

Britain: military families take legal action against Blair government

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Following its re-election on May 5, the Labour government of Prime Minister Tony Blair is facing a series of legal challenges launched by the families of British soldiers killed in the Iraq war. On May 5, lawyers acting on behalf of 10 families and antiwar organisations presented evidence to the International Criminal Court (ICC) that Britain had committed war crimes in its participation in the Iraq war.

In its submission to the court, Public Interest Lawyers, the firm representing Military Families Against the War, as well as relatives of Iraqis killed in the war and the Stop the War Coalition, argued that British forces were directed in a manner disproportionate to the stated objective of the war, namely disarming Iraq of its weapons of mass destruction.

Military Families Against the War told the ICC: “At the very least, a reasonable suspicion arises that the prime minister committed the UK (and thus our clients’ loved ones) to war on the basis of regime change.”

This charge is all the more serious, given that it has now been definitively established that Blair was repeatedly given unambiguous advice from the attorney general and the Foreign Office that to invade Iraq on the basis of regime change would be illegal.

The court also heard that a number of specific actions of the invading forces were in violation of international law, including the bombing of critical infrastructure such as power and water plants, the use of depleted uranium shells, and the deployment of cluster bombs in urban and civilian areas.

The *Independent* reported that this argument has been bolstered by new admissions by the Ministry of Defence that British cluster munitions used in Iraq had an “unacceptably high failure rate,” and that this is “one of the most problematic aspects” of the bombs. In

the weeks and months following the fall of Baghdad, there were numerous reports of Iraqi civilians, including children, picking up unexploded cluster bomblets that then detonated, causing horrific casualties. (See “Unexploded cluster bombs blanket Iraqi cities”.)

According to the *Guardian*: “Luis Moreno Camp, the ICC’s chief prosecutor, has told Public Interest Lawyers that the cases are potentially significant and that he is treating seriously evidence already submitted to it.” Phil Shiner, of Public Interest Lawyers, also told the newspaper that he would forward evidence of British torture and killing of Iraqi detainees. “The ICC will have no alternative but to formally investigate all these cases,” he said.

The move to have the Blair government prosecuted for war crimes at The Hague comes as families of British soldiers killed in Iraq have threatened to launch a separate legal action if the prime minister does not convene a full, public, and independent inquiry into the legality of the Iraq war. On May 3, lawyers acting on behalf of the families issued a letter to Blair, giving him 14 days to respond to this demand. If this is not met, legal proceedings will be initiated at the High Court.

The prime minister immediately dismissed the request. “We have had inquiry after inquiry,” he declared. “We do not need to go back over this ground again and again.”

The families’ demand for an independent inquiry was spurred by the series of revelations in the final weeks of the recent election campaign regarding the attorney general’s legal advice before the invasion, and the leaked minutes of a July 2002 meeting in which the foreign minister admitted that the case for war was “thin” and a strategy for using the issue of UN weapons inspections to get around political and legal difficulties

was elaborated.

The families' lawyers plan to press the case for an inquiry by using the European Convention on Human Rights (ECHR), and its British equivalent, the Human Rights Act. Article 2 of the ECHR imposes an obligation on governments to protect the lives of those under their authority and control. According to the families' lawyers: "If it were established that you [i.e., Blair] sent our clients' loved ones to war on an unlawful basis, knowing that in so doing you were exposing them to a quite unnecessary risk of death, then that would have plainly infringed their Article 2 rights."

Legal precedent in both European and British national law has also established that "whenever a death occurs in circumstances in which the role of the State might be suspicious an obligation arises to conduct a thorough and independent investigation into the cause of the death.... Only such a forum, that can enable our clients to learn the full circumstances surrounding the decision to send their loved ones to war, will meet the imperative for the government to be both held to account and put it a position where it has to take steps to ensure that such a breach does not occur again."

Phil Shiner estimated the chances of the High Court allowing a judicial review are "at least 50 percent." If the families' petition is successful, it will not be the first time the court has ruled on matters relating to the Iraq war. Last year, it ruled that British soldiers deployed in Iraq were bound by provisions in the Human Rights Act in their treatment of Iraqi detainees.

At a press conference held May 3, many of the affected military families spoke against the government and the war. Peter Brierly, whose son Shaun was killed in March 2003, said, "My son went to war thinking he was going to make the world safe from weapons of mass destruction. I believed that argument made by the prime minister as well. As time went by it was proved that they did not have the WMDs, and I began to think about the legal implications. Now I know that Tony Blair lied. He sent my son to his death needlessly."

Tony Hamilton-Jewell's brother Simon died in June 2003. "[The prime minister] is covering up for himself and his government, and he has to be exposed," he said. "Mr. Blair was right about three letters, but it wasn't W-M-D but O-I-L."

The depth of anger that exists among military families was demonstrated following the death of 24-year-old Guardsman Anthony Wakefield, who was killed on May 1 by a roadside bomb. The soldier was the 87th Briton to die in the war. Just days before the election, Wakefield's widow said that she blamed the prime minister for her husband's death. "You should not have sent the troops over, you should not have done that," she told Blair via the media. If it was not for his actions, she said, her children "would still have their father today, and I really do blame him for that."

Rose Gentle, whose son was killed in June of last year, stood as a parliamentary candidate against Adam Ingram, the armed forces minister. She received 1,513 votes, just over 3 percent, in the Scottish seat of East Kilbride. Reg Keys, who also lost his son in Iraq, stood against Tony Blair and polled 4,252 votes, or 10.3 percent.

Among those who helped Keys's campaign was Dave Corrigan, a former corporal who was badly wounded in Iraq. Corrigan, who lives in the prime minister's constituency of Sedgefield, voted for Blair at the last election, but is now strongly antiwar. "We shouldn't be there and we shouldn't have gone there," he told the *Guardian*. "I think it's important that someone like me says that. I think there should be someone who was a soldier saying that, not someone in a suit and tie, saying it for their own ends, but saying it for the sake of the men and women left out there; that they shouldn't be there, fighting an unjust war that was lied over."



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