

Historic Civil Law Suit against Alleged War Criminal George W. Bush in California: Chilcot Report Submitted to the Ninth Circuit Court

By [Witness Iraq](#)

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In-depth Report: [IRAQ REPORT](#)

We are pleased to announce that excerpts from the Chilcot Report by the British [Iraq Inquiry Committee](#) have been submitted to the Ninth Circuit in support of the plaintiff's case in [Saleh v. Bush, et al.](#)

What is the current status of the case?

Currently, *Saleh v. Bush* is on appeal before the Ninth Circuit. Ms. Saleh's lawsuit in federal court against US government leaders named as Defendants — George W. Bush, Richard Cheney, Donald Rumsfeld, Colin Powell, Condoleezza Rice and Paul Wolfowitz — was dismissed in December 2014 after the district court immunized the Defendants, ruling they were acting within the lawful scope of their employment when they planned and executed the Iraq War.



Former British Prime Minister Tony Blair shaking hands with Defendant-Appellee George W. Bush.

Ms. Saleh is arguing on appeal that the Defendants should not be immunized. She alleges that the Defendants were acting from personally held convictions that the US should invade Iraq, regardless of any legitimate policy reasons. Specifically, she is pointing to a record of statements made by some of the Defendants in leading neoconservative outlets [in which they called for the military overthrow of the Hussein regime as early as 1997](#).

She is also arguing that Bush administration officials knowingly lied to the public by fraudulently tying Hussein to Al Qaida and the threat of weapons of mass destruction. Such misrepresentations would also make them personally liable for their conduct under relevant law.

The Ninth Circuit has not indicated when it will issue a ruling on the appeal.

What is the Chilcot Report?

The Chilcot Report is the final report issued by the Iraq Inquiry, a committee established by the British Government in 2009 to investigate what happened during the run up to the Iraq War. Composed of British “privy counsellors,” the report was released on July 6, 2016 after more than 6 years of investigation, research, and drafting.

Why is the Chilcot Report important to the Saleh v. Bush lawsuit?

The Chilcot Report contains (i) factual conclusions by the privy counsellors about what happened during the run up to the Iraq War, (ii) actual documentation (including written notes between Blair and Bush) that show a plan to go to war in Iraq as early as October 2001, and (iii) statements of international law by distinguished experts who have concluded that the Iraq War was illegal and constituted aggression against Iraq.

What are some of the pieces of evidence submitted to the Ninth Circuit?

These are some of the excerpts that we highlighted for the Ninth Circuit as evidence that the Iraq War was illegal, and that government leaders were not acting within the lawful scope of their employment authority when they planned and executed the Iraq War:

Conclusions of the Iraq Inquiry Committee:

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 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 of 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.

Conclusions of the Iraq Inquiry Committee related to the legal analysis of the British government leading up to the war:

289. Despite being told that advice was not needed for Mr Blair’s meeting with President Bush on 31 January, Lord Goldsmith wrote on 30 January to emphasise that his view remained that resolution 1441 did not authorise the use of military force without a further determination by the Security Council.
344. Mr Wood had warned Mr Straw on 24 January that “without a further decision by the Council, and absent extraordinary circumstances”, the UK would not be able lawfully to use force against Iraq.
348. Mr Wood wrote that Kosovo was “no precedent”: the legal basis was the need to avert an overwhelming humanitarian catastrophe; no draft resolution had been put to the Security Council; and no draft had been vetoed. He hoped there was: “... no doubt in anyone’s mind that without a further decision of the Council, and absent extraordinary circumstances (of which at present there is no sign), the United Kingdom cannot lawfully use force against Iraq to ensure compliance with its SCR WMD obligations. To use force without Security Council authority would amount to the crime of aggression.”

579. Lord Goldsmith recognised that there was a possibility of a legal challenge

Underlying statements and facts relied on by the Iraq Inquiry Committee

[15 January 2010 Statement by Foreign & Commonwealth Office legal advisor Sir Michael Wood](#) to the Iraq Inquiry Committee

I considered that the use of force against Iraq in March 2003 was contrary to international law. In my opinion, that use of force had not been authorized by the Security Council, and had no other legal basis in international law.

[18 January 2010 Statement by Foreign & Commonwealth Office legal advisor Elizabeth Wilmshurst](#) to the Iraq Inquiry Committee

I regarded the invasion of Iraq as illegal, and I therefore did not feel able to continue in my post. I would have been required to support and maintain the Government’s position in international fora. The rules of international law on the use of force by States are at the heart of international law. Collective security, as opposed to unilateral military action, is a central purpose of the Charter of the United Nations. Acting contrary to the Charter, as I perceived the Government to be doing, would have the consequence of damaging the United Kingdom’s reputation as a State committed to the rule of law in international relations and to the United Nations.

[12 July 2010 Statement by Carne Ross, First Secretary of the U.K. Permanent Mission to the U.N. to the Iraq Inquiry Committee](#)

This process of exaggeration was gradual, and proceeded by accretion and editing from document to document, in a way that allowed those participating to convince themselves that they were not engaged in blatant dishonesty. But this process led to highly misleading statements about the UK assessment of the Iraqi threat that were, in their totality, lies.

[October 11, 2001 message from former British Prime Minister Tony Blair to George W. Bush](#)

I have no doubt we need to deal with Saddam. But if we hit Iraq now, we would lose the Arab world, Russia, probably half of the EU ...

However, I am sure we can devise a strategy for Saddam deliverable at a later date. My suggestion is, in order to give ourselves space that we say: phase 1 is the military action focused on Afghanistan because it's there that perpetrators of 11 September hide. Phase 2 is the medium and longer term campaign against terrorism in all its forms. ...

(Mr. Blair was apparently discussing with Defendant-Appellee Bush regime change in Iraq just one month after the attacks that took place on September 11, 2001. Mr. Blair's suggestion for "phase 1" of the U.S.-U.K. strategy on the war on terrorism to first direct military action toward "Afghanistan because it's there that perpetrators of 11 September hide," further supports allegations that U.S. officials used an unrelated terrorist attack to execute a pre-existing plan of regime change in Iraq. Mr. Blair then went on to discuss a "phase 2" that would include invading Iraq).

[December 4, 2001 message from former British Prime Minister Tony Blair to George W. Bush](#)

Iraq is a threat because it has WMD capability ... But any link to 11 September and AQ [Al Qaeda] is at best very tenuous; and at present international opinion would be reluctant, outside the US/UK, to support immediate military action ... So we need a strategy for regime change that builds over time. ...

(This note supports allegations that U.S. government leaders were aware that Iraq had no link to the 9/11 attacks or Al Qaeda and support allegations that U.S. government leaders made false statements to the public about the threat Iraq posed, or its connection to Al Qaeda, in order to support a war and satisfy personally-held objectives of regime change that had no legitimate policy underpinning)

[July 28, 2002 message from former British Prime Minister Tony Blair to George W. Bush:](#)

I will be with you, whatever ...

The Evidence. Again, I have been told the US thinks this unnecessary. But we still need to make the case. If we recapitulate all the WMD evidence; add his attempts to secure nuclear capability; and, as seems possible, add on Al Qaida link, it will be hugely persuasive over here.

(This note confirms that U.S. government official's intent to invade Iraq was well-formed by July 2002. Mr. Blair's July 2002 note to George W. Bush observed that U.S. officials thought evidence supporting regime change was "unnecessary" and that an "Al Qaida link" could be simply be tacked onto government messaging in order to sell the war).

Statements by legal experts who have concluded that the Iraq War was illegal

[10 September 2010 Submission by Philippe Sands QC to the Iraq Inquiry Committee](#)

Distinguished members of the legal community in the United Kingdom have also concluded without ambiguity that the war was unlawful.

[9 September 2010 Statement by Professor Nicholas Grief to the Iraq Inquiry Committee \(emphasis added\).](#)

A second Security Council resolution specifically and unambiguously authorising military action was required. The vague warning of 'serious consequences' in resolution 1441 did not suffice, and to interpret resolution 678 as granting the necessary authority was not 'good faith' interpretation as required by international law. Without such a resolution, the invasion of Iraq constituted an act of aggression, contrary to Article 2(4) of the UN Charter.

What happens next?

The Department of Justice has indicated that it will oppose the filing of these portions from the Chilcot Report with the Ninth Circuit. We will circulate the DOJ opposition once it has been filed.

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