

On Bringing War Criminals to Justice

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President George W. Bush, right, and British Prime Minister Tony Blair arrive for a joint news conference in the East Room at the White House on Tuesday, June 7, 2005. (Photo: Doug Mills / The New York Times)

This is part II of a series on Dahr Jamail's trip to the Iraq Commission conference in Brussels. [Also see Part I: International Lawyers Seek Justice for Iraqis](#)

Narmeen Saleh and her husband Shawki were detained by US military forces during a violent 2004 raid of their home in Baghdad.

Saleh spent 16 days in prison, where “the interrogations didn’t stop for one minute.” She was beaten, electrocuted and threatened with rape if she didn’t “confess.”

“They [US soldiers] tortured and beat me a lot, and when they found out that I was pregnant they told me they would kill the baby in my womb,” she was quoted, as her testimony was read at the [Iraq Commission conference](#) in Brussels recently. “They then concentrated their beating and electricity on my abdomen area.”

Her daughter, who is now 8 years old, has cerebral palsy, and her husband remains in custody of the government of Iraqi Prime Minister Nouri al-Maliki for the bogus charge of “illegally entering Iraq.”

This shocking testimony was provided to international lawyers, journalists, and activists converged at a conference titled, “The Iraq Commission,” held 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.

The conference represented the most powerful and most current organized movement in the world to hold accountable those responsible for the catastrophic invasion and occupation in Iraq, including UK Prime Minister Tony Blair and former US President George W. Bush, along with others in their administrations.

War Crimes in Iraq

Nawal al-Obaidi, an Iraqi academic and founding trustee of the International Action for Iraqi Refugees NGO, provided somber testimony about how her brother was killed by US forces.

Hazim al-Obaidi left his wife and four children at their home in Mosul to go to work at his grocery store one morning in January 2005.

That same evening, his wife became worried when Hazim had not returned home and began

a search.

“The whole family could not sleep that night, wondering what had happened to Hazim and why he did not return back home,” his sister Nawal told the audience. “As the curfew was in place, no one could leave the house until the next morning.”

The next morning, family members searched the morgues of the main hospital, but to no avail. Two days later, they learned of his burned car.

Eyewitnesses informed the family of the car being attacked by US forces, who “started shooting at him and at his car, until the car exploded.” What was left of the severely burned body was removed by family members, then, “to the bewilderment of his family, US troops stopped them after they had collected the body, uncovered it and took photos.”

“Hazim was not a “terrorist” or a “Saddamist,” al-Obeidi explained. “He was a cheerful family man who was wounded in the Iran-Iraq war and survived the harshness of the sanctions years by selling groceries. Who is going to investigate his killing, compensate his family, and help his children to make sense of their tragedy? Will it be the Iraqi government, or the US-led occupation? Judging by the human rights records of both, the answer is that neither of them will investigate Hazim’s killing, or any other. [Hundreds of] thousands of civilians have been killed for no reason. One of them was my brother.”

This writer, too, provided testimony: I spoke of several war crimes I witnessed during my reportage from Iraq during the US-led occupation.

In May 2004, I interviewed a man who had just been released from Abu Ghraib prison. Like so many I interviewed from various US military detention facilities who’d been tortured horrifically, he still managed to maintain his sense of humor.

He began laughing when telling of how US soldiers made him beat other prisoners. He laughed because he told me he had been beaten himself prior to this and was so tired that all he could do to beat other detained Iraqis was to lift his arm and let it drop on the other men.

Later in the same interview, when telling of another story, he laughed again and said, “The Americans brought electricity to my ass before they brought it to my house.”

Another story I reported to the international lawyers was that of 55-year-old Sadiq Zoman, who was tortured horrifically by US military personnel. I shared documentation of US military doctors, nurses and medics being complicit with that torture.



Sadiq Zoman was detained from his home shortly after the US occupation of Iraq began, but not charged with any crime. (Photo: Dahr Jamail)

Zoman was detained from his home in Kirkuk in a raid by US soldiers that produced no weapons. He was taken to a police office in Kirkuk, the Kirkuk Airport Detention Center, the Tikrit Airport Detention Center and then the 28th Combat Support Hospital, where he was treated by Dr. Michael Hodges, a lieutenant colonel.

Hodges’ medical report listed the primary diagnoses of Zoman’s condition as hypoxic brain

injury (brain damage caused by lack of oxygen) “with persistent vegetative state,” myocardial infraction (heart attack) and heat stroke.

After one month in custody, Zoman was dropped off in a coma at the General Hospital in Tikrit by US soldiers.



A comatose Zoman was dropped off by US military personnel at the main hospital in Tikrit. (Photo: Dahr Jamail)

Zoman’s last name was listed as his first name on the report, despite the fact that all of his identification papers were taken during the raid on his home. Because of this, it took his family weeks to locate him in the hospital.



The medical report given by the US military medic did not mention the trauma on the back of Zoman’s head. (Photo: Dahr Jamail)

Hodges’ medical report did not mention the fact that the back of Zoman’s head was bashed in, nor that he had electrical burn marks on the bottoms of his feet and genitals, or why he had lash marks across his back and chest.



Zoman’s feet had point-burn marks from electrical shocks on the bottoms of his feet and genitals. (Photo: Dahr Jamail)

Zoman remains in a coma, and there has been no compensation provided to his now-impoverished family for what was done to him.



Zoman’s family has yet to receive any compensation for what US forces did to him. (Photo: Dahr Jamail)

Bringing Justice

Inder Comar, who testified at the commission, is the legal director at Comar Law in San Francisco, California.

“On March 13, 2013, my client, an Iraqi single mother and refugee now living in Jordan, filed a class action lawsuit against George W. Bush, Richard Cheney, Colin Powell, Condoleezza Rice, Donald Rumsfeld and Paul Wolfowitz in a federal court in California,” Comar has written about his case.

“She alleges that these six defendants planned and waged the Iraq War in violation of international law by waging a ‘war of aggression,’ as defined by the International Military Tribunal at Nuremberg, more than sixty years ago,” Comar added. ([The current complaint can be found here](#)).

Comar’s client, Sundus Shaker Saleh, is alleging “crime of aggression” in the San Francisco

Federal Court against the aforementioned. "Crime of aggression" emanates from the Nuremberg Trials following World War II and is what Comar is arguing was committed in the Iraq War.

The lawsuit includes all Iraqis who have suffered harm as a result of the war, and Comar's firm is representing Saleh pro bono.

"This could be precedent setting," Comar told the commission. "And this is the first time a US court is looking at a crime of aggression since Nuremberg, since 1945. We're very curious to see how this judge will decide this issue."



Inder Comar is representing an Iraqi woman, who is charging Bush administration officials with "crime of aggression." (Photo: Dahr Jamail)

US courts have immunized many of the members of the Bush Administration, but Comar thinks his case is different and will not be subject to the same kind of immunity.

"The crime of aggression is part of international law, so we are arguing with good precedent that international law is part of federal law," he said.

Comar's case against Bush is based on the conduct of members of his administration prior to their coming into office, as well as conduct taking place during and after the events of September 11, 2001.

Evidence of premeditation abounds.

Years before their appointment to the Bush administration, Dick Cheney, Donald Rumsfeld and Paul Wolfowitz were vocal advocates of a militant neoconservative ideology that called for the United States to use its armed forces in the Middle East and elsewhere.

They openly chronicled their desire for aggressive wars through a nonprofit called The Project for the New American Century (PNAC). In 1998, Rumsfeld and Wolfowitz personally signed a letter to then-President Clinton urging him to implement a "strategy for removing Saddam's regime from power," which included a "willingness to undertake military action as diplomacy is clearly failing."

On September 11, 2001, Rumsfeld and Wolfowitz openly pressed for the United States to invade Iraq, even though intelligence at the time confirmed that Saddam Hussein was in no way responsible. Richard Clarke, former national coordinator for security, infrastructure protection and counterterrorism, famously told President Bush that attacking Iraq for 9/11 "would be like invading Mexico after Pearl Harbor."

Comar's case states: "Defendants planned the war against Iraq as early as 1998; manipulated the United States' public to support the war by scaring them with images of 'mushroom clouds' and conflating the Hussein regime with al-Qaeda; and broke international law by commencing the invasion without proper legal authorization."

By comparison, more than 60 years ago, American prosecutors in Nuremberg, Germany, convicted Nazi leaders of the crimes of conspiring and waging wars of aggression. They found the Nazis guilty of planning and waging wars that had no basis in law and which killed

millions of innocents.

The plaintiff in the case, Saleh, is thus seeking justice under the Nuremberg principles, as well as US law, for damages she and others like her suffered because of the defendants' premeditated plan to invade Iraq.

Comar detailed to the commission how the premeditation was obvious, showing slides from an article titled "[Saddam Must Go](#)," penned by Wolfowitz and Zalmay Khalilzad, as well as others titled, "Overthrow Him," "[How to Attack Iraq](#)" and "Bombing Iraq is not enough."

"When we talk about these war criminals, we need to employ the language of pirates in order to engage the basis of universal jurisdiction," Comar added. "Because when pirates go anywhere they have no safe haven from being held accountable for their actions."

Comar told Truthout that he decided to take this case because he was inspired by the Nuremberg judgment.

"That and my client's bravery to want to do this and be committed to her case," he explained. "In law school, I was fascinated by Nuremberg and the trail of facts."

Comar believes strongly in the morality behind the case.

"We have to use every avenue the law provides us to try to do something, and it's amazing that it took a single mother refugee from Iraq to press for justice for a war our leaders continue to want to ignore," he said. "What I'm doing can have a ripple, it might inspire other lawyers, it might cause people to start asking questions about the Bush administration."

According to Comar, his case represents the first time a US judge will hear about a crime of aggression since 1946, "So this case will be looked at internationally. We have to set the stage for other countries to start working to conform to principles of peace."

Comar added that his case in California serves as a template that could be used in every other US state.

Planning for Prosecutions

Sabah al-Mukhtar, the president of the Arab Lawyers Association, chaired the final session of the Iraq commission. The session investigated what the next steps should be toward bringing those responsible for the Iraq invasion and occupation to justice.



(Right to Left) Dirk Adriaensens, cofounder of the Iraq Commission and Brussels Tribunal, Sabah al-Mukhtar, chair of the Iraq Commission, and Michel Chossudovsky, Canadian economist at University of Ottawa. (Photo: Dahr Jamail)

"The delegitimization of major war criminals is complete in terms of the understanding around the world that these successive wars that have been waged are in complete opposition to international law," Dr. Niloufer Bhagwat, professor of comparative constitutional law at the University of Mumbai and vice president of the Indian Lawyers Association in Mumbai testified.

She addressed the fact that there have been no reparations, the sanctions crimes need to be addressed, including the fact that the US government knowingly killed more than 500,000 Iraqi children via malnourishment and disease, and added, “The work we’ve done here has to be carried from country to country so the political formations adopt our viewpoint, that these wars of aggression can only come to an end when we have an overturning of the political and economic systems.”

Professor Gurdial Singh Nijar, a senior practicing lawyer and lead prosecutor of the Kuala Lumpur War Crimes Tribunals on Iraq, believes that the people’s tribunals that have been held on Iraq “are becoming an increasingly important tool for recapturing the lost space and jurisprudence over war crimes. We’ve had three war crimes tribunals and we intend to have more and to introduce this thinking into law schools like the one in which I teach.”

He believes the next step toward justice is for countries to exercise universal jurisdiction as a means of charging war criminals.

“Three quarters of UN states have authorized their courts to exercise universal jurisdiction over war crimes, so the stage is actually set,” he said. “The challenge then is how to get these countries to institute charges against these war criminals on the basis of credible trials that have been conducted and ended up in convictions, either by peoples’ tribunals or otherwise. The next step is to go country to country and begin to file charges in each of these jurisdictions.”

Dr. Curtis F. J. Doebbler, an international lawyer who practices law before the International Court of Justice, shared an instance where there has already been some success.

“We suggested, for Syria, and I was in the room with the negotiators, that [US Secretary of State John] Kerry be advised that the use of force could lead to violations of international law, and there could be war crimes,” he said. “So I think we’re making some inroads.”

Lindsey German, the convener of the British antiwar organization Stop the War Coalition, stated in her concluding remarks that Bush and Blair are “by far the most responsible persons for the Iraq war.”

She added, “Blair is still the envoy for peace in the Middle East, of all things, for which they obviously didn’t check his CV. We have to stress the connections between the wars and the political and economic systems under which we live. We can’t have economic justice without bringing justice to the war criminals.”

Comar addressed the “banality of militarism” in the United States, said he hopes that the work he is doing “is creating a vaccine for that” and stressed the need for confidence in international law.

“We in the US can work to take power back from the federal system on a state system and begin to incorporate international law into our own laws,” he said. “Or maybe we can do this on a city level to criminalize this wrongdoing in a lawful manner so that we have more control. I look forward to sharing my court complaint with any other lawyer. We need to work together to help get people reparations from this war and to prevent the next war.”

Dirk Adriaensens, a long-time Iraq activist and cofounder of the Iraq Commission, concluded the commission by calling for concrete proposals that will lead to global court cases regarding Iraq.

“If Inder Comar says that his court case can be replicated in all other 49 US states,” he said, “then we can replicate this in every country around the world.”

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