

Thursday, January 23, 2003

The Right Honourable Jean Chrétien,
Prime Minister of Canada,
Parliament Buildings,
Ottawa Ontario K1A 0A6

Dear Mr. Chrétien:

We were shocked to hear Defence Minister John McCallum say that Canada was planning to participate in an American war on Iraq even without Security Council authorization.

We were relieved to hear you repudiate this position.

However, the fact that Mr. McCallum would make such a statement and a certain ambiguity in your own statement, as well as your own failure to condemn the Bush administration for openly planning such an action, suggests to us that Canada may indeed be contemplating participation in an American war even without Security Council authorization.

Thus we feel bound to remind you that without a fresh, explicit and legally valid Security Council Resolution, such a war would constitute an illegal, aggressive war, an act condemned by the Nuremburg Tribunal as “the supreme international crime.”

Furthermore, Canada’s participation in such a war would constitute *murder* under the Canadian *Criminal Code*, as well as *a crime against humanity* under both Canada's *Crimes Against Humanity and War Crimes Act* and the *Rome Statute of the International Criminal Court*, to which Canada is a party.

It is certain that many Iraqi civilians would be killed in such a war. The minimum casualties estimated by Physicians for the Prevention of Nuclear War are 48,000 dead, mostly civilians.

You, sir, are a lawyer and you know that intentionally killing anyone without lawful justification is murder.

You also know that liability for domestic crimes and for war crimes is *personal*, and that the official position of the criminal, whether Head of State, Head of Government like yourself, or Minister like Mr. McCallum, confers no immunity whatsoever from punishment.

We must therefore respectfully put you and your government on notice that, should Canada participate in an American war against Iraq without a fresh, explicit and valid Security Council authorization, we will pursue prosecution of all responsible government officials on all appropriate charges, including murder and crimes against humanity, in both the Canadian and the international criminal courts.

Finally, we must respectfully point out that, even with Security Council authorization, Canada's participation in America's planned war on Iraq would be likely, given past experience with American wars, to involve massive violations of the laws and customs of war, entailing further personal criminal liability under the legislation cited above. Moreover, it would be deeply immoral. Since America has been unable to present any evidence justifying a war against Iraq, with its inevitable devastating consequences, there will be a strong presumption that any such authorization was due solely to American pressure. However, that would only be on the government's conscience; the crimes committed would be on its head.

We would finally respectfully draw your attention to the enclosed letters to the British Prime Minister and Defence Minister from Public Interest Lawyers of the United Kingdom, in which substantially the same points and commitments are made.

Yours truly,

Michael Mandel
Professor of Law

Gail Davidson
Barrister and Solicitor
Co-chairs, Lawyers Against the War*

*Lawyers Against the War is an international group of jurists based in Canada with members in ten countries. We are affiliated internationally with Lawyers Against the War (United Kingdom), Lawyers for Peace (Holland), and the Transnational Foundation for Peace and Future Research (Sweden).

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