

Peace & Progress

Liberation or War Crime?

A symposium to assess the damage done to international law and co-operation by the war and occupation of Iraq

Sunday 1 June 2003

The Young Vic Theatre
London

Panel:

Jan Kavan - President of the United Nations General Assembly
Burns Weston - Professor of International Law and Human Rights at Iowa University, USA

Philippe Sands QC - Professor of International Law at University College, London

Mark Seddon - Editor of *Tribune*

Dr Karma Nabulsi - who is Research Fellow in Politics at Nuffield College, Oxford

Susan Marks - Lecturer in International Law at Emmanuel College, Cambridge

Christine Chinkin - Professor of International Law at the LSE, London
Professor John Mason - Chair of the Political Science Department at the University of New Jersey, USA

Chair:

Sue Mac Gregor, broadcaster

Transcript of the Symposium Liberation or War Crime?

Corin Redgrave:

Before the war against Iraq we who opposed the war, were united in the belief that it was illegal and immoral. Some of the most eminent international lawyers published a letter stating their opinion that by going to war with Iraq, Britain and America would be in breach of their obligations under the United Nations Charter. One of the signatories of that letter is on the panel today.

The war itself, the occupation of Iraq, and the doubts which have been cast on the existence of weapons of mass destruction at the time of going to war have, if anything, strengthened the case against the war. Even those who thought the war justifiable are now, in some cases, having second thoughts.

So what should we do now? If the war was illegal what responsibilities do we, as members of the international community, have to continue to bring this to public attention? How can we hold those, who have broken the law, to account? How can we begin to repair the torn fabric of international relations? How can we, perhaps this is the most important question, prevent this breach of the law becoming custom and practice which will lead to further wars?

Speaking for myself, I have been immensely heartened by the concern which you, and many who couldn't be present today, but wished to be, so evidently share. Many of you here today, I know, have views on these questions, and have further questions of your own to put. I am very grateful to our distinguished guests, who will lead this discussion. I am not going to introduce them by name, that will be done in a moment. Only to say to those who have come from abroad to be with us today, how grateful we are that they have taken those pains to be in this discussion.

So now I'd like to welcome a broadcaster who I think we all know, a broadcaster who I think we are very lucky to have, Sue MacGregor, who is going to chair the discussion. Sue.

Sue MacGregor:

Corin, thank you very much and can I, if I may, add my own word of welcome. I hope everyone can hear me, I am used to speaking to microphones that are closer than this one, and we've only got a few to go between quite a few of us. So please shout from the back if you can't hear us and we'll try and adjust.

As Corin said, this is a symposium to address the damage done to international law and co-operation by the war and occupation of Iraq. Of course it comes in the wake of a UN Resolution, whose number may not be quite so familiar to you as the old one, it's the new one called 1483. That was passed ten days ago and effectively it gave the Security Council's official blessing to a new era for Iraq, post war, it legitimised its control by what the resolution calls, rather ambiguously 'authority'. In other words, Washington. It also ushered in for Iraq, as one of my former colleagues now a BBC correspondent put it, what the American right likes to believe is a new world of benevolent hegemony of the United States there, and perhaps eventually, throughout the world. That is how some in Washington would like to see it anyway.

But of course the arguments do rage on. What did the famous resolution 1441, that's the one that demanded that Iraq comply with disarmament regulations, really mean? It didn't authorise force, but it didn't rule it out either. How valuable was the intelligence - we've been hearing a great deal about that in the last few days - which led to the invasion? Where are - big question - all those weapons of mass destruction? Was there an alternative strategy which might have removed Saddam? And can the world, and can Iraq, put themselves back together again? What's to be done?

We'll be hearing plenty of views from the panel. We will also be hearing your views. I will ask that when we do throw it open to the floor that you a) give us your name, please, and b)

that you don't make long statements but rather, ask questions of the panel. Because we have a relatively finite time here. We have to be finished well before half past five.

I wonder if I could ask the technical team to put the house lights up a little bit because we are being rather blinded here. The spots down a bit and the house lights up so that we can see you, would be really helpful. While you are doing that let me introduce the people who are with me. I think we still have Jonathan Steele, of the *Guardian*, to come. But with me, first of all, our most distinguished guest, on my left, Jan Kavan, who is president, currently, of the United Nations General Assembly, and former Foreign Minister of the Czech Republic.

Applause

Mr Kavan will be speaking to us shortly, but because he is so distinguished and because he has come such a long way, he will be allowed to speak for a bit longer than anyone else. I'm asking everyone, please, if they would, initially, speak from the panel, for only a minute and a half.

They are: Burns Weston, who is Professor of International Law and Human Rights at Iowa University; Philippe Sands, QC, Professor of International Law at University College, London; Mark Seddon, editor of *Tribune*; Dr Karma Nabulsi, who is Research Fellow in Politics at Nuffield College, Oxford; next to her Susan Marks who is Lecturer in International Law at Emmanuel College, Cambridge; Christine Chinkin, who is Professor of International Law at the LSE; and last, but certainly not least, Professor John Mason, Chair of the Political Science Department at the University of New Jersey.

Thank you panel.

Professor Weston, can I ask you to speak (this sounds like a panel game, but its not) for one and a half minutes, please, on what your primary concerns are.

Professor Burns Weston:

Thank you very much and thank you for inviting me to participate in this distinguished symposium. I am unaccustomed to speaking in one and a half minutes. It is not something that lawyers are given to, but I'll do my best, although I had thought that because I came a long way too, I might have gotten a dispensation.

As I understand it the question posed is 'liberation or war crime?' Some people might say, some of my own colleagues in the international law world might say, that not all the facts are in yet, we still have to wait for all the evidence to make a conclusive judgement about that. I disagree with that viewpoint. I think there are enough facts in to make a judgement and my judgement is that the war was illegal. That it was illegal for, primarily, two reasons: firstly, because none of the facts that were cited to justify the claims made, appear to me at least, to be plausible. The current debate that we are seeing, the headlines in the newspapers over weapons of mass destruction are but one example of that; the other reason is because I believe that the important Security Council Resolution, number 1441, about which we all heard so much not too long ago, has been given a twisted interpretation by both the US and British Governments, in such a way as also to be implausible.

I reject those of my colleagues who argue that we shouldn't pay attention to the fact that the rules don't justify the acts committed on the grounds that for some reason or other the UN Charter system is now obsolete. I do agree that various aspects of the Charter are out of date, need to be modified, need to be reformed, but I do not believe that the rules of engagement with respect to the initiation and conduct of war, have been, therefore, eliminated.

International law does matter, and when we have time to elaborate on some of these issues, I will be glad to elaborate on why I think so. But one of the things I am very fond of saying when I speak to this subject, is to put to President Bush and Prime Minister Blair a scenario that says: 'imagine a group of states, let's call them the Arab League, decides that there is a county that has been engaged in 36 years of illegal military occupation, that has engaged in torture tactics, that has engaged in state terrorism, that has engaged in a variety of activities, including the long term violation and disregard of Security Council resolution - I could go on and on - should we not therefore conduct preventative war against this state?' The state I am talking about is Israel, and I am quite sure that Mr Blair and Mr Bush would not agree that

that is appropriate. If they think that that is not appropriate, then why was it appropriate in the case of Iraq?

Now I am not saying that Saddam Hussein was a nice guy. I don't think so, I think he was a quite evil human being. I don't know whether he is dead or alive, but I frankly hope he is alive. I hope he can be brought to justice. That raises a whole other can of worms which I don't have time to mention in this first minute and a half. But my primary concern is that a symposium like this does not simply end up being a re-statement of what I have just said, my hope is that you in the audience, and that those people in my own profession, will take the message which I think we are trying to deliver to you, to the wider public, so that we aren't all preaching to the choir.

I think that this requires a great deal of activity, of course, on the part of the US government, but we should not, needless to say, rely upon the US government to do our bidding. I do believe it is important that there be a vote of censure brought within the United Nations, with assistance from international lawyers, such as myself and others. I do believe that there ought to be some sort of international petition by my colleagues around the world. I do believe that there ought to be some form of people's tribunal, that could challenge what has happened, albeit in an unofficial way, nonetheless an important way. And finally, I do believe that all of you, through the internet, must connect, to become what has come to be called 'the second superpower'.

Applause.

Sue MacGregor:

Christine Chinkin. A minute and a half, please.

Professor Christine Chinkin:

I would first of all like to emphasise that I agree totally with the illegality of the conflict. I, in fact, was another who was responsible for the letter in the *Guardian*, and also very much endorse everything that Burns has just said.

So I think I will just raise two rather different issues. The first one; in the introduction Corin said, one of the important things is making sure that what happened in Iraq doesn't become accepted practice, and so repeat itself in the future. I agree totally with that and I think that in fact what we have to do is also look back. Not to see Iraq and the war in Iraq as a single event, but look back over the past decade and see how in fact the laws of war, and the compliance with the international regulation against the use of force, had been gradually whittled away through a whole series of incidents, going right back through, Somalia, obviously, Kosovo, East Timor and so on. Now each one is different, and it is difficult to generalise, even harder in one minute. But I think two themes come out: on the one hand you have where force was authorised by the United Nations. It began being authorised for humanitarian issues, which are very different from the original Charter concept of action against aggression or traditional peacekeeping. It was this notion of the use of force for beneficial ends, and bringing in the idea that military force can, in fact, be justified for beneficial ends.

And then another strand we get is the assertion by states, and in particular of course the United States, as to when they could use force without going through the Security Council. Coming up, of course, to Kosovo; with Kosovo, because it was humanitarian, there began this notion that somehow it was legitimate. The law itself might need changing but this was in some way legitimate.

Afghanistan, again, with the post September 11th idea, again there was a willingness, although it wasn't clearly, I don't think, within the resolutions of the Security Council, it was more easily and readily justified.

So then we come to Iraq. We had these two trends already getting confused. And so, on the one hand it, clearly was not authorised, but on the other hand, although this was not set out as the justification, there was this sort of humanitarian notion behind it. And I think we need to unpack these and see what has happened to the whole trend of international law.

The other point I wanted to raise was if we are looking at this question of liberation or occupation, who, in fact, was liberated? And the point I particularly wanted to raise is what is the issue with respect to reconstruction for the women of Iraq? I think very clearly throughout the whole media coverage of the war and post-war situation, women have been invisible. Yet women are now a majority of the population in Iraq. Unlike other countries in the area there is an educated body of women who have the highest level of empowerment in that area.

It is a Security Council obligation under an earlier resolution, Security Council Resolution number 1325, that women are involved in post-conflict reconstruction, rehabilitation, reintegration to society. And to my mind if we are to go with principles of participatory democracy, if we want an Iraq which is genuinely for the whole people of Iraq, women have got to be included as integral to this process. Not just as a parallel add-on, when people remember that we exist.

Sue MacGregor:

Thank you Christine. Philippe Sands, please.

Philippe Sands:

Thank you to Corin and the organisers for inviting me. I have got a statement which I can give out afterwards to anyone that wants, and I'll just paraphrase from that and come back in the discussion to some of Corin's questions.

I just want to touch briefly on the relationship between the legal issues and the current issues in the press over the past week, on the existence or not of weapons of mass destruction. And try to identify clearly what the relationship is, as part of the discussion.

The Prime Minister justified the use of force against Iraq essentially on the basis of two factors. Firstly that the Security Council had authorised the use of force, which is the legal point. And the second is the factual point, namely that Iraq continued to possess, as of March, weapons of mass destruction. The points are distinct but they are related.

On the legal point my view is as expressed by Burns and Christine, and in our letter to the *Guardian*, the only issue is, did the Security Council authorise the use of force or not? In my view it is clear that it did not. The government disagrees. Whether or not weapons of mass destruction are now found cannot in any way cure that illegality. Although it may provide political, or other, justifications. The failure to find weapons of mass destruction, is however, relevant to the government's claim of legality. Because it goes to the question of the reasonableness of its determination, of the Prime Minister's determination that Iraq was in material breach of various Security Council resolutions. If the government, or the Prime Minister, had no proper basis to conclude weapons of mass destruction existed, then on its own argument, its claim to legality collapses entirely.

The issue of legality turns on the interpretation of a series of resolutions. The Attorney General has published an authoritative statement explaining his advice that the authority to use force against Iraq arises from these various resolutions; 678, 687, 1441. His advice is the only plausible basis on which any claim to legality could be made. But it is extremely weak. In my view it is wrong, and it has persuaded almost no independent observers. It is not based on a good faith reading of the Security Council resolutions. It invites us to ignore their context, their object and purpose, their negotiating history, and the understanding, on the basis of which, almost all other members of the Security Council supported 1441.

But the issue of weapons of mass destruction, even though it can't cure the legality issue, is important because it goes to the reasonableness of the claims made by the Prime Minister. He wrote, as we know, on the 24th September 2002, that 'Saddam Hussein's military planning allows for some of the weapons of mass destruction to be ready within 45 minutes of an order to use them.' That was a very specific and a very precise allegation, and it was a chilling one for many people. And it assumed three things: firstly, that biological or chemical materials were available; secondly, that a delivery system existed; and thirdly, that he had information supporting the view that such weapons could be used in a very short period of time, within 45 minutes.

The Prime Minister's view that the use of force was lawful was premised on the existence of weapons of mass destruction. If there were no weapons, or if he had no reasonable basis for concluding that there were weapons, then his government's claim to legality falls away. We therefore are entitled to be informed of the full basis upon which he formed the view that such weapons could be used within 45 minutes.

I think there are five pertinent questions:

1. What was the evidence supporting the statement that military planning allows for some of the weapons of mass destruction to be ready within 45 minutes of an order to use them?
2. If the evidence included information provided by an Iraqi individual, as has been reported in the press this week, who was that person, or what was his background, on what date did he provide the information, and to what period of time was he referring?
3. Did the individual provide documentary or any other material to support his or her information?
4. Was there any other evidence to corroborate the claim upon which this individual relied?
And
5. If the claim was uncorroborated on what basis did the Prime Minister feel able to make so specific and unambiguous an assertion, as he did?

My position is, to conclude, as it was on the 6th March, that the United Kingdom acted illegally in using force. And I have to say I am reinforced in that view by the positions adopted by reasonable states, for example, Switzerland, which is reported to have determined that since no Security Council resolution had authorised the use of force, it was entitled to maintain its neutrality throughout the conflict.

Sue MacGregor:

OK. Thanks very much Philippe Sands. (*Applause*) Dr Karma Nabulsi.

Dr Karma Nabulsi:

I think I am the only non-lawyer on the panel, so I shall stick to my brief and stick to a minute and a half. I haven't summarised anything, so I don't know how to do so in a minute and a half. But besides not being a lawyer, I think I am the only Arab and Palestinian on the panel, so have been very much a victim of and a witness to war over the last generation.

It was fantastic that Corin organised this, I think it is so nice to see this group of lawyers. I met this amazing group of lawyers in 1982 during the illegal Israeli invasion of Lebanon, when I had the honour to take around something called the MacBride Commission. The MacBride Commission was made up of Sean MacBride, Khaga Asmail of the ANC, Richard Falk, and they looked into the legality of the invasion, but also much more than that.

There is something else, which is the reason that we go to war, which everyone has been discussing and I agree with what everyone else has said. But there is also another very important set of laws, which is *how* you fight that war, and what is permitted and not permitted under the Geneva Convention. And that is something, if people talk about raising our primary concerns that would be one of my primary concerns. What is happening now on the ground? Cluster bombs, that was a real issue in the Lebanon in 1982 and it is an issue there now. There are protests that could be made, Commissions of Inquiry that should be made, investigations on that basis. There is enough information already in the press, on that.

I'd like to finish on just adding to what Christine said on inclusion and democratic processes and the rights of the people in the land to that. We see this very much in the occupation of the West Bank and Gaza and the refusal of the powers at the moment to accept the legitimate representation of the Palestinian people, to the way that they want to proceed in a peace process, and to respect their rights, both under occupation and the refugees, which have been entirely excluded.

So again this is a mirror, these two conflicts are intertwined and I think that this is another concern, that we look at both of these not in isolation, both historically, but for the future as well. Thanks.

Sue MacGregor: Thank you very much. (*Applause*) At this point I would like to invite Jan Kavan, from the General Assembly, currently the President of that body, to address us at rather more length. Would you like to use the lectern?

Jan Kavan:

Ladies and gentlemen, dear friends, I am another member of the panel who is not an international lawyer, or a lawyer at all. I think it is a great honour for me to address you on this subject, but not being an international lawyer I would prefer to confine myself to the topic which is slightly more relevant to my current experience, and that is the role of the United Nations.

I also recently supported, in my own country, in the Czech republic, at my own party's congress, at the Social Democratic Party's Congress, a resolution which included our belief that the war against Iraq violated international law. And to a certain extent, surprisingly maybe, I have faced many problems indeed. Maybe some of you even read a few days ago, an article in the *Guardian* which claimed that I obstructed my government in the run up to the Iraq war. Which is not the case. Let alone that I was implicated in a murder plot. An allegation which was made also recently in the *Observer*. Not the case.

Recently the Iraqi case has seized, and rightly so, our attention, as the most outstanding issue before the United Nations. The Security Council, which as you know is the UN organ primarily responsible for maintaining peace and security failed to produce a workable, material solution to Iraq's defiance of its resolutions.

The lack of consensus demonstrated how differently member states understood and evaluated the situation in Iraq, based clearly on their diverse perspectives, historical experience and cultural background. The divisions that were generated by the Iraqi crisis, within the UN, are obvious. First and foremost, I believe that today, we need to work towards healing the rifts, particularly in the Security Council. We don't have such a rift in the General Assembly which I preside over. The first step, although small and uneasy in this direction, was the recent adoption by the Security Council of the resolution mentioned here already by Sue MacGregor, 1483, on 22nd May, which ended the UN sanctions against Iraq.

I believe it is a small step, but in the right direction. It is a compromise, a compromise heavily weighted towards one side I agree, but still enabling the United Nations to have a foot in the door, and possibly to be invited to fully come in when, and if, but I would say rather when, the problems will mount rather than be solved.

Although most visible about the question of Iraq, the rift is not only about the question of Iraq. It is also about, and I would say foremost about the functioning international system where one single nation, in this case the United States, possesses an unprecedented military and economic power. A nation today which is so powerful that it can almost afford to ignore the entire international order.

I said, deliberately, almost but not entirely. I do believe that the United States needs the legitimacy and the existence of a world order that only the United Nations can provide. At least in the eyes of the rest of the world. America's dependency on the UN's legitimacy is still relevant, and it might be the organisation's opportunity to prove itself beneficial to its largest contributor. The US's participation in the UN I think is important to America's leadership. A weakened United Nations would ultimately mean much more costly involvement for America in the world, despite the fact that perhaps not all US politicians see it that way today.

On the other hand, I have to admit, that the US's absence in UN activities would cripple the organisation, politically as well as financially.

I do believe that for all its shortcomings, real or perceived, the United Nations is still the only forum which has the grass roots experience and personnel to deal with a wide range of crises, whether in the field of humanitarian relief, or helping people to rebuild their lives and their

countries, promoting human rights and the rule of law, in conflict management and of course in post-conflict peace building.

The UN has an extensive experience in post-conflict reconstruction. In Bosnia Herzegovina, Kosovo, and of course, East Timor, and the post-conflict peace building in Sierra Leone and of course, most recently in Afghanistan. So I am convinced that the United Nations has to play a vital role, and I mean a vital role in reality, and not just in lip service, in both the economic reconstruction and the political transformation, of the post-war, post-conflict Iraq.

It seems to me that the global community needs today, more than ever, to work together intensively and courageously in order to build a more secure and rule-based world, in which human freedom and life and dignity can flourish.

We can generally acknowledge that the global community has become much more interdependent, be it for trade, investments, solving problems relating to climate change, or eradicating poverty and terrorism. I do believe that we have to work together to transfer what I would call global insecurity into global responsibility. Today the number of areas where multilateral action is seen and needed, is larger than ever.

I would not have time, despite the gracious offer of extra speaking time by the organisers, to list all the different fields, but as I have read so often, even in the UK papers, possible suspicions that the UN is irrelevant. It has been argued for a reduction of the United Nations only to a peace and security field, and that only in one conflict, in Iraq. Let me at least just list fields like globalisation, the fact that problems cross national frontiers more freely than people, and therefore concerted multilateral action is the only way we can protect ourselves from concerns affecting the environment, proliferation of illicit drugs, weapons of mass destruction, trafficking in human beings, poverty, terrorism and others.

I would argue that with all the various taxing issues, one can say that multilateralism is like an exercise in shared pain, in the international sense. So I would conclude by stressing that, if it is true, as I think the Prime Minister Blair recently said, that we are now living more in a uni-polar world than a multilateral one, if a uni-polar world would mean the right to ignore multilateral institutions, like the United Nations, or tenets of international law, then it has to be opposed by those who are opposed to the potential slide into, what I would call, a legal jungle.

Without doubt the United Nations is going through a critical phase. At the same time it has to be acknowledged that the UN is collectively far greater than the sum of its individual parts. It has, no doubt, achieved great successes. But I am also prepared to admit that it has its great share of failures. I am convinced that it is still the most appropriate instrument for ensuring that an enabling environment is created in places of conflict and suffering, in which the people can shape their own future and determine their own destiny.

I recall a kind of, what I would call, *real politic* observation, made by the late film director, Stanley Kubrick, who noted once, I quote, 'Powerful states often behave like gangsters, and small states often behave like prostitutes.' I am convinced that multilateral institutions tend to restrict the scope of the powerful states by various conventions and agreements, let alone by international law, and at the same time they help to empower small states by shared solidarity and by joint actions. Thereby helping in time to make Stanley Kubrick's observation less and less true. I hope that is the case. Thank you very much.

Applause

Sue MacGregor:

Dr Kavan, thank you very much indeed. Now may I ask Susan Marks, of Emmanuel College, Cambridge, to give us her 'take' on this.

Susan Marks:

Our subject today is primarily international law and, like others, I am concerned about violations of international law in recent and ongoing events. But I would also like to shift gear and express another kind of concern, and that is a concern about the attitude we adopt towards international law in the present debate. It seems to me it is important to avoid falling into two common, but I think problematic, positions with regard to international law.

One is the position that says that international law is just a fantasy or conceit, 'might makes right', and the other, the opposite extreme, is the position that international law could bring order and justice to the world, if only it were properly respected and enforced.

Clearly the cynical position is wrong, in that to dismiss international law is seriously to underestimate its significance in global affairs. A significance which was surely not undermined, but rather highlighted, in recent events, in so far as the legality of recourse to force in Iraq could hardly have been more central in public debates. But at the same time the idealising position that says that international law could bring order and justice to the world if only it were fully respected and enforced, is also problematic, because it fails to consider the ways in which international law may also be helping to constitute and sustain existing constellations of power and the violence and injustice they involve.

For example, even if the fourth Geneva Convention was fully respected and enforced, it wouldn't provide a basis for asserting, as some people have highlighted, the need for democratic processes in Iraq. The need for inclusion of all sections of the Iraqi population in determining their future government. The Geneva Convention in that way indirectly legitimates undemocratic processes of reconstruction.

But the reason I am worried that we on the left might be tempted into either of those two positions, is not just that they are descriptively inaccurate, in terms of the relationship between international law and global affairs, it is also that they are normatively troubling in the sense that they carry the danger of blocking efforts to strengthen international law, as a tool of justice and peace.

Richard Perle and others want us to think that international law is irrelevant, because if we think it is irrelevant, we won't do anything to address its shortcomings, and make it more effective as a check on power and as an emancipatory tool. But even if we resist his cynical line we also are not going to do anything about strengthening international law, if we idealise it and treat it as an object of devotion, instead of an object of critical assessment, like everything else.

So either way we are led into a conservative stance and international law is debilitated. So my suggestion is that rather than seeing history as a series of tests for international law, it might be more productive for us to think about how international law is enmeshed with historical processes. How it shapes them in both good ways and bad.

And so instead of simply, today, assessing the damage done to international law, we might want to take this as an opportunity to reconsider illusions we might have had about international law. And think about some of the questions that international law is not inviting us to pose. Thank you very much.

Applause

Sue MacGregor:

Now I am pleased to say we have been joined by Jonathan Steele, of the *Guardian*. Jonathan Steele, would you like to address us, please?

Jonathan Steele:

Well first of all let me apologise to the audience and to my fellow panellists for the fact that I came late, which may mean that I will repeat some of the things that were said earlier, that I didn't hear.

I think there is some good news and one shouldn't be too depressed about the present situation. The first of course is that the United Nations did show itself to be revived as a sort of internationally legitimate forum for opinion around the world. I think what the UN was doing was watched more intently in the last period, the February-March period, running up to the war with Iraq, than it had been at any time since 1962, when the Cuban Missile Crisis happened. In between times the UN had rather faded into the background. But this was like a replay of that 1962 crisis, when everyone was looking to the UN to see what it would do. And I think for a whole generation of people who weren't around in 1962, at least politically consciously, this has been a huge learning experience and very relevant.

The second point I think is, that the medium states in the world have shown themselves remarkably courageous. The so-called five middle states, who were members of the United Nations Security Council, were not bullied or bribed by the United States into selling their vote, and going along with the United States. They held out very bravely, under massive pressure and refused to go along with the United States. So I think there is a real sense that we are in a much more multi-faceted world, in which size alone isn't as important, it is not the only value. And so the United States I don't think gets its way all the time.

The third thing, of course, is the fact that there was the threat of a veto. Even countries like France under massive pressure from the United States, and Russia also, did not go along and threatened to use their veto, I think is also a massive step forward. What is the point of having a veto if you don't sometimes opt to use it. There are big questions of course about whether the veto is justified and whether in a reformed United Nations one would actually have a veto, but the countries that had it did threaten to use it, and I think that is important.

But I think that the most important thing is the point I'm coming on to now. And that is the issue of pre-emption. As you know some months before the United States decided to make an issue out of Iraq, Bush made a big speech to the West Point Military College graduating class, saying that from now on the United States policy would be one of pre-emption. They would hit people long before they were in a possible position to do anything against the United States. This is something, I think that one has to look out for very carefully over the next few years because I think the Bush administration will try and get this concept of pre-emption accepted, not only as a part of the international structure, but even possibly into the international law. And even our government, the Prime Minister here, even though he went along with Bush on this war, he did not accept the concept of pre-emption.

In fact it is precisely now that he is getting into this problem of whether or not there were weapons of mass destruction, whether or not there was a 45 minute threat facing people in this country, 'imminent threat', as Tony Blair put it, shows that he didn't actually accept the argument that threat might be some way in the future and you could still hit a country to deal with that threat. He accepts that it has to be, in the old United Nations jargon, it had to be an 'imminent threat to international peace and security', under Chapter 7 of the United Nations Charter. I think that is really important and we have to be really on the look out.

I think finally, my last point, is on the question of Iran. I mean we are all now looking to see where the United States would like to strike next and Iran seems to be at the head of the list. But I think because of this issue of pre-emption not being accepted, even by this country, never mind the rest of the world, there is very little chance, in fact, that Bush could do anything in a UN framework, or in any way according to international law, against Iran. Iran is different in other ways, because with Iraq there was a whole series of UN resolutions. There has never been a single resolution about nuclear weapons in Iran or about Iran violating any international standards or anything.

In two weeks time the International Atomic Energy Agency in Vienna will issue what will really be a quite important statement on Iran. The inspectors, led by Mohammed El Baradei the director, who figured a lot of course in the debates in the UN over Iraq, visited Iran in February this year and visited a very controversial site, a place called Natanz, and he will say whether or not it was a violation of statements that Iran had made to the IAEA in the past. But even if he finds them in violation, which is quite questionable, even if he does find them in violation that in no way would trigger any kind of UN action. There are many countries unfortunately who have violated the non-proliferation obligations which they have made to the Nuclear Non-Proliferation Treaty. And so if Iran was in violation, it would of course be bad news, but it would in no way mean there was a trigger for some kind of UN action. So I think that there is some good news around.

Sue MacGregor:

Thank you very much. Our final two speakers, beginning please with Mark Seddon, editor of *Tribune*.

Mark Seddon:

Well I could see the storm clouds gathering last year so I went to Iraq twice, once for the BBC, and once for the *Sunday Mirror*. I went with George Galloway, incidentally, so if you

read about millions being taken from the Saddam regime, it could be me tomorrow. Incidentally the *Daily Telegraph* came with us on both occasions too, but Galloway was the way to get into Iraq.

And at the time, the second time I was there, the Iraqi regime was persuaded to allow the weapons inspectors teams back in. Hans Blix and his teams went back in, Hans Blix and his team wanted more time; Hans Blix and his team were prevented from having more time.

And I am very interested, because I am an elected member of the Labour Party's National Executive Committee, I am very interested in the claims made by Claire Short today, who saw all of the Cabinet papers, all of the information supplied to all members of the Cabinet on this issue, saying that the Prime Minister had effectively decided last August that Britain would support America and go to war against Iraq.

She is telling the truth. And I'll tell you why she is telling the truth. On our National Executive Committee I have put down three resolutions: in August, at the time Claire Short was talking about, in January, and then in March, after the war had started. There was also a resolution passed at the Labour Party Conference that was quite explicit. It said that no military action should be taken unless it had the full agreement of the United Nations, and a second Security Council resolution. That too was what I put down at our meeting in August.

On all three occasions Tony Blair spoke against. He wanted this motion either remitted, or not voted on. And he and his supporters won every time. Now in the country we were sold a line about the importance of a second Security Council resolution. That, of course, we know, never came about. We were then of course told that Resolution 1441 allowed for the possibility of military force. We also know from the correspondence of Ambassador Negraponte, the American ambassador to the United Nations, about all the pressure that he put behind the scenes, (and Jan Kavan might be able to tell you more than I can), and that countries, such as Syria, were persuaded to vote for 1441, on the basis that it did not include military action against Iraq.

Claire Short has said that we were deceived. We have been lied to I believe, and we have quite clearly broken the United Nations Charter, very seriously, because where I come from in the Labour Party, the United Nations Charter forms part of our Constitution. Tony Blair has not only broken a Conference decision, he has refused to take votes on the National Executive Committee, he has taken us into a war. We know that from the dossier that was prepared in September. We know that not only was it 'sexed up', it had pieces inserted into it that came from American intelligence, that were unreliable, (the claims, that people have already spoken about, that weapons could be fired within 45 minutes). Geoff Hoon, the Defence Minister said that bases in Cyprus could be hit by Iraqi weapons of mass destruction.

Well we have been lied to and I think that this is a very serious issue indeed, obviously it is; not only could Tony Blair be bringing the Labour Party into disrepute, a crime that is apparently being levelled at other members of Parliament, but I think that there needs to be an independent inquiry. A truly independent inquiry. And when people talk about the Intelligence Committee of the House of Commons, running this inquiry, I don't think that will wash. Because Anne Taylor, the chair of the Committee, was asked the other day when the Committee would next meet, and she said, 'I can't tell you, it's a secret'. So we are not going to get very far with that.

Now it may be that the Foreign Affairs Select Committee may launch an inquiry. It may be that the Defence Affairs Committee may launch an inquiry. We need an independent inquiry, and I think, if Parliament is not able to do it, then the people have to do it. If CND intend to pursue this to the International Court, as they do, we should give it all the support that we can. (*Applause*) Maybe it will not succeed. But as all of the speakers have said, this is so crucial because it really goes to the heart of what we are all about as an international community. Whether it is about the United Nations pursuing world peace through conflict resolution, or a new world order of pre-emptive defence, or pre-emptive attack.

I think that if the Prime Minister is found by an independent inquiry to have lied to us, over such an important issue, where British troops were sent to their death, unknown numbers of Iraqis have died, then he should go, he should resign.

Applause

Sue MacGregor:

Mark Seddon, thank you. A point we might take up later, one of the points you made with Jan Kavan, but may I ask, to close this initial series of statements, Professor John Mason, to talk to us?

Professor John Mason:

I have come from deepest New Jersey. I am pleased to be with an audience that represents our co-belligerent in this war. I think that there are not only issues of international legality, there are issues of domestic politics, constitutional issues, that should concern both members of the coalition of two, of which we are both a part.

My first point would be that the whole topic here would probably be seen in a way, as a side-line issue in Washington today. There are two slogans that sort of embody the revolution in diplomatic affairs that the dominant faction in Washington is trying to realise. The first of the slogans was 'Iraq first, then France'. The second of the slogans was 'Iraq first, then Turtles Bay'. And for those of you who don't know the geography of Manhattan, Turtles Bay is where the UN general headquarters are located.

So what we see here is, especially at this moment where everyone is trying to cover up the rift and talk about reconciliation, in Evian and in St Petersburg, what we see is an attempt by the sovereignty wing, I guess, of the American conservative movement, to try and emancipate the United States and its power, from what it sees as the chains and obstacles created by the international institutions that were set up in the wake of World War II. Set up by us, but that now we seek to free ourselves from.

This is a dominant view in Washington, but I think a minority view in the country, and perhaps even a minority view in the US government. It is worth pointing out that we call American governments 'administrations', because they are not the whole government. And for anyone who pays attention, you may notice the American discourse is frequently schizophrenic on this. We have a kind of bi-polar syndrome. We're Powell saying one thing one day, and Rumsfeld saying something else the other. The person we have to pay attention to, I think, is Rumsfeld. But it does show that there is a good deal of resistance.

I read an article in the *Los Angeles Times* where one senior American diplomat was trying to explain to himself what was going on, and he says, 'Well when I wake up in the morning and try to tell myself what has happened, I just say there has been a military coup.'

Now I don't think there has been a military coup, but I do think that the revolution in diplomatic affairs reflects the fact that there has been a struggle for domestic power in the United States and a kind of ongoing political crisis, about how American democracy is going to handle the issue of war powers. And there have been a series of attempts to resolve this conflict through a set of coups de force. (I won't call them coups d'etat, I will call them coups de force). Beginning in '94, with the contract for a New America (Newt Gingrich), which in America is sometimes called "the contract", the Clinton impeachment campaign, our very peculiar election in 2000 - where the losing candidate won - and then the whole series of events that have followed in the wake of September 11th.

What these gentlemen in power in Washington have learned is that coups de force work. They worked in American politics and now I think increasingly they have learned that they work in international politics. And that is the issue that should concern us.

What is really happening in the United States? What is its relationship, not only to international law, but what is its relationship to Europe and its European allies, including you? In what sense are we part of a common community anymore? Blair says that we are part of a uni-polar community because of shared values. Well I'm not sure that's true anymore. I think that under ordinary circumstances, or let us say under circumstances of American politics over the last 25 years, we would be in the midst of another American constitutional crisis. It wouldn't be a crisis over issues of international legality, it would be a crisis about how issues of international legality were used to distort the internal decision-

making process in the United States. And I will give you three examples and then I'll be quiet.

If you go back to the first Gulf War; the way that war was voted was that we got a UN Security Council resolution first and then Daddy Bush, backed up by the UN Security Council, managed to get a War Powers Authorisation Act through the US Senate by a 49:51 majority, **because** he had the backing of the international community. Son, George, does the same thing last Fall, but asks for the War Powers Authorisation before he goes to the Security Council. The leadership of the Democratic party abdicates its constitutional responsibilities, because it feels that it cannot deprive the Bush administration of its opportunity to get the UN Security Council backing that will allow it to avoid war.

We have been confronted for the last six months with, really, a grass roots revolt at the base of the Democratic Party, not only against the Bush administration but also against the abdication of Congressional leadership. That is reflected in the City for Peace resolutions that led to 150 cities across basically both coasts in the northern tier of the United States essentially, but even places like Atlanta, Georgia, voting anti-war resolutions, just as they are now voting for any resolutions against any co-operation with the Justice Department in the application of the Patriot Act. There is a kind of grass roots rebellion. There is now a press scandal in the making, and if we had been playing by the rules of 20 years ago, or even 15 years ago, we would be well on our way to 'son of Contragate'. And given that some of the same people are involved in both affairs that comes as no surprise.

I'm not so sure that is going to happen this time. I think that the process will probably be shut down. But in the United States the issue is not so much international law, but the way in which international law has been used to diddle the constitution. Thank you.

Applause

Sue MacGregor:

Thank you very much. Now in a moment I am going to open the discussion to the floor. But I would like, if I may, to use Chairman's prerogative and ask Jan Kavan, because I heard you reacting next to me, to something that Mark Seddon said earlier, which was, that he believed, as Claire Short believes, that there was deception going on in terms of what people on the Security Council believed about Resolution 1441, which was that it would not lead to military action. Do you believe that there was deliberate deception there, and how was it carried out?

Jan Kavan:

As a diplomat I will avoid terms like 'deception'. However I have to confirm that at the time of 1441 being passed, when I talked to the ambassadors representing permanent members of the Security Council, most of them were clearly under an unambiguous impression that 1441 did not automatically authorise use of force. As Jean Louis Levite, who was then the French Ambassador to the UN, now is French Ambassador to Washington DC, made very clear, it does not include an automatic trigger. And this was in fact what most of the discussions concerning 1441 were about. Most of the member states of the Security Council wanted to ensure that there is no automatic trigger. If use of force is to be authorised you would need a new resolution by the Security Council. And this in my mind ensured a 15 to 0 vote. If it wasn't like that it definitely would not have had a 15 to 0 vote.

Sue MacGregor:

On the other hand it didn't rule it out either.

Jan Kavan:

1441 did not rule out the use of force as such, if evidence would have been provided by the instrument 1441 called for, which were UN inspectors led by Hans Blix. If evidence would have been provided that weapons of mass destruction existed in Iraq and that they posed a threat. However 1441 did not include automatic trigger. That evidence would have to be submitted to the Security Council, the Security Council would have to deliberate on it and respond to it. So you cannot authorise force, at least in my mind, by simply reinterpreting 1441, without going back to the Security Council and providing some evidence as requested in 1441.

Sue MacGregor:

But doesn't reality suggest that the UN is left thoroughly weakened by what happened subsequently?

Jan Kavan:

That's open to question. I personally don't share that. I think my view is closer to what Jonathan Steele has been saying. I think if the United Nations had simply buckled under the enormous pressures we were under and passed a second resolution and authorised force more or less automatically, or if it had ex-post facto endorsed this new interpretation of Resolution 1441, I think United Nations would have been seen as a loyal, reliable, instrument of United States foreign policy. I do not think that this is what loyalty to UN Charter is about.

I would endorse what, for example, my friend, Joska Fischer said to a Security Council meeting, that however we read the UN Charter, there is no basis in the UN Charter for regime change. What is in the UN Charter, in the preamble, is an undertaking by the United Nations to do everything possible to save succeeding generations from the scourge of war. And this is what the United Nations Security Council was trying to do. We were trying to fulfil the obligations which stem from the UN Charter. The fact that we did not succeed because we don't have, as the United Nations, an army more powerful than the United States, does not mean that the United Nations failed in what its obligations were.

But this leads me to what I said in my talk that we have to rethink how you incorporate a role of such a powerful nation as the United States, how you incorporate such a huge power, which can almost ignore international order, how you incorporate that into multilateral institutions, such as the United Nations. And this is the task of the day. But I would not say that UN became irrelevant or that United Nations has betrayed its obligations.

Questions from the floor

Question:

My name is Bruce Kent and I am the Vice President of the Campaign for Nuclear Disarmament. I have been opposing war since the Boer War I think. I really ask this as an honest question. The one thing that has not come out from the panel, except from Mark Seddon, unless I didn't hear, and that is the question of reference to the International Criminal Court, which this country has both signed and ratified. Murder is a crime against humanity, and a variety of war crimes have been committed in the course of this last affair. And I would have thought it is not for CND as a local/national organisation, but international bodies, like perhaps the Commission of Jurists or the International Peace Bureau or somebody of that sort, should be taking this country, and perhaps the Americans, through the use of Diego Garcia, and the use of Fairford base in England, perhaps they should be approaching the International Criminal Court prosecutor and saying there is a case here to be examined.

Now nobody, I think, took this up on the panel, except for Mark, and I would really like to know why this is? Thank you very much.

Sue MacGregor:

I'm sure there are many members of the panel who would like to address this, but let me ask Philippe first if you would, because the USA, to state the obvious, has not signed up to the concept, has it?

Philippe Sands:

The simple point, Bruce, is that the International Criminal Court only has jurisdiction over individuals, not over states. It only has jurisdiction over three types of act; war crimes, crimes against humanity and genocide. It does not yet have jurisdiction over the crime of aggression because that has not yet been defined. It may one day have that jurisdiction. So you have to identify an act committed by a British national, a soldier or a political person responsible for authorising the act, and you then have to establish the facts. But there is another -

Sue MacGregor:

I heard a voice from the floor suggest the Prime Minister, could both the Prime Minister and/or the President of the United States be indicted?

Philippe Sands:

In principle yes. No-one has immunity from the International Criminal Court. But, and this is probably why, in this country, we have been reading so much about national investigations, in relation to the two incidents over the past week and a half, the Court operates a principle of complementarity. And what that means is it is first and foremost for national jurisdictions to investigate and to prosecute. And it is only if the national jurisdiction has failed to do so, on decent and reasonable grounds that the International Criminal Court can take up the issue. So we are still at the stage, if you like, of national investigation. If that is carried out, if that doesn't lead anywhere and there is plausible evidence provided, then the International Criminal Court's prosecutor can investigate. He apparently already has a file on the issue. And the investigation can go right to the top. But it is first for the national level.

Sue MacGregor:

Before I move, if I may to Burns Weston, is there a lawyer here who is preparing a case?

My name is Abdul Haklani, I am a barrister practising in London and I originally come from Iraq. I was there, I spent a year were until last November. I am very familiar with the calamity that has befallen Iraqis and I have listened with interest to what you have been saying. A lot of the human elements haven't been touched upon unfortunately.

Nevertheless there is a way under domestic law to prosecute members of the British government and that is exactly under the International Criminal Court Act of 2001, which specifically states that anybody, anywhere in the world, British subject or non-British subject, could be prosecuted in England, in the United Kingdom, for breach of the International Criminal Court.

And we have actually sought the consent of the Attorney General to initiate proceedings. But naturally he has declined, for the simple reason that he is one of those indicted, (*Laughter and applause*) and for the first time in English history a man seems to think he is capable to sit in judgement in his own case. Which is denied to everybody in the country except the Attorney General. The Houses of Parliament, for whatever reason, has thought it right to enable the Attorney General to take that measure.

Nevertheless I am in the process of seeking judicial review to examine the decision of the Attorney General which I consider to be completely unlawful to sit in judgement in his own case. He seems to think it is OK to give us a flimsy legal opinion about going to war, but to deny us the right to ask him in court whether he was right or wrong. And this is the stage we are at, at the moment.

Sue MacGregor:

Thank you very much. Burns Weston, what is your take on this one?

Professor Burns Weston:

I would just pick up on what Philippe Sands was saying, by saying that everything you did say relative to the UK, does not of course apply to the United States. One of the tragedies, it is not only not a part of the International Criminal Court regime, it has withdrawn from it, and has done everything in its power systematically to sabotage it, refusing to co-operate with the ICC in any way by providing appropriate evidence, where appropriate evidence might be needed, and so on and so forth.

What you have to understand is that what is happening in the United States, of which this relationship to the ICC is a part, is a peculiarly modern American form of fascism in the making. (*Applause*)

You are witnessing a super patriotism that questions anybody's dissent from the ruling party line. You are seeing a tremendous emphasis on the military and you are seeing an extraordinary degree of cutback on human rights and civil liberties in the United States. John Mason mentioned the Patriot Act, but there is also Patriot II, so to speak. The erosion of civil liberties in the United States is going on apace - you know how we refer to them as the

administration when we like them and as regimes when we don't, so let me talk about the Bush regime - the Bush regime has been systematically tearing at the fabric of constitutionalism in the United States, and systematically tearing back at the fabric of international law, as we have suggested in relation to Iraq. But it doesn't stop at Iraq, it cuts all the way across the board.

The ICC is just one example, let's make no mistake about what happened in Iraq, not only was it illegal. It was illegal in the sense of a crime against the peace that was condemned at Nuremberg and for which we convicted Nazi war generals. I personally believe that President Bush and Prime Minister Blair fit that category right now.

Applause

Sue MacGregor:

John Mason, we will move on from this issue now, but if I could ask you to comment on that briefly now, and secondly, would you have preferred - here is a devil's advocate question - that Saddam Hussein be left in place?

John Mason:

Well I will begin with the second question first. I find myself in a peculiar patch. I supported most of the humanitarian interventions of the 1990s. So here I am, I am caught up against the argument that's made by the neo-conservatives who say that this is not about weapons, this is not about Al Qaeda, this is about removing an evil man. I was prepared, I guess, to support the kind of regime changes that were talked about during the Clinton years which basically involved various forms of support, open and hidden, through Iraqi émigré, and other, groups. I don't think, to go back to the famous Prince argument of Sir Thomas More, that you can cut a straight highway through the law in order to seize the devil, because once the law is gone there is nothing to stop the devil from turning around and grabbing you. And I think that is the kind of situation that we are in.

I also think that we have a kind of false dichotomy in the United States, and there are a lot of false ideas running around. The first one was really was that the choice was between invasion and doing nothing. It seems to me that since the Kuwait invasion quite a lot has been done to put the Iraqi regime in a locked box. The great inconvenience was that while that was very effective, we know just how effective it was in terms of the embargo, it also locked much of the Iraqi people up in the box with him. And that raised certain kinds of issues. But I don't think that a unilateral invasion by the both of us was the way of handling it.

Secondly, we were told a lot of things that were false and in the United States, people were grievously misled by grossly manipulated intelligence information. And I'll just give you three indications of that.

Americans believe we were justified in getting Saddam for three reasons: a) that the Iraqis played a central role in the attack on the World Trade Centre in New York City. 45% of Americans believe that Iraqis made up half of the commandos who took out the towers. So of course if you listen to the American popular rhetoric, and I suggest you listen to a country and western station, to something called 'have you forgotten, the day the towers fell', people are convinced that this is justified payback.

The second thing they were convinced of was that weapons of mass destruction did exist in Iraq, and that that meant nuclear weapons. And that Iraq had the capability to deliver them on American territory. The President told us that. There are 52% of Americans believe that Iraq was a nuclear power and that it had the means to deliver those to American territory.

The last thing that they believe is that there is a direct strategical line between Saddam and Al Qaeda. If you believed all those things then of course you could justify the pre-emptive invasion of Iraq as a form of counter-attack. And that is basically how most Americans experienced this. But of course they didn't want to do the counter-attack by themselves, so they had to invent a case that sounded plausible to American public opinion, that we were doing this within international law, and they had to create something that looked like, an international coalition to go in with us. But of course, as the famous line goes, 'God invented war in order to teach Americans geography'. We confuse Slovenia with Slovakia, we imagine

that Latvia and Poland are countries of about the same size, and we thought that the contribution of the royal kingdom of Congo was crucial to the coalition.

So there is a lot going on in terms of gross manipulation and, as we now know, outright deception.

Applause

Sue MacGregor:

Thank you. Next question.

Question:

The last four wars have been nuclear wars, and yet we're talking about Saddam's weapons of mass destruction –

Sue MacGregor:

Can I ask you to turn your statement into a question.

Question:

Very well. What the hell are we all going to do about stopping this? We have spread depleted uranium all over Iraq, we have spread it over Montenegro, we have spread it over Kosovo, we have spread it over Afghanistan. That stuff is there for eternity. And it is quite incredible, I don't know what we are all going to do but I think we should all be damned terrified. It isn't just a case of legality or illegality, it is a case of how do we stop criminal lunatics who are now running the major societies of this planet.

Sue MacGregor:

We can't send Hans Blix everywhere. Jonathan Steele, this is the big question that I will invite you to address.

Jonathan Steele:

Well it is a very big question, but I think one has to distinguish also between these particular weapons and war itself. Obviously cluster bombs, and depleted uranium munitions, ought to be banned, and taken away from the British armed forces and certainly other countries armed forces, that is certainly true.

How do we do it? By public pressure, by putting on a massive amount of pressure. The fact that so many young people in Iraq, children particularly but other people also, have been threatened and some maimed already, and killed, by cluster bombs that we have left lying around in Iraq, is a dramatic thing. It is happening now, it is not a theoretical problem. I have visited hospitals myself in Baghdad, where I have seen grotesque injuries caused by cluster bombs. The fact that these things are being reported by the media, are being taken up by people like yourself at these kind of meetings, is the first step.

SueMacGregor:

But this is something which Dr Nabulsi, I think you hadn't arrived yet Jonathan, addressed earlier. I might ask her to say a few words in a moment. But the other question was about the international criminals who trade in the weaponry. People from the former Soviet Union spring to mind. Can anything be done about this?

Jonathan Steele:

Well, it has to be done through containment. That is what the Nuclear Non-Proliferation Treaty is all about. You try to prevent countries that have nuclear facilities and the nuclear know-how from exporting to countries unless it is under internationally supervised safeguards of the IAEA. I mean there is a regime for doing that. I mean it would be nice perhaps if we could get rid of all nuclear power altogether and all nuclear weapons, and I would certainly be in favour of both those things. But the first step is to try and do something about the export of nuclear technology and the creation of nuclear weapons facilities and that can be done with international safeguards that already exist, provided they can be adhered to.

Sue MacGregor:

Do you believe weapons of mass destruction of a nuclear nature might be found in Iraq, still.

Jonathan Steele:

No, no. Certainly not of a nuclear nature. I think it is just possible that some battlefield chemical weapons, left over possibly from the earlier period in 1988 when we know they were used against the Kurds in the Gulf War, and in the war between Iran and Iraq, they could be found. But I don't think there is anything that could conceivably have been used across international borders. Either against Iraq's neighbours, and certainly not against this country.

Sue MacGregor:

Dr Nabulsi, would you like to add to that?

Dr Nabulsi:

The question is what can we do and how can we do it? And I agree exactly with what Jonathan said. I brought a book that I participated in and it is called '*Crimes of War. What the public should know.*' It is a handbook for journalists. It has got jurists and other people explaining the laws of war. It is a very simple thing to understand, the Geneva Conventions. It is very clear how and where Britain has breached it in its prosecution of this war. I would just recommend that everybody just read about the Geneva Conventions. The UN Charter is equally a very simple document and that is about the causes for going to war, the just causes. And this is about how wars are prosecuted. The most important thing, where people can have an effect, is not to leave it to international lawyers or experts. The laws are there for everyone. It is really simple. I learned about them.

I saw the impact of cluster bombs in the '82 invasion of Israel when I was in Beirut, and I have seen the impact of later wars. So the idea that laws are something very far away from us – well, the heartening thing about the way this war was debated in the press in that it has become accessible. I think people shouldn't feel intimidated from learning about it, learning about what is right and what is wrong. And a book like this could help.

Sue MacGregor:

Crimes of War

Dr. Nabulsi:

Yes. Roy Goodman. He was a journalist who was in Bosnia and he organised a lot of jurists and journalists and lawyers to help explain the laws of war for journalists who are in the field, and for people, like yourselves, who are concerned to have very simple instructions of what is right, what is wrong, how the laws of war work. How they inter-relate to the UN Charter and just war principles etc.

Sue MacGregor:

Thank you.

Contribution from the floor:

My name is Felicity Williams. I'm here from public interest lawyers. We have been working with CND on the inquiry that was referred to by Mark Seddon and Bruce Kent. The Inquiry is now due to be held on the 8th -9th November, at Kings College, London. We have got six eminent international lawyers appearing and they are going to consider the use of weapons, that have been referred to, the cluster bombs, whether the use of those weapons has violated international law, in the context of the Iraq war now but also, so that there is a statement on the use of those weapons for the future.

This inquiry will also end with a report, and the intention is that that report will then be presented to the prosecutor at the International Criminal Court. The prosecutor has powers under the Rome statute then to proceed with an investigation on the basis of that report. And that is the intention of the tribunal that is being held.

Sue MacGregor:

Thank you.

Question:

My name is Mary Kelly and I am from West Cork in Ireland. Inspired by the Nuremberg judgement which rules that 'citizens have a duty to violate domestic law when crimes against peace and humanity are being committed', I was moved to disarm a US warplane, which was

refuelling illegally at Shannon Airport, (*Applause*) contrary to the Irish Constitution in which our laws of neutrality are enshrined. My trial is coming up next month. I could be facing ten years of imprisonment.

I would be very grateful if there are people present, either on the panel or in the audience, who could help me about specific legal points that are central to my case, and speak to me afterwards.

I would like to add that it is due to my experience working as a volunteer nurse in Palestine last year, that made me aware of the brutality and illegality of occupation. And when I returned from Palestine to Ireland, I was determined to break our Irish complicity in the impending war on Iraq, and that drove me to my action.

I would ask what are the international legal community doing to support those of us being criminalised for resisting the breach of international law by our governments?

Applause

Sue MacGregor:

Philippe Sands, would you like to comment?

Philippe Sands:

As an English barrister I am subject to the Cab rank principle and if I am instructed on something and if I'm not conflicted out or if I am otherwise available, then I will certainly be involved. The cab rank principle certainly doesn't necessarily apply to international matters but there are nevertheless a very large number of people who are involved in this process.

I think that amongst the community of international lawyers you will surely be able to find someone who is able to identify legal principles, which can at least be mounted in defence.

I should say your case has an analogy with previous cases in the United Kingdom, and in particular in the courts in Scotland, where invoking the defence of trying to prevent a more serious international crime, has on some occasions, persuaded magistrates certainly, to find in the defendant's favour. In other cases it has gone the other way. It turns essentially on the facts and the composition of the bench. I hope that is of some help.

Sue MacGregor:

I hope that people up on the top shelf don't feel disenfranchised because we can't get a microphone up to you. But if you do have a question may I suggest there are a few spare seats down here.

Question:

Jim Addington, chair of Action for Renewal. My question relates to the way in which this can be adjudicated, either in a court or in the General Assembly. Perhaps people may not be aware, something that I heard recently, that the court at Nuremberg is still there, it has been preserved and is ready. Is ready for Tony Blair. That court is facilitated by the fact that the British government has very kindly, changed the extradition laws. It is much more easy now to extradite Tony Blair, if only the Germans, or German government would proceed. Or Belgium, they are even stronger at the moment, and I think we'd have them in the court fairly quickly.

My main question is about the General Assembly. Before the war started 57 Moslem countries got together to try to get a resolution and a debate in the General Assembly. In order to take a country to task, as we wish to do with the United States, you need a majority of the General Assembly calling for it, or seven members of the Security Council. My question is, what are the prospects of that happening?

Sue MacGregor:

Well as we have a rather important man from the General Assembly here, let me invite him to try and answer that. Could some new vote emerge from the floor of the General Assembly that would address this question?

Jan Kavan:

I think it is highly unlikely. I mean, in fact even the 57 countries you mentioned have not submitted the resolution formally. What you are referring to is a procedure leading to what's known as a 'uniting for peace' resolution, where you need 96 countries or more of the General Assembly supporting a resolution, or you need the General Assembly to be asked by seven members of the Security Council. However for the 96 countries to agree to anything you need at least one country, or a group of countries, to submit the resolution formally to the General Secretary and to myself.

There were a lot of rumours in the corridor, both before the war, and during the last days, that either the non-aligned movement, which represents 114 countries, or if they could not reach a consensus, (and they did not), then the group of Arab states, representing 22 member states, would submit such a request for a 'uniting for peace' resolution. Only at one stage, when the war was virtually over, or when what President Bush calls 'combat', was over, the Arab group, responding to the failure of the non-aligned group to agree, did send me a letter asking, not for a 'uniting for peace' resolution, but for a slightly slower procedure, using a piece of the agenda which concerns this relationship between Kuwait and Iraq, to be used to convene an extraordinary session of the General Assembly. And 24 hours later, they withdrew this request. Since then no one, not one single country or group of countries, asked for it. And knowing the atmosphere in the General Assembly, I am virtually certain that this will not happen.

We are all equal, but some are more equal than others.

Sue MacGregor:

But the UN is, I'm sure you would agree, the only show in town, in a sense. If it can't agree on either resolutions, or the resolution of problems, what is the future if some similar confrontational issue emerged? I mean, what other court of appeal is there?

Jan Kavan:

I agree with you that the UN is the only show in town, and should remain so, and should be strengthened and encouraged to play an important role. I am not saying that in the future such procedure will not be invoked. I am saying that now the pressures were such, and they were developing so fast, it did not happen. On the other hand, the 'uniting for peace' resolution does stem not only from the precedent in Korea, but from the UN Charter. And the UN Charter says very clearly that the General Assembly can deal with the matter of peace and security, only when the Security Council has reached a deadlock. And in the immediate post-Iraq war situation, the Security Council did not reach a deadlock. If there would have been a deadlock the chances that somebody would address the General Assembly were not negligible. So at this moment we have to play with what we have, and that is the resolution you yourself mentioned, and that is 1483. And the possibility that thanks to that resolution, the UN, that's not just the Security Council, will be returned back to the game.

Sue MacGregor:

That has drawn a line under it though. Hasn't 1483 drawn a line over the Iraq war and said 'now we move forward'?

Jan Kavan:

Has drawn a line over the combat. The agreement now is that any future resolution will not deal with the question this panel has been asked, was it a liberation or a violation of international law? It is understood that on this question the Security Council will simply never agree. What is the point of trying to reach a consensus when it is obvious that there is no agreement? So the idea is now, to start from where we may agree, that is how to deal with the very complex and unsolved situation in post-war Iraq, and this is what the resolution says.

The fact that we did **not** agree was it a war of liberation or was it a violation of the UN Charter and international law, may be troublesome to some, but as far as the UN is concerned, it doesn't stop the UN playing an active role. And after all there are precedents. Take the post-war Potsdam Agreement, international lawyers would confirm that, to this day the United Kingdom and Germany have a very different view of what that agreement means and yet that doesn't stop them from being allies.

So I think that we can concentrate from now on, on what to do with Iraq and similar situations in the future.

Sue MacGregor:
Philippe Sands.

Philippe Sands:

I just want to be very clear on one point. Resolution 1483 which deals with the future situation in Iraq, is completely silent on the question of the legality of the conflict.

Jan Kavan:

That is what I just said.

Philippe Sands:

It is very important in that context, and for the lady from Ireland it is very relevant, unlike the resolution that was adopted after the Kosovo use of force, which was also unsupported by a prior Security Council resolution, in that case the resolution adopted by the Security Council after the conflict was brought to an end, included a clause which amounted in effect to a post facto legalisation of the use of force. There is no such clause in this resolution, largely at the instance of France, Germany and Russia.

So it is completely neutral and the resolution cannot be seen in any way as justifying, as a matter of law, what happened.

Christine Chinkin:

I was just going to mention some of the other courts, because you were talking about other judicial processes. We have to remember there are a whole range of them. We've talked about the ICC and the fact that the ICC has complimentary jurisdiction and puts the first stage, at least, into the national jurisdiction. There is then the International Court of Justice, which is the court in the Hague, whereby one state can bring a case against another state for a general violation of international law. And so, for example, we have a case going on currently there, brought by Yugoslavia, against the individual countries of the Nato countries; not the United States at this point because of the jurisdictional issue. But that it will at least lead, in that context, assuming it goes through, to a statement about the legality of the use of force, from an authoritative source.

In the case of Iraq the issue would have to be finding a state that has got standing and against whom there is jurisdiction, vis a vis the United Kingdom, almost certainly impossible vis a vis the United States.

Then of course we have had a lot of the publicity around other national courts. So therefore the Belgian courts exercising a notion of universal jurisdiction have been commencing proceedings against such people as Ariel Sharon. There the problem is of immunity in national courts of another country, of a leader of a foreign state.

But we had the Pinochet case in this country, in the House of Lords, where immunity was not held to apply to a former head of state.

Then of course, there is the possibility of ad hoc international tribunals, such as we have had in Yugoslavia and in Rwanda. Both of those were set up by Security Council resolution. There are obvious problems about a Security Council resolution in this situation given the US and UK veto, if we are talking about jurisdiction being established against them. But again there has been a precedent of states, by treaty, setting up an international tribunal. Nuremberg was one such example. Now of course that was the victors of the Second World War doing it, but in the name of the international community and then it was endorsed by the General Assembly subsequently. But the notion of a group of states establishing a tribunal by treaty was at least established there.

Finally, of course, there are the peoples' tribunals, that you were talking about earlier. There might be European Court of Human Rights issues, with respect again to the United Kingdom. With respect to its compliance with the European Convention vis a vis Iraq, and other areas that the Attorney General has said apparently have to be explored.

There are problems with each of these approaches and it is a question of working your way through this minefield.

Sue MacGregor:

Thank you Christine

Question:

My name is Narnai, from Brixton Stop the War group. We have been told by a number of lawyers on the panel about prosecuting individuals for war crimes and whether or not it can be done and so on. I want to know what it would take for us to make the US and UK governments make war reparations to Iraq? That is the first thing that I want to know. Secondly, I want to know from the gentleman from the UN; the UN is stony broke, the UN doesn't have any money. The UN may have a lot of experience in post-crisis, post-conflict and the rest of it, I know because I have worked with the UN in such post-conflict scenarios also. I have friends who have worked in Afghanistan, the so-called aid money that is coming....considering that the US only coughed up all its contributions after September 2001, what hope do we have for the UN, how is it going to be able to raise money to be a bit more effective?

Sue MacGregor:

Thank you. The question of reparations, particularly from the UK and the US, who would like to have a view on this?

Questioner:

Not a lawyer.

John Mason:

Not a lawyer! I'll make just one very quick comment. Given the current administration and the current dominant faction, and given the fact that next year the United States will spend more on defence spending than all the other nations on earth combined, what we are talking about here is probably relevant if we talk about America's European allies, it may even be relevant to the UK. But the world community is very much in the position of the US Supreme Court in the 1830s when the Supreme Court passed a law, made a judgement that the Indian Removal Act, that removed every Indian in the south, east of the Mississippi, to the desert, west of the Mississippi, was illegal. The view of the then President was, 'Mr Marshall has made his decision, now let him enforce it.' And the world community is very much in that situation as well. So you have to pick and chose carefully.

One comment on the International Court; it is not only that we didn't sign it, or that we unsigned it, it is that we have passed a resolution of the US Congress that says: 'should any US military personnel be arrested, the American government is authorised to use military force to liberate them from unjust imprisonment in the Hague.' Got it?

Sue MacGregor:

Susan Marks, I think earlier you said international law, when we were talking about various other fora in which prosecutions might be conducted, has its imperfections. And it doesn't necessarily mean that it can guarantee, for instance, that democracy follows, when somebody goes in to liberate a country. Would you like to enlarge on those thoughts?

Susan Marks:

Indeed. I think the reparations question demonstrates the inadequacy of international law to deal with the situations we face today. Reparations were traditionally part of peace treaties which were signed at the close of hostilities in a more traditional war scenario. Now that we are having 'interventions' considered in part because of humanitarian considerations, and much looser situations, in which there is no declared war, and there are no clear belligerent parties in the same way, likewise we don't have peace terms which include reparations. So that is left to, I suppose, the United Nations. But the United Nations is seeing its role as one of reconstruction, again in a looser sense, not in a way that would specifically compensate for destruction in Iraq.

So I think it is another example of something which is missing from international law, something which is put into the background by the norms and principles that we have. Just as ideas about the need for democracy to inform reconstruction are put into the background.

Sue MacGregor:

But there's nothing that can be done to ensure that democracy arrives in countries that never had it in the first place?

Susan Marks:

Indeed, and yet, as Jonathan has put it in the *Guardian* recently, 'democratic governance is the key issue' at the moment with regard to Iraq. So international law is putting in the background what is ultimately the key issue. Indeed it is the key issue here and I thought Miss Kelly's question highlighted the way in which all of this becomes a justification for repression of dissent at home. We have seen that in a number of developments that have been mentioned by members of the panel. So you are right it is the key issue at home as well.

Jan Kavan:

I will be brief in answer to the question from the lady from Brixton. You have to understand the United Nations is not some superpower in making or in nascent form. The United Nations is only an institution which reflects the will, the political will of the member states. So if the political will is not there it is not the fault of the institution as such, that has its powers very limited. And that applies both to what has been just said, the reparations; the United Nations has very few funds to run the developmental programmes which everybody has agreed upon and promised to finance, and not everybody is fulfilling those promises, let alone to find money for reparations. That would have to be submitted to the UN by member states. And I hope member states who do have access to huge resources.

At the moment, as you know, the Security Council deals with the question that the reconstruction is going to be paid for, generously, by the Iraqis, from the sale of the Iraqi oil, administered by, as was euphemistically said here, the authority. And to the question of where the UN would find funds for its own noble and important programme, that is a very important question. The greatest financial contributor is still at this moment the United States, which pays 22% of the budget. The second largest contributor is Japan, which pays 19.6% of the budget. And the Japanese argument of course is that, unlike the United States, they have no powers and no privileges which stem from that contribution. Despite the fact that they pay more than all the other members of the Security Council put together, with the exception of the United States.

Sue MacGregor:

They have been very generous in the reparations bill for Afghanistan, I understand?

Jan Kavan:

Yes and they also paid a lot of the reconstruction costs after the 1991 Persian Gulf War, and they are going to pay now. But of course, even their patience is not inexhaustible, because they were hoping, and still hope, that they will become members of the Security Council. Even for the approved humanitarian programme, for which we need about 150 million dollars, at the moment we are pledged about 42, and have received even less. So it is again up to the member states to fulfil the promises and obligations they made. The United Nations is nothing else but the sum of its member states, and if you could encourage those who have access to national governments, to put pressure on national governments, to do what they promised to do, that would be better for the UN.

Burns Weston:

I just want to amend in a way what Ambassador Kavan has just said about the limitations of the UN. This can be extended to the international legal order in general. I think what we have to understand here is that the international legal order is essentially a voluntarist legal order. And it is only going to succeed or fail on the basis of the strength or willingness of the member states of that order, and other actors within that order, to exert their particular view points and to do so with vigour.

Christine ended her very fine summary of the various international tribunal and third party decision making mechanisms that are available in the international legal order, pointing out that there were minefields, to use her words, with all of them. But ending up with reference to peoples' tribunals. I guess what I want to say here is that I feel the same frustration that many of you feel about the difficulty of bringing to justice people who have committed, what I consider to be, fairly horrendous crimes.

Ultimately though, it seems to me, that the answer to where we find the solution is in us. It is civil society that has got to act. It is civil society that includes you, me and all our friends beyond and around the world, connected by whatever means, certainly through the internet, demanding that there be independent commissions of inquiry, demanding that there be peoples' tribunals established. Engaging, if necessary, like our friend from Ireland, in acts of non-violent protest. But it really does require for all of us to recognise that it is our own individual responsibility if we are to bring about any significant change. *Applause*

Sue MacGregor:

Just before moving on, you did, I think, refer to the internet as the second great superpower now, is that correct?

Burns Weston:

Yes. Jonathan Schell wrote a piece in the *Nation* magazine in the United States, called *The Other Superpower*, and there is also a cybernetic engineer, his name is John Moore I believe, who has written a very important piece called *The Second Superpower*. That is, when you connect everybody together, through what he calls 'neurological activity' through the internet, where we all somehow or other link up, express our voices in solidarity, like the Move On organisation. I don't know how much that reached out here to the UK, but certainly it had an impact in the United States. It is this kind of thing, which is now frequently referred to as the second superpower. And that's us.

Mark Seddon:

I just wanted to follow on from Burns because there has been quite a lot of discussion about international law, quite rightly, but Burns moved the conversation on, quite smartly, to what we all can do. And it does come back to how we can ensure that our political leaders don't wriggle off the hook, because by next Thursday Gordon Brown's five economic tests for entering the Euro will have become the big issue, and weapons of mass destruction will be all but forgotten.

I just feel that we cannot allow the politicians to privatise this issue, incidentally and allow them to shuffle it off to a Royal Commission, or the Intelligence Committee in the House of Commons, or any other of the select committees. And we have to really be pushing for a committee of the great and the good. I mean that quite sincerely, there are plenty of great and good people, and you don't have to be a peer of the realm to be great and good. And that's what we must do and we can do that in all our multifarious ways. I think we can begin to do that by getting letters and articles into the national newspapers, into the media and put pressure on our members of parliament.

There was incidentally, during the Thatcher years, a real critique of the way we were launched into the war over the Falklands. There was the Franks Committee of Inquiry, which Michael Foot demanded be set up. Whatever conclusions it came up with, whether people were happy or not, at least something was happening. At the moment all I can see is a privatised, internalised inquiry, and I don't think that is going to be good enough.

Sue MacGregor:

Well, I think Robin Cook suggested there should be something a bit more than that, maybe a judicial inquiry.

Question:

Frank Gelly, I am an Anglican priest. One word used earlier on by Dr Marks, the word devotional, or devotion, referring to national law, struck my attention, maybe not unnaturally. I agree it is possible to place international law maybe too high on the altar, so to speak, but I also believe international law is something which even the most abominable governments, like the UK and the US governments, swear up and down that they actually respect, so there must be something in it.

But moving on to the idea of a peoples' court which has been adumbrated, in my mind I hark back to the Russell tribunal of the 1970s. I think a peoples' court should include religious figures who represent the great religious traditions of Islam certainly, and of Christianity. I think we should try to think a little bit more outside the box and think what religion can also do to help in the fight and battle for justice and human rights.

Question:

I am from Legal Action Against War and the Ministry of Peace. I wanted to ask the panel if they were feeling as lawyers, and mostly people in high positions, somewhat guilty at not having taken any action themselves? We tried to take an injunction out to stop the war before it happened, and of course it got the usual treatment on technical grounds. And we are now trying to take a prosecution of the executive. I would like other people to come forward if they want to help with this.

Sue MacGregor:

Seeing as you have raised this important question now let me just ask each member of the panel individually, 15 seconds, would you be willing to take action yourselves, starting with John.

Jonathan Steele:

Well certainly I'd be willing to write about it. That's about the only power I have.

Susan Marks:

Well, some of us did write to the newspapers and try and rally attention behind the idea that the use of force was illegal. In terms of what one does now to prosecute or bring to justice those who took this action, I think there are a variety of possibilities. I certainly would be willing to be part of a panel that would look at them. But I don't think criminalisation is the only avenue here, I think there are other avenues to consider. It is a complex question.

Dr Nabulsi:

There were a lot of us who had a lot of concern about what was happening in the Occupied Territories and that Sharon might use this as an opportunity to push out a lot of us from certain areas in the West Bank and Gaza, or from inside Israel proper. So I belong to a lot of associations and organisations, Palestinian ones, and that was our primary concern at that time; trying to raise awareness in this country about that and to mobilize, to make sure that lots of people knew that that was a danger. I think we worked very effectively on that issue because it has been a concern for over a year now.

Jan Kavan:

I think I have been trying to use whatever possibilities are given to me within the scope of both my role as President of the General Assembly of the United Nations, and wearing a different hat as member of parliament of the Czech Republic. I was I think doing my best to use that scope both, unsuccessfully to prevent a war, and now to ensure that the political transformation will lead to a genuinely democratic, free and sovereign Iraq, despite the fact that I am now facing as a result of my actions, many highly unpleasant consequences.

Christine Chinkin:

As Susan just said, a number of international lawyers did make efforts to get the whole issue into the legal realm before the war. I think it is not so much a feeling of guilt, as a feeling of real frustration. You have been hearing from a number of us as to what the limits are of international law. Yet while, through our educational functions and through our students, we try to raise all of these issues, there is this rock bottom - what more can we do? - with the tools of international law, which are the tools we are most trained to use.

Burns Weston:

I guess I can only say that I feel a degree of not only frustration, but a degree of distress because many of my international law academic colleagues in the United States, I am not speaking about the UK, have not taken the same kind of action as Philippe and Christine and others in the UK have done, in trying to raise their voices.

All I can say is that I personally have been spending the last six months doing almost nothing but speaking out, as I am today, writing opinion editorials, lobbying my elected representatives, and doing everything possible to try to bring about some sanity in Washington. Obviously I have not succeeded. But that doesn't mean we should give up.

One specific issue that I would call to your attention and ask for your support, I and some colleagues have established in the last several months, a new electronic newspaper, known as world editorial and international law. You can find it on the internet at

www.worldeditorial.net. we are trying by that device to bring the issues of legality to bear in a manner that is relatively easy to access on the part of the non-legal community.

Philippe Sands:

Actually I don't feel so frustrated as everyone else, I think I have been surprised. Some of us have done our little bit in the areas that we have some knowledge and expertise on and I have been amazed that the issue won't go away. The drip, drip, drip of the legal issues continues to undermine the government, continues to dog the Prime Minister, who is committed to the rule of law. I think that it has actually been a rather pleasant surprise at how interested the British public, as opposed to the US public, has been on the rule of law and the other issues.

Burns Weston:

Not in America.

Philippe Sands:

I think, here at least, in this country, we shall continue to do our bit.

John Mason:

Very quickly on this, we are up against a classic liberal philosophical problem: how do you police the police? The US has constituted itself as a sort of global sheriff and it has turned out to be a rogue cop. So we have a problem, how do we recall them? I would support any of these initiatives. I happen to think that much has been done at a national level is valuable. Not because it will be politically effective but because it is effective propaganda.

At this point we have 18 months before the next election. George Bush is desperate to get elected, for the first time, by an electoral majority. There are many of us, in the United States, who are desperate to stop him. In the next week there is a very large meeting that is going on in Washington, of many of the major NGOs, a lot of major figures, around the theme of 'Take Back the Country'. That is what it is called. How do we take back the United States? Anything you can do overseas to weaken the legitimacy of these people, is helpful. Anything you can do to feed the current crisis in the UK over the question of public deceit, will help feed a media frenzy in the United States. Which might allow us to begin an impeachment process. Ramsay Clark has made an initiative calling for an impeachment process. And most of the time I don't take anything that Ramsay Clark does very seriously, but this time the timing was right.

So anything that helps us hold these guys politically accountable, in our next election, or yours, I think is helpful. But we have to understand what it is about. It is not using international courts, it is using our political movements to hold these men accountable for misuse of the public trust.

Mark Seddon:

Well, like Philippe, I am rather optimistic, I don't share some of the pessimism elsewhere. I think that there is a new political awareness which is beginning to take place amongst a new generation of people that everybody thought was permanently plugged into Big Brother - not the Orwell treatise but the television programme. 2 million people took to the streets in this country. European opinion was pretty unanimous and there were a number of European countries in which the governments were completely out of step with their own populations. There was European unity. And I think there was a very powerful argument in liberal America that was largely ignored.

So the popular movement is there. Every generation has to fight a battle for democracy and accountability. And we have in our midst Jan Kavan who knows a great deal about that because, of course, he was involved in the great battle in Czechoslovakia, for just that. And it may well be that before us we can see much more clearly, than other generations have in a long time, very very powerful forces, that would take away freedoms, that would use military rather than peaceful means. And it is down to us to build a new civic movement for democracy and accountability. And I think that is going to come about. I am very confident. And one thing that we certainly have done, when we feel very down about what has happened in Iraq, and what may be happening elsewhere in the Middle East, we have made it very difficult for any future British government to do as this one has just done.

And if Don Rumsfeld, in a moment of lunacy, was to decide to move against any other country, I think it would be virtually impossible for another British government to follow him. So, to that extent, we have succeeded.

Question:

My name is Radia Bouch, I am a solicitor. My experience of the law is that a lot of substantive issues get lost in procedure and the system. And I think the same thing applies in these matters of international justice. Looking at the democratic system in this country I am now coming to the very definite opinion that there is no more democracy, there are just relative freedoms. And I think that probably applies everywhere.

I think that in order to shake the governments, because the world power is with the establishment and with the individuals who are controlling the international community, you need to really shake the people. We need to enlighten the public. The public is lost with silly issues of film stars and football players, and Big Brother. So how do we enlighten the public, you need to get public opinion on your side?

Sue MacGregor:

I think that is a question that has been more or less addressed.

Question:

This is the question that I have been desperate to ask why is it not being talked about, even on this panel, the motivation of this war, which as we strongly suspect, is oil. Do two countries go to war against another to appropriate its natural resources? It is definitely a case against the legality of war but nobody seems to be making a big deal of it, even in this panel. We have to question the motivation of this war. So I really want to know what is happening, and why?

(Voice from the floor regarding the war being about water.)

Sue MacGregor:

OK, we've heard it's about oil, we've heard it's about water. Jonathon Steele you are an experienced journalist on this matter as on others, would you like to answer this lady?

Jonathan Steele:

Well it was definitely about oil and I think that was clear to a great many people, so the motivation of the war didn't really come into it. The question was the legality and whether there would be the political pressure to stop it happening. That is what we were fighting about. I think we all understood it was largely about oil.

In my own defence I wrote about this several times in *The Guardian*, before the war, saying it was about oil. And when I was in the Middle East waiting to go into Iraq when it was safe to do so, and was talking largely to Arabs in Syria, and the Iraqi exiles in Jordan, and the Palestinians, they made it absolutely clear they thought it was about oil. And I had no doubt that that was right.

Sue MacGregor:

Let me just ask Jonathan - you were very worried about what George Bush had said, at West Point I think it was, about pre-emptive strikes now being something that the United States would follow. Do you see, very briefly, that this is just the beginning, as far as the United States is concerned, or will they stop here?

Jonathan Steele:

No, I think they definitely want to go on. I think that they want to dismantle and put aside the UN. They were trapped, as it were, into going to the UN by Tony Blair, they were trying to be kind to their ally. They saw what happened. I don't think they will go the UN next time. And so it is really important, as many other speakers have said, that we develop a civic public movement, in the media and wherever we have any influence to prevent this. And so that, if the US does go it alone, this time it is **alone**, and it doesn't have Britain with it, it doesn't have Spain with it, it doesn't have Italy with it. These were the countries that were too frightened or too blind to oppose.

Burns Weston:

I would like to respond to the young lady who raised the question. Part of the reason why you may not have heard the answer you were looking for is because we were given one and half minutes.

More seriously though, I don't really think that this war was about oil, in the ordinary sense that people talk about it, in the sense that we were trying to harness a major oil reserve to fill our SUVs. I don't think that is what is all about. The United States is not dependent on oil from Iraq. I don't think this war was about weapons of mass destruction, I don't think it was about terrorism. I don't think it was about oil in that sense. I do believe, and one can go back all the way to the end of the Persian Gulf War, and the first Bush administration, to document this, through what has come to be known now, as the Strategic Defence Initiative, now known as the Strategic Defence Strategy of the United States.

I do think this is about hegemonic control of the world, over its oil, over its resources, in a manner that can dictate terms, five or ten years down the road, to the European Union and to China, which the United States perceives to be, ultimately, its major competitors.

Applause

Sue MacGregor:

I used the phrase right at the beginning, benevolent hegemony. That is not how you would characterise it?

Burns Weston:

I would not call it benevolent.

John Mason:

If we want to sum it up I think it is a project for a new American century, that being the 21st. The thing about the Persian Gulf is, it is not our oil, as Professor Weston just said. It is your oil. And the war, and American policy, really since Carter, in Iraq, has been about controlling the oil resource. Not because we need it so much but because you need it so badly. You and the Japanese.

I think if you look at the National Security document, the crucial feature that people always talk about it the pre-emptive war aspect, which is really the right to preventive wars. What is missing is that Wolfowitz really is saying that we are creating a new international hierarchy with a dominant imperial state, and other states that are good or bad clients, or rebels. That has been clarified to a great extent out of the Iraq war. You are a good client, France is not. There are a few other rebel states out there. We are talking about not only a new American century, but a new international order. Or at least the minority that is currently in power in Washington is talking that way. And the question is whether this is some kind of psychotic parenthesis, and we will come back to our right minds. Or whether this represents some permanent shift in American policy and domestic politics. The jury is out.

Sue MacGregor:

The jury is out and our time is more or less up. May I, before inviting Corin to conclude matters, thank very much all of you for coming, excellent questions, and may I particularly thank our distinguished panel, on my left and my right, for their wise words. Ladies and gentlemen, thank you very much.

Corin Redgrave:

I would like to add my words of thanks to yours, Sue, and to thank you yourself for having chaired this so well. And for everyone who has come here today. I am truly sorry that the enemy being time, always wins in the end. That so many of your questions or contributions weren't able to be aired or answered here.

But let me just say this, on the question of optimism and pessimism. I think this afternoon has said some important things about that. There is a very fine Palestinian playwright called Emil Habibi and, one of his most famous plays is called the Pessoptimist. In other words there is a spectrum covered by both, and I am in the habit of moving sometimes this way, sometimes the other.

But I am optimistic in this respect, that through civil society, we shall bring these matters to public attention, and ultimately, sooner or later, to public action.

We are here under the rubric of Peace and Progress. Peace and Progress is at this moment no more than an idea and a web site. But it is also a germ of a strand in civil society which, coming together with other strands, will bring about action and change on the most fundamental issues. And I take this question that we have been discussing here, to be one of the most fundamental. I think it is not, as they say, coincidental, that this weekend world leaders, or their representatives, are meeting at Evian. If you cast your mind back to the year that I was born, 1939, there was a conference in Evian, at which European powers and America discussed to what extent they were prepared to admit into their countries refugees, Jewish refugees, from persecution by the Third Reich.

Evian ended with an undertaking by the United States and by European powers to admit a certain quota of Jewish refugees. Then systematically those powers went about, and you can read the documents now, they are very public, subverting those quotas, ensuring that they never be fulfilled. And by those means, Hitler himself was on record as coming to the conclusion that the international community, in the shape of the Evian conference, was not concerned about what the Third Reich was doing, and had in mind to do.

And really most of the international law over the past 60 years is based upon the realisation of that awful surrender of responsibility. Including of course the steps that ultimately became successful, in recognising the crime of genocide. Something that had taken decades, and wasn't even admitted or recognised in our vocabulary, before the war.

It does seem to me to be an absolutely crucial issue now that international law and the rule of law, has been undermined so arrogantly and in the way that our two speakers from American Universities, Professor Burns Weston and Professor John Weston, have so uninhibitedly said, that is the new project, or part of the project, for the American century. To not only undermine, but to bring about a regime where international law is based upon the practice and requirements of the most powerful player, the United States. That seems to be an issue everyone of us is concerned with.

And it is related to two other issues, which I want to, as it were, announce: This is conceived of as being the first of three Symposia, the second will be held in London later this year, and it will discuss how the war and the occupation of Iraq has endangered human rights, civil liberties, democratic rights, in this country, in America, in Europe, internationally and in general. And early in the new year, a subject about which Bruce Kent spoke very eloquently, namely, what are the prospects now for disarmament, as a result of the damage that has been done by this war, and how can we, as members of the international community, accept our responsibilities in that sphere.

Philippe Sands spoke very importantly about the question of weapons of mass destruction. That it wasn't the issue which determined whether the war was or was not legal, but the absence of weapons of mass destruction (I'm rather badly paraphrasing what he said) the absence of provable weapons of mass destruction, blows apart the case that was made for the war's legality, by the governments that prosecuted the war.

It is interesting to see, as of yesterday, that the United States is urgently sending 1,400 more, I think they use the term 'inspectors'. I don't know what training these people have that qualifies them to be called inspectors. Under the authority of Mr Charles Duelfer, whose authority, seems to me to be highly suspect. Now that seems to me to show, if nothing else, how dangerous the issue of weapons of mass destruction has become; how dangerous having misled the people of this country, how dangerous that issue has become for this government. I would have thought it extraordinarily dangerous.

We know how close this government was, in fact, to being forced to resign on March 20th. We now know that, and we should take some heart from that, and so realise that the issue of our responsibilities is paramount. And on that I think we can be very hopeful, that so many of you have shared these concerns. I know that you are not going to rest content with merely being, an audience for a discussion, and that you are going to be active in that. I thank you all very much and I hope we see each other again in the near future.

Applause