

Jus Ad Bellum in the Iraq War: A Matter of Interpretation?

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Abstract

This paper analyses the rationales that Tony Blair and George W. Bush made, and continue to invoke, to justify the invasion of Iraq that took place in March, 2003. Emphasis is placed on how these arguments fit within established international law norms, principles, and canons of interpretation. These rationales, while supported by some of those advisors and academics closest to Bush and Blair, have also been roundly denounced in the international political and legal communities. Evidence, or the lack of it, has discredited the bases of their assertions. The paper concludes with the effect of the second Iraq War as precedent for future conflict. It argues that continuing to cling to the justifications offered as a 'legal' basis for war – or even asserting that they lend 'legitimacy' and can serve as a precedent – is at once apologetic and dangerous.

Résumé

Ce document analyse les raisons que Tony Blair et George W. Bush ont avancées pour justifier l'invasion de l'Iraq en mars 2003. L'analyse met l'accent sur le fait que ces arguments cadrent bien dans le contexte actuel des normes, principes et interprétations du droit international. Ces raisons, quoique recevant le support des proches de Bush et Blair, ont aussi été fortement dénoncées par la communauté internationale. Le manque de preuves a discrédité les bases de leurs assertions. Pour terminer, le document examine les répercussions que cette deuxième guerre en Iraq pourrait avoir en tant que précédent lors de conflits futurs. Il argumente que de continuer d'accepter ces justifications comme étant légales est à la fois apologiste et dangereux.

The United States and the United Kingdom – with the support of about 30 members of a “Coalition of the Willing” – invaded Iraq in March, 2003.¹ During the build-up to war, the main issue that emerged among the fray “was whether Iraq’s capabilities and its failure to comply with UN inspections by adequately accounting for its activities posed such a severe threat as to require military invasion and occupation in 2003.”² After the invasion, questions emerged worldwide about the

legality – or illegality – of the war, and the potential precedent created by the invasion.

Prior to the Kellogg-Briand Pact of 1928, the ability to wage war was inherent in the sovereignty of states.³ The UN Charter

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¹ It must be noted that only a few of the countries, notably Britain and Australia, provided any military presence. The rest contributed commitments to reconstruction, overflight or basing rights, and/or support. See Steve Schifferes, “US Names Coalition of the Willing” *BBC News* (18 March, 2003) online: *BBC News World Edition*

<http://news.bbc.co.uk/2/hi/americas/2862343.stm>.

² Cirincione, Joseph, Jessica T. Mathews, George Perkovich with Alexis Orton, “WMD in Iraq: evidence and implications”, online: *Carnegie Endowment for International Peace*, <www.ceip.org/intel> at 15.

³ See generally Robert Kolb, “Origin of the Twin Terms *jus ad bellum*/*jus in bello*”, *International Review of the Red Cross*, 320, 553 online: *International Committee of the Red Cross*

<http://www.icrc.org/Web/eng/siteeng0.nsf/iwplList163/D9DAD4EE8533DAEFC1256B66005AFFEF>. The doctrine of just war, a religious doctrine that made it imperative that war satisfied moral requirements, was a limiting force on nations until the Clauswitzian notion of ‘war as the extension of foreign policy’ became the practice of states. George Bush Sr. and Tony Blair ap-

emerged in 1945, and made the use of force unlawful except in a) self-defence or through b) the principle of collective security.⁴ This meant that a nation acting within its own borders, through the principle of sovereignty, enjoyed non-interference by other states so long as the peace and the security of the region was not compromised.

There have been calls to add to these two exceptions, one being an exception for humanitarian intervention. The principle of limiting sovereignty through the ability of states to use force to stop massive human rights abuses is gaining strength. The wars in Iraq and Afghanistan since the attacks of September 11, 2001 have continued to challenge the accepted norms on the legality of the use of force in the face of 'widespread terrorism', and weapons of mass destruction. Particularly in the case of Iraq, however, these challenges are not sustainable and do not amount to a precedent regarding the use of force.

This paper analyses the rationales that Tony Blair and George W. Bush made and continue to make to justify their actions in Iraq. These rationales, while supported by some of those advisors and academics closest to Bush and Blair,⁵ have also been roundly denounced in the international political and legal communities.⁶ Evidence, or the lack of it, has discredited the bases of their assertions.⁷ Continuing to cling to these justifications as a 'legal' basis for war,

or even asserting that they lend 'legitimacy' and can serve as a precedent, is at once apologetic and dangerous.

LEGALITY OF WAR UNDER THE CHARTER SYSTEM

It is established that the use of force in international relations is lawful if two requirements are met.⁸ First, the use of force and its degree must be lawful under the UN Charter regime (*jus ad bellum*). Second, the requirements of humanitarian law must be met by states who initiate hostilities. This portion will outline the relevant legal rules under which force may be lawfully used, and *jus ad bellum* established.

The purpose of the United Nations is found in Article 1(1) of the *Charter of the United Nations*.⁹ It reads:

To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace.

Article 2(4) prohibits the use of force, and represents the most severe limitation on the sovereign ability of states to wage war. As a rule of *jus cogens*, it is applicable to all states. It reads:

All members shall refrain in their international relations from the threat or use of force against any territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

However, this general prohibition has two enduring exceptions codified in the *Charter*: 1) the right of states to use force in self-defence as outlined in Article 51, and 2) the principle of collective security, which allows nations to use force pre-emptively to

pear to have resurrected the notion in a non-religious context with the Gulf War of 1990.

⁴ *Charter of the United Nations*, 26 June 1945, Can. T.S. 1945 No. 7.

⁵ For example, Condoleezza Rice, Dick Cheney, Christopher Greenwood, William Taft, Lord Goldsmith, etc.

⁶ See, e.g., Carrell Severin and Robert Verkaik, "War on Iraq Was Illegal, say Top Lawyers" *The Independent* (25 May 2003) online: republished at <<http://www.robincmiller.com/art-iraq/b58.htm>>, along with Robin Miller's lists of those for and against the war at <<http://www.robincmiller.com/illegal.htm>>. See also Schifferes, *supra* note 1 for a list of countries for and against the war.

⁷ David Cortright, Alistair Millar, George A. Lopez, and Linda Gerber, "Unproven: The Controversy over justifying War in Iraq", Policy Brief F12A, June 2003, Joan B. Kroc Institute for International Peace Studies at the University of Notre Dame online: <www.ciaonet.org/special_section/iraq_review/ciao/pi_jrw_04.html>.

⁸ These requirements were famously set out by Hugo Grotius and have been characterized as *jus ad bellum* (justice of war itself as a method of conducting relations) and *jus in bello* (justice in the conduct of war). See *supra* note 2.

maintain peace through the framework outlined in Article 39. An emerging third – and to date less accepted – exception is the principle of humanitarian intervention, or the use of force to avoid massive human rights abuses.¹⁰ These exceptions will be reviewed below.

Before doing so, however, it is important to note that the *Charter* has been interpreted as a 'living tree'¹¹, and the black letter of the law is modified through the practice of states¹² and the rulings of the International Court of Justice (hereafter ICJ). Through the history of the UN, a number of "seismic developments" have initiated adaptation: 1) the Cold War, 2) the export of insurgency and covert meddling as a substitute for overt diplomacy and military force, 3) the technological transformation of nuclear, chemical, and biological weaponry and the means of deployment, and 4) the rising public consciousness of the rights of the individual.¹³

SELF-DEFENCE

Though codified in Article 51 of the *Charter*, a state's right to engage in force as a matter of self-defence is a long-established rule of customary law. Article 51 recognizes this right, and brings it within the *Charter* framework through the imposition of obligations on states who choose to exercise force in self-defence. Article 51 reads:

Nothing in the present *Charter* shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by members in the exercise of this right to self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and

responsibility of the Security Council under the present *Charter* to take at any time such action as it deems necessary to maintain or restore international peace and security.

Self-defence may be asserted by an individual state, or by collective of states who are aiding the state who has been attacked. The close relationship between the customary right to self-defence and Article 51 has been recognized by the ICJ.¹⁴ The ICJ has also held that self-defence must only be used when: a) it is necessary and b) it is in proportion to the goals sought to be achieved, and c) the right is exercised immediately, not as a form of reprisal.¹⁵

A very recent example of the use of self-defence to justify the use of force was the American attacks against Afghanistan after the attacks on the World Trade Centre on September 11, 2001. While some groups, including Lawyers Against the War, condemned the attacks as illegal, the reaction from the Security Council¹⁶ and states around the world was generally in support of the American right to self-defence. Although the acts of terrorism could not be directly imputed to the state, the Taliban government of Afghanistan actively harboured the terrorists and could be held to share responsibility for their actions. The Security Council has treated acts of international terrorism as threats to the peace.¹⁷ It is important to note, however, that it would

¹⁴ Case concerning Military and Paramilitary Activities in and against Nicaragua (*Nicaragua v. United States of America*), Merits, Judgment, ICJ Reports, 1986 at 14.

¹⁵ Ibid. See Yoram Dinstein, *War, Aggression, and Self-Defense* (Cambridge: Cambridge University Press, 2001) at 183 and 184 for further explanation of what is meant by necessity, proportionality, and immediacy.

¹⁶ Christopher Greenwood, "International Law and the Pre-Emptive Use of Force: Afghanistan, Al-Qaida, and Iraq" (2003) 4 San Diego Int'l L.J. 7 (HEINONLINE) writes at page 17: "The U.N. Security Council, in its resolutions 1368, U.N. SCOR, 56th Sess., 4370th mtg., U.N. Doc. S/RES 1368 (2001) and 1373, U.N. SCOR, 56th Sess., 4385th mtg., U.N. Doc. S/RES/1373 (2001) adopted in the immediate aftermath of the attacks, expressly recognized the right of self-defense in terms that could only mean it considered that terrorist attacks constituted armed attacks for the purposes of Article 51 of the Charter, since it was already likely, when these resolutions were adopted, that the attacks were the work of a terrorist organization rather than a state."

¹⁷ Greenwood, *ibid*, and Gardner, *supra* note 10 at 587.

¹⁰ Richard N. Gardner writes that although Article 2(4) prohibits the use of force, states have often acted outside the exceptions. One good example is in the attempt to rescue its citizens. See "Neither Bush nor the 'Jurisprudes'" (2003) 97 AJIL 585 (HEINONLINE) at 589.

¹¹ Thomas M. Franck, *Recourse to Force* (Cambridge: Cambridge University Press, 2002) at 6.

¹² One example of this is how abstentions are not viewed as vetoes, but rather as expressions of discomfort. See Franck, *ibid* at 8.

¹³ See Franck, *ibid* at pages 3 to 4.

"be a mistake to assume that self-defence would cover every military action that the United States or an ally might want to take against Al-Qaida (or other terrorist groups) in other countries."¹⁸ The use of force in Afghanistan fell within the concept of self-defence because the threat from Al-Qaida was imminent, because Afghanistan openly afforded sanctuary to large numbers of Al-Qaida personnel, and because the Taliban lacked crucial attributes for full membership in the international society.¹⁹

PRE-EMPTIVE SELF-DEFENCE

The reference in Article 51 to "if an armed attack occurs" is often construed broadly by states to include the right to engage in self-defence when an armed attack is imminent.²⁰ This notion was first enunciated in the *Caroline* incident in 1837. In *Caroline*, British forces in Canada destroyed a ship that was being used by Canadian rebels and their American supporters in a series of attacks against Canada. The British forces attacked the *Caroline* when it was in US waters and killed some members of the crew. One of the British officers was later arrested in the US and was charged with murder.

The British government, through a letter from Secretary Daniel Webster, claimed that the British acted in self-defence and demanded the officer's release. Webster's letter asserted that the right of self-defence did not depend upon having actually been attacked, but that there was also the right of anticipatory self-defence when facing an armed attack, as long as there was "a necessity of self-defence, instant, overwhelming, leaving no choice of means and

no moment for deliberation."²¹ This formulation was subsequently used as a test in the International Military Tribunals in Nuremberg and Tokyo, and practice by states suggests that the right of self-defence in anticipation of imminent attacks is part of the customary rule preserved by Article 51 of the *Charter*.²² Many scholars agree that the right of pre-emptory self-defence reflects the nature of modern warfare, including the use of nuclear weapons and weapons of mass destruction, and is more realistic than a more restrictive interpretation.²³

COLLECTIVE SECURITY

Consistent with the aims of the U.N., states may have recourse to force if a resolution of the Security Council authorizes them to do so. This use of force is often pre-emptive in nature and designed to function as a deterrent to a wider breach of the peace.²⁴ The Security Council's power to authorize military action is found in Chapter VII of the *Charter*. The Security Council must first act under Article 39, which reads:

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

Once this determination is made, the Security Council's decisions regarding the matter are binding, as law, on all Mem-

¹⁸ Greenwood, *ibid* at 25.

¹⁹ Richard A. Falk, "What Future for the UN Charter System of War Prevention?" (2003) 97 AJIL 590 (HEINONLINE).

²⁰ Note that the ICJ has not yet ruled on this point, and there is no open-ended endorsement by the Security Council or General Assembly for a general right to anticipatory self defence. However, the reaction of states "does recognize that, in demonstrable circumstances of extreme necessity, anticipatory self-defence may be a legitimate exercise of a State's right to ensure its survival". See Franck, *supra* note 11.

²¹ Letter from Daniel Webster to Henry S. Fox (Apr. 24, 1842), quoted in Gardner, *supra* note 10 at 587.

²² Greenwood, *supra* note 16 at 13.

²³ Greenwood, *supra* note 16 at 15. Greenwood notes some scholars believe that the right to self-defence emerges only after attack, including: Ian Brownlie, *International Law and the Use of Force By States* (1963); Christine Gray, *International Law and the Use of Force* (2000); and Louis Henkin, *How Nations Behave* (1979). Scholars who favour a more broad approach to self-defence include: Thomas Franck; Waldock, Schwebel, and Jennings, all past-Presidents of the ICJ; Michael Ignatieff; and Sir Robert Jennings and Sir Arthur Watts, *Oppenheim's International Law*. Dinstein, *supra* note 15, rejects anticipatory self-defence but favours the right of 'interceptive self-defence', where the aggressor state has 'committed itself to an armed attack in an ostensibly irrevocable way'.

²⁴ Dinstein, *supra* note 15 at 248.

ber States. The Security Council may authorize pre-emptive force²⁵, but it may also impose non-military measures like inspections²⁶ and sanctions²⁷, both of which were seen in Iraq. It may also require that states withdraw from a territory, surrender suspects for trial, or disarm.²⁸

HUMAN RIGHTS INTERVENTION²⁹

The Security Council had previously authorized military force for humanitarian intervention to stop abuses occurring within the border of a state, but only when those abuses had an international impact and threatened peace in security in the region.³⁰ Therefore, there remained a potential disparity in law regarding the ability to act on a moral impetus for imposing military force to stop human rights abuses within a state. The concept of humanitarian intervention gained strong support after the NATO air strikes in Kosovo in the 1990s. While nothing in the *Charter* supports the right of one State to use force against another to secure human rights³¹, the advocates of humanitarian intervention emphasize the significance of clauses within the *Charter* that describe the need to promote and encourage respect for human rights and fundamental freedoms.³²

²⁵ Article 43 of the *Charter* reads: Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

²⁶ For example, these were imposed on Iraq by Resolution 1441, U.N. SCOR 57th Sess. 4644th mtg., U.N. Doc. S/RES/1441 (2002).

²⁷ These were imposed on Iraq through Resolution UN SC Res. 661, U.N. SCOR 45th Sess. 2392 mtg., U.N. Doc. S/RES/661(1990), online: <http://ods-dds.ny.un.org/doc/RESOLUTION/GEN/NR0/575/11/IMG/NR057511.pdf?OpenElement>.

²⁸ Greenwood, *supra* note 16 at 18.

²⁹ For a full discussion of the right to use force for a purely humanitarian intervention, see Franck, *supra* note 11, 135-173.

³⁰ This would make the action compliant with Article 2(4) of the *Charter*.

³¹ The ICJ rejected the argument that the United States could intervene in Nicaragua on the basis of human rights violations.

³² Dinstein, *supra* note 15 at 66.

They argue that states' practice has modified international law.

NATO intervention – undertaken in the form of bombing campaigns – in Kosovo to stop ethnic cleansing directed by Serb President Slobodan Milosevic was taken in 1999. Strong resistance to this possibility was noted by Security Council members, China and Russia, and so a resolution was not sought. Instead, NATO worked as a regional organization, although NATO had no standing under international law since Yugoslavia was not a member of NATO³³. The technically illegal action gained legitimacy, however, due to a number of mitigating factors. Richard Falk writes that the doctrine is 'conditioned' in two ways:

... first by suggesting the need for the intervening side to bear a heavy burden of persuasion as to the necessity of intervention to avoid an impending or ongoing humanitarian catastrophe. Second, there was a checklist of duties that need to be fulfilled by the intervenors to achieve legitimacy, emphasizing the protection of the civilian population, adherence to the international laws of war, and a convincing focus on humanitarian goals, as distinct from economic and strategic aims. In Kosovo the moral and political case for intervention seemed strong: a vulnerable and long abused majority population facing an imminent prospect of ethnic cleansing by Serb rulers, a scenario for effective intervention with minimal risks of unforeseen negative effects or extensive collateral damage, and the absence of significant nonhumanitarian motivations on the intervening side. As such, the foundation for a principled departure under exceptional circumstances from a strict rendering of *Charter* rules on the use of force seemed present.³⁴

While some caution the extension of international law in this sphere, there have been efforts to close the gap between the legality of the use of force in human rights interventions and the legitimacy of such use.³⁵ For example, Prime Minister Paul Martin has recently called for a worldwide effort to change the approach of the Security Council when it does not find that massive human rights violations put the peace and

³³ See Franck, *supra* note 11, at 163.

³⁴ Falk, *supra* note 19 at 591.

³⁵ Some scholars who argue for this reform are Anne-Marie Slaughter, Mary Robinson, etc.

stability among nations at risk, and consequently does not agree to take forcible measures to quell the abuses.³⁶ Martin is pushing for a recognition of 'the responsibility to protect' principle, which would lower the bar for the world to intervene to stop a human rights crisis.³⁷

ARGUMENTS FOR WAR

Both the American and British governments did everything they could to make the case for war. Both George Bush and Tony Blair addressed their respective national assemblies, and their own people. Secretary of State Colin Powell addressed the Security Council with a presentation filled with what he called "solid" evidence – including grainy satellite images and snippets of intercepted telephone conversations – that were aimed at showing the danger of Saddam Hussein and the need for immediate action.³⁸

Although they gained the support of their national assemblies, the President and Prime Minister failed to secure the backing of the international community.

³⁶ Clark, Campbell, "Martin Invites Francophonie to discuss UN reform," *The Globe and Mail*, Saturday, November 27, 2004 at <http://www.theglobeandmail.com/servlet/story/RTGAM.20041126.wmart1127/BNStory/Front>.

³⁷ However, despite a more widespread acceptance and the desire to close the gap between legality and legitimacy, concerns still remain. For example, writes Dinstein *supra* note 15, "As a rule, interventionists believe that they are pursuing a higher goal: 'the ideal of justice backed by power'. The problem is that there can be divergent subjective opinions as to whether a course of action is just, and there is too much room to abuse the law in the name of justice. Indeed the human rights record of the intervening country itself (flying the banner of humanitarianism) can be distressing: the intervention may prove a mere 'opportunity to redeem its own failings in the eyes of the international community.'" Dinstein notes that the Security Council alone has the legal competency under the *Charter* to authorize forcible humanitarian intervention. Judge Rosalyn Higgins counters this assertion by drawing an analogy to the use of self-defence as a justification for force, see Franck, *supra* note 11 at 185.

³⁸ Powell Presents U.S. Case to Security Council of Iraq's Failure to Disarm, UN News Centre, February 5, 2003.

Online: <http://www.un.org/apps/news/storyAr.asp?NewsID=6079&Cr=iraq&Cr1=inspect>

Below are their arguments for the use of force against Iraq.

THE BLAIR ARGUMENT

The British position that the invasion of Iraq was legal rests on a particular interpretation of Security Council resolutions dating back to 1990.³⁹ The most important resolutions to this interpretation are resolutions 678, 687, and 1441. A synopsis of this argument⁴⁰ is as follows:

The proper way to justify the ... use of force in Iraq was by reference to previous UN Security Council resolutions requiring Iraq's compliance with an intrusive UN inspection regime. Iraq had repeatedly been found by the Security Council to be in "material breach" of the disarmament requirements spelled out in Resolution 687, which laid down the conditions of the cease-fire that suspended hostilities in the Gulf War. Since Saddam Hussein was repeatedly found by the Security Council to be in "material breach" of the cease-fire terms, the United States and other UN members were once again free to act under the authority of Security Council Resolution 678, which authorized the use of force not only to liberate Kuwait but to "restore peace and security in the area." It was not unreasonable to claim that there could be no "peace and security" in the area unless there was effective verification that Iraq's weapons of mass destruction had been eliminated.⁴¹

Blair argued that Hussein never complied with the conditions of the ceasefire

³⁹ Greenwood, cited *supra* note 16, is the main author of this position. He prepared a memorandum for use in the British Parliament outlining this position, and so he will be the main source cited here. Others who espouse this notion make very similar arguments. See, Murphy, Sean D., "Contemporary Practice of the United States" (2003) 96 A.J.I.L. 419 (HEINONLINE), William H. Taft and Buchwald, Todd F., "Preemption, Iraq, and International Law", (2003) 97 Am. J. Int'l L. 563 (HEINONLINE), Taft, William H. IV, Legal Adviser, Department of State, *The Legal Basis for Preemption*, published by the Council on Foreign Relations, Nov. 18, 2003, available at <http://www.cfr.org/publication.php?id=5250>, William D., "Comment on: The Legal Background on the Use of Force to Induce Iraq to Comply with Security Council Resolutions", ASIL Insights, March 1998, online: American Society of International Law <<http://www.asil.org/insights/insigh16.htm>> etc.

⁴⁰ This argument is described in greater detail in the online version of this article by Ellen J. Creighton, which is found at the Atlantic International Studies Journal website: <http://www.atlis.ca/journal.html>.

⁴¹ Gardner, *supra* note 10 at 588.

and was repeatedly found to be in breach of the requirements of resolution regarding international peace and security. Resolutions 707 (1991), 949 (1994), 1060 (1996), 1137 (1997), 1154 (1998), 1205 (1998), 1284 (1999), and Resolution 1441 (2002) all describe Iraq's breaches of its obligations.

Resolution 1441, specifically, recalls resolution 678 (1991) and deplored that Iraq had not met its obligations under resolution 687. The Council recalled that resolution 678 stated that the ceasefire would be based on the acceptance by Iraq of the provisions of the resolution, including the obligations in it. Most importantly, the resolution stated that the Council:

Decides that Iraq has been and remains in *material breach* of its obligations under relevant resolutions, including resolution 687 (1991), in particular through Iraq's failure to cooperate with the United Nations inspectors and the IAEA, and to complete the actions required under paragraphs 8 to 13 of resolution 687 (1991). (emphasis added)

'Material breach' meant that Iraq violated a provision essential to the accomplishment of the object or purpose of the resolution. The object and purpose of resolutions 687 and 1441 were to restore international peace and security. Britain argued that Iraq violated the resolution by possessing prohibited weapons and by the failure to cooperate with inspectors.⁴²

The Council, however, decided to give Iraq a final opportunity to comply with its obligations to disarm under resolution 687. Iraq was required to submit a full declaration of all of its programs to develop weapons, and allow UNMOVIC and IAEA inspectors unrestricted access. The council decided that any false statements or omissions in Iraq's declaration would constitute a further material breach and will be reported to the Council. Paragraphs 11 to 13 deal with what would happen in the event of Iraqi non-compliance. The Council:

11. Directs the Executive Chairman of UNMOVIC and the Director General of the IAEA to report immediately to the Council

any interference by Iraq with inspection activities, as well as any failure by Iraq to comply with its disarmament obligations, including its obligations regarding inspections under this resolution;

12. Decides to convene immediately upon receipt of a report in accordance with paragraphs 4 or 11 above, in order to consider the situation and the need for full compliance with all of the relevant Council resolutions in order to secure international peace and security;

13. Recalls, in that context that the Council has repeatedly warned Iraq that it will face serious consequences as a result of its continued violations of its obligations.

After a report by chief weapons inspector Hans Blix and a presentation by Secretary of State Colin Powell, the UN Security Council was effectively deadlocked. It became clear that neither a resolution authorizing military action nor a resolution that the inspectors should continue with their work would be adopted.⁴³ It was in these circumstances that the US, the UK, and a number of other states took action without a further resolution, and relied on the authorization granted by resolution 678 (1990).

While he noted that 1441 was no 'fresh mandate' due to states making it clear that there was no automatic recourse to force, Greenwood argues that a new resolution was not necessary as a matter of international law, because the authorization to use 'all necessary means' contained in resolution 678 (1990) had not been terminated by the Security Council. Rather it had been reaffirmed in each resolution from resolution 687 onwards.⁴⁴ Greenwood argues that resolution 678 was not solely about the liberation of Kuwait, but was also to restore international peace and security in the area. Further, he argues that the text of resolution 687 did not contain anything that expressly (or impliedly) indicated that the mandate set out in resolution 678 had been discharged and was no longer operative should Iraq continue to pose a threat to international peace and security.

He also notes that the condition included in resolution 1441 was that the Security Council consider the matter. Since the Council did consider the matter at several

⁴² Greenwood, *supra* note 16 at 29.

⁴³ Greenwood, *supra* note 16 at 33.

⁴⁴ Greenwood, *supra* note 16 at 34.

formal meetings and in informal conversations with other members, but showed that the Council was so divided about what to do that no decision could be taken. "In these circumstances," writes Greenwood, "the present writer believes that those governments who resorted to force were right to conclude that they could rely on the authorization of military action in resolution 678, read together with resolutions 687 and 1441."⁴⁵

THE BUSH ARGUMENT⁴⁶

One major impediment to describing the Bush doctrine is that it changed at different points along the timeline of the Iraq war.⁴⁷ First, the Bush administration set out to prove that it had the right to act in pre-emptive self-defence due to Hussein's alleged development, acquisition of, and willingness to use weapons of mass destruction. Later, it allied itself with the British in their argument that the war was justified as a matter of collective security.⁴⁸ Only much later did the administration attempt to prove that the ends justified the means in replacing a dictator who perpetrated widespread human rights abuses.

However, despite these later justifications, the original reason for war was stated clearly by George W. Bush in the lead-up to war: that Saddam Hussein had to disarm or he would be disarmed forcibly. "Other than the warnings addressed to the Iraqi military and reassurances regarding

homeland security, the declaration of war address was *only* about WMD until the closing paragraphs, which touched on human liberty and a better future for the Iraqi people"⁴⁹ (emphasis not mine).⁵⁰

The Bush doctrine on the legality of the use of force in Iraq began with the release of the National Security Strategy of the United States of America, which was unambiguous in its assertion that the U.S. had a right to strike first against perceived enemies:

... we will not hesitate to act alone, if necessary, to exercise our right of self-defense by acting pre-emptively against the terrorists, to prevent them from doing harm against our people and our country.⁵¹

In a speech he delivered in Cincinnati, Ohio in October, 2002⁵² and in his State of the Union Address President Bush set out and developed his administration's theory of the right to pre-emptory self-defence.

Knowing these realities, America must not ignore the threat gathering against us. Facing clear evidence of peril, we cannot wait for the final proof – the smoking gun – that could come in the form of a mushroom cloud. As President Kennedy said in October of 1962, 'Neither the United States of America, nor the world community of nations can tolerate deliberate deception and offensive threats on the part of any nation, large or small. We no longer live in a world,' he said, 'where only the actual firing of weapons represents a sufficient challenge to a [nation's] security to constitute maximum peril.'

It is important to note that when Secretary of State Powell met with the Security Council to persuade them to permit force on the basis of collective security, he made no mention to the Security Council of: a) pre-emptory self-defence as a legal justification for war, 2) widespread, massive hu-

⁴⁵ Greenwood, *supra* note 16 at 37.

⁴⁶ For a thorough outline of the claims of Bush administration officials, a description of the weapons inspections, the findings to date, the failings of the intelligence community, a synopsis of statements by the administration, and texts of relevant speeches, see Cirincione et al., *supra* note whatever. See also John Yoo, "International Law and the War in Iraq" (2003) 97 A.J.I.L. 563 (HEINONLINE). Yoo argues that the U.S. was justified through both collective security and self-defense to go to war in Iraq.

⁴⁷ For a more complete analysis of the Bush argument, please see the fuller text of this article by Ellen J. Creighton, published at the Atlantic International Studies Journal website: <http://www.atlis.ca/journal.html>.

⁴⁸ By this time, however, public opinion at home and abroad had come to see the U.S. action as the first application of the new preemption doctrine. See Gardner, *supra* note 10 at 589.

⁴⁹ Cirincione et al., *supra* note 2 at 13.

⁵⁰ Cirincione, *ibid* at 14.

⁵¹ George W. Bush, The National Security Strategy of the United States of America, September 2002. Available online at the White House <http://www.whitehouse.gov/nsc/nss.pdf>.

⁵² George W. Bush, speech given in Cincinnati Ohio, October 7, 2002, text available in Cirincione, *supra* note 2 at 69.

man rights violations that would justify humanitarian intervention, or 3) the creative interpretation of resolutions 678, 687, and 1441 that had the effect of legalizing the use of force without another Security Council resolution.

President Bush addressed the nation on March 17, 2003, and referred again to the legal basis of pre-emptory self-defence alluded earlier in his State of the Union Address. He said, "The United States has the sovereign authority to use force in assuring its own national security."⁵³

He also made short mention of the British doctrine:

In the case of Iraq, the Security Council did act, in the early 1990s. Under Resolutions 678 and 687 – both still in effect – the United States and our allies are authorized to use force in ridding Iraq of weapons of mass destruction. This is not a question of authority, it is a question of will.⁵⁴

He also mentioned in one paragraph to the Hussein regime's human rights violations:

We will tear down the apparatus of terror and we will help you to build a new Iraq that is prosperous and free. In a free Iraq, there will be no more wars of aggression against your neighbors, no more poison factories, no more executions of dissidents, no more torture chambers and rape rooms. The tyrant will soon be gone. The day of your liberation is near.⁵⁵

ANALYSIS OF ARGUMENTS UNDER INTERNATIONAL LAW

Both the Blair and Bush arguments on the legality of war in Iraq rely on creative interpretations of the existing international law regarding the use of force. Blair has strung together the Security Council resolutions in such a way as to argue that the 'Coalition of the Willing' had prior authorization through the use of resolutions 678 and 687. Bush creatively interpreted the argument for pre-

emptive self-defence to find a legal basis for war in a threat that had not yet materialized, arguing that the post-September 11th world – much like the argument was made during the emergence of nuclear weaponry – significantly changed the nature of the threat to the point where pre-emptory pre-emption should be acceptable. He also attempted to achieve a Security Council resolution authorizing the use of force on the basis of collective security, and argued – though half-heartedly – that the use of force by a diverse coalition of states could be justified on the basis of humanitarian intervention, such as in Kosovo.

THE BLAIR ARGUMENT

Anne-Marie Slaughter, Past-President of the American Society of International Law, commented on the U.K.'s position that the war on Iraq was legal based on a creative reading of the previous Security Council resolutions regarding Iraq. She wrote:

The legal argument, as spelled out by the British Attorney General, Lord Goldsmith, is that the Anglo-American forces are authorized by Security Council Resolution 678, which authorized "all necessary means" to drive the Iraqis out of Kuwait, followed by resolution 687, which established a ceasefire as long as Iraq met a series of conditions, including complete disarmament. Once these conditions were no longer met, the basis for the ceasefire crumbled and the original use of force revived. An additional basis can be found in Resolution 1441, declaring that the Iraqis would face "serious consequences" if they did not take advantage of a "final opportunity" to disarm and reiterating the finding that Iraq was in "material breach" of earlier resolutions, including Resolution 687.⁵⁶

While Slaughter thinks these are "credible arguments", she also says that they "seem to fly in the face of the spirit of the UN Charter, which must be read to limit any authorization of the use of force. It is antithetical to any kind of 'blank check'."

⁵³ George W. Bush, President Bush's Address to the Nation on War with Iraq, March 17, 2003, reproduced in Cirincione, *supra* note 2 at 95.

⁵⁴ *Ibid* at 96.

⁵⁵ *Ibid*

⁵⁶ Anne-Marie Slaughter, "Notes from the President, Reflecting on the War in Iraq One Year Later", ASIL Newsletter, March/April 2004. Slaughter cites Lord Goldstone's statement of March 17, 2003, reprinted in Lord Goldstone's Statement, The Times (London), March 18, 2003 at 2.

Furthermore, Slaughter and a number of other scholars cite the British and American efforts to obtain a second resolution, and how these efforts undermine the position that they were previously authorized.⁵⁷ In response to the common assertion that the effort to seek a second resolution was 'politically desirable' rather than 'legally necessary', Slaughter says that the distinction between politics and law is too fine:

If a second Security Council resolution simply would have provided political authorization, then how can we say that the earlier string of resolutions on which the United States and Great Britain based their case was legal rather than 'merely political'?

In the face of these arguments, the view that the use of force was legal risks stretching the Charter beyond any plausible meaning, making it the plaything of great powers. And to add that it was illegitimate is to acknowledge the weight of global public opinion against it, the same global public opinion that held a majority Security Council members from voting for a second authorizing resolution.⁵⁸

Further, it is important to note that the French government and others on the Security Council were adamant that Resolution 1441 contained no element of automaticity. Much negotiation occurred to nailing down the final draft of the resolution, and though Greenwood can track uses of certain terms back through previous resolutions authorizing force, there is no mention of 'all necessary means', the usual clause that authorizes the use of force in Security Council resolutions.

The expressed intent and understanding of other Security Council members is important – even indispensable – to any interpretation of the Council-made law. Particularly important is the view that Security Council members considered themselves seized collectively of the Iraq matter due to the language of earlier resolutions, and that none of them had the legal right to act unilaterally. Writes Thomas M. Franck:

There are several reasons for (why the Security Council can be seen to have the stuff of a credible jury). First, most conflicts that come before the United Nations. (sic) do not directly engage the national interest of any but a few states, leaving the judgment of the others relatively unencumbered by commitments to one side or the other (since the Cold War). ... A second reason is that most governments are conscious of the importance of practice as precedent. They know that how they (individually and collectively) respond to an issue before the Assembly or Council affects the systemic rules of conduct in which they have a greater stake than in the outcome of one particular controversy. They therefore tend to speak and vote as members of a jury who are not without feelings and biases, but whose first concern is to do the right thing by the norms under which all must live. Finally, the response of many (especially smaller) states to issues put before them is significantly influenced by a preference for being seen as good institutional citizens who are highly regarded by those other states who look to them for leadership and prefer them for election to the system's important organs and subsidiary bodies.⁵⁹

Franck writes in a later article that he believes the interpretation is unsupportable. This is mainly because the ceasefire was struck between all members of the U.N. Security Council, not with each country individually, since Iraq had to notify the Secretary General and the Security Council of acceptance. He writes,

In legal form, then, as also in substance, this proviso manifests that it is the Security Council and the United Nations, and not individual members, who are the parties, with Iraq, to the cease-fire agreement. It is they who are entitled in law to determine whether Iraq is complying with its commitments to the Council, how long these are to remain in effect, and what is to be done in the event of their violation.

To construe a legal argument based on this creative interpretation of the resolutions – and in the face of those states who have explicitly stated their understandings to the contrary – amounts to a sort of legal trickery. For states to have meant one thing, attempted to state it, and then be told that

⁵⁷ Slaughter, "An American Vision of International Law?" (Paper presented to the American Society of International Law, June 2003) (2003) 97 Am. Soc'y Int'l Law Proc. 125 at 126

⁵⁸ Slaughter, *supra* note 60.

⁵⁹ Franck, *supra* note 47 187.

the effect of their words is the opposite seems unsupportable.

Lastly, Mary Ellen O'Connor argues that Resolution 678 was adopted to liberate Kuwait, and should be seen through the lens of that conflict.⁶⁰ The US has acknowledged that the coalition had authority for these purposes only, and hence that is why they did not depose Saddam Hussein in 1990-1991. "Resolution 687 established a demilitarized zone between Kuwait and imposed disarmament obligations on Iraq, without calling for regime change in Iraq," she writes, and so the US and the UK – even under Resolution 687 – did not have authority to forcibly overthrow the Hussein regime.

THE BUSH ARGUMENT

Since I have dealt with the British argument espoused by President Bush in his State of the Union Address above, I will examine the other two justifications for war: humanitarian intervention, and pre-emptory self-defence.

Due to the limited and cursory mention of human rights abuses originally made by the Bush administration, they will accordingly receive limited analysis here. Firstly, the Bush administration did not present the Security Council with an argument based on humanitarian intervention.

Secondly, as opposed to Kosovo, the Bush administration did not assemble a wide-ranging collective force to depose of the human rights abuser. While Bush, in his State of the Union Address, pointed to the list of countries that were part of the 'Coalition of the Willing', most contributed very little to the cause, and openly received rewards for their actions in the form of aid or reconstruction contracts. This delegitimizes any claim the Bush Administration may make to a global effort of disinterested nations acting together to stop human rights abuses. Thirdly, the Iraqi people have not

benefited from the war in any measurable way. Reconstruction moves forward at a grinding pace. Many Iraqis still have no access to amenities such as electricity. There is a high unemployment rate in Iraq. Most reconstruction contracts have gone to firms outside of Iraq instead of businesses within its borders. Perhaps most importantly, the security situation in Iraq is atrocious. While the Bush Administration points to upcoming elections, many other nations and commentators have called for a delay until the security situation can be stabilized.

Although some doubt the legality of pre-emptive self-defence as the basis of recourse to force, as noted above, the principle has been recognized in practice by many states. However, those that do recognize a right to pre-emptory self-defence still require that the test be met; self-defence must only be used when: a) it is necessary and b) it is in proportion to the goals sought to be achieved, and c) the right is exercised immediately, not as a form of reprisal. Each of these factors is contingent upon the others. Therefore, if even one is not met, the action fails the test for pre-emptory self-defence.

Scholars, journalists, and even members of the Bush Administration itself have noted the conspicuous lack of discovery of any weapons of mass destruction.⁶¹ They have also not discovered the means by which any of these weapons could be deployed. Therefore, through the benefit of hindsight, we see that the threat was not imminent, and the need to defend against it was not necessary.⁶² This demonstrates that the American use of force in Iraq cannot be justified on the basis of pre-emptory self-defence, and either failures in the intelligence community or exaggeration by the administration are to blame for the portrayal of imminence. The Policy Brief for the Joan B. Kroc Institute for International Peace Studies at the University of Notre-Dame has

⁶⁰ Mary Ellen O'Connell, "Addendum to Armed force in Iraq: Issues of Legality", ASIL Insights, April 2003, online: American Society of International Law at <<http://www.asil.org/insights/insigh99a1.htm>>.

⁶¹ Cirincione et. al., *supra* note 2, and see also Oliver Burkeman, and Julian Borger, "War critics astonished as US hawk admits invasion was illegal" *The Guardian* (20 November 2003), online: The Guardian Online <http://www.guardian.co.uk/uk_news/story/0,3604,1089042,00.html>.

⁶² Franck, *supra* note 47 at 611.

gone even further to note that the requirement of necessity had not been fulfilled. Its authors cite the adoption of the president's advisors of the worst-case scenario provided to them by the intelligence community as a major failure. Further, they posit that the administration inflated and manipulated certain data, "possibly even requesting that material sent to it be redone to fit preconceived notions."⁶³ They argued that inspections worked to prevent Saddam Hussein's development of weapons of mass destruction, and that sanctions restrained Iraq's weapons development program. They provide proof that Iraq cooperated with inspectors, that no weapons have been found at the time of writing, and that there was no evidence of Iraqi nuclear weapons activity or active chemical and biological weapons programs, along with lack of evidence for the other claims.

The Carnegie Endowment for International Peace recommended that the National Security Strategy mentioned above should be revised to eliminate a U.S. doctrine of unilateral preemptive war in the absence of imminent threat (that is, preventative war).⁶⁴

A true preemptive attack remains, as it has always been, a legitimate tactic to be used when necessary. However, for the reasons cited here, as well as others, a doctrine of unilaterally asserted and executed preventative war does not serve U.S. national security interests.⁶⁵

The Bush Administration argues that like nuclear weaponry, worldwide terrorism networks have fundamentally changed the nature of acts of aggression so as to permit a doctrine of unilateral, 'poten-

tial threat'-based, pre-emptive self-defence to emerge on the world scene. However, this is highly questionable. While American perception of the world has changed since the attacks on the World Trade Centre towers of September 11, 2001, for the rest of the world, the situation is not so much different than it was before, *except for* the bungled American response to terrorism that has left so many disaffected.

Even if the concerns are considered pressing, observers like Richard N. Gardner caution against the abolition or significant variation of 'those wise restraints that make men free'.⁶⁶ He was involved in drafting Secretary of State Adlai Stevenson's speech to the Security Council during the Cuban Missile Crisis. Even with the advent of nuclear war, caution was taken to fit within the legal norms, and if not, then to go outside those norms as little as possible. He writes:

The fact that the world had entered the nuclear age was not a good reason, in our view, to stretch the careful limits on preemption that had been set by Webster more than a century before. Accordingly, we sought to develop a different legal rationale based on the action of the Organization of American States in voting to endorse the Cuban quarantine. Admittedly, the OAS rationale was not entirely convincing, given the requirement in Article 53 of the UN Charter that no "enforcement action" can be undertaken by a regional organization without Security Council approval. But at least we had avoided opening up the "Pandora's box" of Article 51. To vary the metaphor, we felt that if we had to punch a hole in traditional legal restraints on the use of force, the hole should be as small as possible.

The considerations that led us to avoid enlarging the concept of preemptive self-defense in 1962 are just as valid today. The Bush doctrine, if it is intended to assert a right available to the United States alone, is obviously unacceptable. If it is intended to assert a new legal principle of general application, its implications are so ominous as to justify universal condemnation. For such a doctrine would legitimize preemptive attacks by Arab countries against Israel, by China against Taiwan, by India against Pakistan, and by North Korea against South Korea, to give some obvious examples. It would even

⁶³ Cortright, David, Alistair Millar, George A. Lopez, and Linda Gerber, "Unproven: The Controversy over Justifying War in Iraq", Policy Brief F12A, June 2003, Joan B. Kroc Institute for International Peace Studies at the University of Notre Dame online: www.ciaonet.org/special_section/iraq_review/ciao/pi_jrw_04.html at 1.

⁶⁴ See also Sapiro, Miriam, "The Shifting Sands of Pre-emptive Self-Defense" (2003) 97 A.J.I.L. 599 (HEINONLINE). She argues that taking the doctrine of preemptive self defense further to where the point is not yet imminent is inherently subjective and dangerous.

⁶⁵ Circione, *supra* note 2 at 61.

⁶⁶ Gardner, *supra* note 10 at 587.

serve to legitimize ex post facto Japan's attack on Pearl Harbor.⁶⁷

INTO THE FUTURE: IMPLICATIONS FOR WAR

The value of actions as precedents in international law stems from the interplay between legality (the question of law) and legitimacy (the question of politics). Where an action is technically illegal, such as the humanitarian intervention in Kosovo, it can still be seen as legitimate and be accepted by the world. This gap between legality and legitimacy is the impetus for reform in international law.⁶⁸ Hence, we see the increasing acceptance on the limitations of states' sovereignty through the use of force in humanitarian interventions. We also see lobbying on the parts of governments and NGOs alike to reform and legalize such interventions.

Slaughter wrote in an editorial in the New York Times that the war in Iraq was illegal, but potentially legitimate.⁶⁹ Legitimacy would be achieved if three conditions were met: 1) the coalition forces uncover undeniable and substantial evidence of weapons of mass destruction maintained by Saddam Hussein's government despite increasingly intrusive weapons inspections; 2) the Iraqi people welcomed the ousting of Saddam Hussein; and 3) the United States and Great Britain turned back to the United Nations to help rebuild Iraq and establish an Iraqi government.

Notably, absolutely none of these conditions were met with regard to US and UK intervention. Slaughter has reversed her position, and has written that the invasion was both illegal and illegitimate.⁷⁰ 1) The coalition forces have uncovered no undeniable and substantial evidence of mass destruction. 2) The Iraqi people, who arguably initially welcomed the ousting of Saddam Hussein, have come to see the Americans as

occupiers, and many do not feel better off than when Hussein was in power. 3) The United States and Great Britain severely limited the role of the UN in post-war reconstruction, sidelining the organization to aid-related activities, and hoarding the political, legal, and economic power over the country. They have only more recently asked for the assistance from the UN, as the situation becomes more out of hand.

Legitimacy may be obtained during the use of force by widespread acceptance of the act and a coalition of diverse countries ready to act in concert. This did not occur in the case of Iraq. There was widespread, loudly-voiced opposition within the Security Council, by leaders of governments, and elsewhere by citizens of most states. Furthermore, the 'Coalition of the Willing' is better described as a 'Coalition of the Opportunistic', allowing the US to take a lead role, contributing little but some limited moral support, and receiving huge dividends by way of reconstruction contracts, aid packages, and political power vis-à-vis the US. Where legitimacy may be gained in the aftermath of an illegal act and some value as precedent may be attached, this has certainly not happened in the case of American and British intervention in Iraq.

The invasion serves no precedent whatsoever. As Slaughter wrote,

The coalition's decision to use force without a second Security Council resolution cannot stand as precedent for future action, but rather as a *mistake that should lead us back to genuine multilateralism*. ... If the nations seeking to use force cannot mount strong enough evidence of a security threat to convince a majority of the Security Council and to avoid a veto (provided that the veto is not clearly motivated by countervailing political interests), then the world should wait and try another way before sending in the troops. [emphasis added]

Worldwide efforts to stop terrorism are better handled through international treaties such as the International Treaties on Terrorism⁷¹ and increased cooperation, not

⁶⁷ Gardner, *supra* note 10 at 588.

⁶⁸ See Anne-Marie Slaughter, "An American Vision of International Law?", 97 Am. Soc'y Int'l L. Proc. 125 (2003) at 127.

⁶⁹ For a similar analysis, see Falk, *supra* note 19 at 595-598.

⁷⁰ Slaughter, *supra* note 60 at 2.

⁷¹ For a link to text of the treaties, please see <http://untreaty.un.org/English/Terrorism.asp>.

through the pre-emptive use of force against perceived – and not proven – threats. While much of the world sees American action in Iraq as a mistake and breach of international law, other ‘rogue states’ may be tempted to use such justification for the use of force unilaterally against other nations. In pushing for the ability to wage war pre-emptively, the United States is, essentially, creating a loaded weapon.⁷² This is a Pandora’s box that should remain closed.⁷³

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⁷² Gardner, *supra* note 1 at 588.

⁷³ For further analysis of the effects of the Iraq war on international law, effectiveness of the Security Council, and the impetus for future reform, please see the extended version of this article published in the Atlantic International Studies Journal online: <http://www.atlis.ca/journal.html>.

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APPENDIX A
KEY EVENTS ON TIMELINE OF IRAQ WAR

August 2, 1990	UN Security Council Resolution 660: Condemns Iraqi invasion of Kuwait and imposes crippling sanctions.
November 29, 1990	UN Security Council Resolution 678: Authorized U.S. and rest of coalition to 'use all necessary means' to secure Kuwait and establish international peace and stability in the area.
April 3, 1991	UN Security Council Resolution 687. Called the 'mother of all ceasefires', this resolution spells out the obligations Iraq must meet in order to maintain the ceasefire.
September 17, 2002	<i>National Security Strategy</i> issued from White House, detailing doctrine of pre-emption and 'adapting' the concept of imminence to meet today's needs.
October 7, 2002	Bush makes first detailed case for War in Iraq
October, 2002	US Congress authorizes use of military force to defend the US against Iraq and enforce resolutions.
November 8, 2002	UN Security Council Resolution 1441: Afforded Iraq a 'final opportunity to comply with previous Security Council Resolutions', said the Security Council would convene to consider reports of Iraqi malfeasance, and warned "that it will face serious consequences as a result of its continued violation of its obligations."
November 27, 2002	UNMOVIC and IAEA inspectors commence daily inspections in Iraq.
December 7, 2002	Iraq submits a declaration of almost 12,000 pages to the United Nations, containing "currently accurate, full, and complete" details about Iraq's chemical, biological, and nuclear programs and maintaining that Iraq does not have weapons of mass destruction.
December 19, 2002	UNMOVIC Executive Chairman Hans Blix provides preliminary assessment of Iraq's declarations. He stated his "overall impression is that not much new significant information has been provided in the part of Iraq's declaration which relates to proscribed weapons programs, nor has much new supporting documentation or other evidence been submitted."
January 9, 2003	Blix makes a further report to the Security Council, stating Iraq had not provided adequate answers to questions. Admits there is no 'smoking gun' evidence that Iraq had resumed its weapons programs.
January 11, 2003	NATO says no to providing military assistance to US in the event of war in Iraq.
January 27, 2003	Further report by Blix to Security Council.
January 28, 2003	President's State of the Union Address, where Bush outlines the necessity to use force unilaterally against Iraq should the Security Council fail to pass a resolution authorizing force.
February 5, 2003	US Secretary of State presents the case for war to the Security Council.
February 14, 2003	Blix reports again to Security Council. He notes some faults but also a more cooperative attitude.
March 17, 2003	Declaration of war on Iraq.
March 20, 2003	US and UK invade Iraq.
March 21, 2003	UK, US, Australian and Spanish governments send letter to Security Council adopting legal position that resolutions 678, 687, and 1441 give them authorization to go to war.
April 9, 2003	Iraqi ambassador to the UN reports that Iraqi government has been defeated.