THE AGGRESSION ON IRAQ BY BUSH, BLAIR AND HOWARD

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The Iraq Inquiry

On 15 June 2009 the former British Prime Minister, Gordon Brown, announced that an Inquiry would be conducted to identify lessons which could be learned from the Iraq conflict. He said:

“With the last British combat troops about to return home from Iraq, now is the right time to ensure that we have a proper process in place to enable us to learn the lessons of the complex and often controversial events of the last six years. I am today announcing the establishment of an independent Privy Counsellor committee of inquiry which will consider the period from summer 2001, before military operations began in March 2003, and our subsequent involvement in Iraq right up to the end of July this year. The inquiry is essential because it will ensure that, by learning lessons, we strengthen the health of our democracy, our diplomacy and our military.

The inquiry will, I stress, be fully independent of Government. Its scope is unprecedented. It covers an eight-year period, including the run-up to the conflict and the full period of conflict and reconstruction. The committee of inquiry will have access to the fullest range of information, including secret information. In other words, its investigation can range across all papers, all documents and all material. It can ask for any British document to be brought before it, and for any British citizen to appear. No British document and no British witness will be beyond the scope of the inquiry. [As will be seen, this will not be the case] I have asked the members of the committee to ensure that the final report will be able to disclose all but the most sensitive information—that is, all information except that which is essential to our national security.

The inquiry will receive the full co-operation of the Government. It will have access to all Government papers, and the ability to call any witnesses. The objective is to learn the lessons from the events surrounding the conflict.

...

I believe that that will also ensure that evidence given by serving and former ministers, military officers and officials is as full and candid as possible. The committee will publish its findings in as full a form as possible. These findings will then be debated in the House of Commons and the House of Lords. It is in these debates, as well as from the report itself, that we can draw fully upon the lessons learned in Iraq." (www.parliament.uk, 15 Jun 2009: Column 23)

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"In order that the committee is as objective and non-partisan as possible, the membership of the committee will consist entirely of non-partisan public figures acknowledged to be experts and leaders in their fields. There will be no representatives of political parties from either side of this House. I can announce that the committee of inquiry will be chaired by Sir John Chilcot and it will include Baroness Usha Prashar, Sir Roderick Lyne, Sir Lawrence Freedman and Sir Martin Gilbert. All are, or will become, Privy Counsellors.

The committee will start work as soon as possible after the end of July. Given the complexity of the issues it will address, I am advised that it will take a year. As I have made clear, the primary objective of the committee will be to identify lessons learned. The committee will not set out to apportion blame or consider issues of civil or criminal liability." (www.parliament.uk, 15 Jun 2009: Column 24)

Opposition parties, campaigners and back bench members of the governing Labour Party condemned the decision to hold the inquiry in secret and its highly restrictive terms of reference which would not, for example, have permitted any blame to be apportioned. In 2015 Sir John Chilcot [hereafter Sir John] was criticised as the Iraq Inquiry remained unpublished after six years. The head of Her Majesty's Civil Service Sir Jeremy Heywood said that the inquiry had repeatedly turned down offers of extra assistance to help speed up the report. Voices were raised in the House of Lords.

On 22 October 2015, during a debate, Lord Morris of Aberavon, KG PC QC, who had been Blair's Attorney General between May 1997 and July 1999, complained about the "scandalous delay" in producing the Report.

His Lordship had just asked: "Did the Government believe the claims about Saddam Hussein's weapons of mass destruction or was the aim regime change, which has no basis

whatsoever in international law? Was this the real motivation? Secondly, when was the decision taken to go to war? Was it at Crawford or Camp David, in April 2002 ?"

He had just deplored that : " … the saddest feature of the inquiry process was the 'strenuous effort' of the Cabinet Office to block the committee from having access to 'swathes of vital documentation,' including notes from Blair to Bush" adding: " Respect for good governance is undermined if Reports don't see the light of day before issues become dimmed in public memory." (www.parliament.uk, 22 Oct 2015 : Column 852)

In that complaint His Lordship had been joined by Lord Parekh, who lamented the delay caused by: "the dispute over access to various documents." He gave an example: " … it took nearly a year to obtain the Blair-Bush correspondence and the notes Mr Blair is supposed to have left with Mr Bush, to read them and to decide whether to include them in the report." (www.parliament.uk, 22 Oct 2015: Column 858)

Baroness Falkner of Margravine commented: "Looking at the sequencing of events, it is clear that there was some kind of stand-off between the Cabinet Secretary and the Inquiry team, which lasted for a while … it took from July 2012 to January 2015 to reach an agreement on publishing the Blair-Bush correspondence." (www.parliament.uk, 22 Oct 2015: Column 860)

On the same day, Lord Dykes asked "Why did Tony Blair have those embarrassing exchanges in 2002 [with George W. Bush] when there was no question of there being any declaration of war? Why did the then Government ignore the instinct and feelings of 1.5 million people marching down Piccadilly to protest about what was still an illegal war?"

And he followed on with a barrage of questions such as:

"Why was it so important for [Blair and Bush] to turn on Saddam Hussein if regime change was not the main driver?

”Why did Tony Blair have those embarrassing exchanges in 2002 when there was no question of there being any declaration of war?

“Why did the then Government ignore the instinct and feelings of 1.5 million people marching down Piccadilly to protest about what was still an illegal war?

”Why did the Americans and the British ignore the wise advice of the French Government under President Chirac and Foreign Secretary Dominique de Villepin about the mistake of going to war on that occasion?” (www.parliament.uk, 22 Oct 2015 : Column 865)

On 29 October 2015 it was announced that the Report on the Inquiry would be published in June or July 2016.

The Report was published on 6 July 2016, more than seven years after the inquiry was announced.

At the launch, the Chair of the Inquiry, Sir John Chilcot, outlined its scope:

“Our terms of reference are very broad, but the essential points, as set out by the Prime Minister and agreed by the House of Commons, are that this is an Inquiry by a committee of Privy Counsellors. It will consider the period from the summer of 2001 to the end of July 2009, embracing the run-up to the conflict in Iraq, including the way decisions were made and actions taken, to establish, as accurately as possible, what happened and to identify the lessons that can be learned. Those lessons will help ensure that, if we face similar situations in future, the government of the day is best equipped to respond to those situations in the most effective manner in the best interests of the country.”

The Inquiry took oral evidence over a number of months, with as many hearings as possible held in public. The first round began in autumn 2009 and continued into early 2010. After a break for the general election, the Inquiry resumed its hearings from 18 January to 2 February 2011, with private hearings concluding by the end of May 2011. Written evidence studied by the Inquiry included over 150,000 contemporaneous documents.

The Gargantuan final work, The Report of the Iraq Inquiry, is contained into twelve volumes, for a total of 6,275 pages, totally some 2.6 million words. The customary executive summary runs for 150 pages.

The Report is by far longer than Thucydides' History of the Peloponnesian war, which only required eight books, and would be by far more than five times longer than Leo Tolstoy's War and peace, at 587.287 words, and the entire works of William Shakespeare, at 884.421 words.

The Report is on sale for 767.00 English pounds. Between 2009 and 2016 the Inquiry required the expenditure of 10,374.600 pounds, or AU$ 17,376.400.

The members of the Inquiry Committee were: Sir Lawrence Freedman, KCMG,CBE, FBA, a distinguished historian, Emeritus Professor of War Studies at King's College, London; Sir Roderic Lyne, KCMG, a former British diplomat who served as British Ambassador to the Russian Federation from 2000 to 2004; the Right Honourable Usha Kumari Prashar, Baroness Prashar, CBE, who had served as a director or chairman of a variety of public and private sector organisations, and had been appointed as chairman of the Judicial Appointments Commission in 2005; and another distinguished historian and author, Sir Martin Gilbert, CBE, FRSL, honorary fellow of Merton College, University of Oxford.

They had all been made members of the Privy Council of the United Kingdom to facilitate access to the classified information related to the Iraq war. The word 'Privy' actually means 'private' or 'secret'. A privy council was originally a committee of the monarch's closest advisors to give confidential, secret advice on state affairs. In the United Kingdom Her Majesty's Most Honourable Privy Council, which is the actual and full name, is a formal body of advisers to the Sovereign.

So, how transparent has the Inquiry been ?

As already noted, Prime Minister Gordon Brown had initially announced an inquiry which would sit entirely in secret but soon changed his mind after significant public and political opposition, and the majority of hearings have been held in public. However the Inquiry has been criticised for agreeing to let the government determine which documents it was allowed to publish and this issue has by its own admission hampered its work, including restricting questioning during witness sessions.

The Inquiry could be judged not only on how much of what it learned it would make public but on how much it was prepared to reveal about its own workings and methods. On this point, it has often failed to live up to its promise of openness.

The Inquiry has been widely criticised for not publishing en masse the documents given to it by the government. It indicated from the outset that it intended to publish "the key evidence" with its report at the end of the process. It also said that "It is the Committee's intention to publish all the relevant evidence except where national security considerations prevent that." In addition, "It may also publish material on the website as the Inquiry progresses where this will help increase public understanding of its ongoing work."

The protocol 'agreed' with the government for the disclosure and possible publication of evidence has been widely criticised, including being raised in the House of Commons at Prime Minister's Questions. The protocol required the Inquiry to seek permission not just to publish documents but to refer to them at any point in its proceedings.

In a statement on 17 December 2009, Sir John defended the Inquiry's approach. He said that the Committee had taken "a conscious decision" not to publish "a mass of documentary material" but that it would "increasingly wish to draw on government records which are currently classified - in some cases highly classified - in its questioning. Where we do, we will seek the necessary declassification of records in advance of the relevant public hearings, with a view to making the written records publicly available."

Since the second phase of the public hearings, the Inquiry published documents alongside witness sessions. It is also clear that the government was able to manipulate the process in that, for example, the Inquiry has published a diplomatic telegramme containing the official line to take on the critical April 2002 Crawford, Texas meeting but not the full record of that meeting.

In a letter to Prime Minister David Cameron in July 2012, Sir John stated that it would not "publish further information piecemeal and in advance of its report."

The majority of hearings have taken place in public but there have been a number of secret evidence sessions, that the Inquiry described as "private". In some case it has published redacted transcripts of those sessions.

Sir John also said that "if the Inquiry is to succeed in getting to the heart of what happened and what lessons need to be learned for the future, we recognise that some evidence sessions will need to be private. Sometimes that will be consistent with the need to protect national security, sometimes to ensure complete candour and openness from witnesses."

It was thought that the intention that secret sessions might be held to ensure complete candour could raise the possibility that they might be used to meet the needs of witnesses to avoid embarrassment; on the other hand, that might be necessary to protect whistleblowers.

On the morning of 6 July 2016, presenting the Report a full seven years and 21 days after the Inquiry had been established by Prime Minister Gordon Brown with a remit "to look at the run-up to the conflict, the conflict itself and the reconstruction, so that we can learn lessons", Sir John read a statement. In it he said:

"We were appointed to consider the UK's policy on Iraq from 2001 to 2009, and to identify lessons for the future. Our Report will be published on the Inquiry's website after I finish speaking.

In 2003, for the first time since the Second World War, the United Kingdom took part in an invasion and full-scale occupation of a sovereign State. That was a decision of the utmost gravity. Saddam Hussein was undoubtedly a brutal dictator who had attacked Iraq's neighbours, repressed and killed many of his own people, and was in violation of obligations imposed by the UN Security Council.

But the questions for the Inquiry were:

whether it was right and necessary to invade Iraq in March 2003; and

whether the UK could – and should – have been better prepared for what followed.

We have concluded that the UK chose to join the invasion of Iraq before the peaceful options for disarmament had been exhausted. Military action at that time was not a last resort. [Emphasis added]

We have also concluded that:

The judgements about the severity of the threat posed by Iraq's weapons of mass destruction – WMD – were presented with a certainty that was not justified.

Despite explicit warnings, the consequences of the invasion were underestimated. The planning and preparations for Iraq after Saddam Hussein were wholly inadequate.

The Government failed to achieve its stated objectives. [Emphasis added]

I want now to set out some of the key points in the Report.

First, the formal decision to invade Iraq, if Saddam Hussein did not accept the US ultimatum to leave within 48 hours, was taken by Cabinet on 17 March 2003. Parliament voted the following day to support the decision.

The decision was, however, shaped by key choices made by Mr Blair's Government over the previous 18 months – which I will briefly set out.

After the attacks on 11 September 2001, Mr Blair urged President Bush not to take hasty action on Iraq.

By early December, US policy had begun to shift and Mr Blair suggested that the US and the UK should work on what he described as a "clever strategy" for regime change in Iraq, which would build over time.

When Mr Blair met President Bush at Crawford, Texas, in early April 2002, the formal policy was still to contain Saddam Hussein. But, by then, there had been a profound change in the UK's thinking:

The Joint Intelligence Committee had concluded that Saddam Hussein could not be removed without an invasion.

The Government was stating that Iraq was a threat that had to be dealt with. It had to disarm or be disarmed.

That implied the use of force if Iraq did not comply – and internal contingency planning for a large contribution to a military invasion had begun.

At Crawford, Mr Blair sought a partnership as a way of influencing President Bush. He proposed a UN ultimatum to Iraq to readmit inspectors or face the consequences.

On 28 July, Mr Blair wrote to President Bush with an assurance that he would be with him "whatever" – but, if the US wanted a coalition for military action, changes would be needed in three key areas. Those were:

progress on the Middle East Peace Process;

UN authority; and

a shift in public opinion in the UK, Europe and the Arab world.

Mr Blair also pointed out that there would be a "need to commit to Iraq for the long term".

Subsequently, Mr Blair and Mr Straw urged the US to take the issue of Iraq back to the UN. On 7 September, President Bush decided to do so.

On 8 November, resolution 1441 was adopted unanimously by the Security Council. It gave Iraq a final opportunity to disarm or face "serious consequences", and it provided for any further breaches by Iraq to be reported to the Security Council "for assessment". The weapons inspectors returned to Iraq later that month.

During December, however, President Bush decided that inspections would not achieve the desired result; the US would take military action in early 2003.

By early January, Mr Blair had also concluded that "the likelihood was war".

At the end of January, Mr Blair accepted the US timetable for military action by mid-March. To help Mr Blair, President Bush agreed to seek a further UN resolution – the "second"

resolution – determining that Iraq had failed to take its final opportunity to comply with its obligations.

By 12 March, it was clear that there was no chance of securing majority support for a second resolution before the US took military action.

Without evidence of major new Iraqi violations or reports from the inspectors that Iraq was failing to co-operate and they could not carry out their tasks, most members of the Security Council could not be convinced that peaceful options to disarm Iraq had been exhausted and that military action was therefore justified.

Mr Blair and Mr Straw blamed France for the "impasse" in the UN and claimed that the UK Government was acting on behalf of the international community "to uphold the authority of the Security Council".

In the absence of a majority in support of military action, we consider that the UK was, in fact, undermining the Security Council's authority. [Emphasis added]

Second, the Inquiry has not expressed a view on whether military action was legal. That could, of course, only be resolved by a properly constituted and internationally recognised Court.

We have, however, concluded that the circumstances in which it was decided that there was a legal basis for UK military action were far from satisfactory. [Emphasis added]

In mid-January 2003, Lord Goldsmith told Mr Blair that a further Security Council resolution would be necessary to provide a legal basis for military action. He did not advise No. 10 until the end of February that, while a second resolution would be preferable, a "reasonable case" could be made that resolution 1441 was sufficient. He set out that view in written advice on 7 March.

The military and the civil service both asked for more clarity on whether force would be legal. Lord Goldsmith then advised that the "better view" was that there was, on balance, a secure legal basis for military action without a further Security Council resolution. On 14 March, he asked Mr Blair to confirm that Iraq had committed further material breaches as specified in resolution 1441. Mr Blair did so the next day.

However, the precise basis on which Mr Blair made that decision is not clear.

Given the gravity of the decision, Lord Goldsmith should have been asked to provide written advice explaining how, in the absence of a majority in the Security Council, Mr Blair could take that decision.

This is one of a number of occasions identified by the Inquiry when policy should have been considered by a Cabinet Committee and then discussed by Cabinet itself.

Third, I want to address the assessments of Iraq's weapons of mass destruction and how they were presented to support the case for action.

There was an ingrained belief in the UK policy and intelligence communities that:

• Iraq had retained some chemical and biological capabilities;

• was determined to preserve and if possible enhance them – and, in the future, to acquire a nuclear capability; and

• was able to conceal its activities from the UN inspectors.

In the House of Commons on 24 September 2002, Mr Blair presented Iraq's past, current and future capabilities as evidence of the severity of the potential threat from Iraq's WMD. He said that, at some point in the future, that threat would become a reality.

The judgements about Iraq's capabilities in that statement, and in the dossier published the same day, were presented with a certainty that was not justified.

The Joint Intelligence Committee should have made clear to Mr Blair that the assessed intelligence had not established "beyond doubt" either that Iraq had continued to produce chemical and biological weapons or that efforts to develop nuclear weapons continued. [Emphasis added]

The Committee had also judged that as long as sanctions remained effective, Iraq could not develop a nuclear weapon, and that it would take several years to develop and deploy long range missiles.

In the House of Commons on 18 March 2003, Mr Blair stated that he judged the possibility of terrorist groups in possession of WMD was "a real and present danger to Britain and its national security" – and that the threat from Saddam Hussein's arsenal could not be contained and posed a clear danger to British citizens.

Mr Blair had been warned, however, that military action would increase the threat from Al Qaida to the UK and to UK interests. He had also been warned that an invasion might lead to Iraq's weapons and capabilities being transferred into the hands of terrorists. [Emphasis added]

The Government's strategy reflected its confidence in the Joint Intelligence Committee's Assessments. Those Assessments provided the benchmark against which Iraq's conduct and denials, and the reports of the inspectors, were judged.

As late as 17 March, Mr Blair was being advised by the Chairman of the Joint Intelligence Committee that Iraq possessed chemical and biological weapons, the means to deliver them and the capacity to produce them. He was also told that the evidence pointed to Saddam Hussein's view that the capability was militarily significant and to his determination – left to his own devices – to build it up further.

It is now clear that policy on Iraq was made on the basis of flawed intelligence and assessments. They were not challenged, and they should have been.

The findings on Iraq's WMD capabilities set out in the report of the Iraq Survey Group in October 2004 were significant. But they did not support pre-invasion statements by the UK Government, which had focused on Iraq's current capabilities, which Mr Blair and Mr Straw had described as "vast stocks" and an urgent and growing threat.

In response to those findings, Mr Blair told the House of Commons that, although Iraq might not have had "stockpiles of actually deployable weapons", Saddam Hussein "retained the intent and the capability ... and was in breach of United Nations resolutions".

That was not, however, the explanation for military action he had given before the conflict.

In our Report, we have identified a number of lessons to inform the way in which intelligence may be used publicly in the future to support Government policy.

Fourth, I want to address the shortcomings in planning and preparation.

The British military contribution was not settled until mid-January 2003, when Mr Blair and Mr Hoon agreed the military's proposals for an increase in the number of brigades to be deployed; and that they would operate in southern, not northern, Iraq.

There was little time to prepare three brigades and the risks were neither properly identified nor fully exposed to Ministers. The resulting equipment shortfalls are addressed in the Report.

Despite promises that Cabinet would discuss the military contribution, it did not discuss the military options or their implications.

In early January 2003, when the Government published its objectives for post-conflict Iraq, it intended that the interim post-conflict administration should be UN-led.

By March 2003, having failed to persuade the US of the advantages of a UN-led administration, the Government had set the less ambitious goal of persuading the US to accept UN authorisation of a Coalition-led interim administration.

When the invasion began, UK policy rested on an assumption that there would be a well-executed US-led and UN-authorised operation in a relatively benign security environment.

Mr Blair told the Inquiry that the difficulties encountered in Iraq after the invasion could not have been known in advance.

We do not agree that hindsight is required. The risks of internal strife in Iraq, active Iranian pursuit of its interests, regional instability, and Al Qaida activity in Iraq, were each explicitly identified before the invasion. [Emphasis added]

Ministers were aware of the inadequacy of US plans, and concerned about the inability to exert significant influence on US planning. Mr Blair eventually succeeded only in the narrow goal of securing President Bush's agreement that there should be UN authorisation of the post-conflict role.

Furthermore, he did not establish clear Ministerial oversight of UK planning and preparation. He did not ensure that there was a flexible, realistic and fully resourced plan that integrated UK military and civilian contributions, and addressed the known risks.

The failures in the planning and preparations continued to have an effect after the invasion.

That brings me to the Government's failure to achieve the objectives it had set itself in Iraq.

The Armed Forces fought a successful military campaign, which took Basra and helped to achieve the departure of Saddam Hussein and the fall of Baghdad in less than a month.

Service personnel, civilians who deployed to Iraq and Iraqis who worked for the UK, showed great courage in the face of considerable risks. They deserve our gratitude and respect.

More than 200 British citizens died as a result of the conflict in Iraq. Many more were injured. This has meant deep anguish for many families, including those who are here today.

The invasion and subsequent instability in Iraq had, by July 2009, also resulted in the deaths of at least one hundred and fifty thousand Iraqis – and probably many more – most of them civilians. More than a million people were displaced. The people of Iraq have suffered greatly.

The vision for Iraq and its people – issued by the US, the UK, Spain and Portugal, at the Azores Summit on 16 March 2003 – included a solemn obligation to help the Iraqi people build a new Iraq at peace with itself and its neighbours. It looked forward to a united Iraq in which its people should enjoy security, freedom, prosperity and equality with a government that would uphold human rights and the rule of law as cornerstones of democracy.

We have considered the post-conflict period in Iraq in great detail, including efforts to reconstruct the country and rebuild its security services.

In this short statement I can only address a few key points.

After the invasion, the UK and the US became joint Occupying Powers. For the year that followed, Iraq was governed by the Coalition Provisional Authority. The UK was fully implicated in the Authority's decisions, but struggled to have a decisive effect on its policies.

The Government's preparations failed to take account of the magnitude of the task of stabilising, administering and reconstructing Iraq, and of the responsibilities which were likely to fall to the UK.

The UK took particular responsibility for four provinces in the South East. It did so without a formal Ministerial decision and without ensuring that it had the necessary military and civilian capabilities to discharge its obligations, including, crucially, to provide security.

The scale of the UK effort in post-conflict Iraq never matched the scale of the challenge. Whitehall departments and their Ministers failed to put collective weight behind the task.

In practice, the UK's most consistent strategic objective in relation to Iraq was to reduce the level of its deployed forces.

The security situation in both Baghdad and the South East began to deteriorate soon after the invasion.

We have found that the Ministry of Defence was slow in responding to the threat from Improvised Explosive Devices and that delays in providing adequate medium weight protected patrol vehicles should not have been tolerated. It was not clear which person or department within the Ministry of Defence was responsible for identifying and articulating such capability gaps. But it should have been.

From 2006, the UK military was conducting two enduring campaigns in Iraq and Afghanistan. It did not have sufficient resources to do so. Decisions on resources for Iraq were affected by the demands of the operation in Afghanistan.

For example, the deployment to Afghanistan had a material impact on the availability of essential equipment in Iraq, particularly helicopters and equipment for surveillance and intelligence collection.

By 2007 militia dominance in Basra, which UK military commanders were unable to challenge, led to the UK exchanging detainee releases for an end to the targeting of its forces.

It was humiliating that the UK reached a position in which an agreement with a militia group which had been actively targeting UK forces was considered the best option available.

The UK military role in Iraq ended a very long way from success.

We have sought to set out the Government's actions on Iraq fully and impartially. The evidence is there for all to see. It is an account of an intervention which went badly wrong, with consequences to this day.

The Inquiry Report is the Committee's unanimous view.

Military action in Iraq might have been necessary at some point. But in March 2003:

There was no imminent threat from Saddam Hussein.

The strategy of containment could have been adapted and continued for some time.

The majority of the Security Council supported continuing UN inspections and monitoring.

Military intervention elsewhere may be required in the future. A vital purpose of the Inquiry is to identify what lessons should be learned from experience in Iraq.

There are many lessons set out in the Report.

Some are about the management of relations with allies, especially the US. Mr Blair overestimated his ability to influence US decisions on Iraq.

The UK's relationship with the US has proved strong enough over time to bear the weight of honest disagreement. It does not require unconditional support where our interests or judgements differ.

The lessons also include:

The importance of collective Ministerial discussion which encourages frank and informed debate and challenge.

The need to assess risks, weigh options and set an achievable and realistic strategy.

The vital role of Ministerial leadership and co-ordination of action across Government, supported by senior officials.

The need to ensure that both the civilian and military arms of Government are properly equipped for their tasks.

Above all, the lesson is that all aspects of any intervention need to be calculated, debated and challenged with the utmost rigour.

And, when decisions have been made, they need to be implemented fully.

Sadly, neither was the case in relation to the UK Government's actions in Iraq. [Emphasis added]

To conclude, I should like to thank my colleagues, our advisers and the Inquiry Secretariat for their commitment to this difficult task.

I also want to pay tribute to Sir Martin Gilbert, who died last year. As one of the pre-eminent historians of the past century, he brought a unique perspective to our work until he became ill in April 2012. We have missed him greatly as a colleague and friend."

Philippe Sands, QC, a distinguished professor of laws and Director of the Centre on International Courts and Tribunals at the University College London, who had contributed upon request to the Inquiry and was present outside the Queen Elizabeth II Centre where Sir John was speaking, could not help but notice that "By the time [Sir John] had finished his 25-minute speech, the mood in and around the centre had changed: contrary to most expectations, the inquiry had delivered a report of devastating clarity." Professor Sands is worth reproducing extensively. He remarked on the words used by Sir John at the opening of the statement: judgements on weapons of mass destruction had been "Not justified", planning and preparations for post-war Iraq had been "wholly inadequate", the government had "failed to achieve its stated objectives."

And he continued: "Chilcot then turned to the timeline, the attacks of 11 September 2001 and the move by the US and the UK to a policy of regime change. In April 2002, at a meeting at George W. Bush's ranch in Texas, Tony Blair 'sought a partnership' with Bush and argued for 'an ultimatum calling on Iraq to permit the return of weapon inspectors or face the consequences'. In July Blair told the president: 'I will be with you, whatever.' In September he and the foreign secretary, Jack Straw, persuaded Bush to 'take the issue of Iraq back to the UN', and in November the Security Council adopted Resolution 1441, which gave Iraq a final opportunity to disarm or face 'serious consequences': further breaches would be reported to the Security Council 'for assessment'. In December Bush concluded that since UN weapons inspections 'would not achieve the desired result', the US would 'take military action in early 2003'. In January 2003 Blair concluded that war was likely, and 'accepted the US timetable for military action by mid-March'. Bush agreed to seek a further Security Council resolution that would explicitly authorise war. By 12 March it was clear that there would be no second resolution: most Security Council members were not convinced that all peaceful options had been exhausted. The bombing began a week later, on 20 March.

Blair's government struggled to deliver on the prime minister's promised support. The inquiry found a litany of failings. On Iraq's WMD capabilities, judgments were made 'with a certainty that was not justified'. The intelligence did not establish 'beyond doubt' that Iraq was producing chemical or biological weapons. Iraq did not have the capacity to develop a nuclear weapon, and had not deployed long-range missiles. UK policy was based on 'flawed intelligence and assessments' which 'should have been' challenged but weren't. Military planning was settled too late and preparation was inadequate, with 'equipment shortfalls' and risks 'neither properly identified nor fully exposed to ministers'. Remarkably, the cabinet

never discussed the military options or their implications. Contrary to Blair's claim, post-invasion difficulties could have been anticipated, and the risk of internal strife, Iranian involvement and al-Qaida activity 'were each explicitly identified before the invasion'. Although aware of the inadequacy of US planning, ministers couldn't influence it. There was no 'clear ministerial oversight of UK planning and preparation', and no proper plan for postwar administration, security and reconstruction. Whitehall departments failed, ministers failed; there was no 'collective ministerial discussion'. Delays in equipment supplies by the Ministry of Defence were intolerable. The army, lacking sufficient resources, cut a deal with a militia group which had been actively targeting its forces: a 'humiliating' position. The war ended 'a very long way from success', Chilcot concludes. The intervention 'went badly wrong', with consequences that are continuing still. It was not 'calculated, debated and challenged with the utmost rigour', and decisions taken were not 'implemented fully'.

Chilcot didn't mention a single positive outcome. When he finished speaking at the Queen Elizabeth Centre, the audience was stunned. Judging by his appearance when he gave a press conference a few hours later, so too was Blair. Chilcot portrayed the Iraq War as a total failure of government. [179] British troops had been killed and many more were injured; 150,000 Iraqis had been killed 'and probably many more – most of them civilians'; and more than a million people had been displaced. Lives were ruined; Islamic State has emerged in the aftermath, and Britain has been diminished.

The report spreads the responsibility far and wide, covering politicians, civil servants, the military and lawyers. Yet, devastating as it is, the report does pull some punches. There is no allegation, explicitly at least, of lying, deceit or manipulation, even if the facts as presented make possible the inference.

The report's treatment of the legality of the war – though it's worth remembering that a lawful war is not necessarily right – and the steps that were taken in an attempt to find a legal justification, offers an opportunity to explore the inquiry's self-restraint.In his introductory words Chilcot explains that the inquiry 'has not expressed a view on whether military action was legal'. With no lawyer among its members, and no legal counsel to assist it, the inquiry

chose to sidestep this delicate matter, claiming it was best ‘resolved by a properly constituted and internationally recognised court’ (a parallel inquiry in the Netherlands, the Davids Commission, which reported in January 2010, concluded that the war had no basis in international law). Even so, Chilcot devotes much of his opening statement to matters of legality. Distinguishing between substance and process, the inquiry concludes that ‘the circumstances in which it was decided that there was a legal basis for UK military action were far from satisfactory.’ ‘Far from satisfactory’ is a career-ending phrase in mandarin-speak, a large boot put in with considerable force. As late as January 2003, Lord Goldsmith, the attorney general, told Blair that lawful war required a further Security Council resolution, before later changing his mind – his written advice of 7 March found a second resolution ‘preferable’ (rather than indispensable) – and then changing it again, offering a final view on 17 March: since Iraq was in ‘material breach’ of the existing Security Council resolutions, ‘the authority to use force under Resolution 678 was, “as a result”, revived.’ Taking the documents of 7 and 17 March together, Chilcot notes that, on the legal view finally adopted, war would be lawful only if there was evidence that Iraq had committed ‘further material breaches as specified in Resolution 1441’.

He homes in on a key question: on what basis did Blair take the decision that Iraq was in further material breach? ‘Not clear’, Chilcot answers, somewhat generously, since the evidence before the inquiry showed that Blair consulted no one but himself – not the UN weapons inspectors, not the Joint Intelligence Committee, not anyone. Playing God and weapons inspector, Blair simply made up his mind that Iraq was in material breach. ‘Given the gravity of the decision,’ Chilcot adds, ‘Lord Goldsmith should have been asked to provide written advice explaining how, in the absence of a majority in the Security Council, Mr Blair could take that decision.’ Actually, Goldsmith should have told Blair that this was not a decision he could take himself, not without expert advice. The question of material breach ‘should have been considered by a cabinet committee’, Chilcot says, ‘and then discussed by cabinet itself’. It was not.

The report goes further in its criticism of the processes followed in obtaining a legal sign-off. Senior ministers were not consulted. ‘Normal practice’ was cast aside: it was ‘unusual’ for the attorney general rather than a minister to offer an explanation in Parliament. Ministers,

senior officials and the cabinet weren't provided with the written advice of 7 March; the cabinet wasn't told how Blair had reached his views on material breach. The cabinet 'should have been made aware of the uncertainties', but was not. Goldsmith should have provided full written advice explaining the legal basis for action and setting out all the risks of legal challenge.

These are forceful criticisms. They are given added heft by the inquiry's failure to be persuaded by Blair and Straw's claim that France was to blame 'for the "impasse" in the UN', and by its blunt rejection of the idea that the UK had upheld the authority of the Security Council. Rather, 'in the absence of a majority in support of military action, we consider that the UK was, in fact, undermining the Security Council's authority.'

In fact the inquiry had plenty of material available to it which would have allowed it to express a view on the war's legality. In June 2010 it sought submissions on the merits of the UK argument. It received 37 responses (quite why it took six years for them to see the light of day is unclear), reflecting the views of 57 expert individuals and six organisations. Just one of them supported the claim that the war was lawful, on the 'revival' theory – the idea that Resolution 678 could be revived and used to justify military action.

These respondents weren't the 'usual suspects', naysayers and whingers who like to put the UK down or have an animus towards the prime minister or the attorney general. They included Franklin Berman QC, a former [Foreign and Commonwealth Office] legal adviser ('nothing less than an overwhelmingly clear legal case will do,' he said, and this was not such a case); Ralph Zacklin, a former head of legal affairs at the UN (the Iraq war was 'an illegal act' which 'damaged the UK's standing' and 'undermined' the UN Charter and the credibility of the Security Council); and Nigel Rodley, the UK member of the UN Human Rights Committee ('the conclusion … is inescapable: an unlawful use of force on such a scale amounts to the crime of aggression'). The inquiry says it used these submissions 'to inform its consideration of legal issues'.

In addition, the inquiry hearings produced new accounts and documents that shed light on the legal process, detailing Goldsmith's various changes of direction. The story is now familiar: from 30 July 2002, two days after Blair told Bush that he was with him 'whatever', until the end of February 2003 he consistently advised that before embarking on military action there was a need for explicit Security Council authorisation. In October Goldsmith told Straw that a draft of what would become Security Council Resolution 1441 did not offer the necessary explicit authorisation. Immediately after its adoption Goldsmith told 10 Downing Street that 'he was not at all optimistic' that it provided 'a sound legal basis' for war. In mid-January 2003 he confirmed that Resolution 1441 did not authorise war. Two weeks later, on 30 January, when Blair was on his way to Washington to meet Bush, Goldsmith wrote to him that 'the correct legal interpretation of Resolution 1441 is that it does not authorise the use of military force without a further determination by the Security Council.' Blair simply ignored the unwanted advice.

'We had trouble with your attorney,' a senior Bush lawyer reportedly told a British official. 'We got him there eventually.' By 7 March Goldsmith had changed tack, but not far enough. The report details the efforts made to persuade him to harden his advice on 13 and 14 March. They were successful and Goldsmith changed his mind again: no new Security Council resolution was needed provided there was 'strong evidence' that Iraq had failed to comply with Resolution 1441, a matter on which the views of the UN weapons inspectors would be significant. Two days later, on 15 March, Blair confirmed it was his 'unequivocal view' that Iraq was in 'material breach of its obligations'. On 17 March Goldsmith told Parliament that the use of military force was unambiguously lawful without a further Security Council resolution. Nine months after the 'I'm with you, whatever' moment, Blair had the legal chit he wanted, although it was never put in formal, written legal advice.

Section 5 of the report lays bare, in excruciating detail, how these changes occurred. There's nothing really new, since the material emerged when the hearings took place, but these 169 pages of tightly woven narrative and assessment nonetheless offer a unique insight into the place of legal advice within government: how law is made to fit around policy, rather than the other way round. You can tot up the lies and deceits, the duplicities and the fudges, the techniques used to deliver the support that Blair offered, 'whatever'.

In November 2002 Straw told the cabinet that no further resolution beyond 1441 was needed, suppressing the contrary opinion of Goldsmith and of the FCO legal adviser Michael Wood. A month later Straw stopped Goldsmith giving advice (Lord Turnbull, the cabinet secretary, told the inquiry that 'it would have been better' if Goldsmith's advice had been obtained earlier). Further meetings took place, without records being kept. In January Blair told Parliament that the UK could override an 'unreasonable' Security Council veto, knowingly contradicting Goldsmith's clear advice. Later that month Blair failed to tell cabinet about Goldsmith's serious concerns about the legality of a war, and decided not to ask the attorney general to speak in cabinet. Two weeks later, on 31 January, Blair met Bush and offered a commitment that contradicted the legal advice given to him by Goldsmith the previous day. Straw told Michael Wood that he did not accept that a further Security Council resolution was required. On 5 March Blair again ignored Goldsmith's advice and told Bush that a Security Council resolution vetoed by one of the permanent members would still be 'legally … acceptable' if it received the nine votes necessary for a resolution to be adopted. Ministers 'whose responsibilities were directly engaged' – including the chancellor, Gordon Brown, and Clare Short, the minister for international development – 'did not see' Goldsmith's written advice of 7 March. They weren't told that a legal team was put together on 13 March 'to help Lord Goldsmith to explain in public the legal basis "as strongly and unambiguously as possible",' or that the attorney general had retained Christopher Greenwood, a professor of international law at the LSE, 'for the purpose of assisting in the development of legal arguments in support of the view that there was a sound legal basis for the use of force without a second resolution'. Finally, when Goldsmith's 337-word parliamentary answer was put before cabinet on 17 March, they were not aware that it set out 'the legal basis for the use of force, not his advice'.

I try to imagine what it would have been like to attend cabinet on the afternoon of 17 March. The attendees have before them a sheet of paper giving the simple legal basis for war. They know nothing of what has come before, of Goldsmith's numerous changes of direction, or that they are proceeding on the false basis that the document before them constitutes his legal advice ('it seemed to me the attorney general's advice was quite unequivocal,' Gordon Brown told the inquiry, in error). They don't know that the document before them omits all

the uncertainties and Goldsmith's belief that the proposed legal basis for war is unlikely to persuade a court." (A grand and disastrous deceit, London Review of Books, Vol. 38 No. 14 - 28 July 2016 at 9)

Later that afternoon a defiant Anthony Charles Linton Blair, QC took to the airwaves. Sir John Chilcot had spoken for 25 minutes; Blair spoke for nearly two hours. Not for him the apology of his deputy, John Leslie Prescott, now Baron Prescott, who wrote in The Sunday Mirror that, in view of the Report, he now believed the war was 'catastrophic' and 'illegal'.

Blair instead defended himself, saying he would take 'the same decision' again.

Professor Sands observed: "This unhappy intervention will not do him any favours. It makes it more likely he will be pursued, perhaps for contempt of Parliament, or by civil claims, or claims of misfeasance in public office. He might even face worse, a possibility raised in the resignation letter tendered in 2003 by the Foreign Office legal adviser Elizabeth Wilmshurst, whose position has been vindicated by the inquiry: "I regret that I cannot agree that it is lawful to use force without a second Security Council resolution … I cannot in conscience go along with advice within the Office or to the public or Parliament – which asserts the legitimacy of military action without such a resolution, particularly since an unlawful use of force on such a scale amounts to the crime of aggression; nor can I agree with such action in circumstances which are so detrimental to the international order and the rule of law." [Sands, op. cit.]

Anyway, this is Mr. Blair's original full statement:

"The report should lay to rest allegations of bad faith, lies or deceit. Whether people agree or disagree with my decision to take military action against Saddam Hussein; I took it in good faith and in what I believed to be the best interests of the country.

I note that the report finds clearly:

- That there was no falsification or improper use of Intelligence (para 876 vol 4)

- No deception of Cabinet (para 953 vol 5)

- No secret commitment to war whether at Crawford Texas in April 2002 or elsewhere (para 572 onwards vol 1)

The inquiry does not make a finding on the legal basis for military action but finds that the Attorney General had concluded there was such a lawful basis by 13th March 2003 (para 933 vol 5)

However the report does make real and material criticisms of preparation, planning, process and of the relationship with the United States.

These are serious criticisms and they require serious answers.

I will respond in detail to them later this afternoon.

I will take full responsibility for any mistakes without exception or excuse.

I will at the same time say why, nonetheless, I believe that it was better to remove Saddam Hussein and why I do not believe this is the cause of the terrorism we see today whether in the Middle East or elsewhere in the world.

Above all I will pay tribute to our Armed Forces. I will express my profound regret at the loss of life and the grief it has caused the families, and I will set out the lessons I believe future leaders can learn from my experience." (Chilcot Report: Bush says 'world is better off' without Saddam as Blair mounts Iraq war defence - as it happened, The Guardian, 7 July 2016)

After the release of the Report, British Prime Minister David Cameron spoke some words to the effect of "learning lessons," but made sure to leave the door open for future military interventionism, a caveat which negates his previous comments about learning from the mistakes of the Iraq war. In contrast, Jeremy Corbyn issued a thoughtful apology on behalf of the Labour Party in which he spoke about the terrible consequences that have resulted from the war, including the deadly attacks led by Islamic State in Baghdad over the weekend, a group whose origins Corbyn traces to the "aftermath of the invasion."

“Politicians and political parties,” Corbyn concluded, “can only grow stronger by acknowledging when they get it wrong and by facing up to their mistakes.” He also outlined steps that his country - or any peace-loving country - has the obligation to take in the future: “to uphold international law, to seek peaceful solutions to international disputes, to respect the role and the authority of the United Nations and always to treat war as absolutely last resort.”

Evidence in the Report is already being analysed in order to determine whether families of military members who died in the war can sue Blair and others in civil courts.

Importantly, the investigation will open the eyes of many who perhaps were unaware of the deceit which prompted the waging of a long, deadly and expensive war by neoliberal ‘western’ leaders, or soi-disant leaders such as Bush, Blair and in Australia John Howard were, under the guise of democracy and justice, and the pretext of humanitarian intervention.

Was the war legal ?

The Report contains a glimmer of a future in which people will be able not only to investigate, but also to find justice and prevent future leaders to commit and repeat the same mistakes. The Report sets a precedent for similar investigations on the Iraq war to be carried out in other countries, in the United States and in Australia, as well as on other military operations in the future. It has also shown that in this case, the British public and the Australian public, despite the fact that information was withheld, were correct in believing that their countries should not have sheepishly followed the United States into Iraq, proving that people can help leaders stay on the honest side of history.

Strange as it may seem, four days before the publication of the Report, the London Daily Telegraph found itself authorised to inform that Prosecutors at the International Criminal Court in The Hague will proceed to examine it, but only for a limited purpose: “ … for evidence of abuse and torture by British soldiers but [the Prosecutors had] already ruled out putting Tony Blair on trial for war crimes …” Whilst the Report was expected strongly to criticise Blair’s role in the illegal invasion, only “individual soldiers could be prosecuted for

war crimes" - not Blair. (Outrage as war crimes prosecutors say Tony Blair will not ...www.telegraph.co.uk/news/2016/07/02/outrage-as-war-crimes)

This was so, despite the fact that it was clear that Blair's commitment to George W. Bush's determination to invade Iraq was made personally, a year before the invasion, at a meeting at Bush's ranch in Crawford, Texas, without the knowledge of U.K. Parliament. The I.C.C., it was known, was awaiting the formal introduction of a crime of aggression, which would bring illegal invasions into their legal remit - to which Bush, Blair and Howard's actions would seemingly be relevant - but could obviously not apply retrospectively. One widely accepted principle of criminal law is the rule against retroactivity, which prohibits the imposition of ex post facto laws i.e. laws which would allow an individual to be punished for conduct which was not recognised as criminal at the time it was carried out.

Thus, currently, the decision by the United Kingdom or Australia - both of which have accepted the I.C.C. jurisdiction - to go to war in Iraq falls outside the Court's jurisdiction.

Nevertheless, Blair may still be subject to other measures. He could be impeached " for misleading Parliament over the Iraq war", and there was already a cross party group of Members of Parliament who were planning that.

The MPs were attempting to apply an ancient parliamentary power, unused since 1806, to bring Blair to trial in Parliament on the ground that Blair "breached his constitutional duties as Prime Minister."

He could be charged with doing so while claiming that Iraq's weapons of mass destruction could reach the U.K. "in 45 minutes." That claim had been contradicted by Blair's own intelligence (agencies) assessments. There was abroad a feeling that Blair should render account of his actions in what became a disastrous war. The Report would confirm that.

There is definitely a feeling that Blair must be properly held to account for his actions in the run up to what was a disastrous war. Not so much a war but the near annihilation of a sovereign nation without even the minimal wherewithal of self defence, many will reflect. If the impeachment attempt is approved by Parliament Blair could be put to trial. A simple majority of votes is required to convict, at which point a sentence can be passed, which could see Blair being sent to prison. (F. Arbuthnot, The International Criminal Court (ICC) will not prosecute Tony Blair, others are planning to, www.globalresearch.ca/the-international-criminal-court-icc-will, 03 July 2016)

Shortly after it was revealed that former Prime Minister Blair and then President George W. Bush had made a pact to attack Iraq and overthrow the country's sovereign government a full year before the invasion took place - as Blair continued to mislead government and the U.K. people stating that diplomacy was being pursued and no decisions made - another revelation confirmed how Blair was being protected. His benefactor was Sir Jeremy John Heywood, KCB, CVO.

This mandarin-par-excellence was Principal Private Secretary to Prime Minister Blair from June 1999 to July 2003 - as well as the Downing Street Chief of Staff and the first and only Downing Street Permanent Secretary - and would thus have been party to every step of the scheming and untruths about the invasion and surely the plotting between Bush and Blair to attack, during their April 2002, three day meeting at the Bush ranch in Crawford, Texas. After a small 'professional accident' he left the civil service for private business as managing director of the U.K. Investment Banking Division at Morgan Stanley where he became embroiled in the Southern Cross Healthcare scandal that almost saw 30,000 elderly people being made homeless. But, on the appointment of Gordon Brown as Prime Minister in 2007, Heywood returned to government as Head of Domestic Policy and Strategy at the Cabinet Office. He became the Cabinet Secretary on 1 January 2012 with Prime Minister David Cameron and currently with Prime Minister Theresa May, and has been Head of the Home Civil Service since September 2014. Sir Jeremy is indestructible.

In Australian terms no comparison would be possible. The nearest to that Polytetrafluoroethylene-like character would be Arthur Sinodinos, AO, a Liberal senator since 2011, who had been a senior public servant and investment banker before entering politics, had a little brush with the New South Wales Independent Commission Against Corruption, but re-entered Cabinet as its Secretary on 21 September 2015 when he was appointed by Prime Minister Malcolm Turnbull.

Sir Jeremy Heywood has certainly earned the moniker of Sir Cover Up.

Sources close to the Iraq Inquiry claimed that it was held up for months while its chairman, Sir John, argued with Sir Jeremy about which documents could be put in the public domain.

In the end, Sir Jeremy prevailed, and insisted that 150 messages between Tony Blair and George Bush in the run-up to the 2003 war must be censored. Only the essence of the messages and selected quotes could be released. And Sir Jeremy would decide which.

Once Shadow Home Secretary David Davis said it was 'wholly inappropriate' that Sir Jeremy had been involved in decisions on the Iraq Inquiry, given his role as Mr. Blair's Private Secretary at the time of the war. Now the Rt. Hon. David Davis, appointed as Secretary of State for Exiting the European Union on 13 July 2016, sits not very far from Sir Jeremy Heywood - in Cabinet.

As Principal Private Secretary to Prime Minister Gordon Brown, Sir Jeremy might have been party to the plans for and structure of the Chilcot Inquiry. Thus those involved in the invasion convened the Inquiry into the illegality.

Gordon Brown had been Blair's Chancellor of the Exchequer, and in that capacity wrote the cheques for the years of illegal British bombings of Iraq and for the U.K.'s participation in

‘Operation Iraqi Liberation’ - mark the acronym ! He also wrote the cheques for Britain’s part in the disastrous invasion of Afghanistan.

According to figures provided by the Ministry of Defence the total cost of U.K. military operation in Iraq, between 2003 and 2009, was 8.4 billion pounds, equivalent to AU$ 14.4 billion. The Afghanistan adventure might have cost thus far five times as much - and counting.

The planned invasion of Iraq was not about nuclear weapons or democracy, as Bush claimed. Two powerful factions in Washington were beating the war drums: ardently pro-Israel neoconservatives who yearned to see an enemy of Israel destroyed, and a cabal of conservative oil men and imperialists around Vice President Dick Cheney who sought to put his hands on Iraq’s huge oil reserves at a time they believed oil was running out. They engineered the Iraq war, as blatant and illegal an aggression as Hitler’s invasion of Poland in 1939.

Prime Minister Blair tagged along with the war boosters in hopes that the U.K. could pick up the crumbs from the invasion and reassert its former economic and political power in the Arab world. Blair had long been a favourite of British neoconservatives. The silver-tongued Blair became point man for the war in preference to the tongue-twisted, stumbling George W. Bush. But the real warlord was Vice President Dick Cheney.

There was no “flawed intelligence” as Blair and later John Howard claimed. There were intelligence agencies bullied into reporting a fake narrative to suit their political masters. And there were also a lot of fake reports concocted by the United States and the United Kingdom allies in the Middle East - such as Israel and Kuwait.

After the even mild Report, the reputation of Blair - he who had been appointed ‘Middle East Peace Envoy’ - is in tatters. How such an intelligent, apparently worldly man could

have allowed himself to be led around by the doltish, swaggering Bush is hard to understand. Europe's leaders and Canada had refused to join the Anglo-American aggression. France, which warned Bush of the disaster he would inflict, was slandered and smeared by American neoliberals as 'cheese-eating surrender monkeys.'

Bush, Blair and Howard, and all the men - and some women, too - responsible for the biggest disaster of our time should be brought to account, and face trial before the International Criminal Court.

But how and on what grounds ?

In June 2010 the Inquiry issued an open invitation to experts in international law to submit their analysis of the arguments relied upon by the U.K. Government as the legal basis for the 2003 invasion of Iraq.

By then the legal basis for the military intervention in Iraq had been the subject of much comment. The Inquiry had heard evidence on this point from a number of witnesses, including Lord Goldsmith the former Attorney General and Sir Michael Wood the former Foreign Office Legal Adviser. Transcripts of such evidence can be found on the Inquiry website. In addition, a number of government documents relating to the formulation of the legal advice had been declassified and published on the Inquiry's website.

The Inquiry was being advised on public international law by Dame Rosalyn C. Higgins, Baroness Higgins, DBE, QC, the former President of the International Court of Justice. In order further to inform the Committee's considerations, the Inquiry indicated that it would have been pleased to receive from public international lawyers any legal analysis they may wish to offer of the legal arguments relied upon by the U.K. government as set out in: the Attorney General's advice of 7 March 2003; his written answer to a question in the House of Lords on 17 March 2003; and the FCO Memorandum "Iraq: Legal Basis for the Use of Force" of the same date.

The Inquiry did not wish to focus on grounds relied on by other states. Respondents were, therefore, invited to comment on the issues of law arising from the grounds on which the government relied for the legal basis for military action, as set out in the substantive elements of the evidence given to the Inquiry and published documents. That might include:

the legal effect of Operative Paragraphs 1, 4, 11 and 12 of UNSCR 1441;

the significance of the phrase "consider" in Operative Paragraph 12 of SCR 1441;

whether by virtue of UN Security Council Resolutions 678, 687 and 1441, the elements were in place for a properly authorised use of force;

the interpretation and effect of the statements made by the Permanent Members of the Security Council following the unanimous vote on UNSCR 1441;

the correct approach to the interpretation of Security Council Resolutions;

Lord Goldsmith's evidence that the precedent was that a reasonable case was a sufficient lawful basis for taking military action.

Submissions were to be confined to issues as described in above and were to be submitted by 13 September 2010. The Iraq Inquiry reserved the right to publish submissions.

Thirty seven teachers of, and/or practitioners in, international law responded. And one has simply the embarrassment of the choice.

Two of such scholars were Lord Alexander of Weedon, QC and Professor Philippe Sands, QC.

Professor Sands replied on 10 September 2010 and advised that he would have dealt with two aspects of the issue: substance and process.

On the substance he indicated that his views had been originally set out in a letter to the Prime Minister dated 7 March 2003, which had been published by The Guardian on that date, and that Professor Sands attached to his submission.

In that letter fifteen academics attached to four English institutions: Cambridge, the London School of Economics, Oxford, the School of Oriental and African Studies and the University College London, and another from the University of Paris emphasised that "there is no justification under international law for the use of military force against Iraq. … The doctrine of pre-emptive self-defence against an attack that might arise at some hypothetical future time has no basis in international law. Neither security council resolution 1441 nor any prior resolution authorise the proposed use of force in the present circumstances. … A decision to undertake military action in Iraq without proper security council authorisation will seriously undermine the international rule of law. Of course, even with that authorisation, serious questions would remain. A lawful war is not necessarily a just, prudent or humanitarian war." One of the signatories from Oxford was Dr. Ben Saul, who now holds the Challis Chair of International Law at the University of Sydney.

There having been no subsequent development, or any new information which had been made public, including in the course of the Inquiry, Professor Sands had not changed his mind: "there was no legal basis for military action." He had dealt with the subject in chapters 8 an 12 of his work: Lawless world (Penguin 2006), which were also attached in copy.

Professor Sands went on:

"I have been unable to find support in any academic article in an established United Kingdom legal journal for the view on which the previous British government relied. Distinguished members of the legal community in the United Kingdom have also concluded without ambiguity that the war was unlawful. This view has been set out with clarity and force by Lord Alexander of Weedon (the former Chairman of the Bar Council), in the Justice/Tom Sargant Annual Memorial Lecture (2003), and Lord Bingham (the former Senior Law Lord)

in his book The Rule of Law (Penguin, 2010, at pages 120-129)." Professor Sands attached [photo]copies of those pages.

Professor Sands proceeded to refer to the work of an independent Dutch Inquiry which had then recently concluded - unanimously and without ambiguity - that the war was not justified under international law. The Dutch Inquiry was presided by Willibrord J.M. Davids, a distinguished former President of the Dutch Supreme Court, and four of its seven members were lawyers. While the Dutch Committee was well-placed to address the substantive legal issues, Professor Sands could not help noting that the U.K. Inquiry included no members with any legal background.

The Davids Commission, an independent Dutch Commission, released its 551-page report on 12 January 2010 on the Dutch government's decisions surrounding the invasion of Iraq. In February 2009 the fourth Balkenende government decided to establish an independent Iraq Commission with the task "to investigate preparations and decision-making in the period from Summer 2002 to Summer 2003 with regard to the Netherlands' political support for the invasion of Iraq in general, and with regard to matters pertinent to international law, to intelligence and information provision and to alleged military involvement in particular." The Davids Commission was the outcome of years of political accusations that the first Balkenende government had not acted in good faith in the run-up to the American-British invasion of Iraq in March 2003. (A. Pijpers, De waarachtigheid van de commissie- Davids, Internationale Spectator, Diplomatie en Buitenlandse Zaken, Mei 2010).

The report, months in the making, provided the results of an investigation into the political support given by the Netherlands to the Bush administration's decision to invade Iraq. In brief, the Davids Commission charged that "the Dutch government let politics override law when it supported the 2003 U.S. invasion of Iraq, and ignored intelligence that downplayed the threat of Saddam Hussein's weapons program." While the report is in Dutch, a 'Summary' and its 49 conclusions are provided in English in the original report. (Rapport Commissie van Onderzoek Besluitvorming Irak (Commission Report on Investigation of Decision Making on Iraq) pp. 517-533)

As to the process, Professor Sands had this to say:

"The Inquiry has a significant role to play in restoring public trust in governmental decision making, including the circumstances in which legal advice was sought, relied upon and presented. … for the present I will limit this submission to two main areas.

…

The first concerns the issue of presentation. The Attorney General expressed his opinion or 'views' on numerous occasions, between July 2002 and March 2003. Until the end of that period his written opinions were consistent and clear: see Philippe Sands, 'A Very British Deceit', Volume LVII, Number 14, New York Review of Books, 30 September 2010, pages 55-56 (copy attached). A first change occurred with the advice 7 March 2003, apparently the final occasion on which the Attorney General recorded - in writing at least - a formal legal opinion. The thirteen pages 7 March 2003 document proceeded on the assumption of no further Security Council resolution, and did not conclude that the war would be lawful: it went no further than indicate that such a view could reasonably be argued. Ten days later, on 17 March 2003, the Attorney General provided a one page written answer to a Parliamentary question, in a document also placed before Cabinet. This document reflected a further change, a completing a 180 degree about turn in a short space of time and in the absence of any new factual or legal developments."

On this Professor Sands observed:

"It is now clear that the document setting out the answer to a Parliamentary question was an advocacy piece written by committee, setting out the best possible argument for the legality of the war (and a weak one at that). It was not, and did not purport to be, an opinion or an advice (according to the Attorney General it set out his "view", which is not an established legal term of art). Nevertheless the Prime Minister treated the document as though it was an opinion: see the resolution moved before the House of Commons on 18 March 2003, referring to the "opinion of the Attorney General" (Hansard, 18 March 2003, Column 760)."

And the learned professor concluded: "In this way, Parliament, the Cabinet and the public were misled." with the result that "The approach taken has had the unhappy consequence of

undermining public confidence in the independence and integrity of the office of the Attorney General."

A second matter concerned the issue of timing. In matters as grave as the use of military force - Professor Sands noted - "it is particularly important that legal advice be provided as early as possible. Paragraph 21 of the Ministerial Code of Conduct (2001 version) requires that the Attorney General be consulted "in good time before the Government is committed to critical decisions involving legal considerations."

…

"The issue of timing is also relevant in the relationship between legal advice, on the one hand, and policy and decision, on the other. It is self-evident that government policy and related actions should be fixed around the existing law and not the other way round. Yet it seems that in this case the law (or legal advice) was fixed around the policy as determined by the Prime Minister without taking account of legal advice. This is illustrated, for example, by the events of 30/31 January 2003, which are of crucial significance. On 30 January 2003 the Attorney General advised the Prime Minister that resolution 1441 did not justify the use of force, and that a further determination by the Security Council was necessary. Sir David Manning described this as "Clear advice from [the] Attorney on the need for further Resolution". The very next day, on 31 January 2003, the Prime Minister met with President Bush and was told by him that military action would begin in March with or without a further resolution. Sir David Manning, who was present, recorded the Prime Minister's reaction (in a five page memorandum dated 31 January 2003, still classified). The memorandum records the Prime Minister as telling the President that he was 'solidly' with him, and makes clear that although the Prime Minister thought a further Security Council determination was desirable it was not necessary. The Prime Minister's unequivocal support for the view taken by the President was not informed, it seems, by the clear legal advice he had been given."

Most impressive was the contribution to the Inquiry by Lord Alexander of Weedon QC. It was an extended version of the JUSTICE Tom Sargant Annual Memorial Lecture given by Lord Alexander at the Law Society on 14 October 2003. JUSTICE is an independent law

reform and human rights organisation, which was chaired by Lord Alexander until his death in 2015.

It was Lord Denning, once referred to as ‘the century’ greatest judge’, who said of Lord Alexander that he was ‘the best advocate of his generation’. He went on to become chairman of the Bar Council.

Lord Alexander titled his contribution: ‘Iraq: the pax Americana and the law’. In it, after an introduction, he passed to deal with the basis for the invasion of Iraq.

On 31 October 1998 President Bill Clinton signed into law the bill for an Iraq Liberation Act, which became Public Law 105-338, Statutes at Large 112 Stat. 3178. It contains a United States Congressional statement of policy stating that “It should be the policy of the United States to support efforts to remove the regime headed by Saddam Hussein from power in Iraq...”

President Clinton had stated in February 1998:

“Iraq admitted, among other things, an offensive biological warfare capability, notably, 5,000 gallons of botulinum, which causes botulism; 2,000 gallons of anthrax; 25 biological-filled Scud warheads; and 157 aerial bombs. And I might say [the United Nations Special Commission] UNSCOM inspectors believe that Iraq has actually greatly understated its production ...

Over the past few months, as [the weapons inspectors] have come closer and closer to rooting out Iraq’s remaining nuclear capacity, Saddam has undertaken yet another gambit to thwart their ambitions by imposing debilitating conditions on the inspectors and declaring key sites which have still not been inspected off limits ...

It is obvious that there is an attempt here, based on the whole history of this operation since 1991, to protect whatever remains of his capacity to produce weapons of mass destruction, the missiles to deliver them, and the feed stocks necessary to produce them. The UNSCOM inspectors believe that Iraq still has stockpiles of chemical and biological munitions, a small

force of Scud-type missiles, and the capacity to restart quickly its production program and build many, many more weapons ...

Now, let's imagine the future. What if he fails to comply and we fail to act, or we take some ambiguous third route, which gives him yet more opportunities to develop this program of weapons of mass destruction and continue to press for the release of the sanctions and continue to ignore the solemn commitments that he made ? Well, he will conclude that the international community has lost its will. He will then conclude that he can go right on and do more to rebuild an arsenal of devastating destruction. And some day, some way, I guarantee you he'll use the arsenal ..."

The Act 'found' that between 1980 and 1998 Iraq had: committed various and significant violations of international law; had failed to comply with the obligations to which it had agreed following the Gulf war and further had ignored resolutions of the United Nations Security Council.

In November 1998 President Clinton stated that: "The evidence is overwhelming that such changes will not happen under the current Iraq leadership."

The Act required the President to designate one or more qualified recipients of assistance, with the primary requirement being opposition to the Saddam Hussein regime. Such groups should, according to the Act, have included a broad spectrum of Iraqi individuals, groups, or both, who declared to be committed to democratic values, peaceful relations with Iraq's neighbours, respect for human rights, maintaining Iraq's territorial integrity, and fostering cooperation among democratic opponents of the Saddam Hussein regime. On 4 February 1999 President Clinton designated seven groups as qualifying for assistance under the Act. The groups were:

The Iraqi National Accord,

The Iraqi National Congress,

The Islamic Movement of Iraqi Kurdistan,

The Kurdistan Democratic Party,

The Movement for Constitutional Monarchy,

The Patriotic Union of Kurdistan, and

The Supreme Council for Islamic Revolution in Iraq.

The Act authorised the President to assist all such groups with: broadcasting assistance - for radio and television broadcasting, military assistance - for training and equipment, and humanitarian assistance - for individuals fleeing the regime of Saddam Hussein.

President George W. Bush, who followed Clinton, often referred to the Iraq Liberation Act and its findings to argue that the Clinton administration supported regime change in Iraq - and, further, that it believed Iraq was developing weapons of mass destruction. The Act was cited as a basis of support in the Congressional Authorization for use of Military Force Against Iraq in October 2002.

Closing the door to such controversial developments in international law as the recognition of 'pre-emptive self-defence', Lord Alexander declared: "Most states strongly oppose these developments believing rightly that such policies pose too great a threat to state sovereignty. With such great international opposition the policy of one state is not sufficient to create a valid rule of international law. Neither regime change nor pre-emptive self-defence can provide a legal justification for the use of military force in Iraq. Nor, as I understand it, was it suggested in the end that it could."

His Lordship then went on to deal with the argument of humanitarian intervention.

"The idea of humanitarian intervention has strong, understandable and emotional support. Humanitarian intervention has been a notoriously controversial doctrine.

…

But the prohibition on the use of force in Article 2(4) makes it very unlikely that any customary international law right of unilateral humanitarian intervention survived the Charter."

Furthermore, "The humanitarian situation in Iraq in March 2003, grim though it was for the Iraqis, was not claimed by the government to amount to an "overwhelming humanitarian catastrophe" as required by the Foreign Office criteria. Even if a right to humanitarian intervention had developed in international law, it would not have applied to Iraq any more

than to any of the arbitrary tyrannies which sadly still exist. There are many who consider that, when it comes to removing Saddam Hussein, the end justified the means, indeed, would justify almost any means. This instinct is all too understandable. But surely it would be a most dangerous path to embark on. Careful criteria would need to be established to ensure that the oppressed are liberated in all cases of need, regardless of whether their state is rich in oil or diamonds. We must be careful when celebrating the demise of Saddam Hussein not to create a dangerous precedent in which any unilateral military action may be condoned when one of its consequences happens to be humanitarian relief. [Footnote omitted] It is United Nations decisions and their implementation which should be the rock on which the international community sets its feet when it intervenes on humanitarian grounds."

Was there an 'implied authorisation" ? at this point asked Lord Alexander.

"It is sometimes argued that the existence of Security Council approval to use force can be implied from prior Security Council decisions without having to obtain explicit permission. Advocates of this approach argue that it is politically convenient because it enables states to act at times when minimum world order requires that action be taken, but there are geopolitical factors in play which prevent express Security Council authorisation. [Footnote omitted]

…

A short examination of the implied authorisation argument reveals its fallacy. Firstly, it is inconsistent with the principles and purposes of the United Nations Charter. From reading Article 1 it is clear that the basic premise of the collective security system is that force should only be undertaken jointly and in the interests of the international community as a whole. A system that allows states to unilaterally decide when a use of force is or is not in the interests of the international community is dangerously vulnerable to abuse. The only way to ensure that military action is truly collective is if it is expressly authorised by the Security Council."

What is then the case of an unreasonable Security Council veto ? Lord Alexander disposed of the matter as follows:

“In the debates before the war the Prime Minister several times suggested that an unreasonable use of the veto in the Security Council would somehow allow members of the United Nations to act unilaterally without express authorisation.”

Lord Alexander quoted the Prime Minister: “Of course we want a second resolution and there is only one set of circumstances in which I’ve said that we would move without one … that is the circumstances where the U.N. inspectors say he’s not cooperating and he’s in breach of the resolution that was passed in November but the U.N., because someone, say, unreasonably exercises their veto and blocks a new resolution [sic].” (Tony Blair, B.B.C. Breakfast with Frost, 26 January 2003.)

Unreasonable Security Council veto is “is a variation of a theory, expressed in academic literature, that the inability of the Security Council to fulfil its collective security role restores the right of each member state to act unilaterally.” Lord Alexander referred to the work of Julius Stone in Aggression and World Order (London, Stevens, 1958), p.96: “any implied prohibition on Members to use force seems conditioned on the assumption that effective collective measures can be taken under the Charter to bring about adjustment or settlement “in conformity with the principles of justice and international law.” It is certainly not self-evident what obligations (if any) are imported where no such effective collective measures are available for the remedy of just grievances.” For the opposite view, see Ian Brownlie, “Thoughts on Kind-Hearted Gunmen” in Lillich (ed), Humanitarian Intervention and the United Nations (Charlottesville, University Press of Virginia, 1973), p.139, 145.

But His Lordship said quite bluntly: “This concept [that is to say, the doctrine of ‘unreasonable Security Council veto] has no basis in international law.”

Coming to deal with a possible breach of Resolution 1441, Lord Alexander said this:

“Resolution 1441 was the freshest, and most immediate resolution in force at the time of the invasion. Yet there has been no suggestion that Resolution 1441 justified the invasion. Why?

Because Resolution 1441 did not expressly authorise force. [Footnote omitted] The collective security system requires that the authority to use force, which is the most serious and deadly means of enforcement, can only be conferred by unambiguous means. [Footnote omitted] The graver the consequences, the clearer must be the words providing for them. No one has suggested that Resolution 1441 contains such clear language. Indeed a draft resolution containing the phrase "all necessary means", the diplomatic code for the authorisation of force, was rejected by members of the Security Council in early October 2002. (U.S./U.K. Draft Security Council Resolution, leaked to the Financial Times, 2 October 2002. It was circulated to other Security Council permanent members but was never formally tabled.) The parties to 1441 all recognised that there was no "automaticity" of consequences and that the issue would have to come back to the Council which was "to remain seized of the matter". (Ambassador John Negroponte, statement to Security Council, 8 November 2002; Ambassador Sir Jeremy Greenstock, statement to the Security Council, 8 November 2002; Joint statement by China, Russia and France, 8 November 2002.)

It was later suggested somewhat faintly that the "further consideration" mentioned in 1441 meant that there would simply be a report and a debate without the Security Council determining what the serious consequences should be. If that was so it is far from clear why the United States and our government worked so hard to sponsor a second resolution to spell out the consequences of Iraq's failure to comply. It was only the realisation that a second resolution would not get through which led the U.S. and the U.K. to change tack and to look for some other basis in international law which allowed them to invade Iraq. They alighted upon Resolution 678. It was their only lifeline. [Emphasis added] For it is recognised that nothing short of a statement of the right to use "all necessary means" or "all necessary force" would be sufficiently unambiguous as to allow the extreme step of engaging in armed hostilities or invasion." [Footnote omitted]

None of the subsequent resolutions, including 1441, gave such a mandate.

The question then presented itself: "Does Resolution 678 Justify the Invasion of Iraq in 2003 ?"

Lord Alexander answered this way:

"There has been a long-standing tradition that our government rarely, if ever, discloses the advice of the Attorney-General or indeed, whether he has advised at all." And Lord Alexander noted: "Whether or not to disclose the opinions of the Law Officers is a matter of discretion on the part of the Government. There is no obligation to divulge such advice as to do so might inhibit the frankness and candour with which the advice was given, or cause a Law of Officer to be criticised for a policy for which the Minister is rightly responsible (see John Ll. J. Edwards, The Law Officers of the Crown: a study of the offices of the Attorney General and the Solicitor General, with an account of the office of the Director of Public Prosecutions in England, London, Sweet & Maxwell, 1964)."

But on this occasion, in a Parliamentary Answer, Lord Goldsmith QC published his advice in summary form. Because of its importance and its brevity it is convenient to set it out in full:

"Authority to use force against Iraq exists from the combined effect of Resolutions 678, 687 and 1441. All of these resolutions were adopted under Chapter VII of the U.N. Charter which allows the use of force for the express purpose of restoring international peace and security:

1. In Resolution 678 the Security Council authorised force against Iraq, to eject it from Kuwait and to restore peace and security in the area.

2. In Resolution 687, which set out the ceasefire conditions after Operation Desert Storm, the Security Council imposed continuing obligations on Iraq to eliminate its weapons of mass destruction in order to restore international peace and security in the area. Resolution 687 suspended but did not terminate the authority to use force under Resolution 678.

3. A material breach of Resolution 687 revives the authority to use force under Resolution 678. [Emphasis added]

4. In Resolution 1441 the Security Council determined that Iraq has been and remains in material breach of Resolution 687, because it has not fully complied with its obligations to disarm under that resolution.

5. The Security Council in Resolution 1441 gave Iraq 'a final opportunity to comply with its disarmament obligations' and warned Iraq of the 'serious consequences' if it did not.

6. The Security Council also decided in Resolution 1441 that, if Iraq failed at any time to comply with and cooperate fully in the implementation of Resolution 1441, that would constitute a further material breach.

7. It is plain that Iraq has failed so to comply and therefore Iraq was at the time of Resolution 1441 and continues to be in material breach. [Emphasis added]

8. Thus, the authority to use force under Resolution 678 has revived and so continues today. [Emphasis added]

9. Resolution 1441 would in terms have provided that a further decision of the Security Council to sanction force was required if that had been intended. Thus, all that Resolution 1441 requires is reporting to and discussion by the Security Council of Iraq's failures, but not an express further decision to authorise force." [Footnote omitted]

In a sharp, plainly excoriating, examination of those "337 words of reasoning (an advocacy document for which Lord Goldsmith required the assistance of no fewer than nine lawyers and senior civil servants) [and] have the great merit of simplicity", Professor Sands called the excruciating turn-around by Lord Goldsmith "A very British deceit". Such words were used as the title of a piece written on 31 August 2010 and published on 30 September by The New York Review of Books. The article is particularly scathing because it documents how Lord Goldsmith had at length advised Prime Minister Blair in terms diametrically opposite to those 337 words. He had done so repeatedly: on July 2002 that self-defence and humanitarian intervention were not admissible, and military action without explicit Security Council authorisation. ... highly debatable; on October 2002, telling also the Foreign Secretary, that the draft of the intended Security Council Resolution 1441 did not provide legal authorisation for the use of force; on 19 December 2002, at a Downing Street meeting, declining to tell those present that they would have a green light for war without a further resolution, on 14 January 2003 submitting a draft memo which concluded unambiguously that resolution 1441 did not revive the authorisation to use of force contained in resolution 678 in the absence of a further decision of the Security Council; and on 30 January 2003 that he remained of the view that the correct legal interpretation of resolution 1441 is that it does

not authorize the use of military force without a further decision of the Security Council. [Emphasis added]

Lord Goldsmith's words, which appear above in Italics, directly contradicted what he would later tell the Cabinet and Parliament. (P. Sands, 'A very British deceit', The New Review of Books, 30 September 2010, pp.55-56.)

The Foreign Secretary also provided to many parliamentarians a longer Foreign and Commonwealth Office advice which was to the same effect as the 337 words by Lord Goldsmith QC.

The following day, 31 January 2003, after meeting President Bush at the White House, Blair said that he was solidly with the President who had announced that "military action would follow anyway" with a "start date … now pencilled in for 10 March [2003]."

Lord Alexander commented in 2004:

"What is not known is whether the Attorney General had given any fuller advice. In response to my request that he should disclose his full advice he retreated behind the arras and claimed that his parliamentary answer was an exception to the usual convention and so we were not entitled even to know whether he had advised more fully or, if so, in what terms. (Letter to Lord Alexander from the Attorney General Lord Goldsmith QC, 21 May 2003)

This leaves us in doubt as to the extent to which he considered at all the cogent arguments which had been advanced against his view."

And here came a broadside of questions:

"Did [the Attorney General] examine how, since there is no doctrine of implied authorisation, the quaint concept of the "revival" of Resolution 678 was possible? [Emphasis added]

Did he deal with the issues of necessity and proportionality, given that the inspectors had reported nothing concrete and were asking for more time?

Did he grapple with the persuasive arguments advanced against the war by the majority of distinguished international lawyers who expressed a view?

Did he explain how the U.S. and this country could act on their own because of Iraq's breach of resolutions rather than, as is normal, the U.N. authorising the appropriate action?

Perhaps even more fundamentally, what were the facts he assumed for the purpose of his advice?

What does appear to be clear is that neither the Foreign Office opinion nor the Parliamentary answer set Resolution 678 in its context." [Emphasis added]

Lord Alexander continued:

"This was the invasion in August 1990 of Kuwait by Iraq. The United Nations responded by passing Resolution 660 the very same day." This determined "that there exists a breach of international peace and security as regards the Iraqi invasion of Kuwait" and demanded the immediate and unconditional withdrawal of Iraqi forces. The nature of the issue was defined at the outset and was to be the expulsion of the Iraqi invaders from Kuwait. Four days later on the 6th August Resolution 661 stressed the determination "to bring the invasion and occupation of Kuwait by Iraq to an end" and affirmed the inherent right of individual or collective self-defence under Article 51 of the Charter. Sanctions were imposed on Iraq to achieve this clear but limited objective. This was reinforced by a decision "to keep this item on its agenda and to continue its efforts to put an early end to the invasion by Iraq."

And: "This was the background for Resolution 678 almost four months later on 29th November.[Emphasis added] This resolution authorised member states, unless Iraq withdrew by 15th January 1991, fully to implement those resolutions and "to use all necessary means to uphold and implement Resolution 660 and all subsequent relevant resolutions, and to restore

international peace and security in the area". So Resolution 678 was always firmly anchored to implementing Resolution 660 and so to driving Iraq from Kuwait. [Emphasis added]

By 2 March the military action to end the invasion had been successful. Resolution 686 then confirmed all the previous resolutions on the issue and demanded essentially that Iraq should implement its withdrawal, provide appropriate compensation and return Kuwaiti property. There are two other interesting points which arise from this resolution. The first is that it affirms the commitment "of all member states to the independence, sovereignty and territorial integrity of Iraq and Kuwait." Resolution 686 also referred to the fact that allied forces were "present temporarily in some areas of Iraq". The resolution also recognised that "during the period required for Iraq to comply… the provisions of paragraph 2 of Resolution 678 remain valid". In other words it was a temporary provisional cease-fire. This resolution is a cogent further indication of the limited purpose of Resolution 678. I do not believe that any of the political leaders at that time contemplated that Resolution 678 would justify waging wholesale war on Iraq in order to secure a regime change. [Emphasis added]

Indeed, the leading actors in that drama said so clearly. George Bush senior has written that: "Going in and occupying Iraq, thus unilaterally exceeding the United Nations' mandate, would have destroyed the precedent of international response to aggression that we hoped to establish." (George Bush (Senior) and Lieutenant General Brent Snowcroft, A world transformed (New York, Knopf, 1998) General de la Billiere, Commander of the British Forces during the first Gulf War, wrote "We did not have a mandate to invade Iraq or take the country over…"(General Sir Peter La Billiere, Storm command, London, Harper Collins, 1995 p. 304), and [at the time Prime Minister] John Major has said: "Our mandate from the United Nations was to expel the Iraqis from Kuwait, not to bring down the Iraqi regime." ("We had gone to war to uphold international law. To go further than our mandate would have been, arguably, to break international law." John Major, speaking at Texas A&M University 10th Anniversary celebrations of the liberation of Kuwait, 23 February 2001)

Nothing could be plainer or more statesmanlike."

…

So we come to Resolution 687 on 3rd April 1991. Again this resolution also affirms the "sovereignty, territorial integrity and political independence of… Iraq". It also widens the obligations on Iraq because it requires Iraq in effect to accept the "destruction, removal or rendering harmless" of chemical and biological weapons and ballistic missiles with a range greater than 150 kilometres.

…

But … there was no provision at all in this resolution for the use of force to enforce the disarmament obligations. Nor has there been any subsequent resolution that provided for the use of force against Iraq. Hence the government desperately trawled way back to Resolution 678 to find a flag of convenience, a flag disowned by Kofi Annan."

At this point Lord Alexander noted:

"It is hard to see how a resolution passed 12 years ago can validate military action that was actively opposed and would have been vetoed by at least one, probably three, members of the permanent five in the Security Council, and whose legitimacy has been questioned by the Secretary General."

Lord Alexander quipped: "But the flag [disowned by Kofi Annan] simply cannot fly."

…

In addition:

"The unreality of the reliance on Resolution 678 was summed up by Michael P. Scharf, the former Attorney Advisor for the United Nations Affairs at the U.S. Department of State: "It is … significant that the administration of Bush the elder did not view Resolution 678 as a broad enough grant of authority to invade Baghdad and topple Saddam Hussein. It is ironic… that the current Bush administration would now argue that this Resolution could be used ten years later to justify a forcible regime change." (International Bar News, March 2003.)

In conclusion:

" … I shall never forget being in the U.S. in March 2003 and watching with dismay as events unfolded. We learnt that the proposed further resolution was to be withdrawn because of lack of support. The inspectors had their work in Iraq summarily terminated. The leaders of the U.S. and the U.K. travelled to the bizarre location of the Azores and delivered their ultimatum for regime change, and three days later launched the invasion. All this change of approach in a single week. We can only speculate why they did so in so much haste. The most probable reason is that the troops were there and were to be deployed before the summer heat of the Middle East."

If that was the case, the reason was a most squalid.

Professor Sands returned to the subject in a revised and expanded article in which he also commented on the Chilcot Report, in 'A grand and disastrous deceit'. (London Review of Books, Vol. 38 No. 15, 28 July 2016, pp.9-11)

The article ends with the following words: "[Blair's] unhappy intervention will not do him any favours. It makes it more likely he will be pursued, perhaps for contempt of Parliament, or by civil claims, or claims of misfeasance in public office. He might even face worse, a possibility raised in the resignation letter tendered in 2003 by the Foreign Office legal adviser Elizabeth Wilmshurst, whose position has been vindicated by the inquiry:

I regret that I cannot agree that it is lawful to use force without a second Security Council resolution … I cannot in conscience go along with advice within the Office or to the public or Parliament – which asserts the legitimacy of military action without such a resolution, particularly since an unlawful use of force on such a scale amounts to the crime of aggression; nor can I agree with such action in circumstances which are so detrimental to the international order and the rule of law."

Deception on a grand scale

The Iraq Inquiry, initially intended to be conducted behind closed doors, under arrangements designed to minimise public disclosure of the underling documents, many of which were classified as 'secret', and entrusted to a retired senior civil servant such as Sir John Chilcot, "a safe pair of hands" as The Guardian called him, turned out to be a rather plain narrative. None of the five members had any legal qualification or forensic experience.

As a narrative of the events it deals with many documents, previously kept secret, the testimony of witness appearing before the Committee to provide greater information on what, in part, was already known. However, the process took some 6,275 pages collected into twelve volumes, without providing any detailed analysis of the evidence presented. It is not easy to attempt to find any reference to the undeclared and clandestine war launched by the United States and the United Kingdom for the purpose of provoking Saddam Hussein into giving the aggressors a cause to react and to go to open war.

The Iraq war which officially started on 20 March 2003 had in fact begun on 20 May 2002 - exactly ten months before. There is no question that it was illegally started five months before the U.S. Congress granted the Authorization for Use of Military Force Against Iraq Resolution of 2002, the so-called Iraq Resolution. That joint Resolution, Pub. L. 107–243, 116 Stat. 1498, was enacted on 16 October 2002, H. J. Res. 114. The war also started six months before the unanimously adopted United Nations Security Council Resolution 1441: 8 November 2002, subject "The situation between Iraq and Kuwait". That Resolution offered Iraq under Saddam Hussein "a final opportunity to comply with its disarmament obligations" that had been set out in several previous resolutions (Resolutions 660, 678, 686, 687, 688, 707, 715, 986 and 1284).

Resolution 1441 stated that Iraq was in material breach of the ceasefire terms presented under the terms of Resolution 687. Iraq's breaches related not only to weapons of mass destruction but also the known construction of prohibited types of missiles, the purchase and import of prohibited armaments, and the continuing refusal of Iraq to compensate Kuwait for the widespread looting conducted by its troops during the 1990-1991 invasion and occupation. It also stated that "...false statements or omissions in the declarations submitted by Iraq

pursuant to this resolution and failure by Iraq at any time to comply with, and cooperate fully in the implementation of, this resolution shall constitute a further material breach of Iraq's obligations."

Before the war started, the United States and the United Kingdom air forces had been patrolling a so-called no-fly zone over southern Iraq to protect the Shia majority from the Sunni and Saddam's forces. Under that pretext they had been carrying out what was known as Operation Southern Force.

On 19 July 2003 The New York Times reported from Las Vegas that "American air war commanders carried out a comprehensive plan to disrupt Iraq's military command and control system before the Iraq war, according to an internal briefing on the conflict by the senior allied air war commander.

Known as Southern Focus, the plan called for attacks on the network of fiber-optic cable that Saddam Hussein's government used to transmit military communications, as well as airstrikes on key command centers, radars and other important military assets."

Summing up: on 1 May 2003 from the flight deck of the USS Abraham Lincoln President Bush speech declared an end to major combat in Iraq. He was speaking in front of a banner which read 'Mission accomplished'. The 'missionaries' which had provided invading armies were the United States, the United Kingdom, Australia and Poland, the four members of the Multi-National Force - Iraq. They were followed by a 'Coalition of the willing' made up of some 39 countries - amongst them Mongolia from Asia, Namibia from Africa and, as the 'organiser', Australia from Oceania.

A Coalition Provisional Authority was installed as a transitional government of Iraq Baghdad on 11 May 2003 under Lewis Paul Bremer III. Bremer is an American diplomat. Saddam Hussein would be captured on 13 December 2003, later tried and convicted on charges of crimes against humanity on 5 November 2006 and executed by hanging on 30 December 2006.

On 17 July 2003, speaking to American and allied military officers at Nellis Air Force Base in Nevada Lieutenant General T. Michael Moseley, the chief allied commander, provided an internal briefing. Lessons were to be learned.

Among the points made by General Moseley some are significant:

1) Air war commanders were required to obtain the approval of Defense Secretary Donald L. Rumsfeld if any planned airstrike was thought likely to result in deaths of more than 30 civilians. More than 50 such strikes were proposed, and all of them were approved.

2) During the war, about 1,800 allied aircraft conducted about 20,000 strikes. Of those, 15,800 were directed against Iraqi ground forces while some 1,400 struck the Iraqi Air Force, air bases or air defences. About 1,800 airstrikes were directed against the Iraqi government and 800 at suspected hiding places and installations for illicit weapons, including surface-to-surface missiles.

The strikes, which had been carried out from mid-2002 into the first few months of 2003, were 'justified' publicly at the time as a reaction to Iraqi violations of a no-flight zone that the United States and Britain established in southern Iraq. General Moseley said that the attacks also laid the foundations for the military campaign against Iraq.

Indeed, one reason it was possible for the allies to begin the ground campaign to invade Iraq without preceding it with an extensive array of airstrikes was that 606 bombs had been dropped on 391 carefully selected targets under the plan, the General said.

"It provided a set of opportunities and options for General Franks", General Moseley said, referring to Gen. Tommy R. Franks, then head of the United States Central Command. While there were indications at the time that the United States was trying to weaken Iraqi air

defences in anticipation of a possible war, the scope and detailed planning which lay behind the effort were not generally known.

The disclosure of the plan was part of an assessment prepared by General Moseley on the lessons of the war with Iraq.

According to The New York Times, the air campaign had begun as a response to the Iraqis, who had deployed additional surface-to-air missiles and antiaircraft artillery south of Baghdad beginning in the late 1990s. Their manoeuvres had improved the defence of the capital. The air defence systems had the range to hit allied planes which were patrolling some portions of the southern no-flight zone.

General Charles Wald, General Moseley's predecessor as the top American air commander in the Middle East, had proposed a major attack to disable the strengthened Iraqi defences as early as 2001. But the newly inaugurated Bush Administration was not looking for a confrontation with Iraq at that time, and General Wald's recommendation had not been approved.

After General Moseley had assumed command, towards the end of 2001, however, the American strategy began to change. General Moseley and General Franks believed that the American military needed a plan to weaken the Iraqi air defences, initially because of the threat to the allied patrols and later to facilitate an offensive.

The first step was to use spy satellites, U-2 planes and reconnaissance drones to identify potential targets.

One major target had been the network of fibre-optic cable which transmitted military communications between Baghdad and Basra and Baghdad and Nasiriya. The cables themselves were buried underground and impossible to locate. So the air war commanders

focused on the ‘cable repeater stations,’ which relayed the signals. From June 2002 until the beginning of the Iraq war, the allies had flown 21,736 sorties over southern Iraq and attacked 349 targets, including the cable stations.

“We were able to figure out that we were getting ahead of this guy and we were breaking them up faster than he could fix them.” General Moseley said of the fibre-optic cables. “So then we were able to push it up a little bit and effectively break up the fibre-optic backbone from Baghdad to the south.”

During that period before the war American officials said that the strikes were necessary because the Iraqis were shooting more often at allied air patrols. In total, the Iraqis had fired on allied aircraft 651 times “during the operation”, said General Moseley. He was presumably referring to Operation Southern Force. General Moseley added that it was possible that the Iraqi attacks had increased because allied planes had stepped up their patrols over Iraq. “We became a little more aggressive based on them shooting more at us, which allowed us to respond more.” he said. “Then the question is whether they were shooting at us because we were up there more. So there is a chicken and egg thing here.”

The air campaign had also provided an opportunity for American war commanders to try new military technologies and tactics.

As full-scale war approached, the air war commanders had five goals, The New York Times reported. They wanted to neutralise the ability of the Iraqi government to command its forces; to establish control of the airspace over Iraq; to provide air support for Special Operations forces, as well as for the Army and Marine forces which would advance towards Baghdad; and to neutralise Iraq’s force of surface-to-surface missiles and suspected caches of biological and chemical weapons.

Once the war began, air war commanders adopted an aggressive posture to keep up the pace of the attack. Unarmed refuelling tankers and radar planes flew into Iraqi airspace early on, and combat search and rescue teams set up bases inside the country. For the first three weeks of the air war, there were never fewer than 200 aircraft aloft.

According to General Moseley's internal briefing, 73 personnel were rescued who would have died if they had not been extracted.

Planning for the illegal air war began shortly after Prime Minister Blair attended a summit with President Bush at the President's ranch in Crawford, Texas on 6 and 7 April 2002. The Chilcot Report confirmed evidence from a Cabinet Office Briefing Paper, part of the 'Downing Street Memos', to the effect that Blair agreed at Crawford "to support military action to bring about regime change" in Iraq.

The fairly lengthy document, which was marked 'Personal. Secret UK eyes only', contained the text of a Cabinet Office Briefing Paper prepared for all those attending a meeting of the British war cabinet at 10 Downing Street on 23 July 2002. The document was headed: 'Iraq: condition for military action'.

In summary, the attending Ministers were invited:

(1) to note the latest position on U.S. military planning and timescales for possible action.

(2) to agree that the objective of any military action should be a stable and law-abiding Iraq, within present borders, co-operating with the international community, no longer posing a threat to its neighbours or international security, and abiding by its international obligations on WMD.

(3) to agree to engage the U.S. on the need to set military plans within a realistic political strategy, which includes identifying the succession to Saddam Hussein and creating the conditions necessary to justify government military action, which might include an ultimatum for the return of U.N. weapons inspectors to Iraq. [Emphasis added] This should include a call from the Prime Minister to President Bush ahead of the briefing of U.S. military plans to the President on 4 August.

(4) to note the potentially long lead times involved in equipping U.K. Armed Forces to undertake operations in the Iraqi theatre and agree that the [Ministry of Defence] should

bring forward proposals for the procurement of Urgent Operational Requirements under cover of the lessons learned from Afghanistan and the outcome of SR2002.

(5) to agree to the establishment of an ad hoc group of officials under Cabinet Office Chairmanship to consider the development of an information campaign to be agreed with the U.S.

By way of introduction, the document informed that:

"1. The US Government's military planning for action against Iraq is proceeding apace. But, as yet, it lacks a political framework. In particular, little thought has been given to creating the political conditions for military action, or the aftermath and how to shape it.

2. When the Prime Minister discussed Iraq with President Bush at Crawford in April he said that the UK would support military action to bring about regime change, provided that certain conditions were met: efforts had been made to construct a coalition/shape public opinion, the Israel-Palestine Crisis was quiescent, and the options for action to eliminate Iraq's WMD through the UN weapons inspectors had been exhausted. [Emphasis added]

3. We need now to reinforce this message and to encourage the US Government to place its military planning within a political framework, partly to forestall the risk that military action is precipitated in an unplanned way by, for example, an incident in the No Fly Zones. This is particularly important for the UK because it is necessary to create the conditions in which we could legally support military action. Otherwise we face the real danger that the US will commit themselves to a course of action which we would find very difficult to support."

In order to fulfil the conditions set out by the Prime Minister for the United Kingdom support for military action against Iraq, certain preparations needed to be made, and other considerations taken into account. The note was going to set them out in a form which could be adapted for use with the United States Government. Depending on American intentions, a decision in principle could have been "needed soon on whether and in what form the UK takes part in military action."

It was thought that the United Kingdom's objective should have been a stable and law-abiding Iraq, within present borders, co-operating with the international community, no longer posing a threat to its neighbours or to international security, and abiding by its international obligations on weapons of mass destruction. It seemed unlikely that this could

be achieved while the current Iraqi regime remained in power. The American "military planning unambiguously takes as its objective the removal of Saddam Hussein's regime, followed by elimination if Iraqi WMD. It is however, by no means certain, in the view of UK officials, that one would necessarily follow from the other. Even if regime change is a necessary condition for controlling Iraqi WMD, it is certainly not a sufficient one." [Emphasis added]

As far as the American military planning was concerned, it was thought that "although no political decisions had been taken, the U.S. military planners have drafted options for the U.S. Government to undertake an invasion of Iraq. In a plan called 'Running Start', military action could have begun as early as November of [2002], with no overt military build-up. Air strikes and support for opposition groups in Iraq would have lead initially to small-scale land operations, with further land forces deploying sequentially, ultimately overwhelming Iraqi forces and leading to the collapse of the Iraqi regime. On the other hand, a 'Generated Start' would have involved a longer build-up before any military action were taken, as early as January 2003. [Emphasis added] American military plans included no specifics on the strategic context either before or after the campaign. At that moment the preference appeared to be for the 'Running Start'. Chief of Defence Staff [Admiral Sir Michael Boyce, GCB, OBE] was ready to brief the Ministers in more detail.

American plans assumed, as a minimum, the use of British bases in Cyprus and Diego Garcia. This meant that legal base issues would arise virtually whatever option Ministers choose with regard to British participation.

The Chiefs of Staff had discussed the viability of American military plans. Their initial view was that there were a number of questions which would have had to be answered before they could assess whether the plans were sound. Notably these included the realism of the 'Running Start', the extent to which the plans were proof against Iraqi counter-attack using chemical or biological weapons and the robustness of American assumptions about the bases and about Iraqi (un)willingness to fight.

With regard to a possible British military contribution it was noted that it depended on the details of the US military planning and the time available to prepare and deploy them. The Ministry of Defence was examining how the U.K. might contribute to a U.S.-led action. The options ranged from deployment of a Division, i.e. the Gulf war sized contribution plus naval and air forces, to making available bases. It was already clear that the United Kingdom could

not have organised a Division in time for an operation in January 2003, unless publicly visible decisions had been taken very soon. [Emphasis added] Maritime and air forces could have been deployed in time, provided adequate basing arrangements could be made. The lead times involved in preparing for British military involvement included the procurement of Urgent Operational Requirements, for which there was no financial provision.

There were obviously conditions necessary for military action.

Aside from the existence of a viable military plan the Cabinet considered the following conditions as necessary for military action and British participation: 1) justification/legal base; 2) an international coalition; 3) a quiescent Israel/Palestine; 4) a positive risk/benefit assessment; and 5) the preparation of domestic opinion.

Cabinet noted that

"US views of international law vary from that of the UK and the international community. Regime change per se is not a proper basis for military action under international law. But regime change could result from action that is otherwise lawful. We would regard the use of force against Iraq, or any other state, as lawful if exercised in the right of individual or collective self-defence, if carried out to avert an overwhelming humanitarian catastrophe, or authorised by the U.N. Security Council." A detailed consideration of the legal issues, prepared earlier in 2002 was mentioned as Annex A but was not available with the document. The legal position would depend on the precise circumstances at the time. Legal bases for an invasion of Iraq are in principle conceivable in both the first two instances but would be difficult to establish because of, for example, the tests of immediacy and proportionality. Further legal advice was deemed to be needed on this point.

Cabinet noted that there was a possibility under the U.N. Security Council resolutions on weapons inspectors. As at the date of the document the Secretary General Kofi Annan had already held three rounds of meetings with Iraq representatives in an attempt to persuade them to admit the U.N. weapons inspectors. These had made no substantive progress; the Iraqis were deliberately obfuscating. Annan had 'downgraded the dialogue but more pointless talks were possible'. The Cabinet thought that it would have needed to persuade the United Nations and the international community that this situation could not be allowed to continue ad infinitum. "We need to set a deadline, leading to an ultimatum." decided the Cabinet. It would have been preferable "to obtain backing of a UNSCR for any ultimatum and early

work would [have been] necessary to explore with Kofi Annan and the Russians, in particular, the scope for achieving this."

From a practical point of view, the document recorded that "facing pressure of military action, Saddam is likely to admit weapons inspectors as a means of forestalling it. But once admitted, he would not allow them to operate freely. UNMOVIC [The United Nations Monitoring, Verification and Inspection Commission set up through the adoption of Security Council Resolution 1284 of 17 December 1999], which was the successor to UNSCOM [the United Nations Special Commission set up to implement an inspection regime to ensure Iraq's compliance with policies concerning Iraqi production and use of weapons of mass destruction after the Gulf War, and which had been directed by the Swede Carl Rolf Ekéus between 1991 and 1997 and by the Australian Richard William Butler, AC between 1997 and 1999] [might have taken] at least six months after entering Iraq to establish the monitoring and verification system under Resolution 1284." Hence, even if U.N. inspectors had gained access at the time the document was recorded, "by January 2003 they would at best only just be completing setting up. It is possible that they will encounter Iraqi obstruction during this period, but this more likely when they are fully operational."

The Cabinet considered that it might have been just possible "that an ultimatum could be cast in terms which Saddam would reject (because he is unwilling to accept unfettered access) and which would not be regarded as unreasonable by the international community. However, failing that (or an Iraqi attack) we would be most unlikely to achieve a legal base for military action by January 2003."

Furthermore, an international coalition was considered "necessary to provide a military platform and desirable for political purposes."

The American military planning assumed that the U.S. would be allowed to use bases in Kuwait (air and ground forces), Jordan, in the Gulf (air and naval forces) and U.K. territory (Diego Garcia and the bases in Cyprus). The plans assumed that Saudi Arabia would have withheld co-operation except granting military over-flights. On the assumption that military action would have involved operations in the Kurdish area in the North of Iraq, the use of bases in Turkey would also have been necessary.

Problems were contemplated in securing the support of N.A.T.O. and the European Union partners in the absence of United Nations authorisation. It was simply discounted that

“Australia would be likely to participate on the same basis as the United Kingdom”. The document records some miscalculation on the part of the Cabinet. It was thought that “France might be prepared to take part if she saw military action as inevitable. Russia and China, seeking to improve their US relations, might set aside their misgivings if sufficient attention were paid to their legal and economic concerns. Probably the best we could expect from the region would be neutrality. The US is likely to restrain Israel from taking part in military action. In practice, much of the international community would find it difficult to stand in the way of the determined course of the US hegemony. However, the greater the international support, the greater the prospects of success.” In the end many European countries openly opposed to military action in Iraq in March-April 2003: Belarus, Belgium, France, Germany, Greece and Russia.

A quick scan of opinion polls reveals that, while many governments were supporting the United States, the people of some of the ‘Coalition’ were solidly opposed to unilateral and even United Nations. Participation in the war can be explained in many ways and through many forms of pressure which had overcome a distinct lack of popular support in the following countries:

Australia: 56 per cent only supported U.N.-sanctioned action, only 12 per cent favoured unilateral action. 76 per cent opposed participation in a U.S.-led war on Iraq. The Australian Senate voted 33-31 to censure Prime Minister Howard for committing 2,000 soldiers to the U.S.-led action.

Britain: 86 per cent wanted to give weapons inspectors more time, 34 per cent thought that the United States and Britain had made a convincing case for invasion.

Czech Republic: 67 per cent were opposed to invasion under any circumstances.

Denmark: 79 per cent oppose war without a U.N. mandate.

Hungary: 82 per cent were opposed to invasion under any circumstances.

Italy: 72 per cent were opposed to war.

Poland: 63 per cent were against sending Polish troops, 52 per cent favoured a form of ‘political’ support for the United States.

Portugal: 65 per cent though that there was no reason to attack in early 2003.

Spain: 80 per cent were opposed to war, 91 per cent were against attack without a U.N. resolution. (A Coalition of the 'Willing'? Misnomer, February 11, 2003, summary of public opinion on the invasion of Iraq, http://misnomer.dru.ca/2003/02/11/a_coalition_of_the_willing.html.)

In case of war, Cabinet wanted to rely on a quiescent Israel-Palestine problem. The gathered ministers observed that "Real progress towards a viable Palestinian state is the best way to undercut Palestinian extremists and reduce Arab antipathy to military action against Saddam Hussein. However, another upsurge of Palestinian/Israeli violence is highly likely. The co-incidence of such an upsurge with the preparations for military action against Iraq cannot be ruled out. Indeed Saddam would use continuing violence in the Occupied Territories to bolster popular Arab support for his regime."

On the balance of benefits and risks, the document noted that the United Kingdom wanted to be sure that the outcome of the military action would match its objective of a "stable and law-abiding Iraq, within present borders, co-operating with the international community, no longer posing a threat to its neighbours or to international security, and abiding by its international obligations on WMD." Prophetically, the Minister were concerned that "A post-war occupation of Iraq could lead to a protracted and costly nation-building exercise. As already made clear, the US military plans are virtually silent [on] this point. Washington could look to us to share a disproportionate share of the burden. Further work is required to define more precisely the means by which the desired end-state would be created, in particular what form of Government might replace Saddam Hussein's regime and the timescale within which it would be possible to identify a successor. We must also consider in greater detail the impact of military action on other UK interests in the region."

As for 'domestic opinion' it was noted that time would have been required to prepare public opinion in the U.K. that it was necessary to take military action against Saddam Hussein. There would also have needed to be "a substantial effort to secure the support of Parliament. An information campaign will be needed which has to be closely related to an overseas information campaign designed to influence Saddam Hussein, the Islamic World and the wider international community." This propaganda effort would have needed to give full coverage to the threat posed by Saddam Hussein, including his WMD, and the legal justification for action.

Finally, as to timescales, it was noted that, although the American military could act against Iraq as soon as November, we judge that a military campaign is unlikely to start until January 2003, if only because of the time it will take to reach consensus in Washington. That said, we judge that for climactic reasons, military action would need to start by January 2003, unless action were deferred until the following autumn. [Emphasis added]

For the purpose, it was necessary "to influence US consideration of the military plans before President Bush is briefed on 4 August, through contacts between the Prime Minister and the President… "

The British Prime Minister did not waste any time sorting out what would happen next. The Report of the Inquiry records that the very next day after the summit between Blair and Bush at the President ranch in Crawford, Texas, that is on 8 April 2002, U.K. Defence Secretary Geoff Hoon, called in Chief of Defence Staff Admiral Sir Michael Boyce (now Lord Boyce) and the Permanent Undersecretary at the Ministry of Defence Sir Kevin Tebbit to discuss "military options" in Iraq. (Report, SECTION 3.3, DEVELOPMENT OF UK STRATEGY AND OPTIONS, APRIL TO JULY 2002, Development of UK policy, April to June 2002, p.3. (See also Section 6.1) Mr. Hoon commissioned work on military options as a "precaution against the possibility that military action might have to be taken at some point in the future". Minute Watkins to PSO/CDS and PS/PUS, 8 April 2002, 'Iraq'.)

A little over a week later, Air Marshal Brian Burridge, Deputy Commander of R.A.F. Strike Command, was dispatched to the U.S. to act as liaison with General Tommy Franks, commander of the U.S. Central Command, who was to lead the invasion force. Air Marshal Burridge, now Sir Brian, told the Chilcot Inquiry that he had a meeting with Gen. Franks shortly after arriving at Central Command's headquarters in Tampa, Florida, discussing the no-fly zones over Iraq "at some length."

Nine days later, on 26 April, Gen. Franks flew to London with Air Marshal Burridge for discussions with the U.K. defence chiefs. The Report records that they talked about the patrols of the no-fly zones but the details of the discussions were "circulated on very limited distribution." (Minute SECCOS to PS/SofS [MOD] and others, 30 April 2002, 'Record of CINCCENTCOM meeting with COS – 26 April 2002'. The Report, SECTION 6.1, DEVELOPMENT OF THE MILITARY OPTIONS FOR AN INVASION OF IRAQ, para. 213, pp.207-208)

From this point, it seems, the narrative becomes more bureaucratically detailed but less revealing. Indeed, it seemed unconcerned about finding out the truth, if one considers the following passage from SECTION 6.1:

" [para.] 214. The minute of the discussion records that the Chiefs of Staff were told that the US was thinking deeply about Iraq and possible contingencies; but was not currently planning a military operation to overthrow the Iraqi regime. There were a significant number of questions about the use of force including timing and the need for proof of WMD and a legal underpinning.

215. Recent difficulties with the No-Fly Zones were also discussed.

216. Mr Jim Drummond, Assistant Head of OD Sec (Foreign Policy), who attended the Chiefs of Staff meeting, advised Sir David Manning that: "… the mood [in the US government] was 'when not if', but the list of unintended consequences was long and policy makers were still grappling with them … Activity in Washington mirrored that in London. Small groups of senior staff thinking through strategy options."109 Minute Drummond to Manning, 26 April 2002, 'Meeting with General Franks'.

217. Air Chief Marshal Sir Brian Burridge told the Inquiry that Gen Franks had visited London in "mid-May"; and that he had said something about Iraq along the lines of "it is not if but when, and that was really the first time I had heard him say anything with that degree of certainty". (Footnote 110. Public hearing, 8 December 2009, page 6)

218. From the records of the 26 April Chiefs of Staff meeting, the Inquiry concludes ACM Burridge was recalling that discussion. There is no evidence that Gen Franks was in London in mid-May."

Nor does the summary of key findings help much. Here it is with reference to SECTION 6.1:

"• The size and composition of a UK military contribution to the US-led invasion of Iraq was largely discretionary. The US wanted some UK capabilities (including Special Forces) to use UK bases, and the involvement of the UK military to avoid the perception of unilateral US military action. The primary impetus to maximise the size of the UK contribution and the recommendations on its composition came from the Armed Forces, with the agreement of Mr Hoon.

• From late February 2002, the UK judged that Saddam Hussein's regime could only be removed by a US-led invasion.

• In April 2002, the MOD advised that, if the US mounted a major military operation, the UK should contribute a division comprising three brigades. That was perceived to be commensurate with the UK's capabilities and the demands of the campaign. Anything smaller risked being compared adversely to the UK's contribution to the liberation of Kuwait in 1991.

• The MOD saw a significant military contribution as a means of influencing US decisions.

• Mr Blair and Mr Hoon wanted to keep open the option of contributing significant forces for ground operations as long as possible, but between May and mid-October consistently pushed back against US assumptions that the UK would provide a division.

• Air and maritime forces were offered to the US for planning purposes in September.

• The MOD advised in October that the UK was at risk of being excluded from US plans unless it offered ground forces, "Package 3", on the same basis as air and maritime forces. That could also significantly reduce the UK's vulnerability to US requests to provide a substantial and costly contribution to post-conflict operations.

• From August until December 2002, other commitments meant that UK planning for Package 3 was based on providing a divisional headquarters and an armoured brigade for operations in northern Iraq. That was seen as the maximum practicable contribution the UK could generate within the predicted timescales for US action.

• The deployment was dependent on Turkey's agreement to the transit of UK forces.

• Mr Blair agreed to offer Package 3 on 31 October 2002.

• That decision and its potential consequences were not formally considered by a Cabinet Committee or reported to Cabinet.

• In December 2002, the deployment of 3 Commando Brigade was identified as a way for the UK to make a valuable contribution in the initial stages of a land campaign if transit through Turkey was refused. The operational risks were not explicitly addressed.

• Following a visit to Turkey on 7 to 8 January 2003, Mr Hoon concluded that there would be no agreement to the deployment of UK ground forces through Turkey.

• By that time, in any case, the US had asked the UK to deploy for operations in southern Iraq."

On 2 May 2002 a top meeting was held at 10 Downing Street. Mr. Blair was in the chair and Defence Minister Hoon, Foreign Secretary Jack Straw and Admiral Boyce were in attendance. But there seems to be no record of the discussion in SECTION 3.3, which deals with DEVELOPMENT OF UK STRATEGY AND OPTIONS, APRIL TO JULY 2002.

The key findings are even limited to few points:

"• By July 2002, the UK Government had concluded that President Bush was impatient to move on Iraq and that the US might take military action in circumstances that would be difficult for the UK.

• Mr Blair's Note to President Bush of 28 July sought to persuade President Bush to use the UN to build a coalition for action by seeking a partnership with the US and setting out a framework for action.

• Mr Blair told President Bush that the UN was the simplest way to encapsulate a "casus belli" in some defining way, with an ultimatum to Iraq once military forces started to build up in October. That might be backed by a UN resolution.

• Mr Blair's Note, which had not been discussed or agreed with his colleagues, set the UK on a path leading to diplomatic activity in the UN and the possibility of participation in military action in a way that would make it very difficult for the UK subsequently to withdraw its support for the US."

On 20 May 2002 The (London) Telegraph reported that American airplanes had been striking positions in Sponsored

southern Iraq after U.S. and U.K. aircraft had been targeted by Iraqi air defences during a patrol of the no-fly zone.

The U.S. Central Command, which is headquartered in Tampa, Florida, said that the warplanes "used precision-guided weapons to strike an aircraft direction-finding site."

The Command said that Iraqi air defences had targeted coalition aircraft two hours earlier for the second time in 12 days.

They coalition aircraft were patrolling a no-fly zone which was imposed over southern Iraq in the aftermath of the 1991 Gulf War.

Iraq has been actively challenging US-British enforcement of the no-fly zones in the north as well as the south since December 1998.

The previous strike in southern Iraq had taken place on 15 April. (US warplanes strike Iraq, The Telegraph, 20 May 2002)

On 5 June 2002 U.S. Defense Secretary, Donald Rumsfeld, flew to London for talks with Mr. Hoon, following which British officials announced changes to the rules of engagement in the no-fly zones making it easier for allied aircraft to attack Iraqi military positions.

There is an official report of that meeting in a news article by the U.S. Department of Defense.

> "Speaking in Brussels, Mr. Hoon told American reporters that Iraqi forces had resumed stepped-up attacks on U.S. and British fliers enforcing the northern and southern no-fly zones. in that country, the British defense minister told American reporters today.
>
> Mr. Hoon was accompanying Mr. Rumsfeld from London for meetings here with other NATO defence ministers.
>
> The Minister of Defence spoke to reporters declaring that:
>
> "Immediately after Sept. 11, there was a fall-off of incidences over the no-fly zone. We judged that the regime in Iraq seemed to have gotten the message that military action would follow if they were not very, very careful." adding "In more recent times, there has been an increase in the number of attacks on aircraft."
>
> He said it was important for the international community to "set out very clearly to the Iraqi regime the importance of accepting U.N. Security Council resolutions regarding

weapons inspectors."

According to the article, "After the 1990-1991 Gulf War, the Security Council ordered Iraq to allow international inspectors to verify the country was no longer producing weapons of mass destruction. Iraqi leader Saddam Hussein balked in October 1997 and dismantled the program through most of 1998 by expelling U.N. inspectors and ending cooperation.

There have been no inspections in the four years since. U.N. and Iraqi officials have been negotiating a restored inspection regime since March 2002."

Rumsfeld had said earlier at a London press conference with Hoon that Iraq was surely still developing such weapons and was posing a threat to its neighbours.

"We know that the Saddam Hussein regime in Iraq has had a sizable appetite for weapons of mass destruction. We know the borders into that country are quite porous." Rumsfeld said, noting that both illicit materials and legal materials with both military and civilian uses flow into Iraq regularly.

"There is not a doubt in the world that Iraq's programs mature by a month with every month that passes." he said. "That is not a happy prospect for that region." Rumsfeld said. "This is an individual who has used chemical weapons on his own people, so there's not any great debate about what he and his regime are willing to do with weapons of mass destruction."

Rumsfeld and Hoon agreed that the best way to ensure Iraq was no threat to the rest of the world was for Saddam Hussein not to be its president.

"Certainly we both believe that Iraq will be a much better place, not only for the region, but for its own people if Saddam Hussein was no longer in power in Iraq." Hoon had said in London. (U.S. Department of Defense, DoD News, 'British MOD: Attacks on U.S. British fliers in Iraq increasing', Brussels, 5 June 2002)

During the summer of 2002, both British and U.S. aircraft continued to bomb southern Iraq under cover of the no-fly zone while Blair and Hoon insisted that nothing was happening.

At Cabinet, on 20 June 2002, "[para.] 128. Mr Blair was questioned about the UK's approach to Iraq.

129. The minutes record that Mr Hoon stated that, except for continuing patrols in the No-Fly Zones, no decisions had been taken in relation to military operations in Iraq. The discussion with Secretary Rumsfeld was not mentioned. [Emphasis added]

130. Cabinet did not discuss Iraq between 20 June and 24 July when the House of Commons rose for the summer recess." SECTION 3.3., p. 26.

On 15 Jul 2002, on a question by Mrs. Alice Mahon MP (Halifax): "In the light of mounting press speculation over the past few days, will the Secretary of State confirm that, under the guise of the war against terrorism, British troops are not being situated in the middle east in preparation for participation in a war against Iraq ?"

Mr. Hoon replied: "May I make it clear to my hon. friend and the House that absolutely no decisions have been taken by the British Government in relation to operations in Iraq or anywhere near Iraq in the Middle East ? It follows, therefore, that no decisions have been taken to deploy British forces in that region for that reason. I assure my hon. Friend and the House that any such decision would be properly reported to the House, as right hon. and hon. Members properly expect." (www.parliament.uk, 15 July 2002: Column 10) (Report, SECTION 3.3, para. 198, p.37)

The following day, 16 July,

"195. Mr Blair told the [Parliament] Liaison Committee ... that he believed weapons of mass destruction posed an enormous threat to the world.

that

196. There was no doubt that Iraq posed a threat in respect of weapons of mass destruction which should be dealt with. No decisions had been taken on military action. [Emphasis added]

and that

197. Mr Blair was not seeking to influence the US but to work in partnership." (Report, SECTION 3.3., p. 37)

Prime Minister Tony Blair and his Defence Secretary Geoff Hoon were able to claim throughout 2002 that no decision had been taken on military action because the truth of what was taking place in southern Iraq under cover of the U.N.-authorised no-fly zones was kept on an extremely tight "need to know" basis. Even fairly senior British officials believed the increased air strikes were simply the result of the relaxation of the rules of engagement.

On Tuesday 23 July 2002 Mr. Blair was due to have a meeting of the war cabinet. In preparation for that meeting, the Cabinet Office produced a briefing paper which was one of the leaked Downing St. Memos.

This is the already considered fairly lengthy document, which was marked 'Personal. Secret UK eyes only', and contained the text of a Cabinet Office Briefing Paper prepared for all those attending a meeting of the British war cabinet at 10 Downing Street on 23 July 2002. The document was headed: 'Iraq: condition for military action'.

"3. We need now to reinforce this message and to encourage the US Government to place its military planning within a political framework, partly to forestall the risk that military action is precipitated in an unplanned way by, for example, an incident in the No Fly Zones. This is particularly important for the UK because it is necessary to create the conditions in which we could legally support military action. Otherwise we face the real danger that the US will commit themselves to a course of action which we would find very difficult to support." [Emphasis added]

No further evidence seems necessary to support the view that the air war was illegal. Those conditions in which Britain could legally support military action did not yet exist. They had to be created. It was clearly not known to the officials who drafted the briefing paper that R. A.F. aircraft and for that matter R.A.F. servicemen were already involved in military action against Iraq; and this was not legal under the U.K. interpretation of international law.

At that meeting Sir Richard Dearlove [then head of MI6] had been invited to provide the meeting with a "brief account of his recent talks with [Mr George] Tenet [Director Central Intelligence] and Condi [Rice]". Sir Richard had returned from Washington "convinced that the Administration have moved up a gear". (Report, SECTION 6.3, [para.] 334, p. 58) and

Sir Richard Dearlove "reported that there was "a perceptible shift in attitude" in Washington: "Military action was now seen as inevitable." President Bush "wanted to remove Saddam, through military action, justified by the conjunction of terrorism and WMD. But [in the United States] the intelligence and facts were being fixed around the policy. The NSC had no patience with the UN route and no enthusiasm for publishing material on the Iraqi regime's record." [Emphasis added] (Report, [para.] 342, p.59)

Defence Secretary Hoon was able to add something interesting to the discussion. Another Downing Street Memo, also dated 23 July 2002, was titled 'Secret and strictly personal - UK eyes only' and contained the Text of the minutes of a meeting of the British war cabinet held at Downing Street on that day.

In attendance were David Manning, the Defence Secretary, the Foreign Secretary, the Attorney-General, Sir Richard Wilson, John Scarlett, Francis Richards, CDS, C, Jonathan Powell, Sally Morgan and Alastair Campbell. They were meeting the Prime Minister to discuss Iraq.

The record of the meeting, prepared by Matthew Rycroft, was classified as "extremely sensitive. No further copies should be made. It should be shown only to those with a genuine need to know its contents."

Here is the full content of that document:

"John Scarlett summarised the intelligence and latest JIC assessment. Saddam's regime was tough and based on extreme fear. The only way to overthrow it was likely to be by massive military action. Saddam was worried and expected an attack, probably by air and land, but he was not convinced that it would be immediate or overwhelming. His regime expected their neighbours to line up with the US. Saddam knew that regular army morale was poor. Real support for Saddam among the public was probably narrowly based.

C [Sir Richard Dearlove] reported on his recent talks in Washington. There was a perceptible shift in attitude. Military action was now seen as inevitable. Bush wanted to remove Saddam, though military action, justified by the conjunction of terrorism and WMD. But the intelligence and facts were being fixed around the policy. [Emphasis added] The NSC had no patience with the UN route, and no enthusiasm for publishing material on the Iraqi regime's record. There was little discussion in Washington of the aftermath after military action.

CDS [Admiral Sir Michael Boyce] said that military planners would brief CENTCOM on 1-2 August, Rumsfeld on 3 August and Bush on 4 August. The two broad US options were:

(a) Generated Start. A slow build-up of 250,000 US troops, a short (72 hour) air campaign, then a move up to Baghdad from the south. Lead time of 90 days (30 days preparation plus 60 days deployment to Kuwait).

(b) Running Start. Use forces already in theatre (3 x 6,000), continuous air campaign, initiated by an Iraqi casus belli. Total lead time of 60 days with the air campaign beginning even earlier. A hazardous option.

The US saw the UK (and Kuwait) as essential, with basing in Diego Garcia and Cyprus critical for either option. Turkey and other Gulf states were also important, but less vital. The three main options for UK involvement were:

(i) Basing in Diego Garcia and Cyprus, plus three SF squadrons.

(ii) As above, with maritime and air assets in addition.

(iii) As above, plus a land contribution of up to 40,000, perhaps with a discrete role in Northern Iraq entering from Turkey, tying down two Iraqi divisions.

The Defence Secretary said that the US had already begun "spikes of activity" to put pressure on the regime. No decisions had been taken, but he thought the most likely timing in US minds for military action to begin was January [2003], with the timeline beginning 30 days before the US Congressional elections. [Emphasis added]

The Foreign Secretary said he would discuss this with Colin Powell this week. It seemed clear that Bush had made up his mind to take military actions, even if the timing was not yet decided. But the case was thin. Saddam was not threatening his neighbours, and his WMD capability was less than that of Libya, North Korea or Iran. We should work up a plan for an ultimatum to Saddam to allow back in the UN weapons inspectors. This would also help with the legal justification for the use of force.[Emphasis added]

The Attorney-General said that the desire for regime change was not a legal base for military action. There were three possible legal bases: self-defence, humanitarian intervention, or UNSC authorisation. The first and second could not be the base in this case. Relying on

UNSCR 1205 of three years ago would be difficult. The situation might of course change. [Emphasis added]

The Prime Minister said that it would make a big difference politically and legally if Saddam refused to allow in the UN inspectors. Regime change and WMD were linked in the sense it was the regime that was producing the WMD. There were different strategies for dealing with Libya and Iran. If the political context were right, people would support regime change. The two key issues were whether the military plan worked and whether we had the political strategy to give the military plan the space to work.

On the first, CDS said that we did not know yet if the US battle plan was workable. The military were continuing to ask lots of questions. For instance, what were the consequences if Saddam used WMD on day one, or if Baghdad did not collapse and urban warfighting began? You said that Saddam could also use his WMD on Kuwait. Or on Israel, added the Defence Secretary.

The Foreign Secretary thought the US would not go ahead with a military plan unless convinced it was a winning strategy. On this the US and UK interests converged. But on the political strategy, there could be US/UK differences. Despite US resistance, we should explore discreetly the ultimatum. Saddam would continue to play hard-ball with the UN. John Scarlett assessed that Saddam would allow the inspectors back in only when he thought the threat of military action was real.

The Defence Secretary said that if the Prime Minister wanted UK military involvement, he would need to decide this early. He cautioned that many in the US did not think it worth going down the ultimatum route. It would be important for the Prime Minister to set out the political context to Bush."

The following conclusions were reached:

"(a) We should work on the assumption that the UK would take part in any military action. But we needed a fuller picture of US planning before we could take any firm decisions. CDS should tell the US military that we were considering a range of options.

(b) The Prime Minister would revert on the question of whether funds could be spent in preparation for this operation.

(c) CDS would send the Prime Minister full details of the proposed military campaign and possible UK contributions by the end of the week.

(d) The Foreign Secretary would send the Prime Minister the background on the UN inspectors, and discreetly work up the ultimatum to Saddam. He would also send the Prime Minister advice on the positions of countries in the region especially Turkey, and of the key EU states.

(e) John Scarlett would send the Prime Minister a full intelligence update.

(f) We must not ignore the legal issues: the Attorney-General would consider legal advice with FCO/MOD legal advisers."[Emphasis added]

The secret air attacks had continued through June and July 2002. They would go on in August with both U.S. and U.K. aircraft carrying out increased bombing; yet they failed to provoke the Iraqis into a reaction which might give the attackers an excuse for war.

The attacks needed to be increased still further.

On 5 September 2002 some one hundred American and British aircraft attacked an Iraqi air defence facility in western Iraq in what was believed to be a prelude to the infiltration of special forces into Iraq from Jordan. The R.A.F. saw it as such a success that it was reported on the front page of the official publication R.A.F. News.

The raid appeared to be a prelude to the type of special forces operations which would have to begin weeks before a possible American-led war. It was launched two days before an encounter between Blair and Bush in the United States.

The Prime Minister had long promised that Britain would be alongside the Americans "when the shooting starts."

The attack seemed intended to destroy air defences and thus to allow easy access for special forces helicopters to fly into Iraq from Jordan or Saudi Arabia to destroy Scud missiles before a possible war soon to follow. The attack was regarded as a response to Iraqi 130 attempts to shoot down coalition aircraft in 2002 alone.

The American central command refused to go into detail about the number of aircraft involved in the raid. It said, simply: "Coalition strikes in the no-fly zones are executed as a self-defence measure in response to Iraqi hostile threats and acts against coalition forces and

their aircraft." The measure was described as an "air defence command and control facility" was the first time that a target in western Iraq had been attacked during the patrols of the southern no-fly zone. Until 5 September all strikes had been against air defence sites in the south, around Basra, Amara, Nasiriyah and Baghdad.

Central command said it was still assessing the damage caused by the attack. If the air defence installation was not destroyed, a second raid is expected.

The Pentagon said that the raid was launched in "response to recent Iraqi hostile acts against coalition aircraft monitoring the southern no-fly zone."

On its part, the Ministry of Defence refused to confirm that R.A.F. aircraft had taken part, but defence sources said that Tornado ground attack and reconnaissance aircraft played a key role.

In a further sign that America was preparing for war, a Pentagon official confirmed that heavy armour, ammunition and other equipment had been moved to Kuwait from huge stores in Qatar.

Any war on Iraq was likely to begin with a gradual intensification of attacks on air defences. But the raid of 5 September appeared more likely to be related to the forthcoming deploy of special forces.

Speaking in Louisville, Kentucky, President Bush said that, besides having talks with Mr. Blair, he would be meeting the leaders of France, Russia, China and Canada over the next few days. He would tell them that "history has called us into action" to oust Saddam Hussein, the president of Iraq. (Remarks to the Community in Louisville, Kentucky, September 5, 2002, Presidential Audio/Video Archive - George W. Bush

www.presidency.ucsb.edu/medialist.php?presid=43)

He said he was looking forward to the talks, but suggested that the U.S. could do the job on its own if need be. "I am a patient man." he said. "I've got tools; we've got tools at our disposal. We cannot let the world's worst leaders blackmail, threaten, hold freedom-loving nations hostage with the world's worst weapons." (Remarks Prior to Discussions With Prime Minister Tony Blair of the United Kingdom and an Exchange With Reporters at Camp David, Maryland, September 7, 2002)

During September 2002 American and British aircraft dropped 54.6 tons of munitions on southern Iraq (see: www.parliament.uk, 27 November 2002: Columns 330W-331W), of which 21.1 tons were dropped by R.A.F. aircraft. In October they dropped 17.7 tons of which 11.4 tons, roughly two-thirds, were British.

This was not to be known until 10 March 2003 when, in reply to a question by Sir Menzies Campbell MP to know on how many occasions since October 2002 coalition aircraft patrolling the southern no-fly zone in Iraq have (a) detected violations of the no-fly zones, (b) detected a direct threat to a coalition aircraft and (c) responded in self defence; how much ordnance was released in each month since October 2002; and if he will make a statement,

Mr. Ingram, Secretary of State for Defence provided the following information:

“The information requested is only currently available up to the end of January. No-fly zone (NFZ) violations are detected in several ways, though rarely by tactical aircraft. The number of violations recorded, by month, in the southern no-fly zone, is as follows:

Month	Number
October 2002	2
November 2002	2
December 2002	9
January 2003	2

Coalition aircraft recorded threats on a total of 113 occasions, as follows

Month	Number
October 2002	14
November 2002	48

December	18
January 2003	33

Coalition aircraft in the southern NFZ responded in self defence against Iraqi Air Defence targets on 41 occasions in the period, and released 128.4 tons of ordnance.

Responses conducted in self defence

Month	Number
October 2002	6
November 2002	10
December 2002	13
January 2003	12

Tonnage of ordnance released

Month	Number
October 2002	17.7
November 2002	33.6
December 2002	53.2

(www.parliament.uk, 10 Mar 2003 : Column 60W)

Because of the reticence, the half-truths and the denials spread by the Blair government it might have been possible to think that, throughout the first few months of 2002 at least, U.S. and U.K. aircraft had hardly dropped any bombs on Iraq. But, on 27 November 2002, in reply to a question by Sir Menzies Campbell MP to know "on how many occasions (a) coalition aircraft and (b) UK aircraft patrolling the southern no-fly zone in Iraq have (i) detected violations of the no-fly zones, (ii) detected a direct threat to a coalition aircraft and (iii) released ordnance in each month since March, stating for each month the tonnage released; and if he will make a statement.",

Mr. Ingram, Secretary of State for Defence provided the following information, then currently available as at 13 November,

"(i) No-fly zone (NFZ) violations are detected in several ways. I am withholding details of detection methods in accordance with Exemption 1 of the Code of Practice on Access to Government Information. The number of violations recorded, by month, in the southern No Fly Zone, is as follows:

Month	Number of violations recorded
March	0
April	1
May	0
June	1
July	1
August	0
September	3
October	2
November	0

(ii) Coalition aircraft recorded threats on a total of 143 occasions, as follows:

Month	Coalition aircraft recorded

	threats
March	0
April	1
May	20
June	13
July	30
August	15
September	41
October	14
November	9

Note:

We do not hold separate threat figures for individual nations' aircraft.

(iii) (a) Coalition aircraft in the southern NFZ responded in self defence against Iraqi Air Defence targets on 41 occasions in the period from 1 March to 13 November, and released 126.4 tons of ordnance.

Month	Responses conducted in self defence	Tonnage of ordnance released
March	0	0
April	1	0.3
May	5	7.3
June	3	10.4
July	5	9.5
August	8	14.1
September	10	54.6
October	6	17.7

November	3	12.5

(iii) (b) Of these totals, UK aircraft responded on 17 occasions and released 46 tons of ordnance:

Month	Responses conducted in self defence	Tonnage of ordnance released
March	0	0
April	0	0
May	2	4.9
June	2	2.2
July	1	3.2
August	2	3.2
September	6	21.1
October	4	11.4
November	0	0

(www.parliament.uk, 27 November 2002: Columns 330W-331W)

The Authorization for Use of Military Force Against Iraq Resolution of 2002 was introduced into the 107th Congress of the United States on 2 October 2002 and was enacted after being signed by the President on 16 October 2002, to become Pub. L. 107-243. Secret Operation Southern Force had begun at least five months before.

Resolution 1441 (2002), which was the ground on which the United Kingdom Government would claim the legality of the war, was adopted by the United Nations Security Council at

its 4644th meeting on 8 November 2002. The secret war against Iraq had begun six months before.

It was not until 17 March 2003 that British Attorney General Lord Goldsmith, QC formally confirmed that military action was legal on the basis of U.N. Security Council Resolution 1441. A day later, the British Parliament voted for military action in Iraq.

Two days, later the Multi-National Force – Iraq (MNF–I), often referred to as the coalition forces, led by the United States of America, and with participation of the United Kingdom (with the so-called Operation TELIC), and of Australia, Poland and Spain began the 2003 invasion of Iraq - codenamed "Operation Iraqi Freedom" by the U.S.A. It was originally called Operation Iraq Liberation, ... but with an acronym as O.I.L ?

The bloody cost and legacy of the invasion

The invasion of Iraq was never about delivering democracy or protecting human rights; it was always about expanding American power - but it was about more, much more. The American Administration saw an opportunity to occupy and reshape the Middle East in order to control its oil reserves, thereby obtaining leverage against economic rivals and ensuring the future profitability and dominance of the U.S. economy.

The Iraqi city of Fallujah is testament to the human toll of the project. It has been razed three times since the Americans and their 'coalition' first invaded Iraq. Once home to a bustling population of 300,000, it was reduced to rubble in 2004, when U.S. troops twice laid siege to the city, unleashing a wave of brutal repression on its civilians. Troops indiscriminately shot and killed protesters, conducted weeks of aerial bombardment and bathed the city in white phosphorus.

Exposure to the depleted uranium employed in American weapons resulted in a fourfold increase in the cancer rate in the years between 2004 and 2010, and a 12-fold increase in

cancer for children, according to a study by Drs. Chris Busby, a visiting professor at the University of Ulster, Malak Hamdan and Entesar Ariabi, entitled Cancer, infant mortality and birth sex-ratio in Fallujah, Iraq 2005-2009 (Int. J. Environ. Res. Public Health. 7 (7): 2828–2837) Busby's extensive research led him to conclude that the toxic fallout of the American assault on the city is worse than that suffered by the survivors of the atomic bombs dropped on Hiroshima and Nagasaki.

In 2013 paediatricians at the Fallujah General Hospital told Al Jazeera journalists that, frequently, children were born with birth defects so numerous, rare and extreme that doctors do not even have a medical name for the conditions they cause.

The atrocities once committed by American troops in Fallujah are now being carried out by the client regime the United States installed after the invasion. In June 2016 Fallujah was again the scene of mass devastation, this time stormed by Iraqi regular forces and militias. This was done on the pretext of saving civilians from I.S.I.S.

Five years after Obama declared the U.S. occupation of Iraq over and troops were "officially withdrawn", Human Rights Watch reported that most of Fallujah's residents have been forced to flee, languishing now in refugee camps, and the remaining population is starving. Civilians are the only ones who pay the price of the conflict.

In March 2015 the 1985 Nobel Prize for Peace, Physicians for Social Responsibility calculated that the war on terror has, directly or indirectly, murdered around 1 million people in Iraq, 220,000 in Afghanistan and 80,000 in Pakistan – a total death count of 1.3 million. That is a conservative estimate; the researchers concluded that the real casualty rate is probably much closer to 2 million. (Body Count, Casualty Figures after 10 Years of the "War on Terror" Iraq, Afghanistan, Pakistan, First international edition, March 2015)

After the events of 9/11 the George W. Bush Administration introduced draconian anti-terror laws such as the Patriot Act , enacted in part to intimidate domestic opposition to war. Governments around the world followed suit, seizing on an opportunity to increase state powers and further spy on and repress their own citizens under the pretext of “fighting terrorism”. Prime Minister Tony Blair did the same during the years of his government: 1997-2007. Vassal states like Australia, under the administration of Prime Minister John W. Howard followed obsequiously and punctually. The Obama Administration, promoted as bringing an end to U.S. wars in the Middle East, has expanded the domestic U.S. security state and extended the theatre of war by escalating the use of drone warfare.

According to the London-based Bureau of Investigative Journalism, since 2002 - the second year of George W. Bush presidency - drone strikes have killed more than 7,000 people. The use of drones, rather than ‘boots-on-the-ground’ has increased with President Obama, and so has the number of civilian victims. The same Bureau estimated that between 2004 and 2016 the U.S. has launched 424 drone strikes on suspected terrorists in Pakistan alone. More than 4,000 people were killed, a quarter of whom were civilians. Moreover, a growing numb er of credible research studies are informing that the negative effects of drone strikes are fuelling public resentment against the United States foreign policy and that of ‘western’ allies. An aggressive foreign policy ostensibly intended to counter global terrorism has instead had the effect of providing fodder for the recruitment and growth of extremist groups.

Despite this expansion, the United States has not been able to accomplish its objectives. In fact, after 15 years of war, the U.S. global position is weakened.

Justifying such crimes against humanity required the creation of a hysterical climate of fear. The demonising and criminalising of Muslims and the stoking of Islamophobia have become the key means by which the United States and its allies and clients excuse both interventions and a mass offensive against civil liberties.

Guantánamo Bay in Cuba, where the United States has detained for years some 800 people - 674 never been charged - but accused and tortured as terror suspects, Manus Island and Nauru, where client-states of Australia have been holding for years presently and respectively 847 and 442 asylum seekers are the embodiment of this infamy. These people are victims of the ‘war on terror’, their lives destroyed by the United States and its vassals.

The cost of the war and of the concentration camps cannot be correctly measured but may safely be expressed in trillions and billions.

How did all this come about ? What is the source of such insanity ? Well, much of this may be brought back to the kind of relationship established between modern time ‘statesmen’.

First is George W. Bush, 46th Governor of Texas from 1995 to 2000 and 43rd President of the United States from 2001 to 2009. And always behind him Dick Cheney - for a ‘cabal’ of oilmen.

It is known that, only two months after 9/11, on 21 November 2001, Bush formally instructed Rumsfeld that he wanted to develop a plan for war in Iraq.

Distinguished presidential biographer, professor Jean Edward Smith, a member of the faculty at the University of Toronto for thirty-five years, and at Marshall University for twelve, has recently published ‘Bush’.

It is an in-depth and incisive new biography of the 43rd president which begins with this striking sentence: “Rarely in the history of the United States has the nation been so ill-served as during the presidency of George W. Bush.” He proves his case in the subsequent pages.

Professor Smith recounts Bush's childhood in Texas; lacklustre academic career at Andover, Yale, and Harvard Business School; Air National Guard service; business ventures; alcoholism; marriage to Laura; embrace of born-again Christianity; and term as Texas governor. A portrait appears of a man untutored, untravelled, unversed in the ways of the world - and, more damningly, uncaring to be regarded as such. It is the portrait of a president unprepared for the complexities of governing, with little executive experience and a glaring deficit in his attention span. But the bulk of the book is devoted to Bush's presidency and his disastrous foreign policy.

Notably, professor Smith belies the impression that Bush was brazenly manipulated by high-level advisors such as Vice President Cheney, Secretary of Defense Rumsfeld, and other neoconservatives who politicised and abused the intelligence process. Even if Cheney was the driving force behind the war campaign's deceptions, Bush was undeniably the chief cheerleader. For Bush, the intelligence 'findings' that Cheney and other were offering him - and the accomplice media - were not factors which needed to be weighed carefully as part of a decision-making process. There was, in fact, no decision-making process. The intelligence 'finding' were simply elements of a gigantic sales campaign. Bush prided himself on being "The Decider" and made a show of his decisiveness. After 9/11, as "The War President", his greatest strength became his worst flaw. He conducted his foreign policy with a religious certitude. He oversimplified conflicts abroad and saw himself as a Christian crusader, as God's agent to defeat evil.

According to professor Smith, Bush - and not his seasoned advisors - made the decisions to invade Iraq and to prolong the war after 'Mission Accomplished,' and then to allow, among other actions, widespread surveillance, torture, and rendition of suspected terrorists - all the while testing the bounds of domestic and international law and often ignoring the concerns of military and diplomatic experts.

Bush was able to simplify the Iraq adventure by affirming: "I will say, definitely, the world is better off without Saddam Hussein in power, as are 25 million people who now have a chance to love in freedom." Blair would say the same to his defence. Howard would follow obsequiously.

The more complicated situation is quite different. In his book In the Belly of the Green Bird, Nir Rosen, an American journalist, described the events in Iraq after the U.S. invasion and the fall of Saddam Hussein. Published in 2006, the book builds on nearly three years spent in

Iraq observing ordinary life and talking with a wide range of people involved in and affected by the violence. Rosen's thesis is that Iraq is now in a state of civil war and that the U.S. can do little to stop the increasing violence. Rosen was able to take advantage of his fluent Arabic and dark complexion to mix unobtrusively with Iraqis and to dispense with translators in his interviews. He writes: "Certainly the hundreds of thousands of dead Iraqis are not better off. Their families aren't better off. The tens of thousands of Iraqi men who languished in American and subsequently Iraqi gulags are not better off. The children who lost their fathers aren't better off. The millions of Iraqis who lost their homes, hundreds of thousands of refugees in the region, are not better off. So there's no mathematical calculation you can make to determine who's better off and who's not ...

Saddam Hussein is gone, that's true. The regime we've put in place is certainly more representative, but it's brutal and authoritarian. Torture is routine and systematic. Corruption is also routine and systematic. There are no services to speak of, no real electricity or water. Violence remains very high. So, there's nothing to be proud of in this. The Iraqi people deserve much better, and they're the real victims of Bush's war." (D. Froomkin, The two most essential, abhorrent, intolerable lies of George W. Bush's memoir, www.huffingtonpost.com/2010/11/22,updated May 26, 2011)

What such murderous sociopaths as Bush, Blair and Howard are saying is that "the world is better off" without the more than one million annihilated by their war.

History is likely to judge Bush quite harshly on two ground in particular: launching a war against a country which had not attacked the United States, and approving the use of cruel and inhumane 'interrogation techniques' - torture.

Bush and his associates approved a wide range of brutal 'interrogation techniques' such as water-boarding - essentially controlled drowning, severe beatings, painful stress positions, severe sleep deprivation, exposure to extreme cold and hot temperatures, forced nudity, threats, hooding, the use of dogs and sensory deprivation, et cetera.

No American government official had ever even suggested that such measures were not torture, until of course a small handful of so-called lawyers in Bush's supine Justice Department, working under orders from Dick Cheney, claimed otherwise: the original 'torture memo' of 1 August 2002. Did someone wonder, whisper. shout: ethical line ? What would Bush know of it ? As for Cheney. his interest in the Middle East never went beyond

oil. On the other hand, it is calculated that the corporation of which Cheney had been chairman and CEO from 1995 to 2000 made a modest profit of US$ 39.5 billion in Iraq. The 'torture memo' argued that to "rise to the level of torture" an act had to cause pain "equivalent to intensity to the pain accompanying serious physical injury, such as organ failure, impairment of bodily function, or even death." Anything short of that, according to the memo, was alright. Why, Philip Maxwell Ruddock, a solicitor of sort and a member of the Howard Government, first as Minister for Immigration and Multicultural Affairs from 1996 to 2003, and then as Attorney-General from 2003 to 2007, agreed that severe sleep deprivation, inflicted upon an Australian at Guantánamo, was not torture. On 8 February 2016 Ruddock announced that he was retiring from politics. On the same day, Julie Bishop, the Foreign Minister of the Turnbull Government, announced that Ruddock would be appointed Australia's first special envoy for human rights.

But, what of Blair ?

Here there is a curious but credible testimony by Sarah Helm. She is a former Brussels correspondent and diplomatic editor of The Independent. She is married to Jonathan Powell, who had been Blair's chief of staff since 1997.

In early March 2003, on the eve of the Iraq war, she overheard a crackly transatlantic phone call as George Bush spoke to Tony Blair. The American president told the prime minister he was ready "to kick ass". Blair laughed nervously, and talked of his "epitaph". Bush urged the junior partner to have cojones - balls. This is quite likely the customary level of his conversation. On 1 May 2002 - almost a year before the invasion - Bush told his press secretary, Ari Fleischer, of Saddam: "I'm going to kick his sorry motherfucking ass all over the Mideast."

One evening, the house full of building renovators, she and her husband retired to their bedroom. It was the only quiet place where Jonathan could use an antiquated secure telephone - 'the Brent' - and it was impossible for Sarah not to overhear. She was quite sympathetic to Blair's purported effort to try to persuade Bush to do the decent thing, and wait for a second U.N. resolution on Iraq.

What follows is just about what Helm overheard:

An American military voice: "Mr Prime Minister. We have the president of the United States for you."

There was a long pause, due to time lag. Bush seemed very far away; Blair very close; almost in the bedroom.

George Bush: “Hello, hello.”

Blair: “Hi, how are you ?”

Bush:”I’m fine. Fine. But, hey, most important, how are yooou … You’re being so courageous. Really, really brave. Your body language. Truly. I watched you on TV. Terrific. Real leadership will be remembered. Believe me.”

Blair: “Yeah, well. It’s hard sometimes. Believe me. But you’re doing pretty well yourself.”

Bush: “What me? I’m just ready to kick ass.”

Blair laughed nervously.

After more mutual admiration - particularly of each other’s ‘body language’ - Blair tried to make his move, raising the question of the French. Jacques Chirac, the French president, is causing trouble, opposing the second resolution, he said.

Bush: “Yeah, but what did the French ever do for anyone? What wars did they win since the French revolution ?”

Blair: “Yeah, right. Right.”

There was an exchange of more bad jokes about the French. One should remember the occasion when Bush called Chirac to show his, Bush, infallibility. Bush probably thought of himself as God’s agent here on earth to defeat evil. Anyway, just before the invasion, and to persuade the French to enter the adventure, he told Chirac that this was a conflict against ‘Gog and Magog before the final judgment’, and quoted the book of Revelation to support his position. Chirac did not know what Bush was talking about, but when it was explained to him, it made Chirac all the more certain that he did not want any part of it. On 13 March 2003, none other than Trevor Kavanagh, an English journalist and former political editor of The Sun, praised Blair for “stamping on wriggling anti-war worm Jacques Chirac … in a storming Commons performance.” Elsewhere, The Sun wished both Blair and Bush “all success” on the “long and tricky road to peace” [sic] in the Middle East. “History teaches a simple lesson.” its sister paper - both of them of the Murdoch stable - the now defunct News of the world had told its readers on 9 March 2003. “Appeasing a tyrant is never the

answer. Thankfully Winston Churchill grasped this in the last century. So now does Tony Blair. In this testing time for his leadership, we back the PM all the way."

Then the prime minister tried again.

Blair: "So, er … where do we go from here ?"

Bush: "I'd like to do the second resolution Friday. We need to move to closure … call in the chips with Chile, the Mexicans … close it down."

There was a pause; and a sound of breathing.

Bush called Dr. Hans Blix, the U.N. weapons inspector who had not found any evidence of weapons of mass destruction 'that no-count', and then spoke of new intelligence about weapons of mass destruction that Saddam was about 'to offload'. He was speaking to the recipient of a personal call by Dr. Blix on 20 February 2003 - days only, really before the conversation with Bush - to the effect that, after many hundreds of inspections, he had been unable to find any evidence of a weapons of mass destruction programme. Dr. Blix even told Blair that "it would prove absurd if 200,000 troops were to invade Iraq and find very little." Blair would tell the Iraq Inquiry that Saddam Hussein was "a man to whom a last chance to do right is just a further opportunity to do wrong. He is blind to reason." And now Blair was listening to Bush ?

A moment later Helm overheard Bush take up the phone again and suddenly switch subject, talking of Vladimir Putin.

Blair: "Yeah. Well, er, let me explain how we see it … I want to take the Europeans with me so Friday might be a little early …"

There was a long silence; some talking in the background of the Oval Office.

Bush: "And you know what ? We could put a bug in on this and make sure Chirac gets to hear it. That you show him … And when that son of a bitch hits Europe, they'll be saying, "Where were George and Tony ?"

There was laughter. Jonathan and Sarah were silently wishing for Blair to try again. He took a new tack.

Blair: “We’ve got to make people understand we are not going to war because we want to but because there is no alternative.”

Bush: “Yeah. I’ve got a big speech coming up tomorrow so I will put some words in on that … But I have to do something about my body language. But your body language is great. How do you do it ?”

Blair: “Yeah.”

It was evident by then that Blair’s attempt to get through to Bush on the timing of the new resolution, and hence the war, had failed. He knew it.

But before hanging up, Bush felt a need - once again - to bolster Blair.

Bush: “But you know, Tony, the American people will never forget what you are doing. And people say to me, you know, is Prime Minister Blair really with you all the way? Do you have faith in him ? And I say yes, because I recognise leadership when I see it. And true courage. He won’t let us down.”

At this Blair laughed again, seeming unsure how to respond.

Blair: “Well, it might be my epitaph.”

Bush [laughing]: “Like … R.I.P. here lies a man of courage, you mean ?”

Blair [nervously]: “Yeah, right.”

Blair then made a final plea to Bush, this time for ‘words’ on Israeli-Palestinian peace, which he always hoped would be a pay-off of the war, but Bush was impatient to go now. With that image of Blair’s epitaph hanging in the air, the call came to an end.

Bush: “I have got to hop off to Texas. But hang on in there. And – cojones.”

Helm, who would use words of the overheard conversation for her new play Loyalty, noted immediately Blair’s overconfidence in believing that he could influence Bush to wait for U.N. support and thus ‘win’ the ensuing ‘peace’. (S. Helm, Blair knew Iraq would be his epitaph. But he dared not defy Bush, The Guardian, 4 July 2016)

The question remains: how could anyone in her/his right mind have anything to do with someone who thought of himself as ‘God’s agent on earth’ ?

There is more.

Bush might have very well thought that he was some kind of new Hollywood film-maker, director. Or the people surrounding him, Cheney Rumsfeld and the other neoconservatives might have realised that one way of pleasing and 'directing' Bush was that of drawing reality out of Hollywood.

Thus inspired by the Hollywood thriller movie plot 'The rock', the intelligence agencies of the United States - and of the United Kingdom, too, Australia just going for a ride on their tail - fabricated evidence leading to the invasion of Iraq in 2003 which resulted in the sufferings of millions of people in the Middle East and deaths of 4,491 soldiers of the United States, of 179 of the United Kingdom and many of several other countries of the coalition. The revelations made by the Iraq Inquiry Report on 6 July 2016 are shocking and disturbing. They provoked the mother of a British soldier killed in the war to declare the then British Prime Minister Tony Blair the "world's worst terrorist". After the report was made public, Tony Blair's Deputy Prime Minister Lord Prescott stated that the Iraq war was illegal and he quoted the U.N. Secretary General Kofi Annan who is reported to have said in 2004 that as regime change was the prime aim of the Iraq War, it was illegal.

If Bush appeared to be fantasising, Blair's response was no more incredible. While the two were concocting the aggression on Iraq, and by way of reassuring Bush of his 'loyalty', on 28 July 2002 Blair sent Bush a secret-personal Note on Iraq in which the Prime Minister of the United Kingdom unashamedly declared: "I will be with you, whatever." It sounds more like a lover's declaration than a statesman's commitment. Yet Blair was aware, as he wrote in the Note, that "In [his] opinion, neither the Germans or the French, and most probably not the Italians or Spanish either, would support us without specific UN authority." Although "[he knew] that Berlusconi and Aznar personally strongly supported [Bush]." The Report disclosed such previously secret memoranda, but those sent by Bush to Blair were kept secret at the request of the American Administration.

Such language was coming from the pen of a Prime Minister who knew, as the Downing Street Memoranda memorialised at the end of July 2002 that, in the words of Sir Richard Dearlove, the head of the British Secret Intelligence Service,MI6, "Bush wanted to remove Saddam, through military action, justified by the conjunction of terrorism and WMD. But the intelligence and facts were being fixed around the policy." [Emphasis added]

In other words, a false pretext was being manufactured to justify an unprovoked war - and they all knew it.

The Guardian of 29 August 2011 revealed that a letter from Blair's office, written five months before the conflict, clearly showed that the United Kingdom government intended to invade Iraq, whether or not a second Security Council Resolution supported the action. The document shows that Britain, along with the United States, would "take action" if a breach of the previous resolution could be found. This letter was written despite the fact that Lord Goldsmith, QC, the Attorney General, had already advised an invasion of Iraq would be illegal. The letter provides an insight into the political dealings of the American and British governants, and demonstrates their clear disregard for international law.

MI6 analysts had been telling Blair that invading Iraq was more likely to exacerbate problems than to clear them up. Al-Qaeda, not Saddam, represented "by far the greatest terrorist threat to Western interests" with that threat likely to be "heightened by military action against Iraq." With considerable prescience, British intelligence professionals warned that "the broader threat from Islamist terrorists will also increase in the event of war, reflecting intensified anti-US/anti-Western sentiment in the Muslim world, including among Muslim communities in the West."

Blair discounted such concerns. Like Bush, he chose to believe what he found it convenient to believe. Closer to the truth, Blair tagged along with the war boosters in hopes that the U.K. could pick up the crumbs from the invasion and reassert its former economic and political power in the Arab world. Blair had long been a favourite of British neoconservatives. The silver-tongued Blair became point man for the war in preference to the tongue-twisted, stumbling George Bush. But the real warlord was Vice President Dick Cheney. (E. S.

Margolis, Iraq War, an unaccountable crime, 12 July 2016, https://consortiumnews.com/2016/07/12/iraq-war-an-unaccountable-crime)

Incidentally, the Iraq Inquiry Report is also a damning verdict against Bush as it found that the American President and his aides exaggerated intelligence to make a case for invading Iraq, and that planning and preparations for Iraq after Saddam were "wholly inadequate."

The legal case for U.K. military action was "far from satisfactory." the Report states. Moreover, while Blair was later attacking France for failing to support a second United Nations Security Council resolution authorising military action, "we [The Inquiry] consider that the UK was, in fact, undermining the Security Council's authority." [Emphasis added]

In the end, 244 Labour members of Parliament and 139 Tory MPs voted for the Iraq war. (To say nothing of the 557 MPs who, with the Iraq Inquiry still in its earliest stages - and with that the existential concerns of whether to embark upon another adventure presumably being uppermost in the minds of the people themselves if not their elected representatives - voted to bomb Libya in 2011.)

The Report finds that the invasion failed in its stated objectives. It notes: "The risks of internal strife in Iraq, active Iranian pursuit of its interests, regional instability, and al-Qaida activity in Iraq were each explicitly identified before the invasion."

Not only were 179 British soldiers killed - along with 4,491 US troops - and many thousands horribly wounded, "The people of Iraq have suffered greatly." According to the most reliable estimates, the number of Iraqi lives lost as a result of the war stands at roughly 1 million. An estimated 5 million more people were driven from their homes. The country remains embroiled in bloody sectarian conflict and extreme economic and social hardship.

Of all those arraigned before the International Criminal Court in The Hague over recent years - such as Ivory Coast President Laurent Gbagbo and Sudanese President Omar al-Bashir - none are responsible for even a fraction of the deaths caused by Blair and Bush.

Archbishop Desmond Tutu is not alone in calling for Bush and Blair and other 'western' leaders - the Australian ones do not deserve the 'honour' of mention by name - to be tried for war crimes.

But there is much more in such inheritance of miasmatic violence, and it is substantiated by the reply of the official spokesperson for the United States to the world, U.S. Ambassador to the U.N. Madeleine Albright, when - in 1996 - she was asked whether the deaths of half-a-million Iraqi children from the sanctions were worth it. She responded that while the matter was a difficult one, the deaths were, in fact, worth it. By "it" she meant the U.S. efforts to achieve regime change in Iraq.

By then Iraq had been not only under the bombs directed by the American Administration against water and sewage treatment plants in the knowledge that such action would help spread infectious illnesses among the Iraqi populace; the American Administration had imposed a brutal system of economic sanctions on Iraq, with the goal of achieving the ouster of Iraq's ruler, Saddam Hussein, and his replacement with a U.S.-approved ruler. The U.S. aim was to inflict as much suffering as possible on the Iraqi people in the hope that they would rise up and revolt against their own government, or that the Iraqi military would initiate a coup, or that Saddam Hussein would simply resign.

While the sanctions failed to achieve regime change, in the case of Australia because they were deliberately violated for profit, they did succeed in causing untold economic misery for the Iraqi people. By the end of the eleven years of sanctions, the once-prospering Iraqi middle class had been reduced to penury.

The sanctions continued wreaking death and destruction for years after Albright issued that statement. It is important to note that not one single American official, from President Clinton on down, condemned or even mildly criticised Albright's statement. There can be only one reason for that: they all agreed with what she had said.

It is impossible to overstate the ever-increasing anger and rage which were boiling over in the Middle East as people saw those children dying week after week, month after month, year after year.

Such important matters did not call for consideration by Australia's John Winston Howard. A modest solicitor, amply provided with a sycophantic temperament, hence a supine monarchist, and a philistine - altogether an ordinary man, cunning - but no statesman, he made a virtue out of his apparent ordinariness. His name remains associated to ordering in August 2001 an act of piracy against the Norwegian freighter Tampa which was carrying 438 intending refugees - predominantly Hazaras from Afghanistan, rescued from a distressed fishing vessel in international waters - after having refused to Tampa permission to enter Australian waters. An indifferent populace mistook that for an act of strength. As far as the Iraq adventure, Howard dismissed the heartfelt opinion of more than forty specialists in international law who advised against, and sought the opinion of two lawyers employed at the Attorney General department, who borrowed the disreputable last-minute position of Attorney General Lord Goldsmith, QC. With that Howard marched into Iraq. He maintained that position exactly ten years after, speaking on the subject at the Lowy Institute in Sydney. Whatever any American Administration did, Howard followed during his long prime ministership: the United States is Australia's Great and Powerful Friend. He was to gain from Bush the moniker as a 'man of steel'.

In fact, instead of offering wise restraining counsel, holding back that "crazy man Bush," Blair and Howard applied the varnishing reassurance. "By not restraining the US president, each was an enabler in Washington's worst ever foreign policy blunder." They were more than that. Both became fellow buccaneers and adventurers. (P. McGeough, Chilcot Report: The mind-boggling incompetence of Bush, Blair and Howard laid bare, www.smh.com.au, 7 July 2016)

Today, U.S. military engagement in the Middle East looks increasingly permanent.

Despite the American Administration and its British and Australian clients having formally ended the war in Iraq - as well as in Afghanistan - thousands of U.S. troops and contractors remain in both countries. American and Australian forces continue to drop bombs on Iraq and Syria faster than American war industry can produce them. The United States is also helping Saudi Arabia wage war in Yemen, in addition to conducting occasional airstrikes in Yemen and Somalia.

Australia says not a word about that. It was a passive accomplice during the war, it was ignored after it, when the Americans installed a Coalition Provisional Authority, and Lewis Paul Bremer III became the country's chief executive authority. Paul Bremer was totally uninterested in establishing democracy and defending human rights. Instead he imposed on the 'liberated' country the neoconservative agenda of the foreign policy of the United States and scripting the plight of Iraqis and other several million people in the Middle East. Just as a satrap would, he signed orders. For instance, Order no.39, signed on 19 September 2003 provided for the privatisation of around 200 state-owned enterprises with leases given for at least forty years. Overnight it became illegal to restrict foreign ownership in any part of the Iraqi economy except resource extraction. Order no. 37 set the tax rate for multinational companies at a flat 15 per cent, with no distinction between corporation and individuals. The effect of this Order is that a poor Iraqi farmer would pay the same tax as the U.S. multinational Bechtel, the company contracted to run Iraq's privatised water system. This is nothing but the example of victor's 'justice' imposed upon the defeated people. An examination of such Orders further reveals that the war on Iraq was imposed not for any other reason but for pursuing an imperialist agenda aggressively promoted by the neoliberal capitalists of the United States. It is evident from the fact that in 2003, after the occupation of Baghdad, Bremer had signed "a trade liberalisation law that abolished all tariffs, custom duties, import taxes, licensing fees and similar surcharges for goods entering or leaving Iraq, and all other trade restrictions that may apply to such goods." Moreover, to provide a licence to exploit a defeated country and its people freely, Order no.17 was signed under which foreign companies were given immunity from Iraqi law in regards to acts performed by them pursuant to the terms and conditions of a contract. (M. Mohibul Haque, Chilcot Report and the Iraq war, www.countercurrents.org/tag/chilcot-report, 27 July 2016)

Fifteen years after the September 11 attacks, it looks like the 'war on terror' is still in its opening act.

An early 2016 poll found that more than 90 per cent of Iraqi youth now consider the United States an 'enemy' of their country.

The Islamic State, which was largely a consequence of the U.S. invasion of Iraq, and which might have been financed by Saudi Arabia, now controls vast swaths of territory in Iraq, as well as in Syria, and Libya, and has demonstrated an emboldened capability to orchestrate attacks in Europe. Despite the lack of progress, the last 15 years of war have come at a horrific cost.

The U.S. lost nearly 4,500 service members in Iraq - 2,300 in Afghanistan. Hundreds of thousands were forever damaged. Those figures do not include at least 6,900 U.S. contractors and at least 43,000 Afghan and Iraqi troops who lost their lives.

The death toll in the countries that the United States attacked remains untallied, but conservative estimates range from the hundreds of thousands to well over a million. Add to that the hundreds of people tortured in U.S. custody, and thousands killed by U.S. drones in Pakistan, in Yemen, in Somalia, everywhere.

The financial cost of the 'war on terror' is almost incalculable but runs into the trillions of dollars.

One has heard of the US$ 640 toilet seat and other ridiculous examples of Pentagon 'overspending,' but such stories tend to trivialise the abuses by the military-defence contractors whose entire industry is built on providing overpriced solutions to made up problems. After all, the Pentagon itself just admitted it could cut US$ 2 billion from its budget by shutting down some of the needless bases and defence facilities which have been built around the globe in the name of America.

In the 15 years since 9/11, US$ 1 trillion has been spent building up the police state in the American 'homeland' itself.

Meanwhile, the U.S. Defense Department has been spending over US$ 600 billion per year maintaining the American military in the post-9/11 era. US$ 4 to US$ 6 trillion was spent on the Iraq and Afghanistan wars alone, the most expensive wars in American history.

Combined defence spending, including Homeland Security, Department of Defense, State Department, defence related debt interest and other defence costs, has reached the highest levels in modern history over the past decade. From a Cold War era high in the 1980s of US$ 3,500 for every man, woman and child in the United States to a 1990s low of US$ 2,500, that figure has since breached US$ 4,000.

There are other figures one could add here: - the billions upon billions in military aid sent to the co-perpetrators of the war of terror, including the US$ 38 billion which has been promised Israel over the next 10 years; - the US$ 1.5 trillion joke known as the F-35 fighter jet; - the US$ 6.5 trillion of "year-end adjustments" in the ongoing, never-ending saga of the Pentagon's missing trillions. After 15 years the only winners in the war on terror have been the contractors.

At home, the war on terror has become a constitutional nightmare in the United States, which has adopted a practice of indefinitely detaining terror suspects. Similarly, civil liberties are daily eroded in Great Britain and Australia. In the 2016 U.S. presidential campaigns, torture became one party's applause line, in no small part due to President Obama's failure to prosecute the architects of the Bush-era torture programme.

All of this foreshadows a war which could stretch 10, 20, or 50 more years - the governments of Great Britain and Australia remaining silently complicit.

The real cost of the 'war on terror' is to be searched elsewhere, and there is no way of calculating the loss to the civilian population.

The real cost is paid in blood: the blood of a million dead Iraqis, the blood of the hundreds of thousands murdered men, women and children in Afghanistan and Pakistan, the blood which is being shed right now in Syria, in Libya, in Yemen, and in all of the countries which have found themselves in the crosshairs of the American forces.

It is measured in the devastation of towns and cities which once bustled with life, in the families torn apart by drone bombings, and in the havoc of the hundreds of thousands forced to flee their homes, leave their families and their homeland and their former life behind as everything they knew is torn to shreds.

It is measured in the blood of the servicemen and women themselves, who were lied to, propagandised and indoctrinated their entire lives, given a ticket out of grinding poverty by

the military, shot up with experimental vaccines and shoved into the meat grinder for tour of duty after tour of duty. In most cases, upon returning home, they are left to rot in rundown hospitals and ignored by the glad-handing politicians and their military-industrial cronies as a suicide epidemic gradually thins their ranks.

The first assault on Baghdad began, officially, on 20 March 2003 shortly following the 01.00 Coordinated Universal Time expiry of the United States' 48-hour deadline for Saddam Hussein and his sons to leave Iraq. The military action was dubbed Operation Iraqi Freedom. It was announced that Special Operation Forces were already operating inside Iraq. Australia, the United Kingdom and the United States all had special operation forces in the country.

Baghdad woke up to explosions and pyrotechnics. It was Hollywood as President Bush had designed: 'Shock and awe' over a city of almost 5,000.000 people. Al-Ahram Weekly, an English-language weekly broadsheet published in Cairo, Egypt, published an article entitled: Incomprehensible destruction. It said among other things, analysing the 'military doctrine' that Harlan Ullman, Senior Adviser at the Atlantic Council, who had theorised it, advocated the unleashing of "nearly incomprehensible levels of massive destruction." (20-26 March 2003)

Actually, the first attack on Baghdad arrived, it seems, even earlier on 19 March from 320 Tomahawk cruise missiles fired by the ships in the Persian Gulf and the Red Sea. In the first stage of the air campaign 1,000 to 1,500 bombs and Tomahawk cruise missiles would be used against a variety of targets throughout Iraq. A senior Pentagon official announced that air operations would continue on a 24-hour basis all over the country. Included in the arsenal was the Massive Ordnance Air Blast Bomb - a 21,000-pound weapon which had been nicked-named MOAB, the Mother Of All Bombs. The top commander, Gen. Tommy Franks planned to escalate the intensity of the bombardment, depending on how the surrender talks were going. The building of the Ministry of Oil was carefully spared. (The Independent, 16 April 2003)

The results would soon become available. During the period between 19 March and 26 April 2003, according to the Pittsburgh Post-Gazette of 4 May 2003, "The battle for Baghdad cost the lives of at least 1,101 Iraqi civilians, many of them women and children, according to

records at the city's 19 largest hospitals. The civilian death toll was almost certainly higher. While very few Baghdad hospitals had computerised files, meticulous record-keeping was the norm in Iraq, which for decades sustained an overblown bureaucracy. The hospital records say that another 1,255 dead were 'probably' civilians, including many women and children. The numbers, gleaned from archives that separated military from civilians, include those killed between 19 March, when the US air war began, and 9 April, when the city fell to American forces. The biggest number of deaths appears to have occurred on 5 and 6 April when U.S. troops began fighting their way into the city. The records show 1,101 deaths that doctors felt were clearly those of civilians, 845 of which were recorded at three hospitals - Al Kharama, Al Askan and Yarmuk - near the Baghdad airport. An additional 1,255 dead probably were civilians, doctors say, all reported at the same three hospitals near the airport. Even at Baghdad's largest hospital, such as the 992-bed Yarmouk Hospital, morgues were built to hold only a few dozen bodies. At Al Kharama, 30 per cent of 450 such bodies belonged to women and children, doctors said. Others were men without identification in civilian clothes who the doctors believed were civilians. But a final determination was not made, in part because of the enormous volume of bodies to be dealt with." (M. Schofield, N. A. Youssef and J. O. Tamayo, Civilian Death Toll in Battle for Baghdad at Least 1,100.)

The Los Angeles Times of 18 May 2003 reported that "At least 1,700 Iraqi civilians died and more than 8,000 were injured in Baghdad during the war and in the weeks afterward, according to a ... survey of records from 27 hospitals in the capital and its outlying districts. ... In as many cases as possible, The Times examined original handwritten records. ... In addition, undocumented civilian deaths in Baghdad number[ed] at least in the hundreds and could reach 1,000, according to Islamic burial societies and humanitarian groups that are trying to trace those missing in the conflict. ... Not included in The Times' count were dozens of deaths that doctors indirectly attributed to the conflict. Those cases included pregnant women who died of complications while giving birth at home because they could not get to a hospital and chronically ill people, such as cardiac or dialysis patients, who were unable to obtain needed care while the fighting raged." (L. King, Baghdad's Death Toll Assessed; A Times hospital survey finds that at least 1,700 civilians were killed and more than 8,000 injured in Iraq's capital during the war and aftermath.)

Agence France Presse carried the new of the release of cluster and other types of bomb on Najaf, a city of about 1,000.000 people. The same weapon was used at Al Hllah, the capital of Babylon Province, according to St. Petersburg Press of 3 April 2003. The news was confirmed by The Miami Herald of 16 April 2003. On 1 April 2003 Human Rights Watch reported that U.S. ground forces in Iraq were using cluster munitions with a very high failure rate, creating immediate and long-term dangers for civilians. According to Steve Goose, executive director of the Arms Division of Human Rights Watch. “Iraqi civilians will be paying the price with their lives and limbs for many years.”

Cluster bombs were dropped on Baghdad (S. Goldenberg, War in the Gulf: The hell that once was a hospital, The Guardian, 12 April 2003), (T. Frank, Cluster bombs taking toll on children; the explosive can look like toys, Pittsburg Gazette, 15 April 2003), Dibs, Kalar and Kirkuk (M. Howard, Fighting is over but the deaths go on, The Guardian, 28 April 2003)

Each cluster bomb is composed of 200 to 700 bomblets. When each bomblet explodes it fragments into about 300 pieces of jagged steel - sending out virtual blizzards of deadly shrapnel. People are decapitated, arms, legs, hands and feet are severed from their bodies - anyone and anything alive in the immediate vicinity is shredded into a bloody mess.

Cluster bombs cause damage over a very large and imprecise area. Once released, cluster bombs fall for a pre-set amount of time or distance before their dispensers open, spreading the bomblets widely so they can effectively slaughter people over a wide area. The wide dispersal pattern of cluster munitions makes them difficult to target accurately.

Each cluster bomblet is activated by an internal fuze, and is set to explode above ground, on impact, or to be time-delayed - that is, they can be made into time bombs or mines. The smaller bombs are designed to explode near the time of impact. But since 5 to 30 per cent fail to explode at the time set for them, unexploded bombs litter every target area, silent and nondescript, until picked up by an unfortunate child or accidentally kicked by a passerby. In this way they become hidden killers, blending into their surroundings like land mines. And over time cluster bombs become more unstable - they explode more easily. Because of their high failure rate, cluster munitions leave large numbers of hazardous, explosive duds, a great many unexploded ‘dud’ sub-munitions which become de facto antipersonnel landmines which may cause injury or death to civilians long after the war is over… (Amnesty

International "Iraq: Use of cluster bombs - Civilians pay the price" 2 April 2003, AI Index: MDE 14/065/2003)

In a letter obtained by the Independent and published on 30 May 2003, the U.K. government admitted that the Allied use of cluster bombs against civilian targets were “not legal.” Anti-landmine charities claimed that the letter by Adam Ingram, the Armed Forces Minister, proved that the Ministry of Defence had broken international law by using the munitions in towns and cities.

And that is not all. Michael Guerin of Le Monde wrote on 16 April 2003: “With my own eyes I saw about fifteen civilians killed in two days. I’ve gone through enough wars to know that it’s always dirty, that civilians are always the first victims. But the way it was happening here, it was insane.”

“Two Iraqis were killed and three others wounded today when US troops shot at an ambulance on a central Baghdad street. The American troops just mowed down the ambulance which was transporting wounded people from the Saddam Centre for Plastic Surgery to another hospital”, Belgian Dr. Geert Van Moorter told an A.F.P. reporter. (Two killed in US fire on Baghdad ambulance, The (Melbourne) Age, 10 April 2003)

Furthermore, American officials confirmed that U.S. jets had dropped firebombs in their drive towards Baghdad. A U.S. military official stated that the effects of the firebombs had significant similarities to the controversial napalm used in the Vietnam war. (San Diego Union-Tribune, 5 August 2003)

American pilots dropped the controversial incendiary agent napalm on Iraqi troops during the advance on Baghdad. The attacks caused massive fireballs which obliterated several Iraqi positions. The Pentagon denied using napalm at the time, but Marine pilots and their commanders confirmed that they used an upgraded version of the weapon against dug-in positions. They said napalm, which has a distinctive smell, was used because of its psychological effect on an enemy.

This was, of course, against international law. Diplomats and lawyers convened conferences and drafted rules to limit its deployment starting in the late 1960s. In 1980, United Nations delegates adopted many of their proposals when they approved Protocol III of the Convention on Certain Conventional Weapons. Incendiary attacks against ‘concentrations of civilians’ became war crimes. Most of America’s allies and greatest adversaries, their way smoothed by development of alternate military technologies, endorsed the compact in relatively short order.

America refused to accept the world’s judgment. Presidents Reagan and George H. W. Bush did not even submit Protocol III to the Senate for discussion. Over time, however, events changed the calculus of national advantage; Commanders in Chief came to appreciate the benefits of working within global consensus. President Clinton and his successor George W. Bush changed course, and urged ratification. In 2008, in the face of multilateral alliances assembled to regulate landmines and cluster munitions, and concern that international law to manage conventional weapons was slipping out of U.N. control, the American senate ratified the protocol. President Barack Obama signed it in 2009.

Napalm is a terrifying mixture of jet fuel and polystyrene which sticks to skin as it burns. The United States is one of the few countries which makes use of the weapon. It was employed notoriously against both civilian and military targets in the Vietnam war. The upgraded weapon, which uses kerosene rather than petrol, was used in March and April 2003, when dozens of napalm bombs were dropped near bridges over the Saddam Canal and the Tigris river, south of Baghdad. “We napalmed both those [bridge] approaches.” said Colonel James Alles, commander of Marine Air Group 11. “Unfortunately there were people there ... you could see them in the [cockpit] video. They were Iraqi soldiers. It’s no great way to die. The generals love napalm. It has a big psychological effect.”

The revelation that napalm was used in the war against Iraq, while the Pentagon denied it, has outraged opponents of the war. “Most of the world understands that napalm and incendiaries are a horrible, horrible weapon.” said Dr. K. Robert Musil, former director of the organisation Physicians for Social Responsibility. “It takes up an awful lot of medical resources. It creates horrible wounds." Dr. Musil said that denial of its use “fits a pattern of deception [by the U.S. Administration].”

The Pentagon said it had not tried to deceive. It drew a distinction between traditional napalm, first invented in 1942, and the weapons dropped in Iraq, which were: ‘Mark 77

firebombs'. They weigh 510lbs, and consist of 44lbs of polystyrene-like gel and 63 gallons of jet fuel. Officials at the Pentagon said that if journalists had asked about the firebombs their use would have been confirmed. A spokesman admitted they were "remarkably similar" to napalm but said they caused less environmental damage. In other words: the journalist had asked the wrong question !

But John E. Pike, one of the world's leading experts on defence, space and intelligence policy, and director of GlobalSecurity.org,, said: "You can call it something other than napalm but it is still napalm. It has been reformulated in the sense that they now use a different petroleum distillate, but that is it. The U.S. is the only country that has used napalm for a long time. I am not aware of any other country that uses it." In addition, Marines returning from Iraq chose to call the firebombs 'napalm'. In an interview with the San Diego Union-Tribune, Marine Corps Maj-Gen James F. 'Jim' Amos confirmed that napalm was used on several occasions in Iraq Dr. Musil said that the Pentagon's effort to draw a distinction between the weapons was outrageous. Pike commented: "It's Orwellian. They do not want the public to know. It's a lie." (A. Buncombe, US admits it used napalm bombs in Iraq - GlobalSecurity.org, www.globalsecurity.org, News, 10 August 2003)

During the Gulf war in January 1991 the U.S. Armed Forces dropped 320 tons of depleted uranium weapons on Iraq. Depleted uranium contaminates land, causes ill-health and cancers among the soldiers using the weapons, the armies they target and civilians, leading to birth defects in children.

The Allies fired 944,000 depleted uranium rounds or some 2700 tons of depleted uranium tipped bombs. A U.K. Atomic Energy Authority report estimated that some 500,000 people would die before the end of this century, due to radioactive debris left in the desert.

There is no specific treaty ban on the use of depleted uranium projectiles.

Since 2007 the United Nations General Assembly has passed a number of resolutions on depleted uranium weapons. The most recent resolution, in 2014, was supported by 150 states and opposed - unsurprisingly - by just four: the United States, the United Kingdom, France and Israel.

The latest use of depleted uranium in the 2003 conflict occurred on 28 March when an American A10 tank-buster plane fired depleted uranium munition, killing one British soldier and injuring three others in a 'friendly fire' incident. According to an August 2002 report by the U.N. competent subcommission, laws which are breached by the use of depleted uranium shells include: the Universal Declaration of Human Rights; the Charter of the United Nations; the Genocide Convention; the Convention Against Torture; the four Geneva Conventions of 1949; the Conventional Weapons Convention of 1980; and the Hague Conventions of 1899 and 1907, which expressly forbid employing 'poison or poisoned weapons' and 'arms, projectiles or materials calculated to cause unnecessary suffering.' All of these laws are designed to spare civilians from unwarranted suffering in armed conflicts.

Dr. Doug Rokke, former Director, U.S. Army Depleted Uranium project, and a former professor of environmental science at Jacksonville University, as well as onetime U.S. army colonel who was appointed by the U.S. Department of Defense with the post-first Gulf war depleted uranium desert clean-up - has said that use of depleted uranium is a 'war crime'. "There is a moral point to be made here. This war was about Iraq possessing illegal weapons of mass destruction - yet we are using weapons of mass destruction ourselves." he added: "Such double-standards are repellent."

Depleted uranium has been blamed for the effects of 'Gulf war syndrome' -- typified by chronic muscle and joint pain, fatigue and memory loss - among 200,000 American soldiers after the 1991 conflict. It is also cited as the most likely cause of the 'increased number of birth deformities and cancer in Iraq' following the first Gulf war. 'Cancer appears to have increased between seven and 10 times and deformities between four and six times,' according to the U.N. subcommission.

The Pentagon has admitted that 320 metric tons of DU were left on the battlefield after the first Gulf war, although Russian military experts say 1,000 metric tons is a more accurate figure.

The use of depleted uranium has also led to birth defects in the children of Allied veterans and is believed to be the cause of the 'worrying number of anophthalmos cases - babies born without eyes - in Iraq. Only one in 50 million births should be anophthalmic, yet one Baghdad hospital had eight cases in just two years. Seven of the fathers had been exposed to American depleted uranium anti-tank rounds in 1991. There have also been cases of Iraqi babies born without the crowns of their skulls, a deformity also linked to depleted uranium

shelling. A study of Gulf war veterans showed that 67 per cent had children with severe illnesses, missing eyes, blood infections, respiratory problems and fused fingers.

Dr. Rokke told The (Scottish) Sunday Herald: “A nation’s military personnel cannot wilfully contaminate any other nation, cause harm to persons and the environment and then ignore the consequences of their actions. To do so is a crime against humanity.

We must do what is right for the citizens of the world - - ban depleted uranium.” He called on the United States and the United Kingdom “to recognise the immoral consequences of their actions and assume responsibility for medical care and thorough environmental remediation.” He added: “We can’t just use munitions which leave a toxic wasteland behind them and kill indiscriminately. It is equivalent to a war crime.” (N. Mackay, US Forces use of depleted uranium weapons is "illegal", https://www.globalpolicy.org/.../consequences/2003/0330usforces.htm, The (Scotland) Sunday Herald, 30 March 2003)

Much American largesse with weapons of mass destruction may bring to memory the experience of Laos. During the Vietnam war the United States carpet-bombed neighbouring Laos, in part to cut off Vietnamese supply routes. That covert operation was called ‘the Secret War’. From 1964 to 1973 the United States dropped more than two million tons of ordnance on Laos during 580,000 bombing missions - equal to a planeload of bombs every 8 minutes, 24-hours a day, for 9 years - making Laos the most heavily bombed country per capita in history.

Up to a third of the bombs dropped did not explode, leaving Laos contaminated with vast quantities of unexploded ordnance. Over 20,000 people have been killed or injured by such ordnance since the bombing ceased.

Some comparisons with Iraq help to give substance to the words ‘war crimes’: over 270 million cluster bombs were dropped on Laos during the Vietnam war, 210 million more bombs than were dropped on Iraq in 1991, 1998 and 2006 combined; up to 80 million did not detonate.

Forty one years on, less than 1 per cent of these munitions have been destroyed. More than half of all confirmed cluster munitions casualties in the world have occurred in Laos. Each year there are now just under 50 new casualties in Laos, down from 310 in 2008. Close to 60 per cent of the accidents result in death, and 40 per cent of the victims are children.

The United States. spent US$ 13.3 million per day - in 2013 dollars - for nine years bombing Laos. Between 1993 and 2016 the United States contributed on average US$ 4.9 million per year for ordnance clearance in Laos.

There are pages and pages of documentation of such crimes in other locations such as Aziziyah, Basra, Babylon, Dohuk, Falluja, Fathila, Furat, Karbala, Mosul, Nasiriyah and Taniya in a compendium prepared by Melissa Murphy and Carl Conetta, Civilian casualties in the 2003 Iraq war: A compendium of accounts and reports, Project on Defense Alternatives Cambridge, MA: Commonwealth Institute, 21 May 203 http://www.comv.org/org/pda/0305conetta.hmtl)

More than a month after the war's end no official tally of civilian casualties had emerged, although such a reckoning could play an important role, in the eyes of a watching word, in weighing the conflict's moral costs. Most civilians died as a direct result of the conflict, but not necessarily at American hands.

Determining the civilian toll is always difficult in any conflict. William M. Arkin, senior fellow at the Center for Strategic Education at Johns Hopkins University School of Advanced International Studies, a former columnist for the Bulletin of the Atomic Scientists, a consultant and contributor to The Los Angeles Times and the author of a dozen books, said that it probably would not be soon known how many civilians died in Iraq but that the number would quite likely be "many thousands." Arkin, who was a military consultant to Human Rights Watch in its 2000 assessment of civilian deaths in Yugoslavia and also estimated civilian casualties in the 2001 conflict in Afghanistan, said it was not possible to assess the effectiveness of the use of precision-guided weapons to minimize civilian casualties without knowing how many civilians died as a result of an air attack or ground conflict. But, he said, his "gut feeling" was that the air-delivered precision-guided weapons "did very well."

Human Rights Watch, which has been compiling statistics elsewhere in the country, began its investigations in Baghdad in early May 2003.

There are figures presenting what is regarded as the public record of violent deaths following the 2003 invasion of Iraq:

Documented civilian deaths from violence: 163,461 – 182,579

Total violent deaths including combatants: 251,000.

As The Iraq Inquiry confirmed, the United Kingdom showed no real interest in monitoring civilian casualties.

Iraq Body Count maintains the world's largest public database of violent civilian deaths since the 2003 invasion, as well as separate running total which includes combatants.

I.B.C.'s data are drawn from cross-checked media reports, hospital, morgue, N.G.O. and official figures or records.

As Professor Jeffrey D. Sachs wrote in 2004, "evidence [was] mounting that America's war in Iraq has killed tens of thousands of Iraqi civilians, and perhaps well over 100,000. Yet this carnage is systematically ignored in the United States, where the media and government portray a war in which there are no civilian deaths, because there are no Iraqi civilians, only insurgents.

American behavior and self-perceptions reveal the ease with which a civilized country can engage in large-scale killing of civilians without public discussion."

Sachs referred to the October 2004 study of civilian deaths in Iraq since the U.S.-led invasion began, published by the British medical journal Lancet. The sample survey documented an extra 100,000 Iraqi civilian deaths compared to the death rate in the preceding year, and the estimate did not even count excess deaths in Fallujah, which was deemed too dangerous to include.

The study also noted that the majority of deaths resulted from violence, and that a high proportion of the violent deaths were due to U.S. aerial bombing. The epidemiologists acknowledged the uncertainties of these estimates, but presented enough data to warrant an urgent follow-up investigation and reconsideration by the Bush administration and the U.S. military of aerial bombing of Iraq's urban areas.

American public reaction had been as remarkable as the Lancet study, for the reaction was: no reaction. On 29 October 2004 The New York Times ran a single story of 770 words on page 8 of the paper. The Times reporter apparently did not interview a single Bush administration or U.S. military official. No follow-up stories or editorials appeared, and no

Times reporters assessed the story on the ground. Coverage in other American papers was similarly meagre. The Washington Post, also on 29 October, carried a single 758-word story on page 16.

Reporting on the first bombing of Fallujah had also been an exercise in self-denial. On 6 November 2004 The New York Times wrote that “warplanes pounded rebel positions” in Fallujah, without noting that “rebel positions” were actually in civilian neighbourhoods. Another story in The Times on 12 November, citing “military officials,” dutifully reported: “Since the assault began on Monday, about 600 rebels have been killed, along with 18 American and 5 Iraqi soldiers.” The issue of civilian deaths was not even raised.

Violence is only one reason for the increase in civilian deaths in Iraq. Children in urban war zones were dying in vast numbers from diarrhea, respiratory infections and other causes, owing to unsafe drinking water, lack of refrigerated foods, and acute shortages of blood and basic medicines in clinics and hospitals. The Red Crescent and other relief agencies were unable to relieve Fallujah's civilian population.

On 14 November 2004 the front page of The New York Times led with the following description: “Army tanks and fighting vehicles blasted their way into the last main rebel stronghold in Fallujah at sundown on Saturday after American warplanes and artillery prepared the way with a savage barrage on the district. Earlier in the afternoon, 10 separate plumes of smoke rose from Southern Fallujah, as it etched against the desert sky, and probably exclaimed catastrophe for the insurgents.”

There was, once again, virtually no mention of the catastrophe for civilians etched against that desert sky. There is a hint, though, in a brief mention in the middle of the story of a father looking over his wounded sons in a hospital and declaring: “Now Americans are shooting randomly at anything that moves.”

A few days later, a U.S. television film crew was in a bombed-out mosque with American marines. While the cameras were rolling, a marine turned to an unarmed and wounded Iraqi lying on the ground and shot the man in the head. But the American media more or less brushed aside this shocking incident, too. The Wall Street Journal actually wrote an editorial on 18 November which criticised the critics, noting that whatever the U.S. did, its enemies in Iraq did worse, as if this excused American abuses.

Of course, it does not. Sachs concluded: “The U.S. is killing massive numbers of Iraqi civilians, embittering the population and many in the Islamic world, and laying the ground for escalating violence and death. No number of slaughtered Iraqis will bring peace. The American fantasy of a final battle, in Fallujah or elsewhere, or the capture of some terrorist mastermind, perpetuates a cycle of bloodletting that puts the world in peril.

Worse still, American public opinion, media, and the recent election victory of the Bush administration have left the world’s most powerful military without practical restraint.” (J. D. Sachs, Iraq’s civilian dead get no hearing in the United States, Daily Star, www.informationclearinghouse.info/article7403.htm, 2 December 2004)

On 29 March 2006 the B.B.C. programme Newsnight broadcast a film: Soldiers coming home. The film followed members of Iraq Veterans Against the War on their ‘Walkin’ to New Orleans’ protest march.

A veteran on the march, Jody Casey, was asked if the U.S. military had been concerned about the people of Iraq. He replied: “Oh no. Definitely that was not a concern at all ... I was not concerned about them at all.”

Asked if this was simply his personal view, or the view of the military in general, Casey responded: “No! I mean that’s why they call them ‘Hajji’ (the Iraqi equivalent of ‘Gook’, the derogatory term for East and Southeast Asians. It was originally predominantly used by the US military during wartime, especially during the Korean and Vietnam wars.) I mean you have got to de-sensitise yourself from them: 'The’re not people they are animals'. [There was a] total disregard for human life.” [Emphasis added]

The veteran described how Iraqi civilians discovered in the vicinity of detonated improvised explosive devices were routinely shot: “I have seen innocent people being killed. I.E.D.s go off and you just zap any farmer that is close to you ... hit him with the 50 [heavy machine gun] or the M-16 [rifle]. Overall there was just the total disregard - they basically jam into your head: ‘This is Hajji! This is Hajji’. You totally take the human being out of it and make them into a video game ... If you start looking at them as humans, and stuff like that, then how are you gonna kill them ?”

Former soldiers claimed that this attitude extends up the chain of command, right to the top. In April 2004, the Daily Telegraph reported great unease among senior British army commanders in Iraq at the “heavy-handed and disproportionate” military tactics used by U.S. forces who, they said, viewed Iraqis “as untermenschen.” (Untermenschen, German for undermen, is a term which became infamous when the Nazis used it to describe “inferior people” often referred to as “the masses from the East”, that is Jews, Roma, and Slavs - mainly ethnic Poles, Serbs, and later also Russians. The term was also applied to most Blacks, and ‘persons of colour’.)

“They are not concerned about the Iraqi loss of life ... their attitude toward the Iraqis is tragic, it is awful.” (S. Rayment, US tactics condemned by British officers, Daily Telegraph, 11 April 2004)

An apparent example of the kind of indiscriminate killing described by Casey was reported in The Nation on 12 April 2004: “On November 19, after a roadside bomb killed Lance Cpl. Miguel Terrazas, 15 Iraqi civilians including seven women and three children were allegedly shot and killed by a unit of US Marines operating in Haditha, Iraq. Then, this past Friday, a battalion commander and two company commanders from the same unit were relieved of their duties.

We also know that the Marine Corps initially claimed that the 15 Iraqi civilians were killed by a roadside bomb. But in January, after Time magazine presented the military with Iraqi accounts and video proof of the attack’s aftermath, officials acknowledged that the civilians were killed by Marines but blamed insurgents nonetheless who had 'placed noncombatants in the line of fire’.

However, video evidence shows that women and children were shot in their homes while still wearing nightclothes. And while there are no bullet holes outside the houses to support the

military's assertion of a firefight with insurgents, 'inside the houses ... the walls and ceilings are pockmarked with shrapnel and bullet holes as well as the telltale spray of blood.' " (K. vanden Heuvel, Haditha, Iraq, The Nation, 12 April 2006,http://www.thenation.com/blogs/edcut?bid=7&pid=76825)

One eyewitness told Time: "I watched them shoot my grandfather, first in the chest and then in the head. Then they killed my granny." (Quoted, H. Jaber and T. Allen-Mills, Iraqis killed by US troops 'on rampage', The (London) Sunday Times, 26 March 2006)

This is how the incident was originally reported in the Daily Mirror: "Elsewhere, an ambush on a joint US and Iraqi patrol north-west of Baghdad left 15 civilians, eight insurgents and a US Marine dead. An improvised explosive device was detonated next to the Marine's vehicle in Haditha on Saturday." (B. Roberts, Brit toll rises after roadside blast kill soldier, The Daily Mirror, November 21, 2005)

The most shocking revelation in the Newsnight film concerned the carrying of shovels and AK-47 rifles on U.S. patrol vehicles; these were regularly dumped beside bodies to give the impression that they had been planting roadside bombs.

Jody Casey explained the orders he had been given: "Keep shovels on the truck and an AK, and if you see anybody out here at night on the roads, shoot them. Shoot them, and if they weren't doing anything, throw a shovel off.' At that time when we first got down there, you could basically kill whoever you wanted - it was that easy ..." [Emphasis added]

Easy also it was for senior British commanders to condemn American military tactics in Iraq as heavy-handed and disproportionate. One senior Army officer told The (London) Daily Telegraph that America's aggressive methods were causing friction among allied commanders and that there was a growing sense of "unease and frustration" among the British high command. The officer, who agreed to the interview on the condition of

anonymity, said that part of the problem was that American troops viewed Iraqis as "sub-humans".

Speaking from his base in southern Iraq, the officer said: "My view and the view of the British chain of command is that the Americans' use of violence is not proportionate and is over-responsive to the threat they are facing. They don't see the Iraqi people the way we see them. They are not concerned about the Iraqi loss of life in the way the British are. Their attitude towards the Iraqis is tragic, it's awful.

The US troops view things in very simplistic terms. It seems hard for them to reconcile subtleties between who supports what and who doesn't in Iraq. It's easier for their soldiers to group all Iraqis as the bad guys. As far as they are concerned Iraq is bandit country and everybody is out to kill them."

The officer explained that, under British military rules of war, British troops would never be given clearance to carry out attacks similar to those being conducted by the U.S. military, in which helicopter gunships have been used to fire on targets in urban areas.

British rules of engagement only allow troops to open fire when attacked, using the minimum force necessary and only at identified targets. The American approach was markedly different: "When US troops are attacked with mortars in Baghdad, they use mortar-locating radar to find the firing point and then attack the general area with artillery, even though the area they are attacking may be in the middle of a densely populated residential area. They may well kill the terrorists in the barrage but they will also kill and maim innocent civilians. That has been their response on a number of occasions. It is trite, but American troops do shoot first and ask questions later. They are very concerned about taking casualties and have even trained their guns on British troops, which has led to some confrontations between soldiers." (US tactics condemned by British officers, https://www.globalpolicy.org/component/content/article/168/36943.html, S. Rayment, The Telegraph, 11 April 2004)

The second survey by Lancet, published on 11 October 2006, estimated 654,965 excess deaths related to the war, or 2.5 per cent of the population, through the end of June 2006. The new study applied similar methods and involved surveys between 20 May and 10 July 2006.

President Bush dismissed the survey during a White House news conference. "I don't consider it a credible report. Neither does Gen. Casey (at the time Casey served as

Commanding General, Multi-National Force – Iraq from June 2004).” he said, referring to the top ranking U.S. military official in Iraq, “and neither do Iraqi officials” working with U.S. occupying forces.

“We Don’t Do Body Counts” solemnly proclaimed Gen. Tommy Franks, American commander of the invading forces. (“We Don’t Do Body Counts” says Gen. Tommy Franks,www.democracynow.org, 4 April 2003)

At first the U.S. Government claimed that there was no official tally of civilian deaths in Iraq and Afghanistan, but the Iraq War Logs - and Afghan War Diary - as published by Wikileaks and based on evidence provided by whistleblower Manning showed the claim to be clearly false.

Thanks to such sources of information, the world did eventually see the figures. But they were largely based on U.S. military counts. Other evidence showed that these figures provided were a gross under-estimation of the true numbers of casualties.

A reliable British medical journal published a different set of figures, indicating not just thousands of Iraqi casualties, but on closer analysis, as many as one million, if not more - surely, a genocide in anyone’s language !

Between 2004 and 2009, the U.S. government counted a total of 109,000 deaths in Iraq, with 66,081 classified as non-combatants. However, according to the Iraq Body Count, the number of civilians killed since the ‘second’ Iraq war began to the present day was higher: between 160,543 and 179,492. Further analysis of the WikiLeaks’ Iraq War Logs added an additional 12,000 civilian deaths to that count.

The number of civilians who died as a result of the war and its aftermath is the subject of several studies, and the estimates range from a few hundred thousands to more than a million.

The following figures are quoted from three sources which analysed the U.S. military statistics: the Iraq War Logs, the Iraq Body Count, and Wired.

According to Iraq War Logs the minimum count of casualties recorded during the ‘second’ Iraq war was 109,000 fatalities. An additional 15,000 fatalities have also been counted. However, these figures only cover the period up to mid 2010.

Iraq Body Count provides a different set of figures of 160,543 to 179,492 fatalities, but these include fatalities listed to present day. This source also provides a database of individuals and incidents listed. An analysis of figures is also given. Iraq Body Count has criticised the Report for omitting to go into detail on the consequences of the war on the people of Iraq, and thus missing the opportunity to reveal the scale and nature of the horror. It said: "For the Iraqi bereaved, who might have hoped for an investigation that finally detailed the full extent of their suffering and consequent needs, the Inquiry is as disappointing as it ever was."

As at the end of July 2016, according to Iraq Body Count, more than 174,000 civilians have died as direct casualties from the start of the war in 2003 to around March 2016. If combatants are included, the total deaths climb to 242,000. If the injured are included, the figures increase further.

There are also deaths caused indirectly. Damage caused by the war to infrastructure, health services, food and water supply and transport multiplied the number of deaths.

The situation, as at October 2016, is summarised in the following table:

Iraq Body Count

العربية

Incidents

Individuals

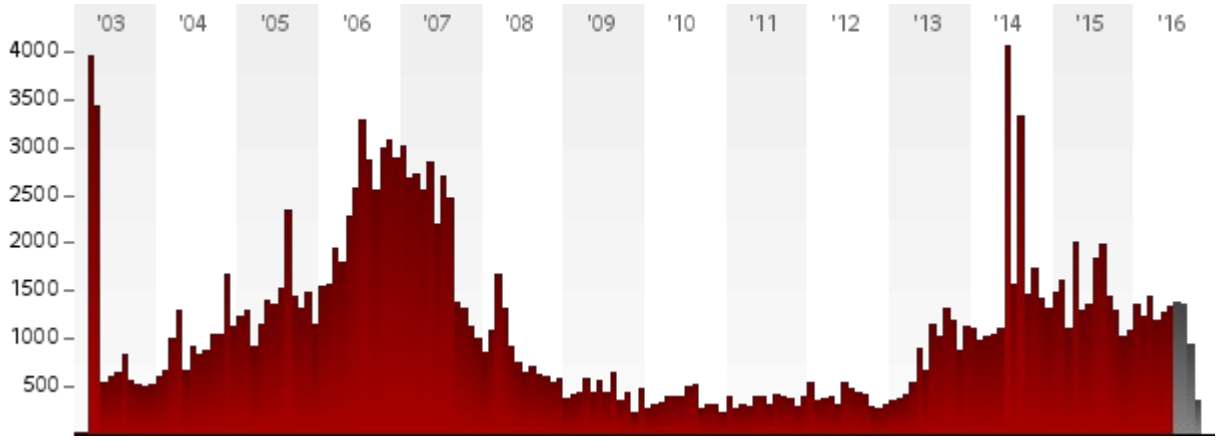
Recent Events

Submit info

Documented civilian deaths from violence

165,110 – 183,894

Further analysis of the WikiLeaks' Iraq War Logs may add 10,000 civilian deaths.



Show or compare per from to

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Download graph data as a spreadsheet

This data is based on 49,110 database entries from the beginning of the war to 30 Jun 2016, and on monthly preliminary data from that date onwards. Preliminary data is shown in grey when applicable, and is based on approximate daily totals in the Recent Events section prior to full analysis. The full analysis extracts details such as the names or demographic details of individuals killed, the weapons that killed them and location amongst other details. The current range contains 32,209–33,656 deaths (20%–18%, a portion which may rise or fall over time) based on single-sourced reports.

Graphs are based on the higher number in our totals. Gaps in recording and reporting suggest that even our highest totals to date may be missing many civilian deaths from violence.

Monthly civilian deaths from violence, 2003 onwards

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
200	3	2	397	343	545	597	646	833	566	515	487	524	12,1

3			7	8								33
2004	610	663	1004	1303	655	909	834	878	1042	1033	1676	1129	11,736
2005	1222	1297	905	1145	1396	1347	1536	2352	1444	1311	1487	1141	16,583
2006	1546	1577	1957	1804	2277	2584	3298	2865	2565	2996	3084	2898	29,451
2007	3017	2679	2726	2565	2844	2199	2694	2481	1387	1324	1124	996	26,036
2008	858	1092	1667	1315	914	750	639	704	612	594	540	586	10,271
2009	372	407	438	589	428	563	431	652	350	441	226	478	5,375
2010	267	305	336	385	387	385	488	520	254	315	307	218	4,167
2011	389	254	311	289	381	386	308	401	397	366	279	392	4,153
2012	531	356	377	392	304	529	469	422	400	290	253	299	4,622
2013	357	360	403	545	888	659	1145	1013	1306	1180	870	1125	9,851
2014	1096	971	1028	1036	1098	4083	1572	3336	1468	1731	1430	1320	20,169
2015	1486	1619	1098	2004	1288	1349	1839	1985	1438	1291	1014	1091	17,502
2016	1368	1237	1452	1181	1263	1341	1369	1363	928	343			11,845

[Incidents](#)

IBC page	Latest incidents analysed	Date
[a5024](#)	6-7 by suicide	30 Jun

[Individuals](#)

IBC page	Name or personal identifier	Date
[a5026-](#)	house owner	30 Jun

	bomber in al-Shurta al-Rabia, southwest Baghdad	
a5023	One by bomb in Al-Amin, east Baghdad	30 Jun
a5022	Two by bomb in Zafaraniya, southeast Baghdad	30 Jun
a5021	Two by bomb in Al-Bakriah, west Baghdad	30 Jun
a5020	Four policemen in clashes in Amiriyat Fallujah, south of Fallujah	30 Jun
a5026	Home owner shot dead in Shorta tunnel, west Baghdad	30 Jun
a5019	Body of a woman found in Husseiniya, northeast Baghdad	30 Jun
a5018	One by bomb in Saba al-Bour, northwest Baghdad	30 Jun

ed3652		
a5017-sd3579	shop owner	30 Jun
a5016-zn3648	wife of the head of IS Sharia Court in Mosul	30 Jun
a5005-fs3625	Shammar / al-Jameela tribe members	28 Jun
a5004-bk3679	sisters	28 Jun
a4997-kd3600	Abbas Hassan Shakoor	28 Jun
a4976-nv3663	displaced from Fallujah	26 Jun
a4974-bc3628	father of dead children	26 Jun
a4974-hr3613	mother of dead children	26 Jun
a4974-bu3542	children of dead parents	26 Jun

See all records…

Download CSV file

a5017	Alcohol shop owner shot dead in Adhamiya, north Baghdad	30 Jun
a5016	French woman by airstrike in Al-Majmu'ah Al-Thaqafiyah area, west Mosul	30 Jun

According to Wired a further update shows figures of 132,000 killed, although this includes figures for Afghanistan, too, and only up to mid 2011.

There are, of course, other sources.

A team of American, Canadian and Iraqi researchers found that from 2003 to mid-2011, around half a million people died due to the war and indirect effects such as a declining health services.

They had carried out a survey of 2,000 households in 100 regions of Iraq and published the results in 2013 in the journal PLOS Medicine, the second journal of the Public Library of Science.

They concluded: “Beyond expected rates, most mortality increases in Iraq can be attributed to direct violence, but about a third are attributable to indirect causes (such as from failures of health, sanitation, transportation, communication, and other systems). Approximately a half million deaths in Iraq could be attributable to the war.”

With reference to the study, William J. Furney, journalist and author, observed: “And herein lies one of the main paradoxes of Western powers and their actions. If such monumental loss of life at the hands of a government, or a collection of like-minded leaders, in, say, Africa,

occurred, the International Criminal Court in the Hague, would be gearing up for prosecutions. The tragedy of many tragedies in this case is that Bush and Blair remain untouchable and unaccountable." (The cost of a lie: Half a million dead in Iraq, www.huffingtonpost.com/william-j-furney/the-cost-of-a-lie, 23 January 2014)

But researchers at Brown University's Watson Institute for International Studies believe that the death toll is far higher. The Institute only counts direct violence which killed civilians - bombings, gunshot wounds, missile strikes, whatever. It does not include indirect deaths, such as occur when war creates refugees who cannot find food, clean water or adequate medical care. Nor does it include the lost limbs and emotional suffering which are a part of every war.

Figures produced in a study in the medical journal Lancet, Mortality before and after the 2003 invasion of Iraq: cluster sample survey (Mortality before and after the 2003 invasion of Iraq: cluster sample survey, by Drs. L. Roberts, R. Garfield, J. Khudhairi and G. Burnham, www.thelancet.com/journals/lancet/article/PIIS0140673604174412/, 20 November 2004), which gave 100,000 deaths in 2003-2004 alone, and a further Lancet study (Mortality after the 2003 invasion of Iraq: a cross-sectional cluster sample survey, by Drs. G. Burnham, R. Lafta, S. Doocy and L. Roberts, www.thelancet.com/journals/lancet/article/PIIS0140-6736(06)69491-9/, 12 October 2006), which showed a figure of 655,000 from 2003-2006 inclusive - indicate a far higher level of mortality.

Then came the already mentioned, more recent study (Body Count, Casualty Figures after 10 Years of the 'War on Terror' Iraq, Afghanistan, Pakistan, First international edition, March 2015) by the Nobel-prize winning Physicians for Social Responsibility, which showed as many as 1.3 – 2 million Iraqis and Afghanis were killed in the Iraq and Afghan wars which involved the U.S.-led coalition.

The Physicians for Social Responsibility study was heavily critical of the figures quoted by the Iraq Body Count. For instance, the I.B.C. recorded just three airstrikes in a period in 2005, when the number of air attacks had in fact increased from 25 to 120 that year.

According to the P.S.R. study, the much-disputed Lancet study was likely to be far more accurate than I.B.C.'s figures. In fact, the report confirms a virtual consensus among epidemiologists on the reliability of the Lancet study.

In an article in Middle East Eye, Dr. Nafeez Ahmed wrote that "the US-led war from 1991 to 2003 killed 1.9 million Iraqis; then from 2003 onwards around 1 million: totalling just under 3 million Iraqis dead over two decades." He added that the overall figures of fatalities from western interventions in Iraq and Afghanistan since the 1990s - from direct killings and the longer-term impact of war-imposed deprivation - constituted "around 4 million (2 million in Iraq from 1991-2003, plus 2 million from the 'war on terror'), and could be as high as 6-8 million people when accounting for higher avoidable death estimates in Afghanistan." (Unworthy victims: Western wars have killed four million Muslims since 1990, www.middleeasteye.net/columns/unworthy-victims-western-wars-have..., 8 April 2015)

On 27 April 2010, and not for the first time, Amnesty International called on the Iraqi authorities urgently to step up the protection of civilians amid the surge of deadly violence in the country.

A new Amnesty International report, 'Iraq: Civilians Under Fire', documented how hundreds of civilians were being killed or injured each month. Many were specifically targeted by armed groups because of their religious, ethnic or sexual identity or because they spoke out against human rights abuses.

"Iraqis [were] still living in a climate of fear, seven years after the US-led invasion. The Iraqi authorities could do much more to keep them safe, but over and over they [were] failing to help the most vulnerable in society." said Malcolm Smart, Amnesty International's Middle East and North Africa Director.

Human rights defenders, journalists and political activists were among those who had been killed or maimed in Iraq because of their work. Religious and ethnic minorities also continued to be targeted for attack.

As a result of the ongoing insecurity, hundreds of thousands of Iraqis, including a disproportionately high number of minority communities, had been forced to flee their homes. Internally displaced people and refugees were even more vulnerable to violence, as well as economic hardship. (Iraq's civilians under fire, 27 April 2010 Iraq: Civilians under fire - Document | Amnesty International, https://www.amnesty.org/en/documents/MDE14/002/2010/en, 27 April 2010)

There was already evidence of indiscriminate killings in an article in Voltaire Network: "They Fled Away 'Like Gangsters': Murder and Greed in Baghdad" (H.P. Albarelli Jr, "They Fled Away Like Gangsters": Murder & Greed in Baghdad ... www.voltairenet.org/article167381.html, 22 October 2010) and in Shadowproof: "Fourteen other incidents of Blackwater firing in Iraqi civilians", (Emptywheel', Fourteen Other Incidences of Blackwater Firing on Iraqi ... https://shadowproof.com/2010/10/22/fourteen-other-incidences-of.., 22 October 2010)

Australia withdrew most of its troops in mid-2008.

Last British forces withdrew in May 2011. British forces were part of the initial 2003 invasion and the last British combat troops left in July 2009.

The last convoy of U.S. soldiers departed from Iraq in December 2011, leaving behind a country grappling with political uncertainty: a 'nominal' democracy still facing insurgents, sectarian tensions and the challenge of defining its place in an Arab region in turmoil.

For President Barack Obama the military withdrawal was the belated fulfilment of an election promise to bring troops home from a conflict inherited from his predecessor. For Iraqis, though, the U.S. departure brought a sense of apparent sovereignty, troubled by fears that the country might have fallen once again into the kind of sectarian violence which cost the life of many thousands of people at its peak in 2006-2007.

An agreement for several thousand U.S. troops to stay on as trainers fell apart over the sensitive issue of legal immunity. Only around 150 U.S. troops remained in the country attached to a training and cooperation mission at the huge U.S. embassy.

For many Iraqis, security remained a worry. American and foreign companies were already helping Iraq develop the world's fourth-largest oil reserves.

As at March 2010 there were 95,461 Department of Defense contractor personnel in

Iraq compared to approximately 95,900 uniformed personnel in-country.

Contractors perform a wide range of services. As at March 2010, 62,295 personnel - 65 per cent of contractors - performed base support functions such as maintaining the grounds, running dining facilities, and performing laundry services. Security was the second most common service provided, with 11,610 personnel - 12 per cent of contractors.

These data indicate that, as the services required by the Pentagon change during the course of operations, the percentages of contractors providing different types of services also change. The number of Pentagon contractors in late 2008 reached over 163,000.

Of the approximately 95,500 contractors in Iraq as at March 2010, 24,719 were American citizens, 17,193 were local nationals, and 53,549 were third-country nationals. Third-country nationals made up more than half of all contractor personnel.

Contracting local nationals is an important element in counterinsurgency strategy. Employing local nationals injects money into the local economy, provides job training, and can give the U.S. a more sophisticated understanding of the local landscape.

As at March 2015 the Department of Defense only had about 250 civilian contractors in Iraq supporting the 2,700 U.S. troops deployed there; but a handful of new solicitations and potential contracts would soon add to that number.

For the past two decades, the resource-heavy American way of war has dictated that where U.S. troops go, civilian contractors follow. It is a way of doing business which has become ingrained in the Pentagon's policy as end strength has slowly been whittled away while global commitments show no sign of slackening.

In Iraq - as a Pentagon official said - Department of Defense contractors are tightly focused in their activities, "primarily performing translator/interpreter, communications, logistics, and maintenance functions."

Overall, there remain about 5,000 mainly State Department contractors in Iraq, which represents a relatively modest footprint as compared to previous years, where there were over 160,000 during the height of the fighting. There are also 54,000 civilian contractors working across the Middle East for U.S. Central Command.

While their numbers are still relatively small in Iraq, the use of contractors in American military deployments in recent years has stirred plenty of controversy - particularly the use

of security contractors. Critics have charged that the use of civilians to perform so many non-combat functions has served to downplay the true size of the American commitment.

There have also been plenty of issues revolving around poor contract oversight, human rights issues revolving around contractors from third-world countries, and plenty of waste, fraud, and abuse. In fact, the Commission on Wartime Contracting has reported that as much as US$ 60 billion was lost to waste or fraud in Iraq, as contractors often subcontracted out to other contractors and the trail of money went wobbly.

By May 2015 the U.S. government was preparing to boost the number of private contractors in Iraq as part of President Barack Obama's growing effort to beat back Islamic State militants threatening the Iraqi government.

Still, the preparations to increase the number of contractors - who can be responsible for everything from security to vehicle repair and food service - underscored Obama's growing commitment in Iraq. When U.S. troops and diplomats venture into war zones, contractors tend to follow, doing jobs once handled by the military itself. They are, essentially, mercenaries, modern soudeours to deal with Hajji, gooks, boongs and Untermenschen - the term first used by American author Theodore Lothrop Stoddard in the title of his 1922 book The Revolt Against Civilization: The Menace of the Under-man (New York 1922).

The killings at Haditha generated some media coverage - there have been eight mentions in national British newspapers. One-off horrors of this kind are generally covered in brief and in isolation. During the Vietnam war, the U.S. massacre of up to 500 civilians at My Lai eventually received substantial media coverage. To this day, My Lai continues to be presented as an isolated incident. In reviewing Haditha, The Daily Mail wrote, for example: "It has chilling echoes of America's darkest hour in Vietnam [My Lai]." (C. Laurence, The Daily Mail, 22 March 2006)

But in fact My Lai, part of Operation Wheeler/Wallowa, was unusual only in that it was reported. Newsweek journalist Kevin Buckley wrote: "An examination of that whole operation would have revealed the incident at My Lai to be a particularly gruesome application of a wider policy which had the same effect in many places at many times. Of course, the blame for that could not be blamed on a stumblebum lieutenant. Calley was an aberration, but 'Wheeler Wallawa' was not." (N. Chomsky and E. Herman, The Political Economy of Human Rights, Volume 1, Boston 1979, at 317)

After Islamic State seized large swaths of Iraqi territory and the major city of Mosul in June 2014, President Obama ordered U.S. troops back to Iraq. In April 2015 he authorised roughly doubling the number of troops to 3,100, although they would have been in non-combat roles.

After declining since late 2011, State Department contractor numbers in Iraq had risen slightly.

The presence of contractors in Iraq, particularly private security firms, has been controversial since a series of violent incidents during the U.S. occupation, culminating in the September 2007 killing of 14 unarmed Iraqis by guards from the Blackwater security firm.

Three former guards were convicted in October 2014 of voluntary manslaughter charges and a fourth of murder in the case, which prompted reforms in U.S. government oversight of contractors.

Virtually all the U.S. government contractors presently in Iraq work for the State Department. The withdrawal of U.S. combat troops from Iraq in 2011 left it little choice but to hire a small army of contractors to help protect diplomatic facilities, and provide other services like food and logistics.

On 14 May 2005 the Wikileaks logs alleged that Blackwater, a private American military company and security consulting renamed Academi in 2011, had shot at a civilian car. The shooting reportedly killed the driver, but also injured his wife and child. According to the logs, the Blackwater guards drove on.

A year later, on 2 May 2006, the logs claim that Blackwater guards opened fire on an ambulance attending the scene of an improvised explosive device attack. Again, a civilian - the ambulance driver - was killed.

There are other cases where Blackwater guards were alleged to have shown disregard even for their own lives. On one occasion, U.S. troops set up a road block after a car was seen dropping what looked like an improvised explosive device. A Blackwater convoy ignored them, rushing past and detonating the bomb.

Outrage at Blackwater's methods grew. A U.S. Army report dated February 2006 alleged that a Blackwater vehicle escorting U.S. diplomats through Kirkuk had broken down and that guards opened fire on an approaching taxi, killing both civilian occupants. The report detailed how residents took to the streets in protest. Only after discussions with Iraqi security

forces and local politicians, and the promise of a U.S. State Department investigation, did the crowds disperse. The promise made in 2006 that the Department of State would conduct an investigation seemed particularly troubling.

On 9 October 2007 an old Oldsmobile, carrying three women and a child, was travelling at about 25 kilometres per hour through a suburb of Baghdad, some forty metres in front of a sports utility vehicle when it was hit by four volleys of shots fired from the vehicle. This was one of several similar vehicles owned by a 'provider of risk related consulting, management and logistical services called Unity Resources Group Pty. Ltd.' The shooting provoked strong outrage in Iraq, since it followed closely on another Blackwater shootings on 16 September 2007 which led to the Iraqi government's attempt to ban Blackwater from Iraq. The attempt failed.

United Resources Group - U.R.G. is an Australian private military and security consulting company incorporated in Australia in 2000. The shareholders are mainly Australians. There are reports that several former British Special Air Service and Australian Special Air Service Regiment veterans and former New Zealand army commandos privately control U.R.G. During the first ten years of operation its registered place of business changed eight times.

It describes itself as having a "diverse client base, spanning government, non-government and multi-national business sectors." It claims to offer security, advisory, crisis, aviation and facility management services, and a particular 'cultural sensitivity'. U.R.G. controls private limited companies in Australia and, additionally, in Asia: Unity Resources Pakistan Ptv Ltd, Unity Resources Group Pte Ltd; in the Middle East: Unity Resources Group Pte Ltd – Iraq; in Africa: Unity Resources Group (Kenya) Ltd and Europe : Unity Resources Group UK Ltd and Unity Aviation Ltd. It has extensive operations in North and South America as well as in Central Asia.

Towards the end of the hostilities in Iraq, U.R.G. developed the business from a small consultancy through to independently winning and managing a number of large contracts with multi-national corporations and government agencies. The company's employees are predominantly Australian nationals, although most of the guard duties at the Australian embassy in Baghdad have been performed by Chilean military veterans. Security personnel also comes from Colombia. U.R.G. is the security provider for United States Agency for International Development contractor R.T.I. International - formerly Research Triangle

Institute. One of R.T.I.'s declared purposes in Iraq is "to foster democratic local government."

In 2008 U.R.G. would win a contract with the Australian Department of Defence to supply troops in the Uruzgan Province, Afghanistan.

Within days of the event in Baghdad, U.R.G.'s chief operating officer Mr. Michael Priddon said that at the time the security detachment gave several warnings to the women as their car sped towards the convoy.

Priddon refused to reveal whether the security personnel involved in the shooting were Australian.

Iraqis who witnessed the incident confirmed that no warnings, verbal, hand signals, shots or flares were used prior to the Oldsmobile being sprayed with gunfire. One witness who worked at a shop overlooking the scene told local policemen that the back door of the contractors suddenly opened and several armed men within the vehicle jumped out and opened fire on the Oldsmobile. Several other witnesses on the street charged that the occupants of the Oldsmobile were fired upon without cause and that the 'security men' appeared to have no compulsions about firing into the Oldsmobile.

Speaking about the shooting days after it occurred, the brother of one of the women killed, Dr. Paul Manook, said: "I will [pursue legal action], but it is not only compensation I am after. It is a review, and a thorough investigation into the practices of these companies." Dr. Manook, who lives in England, said of security contractors operating in Iraq: "These people don't understand Arab culture, or the sensitivities of the local population. I don't think they have proper training in these conditions, and [they] seem to kill people without restraint." And he added: "Western governments also need to ask themselves whether the use of private armies is morally justified."

The company defended the actions of its employees and was subsequently cleared of any wrongdoing.(Mary Dunn, Security company Unity Resources Group defends shooting, The (Melbourne) Herald Sun, 11 October 2007)

In April 2008, Mr. Paul Wolf, an attorney from Washington, D.C. filed a lawsuit against R.T.I. International and U.R.G. on behalf of the father of the woman who had been killed while she was the front-seat passenger in the Oldsmobile.

According to Wolf's complaint filed in the U.S. District Court for the District of Columbia, the passenger and the driver, Dr. Paul Manook's sister, Ms. Antranick were shot to death by U.R.G. employees despite that neither she nor the driver of the Oldsmobile, Mary Awanis Manook, posed any threat whatsoever to the U.R.G. employees, who prior to the shooting "had just dropped off an employee of R.T.I. and were returning to their base of operations."

Wolf's suit explained that the two women "were returning home from church at the time of the incident." He was also able to produce a statement by an Iraqi policeman who had been present at the scene "to the effect that U.R.G. armoured convoy" sped off 'like gangsters' after the shooting, leaving Ms. Antranick and Ms. Manook to die. The U.R.G. employees did not call an ambulance or otherwise try to rescue or assist the people they had just shot.

"[The] defendants have created and fostered a culture of lawlessness among their employees and agents, encouraging them to act in defendants' financial interests and at the expense of the lives of innocent bystanders." the claim said. "[They] have acted with evil and malicious intent in promoting their business interests at the expense of innocent human life. Defendants have earned, and continue to earn, huge profits from the war in Iraq."

The suit went on to state: "This is not the first time URG employees have killed defenseless people in Baghdad. [In June 2007] URG employees killed 72-year old Kays Juma when he failed to stop at a security checkpoint. On or about June 24, 2007, Defendant's [U.R.G.] agents shot another civilian in the Karada neighborhood." Kays Juma was an Australian and college professor who had lived in Baghdad for 25-years, and drove his vehicle on the same route nearly every day for all of those years.

Finally, Wolf's suit alleges, "Defendants [U.R.G.] have acted with evil and malicious intents in promoting their business interests at the expense of innocent human life. Defendants have earned, and continue to earn, huge profits for their work in Iraq."

R.T.I. and U.R.G. sought promptly to have Wolf's suit dismissed. Wolf countered with filed opposition to R.T.I.'s and U.R.G.'s motions to dismiss. Argued Wolf, R.T.I. was "liable for aiding and abetting in the murder of the two women "because RTI was acting under color of state law in its work to reorganize the Iraq government." Wolf argued further that R.T.I. had "its own duty to Ms. Antranick regarding its hiring and supervising of URG" and that "it breached its duty, knew of the risk of harm it was creating and this was the proximate cause of Ms. Antranick's death."

In March 2010, however, a U.S. federal judge ruled on Wolf's complaint finding that R.T.I. could be sued in the U.S. for the deaths of the women in Iraq. The judge granted Wolf jurisdictional discovery over U.R.G. The security firm reportedly did not comply with scheduled proceedings, and instead argued that because the judge had dismissed the federal claims there was no diversity of citizenship and therefore the state diversity tort claims must be dismissed. U.R.G. missed at least two deadlines set by the judge. Said Wolf at the time, "Worst case is that Unity will be dropped from the case, and we will be left suing RTI, and have to sue URG separately in another country like Australia or [the United Arab Emirates]."

Wolf lost his case in August when it was dismissed, without prejudice, in federal court in North Carolina on purely technical grounds.

Wolf filed the case anew in federal court in Washington, D.C. Assigned to a judge in Billings, Montana, the judge accepted the claims on the grounds of wrongful death and other torts. That judge then sent the case to North Carolina, where R.T.I. is headquartered. The judge in North Carolina then held that his court could not hear state law claims brought by one alien - in the case the estate of a non-citizen - against another alien such as U.R.G.

The lawsuit against R.T.I. and U.R.G. received serious press attention in Australia. The Sydney Morning Herald commented that "The security company guarding the Australian embassy in Baghdad has been involved in at least 39 shootings - probably dozens more - and has fostered 'a culture of lawlessness' among its employees."

In the Australian Senate, Senator Dr. Russell Trood, Liberal from Queensland, said: "I do have concerns about the contract [granted in 2009 to guard the Australian embassy in Baghdad for $ 9 million-a-year]. I have concerns about awarding a contract to a company that has a long history of, if not lawlessness, then certainly a long history of allegations being made about its behaviour." And he asked: "Is the [government] aware of the current proceedings? And what did they do to determine that Unity was a fit and proper organisation to be awarded the contract in light of the US proceedings?" (D. Welch, Embassy security contractor accused of lawlessness, World, The Sydney Morning Herald, 16 October 2010)

Nor was much value placed by British troops on the lives of the Iraqi people.

Some of Britain's most senior military and political figures came a step closer to facing a war crimes inquiry in May 2014, as the International Criminal Court announced that it would make a "preliminary examination" into claims of "systemic" abuse by British forces in Iraq.

The ground-breaking decision by the I.C.C. Prosecutor came in response to a detailed dossier presented to the I.C.C. in January. New evidence presented in the dossier, revealed exclusively in The Independent earlier in the year, included allegations of electrocution, mock executions, beatings, and sexual assault.

General Sir Peter Wall, the head of the British Army, former Defence Secretary Geoff Hoon, and former Defence Minister Adam Ingram, were among those named in the evidence submitted by Public Interest Lawyers, which incidentally stopped offering legal services and/or advice on 31 August 2016, and the European Center for Constitutional and Human Rights, E.C.C.H.R., an independent, non-profit legal organisation which enforces human rights by holding state and non-state actors responsible for abuses through innovative strategic litigation. More than 400 individual cases were cited, representing "thousands of allegations of mistreatment amounting to war crimes of torture or cruel, inhuman or degrading treatment."

In a statement on its website, the I.C.C. announced: "The new information received by the Office alleges the responsibility of officials of the United Kingdom for war crimes involving systematic detainee abuse in Iraq from 2003 until 2008." The I.C.C. is to look in detail at the evidence to "ultimately determine whether there is a reasonable basis to proceed with an investigation." Professor William Schabas, an expert on human rights law, based at Middlesex University, said: "This is a very positive development. It shows the matter is being taken very seriously in The Hague."

He said that the likes of Mr. Hoon, Mr. Ingram and Sir Peter Wall "should be very worried" and "can't assume that, because they are important people in the British establishment, that they are immune from the reach of the law."

Cori Crider, strategy director of Reprieve, said: "Today's announcement by the ICC should put the UK and other rich democracies on notice: fail to account properly for war crimes or torture and you could find your officials in the dock at the Hague one day."

The head of the British Army, Sir Peter Wall, is named in the dossier submitted to the I.C.C.

But in a statement on 13 May 2014, Attorney General Dominic Grieve said the Government "completely rejects" claims that British forces had been responsible for systemic abuse and pledged to do "whatever is necessary" to show any allegations were being dealt with within the British justice system. He described British soldiers as "some of the best in the world"

and said “the vast majority” of the armed forces “operate to the highest standards, in line with both domestic and international law.” Mr. Grieve added: “I will provide the office of the prosecutor with whatever is necessary to demonstrate that British justice is following its proper course.”

The Ministry of Defence did not respond to a request for comment, but General Lord Dannatt, former chief of defence staff, told The Independent: “I fully support the principle that where credible accusations of misconduct by British soldiers are made then they should be investigated and the due process of law be applied to anyone proven to have done wrong.”

He added: “There have been isolated cases of misconduct in Iraq - the Baha Musa case was one example - but I am deeply sceptical that allegations of widespread misconduct and abuse will be upheld. I suspect mischief on the part of those seeking compensation.”

However, Clive Baldwin, senior legal advisor for Human Rights Watch, said: “The British military justice system has failed for a decade to properly investigate criminal responsibility in the hundreds of allegations of war crimes in Iraq, especially of senior military and political commanders.” He welcomed the I.C.C.’s decision and said it “should be taken as a final warning by the UK authorities that they need to ensure proper independent criminal investigations, including of senior military and political commanders now.”

Phil Shiner, of Public Interest Lawyers, said: “This is an unprecedented and extremely important breakthrough in a 10 year struggle for accountability for the criminality that was the UK’s detention and interrogation policies in Iraq. The prosecutor has recognised that the gravity threshold has been crossed and that accordingly she must investigate thoroughly whether war crimes have been committed under article 8 of the ICC statute, and if so who was responsible, in particular at the top of the chain of command including: politicians, senior civil servants, lawyers, Chief of Defence Staff and Chief of Defence Intelligence.”

Carla Ferstman, director of human rights charity Redress, said: “Until justice is done and seen to be done in all outstanding detainee abuse cases, the ICC most certainly has grounds to pursue allegations of systematic detainee abuse by UK troops in Iraq. The ICC has jurisdiction if a country is unable or unwilling to investigate or prosecute. To date, the UK has failed to mount credible prosecutions which reflect the extent and gravity of the abuse allegations. In the notorious case of Baha Mousa, a hotel worker who was effectively tortured to death, a court martial judge blamed the weak evidence on a ‘more or less obvious closing

of the ranks', which prevented all the perpetrators who administered the blows from being identified. Criminal justice is not an optional policy objective but a clear obligation. We hope the renewed interest by the ICC Prosecutor will help ensure that justice is achieved, for the sake of the victims and for the sake of the rule of law."

Labour MP Madeleine Moon, a member of the Commons Defence Select Committee, said: "If the ICC has genuine concerns then they must be investigated and I am pleased to see the Attorney General offering to provide all of the information needed by the Court. There is always the risk that the actions of a few, as we saw in the recent Camp bastion trophy photographs, can besmirch the reputation of the many fine disciplined personnel in our armed forces. The suggestion of 'systemic abuse' is alarming and one I find difficult to imagine."

The I.C.C. has previously admitted that there was a "reasonable basis to believe that crimes within the jurisdiction of the court had been committed, namely wilful killing and inhuman treatment" by British forces in Iraq. Yet at that time, in 2006, prosecutors cited the low number of cases as a reason for not mounting an investigation. The years since have seen hundreds of cases emerge, and the decision marks another step along a process which could result in British politicians and generals being put in the dock on war-crimes charges, if the I.C.C. finds sufficient evidence to warrant an investigation under Article 15 of the Rome Statute. (J. Owen, Iraq inquiry: International Criminal Court will investigate 'abuse' by UK troops, www.independent.co.uk › News › UK › UK Politics, 14 May 2014)

The Iraq Inquiry Report contains much information about British troops and their behaviour during the invasion. It details failures starting with the exaggerated threat posed by Saddam Hussein through the disastrous lack of post-invasion planning. However, what is missing in the Report is any reference to alleged systematic abuse by British soldiers, despite the fact that many accusations have been and are presently being considered by a domestic investigative body as well as the International Criminal Court.

The claims relate to offences committed against Iraqis held in detention by British soldiers between 2003 and 2008. On the basis of a dossier outlining numerous incidents, the I.C.C. Prosecutor Fatou Bensouda in 2014 reopened a preliminary examination into abuse allegations. The same examination, a step below an official investigation that could yield court cases at The Hague, was initially closed in 2006 for lack of evidence.

Submitted to the Court by the firm of Public Interest Lawyers and the Berlin-based European Center for Constitutional and Human Rights, the original communication were followed up by a second batch of cases in September 2015. By November 2015, the I.C.C. reported that it had received 1,268 allegations of ill treatment and unlawful killings committed by British forces. Of 259 alleged killings, 47 were said to have occurred when Iraqis were in U.K. custody.

Both Public Interest Lawyers and Leigh Day, a separate law firm, which has helped plaintiffs bring hundreds of parallel civil cases, have a long and tangled history with the British government. They face ongoing criticism for employing agents in Iraq to gather clients in the country and have them sign witness statements, and have been confronted with possible penalties for alleged improprieties during previous British inquiries.

According to a December 2015 Freedom of Information release, the United Kingdom government has already settled 323 cases, totalling some 19.6 million pounds. On the ground of confidentiality, the British government found itself unable to present further information.

“The [Ministry of Defence] doesn’t settle unless there’s good cause - that’s the fairest assumption.” said Andrew Williams, professor of law at the University of Warwick. “One would think that with almost 20 million pounds and 300 cases you are settling some significant allegations.”

Professor Warwick is the author of an account of the killing of Baha Mousa, an Iraqi hotel receptionist who died while in the custody of British soldiers in September 2003. That case led to the sole prison sentence handed to a British soldier for war crimes during the occupation of Iraq. Skirting charges of manslaughter, Cpl. Donald Payne pleaded guilty to the inhumane treatment of Mousa - who suffered 93 injuries while in custody before his death - and served just one year in prison. All other members of the British military tied to the case were acquitted.

Domestically, an investigative mechanism called the Iraq Historic Allegations Team has fielded 3,363 cases since it was founded in 2010, including 325 which involved unlawful killings. According to recent figures obtained by The Guardian, a further 1,343 stem from allegations of ill treatment. Public Interest Lawyers said that all the cases sent to the I.C.C. had also been provided to I.H.A.T.

In a rare interview, given to The Independent in early January 2016, the investigative unit's chief, Mark Warwick, said that his team was reviewing "serious allegations," including homicide, "where I feel there is significant evidence to be obtained to put a strong case before the Service Prosecuting Authority to prosecute and charge."

But it remains unclear how long those investigations will take, or how many British nationals may eventually face charges. A more important question, said Clive Baldwin, senior legal analyst at Human Rights Watch, is whether high-ranking officials will face charges. To his knowledge, no senior British politician or military officer has been put on trial for the crimes of their subordinates since 1651.

"Commanders who know or should have known and failed to take measures to prevent abuses can be criminally liable." said Baldwin. "None of the criminal investigations in the UK have attempted to address this."

The Iraq Inquiry decided it was unequipped to tackle individual cases of abuse. The inquiry wrote that it "did consider whether it might examine systemic issues related to the detention of military and civilian prisoners" but ruled against that in light of continuing "inquiries and investigations."

"Government will consider its findings carefully, and there will be a chance to study and debate the findings in depth." the Ministry of Defense said in a statement. "We will ensure that lessons are learnt and acted on."

It was precisely that systemic nature that human rights officials fear could be brushed under the rug, as it has been historically. On 18 November 2015, shortly after the I.C.C. released its annual report on preliminary examinations, Ms. Catherine Adams, the legal director at the U.K.'s Foreign and Commonwealth Office, told a meeting of I.C.C. member states that the British government "rejects the allegations that there was any systemic abuse by British forces in Iraq."

The I.C.C. prosecutor, has said that she would consider the contents of the report, as well as the results of the Iraq Historic Allegations Team. In line with its mandate, if domestic accountability measures are determined to be lacking, the I.C.C. could begin an official investigation. But that has always been seen as a distant possibility for powerful 'western' countries like the U.K.; in its history, the Court has never brought charges against any

individual outside of Africa. The I.C.C. has no jurisdiction over American abuses committed in Iraq, as neither the U.S. nor Iraq is a member. The United Kingdom is, however.

On 4 July 2016 Prosecutor Bensouda issued a statement in response to a Telegraph article which claimed that only members of the British armed force - and not former Prime Minister Blair - could be prosecuted for war crimes. That interpretation was "inaccurate" said the Prosecutor. While the Court does not yet have jurisdiction over "the crime of aggression" and "the specific question of the legality of the decision to use of force in Iraq in 2003," it does have remit over war crimes, crimes against humanity, and genocide, she wrote. She also refused to rule out prosecuting anyone, including Blair, for such violations.

The evidence presented to the I.C.C. by Public Interest Lawyers includes allegations which would likely constitute war crimes. In one case, British forces arrived late at night at the home of a 43-year-old man in Basra. According to the claim, the man was separated from his family, including his wife; his 17-year-old son was "taken into a separate room, beaten, and handcuffed." Soldiers then allegedly spent half an hour searching the house, destroying furniture and belongings. When his wife returned to the room, she found her husband "dead and covered with a blanket. He had been shot in the head."

Other allegations include prolonged beatings by soldiers, stabbings, and sexual assaults. One detainee account recounts being raped by British personnel, who forced themselves into his mouth. "Each time he was raped he was hooded but he saw the soldiers before they raped him and each time it was different soldiers." wrote lawyers summarising the claim. Another man, arrested just after the invasion in March 2003, said that, during some periods of detention, he "was raped or sexually assaulted every two hours."

It is uncertain whether claims like these can be proven more than a decade after they allegedly took place. In its most recent quarterly update, I.H.A.T. reported that it had closed or was near to closing investigations into 59 allegations of unlawful killing. In 56 of those cases, the complaint was deemed "not sustainable" and unfit for referral to prosecutors. In May 2016 the British Supreme Court dismissed the claims of 600 Iraqis who alleged they had been unlawfully detained or mistreated by U.K. armed forces during the occupation. Citing Iraqi law, the court ruled that too much time had passed since the incidents in question. (S. Oakford, International Criminal Court Investigates Human Rights ... https://theintercept.com/2016/07/08/international-criminal-court..., 08.July 2016)

Meanwhile there are still cases underway brought by Iraqi civilians before British courts and at the International Criminal Court, the cases alleging torture by British troops. The U.K. government has already settled 323 cases, totalling some 19.6 million pounds. In the U.K. courts the Iraq Historic Allegations Team has fielded 3,363 cases since it was founded in 2010, including 325 that involved unlawful killings by British troops.

Then came the ultimate surprise: British troops will not have to worry about human rights anymore. It was revealed on 4 October 2016 that the U.K. government intended to introduce a new bill seeking the exemption of British troops from any lawsuit filed against them pursuant to their behaviour in war zones.

The proposals are being finalised owing to the extended role of European Convention on Human Rights.

The legislators pressing for the approval of the bill justify the move citing the tough role of British troops in war zones. They opine that the action was necessary fearing the probable drop out of troops.

Under the proposals, while British soldiers would be protected from action under E.C.H.R. law, they would still be subject to international humanitarian law, including the Geneva Conventions of 1949 and United Kingdom criminal law.

Prime Minister Theresa May supports the proposed legislation adding that the bill was designed to protect the front line armed troops when they return back from war zones.

“We will repay them with gratitude and put an end to the industry of vexatious claims that has pursued those who served in previous conflicts.” she said.

The Ministry of Defence had spent a lot of money for an inquiry into Iraq-related investigations but, with the enactment of the new law, the troops fighting in war zones would not worry about their actions in conflict with basic human rights.

Justifying the proposed bill, Defence Secretary Michael Fallon lamented that the country’s legal system had been misused in baseless allegations against troops. “It has caused significant distress to people who risked their lives to protect us, it has cost the taxpayer millions and there is a real risk it will stop our armed forces doing their job.” he said.

The Iraqi nationals had filed complaints against the English troops alleging violence and unlawful killings. (British troops don't have to worry about 'Human Rights ...

https://en.dailypakistan.com.pk/world/british-troops-dont-have-to..., 4 October 2016)

Prime Minister Theresa May and the Minister of Defence Michael Fallon would soon be announcing that the United Kingdom would opt out of the European Convention on Human Rights to prevent vexatious victims' from using the Convention provisions to mount spurious legal claims against British troops. The Ministry of Defense has spent more than 100 million pounds on investigations, inquiries and compensations.

In future conflicts, the United Kingdom will be bound only by the Geneva Conventions.

Under the new plan, the U.K. government would put a time limit for new claims, after which no cases will be accepted. Legal firms will also be discouraged to bring lawsuits against British troops through reducing the financial incentives on a "no win, no fee" basis.

"Those who serve on the frontline will have our support when they come home." May will say in a joint statement with Fallon, according to a draft of her speech.

"Combined with the biggest defence budget in Europe, the action we are laying out today means we will continue to play our part on the world stage, protecting UK interests across the globe." (UK to opt out of European Convention on Human Rights, www.globalsecurity.org › … › News › United Kingdom › 2016 › October, 04 October 2016)

But that was the easiest explanation.

The British government also happens to be under investigation at the moment by the European Court of Human Rights, for the practice of bulk surveillance. But that is perhaps not as important for the Prime Minister as getting away with potential war crimes.

The key question to ask is: If Britain has nothing to hide, why have millions of pounds been paid out to victims in recent years ?

According to The Daily Mail, which is at the forefront of calls to exclude British troops from the human rights laws, 120 members of the Royal Military Police, the National Crime Agency, and the Greater Manchester Police are investigating alleged abuses by 150 British troops against 600 victims in Afghanistan. These investigations come under the auspices of

Operation Northmoor, its H.Q. based at R.A.F. St. Mawgan Cornwall, which cost 7.5 million pounds.

However, The Mail neglected to add that, in the Sunday 24 June 2012 edition, it had reported claims of abuse carried out by British soldiers in a secret network of prisons in an Iraqi desert. (D. Rose, UK soldiers beat innocent Iraqi men in black ops jails ...

www.dailymail.co.uk/news/article-2163799, 24 June 2012)

Sixty four Iraqi prisoners, captured by the Australian Special Air Service on 12 April 2003, were subsequently taken away on R.A.F. helicopters to a 'black site' at an oil pipeline pumping station, known only as H1.

This secret place was run by British Forces and the C.I.A. One of the 64, Tariq Sabri, was killed - it seems - by suffocation by a member of the R.A.F. regiment aboard one of the Chinook helicopters. According to a leaked R.A.F. report, two unconscious men - one of them being Sabri -were loaded into a Humvee truck, one on top of the other. By the time it reached the camp, Sabri was dead.

A further 1,200 cases of alleged abuse by British troops would be discarded after the government criticised the allegations made by 5,000 victims, represented by Public Interest Lawyers and the law firm Leigh Day. That still would leave 250 claims to be investigated by the Iraq Historic Allegations Team. Like Operation Northmoor, I.H.A.T. is another 'inside' job: its 145 personnel include police, civil servants and Royal Navy officers. The investigations have cost 30 million pounds.

The investigations by the I.H.A.T. have produced a list of 1,374 cases as at 6 May 2016, the latest update. Some of the cases investigated by the ten-year-long Al-Sweady Inquiry into human rights abuses against Iraqi nationals by British troops in the aftermath of a 2004 firefight - notably those associated with the Shaibah Logistic Base for British troops serving in Iraq under the Shaibah Logistics Base, around 10 miles south west of Al Basrah, Iraq serves as the main logistics base for British troops serving in Iraq under the name Operation Telic (Operation Iraqi Freedom)

The sprawling base covers the site of Shaibah airportShaibah Logistics Base, around 10 miles south west of Al Basrah, Iraq serves as the main logistics base for British troops serving in Iraq under the name Operation Telic (Operation Iraqi Freedom)

The sprawling base covers the site of Shaibah airport. Shaibah Logistics Base, around 10 miles south west of Al Basrah, Iraq serves as the main logistics base for British troops serving in Iraq under the name Operation Telic (Operation Iraqi Freedom)

The sprawling base covers the site of Shaibah airpname Operation Telic, Operation Iraqi Freedom - around 10 miles south west of Al Basrah, Iraq serves as the main logistics base for British troops serving in Iraq under the name Operation Telic (Operation Iraqi Freedom)are being examined by the International Criminal Court as part of a wider investigation into more than 1,200 cases. These include 259 civilian deaths and at least 47 Iraqi personnel who reportedly died in U.K. custody. Fourteen claims were made against a team of military and MI5 interrogators.

A preliminary investigation by the I.C.C. was compiled in 2014 based on several hundred allegations. (T. Coburg, The war crimes that Theresa May desperately wants to keep ..., www.thecanary.co/2016/10/06/the-war-crimes-that-theresa-may..., 6 October 2016)

And there is more.

Many of the claims concerned allegations by victims after they were sent to the Joint Forward Intelligence Team, J.F.I.T. based at Shaibah Logistics Base. J.F.I.T. interrogators allegedly included military, MI5 and civilian staff.

Snatch squads formed from the Australian Special Air Service and the British Special Boat Service squadrons brought suspects to Camp Nama for questioning by U.S. interrogators. Former members of Task Force 121 and its successor unit Task Force 6-26 described the abuses they witnessed.

Some of the detainees were moved to the U.K.-U.S. Joint Operations Centre, for further treatment in the blue, red, black and soft rooms, as well as a shipping container lined with padding. According to an investigation by Human Rights Watch, detainees were subject to "beatings, exposure to extreme cold, threats of death, humiliation and various forms of psychological abuse or torture."

The US despatched Stuart Herrington, a retired military intelligence colonel, to investigate Nama. In December 2013 he reported:

Detainees captured by Task Force 121 have shown injuries which caused examining medical personnel to note that ‘detainee shows signs of having been beaten’. It seems clear that Task Force 121 needs to be reined in with respect to its treatment of detainees.

The British contingent of Task Force 121 was Task Force Black, comprising Australian Special Air Service and British Special Boat Service troops. In the summer of 2014, Camp Nama was moved to Balad, where detainees were allegedly kept in dog kennels.

How long will the Australian Special Air Service behave like white Gurkhas ? And will a question like this be asked in the Australian Parliament ?

As far as the United States is concerned, it is clear that the Pentagon is hiding the dead, as Alison Banville wrote on 23 April 2015 and Dr. Nafeez Ahmed has recently documented in a larger study by the title: “

How the Pentagon is hiding the dead - The secret campaign to undercount the ‘war on terror’ death toll in the Middle East, Central Asia, and Latin America.” (How the Pentagon is hiding the dead - BSNEWS

bsnews.info/how-the-pentagon-is-hiding-the-dead, 21 April 2015)

The article opens with the following broadside: “In the name of ‘counting every casualty,’ the Pentagon is systematically undercounting deaths from the ‘war on terror’ and the ‘war on drugs,’ in the Middle East, Central Asia, and Latin America. Complicit in this great deception are some of the world’s most respected anti-war activists.

In this exclusive investigation, Insurge Intelligence reveals that a leading anti-war monitoring group, Iraq Body Count (IBC), is deeply embedded in the Western foreign policy establishment. IBC’s key advisers and researchers have received direct and indirect funding from US government propaganda agencies and Pentagon contractors. It is no surprise, then, that IBC-affiliated scholars promote narratives of conflict that serve violent US client-regimes and promote NATO counter-insurgency doctrines.

IBC has not only systematically underrepresented the Iraqi death toll, it has done so on the basis of demonstrably fraudulent attacks on standard scientific procedures. IBC affiliated

scholars are actively applying sophisticated techniques of statistical manipulation to whitewash US complicity in violence in Afghanistan and Colombia.

Through dubious ideological alliances with US and British defense agencies, they are making misleading pseudoscience academically acceptable. Even leading medical journals are now proudly publishing their dubious statistical analyses that lend legitimacy to US militarism abroad.

This subordination of academic conflict research to the interests of the Pentagon sets a dangerous precedent: it permits the US government to control who counts the dead across conflicts involving US interests—all in the name of science and peace." (How the Pentagon is hiding the dead – INSURGE intelligence,

https://medium.com/insurge-intelligence/how-the-pentagon-is-hiding, 21 April 2015)

It is safe to say that the occupation of Iraq resulted in over a million Iraqis with millions injured. Coalition forces were involved in widespread and systematic torture, as well as mass killings of innocent civilians. They also pursued a divide-and-rule strategy between Shia, Sunni and Kurds which has resulted in an ongoing sectarian conflict which still rages - on 3 July 2016 a single bombing in Baghdad killed 281 civilians. This sectarian conflict has directly led to the development of I.S.I.S. and given fuel to the fire of Islamic fundamentalism the attacks of which around the world have increased substantially since the invasion. It makes Bush, Blair and Howard's stated intention of a 'war on terror' look risible.

In 2007, when Blair resigned as prime minister, Robert Harris, a former Fleet Street political editor, dropped his other work to write The ghost, a contemporary political thriller. The ghost of the title refers both to a professional ghost-writer, whose lengthy memorandum forms the novel, and to his immediate predecessor who, as the action opens, has just drowned in mysterious circumstances.

The dead man had been ghosting the autobiography of a recently unseated British prime minister named Adam Lang, a thinly disguised version of Blair. The fictional counterpart of Cherie Blair is depicted as a sinister manipulator of her husband. So astonishing are the implied allegations of the roman à clef that, had it concerned a lesser figure and were Harris a

less eminent novelist, Britain's libel laws might have rendered publication impossible: Harris told The Guardian before publication, "The day this appears a writ might come through the door. But I would doubt it, knowing him. The thriller acquires an added frisson from the fact that Harris was an early and enthusiastic supporter of Blair and a donour to Blair's 'New Labour' funds. The New York Observer, headlining its otherwise hostile review The Blair Snitch Project, commented that the book's 'shock-horror revelation' was 'so shocking it simply can't be true, though if it were it would certainly explain pretty much everything about the recent history of Great Britain.' " (C. Bray, Observer.com/2007/11/the-blair-snitch-project-thriller-pulps-brita, November 2007)

American troops are now left alone in Iraq, 'assisting' their client state's forces.

On 7 June 2016 the Geneva International Centre for Justice - G.I.CJ. sent an urgent appeal to the United Nations High Commissioner for Human Rights, to the competent mandate holders and to all United Nations member states to express its distress about the deteriorating security situation in Fallujah, which was now close to being 'liberate' for the third time by U.S. troops and newly trained Iraqi forces. On 22nd May 2016 a destructive military offensive against the city had begun under what was the blatant pretext of 'fighting terrorism', according to the Iraqi authorities. The battle was meant 'to liberate Fallujah' from the so-called Islamic State of Iraq and Syria - I.S.I.S., and was intended to be carried out by the Iraqi army and affiliated militias, 'supported' by U.S. air cover and Iranian military advisors on ground.

A few days after the start of the military campaign G.I.C.J. sent an urgent appeal to the United Nations Secretary-General and to the United Nations High Commissioner for Human Rights. G.I.C.J. headed it: 'With US cover and Iranian support, a war of extermination against Fallujah starts', 24th May 2016. Three days after the Centre sent a letter to the President of the United States, to express its deep concern towards the growing number of civilian casualties resulted from the deadly attacks at the hands of the security forces as well as the American air forces, in what was pronounceable as the umpteenth sect-oriented offensive. (Geneva International Centre for Justice to president Obama: It is a shame to cooperate with militias and Qasem Soleimani). It minced no words: "Moreover, the participation on ground of Qaseem Soleimani, commander of the Iranian Quds Forces and widely known terrorist, makes your support even more controversial."

The Centre expressed its deep concern towards the growing number of civilian casualties resulted from the deadly attacks at the hands of the security forces as well as the American air forces, in what was pronounceable as the umpteenth sect-oriented offensive.

Military operations were being carried out through the indiscriminate shelling of air missiles and other artillery over a wide range of buildings. The bombardments were most obviously affecting the many civilians who were still in the city: a precise estimate of the number of residents remaining in Fallujah was not available - Iraqi authorities stated there are about 50,000 civilians, whereas various local sources placed this number to approximately 196,000. Regardless of what information is correct, the number of people whose life was in extreme danger was dramatically high compared to the mere 500 Islamic Sate fighters who were claimed to be in the city.

The Centre noted: "As it is openly recognized by the US and Iraqi authorities, ISIS targets are extremely dynamic and move rapidly around the city, mixing up with civilians. For such reason, conducting a campaign of indiscriminate shelling and using such kind of weaponry could not be less counterproductive, if the purpose was really that of 'fighting terrorism and protect civilians', as claimed by the Iraqi authorities.

Bombardments, as technologically accurate as they might be, are not suitable for such dynamic targets, especially since they are using weapons with great destructive power, ultimately resulting in the complete destruction of vast areas of the city, which have almost completely been swept away, and, as a consequence, in a rising number of civilian casualties and injuries, including people getting trapped under the rubble without any kind of rescue operation provided."

In addition to indiscriminate shelling, the Fallujah Hospital had also been repeatedly bombed by aerial missiles on 25 and 26 May 2016, causing several damages to the building as well as the destruction of essential medical equipment. This deeply undermined the possibility of injured or sick civilians to receive healthcare.

Actually, this was not the first time: in 2004, at the beginning of their attack on Fallujah - the first 'liberation' - U.S. Marines and Iraqi National Guard troops stormed Fallujah General Hospital, closing it to the city's wounded and confiscating cell phones from the doctors. A senior officer claimed that the hospital was 'a centre of propaganda.' Interviews

with hospital personnel, which had revealed the extent of civilian casualties in an aborted April 2004 attack, were unable to confirm.

As the battle proceeded, air strikes reduced a smaller hospital to rubble and smashed a clinic, trapping patients and staff under the collapsed structure. With the main hospital empty and other facilities destroyed, only one small Iraqi military clinic had remained to serve the city.

U.S. forces proceeded to cut off Fallujah's water and electricity. About 200,000 residents were forced to flee. Those who remained faced a grim existence; they were afraid to leave their homes for fear of snipers and they had little to eat and only contaminated water to drink.

Public buildings, mosques and residences were assaulted by air and ground forces. The city, largely depopulated, was occupied by U.S. forces. Convoys sent by the Iraqi Red Crescent to aid the remaining population had been turned back. Diseases brought on by bad water were spreading in Fallujah and the surrounding refugee camps.

The means of attack employed against Fallujah are illegal and cannot be justified by any conceivable ends. In particular, the targeting of medical facilities and denial of clean water are serious breaches of the Geneva Conventions. Continuation of these practices will soon confirm what many already suspect: that the United States of America believes it is above the law.

In 2005, to prevent more harm, calls had gone out for: 1) a withdrawal of U.S. troops from Fallujah, allowing unrestricted access for independent relief agencies such as the Red Crescent; 2) an independent investigation into violations of international law in Fallujah, as called for by Louise Arbour, then the United Nations High Commissioner for Human Rights on 16 November 2004; and 3) a campaign to deny any further supplemental budget requests which may, in fact, fund war crimes. (J. McDermott and R. Rapport, Investigate alleged violations of law in Fallujah attack ...,www.seattlepi.com/local/opinion/article/Investigate-alleged..., 10 January 2005)

Louise Arbour, CC GOQ is a distinguished Canadian lawyer, prosecutor and jurist. She was the High Commissioner for Human Rights, and would go on to become a justice of the Supreme Court of Canada and the Court of Appeal for Ontario and a Chief Prosecutor of the International Criminal Tribunals for the former Yugoslavia and Rwanda. From 2009 until 2014, she served as President and CEO of the International Crisis Group.

The High Commissioner was particularly worried over poor access by civilians still in the city to the delivery of humanitarian aid and about the lack of information regarding the number of civilians casualties. Commissioner Arbour was determined that all violations of international humanitarian law and human rights law be investigated and those responsible for breaches - including deliberate targeting of civilians, indiscriminate and disproportionate attacks, the killing of injured persons and the use of human shields - must be brought to justice, be they members of the Multi-National Force – Iraq or others.

Reported incidents alleging violations of the rules of war include the shooting by a US marine of a wounded, unarmed Iraqi prisoner in a Fallujah mosque who was said to be pretending to be dead, now under investigation by the US military (Military investigating possible Fallujah war crime by US ...,

www.jurist.org/paperchase/2004/11/military-investigating-possible.php)

Additionally, an Associated Press photographer who witnessed the siege of Fallujah reported seeing American soldiers shoot dead a family of five attempting to cross the Euphrates River in an attempt to flee the city.

Such actions - the Centre complained - "are in clear contravention of the 1949 Geneva Conventions, and, in particular, of the Fourth Convention relative to the Protection of Civilian Persons in Time of War."

The Centre had information that more than 1,000 civilians escaped the conflict to the nearest unit, which belongs to al-Hashd al-Shaabi, the militia umbrella organisation (Popular Mobilisation Forces).

But, instead of being provided with support and assistance, these refugees were detained on the claim to allegedly belonging to I.S.I.S., in places where they had no access to food or water, where they were subjected to torture and other degrading and inhuman treatment, which resulted in about 200 deaths. Most of the dead bodies were reported to be burnt or thrown in the Euphrates.

Those who managed to be released, roughly 650 persons, carried signs and marks of torture on their bodies, and complained that the militias had been practicing all kinds of ill-treatments, including verbal and psychological abuse of sectarian connotation, and other

forms of physical abuse. One hundred and fifty of them presented body fractures, such as broken legs and arms, and more than 100 showed signs of severe burns on their back and their chests. Many women had been separated from their families and harassed by the militias. According to the survivors a large number of persons were still missing.

On 27 May 2016 the Centre received documented proof that a militia organisation called Risaliyon, under command of the Iraqi parliament member Adnan Al Shahmani, slaughtered 17 civilians in the city of al-Karmah. Those were part of a 73 men group who were abducted after escaping from I.S.I.S. and then detained and taken to the Rashad area, north-east of al-Karmah. The fate of the remaining 56 persons of the group is unknown.

All of the atrocities committed by militias and some army units are part of a systematic policy of revenge which intentionally targets the population of these cities. In these regards, al-Hashd al-Shaabi has been reported to have bombed mosques on a pure sectarian basis. Such actions are classifiable as no less than war crimes and crimes against humanity and deeply contravene international law and human rights law.

The already fragile humanitarian situation has rapidly deteriorated following the attacks on Fallujah. Most displaced people who managed to escape the city and the vindictive fury of the militias have faced many challenges. So far at least 18 people have been reported to have died while they were trying to cross the Euphrates. Many others were living in degrading conditions. Such inadequate conditions were affecting mostly children and women, whose lives were day after increasingly at risk.

This was due to the failure of the Iraqi government to prepare the necessary assistance and shelter to displaced people before starting the campaign. Still, some humanitarian organisations managed to deliver some food and tents, but this had not ben enough to assist the thousands of displaced persons escaping Fallujah.

The Iraqi authorities - the Centre complained - were trying to convince the international public opinion that they were against the above-described militia violations, and claimed in multiple occasions that these were isolated cases of misbehaviour and promised that they would investigate such crimes and bring those responsible to justice. However, there had been no real effort or actual commitment to hold those responsible for the abuses accountable. Perpetrators not just enjoyed impunity, but also benefited from the full support

of the government in what was now most clearly a systematic sectarian policy applied on a large-scale, especially directed against the Sunni members of the Iraqi society.

Prime Minister al-Abadi claimed he is committed to avoid casualties in Fallujah, nevertheless the incidents showed his lack of action to that end.

The atrocities committed against civilians were under everyone's eyes and could not be more evident. Many prominent Iraqi figures had expressed their concerns and made appeals for the violations to stop.

Even those tribes which were participating in the fight against I.S.I.S. explicitly called on the Iraqi authorities to prevent the militias to take part in the conflict.

In light of the increasingly dramatic situation inside Fallujah and the surrounding areas, where innocent people were being killed by indiscriminate shelling at the hands of the Iraqi army and affiliated militias, and the so-called U.S.-led "International Coalition" - the Centre explained - it was urgent to call on the international community, and, in particular on the United Nations relevant bodies to take action and pressure the Iraqi authorities, as well as the U.S.-led Coalition, immediately to stop the indiscriminate bombing over the area.

The Centre expressed once again its strong opposition to terrorism. But - it observed - as indicated in previous press releases the adopted policies, not just in the country but in general across the globe, had only proved ruinous to civilians and their cities and have only resulted in the increase of terrorist activities.

Furthermore, due to the grave human rights violations inflicted by various militia organisations upon civilians, who still managed to escape the fighting, the Centre urgently called on the United Nations relevant bodies to do whatever is in their power to pressure Iraqi authorities immediately to stop supporting and cooperating with militias, and instead proceed to de-legitimise and disarm such criminal organisations. In addition, all those countries which have representation in Iraq should do whatever they can to de-legitimise these groups by immediately refraining from engaging with them.

The Geneva International Centre for Justice expressed its appreciation for the appeal made by the High Commissioner for Human Rights on the 7 June 2016 urging "the Iraqi Government to take immediate measures to ensure that all people fleeing the Islamic State of Iraq and the Levant (ISIL)-occupied city of Fallujah are treated in strict accordance with international

human rights and international humanitarian laws" (UN, News Centre, Civilians fleeing Fallujah 'facing double jeopardy' – UN rights chief, 7 June 2016) and considered this as an important step in the right direction. It was also convinced that more must be done to ensure that enough pressure is put on the Iraqi authorities to allow citizens still trapped in the city safely to escape the conflict. In addition, once they had managed to do so, a greater degree of humanitarian assistance, including water, food and shelter should be provided.

Finally, the Centre pressed the High Commissioner for Human Rights to demand that the Iraqi Government show its commitment to protecting civilians by fully investigating any violations of human rights. However, it was the view of the Centre that the Iraqi authorities could not be relied on in conducting this task as they were in fact complicit in the violations and had demonstrated too many times that they would not discontinue such practice. The Centre called therefore on the United Nations relevant bodies, and in particular the Office of the High Commissioner for Human Rights, to dispatch an independent mission of inquiry to investigate into all violations committed by the militias and the security forces which cooperated with them in extrajudicial, torture and other cruel, inhuman and degrading treatment, arbitrary detention and enforced disappearance, and summary or arbitrary executions. (The situation in Iraq - Fallujah - Geneva International ...,

www.gicj.org/index.php?option=com_content&task=view&id=481&Itemid=41

Escaping Fallujah: from one hell to the other)

On 19 September 2004 The Washington Post reported that U.S. forces 'had turned off' water supplies to Tall Afar 'for at least three days'.

Moreover, The Washington Post reported that the U.S. army failed to offer water to those fleeing Tall Afar, including children and pregnant women.
During the assault on Samarra on 1 October 2004 water and electricity were cut off, according to The Independent of 3 October 2004. The Washington Post of 16 October 3004 explicitly blamed 'U.S. forces' for this.

On 16 October 2004 The Washington Post reported that: 'Electricity and water were cut off to the city [of Fallujah] just as a fresh wave of strikes began on 14 October night, an action that U.S. forces also took at the start of assaults on Najaf and Samarra.' Residents of Fallujah

told the U.N.'s Integrated Regional Information Networks that 'they had no food or clean water and did not have time to store enough to hold out through the impending battle'. The water shortage was confirmed by other civilians fleeing Fallujah. Fadhil Badrani, a B.B.C. journalist in Fallujah, confirmed on 8 November that 'the water supply [had] been cut off'. In light of the shortage of water and other supplies, the Red Cross had attempted to deliver water to Fallujah. However the United States had refused to allow shipments of water into the Fallujah until it had taken control of the city.

There had been allegations that the water supply was cut off during the assault on Najaf in August 2004, and during the invasion of Basra in 2003.

Some military analysts have attempted to justify the denial of water on tactical or humanitarian grounds. Ian Kemp, editor of military journal Jane's Defense Weekly, argued that 'The longer the city [Fallujah] is sealed off with the insurgents inside, the more difficult it is going to be for them. Eventually, their supplies of food and water are going to dwindle." Barak Salmoni, assistant professor in National Security Affairs at the U.S. Naval Postgraduate School in Monterey, told the San Francisco Chronicle that civilians would probably be encouraged to leave Fallujah 'by cutting off water and other supplies'. These arguments are deeply flawed on legal, humanitarian and political grounds. The majority of the population of Fallujah fled before the American attack. Those who had not already fled Fallujah were forced to remain, since roads out of the city had been blocked, including by British troops. Not only were those remaining unable to leave, but they were likely to consist largely of those too old, weak, or ill to flee - precisely the groups which would be most severely affected by a shortage of water.

Belief that U.S. tactics involved denial of water was widespread. According to the Los Angeles Times, as soon as the women of Fallujah learned that four Americans had been killed, their bodies mutilated, burned and strung up from a bridge, they knew a terrible battle was coming. They filled their bathtubs and buckets with water. Condemnations of the tactic have been issued by several major Iraqi political groups. On 1 October the Iraqi Islamic Party issued a statement criticising the U.S. attack on Fallujah which 'cut off water, electricity, and medical supplies', and arguing that such an approach 'will further aggravate and complicate the security situation'. It also called for compensation for the victims. Three days later Muqtada al-Sadr criticised both the denial of water to Samarra, and the lack of international outrage at it: "They say that this city is experiencing the worst humanitarian situations,

without water and electricity, but no-one speaks about this. If the wronged party were America, wouldn't the whole world come to its rescue and wouldn't it denounce this ?"

Denial of water is one of the misguided tactics which increased distrust of the Coalition forces. Asked in June 2004, in a survey conducted by Oxford Research International, how much confidence they had in U.S. and U.K. forces, almost 51 per cent of participating Iraqis responded 'none at all', with a further 29.5 per cent saying 'not very much'. This in turn was fuelling anti-American violence. A spokesman for the Association of Muslim Scholars, one of the most significant Sunni political groupings in Iraq, reported that the party's representative in Samarra had told him that 'there was no water'. He argued that partly as a result of this: "The Iraqis no longer trust the Americans. It is not a question of military manifestations. It is now a question of popular rejection for the Americans, not for the military manifestations." His analysis was confirmed by the Oxford Research International poll, according to which one third of participant Iraqis regarded attacks against Coalition forces as 'acceptable'.

Awareness of the issues remained extremely limited among the British public. The British government denied any involvement.

Despite inquiries from C.A.S.I., the Cambridge Solidarity with Iraq, the successor organisation to the Campaign Against Sanctions on Iraq, which provides information about the humanitarian situation in Iraq, the British government appeared not to have raised the issue with their American counterparts. The then U.K. Minister for the Armed Forces, Adam Ingram denied knowledge of U.S. action to cut off water supplies in Tall Afar, despite coverage of this in The Washington Post. Similarly, the then U.K. Secretary of State for International Development, Hilary Benn had not discussed the issue with his American counterparts. (Response to question by Adam Price MP: Adam Price: To ask the Secretary of State for International Development what discussions he has had with counterparts in the US Administration on cutting off water supplies in Iraq. [192088] Hilary Benn: I have had no such discussions , http://www.publications.parliament.uk/pa/cm

200304/cmhansrd/cm041103/text/41103w03.htm#41103w03.html_spnew4)

This lack of communication with the American side suggests a lack of concern for the humanitarian implications of the conflict in Iraq, and an unwillingness to comment on American activities. Concerning British forces, Mr. Ingram claimed that: "With regard to the action of our own Forces, I can also confirm that we have not cut off water supplies to civilians. It is possible that local temporary disruptions may have occurred at some time due to damage from combat with anti-Iraqi Forces but we are not aware of any actual cases where this has happened."

There were, of course, legal implications. The denial of water to civilians is illegal both under Iraqi and international law. Article 12 of the Transitional Administrative Law, as issued by the Coalition Provisional Authority and which served as a constitution during the interim period, states that: "Everyone has the right to life, liberty, and the security of his person." International law specifically forbids the denial of water to civilians during conflict. Under article 14 of the second protocol of the Geneva Conventions, "Starvation of civilians as a method of combat is prohibited. It is therefore prohibited to attack, destroy, remove or render useless for that purpose, objects indispensable to the survival of the civilian population such as food-stuffs, agricultural areas for the production of food-stuffs, crops, livestock, drinking water installations and supplies and irrigation works."

C.A.S.I. called on Members of Parliament to raise this issue with ministers as a matter of urgency. The U.K. government should have used its influence with its American ally to ensure that all military operations were conducted within the bounds of international law. In addition to the suffering caused to the civilian population, use of these tactics by U.S. forces would place British troops at risk from rising insurgency. C.A.S.I. also hoped that the issue would be taken up by international NGOs such as Amnesty International and Human Rights Watch. In addition, C.A.S.I. urged journalists on the ground in Iraq to investigate the mentioned reports further, in order to build up a clearer picture of use of those tactics. The U.K. media was invited to give greater weight to the plight of civilian populations in their coverage of conflicts such as Fallujah. (with grateful acknowledgment of the contribution by C.A.S.I., www.casi.org.uk)

Successive American Administrations have committed war crimes and other serious violations of international law in Iraq as a matter of routine policy. Beyond the now-infamous examples of torture, rape, and murder at Abu Ghraib prison, the United States, with the complicity of its allies - including Australia, has ignored international law governing

military occupation and violated the full range of Iraqis' national and human rights: economic, social, civil and political rights. The occupation of Iraq has not been leading to greater respect for human rights and respect for democracy, as promised by the Bush, Blair and Howard governments - as well as their successors. Rather, the presence of foreign troops has entrenched a climate of lawlessness and feeding an increasing spiral of violent conflict which will not end until the occupation ends and underlying issues of justice are dealt with.

As documented by the Center for Economic and Social Rights of New York, there are at least ten categories of U.S. violations of human rights. They are, briefly:
1. Failure to allow self-determination. The 'full sovereignty' that the Occupying Powers claimed would have been restored to Iraq on 30 June 2004 is so far without legal effect. Genuine self-determination requires the free exercise of political choice, as well as full control over internal and external security, and authority over social and economic policy.

2. Failure to provide public order and safety. The U.S. violated international law and caused untold damage to the people and heritage of Iraq by allowing the wholesale looting of Iraq's public, civilian, cultural, and religious institutions and properties.

3. Unlawful attacks. U.S. forces - often assisted by allies such as Britain and/or Australia - have routinely conducted indiscriminate attacks in populated areas of Iraq, causing widespread and unnecessary civilian casualties. Ambulances, medical staff and facilities have been targeted by snipers and regular forces in violation of the Geneva Conventions. To date there has been no official effort to seek accountability for these war crimes.

4. Unlawful detention and torture. It is regular policy for U.S. forces, and their allies or accomplices, indiscriminately to arrest and detain Iraqi civilians without charge or due process. Up to 90 per cent of Iraqis detained under the occupation were reported to be innocent bystanders swept up in illegal mass arrests.

5. Collective punishment. Taking a cue from Israeli tactics in the Occupied Palestinian Territories which have been widely condemned as war crimes, The United States and its allies have imposed collective punishment on Iraqi civilians. These tactics include demolishing civilian homes, ordering curfews in populated areas, preventing free movement through checkpoints and road closures, sealing off entire towns and villages, and using indiscriminate, overwhelming force in crowded urban areas.

6. Failure to ensure vital services. The United States and its allies are legally required to meet the needs of Iraq's population by maintaining electricity, water, sanitation, and other services vital to people's life, health, and well-being.

7. Failure to protect the rights to health and life. The United States and its allies have been. violating Iraqis' rights to life and health by failing to ensure access to healthcare and to prevent the spread of contagious disease.

8. Failure to protect the rights to food and education. The U.S. and its allies are bound to ensure that the population has physical and financial access to food and education. This is not so.

9. Failure to protect the right to work. In violation of the right to work, the United States summarily dismissed more than half a million workers, civil servants, teachers, and other professionals - without any evidence of wrongdoing or opportunity to defend themselves. In addition, foreign corporations - which are mainly American - generally rely on foreign rather than Iraqi contractors, exacerbating the unemployment crisis, and slowing the reconstruction process.

10. Fundamentally changing the economy. As an Occupying Power, the United States is prohibited from imposing major legal, political, or economic changes in Iraq. However, the Coalition Provisional Authority issued a number of executive orders which aimed to privatise Iraq's economy for the benefit of American corporations, with little consideration for the welfare and rights of the Iraqi people. These changes violate international law and have no binding legal effect. (US Violations of Occupation Law in Iraq Report to the Ninth Session of the Human Rights Council
The Universal Periodic Review. (US Violations of Occupation Law in Iraq, Report to ... - OHCHR, lib.ohchr.org/HRBodies/UPR/Documents/session9/US/AIJ_, November 2010).

Australia's involvement in Iraq

On 2 August 1990 Saddam Hussein ordered his army - then the world's fourth largest standing military - to invade oil-rich Kuwait.

In response, the United Nations Security Council imposed sanctions on Iraq, before finally authorising a US-led military coalition - including Australia - to eject the Iraqis from Kuwait.

Operation Desert Storm commenced with a one-month air bombardment campaign followed by a swift ground assault in February 1991, which was dubbed the '100-hour war'.

Iraq suffered about 100,000 casualties, while fewer than 200 coalition troops were killed in combat – several by 'friendly fire'.

Australia's main contribution was naval support in the northern Persian Gulf. Three guided missile frigates, a destroyer, and two support ships were deployed during the campaign. An Army air defence detachment was also sent to sea to protect the supply ships from possible air attack. Royal Australian Navy special forces clearance diving team was also sent for de-mining and demolition tasks. Australian medical teams served aboard U.S. navy hospital ships, and a small number of R.A.A.F. photo interpreters were dispatched to Coalition headquarters in Saudi Arabia. This is referred to as Australia's First Gulf war.

Coalition aircraft continued to patrol the northern and southern No Fly Zones. Australians served on U.N.-sanctioned inspection teams which searched for weapons of mass destruction.

Economic sanctions were imposed on Iraq, enforced by a naval blockade which included Australian warships; the sanctions were frequently violated, including by Australia as will be seen.

Australia returned to Iraq in March 2003.

The official entry was announced by Prime Minister John Winston Howard before Parliament on 18 March 2003. The gist of the speech follows:

"We reject totally the argument put by France and by some other countries that the presence of inspectors will lead, over the passage of time, to disarmament. We cannot and will not ignore the experience of the last 12 years. We believe that the time has come to disarm Iraq, by force if necessary. We are participating in the US-led coalition to achieve this objective.

It is important to understand that the decision taken by the government is in accordance with the legal authority for military action found in previous resolutions of the Security Council. We supported, and would have preferred, a further Security Council resolution specifying the

need for such action. We did so to maximise the diplomatic, moral and political pressure on Iraq, not because we considered a new resolution to be necessary for such action to be legitimate.

Our legal advice, provided by the head of the Office of International Law in the Attorney-General's Department and the senior legal adviser to the Department of Foreign Affairs and Trade, is unequivocal. The existing United Nations Security Council resolutions already provide for the use of force to disarm Iraq and restore international peace and security to the area. This legal advice is consistent with that provided to the British government by its Attorney-General.

Security Council resolution 678, adopted in 1990, authorised the use of all necessary means not only to implement resolution 660, which demanded Iraq withdraw from Kuwait, but also to implement all subsequent relevant resolutions and to restore international peace and security in the area. Resolution 687, which provided the cease-fire terms for Iraq in April 1991, affirmed resolution 678. Security Council resolution 1441 confirms that Iraq has been and remains in material breach of its obligations, a point on which there is unanimous agreement, including by even the Leader of the Opposition.

Iraq's past and continuing breaches of the cease-fire obligations negate the basis for the formal cease-fire. Iraq has by its conduct demonstrated that it did not and does not accept the terms of the cease-fire. Consequently, we have received legal advice that 'the cease-fire is not effective and the authorisation for the use of force in Security Council resolution 678 is reactivated'. It follows, so I am advised, that referring to the use of such force against Iraq as 'unilateral' is wrong. Any informed analysis of the Security Council resolutions leads to this conclusion." (Australia, Hansard, House of Representatives, 12505, 18 March 2003)

Australia's military commitment to the initial invasion, codenamed Operation Falconer, was larger than in the 1991 conflict.

The Navy deployed three ships and a clearance diving team in the northern Persian Gulf. The Army sent a 500-strong special forces task group supported by three Chinook helicopters.

The R.A.A.F. deployed 14 FA-18 Hornet fighters, three Hercules transport aircraft and two Orion maritime surveillance planes.

The U.S.-led Coalition failed to find any weapons of mass destruction, but in less than a month it had captured Baghdad, destroyed the Iraqi military and deposed Hussein.

Most of the Australian forces involved in the initial invasion returned home, although small contingents were sent to Baghdad airport and to protect diplomats.

In 2003 the Australian contribution was re-named as Operation Catalyst, and an Army training team was deployed to assist in rebuilding the Iraqi military which had been disbanded following Saddam's defeat. The complete dismantling of Saddam's forces had further destabilised the security environment.

What followed were a steady slide into civil war between various Iraqi Sunni and Shia militias, an increasingly bloody insurgency campaign directed against the occupying Coalition forces, and a futile attempt to install governments which would at the same time try an experiment in democracy as understood by the occupiers, and compliance with their ideology - mainly neoconservatism.

In 2005 the Australian government committed troops to the reconstruction phase, a 500-strong Army task force was sent to the relatively peaceful Al Muthanna Province in the south of Iraq, on the border with Saudi Arabia, to protect a contingent of Japanese engineers.

When the Japanese left, the Australian task force relocated to Tallil Airbase in a neighbouring province.

By 2006, 1,400 Australians were serving in Iraq. Australia began withdrawing its troops in 2008, finally ending operations in July 2009. No Australian personnel were killed in action during the Iraq campaign.

The Iraq Inquiry Report contains scarce references to Australia - understandably. The automatic adherence by Australia to the policies of Great and Powerful Friends - Great Britain from the original invasion and the United States since after the end of the second world war keeps it in a position of vassal, a client state.

The powerful force of a Deep State seems to have been operating since the ambush of the Whitlam government in 1975.

But assumptions about Australian ‘patriotism’ go much further back and are a combination of a proclivity for violence which goes way back from the setting up of the first colony, has continued ever since and seems rather unexplainable in a populace largely indifferent but always ready ‘to solve a problem’ with a brawl. ‘Overseas’ is for that type of ‘adventure’, the purpose often escapes the participants - problems are simplified, no questions are asked.

What were Australians doing in Arkhangelsk in 1918-1919 ? “The remedy for Bolshevism is bullets.” was the blunt message of the editorial in Britain’s establishment newspaper, The Times, in 1919 as military forces from sixteen countries invaded Russia after the 1917 revolution. Among the invaders were about 150 Australian soldiers, as recounted in Michael Challinger’s history of the Australian role in the invasion.

Nine Australian soldiers were part of a British secret mission in 1918, the Elope Force, the apparent aim of which, that of countering a German foothold in the northern Russian port city of Arkhangelsk was soon dispensed in favour of the real purpose - to train and organise the counter-revolutionary Russian Army of the north and link up with the other White Russian armies to overthrow the Bolshevik government.

The British-led invaders had seized the city, and were running it as a military dictatorship under a puppet local government. By 1919 reinforcements of 15,000 foreign troops had joined the war against the Sixth Red Army. (M. Challinger, ANZACS IN ARKHANGEL:The untold story of Australia and the invasion of Russia 1918-1919, Richmond, Vic. 2010)

After the glorious retreat from Gallipoli in 1915, and the unmitigated slaughter at Fromelles in 1916, there is where Australians went in 1918 and 1919.

The Arkhangelsk adventure left 327 British, 244 American, 2 Australian and countless Russian soldiers dead.

In Australia, the government decided to lie about any Australian involvement, in full knowledge of the fact that a large bulk of Australian working people either supported the Bolsheviks, were interested in the socialist experiment or simply believed the Russians should be left alone to decide how to govern their own country.

As a member of the early Elope Force put it: “None of us had any heart for the Russian campaign … We had no right to be there. Had I known beforehand what the aim and nature of the mission was, I for one, would never have volunteered for the job.” [Emphasis added]

In those words is the summation of what passed for Anzackery, the cult of militarism.

Except for the second world war, Australia has been everywhere involved in battles which were no concern of it: from Sudan in 1885 to Vietnam in 1965 - and beyond. Every once in a while the practice of Anzackery is renewed: coffins are solemnly paraded, led by the usual chaplain (never mind what the faith of the dead soldier might have been !), the usual lone piper, and the drummer, with the usual ‘compromised’ flag (in the canton there is still the red saltire of Ireland !) - and all that in an atmosphere which is contrived solemnity because often the remains are those of soldiers killed in places such as the Thai-Malay border in 1964. How on earth did they get there ?!

It is therefore unsurprising that the Iraq Inquiry was not greatly concerned with Australia - in part due to assumptions about it, in part to a habit of taking Australia’s participation for granted because always eagerly offered.

Thus, there is a reference in Section 1.1, paras. 316-338, pp.79-84 to the work of Mr. Richard Butler, the Australian diplomat and former Permanent Representative to the U.N. who succeeded Mr. Rolf Ekéus as the Executive Chairman of the United Nations Special Commission, UNSCOM, set up for an inspection regime to ensure Iraq’s compliance with policies concerning Iraqi production and use of weapons of mass destruction. (Review of Intelligence on Weapons of Mass Destruction [The Butler Report], 14 July 2004)

Section 3.2, which is on Development of U.K. strategy and options, January to April 2002 - “Axis of evil” to Crawford, is of tangential relevance only to the extent that it mentions Mr. Blair’s visit for the Commonwealth Heads of Government Meeting in Australia, during the course of which he “gave an interview to the Australian Broadcasting Corporation on 28 February. Blair stated that he agreed with President Bush “very strongly that weapons of mass destruction represent a real threat to world stability”; and that: “Those who are engaged in spreading weapons of mass destruction are engaged in an evil trade and it is important that we make sure that we have taken action in respect of it.” para. 187

“On 3 March, Mr Blair was reported to have told Channel Nine in Australia: “We know [the Iraqis] are trying to accumulate … weapons of mass destruction, we know [Saddam Hussein]

is prepared to use them. So this is a real issue but how we deal with it, that's a matter we must discuss." [Footnote omitted] para. 192

Section 3.3 "addresses the development of UK policy on Iraq following Mr Blair's meeting with President Bush at Crawford on 5 and 6 April 2002, at which Mr Blair proposed a partnership between the US and UK urgently to deal with the threat posed by Saddam Hussein's regime, including Mr Blair's Note to President Bush at the end of July proposing that the US and UK should use the UN to build a coalition for action." [From the Introduction]

A 19 July 2002 Cabinet Office paper 'Iraq: Conditions for Military Action' noted that "an international coalition would be necessary to provide a military platform and would be desirable for political purposes. [Footnote omitted] The "greater the international support, the greater the prospects of success". Military forces would need agreement to use bases in the region. Without UN authorisation, there would be problems securing the support of NATO and EU partners, although Australia "would be likely to participate on the same basis as the UK". France "might be prepared to take part if she saw military action as inevitable". Russia and China might "set aside their misgivings if sufficient attention were paid to their legal and economic concerns". [Emphasis added] para.263-265, at 47-48

Section 3.4 "addresses the development of UK policy on Iraq and the UK's discussions with the US between the end of July and President Bush's speech to the UN General Assembly on 12 September 2002, in which he challenged the UN to act to address Iraq's failure to meet the obligations imposed by the Security Council since Saddam Hussein's invasion of Iraq in August 1990. "

There is part of that Section which deals with "the attitude of allies" (paras. 26-39), by which is meant France under the government of President Chirac. His opinion is given serious consideration because President Chirac resisted the use of military force (paras. 338-346), persisted in that view (paras. 443-455) and had his Foreign Minister Mr. Dominique de Villepin reiterate the lack of commitment to armed intervention. (paras. 554-560)

In this Section there is ample room for consideration of the position of Russia, China and Saudi Arabia, but one would look in vain for an appreciation of Australia's view - nothing; Australia is not even an ally, it is given for granted that wherever Great Britain would go, it will follow.

Section 3.6 deals with the development of U.K. strategy on Iraq between the adoption of resolution 1441 on 8 November 2002 and Mr. Blair's meeting with President Bush, in Washington, on 31 January 2003, as well as with other key developments in the U.K.'s thinking between mid-November and the end of January which had an impact on the strategy and the planning and preparation for military action.

The Section also deals with the Joint Intelligence Committee's Assessments of Iraq's declaration of 7 December 2002, and its view that there was a continuing policy of concealment and deception in relation to its chemical, biological, nuclear and ballistic missile programmes, which are addressed in Section 4.3; and how advice was sought from Lord Goldsmith, QC, the Attorney General, regarding the interpretation of U.N. Security Council Resolution 1441 (2002); the manner in which that advice was provided is considered in the whole of Section 5: 169 pages. The development of the options to deploy ground forces and the decision on 17 January to deploy a large scale land force for potential operations in southern Iraq rather than for operations in northern Iraq, as well as maritime and air forces, are dealt with in Sections 6.1 and 6.2. What planning the United Kingdom prepared for a post-Saddam Hussein Iraq is considered in Sections 6.4 and 6.5.

Section 3.6 records that between November 2002 and January 2003 Blair had started saying after conversation with Howard that it was best to gain a new U.N. Security Council Resolution. A second resolution would have made the process easier and the public support more certain. Communications from Dr. Blix that Iraq was reluctant to comply with the inspections assisted Blair's position.

The Iraq Inquiry Report records that "Mr Blair and Mr John Howard, the Prime Minister of Australia, discussed the position on Iraq on 28 January. Mr Blair said that, militarily, it might "be preferable to proceed quickly", but it "would be politically easier with a UN resolution". He: "… intended to tell President Bush that the UN track was working. Blix had said … that Saddam was not co-operating. If he repeated this in reports on 14 February, and perhaps in early March there would be a strong pattern on non-co-operation and a good chance of a second resolution." (Letter No.10 [junior official] to McDonald, 28 January 2003, 'Prime Minister's Telephone Conversation with John Howard).

Blair and Howard agreed that a second resolution would be "enormously helpful". It would be better to try and fail than not to try at all for a second resolution but they should "pencil in a deadline beyond which, even without a second resolution, we should take a decision". Mr

Blair said that his instinct was that “in the end, France would come on board, as would Russia and China”. paras. 774-775

Alastair John Campbell, a British journalist, broadcaster, political aide and author, best known for his work as Downing Street Press Secretary (1997–2000), followed by Director of Communications and Strategy (2000–2003), for Prime Minister Tony Blair, would write in praise of John Howard in A. Campbell and B. Hagerty, The Alastair Campbell diaries, volume 4: The burden of power: Countdown to Iraq, Hutchinson, London 2012.

As the Iraq Inquiry Report says: “In his diary for 29 January, Mr Campbell wrote: “For obvious reasons, Iraq was worrying [Tony Blair] more and more. He wasn’t sure Bush got just how difficult it was going to be without a second UNSCR, for the Americans as well as us. Everyone TB was speaking to, including tough guys like [John] Howard, was saying that they need a second resolution or they wouldn’t get support. TB felt that was the reality for him too, that he couldn’t deliver the party without it.” [Footnote omitted] para. 827

John Howard = tough guy, at least in the eyes of ‘people upstairs’, in London.

Section 3.7 is about development of the United Kingdom strategy and options during the period 31 January, when Blair met President Bush, and 7 March 2003.

During his meeting with President Bush, Prime Minister Blair sought American support for a further, ‘second’, Security Council resolution before military action was taken, and the meeting of the Security Council on 7 March, at which the U.K., U.S. and Spain tabled a revised draft resolution stating that Iraq would have failed to take the final opportunity offered by resolution 1441 unless the Council concluded on or before 17 March that Iraq was demonstrating “full, unconditional, immediate and active co-operation” with its obligations to disarm.

During that time, the U.K. Government was pursuing both intense diplomatic negotiations with the U.S. and other members of the Security Council about the way ahead on Iraq and a pro-active communications strategy about why Iraq had to be disarmed, if necessary by force, against the background of sharply divided opinion and constant political and public debate about the possibility of military action.

A joint press conference was had on 13 February 2003 by Prime Ministers Blair and Howard.

As the Iraq Inquiry Report records:

“320. Mr Blair told Mr John Howard that the inspectors’ reports of 28 February should be the final reports to the Security Council.

321. A BBC poll published on 13 February found that 60 percent of people questioned thought that the UK and US Governments had failed to prove their case that Iraq had WMD, and 45 percent said that the UK should play no part in a war on Iraq, whatever the UN decided. Fewer than 10 percent said that they would back a war with Iraq without a second resolution. [BBC News, 13 February 2003, Blair puts ‘moral’ case for war]

322. Mr Blair and Mr Howard discussed Dr Blix’s forthcoming report and the prospects for a second resolution in a breakfast meeting on 13 February. [Letter Lloyd to Owen, 13 February 2003, ‘Prime Minister’s Breakfast with John Howard’]

323. Sir David Manning advised that there would be a need to challenge Dr Blix’s likely assessment that there had been some movement on process and some movement on interviews; and to focus in public “on the underlying message that there was no fundamental change in attitude, and the key questions remained unanswered”. International opinion should not be allowed “to be distracted by nuances about process”.

324. Other points which Mr Blair and Mr Howard discussed included: • Dr Blix was writing his report on the presumption that there would be more time and it was implicit in his approach that there would be more time. • Concern that the report would be critical of Secretary Powell’s presentation to the UN on 5 February. • Russia and China were likely to abstain in a vote on a second resolution and France and Germany might put forward a rival text.

325. Mr Blair told Mr Howard that: “… people in the UK were suspicious that the US were eager to use force and did not want the inspections to work. They could accept the need for war, but not for war now. If Blix came up with a firm report that could change. The report on the 28th [of February] should be the final report. The US needed in parallel to ensure the support of the Security Council.”

326. In response to Mr Howard’s assessment that a second resolution was not needed for legal reasons, Mr Powell said that UK lawyers were studying the issue. Mr Blair said it was needed for political reasons.

327. In the subsequent press conference, Mr Blair stated that the discussion had been "dominated" by Iraq. [Australian Government – Department of the Prime Minister and Cabinet, 13 February 2003, Joint Press Conference with Prime Minister, Tony Blair]

He and Prime Minister Howard had agreed that Iraq needed to disarm and resolution 1441 had to be upheld.

328. Prime Minister Howard praised Mr Blair's "strong and principled stance" and his "strong and effective leadership" and stated that he believed: "… very strongly that if the whole world speaking through the United Nations Security Council said with one clear voice to Iraq that it had to disarm then that would more than anything else be likely to bring forth the faint hope of a peaceful solution."

329. In reply to a question, Mr Howard stated that the problem was not time, it was Iraq's attitude.

330. Mr Blair was asked whether Iraq's ballistic missiles were enough to justify military action; and whether the news overnight of a North Korean threat that its missiles could hit US targets anywhere in the world "presented a more urgent and larger threat to international stability". He replied that the judgement on Iraq had to be "made in the round" in the context of resolution 1441. In relation to the need to confront the threat from North Korea, albeit "by different means", Mr Blair emphasised that the United Nations would be "tremendously weakened and undermined" if it showed "weakness and uncertainty over Iraq". That was "the key issue". paras. 320-329, at 236-237

By the time the Security Council met on 7 March 2003 there were deep divisions within it on the way ahead on Iraq. Following President Bush's agreement to support a second resolution to help Mr. Blair, Mr. Blair and Mr. Straw continued during February and early March 2003 to develop the position that Saddam Hussein was not co-operating as required by resolution 1441 (2002) and, if that situation continued, a second resolution should be adopted stating that Iraq had failed to take the final opportunity offered by the Security Council.

On 6 February Mr. Blair said that the United Kingdom would consider military action without a further resolution only if the inspectors reported that they could not do their work and a resolution was vetoed unreasonably. The United Kingdom would not take military action without a majority in the Security Council. Mr. Blair's proposals, on 19 February, for a side statement defining tough tests for Iraq's cooperation and a deadline of 14 March for a

vote by the Security Council, were not agreed by the United States. The initial draft of a U.S., U.K. and Spanish resolution tabled on 24 February, which simply invited the Security Council to decide that Iraq had failed to take the final opportunity offered by resolution 1441, failed to attract support.

Throughout February, the divisions in the Security Council widened. France, Germany and Russia set out their common position on 10 and 24 February. Their joint memorandum of 24 February called for a programme of continued and reinforced inspections with a clear timeline and a military build-up to exert maximum pressure on Iraq to disarm.

The reports to the Security Council by the International Atomic Energy Agency signalled increasing indications of Iraqi co-operation. On 7 March Dr. Mohamed ElBaradei, Director General of the I.A.E.A., reported that there was no indication that Iraq had resumed nuclear activities and that he should be able to provide the Security Council with an assessment of Iraq's activities in the near future. Dr. Hans Blix, Executive Chairman of United Nations Monitoring, Verification and Inspection Commission, UNMOVIC, reported to the Security Council on 7 March that there had been an acceleration of initiatives from Iraq and, while they did not constitute immediate co-operation, they were welcome. UNMOVIC would be proposing a work programme for the Security Council's approval, based on key tasks for Iraq to address. It would take months to verify sites and items, analyse documents, interview relevant personnel and draw conclusions.

A revised draft U.S., U.K. and Spanish resolution, tabled after the reports by Dr. Blix and Dr. ElBaradei on 7 March and proposing a deadline of 17 March for Iraq to demonstrate full co-operation, also failed to attract support. China, France and Russia stated that they did not favour a resolution authorising the use of force and that the Security Council should maintain its efforts to find a peaceful solution. Sir Jeremy Greenstock, U.K. Permanent Representative to the United Nations in New York, advised that a 'side statement' with defined benchmarks for Iraqi co-operation could be needed to secure support from Mexico and Chile. Mr. Blair told President Bush that he would need a majority of nine votes in the Security Council for Parliamentary approval for U.K. military action.

Development of United Kingdom's strategy and options between 8 March and the start of military action overnight on 19/20 March is the subject of Section 3.8.

The second resolution was difficult to draft. Russia had made it difficult. France was also realising that there were major problems with invading Iraq, and suspected that the United States, the United Kingdom and Australian troops intended to stay there indefinitely. Chile also had problems.

Unperturbed, Australia committed troops on 18 March, even before other countries had decided that invasion should take place. Clearly, the proposed but unaccepted deadline of 17 March had little if any meaning for Prime Minister Howard. No time was given to Iraq to consider. President Bush had a 6.00 a.m. telephonic conversation with Howard on 18 March. That afternoon Howard made his statement to the Australian Parliament.

Section 4.4 is devoted to the search for weapons of mass destruction.

During and immediately after the invasion of Iraq, the search for such weapons was the responsibility of Exploitation Task Force-75, XTF-75, a U.S.-led military unit, with small U.K. and even smaller Australian contingents. [T. Vandal et al., The strategic implications of sensitive site exploitation, National Defense University, National War College, Washington D.C. 2003]

XTF-75 was deployed to carry out ‘sensitive site exploitation’, a military term for the exploitation of “personnel, documents, electronic files, and material captured at the site, while neutralizing the site or any of its contents.”

Officials had begun to consider the U.K. contribution to such ‘exploitation’ in early February 2003.

The Australian contingent was so small - whether by accident or deliberate decision - that it might have become unimportant to the working of the Force. The Force was in almost total control of the United States. What interested the Americans was Australian intelligence expertise. It seems that the U.S. was mainly interested in documentation, rather than actual weapons.

In mid-April 2003 the United States invited the United Kingdom and Australia to participate in the setting up of an Iraq Survey Group.

The Iraq Survey Group was to be a fact-finding mission, mainly interested in weapons, ostensibly sent by the multinational force, but in fact directly responsible to Donald Rumsfeld. It was to find the weapons of mass destruction alleged to be possessed by Iraq and

which had been the main apparent reason for the invasion, but also to seek for evidence of ‘war crimes’ and ‘terrorism’. The Group consisted of a 1,400-member international team organised by the Pentagon and the Central Intelligence Agency to hunt for the alleged stockpiles of weapons of mass destruction, including chemical and biological agents, and any supporting research programmes and infrastructure which could be used to develop weapons of mass destruction.

Its final report, commonly referred to as the Duelfer Report, acknowledged that only small stockpiles of chemical and biological agents which might have been used for the weapons were found, the numbers being inadequate to pose a militarily significant threat. para. 91-95, at 443-444

And now a little exercise for the reader: please, open The Iraq Inquiry and go to the Report and choose Evidence, search the website under Australia, click and the first two entries will be:

2003-03-18-telegram-34-canberra-to-fco-london-iraq-australia-commits.pdf
/media/231498/2003-03-18-telegram-34-canberra-to-fco-london-iraq-australia-commits.pdf/18 Mar 2003

and

2003-01-18-minute-miller-to-ps-secretary-of-state-dfid-uk-us-australia-talks-in-washington-22-january.pdf/media/235986/2003-01-18-minute-miller-to-ps-secretary-of-state-dfid-uk-us-australia-talks-in-washington-22-january.pdf/18 Jan 2003

The latter document, dated 18 January 2003 is interesting: it points to a meeting to be had in Washington amongst UK-US-Australia on 22 January 2003, following up to the first of UK/US talks on the subject held on November 2002. Introduced by a high functionary of the Department of International Development, with copy to Secretary of Foreign Affairs Straw, it attaches a paper which deals with a number of issues, and was produced by the Middle East Department of the Foreign and Commonwealth Office on 15 January 2003.

They are to be dealt with as at the ‘day-after’, meaning by that “that military action will have taken place to enforce Iraq’s compliance with its UN Security Council’s obligations and that Saddam Hussein’s regime will have been removed from power (see UK paper on ‘Scenarios for the future of Iraq post Saddam’).”

The points touched by the four page paper are:

1) security “to facilitate humanitarian operations and to provide the foundation for a normal society to flourish and self-sufficient development to begin.” That required: dismantling the secret security agencies; providing “legitimate and transparent law and order and the necessary civil structures”; preventing “internecine violence.”

2) relief and reconstruction, keeping in mind that “over 60 per cent of Iraqi population depend for their food on Oil-For-Food.” And the main humanitarian issues were:

a) How will the basic needs of the Iraqi people - food, medicine, shelter, power, emergency reconstruction and protection/personal security - be met ?

b) Who will pay for humanitarian operations ? What is the future of Oil-For-Food ?

c) The danger that Saddam Hussein will use chemical and biological weapons to create a diversionary, humanitarian catastrophe.

d) There will be a need to move quickly from relief towards reconstruction and to generate local Iraqi economic activity.

3) political aspects. “We want to replace Saddam Hussein with something much better. How big should our level of ambition be in promoting political reform ? To what extent should we commit ourselves publicly to this.” ?

The paper went on to present issues such as Kurdish and Shia aspirations, the matter of international legitimacy and the problems of an interim administration under U.N. auspices. Some of these issues had already been discussed in the U.K. paper: ‘Interim administration for Iraq: what, who and how’ of October 2002. For instance: “to what extent should we root out Ba’ath party elements ?” a question already considered in another U.K. paper: “Interim administration in Iraq” of 12 December 2002. The interim administration would have “to set in hand a process to allow new political structures to emerge.”

4) economics matters. “One of the keys to [economic reconstruction and reform] will be ensuring that Iraq’s oil revenues are maintained consistent with the effect on the global oil market, particularly with reference to contracts signed by Saddam Hussein with foreign companies. “The UK preference would be to suspend/lift sanctions shortly after the installation of the interim administration, while maintaining a broad and rigorous arms

embargo on Iraq." And would promoting economic reform from a centrally controlled, military-industrial economy lead to an open, free market one - to the I.M.F. and World Bank ?

5) One final concern was for the environment in case Saddam Hussein "sabotage the oil industry, rather than let it fall into the enemies' hands. Are we prepared for putting out oil fires, as in Kuwait ? [Saddam Hussein] may deliberately spill oil into the great rivers of Iraq or into the Gulf. Do we have an environmental clean-up plan ?"

The aggression on Iraq, premeditated as early 2002 - at least, was intended to transform the country into a client state, but with different masters - quite likely Vice President Cheney's oilmen.

The first document to appear as Evidence is reproduced hereafter:

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INFO PRIORITY MIDDLE EAST POSTS, MODUK, NEW DELHI, OTTAWA
INFO PRIORITY PJHQUK, SECRETARY OF STATE, SECURITY COUNCIL POSTS
INFO PRIORITY TOKYO, UKMILREP CENTCOM, WELLINGTON,

SUBJECT: IRAQ - AUSTRALIA COMMITS

SUMMARY

1. Australian Government commits troops. Labor disagree with decision, but will support troops. Iraqi diplomats expelled.

DETAIL

2. President Bush telephoned Prime Minister Howard shortly after 0600 local time on 18 March (before the former made his national televised address in the US), to make the formal request for Australia to participate in any military intervention in Iraq, should Saddam Hussein not respond to the ultimatum subsequently delivered. Howard immediately called a further meeting of full Cabinet, at the end of which he announced in a live national television broadcast, that a decision had been taken to commit Australian troops to any US-led coalition to disarm Iraq. He said that "the government strongly believed the decision taken was right, it was legal, it was directed towards the protection of the Australian national interest", and he asked the Australian people to support it.

3. Howard said that the Iraq issue was one of morality and not just legality. However, he agreed to table immediately in Parliament the text of the legal advice that had been provided to the Australian Government from DFAT and the Attorney-General's Department. He said it was consistent with the advice given to the British Government by Lord Goldsmith (FCO telnos 116 and 117 to Washington), that we fed in to his office this morning and which he also later tabled.

4. Predictably, all of the other Australian political parties have condemned the Government's decision to commit the Australian Defence Force (ADF) to any action in Iraq. Labor Leader Crean said that involvement would spawn terrorism and greatly increase the

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risk of terrorist attacks on Australian soil. The leaders of the Democrats and Green Parties called it a sad day for the natior

5. Parliament cancelled all normal business on 18/19 March to accommodate a further debate on Iraq that is now underway. In opening the debate, Howard reiterated many of the points made in his 13 March speech (Canberra telno 32). He said that he had very much wanted UN weapons inspectors to succeed, but in the face of Iraqi non-compliance and duplicity, they had an impossible task. Howard totally rejected the argument put forward by France that disarmament could be achieved by giving the inspectors more time. Continued Iraqi obfuscation clearly indicated that they had no intention of disarming peacefully.

6. In response Crean said that it was a black day for Australia. He supported the disarming of Iraq, but disagreed with the means. "Diplomacy had been ditched" and the decision to commit Australian troops had been taken as a result of Howard's "capitulation and subservience to the US". Under the Coalition Government, Australia had no independent foreign policy. Crean said that Australia should never support military action outside of the auspices of the UN. He did not take a position on the legal advice given to the government, and was more concerned that the decision taken by Cabinet was wrong. Howard had committed Australia "needlessly and recklessly to war", but had failed to demonstrate that Iraq posed a direct and immediate threat to Australia.

7. Following the Cabinet decision, Foreign Minister Downer announced that all Iraqi diplomats (five plus dependants) based in Australia had been asked to leave the country. Article 9 of the Vienna Convention required that they be given "a reasonable period" to depart, which expires on 23 March. Downer emphasised that the closure of the Iraqi Embassy did not constitute a break in diplomatic relations with the State of Iraq. Following hostilities, and the appointment of a new government in Iraq, Australia should be able to allow the quick resumption of diplomatic representation.

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Some observations seem in order here.

1) Commander-in-Chief Bush “telephone Prime Minister Howard shortly after 0.600 local time on 18 March” and made “the formal request for Australia to participate in any military intervention in Iraq.”

2) The preceding document is dated 18/03/2003 at 06:00 and was sent out to the Foreign and Commonwealth Office, to posts in Asia, Europe, the Middle East, India, Canada, Japan, UKMILREP CENTCOM and Wellington.

3) After President’s Bush call, “Howard immediately called a further meeting of full Cabinet

4) at the end of which he announced in a live television broadcast that a decision had been taken to commit Australia troops to any US-led coalition to disarm Iraq.”

The decision - in the words of Howard - was “legal [and] it was directed towards the protection of Australian national interest.”

5) Only at 2.03 p.m. Howard began his announcement to Parliament of “the Government’s decision to commit Australian Defence Force elements in the region to the international coalition of military forces prepared to enforce Iraq’s compliance with its international obligations under successive resolutions of the United Nations Security Council, with a view to restoring international peace and security in the Middle East region.” (Australia, Hansard, House of Representatives, p. 12505, 18 March 2003)

6) The preceding document is written (see point 2) as if it were a record of what happened during the afternoon of 18 Mach and the following day.

The time sequence is really as follows: call from President Bush, telecast to the people, information to Parliament.

As for debate, what followed was a mockery, truly worthy of the pantomime which passes for ‘parliamentary democracy’ in a Governor-Generalate imitation of the ramshackle Westminster System.

Prime Minister Howard said in the document, maintained in Parliament and ever since, as in the 9 April 2013 speech to the Lowy Institute of Sydney, that ”the Iraq issue was one of morality and not just of legality.”

The issue of legality will be dealt with further on.

On the importance of morality in relation to Saddam Hussein’s Iraq, the following episode may be a clear indication of how much Howard and his ministerial cabal should be heard.

Following the Iraqi invasion of Kuwait in 1990, the United Nations had imposed a financial and trade embargo on Iraq. It was intended to weaken the Iraqi economy so that Saddam could not build up weapons for further wars. What it did weaken was the health of Iraqi children: it is estimated that about 150 children were starving to death every day because of the embargo. Throughout the 1990s Australian ships, aircraft and troops helped enforce the sanctions which caused widespread starvation in Iraq, leading to an estimated two million deaths. After 1996, once these sanctions were modified to permit profitable ‘Oil-for-food’ deals, the Howard government was among the first in line to collaborate with the Saddam Hussein government, through the AWB, even as it prepared to go to war against Iraq. U.N. Security Council Resolution 661 prevented all states and their nationals from making funds available to Iraq. These sanctions were widely effective, leading to food shortages and international condemnation as the humanitarian crisis became clear.

In response to this, the Oil-for-Food programme was begun. It allowed Iraq to sell oil to the rest of the world, provided the returns from this were kept in a U.N. bank account. This money could then be used by Iraq, with U.N. oversight, to purchase a strict list of humanitarian supplies.

The Oil-for-Food programme however in itself faced criticism, with many alleging that it was too expensive to administer and liable to abuse. The programme was discontinued on the lead-up to the invasion of Iraq.

Since 1948 an Australian statutory authority established in 1939 had been supplying Iraq with wheat. During the Oil-for-Food programme it became the single, largest supplier of

humanitarian goods to Iraq. The authority was Australian Wheat Board - AWB. It was a veritable monopoly to control and prevent competition among wheat growers by purchasing and selling at a single price.

Beginning at mid-1999 officials of the cartel were informed that they would have to pay US$ 12 for each imported tonne, the resulting sum to be passed onto as 'trucking fee' to a Jordanian company called Alia. The odd thing was that Alia had no trucks. AWB accepted the condition, increased contract prices and began to send fraudulent information to the Office of the United Nations charged with supervising the enforcement of the sanctions. Under the sanctions regime third parties were prohibited from engaging with the Iraq government unless they had Security Council approval. By having the party exporting goods - the 'humanitarian' supplier - to be the one to pay Alia, the Iraqi government was able to disguise the operation. Naturally, that U.N. Office expected that the Department of Foreign Affairs and Trade certify that the contracts were not in breach of the sanctions. The Minister in charge of Foreign Affairs was the Hon. Alexander John Gosse Downer, AC, with the co-operation of the Minister for Trade and Investment who was the Hon. Mark Anthony James Vaile AO - also Deputy Prime Minister. They both complied with numerous requests.

The 'arrangement' for paying extra money - by all definitions a bribe - went on for two years. The rate was increased, first by up to 50 per cent, until just before the invasion, when it was between US$ 45 and US$ 56 per metric tonne. The Australian government was duty bound not to make any payment to Iraq. The bribes also breached the O.E.C.D Convention on combating bribery of foreign public officials in international business transactions, the Anti-Bribery Convention of 1997.

Under Australian law, all shipments to Iraq were banned unless the Foreign Minister - that is Downer - was "satisfied that permitting the exportation will not infringe the international obligations of Australia." The contracts were never checked even though an officer of the Department of Foreign Affairs and Trade had rung an alarm bell as to possible breaches of sanctions. Satisfaction was continuously guaranteed - in "the national interest" ? During a period of about four years AWB 'passed on' to Iraq something like AU$ 290 million.

In April 2001 an officer of the Department of Foreign Affairs and Trade attached to the United Nations in New York sent a cable informing that AWB had been asked by Iraq to pay 'port fees' of US 50 cents per tonne as 'port fees' and alerting that that was in breach of the U.N. sanctions. The addressees of the cable, Howard, Downer and Vaile would later declare

that they had not seen the cable; senior ‘public servants’ in several other departments of the Howard government were instructed to comply.

Howard would later insist that the cable did not actually prove that the government knew illicit payments were being made. In fact, Howard and his ministers had no intention of doing anything which could jeopardise lucrative Australian wheat sales to Iraq: again, “the national interest” ?

‘The national interest’ - that is the fixing of the market - was the Howard government’s paramount consideration in joining the Iraq war: securing the commercial, diplomatic and strategic interests of the Australian corporate élite which controlled it. And that could be done, first and foremost, by lining up closely with the United States. It meant taking advantage of the Operation Iraqi Freedom and in the process getting as close as possible to oil rights, construction contracts and agricultural markets. But the United States had similar undeclared interests, and more clout ! When they got to Baghdad their XTF-75, Iraq Survey Group and similar organisations got down to work with a view - amongst others - to retrieve and preserve valuable contracts and commercial opportunities. The phony contracts guaranteeing the bribes fell into the hand of the pullulating American organisations.

Documents unearthed in the Iraqi ministries after the invasion had confirmed in detail the bribes paid to the Iraqi government and disguised as “trucking fees”, “port charges”, “after sales service fees” and “surcharges.”

In late May 2003 the Minister for Trade and Investment, Mark Vaile went to the United States at the head of a delegation of executives from ten major Australian construction, engineering, and oil and gas companies for talks with American officials and corporate executives.

Senior executives of the companies: Australian Power and Water, B.H.P., Clough Engineering, Multiplex, Santos, Woodside Petroleum and others, held discussions with American firms awarded reconstruction contracts from USAID, the United States Agency for International Development.

There could be agreement on many fields, but the Howard government could not resist the pressure from Australian farming groups to ensure that the valuable Iraqi market was not lost to the United States. Before the first Gulf war, the United States exported almost one million tonnes of wheat annually to Iraq, but these shipments were cut off under the sanctions

imposed on Baghdad. Australian growers then took advantage of the 1996 Oil-for-Food programme to recapture two-thirds of the Iraqi market, worth AU$ 839 million to Australia in 2002.

Behind the high-sounding words of ‘liberating Iraq’ and ‘exporting democracy’ the reality was brought to light with the establishment of the Coalition Provisional Authority. When words came to action, the American Administration nominated Daniel Gordon Amstutz, a government official and grain-trading industry senior executive of Cargill Corporation, the largest grain exporter in the world, and former president of the North American Grain Export Association, to lead the Authority’s agricultural section.

The Howard government nominated two senior AWB executives, chairman Trevor Flugge and senior executive Michael Long. They had both been compromised in the bribes paid to the Iraqi government. Their view of ‘the national interest’ was to guarantee contracts worth more than US$ 250 million which had been signed by AWB before the invasion and to keep AWB’s position in the Iraqi wheat market.

The last two contracts that AWB signed before the invasion contained the biggest bribe of all, worth a total of about US$ 73 million on the basis of US$ 45.50 per metric tonne for “trucking fees” and another ten percent “surcharge” of the whole value of the contract. In part, these contracts were designed to divert a further US$ 8.8 million from the U.N.-held funds, to be delivered to Tigris Petroleum, a company linked to B.H.P. and headed by “a thoroughly disreputable man with no commercial morality.”(Tigris oil chief a ‘disreputable man’ - National - the age ...,www.theage.com.au/.../national/tigris-oil-chief-a-disreputable-man/..., 28 November 2006) The company had sent wheat shipments to Iraq in breach of U.N. sanctions in 1995, seeking to secure oil drilling concessions.

In September 2003 a report by the U.S. Defence Contract Audit Agency cited evidence that “illicit surcharges/kickbacks were standard practice for oil-for-food contracts.” The report named Australia and estimated “overpricing” in one AWB contract at nearly US$ 15 million. The American wheat lobby then launched a letter-writing campaign to President Bush and other politicians, charging that “AWB reaped an additional US$ 56 million gold mine at the expense of the Iraqi people, on top of their already excessive prices.”

Nevertheless, with the help of the Howard government and its representatives in Baghdad, the AWB managed to salvage its contracts.

In 2004 Iraqi daily Al Mada published a list of 270 persons and entities who were given oil vouchers for helping Saddam Hussein. The report alleged clear violation of the agreements of the Oil-for-Food programme established fourteen years earlier and ending the year before.

In response to this, the United Nations launched an independent inquiry into the programme, headed by former U.S. Federal Reserve Chairman Paul Volcker. Its terms of enquiry were "to collect and examine information relating to the administration and management of the Oil-for-Food Programme ... including entities that have entered into contracts with the United Nations or with Iraq under the Programme."

The final report was released on 27 October 2005. It accused almost half of the companies operating in Iraq during the time of the Oil-for-Food programme to have paid either bribes or illegal surcharges to secure Iraqi business. In special reference to AWB, it stated that "little doubt remains that AWB made large numbers of payments to Alia, and these payments in turn were channelled to the Iraqi regime." The report said that AWB had covered 90 per cent of the Iraqi market before its practices were questioned in 2005, had sold 6.8 tonnes of wheat to Iraq for US$ 2.3 billion and had paid US$ 221.7 million - AU$ 290 million - in trucking fees. In response to the U.N. Report, on 31 October 2005 the Howard government appointed a Royal Commission into the allegations, headed by the Hon. Terence Cole, QC, a former Judge of Appeal of the New South Wales Supreme Court. The Commission was given terms limited exclusively to AWB. The Commission called to the stand many prominent members of the Government, including Howard, the first Australian prime minister to face a judicial inquiry in more than twenty years. Testimony and documents presented to the Inquiry revealed that in nearly twenty occasions AWB executives had informed government ministers and/or their advisors about the payments. Silence !

Once completed, the Cole Inquiry reported to the Attorney-General on 24 November 2006 and the Attorney tabled the report into the company's role in the scandal on 27 November 2006. The Inquiry found that, at the insistence of the Iraq government of Saddam Hussein, the AWB agreed to pay "transportation fees" of around AU$ 290 million. Cole's findings agreed with the U.N. Report in finding this money was paid, often indirectly, to a Jordanian transportation company, Alia, which kept a small percentage of the fees, and paid the remainder onto the Iraqi government. This breached the sanctions placed on the Iraqi regime. The Cole Inquiry concluded that from mid-1999, AWB had knowingly entered into an arrangement which involved paying bribes to the Iraqi government, in order to retain its

business. It cleared the government ministers and bureaucrats from wrongdoing. However, it recommended criminal prosecutions be begun against former AWB executives.

The Inquiry recommended that twelve people be investigated for possible criminal and corporations offences over the scandal. It planned this to occur through a "joint task force comprising the Australian Federal Police, Victoria Police, and the Australian Securities and Investment Commission, A.S.I.C."

(D. Marr and M. Wilkinson Deceit by the truckload - National - smh.com.au

www.smh.com.au › National, The Sydney Morning Herald, 15 April 2006)

The greatest international scam, the biggest corruption of its kind in Australia's history resulted in international condemnation and litigation. The United States successfully pursued criminal charges against several citizens and others in its borders, but the Australian criminal investigation into AWB was eventually dropped. Civil charges, however, were initially successful.

On 11 July 2006 North American farmers claimed US$ 1 billion in damages from AWB before a court in Washington DC, alleging that the Australian wheat exporter used bribery

and other corrupt activities to corner grain markets. The growers claimed that AWB used the same practices to secure grain sales in other markets in Asia and other countries in the Middle East. The lawsuit was dismissed in March 2007.

In August 2009 the Australian Federal Police dropped the investigation into any criminal actions undertaken by AWB and others in this matter. The reason seemed to be that the chance of obtaining a conviction was limited and "not in the public interest."

A civil case was brought by shareholders of AWB, and was settled out of court for AU$ 39.5 million in February 2010. Nobody really knows why.

The Australian Securities and Investments Commission proceeded with several civil cases against six former directors and officers of AWB. Some of them were discontinued on condition that the parties would bear their own costs. A.S.I.C. decided to discontinue the proceedings after forming the view that it was "no longer in the public interest" to pursue its claims. A.S.I.C.'s proceedings against Trevor Flugge, the former Chairman of AWB, and Peter Geary, the former Group General Manager Trading of AWB, were still ongoing early this year.

And what of three cabalistas protecting the racket ? Trade's Vaile now successfully represents foreign business; vapid Downer has been 'sent home' as His Excellency The Honourable Alexander Downer, AC, as Australian High Commissioner to the Court of St. James, more closely to consort with 'the Hanover', 'the Hun', 'Charlie', Andy - all of 'The Firm'; schemer Howard remains to oraculate as Holy Man of the 'natural party of government'.

Now to more serious matters: the legality of Australia's intervention in Iraq.

Paragraph 3 of the document reproduced in above reads:

"Howard said that the Iraq issue was one of morality and not just legality. However, he agreed to table immediately in Parliament the text of the legal advice that had been provided to the Australian Government from DFAT and the Attorney-General's Department. He said it was consistent with the advice given to the British Government by Lord Goldsmith (FCO telnos 116 and 117 to Washington), that we fed in to his office his morning and which he also tabled."

So, the Iraq issue was not just one of legality. In the hands of the Howard government it became an exercise of fixing the law around the policy - surely a perversion of the legal process and, in the end, of any respect for morality.

DFAT and the Attorney-General Department had been asked: " ... whether, in the current circumstances, any deployment of Australian forces to Iraq and subsequent military action by those forces would be consistent with Australia's obligations under international law. The short answer is 'yes'. Existing United Nations Security Council resolutions provide authority for the use of force directed towards disarming Iraq of weapons of mass destruction and restoring international peace and security in the area. This existing authority for the use of force would only be negated in current circumstances if the Security Council were to pass a resolution that required Member States to refrain from the use of force against Iraq.

...

4. Following Iraq's invasion of Kuwait, the Security Council adopted Resolution 678 (1990) ('SCR 678'). Operative paragraph 2 of SCR 678 provides as follows:

"Authorises Member States co-operating with the Government of Kuwait, unless Iraq on or before 15 January 1991 fully implements, as set forth in paragraph 1 above, the above-mentioned resolutions, to use all necessary means to uphold and implement resolution 660 (1990) and all subsequent relevant resolutions and to restore international peace and security in the area."

5. Operative paragraph 3 of SCR 678 provides:

"Requests all States to provide appropriate support for the actions undertaken in pursuance of paragraph 2 above."

6. SCR 678 and the other resolutions of the Security Council mentioned below were adopted under Chapter VII of the Charter. Acting pursuant to the authority given in SCR 678, armed action was taken against Iraq in 1991.

7. Following that action, the UN adopted SCR 687 (1991) on 3 April 1991. Operative paragraph 1 of that Resolution provides:

“Affirms all thirteen resolutions noted above, except as expressly changed below to achieve the goals of the present resolution, including a formal cease-fire.”

The resolutions affirmed included SCR 678.

8. SCR 687 required Iraq to ‘unconditionally accept the destruction, removal, or rendering harmless, under international supervision, of all chemical and biological weapons and all stocks of agents … all ballistic missiles with a range greater than one hundred and fifty kilometres…’. It also required Iraq to yield the chemical and biological weapons to a Special Commission and to destroy the missiles under the supervision of the Commission.

9. Paragraphs 33 and 34 of SCR 687 provides:

“33. Declares that, upon official notification by Iraq to the Secretary-General and to the Security Council of its acceptance of the above provisions, a formal cease-fire is effective between Iraq and Kuwait and the Member States co-operating with Kuwait in accordance with resolution 678 (1990);

34. Decides to remain seized of the matter and to take such further steps as may be required for the implementation of the present resolution and to secure peace and security in the region.”

10. Between the adoption of SCR 687 and the present day, the Security Council has found that Iraq has failed to comply with its obligations under SCR 687. (Endnote 2.) This culminated in the adoption by the Security Council under Chapter VII of the UN Charter of SCR 1441 (2002) on 2 November 2002. In its preamble, this resolution recalled that SCR 678 authorised Member States to use all necessary means to uphold and implement SCR 660 and all relevant resolutions subsequent to SCR 660 and to restore international peace and security to the area. It also recalled that SCR 687 ‘imposed obligations on Iraq as a necessary step for the achievement of its stated objective of restoring international peace and security in the area’. Furthermore, the preamble provides:

“Recalling that in its resolution 687 (1991) the Council declared that a cease-fire would be based on acceptance by Iraq of the provisions of that resolution, including the obligations on Iraq contained therein.”

11. The operative paragraphs of SCR 1441 include:

“1. Decides that Iraq has been and remains in material breach of its obligations under relevant resolutions, including resolution 687 (1991), in particular through Iraq’s failure to cooperate with United Nations inspectors and the IAEA, and to complete the actions required under paragraphs 8 to 13 of resolution 687 (1991).

“2. Decides, while acknowledging paragraph 1 above, to afford Iraq, by this resolution, a final opportunity to comply with its disarmament obligations under relevant resolutions of the Council …. … “4. Decides that false statements or omissions in the declarations submitted by Iraq pursuant to this resolution and failure by Iraq at any time to comply with, and co-operate fully in the implementation of, this resolution shall constitute a further material breach of Iraq’s obligations and will be reported to the Council for assessment in accordance with paragraphs 11 and 12 below. … “12. Decides to convene immediately upon receipt of a report in accordance with paragraphs 4 or 11 above, in order to consider the situation and need for full compliance with all of the relevant Council Resolutions in order to secure international peace and security.

“13. Recalls, in that context, that the Council has repeatedly warned Iraq that it will face serious consequences as a result of its continued violation of its obligations.

“14. Decides to remain seized of the matter’.

12. Since that Resolution was adopted, Dr Blix, the Executive Chairman of UNMOVIC has briefed the Security Council on a number of occasions. In his briefing on 7 March 2003, Dr Blix was positive about advances in Iraqi co-operation. However, he noted that co-operation ‘cannot be said to constitute “immediate” co-operation. Nor do they [initiatives] necessarily cover all areas of relevance’. The claimed destruction of all WMD remains unverified. There is no doubt that Iraq remains in breach of its obligations under Security Council resolutions. SCR 1441 confirms a continuing breach of SCR 687 and other relevant resolutions. Dr Blix’s conclusions confirm the failure to comply with and co-operate fully and immediately in the implementation of SCR 1441.

13. A further draft Security Council resolution was tabled by the US, UK and Spain on 24 February 2003. A UK/US draft amended Resolution was tabled on 7 March 2003.

Reasons

14. In our view, Iraq's past and continuing material breaches of SCR 687 have negated the basis for the 'formal cease-fire'. Iraq, by its conduct subsequent to the adoption of SCR 687, has demonstrated that it did not and does not 'accept' the terms of SCR 687. Consequently, the cease-fire is not effective and the authorisation for the use of force in SCR 678 is reactivated.

15. We do not believe that the authorisation contained in SCR 678 has expired (endnote 3) or that, coupled with SCR 687, it was confined to the limited purpose of ensuring Iraq's withdrawal from Kuwait. Nor do we believe that the Security Council has either expressly or impliedly withdrawn the authority for the use of force in SCR 678 in all circumstances.

16. Operative paragraph 2 of SCR 678 set out above itself contains no limitations in terms of time. Nor is the purpose for which the authority to use force was given confined to restoration of the sovereignty and independence of Kuwait. The authority to use force also was to uphold and implement 'all subsequent relevant resolutions and to restore international peace and security to the area'. That purpose holds as good today as it did in 1990. There is no finite time under the Charter in which the authority given in a Security Council resolution expires. Nor is there any indication in resolutions subsequent to SCR 678 that the authority for the use of force contained in that resolution has expired. Indeed, subsequent resolutions indicate to the contrary. (Endnote 4.)

17 Given the existing authority for the use of force, suggestions that there is a legal requirement for a further resolution are misplaced. Also, suggestions that the use of force in Iraq in the absence of a further Security Council Resolution would be 'unilateral' are wrong.

18. It has been suggested (endnote 5) that a number of relevant UN Security Council Resolutions refer to further action being taken by the UN Security Council, thus precluding UN Member States themselves from taking further action. In this respect, reference has been made to operative paragraph 34 of SCR 678 that states, in part, that the Security Council may 'take such further steps as may be required for the implementation of the present resolution and to secure peace and security in the region'. In our view, this does not remove the authority given to Member States in SCR 678.

19. As at the date of this advice, the Security Council is considering a further draft resolution tabled by the United States, the United Kingdom and Spain. The content of that resolution is not settled. However, failure to adopt that resolution would not, in our view, negate the

existing authority to use force. As noted above, in current circumstances that authority would only be negated by a Security Council resolution requiring Member States to refrain from using force against Iraq.

Bill Campbell QC First Assistant Secretary Office of International Law Attorney-General's Department

Chris Moraitis Senior Legal Adviser Department of Foreign Affairs and Trade

12 March 2003" [Endnotes omitted]

(The Memorandum of Advice on the Use of Force Against Iraq, provided by the Attorney General's Department and the Department of Foreign Affairs and Trade, March 18, 2003. The government's legal advice on using force - SMH.com.au

www.smh.com.au › Home › War on Iraq, 19 March 2003)

It is a position that John Howard confirmed while delivering a lecture to the Lowy Institute of Sydney on 9 April 2013: 'Iraq 2003: a retrospective'.

"My Government never saw the obtaining of a fresh SC resolution as a necessary legal pre-requisite to action the removal of Saddam. It was always our view that Resolution 678, dating back to 1990 provided sufficient legal grounds for the action ultimately taken. That was reflected in the formal legal advice tendered to the Government, and subsequently tabled in Parliament.[Footnote no. 8. Memorandum of advice to the Commonwealth Government in the use of force against Iraq. Tabled by the Prime Minister in the House of Representatives, 18 March 2003. Prepared by the Commonwealth Attorney-General's Department and FAT, 12 March 2003] By contrast there was great political value, especially for the British Government, fighting much internal British Labour Party resistance, if an explicit authorisation for military action were obtained. To have tried, albeit unsuccessfully, for a new resolution added weight to the moral and political case being built for a military operation.

The Clinton administration thought that 678 gave blanket legal coverage for all the military action it took to enforce the terms of that resolution. There was wide acceptance of that view, including in Australia. When Australia agreed, at President Clinton's request, to send Special Forces to the Gulf in 1998 to support "Operation Desert Thunder" by the Americans and the British against Saddam's WMD capacity as well as other strategic assets of the regime, because of another round of defiance by Iraq of UN resolutions, the Opposition readily

concurred. Kim Beazley accompanied me to Campbell Barracks to farewell the men. We were as one on the correctness of their mission." (Iraq 2003: a retrospective | Lowy Institute for ...,www.lowyinstitute.org/publications/iraq-2003-retrospective, 9 April 2003)

Howard may derive comfort from the fact that the Leader of the Opposition "readily concurred." But that does not make it right.

Dr. Gavan Griffith, AO QC, Commonwealth Solicitor General between 1984 and 1997, the immediate predecessor of the 1998-2008 Solicitor General David Michael John Bennett AC QC, said so. He though that it was Alice in Wonderland nonsense. John Winston Howard may be a good Anglican, but he talks and behaves like a countryside Jesuit: his ends invariably justify the means.

Here is how Dr. Griffith opened his notes: "The tabled joint 'Memorandum of Advice' of the First Assistant Secretary, Office of International Law, Attorney-General's Department and the Senior Legal Adviser, DFAT, has insufficient substance to bear the weight of the Prime Minister's reliance to justify the invasion of Iraq by Australian defence forces.

This Advice invokes the authority of Security Council Resolution (SCR) 678 of 15 July 1991 to justify the unilateral use of force by Australia. It is plain that the authority of para 3 for the use of force of that 12 year old resolution expired with the Gulf War and successive resolutions of the Security Council leading to SCR 1441 of 2 November 2002. [Emphasis added]

...

It is now facile to assert that without the further resolution authorising the use of force, now abandoned, SCR 678 has revived (or may be regarded as continuing) as authority for the use of force at the whim of Australia as a self-appointed member of the "Coalition of the Willing". The question "Willing for What?" has its answer: Willing to act in breach of plain obligations of international law and comity between nations."

Dr. Griffith continued: "I cannot characterize the advice as an opinion. The short paragraphs 14 to 18 of the brief seven page advice read as weak best arguments for the use of force. Para 34 of SCR 678, cited in para 18, denies the continued authority of that resolution to support present action by individual states, as does the entire SCR 1441.

The final sentence of the advice concluding that the authority of SCR 678 to use force

"would only be negated by a Security Council Resolution requiring Member States to refrain from using force against Iraq" is a fanciful proposition, an Alice in Wonderland inversion of meaning of plain words in the resolutions themselves. It is unsupportable. The authors are making it up." [Emphasis added]

It is significant that the authors of this Advice, on the important issue of giving legal sanction to war, do not even entitle it as 'Opinion'. Its brevity and lack of force is exceeded only by the one-page 'Opinion of the United Kingdom's Attorney-General tabled in the United Kingdom Parliament, that makes the completely untenable assertion that "all resolution 1441 requires is a report to and discussion by the Security Council of Iraq's failures, but not to express further decisions to authorize force."

To this end the Australian and United Kingdom legal advices are entirely untenable. They are arrant nonsense. They furnish no threads for military clothes. It is difficult to comprehend that the fanciful assertions (they are not arguments) of the two advices have been invoked by Australia and the United Kingdom to support an invasion of another state.[Emphasis added] It does not appear from his published remarks that President Bush made any such attempt to clothe American action with the authority of the Security Council. This has the advantage of making the unilateral basis of his country's actions plain."

Dr. Griffith lamented that "the Memorandum of Advice [was] not subscribed by Henry Burmester QC, former head of the Office of International Law and now Chief General Counsel of the Attorney-General's Department and the most senior and experienced international lawyer in Commonwealth service. Nor by Professor James Crawford SC, Professor of International Law at Cambridge, who commonly advises and appears for the Government in International law matters. I could suggest none available to the Commonwealth better qualified to give disinterested and expert advice."

In fact Professor Crawford had already expressed his opinion, along with fifteen other experts in international law; see: 'War would be illegal', in letters to The Guardian, 7 March 2003, already mentioned in the part of this essay titled 'Was the war legal ?'

In closing Dr. Griffith declared himself "at a loss that this important matter of legal support has not been supported at this highest expert level readily available to the Government. Instead, the Government has been content to table a mere 'memorandum' of assertion, signed

off at the departmental level of First Assistant Secretaries."

This was particularly striking in that the 'memorandum' ignored "the authority of the opinion by 43 Australian international lawyers as to the plain breach of international obligations by Australia absent a further Security Council."

Those law experts had signed a letter declaring that "the initiation of a war against Iraq by the self-styled 'coalition of the willing' would be a fundamental violation of international law" which could "involve committing both war crimes and crimes against humanity". They warned that Australian military personnel and government officials faced the threat of being hauled before the International Criminal Court if they took part. (Coalition of the willing? Make that war criminals - smh.com.au,www.smh.com.au › Home › Opinion, The Sydney Morning Herald, 26 February 2003)

Finally, Dr. Griffith indicated his preference for "the opinion by Robinder Singh QC of Matrix Chambers, London, to be found at web site publicinterestlawyers," which is reasoned and compelling argument for the lack of support provided by the aged SCR 678." (G. Griffith, QC, 'Notes on the legal justification for the invasion of Iraq and Security Council Resolutions 678 and 1441', published in (M. Kingston, This war is illegal: Howard's last top law man, The Sydney Morning Herald, 21 March 2003, This war is illegal: Howard's last top law man ..., www.smh.com.au › Home › Opinion › Web Diary › Archive › 2003)

Dr. Griffith's opinion, particularly as supported by English and Australian specialists in international law, appears totally persuasive. The opinion of Lord Alexander of Weedon, QC, chairman of the English Bar Council, has already been considered at length. Distinguished members of the legal community in the United Kingdom have concluded without ambiguity that the war was unlawful. This view was set out with clarity and force by Lord Bingham, the former Master of the Rolls, Lord Chief Justice and finally Senior Law Lord, in his book The rule of law, Penguin, London 2011, see in particular pp.122-127.

This will be the starting point for the examination under the present international law of Australia's invasion of Iraq. For years a group of determined Australians has been calling for the establishment of an Inquiry into Iraq war - presumably in the form of a Royal Commission. The history of such commissions, at least in Australia, is not encouraging to

the discovery of the truth and subsequent action onto it. Usually such commissions are appointed by government, and that means limited powers, preservation of certain privileged interests, and in most cases lack of action of the offered recommendations. Such commissions and their fate are one further confirmation of the duplicity, sickness and philistinism of The System. Governments ignore, a new generation comes, the old and the new ignoramuses go to sleep - such is deliberately calculated in what passes for democracy in and about an indifferent populace.

* * * * *

This does not exclude an examination under domestic legislation of what is plainly an act of aggression.

Australia is a founding member of the United Nations. It was an active participant at the 1945 San Francisco Conference, during which the U.N. Charter was negotiated, and was there represented by the Minister for External Affairs Dr. Herbert Vere Evatt, QC KStJ, 'Doc' Evatt, who played a significant role in drafting the Charter.

It is the view of successive governments that ever since Australian foreign policy has been informed - at least in theory - by the underlying principles and purposes of the United Nations: to maintain international peace and security, to develop friendly relations among nations, and to achieve global cooperation.

In 1945 the London Charter of the International Military Tribunal defined crimes against peace as follows: "planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of the foregoing;" war crimes or crimes against humanity. (Constitution of the International Military Tribunal, Art. 6 (a), I. CONSTITUTION OF THE INTERNATIONAL MILITARY TRIBUNAL avalon.law.yale.edu/imt/imtconst.asp)

At the International Conference on Military Trials, held in London on 23 July 1945, for the prosecution of prominent members of the political, military, judicial and economic leadership

of Nazi Germany who had planned and committed war crimes, Mr. Justice Robert H. Jackson of the United States declared: “If certain acts in violation of treaties are crimes, they are crimes whether the United States does them or whether Germany does them, and we are not prepared to lay down a rule of criminal conduct against others which we would not be willing to have invoke against us.” (The Avalon Project : International Conference on Military ..., avalon.law.yale.edu/imt/jack44.asp, Minutes of Conference Session of July 23, 1945)

On 21 November 1945 the same R. H. Jackson, now as Chief Counsel for the United States and prosecutor at the Nuremberg trials, in his Opening Statement before the International Military Tribunal said: “We must never forget that the record on which we judge these defendants today is the record on which history will judge us tomorrow. To pass these defendants a poisoned chalice is to put it to our own lips as well. We must summon such detachment and intellectual integrity to our task that this Trial will commend itself to posterity as fulfilling humanity's aspirations to do justice.”(Robert H. Jackson: Opening Statement Nuremberg Trials, 1945, www.pbs.org/wnet/supremecourt/personality/sources_document12.html)

On 21 November 1947, one year after the end of the first Nuremberg trial, held by the Allied forces after the second world war for the prosecution of prominent members of the political, military, judicial and economic leadership of Nazi Germany who had planned and committed war crimes, the United Nations passed General Assembly Resolution 177 in order to codify what became known as ‘Nuremberg Principles.’ The original language reads:

“177 (II). Formulation of the principles recognized in the Charter of the Nürnberg Tribunal and in the judgment of the Tribunal.

The General Assembly decides to entrust the formulation of the principles of international law recognized in the charter of the Nürnberg Tribunal and in the judgment of the Tribunal to the International Law Commission, the members of which will, in accordance with resolution 174 (II), be elected at the next session of the General Assembly, and direct the Commission to:

(a) Formulate the principles of international law recognized in the Charter of the Nürnberg Tribunal and in the judgment of the Tribunal and,

(b) Prepare a draft code of offences against the peace and security of mankind, indicating clearly the place to be accorded to the principles mentioned in sub-paragraph (a) above."

In order to fulfil this mandate, the International Law Commission - which had been set up under U.N. Resolution 174 - codified seven principles and adopted them on 29 July 1950.

They are:

"Principles of International Law Recognized in the Charter of the Nürnberg Tribunal and in the Judgment of the Tribunal

Principle I

Any person who commits an act which constitutes a crime under international law is responsible therefore and liable to punishment.

Principle II

The fact that internal law does not impose a penalty for an act which constitutes a crime under international law does not relieve the person who committed the act from responsibility under international law.

Principle III

The fact that a person who committed an act which constitutes a crime under international law acted as Head of State or responsible Government official does not relieve him from responsibility under international law.

Principle IV

The fact that a person acted pursuant to order of his Government or of a superior does not relieve him from responsibility under international law, provided a moral choice was in fact possible to him.

Principle V

Any person charged with a crime under international law has the right to a fair trial on the facts and law.

Principle VI

The crimes hereinafter set out are punishable as crimes under international law:

(a) Crimes against peace: (i) Planning, preparation, initiation or waging of a war of aggression or a war in violation of international treaties, agreements or assurances; (ii) Participation in a common plan or conspiracy for the accomplishment of any of the acts mentioned under (i). [Emphasis added]

(b) War crimes: Violations of the laws or customs of war which include, but are not limited to, murder, ill-treatment or deportation to slave-labour or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war, of persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns, or villages, or devastation not justified by military necessity.

(c) Crimes against humanity:

Murder, extermination, enslavement, deportation and other inhuman acts done against any civilian population, or persecutions on political, racial or religious grounds, when such acts are done or such persecutions are carried on in execution of or in connection with any crime against peace or any war crime.

Principle VII

Complicity in the commission of a crime against peace, a war crime, or a crime against humanity as set forth in Principle VI is a crime under international law." [Emphasis added] (Principles of International Law Recognized in the Charter of the Nürnberg Tribunal and in the Judgment of the Tribunal 1950. Text adopted by the International Law Commission at its second session, in 1950 and submitted to the General Assembly as a part of the Commission's report covering the work of that session. The report, which also contains commentaries on the principles, appears in Yearbook of the International Law Commission, 1950, vol. II, para. 97. Copyright © United Nations 2005. Principles of International Law recognized in the Charter ..., legal.un.org/ilc/texts/instruments/english/commentaries/7_1_1950.pdf · PDF file)

When read together, the first three principles say: Any person who commits an act which constitutes a crime under international law is responsible therefore and liable to punishment. The fact that internal law does not impose a penalty for an act which constitutes a crime under international law does not relieve the person who committed the act from responsibility

under international law. The fact that a person who committed an act which constitutes a crime under international law acted as Head of State or responsible Government official does not relieve him from responsibility under international law. In a civilised country, the ministers of the Howard government of 2003 should be concerned.

In 1950 the Nuremberg Tribunal defined crimes against peace in Principle VI, specifically Principle VI(a), submitted to the United Nations General Assembly, as:

(i) Planning, preparation, initiation or waging of a war of aggression or a war in violation of international treaties, agreements or assurances;

(ii) Participation in a common plan or conspiracy for the accomplishment of any of the acts mentioned under (i).

The relevant provisions of the Charter of the United Nations mentioned in the Rome Statute of the International Criminal Court article 5.2 were framed to include the Nuremberg Principles. The specific principle is Principle VI.a: Crimes against peace, which was based on the provisions of the London Charter of the International Military Tribunal, which was issued in 1945 and formed the basis for the post second world war 'war crime trials'. The U. N. Charter's provisions based on the Nuremberg Principle VI.a are:

CHAPTER I: PURPOSES AND PRINCIPLES

Article 1

The Purposes of the United Nations are:

To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;

To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;

Article 2

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

4. All Members shall refrain in their international relations from the threat or use force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

CHAPTER VI: PACIFIC SETTLEMENT OF DISPUTES

Article 33

The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means.

CHAPTER VII: ACTION WITH RESPECT TO THREATS TO THE PEACE, BREACHES OF THE PEACE, AND ACTS OF AGGRESSION

Article 39

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

The discussions on definition of aggression began at the United Nations in 1950, following the outbreak of the Korean war. As the ‘western’ governments, headed by Washington, were in favour of defining the governments of North Korea and the People’s Republic of China as aggressor states, the Soviet government proposed to formulate a new U.N. resolution defining aggression and based on the 1933 Convention for the Definition of Aggression were signed in London on 3 July 1933.

As a result, on 17 November 1950, the General Assembly passed Resolution 378, which referred the issue to be defined by the International Law Commission. The Commission

deliberated over this issue in its 1951 session and due to large disagreements among its members, decided "that the only practical course was to aim at a general and abstract definition (of aggression)." However, a tentative definition of aggression was adopted by the Commission on 4 June 1951. It stated: "Aggression is the use of force by a State or Government against another State or Government, in any manner, whatever the weapons used and whether openly or otherwise, for any reason or for any purpose other than individual or collective self-defence or in pursuance of a decision or recommendation by a competent organ of the United Nations."

On 14 December 1974 the United Nations General Assembly adopted Resolution 3314, which defined the crime of aggression. This definition is not binding as such under international law, though it may reflect customary international law.

The definition makes a distinction between aggression - which "gives rise to international responsibility" - and war of aggression - which is "a crime against international peace." Acts of aggression are defined as armed invasions or attacks, bombardments, blockades, armed violations of territory, permitting other states to use one's own territory to perpetrate acts of aggression and the employment of armed irregulars or mercenaries to carry out acts of aggression. A war of aggression is a series of acts committed with a sustained intent. The definition's distinction between an act of aggression and a war of aggression makes it clear that not every act of aggression would constitute a crime against peace; only war of aggression does. States would nonetheless be held responsible for acts of aggression.

The definition is not binding on the Security Council. The United Nations Charter empowers the General Assembly to make recommendations to the United Nations Security Council but the Assembly may not dictate to the Council. The resolution accompanying the definition states that it is intended to provide guidance to the Security Council to aid it "in determining, in accordance with the Charter, the existence of an act of aggression." The Security Council may apply or disregard this guidance as it sees fit. Legal commentators argue that the definition of aggression has had "no visible impact" on the deliberations of the Security Council.

All this premised, what follows is the adopted definition of aggression:

"Article 1

Aggression is the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations, as set out in this Definition. [Note omitted]

Article 2

The First use of armed force by a State in contravention of the Charter shall constitute prima facie evidence of an act of aggression although the Security Council may, in conformity with the Charter, conclude that a determination that an act of aggression has been committed would not be justified in the light of other relevant circumstances, including the fact that the acts concerned or their consequences are not of sufficient gravity.

Article 3

Any of the following acts, regardless of a declaration of war, shall, subject to and in accordance with the provisions of article 2, qualify as an act of aggression:

(a) The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof,

(b) Bombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State;

(c) The blockade of the ports or coasts of a State by the armed forces of another State;

(d) An attack by the armed forces of a State on the land, sea or air forces, or marine and air fleets of another State;

(e) The use of armed forces of one State which are within the territory of another State with the agreement of the receiving State, in contravention of the conditions provided for in the agreement or any extension of their presence in such territory beyond the termination of the agreement;

(f) The action of a State in allowing its temtory, which it has placed at the disposal of another State, to be used by that other State for perpetrating an act of aggression against a third State;

(g) The sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein.

Article 4

The acts enumerated above are not exhaustive and the Security Council may determine that other acts constitute aggression under the provisions of the Charter.

Article 5

1. No consideration of whatever nature, whether political, economic, military or otherwise, may serve as a justification for aggression.

2. A war of aggression is a crime against international peace. Aggression gives rise to international responsibility.

3. No territorial acquisition or special advantage resulting from aggression is or shall be recognized as lawful.

Article 6

Nothing in this Definition shall be construed as in any way enlarging or diminishing the scope of the Charter, including its provisions concerning cases in which the use of force is lawful.

Article 7

Nothing in this Definition, and in particular article 3, could in any way prejudice the right to self-determination, freedom and independence, as derived from the Charter, of peoples forcibly deprived of that right and referred to in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, particularly peoples under colonial and racist regimes or other forms of alien domination: nor the right of these peoples to struggle to that end and to seek and receive support, in accordance with the principles of the Charter and in conformity with the above-mentioned Declaration.

Article 8

In their interpretation and application the above provisions are interrelated and each provision should be construed in the context of the other provisions." (A/RES/29/3314 - Definition of Aggression - UN Documents ... www.un-documents.net/a29r3314.htm)

Part Two of the Draft Code of Crimes against the Peace and Security of Mankind prepared by the International Law Commission in 1996 contains the following:

"Article 16. Crime of aggression

An individual who, as leader or organizer, actively participates in or orders the planning, preparation, initiation or waging of aggression committed by a State shall be responsible for a crime of aggression."

The following notes attached to the Commentary are of assistance. "(1) The characterization of aggression as a crime against the peace and security of mankind contained in article 16 of the Code is drawn from the relevant provision of the Charter of the Nürnberg Tribunal as interpreted and applied by the Nürnberg Tribunal. Article 16 addresses several important aspects of the crime of aggression for the purpose of individual criminal responsibility. The phrase "An individual ... shall be responsible for a crime of aggression" is used to indicate that the scope of the article is limited to the crime of aggression for the purpose of individual criminal responsibility. Thus, the article does not address the question of the definition of aggression by a State which is beyond the scope of the Code.

(2) The perpetrators of an act of aggression are to be found only in the categories of individuals who have the necessary authority or power to be in a position potentially to play a decisive role in committing aggression. These are the individuals whom article 16 designates as "leaders" or "organizers", an expression that was taken from the Charter of the Nurnberg Tribunal. These terms must be understood in the broad sense, that is to say, as referring, in addition to the members of a Government, to persons occupying high-level posts in the military, the diplomatic corps, political parties and industry, as recognized by the Nürnberg Tribunal, which stated that: "Hitler could not make aggressive war by himself. He had to have the cooperation of statesmen, military leaders, diplomats and businessmen". [Reference omitted]

(3) The mere material fact of participating in an act of aggression is, however, not enough to establish the guilt of a leader or organizer. Such participation must have been intentional and have taken place knowingly as part of a plan or policy of aggression. [Emphasis added] In

this connection, the Nürnberg Tribunal stated, in analysing the conduct of some of the accused, that:

When they, with knowledge of his aims, gave him their cooperation, they made themselves parties to the plan he had initiated. They are not to be deemed innocent because Hitler made use of them, if they knew what they were doing. [Reference omitted]

...

(4) Article 16 refers to "aggression committed by a State". An individual, as leader or organizer, participates in that aggression. It is this participation that the article defines as a crime against the peace and security of mankind. In other words, it reaffirms the criminal responsibility of the participants in a crime of aggression. Individual responsibility for such a crime is intrinsically and inextricably linked to the commission of aggression by a State. [Emphasis added] The rule of international law which prohibits aggression applies to the conduct of a State in relation to another State. Therefore, only a State is capable of committing aggression by violating this rule of international law which prohibits such conduct. At the same time, a State is an abstract entity which is incapable of acting on its own. A State can commit aggression only with the active participation of the individuals who have the necessary authority or power to plan, prepare, initiate or wage aggression. [Emphasis added] The Nürnberg Tribunal clearly recognized the reality of the role of States and individuals in stating that:

Crimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced. [Reference omitted] Thus, the violation by a State of the rule of international law prohibiting aggression gives rise to the criminal responsibility of the individuals who played a decisive role in planning, preparing, initiating or waging aggression. [Emphasis added] The words "aggression committed by a State" clearly indicate that such a violation of the law by a State is a sine qua non condition for the possible attribution to an individual of responsibility for a crime of aggression. Nonetheless, the scope of the article is limited to participation in a crime of aggression for the purpose of individual criminal responsibility. It therefore does not relate to the rule of international law which prohibits aggression by a State.

(5) The action of a State entails individual responsibility for a crime of aggression only if the conduct of the State is a sufficiently serious violation of the prohibition contained in Article

2, paragraph 4, of the Charter of the United Nations. In this regard, the competent court may have to consider two closely related issues, namely, whether the conduct of the State constitutes a violation of Article 2, paragraph 4, of the Charter and whether such conduct constitutes a sufficiently serious violation of an international obligation to qualify as aggression entailing individual criminal responsibility. The Charter and the Judgment of the Nürnberg Tribunal are the main sources of authority with regard to individual criminal responsibility for acts of aggression.

(6) Several phases of aggression are listed in article 16. These are: the order to commit aggression, and, subsequently, the planning, preparation, initiation and waging of the resultin.g operations. These different phases are not watertight. Participation in a single phase of aggression is enough to give rise to criminal responsibility.

... ”

(Text adopted by the International Law Commission at its forty-eighth session, in 1996, and submitted to the General Assembly as a part of the Commission’s report covering the work of that session (at para. 50). The report, which also contains commentaries on the draft articles, appears in Yearbook of the International Law Commission, 1996, vol. II, Part Two. Copyright © United Nations 2005, Draft Code of Crimes against the Peace and Security of ..., legal.un.org/ilc/texts/instruments/english/commentaries/7_4_1996.pdf · PDF file)

The Rome Statute of the International Criminal Court lists the crime of aggression as one of the most serious crimes of concern to the international community, and provides that the crime falls within the jurisdiction of the Court. The Rome Statute was signed by Australia on 9 December 1998, ratified on 1 July 2002, and came into force between 28 June and 26 September 2002, by operation of the International Criminal Court Act [No. 41 of] 2002 of the Parliament of Australia.

However, Article 5.2 of the Rome Statute states that “The Court shall exercise jurisdiction over the crime of aggression once a provision is adopted in accordance with articles 121 and 123 defining the crime and setting out the conditions under which the Court shall exercise jurisdiction with respect to this crime. Such a provision shall be consistent with the relevant provisions of the Charter of the United Nations.”

The Assembly of States Parties of the Rome Statute adopted the following definition at the Review Conference which took place from 31 May to 11 June 2010 in Kampala, Uganda.

Art.8 bis is now part of the Statute. It reads as follows:

"1. For the purpose of this Statute, "crime of aggression" means the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations.

2. For the purpose of paragraph 1, "act of aggression" means the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations. Any of the following acts, regardless of a declaration of war, shall, in accordance with United Nations General Assembly resolution 3314 (XXIX) of 14 December 1974, qualify as an act of aggression:

(a) The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof;

(b) Bombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State;

(c) The blockade of the ports or coasts of a State by the armed forces of another State;

(d) An attack by the armed forces of a State on the land, sea or air forces, or marine and air fleets of another State;

(e) The use of armed forces of one State which are within the territory of another State with the agreement of the receiving State, in contravention of the conditions provided for in the agreement or any extension of their presence in such territory beyond the termination of the agreement;

(f) The action of a State in allowing its territory, which it has placed at the disposal of another State, to be used by that other State for perpetrating an act of aggression against a third State;

(g) The sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein."

The Court may exercise jurisdiction over the crime of aggression, however, the relative amendments to the Statute stipulate additional conditions. The amendments must have been ratified or accepted by at least thirty States Parties, and in addition States Parties must "activate" the Court's jurisdiction through an additional decision to be taken on or after 1 January 2017 by a two thirds majority. On 26 June 2016 Palestine ratified the amendments to the Rome Statute on the crime of aggression.

By this ratification, Palestine deposited the thirtieth instrument which opened the possibility of giving jurisdiction to the International Criminal Court to try the crime of aggression.

Two points should be made:

1) the provision of Art. 8 bis cannot be enforced retroactively, and

2) more importantly, it is clear that the United Nations General Assembly resolution 3314 (XXIX) of 14 December 1974 is held in great consideration in defining an act of aggression.

The preceding information about the increased jurisdiction of the International Criminal Court is given for completeness.

In fact, by the International Criminal Court (Consequential Amendments) Act [No. 42 of] 2002, an Act to amend the Criminal Code Act 1995 and certain other Acts in consequence of the enactment of the International Criminal Court Act [No. 41 of] 2002, and for other purposes, the provisions of Arts. 6 - Genocide, 7 - Crimes against humanity, 8 - War crimes, of the Rome Statute have been 'imported' into the Australian Criminal Code 1995 by the addition to Chapter 8 on Offences against humanity and related offences of Division 268 - Genocide, crimes against humanity, war crimes and crimes against the administration of the justice of the International Criminal Court.

The Division contains nine Subdivisions, from A to J.

There is a kind of ‘parallel jurisdiction’, if that is the proper expression. That was tested in at least one case, promoted by a small, activist Sydney organisation.

Conscious of the importance of exhausting the domestic jurisdiction, had it been necessary to go to the International Criminal Court, by respecting ad litteram Art. 17 of the Rome Statute, on 16 March 2012 the organisation submitted a complaint to the Australian Federal Police against former Prime Minister John Winston Howard, “for his decision to send Australian Forces to invade and wage war against Iraq”, and accusing him of violation of the provisions of Division 268, as ‘receiving’ Arts. 6, 7 and 8 of the Rome Statute. The complaint, supported by twenty six annexes, had been prepared by a distinguished Sydney Senior Counsel. On 3 May 2012 the A.F.P. communicated that “the information ... supplied [did] not disclose an offence against Division 268.” Once re-examined by another Senior Counsel, and found already sufficiently well argued and documented, the complaint was submitted on 9 May 2013 to the Commonwealth Director of Public Prosecutions, who on 18 June 2013 informed the complainant that he had “considered ... [and decided] “not]to] initiate a prosecution ... based on the material [submitted] because the “material [was] not a brief of evidence, containing admissible evidence against Mr. Howard.”

On 3 September 2013 the complaint was e-mailed to the International Criminal Court and a hard copy left Sydney on 4 September 2013, by air mail letter registered, number RP007553525AU, with return receipt. The receipt was not returned. Attempts at communicating with the Information and Evidence Unit of the I.C.C. Office of the Prosecutor in The Hague produced no reply.

Of course, any renewed attempt to prosecute in Australia would require consent of the Attorney-General.

Others have been more successful with the Court: on 19 May 2014 a lady from Western Australia was able to lodge and have accepted for consideration by the Prosecutor a complaint against Prime Minister Abbott and some of his ministers responsible for the execrable ill-treatment of intended refugees who had arrived to Australia by boat to seek refuge, presumably under Art. 14 of the Universal Declaration of Human Rights, without satisfying the bureaucratic process. They have been languishing: men, women and children - some of them for more than three years - in some hellish places hired by Australia in Nauru and Papua New Guinea. The scandal has been known for years at the United Nations.

On 22 October 2014 Andrew Wilkie, the Independent Member of Parliament from Tasmania, assisted by a lawyer, wrote to the I.C.C. Prosecutor, inviting her to initiate a proprio motu an investigation of the activity of Prime Minister Abbott and all the nineteen members of his Cabinet, some assistant ministers and two generals involved at the 'militarised' border in the same ill-treatment of would be refugees-by-boat.

On 8 July 2015 the Refugee Action Collective of Victoria filed a communiqué for the Office of the I.C.C. Prosecutor. It contains a notice of intention to request the I.C.C. to investigate and act against the Prime Minister of Australia, the past and present Immigration and Border Protection ministers and the Attorney-General.

This submission charged violation of international law, of the 1951 U.N. Convention and Protocol Relating to the Status of Refugees, of the International Covenant on Civil and Political Rights, the Convention against Torture, and the Convention on the Rights of the Child, and of Art. 7 of the I.C.C. Statute.

The submission also makes reference to Art. 14 of the 1948 Universal Declaration of Human Rights, as proclaiming: "Everyone has the right to seek and to enjoy in other countries asylum from persecution." It points out how "The Australian government also ignores the standards of human rights as set in the Rome Statute, the International Covenant on Civil and Political Rights, the Convention against Torture, and the Convention on the Rights of the Child."

The submission, clearly articulated along eleven points, and well documented, charges and, with a view to aiding the investigation and possible prosecution, relies heavily on the concept of judicial notice. Judicial Notice is defined by the Australian Law Reform Commission

Report 102, February 2006, Section 144, as: “common knowledge [which] covers facts, both local and general knowledge, which are so widely recognized that requiring proof of them would be a superfluous exercise.” And further “while matters of common knowledge falling within s. 144 need not be proved formally, parties to a proceeding are not precluded from leading formal evidence of such matters.”

The complainants add for good measure that they “are aware that the [I.C.C.] has the choice of either a narrow or broad interpretation of the concept of judicial notice, and they urge the court to apply the latter, given that much of what is alleged is common knowledge in Australia and is much resented by both humane and expert opinions.”

Refugee Action Collective charged that the Australian governments have repeatedly brushed off a number of extremely damning reports – both domestic and international – which emphasise the brutality of the offshore detention system. These include: the 2015 ‘Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment of punishment’, submitted to the U.N.’s Human Rights Council by Juan E. Méndez, the 2015 ‘Review into recent allegations relating to the conditions and circumstances at the Regional Processing Centre in Nauru’ - otherwise known as the ‘Moss Report’ - commissioned by former Minister for Immigration and Border Protection, and the 2014 report ‘Forgotten Children: National Inquiry into Children in Immigration Detention 2010’ by Professor Gillian Triggs, President of the Australian Human Rights Commission. Such reports have amply condemned the Australian Government for its cruel and unlawful detention of children, women and men who have committed no crime.

Tightly written and cogently argued, the submission is signed by a distinguished retired academic and countersigned by dozens of organisations.

It could not be ignored, and might - just might - proceed. Success can only be hoped, but habent sua sidera lites = disputes have their own stars.

* * * * *

Five years ago Dr. Jenny Grounds and Dr. Sue Wareham made a heartfelt appeal for an inquiry. They were writing on behalf of the Medical Association for the Prevention of War

(Australia), of which they were president and vice-president, respectively. They concluded: “If we are to learn anything from this disaster, we must establish how it unfolded and the role, if any, played by the ample warnings that accurately predicted its full horror.” They advocated for nuclear disarmament and peace, condemned the war, and advocated for an inquiry on Australian intervention in Iraq.

A ‘real Australian’ might have shouted: ‘Do-gooders’ !

At about the same time, Dr. Alison Broinowski, who had already written extensively against the war, that she branded a humanitarian, legal, political and strategic disaster, edited a booklet promoting a call for an Australian inquiry, and succeeded in gathering around herself a solid group of specialists in the subject.

The reaction might have been one more shout: ‘Intellectual’ !

Professor Ben Saul, an international law expert at the University of Sydney, had long called for a wide-ranging inquiry along the lines of the Chilcot Inquiry. He renewed his request in 2012.

Observing that, [t]he contrast to Britain’s collective soul-searching could not be more stark than in Australia.” he melancholically concluded: “Here, the Iraq war has long been forgotten. Since the withdrawal of Australian troops, there is an unspoken bipartisan agreement to bury the inconvenient past. There are no calls for an inquiry. [Emphasis added]

As one Australian journalist said to me, Iraq is no longer a story.

...

But, “Political amnesia is not good for our democracy or the rule of law. Australia should follow Britain’s lead in establishing a broad inquiry into Australia’s invasion of Iraq. Democracies bear a special duty to uphold the international rule of law, to lead by example in a world where our best defence against security threats is to strengthen - not tear down - the multilateral system. Repressive countries are already doing enough to weaken the UN and international law.

An Australian inquiry should examine the decision-making that led us to war, including the intelligence assessments, political and strategic calculations, and legal arguments. A particular focus should be whether any Australian government officials committed the

international crime of aggression - that is, waging an illegal war against peace. It may be recalled that after the Nuremberg trials, we executed Nazi war leaders for the crime of aggression.

An inquiry is also an opportunity to look forward, to improve our decision-making about future wars. For instance, when waging war is an executive prerogative as in Australia, with no role for Parliament, there is precious little to hold back a government bent on the war path. This can be our salvation when the nation is faced by a supreme emergency threatening its shores.

...

In the long sweep of history, I have no doubt that our children will scratch their heads and wonder why we attacked Iraq. They may well be puzzled about why there was no reckoning for those who took us there, and no justice for the innocent dead. I hope it gives them pause before mounting their own cavalier escapades to smash foreign governments and kill their peoples."

This was just too much for indifferent Australians. And the cry went up: 'Academic' !

'Do-gooders, intellectual, academic' are common terms of abuse by a populace which prefers to be 'comfortable and relaxed' as a 'practical' pettifogger offered and largely delivered for eleven years.

An item of news arrived, to disturb such indifference, on 11 July 2016, a few days after the release of the Chilcot Report: a new group - Chilcot Oz - had formed in South Australia during the weekend to advocate for a full inquiry into Australia's involvement in the Iraq war. Responsible for the initiative were the 'usual group of university students', no doubt assisted by 'the usual suspects'.

In the wake of the Iraq Inquiry Report, Paul McGough - one of the last reflecting journalists to be read in Australia - wrote a piece on the Chilcot Report: The mind-boggling incompetence of Bush, Blair and Howard laid bare. It is not the kind of performance one has become accustomed from the choirboys of the Murdoch's stable.

"The three buccaneers - he said - took leave of their senses in invading Iraq - George W. Bush, Tony Blair and John Howard."

Well, no sudden action or reaction there: a long, premeditated connivance and the servile, unquestioning friendship with George Bush could most likely better describe the process.

First, Bush. “An ignorant person”, soberly but precisely and with the brevity which belongs to a final sentence impossible of appeal, said Thomas Buergenthal, a former judge at the International Court of Justice and now Lobingier Professor of Comparative Law and Jurisprudence at The George Washington University Law School. He specified: “[Bush is] an ignorant person who wanted to show his mother he could do things his father couldn’t.” He also thought that Vice President Dick Cheney should - and eventually would - stand trial for war crimes. Judge Buergenthal fingered Dick Cheney and his Task Force. The Energy Task Force - officially the National Energy Policy Development Group - had been set up by President Bush in 2001, during his second week in office, and Dick Cheney had been named chairman. The Force’s stated objective was “to develop a national energy policy designed to help the private sector, and, as necessary and appropriate.” State and local governments would be called to promote dependable, affordable, and environmentally sound production and distribution of energy for the future. One can envision Cheney with all his maps, redrawing the borders of Middle Eastern countries, dividing up Iraq’s oil riches among ‘western’ oil companies. It is possible to see how that was one motive - perhaps the motive - for waging an unjustified and illegal war of aggression. Saddam Hussein’s decision to trade oil in other than American dollars was also a crucial factor. Cheney, Donald Rumsfeld and Paul Wolfowitz had long time before joined in a camarilla which had established the think-tank Project for the New American Century. In 1997, in that combine, they wrote an open letter to President Bill Clinton calling for regime change in Iraq. Cheney, Rumsfeld and Wolfowitz were three of the ten out of twenty five original founders of the Project who went on to serve in the G. W. Bush Administration. On the other side of the Atlantic, the just elected British Prime Minister Tony Blair, was comfortable with a longstanding policy of containment, which was considered successful. Hussein was vile, but international sanctions had crippled him. The C.I.A. agreed.

One will recall the famous love declaration that Bush received from Blair on 28 July 2002, when the decision to go to war was more than a year old, as far as Bush is concerned, and no less than several months as far as Blair’s position.

Blair was offering: “I will be with you, whatever.” hoping, perhaps, for a favourite place at the decision table. It was a “mawkish opening line [which] reveals a man more smitten by

power and the lure of a yes-man man role at Washington's table than any European confabs." As The Age editorialised on 8 July 2016, "This was sycophancy and stupidity, a betrayal of Britain's true national interest." Bush rewarded such lover's loyalty by treating it with contempt: the English were given no role in the Coalition Provisional Authority which initially ran post-invasion Iraq. Blair became no more than a 'Washington's poodle.' In the end, Bush-the-vulgarian showed what he believed of Blair: that he had no cojones. Here comes Dubya Bush the polyglot !

President Bush's response to the release of the Chilcot Report went no further than having declared by a spokesperson that "the President continues to believe the whole world is better off without Saddam Hussein in power."

How is it, one might well ask, that the United States, a nation which according to George W. Bush "has always been guided by a moral compass," has not conducted its own Iraq inquiry? While there is plenty of evidence which shows Bush's dominant position among the reckless adventurers, one should return to the so-called Manning Memo detailing a two-hour meeting between Bush and Blair on 31 January 2003. That memorandum makes clear that Bush intended to invade Iraq regardless of whether weapons of mass destruction were found, and set the date - 10 March - "to begin the bombing." Even more damning is the revelation of his plan to provoke Saddam Hussein into initiating conflict by disguising a United States surveillance plane as belonging to the United Nations in hopes that the Iraqi leader would shoot it down. Similar adventure had been entered into before: the Gulf of Tonkin incident. The memorandum shows Bush also entertained the possibility of an outright assassination. That, too, had been done before: Mosaddegh.

Amongst the papers collected by the Chilcot Inquiry there is a 1 October 2001 memorandum to Bush which confirms Blair's knowledge of a pending U.S. invasion of Iraq. Blair assures Bush that while "we need to deal with Saddam … I am sure we can devise a strategy for [him to be] deliverable at a later date." Two months and three days later, in another memorandum, Bush is told by Blair that "any link to 11 September and [Al Qaeda] is at best very tenuous … so we need a strategy for regime change that builds over time." To 'soften-up' Iraq, Blair counsels Bush: "we should mount covert operations." Blair was apparently unaware that the C.I.A. had convened a "covert Iraqi Operations Group" a month before the 9/11 attack.

An imbecile like Bush did not need Blair's flair to device how to solve a 'problem like Saddam Hussein.'

As Dr. Broinowski noted, “The peculiar personality of Blair, the Catholic convert, who surprised a U.S. authority on Saddam Hussein by asking “Isn’t he evil ?” hovers over Chilcot’s report. Hidden from view is his friend George W. Bush, whose replies to Blair’s 29 personal notes in the months before the war were not released for publication by Washington.”

Caroline Patricia Lucas, the first Green member of Parliament and now co-leader of that party spoke for many in the United Kingdom when she said that Tony Blair is a ‘war criminal’ and he should be punished because he took the United Kingdom into an illegal conflict. Ms. Lucas said that everything in the Chilcot Report implies that Iraq ‘was an illegal war’ and said the former prime minister must now be held to account.

On the same day Blair was apologising, with grovelling voice, for the mistakes in the planning and process of the war, but he stood by the key decision to invade. Blair insisted he had never lied, imploring: “Please stop saying I was lying, or I had some kind of dishonest or underhand motive.”

Addressing protesters in Westminster after the findings were published online, Ms. Lucas said: “It confirms that Tony Blair lied when he took this country to war on a false prospectus.

It lays bare for us to see that he made commitments to George Bush six months before he stood up in Parliament saying Saddam Hussein could still avoid war.

That was not true and we will hold him to account.

He lied by setting standards for the weapons inspectors which he knew would be impossible for those weapons inspectors to meet.

He lied by pulling those weapons inspectors out of Iraq before he knew they had been able to finish the job that had been set for them.

He lied when he said the threat from Weapons of Mass Destruction was growing when he knew they was no evidence to make that case.

We have been right to be holding Blair to account.”

Shadow Leader of the House of Commons, Paul Philip Flynn said that the Iraq Inquiry Report amounted to an ‘utter condemnation’ of Blair’s terrible decision to commit British

troops to the U.S.-led invasion. Perhaps, there was no desire to go beyond those words: the Conservatives en masse, and a large number of the Labour members had voted for the war.

Labour had been hopelessly divided. Against the government motion for war, 139 Labour MPs submitted an amendment saying there was no moral case for war against Iraq and voted against the government's line. Fifteen Tory MPs also defied their leadership by voting against the government's policy.

All 53 Liberal Democrat MPs voted against the government - in line with their leadership. The final result had been: for 412 MPs, against 149, with a majority of 263.

On the release of the Report the former Conservative Prime Minister David Cameron said that, given its importance, he would make provision for two full days of debate the following week.

Early in July 2016 there were rumours, even plans, of a cross-party group of MPs putting a resolution to Parliament holding Blair in contempt for his conduct in the run-up to the war.

Dusting off an old procedure for 'impeachment' - used the last time in 1806 - Blair could be prosecuted; alternatively, a provision dating back to the nineteenth century could have been activated charging Blair for 'misconduct in public office.'

Two weeks later the vast majority of the 650 MPs responded with a big "So what ?" as they absented themselves from the debate. On the first day only 40 to 50 MPs bothered to show up, with sometimes as few as 15 or 20 MPs present for the second day. In the course of the entire two days only about 50 MPs spoke.

Not until the end of the second day the front bench members of both parties were even obliged to speak in order to make 'wind-up speeches.' Neither the new Conservative Prime Minister Theresa May nor the Labour Party leader Jeremy Corbyn participated. The media took the same approach. No national newspaper, including The Guardian, produced a full report of the two-day debate. With the exceptions of MPs from the Scottish National Party and a few others, who made vague calls for Blair to be called to account, the debate consisted largely of MPs defending the actions of the Labour government and the Tory opposition, who had supported them in voting for war.

When 81-year-old Labour MP Paul Flynn spoke in the Business of the House session which preceded day two, he said: “Chilcot has given its verdict. It is a thunderous verdict of guilty not just for one man but for this House, the previous Government, the Opposition and three Select Committees. We are guilty, and are judged guilty, of commanding our valiant troops to fight a vain, avoidable war…”

In response, other Labour MPs present walked out in protest.

* * * * *

The major points of the Iraq Inquiry Report place a heavy responsibility on Blair as prime minister:

Blair wrote to Bush in July 2002: “I will be with you, whatever.”

Blair ‘overestimated’ his ability to influence American decisions.

Throughout the Report there is a devastating criticism of Blair’s personal position which sidelined the Cabinet.

The US.-U.K. special relationship ‘does not require unconditional support where [British] interests or judgements differ.’

Blair ignored warnings that going to war could heighten the risk of terror attacks on the United Kingdom.

The possible consequences of the invasion were ‘under-estimated.’ Planning for after Saddam’s overthrow was ‘wholly inadequate.’

No special ‘hindsight’ was required to have identified the risks of regional instability.

The policy on Iraq was made on the basis of ‘flawed intelligence and assessments.’

The ‘intelligence’ might have based a key claim about Iraq’s chemical weapons capability on the Hollywood film The rock.

No proof was found that Iraq had weapons of mass destruction: a dossier to the contrary was presented ‘with a certainty which was not justified.’

Saddam Hussein posed ‘no imminent threat’ at the time of the invasion.

Blair repeatedly misled the Parliament and the media about the threat of the weapons of mass destruction he claimed Saddam Hussein had.

Blair publicly distorted the advice he was given in order to make the case for war.

The Attorney General Lord Goldsmith’s decision that there was a legal basis for invasion, having spoken and written for two years that intervention would have been illegal, was taken in a way which was ‘far from satisfactory.’

The United Kingdom’s decision to act without gaining a second U.N. Resolution ‘undermined the Security Council’s authority.’

The invasion of Iraq was not a ‘last resort’ and Blair chose military action before ‘peaceful options had been exhausted.’

Soldiers had shoddy equipment and poorly-protected patrol vehicles.

The Ministry of Defence was slow to respond to threat of improvised explosive devices.

British troops were reduced to doing deals with local militias to stop targeting them.

Chilton said that his Report ‘is an account of an intervention which went badly wrong, with consequences to this day.’

It is absolutely astonishing that, on his resignation from Parliament, Blair should be appointed as Special Envoy by the Quartet on the Middle East - made up of the United Nations, the United States, the European Union and Russia - albeit if only involved in mediating the peace process in the Israeli-Palestinian conflict. He held that office until 27 May 2015. He now runs a consultancy business and has set up various foundations in his own name, including the Tony Blair Faith Foundation.

In Australia there remain - rare, given the ‘climate’ - men of conscience. One of them is Andrew Damien Wilkie, presently the independent federal member for Denison, Tasmania. He had been an army officer and an intelligence analyst in the Office of National Assessments. He resigned both appointments saying that: Iraq’s “weapons of mass

destruction program is very disjointed and contained by the regime that's been in place since the last Gulf War. And there is no hard intelligence linking the Iraqi regime to al-Qaeda in any substantial or worrisome way."

He would go on: "The unwarranted invasion of a sovereign state for fraudulent reasons was ultimately not an option for me. This was not a matter of choosing between two rights. No, this was a matter of right and wrong. I resigned about a week before the invasion and went to the media.

...

There could be little doubt that starting a war in Iraq would result in a humanitarian disaster with a great many people killed, injured and dislocated."

The war started in earnest in March 2003, but for him - as he wrote: "the Iraq War started the year before when I was a senior analyst in the Office of National Assessments, Australia's top intelligence agency which is responsible for providing advice to the Federal Government on other countries, as well as transnational and thematic issues. Working there I had long kept an eye on Iraq as a source of asylum seekers to Australia but, in 2002, as a former army lieutenant colonel, I was ordered to turn my mind to the impending war."

Prime Minister John Howard suggested - with feigned generosity - that Wilkie was 'irrational' - from such a mouth, a charitable word for 'mad'. 'Idealist' - in pub-s/language.

Recently Wilkie clarified his views as follows: "Until the politicians who dishonestly got us into this mess are held to account we are bound to repeat their mistakes.

This is also why I remain outspoken about the need for the Australian Parliament in future to decide when we go to war, so long of course as time permits for such consideration.

This is already the case in most other developed nations, including the US, UK, France and Germany.

The Chilcot Inquiry ... helps to prove that Australia's joining in the invasion of Iraq in 2003, and subsequent combat involvement in that country, is our nation's biggest ever foreign and security blunder.

Sometimes my critics say I should not dwell on these matters, but national and global issues are exactly what the Australian Parliament is responsible for. [Emphasis added] National security policy is, after all, as much about putting limits on the exercise of power as it is about the unrestrained exercise of such power. There are questions to be addressed about the politicisation of the nation's security services."

Wilkie gave an example:

"For instance the Australian Federal Police still refuses to resolve the 2003 leak to Herald Sun journalist Andrew Bolt of the report I prepared in 2002 about the possible consequences of going to war in Iraq. This ham-fisted bid by the Government to discredit me appears to be a serious criminal matter because the assessment was classified Top Secret Codeword, which means that some of the information it contained, and some of the sources of intelligence it relied upon, were especially sensitive. [Emphasis added]

Unauthorised disclosure and publication of classified material are issues covered under the Crimes Act.

...

The [Chilcot Inquiry] also adds weight to the argument that John Howard and others should front an international tribunal where they could respond to war crimes accusations. And the inquiry vindicates the millions of people who marched in protest against the impending war in February 2003, including here in Hobart."

It is hard to say whether these are popular views. The press is in the hands of two cartels - one quite larger than the other, and that is Murdoch's stable. It is there that the opinion was authoritatively expressed, on the onset of the invasion, that "As we approach war with Iraq, it's becoming obvious that George W. Bush is really a modern Winston Churchill."

This apparently sycophantic folly could find comfort in the already mentioned article by Professor Phillip Sands, QC 'A very British deceit.' Writing in August 2010, when the Chilcot Committee had already been well on its work, and when expectations were not great, cynics might have considered the possibility that the Committee would produce the fifth in a series of British whitewash reports relating to the war. Three inquiries had already dealt with secret intelligence and one with the 'suicide' of Dr. David Kelly, an Iraq weapons inspector.

So Professor Sands wrote: "The carefully chosen composition of the five-members panel did not lead to a quickening of public interest. One member, the historian Sir Martin Gilbert, had previously suggested that Tony Blair and George W. Bush might eventually bear comparison with Winston Churchill and FDR."

It is a case of ubi maior, minor cessat, where the weak gives way to the strong. (minor) capitulates before the strong (major)

One wonders how such music sounded to the uneducated ear of John Winston Howard.

Not much can be read in the Chilcot Report about Howard's character. Obviously he had an opportunity to counsel both Bush and Blair on several occasions. What he might have said to a simpleton like Bush earned him the moniker of a 'man of steel.' The Texan might not have cared much for unctuosity, and not much of that might have been offered by the cunning patsy from Down Under, who undoubtedly has more respect for the gobsmacking atmosphere of St. James Palace. Howard might have preferred the description as a 'tough guy' offered by Blair's spin doctor.

In the end Blair expressed some degree of regret. Nothing of the sort came from Howard. He just resorted to the demeaning tactic of blaming the unintelligent intelligence.

In the end, it is possible to conclude that three reckless adventurers resolved to invade a debilitated Iraq because they thought it would be easy.

If Blair's capacity to believe what suited him seems boundless, Howard's use of his position was even more cynical.

On 4 February 2003 Howard told Parliament: "The Australian Government knows that Iraq still has chemical and biological weapons and that Iraq wants to develop nuclear weapons." He also said: "Iraq continues to work on developing nuclear weapons-uranium has been sought from Africa that has no civil nuclear application in Iraq; . . ."

It was left to his Foreign Affairs Minister, Alexander Downer to write in The Sydney Morning Herald of 18 June 2003 that ". . . an intelligence claim about Iraq's effort to acquire uranium from Africa proved to be erroneous." Howard had made the claim.

On 9 February 2003, asked by a journalist in Washington whether in his talks "tomorrow, especially at the Pentagon, do you expect to lock in a possible role for Australia if, further down the track we do decide to join a coalition of the willing ?" Howard hesitated a moment and then replied: "Look, there have been contingency discussions going on between the American and the Australian military and it's always important in these situations to leave those sorts of things to the militaries of the two countries."

Telling the truth was left to President Bush, the following day 10 February 2003, in the Oval Office and in the presence of Howard. In reply to a journalist: "Could you tell us whether you count Australia as part of the coalition of the willing ?", Bush said: "Yes, I do."

Six days before Howard had told Parliament that the government had not and would not make a final decision to commit to war "unless and until it is satisfied that all achievable options for a peaceful resolution have been explored." By that time Australian troops had already been deployed to the Middle East.

Out of Parliament, Howard returned to the matter of the invasion on two occasions: the already mentioned lecture at the Lowy Institute of Sydney on 9 April 2013: 'Iraq 2003: a retrospective' on the tenth anniversary of the aggression, and an interview with Tony Jones of the Australian Broadcasting Corporation on 7 July 2016.

To give him a credit he does not deserve, Howard could be placed with the restored Bourbons. This morose class had 'learned nothing and forgotten nothing' - as Talleyrand observed. Though the Talleyrand quote may proffer a reason for their repeating mistakes of the past over and over, in this case a more accurate reference is to Einstein's definition of insanity as doing the same thing over and over, expecting different results.

Some points from the Lowy lecture bear re-examination: "My Government never saw the obtaining of a fresh [Security Council] resolution as a necessary legal pre-requisite to action the removal of Saddam. It was always our view that Resolution 678, dating back to 1990 provided sufficient legal grounds for the action ultimately taken. That was reflected in the formal legal advice tendered to the Government, and subsequently tabled in Parliament.[8]"

Footnote [8] refers to the 'Memorandum of advice to the Commonwealth Government on the use of force against Iraq, tabled by the Prime Minister in the House of Representatives, 18 March 2003, which had been prepared by the Commonwealth Attorney-General's Department and DFAT, 12 March 2003. [Emphasis added]

Not quite so ! The 'advice' - not even a legal opinion - was signed by two middle level public servants. And it can be said that by 2003 not many had survived of the type of 'public servants' who by accepted definition used to advise 'without fear or favour'. Almost all had been 'privatised' in the new climate of neo-conservatism.

Whether by accident or design, the two signatories of the 'advice' had ignored Art. 2 (3) and (4) of the United Nations Charter. They had made no reference to the fact that all fourteen members of the Foreign and Commonwealth Office legal team had advised the Blair

government that Iraq could not be attacked without a specific authorisation from the Security Council, because no such authorisation could be subsumed in Resolution 1441.

The two signatories had not related the whole story of Lord Goldsmith, QC's constant view for two years up to 7 March 2003. What Lord Goldsmith, QC was writing might have not been what Blair wanted to read. And this is, presumably, why Lord Goldsmith, QC was sent to Washington to hear Bush's legal advisers. And, on return, to use only 337 words to change his mind and invent the 'revival' in 2003 of Resolution 678 which dealt with ceasefire after the first Iraq war.

In the lecture Howard said:

"The Clinton administration thought that 678 gave blanket legal coverage for all the military action it took to enforce the terms of that resolution."

That might have been so, but in 1998 ! And, anyway, by that time President Clinton was already under pressure from Cheney's oilmen and the strategists of the Project for the New American Century.

Howard went on:

"Another criticism was that joining the Americans and the British in Iraq would permanently damage us in the eyes of the Muslim world, and in particular Indonesia, the most populous Muslim country of all." Well, is that not true ?

"In Australia, there was a parliamentary inquiry, as well as the Flood Inquiry which canvassed the pre-war intelligence. In its submission to the former, "ONA said in a report of 31 January 2003 that there is a wealth of intelligence on Saddam's WMDs activities, but it paints a circumstantial picture that is conclusive overall rather than resting on a single piece of irrefutable evidence." [Footnote [10] Commonwealth of Australia (2003), Parliamentary Joint Committee on ASIO, ASIS and DSD]

The Defence Intelligence Organisation said in its submission to the same inquiry "Iraq probably retained a WMD capability - even if that capability had been degraded over time. DIO also assessed that Iraq maintained both an intent and capability to recommence a wider program should circumstances permit it to do so." [Footnote [11] Ibid.]

The Flood Inquiry found “no evidence of politicisation of the assessments on Iraq either overt or perceived” or that “any analyst or manager was the subject of either direct or implied pressure to come to a particular judgement on Iraq for policy reasons or to bolster the case for war.” [Footnote [12] Flood, Phillip (2004), “Inquiry into Australia’s Intelligence Agencies”, p 28]

Flood further said that “assessments reflected reasonably the available evidence and used intelligence sources with appropriate caution.” Flood said that the obverse conclusion that Iraq had no WMDs “would have been a much more difficult conclusion to substantiate.” [Footnote [13] Ibid.]

Neither inquiry gave a skerrick of support to the proposition that members of my Government had manufactured convenient intelligence or strong-armed the agencies into saying things they did not believe.”

There is no evidence that government had manufactured the intelligence or abused the intelligence officers, but an inquiry would establish that most definitively.

Then Howard said:

“Although the legal justification for the action taken against Iraq was based on her cumulative non-compliance with UN Security Council resolutions, and a properly grounded belief that Saddam possessed WMDs, a powerful element in our decision to join the Americans was, of course, the depth and character of our relationship with the US. Australia had invoked ANZUS in the days following 9/11. We had readily joined the Coalition in Afghanistan; Australia had suffered the brutality of Islamic terrorism in Bali. There was a sense then that a common way of life was under threat.” The words in Italics just demonstrate the many assumptions, generalisations, myths and mis-truths which cannot seriously explain a decision to commit to war.

Towards the end, Howard declared his attitude not to the United States but to the Bush Administration: “At that time, and in those circumstances, and given our shared history and values, I judged that, ultimately, it was in our national interest to stand beside the Americans.

There were many who argued that we should stay out; we should say “no” to the Americans for a change; that the true measure of a good friend was a willingness to disagree when the circumstances called for it, and that in the case of Iraq we would hurt our country by backing

the United States, and that in the long run declining to participate in the Coalition of the willing would be good for the alliance. That argument escaped me then, and it still does. In my view the circumstances we recall tonight necessitated a 100 per cent ally, not a 70 or 80 per cent one, particularly as no compelling national interest beckoned us in the opposite direction."

The Iraq Inquiry Report showed quite clearly that two friends may differ on certain points and yet maintain a solid relationship. The United Kingdom and the United States disagreed at several moments of recent history: Suez, Vietnam, the Malvinas/Falklands, Grenada, Bosnia, the Arab/Israeli crisis, and the long 'troubles' of the six Irish counties occupied by the United Kingdom, without any crack in their partnership.

Of course, Howard twice referred to Australian 'national interest'. Would that describe the Australian Wheat Board scandal of violating the United Nations embargo on Saddam Hussein by joining him in that kind of corruption the consequences of which have not yet been resolved ?

Not all Australians are ignorant, or indifferent.

A few days before Howard's lecture, a vapid former Foreign Affairs Minister Downer, explained "Why the Iraq war was right." He spoke of Saddam Hussein as "The world's most brutal dictator ... who had run a corrupt, kleptocratic, sectarian, self indulgent regime in Baghdad." True, of course, but was not Saddam Hussein good enough to run the racket associated with AWB ? And was not Downer overseeing that corrupt practice ?

Howard's interview with Tony Jones of the Australian Broadcasting Corporation took place on 7 July 2016 in the wake of the Iraq Inquiry Report.

Questioned over the statement in the Report that the United Kingdom "chose to join the invasion of Iraq before peaceful options for disarmament had been exhausted" and keeping in mind that that statement "does have big implications ... for [Howard] who advised both Blair and Bush, and for Australia", Howard replied: "What Chilcot says was that the decision to go into Iraq was based on flawed intelligence. Well, that's a conclusion based on facts that became available after the decision was taken." [Emphasis added]

When Howard was advising Blair had there been no reference to the so-called Downing Street Memo of 23 July 2002 - seven months and a half before the invasion - which

memorandum gathered the opinion of Sir Richard Dearlove, head of MI6, who conveyed the unease with which the intelligence community was watching its qualified judgments on Iraq's weapons of mass destruction presented as hard facts in various dossiers ? Those 'hard facts' were collected in the paper: Iraq's Weapons of Mass Destruction: The Assessment of the British Government, a document published by the British government on 24 September 2002. At the meeting of 23 July 2002 Dearlove told the Blair ministers that in the United States "intelligence and facts were being fixed around the policy." Was Howard relying on that propaganda to inform himself on the facts ? And how could he be credible now ?

As a matter of fact, the decision to go to war had been made almost one year before July 2002, and agreed to by Bush and Blair at their meeting in Texas in April 2002. Now Howard knew absolutely nothing about it.

How was it that Howard had counselled Bush that a resolution authorising military action was essential to legitimise the invasion, as well as to win public support, and yet all that became unimportant in March 2003 ? And why were not the threatened veto by French and Russians, as well as the negative opinion of the Germans, sufficient to dissuade Howard, Blair and Bush ?

Here is Tony Jones: "28th January, 2003, you and Tony Blair agreed, according to the Report, that you should pencil in a deadline beyond which, even without a second resolution, they should take a decision to go to war. Do you recall saying that ?"

Howard shilly-shallied.

Tony Jones: "It's in the report."

John Howard: "Yeah, look, I'm not gonna argue over that. Look, I'm not arguing that by January and February Tony Blair and George Bush and myself and others were very pessimistic about getting another Security Council resolution explicitly authorising military action, although it had been my belief for a long time and had been Bush's belief and in the final result it was also the belief of Lord Goldsmith, the British Attorney-General, that a case existed under the existing resolutions to take military operations. But, we're talking ..." [Emphasis added]

First: Bush did not care about a second resolution. He had wanted war since 2001. And that, too, is in the Report. And counsellor and enabler Howard knew about it.

Second: For the better part of two years Lord Goldsmith, QC had held and documented the view that the war would have been illegal, and it was only after his return from Washington and having spoke with American legal officers that he changed his mind and thus wrote to the House of Commons.

Tony Jones: “So let me go back to the report. On 13th February, 2003, you have a breakfast meeting with Tony Blair. Did you tell him that Blix was optimistic ?”

John Howard: “I would have reported what Blix told me and I would have certainly reported that, but I would have also had my views about bursts of optimism from Hans Blix in the past. And, I mean, Hans Blix was a - he was a genuine employer and servant of the UN and a weapons - understand all of that. But I ...”

Tony Jones: “Who proved to be correct, incidentally, in his view that there were no weapons.”

John Howard: “Well, there were lot of people in the intelligence agencies of Britain and America and Australia who didn’t agree with that and if you ask me do I agree with - take the word of the intelligence agencies rather than Hans Blix, I’ll take the view of the intelligence agencies.”

And that is so, no matter how ‘doctored’ their information is or how un-intelligent those agencies may be ! In the case of Australian agencies, the Defence Intelligence Organisation and the Office of National Assessments, an examination of their findings by Philip James Flood AO, a distinguished former Australian diplomat and a former senior public servant, as Secretary of the Department of Foreign Affairs and Trade, described the evidence on Iraq’s weapons of mass destruction as ‘thin, ambiguous, and incomplete’ in his Report of the inquiry into Australian intelligence agencies (Canberra, 20 July 2004).

The Defence Intelligence Organisation and the Office of National Assessments had concluded that:

a) the threat from Iraq’s weapons of mass destruction was less than it had been a decade earlier, in 1991;

b) under sanctions which prevailed at the time, Iraq’s military capability remained limited and the country’s infrastructure was still in decline;

c) the nuclear programme was unlikely to be far advanced. Iraq was unlikely to have obtained fissile material;

d) Iraq had no ballistic missiles capable of reaching the United States;

e) there was no known chemical weapons production;

f) there was no specific evidence of resumed biological weapons production;

g) there was no known biological weapons testing or evaluation since 1991;

h) there was no known Iraq offensive weapons research since 1991;

i) Iraq does not have nuclear weapons;

j) there was no evidence that chemical weapon warheads for missiles had been developed; and

k) no intelligence had accurately pointed to the location of weapons of mass destruction.

Then something extraordinary happened during the interview.

Tony Jones prefaced: “We’re now trying to put ourselves in your shoes, in other words, to find out what really happened.” and then asked: “Did you at the breakfast meeting [of 13 February 2003] also make the case that a second resolution was not needed for legal reasons? You’ve just mentioned that.”

John Howard: “Well the legal advice we had was that there were sufficient [sic] and that was the legal advice [which, of course, was dated 12 March 2003] that we tabled in Parliament [on 18 March 2003].”

Tony Jones: “And you told this to Tony Blair, but as it turns out, you were way ahead of him at the time because he didn't know or think that at the time.”

John Howard: “Well, I don’t know what he thought and I’m not claiming I was way ahead or way behind him. I’m just ... I’m telling you that we got legal advice, which I tabled in the Parliament, saying that sufficient authority existed under previous resolutions to take the action that we did.”

Tony Jones: “Tony Blair, at that breakfast meeting, was surprised to hear that and said, ‘No, they need the second resolution.’ ”

Here there is a serious problem of times. The serious problem is: how could a legal 'advice' dated 12 March have been submitted to Blair on 13 February 2003 ?

Before coming to the end of the interview, John Winston Howard gave himself an opportunity to emulate the idol from whom he was named. He interrupted Jones and said: "and then I'm talking from my own experience and it's directly relevant to your question and because it was an operation conducted in conjunction with the United States. The United States is a hugely important ally for Australia and we should never lightly dismiss the value of that alliance. That doesn't mean to say you give a blank cheque or you give a tick to everything the Americans want to do. You treat each operation on its merits and that's what I have done."

It was for Lord Alexander of Weedon, Q.C. to remind the audience of his lecture on 14 October 2003. He said that it would be advisable for any [British] prime minister to follow "the long-standing Atlanticist view succinctly expressed by Sir Winston Churchill in the last week of his premiership: 'We must never get out of step with the Americans - never!' "

Lord Alexander also thought, and said quite clearly, that Lord Goldsmith, QC's turn-around of 17 March 2003 - one of the grounds of Howard decision to go to war - was "risible", and so was the "quaint concept of the 'revival' of Resolution 678."

Ascertaining the truth about Australia's intervention in Iraq cannot be left to interested, self-justifying tricksters and their associates.

Correctly Andrew Wilkie MP said: "Until we have an effective inquiry into the invasion of Iraq ... then people like John Howard and Alexander Downer and others won't be properly scrutinised and held to account." Along with that, the inquiry should examine to whom the so-called war powers belong: a cabal of ministers, the Cabinet, Parliament ?

The inquiry could be entrusted to Parliament, or a joint committee thereof; it could be assigned to a Commission - the so-called Royal Commission with commissioners appointed by Parliament to guarantee independence, to protect submissions and evidence presented and guarantee the immunity of witnesses. The Commission should have the amplest powers to call for witnesses and experts, who would communicate by solemn declaration, or oath if preferred, to call for documents by way of summons and request for the production of those documents.

The last words should be left, as admonition, to a very much missed historian departed years ago. They go like this: if one does not know history, it is just like being born yesterday. And if one is like being born yesterday, then any leader can say anything - in the case of Iraq - with impunity.

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