

The Iraq Deception

Chris Coverdale, an authority on war law, explains how the Prime Minister and the Attorney General deceived Parliament, into sanctioning an illegal war.

When the Prime Minister and the Attorney General announced that the war with Iraq would be legal, they betrayed the trust of the British people. Waging a war of aggression is not only illegal in international law but it is the most serious criminal offence known to mankind. By providing false and misleading legal advice to Parliament, the armed forces and the Government, Lord Goldsmith enabled Tony Blair to lead Britain into a Coalition with America to wage an illegal war against Iraq. As a direct result of the armed invasion and occupation, at least 100,000 men, women and children have been killed and many more have been injured.

The recently declassified secret legal advice from the Attorney General provides clear evidence that both Tony Blair and Lord Goldsmith knew two weeks before the debate in Parliament that they would be committing serious crimes if they went to war without a second resolution. By making false and misleading statements to the House of Commons, the House of Lords and the Foreign Affairs Committee, and by failing to mention any of the main international laws against war and military conflict, Blair, Goldsmith and the British Government deceived Britain into waging an illegal war and committing the world's worst crimes.

The legal advice was wrong in law

There are at least ten serious errors in law contained in the legal advice. These deceptions include the lies that armed force can be authorised by the Security Council, that it can be used to avert overwhelming humanitarian catastrophe or even to pre-empt an attack. In their advice to the Foreign Affairs Committee, the FCO had the effrontery to claim that Security Council resolution 1441 had determined that Iraq's possession of weapons of mass destruction constituted a threat to international peace and security and that in consequence of a violation of its legal obligations to disarm, it breached the conditions for the ceasefire thus reviving authorisation for the use of force. This is a monumental lie. Not only did Resolution 1441 determine no such thing, but it did not have the power to revive a twelve year old authorisation for the use of force which applied solely to the ejection of Iraqi forces from Kuwait. That authorisation had terminated when the ceasefire was agreed in 1991, and any further action would necessitate a new resolution. The Security Council had refused to pass another resolution, so the British Government resorted to deception to lead MPs and military commanders into believing that the war was legal and had been authorised by the Security Council.

Throughout their advice the Law Officers make the claim that "force may be used where this is authorized by the UN Security Council acting under Chapter VII of the UN Charter." Not only is this false and a gross distortion of the meaning of the UN Charter but it misleads us into thinking that Security Council Resolutions are the law. Security Council resolutions are not and never can be the law. They are operational decisions arising from meetings of the Security Council and they provide the objectives for forces operating under the auspices of the Security Council. The law is the UN Charter of which articles 39 – 51 govern the actions of the Security Council. Article 41 states:

The Security Council may decide what measures NOT INVOLVING THE USE OF ARMED FORCE are to be employed to give effect to its decisions, and it may call upon the Members of the UN to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio and other means of communications, and the severance of diplomatic relations.

It defies belief that anyone can interpret this to mean that armed force may be used. The United Nations was set up to keep the peace and it may NEVER authorize the use of violent armed force.

The legal advice omitted the laws against war

The recently declassified secret legal advice opens with the sentence “You have asked me for advice on the legality of military action against Iraq without a further resolution of the Security Council”. Lord Goldsmith then goes on to provide incorrect advice on the legal basis for the use of force. Nowhere does he address the original question and provide advice on the legality of military action.

The first requirement of high quality legal advice is that it addresses the clients’ objective. On this occasion the clients were Parliament, the Armed Forces and the people of Britain; and the objective concerned the waging of war, the single most important decision a Government ever has to face. That Britain’s senior legal officer omitted 95% of relevant war law from his advice is an international scandal of concern to the entire world. Where he should have presented an explanation of the treaties, conventions and laws governing the legality of warfare and military conflict, he put forward instead an obtuse argument on the interpretation of Security Council resolutions 678, 687 and 1441. It is difficult to see how even a first year student of war law could purport to advise on the legality of military action without mentioning the following war laws.

- 1. The 1928 General Treaty for the Renunciation of War, known as the Kellogg-Briand Pact, which outlawed war and promised peaceful conflict resolution.**
- 2. The United Nations Charter that was signed and ratified by Britain in 1945 and which forbids the threat or use of armed force against another member state.**
- 3. The Nuremburg Judgment which confirmed that a war of aggression is illegal and that those who wage such wars are committing the supreme international crime.**
- 4. The 1950 UN Nuremburg Principles which introduced the universal criminal offences of a ‘crime against peace, crimes against humanity and war crimes’.**
- 5. The Geneva Conventions Acts which govern the conduct of military action and responsibilities to the wounded, combatants, prisoners of war and civilians.**
- 6. The Biological and Chemical Weapons Conventions and Acts that govern the production, possession and use of chemical, biological and toxin weapons.**
- 7. The 1985 Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.**
- 8. The Universal Declaration of Human Rights together with European and British legislation which safeguard individual rights to life, justice and fair treatment.**
- 9. The Landmines Convention and Act that govern the manufacture possession and use of anti-personnel landmines.**
- 10. The Rome Statute and The International Criminal Court Act, which introduced the universal criminal offences of genocide, a crime against humanity, war crimes and conduct ancillary to such acts into domestic and international criminal law.**

The legal advice passed to Parliament was criminally deceptive

It is quite clear that both the Attorney General and the Prime Minister knew full well that they would be committing crimes if they went ahead with the war. In an illuminating passage in the legal advice, the Attorney General considers the ways in which the matter might be brought before a court.

“... Two further, though probably more remote possibilities are an attempted prosecution for murder on the grounds that the military action is unlawful and an attempted prosecution for the crime of aggression. Aggression is a crime under customary international law which automatically forms part of domestic law...”

This paragraph demonstrates clearly that both Lord Goldsmith and Tony Blair knew full well before they went to war that if anyone was killed it would constitute the crimes of ‘murder’ and ‘waging a war of aggression’ and that they could face criminal charges in court. How could both Tony Blair and Lord Goldsmith stand up in public just two weeks later and declare that the war would be legal? Both of them knew that the consequences of their decisions would lead to war and the killing of innocent people. Both of them knew that the war would constitute a crime of aggression and that the killings would constitute the crime of murder. Why haven’t they been arrested and charged with these crimes now that over 100,000 people have been murdered? Why do our law enforcement authorities continue to support Tony Blair and Lord Goldsmith knowing that they have committed and continue to commit serious crimes? Why weren’t MPs informed that if they voted in favour of war they would be liable for murder? Why wasn’t Parliament told that waging war is a criminal offence and that should they vote in favour of war they could be charged and tried for it in court? How can MPs, civil servants, military commanders or taxpayers be expected to take decisions that uphold and abide by international law, when they are given legal advice that is not only incorrect but is criminally deceptive ?