

RESOLUTION CALLING FOR IMPEACHMENT OF GEORGE W. BUSH, HOLDER OF THE TITLE OF UNITED STATES PRESIDENT, DICK CHENEY, HOLDER OF THE TITLE OF VICE PRESIDENT OF THE UNITED STATES, AND CABINET OFFICIALS RESPONSIBLE FOR SUPPRESSION OF CONSTITUTIONAL RIGHTS AND VIOLATION OF INTERNATIONAL LAW, WHICH IS PART OF THE SUPREME LAW OF THE LAND.

NLG Convention, Minneapolis, October 2003  
Submitted by the San Francisco Bay Area Chapter

WHEREAS:

1. The United States Constitution Art. II, Sec. I, Cl. 8 requires the President take the following oath or affirmation, "I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect, and defend the Constitution of the United States."
2. Article V requires members of Congress and "all executive and judicial Officers...of the United States...shall be bound by oath or affirmation to support this Constitution...."
3. Article VI, Paragraph 2 provides, "This Constitution, and the Laws of the United States, which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the Supreme Law of the Land..." The United Nations Charter, other charters, and international instruments or treaties made under U.S. authority are part of "the Supreme Law of the Land."
4. Congress and the public are entitled to a thorough independent investigation to determine whether George W. Bush and the civil officers of his administration have led the United States into aggressive war against the nation of Afghanistan and against the nation of Iraq in violation of the United Nations Charter Art. 24, the Nuremberg Charter, and other international instruments and treaties, without a declaration of war as required by the Constitution of the United States.
5. To accomplish this preemptive war, the Bush administration has been accused of committing numerous unlawful acts including making false statements to Congress, the United Nations, and the US public, accusing Afghanistan and then Iraq of relations with Osama Bin Ladin and support for the 9/11 attack; accusing Iraq of possessing weapons of mass destruction; of constituting an imminent threat to the safety of the United States, its peoples, and property, and its interests elsewhere in the world, which alleged threat they knew to be false or for which they knew they had no reliable evidence; acting to deprive U. S. citizens and legal residents of their constitutional rights; authorizing direct attacks in Iraq on civilians,<sup>1</sup> civilian facilities, and locations where civilian casualties were unavoidable,<sup>2</sup> including the use of cluster bombs, designed to spread small explosive

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<sup>1</sup> See e.g. Robert Fisk. U.S. Troops Turn Botched Saddam Raid into Massacre. *Z Magazine*.  
<http://www.zmag.org/content/showarticle.cfm?SectionID=15&ItemID=3966>

<sup>2</sup> Michel Guerin. Embedded Photographer: I Saw Marines Kill Civilians *Counterpunch Magazine* website.  
<http://www.counterpunch.org/guerrin04162003.html>

devices at substantial distances from the putative target.<sup>3</sup> The administration's acts have caused and continue to cause numerous US, British, and Iraqi casualties.<sup>4</sup>

6. The following documentation support the foregoing charges.
  - A. The Bush administration classified or deleted sections of the Congressional Report on 9/11 intelligence, classifying 27 pages describing the Saudi Arabian government's provision of money and aid to the September 11 hijackers, and hundreds of millions of dollars to Al Qaeda and other terrorist groups. AP news service, printed in *SF Chronicle* July 28, 2003. *See also SF Chron. News Service* Aug 2, 2003, page A1. *See also* "One lengthy section, on the cooperation of foreign governments like Saudi Arabia, was deleted at the insistence of the administration." July 24, 2003 David Johnston. 9/11 Congressional Report Faults F.B.I.-C.I.A. Lapses *New York Times*. <<http://www.nytimes.com/2003/07/24/national/24TERR.html?th>>
  - B. President Bush and senior members of his administration have made numerous claims that the then government of Afghanistan supported Osama Bin Ladin (despite the fact that none of the 9/11 hijackers were Afghan and were primarily Saudi Arabian), and that Saddam Hussein had readily deployable weapons of mass destruction (WMD). These claims, among others, were used to justify an attack on the nation of Iraq. To date, no WMD have been found, no credible evidence has been presented that they now exist, no evidence that they were ready to use when the United States attacked Iraq, no evidence that they were in fact used, has been presented. Thus, the Bush Administration has presented no substantiated evidence concerning WMD. Iraq Nuke Claim was Echoed. *CBS News*, August 6, 2003 <<http://www.cbsnews.com/stories/2003/06/25/iraq/main560449.shtml>>
  - C. Relative to the foregoing, the following claims were made by President Bush, or senior members of the Bush administration; and probable illegal actions taken by senior members of the Bush administration to buttress these claims.
    - i. President Bush falsely claimed in the State of the Union address in January 2003 that Iraq had tried to purchase yellowcake uranium ore from Niger, reported in the Washington Post July 13th and 15th, 2003. This claim had been removed from a speech delivered by President Bush on October 7, 2002. Warnings Unheeded: CIA memos to White House declared Niger story suspect *Newsday*, July 23, 2003 <[http://www.newsday.com/news/nationworld/nation/ny-usmemo233384156jul23\\_0\\_6940029.story?coll=ny-nationalnews-headlines](http://www.newsday.com/news/nationworld/nation/ny-usmemo233384156jul23_0_6940029.story?coll=ny-nationalnews-headlines)>

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<sup>3</sup> U.S. Using Cluster Munitions in Iraq. *Human Rights Watch* website. April 1, 2003.

<http://www.hrw.org/press/2003/04/us040103.htm>

Peter Ford. Surveys Pointing to High Civilian Death Toll in Iraq. *Christian Science Monitor* website.

<http://www.csmonitor.com/2003/0522/p01s02-woiq.html> The Iraq Bodycount website. [www.iraqbodycount.org](http://www.iraqbodycount.org)

Peter Spang Goodrich. The Surgical Precision Myth: After the Bomb Explodes -- (CCDP) Cumulative Collateral Damage Probability Version 11 June 2003 <http://www.providence.edu/mba/goodrich/war/surgical/>,

Nico Price. First Tally Puts Iraqi Deaths at 3, 240. *Atlanta Journal-Constitution*

<http://www.ajc.com/news/content/news/0603/10iraqdead.html>

<sup>4</sup> *CNN News.* Forces: U.S. & Coalition/Casualties. <http://www.cnn.com/SPECIALS/2003/iraq/forces/casualties/>

Former Ambassador Joseph Wilson was sent to investigate claims that Niger had sold yellowcake uranium to Iraq, and was unable to substantiate that information. [http://story.news.yahoo.com/news?tmpl=story&cid=519&e=10&u=/ap/wilson\\_profile](http://story.news.yahoo.com/news?tmpl=story&cid=519&e=10&u=/ap/wilson_profile)

- ii. National Security Advisor Condoleezza Rice claimed that aluminum tubes found in Iraq after the US invasion demonstrated that Iraq had been pursuing a nuclear weapons program. The tubes, Rice said, "are only really suited for nuclear weapons programs, centrifuge programs." Top Bush officials push case against Saddam, *CNN*, September 8, 2003. <http://cgi.cnn.com/2002/ALLPOLITICS/09/08/iraq.debate/>>. In January 2003, it had already become clear that Rice's assertions lacked credibility. Bush Evidence of Iraq 'Appetite' for Nuclear Weapons in Doubt, Joby Warrick, *Washington Post*, January 23, 2003. <http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&node=&contentId=A34500-2003Jan23&notFound=true>>
- iii. Defense Secretary Rumsfeld continues to claim that a strong link between Iraq and Al Qaeda which resulted in the terror of 9/11 when the U.N. and other credible fact-finders have refuted that claim numerous times. Shaun Waterman, Homeland and National Security Editor. 9/11 report: No Iraq link to al-Qaida *UPI* 7/23/2003 <http://www.upi.com/view.cfm?StoryID=20030723-064812-9491r>>, *see also* Paul Krugman. Pattern Of Corruption *New York Times*. Late Edition - Final , Section A , Page 21 , Column 6 July 15, 2003. *See also* item v.
- iv. The Bush administration's "Special Plans" section has refused to acknowledge or act upon evidence that contradicts their assumptions or rationalized the assumptions so that it allowed the administration to accomplish its predetermined goals. Seymour Hersh, War and Intelligence *New Yorker* 5/12/03 [http://www.newyorker.com/online/content/?030512on\\_onlineonly01](http://www.newyorker.com/online/content/?030512on_onlineonly01)> Wolfowitz: Iraq Intel Was 'Murky'. *CBS News* July 31, 2003. <http://www.cbsnews.com/stories/2003/07/31/iraq/main566000.shtml>>
- v. Vice-President Cheney claimed in September 2002 irrefutable evidence existed that Hussein has reconstituted his nuclear weapons program, a claim he repeated in March 2003 just prior to the U.S. invasion. (3/16/2003 NBC) These claims were refuted by former Ambassador Joseph Wilson and the CIA long before March 16, 2003. *See* item ii above.
- vi. Former Ambassador Joseph Wilson's wife (see item C.i.), Valerie Plame, was revealed to be a CIA officer on July 14, 2003 by neo-conservative pundit Robert Novak. "Mr. Novak has recently written that the identity of Ms. Plame was made known to him in an almost offhand way, that the C.I.A. never told him beforehand that disclosing her name would endanger anyone, and that he would not have named her if he had thought there would be any danger." David Stout, Inquiry Into Leak About C.I.A. Officer Is Said to Widen. *New York Times*. 10/2/03 <http://www.nytimes.com/2003/10/02/national/02CND-LEAK.html>. The White

House is pursuing an agenda of denial and smear tactics against Wilson rather than making serious attempts to find the senior administration official who Novak stated supplied the information. White House political operatives are attempting to keep Republican legislators from calling for special counsel to investigate this felony charge. Richard Stevenson and Eric Lichtblau. White House Looks to Manage Fallout Over C.I.A. Leak Inquiry. *New York Times*. 10/2/2003. <http://www.nytimes.com/2003/10/02/national/02LEAK.html>

- vii. Secretary of State Powell claimed in February 2003 with “confidence and virtual certainty” in February, before the UN Security Council, that, "Iraq today has a stockpile of between 100 and 500 tons of chemical weapons agent. That is enough agent to fill 16,000 battlefield rockets?" (UN Address, 2/05/2003) <http://www.whitehouse.gov/news/releases/2003/02/20030205-1.html>>
- viii. Defense Secretary Rumsfeld claimed on March 30th, in reference to weapons of mass destruction, "We know where they are. They're in the area around Tikrit and Baghdad and east, west, south and north of that." Whitaker, Brian and Rory McCarthy, 5/30/2003 As the hunt for weapons gets bigger, the hope of success gets smaller *The Guardian (U.K.)* <http://www.guardian.co.uk/international/story/0,3604,966683,00.html>>
- ix. President Bush said during a trip to Poland on May 30, 2003, "For those who say we haven't found the banned manufacturing devices or banned weapons, they're wrong. We found them. " Mike Allen, Bush: 'We Found' Banned Weapons President Cites Trailers in Iraq as Proof. May 31, 2003; Page A01 <http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&node=&contentId=A60140-2003May30&notFound=true>>, *see also* 5/31/2003, *CNN*, May 30, 2003. <http://www.cnn.com/TRANSCRIPTS/0305/30/wbr.00.html>>
- x. The claims about the WMD in the May 30 speech were controversial when made. Doubts existed early on within the intelligence community, as noted in the following article. “Engineering experts from the (U.S.) Defense Intelligence Agency have come to believe that the most likely use for two mysterious trailers found in Iraq was to produce hydrogen for weather balloons rather than to make biological weapons, government officials say.” Iraqi Trailers Said to Make Hydrogen, Not Biological Arms. 8/9/2003. <http://www.nytimes.com/2003/08/09/international/worldspecial/09WEAP.html?h>. *See also* Peter Beaumont and Antony Barnett, Blow to Blair over 'mobile labs': Saddam's trucks were for balloons, not germs. June 8, 2003, *The Observer (UK)*. <http://politics.guardian.co.uk/foreignaffairs/story/0,11538,973196,00.html>>

D. President Bush claimed that the war began because Iraq would not admit UN inspectors, when in fact Iraq had admitted the inspectors and the President opposed extending their work. Dana Priest and Dana Milbank. President Defends Allegation On Iraq.

*Washington Post* 7/15/2003 <<http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&node=&contentId=A56336-2003Jul14&notFound=true>>

- E. President Bush stated on May 1, 2003 , that the war was over, when US troops have fought and one or two have died nearly every day since then and generals have admitted that we are fighting a guerrilla war in Iraq. (Abizaid, Gen. John, 7/16/2003) <<http://www.defense.gov/transcripts/2003/tr20030716-0401.html>> *Defense Department Website*
- F. WMD were only a convenient excuse to wage a preemptive war on Iraq in violation of the Geneva Convention and other international treaties. As Deputy Defense Secretary Paul Wolfowitz stated, "For bureaucratic reasons we settled on one issue, weapons of mass destruction, because it was the one reason everyone could agree on," David Osborne. *WMD Just a Convenient Excuse for War, Admits Wolfowitz Independent (U.K.)* <http://news.independent.co.uk/world/politics/story.jsp?story=410730>
- G. Deputy Defense Secretary Wolfowitz maintains that the United States can preemptively attack other nations on the basis of "murky intelligence." Walter Pincus. *Wolfowitz: Iraq Key To War on Terrorism--DOD Official Cites Links to al Qaeda. Washington Post*, 7/27/2003. Page A2. <<http://www.washingtonpost.com/wp-dyn/articles/A54065-2003Jul27.html>>
- H. Secretary of Defense Donald Rumsfeld minimized reports of antiquities looted from Iraqi museums. *Damage Done: Who's to Blame for Looting of Iraq's Treasures? Nightline*, April 19, 2003 <<http://abcnews.go.com/sections/nightline/SciTech/baghdadmuseum030419.html>> He maintained that that only fifty or so items were looted from the Baghdad museum when in fact at least six thousand and as many as thirteen thousand were looted. Jeff Jacoby. *Boston Globe*, 7/23/2003.

WHEREAS: This Resolution upholds and defends the Constitution and laws of the U.S., promotes respect for the rule of law, and contributes to the education of the legal profession, the science of jurisprudence, and professional excellence.

THEREFORE, BE IT RESOLVED that the National Lawyers Guild support active movement calling for and working toward the impeachment of George W. Bush, holder of the title of United States President, Dick Cheney, holder of the title of United States Vice President, and Cabinet officials responsible for the suppression of constitutional rights and violations of international law, which is part of the supreme law of the land.

Implementation by the NLG Executive Board, working with all NLG chapters and members.

MEMORANDUM OF LAW SUPPORTING IMPEACHMENT OF GEORGE W. BUSH, HOLDER OF TITLE OF PRESIDENT OF THE UNITED STATES, AND DICK CHENEY, HOLDER OF TITLE OF VICE PRESIDENT OF THE UNITED STATES, AND CABINET OFFICIALS RESPONSIBLE FOR THE SUPPRESSION OF CONSTITUTIONAL RIGHTS AND VIOLATION OF INTERNATIONAL LAW WHICH IS PART OF THE SUPREME LAW OF THE LAND

Submitted by San Francisco Bay Area Chapter  
NLG Convention, October 2003

Article II, Section Four of our Constitution provides for impeachment for treason, bribery or other high crimes and misdemeanors. It is well accepted that the offending conduct need not be a violation of criminal law as long as it is an egregious abuse of presidential powers or public office. Thus, a president who refuses to show up at work would be subject to impeachment. See, generally, Sunstein, Impeaching the President, 147 U of Pa Law Review 297 (1998); Tribe, Defining High Crimes and Misdemeanors: Basic Principles, 67 Geo. Wash. Law Review 712 (1999). The same result should follow from a planned and widespread campaign to violate the constitutional limitations which are placed on governmental powers. These are grave offenses against our very system of government.

Of course, the final say on what constitutes impeachable offenses rests with a majority of the House of Representatives, which drafts and presents a bill of impeachment, and the Senate which tries such a bill. But, citizens believing that the occasion has arrived for the presentation of such a bill have a duty to speak out in our political process to encourage our elected leaders to take the appropriate steps and to deter further attacks on constitutional rights and liberties. Indeed, there is strong precedent for such action in the aborted (by resignation) articles of impeachment as to President Richard Nixon which in Article 2 passed by the House referred to “[he] repeatedly engaged in conduct violating the constitutional right of citizens” by improper use of the Internal Revenue Service, the Federal Bureau of Investigation, and the Secret Service.

I.

President George W. Bush and his Vice-President and Cabinet have qualified for Congressional investigation by the following subversions of the constitutional protections forbidding government abuse of individual rights and liberties.

1. They have held American citizens and non-citizen residents of the USA on criminal charges in military custody outside the judicial system as “enemy combatants” (a term previously used only as to German sailors captured during WW II on U.S. soil) even though they are not members of the military. Such persons are entitled to the same protections of the judicial system as other persons accused of criminal conduct. Example: Jose Padilla.

2. They have interfered with the Sixth Amendment's right to counsel by monitoring attorney-client conversations on alleged national security grounds. Example: Richard Reid.
3. They have attempted to deny public access to immigration hearings and to deny certain immigrants any hearing to present a defense. Example: Rabih Haddad.
4. They have attempted to conceal the identities of 751 individuals arrested for immigration violations after the September 11 attack.
5. They have failed to stop and have even encouraged rampant racial discrimination in the enforcement of laws against lawful visitors of Middle Eastern origins and encouraged private discrimination against these persons.
6. They have allowed warrantless intelligence gathering at religious and political meetings without evidence or suspicion of illegal activity and with the intent to intimidate participants in such meetings on the grounds that they are possible terrorist organizations.
7. They have drafted and strongly supported passage of the USA Patriot Act and sedulously enforced it even though it widely expands government powers of search and seizure and surveillance of innocent activity and inhibits freedom of expression in America. They have based such expanded powers on a dangerously vague and overbroad definition of "terrorism."
8. They have failed to control illegal and inhuman treatment of such detainees by U.S. officials who have custody of detainees suspected of terrorism

## II.

President George W. Bush and his Vice-President and Cabinet have qualified for Congressional investigation by their violations of international treaties part of the "supreme law of the land" under the Constitution

Article VI, Paragraph 3, provides that "all treaties made, or which shall be made, under the authority of the United States, [are part of] the supreme law of the land..."

The president is required by his oath of office to "preserve, protect and defend the Constitution." Art. II, Para. 8. The waging of an illegal war constitutes an impeachable offense.

The war that George Bush, in his capacity as President of the United States, initiated against Iraq was in violation of international-legal norms on use of armed force between states. When it commenced hostilities against Iraq, the United States sent a communication to the United Nations alleging a legal basis. It recited that the action was taken in pursuance of Resolution 678, which the UN Security Council passed in November 1990. Resolution 678 authorized the use of force against Iraq by UN member states for the purpose of securing Iraq's withdrawal from Kuwait, which it had recently occupied. The United States led a coalition of states that undertook military action in January 1991, assertedly in conformity with Resolution 678.

Hostilities were terminated and the terms of a cease fire written in Resolution 687 in April 1991. Among the undertakings by Iraq in that cease fire was an obligation to divest itself of chemical, biological and nuclear weaponry, and to permit international inspection to that end. Resolution 687 specified (para. 34) that the Security Council remained "seized of the matter" and that it would "take such further steps as may be required for the implementation of the present resolution and to secure peace and security in the area."

The US communication to the UN recites that Iraq is in breach of the cease fire embodied in Resolution 687, for non-compliance with the disarmament provisions, and therefore that the Resolution 678 authorization to use force revived. The US was, by its explanation, acting in compliance with, and to implement, Resolution 678.

The US argument is invalid for four reasons. First, Resolution 687, by para. 34, retained to the Security Council the power to determine what measures might need to be taken in the event of non-compliance by Iraq. Other members of the Council so understood Resolution 687 and refused, in early March 2003, to decide that military force against Iraq was necessary.

Second, Resolution 678 authorized the use of armed force for the purpose of securing Iraq's withdrawal from Kuwait. Resolution 687 introduced new elements, including disarmament obligations. If Iraq were deemed to be creating a threat to the peace by violating those obligations, a new resolution would have been required from the Security Council, even apart from its retention of that power in para. 34 of Resolution 687.

Third, under the UN Charter only the Security Council determines the need to use force to counter a threat to, or breach of, the international peace. Never before in the history of the UN had a state argued that a decision by the Security Council on the need for armed force could be valid years later. For armed force to be within the scope of the UN Charter, the Security Council must make the decision on the use of armed force at the relevant time.

Fourth, Resolution 678 authorized the use of armed force only if such were necessary. It contemplated that diplomatic efforts would be made to convince Iraq to withdraw from Kuwait, and that armed force would be authorized only if such efforts



were attempted and failed. The same applies to disarmament provisions. Most Security Council members believed, in March 2003, that further inspection held a prospect of securing Iraq's compliance. There was little evidence of actual possession by Iraq of weaponry specified in Resolution 6887. The major point in controversy was whether Iraq had sufficiently explained what had happened to weaponry that it was believed to have had in the early 1990s. The United States did not exhaust the diplomatic route prior to initiating hostilities.

In addition to making an argument based on Resolution 678, the US communication to the UN states briefly that military action was being initiated to defend the international community. The communication did not make it clear whether this was an explanation of how it was implementing Resolution 678, or whether this was a self-standing argument relating to self-defense. The communication did not mention UN Charter Article 51, the article on self-defense, which states routinely mention when they have used armed force and are explaining to the UN that they did so in self-defense.

If this passing reference to defending the international community was meant to be a self-defense argument, it would be an invocation of the doctrine of preemptive self-defense that has been elaborated by the Bush administration in the past two years. That doctrine has no basis in the law of the UN Charter, which, by Article 51, permits the use of self-defense only in response to an armed attack that has occurred.

The US communication said nothing about the character of the government then in power in Iraq. There is no basis in international law for a state, or a grouping of states, to use armed force to overthrow a government for the betterment of the lot of the people under the authority of that government. The United States did not make an argument to the UN on this ground.

Presenting false information to the public, as George Bush did, in order to secure its assent to the use of armed force against Iraq, is also an impeachable offense. The President had been informed in Fall 2002 by the CIA that Iraq was not a threat to the United States. He had further been informed by the CIA that reference to any effort by Iraq to secure fissionable material in Africa was of dubious validity. Nonetheless, he made an assertion that Iraq represented a nuclear threat to the United States a central focus of his argument that armed force against Iraq was necessary.