

U.S. Accountability and Reparations for Ongoing Human Rights Violations in Iraq

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Iraq Veterans Against the War (IVAW) was founded by Iraq war veterans in July 2004 to give a voice to the large number of active duty service people and veterans who were against this war, but were under various pressures to remain silent. From its inception, IVAW has called for: (1) Immediate withdrawal of all occupying forces in Iraq; (2) Reparations for the human and structural damages Iraq has suffered, and stopping the corporate pillaging of Iraq so that their people can control their own lives and future; and (3) Full benefits, adequate healthcare (including mental health), and other supports for returning servicemen and women.

The **Center for Constitutional Rights (CCR)** is a United States-based legal and educational non-profit organization dedicated to advancing and protecting the rights guaranteed by the United States Constitution and the Universal Declaration of Human Rights.

I. SUMMARY

1. CCR and IVAW jointly submit this report to inform the examination of the United States during its Universal Periodic Review. This submission focuses on the human rights crisis resulting from the enduring harms inflicted by the U.S.'s misguided and illegal invasion and occupation of Iraq and its failure to fulfill its legal and moral obligation to make reparations.¹ For a more detailed analysis and discussion of these and other related issues, please see the report authored by IVAW, the Federation of Workers Councils and Unions in Iraq (FWCUI), the Organization of Women's Freedom in Iraq (OWFI), and CCR entitled *The Right to Heal: U.S. Veterans and Iraqi Organizations Seek Accountability for Human Rights and Health Impacts of a Decade of U.S.-led War*.²
2. The U.S.-led invasion of Iraq on March 19, 2003 was based on false claims about Iraq's possession of weapons of mass destruction, and has, by conservative estimates, resulted in deaths due to direct war violence of at least 195,000 people, 65-75 percent of whom were civilians.ⁱ The number of indirect deaths due to after-effects of fighting, unexploded munitions, malnutrition, damaged health infrastructure and environmental degradation resulting from these conflicts is likely more than twice the number of direct deaths.ⁱⁱ The United Nations High Commission for Refugees reported that more than 4.5 million people were displaced as a result of the war.ⁱⁱⁱ The Iraqi Ministry of Labor and Social Affairs has estimated that approximately the same number of children – 4.5 million – lost one or both of their parents since the invasion and ensuing violence of the war.^{iv}
3. Cancer rates and birth defects have skyrocketed in Iraq since the U.S. invasion – widely believed to be the result of the U.S.'s use of weapons made of depleted uranium, other toxic munitions, and burn pits used to dispose of toxic waste. U.S. officials and allies have also admitted to using napalm-class munitions and white phosphorous, an incendiary agent that can burn to the bone, in Fallujah, Iraq and elsewhere.^v These weapons were reported to have been used in operations in populated areas and resulted in grave harm to civilians.^{vi} The use of cluster munitions, which spread over a wide area and often fail to explode on impact, have resulted in the indiscriminate killing of civilians.^{vii} The remaining unexploded munitions continue to maim and kill more over time.^{viii}
4. The violent consequences of these wars have resulted in physical, mental and emotional trauma to individuals and communities in Iraq and among U.S. servicemembers sent to fight the war that in some cases cannot be healed and in others will take decades, indeed generations, to overcome, even with due and adequate reparations.

¹ Many of the observations, recommendations and suggestions contained here may be relevant to the war in Afghanistan as well. Because this report is submitted alongside veterans of the U.S. war in Iraq, it will focus on the data and information known about the impact of the war in Iraq.

² The report was submitted to the Inter-American Commission on Human Rights in January 2014 in support of a thematic hearing and is available online here: <http://righttoheal.org/wp-content/uploads/2014/05/RtH-January-2014-Report.pdf>.

5. Recently, the U.S. reinstated its military engagement in Iraq, this time to fight the Islamic State of Iraq and Syria (ISIS).^{ix} The current violence in Iraq is a direct outgrowth of the U.S.'s policies during and following its invasion of Iraq. The U.S. invasion of Iraq in 2003 incited a deepening of sectarian divisions among the people of Iraq following the overthrow of the repressive Ba'athist regime of Saddam Hussein. The U.S. government and its occupation forces set in place the most serious sectarian and ethnic tensions in Iraq's modern history and have yet to address the humanitarian catastrophe set in motion by the war. Perhaps most essential to the U.S. role was the formation of the Iraqi Governing Council, appointed by U.S. viceroy L. Paul Bremer in 2003, which installed a sectarian-ethnic quota system. This institutionalized sect and ethnicity as the political factor in the new Iraq. Now the Iraqi people are facing a new deadly crisis, fueled by the sectarian divisions and violent discrimination continually reinforced by the U.S.-backed Maliki government. Militant fundamentalist groups, including ISIS, and remnants of the Ba'ath regime have overtaken several Iraqi cities.^x The sectarianism of the present Maliki regime, as well as of political formations across Iraq, were and continue to be profoundly shaped by U.S. policies. The violence to come will only cause more suffering to the Iraqi people.
6. The U.S. is directly responsible for human rights violations that occurred during or resulting from its invasion of Iraq, even though Iraq is outside of the territory of the U.S. In General Comment 31 (2004) on the International Covenant on Civil and Political Rights, the Human Rights Committee reiterated that "the enjoyment of Covenant rights is not limited to citizens of States Parties but must also be available to all individuals, regardless of nationality...who may find themselves in the territory or subject to the jurisdiction of the State Party."^{xi} The Committee further explained, "This principle also applies to those within the power or *effective control* of the forces of a State Party acting outside its territory..."^{xii} Likewise, the Committee has extended state responsibility for human rights violations in situations beyond the state's control of either persons or places when (a) the State Party was a 'causal link' in the chain that led a violation of the Covenant and (b) if the state had knowledge that the rights violation was foreseeable.^{xiii}
7. Given the far-reaching and multi-generational human rights crisis brought about by the war, we demand that the U.S. government publicly acknowledge the legal and moral obligation to make reparations both as a matter of a war-making state's international human rights obligations and as a basic precept of international humanitarian law. To meet its obligations to make reparations, we recommend that the U.S. immediately provide funding and research for combatting the ongoing health impacts of war munitions on Iraqis and U.S. servicemembers, both through remediation of toxic sites and through provision of health care; that it fully complete investigations and prosecutions of high-level officials for violations including war crimes and torture in Iraq; that it provide full benefits and care for servicemembers and veterans suffering from mental and physical health issues deriving from their service; that it provide justice to servicemembers and Iraqis who experienced sexual violence related to the military; and that it prevent against chain of command interference in and retaliation for servicemembers and veterans seeking justice for rights violations and health care.

II. LEGAL FRAMEWORK

a. Federal, state, and local laws

8. The Authorization for the Use of Military Force (AUMF) authorizes the President to use all “necessary and appropriate force” against nations, organizations, or persons who were involved in or aided the organizers of the September 11, 2001 attacks on the U.S.^{xiv} Under the purported authority of the AUMF, the U.S. invaded Afghanistan in October 2001 without authorization from the United Nations Security Council. The U.S. government has continued to invoke the AUMF as the legal basis for targeted killings outside of the context of armed conflict and indefinite detention of terror suspects.^{xv} Congress passed the similar Authorization for Use of Military Force in Iraq on October 16, 2002, which cited as a key justification Iraq’s alleged development of weapons of mass destruction.^{xvi}
9. The War Powers Resolution of 1973 limits the President’s ability to engage in hostilities without the approval of the United States Congress. It allows the President to enter into “into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances” only when there is “(1) a declaration of war, (2) specific statutory authorization, or (3) a national emergency created by attack upon the United States, its territories or possessions, or its armed forces.”^{xvii} It requires the President to notify Congress of engagement in hostilities within 48 hours and to regularly consult with and report to Congress until the United States Armed Forces are no longer engaged in hostilities.^{xviii} It also requires termination of the use of Armed Forces within sixty days “unless the Congress (1) has declared war or has enacted a specific authorization for such use of United States Armed Forces, (2) has extended by law such sixty-day period, or (3) is physically unable to meet as a result of an armed attack upon the United States.”^{xix}
10. The National Defense Authorization Act (NDAA) specifies the budget and expenditures of the United States Department of Defense (DOD) each fiscal year. The NDAA may include other provisions that relate to the activities of the United States military. The NDAA for fiscal year 2014 includes new provisions to improve prosecution of sexual violence within the military, though it continues to permit chain of command oversight of sexual assault cases.^{xx}

b. 2010 Universal Periodic Review

11. The U.S. stated in its response to several recommendations to provide reparations, compensation, or other remedies to victims of serious human rights violations from the previous UPR review, “We cannot accept portions of these recommendations concerning reparation, redress, remedies, or compensation. Although mechanisms for remedies are available through U.S. courts, we cannot make commitments regarding their outcome.”^{xxi}
12. The U.S. accepted in whole or in part several recommendations to halt and to seek investigations and prosecutions for human rights violations of extrajudicial killings, torture, and other crimes related to its actions, or the actions of its private military

contractors, in Iraq.^{xxii} However, the U.S. repeatedly deferred responsibility for specific events by invoking paragraph 4, where it stated that it would not accept parts of recommendations that included what it determined were “inaccurate assumptions, assertions, or factual predicates” and also stated that it would “reject those parts of these recommendations that amount to unsubstantiated accusations of ongoing serious violations by the United States.”^{xxiii} The U.S. asserts that it has a policy to “investigate allegations of torture, and prosecute where appropriate.”^{xxiv}

13. The U.S. supported in part a recommendation that it “end the use of military technology and weaponry that have proven to be indiscriminate and cause excessive and disproportionate damage to civilian life,” rejecting what it viewed were “unsubstantiated accusations of ongoing serious violations” and asserting that “in U.S. military operations, great care is taken to ensure that only legitimate objectives are targeted and that collateral damage is kept to a minimum.”^{xxv}
14. The U.S. accepted recommendations concerning taking efforts to address sexual violence against detainees and prisoners and to ensure gender equality. It accepted one recommendation regarding prevention of violence against women and accepted another in part, rejecting what it viewed were “unsubstantiated accusations of ongoing serious violations.”^{xxvi}
15. The U.S. did not accept a recommendation asking it to “put an end to its actions against the realization of the rights of peoples to a healthy environment, peace, development and self-determination”^{xxvii} but it did support a recommendation calling for it to “ensure the realization of the rights to food and health of all who live in its territory.”^{xxviii}
16. The U.S. accepted in part a recommendation to ensure the right to work, fair conditions, and protection from discrimination and abuse for minority workers. It expressed support for the 1998 ILO Declaration on Fundamental Principles and Rights at Work, which allows freedom of association and the right to collective bargaining.^{xxix}

III.U.S. COMPLIANCE WITH INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

a. Violations of the right to life and the prohibition on torture or cruel, inhuman and degrading treatment

17. The war in Iraq was itself a “supreme international crime” for which there has been no accountability.^{xxx} Not only was there no Chapter VII authorization by the United Nations Security Council; U.S. Congressional authorization for the war was obtained on false premises.
18. *Suggested Recommendations:*

R1. The U.S. government should repeal the AUMF and amend the War Powers Resolution of 1973 to include mechanisms to hold the President accountable in the event of unauthorized use of military force.

R2. The U.S. government should investigate and prosecute those officials responsible for generating false justifications for the war upon which authorization to use military force was based and ensure that its laws are adequate to ensure accountability and remedy for the resulting harms.

i. Depleted uranium, burn pits, and other munitions

19. In Iraq, cancer rates, birth defects and other illnesses have sky-rocketed since the U.S. invasion.^{xxxii} The U.S. government has not taken action to study and decontaminate affected civilian areas or help treat the illnesses and health conditions of Iraqis and servicemembers apparently harmed by the toxic exposures. In fact, there is evidence to suggest that the U.S. has blocked such efforts by others. According to a former assistant secretary-general of the United Nations who served as the senior UN official in Iraq, the U.S. government “sought to prevent [the World Health Organization (WHO)] from surveying areas in southern Iraq where depleted uranium had been used and caused serious health and environmental dangers.”^{xxxiii} Another cancer specialist who served as chief of the WHO’s cancer programme in the 1990s has reported that after the first Gulf War, U.S. and British advisers to the Iraq sanctions committee routinely blocked delivery of radiotherapy equipment, chemotherapy drugs and analgesics and further that “we were specifically told [by the WHO] not to talk about the whole Iraq business.”^{xxxiii}
20. *Depleted Uranium:* Depleted uranium used by the U.S. military in Iraq is believed to have contaminated civilian areas across the country, exposing both civilians and U.S. servicemembers to an unparalleled risk of cancer and other illnesses, as well as to having children with birth defects, some so severe they do not survive.^{xxxiv} Recent scientific studies strongly suggest that depleted uranium (DU) can interfere with the development of a fetus.^{xxxv} Many children die soon after birth but others survive with deformities so rare they have not been given a medical name.^{xxxvi} One doctor in Fallujah reported that between October 2009 and December 2011 she had personally logged 699 cases of birth defects and recorded a rate of 14.7 percent among all babies born in Fallujah.^{xxxvii} The same doctor revealed in a later interview that a decade after the war, the remarkably high birth defect rate had not dropped, and may be even higher due to underreporting.^{xxxviii} Local reporting collected by FWCUI corroborate this account, with one doctor at a local maternity hospital noting that he sees at least twelve cases of severe defects a month.^{xxxix} Researchers have analyzed the hair of parents of children with congenital anomalies in Fallujah and found an unusually high level of contamination by metals, including uranium and lead.^{xl}
21. One area that has thus far not been the subject of study into the effects of DU and other sources of contamination is the Iraqi district of Haweeja, located just miles from Joint Base Balad and the U.S. Forward Operating Base McHenry, where it is believed DU munitions may have been stored and/or tested and which housed the largest burn pit in Iraq. This district of roughly 109,000 people has also seen an alarmingly high rise in the number of severe birth defects.^{xli} Women’s groups have undertaken surveys that indicate that one quarter of newborns are suffering from disabilities, and a local clinic reports that

it too has seen alarming and high incidences of severe birth defects.^{xlii} Advocates report that the villages suffering from the most defects and cancer are the ones immediately down-wind of a U.S. training base.^{xliii}

22. Children of U.S. servicemembers also appear to be at risk. A 2001 study by the U.S. government of veterans who had served in the first Gulf War found that their children were two to three times more likely to have birth defects and that miscarriages occurred at a higher rate.^{xliv} Despite these disturbing statistics, a Pentagon spokesperson dismissed the concerns about serious health effects and confirmed that there were no “plans for a DU clean-up in Iraq.”^{xlv} Since then, the U.S. Department of Defense and Department of Veterans Affairs have done little to acknowledge the likely linkages and to adequately diagnose, treat or prevent the apparent widespread health effects of exposure to depleted uranium.
23. Legislation was passed in 2006 requiring the Department of Defense to undertake a comprehensive study and report on the use and effects of weapons containing depleted uranium. To date, the Department of Defense has failed to do so. Instead, the department simply surveyed existing literature and determined it was inconclusive.
24. Burn Pits: The largely unregulated use of burn pits to dispose of toxic and hazardous materials on U.S. military bases is believed to have resulted in a wide range of illnesses including respiratory and neurological problems and cancer among U.S. servicemembers, some of whom have died from these illnesses.^{xlvi} Existing studies and accounts on burn pits often do not specifically address the harm to civilians located near bases. Although a 2011 Institute of Medicine report on the potential effects of burn pits looked at cancer risks for servicemembers exposed to pits for up to 15 months, the research committee could not find existing epidemiological information on health effects among Iraqi civilians living near bases where burn pits were used.^{xlvii}
25. In January 2013, President Obama signed legislation requiring the Department of Veterans Affairs (VA) to establish a registry to track veterans who were exposed to burn pits.^{xlviii} In February 2013, in response to the 2011 Institute of Medicine study, the VA announced that it planned to conduct a long-term study of the possible health effects of burn pits on servicemembers using findings gained from the registry.^{xlix} This study will take years to complete, and oversight is critical to ensure unbiased results. A former VA researcher revealed that the Department of Veterans Affairs purposefully manipulated or hid research finding health risks for servicemembers who served in Iraq or Afghanistan. In prepared testimony given under oath to the U.S. House Committee on Veterans Affairs in March 2013, epidemiologist Steven Coughlin revealed that, “If the studies produce results that do not support the office of public health’s unwritten policy, they do not release them,” and other data is “manipulated to make them unintelligible.”^l
26. Cluster Munitions: It is believed that 60 percent of casualties caused by unexploded submunitions in Iraq were children under the age of 15.^{li} According to the U.S. Department of State, the U.S. has invested more than \$209 million in Iraq towards clearing landmines, unexploded ordnance and leftover conventional weapons.^{lii} Still, as

reported by the United Nations and acknowledged by the State Department, “[a]n estimated 1,863 square kilometers (719 square miles) of land in Iraq are reported to contain as many as 20 million landmines and millions more pieces of unexploded ordnance. As many as 1,670 Iraqi cities, towns and villages remain at risk from explosive hazards.”^{liii}

27. *Suggested Recommendations:*

R3. The U.S. government should support, assist and fully cooperate with independent scientific studies and assessments concerning the environmental contamination and effects on health of Iraqi populations as a result of its use and handling of weapons containing depleted uranium and other toxic substances as well as the health effects on U.S. servicemembers.

R4. The U.S. government should support, cooperate with, fully assist, and fund efforts to diagnose and provide comprehensive treatment for those suffering ill health effects as a result of environmental contamination resulting from the war, including cancers and birth defects.

R5. The U.S. government should fund environmental clean-up and remediation efforts to alleviate deleterious health and environmental effects of the munitions used in the conduct of the war.

ii. Untreated psychological trauma and mental harm

28. The war has had a dramatic impact war on the mental health of civilian populations in Iraq and U.S. servicemembers alike. Emblematic of the deep harms of these wars is the dramatically elevated suicide rate amongst servicemembers, which is nearly double the civilian suicide rate.^{liv} Additionally, members of Iraq Veterans Against the War and other organizations conducted a survey project among active servicemembers at Fort Hood, a military post in Killeen, Texas, in which they discovered “high rates of traumatic injuries - including PTSD and TBI - that are the legacy of the era of multiple deployments; the policies and practices allowing - and even promoting - the redeployment of injured and traumatized soldiers; the disciplining and discharging of injured soldiers during the course of the drawdown; the abuse of the Medical Evaluation Board process; the routine violation of soldiers’ medically-verified work restrictions, i.e. ‘profiles’; the culture of stigma that discourages many soldiers from seeking care at all; a systemic lack of adequate health care and routine violations of medical ethics; the overuse of prescription medications and under-diagnosis of soldiers’ illnesses; the lack of remediation following exposure to toxics during military service; and the absence of accountability and survivor-support in sexual assault cases.”^{lv}

29. Based on data collected by the U.S. military, the incidence of mental health disorders have increased by approximately 65 percent among active servicemembers over the last twelve years.^{lvi} While acknowledging that the number of TBI cases is underestimated and underreported, the U.S. government still estimates that over 250,000 troops suffer from

TBIs.^{lvii} Similarly, the U.S. government estimates that 29% of veterans or one in four returning veterans have been diagnosed with PTSD,^{lviii} though this figure may underrepresent the prevalence of PTSD among veterans.^{lix} Medical care remains difficult to access for veterans diagnosed with these disorders.^{lx}

30. The multiple redeployment policy that exacerbated the trauma of the wars for many servicemembers has given rise to serious health consequences.^{lxi} Repeated and rapid redeployment, sometimes up to eight times,^{lxii} also led to command overrides of medical opinions as to fitness for duty.^{lxiii} At Fort Hood, these command overrides constitute violations of command policy, yet they continue to occur with impunity.^{lxiv} The military reportedly follows policies which often serve to discharge and deny servicemembers benefits for what are likely the manifestations of illness and trauma encountered during their military service, leaving them without adequate means to support themselves and their families and obtain much-needed treatment.^{lxv}
31. While there is still much more to be learned about the psychological impacts of war on returning servicemembers and more appropriate and comprehensive institutional responses are urgently needed, much less is known or even discussed about the likely rates of post-traumatic stress disorder (PTSD), traumatic brain injury (TBI) and other harms among the populations where the wars are waged. In a study undertaken for the World Health Organization and the Iraq Ministry of Health, it was estimated that nearly half of Iraq's population suffers from some sort of psychological disorder due to the realities and consequences of the war, including the death of family members, forced displacement and living in a climate of fear and violence.^{lxvi} Iraqi psychologist Dr. Haider Maliki has estimated that "28% of Iraqi children suffer some degree of PTSD, and their numbers are steadily rising."^{lxvii}

32. *Suggested Recommendations:*

R6. Address and provide resources for untreated mental health illnesses and trauma/traumatic injuries suffered by Iraqis and U.S. servicemembers; reform redeployment policies to end multiple tours and redeployment of servicemembers suffering from mental health issues; end the policy of command overrides of medical determinations of fitness/unfitness for duty and of health-related restrictions on activities while on duty. Implement policies and practices that ensure that behavior infractions that may result in termination of benefits are not a result of service-related physical or mental illness. Ensure that nationally recognized medical and psychological health care ethics and standards of practice are followed in the treatment of active-duty servicemembers in the military.

iii. Gender-based and sexual violence

33. When photos depicting torture and humiliating and degrading treatment by U.S. servicemembers of Iraqi detainees at Abu Ghraib first surfaced, high-ranking officials in the Department of Defense and Bush administration rushed to lay the blame on lower level enlisted and non-commissioned officers, claiming that this was aberrant

behavior.^{lxxviii} However, in a report of the investigation into the situation at Abu Ghraib, Major General Antonio Taguba concluded that instances of “sadistic, blatant, and wanton criminal abuses” were the product of structural and command failures or decisions made at higher levels and especially faulted the decision of command to make military intelligence officers and civilian contractors responsible for the military police units conducting detainee operations.^{lxxix} Indeed, a recent report by The Constitution Project of an investigation by a bi-partisan task force into detainee treatment found that “One after one, military court-martial panels were reluctant to punish comrades who had been following the operating procedures in place and listening to the instructions of their leadership.”^{lxxx} Evidence also surfaced that high-ranking officials in the Bush Administration were closely involved in and linked to secret detention and torture centers in Iraq and other serious human rights abuses.^{lxxxi} The investigation revealed that former Defense Secretary Donald Rumsfeld appointed retired Colonel James Steele to help organize paramilitaries and commando units from 2003 to 2005 and again in 2006.^{lxxxii} Steele reported directly to Rumsfeld and reportedly “knew everything that was going on there” – including the torture.^{lxxxiii}

34. As the Abu Ghraib photos indicated, sexual and gender-based violence were a feature of the torture and humiliating and degrading treatment. U.S. military personnel and corporate government contractors subjected detainees, men, women and children alike, to sexual violence. Those working at the Abu Ghraib prison on behalf of the U.S. government forced detainees to wear women’s underwear, simulate sex, masturbate, or have oral sex with other detainees,^{lxxxiv} and raped detainees.^{lxxxv} The Abu Ghraib scandal was illustrative of a larger problem of gender-based and sexualized violence in U.S.-operated prisons. An attorney representing female detainees in Abu Ghraib explained that such abuse by U.S. guards was “happening [in detention centers] all across Iraq.”^{lxxxvi} In 2005, the Iraqi National Association for Human Rights issued a report outlining the abuse of female detainees in various detention centers in Iraq and documenting “systematic rape by the investigators.”^{lxxxvii} There were additional instances reported where Iraqi police, under the U.S. occupation, brought female relatives to police stations and threatened to mistreat and to rape them unless their male relatives confessed, who, upon confession, were handed over to U.S. forces.^{lxxxviii} In Al-Mosul, Iraq, U.S. forces arrested the female relatives of Iraqi fighters so that the men would surrender.^{lxxxix}
35. While in detention, women continued to suffer from physical and psychological abuse, and were subjected to inhumane living conditions.^{lxxx} In 2005, U.K. member of Parliament Ann Clwyd verified a report that U.S. soldiers tortured an elderly Iraqi woman by attaching a harness to her and riding her like a donkey.^{lxxx} In a letter smuggled out of the prison in 2003, one female detainee of Abu Ghraib described how American guards had raped (in some cases impregnating) the female detainees held at the prison and forced them to strip naked in front of men.^{lxxxii} These types of assaults often result in lasting physical harm and health issues as well as psychological wounds that can manifest into PTSD, increased suicidal tendencies and other serious conditions. Iraqi victims of sexual assault at the hands of U.S. military personnel and private U.S. military contractors have seen little justice or compensation for the crimes committed against them.^{lxxxiii}

36. Likewise, U.S. servicemembers have been subjected to sexual assaults by other members of the military at alarming rates. In 2013, the DOD reported over 5,000 cases of sexual assault, a 50 percent increase over the previous year.^{lxxxiv} Yet, the DOD estimates that only 11 percent of sexual assaults were likely reported in 2012, and in correcting for underreporting, officials extrapolate that the number of 2012 sexual assaults in the military was in fact about 26,000.^{lxxxv} A recent Pentagon health study showed that approximately one in five women experienced unwanted sexual contact by another servicemember, with the Marines seeing the highest rate of sexual abuse with 30 percent of women reporting such experiences.^{lxxxvi}
37. U.S. servicemembers who have experienced sexual assault at the hands of other servicemembers have historically faced daunting challenges in that the policies and practices of the U.S. military have served more often than not to blame the victims of the assaults and leave the perpetrators of assaults in place; indeed, military reports document that at least 25% of assaults are committed by people in the survivor's chain of command.^{lxxxvii} Such practices have also often led to the denial of health benefits and even discharge from the military of victims when they are suffering physical and psychological harm as a result of the sexual assaults.^{lxxxviii} While President Obama recently signed into law a bill making the investigation and prosecution of military sexual assault cases easier,^{lxxxix} much more robust provisions for accountability are needed.^{xc}

38. *Suggested Recommendations:*

R7. The government should appoint an independent, special prosecutor to investigate and prosecute those involved in developing, implementing and overseeing policies and practice of torture and other forms of cruel, inhuman and degrading treatment. To the extent there are ongoing criminal investigations, including in foreign courts, the United States should provide any requested assistance, and desist from any actions taken to deter or hinder investigations or prosecutions in other fora.

R8. The government should provide reparations to those who have been illegally detained and to those who have been subjected to torture or other forms of ill-treatment while detained. The government should provide reparations to the families of those who have died or been killed while detained in U.S. detention facilities.

R9. With regard to sexual violence within the military, the government should eliminate commander discretion and chain-of-command adjudication of sexual assault cases, in part by passing the Military Justice Improvement Act (S. 1752) or other similar legislation, and improve access to medical care and treatment for survivors.

b. Violation of the rights to equality and freedom of association

39. In spite of protests by Iraqi women's groups, the new Iraqi constitution, which the U.S. was heavily involved in drafting,^{xc1} and which then-U.S. Vice President Dick Cheney described as "progressive and democratic,"^{xc2} established an official state religion to which all future laws must conform, incorporated religious doctrine as a source of law, and allows citizens to choose between the civil Personal Status Code and religious law for family matters.^{xc3} The U.S.-controlled Coalition Provisional Authority (CPA), which governed Iraq, let stand provisions in the Iraqi Penal Code and Personal Status law that immunized perpetrators of gender-based violence.^{xc4} Women activists in Iraq have pointed to these and related factors as serious setbacks that have served to create a climate in which many forms of violence against and persecution of women, along with impunity for such crimes, have dramatically increased, particularly in the form of so-called "honor killings," which are estimated to have killed thousands of Iraqi women in recent years.^{xc5} Indeed, recently, the Council of Ministers passed and submitted to Parliament a sectarian bill that would allow child marriage, severely restrict women's rights in matters of divorce and child custody, prohibit interfaith marriage, permit marital rape, and limit married women's freedom of movement.^{xc6}
40. While in existence and under the authority of Paul Bremer, the CPA issued orders which opened the door to foreign investment, and attempted to privatize more than 200 state-owned firms.^{xc7} Despite President Bush's assurance that the U.S. would "work on the development of free elections and free markets, free press and *free labor unions* in the Middle East,"^{xc8} one law maintained by the CPA was Saddam Hussein's 1987 law prohibiting unions among workers in the public sector, which constitutes more than 70 percent of the nation's workforce.^{xc9} The CPA reportedly continued to work to prevent unions from organizing, arbitrarily arresting eight members of the Iraqi Federation of Trade Unions for their involvement in labor unions with no apparent basis and no explanation ever given.^c Iraqi union organizers have continued their efforts to advocate for Parliament to draft and pass a labor law that allows workers core labor rights in line with International Labor Organization conventions.^{ci}

41. *Suggested recommendations:*

R10. The U.S. government should acknowledge that its role in drafting the Iraqi constitution and Iraqi laws served to create a climate in which many forms of gender-based violence, in violation of the rights to equality and non-discrimination and of the prohibition of torture or cruel, inhuman and degrading treatment, have dramatically increased in recent years.

R11. The U.S. government should acknowledge that prohibitions on labor unions it continued as an occupying force are in violation of the right to association and have served to perpetuate ongoing violations of this right.

IV. CONCLUSION

42. We recommend the U.S. accept and acknowledge its responsibility for ongoing human rights violations in Iraq and provide accountability by prosecuting the high-level officials

responsible and by providing justice to the victims of human rights violations. The U.S. should provide reparations to Iraqis suffering the ongoing effects of its war through funding health clinics, research studies, and remediation of toxic sites; and provide proper treatment, benefits, and care for the servicemembers sent to fight.

ⁱ Iraq Body Count, available at <https://www.iraqbodycount.org/> (last accessed on Sept. 15, 2014). See also Cost of War Project, *Over 350,000 Killed by Violence, \$4.4 Trillion Spent and Obligated*, Watson Institution for International Studies, Brown University, available at <http://costsofwar.org/> (last accessed on Sept. 10, 2014).

ⁱⁱ Hagopian A, Flaxman AD, Takaro TK, Esa Al Shatari SA, Rajaratnam J, et al., *Mortality in Iraq Associated with the 2003–2011 War and Occupation: Findings from a National Cluster Sample Survey by the University Collaborative Iraq Mortality Study* (2013) PLoS Med 10(10): e1001533. doi:10.1371/journal.pmed.1001533. A prior study conducted by some of the same researchers had estimated over 650,000 excess deaths as of 2006. See Gilbert Burnham, *The Human Cost of the War in Iraq: a Mortality Study, 2002-2006*, Johns Hopkins University, Al Mustansiriya University, and Massachusetts Institute of Technology (2006). The Hagopian et al. study cited here explains the discrepancy: they studied “at least twice the number of clusters as Roberts et al. and Burnham et al.—albeit with the same sample size” and “selected the sample using a more sophisticated randomization approach.” Hagopian, at 11. See also Neta C. Crawford, *Civilian Death and Injury in the Iraq War, 2003-2013*, Costs of War Project, Mar. 2013, available at http://costsofwar.org/sites/all/themes/costsofwar/images/Civilian_Death.pdf (last accessed on Sept. 10, 2014); John Tirman, *Iraq's Shocking Human Toll: About 1 Million Killed, 4.5 Million Displaced, 1-2 Million Widows, 5 Million Orphans*, THE NATION, Feb. 1, 2009, available at http://www.alternet.org/story/123818/iraq's_shocking_human_toll%3A_about_1_million_killed_4.5_million_displaced_1-2_million_widows_5_million_orphans (last accessed on Sept. 10, 2014).

ⁱⁱⁱ United Nations High Commissioner for Refugees, *Life for Iraqi refugees increasingly difficult*, 2013 UNHCR country operations profile – Iraq, available at <http://www.unhcr.org/pages/49e486426.html> (last accessed on Sept. 10, 2014).

^{iv} Child Victims of War, Iraq, available at <http://childvictimsofwar.org.uk/get-informed/iraq/> (last accessed on Sept. 13, 2014); John Pilger, *We've moved on from the Iraq war – but Iraqis don't have that choice*, THE GUARDIAN, May 26, 2013, available at <http://www.theguardian.com/commentisfree/2013/may/26/iraqis-cant-turn-backs-on-deadly-legacy> (last accessed on Sept. 13, 2014); Deborah Lutterbeck, *Orphans join Iraq protests over food, shelter*, REUTERS, Feb. 19, 2011, available at <http://www.reuters.com/video/2011/02/19/orphans-join-iraq-protests-over-food-she?videoId=188518042> (last accessed on Sept. 15, 2014). See also *4.5 Million Orphans in Iraq: Protests Over Food and Shelter*, GLOBAL RESEARCH TV, Feb. 22, 2011, available at <http://tv.globalresearch.ca/2011/02/45-million-orphans-iraq-protests-over-food-and-shelter> (last accessed on Sept. 15, 2014) (explaining that the Ministry of Labor and Social Affairs estimate that around 4.5 million children are orphans, nearly 70 percent of whom lost their parents since the U.S. invasion and the ensuing violence).

^v *U.S. Official Admits Phosphorus Used as Weapon in Iraq*, CBC NEWS, Nov. 16, 2005, available at <http://www.cbc.ca/news/world/story/2005/11/16/phosphorus-fallujah051116.html> (last accessed on Sept. 14, 2014); Letter from the U.K. Minister of State for the Armed Forces to MP Linda Riordan, June 13, 2005, available at http://www.rainews24.ra.i.it/ran24/inchiesta/foto/documento_ministero.jpg (last accessed on Sept. 14, 2014) (responding to controversy over whether the U.S. and UK forces used napalm); see also Colin Brown, *US lied to Britain over Use of Napalm in Iraq War*, THE INDEPENDENT, Jun. 17, 2005, available at <http://www.independent.co.uk/news/uk/politics/us-lied-to-britain-over-use-of-napalm-in-iraq-war-226119.html> (last accessed on Sept. 15, 2014).

^{vi} Andrew Buncombe and Solomon Hughes, *The fog of war: white phosphorus, Fallujah and some burning questions*, THE INDEPENDENT, Nov. 15, 2005, available at <http://www.independent.co.uk/news/world/americas/the-fog-of-war-white-phosphorus-fallujah-and-some-burning-questions-515345.html> (last accessed on Sept. 15, 2014).

^{vii} Human Rights Watch, *Off Target: The Conduct of the War and Civilian Casualties in Iraq* 85 (2003), available at <http://www.hrw.org/sites/default/files/reports/usa1203.pdf> (last accessed on Sept. 15, 2014).

^{viii} Handicap International, *Circle of Impact: The Fatal Footprint of Cluster Munitions on People and Communities* 107-08 (2007) available at http://reliefweb.int/sites/reliefweb.int/files/resources/948D323F9A5BA883852572DF00674624-HI_ClusterMunitions_2007.pdf (last accessed on Sept. 15, 2014).

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- ^{ix} Helene Cooper, *Obama Enlists 9 Allies to Help in the Battle Against ISIS*, NEW YORK TIMES, Sept. 5, 2014, available at <http://www.nytimes.com/2014/09/06/world/middleeast/us-and-allies-form-coalition-against-isis.html> (last accessed on Sept. 10, 2014).
- ^x Falah Alwan, *On Recent Events in Mosul and Other Cities in Iraq*, JADALIYYA, Jun. 15, 2014, available at <http://www.jadaliyya.com/pages/index/18143/on-recent-events-in-mosul-and-other-cities-in-iraq> (last accessed on Sept. 10, 2014).
- ^{xi} Human Rights Committee, *General Comment No.31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, para. 10, U.N. Doc. CCPR/C/21/Rev.1/Add. 13 (2004) available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G04/419/56/PDF/G0441956.pdf?OpenElement> (last accessed on Sept. 15, 2014).
- ^{xii} *Id.* (emphasis added).
- ^{xiii} U.N. Human Rights Comm., *Munaf v. Romania*, para. 14.2, 96th Sess., July 13–31, 2009, U.N. Doc. CCPR/C/96/D/1539/2006 (Aug. 21, 2009).
- ^{xiv} See Authorization for the Use of Military Force, Sec. 2, Public Law 107-40, 115 Stat. 224, enacted Sept. 18, 2001, available at <http://www.gpo.gov/fdsys/pkg/PLAW-107publ40/pdf/PLAW-107publ40.pdf> (last accessed on Sept. 15, 2014).
- ^{xv} See, e.g., Michael McAuliff, “House Votes To Continue Endless War Authorized In 2001,” THE HUFFINGTON POST, July 24, 2013, at http://www.huffingtonpost.com/2013/07/24/aumf-endless-war_n_3647864.html (last accessed on Sept. 15, 2014).
- ^{xvi} See Authorization for Use of Military Force Against Iraq, Public Law 107-243, 116 Stat. 1498, enacted Oct. 16, 2002, available at <http://www.gpo.gov/fdsys/pkg/PLAW-107publ243/pdf/PLAW-107publ243.pdf> (last accessed on Sept. 15, 2014).
- ^{xvii} See War Powers Resolution of 1973, 50 U.S.C. 1541-1548, enacted Nov. 7, 1973, available at <http://www.law.cornell.edu/uscode/text/50/chapter-33> (last accessed on Sept. 14, 2014).
- ^{xviii} *Id.*
- ^{xix} *Id.*
- ^{xx} See National Defense Authorization Act for Fiscal Year 2014, Public Law 113-66, enacted Dec. 26, 2013, available at <http://www.gpo.gov/fdsys/pkg/CPRT-113HPRT86280/pdf/CPRT-113HPRT86280.pdf> (last accessed on Sept. 14, 2014).
- ^{xxi} U.S. Department of State, *UPR Recommendations Supported by the U.S. Government*, Jun. 2014, available at <http://www.state.gov/j/drl/upr/recommendations/index.htm> (last accessed on Sept. 10, 2014) at Recommendations 136, 147-148, and 156-157.
- ^{xxii} *Id.* at Recommendations 60, 136-140, 142, 145, 147-148, 150, 155, 174-176.
- ^{xxiii} *Id.* at Recommendations 60, 137, 138, 140, 155, 166, and 217.
- ^{xxiv} *Id.* at Recommendations 136, 147-148, and 156-157.
- ^{xxv} *Id.* at Recommendation 143.
- ^{xxvi} *Id.* at Recommendations 115, 116, 162, 166, and 167.
- ^{xxvii} Human Rights Council, *Report on the Working Group on the Universal Periodic Review, United States of America*, Jan. 4, 2011, available at http://www.ushrnetwork.org/sites/ushrnetwork.org/files/working_group_report_upr_usa_2011.pdf (last accessed on Sept. 10, 2014) at Recommendation 215. See also U.S. Department of State, *UPR Recommendations Supported by the U.S. Government*, *supra* note xxi.
- ^{xxviii} U.S. Department of State, *UPR Recommendations Supported by the U.S. Government*, *supra* note xxi, at Recommendation 195.
- ^{xxix} *Id.* at Recommendations 81 and 192.
- ^{xxx} According to the International Military Tribunal at Nuremberg: “To initiate a war of aggression, therefore, is not only an international crime; it is the supreme international crime, differing only from other crimes in that it contains within itself the accumulated evil of the whole.”
- ^{xxxi} *Falluja Doctors Report Rise in Birth Defects*, BBC NEWS, Mar. 4, 2010, available at <http://news.bbc.co.uk/2/hi/8548707.stm> (last accessed on Sept. 15, 2014); *Huge rise in birth defects in Falluja; Iraqi former battle zone sees abnormal clusters of infant tumours and deformities*, THE GUARDIAN, Nov. 13, 2009, available at <http://www.guardian.co.uk/world/2009/nov/13/falluja-cancer-children-birth-defects/> (last accessed on Sept. 15, 2014); Dahr Jamail, *Iraq: War’s Legacy of Cancer*, AL JAZEERA, Mar. 15, 2013, available at <http://www.aljazeera.com/indepth/features/2013/03/2013315171951838638.html> (last accessed on Sept. 13, 2014). See also John Pilger, “We’ve moved on from the Iraq War,” *supra* note iv. (“Before the Gulf War, we had two or three cancer patients a month. Now we have 30 to 35 dying every month. Our studies indicate that 40 to 48% of the

population in this area will get cancer in five years' time to begin with, then long after. That's almost half the population. Most of my own family have it, and we have no history of the disease. It is like Chernobyl here; the genetic effects are new to us; the mushrooms grow huge; even the grapes in my garden have mutated and can't be eaten.")

^{xxxii} John Pilger, "We've moved on from the Iraq War," *supra* note iv.

^{xxxiii} *Id.*

^{xxxiv} *US to Use Depleted Uranium*, BBC NEWS, Mar. 18, 2003, available at

http://news.bbc.co.uk/2/hi/in_depth/2860759.stm (last accessed on Sept. 15, 2014); Rita Hindin, *Teratogenicity of depleted uranium aerosols: A review from an epidemiological perspective*, 4 ENVIRONMENTAL HEALTH: A GLOBAL ACCESS SCIENCE SOURCE 17 (Aug. 26, 2005). See also U.S. Department of Veterans Affairs, *Depleted Uranium*, Sep. 5, 2012, available at

http://www.publichealth.va.gov/exposures/depleted_uranium/index.asp (last accessed on Sept. 15, 2014); Alaani et al., *Uranium and other contaminants in hair from the parents of children with congenital anomalies in Fallujah, Iraq*, 5 CONFLICT AND HEALTH 15 (2011), available at <http://www.biomedcentral.com/content/pdf/1752-1505-5-15.pdf> (last accessed on Sept. 15, 2014) (finding increased levels of Uranium in parents of children who suffered birth defects). There is also evidence to suggest that white phosphorous can cause long term health effects, which may be intergenerational. A 2012 study undertaken in Gaza found a strong correlation between birth defects in newborns and families in which one or both parents were exposed to white phosphorus. See Naim, et al., *Birth Defects in Gaza: Prevalence, Types, Familiarity and Correlation with Environmental Factors*, 9 INTERNATIONAL JOURNAL OF ENVIRONMENTAL RESEARCH AND PUBLIC HEALTH 1732 (May 7, 2012), at 13, available at <http://www.mdpi.com/1660-4601/9/5/1732> (last accessed on Sept. 15, 2014).

^{xxxv} Rita Hindin, *Teratogenicity of depleted uranium aerosols*, *supra* note xxxiv. See also U.S. Department of Veterans Affairs, *Depleted Uranium*, *supra* note xxxiv; Alaani et al., *Uranium and other contaminants*, *supra* note xxxiv.

^{xxxvi} Dahr Jamail, *Fallujah babies: Under a new kind of siege*, AL JAZEERA, Jan. 6, 2012, available at <http://www.aljazeera.com/indepth/features/2012/01/2012126394859797.html> (last accessed on Sept. 13, 2014) ("There are not even medical terms to describe some of these conditions because we've never seen them until now").

^{xxxvii} *Id.* This rate is estimated to be 14 times that found in Hiroshima and Nagasaki after the U.S. nuclear bombing.

^{xxxviii} Dahr Jamail, *Iraq: War's Legacy of Cancer*, *supra* note xxxi.

^{xxxix} Federation of Workers' Councils and Unions in Iraq Report (Feb. 19, 2013) (*on file with CCR*).

^{xl} M. Al-Sabbak, *Metal Contamination and the Epidemic of Congenital Birth Defects in Iraqi Cities*, 89 BULLETIN OF ENVIRONMENTAL CONTAMINATION AND TOXICOLOGY 937 (Sept. 2012) available at http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3464374/pdf/128_2012_Article_817.pdf (last accessed on Sept. 15, 2014).

^{xli} Organization of Women's Freedom in Iraq Report on Hawijah (*on file with CCR*); Interview with Yanar Mohammed, Director of Organization of Women's Freedom in Iraq.

^{xlii} *Id.*

^{xliii} *Id.*

^{xliv} H. Kang, C Magee, et al., *Pregnancy Outcomes Among U.S. Gulf War Veterans: A Population-based Survey of 30,000 Veterans*, ANNALS OF EPIDEMIOLOGY 2001, 11:504-511. See also *Study: Gulf War vets' children have more birth defects*, ASSOCIATED PRESS, Oct. 6, 2001, available at http://onlineathens.com/stories/100601/hea_1006010063.shtml (last accessed on Sept. 15, 2014).

^{xlv} Alex Kirby, *US rejects Iraq DU clean-up*, BBC NEWS, Apr. 14, 2003, available at <http://news.bbc.co.uk/2/hi/sci/tech/2946715.stm> (last accessed on Sept. 15, 2014).

^{xlvi} M. King, R. Eisenberg, et al., *Constrictive Bronchiolitis in Soldiers Returning from Iraq and Afghanistan*, 365 NEW ENGLAND JOURNAL OF MEDICINE 222 (Jul. 21, 2011); A. Szema, W. Salihi, K. Savary, J. Chen, *Respiratory Symptoms Necessitating Spirometry Among Soldiers with Iraq/Afghanistan War Lung Injury*, 53 JOEM 961 (Sept. 2011); David Zucchini, *Veterans Speak Out Against Burn Pits*, LOS ANGELES TIMES, Feb. 18, 2010, available at <http://articles.latimes.com/2010/feb/18/nation/la-na-burn-pits18-2010feb18> (last accessed on Sept. 15, 2014); R.B. Stuart, *Leukemia: A Soldiers Souvenir From the Burn Pits of Iraq*, THE HUFFINGTON POST, Feb. 3, 2009, available at http://www.huffingtonpost.com/r-b-stuart/leukemia-a-soldiers-souve_b_162841.html (last accessed on Sept. 15, 2014). See also generally Burn Pits Action Center, *Personal Stories*, available at <https://sites.google.com/site/burnpits/stories> (last accessed on Sept. 15, 2014); Burnpits 360, *Personal Stories*, available at <http://www.burnpits360.org/blog/2011/01/06/Burn-Pit-Stories.aspx> (last accessed on Sept. 15, 2014).

^{xlvii} Institute of Medicine, *Long-term health consequences of exposure to burn pits in Iraq and Afghanistan* at 15, 17 (2011), available at http://www.nap.edu/openbook.php?record_id=13209&page=15 (last accessed on Sept. 15, 2014).

^{xlviii} Dignified Burial and Other Veterans' Benefits Improvement Act of 2012, S. 3202, 158 Cong. Rec. H7442, available at <http://www.gpo.gov/fdsys/pkg/BILLS-112s3202enr/pdf/BILLS-112s3202enr.pdf> (last accessed on Sept. 15, 2014); see also, Patricia Kime, *Burn Pit Registry for Veterans Signed Into Law*, THE NAVY TIMES, Jan. 10, 2013, available at <http://www.navytimes.com/news/2013/01/military-burn-pit-legislation-signed-011013w/> (last accessed on Sept. 15, 2014).

^{xlix} Department of Veterans Affairs, *Initial Research on the Long-Term Health Consequences of Exposure to Burn Pits in Iraq and Afghanistan*, 78 FR 7860, 7860-61 (Feb. 4, 2013), available at <https://federalregister.gov/a/2013-02264> (last accessed on Sept. 15, 2014).

^l Kelley Kennedy, *Researcher says officials covered up vets' health data*, USA TODAY, Mar. 13, 2013, available at <http://www.usatoday.com/story/news/nation/2013/03/13/whistleblower-alleges-veterans-affairs-cover-up/1979839/> (last accessed on Sept. 15, 2014) ("This applies to data regarding adverse health consequences of environmental exposures, such as burn pits in Iraq and Afghanistan, and toxic exposures in the Gulf War... On the rare occasions when embarrassing study results are released, data are manipulated to make them unintelligible.")

^{li} Handicap International, *Circle of Impact*, *supra* note viii at 107.

^{lii} Press Release, U.S. Department of State, U.S. Conventional Weapons Destruction Program in Iraq, PRN: 2012/091 (Jan. 20, 2012), available at <http://www.state.gov/r/pa/prs/ps/2012/01/182316.htm> (last accessed on Sept. 13, 2014).

^{liii} *Id.*

^{liv} See, e.g., Nancy Berglas and Dr. Margaret C. Harrell, *Losing the Battle The Challenge of Military Suicide*, Center For New American Security, Oct. 2011, available at http://www.cnas.org/files/documents/publications/CNAS_LosingTheBattle_HarrellBerglass.pdf (last accessed on Sept. 15, 2014); See also, Chris Hedges, *The Crucifixion of Tomas Young*, TRUTHDIG, Mar. 10, 2013, available at http://www.truthdig.com/report/item/the_crucifixion_of_tomas_young_20130310 (last accessed on Sept. 15, 2014).

^{lv} Iraq Veterans Against the War, Civilian Soldier Alliance, and Under the Hood Cafe & Outreach Center, *Operation Recovery: Fort Hood Soldiers & Veterans Testify on the Right to Heal*, May 26, 2014, available at <http://righttoheal.org/wp-content/uploads/2014/05/FtHoodReport-5-26-14.pdf> (last accessed on Sept. 10, 2014).

^{lvi} Army Forces Surveillance Center, *Medical Surveillance Monthly Reports*, Vol. 19 No. 6, June 2012, http://www.afhsc.mil/viewMSMR?file=2012/v19_n06.pdf (last accessed on Sept. 15, 2014).

^{lvii} Hannah Fischer, *U.S. Military Casualty Statistics: Operation New Dawn, Operation Iraqi Freedom, and Operation Enduring Freedom*, U.S. Congressional Research Service, Feb. 5, 2013, available at <http://www.fas.org/sgp/crs/natsec/RS22452.pdf> (last accessed on Sept. 15, 2014).

^{lviii} Erin Bagalman, *Report R41921: Mental Disorders Among OEF/OIF Veterans Using VA Health Care: Facts and Figures*, U.S. Congressional Research Service, Feb. 4, 2013, available at <http://www.fas.org/sgp/crs/misc/R41921.pdf> (last accessed on Sept. 15, 2014).

^{lix} See Iraq Veterans Against the War, Civilian Soldier Alliance, and Under the Hood Cafe & Outreach Center, *Operation Recovery*, *supra* note lv.

^{lx} *Id.*

^{lxi} Mark Thompson, *Invisible Wounds: Mental Health and the Military*, TIME, Aug. 22, 2010, available at <http://content.time.com/time/magazine/article/0,9171,2008886,00.html> (last accessed on Sept. 10, 2014) ("Repeat deployments deepen the crisis. One in every 10 soldiers who has completed a single combat deployment has a mental ailment; that rate jumps to 1 in 5 with a second deployment and nearly 1 in 3 with a third. That means that more than 500,000 troops have returned home to the U.S. in the last decade with a mental illness.")

^{lxii} Elizabeth Bumiller and John H. Cushman, Jr., *Suspect's Multiple Tours Call Attention to War Strain*, NEW YORK TIMES, Mar. 17, 2012, available at: <http://www.nytimes.com/2012/03/18/us/suspects-deployments-put-focus-on-war-strains.html> (last accessed on Sept. 10, 2014).

^{lxiii} U.S. Department of Defense, DoD instruction 6490.07: Deployment-Limiting Medical Conditions for Servicemembers and DoD Civilian Employees, available at <http://www.dtic.mil/whs/directives/corres/pdf/649007p.pdf> (last accessed on Sept. 15, 2014).

^{lxiv} See Iraq Veterans Against the War, Civilian Soldier Alliance, and Under the Hood Cafe & Outreach Center, *Operation Recovery*, *supra* note lv.

^{lxv} See Robyn M Highfill-McRoy, *Psychiatric diagnoses and punishment for misconduct: the effects of PTSD in combat deployed Marines*, BMC PSYCHIATRY (2010), available at <http://www.biomedcentral.com/1471->

[244X/10/88](#) (last accessed on Sept. 15, 2014); Terri L. Tanielian and Lisa Jaycox, INVISIBLE WOUNDS OF WAR: PSYCHOLOGICAL AND COGNITIVE INJURIES, THEIR CONSEQUENCES, AND SERVICES TO ASSIST RECOVERY 135 (2008).

^{lxvi} See Paula Mejia, *Wounds of War: PTSD in Iraqis and Veterans*, THE MAJALLA, Oct. 10, 2010, available at <http://www.majalla.com/eng/2010/10/article55165470> (last accessed on Sept. 15, 2014); The Iraqi Mental Health Survey Study Group, *The Prevalence and Correlates of DSM-IV Disorders in the Iraq Mental Health Survey*, 8 WORLD PSYCHIATRY 97 (June 2009). In addition to the factors set out above, the study also recognizes the contributing factor of torture during the three decades under Saddam Hussein's rule to the population's mental health.

^{lxvii} César Chelala, *Iraqi Children: Bearing the Scars of War*, THE GLOBALIST, Mar. 21, 2009, available at <http://www.theglobalist.com/iraqi-children-bearing-the-scars-of-war/> (last accessed on Sept. 15, 2014); See also Lourdes Garcia-Navarro, *Treating Iraqi Children for PTSD*, NATIONAL PUBLIC RADIO, Aug. 25, 2008, available at <http://www.npr.org/templates/story/story.php?storyId=93937972> (last accessed on Sept. 15, 2014).

^{lxviii} See Seymour M. Hersh, *Torture at Abu Ghraib: American Soldiers Brutalized Iraqis. How Far Up Does the Responsibility Go?*, NEW YORKER, May 10, 2004, available at http://www.newyorker.com/archive/2004/05/10/040510fa_fact (last accessed on Sept. 15, 2014); See also, e.g., Editorial: *The Abu Ghraib Spin*, NEW YORK TIMES, May 12, 2004, available at <http://www.nytimes.com/2004/05/12/opinion/12WED1.html?th> (last accessed on Sept. 15, 2014); William Saletan, *Rape Rooms: A Chronology: What Bush Said as the Iraq Prison Scandal Unfolded*, SLATE, May 5, 2004, available at http://www.slate.com/articles/news_and_politics/ballot_box/2004/05/rape_rooms_a_chronology.html (last accessed on Sept. 15, 2014).

^{lxix} A. Taguba, Art. 15-6: Investigation of the 800th Military Police Brigade (2004) [hereinafter *Taguba Report*] available at <http://www.fas.org/irp/agency/dod/taguba.pdf> (last accessed on Sept. 13, 2014) (citing instances of “sadistic, blatant, and wanton criminal abuse” at Abu Ghraib).

^{lxx} The Report of The Constitution Project's Task Force on Detainee Treatment at 72, The Constitution Project (2013), available at <http://s3.documentcloud.org/documents/684407/constitution-project-report-on-detainee-treatment.pdf> (last accessed on Sept. 15, 2014).

^{lxxi} See Mona Mahmood et al., *Revealed: Pentagon's Link to Iraqi Torture Centres: General David Petraeus and 'Dirty Wars' Veteran Behind Commando Units Implicated in Detainee Abuse*, THE GUARDIAN, Mar. 6, 2013, available at <http://www.guardian.co.uk/world/2013/mar/06/pentagon-iraqi-torture-centres-link> (last accessed on Sept. 13, 2014).

^{lxxii} *Id.*

^{lxxiii} *Id.* Steele served as a military advisor in El Salvador where he reportedly trained counterinsurgency commandos who were documented as committing serious human rights abuses. Rumsfeld famously told the press that “the Salvador Option” was needed for Iraq. See Michael Hirsch and John Barry, “*The Salvador Option*”: *The Pentagon May Put Special-Forces-Led Assassination or Kidnapping Teams in Iraq*, NEWSWEEK, Jan. 9, 2005, available at <http://web.archive.org/web/20050110030928/http://www.msnbc.msn.com/id/6802629/site/newsweek/> (last accessed on Sept. 15, 2014). Steele was also implicated in the Iran-Contra scandal, in which senior officials in the administration of then President Ronald Reagan secretly facilitated arms sales to Iran in order to fund the Nicaraguan Contras, as official government funding had been prohibited by Congress. See Christopher Drew, *Testimony on Contras Still Haunts Colonel*, CHICAGO TRIBUNE, Jul. 7, 1991, available at http://articles.chicagotribune.com/1991-07-07/news/9103170482_1_iran-contra-james-steele-special-prosecutor-lawrence-walsh (last accessed on Sept. 15, 2014); see also Peter Maass, *The Way of Commandos*, NEW YORK TIMES MAGAZINE, May 1, 2005, available at http://www.nytimes.com/2005/05/01/magazine/01ARMY.html?pagewanted=all&position&_r=0 (last accessed on Sept. 15, 2014).

^{lxxiv} See Taguba Report, *supra* note lxix, at 16-17.

^{lxxv} *Id.*, at 17; *Al-Quraishi et al. v. Nakhla and L-3 Services*, Second Amended Complaint ¶ 20, 08-cv-1696 (D. Md. filed Oct. 1, 2008), available at

http://ccrjustice.org/files/Al_Quraishi%20Second%20Amended%20Complaint%2010%201%2008.pdf (last accessed on Sept. 15, 2014); Monitoring Net of Human Rights in Iraq (MHRI), First Periodical Report (Aug. 20, 2005) at 15, available at <http://www.brusselstribunal.org/pdf/mhri-1-eng.pdf> (last accessed on Sept. 13, 2014).

^{lxxvi} Luke Harding, *The other prisoners*, THE GUARDIAN, May 19, 2004, available at <http://www.guardian.co.uk/world/2004/may/20/iraq.gender> (last accessed on Sept. 13, 2014).

^{lxxvii} See Anna Badkhen, *Rape's Vast Toll in Iraq War Remains Largely Ignored: Many Rape Victims Have Escaped to Jordan But Still Don't Have Access to Treatment and Counseling*, THE CHRISTIAN SCIENCE MONITOR, Nov. 4 2008, available at http://www.csmonitor.com/World/Middle-East/2008/1124/p07s01-wome.html?nav=topic&tag=topic_page-storyList (last accessed on Sept. 15, 2014).

^{lxxviii} See, e.g., International Committee of the Red Cross, Report of the International Committee of the Red Cross on the Treatment by the Coalition Forces of Prisoners of War and other Protected Persons by the Geneva Conventions in Iraq During Arrest, Internment and Interrogation at ¶ 36 (Feb. 2004).

^{lxxix} MHRI First Periodical Report, *supra* note lxxv, at 17.

^{lxxx} *Id.* at 15-17.

^{lxxxi} Harding, *The other prisoners*, *supra* note lxxvi.

^{lxxxii} *Id.*

^{lxxxiii} While some low-level U.S. military personnel were court-martialed and convicted for their role in the abuses at Abu Ghraib, little to no compensation was provided to the victims. A class action civil suit brought against private military contractors at Abu Ghraib in *Saleh v. Titan* was dismissed in 2009. While one suit brought by 72 Abu Ghraib detainees against a private contractor, in *Al-Quraishi v. L-3 Services*, reached a settlement in 2012, another brought on behalf of four detainees, in *Al Shimari v. CACI Int'l*, was dismissed on jurisdictional grounds then reversed on appeal and remanded to the district court.

^{lxxxiv} U.S. Department of Defense, *Department of Defense Annual Report On Sexual Assault in the Military: Fiscal Year 2013*, Apr. 2014, available at <http://www.sapr.mil/index.php/annual-reports> (last accessed on Sept. 14, 2014) at 67.

^{lxxxv} *Id.* at 71.

^{lxxxvi} Gregg Zoroya, *More Female Service Members Reporting Sexual Abuse: Abuse Rate Appears Significantly Higher Than Similar Survey Findings in 2008*, USA TODAY, Apr. 23, 2013, available at <http://www.usatoday.com/story/news/nation/2013/04/22/women-military-sexual-assault/2103075/> (last accessed on Sept. 15, 2014).

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^{xciii} See, e.g., Edward Wong, *Iraqi Constitution May Curb Women's Rights*, NEW YORK TIMES, Jul. 20, 2005, available at <http://www.nytimes.com/2005/07/20/international/middleeast/20women.html?pagewanted=all&r=0> (last accessed on Sept. 15, 2014) (explaining how the draft constitution was already viewed as regressive to women's rights in Iraq and protested against by many feminist groups before it came in force). See also Nathan J. Brown, *Iraq's Constitutional Process Plunges Ahead*, at 9, 11, Carnegie Endowment for International Peace, *Democracy and Rule of Law, Policy Outlook* (2005) available at <http://carnegieendowment.org/files/PO19Brown.pdf> (last accessed on Sept. 15, 2014); Yifat Susskind, *Promising Democracy*, *supra* note xci.

^{xciv} Yifat Susskind, *Promising Democracy*, *supra* note xci; *see also* Aaron D. Pina, *Women in Iraq: Background and issues for U.S. Policy*, Congressional Research Service, Jun. 23 2005, available at <http://fpc.state.gov/documents/organization/50258.pdf> (last accessed on Sept. 15, 2014). Although the report states that the Penal Code and the Personal Status Law are obstacles to gender equality in Iraq, it does not mention any initiative by U.S. government to reform these discriminatory legislations. *See* Iraqi Penal Code No. 111 of 1969, ¶41(1) available at <http://corpus.learningpartnership.org/iraqi-penal-code-no-111-of-1969-selected-provisions-related-to-women-part-1-general-principles> (last accessed on Sept. 15, 2014).

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