

Tony Blair and the Iraq War of 2003: Should He Stand Trial for the Crime of Waging a “War of Aggression”?

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March 20th 2003 was the start of the Iraq War, a war many argue was an illegal “war of aggression” as prescribed under the Nuremberg Principles.

The Chilcot Inquiry found that Tony Blair was privately committed to the military option even though he lied to the Cabinet, Parliament and the British public that war would only be a last resort, and so was himself an active and knowing participant in the conspiracy to invade another sovereign nation on a false premise.

In doing this, he was breaching the “Nuremberg Principles” which clearly outlined the crime of waging aggressive war; the principle under which military and political leaders of the Nazi regime such as General Alfred Jodl, Field Marshal Wilhelm Keitel and Joachim von Ribbentrop were convicted and later hanged.

For instance, in a telephone conversation with President Bush in December 2001, which made reference to the need to be rid of Saddam, Blair noted that an “extremely clever plan would be required.” (December 3rd, 2001) In July of the following year, he told Bush: “I will be with you, whatever.” (“Secret Personal Note on Iraq”, July 28th 2002). He was advised by Richard Dearlove, the Head of MI6 that the evidence of weapons of mass destruction was “thin”, but that that would be no problem advised Dearlove because “intelligence and facts were being fixed (by the US) around the policy.” (“Downing Street Memo”, Sunday Times, 1st May 2005).

In doing so, Blair was:

1. Abrogating his solemn responsibility to Parliament
2. Defying international law
3. Engaging in a criminal conspiracy
4. Abusing the powers vested in his office.

As a result, he was prima facie liable for the following criminal proceedings:

1. A criminal trial at a court of international jurisdiction for Waging a War of Aggression.
2. A prosecution under The Hague and Geneva rules which prohibit the pillage of another nation state by fundamentally transforming the economy of an occupied nation.
3. A trial in the Palace of Westminster following impeachment as a holder of public office for “high treason or other crimes and misdemeanours.”
4. Trial for the common law indictable offence of Public Misconduct. This is defined as occurring where a public officer acting in the course of their duties wilfully neglects to perform his duty or wilfully misconducts himself to such a degree as to amount to an abuse of the public’s trust in the office holder.

The war was illegal because it breached UN Charter Article 2(4) which provides that all member states must refrain from the use of force against the territorial integrity or political independence of any state. And neither of the two exceptions of self-defence, that is the threat of an imminent attack, and Security Council authorisation applied.

In 2008, Lord Thomas Bingham used the occasion of his first major speech after his retirement from Britain’s highest court to describe the invasion of Iraq as a “serious violation of international law.”

The judgement of the International Military Tribunal said the following:

“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.”

The long term effects of the conspiracy have been catastrophic to human life and regional stability. The occupation of Iraq which included massacres by the US military and torture in places such as Abu Ghraib; the rise of ISIS in Iraq and Syria all combined to create a huge death toll, permanent injuries, ecological damage, and population displacement which are still with the world to this day.

Unfortunately, Tony Blair has been able to escape prosecution, not only due to the lack of will of the political class in Britain, but because of two key legal obstacles, both centring on the lack of justiciability:

1. The decision to postpone the jurisdiction of the International Criminal Court over the crime of aggressive war for a period which covered the conspiracy to attack Iraq and its launch.
2. The dualist tradition of the British legal system meant that although Britain was a signatory to the Nuremberg Principles, unlike the situation in a monist state where international law becomes part of domestic law without being implemented by a national legislature, Parliament had not translated the crime of waging aggressive war into an Act.

So far as 1 is concerned, a suitable definition was finally reached in 2010 when it was

decided that alleged offenders should not be prosecuted until further agreement in 2017. And regarding 2, the case of R v Jones (2006) put to rest the argument that the crime of aggressive war had filtered into British municipal law. Ironically the judge who gave the leading statement, Lord Bingham would refer to the Iraq War as a “serious violation of international law” after his retirement.

The definition adopted at the Review Conference of the Rome Statute held in Kampala, Uganda provided the following:

“The planning or preparation or initiation by a person in a position effectively to exercise control or to direct 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 UN.”

Although this wrongdoing is one of several “core” crimes such as genocide which do not have a statute of limitations, the legal principle against the retrospective application of laws is seen as a stumbling block. Of course, it is argued that the law ought not have been in a vacuum. It has also been argued that Blair could be tried in a court within a monist state such as Switzerland where the Nuremberg Principles were in existence at the time of the war.

However, the former British Prime Minister has continued to evade prosecution.

I was interviewed about the culpability of Tony Blair in 2016 on ‘The Mind Renewed’ about Tony Blair’s alleged participation in a War of Aggression:

Part 1 of [‘Can the British State Convict itself?’](#)

I wrote this piece in 2016.

[“COMMENTARY: Blair’s Instincts on Iraq Were Woefully Wrong”](#)

I wrote this piece in 2012.

[“COMMENTARY: Tony Blair – War Crimes Suspect”](#)

I posted this newsreel last year.

[Blair’s First “Dodgy Dossier”](#) | Launch of UK Government Document on Iraq’s Alleged WMDs | Sept. 2002

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