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June 19, 2005

British bombing raids were illegal, says Foreign Office

MICHAEL SMITH

A SHARP increase in British and American bombing raids on Iraq in the run-up to war "to put pressure on the regime" was illegal under international law, according to leaked Foreign Office legal advice.

The advice was first provided to senior ministers in March 2002. Two months later RAF and USAF jets began "spikes of activity" designed to goad Saddam Hussein into retaliating and giving the allies a pretext for war.

The Foreign Office advice shows military action to pressurise the regime was "not consistent with" UN law, despite American claims that it was.

The decision to provoke the Iraqis emerged in leaked minutes of a meeting between Tony Blair and his most senior advisers — the so-called Downing Street memo published by The Sunday Times shortly before the general election.

Democratic congressmen claimed last week the evidence it contains is grounds for impeaching President George Bush.

Those at the meeting on July 23, 2002, included Blair, Geoff Hoon, then defence secretary, Jack Straw, the foreign secretary, and Sir Richard Dearlove, then chief of MI6. The minutes quote Hoon as saying that the US had begun spikes of activity to put pressure on the regime.

Ministry of Defence figures for bombs dropped by the RAF on southern Iraq, obtained by the Liberal Democrats through Commons written answers, show the RAF was as active in the bombing as the Americans and that the "spikes" began in May 2002.

However, the leaked Foreign Office legal advice, which was also appended to the Cabinet Office briefing paper for the July meeting, made it clear allied aircraft were legally entitled to patrol the no-fly zones over the north and south of Iraq only to deter attacks by Saddam's forces on the Kurdish and Shia populations.

The allies had no power to use military force to put pressure of any kind on the regime.

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The increased attacks on Iraqi installations, which senior US officers admitted were designed to “degrade” Iraqi air defences, began six months before the UN passed resolution 1441, which the allies claim authorised military action. The war finally started in March 2003.

This weekend the Liberal Democrat peer Lord Goodhart, vice-president of the International Commission of Jurists and a world authority on international law, said the intensified raids were illegal if they were meant to pressurise the regime.

He said UN Resolution 688, used by the allies to justify allied patrols over the no-fly zones, was not adopted under Chapter VII of the UN Charter, which deals with all matters authorising military force.

“Putting pressure on Iraq is not something that would be a lawful activity,” said Goodhart, who is also the Liberal Democrat shadow Lord Chancellor.

The Foreign Office advice noted that the Americans had “on occasion” claimed that the allied aircraft were there to enforce compliance with resolutions 688 and 687, which ordered Iraq to destroy its weapons of mass destruction.

“This view is not consistent with resolution 687, which does not deal with the repression of the Iraqi civilian population, or with resolution 688, which was not adopted under Chapter VII of the UN Charter, and does not contain any provision for enforcement,” it said.

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