

**IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF NEBRASKA**

Civil Action No. 03 4:03cv3060

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA
03 MAR 26 AM 8:57
GARY D. MCFARLAND
CLERK

CLAIR A. CALLAN

Petitioner

vs.

**GEORGE W. BUSH, ACTING IN HIS CAPACITY AS PRESIDENT
OF THE UNITED STATES OF AMERICA**

Respondent

**AMENDED PETITION
THIRD CAUSE OF ACTION INCLUDED
FOURTH CAUSE OF ACTION INCLUDED**

COMES NOW the petitioner, Clair A. Callan, and for his cause of action states and alleges as follows:

I am a citizen of the State of Nebraska and of the United States of America. I reside at 1621 H Street, Fairbury, Nebraska.

It is alleged that the President of the United States is in violation of The War Powers Act of 1973 (Public Law 93-148), Sec. 4 (a).

REPORTING

Sec. 4. (a)

In the absence of a declaration of war, in any case in which United States Armed Forces are introduced –

- (1) **into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances;**
- (2) **into the territory, airspace or waters of a foreign nation, while equipped for combat, except for deployments which relate solely to supply, replacement, repair, or training of such forces; or**
- (3)
 - (A) **the circumstances necessitating the introduction of United States Armed Forces;**
 - (B) **the constitutional and legislative authority under which such introduction took place; and**
 - (C) **the estimated scope and duration of the hostilities or involvement.**

* *The definition used for this argument for the word scope is:*

1. *the range of ones perceptions, thoughts or actions*
2. *breath of opportunity to function*

Fact I There has not been a due diligence report made to the Congress of the United States as to the estimated number of troops, both regular and reserves, that will be required in a war that involves the invasion of Iraq, the defeat of Iraq, armed forces of other countries required, overthrow the government of Iraq, rehabilitate the country, form a new government and then oversee the operation.

Fact II There has been no report on the estimated duration of the war, or the length of time estimated to be necessary to occupy and return operation of the government to the Iraqis.

Fact III There is no report that estimates the financial costs of the war, or the costs in rehabilitation in establishing a new government.

Fact IV There has been no estimate as to what the involvement of 1.5 billion Muslims might be if the United States attacks Iraq.

Fact V There has been no report as to the estimated effect of the war on terrorism.

Fact VI There has been no estimate made as to the value, in terms of money and troops, of other nations involved.

Fact VII There has been no report that estimates as to what the impact on our foreign policy will be if for the first time in the history of the United States, the United States pre-emptively struck a foreign nation.

Fact VIII There has not been a report that estimates the casualties of war sustained by U.S. Forces, Iraq Forces, or in the civilian population of Iraq.

SECOND CAUSE OF ACTION

COMES NOW the Petitioner and for his second cause of action states and alleges as follows: Petitioner incorporates the allegations contained in his first cause of action as is fully set forth herein.

In addition to the allegations made in the Case 4:03cv3060, the following allegations and arguments are made to support the proposition that the President's position, if he attacks Iraq, also violates international law as proscribed in the Charter of the United Nations, which could cause worldwide chaos and revolution.

It is unlikely that the United Nations Security Council will give the unambiguous authority for military action that the United States needs in order to comply with the United Nations Charter. Short of receiving that authority from the U.N., the use of force by the United States against Iraq, even with the recent congressional approval given for that war, would be illegal under international law.

If the U.S. engages in a war against Iraq without such approval, it is an international crime, a crime against peace—the waging of a war of aggression.

Congress, by providing the President with such authority to attack, and failing to condition that authorization on support from the Security Council, will be complicit in an international crime if war ensues without UN authority.

A country can unilaterally use force against another country only in self-defense or with UN Security Council approval. Article 2(4) and Article 51 of the Charter prohibit one nation from attacking another except in self-defense. None of the reasons given by the President for attacking Iraq—getting rid of claimed weapons of mass destruction or overthrowing Saddam Hussein—constitutes self-defense under the UN Charter. Self-defense under the Charter can be employed only in response to the occurrence of an armed attack (“if an armed attack occurs”) or, as a number of authorities have said, in response to an imminent attack—conditions which nobody asserts exists in this situation.

Nor does the language of the authorization given by Congress meet the self-defense test:

employment of force to “defend the national security of the United States against the continuing threat posed by Iraq” is not a description of an armed or imminent attack on the U.S. The other basis for the congressional authorization, to “enforce all relevant United Nations resolutions regarding Iraq,” is not the approval required by the UN. Iraqi violations of past UN Resolutions do not give the U.S. the legal authority to attack Iraq even with congressional approval. It is for the Security Council and not individual countries to determine whether Iraq has breached its agreements and what is to be done about those breaches.

Pre-emptive strikes should be distinguished from an earlier doctrine that was labeled “anticipatory self-defense” under which the United States and some other countries argued that they had the right under the UN Charter to attack a country that was planning an attack. This latter doctrine at least gave lip service to the restrictions on the use of force embodied in the charter—that force could only be used in self-defense or as authorized by the Security Council under Article 51.

Past administrations publicly viewed pre-emptive strikes on other nations as illegal, as evidenced by the Reagan administration’s vote in the Security Council that unanimously condemned Israel’s pre-emptive strike on Iraq’s nuclear facility in 1981. Only after the cold war’s demise did the Clinton administration come close to breaking with the Charter’s norms when NATO attacked Yugoslavia in response to the Kosovo crisis, although even there the U.S. declined to put forth a new doctrine of humanitarian military interventions, choosing to characterize Kosovo as an exceptional emergency.

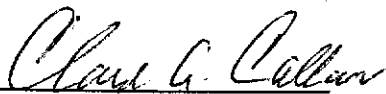
The administration and now the Congress have abandoned the UN Charter’s core legal restraints in favor of a system in which the United States unilaterally decides which regimes warrant replacement by force. The consequences of this new doctrine are frightening. It is the exercise of unabashed imperial power and

will lead to more terror against the peoples of the world and the people of the U.S. War with Iraq without UN authorization would represent a tragic day in our nation's history, and could prove to be disastrous to world peace and security which the UN Charter was designed to preserve.

* *The above reading of the Charter and excerpts, were taken from a book written by Michael Ratner, President of the Center for Constitutional Rights.*

If war must come where the United States of America invades, defeats and occupies Iraq without a credible due diligence, or reliable estimates as to the costs in lives, dollars, or the consequences of war. The only legal method to go to war is for the Congress of the United States to declare war on Iraq under Article I, Section 8, of the United States Constitution.

Considering all of the above, I pray that the court declare that the President is operating in violation of the War Powers Act of 1973 and in violation of international law.

By: 
Clair A. Callan, Pro Se
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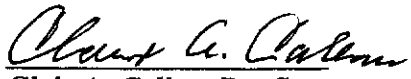
AMENDMENT - THIRD CAUSE OF ACTION

COMES NOW the Petitioner and for his third cause of action states and alleges as follows: Petitioner incorporates the allegations contained in the first and second cause of action as is fully set forth herein.

THREE-JUDGE DISTRICT COURT REQUESTED

Where as the request for a single judge to rule in Case 4:03cv3060 was based on only the War Powers Act of 1973, and where as the case has been expanded to include international law and the Charter of the United Nations, and where as numerous appeals are a virtual reality, a three-judge district court is requested.

Considering all of the above, I pray the court will grant my request for a Three-Judge District Court.

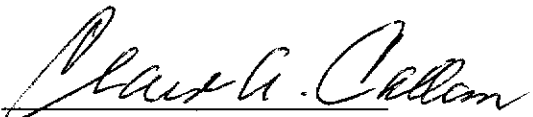
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AMENDMENT - FOURTH CAUSE OF ACTION

COMES NOW the Petitioner and for his fourth cause of action states as follows: Petitioner incorporates the allegations contained in the first, second, and third causes of action as is fully set forth herein:

Where as there was no remedy asked for in the first three causes of action, the Petitioner asks that if the court finds the Respondent guilty of violating any of the first and second causes of action, the court assesses any remedies it deems appropriate.

Considering all of the above, I pray the court grant the request for a remedy.

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Charter of the United Nations Chapter I

Purposes and Principles

Article 1

The Purposes of the United Nations are:

1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;
2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;
3. To achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and
4. To be a center for harmonizing the actions of nations in the attainment of these common ends.

Article 2

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

1. The Organization is based on the principle of the sovereign equality of all its Members.
2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed

by them in accordance with the present Charter.

3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

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

5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.

6. The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.

7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

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Security Council, any other state, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems.

Article 51

Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

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