

# Lawsuit Against Bush and Blair for War Crimes? International Lawyers Seek Justice for Iraqis

By [Dahr Jamail](#)

Global Research, April 23, 2014  
[truthout](#) 19 April 2014

Region: [Middle East & North Africa](#)

Theme: [Crimes against Humanity](#), [Law and Justice](#)

In-depth Report: [IRAQ REPORT](#)

(Image: Jared Rodriguez / [truthout](#); Adapted: Tech. Sgt. Molly Dzitko / U.S. Army, Master Sgt. Andy Dunaway / U.S. Army)

International lawyers and activists converged at a conference titled The Iraq Commission, in Brussels, Belgium, April 16 and 17, with the primary aim of bringing to justice government officials who are guilty of war crimes in Iraq.

“Within a few days of this, a lawless atmosphere developed within my unit,” Ross Caputi, a former marine who took part in the brutal November 2004 siege of Fallujah told the Iraq Commission. “There was a lot of looting going on. I saw people searching the pockets of the dead resistance fighters for money. Some people were mutilating corpses.”

The conference represents the most powerful and most current organized attempt in the world to bring justice to those responsible for the catastrophe in Iraq, and included powerful international lawyers like International Court of Justice lawyer Curtis Doebbler and Louie Roberto Zamora Bolanos, a lawyer from Costa Rica who successfully sued the government of his country for supporting the war in Iraq.

Their goal for the conference was to begin taking concrete steps toward international lawsuits that will bring former UK Prime Minister Tony Blair and former US President George W. Bush, along with those responsible in their administrations, to justice for the myriad war crimes committed in Iraq.

“I was very misinformed and uninformed about the goals of our mission, about who our enemy was and about the danger that we posed to civilians,” Caputi said of the context for his actions. “My command told us that all civilians had left Fallujah and that the only people who remained in the city were combatants. This was not true, though. The Red Cross estimated that up to 50,000 civilians remained trapped in the city. But nobody in my unit knew that.”

“Now is a time for us to close the net on the war criminals,” Dirk Adriaensens, a long-time Iraq activist who cofounded the conference, told Truthout. “If we don’t do that, the fish will get away. But if this is only a legalistic thing, without the activism, it won’t work because people won’t know that it is happening.”

Adriaensens is aiming to generate one massive lawsuit that condemns former (and current) members of the US and UK governments for war crimes, crimes against humanity and

crimes against peace for their roles in the Iraq invasion and occupation.

“The conclusions of such a court case would lead to reparations being paid to the state and people of Iraq,” added Adriaensens, who is also a member of the executive committee of the Brussels Tribunal. The tribunal is an international network of intellectuals, artists and activists who denounce and organize against the logic of permanent war promoted by the US government that is currently targeting the Middle East. “We’re here to condemn the original sin: the illegal invasion and occupation of Iraq and how we can bring the perpetrators to court.”


While several people’s tribunals, citizens arrests, and other forms of ongoing activism around Iraq have been helpful and necessary in the absence of the implementation of international law, they have not been enough, the conference organizers believe.

“Legal action is essential and can take many forms: universal jurisdiction, defending Iraqi victims in court, seeking arrest warrants when former US politicians want to travel outside the US,” Adriaensens said.

The “other measures” he references are reparations for the millions of Iraqis who have suffered from the invasion and occupation of their country, as well as former government officials like Bush and Blair spending the remainder of their lives in jail.

## **International Context**

The conference was held at Vrije University in Brussels, and coincided with the 18th Congress of the International Association of Democratic Lawyers (IADL), where hundreds of lawyers from more than 60 countries gathered in the same venue, with many attending the Iraq Commission.

 Dirk Adriaensens, with the Brussels Tribunal, organized the conference, and has been an Iraq human rights activist for more than two decades. (Photo: Dahr Jamail)

“March 20 marked the 11th anniversary of the US invasion of Iraq, a brutal act of aggression that will be remembered as one of history’s worst crimes,” Sabah al-Mukhtar, chairman of the Iraq Commission and president of the Arab Lawyers Association said during his opening remarks for the conference. “The first decade of the 21st century will probably be viewed as the decade when rules of international law were brought into disrepute like no other time.”

Al-Mukhtar stated that the UN was used “illegally and unethically” to destroy Iraq, a country that was a founding member of the UN.

“Aside from the Abu Ghraib catastrophe; the gang rape and killing of the teenage girl Abeer al-Janabi and her family in Yusufiyah; aside from the targeted killings of academics, media professionals and ethnic or religious minorities, the legacy is more than 4 million Iraqi refugees, more than 3 million orphans and more than a million widows,” he stated to the audience.

While the United States is not a member of the International Criminal Court, former president George W. Bush, along with several members of his cabinet including Donald Rumsfeld, Colin Powell and Condoleeza Rice, to name but a few, are guilty of war crimes for their roles in creating the conditions for the invasion and occupation of Iraq, according to lawyers at the conference.


“Lest current events cloud principles, and in order to restore focus on the rules of international rules, such as state responsibility, human rights, war crimes, crimes against humanity, there will be no justice for the victims of this crime against peace,” Al-Mukhtar stated, in concluding his opening remarks. “We will discuss practical approaches to ensure accountability and put an end to impunity.”

Tun Mahatir Muhammad, the fourth prime minister of Malaysia (and also the longest-serving prime minister of the country), backs the Kuala Lumpur Initiative to Criminalize War, which aims to make all acts of war illegal. Mahatir provided the conference a video message for the occasion.

“We must criminalize war because we consider the killing of one person by another as murder, and we are even prepared to punish him by taking his life,” Mohammed said. “But if you kill a million people in war, it is glorified, and the killers are given medals and statues and honored. There is a contradiction here, and it is time that killing be made a crime, whether it be in peace or in war. And if it is a crime, whoever starts an aggressive war should be considered a criminal and tried in a court of law. That is why our tribunal has tried Mr. Bush and Mr. Blair and found them both guilty as war criminals.”

Muhammad added that their tribunals in Malaysia that reached guilty verdicts on Bush and Blair are valid, because even during the Nuremburg trials, when the prosecutions were unable to find the offender, he was still tried en absentia.

Adriaenssens told Truthout that the war against Iraq “was not just immoral, it was properly illegal and fits the Nuremberg definition of a crime against peace. Such a war should have its legal consequences for the aggressors and rights for the victims under international law.”

 Sabah al-Mukhtar is the president of the Arab Lawyers Association and chair of the Iraq Commission. (Photo: Dahr Jamail)

Nevertheless, to date, no government official from any country that were members of the so-called “coalition of the willing” have been brought to justice for war crimes, crimes against humanity or for waging a war of aggression, which is the supreme international crime.

“We have to change that equation,” Adriaenssens said. “All those who are responsible for the invasion of Iraq should be held accountable for the destruction of the country’s infrastructure, its economic and social structures, its historical past and its health and education. Reasonable legal experts should work towards the goal of making reparation with the Iraqi people who have been so deeply affected by this war and its aftermath, and they should bring the perpetrators to justice.”

His group, the Brussels Tribunal, brought together international legal experts to explore possibilities for legal actions against those responsible for the war against Iraq, in hopes that the conference might serve as a working meeting to generate concrete results for future prosecutions.

Michel Chossudovsky, a professor of economics at the University of Ottawa and an author and adviser to governments of developing countries, spoke of what he believes is a “world crisis” caused primarily by the United States’ “long war,” which “threatens the future of humanity.”

“This ‘war without borders’ is being carried out at the crossroads of the most serious economic crisis in world history, which has been conducive to the impoverishment of large sectors of the world population,” he said. “The Pentagon’s global military design is one of world conquest. The killing of civilians is part of that agenda. The US agenda in the Middle East is to change countries into territories, this is the basis of destabilizing country after country across the world, and instituting PAX Americana.”

Chossudovsky believes that US worldwide militarization is part of a global economic agenda, and the invasion of Iraq was but one component of this agenda.

### **Prior Attempts to Attain Justice**

Several attempts have been made to bring the responsible parties to court. A few examples include:

- 2005: The Association of Humanitarian Lawyers filed a petition at Organization of American States (OAS) against the United States for attacks on hospitals and clinics in Fallujah.
- September 2005: German court declared that the Iraq war violated international law.
- November 2006: Center of Constitutional Rights (CCR) filed a war crimes complaint against Donald Rumsfeld in Germany.
- March 2007: Spanish judge called for the architects of the Iraq invasion to be tried for war crimes.
- October 2007: International Federation of Human Rights Leagues (FIDH) and CCR have filed a lawsuit in France alleging that former US defense secretary Donald Rumsfeld allowed torture at US-run detention centers in Iraq and Guantanamo Bay.
- November 2011: In Kuala Lumpur, after two years of investigation by the Kuala Lumpur War Crimes Commission (KLWCC), a tribunal (the Kuala Lumpur War Crimes Tribunal, or KLWCT), consisting of five judges with judicial and academic backgrounds, reached a unanimous verdict that found George W. Bush and Tony Blair guilty of crimes against peace, crimes against humanity and genocide as a result of their roles in the Iraq War.

While it is clear that the International Criminal Court is not being used appropriately to bring justice to those responsible for the disaster in Iraq, there have been several hopeful signs.

- The Chilcot Inquiry, an open inquiry investigating the government of Tony Blair for its role in the invasion and occupation of Iraq, should generate its conclusions, hopefully very soon.
- In January 2014 a devastating 250-page dossier, detailing allegations of beatings, electrocution, mock executions and sexual assault, was presented to the International Criminal Court (ICC) and could result in some of Britain’s leading defense figures facing prosecution for “systematic” war crimes. This formal complaint to the ICC is the culmination of several years’ work by Public Interest Lawyers (PIL) and the European Centre for Constitutional and Human Rights (ECCHR). It calls for an investigation into the alleged war crimes, under Article 15 of the Rome Statute.


- In 2013, American lawyer Inder Comar, who is representing Sundus Shaker Saleh, an Iraqi single mother who is now a refugee in Jordan, as plaintiff against officials in the former administration of former president George W. Bush, filed a class action lawsuit *Saleh v. Bush*. The primary complaint revolves around the international precedent that all violent actions by sovereign nations must either be performed in self-defense or with approval of the United Nations Security Council, specifically “no act of aggression.”

“Justice has to prevail, for the sake of our children, for the Iraqi people and for the sake of the future of mankind,” Adriaenssens said. “No justice, no peace. During this commission we will not address the current situation in Iraq. We’re here to condemn the original sin: the illegal invasion and occupation of Iraq and how we can bring the perpetrators to court.”

### **Crimes Committed in Iraq Since 1991**

The first session of the conference highlighted war crimes that have been committed in Iraq since the 1991 Gulf War, but also included the US occupation.

Ross Caputi spoke at length about the war crimes and atrocities he witnessed during the November 2004 US military siege of Fallujah.

 Ross Caputi served in the US military, from 2003 to 2006, and participated in the massive military siege of Fallujah in November 2004. (Photo: Dahr Jamail)

He went on to explain that he and his fellow soldiers were not told that US military personnel, who were manning the checkpoints that surrounded Fallujah, were not allowing any “military-aged males” to flee the city, despite a lack of evidence proving they may have been resistance fighters.

“This contributed to the indiscriminate nature of the operation,” Caputi said, of the siege that, according to the Iraqi Fallujah-based human rights and environmental NGO Conservation Center of Environmental and Reserves in Fallujah, resulted in approximately 5,000 residents being killed, at least 60 percent of them civilians.

“We called in airstrikes and used tanks and bulldozers in residential neighborhoods,” Caputi told a silent audience populated by many Iraqis. “There could have been civilians trying to hide out in their homes, but we never took any precautions to make sure there wasn’t. We simply fired wherever we thought there were combatants.”

Caputi told of a tactic used called “reconnaissance by fire,” which is, as he explained, “when you fire somewhere, into a building for example, to see if any combatants are there. This tactic is obviously indiscriminate, but we never even considered the possibility that there might be civilians in these houses that we were firing into.”

“I even saw a unit bulldozing an entire neighborhood, one house after another without checking to see if anyone was inside,” Caputi, who has since founded the [Justice for Fallujah](#) project, added.

Caputi went on to tell of the use of the restricted weapon white phosphorous in civilian areas, as well as another incident: “When a 10-year-old boy was bunkered inside a house with two resistance fighters. We demolished the house on top of all three of them.”

He concluded his remarks by telling the audience his life since that time has been about

“finding and facing the truth” and working to make amends to the people of Fallujah.

Eman Khamas, an Iraqi author, journalist, human rights activist, and director of the International Occupation Watch Center in Baghdad from 2003 to 2006, also provided eyewitness accounts about war crimes during the occupation, as well as the suffering witnessed during the US-backed sanctions between 1991 and 2003, where more than half a million children died from malnutrition and preventable disease.

She spoke of the US occupation and the lasting consequences of it, including the intentional US policy of “provoking and exploiting sectarian tensions,” which have led Iraq into the disaster that it is today.

Khamas spoke directly of war crimes she was eyewitness to, in addition to the “invisible crime” of killing the Iraqi’s identity by the fracturing of the country, mass detentions of Iraqis by US forces and rampant US air strikes in Iraqi cities resulting in large numbers of civilian casualties.

Ghazwan al-Mukhtar, a well-known Iraqi anti-sanctions activist and editor of the [Iraq Sources](#) website, addressed the crimes of the sanctions period.

 Ghazwan al-Mukhtar spoke of the “genocidal” impact of the sanctions period upon the Iraqi people. (Photo: Dahr Jamail)

Al-Mukhtar addressed the wide-spread starvation that occurred during the US-backed sanctions, the war crime of the US military destroying 90 percent of Iraq’s electrical generating capacity during the 1991 war, and the fact that, according to the Brookings’ Institute, well over half of all Iraqi doctors fled the country after the US-led invasion of 2003.

“My estimate, based on the fact that in five years 500,000 Iraqi children (100,000 per year) were killed by the sanctions, as [Madeline Albright admitted](#), on national television, that since 1996, at that rate, another 900,000 have died, even if we estimate a lower rate of 50,000 per year, but no one takes an action against it.”

“We are a nation that has been tortured, splattered with human feces, exposed naked to the world, and we are a people who have been crucified,” al-Mukhtar concluded.

## **Legal Action**


Dr. Curtis F. J. Doebbler is an international lawyer who, with other lawyers from the conference, is working toward finding a way to bring the war criminals to justice.

Dr. Doebbler practices law before the International Court of Justice, the African Commission and Court of Human and Peoples’ Rights, the European Court of Human Rights, the Inter-American Commission and Court of Human Rights, the United Nations Administrative Tribunal, and the United Nations Treaty bodies.

“International law provides an increasing number of means to redress serious violations of human rights, including those caused by armed conflict,” Doebbler said. “The US and allies’ illegal aggression against Iraq has resulted in the death of at least an estimated 1.5 million Iraqis. It is one of the most serious attacks on the human rights of a people in recent time and perhaps the most serious attack against a people since the adoption of the Charter of the United Nations.”

Doebbler explained that although UN Secretary General Kofi Anan said the invasion of Iraq had violated the UN Security Charter, states must consent to come to the International Criminal Court. And the US did not consent to come before the ICC.

While this doesn't mean other states could not be brought before the ICC, it would require another country working toward justice to bring the United States before the court. Doebbler had spoken with members of the Iraqi government about bringing the United States before the ICC, but these efforts never got off the ground.

 Dr. Curtis F. J. Doebbler, an expert in international law who practices law before the International Court of Justice, believes avenues for prosecuting those responsible for the Iraq war and occupation remain open. (Photo: Dahr Jamail)

One avenue to be pursued toward bringing obvious war criminals to justice is to zero in on instances where a state uses force that threatens someone's right to life. "If you say the use of force is illegal, then the state should be bound by the restrictions imposed on a state to use force during peacetime, and the threshold [for prosecution] is much lower," Doebbler explained.

Arbitrary detention of Iraqis, denial of health and education and their right to participate in their own government by overthrowing their government by a foreign intervention, all of these are human rights. Hence, according to Doebbler, "All of these in Iraq could be brought to an international lawyer to be used against states involved in the invasion and occupation of Iraq that led to these actions."


"I met Nelson Mandela several times," Doebbler said. "I witnessed discussions he had, and what always struck me was a comment he made regarding the strategies he used for his people's revolution was that it was important to have a domestic political base. That it's important to use all necessary means, including the use of force, to be able to achieve self-determination."

Under international law, the use of force to achieve self-determination is legal.

Mandela also told Doebbler, "We would still be slaves to the white minority in South Africa if we'd been unable to bring our case in front of the international community."

This [point that nothing has or will be changed to alleviate the suffering of the Iraqi people] is why it is important to continue to aim to bring the case of Iraq before the ICC, whether it be sooner or even later, Doebbler concluded.

Louie Roberto Zamora Bolanos, a lawyer from Costa Rica who is pursuing peace in his country as a constitutional right, has sued the government in Costa Rica and won a "right to peace" under the Costa Rican constitution. He has also sued his government for supporting the war on Iraq, and has ongoing lawsuits against it for production of nuclear fuel for reactors; for allowing the US military to perform duties in Costa Rica, which has no military; and for signing CAFTA, which includes weapons forbidden in Costa Rica.

 Costa Rican lawyer Louie Roberto Zamora Bolanos successfully caused the Supreme Court of his country to rule that Costa Rica's support of the Iraq war was unconstitutional. (Photo: Dahr Jamail)

His work caused the Costa Rican Supreme Court to rule that the country's support of the Iraq war was "unconstitutional," and ordered the US government to withdraw Costa Rica's name from the so-called coalition of the willing.

Lindsey German, the convener of the British antiwar organization Stop the War Coalition, testified about the various legal cases, especially the most recent war crimes evidence from Public Interest Lawyers.

"The constant legal and political challenges to what has gone on in Iraq has helped us to keep the Iraq war in public awareness," German testified. "There is evidence that the attorney general of the UK gave advice in 2002 and 2003 that the war would be illegal without a second UN resolution."

She said it was well known to her group that Elizabeth Wilhurst resigned because of the illegality of the war, and this was borne out in the [Chilcot Inquiry](#), whose findings should be reported in the first half of this year.

There have been several legal cases brought against high-ranking British officials, and there has been an ongoing campaign of citizen arrests of Tony Blair. Under British law, people have the right to try to arrest people for crimes, and so far five people have attempted to arrest Blair.


"There have now been three official British inquiries about the war, but we know that these tend to hide the truth rather than reveal it, so we're not really holding out much hope," German explained. "But the Chilcot is by far the most wide-ranging, and is investigating the legal advice Blair was given and giving about the decision to invade Iraq. Chilcot still hasn't reported because Bush and Blair have thus far blocked it from doing so."

She expects the Chilcot results, even if they are watered down by the time they are made public, will still serve as an indictment of Tony Blair.

Jose Antonio Martin Pallin, a well-known Spanish jurist, was a public prosecutor at the Spanish Supreme Court, and he is judge emeritus at the Supreme Court.

"In April 2003, Jose Couso, a Spanish cameraman, was shot dead by a US tank while he was working in Baghdad during the US invasion," Pallin explained, of the legal process of Couso's killing.

The Pentagon acknowledged its responsibility for the act as an act of self-defense. However, Pallin hopes that the complex judiciary process of this case, not closed today, will eventually show the possibilities of international indictment for the "criminals."

 Spanish public prosecutor Jose Antonio Martin Pallin, a well-known Spanish jurist, is hoping for an international arrest warrant for the US military members who killed Spanish journalist Jose Couso in Baghdad during the US invasion of Iraq. (Photo: Dahr Jamail)

"There's an international arrest warrant against Thomas Gibson, Captain Philip Wolford and Lieutenant Philip de Camp, Couso's assassins," Pallin stated. "The judge in charge, Mr. Pedraz, accuses them of assassination and of a crime against the international community as the US military attacked journalists, all who stayed at the Palestine Hotel."

On that day, US military attacks on journalists in Baghdad killed three, while wounding



several others.

“The charges are murder and crime against the international community,” he added. “After different setbacks, a new indictment was filed in October 2011.”

Judge Pallín denounced “the extremely hard pressures from the US embossing in Spain that Judge Pedraz has been receiving from the very beginning of this investigation,” but he remains committed to his work despite “the almost complete abolition of universal jurisdiction.”


Couso’s case could set international precedent for future legal cases against individual members of the US military who committed murder and other crimes in Iraq.

Niloufer Bhagwat, professor of comparative constitutional law at the University of Mumbai and vice president of the Indian Lawyers Association in Mumbai, provided testimony at the end of the conference session on international law.

“The international legal system as it exists today has been created in the last 25 years, and it is in this period that the Nuremburg principles of justice have been set aside,” said Bhagwat, who also served as a judge with the Tokyo International Tribunal for War Crimes in Afghanistan. “We are in a similar situation as they were in the 1920’s and ’30’s. Successive wars of aggression, and a system that gives impunity to the real war criminals while lining up the usual suspects of certain African countries to be tried.”

She described the current international system as “victors’ justice” that supports western colonization and does not take into account the US ultimatum to Japan during World War II that led to the nuclear bombings. “This system is haunting us today,” she told the audience.

The reason the shift has been made in the international justice system, stated Bhagwat, was to support a financial system that, after the cold war, distorted the UN charter and began creating a new legal system that would work in favor of the “new liberal imperialism.”

 Niloufer Bhagwat, professor of comparative constitutional law, told the conference how international law has been manipulated by the United States and its allies so as to avoid international prosecution for crimes they have committed. (Photo: Dahr Jamail)

Regarding Iraq, Bhagwat had this to say:

The entire regime of sanctions in Iraq was in gross violation of the right to life under Article six of the International Covenant on Civil and Political Rights, 1966; Article two of the European Covenant for the Protection of Human Rights and Fundamental Freedom 1950 and Article four of the African Charter on Human Rights.

She explained that special tribunals were selectively established by the UN Security Council in pursuit of the strategic and economic interests of “some of the permanent members, in violation of the basic norms of national and international criminal law; consequently special interests, via their governments, have waged successive wars nullifying all human progress through death and destruction.”

Bhagwat said a privatized form of intervention and warfare by hired mercenaries and fascistic special forces has also been used, and to restore civilization, it is necessary to try those responsible through a transparent process involving the people and countries who are victims insuring legal liability and deterrent sentences, either internationally, or within national legal jurisdictions of those accused of war crimes or the countries where those crimes were committed.

“As for Iraqi Prime Minister Maliki’s government,” she concluded. “Even [Muqtada al-Sadr said](#) the situation has been reduced to the dark ages, and there is no other solution but for everyone in Iraq to unite and remove the government of President Maliki.”

The final speaker of the first day of the conference was Professor Gurdial Singh Nijar, a senior practicing lawyer and lead prosecutor of the Kuala Lumpur War Crimes Tribunals on Iraq.

Nijar summarized the importance of the commission and of the work activists and lawyers have ahead of them, as they strive to bring justice to George W. Bush, Tony Blair and all other members of their cabinets who are responsible for the violations of international law that have occurred, and continue to occur, in Iraq.

“There has been a rollback of international law,” Nijar explained. “And this is why the role of the people’s tribunal now takes on an important role. Because the people alone are the motivating force in making world history.”

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