

# Call to investigate Britain for Iraq war crimes

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A group of legal experts are calling on the International Criminal Court (ICC) in The Hague to investigate Britain for war crimes in Iraq.

The panel of eight leading jurists, comprising British, French, Canadian and Irish experts, conducted an inquiry in London in November, which heard eyewitness accounts and took evidence concerning Britain's role during the war against Iraq.

The group's final report has yet to be completed, but on January 20 it released an executive summary into its findings that has been sent to the ICC and the UK's attorney general, Lord Goldsmith.

The international panel is led by Professor Bill Bowring of the London Metropolitan University and includes Professor William Schabas of the National University of Ireland; Professor Christine Chinkin of the London School of Economics; Associate Professor Reni Provost of McGill University, Canada; Professor Paul Tavernier of the University of Paris Sud; Professor Nick Grief of the University of Bournemouth; Guy Goodwin-Gill, QC, of All Souls College, Oxford; and Professor Upendra Baxi of Warwick University. It is backed by human rights group Peacerrights.

The summary explained that the panel had considered the question as to whether "there is sufficient cause and evidence for the International Criminal Court prosecutor to investigate members of the UK government for breaches of the ICC statute in relation to crimes against humanity and/or war crimes committed during the Iraq conflict and occupation 2003," finding unanimously in favour.

Their investigations centred on the loss of civilian life during the US-led assault on Iraq last February, as well as the killing of international journalists by coalition forces. Professor Bowring told a news conference, "There is a considerable amount of evidence of disproportionate use of force causing civilian casualties."

Though "the United States cannot be tried before the court because it refuses to sign up to it [the treaty establishing the ICC], the United Kingdom did," he warned.

The ICC, which was officially opened in March 2003, is mandated to deal with any war crimes committed after July 1, 2002, including genocide, the bombing of civilians, and systematic rape and torture. The US had refused to sign up to the treaty establishing the new body, however, on the grounds that its own military forces may face prosecution.

The panel argued that the British military's use of cluster bombs could constitute a war crime because of their effect on the civilian population. The tiny bomblets scatter over a wide area. British aircraft had dropped 70 cluster bombs and its military fired 2,000 cluster shells in Iraq during the course of the war. The US and Britain had used a total of 13, 000 cluster bombs in Iraq, killing or injuring more than 1,000 civilians, according to Human Rights Watch.

The ICC should also investigate British complicity in the killings of international journalists by US forces, the panel said, pointing to US attacks on Al Jazeera's news offices in Baghdad and on the Palestine hotel in Baghdad, where journalists were staying.

In the first attack, Al Jazeera correspondent Tariq Ayoub was killed in a US missile strike. When surviving Al Jazeera staff sought refuge in the nearby offices of Abu Dhabi TV, it too was attacked.

Reuters cameramen Taras Protsyuk and Jose Couso from Spanish TV station Telecinco were killed and three others severely wounded in the US bombardment of the Palestine Hotel on April 8. An investigation by Reporters Without Borders, released last week, found that the US had lied repeatedly about why an American tank had fired on the hotel, known to accommodate 200 international reporters, mainly non-embeds (i.e., those not attached to the military). More than 17 journalists

were killed in Iraq, 12 of them in action, most by US forces. Of the latter, most were non-embedded journalists, including ITN reporter Terry Lloyd and two of his crew.

Speaking on the panel's findings, Phil Shiner, for Peacerights, said, "It is critically important for those who lost their lives and for future generations facing future wars that the leaders of governments waging war are fully accountable for war crimes committed.

"There should now be a full and proper investigation and serious consideration given to prosecuting those with ultimate responsibility," he said.

Shiner said leading UK politicians could face prosecution. "Many respected groups and lawyers have expressed serious concerns about the apparently unnecessary and unjustified civilian casualties, particularly because of the use of cluster bombs in urban areas," he said.

Bowring said that even Prime Minister Tony Blair could be called to account. "Heads of state are not immune in principle," Bowring said. "This one goes right to the top."

A spokesman for the ICC refused to comment on the charges, stating, "We do not usually comment on issues that might fall under the jurisdiction of the court."

Other experts have said that it is highly unlikely that the ICC will prosecute Britain, as priority is accorded to national courts to investigate war crimes. Moreover, investigations into specific charges by ICC prosecutors depend mainly on a specific instruction from the United Nations Security Council, where the US and Britain exercise veto power.

Barrister Hugo Charlton told Reuters, "Instinctively, it seems probable that political pressure will be bought to bear to prevent this going to the ICC."

A spokesman for Britain's Ministry of Defence dismissed the charges and defended the use of cluster bombs. The use of such munitions was not unlawful, he said, and the British military "reserve the right to use them against military objectives and if we did not we might have to use alternative military equipment, such as an artillery barrage that might cause more damage."

The Athens Bar Association in Greece filed 22 charges against Blair and other senior government ministers with the ICC in July of last year, accusing them of "crimes against humanity" and alleging that they invaded a sovereign country on a dubious pretext.

Its initiative was followed by a similar case brought by the Istanbul Bar Association in Turkey.



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