2002. Following submission of this document, Petitioners consider it necessary to clarify certain matters raised therein and do so in the following Observations:

1. At page 8 of the Petition, Petitioners refer to a newspaper article in which the International Committee of the Red Cross are [is] quoted as saying that a "court" has to make any decision on prisoner-of-war status. Petitioners wish to clarify with this Commission that they realize that pursuant to the Third Geneva Convention it is a "competent tribunal" rather than a "court" that is required to make such a decision. The newspaper article possibly misquoted what the ICRC said.
2. At page 13 of the Petition, Petitioners note "*the military commissions fail to provide minimal guarantees of due process.*" From various press reports,¹ Petitioners are aware that the United States is considering passing regulations pursuant to section 4(b) of the Military Order that could possibly improve the procedural protections afforded by such commissions. From the information available however, Petitioners do not consider that these improvements will rectify the fundamental defects of the Order.
3. Finally, in regards to issues raised on the status of those detained, Petitioners wish to clarify with this Commission that should the United States refuse to recognize those persons detained as prisoners-of-war under the Third Geneva Convention then they should be recognized as civilians pursuant to the Fourth Geneva Convention and not as "unlawful combatants".² Petitioners contend, contrary to the position of the United States, that international humanitarian law does not recognize such a status.

Respectfully submitted:

March 5, 2002

¹ See e.g. Katharine Q. Seelye, *Draft Rules for Tribunals Ease Worries, but Not All*, The New York Times, December 29, 2001 available at <http://www.crimelinx.com/draftcase.html>

² See: Delalic et al. (I.T.-96-21) "Celebici", Judgment of the International Criminal Tribunal for the Former Yugoslavia (16 November 1998), para. 271

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Kindly acknowledge receipt.

Sincerely,

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