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Chapter 1 : Legality of the Iraq War - Wikipedia

The invasion of Iraq was neither in self-defense against armed attack nor sanctioned by UN Security Council resolution authorizing the use of force by member states and thus constituted the crime of war of aggression, according to the International Commission of Jurists (ICJ) in Geneva.

Hage, a resident of Beirut, had been recruited by the department to assist in the War on Terrorism. He reported that Mohammed Nassif, a close aide to Syrian president Bashar al-Assad, had expressed frustrations about the difficulties of Syria contacting the United States, and had attempted to use him as an intermediary. He additionally offered oil concessions, but stopped short of having Hussein give up power, instead suggesting that elections could be held in two years. Later, Obeidi suggested that Hage travel to Baghdad for talks; he accepted. Later that month, Hage met with Gen. He was offered top priority to US firms in oil and mining rights, UN-supervised elections, US inspections with up to 5, inspectors, to have al-Qaeda agent Abdul Rahman Yassin in Iraqi custody since handed over as a sign of good faith, and to give "full support for any US plan" in the Arab-Israeli peace process. They also wished to meet with high-ranking US officials. Maloof reports having brought the proposal to Jamie Duman. Duman responded "Mike, working this. Keep this close hold. On March 7th, Perle met with Hage in Knightsbridge, and stated that he wanted to pursue the matter further with people in Washington both have acknowledged the meeting. At one point, Maloof wrote a memo stating "Hage quoted Obeidi as saying this is the last window or channel through which this message has gone to the United States. He characterized the tone of Dr. Hage has since become embroiled in a situation involving an earlier incident involving airport security that many have viewed as payback similar to the case of Valerie Plame See Support and opposition for the invasion of Iraq for the full article. The Bush administration claimed that the U. These nations provided combat troops, support troops, and logistical support for the invasion. The nations contributing combat forces were, roughly: Ten other countries were known to have offered small numbers of noncombat forces, mostly either medical teams and specialists in decontamination. In several of these countries a majority of the public was opposed to the war. There are some that claim the US intervention took place without any international legal framework. Others would counter by pointing out that the UN Security Council Resolutions authorizing the invasion gave legal authority to use " This war ended with a cease fire instead of a permanent peace treaty. Their view was that Iraq had violated the terms of the cease-fire by breaching two key conditions and thus made the invasion of Iraq a legal continuation of the earlier war. To support this stance, one has to "reactivate" the war resolution from ; if a war resolution can be reactivated ten years after the fact, it would imply that almost any nation that has ever been at war that ended in a ceasefire such as Korea could have the war restarted if any other nation felt at any time that they were no longer meeting the conditions of the cease fire that ended that war. Since the majority of the United Nations security council members both permanent and rotating did not support the attack, it appears that they viewed the attack as not being valid under the resolution. However, a resolution drafted and accepted the year before the invasion fully endorsed the use of military action to force Iraq to comply with the United Nations desires, and every country that sat upon the Security Council voted to draft that resolution. Several nations say the attack violated international law as a war of aggression since it lacked the validity of a U. Security Council resolution to authorize military force. The United States and United Kingdom claim it was a legal action which they were within their rights to undertake. Along with Poland and Australia, the invasion was supported by the governments of several European nations, including the Czech Republic, Denmark, Portugal, Italy, Hungary, and Spain. Although Iraq was known to have pursued an active nuclear weapons development program previously, as well tried to procure materials and equipment for their manufacture, these weapons and material have yet to be discovered. This casts doubt on some of the accusations against Iraq, despite previous UN assertions that Iraq likely harbored such weapons, and that Iraq failed to document and give UN inspectors access to areas suspected of illegal weapons production. However, some believe that the

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weapons were moved into Syria and Lebanon.

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Chapter 2 : Is war ever morally justified?

--The invasion and occupation Iraq: aggression or a justified resort to force? -- The invasion and occupation of Afghanistan: the legal challenge posed by the haven state -- Conquest, colonization, and the right of self-determination.

Dispute over the financial debt Edit Kuwait had heavily funded the eight-year-long Iraqi war against Iran. Iran repeatedly targeted Kuwaiti oil tankers in and fired weapons at Kuwaiti security personnel stationed on Bubiyan island in During late , several official meetings were held between the Kuwaiti and Iraqi leaders but they were unable to break the deadlock between the two. The dispute over Rumaila field started in when an Arab League declaration marked the Iraq-Kuwait border 2 miles north of the southernmost tip of the Rumaila field. In , Iraq accused Kuwait of using "advanced drilling techniques" to exploit oil from its share of the Rumaila field. The Iraqi government justified its invasion by claiming that Kuwait was a natural part of Iraq carved off as a result of British imperialism. The Iraqi government also argued that the Kuwaiti Emir was a highly unpopular figure among the Kuwaiti populace. By overthrowing the Emir, Iraq claimed that it granted Kuwaitis greater economic and political freedom. For this reason, its borders with the rest of Basra province were never clearly defined or mutually agreed. Ambassador in Iraq, April Glaspie , asked the Iraqi high command to explain the military preparations in progress, including the massing of Iraqi troops near the border. These statements may have caused Saddam to believe he had received a diplomatic green light from the United States to invade Kuwait. Although no follow-up question was asked, one might assume that what the U. Kuwait continues to maintain strong relations with the coalition of the Gulf War. On 2 August at 2: The main thrust was conducted by the commandos deployed by helicopters and boats to attack Kuwait City see The Battle of Dasman Palace , while the other divisions seized the airports and two airbases. In support of these units, the Iraqi Army deployed a squadron of Mil Mi helicopter gunships , several units of Mi-8 and Mi transport helicopters, as well as a squadron of Bell helicopters. The foremost mission of the helicopter units was to transport and support Iraqi commandos into Kuwait City, and subsequently to support the advance of ground troops. Meanwhile, certain targets in the capital of Kuwait City were bombed by Iraqi aircraft. Despite months of Iraqi sabre-rattling , Kuwait did not have its forces on alert and was caught unaware. The first indication of the Iraqi ground advance was from a radar -equipped aerostat that detected an Iraqi armour column moving south. Of the small Kuwaiti Navy , two missile boats were able to evade capture or destruction. An air battle with the Iraqi helicopter airborne forces was fought over Kuwait City, inflicting heavy losses on the Iraqi elite troops, and a few combat sorties were flown against Iraqi ground forces. While these aircraft were not used in support of the subsequent Gulf War, the "Free Kuwait Air Force" assisted Saudi Arabia in patrolling the southern border with Yemen, which was considered a threat by the Saudis because of Yemenâ€™Iraq ties. The Kuwaiti National Guard, as well as additional Emiri Guards arrived, but the palace remained occupied, and Republican Guard tanks rolled into Kuwait City after several hours of heavy fighting. His younger half brother , Sheikh Fahad Al-Ahmed Al-Jaber Al-Sabah , was shot and killed by invading Iraqi forces as he attempted to defend Dasman Palace after which his body was placed in front of a tank and run over, according to an Iraqi soldier who was present and deserted after the assault. By 3 August, the last military units were desperately fighting delaying actions at choke points and other defensible positions throughout the country until out of ammunition or overrun by Iraqi forces. Ali al-Salim air base of the Kuwaiti Air Force was the only base still unoccupied on 3 August, and Kuwaiti Aircraft flew resupply missions from Saudi Arabia throughout the day in an effort to mount a defense. However by nightfall, Ali al-Salim air base had been overrun by Iraqi forces. From then on it was only a matter of time until all units of the Kuwaiti Military were forced to retreat or be overrun. Aftermath Edit More than Kuwaiti oil wells were set on fire by the Iraqi forces causing massive environmental and economic damage to Kuwait. The UN Security Council passed 12 resolutions demanding immediate withdrawal of Iraqi forces from Kuwait, but to no avail. More than , Indian nationals living in Kuwait were air-lifted by the Indian government within a span of a week.

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Chapter 3 : Occupiers out; resistance is justified™

The invasion of Iraq was the first stage of the Iraq War (also called Operation Iraqi Freedom). The invasion phase began on 20 March and lasted just over one month, including 21 days of major combat operations, in which a combined force of troops from the United States, the United Kingdom, Australia and Poland invaded Iraq.

This invasion does not meet the criteria of a Just War, as it was not waged by a legitimate authority, and there was no just cause or right intentions. The following were banned by the resolution: Another attempt at negotiation failed when Iraq demanded that it be given the Rumaila oil fields, which were partially in Kuwaiti territory. The Security Council implemented a naval blockade in Resolution , but this failed to deter Iraq. Finally, Resolution , issued on November 29, , gave Iraq one last chance to withdraw by giving them until January 15 to do so, but still Iraq refused. When the deadline passed, it was clear that Iraq would not accept reasonable peace terms, and the coalition had no choice but to use military action. The coalition was made up primarily of UN nations, and Military action was authorized by United Nations Security Council resolution US had International Support The fact that 34 nations contributed military forces to the coalition, along with economic support from a handful of other nations, show that the war was justified. The Coalition had a high probability of success With 34 different nations contributing nearly 1,, soldiers, Iraq had little chance of continuing their occupation of Kuwait. Iraq could have posed a threat to other US allies in the region, e. President Bush stated "Within three days, , Iraqi troops with tanks had poured into Kuwait and moved south to threaten Saudi Arabia. It was then that I decided to act to check that aggression. Israel deliberately stayed out of the war, despite these attacks, because of fears that the coalitions Arab nations would not fight alongside Israel. Iraq also attempted to invade Saudi Arabia early in the war, but were defeated at the Battle of Khafji. Iraqi occupation of Kuwait would have driven up oil prices, hurting the US economy Following the Iran Iraq War, which lasted nearly 8 years, from to , Iraq was deeply in debt to a number of different countries. Kuwait and Saudi Arabia were the two countries owed the most money, and Iraq refused to pay back the debt. The low oil prices were great for western countries like the US and UK, but harmed oil producers like Iraq. Kuwait, according to Iraqi accusations, was also slant drilling across its border into Iraq controlled parts of the Rumaila oil fields. During the failed negotiations leading up the the war, Iraq demanded full access to all of the Rumaila Oil fields, even the parts located within Kuwait. This would have given Iraq tremendous influence over the global economy, given the worldwide dependence on Oil. Iraq could have dramatically reduced its oil exports, while building massive reserves, which would have drove prices up, harming oil consuming nations. Or it could have increased exports, keeping prices low and harming other oil producers, especially its fellow OPEC members No because The Coalition withdrew after Liberating Kuwait After freeing Kuwait from Iraqi occupation, the President Bush declared a ceasefire and the Coalition ended its combat operations. The strength of the Coalition would have allowed it to occupy Iraq, overthrow Saddam Hussein, take Iraqi oil, or pretty much anything else it wished to do. However, the Coalition ended the war after completing its mission of liberating Kuwait. Precedent established that unjust aggression would not be accepted. This war showed the world that unprovoked aggression and blatant land grabs by countries would not be accepted by the international community. Resolutions passed by the Arab League and the UN, followed by 34 nations giving military support to the coalition, showed that actions like those taken by Iraq would be swiftly punished. Iraqi troops committed Human Rights Violations There was also strong evidence that human rights violations were taking place in Kuwait by Iraqi troops, such as arbitrary arrest, death penalty or execution of unarmed civilians including children, and many more. The Coalition had far superior equipment The utilities and tools that the Coalition had compared to Iraqi forces were much greater. The Coalition forces in the air campaign had access to roughly 2, aircraft, whereas the Iraqi air forces had access to roughly around aircraft; in addition the aircraft of the coalition was more advanced than the aircraft of the Iraqi. The land forces of the coalition had access to more vehicles and in greater variation than the Iraqi ground forces. Some

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of the technology and artillery that the Coalition had, also heavily favored them. The Coalition had access to the newly developed Tomahawk missiles and had used this war as a test for the missiles; over were launched, and had been used effectively. The Coalition also had access to Hellfire missiles; it has multi-mission, multi-target precision-strike capability, and can be launched from multiple air, sea, and ground platforms. The Hellfire missile is the primary class air-to-ground precision weapon for the armed forces of the United States and many other nations. The United States forces had also brought several naval ships to aid in the war against the Iraqi forces, even though Iraq had no existing naval force. In contrast to the utilities available to the Coalition, the Iraqi army was limited to Main Battle Tanks and old French fighter jets. This led to the Iraqi forces having great disadvantages during battles, making the battles heavily one-sided, in favor of the Coalition. This is one of the reasons to why it was not justified for the United States to enter the First Gulf War. The US did not have the right intentions People believed that the United States was only entering the war because of our own self interests, oil. It was believed that we entered for the sole reason to protect our own oil and gain control over energy resources. President Bush stated that Iraq had a massive troop buildup near the Saudi Arabian border and was poised to invade, but satellite images did not back up this claim. The Bush administration also used false stories of human rights abuses by Iraqi troops to gain public support for the war. The Coalition was too big In the First Gulf War, the coalition was made of 34 allied nations and forces, whereas the Iraqi forces had fought alone. The sizing of the opposing countries was completely unproportional with a The US did not have legitimate authority The Arab League opposed western intervention in the conflict. Libya was the only country other than Iraq to oppose the Arab League resolution that demanded Iraq withdraw from Kuwait.

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Chapter 4 : NO WAR NO NATO: The United Nations and Its Conduct During the Invasion and Occupation

Iraq used exaggerated accusations of slant drilling and oil overproduction to justify its invasion of Kuwait. This invasion does not meet the criteria of a Just War, as it was not waged by a legitimate authority, and there was no just cause or right intentions.

And religious war follows less from conscious intentions of warriors than from the beliefs that inspire them. Boykin makes the question urgent: A close acquaintance of Bush told the New York Times: The minutes seem quite detailed, because Regular wrote a long article recounting very specific conversations. The last paragraph of the article reads: If you help me I will act, and if not, the elections will come and I will have to focus on them. Mark Crispin Miller writes in his book, *Cruel and Unusual*: He does not have a p. His view of this was is that they are trying to kill the Christians. And we the Christians will strike back with more force and more ferocity than they will ever know. To them, however, the enemies were those whom the media presented before them. The media set the stage perfectly well. However, the unsettling questions, which thus far few have been willing to voice is: Were the Taliban responsible for such a complex attack on the United States? Was Al-Qaeda capable of doing it? As arrogant as he is, this was precisely what he meant. In an attempt to shift the blame, Thomas F. This term, literally translated into Arabic, would imply the adl justice of Allah God. The world instantly noticed with alarm these linguistic usages. Even the modern-day crusaders did not want all Muslims to stand up in reaction before the United States could fire the first shot at the ideological rivals: In fact, people in Afghanistan at the time of the attack had no way of menacing the United States from afar since they had Intercontinental Ballistic Missiles ICBMs or long-range bombers. Someone in Afghanistan intending to attack the United States had to get to the United States first and acquire the technical know how and ability to carryout the attack. If there was an imminent threat, it was from terrorists already in the United States or in Europe. Thus, there was enough time to seek Security Council authorization, which is required for such a war unless one is attacking the source of an imminent threat. Instead, the United States deliberately chose not to seek it. True multilateralism would involve setting up international structures that are democratic, transparent, and accountable to the people and governments abiding by the decisions of these authorities whether favorable or not. To hide the real agenda of its policy makers, the United States has consistently set itself against any such path. The United States could likely have gained its acquiescence by use of its standard methods of threats and bribery. It also shows that the United States wished very firmly and deliberately to claim the right to unilateral aggression. It wanted to set a precedent for similar adventures in the future. The mindset was prepared for overthrowing the Taliban government with years of biased reports and an elaborate campaign of disinformation. Similarly, the religious front in the United States kept backing political forces, which could effectively mobilize military and other resources against its perceived enemies. One can judge the instigating and mobilizing role of the religious front in the latest crusade from the ways in which religious institutions and individuals work behind the scene to influence key political decisions, such as the invasion and occupation of Muslim countries. One example is the way in which two newspapers of the Church of Rome reacted to the United States elections. However, hiding has become a difficult job in the 21st century. In the June 4, edition of the Italian newspaper, *Corriere della Sera*, the Vatican journalist, Luigi Accattoli, who most faithfully reports the views from the pontifical palazzo, wrote that the Pope had already decided: Not on the war, not on Osama Bin Laden, or not only on them, but on the defense of something profoundly American, as difficult for us Europeans to comprehend as it is easy to denigrate: The same ideas lead to the repeated fear mongering statements on the part of modern day crusaders. In the United States, the religious, political and military fronts against Islam work hand in hand. Military might is an effective tool in the hands of a political front. A noticeable drawing together between Bush, the Methodist and Catholics was underway before the elections. However, the elections results reflected it well. Fifty-two percent of the Catholics voted for Bush and 47 percent for Kerry. In , the percentages were reversed: It shows that the crusade is making a difference.

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At another level of more impact, convergence is underway between Catholic Americans and their most heated religious rivals: There were bishops who refused to give communion to Kerry, who, unlike Bush, just seemed opposed to the war of aggression with a religious motivation. The world witnessed a good example of this display of unity seven days before the Bush-Pope meeting in , Bush met in Washington a panel of religious thinkers, brought together by Christianity Today, the magazine founded by the most famous of the evangelicals, Billy Graham.

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Chapter 5 : The Motivational Force Behind the War - Media Monitors Network (MMN)

In this article, we argue that the US/UK invasion and occupation of Iraq was a form of state crime and offer a criminological analysis of the event.

UNSC Resolution was passed unanimously on November 8, , to give Iraq "a final opportunity to comply with its disarmament obligations" that had been set out in several previous resolutions resolution , and resolution Blix noted that Iraq had failed cooperation in a number of areas, including the failure to provide safety to U-2 spy planes that inspectors hoped to use for aerial surveillance , refusal to let UN inspectors into several chemical, biological, and missile sites on the belief that they were engaging in espionage rather than disarmament, submitting 12,page arms declaration that it handed over in December which contained little more than old material previously submitted to inspectors, and failure to produce convincing evidence to the UN inspectors that it had unilaterally destroyed its anthrax stockpiles as required by resolution a decade before was passed in He concluded that it would take "but months" to resolve the key remaining disarmament tasks. The commission of inquiry of the government of the Netherlands found that the UN resolution of the s provided no authority for the invasion. Also, the commission concluded that the notion of " regime change " as practiced by the powers that invaded Iraq had "no basis in international law. In an interview with newspaper de Volkskrant he argued that the cabinet did fully inform parliament and that there had never been any doubts. He rejected the conclusion that it took less than 45 minutes to decide to give political support to the United States. He also contested the conclusion that Prime Minister Balkenende failed to provide adequate leadership. In addition, he argued that no United Nations mandate was needed for the invasion of Iraq and remarked that there was no UN mandate when the Netherlands supported the US operations in Iraq. The letter goes on to state that "regime change per se is no justification for military action" and that "the weight of legal advice here is that a fresh [UN] mandate may well be required. The letter also expresses doubts regarding the outcome of military action. Wilmshurst also insinuated that the English Attorney General Lord Goldsmith also believed the war was illegal, but changed his opinion several weeks before the invasion. Statements issued later suggested that this was a personal view and not a formal view of the coalition government. With great sadness and anger, I now believe him to be right. Ferencz was one of the chief prosecutors for the United States at the military trials of German officials following World War II, and a former law professor. In an interview given on August 25, , Ferencz stated that not only Saddam Hussein should be tried, but also George W. Bush because the Iraq War had been begun by the U. It says that from now on, no nation can use armed force without the permission of the U. So, the United States went to war, in violation of the charter. I regret that I cannot agree that it is lawful to use force against Iraq without a second Security Council resolution. We note with "deep dismay that a small number of states are poised to launch an outright illegal invasion of Iraq, which amounts to a war of aggression".

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Chapter 6 : The Case for an Australian Iraq War Inquiry is Compelling | New Eastern Outlook

Introduction: From Aggression to Just Occupation? Wars are commonly judged just or unjust as wholes. According to traditional just war theory, a war is just if it has a just cause, is fought with right intent, is a last resort, has costs proportional to benefits, and is properly authorized. 1 1.

Not a Humanitarian Intervention Share Print Humanitarian intervention was supposed to have gone the way of the s. The use of military force across borders to stop mass killing was seen as a luxury of an era in which national security concerns among the major powers were less pressing and problems of human security could come to the fore. Somalia, Haiti, Bosnia, Kosovo, East Timor, Sierra Leone - these interventions, to varying degrees justified in humanitarian terms, were dismissed as products of an unusual interlude between the tensions of the Cold War and the growing threat of terrorism. September 11, was said to have changed all that, signaling a return to more immediate security challenges. Yet surprisingly, with the campaign against terrorism in full swing, the past year or so has seen four military interventions that are described by their instigators, in whole or in part, as humanitarian. In principle, one can only welcome this renewed concern with the fate of faraway victims. What could be more virtuous than to risk life and limb to save distant people from slaughter? But the common use of the humanitarian label masks significant differences among these interventions. The United States briefly participated in the Liberian intervention, but the handful of troops it deployed had little effect. All of these African interventions were initially or ultimately approved by the U. Indeed, in each case the recognized local government consented to the intervention, though under varying degrees of pressure. By contrast, the United States-led coalition forces justified the invasion of Iraq on a variety of grounds, only one of which - a comparatively minor one - was humanitarian. The Security Council did not approve the invasion, and the Iraqi government, its existence on the line, violently opposed it. Moreover, while the African interventions were modest affairs, the Iraq war was massive, involving an extensive bombing campaign and some , ground troops. For better or for worse, that prominence gave it greater power to shape public perceptions of armed interventions said by their proponents to be justified on humanitarian grounds. The result is that at a time of renewed interest in humanitarian intervention, the Iraq war and the effort to justify it even in part in humanitarian terms risk giving humanitarian intervention a bad name. If that breeds cynicism about the use of military force for humanitarian purposes, it could be devastating for people in need of future rescue. Human Rights Watch ordinarily takes no position on whether a state should go to war. The issues involved usually extend beyond our mandate, and a position of neutrality maximizes our ability to press all parties to a conflict to avoid harming noncombatants. The sole exception we make is in extreme situations requiring humanitarian intervention. Because the Iraq war was not mainly about saving the Iraqi people from mass slaughter, and because no such slaughter was then ongoing or imminent, Human Rights Watch at the time took no position for or against the war. A humanitarian rationale was occasionally offered for the war, but it was so plainly subsidiary to other reasons that we felt no need to address it. Indeed, if Saddam Hussein had been overthrown and the issue of weapons of mass destruction reliably dealt with, there clearly would have been no war, even if the successor government were just as repressive. Some argued that Human Rights Watch should support a war launched on other grounds if it would arguably lead to significant human rights improvements. But the substantial risk that wars guided by non-humanitarian goals will endanger human rights keeps us from adopting that position. Over time, the principal justifications originally given for the Iraq war lost much of their force. More than seven months after the declared end of major hostilities, weapons of mass destruction have not been found. No significant prewar link between Saddam Hussein and international terrorism has been discovered. The difficulty of establishing stable institutions in Iraq is making the country an increasingly unlikely staging ground for promoting democracy in the Middle East. The administration is now citing this rationale not simply as a side benefit of the war but also as a prime justification for it. Other reasons are still regularly mentioned, but the humanitarian

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one has gained prominence. Does that claim hold up to scrutiny? The question is not simply whether Saddam Hussein was a ruthless leader; he most certainly was. Rather, the question is whether the conditions were present that would justify humanitarian intervention - conditions that look at more than the level of repression. If not, it is important to say so as well, since allowing the arguments of humanitarian intervention to serve as a pretext for war fought mainly on other grounds risks tainting a principle whose viability might be essential to save countless lives. In examining whether the invasion of Iraq could properly be understood as a humanitarian intervention, our purpose is not to say whether the U. That, as noted, involves judgments beyond our mandate. The Standards for Humanitarian Intervention Unusual among human rights groups, Human Rights Watch has a longstanding policy on humanitarian intervention. War often carries enormous human costs, but we recognize that the imperative of stopping or preventing genocide or other systematic slaughter can sometimes justify the use of military force. For that reason, Human Rights Watch has on rare occasion advocated humanitarian intervention - for example, to stop ongoing genocide in Rwanda and Bosnia. Yet military action should not be taken lightly, even for humanitarian purposes. One might use military force more readily when a government facing serious abuses on its territory invites military assistance from others - as in the cases of the three recent African interventions. In arriving at the standards that we believe should govern such nonconsensual military action, we draw on the principles underlying our own policy on humanitarian intervention and on our experiences in applying them. We also take into account other relevant literature, including the report of the Canadian government-sponsored International Commission on Intervention and State Sovereignty. In our view, as a threshold matter, humanitarian intervention that occurs without the consent of the relevant government can be justified only in the face of ongoing or imminent genocide, or comparable mass slaughter or loss of life. To state the obvious, war is dangerous. In theory it can be surgical, but the reality is often highly destructive, with a risk of enormous bloodshed. Only large-scale murder, we believe, can justify the death, destruction, and disorder that so often are inherent in war and its aftermath. Other forms of tyranny are deplorable and worth working intensively to end, but they do not in our view rise to the level that would justify the extraordinary response of military force. Only mass slaughter might permit the deliberate taking of life involved in using military force for humanitarian purposes. In addition, the capacity to use military force is finite. Encouraging military action to meet lesser abuses may mean a lack of capacity to intervene when atrocities are most severe. The invasion of a country, especially without the approval of the U. Security Council, also damages the international legal order which itself is important to protect rights. For these reasons, we believe that humanitarian intervention should be reserved for situations involving mass killing. We understand that "mass" killing is a subjective term, allowing for varying interpretations, and we do not propose a single quantitative measure. We also recognize that the level of killing that we as a human rights organization would see as justifying humanitarian intervention might well be different from the level that a government might set. However, in either circumstance, because of the substantial risks inherent in the use of military force, humanitarian intervention should be exceptional - reserved for the most dire circumstances. If this high threshold is met, we then look to five other factors to determine whether the use of military force can be characterized as humanitarian. First, military action must be the last reasonable option to halt or prevent slaughter; military force should not be used for humanitarian purposes if effective alternatives are available. Second, the intervention must be guided primarily by a humanitarian purpose; we do not expect purity of motive, but humanitarianism should be the dominant reason for military action. Third, every effort should be made to ensure that the means used to intervene themselves respect international human rights and humanitarian law; we do not subscribe to the view that some abuses can be countenanced in the name of stopping others. Fourth, it must be reasonably likely that military action will do more good than harm; humanitarian intervention should not be tried if it seems likely to produce a wider conflagration or significantly more suffering. Finally, we prefer endorsement of humanitarian intervention by the U. Security Council or other bodies with significant multilateral authority. However, in light of the imperfect nature of international governance today, we would not require multilateral approval in

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an emergency context. Two Irrelevant Considerations Before applying these criteria to Iraq, it is worth noting two factors that we do not consider relevant in assessing whether an intervention can be justified as humanitarian. First, we are aware of, but reject, the argument that humanitarian intervention cannot be justified if other equally or more needy places are ignored. Iraqi repression was severe, but the case might be made that repression elsewhere was worse. For example, an estimated three million or more have lost their lives to violence, disease, and exposure in recent years during the conflict in the eastern Democratic Republic of Congo DRC , yet intervention in the DRC was late and, compared to Iraq, modest. However, if the killing in Iraq warranted military intervention, it would be callous to disregard the plight of these victims simply because other victims were being neglected. In that case, intervention should be encouraged in both places, not rejected in one because it was weak or nonexistent in the other. Second, we are aware of, but reject, the argument that past U. This argument is built on the U. When the Iraqi government was using chemical weapons against Iranian troops in the s, the Reagan administration was giving it intelligence information. After the Anfal genocide against Iraqi Kurds in , the Reagan and first Bush administrations gave Baghdad billions of dollars in commodity credits and import loan guarantees. In each of these cases, Washington deemed it more important to defeat Iran or avoid Iranian influence in a potentially destabilized Iraq than to discourage or prevent large-scale slaughter. We condemn such calculations. However, we would not deny relief to, say, the potential victims of genocide simply because the proposed intervener had dirty hands in the past. The Level of Killing In considering the criteria that would justify humanitarian intervention, the most important, as noted, is the level of killing: There were times in the past when the killing was so intense that humanitarian intervention would have been justified - for example, during the Anfal genocide, in which the Iraqi government slaughtered some , Kurds. Indeed, Human Rights Watch, though still in its infancy and not yet working in the Middle East in , did advocate a form of military intervention in after we had begun addressing Iraq. There were other moments of intense killing as well, such as the suppression of the uprisings in But on the eve of the latest Iraq war, no one contends that the Iraqi government was engaged in killing of anywhere near this magnitude, or had been for some time. Human Rights Watch accepts that military intervention may be necessary not only to stop ongoing slaughter but also to prevent future slaughter, but the future slaughter must be imminent. To justify the extraordinary remedy of military force for preventive humanitarian purposes, there must be evidence that large-scale slaughter is in preparation and about to begin unless militarily stopped. But no one seriously claimed before the war that the Saddam Hussein government was planning imminent mass killing, and no evidence has emerged that it was. There were claims that Saddam Hussein, with a history of gassing Iranian soldiers and Iraqi Kurds, was planning to deliver weapons of mass destruction through terrorist networks, but these allegations were entirely speculative; no substantial evidence has yet emerged. There were also fears that the Iraqi government might respond to an invasion with the use of chemical or biological weapons, perhaps even against its own people, but no one seriously suggested such use as an imminent possibility in the absence of an invasion. That does not mean that past atrocities should be ignored. Rather, their perpetrators should be prosecuted. We have interviewed witnesses and survivors, exhumed mass graves, taken soil samples to demonstrate the use of chemical weapons, and combed through literally tons of Iraqi secret police documents. We have circled the globe trying to convince some government - any government - to institute legal proceedings against Iraq for genocide. In the mids, when our efforts were most intense, governments feared that charging Iraq with genocide would be too provocative - that it would undermine future commercial deals with Iraq, squander influence in the Middle East, invite terrorist retaliation, or simply cost too much money. But to urge justice or even criminal prosecution is not to justify humanitarian intervention. Indictments should be issued, and suspects should be arrested if they dare to venture abroad, but the extraordinary remedy of humanitarian intervention should not be used simply to secure justice for past crimes. This extreme step, as noted, should be taken only to stop current or imminent slaughter, not to punish past abuse. In stating that the killing in Iraq did not rise to a level that justified humanitarian intervention, we are not insensitive to the awful plight of the Iraqi people. Such atrocities should be met with

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public, diplomatic, and economic pressure, as well as prosecution.

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Chapter 7 : invasion of Iraq

In sum, the invasion of Iraq failed to meet the test for a humanitarian intervention. Most important, the killing in Iraq at the time was not of the exceptional nature that would justify such.

Triggered by the Iraq take-over of Kuwait, this aggression on the Iraqi people cannot be justified. Instead this view reflects US rejection of peaceful withdrawal offers by Iraq. The resulting UN-endorsed Gulf War, the war crimes committed in the name of the UN by US armed forces during that war, set a pattern of militaristic aggression towards the people of Iraq that continues until today. Since , manipulated and corrupted by the five permanent members, the UN Security Council has often been brutally employed to serve the narrow interests of the powerful. As result, the UN was structured to fail the people of Iraq and continues to do so in all respects. The US leadership deployed that new nuclear weapon of choice, namely hundreds of tons of depleted uranium missiles and shells with horrific cancerous consequences still being revealed today. By these various means, the UN has itself destroyed the basic human rights of the Iraqi people through the willful neglect of Articles of the Universal Declaration of Human Rights. The UN failed to protect and safeguard the children and people before and after the invasion. Where was the outrage? Where were the many member states committed to protecting the UN Charter and tenets of international law? Respect for human rights and international law, including the UN Charter itself, was hidden by the polluted and murky world of self-interest amongst UN member states that favours sweaty embraces of the Bush regime. We were asked to believe that the spirit of Article 51 of the UN Charter dealing with national self-defense somehow justified the US invasion of Iraq! Blair informed us that Baghdad could surprise-attack London in 45 minutes with terrible and illegal weapons. He referred to chemical and biological weapons that were sold to Iraq by the UK itself, or by European and American friends when earlier Baghdad took on Iran largely due to the urging and active support of Washington and London. This was perhaps the lowest point reached yet by the UN in its short history. When 20 months later the Secretary-General remembered his responsibility to speak up as per Article 99, he mumbled off-the-record, but was sadly much too late. This is the kind of state terrorism that provides a tragic reminder of the US nuclear crime of bombing of Hiroshima and Nagasaki. However, both forms of terrorism are internationally unlawful and unacceptable. The world tried desperately to believe the nonsense of massive stockpiles of weapons of mass destruction residing in Iraq. And the UN stood mutely by. Even to this day, the Security Council is unwilling to define terrorism for fear that state terrorism employed by its permanent five member states would thereby be constrained. Thus, the March invasion took place in breach of all known international laws, executed with the application of terrorism and commission of war crimes, including further and massive use of depleted uranium. The UN – its member states and its Secretary-General failed to employ all possible means to protect the people of Iraq – worse the UN was generally seen around the world to be acquiescent and collaborative. The occupation was supported by member states and donor agencies, and then actively supported by the UN. That support and active involvement constitutes collaboration. And UN collaboration with the occupying enemy was, and is, a tragic mistake. Collaboration of this kind is an unacceptable role for the UN. We are equally familiar with the often murderous consequences of collaboration, which the French Resistance made famous, and even bizarrely glorious under occupation in the s. The Security Council and particularly the Secretary-General, responsible for the welfare of staff members, appear to have failed to understand that the UN was, even before collaboration, the most hated organization in Iraq. The UN Secretary-General and his staff were obligated to remain apart from the illegal occupation, at best on standby. The UN had no mandate to be in Iraq. And puppet regimes cannot be recognized by the UN, even if set up by two permanent member states of the Security Council. Airlifting of long expatriated Iraqis together with their own armed thugs and mercenaries, and setting them up as an interim regime, does not create a representative, or legal government with which the UN can legitimately serve. However, it is considered that occupation, even unlawful occupation, comes with

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obligations under international law. Such obligations included the rule of domestic law, the protection of state and private property and perhaps most importantly the protection and wellbeing of the civilian population as per international law. The occupying US and UK forces blatantly failed to meet these obligations. They allowed, even facilitated, a complete breakdown in law and order. They stood back as looting and destruction in the cities and towns of Iraq took place. As days became weeks and months, they neglected to meet the basic needs of the people including food, housing, water, power, health care, education and employment. And tragically the gutless UN stood back silently as the Americans and British created anarchy. The UN remained silent as the occupiers disbanded Iraqi defense forces, including border guards thereby opening the country up to intrusion and looting by thousands intent on chaos. In addition to the cost of Iraq civilian well being and lives, the intruders also came to attack the occupying common enemy of the Region i. Before the Iraqi economy could even begin the process of recovery from UN sanctions and military invasion, the American occupiers abolished the Oil for Food Programme. Ignorant and grossly irresponsible, Washington looked to the modest private sector of Iraq to suddenly sell food, medicines and other essentials to a population of largely unemployed and impoverished in the face of growing inflation. In a matter of weeks an economy that had been centralized and public sector driven under UN Sanctions was disbanded with very painful results. Where was the UN voice to protect basic civilian interests and demand that occupation obligations be fully met by the US and the UK? The breakdown of personal security, social services, health care, education and basic needs has been almost total. In other words, the occupying military forces have failed in all aspects of meeting their responsibilities under international law. And the UN has been silent. The UN has also been silent as the US set about building some 14 military bases for their own long term strategic military requirements in the Region. These are strategies relating to Regional military presence, natural gas and oil reserves and control thereof. Has the UN spoken up? For the first time in many years, the dreadful possibility of civil war has been created by foreign occupation that like an old colonial regime has discovered the benefits of divide and rule, with disastrous results. Where is the UN demand to an end to military occupation and the belated return of Iraq to the people of Iraq? And this was not UN money. These billions improperly handed over by the UN was the property of the Iraqi people. Again the UN has failed in its responsibility. It is the genocide that the UN perpetrated in respect of the Iraqi people over some 12 years of strangulation under uniquely comprehensive sanctions. Conclusion We find in Iraq today almost total political and social chaos. Foreign military occupation has influenced interim arrangements that are not representative and have not the confidence of many Iraqis. For the survivors, homelessness, unemployment and little means to survive have resulted. Health care and education is in disarray as families are afraid to send their children to clinics and schools for fear of bombing and kidnapping. Child morality and malnutrition is on the increase. Personal security does not exist. University students stay away for reasons of fear. The breakdown in policing since the occupation has led to level of murder and killing unknown in a free Iraq before occupation. Many essentially experienced civil servants, intellectuals, doctors and educators have been murdered. The UN is largely silent. Despite the courage of many Iraqis to vote under these near impossible conditions and work towards a replacement system of government, the national institutions remain in very bad shape. Financial and human capital are both in short supply. The much needed constitution being drafted under American supervision and interference is likely to have a long and hard road to acceptance. It will undoubtedly need much rewriting once the country has an elected and representative government when free of foreign occupation. It is expected that Iraq will reject many American pressures, including privatization to foreign corporations of public sector essentials such as water, oil resources and power. It is feared that IMF interference will lead to structural adjustment devices that will destroy the remaining strengths of the welfare system so many Iraqis have learned to depend upon over many years. Due to corruption of the Security Council and abuse of the UN Charter by the five permanent members in particular, the unlawful invasion, occupation of Iraq and the many tragic consequences thereof, have not led to UN Security Council condemnation. Outrageously, the US and UK continuing to enjoy the benefits of member states in good standing, retain their veto powers and permanent

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seats on the Council. They have not been obliged to terminate illegal military action within the sovereign state of Iraq. They have not been forced to withdraw occupying military forces. They have failed to meet their occupation obligations under international law. They have stolen and abused limited Iraqi financial resources and have under spent their own funds that they obligated very publicly for reconstruction and development. The UN has watched the lost of life in Iraq. The UN has watched the employment of some 80, hired-guns who serve the US authorities under no known law. The UN has watched in silence American human rights abuses, torture and killing of Iraq prisoners – arrested and jailed without respect for their human rights or explanation to their families. The world waits for the people of Iraq to be given an opportunity to make their own decisions and resolve their own differences as only they can hope to do without foreign occupation and interference. The world waits for the UN to act in keeping with the provisions of international law, including the application of International Criminal Court provisions to Bush, Blair and their henchmen and women who have violated the core tenets of the UN Charter, Declaration of Human Rights and the Geneva Conventions and Protocols. The original source of this article is Global Research.

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Chapter 8 : Barnett: The War And Occupation In Iraq Are Illegal - Democratic Underground

Since , the people of Iraq have been the victims of continuous US/UK-driven United Nations Security Council aggression. Triggered by the Iraq take-over of Kuwait, this aggression on the Iraqi people cannot be justified.

The current Foreign Minister Julie Bishop has expressed similar views. Both Howard and Bishop are lawyers, although that is not immediately obvious from their expressed views. Neither seems to have even a basic grasp of the principles of international law, or indeed even the law of evidence. Successive Australian governments of both major political persuasions have refused to conduct a formal inquiry into the circumstances under which Australia joined the Iraq invasion and occupation. This is probably because both major parties are culpable in ignoring both the law and the evidence. The legal starting point is Article 2 of the United Nations Charter, a document that Australia was instrumental in formulating. Article 2 3 of the Charter provides: The Charter does of course provide an exception to the general prohibition on the use of force, and that is in the self-defence provisions of Article A nation may of course act in self-defence if attacked by another State. As is well settled law, there must be an actual or imminent threat of an armed attack; the use of force must be necessary; and the force used must be proportionate. No sensible argument can be mounted that Australia was threatened by Iraq, either directly or indirectly. Claims to the contrary, made in early by the Australian government do not withstand scrutiny. An estimated , Iraqis, mainly women, children and older persons, died as a direct result of the sanctions. The post-invasion death toll is well in excess of a million people. While literally true the effect is to dramatically understate the true human costs of the invasion. The only operative provision of Article 51 therefore is that force may be used pursuant to a resolution of the Security Council authorizing the use of force. Circumventing that restriction was in fact one of the central preoccupations of the UK and Australian governments. In November the Security Council passed Resolution and the key issue was whether or not that Resolution constituted such an authorization. Chilcot devoted considerable space to this legal question, devoting the whole of Part 5 of the Report to the legal maneuvering that went on. Suffice to say at this point that the overwhelming weight of international legal opinion, including the whole of the UK Foreign Office legal team, considered that it was insufficient to justify the use of force. Prime Minister Howard set out the political argument for Australia to join the coalition attack on Iraq in an address on 4 February to the Australian Parliament. The reasons for this will become obvious. Again, the Chilcot Report refers to the opposite conclusion. The views of the intelligence agencies were much less forthright than the political spin put on them by the British Prime Minister. He said that the advice was consistent with that provided to the UK government by its Attorney-General Lord Goldsmith. At best, that was a partial truth. In fact, the terms of Resolution provided that should Iraq be found to be in material breach of its obligations, then the matter was to be returned to the Security Council for its assessment and consideration. There was nothing in Resolution that expressly or impliedly authorized the resort to force without further consideration by the Security Council. This was known to the UK Government because in February , more than a year before the invasion, all 14 members of the Foreign Office legal team had advised the government that in their opinion Iraq could not be attacked without a specific further authorization from the Security Council. To do so would have undermined the propaganda campaign then in full swing. Blair was not prepared to seek a resolution from the Security Council authorizing force because he knew he could not command the necessary support from the Council, even discounting the likely French and Russian vetoes. It is logically contradictory to claim, as Howard did, that the Security Council resolutions authorized force, and refuse to test that as Goldsmith had advised was the prudent course because one knows that such authorization would not be forthcoming. Instead of confirming what the legal opinions had advised, both Blair and Howard continued to make unequivocal statements that Saddam Hussein was defying Security Council resolutions, concealing weapons of mass destruction, and pursuing a nuclear weapons program. Chilcot again found that there was no proper basis for these statements, including the evidence of the two independent inspectors, Mohammed al-Baradi and Hans

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Blix that they could find no evidence of any weapons or weapons program, and that Saddam Hussein was co-operating with the inspection teams. It was clearly not what Blair and the others intent on war wanted to hear. Goldsmith duly returned to the UK and in a written answer to a question in the House of Lords in words reversed the position he had carefully set out over 12 pages of legal argument only ten days earlier. Sir Michael Wood used almost identical words in his evidence to the Chilcot Inquiry. He told the Inquiry: If he did, he did not mention it. Other critics have been less reticent. Unlike in the UK where the government at least sought the advice of its most senior legal adviser, the Attorney General, the Howard government instead obtained an opinion from two middle level public servants. Their opinion does not acknowledge that the weight of legal opinion differed from theirs. They provided no evidence for concluding that Iraq was in material breach of Security Council resolutions as Howard had asserted. They furnish no threads for military clothes. It is difficult to comprehend that the fanciful assertions they are not arguments of the two advices have been invoked by Australia and the UK to support the invasion of another State. The decision to go to war against Iraq had been made early in Meeting the wishes of the Israelis as set out in the Yinon Plan was another. At one time, Saddam Hussein had been a US ally. The British and Americans had supplied the weapons of mass destruction he used during the war with Iran in the s. Further confirmation of this, were it needed, comes from the report of the head of MI6, Sir Richard Dearlove, following a visit to the US. The Memo stated in part: Military action was now seen as inevitable. President Bush wanted to remove Saddam Hussein through military action, justified by a conjunction of terrorism and weapons of mass destruction. Intelligence was being fixed around the policy. The facts did not matter. A policy decision had been taken and nothing could be allowed to divert the policy objective of invading Iraq and stealing its resources. It is a reasonable inference that the Australian government was fully aware of this. Precisely what they knew and when they knew it must await the establishment of a proper inquiry. We do know however, that the views of the two Ignoring the major foreign intelligence agencies, the Defence Intelligence Organisation DIO and the Office of National Assessments ONA were disclosed in a report of the parliamentary joint committee in December The nuclear program was unlikely to be far advanced. Iraq was unlikely to have obtained fissile material. Iraq had no ballistic missiles that could reach the US. There was no known chemical weapons production. There was no specific evidence of resumed biological weapons production. There was no known biological weapons testing or evaluation since There was no known Iraq offensive weapons research since Iraq does not have nuclear weapons. There was no evidence that chemical weapon warheads for missiles had been developed. No intelligence had accurately pointed to the location of weapons of mass destruction. Ignoring the evidence not an honest belief as pleaded then and now and an overt willingness to join US foreign policy misadventures has led to one of the greatest policy debacles in Australian foreign policy history. It has resulted in the deaths of more than a million Iraqis and millions more displaced and their lives destroyed. It has given rise to the threat of Islamic terrorism that plagues countries throughout the Middle East, North Africa and as recent events have shown in France and other European nations. Australia must have a Chilcot type inquiry and judicial processes must follow their inevitable conclusions.

Chapter 9 : War in Iraq: Not a Humanitarian Intervention | Human Rights Watch

Was the U.S. Invasion on Iraq Justified Page 1 of 21 Was the U.S. Invasion on Iraq Justified? Even before the United States invaded Iraq in March , the prospect of a U.S. invasion was controversial, with millions of people around the world taking part in street demonstrations in protest.