



General Assembly

Distr.: General
9 September 2016

English only

Human Rights Council

Thirty-third session

Agenda item 4

Human rights situations that require the Council's attention

Joint written statement* submitted by International-Lawyers.Org, Arab Organization for Human Rights, Indian Movement "Tupaj Amaru", International Organization for the Elimination of All Forms of Racial Discrimination, Union of Arab Jurists, non-governmental organizations in special consultative status, International Educational Development, Inc., World Peace Council, non-governmental organizations on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[4 August 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.16-15677(E)



* 1 6 1 5 6 7 7 *

Please recycle



The Chilcot Report: another list of unpunished wrongdoings!

“(…), when I ran for President eight years ago as a candidate who had opposed the decision to go to war in Iraq, I said that America didn’t just have to end that war -- we had to end the mindset that got us there in the first place. It was a mindset characterized by a preference for military action over diplomacy; (...); a mindset that exaggerated threats beyond what the intelligence supported. More than a decade later, we still live with the consequences of the decision to invade Iraq. (...) But thousands of lives were lost, tens of thousands wounded. That doesn’t count the lives lost among Iraqis. Nearly a trillion dollars was spent. Today, Iraq remains gripped by sectarian conflict, and the emergence of al Qaeda in Iraq has now evolved into ISIL. (...)”

Remarks of US President Barack Obama on the Iran nuclear deal, August 5, 2015 (American University, Washington DC)¹.

The long-awaited Chilcot Report:

On the 15th of June 2009, former British Prime Minister Gordon Brown established the Chilcot Inquiry. More than seven years later, on 6th July 2016, the Committee finally published its 2.6 million-word report. Based on a large amount of evidence, including unpublished material, the report sheds light on the involvement of the United Kingdom in the Iraq war.

The mandate of the Chilcot Committee was twofold. The investigation first focused on the decision-making process which led to the decision to go to war. The report critically analysed the evidence UK had at this time and how the British Government then decided to join the USA in the invasion and occupation of Iraq. The second part of the investigation dealt with the role played by the United Kingdom during the subsequent military action on the ground and its aftermath. The Committee then examined the British armed forces’ conduct during and after the invasion.

There was no doubt that an inquiry into the Iraq war was necessary. Indeed, what was supposed to be a short, precisely defined battle turned out to be not only a catastrophic series of political misjudgements but also the cause of too many deaths. It quickly appears that Britain has been taken into war on a false pretext and had fought without any properly thought-out exit strategy.

The key-findings of the report:

Putting aside all considerations in regards to Saddam Hussein, the question at the basis of the redaction of the report was whether the invasion of Iraq back in 2003 was necessary or not. The Chilcot report confirmed the already well-known facts. Most notably, paragraph 432, clearly states that *“the circumstances in which it was ultimately decided that there was a legal basis for UK participation were far from satisfactory”*.

The report explains how the formal decision to invade Iraq taken by the British cabinet was shaped by key choices taken over the 18 previous months. Whereas UK initially seemed to be willing to bring the issue before the United Nations, it failed to influence US policy in Iraq and later adopted a profoundly different position in these regards. From a certain point onwards, the UK fully supported US policies on the basis of flawed intelligence and assessments. The UK and US, in fact, overruled the UN Security Council authority regarding the use of force.

The part of the report entitled *“Weapons of mass destruction”* establishes that the British Secret Intelligence Service (MI6) had found no evidence that Iraq had actual nuclear capabilities that were, at that time, to be considered as threatening. It also underlined the fact that the MI6 was aware that a war might well have contributed to the transfer of

¹ <https://www.whitehouse.gov/the-press-office/2015/08/05/remarks-president-iran-nuclear-deal>

eventual WMDs to terrorist groups. However, former Prime Minister Tony Blair, when presenting his arguments before the House of Commons, portrayed Iraq's past, present and future as a genuine, dangerous and current threat to British citizens.

The report also identified severe shortcomings in terms of planning, assessing and executing both the military operations and the post-conflict management. Although the British executive was aware of the inadequacy of the US plans, the rushed decision did not allow the preparation of a strategy taking into full account the consequences of the invasion.

Accountability and justice for Iraq: a long-deserved promise

On March 20, 2003, in clear breach of article 2(4) of the United Nations Charter and violating several dispositions of the 1949 Geneva Conventions and its 1977 Protocols, the United States of America, together with the so-called "coalition of the willing", started an illegal war against Iraq, a sovereign state and a founding member of the UN.

The subsequent occupation led to deliberate, unnecessary and extreme forms of damage and destruction that have permanently devastated the nation and its people. As of today, the Iraqi people are still waiting, in vain, for reparation or even an official apology. But the invasion of Iraq in 2003 had also numerous far-reaching consequences worldwide.²

The dramatic consequences of the unlawful invasion of Iraq are still visible and gravely affect the country as of today. The decision to go to war has, in fact, so far resulted in the killing of at least 2 million Iraqis and a large part of the civilian population endured massive human rights violations. The coalition introduced enhanced practices of torture in the country, essentially as interrogation techniques. The torture scandal of the military prison of Abu Grhaib perfectly illustrates the abuses perpetrated by the armed forces of the coalition.

In addition to the horrendous violations inflicted to the population on a daily basis, the invasion and occupation also caused the destruction of the structures of the entire country, from the economy to the health services, including the education system. The total collapse of the Iraqi state at this time of the conflict and the establishment of a pro-invasion administration in the aftermath have set the foundations for the corrupted mockery of state we see today. It also totally impeded any proper political changes and allowed the creation of a fundamentally flawed judicial system.

The path towards legal proceedings:

By shedding light on the British involvement in Iraq between mid-2001 and July 2009, it is to hope that the Chilcot Report will break the too-long silence kept around the crimes committed and help to identify the main war criminals.

The failure of doing so would seriously undermine the credibility of international law as it would showcase that western perpetrators can engage in a war of aggression in total impunity. This would legitimize a dangerous precedent that can possibly threaten the international peace and security.

The challenge today is to not let this report and its findings be another temporary news headline but to use it as the basis for a long-overdue legal prosecution into the crimes committed in Iraq. It is time to put a halt to the ongoing state of impunity prevailing for those who committed war crimes and crimes against humanity in Iraq.

The two previous committees³ established and their findings did not lead to any effective actions despite the urgency of the situation. It is now vital that the information gathered in the Chilcot report is put to use as basis for legal proceedings.

² As Desmond Tutu said, the immorality of the US and Great Britain's decision to invade, premised on the apparent lie that Iraq possessed weapons of mass destruction, has destabilized and polarized the world to a greater extent than any other conflict in history. (<https://www.theguardian.com/commentisfree/2012/sep/02/desmond-tutu-tony-blair-iraq>)

The victims, both Iraqi and British, deserve, first of all, an official apology. But this is not enough. Indeed, according to the rule of law and basic principles of international law, the authors of such crimes must be held accountable accordingly. Every violation must be investigated into and the responsibilities must be established once and for all. Further to this, the victims and their families are entitled to a full compensation for the dramatic consequences of this inconsiderate war they had and continue to endure as of now.

The international community has since frequently condemned the invasion as a war of aggression but impunity remains granted to the perpetrators. Indeed, no actions have been taken on the national level, neither by Iraq nor by any of the occupying countries to bring to justice the criminals. This total absence of accountability clearly violates the principles for the protection and promotion of human rights. This ongoing impunity also fuels anger and extremism throughout the region. In these circumstances, it is the shared responsibility of the international community to take the appropriate measures in order to ensure that justice is finally done.

Recommendations:

The NGOs signatories to this statement, recommend to the Human Rights Council and all UN relevant bodies to:

- Take the right decision regarding the war of aggression against the state and people of Iraq by implementing all what in its mandate to bring the responsible of this horrendous crime to justice.
- All UN relevant bodies, including the Human Rights Council should take the appropriate steps to either defer the situation to the ICC or establish an *ad-hoc* tribunal.
- All mandate-holders need to take the required steps in order to address all the violations that occurred in Iraq as a consequence of the war and occupation.
- A Special Rapporteur to the human rights situation in Iraq should be appointed.

Geneva International Centre for Justice (GICJ) The Arab Lawyers Association- UK The Brussels Tribunal The Iraqi Commission for Human Rights (ICHR), Association of Human Rights Defenders in Iraq (AHRD), General Federation of Iraqi Women (GFIW), Organisation for Justice & Democracy in Iraq (OJDI), The Iraqi Centre for Human Rights, Association of Iraqi Diplomats (AID), Association of Humanitarian Lawyers (AHL), The International League of Iraqi Academics (ILIA), Women Will Association (WWA), Monitoring Net of Human Rights in Iraq (MHRI), Women Solidarity for an Independent and Unified Iraq, Alliance to Renew Co-operation among Humankind, International Coalition against War Criminals (ICAWC), Organization for Widows and Orphans (OWO), International Anti-Occupation Network (IAON), International Society of Iraqi Scientists, Children of Iraq Association (UK), The Perdana Global Peace Foundation, Kuala Lumpur Foundation to Criminalise War, Spanish Campaign against the Occupation and for Iraq Sovereignty- CEOSI, Arab Cause Solidarity Committee, Iraq Solidarity Association in Stockholm, NGO(s) without consultative status, also share the views expressed in this statement.

³ Hutton Inquiry (2003) and Butler Review (2004)