

Legal advice on the illegality of war

The armed invasion and occupation of Iraq is illegal in international and domestic law, violates international treaties and renders those involved criminally liable for genocide and a crime against peace. Under no circumstances should you continue to aid, abet or assist the illegal actions of Parliament and the British Government.

When Tony Blair and the Attorney General claimed that the war with Iraq was legal and was authorised by the UN Security Council they lied. The use by Britain's armed forces of indiscriminate weapons such as cruise missiles, rockets, cluster bombs and depleted uranium artillery shells to attack villages, towns and cities in Iraq killing Iraqis violates the International Treaty for the Renunciation of War, the UN Charter and the Rome Statute and constitutes a crime against peace under Article VI of the Nuremberg Principles as well as genocide and a crime against humanity under the International Criminal Court Act 2001.

All war is illegal.

War was outlawed in 1928 by the International Treaty for the Renunciation of War [the Kellogg-Briand Pact]. Sixty three nations including Britain, America, France, Germany and Japan ratified the Pact condemning recourse to war as an instrument of national policy and agreeing to settle all disputes peacefully. The treaty is still in force.

ARTICLE I The High Contracting Parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies, and renounce it, as an instrument of national policy in their relations with one another.

ARTICLE II The High Contracting Parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means.

The Kellogg-Briand Pact formed the legal basis for the Nuremberg War Crimes Trials. The recent attack on Iraq renders Britain's political, civil and military leaders liable for the same crime of waging a war of aggression for which Germany's leaders were convicted and hanged in 1946. As the judgement said:

"After the signing of the [Kellogg-Briand] Pact, any nation resorting to war as an instrument of national policy breaks the Pact. In the opinion of the Tribunal, the solemn renunciation of war as an instrument of national policy necessarily involves the proposition that such war is illegal in international law; and that those who plan and wage such a war with its inevitable and terrible consequences are committing a crime in so doing."

"The charges in the indictment that the defendants planned and waged aggressive wars are charges of the utmost gravity. War is essentially an evil thing. Its consequences are not confined to the belligerent states alone, but affect the whole world. 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 1950 the UN General Assembly confirmed the illegal nature of war when it enacted the Nuremberg Principles, the seven universal laws of war which are binding on every human being.

Armed attacks on another State are illegal.

When Britain signed and ratified the UN Charter we made a binding agreement with every UN Member State never to threaten or attack them and to settle all disputes peacefully.

2.3 All members shall settle their international disputes by peaceful means in such a manner that international peace, security and justice are not endangered.

2.4 All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

All pre-emptive attacks are illegal. The only legitimate use of armed force against Iraq would be to defend ourselves from attack. If an attack occurs we may legitimately use proportionate force to defend ourselves, but we may do so only until the Security Council implements measures to resolve the conflict.

The UN Security Council cannot authorise war or the use of armed force.

Tony Blair claimed that the armed invasion and occupation of Iraq by Coalition forces was authorised by the UN Security Council under resolutions 678, 687 and 1441. This was also a lie. The UN Security Council is a peacekeeping body and is forbidden from using armed force by the UN Charter.

41. 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 its members 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 communication and the severance of diplomatic relations.

Intentionally killing a person is a crime

At least 1 million Iraqis, including 300,000 children have been violently killed since the war with Iraq began. Willful killing is a crime and is never condoned or 'right' in law. The Human Rights Act 1998 specifies that the only exception occurs when a person is arrested, tried and convicted in a duly constituted court of law of an offence for which the pre-ordained sentence is death.

"Everyone's right to life shall be protected by law. No-one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided in law."

In war, if a serviceman is attacked and their life is threatened then they may use a weapon to halt the attack and disable their attacker, but deliberately killing a person regardless of whether they are wearing a uniform or classified as an enemy is a crime under the Rome Statute, the Geneva Conventions and the Offences Against the Person Act. It is never legal for a serviceman to use a weapon to kill another person. Just as it is a crime to explode a bomb in a pub or to fly a plane into the World Trade Centre so it is a crime to deliberately cause the death of another human being. At the moment that the first Iraqi citizen died as a result of the actions of Coalition forces all those responsible for giving, transmitting, executing or condoning the orders to wage war committed a crime and became criminally liable for every violent death.

Killing Iraqi citizens constitutes genocide.

It is an offence against the law of England and Wales for a person to commit genocide, a crime against humanity or a war crime, or to engage in conduct ancillary to such an act. This applies to acts committed in England or Wales or outside the United Kingdom by a UK national, resident or person subject to UK service jurisdiction¹.

¹ This is a summary; for the full definition of the offences refer to the International Criminal Court Act 2001 [Sections 50 – 80]

Killing a person because they belong to a national, ethnic, racial or religious group is a crime of genocide.

For the purpose of this Statute “genocide” means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such (a) killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) forcibly transferring children of the group to another group.

When Coalition armed forces attacked Iraq causing the deaths of thousands of Iraqis EVERY RESIDENT OF BRITAIN involved in making, supporting, condoning or executing the decision to wage war became criminally liable for the crime of ‘genocide’ or ‘conduct ancillary to genocide’ and subject to the sanctions of domestic and international criminal law. Even though you may disagree with the decision to wage war, if you do anything to aid, abet or assist the commission of the crime, even such things as paying tax, speaking in favour of executing Saddam Hussein or congratulating returning troops for a job well done, you are committing a crime of conduct ancillary to genocide. You may argue that you did not intend to destroy a national group, but as the legal meaning of intent is clearly defined you will find it hard to argue that you were not aware that anyone would be killed and thus you will find it hard to escape culpability for the crime.

A person has intent in relation to ‘conduct’ where he means to engage in the conduct, and in relation to a consequence, where he means to cause the consequence or is aware that it will occur in the ordinary course of events.

Every British citizen and resident is prohibited from committing genocide by the terms of the International Criminal Court Act 2001 and the binding international convention known as the Rome Statute of the International Criminal Court 1998.

This Statute shall apply equally to all persons without any distinction based on official capacity. In particular, official capacity as Head of State or Government, a member of a Government or Parliament, an elected representative or a government official shall in no case exempt a person from criminal responsibility under this Statute, nor shall it in and of itself, constitute a ground for reduction of sentence. Immunities or special procedural rules which may attach to the official capacity of a person, whether under national or international law, shall not bar the Court from exercising its jurisdiction over such a person.

This means that the Queen, the Prime Minister, Cabinet Ministers, the Attorney General, MPs, peers, military officers, civil servants, journalists or taxpayers who condoned, supported or took part in the invasion or occupation of Iraq and the killing of thousands of Iraqi men, women and children are criminally liable for genocide and conduct ancillary to genocide and liable to arrest, prosecution and punishment.

Everyone has a duty to disobey illegal orders

“If a person who is bound to obey a duly constituted superior receives from the superior an order to do some act or make some omission which is manifestly illegal, he is under a legal duty to refuse to carry out the order and if he does carry it out he will be criminally responsible for what he does in doing so.”

This Article from the UK Manual of Military Law applies to every British citizen as well as to servicemen and women. At the Nuremberg War Crimes trials Germany’s leaders claimed that they were not responsible for the crimes of the German Government as they were following Hitler’s orders. The judgement ruled:

It was submitted [by the defendants] that international law is concerned with the action of sovereign states, and provides no punishment for individuals; and further, that where the act in question is an act of state, those who carry it out are not personally responsible, but are protected by the doctrine of the sovereignty of the State. In the opinion of the Tribunal, both these submissions must be rejected. That international law imposes duties and liabilities upon individuals as well as upon States has long been recognised...

The very essence of the [London] Charter is that individuals have international duties which transcend the national obligations of obedience imposed by the individual State. He who violates the laws of war cannot obtain immunity while acting in pursuance of the authority of the State, if the State in authorising action moves outside its competence under international law...

That a soldier was ordered to kill or torture in violation of the international law of war has never been recognised as a defence to such acts of brutality, though, as the Charter here provides, the order may be urged in mitigation of the punishment. The true test, which is found in varying degrees in the criminal law of most nations, is not the existence of the order, but whether moral choice was in fact possible...

Leaders are responsible for the war crimes of their subordinates.

The International Criminal Court Act 2001 makes it clear that no matter who launches the rockets, fires the cruise missiles, drops the cluster bombs or deploys depleted uranium shells, the ultimate responsibility for the resulting deaths, injuries or destruction lies with those who ordered the attack to take place.

65. A military commander, or a person effectively acting as a military commander, is responsible for offences committed by forces under his effective command and control or his effective authority and control... A person responsible under this section for an offence is regarded as aiding, abetting, counselling or procuring the commission of the offence.

78. This Act binds the Crown and applies to persons in the public service of the Crown.

Although it is impossible to arrest and try everyone responsible for war crimes it is likely that the Queen, Tony Blair, Gordon Brown, Jack Straw and 1000 or more of Britain's senior political, civil and military leaders will eventually be arrested, tried and punished for the world's most serious crimes.

We all have a responsibility to act now

Whatever your role in the Iraq war, whether as an MP, armed forces' officer, civil servant, judge, pensioner or taxpayer we advise that you abide by your obligations and duties under domestic and international law and confine your activities to the legal and legitimate path outlined by the UN Charter and the laws of war. To do this you must immediately disassociate yourself from any action that can be construed as aiding, abetting, assisting or condoning the British Government's use of armed force in Iraq or Afghanistan. If you are a member of the Armed Forces or a civil servant you must abide by Article 24 of Chapter VI of the Manual of Military Law and refuse all superior orders that contribute to the wars with Iraq and Afghanistan and the genocide of the Iraqi people. If you are an MP or Peer you must hold the Government to account for its crimes and force it to end the use of armed force, or resign from your seat in Parliament. If you are a taxpayer or an employee you must withhold your taxes from the Inland Revenue until the crimes have ceased and ask your employer to do the same. If you don't fit into any of these categories report the genocide and war crimes to the police asking them to investigate the crimes and arrest offenders.

Take a stand to end the worst atrocity in British history

The war with Iraq in which at least 2 million innocent civilians, including 500,000 children, have been injured or killed is the worst atrocity ever committed by a British Government. It must be stopped. It continues because too many of us condone or support it and fail to give active practical support to peacemakers. To make a real contribution to the maintenance of a fair, just and equitable world for future generations, and to be seen as a citizen of integrity, probity and stature take a stand now and assure yourself of a place in history as one of the few who caused the world to eliminate war.