

# Evaluating Tony Blair's efforts to legitimize the Iraq War

Dr James Strong  
London School of Economics and Political Science  
[j.strong1@lse.ac.uk](mailto:j.strong1@lse.ac.uk)

Paper presented at the British International Studies Association  
Annual Conference  
London, June 2015

## Abstract

This paper investigates Prime Minister Tony Blair's efforts to legitimize the 2003 invasion of Iraq in the eyes of the British public. It highlights Blair's apparent commitment to *deliberative* legitimacy, and then analyses his pre-war rhetoric to gauge how deep it went. Building on work by Thomas Risse, Corneliu Bjola and others directed towards applying Jurgen Habermas' *Theory of Communicative Action* in an IR context, it assesses Blair's approach against four criteria; truthfulness, openness, willingness to be persuaded and logical coherence and consistency. It finds that Blair failed to meet all four criteria. This failure made it unlikely he could achieve deliberative legitimacy, though further study is required to confirm that was in fact what happened. Failure on this front, in turn, made it more likely the Iraq War would be seen not just as illegitimate but as unsuccessful in Britain.

## Introduction

This paper investigates Prime Minister Tony Blair's efforts to legitimize the 2003 invasion of Iraq in the eyes of the British public. It is, in other words, a study of domestic rather than international politics, though clearly one focused on the domestic politics of foreign policy. It focuses specifically on the *deliberative* dimension of legitimacy. It does this for both empirical and theoretical reasons. From an empirical perspective, the paper highlights the extraordinary rhetorical efforts Blair went to in trying to secure domestic support for military action. He made several speeches, gave media interviews, began to hold regular open press conferences, participated in audience-driven television panel discussions, became the first prime minister to appear before a parliamentary select committee and contributed to at least five major House of Commons debates during 2002 and early 2003.

Blair tried to argue his way to war. He clearly took public communication seriously. Arguably, then, so should we. From a theoretical perspective, meanwhile, the paper grounds itself in the sociological literature on legitimacy. Specifically, it identifies with Corneliu Bjola's efforts to operationalize Jurgen Habermas' *Theory of Communicative Action* for the study of foreign policy decisions. Bjola sets out three key criteria that leaders must meet to win deliberative legitimacy for their policies. They must be truthful. They must permit the widest possible participation in discussions. And they must be open-minded, willing to be persuaded as much as willing to persuade (Bjola 2005, 2008, 2009). This paper adds a fourth criterion consistent with Habermas. In addition to assessing Blair's honesty, openness and willingness to be persuaded, it also considers his coherence and consistency. You cannot hope to secure a reasoned consensus if your arguments do not make logical sense.

Underpinning this analysis are two key assumptions. Firstly, this paper assumes that Blair's legitimizing efforts failed. This seems intuitive. Britain never really considered the Iraq War legitimate. This is why Gordon Brown felt compelled to launch the Chilcot Inquiry, a comprehensive investigation into the genesis, execution and aftermath of the war, still unfinished (after six years) at the time of writing. Secondly, the paper assumes this absence of legitimacy mattered politically. Blair's failure to legitimize the war undermined his ability to claim it was a success. Questions about the genesis, conduct and aftermath of war are logically separate (Orend 2002). At the same time, they are inextricably linked. Whether a society considers a war successful depends in part on whether it considered the decision to go to war legitimate (Finnemore 2003, 16, 18, Reus-Smit 2007, 165). Obviously it depends also on developments on the ground. But in an era of complex "post-modern" conflicts, victory can be difficult to discern. Popular narratives begin to matter as much as battlefield progress (Michalski and Gow 2007, 198). And this is where the interaction between legitimacy and success matters. Mueller is probably right to argue that Britain's doubts about the war's legitimacy would have faded in time if the US-led coalition had emerged clearly victorious (Mueller 2005, 109). At the same time, as Clark sensibly observed, setbacks on the battlefield can further undermine a conflict's legitimacy (Clark 2003, 75). Indeed, Blair himself acknowledged this difficulty. Every military casualty underlined the British public's sense that invading Iraq was the wrong thing to do in the first place (Blair 2010b, 374).

Legitimacy facilitates conflicts, rather than causing them. The broader study of which this paper is a part accordingly adopts a constructivist stance, asking "how possible" rather than "why" questions, in Roxanne Doty's terms (Doty 1993, 298). Its aims to determine how it was possible for Britain to launch a major war that lacked domestic legitimacy. Studying

Blair's particular contribution is a necessary first step towards this objective. This paper accordingly begins by justifying its approach. Having discussed the sociological and normative dimensions of legitimacy and settled on a deliberative definition, it explains the four criteria set out above. It then proceeds to a detailed study of Blair's actual pre-war rhetoric, to gauge how far he met each criterion. It concludes with some discussion of what its empirical findings mean.

### **Why this study bases legitimacy on public deliberation**

This is a political study rather than a legal one. And in terms of its political effects, legitimacy is not the same thing as legality. The Independent International Commission on Kosovo famously described NATO's intervention there in 1999 as "illegal but legitimate" (Independent International Commission on Kosovo 1999, 4). Britain's then-ambassador to the UN, furthermore, told the Chilcot Inquiry the Iraq war was "legal, but of questionable legitimacy" (Greenstock 2009b, 38). Britain's invasion of Iraq probably *was* legal, at least according to British domestic law. The prime minister has the legal authority to direct the armed forces (Joseph 2013). The attorney-general has the legal authority (and, arguably, the professional expertise, a further source of legitimacy) to interpret how international law applies in Britain. Tony Blair ordered British forces into Iraq, and Lord Goldsmith signed off on the operation. Goldsmith concluded the decision to use force complied with domestic UK law, the UN Charter and various UN Security Council Resolutions. He admitted he could not guarantee a court would support his interpretation (Goldsmith 2003c). But no-one has ever successfully challenged it.

To understand legitimacy, then, we need to go beyond legality. At the very least we need to add morality and authority to our framework (Clark 2005, 4, Reus-Smit 2007, 160). The literature does not offer an agreed definition of what legitimacy actually *is*. Instead it offers us a series of conceptual choices. Our first choice lies between a normative approach, aimed at identifying legitimacy in the abstract, and a sociological approach grounded in how ideas about legitimacy affect politics. This study seeks to explain political outcomes. It therefore adopts a sociological approach. Our second choice lies between treating legitimacy as a property of institutions, and the belief that policies have legitimacy too. Arguably, the distinction is artificial, since institutional and policy legitimacy co-constitute each other. Illegitimate institutions rarely make legitimate policies, and legitimate institutions lose

ground if they try to do things society considers wrong. Our third choice lies between legitimacy as a static concept and legitimacy as the dynamic consequence of processes of legitimization. This study focuses on legitimization as a logical extension of its sociological approach. It takes a cue from Tony Blair himself, noting his extensive pre-war public communication and so using a theoretical framework based around how actors define legitimacy discursively. It reintroduces a normative dimension along the way.

Most studies distinguish between legitimacy as an abstract, substantive ‘thing’, and legitimacy as the outcome of social processes (Hurd 1999, 381, Clark 2005, 18). More theoretically-inclined authors focus on the “first-order question” of what legitimacy *is*. Their empirically-inclined counterparts prefer the “second-order question” of *what social role it plays* (Bjola 2009, 2). Neither approach is inherently superior. This study brackets the first-order question, however, because it is concerned with the political consequences of how society views legitimacy, not with the more abstract question of whether society’s conceptions are objectively ‘right’. Legitimacy, from this perspective, is a social construction. Like legality (Onuf 1989, 77) or even national interest (Weldes 1996, 276, 303, Finnemore 1996, 2, Adler 1997, 337), legitimacy exists for constructivists to the degree society thinks it exists (Clark 2003, 79). Our approach here is therefore sociological. Normative theorists complain that a sociological conception “distorts the essential meaning of legitimacy” by denying its normative content (Grafstein 1981, 456). But from an empirical perspective it seems more logical to study the political origins and effects of specific manifestations of the concept of legitimacy rather than to try to puzzle out a universal definition. That does not mean we should deny the concept has any normative content or function, clearly it does. It means that understanding the normative dimension should not be our first priority when we have an empirical question about British domestic politics before the Iraq War to solve.

Since our subject is a policy decision, it also makes sense if we assume legitimacy can be a property of policies. Such an assumption requires a little additional conceptual elaboration, however. For legitimacy is a characteristic of power, properly speaking, and of the institutions that exert power over actors (Lipset 1959, 86, Clark 2005, 254). In other words, we should talk about the British government’s legitimacy, or Tony Blair’s, but not necessarily consider the legitimacy of individual policies. Again, constructivism offers a useful route to resolving this difficulty, through the concept of co-constitution (Carlsnaes 1992). Co-constitution occurs whenever two related social facts shape each other equally. In a co-constitutive framework, we accept that institutional and policy legitimacy exist in a state of constant dynamic interaction. Whether society thinks a policy is legitimate will depend on

who authored it. Whether society thinks an institution is legitimate will depend on what it does. Institutional legitimacy is partly *constituted by* and partly *constitutive of* policy legitimacy. We *can* therefore study the Iraq War's legitimacy, provided we treat it as both an expression of and a potential influence over the British government's institutional legitimacy.

This study follows the standard sociological approach by defining legitimacy not just as a social fact, but as the outcome of *legitimization* (Franck 1988, 706). Legitimization is a process through which societies decide what they consider legitimate. It takes many forms, but this study focuses specifically on *communicative* legitimization, the sort conducted through public rhetorical exchanges among political actors (Krebs and Jackson 2007, 38, Finnemore 2009, 63, Kornprobst 2014, 192). It does so for empirical reasons. Tony Blair had, as he put it, "a somewhat weirdly optimistic view of the power of reason, of the ability to persuade if an argument is persuasive" (Blair 2010b, 117). During the pre-war period, he relied heavily on public communication, justification and reason. One contemporary biographer concluded, "It will be impossible, even for the toughest-minded historian, to ignore entirely what Tony Blair has said during these weeks. On many days he has done virtually nothing else but speak" (Stothard 2003, 173). This study does not attempt to ignore Blair's rhetoric. It problematizes it instead.

Any account based on the juncture between public communication and reasoned persuasion must inevitably draw on Jurgen Habermas (Risse 2000). Habermas postulated an ideal type of social interaction, called "communicative action", through which societies reach consensus about the right way to act (Habermas 1981, 285-286). Although communicative action itself is a theory of consensus, his earlier work on the 'public sphere' discussed a discursive definition of legitimacy (Habermas 1989). Habermas' argument contains some weaknesses. For example, he unrealistically assumes that every actor engaged in public debate holds equal social status and demonstrates equal commitment to achieving a reasoned consensus (Checkel 2004, 240, Kaufmann 2004, 8). At the same time, Habermas himself maintains that his is an ideal-typical model, not a direct facsimile of reality. We can therefore use it for our empirical purposes provided we are willing to accept that deviations from his assumptions will reduce how far other parts of the model work. Work by Harald Muller (2004), Corneliu Bjola (2005, 2008, 2009) and Markus Kornprobst (2014) does just that, and offers practical guidelines followed below.

To some extent a Habermasian approach breaks down the distinction between normative and sociological definitions of legitimacy. While it persists in treating legitimacy as a social construct, it nevertheless applies abstract criteria to the legitimization process. In

short, for Habermas, legitimacy results not just from social consensus but from social consensus achieved rationally (Habermas 1989, 54). Legitimization must involve “justification and reason-giving” rather than habit or the threat or use of force (Hurrell 2005, 16). Only when society agrees on a position by rationally assessing the merits of rival arguments does it achieve legitimacy, in this conception (Steffek 2003, 251). As one study put it, in a discursive framework “a legitimate decision does not represent the *will* of all, but is one that results from the *deliberation of all*” (Manin, Stein and Mansbridge 1987, 351-352). Corneliu Bjola established three criteria for deliberative legitimacy, derived directly from Habermas. Participants in public debate must all set out “truthful and complete” arguments, reasoning and evidence. They must ensure “all affected parties...be allowed to participate” in public debate. And they must show “genuine interest in using argumentative reasoning” (Bjola 2009, 76). These three criteria, ‘truthfulness’, ‘openness’ and ‘willingness to be persuaded’ shape the first part of the empirical analysis that follows.

To fully understand the legitimization process surrounding Britain’s participation in the invasion of Iraq, we need to study the full gamut of rhetorical interactions between concerned social actors in the pre-war period. We need to look beyond Tony Blair, to consider other political, social and public actors, and to gauge their influence over the broader public debate (Milliken 1999, 233, Hansen 2006, 55, 60, Kornprobst 2014, 195). This makes sense. As Ted Hopf perceptively put it, “authors do not control the meaning of their own words once they are uttered in public” (Hopf 2002, 20). Just because Blair made a particular legitimacy claim, it does not mean that claim succeeded (or failed). Indeed, Reus-Smit rightly notes that logically “auto-legitimation is an oxymoron”. An actor cannot legitimate their own rule or their own actions. Legitimacy derives not just from what policymakers say but from how society responds (Reus-Smit 2007, 159). What policymakers say still matters, however. The appreciation of Tony Blair’s legitimization efforts that we seek in this study is not sufficient to explain the Iraq War as a whole. But it is a necessary first step towards that explanation.

The remainder of this paper subjects Blair’s pre-war rhetoric to a two-stage empirical analysis. In the first stage, it considers how far he met the criteria laid down by Bjola’s notion of deliberative legitimacy. If Blair met the criteria but still failed to legitimize the war, we will have to question the utility of distinguishing, as the Habermasians do, between legitimacy and consensus. In the second stage, it analyses the actual arguments Blair made, adding a fourth criterion of coherence and consistency to Bjola’s three. Here our goal is more pragmatic. We look at problems inherent in how Blair conceptualized his legitimacy claims.

This allows us to set normative concerns aside, to add the basis for a purely sociological analysis to that established in the first stage for a deliberative approach.

## **Tony Blair's commitment to deliberative legitimacy**

### *Truthfulness*

Most studies agree that Britain stopped trusting Tony Blair after the invasion of Iraq (Kennedy-Pipe and Vickers 2007, 212). Opinion polls conducted at the time showed 49% of respondents thought the prime minister lied during the build-up to war (IPSOS MORI 2003). This was not entirely fair. Blair usually said in public some version of what he thought in private (Bjola 2009, 128). He was not always quick to reveal his true beliefs, however. And he used problematic evidence to support several of the truth claims he made. Two warrant special consideration. Blair stated unequivocally that Iraq possessed and continued to develop banned Weapons of Mass Destruction which threatened Iraqi civilians, the region and potentially the wider world. After the invasion, this proved to be untrue. He made the most of limited, uncertain intelligence information. Not only did the fact it was incorrect damage him, but the fact he knew its weaknesses and did not reveal them exacerbated the effect. Blair also claimed he possessed firm legal grounds for war, even without a 'second' UN Security Council Resolution. Two years after the invasion the attorney-general's finely-balanced judgement on the subject leaked. It revealed that Blair exaggerated when he claimed the case was clear-cut. Blair was truthful at one level. He honestly described what he believed the situation to be. But he withheld information about the bases of his conclusions, limiting his ability to achieve deliberative legitimacy.

Arguments about national security offer leaders a powerful route to policy legitimacy (Hansen 2006, 34-35). But societies continually construct the external threats they face (D. Campbell 1998, 2). In the post-Cold War period it was far from clear where the strategic threats to Western states lay (Cole 1996, 105). After the 11 September attacks, President Bush successfully linked international terrorism and Iraqi WMD in the US public mind (Kaufmann 2004, 32, Levy 2008, 16). This granted him domestic support denied to Tony Blair. While Bush sold the Iraq War as a strategic necessity, for Blair it was always a discretionary conflict. Legitimizing a discretionary war is far harder than legitimizing a necessary one (Finnemore 2003, 2). Blair suffered further difficulty because his own position

on the need for military action remained finely balanced. MI5 told him that Saddam Hussein was unable to attack Britain directly and highly unlikely to side with terrorists (Manningham-Buller 2002). Instead his personal case for war rested on a changed “calculus of threat” in the aftermath of the 11 September attacks (Butler 2004, 34). Risks that once seemed purely hypothetical took on a more urgent aspect, but their actual probability did not change.

Blair believed Iraq possessed WMD. He was far from alone in that belief. And he did not simply invent it in order to go to war in 2003. He ordered airstrikes against Iraq over its failure to cooperate with UN weapons inspectors in 1998. He warned of the potential threat Iraq posed during his ‘doctrine of international community’ speech in 1999 (Blair 1999). And Alastair Campbell described in his diary how Blair highlighted the issue again during high-level meetings immediately after the 11 September attacks (Campbell and Stott 2007, 560-561). In public, Blair and his ministers linked the indiscriminate destructive potential of WMD to the indiscriminate destructive intent shown by the 11 September hijackers (Hansard 2002a, Col. 11). Blair further underlined the likelihood that any local conflict triggered by Iraqi WMD would likely draw in the wider world including Britain (Hansard 2002b, Col. 6). He emphasized Saddam Hussein’s unusual willingness not just to possess but to use chemical weapons, implying that his was no mere defensive programme (Blair 2002c). Finally he highlighted the specific threat Iraq posed to a 21<sup>st</sup> Century global order built on trade and interdependence; “the threat is chaos and disorder—and there are two begetters of chaos: tyrannical regimes with weapons of mass destruction and extreme terrorist groups who profess a perverted and false view of Islam” (Hansard 2003c, Col. 768).

Iraq definitely developed and used WMD during the 1980s, launching chemical attacks on Iran and on its own Kurdish and Shi’a civilian populations. It was subject to a slew of UN Security Council Resolutions aimed at dismantling its WMD capabilities, and it violated every one. Although it did in fact disarm after the Gulf War in 1991, it did so secretly. This prevented outside verification, a condition imposed by the Security Council. It also meant that even within the upper echelons of the Iraqi regime many thought Saddam Hussein continued to operate secret WMD production facilities (Iraq Survey Group 2004). Hans Blix subsequently confirmed that when UN inspectors returned to Iraq in late 2002, they expected to find a good deal of banned material (Blix 2004, 146-147, Blix 2010, 29-30). Against this backdrop, many contemporary observers thought Blair’s ‘dossier’ on Iraq’s WMD, produced in September 2002, “cautious, and even dull” (Butler 2004, 76). In many ways it said nothing other analysts were not already saying. As Blair’s former communications chief and Foreign Secretary both pointed out at the Chilcot Inquiry, the

dossier downplayed claims made in a similar document produced by the International Institute for Strategic Studies a few weeks earlier (A. Campbell 2010, 102, Straw 2011, 57).

The fact Iraq turned out not actually to have any WMD damaged the invasion's legitimacy (Freedman 2004, 8, Michalski and Gow 2007, 145). Blair felt the level of criticism he suffered was somewhat unfair, given the range of different actors who shared his views before the invasion. He accused many of his critics of using "ex post facto wisdom" against him (Blair 2010b, 406). But Blair does deserve a measure of blame. Iraq had a long history of obfuscation and concealment. It made sense to assume, on the basis of the limited evidence available, that it probably was continuing to develop WMD. Jack Straw told the Chilcot Inquiry "all the little bits of information, however patchy and sporadic, all pointed in one direction and not one I ever saw pointed in the opposite direction" (Straw 2010b, 67). But the information available was indeed "sporadic and patchy" and "limited", in the words of the Joint Intelligence Committee (2002a, 2002b). That was not how Blair presented it. He told parliament the evidence underpinning the dossier was "extensive, detailed and authoritative" (Hansard 2002b, Col. 3). This was untrue. Lord Butler, who later led a public inquiry into the government's use of intelligence evidence, described "the three words – extensive, detailed, authoritative" as "the closest Blair came to the 'lie direct'" (Seldon, Snowden and Collings 2007, 140). Blair furthermore wrote in the foreword to the dossier "I believe the assessed intelligence has established beyond doubt" that Iraq was developing WMD (British Government 2002, 3). Evidently it had not. The JIC thought Iraq was *probably* developing WMD. But Blair took the point much further. Defending his position, he told the Chilcot Inquiry "I did believe it, frankly, beyond doubt" (Blair 2010a, 80). His formulation was telling. Blair's comments in the dossier were not dishonest, in his opinion. He honestly *believed* at the time that it proved Iraq had WMD. His belief was wrong, and could easily have been proven wrong had he made the basis for his conclusions clearer to the public. That is where his dishonesty lay, not with what he said but with what he withheld. Blair "did not falsify evidence", but did make the most of the limited material available to him (Bromund 2009, 267). Any leader would have struggled to make the case for a hypothetical threat visible only through secret intelligence (Hurrell 2005, 22). The way he presented the intelligence he released was far from neutral, however, despite his claims. That was enough to see it subsequently labelled "deceptive" (Herring and Robinson 2014).

Blair's claims about the legality of military action echoed in some ways those he made about WMD. Again, he did not lie, at least not exactly. Instead he emphasized evidence that supported his position and downplayed anything that undermined his case. Given the real

prospect that an invasion lacking clear legal grounds might prompt both official resignations (Greenstock 2009a, 8) and Cabinet divisions (Straw 2010a, 7, 24), it was obvious from at least mid-2002 that some sort of UN process was a necessary prerequisite of UK participation in a war, not just a sensible PR exercise. Traditionally the UN Security Council serves as the ultimate international arbiter of legitimacy in conflict (Claude 1966, 370, Franck 1988, 725, Voeten 2005, 527-557), though views differ as to how far states should feel bound by that tradition (Kagan 2004, 73). Most societies treat an explicit UN Security Council Resolution as the ultimate source of legitimacy for any particular military action (Bjola 2005, 267). The case for relying on Security Council approval is not straightforward, however. Much Council business takes place behind closed doors, making its internal workings opaque and rarely terribly democratic (Caron 1993, 555). Its members, too, vary widely in terms of their domestic legitimacy (Hurrell 2005, 19). Blair based his legal case on UN Security Council approval. But he also reserved the right to act without it, should the Council itself fail to uphold what he considered to be international law.

A key problem with Blair's approach arose from his treatment of Lord Goldsmith's legal advice. After much deliberation and some cajoling from Downing Street, Goldsmith finally concluded an invasion could take place without further Security Council authorisation. He took a nuanced position, however, calling the case for action "reasonable" rather than irrefutable, and warning he could not guarantee a court would agree (Goldsmith 2003c). Blair had no time for nuanced judgements. He needed an explicit ruling to reinforce his public claims. Jack Straw suggested to Goldsmith that, owing to "the problem of leaks", he should prepare a clear-cut summary for the Cabinet confirming only the essentials and leaving out the caveats (Straw 2003b). Goldsmith duly did so, stating in bald terms that an invasion would be legal. Blair released the latter note to parliament and so to the public, while keeping the earlier, more nuanced version private. In the process, he implicitly claimed the legal case was uncomplicated. But he knew full well that this was not the case. Again, although Blair did not lie directly, he was at best economical with the truth. He did believe Iraq possessed WMD and the Attorney-General did conclude an invasion would be legal without further UN approval. But Blair's belief was based on sketchy intelligence, not on solid proof. And the way he presented Goldsmith's judgement made it look clear-cut when it really was not. We must conclude that Blair relied on information that was not 'truthful and complete' in Bjola's terms, and thus that his legitimization efforts failed the test of truthfulness.

## *Openness*

On one level, Blair permitted an open public debate. He argued his case for nearly a year, speaking publicly about the prospect of military action on multiple occasions between visiting President Bush's Texas ranch in April 2002 and the start of the war in March 2003. In June 2002 he became the first prime minister to hold regular monthly press conferences, several of which focused heavily on Iraq. In July 2002 he took questions from the House of Commons Liaison Committee, comprised of the various Select Committee Chairs. Again, Blair was the first prime minister to submit to Select Committee questioning and, again, his audience wanted to talk about Saddam Hussein. He made several statements about Iraq to the House of Commons, and took part in at least five large-scale set piece debates in addition to answering dozens of questions at his regular Prime Minister's Questions sessions. He even sought to engage with street protestors, responding directly to claims made during the mass anti-war marches of 15 February 2003 (Blair 2003b).

On another level, however, Blair's behaviour looked far less open. He spent several months in early and mid 2002 refusing to discuss the prospect of war with Iraq directly. Instead, he maintained that "no decision has been taken", so there was nothing yet to debate (Blair and Cheney 2002). This stance was a problem for two reasons. Firstly, while Christopher Meyer may have been wrong about a deal being "signed in blood" in April 2002 (Meyer 2009, 29), Blair clearly did decide to confront Iraq quite early on in the pre-war build-up, certainly by the time he went to Texas (Blair 2002a). Technically he did not make the explicit decision to use force until much later. But he knew any confrontation that began with diplomatic efforts would likely end in war. Secondly, every time Blair reiterated the formulation about no decision having yet been taken, he implicitly told his critics that they would not get a say when the time for a decision came. Instead he would decide, and they would then get the chance to consider his settled decision. Not only was he reluctant to engage in a proper debate on the merits of military action as a solution to problems with Iraq's behaviour, he also advertised that reluctance directly. Blair reinforced the point still further by repeatedly refusing to promise parliament a formal say in any decisions about military action. Instead he referred vaguely to following past precedents (Blair 2002b). In 2002 and early 2003, the precedents all involved the government making decisions and parliament then discussing them without being able to change anything (Joseph 2013, Strong 2014). This was hardly the sort of inclusive stance his opponents sought. Finally, in the weeks immediately preceding the start of the invasion, Blair even went so far as to suggest

anyone who spoke out against him risked succouring Saddam Hussein (Hansard 2003b, Col. 130).

Blair's tendency to ground his legitimacy claims in references to his own authority, or that of other actors within the government, further underlined his limited commitment to open public debate. The criterion of openness implies not just that debates will be accessible, but that participants will treat each other equally. Once one actor starts basing their claims not just on reason and evidence but on institutional authority, their commitment to deliberative legitimacy breaks down. Blair made three main authority claims. Firstly, he referred to his government's track record in taking Britain into military action, especially in Kosovo and Afghanistan. Britain could once again expect a broad and open public debate, a careful balance between values and national interests, and a plan that worked, he argued (Blair 2002c). Secondly, he bolstered his own personal authority by drawing on that of key expert advisers from within the government, especially the Joint Intelligence Committee and the attorney-general (Hansard 2002b, Col. 3). Finally, he drew on the international authority of the UN Security Council, linking his proposed policy to the Council's past actions and future interests (Hansard 2003b, Col. 126). The very fact he drew on authority as a source of legitimacy undermined his claim to deliberative legitimacy. But his references to other actors also served to concede to his critics that he lacked the authority to legitimize war with Iraq on his own.

Blair therefore also failed to demonstrate the openness to outside voices required to achieve deliberative legitimacy. He did engage with a range of different social actors and he did facilitate a number of opportunities for public debate. But his commitment to openness came with clear limits. His goal above all was to secure more persuasive opportunities for himself, not to ensure the maximum participation in public debate that true communicative action entails.

### *Willingness to be persuaded*

Communicative action requires all the participants in a public debate to keep an open mind. Any speaker who contributes views without being willing to be persuaded by others engages in purely strategic action (Habermas 1981, 295-296). Strategic communication can produce consensus. But not the right sort of consensus, the sort derived from reasoned exchanges among equals on which deliberative legitimacy depends. Blair switched between different legitimacy claims several times during the pre-war debate. He originally focused on

the threat from Iraqi WMD. After September 2002 he spoke more prominently about the need to uphold UN authority. When this claim broke down in early 2003, as US military timetables clashed with the slower pace of international diplomacy, he emphasized instead the humanitarian grounds for military action. At a surface level we might treat this as evidence of Blair responding to feedback from the public debate. He certainly did face calls for a greater UN focus, and a range of arguments about the morality (or otherwise) of war. But at a deeper level the picture looks more complicated. Blair changed his arguments, but he did not change his underlying view, that Britain should join US-led military action to overthrow Saddam Hussein. Instead he switched between different subsidiary points depending on what he thought most likely to persuade.

Blair maintained that he approached the public debate over Iraq with an open mind. At one point he insisted he did not “have a monopoly of wisdom in these issues” (Blair 2003c). Yet he acted quite differently, especially with regard to the moral case for war. One Downing Street aide later remarked that Blair “would think that his own judgement was at least as good as that of the Archbishop of Canterbury, of the Cardinal of Westminster, and of the Pope combined” (Seldon, Snowdon and Collings 2007, 153-154). Downing Street Chief of Staff Jonathan Powell apparently referred to Blair’s self-belief as his “Messiah complex” (Blair 2010b, 157, Powell 2010, 56). It proved useful. Archbishop Rowan Williams, Cardinal Cormac Murphy-O’Connor and John Paul II all challenged his moral arguments directly. Blair pressed on regardless.

His basic view was simple. He advocated a “cosmopolitan” notion of international morality (Beitz 1979, 406, Kramer 2003). He claimed “our values aren't western values. They're human values, and anywhere, anytime people are given the chance, they embrace them” (Blair 2002d). It was an innovative approach, and risky. Britain is wary of claims about the ethics of foreign policy (Gaskarth 2006, 326). It prefers to consider national interests over national values. By merging the two, Blair tried to make “ethical” behaviour a matter of self-interest, increasing its legitimacy along the way (Chandler 2003, 295). Unfortunately for Blair, however, ethically-motivated foreign policies still have to succeed to really be thought legitimate (Bulley 2010, 441).

As a general rule, then, Blair took more interest in persuading others than in allowing himself to be persuaded. As he said in one press conference, “my job in a situation like this is sometimes to say the things that people don’t want to hear” (Blair 2003a). He switched between different components of his broader argument for war not to accommodate audience feedback but to make his position more persuasive. Faced with an anti-war clamour during

the mass street protests of 15 February 2003, he responded by making his own moral arguments. As he put it, “the moral case against war has a moral answer” (Blair 2003b). But Blair did not start thinking in moral terms simply because one million protestors pushed him that way. Internal documents show he thought there was a strong moral argument for removing Saddam Hussein from early in the debate (Blair 2002a). This reticence undermined his ability to secure deliberative legitimacy, while his constant shifting between arguments damaged his credibility (Williams 2005, 192-193). He looked inconsistent and shifty rather than open to persuasion. The reason was fairly clear. He was not open to persuasion. He was simply making the arguments he thought most likely to succeed.

Blair consequently failed to meet all three of Bjola’s criteria for deliberative legitimacy. This limited his ability to generate a normatively valid social consensus, and so damaged his hopes of legitimizing the Iraq War unequivocally. His commitment to truthfulness raised questions because he failed to disclose weaknesses in his evidence. His commitment to openness proved more rhetorical than real. Although he permitted (and participated in) a large number of debates about Iraq in various different forums, he worked constantly to steer each discussion away from the key substantive issue of whether or not Britain should go to war. Finally, Blair evidently took more interest in persuading other actors than in allowing himself to be persuaded. True communicative action is an interactive process. As soon as one participant closes their mind to others’ comments and ideas, they give up any claim to deliberative legitimacy, even if they subsequently win audience support. Blair’s lacklustre commitment to the requirements of communicative action, then, weakened his prospects for legitimizing his policy. Even if he managed to win Britain’s backing, he did not go about it in the right way.

### **Flaws in Blair’s actual legitimacy claims**

Having moved away from a sociological conception of legitimacy in order to consider its deliberative dimension, we now move back by adding a fourth criterion, the actual persuasiveness of Tony Blair’s legitimacy claims. Blair switched position repeatedly during the pre-invasion period. He shifted between different arguments as each in turn failed to shift stubborn opinion polls, or to win overt support in public debate. Ironically, this made his arguments less persuasive, as we have seen. More crucially for our analysis, however, his different arguments also clashed with each other, undermining the coherence and consistency

of his overall approach. They clashed along three main dimensions. Firstly, his efforts to invoke the authority of the UN, to stay within international law and to out-manoeuvre diplomatic rivals undermined each other. The arguments he made about the question, prominent in early 2003, of whether the US and its allies needed a ‘second’ UN Security Council Resolution to authorize the use of force epitomised this clash. Secondly, Blair’s commitment to international law ran up against his conviction that international law fell short of important ethical standards he thought it should meet. This left him skirting constantly around his firmly-held belief that Britain had a moral responsibility to rid the world (and especially the Iraqi people) of Saddam Hussein. Finally, for all his moral qualms, Blair felt compelled to base his case for war firmly on Iraq’s alleged possession of WMD. This forced him to accept the ethically dubious proposition that Saddam could legitimately be left in power should he meet his UN disarmament obligations, regardless of the human rights situation.

#### *Domestic politics, international diplomacy and law*

In a telling exchange during his Chilcot Inquiry appearance, Blair answered questions about the way he described Britain’s attempt to secure a ‘second’ UN Security Council Resolution. From the earliest public exchanges on the question, immediately after the Council passed Resolution 1441 in November 2002, the British government held to a single line. Resolution 1441 required the Council to “consider” any alleged breach of its requirements. But, as Jack Straw explained, it “does not stipulate that there has to be a second Security Council resolution to authorise military action” (Hansard 2002c, Col. 53). In many ways this was a problematic argument. For one thing, the government’s own lawyers did not support it. Lord Goldsmith repeatedly warned both Straw and Blair that, in his view, only the Council itself could conclude Iraq was not taking the “final opportunity” afforded it by SCR 1441. Only the Council could authorize the use of force through a ‘second’, explicit Resolution (Goldsmith 2002a, Goldsmith 2002b, Goldsmith 2003a, Goldsmith 2003b). Blair initially dismissed the issue in public, telling journalists “there are certain questions frankly...it is not very helpful to speculate on” (Blair 2002e). In private, the position was complicated. Advised by FCO lawyer Sir Michael Wood that there was “no doubt” a further resolution was required (Wood 2003), Jack Straw responded that he “hope[d], for political reasons) we can get a second Resolution”, but that international law was “uncertain” and so he did not accept the substance of the advice (Straw 2003a). Blair himself underlined the

statement that UNSCR 1441 “does not authorise the use of military force without a further determination by the Security Council” in a memo from Goldsmith, commenting “I just don’t understand this” in the margins (Goldsmith 2003b). Goldsmith’s position was quite clear, however. Whatever the diplomatic difficulties, Britain required a second SCR to go to war legally.

Blair never conceded this point in public. In fact, he argued quite the opposite, insisting a second resolution was not legally necessary. He later told the Chilcot Inquiry that this was not dishonest, but that those who subsequently suggested as much misunderstood the status of what he said. His comments did not constitute a “legal declaration”, he argued, but rather a “political point” (Blair 2011, 73-74). In effect, he claimed that when he made public statements about Britain’s legal position which he knew contradicted the attorney general, he was not making false statements, but was rather not making ‘legal’ statements at all. He claims the coincidence of the diplomatically convenient argument, that no second resolution was required, with his own view of the legal position (which differed from Goldsmith’s despite the latter’s advice), is irrelevant (Blair 2011, 61). What mattered is that the prime minister does not make legal judgements at all, so any legal statement by a prime minister never has anything more than rhetorical force. Clearly this is a problematic argument in itself. Saying something you know to be untrue has a common sense definition. Blair lied about the legal position. The fact he lied underlines again the difficulty raised by his appeal to the attorney-general’s authority in making his own legitimacy claims. He wanted Goldsmith’s authority to support his own arguments. He did not want Goldsmith to contribute directly to the public debate.

Yet despite Blair’s public claims, Britain did in fact seek a ‘second’ Security Council Resolution, which confused the position even further. It did so for two main reasons. First, a further Resolution looked politically vital, whatever the legal arguments made. In early January Blair was warned that he “might be unable to survive the expected House of Commons vote” without a further resolution (Blair 2010b, 412). By the end of the month “everyone [Blair] was speaking to was saying they needed a second resolution” (Campbell and Stott 2007, 658). Second, it served to block other Security Council members, who opposed an invasion and who might otherwise propose a rival motion. If the Council ruled that the case for war with Iraq remained unproven, the UK legal position would collapse even if the US used its veto. It could not, however, debate rival motions at the same time (Greenstock 2009a, 13, Straw 2010b, 82). These reasons made good sense, taken individually. But following on the back of Blair’s repeated insistence that Britain did not require a ‘second’

Resolution, the whole exercise undermined his position. When Britain concluded it could not succeed and withdrew its proposed text a few days before the invasion, it compounded the damage still further.

Blair's approach to the question of a 'second' UN Security Council Resolution exhibited a level of incoherence unlikely to win much public support. He denied that Britain needed another Resolution despite legal advice to the contrary, then claimed his statements about the legal position obviously had nothing to do with the legal position and should never have been read that way. Then he authorized an effort to obtain a 'second' Resolution anyway, even eliciting a (lukewarm) endorsement from President Bush (Bush 2003). Finally he reverted to his original argument and went to war without explicit UN approval, though he did make the effort to blame a threatened French veto for the entire debacle (Hansard 2003c, Col. 764). This was, in turn, a bold argument, given Britain never secured the nine votes needed to pass a resolution, irrespective of a veto (Greenstock 2009b, 72). Taken together, these conflicting claims underlined the inconsistency of Blair's case for war.

#### *International law and cosmopolitan morality*

There is considerable scope for legal and moral legitimacy claims to clash, potentially leading some states to think illegal action is nevertheless legitimate (Hurd 1999, 381, Hurrell 2005, 21, Clark 2005, 208). As we have seen, exactly that happened for Blair with regard to Iraq. Blair adopted a cosmopolitan moral position that expected Western human rights standards to apply in every state. He also held to a prototypical version of a view that later became part of the Responsibility to Protect. If an international moral community existed among states, and one state violated its tenets, that state itself lost legitimacy and could legitimately be overthrown (Price and Reus-Smit 1998, 287, Clark 2005, 176). States that followed the right norms could act against those that did not, in the name of the international community even without its consent (Wheeler and Dunne 1998, 849). Despite this moral conviction, however, Blair also strongly believed in the need for states to obey international law, which explicitly forbade states from violating others' sovereignty to bring about 'regime change'. Over Iraq these two views clashed. Arguably they are not irreconcilable, and as we have seen Blair may have downplayed his personal commitment to humanitarian regime change, but he did not lie about it. However, because Blair simply expressed the contradictory claims rather than reconciling them, the overall effect was, again, incoherent and confusing.

Britain was willing to countenance “regime change” as a means to the end of Iraqi disarmament, on the basis that a legal case could be made for intervention to disarm Iraq but not to change its regime for moral reasons (Kennedy-Pipe and Vickers 2007, 211). David Manning told the Chilcot Inquiry that for the US the position was “almost the opposite” (Manning 2009, 24). This put Blair in a difficult position. British government lawyers warned that while “it could be that another lawful basis for force might lead to regime change...wanting regime change was not of itself a lawful basis for the use of force” (Goldsmith 2010, Grainger 2002). British Cabinet ministers thought “a foreign policy objective of regime change”, the very objective being pursued by their American counterparts, “improper and self-evidently unlawful” (Straw 2010b, 17, Straw 2010c, 2). Clark highlighted the key problem, quoting Blair: “‘a regime can systematically brutalise and oppress its people, and there is nothing anyone can do’. He conceded that ‘this may be the law’, but then went on to query whether ‘it should be’” (Clark 2005, 179).

Especially once he began to put the moral case for war after the 15 February 2003 protests, Blair struggled to reconcile this sense that international law permitted regimes to behave in a way he thought immoral. He resolved the issue by juxtaposing two subtly different arguments. On the one hand, he maintained that Britain would only try to change the Iraqi regime as a means to disarmament, since that was the only plausible legal grounds for such action. At the same time, he insisted that “if we do act, we should do so with a clear conscience and a strong heart” because acting meant liberating Iraqis (Hansard 2003c, Col. 772, Hansard 2002b, Col. 17). Blair later recalled having “resolved in my own mind that removing Saddam would do the world, and most particularly the Iraqi people, a service”. He acknowledges that, at the time and for various reasons, “regime change could not be our policy” yet admits he “viewed a change with enthusiasm, not dismay”. Even here Blair splits verbal hairs. In the space of one page he reports “enthusiasm” for regime change, and dismisses the “myth” that he agreed to support it when he met Bush in April 2002 (Blair 2010b, 400).

Part of Blair’s reluctance to commit to securing a ‘second’ Security Council Resolution stemmed from his understanding that key Council members thought the US and UK were exaggerating the Iraqi threat. He knew winning over Russian and French support would be difficult. Part of it, too, reflected his sense that international law lagged behind where international morality should be, a view prominent in his arguments on military intervention from Kosovo onwards (Blair 1999). Forced to balance these competing diplomatic pressures, he settled on two contradictory arguments. Firstly, Britain would act

only in line with international law. Secondly, Britain would pursue humanitarian goals incompatible with international law as it then stood. This put pressure on the entire UN process, and on the attorney-general tasked with resolving the difficulty. It also limited how far Blair could hope to persuade others to accept his point of view. It is difficult enough to change well-entrenched attitudes towards an issue, and a greater challenge entirely when one's own position makes limited sense on its own terms.

### *Disarmament and regime change*

A final problematic contradiction emerged in Blair's case during the final days before the invasion. Despite sticking resolutely to the position that any military action would aim at disarmament and not regime change, Blair suggested that regime change brought about internally might obviate the need for outside intervention. While he stopped short of saying that a different Iraqi regime could safely retain WMD, he made clear he considered Saddam Hussein the real threat, not the weapons he controlled (Campbell and Stott 2007, 612-613, Blair 2010b, 402). He suggested that Saddam could end the stand-off by leaving the country if he still refused to disarm, implicitly reiterating the point (Hansard 2003b, Col. 125). At the same time, he also put almost the exact opposite point. If Saddam did disarm, he told MPs, he would be left in power (Hansard 2003b, Col. 124). This concession made sense, given the legal case for war assumed its purpose was disarmament. But it also looked strange when set alongside his moral stance. Blair set out the consequences of inaction in his opening speech to the final parliamentary debate before the war; "for the Iraqi people, whose only true hope lies in the removal of Saddam, the darkness will simply close back over" (Hansard 2003c, 773). He did not sound ready to swallow such a scenario in order to achieve disarmament.

The truth is that Blair and his ministerial colleagues never expected Iraq to comply with the UN's disarmament demands. They expected Iraq to refuse to re-admit weapons inspectors after the passage of SCR 1441, proving its unwillingness to co-operate and making the case for war (Greenstock 2002). This expectation proved incorrect. When Iraq allowed inspectors to re-enter the country, co-operating at least on process if not on substance (Blix 2003), it took Blair by surprise. This in turn highlighted a weakness in the way he originally presented the UN inspection process, indeed in its entire genesis. For SCR 1441 involved a number of "ambiguities" without which it could never have passed (Meyer 2009, 68). Chief among them was the failure to define what exactly constituted a material breach of Iraq's

immediate obligations. Both Blair and Blix believed the onus lay on Iraq to prove its innocence (Blix 2004). But Blair did not make the case consistently. He argued, on the one hand, that the process “is not a game of hide and seek” (Blair 2002f), but on the other that “it is for the inspectors to examine *whether there is evidence* of weapons of mass destruction” (Hansard 2003a, Cols. 164-168, emphasis added). This lack of clarity was a problem in its own right. Taken together with Blair’s ambiguity about whether his goal was disarmament or regime change, it left his case completely confused. If disarmament was truly his primary objective, he might have given the inspection process greater thought. But it wasn’t. And his lack of attention underlined the point, however often he argued otherwise. Yet at the same time he never committed to a regime change argument. Fearing the legal consequences, he never took his moral stance to its logical conclusion. Instead he made an illogical argument.

## **Conclusion**

Habermas’ original notion of communicative action downplayed the role of persuasion, a potential shortcoming later studies sought to redress (Checkel 2004, 240, Bially Mattern 2005, 586, Kornprobst 2014, 201). If persuasiveness matters, then the coherence and consistency of Blair’s arguments must have mattered. But Blair’s arguments contradicted each other. His overall case for war lacked coherence. He was often inconsistent. The three areas of difficulty highlighted here underline a key conclusion. Blair did not make a persuasive case for war with Iraq. He argued passionately, he argued repeatedly, but he did not argue coherently. At the same time, Blair also failed to meet any of the criteria set down for deliberative legitimacy. He was not honest. He neither encouraged nor really accepted the most open possible debate. And he aimed to persuade, not to be persuaded.

These flaws together limited how far Britain could consider the Iraq War legitimate. Leaders cannot secure deliberative legitimacy solely through what they say and do. It always depends on how every participant in public debate behaves. If leaders care about deliberative legitimacy, however, they have to approach communication in the right way. By failing to meet the criteria of honesty, openness and willingness to be persuaded, Blair ensured deliberative legitimacy remained beyond him. He could still have won consensus through persuasion. But again his failings made this unlikely. His overall case for war simply was not logical. It relied on rhetorical constructions no straight-talking public was ever going to

support. Blair led the pro-war camp. There was no-one else to rectify the shortcomings in his arguments.

Blair's rhetorical failures also damaged the government's institutional legitimacy. Policy legitimacy is ultimately an expression of as well as a potential threat to *policymakers'* legitimacy. Actors who stretch the truth too far struggle not only to legitimize the particular decision under debate, but their other policy stances as well (Franck 1988, 715). Kennedy-Pipe and Vickers described how Blair suffered "blowback" from his pre-war rhetoric. He lost public trust, not just on matters of war and peace, but across the board (Kennedy-Pipe and Vickers 2007, 206). This loss of trust affected Blair through the remainder of his time in office. But it also affected his successors (Daddow 2013, 113). During the debate over intervention in the Syria civil war, a number of MPs told David Cameron they knew from Iraq never to trust a prime minister trying to take the country to war (Hansard 2013, Cols. 1488 and 1510). Parliament now decides when a British government may or may not launch major military actions (Strong 2014). Charles Hermann concluded that foreign policy change "occurs when elites with power to legitimate the government either change their views or themselves alter in composition" (Hermann 1990, 12). Blair's conduct changed the composition of the legitimating elite, bringing in MPs by making continued executive dominance unthinkable.

In constructivist terms, then, Blair's rhetorical attempt to legitimize the invasion of Iraq failed in a number of ways and for a number of reasons. It failed because he never fully committed to communicative action, a prerequisite for deliberative legitimacy. It failed because the arguments he made were flawed. These failings arguably limited his ability to declare victory. They delegitimized not just the conflict itself, but the office of prime minister. Tony Blair's rhetorical legitimization efforts failed even before his domestic constituents heard them.

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