



George W. Bush, Dick Cheney, Donald Rumsfeld, Condoleezza Rice, Paul Wolfowitz Sued in California District Court: Iraqi Woman Uses Chilcot Report in War Crimes Lawsuit against George W. Bush

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Sundus Saleh, an Iraqi woman, first filed her lawsuit against George W. Bush, Dick Cheney, Donald Rumsfeld, Condoleezza Rice and Paul Wolfowitz in September 2013. Alleging that the Iraq War constituted an illegal crime of aggression, Saleh filed the suit on behalf of herself and other Iraqis in the US District Court for the Northern District of California.

The district court dismissed Saleh's lawsuit in December 2014, saying the defendants acted within the scope of their employment when they planned and carried out the Iraq War. Saleh then appealed to the US Court of Appeals for the Ninth Circuit.

In her appeal, Saleh is arguing that the Bush officials were acting from personally held convictions that the US should invade Iraq, regardless of any legitimate policy reasons, and that they knowingly lied to the public when they fraudulently tied Saddam Hussein to al-Qaeda and the threat of weapons of mass destruction.

Inder Comar, Saleh's lawyer, explained, « Nuremberg held that domestic immunity was not a defense to allegations of international aggression. Everything the Germans did was legal under the law. We are asking the Ninth Circuit to reject the application of domestic immunity in this case, in line with the holdings of Nuremberg. »

On July 22, Saleh urged the Ninth Circuit to take judicial notice of portions of [the Chilcot Report, which makes factual conclusions](#) about the run-up to the Iraq War. A court can take judicial notice of a fact that is not subject to reasonable dispute and can be accurately and readily determined from sources whose accuracy cannot be reasonably questioned. That includes public records, such as reports issued by a commission of inquiry.

The report was published by the Iraq Inquiry Committee, an independent committee established by the British government, on July 6, 2016, after six years of investigation, research and drafting.

Here are four of the [excerpts from the report](#) that Saleh has submitted to the court for judicial notice:

24. President Bush decided at the end of 2001 to pursue a policy of regime change in Iraq.

68. On 26 February, 2002, Sir Richard Dearlove, the Chief of the Secret Intelligence Service, advised that the US Administration had concluded that containment would not work, was drawing up plans for a military campaign later in the year, and was considering presenting Saddam Hussein with an ultimatum for the return of inspectors while setting the bar « so high that Saddam Hussein would be unable to comply. »

74 Mr. [UK Foreign Secretary Jack] Straw's advice of 25 March proposed that the US and UK should seek an ultimatum to Saddam Hussein to re-admit weapons inspectors. That would provide a route for the UK to align itself with the US without adopting the US objective regime change. This reflected advice that regime change would be unlawful.

89. Sir Richard Dearlove reported that he had been told that the US had already taken a decision on action - « the question was only how and when; » and that he had been told it intended to set the threshold on weapons inspections so high that Iraq would not be able to hold up US policy.

The report includes copies of notes between Bush and former British Prime Minister Tony Blair, in which they discussed the invasion of Iraq as early as October 2001.

Eight months before the invasion of Iraq, Blair wrote to Bush, saying « I will be with you, whatever. » In July 2002, Blair had told Bush that removing Hussein from power would « free up the region » even though Iraqis might « feel ambivalent about being invaded. »

The [report concluded that Hussein posed no imminent threat](#) on March 20, 2003, the date the US and the UK invaded Iraq. It also noted that a majority of the United Nations Security Council favored continuing UN monitoring and inspections.

Legal Experts Conclude War was Illegal

The committee also published submissions by legal experts who concluded the war was illegal and constituted aggression against Iraq.

Philippe Sands said, « Distinguished members of the legal community in the United Kingdom have also concluded without ambiguity that the war was unlawful. »

Sir Michael Wood stated, « the use of force against Iraq in March 2003 was contrary to international law, » in that it « had not been authorized by the Security Council, and had no other legal basis in international law. »

Elizabeth Wilmshurst concurred, noting, « the facts did not justify the use of force in self-defence. Existing Security Council resolutions did not authorize the use of force. There was no other legal justification. A desire to change the regime did not give a legal basis for military action, » adding, « I regarded the invasion of Iraq as illegal. »

An international group of lawyers (including former US Attorney General Ramsey Clark and I) filed an amicus brief supporting Saleh's legal claims. Clark told Truthout at the time, « In this case, as many as 3.5 million people have lost their lives as a consequence of the crime of aggression — the illegal use of force perpetrated against the people of Iraq — and the country's development has been set back countless years. »

Allegations Against Team Bush

The UN Charter, which was created by the countries of the world in 1945 to « save succeeding generations from the scourge of war, » prohibits the use of military force except in self-defense or with Security Council approval. Neither of these two conditions was present before the US-UK invasion of Iraq. Iraq did not pose an imminent military threat to any UN member country on March 19, 2003, and the Security Council did not approve the invasion.

A « crime against peace » is defined by the Nuremberg Charter as « planning, preparation, initiation or waging 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 any of the foregoing. » The US-UK war against Iraq was a war of aggression.

The International Military Tribunal at Nuremberg held, « To initiate a war of aggression, therefore, is not only an international crime; it is the *supreme international crime* differing only from other war crimes in that it contains within itself the accumulated evil of the whole. »

In his opening statement as chief US prosecutor at Nuremberg, US Supreme Court Justice Robert Jackson said, « No political, military, economic, or other considerations shall serve as an excuse or justification » for a war of aggression. He added, « If certain acts in violation of treaties are crimes, they are crimes whether the United States does them or whether Germany does them. »

Saleh's complaint cites statements made by the defendants as early as 1998 which indicate their intention to change Iraq's regime. For example, in his testimony before the House National Security Committee on Iraq, Wolfowitz advocated the removal of Hussein and the formation of a provisional government that would « control the largest oil field in Iraq. »

On September 12, 2001, Rumsfeld complained that there were no decent targets for bombing Afghanistan so the United States should consider bombing Iraq, which had better targets. Bush said at the time that the US should change Iraq's government.

In July 2002, Dearlove, reporting on recent meetings in the US, said, « the intelligence and facts were being fixed around the policy. »

Bush, Cheney and Rice used faulty intelligence in order to better market a war with Iraq to the American people.

The defendants engaged in a pattern and practice of deceiving the American public into believing that a link between al-Qaeda and Iraq existed in order to win approval for the crime of aggression against Iraq.

On September 14, 2004, UN Secretary General Kofi Annan stated, « I have indicated that [the invasion of Iraq] was not in conformity with the UN Charter. From our point of view and from the Charter's point of view it was illegal. »

Justice Jackson called the crime of aggression « the greatest menace of our times. » More than 70 years later, his words continue to ring true.

« The invasion [of Iraq] resulted in the total destruction of a beautiful, peaceful country, » Saleh told Truthout in 2015. « The invasion didn't destroy only the country's infrastructure, buildings and heritage; it destroyed millions of families and their dreams. »

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