

The Education of Nations... in Securing Peace and Avoiding War

January 2020 onwards

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(*de facto* but not yet *de jure*)
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OPEN LETTER

Mr Bill Emmott,
Chair of Trustees,
The International Institute for Strategic Studies ('IISS'),
Arundel House,
6 Temple Place,
London WC2R 2PG

23 July 2021.

Dear Sir,

Re: The Fraud Act 2006, s. 1(2)(a) – (fraud by false representation)

As you are aware, I wrote an open letter to your Director-General and Chief Executive dated 27 January 2021 inviting him to consider his position in the light of my findings.¹ That he has not replied suggests he has no defence or believes he can rely on political protection. That you have not intervened reinforces my doubts about IISS governance.

So, being unable to resolve the issues I have raised under the civil law, I now bring a criminal complaint against the IISS Trustees and Director-General and Chief Executive ('DG & CE'):

My allegation: That the IISS Strategic Dossier, Russia's Military Modernisation, published on 30 September 2020,² constitutes fraud by false representation as defined under section 2 of the Fraud Act 2006 for which the IISS Trustees and their DG & CE are principally responsible.

Investigation: The details are being passed openly to the Serious Fraud Office ('SFO') and Metropolitan Police due to complicity in the alleged offence by:
(i) The Charity Commission for England and Wales; and
(ii) Current and previous English Attorneys General;
The evidence is taken from three civil law cases which I presented.

Conflict of interest: This arises from the Attorney General's superintendence of the SFO.³

My Purpose:

To forewarn the public one more time that the world is heading for another Great Power war.

As in 1920, the reason is the failure of political institutions to apply 'an irenic perspective' even-handedly. Post-Cold War, the term was first defined in English charity law on 9 October 1998, drawing on a United States case of 1917, and affirmed by the Court of Appeal on 28 June 2000.

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1. Why Does this Matter?

IISS and its DG & CE have form. On 9 September 2002 IISS published a dossier, Iraq's Weapons of Mass Destruction: A Net Assessment whose contribution was reported on and assessed in The Report of the Iraq Inquiry (6 July 2016).

(i) *Legal Background*

In anticipation of just such a scenario as the war with Iraq,⁴ begun in March 2003, I had gained through a charity case concerning the Project on Demilitarisation ('Prodem'), which I had brought before the High Court [1998] and the Court of Appeal [2000], the definitive legal framework for education from an 'irenical perspective'. This has been comprehensively analysed elsewhere on my website.⁵ The relevant legal principle here is political impartiality:

... the court cannot determine (and should not attempt to determine) whether policies adopted by the government of the United Kingdom and other Western governments are or are not for the public benefit.⁶

So, the true test of a charity's independence from government is political impartiality.

(ii) *Material Facts*

The Iraq Inquiry authoritatively established that the IISS dossier of 9 September 2002 was:

- Coordinated with, and used by, the British Government at the highest level;⁷
- Highlighted in the Executive Summary of the Government's dossier of 24 September 2002 in terms of 'the IISS suggestion that Iraq would be able to assemble nuclear weapons within months if it could obtain fissile material, without reference to the material in the main text of the dossier which made clear that the UK took a very different view';⁸

(iii) *My Conclusions*

On IISS:

- a. An IISS dossier, derived without access to the Joint Intelligence Committee's secret intelligence, arrived at a view on Iraqi potential for assembling nuclear weapons that went beyond that of the UK Government. It was neither accurate nor dispassionate.⁹
- b. The IISS dossier thereby helped the UK Government create a climate for war with Iraq which, for a charity, was *ultra vires* the law because international war is always a political purpose whose public benefit is not self-evident and cannot be proven.¹⁰
- c. The same IISS Director at the time of the dossier of 9 September 2002 is DG & CE today and was in September 2020 when IISS published its Strategic Dossier on Russia's Military Modernisation. Their nuclear weapons are real, rather than conjectural.

On the English charity regulators:

- d. The failure of the Charity Commissioners for England and Wales to inform the charity sector, and especially educational bodies like IISS, of the Prodem legal framework and to enforce it dispassionately demonstrated their political bias favouring government policy.
- e. The role of the English Law Officers, including the Attorney General at the time of the invasion of Iraq in 2003, is addressed in the third legal case described below on page 9.

2. Application of the Fraud Act 2006, s. 2 to the IISS Trustees and DG & CE

The material facts which now form the basis of my allegation under this heading were summarised in my letter of 27 January 2021 to the IISS DG & CE in relation to Russia's Military Modernisation ('IISS Strategic Dossier') and so do not need to be repeated here.¹¹

The relevant law on fraud is described in Smith, Hogan and Ormerod's Criminal Law ('Ormerod') which I have relied on as an authoritative source.¹² Naturally, though, I remain fully and solely responsible for my summary and application of that work in this letter, written in my capacity as the *de facto* Law Officer for Public Benefit in England and Wales ('Law PB') to uphold the legal framework in the Prodem case binding on the lower tribunals.

(i) *Common Elements of the Fraud Offence*

The three forms of the offence of fraud have these common elements:¹³

- a. The main element of mens rea is that of dishonesty. That term is not defined in the Fraud Act 2006 ('Fraud Act'); instead the common law test applies. Following the Supreme Court judgment in Ivey v Genting Casinos UK Ltd (t/a Crockfords Club), Ormerod correctly anticipated that the changes to the Ghosh test for dishonesty introduced by Ivey, despite being of an *obiter* nature in a civil case, would also be applied by the criminal courts.¹⁴ So the reformulated Supreme Court test is:

- (1) What was D's knowledge or belief as to the facts (a subjective test; the reasonableness of the belief is a matter of evidence of the belief being genuinely held)?
- (2) In light of the conclusion in relation to question (1), was D's conduct honest or dishonest applying the (objective) standards of ordinary decent people?¹⁵

On (1), it should be noted that '... it is not an additional requirement that the belief had to be reasonable; the question is whether it was genuinely held.'

On (2), it should be noted that 'There is no requirement that the defendant must appreciate that the conduct was dishonest by those standards.'¹⁶ Ormerod has helpfully provided a critique of the law as stated in Ivey, which I have considered in relation to IISS, including the degree of objectivity required in (2):

It has been clear for decades that the objective limb of the test... should not be altered to accommodate the particular context or market in which the alleged acts occurred... That would dilute the test since within certain sectors practices can develop that would be regarded as dishonest by all reasonable people even though they are adopted within the sector.¹⁷

Ormerod's interpretation of the Barton case, applying the Ivey test in criminal law, is that juries must have regard to evidence of D's beliefs about the perceptions of others on the honesty of his conduct under (1), but it is not to be determinative (2)¹⁸

- b. The intent to gain or cause loss or to expose to a risk of loss is limited to gain or loss in money or other property, covering all forms including other intangible property.¹⁹
- c. While the fraud offence is a conduct, not a result-based, crime it is still necessary to establish a causal link to the element of intent to gain or cause loss.²⁰

(ii) *Section 2: Fraud by False Representation*

The requirements to secure a conviction on indictment for a section 2 offence are:

The actus reus requires proof that D: made a representation, which is untrue or misleading, and the mens rea requires proof that D knew the representation was, or knew that it might be, false, and he acted dishonestly in making that representation, and with intent to gain or cause loss or expose to a risk of loss.²¹

Vital to an understanding of the offence, in terms of its operation and scope, is an appreciation of the conduct-based nature of liability, as summarised by Ormerod:

Under s 2, there is no need to prove: a result of any kind; that the alleged victim or indeed any person believed any representation; that any person acted on a representation; or that D succeeded in making a gain or causing a loss by the representation.²²

So, the effect is that the Defendant, D, may be liable for the false representations even where they had no bearing on the alleged victim, V.

(a) Time of Commission of the Alleged Offence

Consequently the s. 2 crime is complete before the moment in time when any person acts in response to the false representation.²³

In the case of IISS, the alleged s. 2 offence was committed on 30 September 2020, being the date of publication in the United Kingdom of the IISS Strategic Dossier.

(b) The Alleged Victims

My letter of 27 January 2021 to the IISS DG & CE concluded on page 7:

Your IISS military database is an invaluable resource which is undoubtedly for the public benefit [in the legally charitable sense]. The sole question is over how it was applied or, in this case, misapplied.

Hence the alleged victims in this s. 2 complaint are the potential or actual users of the IISS Strategic Dossier of 30 September 2020 ('V') whose economic interests may be affected.

(c) The Suspects

IISS is both a public charity and a limited company. (See page 7 below.) It is axiomatic that the Trustees have overall responsibility for the running of a charity. It is also clear that the DG & CE is the top manager within IISS and was responsible for the IISS Strategic Dossier.

The suspects ('S') in this case are the IISS Trustees and DG & CE at the time of the commission of the alleged offence. Further investigation by the official authorities would be needed to ascertain whether any editorial or other staff should also be included as suspects.

(d) Actus Reus

D ‘... made a representation, which is untrue or misleading,’

These are questions of fact for the jury (except where the issue is as to the legal effect of a document, which would be for the judge to decide.)²⁴

The written representation, which S in this case made in the IISS Strategic Dossier of 30 September 2020, is set out on page 2 of my letter to the DG & CE of 27 January 2021, particularly with reference to the quotations I have highlighted in italics and the governance arrangements described in the closing paragraph of that page.

A word is necessary to explain why I consider this to be a s. 2, rather than a s. 3 ‘fraud by failing to disclose information’, offence. A s.3 offence ‘... is limited to cases in which D is under a “legal duty” to disclose information’.²⁵ While educational charities are under a legal duty to present both sides of a case concerning a matter of political controversy, that is not the principal issue here: the IISS highlighted quotations are, I allege, ‘false representation’.

The written representation while mainly a question of fact also includes, on the copyright page the claim concerning IISS independence of any governments or any political or other organisation. This touches on a representation as to ‘law’, i.e. the legal effect of the Dossier.

It would be for the judge to decide what ‘independence’ means for a public charity in terms of political impartiality, as set out in the Prodem case, drawing on the legal authorities. Thereby whether S made a ‘false’ representation as to law on the copyright page of the IISS Strategic Dossier. Additionally, the jury then knows the requirements as to material fact.

The distinction between representations of fact and those of opinion is also important. In this case the facts are not equally well known between S and the users of the IISS Strategic Dossier, or they would not need to purchase it or subscribe to IISS publications. Deliberate misstatements of opinion are no less dishonest than misstatements of other facts – since ‘whether an opinion is held or not is a fact’. As Ormerod goes on to propose:

The question now ought to be not ‘Is it a matter of opinion?’ but, ‘If it is a matter of opinion, was it D’s real opinion?’ If the opinion is not honestly held there is a misrepresentation of fact, for D’s present state of mind is a question of fact.²⁶

Under s. 2(2)(a) a representation may be false either because it is ‘untrue’ or ‘misleading’.

The actus reus for my claiming that the representation of S is false in terms of a s. 2 offence is set out on page 5 of my letter to the DG & CE of 27 January 2021 both in terms of the findings, by analogy with the Prodem case, and the omissions listed as bullet points below.

Whether under s. 2(2)(b) the person making it knows that it is or might be false takes us to the mens rea of the alleged offence, which also has to be established.

First, though, it must be recognised that the word ‘untrue’ has the ordinary English meaning and a certain part of the representation may not be *wholly* untrue. It is only where D’s use of a falsity, even on a peripheral matter in relation to V, can be proven to be dishonest and it is *by that falsity* that he intended to gain or cause loss that D may be convicted.²⁷ On the other hand, a statement can be ‘misleading’, even if literally true, by omitting material facts. The same caveats apply, as the Fraud Act makes no moral distinctions between the two.

(e) Mens Rea

'... requires proof that D knew the representation was, or knew that it might be, false, and he acted dishonestly in making that representation, and with intent to gain or cause loss or expose to a risk of loss.'

The knowledge of D is a strict form of mens rea requiring '... proof, often by inference, that D possessed knowledge of the existence of the falsity of the representation.'²⁸

It will suffice here to take one example – which I regard as the prime one – to demonstrate what that state of mind was in this case:

The mens rea for my claiming that the representation of S is false in terms of a s. 2 offence is derived from these two quotes in my letter to the IISS DG & CE of 27 January 2021. The first is taken from the IISS Strategic Dossier and the second from my finding on that quote:

"Analysis of the misunderstandings and the missed opportunities of the late 1980s and early 1990s falls outside the scope of this study, but Moscow's view of these events continues to influence and shape its security policies and its armed forces, the capabilities of which were degraded severely by the turmoil of the 1990s." ['Page 2', my emphasis]

'My four Prodem Briefings, relying partly on IISS data, analysed extensively the balance of peaceful methods of conflict resolution in the late 1980s/early 1990s.²⁹ Your omission of such "misunderstandings and the missed opportunities" is academically indefensible, especially as they are written into the defining legal case relevant to IISS activities. Even more so, as my work had a "forward looking... orientation" and pre-dated Vladimir Putin's rise to power in 1999-2000 so it cannot be put down to being simply "Moscow's view".'
['Page 5', second bullet point]

In particular, as Prodem Briefing A/1 summarises data extensively from the IISS, The Military Balance 1992-1993,³⁰ which is drawn from their own database, it is impossible for S to deny extensive knowledge of facts relevant to the IISS Strategic Dossier (September 2020). The state of mind of S is one of deliberately wishing to omit from their Dossier evidence that might counteract or offset the prevailing message concerning '... *the nature and extent of any challenge that Moscow's more capable armed forces pose to European security.*'³¹

Applying the Ivey/Barton test described in 2(i)a. above, part (1) based on Ss' knowledge of the facts, S could not have a genuine opinion that their 'Page 2' statement was wholly true and not misleading. They must, therefore, have known it to be false especially as no reason is given for claiming 'Page 5' omissions fall '... outside the scope of this study...'

Taking part (2) of the Ivey/Barton test, I submit that by 'applying the (objective) standards of ordinary decent people', not IISS standards,³² the conduct of S would be found dishonest. Moreover, it was *by that falsity* (and others not described here) that S intended:

- To cause a loss to the IISS military database whose undoubted public benefit requires application in a politically impartial way, as judicially defined in the Prodem case, not the historically partisan and one-sided way of the IISS Strategic Dossier; and
- To gain financially by presenting that Dossier as objective and impartial when they knew it was not, or might not be.

This matter of intending to gain or cause loss takes us to IISS governance arrangements.

(f) IISS Governance

One advantage of IISS being both registered with the Charity Commission and with Companies House is that information from each can be compared and contrasted. This required Freedom of Information ('FoI') requests to be submitted to the Charity Commission on 24 April 2021 and 19 May 2021 so that I had the fullest possible disclosure.

The material facts are as follows:

- 19 Feb 2008 IISS EGM adopts new objects, with the consent of the Charity Commission, in their Memorandum of Association and new Articles of Association ('M&A').³³
- 9 Apr 2019 IISS Meeting of Members passes a resolution adopting Articles of Association which replace the existing [2008 Memorandum and] Articles of Association, 'subject to the consent of the Charity Commission'.³⁴
- 2 May 2019 Charity Commission sends an email to IISS acknowledging the Governing Document update by the Trustees. However, it warned that changes to certain clauses like dissolution were not valid without Commission consent which would require a new application. The Commission confirmed to me on 16 June 2021 it does not hold a copy of the new IISS Articles (unlike previous amendments dating back to the M&A incorporated on 20 November 1958).³⁵
- 16 May 2019 Companies House register for IISS holds a copy of the IISS resolution of 9 April and the (new) Articles of Association.³⁶

Both the validity of the Articles adopted on 9 April 2019, and their application, are in doubt:

First, IISS has not fulfilled the terms of its own resolution of 9 April 2019 even if your legal advisers, Stone King LLP, have signed off to Companies House that '... restrictions to change articles have been observed'. The dissolution clause 17 is different to the wording of the 2008 M of A, clauses 7-8. The new clauses 5.1 to 5.9 on handling of benefits and conflicts of interest for Trustees allow of various exceptions which may be controversial. (The words in clause 5.3.1 '**Error! Reference source not found**' also do not inspire confidence.) Overall, it is highly undesirable that the Charity Commission has not had the opportunity to consider and approve the new Articles (2019) whose validity, on your own terms, must be in doubt.

Secondly, the very first new powers of the Charity (IISS) are:

- 4.1 to generate carefully researched facts and data to support objective analysis of international security and strategic issues and foster a better-informed public debate.

I respectfully submit that this letter demonstrates that the Charity is operating *ultra vires* its own Governing Instrument. Moreover, with respect to the IISS Strategic Dossier, there is no indication that the 'Charity Trustees have control of the Charity and its property and funds' (clause 6.1). It is under the DG & CE's control.³⁷ The 'worldwide membership', referred to on the copyright page of this Strategic Dossier, have disappeared from the 'Interpretation' of the new Articles whereas they were recognised as 'Subscribing Members' in the 2008 M&A.

Thirdly, the claim in the IISS Annual Report 2020 that 'The Institute's Articles of Association reflect current best practices... and recognise the fiduciary responsibilities carried by the Institute's Trustees' is part of what I allege to be Ss' s. 2 false representation.³⁸

(iii) *Complicity of Charity Regulators*

It is a mitigating factor in my case against S that two governmental bodies have ignored, misrepresented or misapplied the Prodem legal case to create a climate for dishonesty within English and Welsh charities especially amongst educational bodies like IISS. By that falsity they intended to cause loss, or expose to the risk of loss, of intangible property for the public benefit of advancing international peace, and financial gain for the perpetrators.

(a) Charity Commission for England and Wales

The 2008 M&A of IISS from Companies House (but not the one sent by the Charity Commission) has, at the end of the Articles, a letter dated 24 January 2008 from the Commission to Farrer & Co., the IISS lawyers at the time, concerning revised IISS objects. It states that ‘... the Commission’s approach to the promotion of conflict resolution as a charitable purpose is set out in the Concordis decision.’³⁹ As the Commission is well aware, one of their decisions does not and cannot replace the higher authority of the Prodem case.

The Commission’s state of mind is further revealed by their Concordis decision of 23 July 2004 on the application of Concordis International Trust for registration as a charity:

- The original objects proposed by Concordis contained three references to ‘peace’;⁴⁰
- The Commission’s section 7 on ‘Conflict resolution, the promotion of peace and political purposes’ refers to the Prodem case but omits paragraphs 22 and 26 of Carnwath J’s Prodem judgment, endorsed by the Court of Appeal (and myself) on an ‘irenical perspective’ – the term itself being eschewed. However, it does prove that IISS was aware of the Prodem case cited as ‘Southwood [& Parsons] v. AG’.⁴¹
- Their Conclusion re-wrote the final objects of Concordis to eliminate any reference to ‘peace’, whose acceptance permitted its registration as a charity.⁴²

Specifically, with respect to IISS, the Charity Commission’s letter to Farrer & Co. in 2008:

- Did not, apparently, review any IISS publications for evidence of political bias but did rely on UK government departments’ support for IISS and its persuasiveness in resolving international conflicts, which might well conflict with the views of some foreign States.
- Made no reference to the importance of competing analyses in academic reports, which featured strongly in the Prodem case.⁴³ This, with the judicial endorsement of an ‘irenical perspective’ to promote public benefit, ensured the registration of the International Peace Project²⁰⁰⁰ (IPP) on 6 February 2004 (charity no. 1101966) and its ‘Peace Games’ to continue the major part of Prodem’s work. IISS, on the other hand, is anti-competitive and used to promote the views of those exercising editorial control.⁴⁴
- Gave no attention to the Subscribing Members, consisting only of experts who are vetted for admission, and whether the 2008 M&A, especially clauses 4(a), (b) and (c), gave the Trustees such powers; and the consistency of the same with public benefit.⁴⁵
- Did not consider, in relation to the preceding points, whether the revised IISS Objects could be achieved when there was no proven Trustee expertise in forward-thinking.

In terms of financial gains, the latest annual accounts show that the highest paid IISS employee received emoluments between £610,001 to £620,000 in FY2020, which may include a discretionary performance-based bonus payment.⁴⁶

Yet further evidence of the Charity Commission's state of mind is to be derived from the second legal case I presented, this time on behalf of the IPP Trustees in 2008/09.⁴⁷ During the Prodem appeal hearing on 10 March 2000 I had referred to evidence of a charity called The Atlantic Council of the United Kingdom promoting NATO. The Appeal judges in a directly analogous *ratio* to that applied to Prodem stated:

Nor, conversely, could the court recognise as charitable a trust to educate the public to an acceptance that war is best avoided by collective security through the membership of a military alliance – say, NATO.⁴⁸

Those Trustees honestly admit their political position on their website:

The Atlantic Council of the United Kingdom is an independent non-governmental charity organisation whose purpose is to and [sic] educate and promote the values of peace and international order, as underpinned in the North Atlantic Treaty from 1949.⁴⁹

On the other hand, the lengths to which the Charity Commission was prepared to go to keep this body on the register is revealed by extensive documentation before, during and after the case before the Administrative Court. Their initial decision, being challenged on grounds of being *Wednesbury* unreasonable and/or involving procedural bias, was:

That the Trustees of the International Peace Project do not have standing to make a request to the Commission to remove The Atlantic Council of the United Kingdom from the register of charities under section 4 of the Charities act 1993.⁵⁰

This case, too, has been reviewed elsewhere on my website.⁵¹ It had to be abandoned because of misconduct by the Commission and their legal representatives assisted by the second judge (a party politician). In 2012 I made a complaint to the Metropolitan Police alleging misconduct in public office by senior officials of the Charity Commission, their legal representatives and the second judge in the IPP case (who cannot be prosecuted). The Met accepted that a criminal offence may have been committed by Commission officials, if not their legal representatives, but considered the task of prosecuting the case faced too great a set of obstacles to be worth attempting.⁵² All this evidence of Commission dishonesty is available whose effect has been a loss of judicially-defined public benefit and financial gain for those organisations promoting or assisting UK government policy on international peace.

The Director of the SFO, though, has no need to investigate a possible s. 2, 3 or 4 ('fraud by abuse of position') case against the Charity Commission.⁵³ For a successful prosecution of the IISS Trustees and DG & CE ('S'), or deferred prosecution agreement, would demonstrate that the Commission created by the Charities Act 2006 had undermined the rule of law.⁵⁴

(b) English Attorneys General

A third legal case, one which I brought against Lord Goldsmith in 2018 after the publication of the Iraq Inquiry report in July 2016 and the discontinuation of the potential case by the Iraq War Families Campaign Group in December 2017, concerned this 'Decision':

Failure to act as Law Officer, in his advice to the UK government on the legality of the invasion of Iraq, by omitting from his deliberations an 'irenical perspective' as previously defined in law and revealed in The Report of the Iraq Inquiry.⁵⁵

A Court of Appeal judge endorsed my case as being '**totally without merit**' but did not refer to the Prodem case at the core of the 'Decision'. Details of his decision are on my website.⁵⁶ It establishes beyond argument that the English Law Officers oppose the application of an 'irenical perspective', despite its emphatic Appeal Court endorsement in the Prodem case.

Additionally, the Appeal Court judge gave no reason, let alone a good reason, why my proposed reference to the police of alleged offences under the Perjury Act 1911, by the current Attorneys General during the case (Jeremy Wright QC and then Geoffrey Cox QC) aided and abetted by Lord Goldsmith, was 'misconceived'. Rather than admit error in the signing of their Acknowledgement of Service form as 'defendant' by the Treasury Solicitor, the Attorneys General (with Lord Goldsmith) chose to commit offences under the Perjury Act 1911. A summary of the factual and legal basis behind my allegation is on my website.⁵⁷

I submit that, if English Law Officers had wished to override the legal framework in the Prodem case, the constitutionally right way to do this would have been to legislate through Parliament. Instead, they chose to subvert the rule of law with the (willing or unwilling) assistance of the same Court of Appeal that had endorsed an irenical perspective as a basis for education in the legally charitable sense. IISS, and other charities that assist government policy, benefit from this political protection and the climate for dishonesty it encourages.

3. Conclusion

While fraud is a conduct crime the harmful results are well-illustrated by the Charity Commission's Concordis decision in 2004. Eliminating 'peace' from the objects clause of this body, whose work was focused on Sudan,⁵⁸ also helped remove any prospects there might have been that Concordis activities, alongside other well-meaning initiatives, could contribute to a state of peace instead of the civil war that South Sudan plunged into soon after its independence from Sudan in 2011. By its fraudulent concoction, this Commission legal framework in place of the English courts' expert one in the Prodem case, created a climate for dishonesty. The users of Concordis' work in what became South Sudan were inadvertently misled on the basis for '... securing a state of peace and avoiding a state of war'⁵⁹ contributing indirectly to a loss of life, not just livelihoods, and financial gain for the Commission in perpetrating its fraud upon an unsuspecting public at home and abroad.

Contrast this outcome with that of the Prodem case. Like a house built on rock instead of sand, the Court of Appeal – not the Charity Commission – rewrote the Prodem objects (for IPP) to fit with its main activities and the Court of history has shown how Prodem Briefing A/1 foresaw in 1993 most Conclusions to the IISS Strategic Dossier on Russia in 2020. Yet IISS's work, whose objects are also founded on the Concordis decision, makes no reference to Briefing A/1 as I pointed out at length in my previous letter of 27 January 2021. Unlike the Concordis Trustees, the IISS Trustees and DG & CE are suspects, S, in my criminal complaint.

My case is set out in pages 4 to 7 above, especially in the boxed sections affecting S. If the Director of the SFO (or the Met) decides to investigate this further I will, of course, cooperate fully and ask other interested parties to do so, too. This would be to establish whether the evidential stage can be met in relation to a charge under the Fraud Act 2006.⁶⁰

The public interest arguments for pursuing this proposed case arise directly from those of public benefit.⁶¹ Normally they would be considered after the evidential stage but the unusual nature of this case merits giving some preliminary consideration to these points:

(a.) The Promotion of Peace

It was self-evidently for the public benefit, and therefore in the public interest, that the judicial framework for advancing international peace (an 'irenical perspective') was upheld. I am primarily responsible for ensuring this happened in the 21 years since the Prodem judgment of the Court of Appeal on 28 June 2000. The Charity Commission's Concordis decision (and much other evidence I have) proves beyond argument that it sought, in its formations before and after the Charities Act 2006,⁶² to deliberately subvert the rule of law for its own reputation which was unreasonable, unlawful, and unconstitutional conduct.

IISS cannot claim ignorance of the Prodem case, which would be no defence anyway,⁶³ and S have no lawful basis, in view of the IISS mission,⁶⁴ for wanting to act contrary to its precepts.

(b.) Education

While IISS was not bound to adopt an irenical perspective in its publications, and I previously credited their DG & CE and staff with expertise and sincerity,⁶⁵ this cannot save S from the charge of dishonesty just as if I had been unable to defend not only the sincerity of my position, acknowledged by the Court of Appeal,⁶⁶ that Prodem's object was not to secure peace by 'demilitarisation' but also its honesty.⁶⁷ Every educated person knows that any form of dishonesty is fatal to education in the legally charitable sense.⁶⁸ When, as in the IISS case, it is linked to loss of public benefit, or exposure to risk of loss, of its military database and financial gain arising from that falsity, then any claim to objectivity and impartiality is fraudulent. The public benefit, and thus the public interest, demands the case be prosecuted, if the evidence warrants, in the absence of a deferred prosecution agreement.

(c.) A Climate for Peace (or War)

The essence of genuine education is putting the public in the position, starting from neutral information, to support or oppose a particular political proposal.⁶⁹ The Prodem case accepted that publics generally now prefer a state of peace to a state of war. Thus, any evaluation of a potential war situation must be by competitive evaluation to both defend academic freedom under the law to question conventional wisdom and to prevent experts using their academic positions (or judges their courts) to promote their own political views. The failure of the IISS Iraq's WMD Dossier to meet that standard in 2002 has occurred again with their Strategic Dossier in 2020, in both cases arising from lack of political impartiality.

The public benefit, and so the public interest, requires the prosecution of this case because otherwise the public cannot make an informed choice on whose analysis is closest to the truth. In particular, IPP has demonstrated since 2002 that promoting a climate for peace can be achieved in a legally charitable way whereas IISS has promoted a climate for war in the case of Iraq and Russia which is obviously illegal for a charitable body.

Even if the SFO (or Met) do not proceed to investigate and consider prosecution of S, I do not see how IISS can survive, in its present form, my complaint of dishonesty and fraud unless it can be refuted. You chose to ignore the civil case. It will avail nothing with this case.

For as the dark clouds of another Great Power war gather with the inexorable logic of the Prodem legal case, in a world as unprepared as it was for the current pandemic, I will continue – Deo volente – to expose any future dishonesty in IISS publications or elsewhere in the common law world. So confident have I become in my method of analysing international conflicts, first tested in the Prodem case, that I am willing to take on up to 40 self-styled experts – say, 10 in each of four major potential armed conflicts – to test my method and conclusions against theirs according to the verdict of the ‘Court of history’. For if the rule of law in education, founded on an irenical perspective, cannot be restored then the casualties in the populations of the United Kingdom, its allies and their potential foes could make this pandemic’s look relatively small⁷⁰ – all because of a refusal to admit error!

Yours faithfully,

Peter M. Southwood (Dr)
Law Officer for Public Benefit in England and Wales
(*de facto* but not yet *de jure*)

Note by author – I am fully and solely responsible for the contents of this letter.

cc Lisa Osofsky
Director, Serious Fraud Office

Assistant Commissioner Neil Basu
Specialist Operations, Metropolitan Police

Rt Hon Michael Ellis QC MP
Attorney General

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References – this letter, with active url links, is available at www.directionofconflict.org

- ¹ . Open letter dated 27 January 2021 from (Dr) Peter M. Southwood to Dr John Chipman, Director-General and Chief Executive, The International Institute for Strategic Studies ('IISS'), '**Re: Russia's Military Modernisation: An Assessment (IISS, September 2020)**' available at: [News — Peace or War \(directionofconflict.org\)](http://www.directionofconflict.org)
- ² . Russia's Military Modernisation: An Assessment, an IISS strategic dossier (The International Institute for Strategic Studies, London, 30 September 2020). I have taken the date of the official launch of the publication as given in IISS News of 2 and 7 October 2020, received by email: the former has a free chapter (the Introduction) dated 30 September 2020 and the latter a recording of the official book launch on that date.
- ³ . However, see Framework Agreement Between the Law Officers and the Director of the Serious Fraud Office (Attorney General's Office and Serious Fraud Office, 21 January 2019), especially para. 64. There is, though, scope for differing interpretations of this and other parts of the Agreement which may be deemed relevant.
- ⁴ . See the excerpts highlighted in italics below from Peter Southwood, General Editor and Editor Series A, Project on Demilitarisation (Prodem): The Triumph of Unilateralism: The Failure of Western Militarism, Briefing No. 1 (Prodem, March 1993), 69pp ISBN 1-898079-00-5 *esp. p. iii, 17 (last paragraph)*; NATO's Military Supremacy: What is It For? Briefing A/1 (Prodem, September 1993), 44pp ISBN 1-898079-10-2 *esp. p. iii, 19*; Western Generals: The Dangers from British and American Military Success, Briefing A/2 (Prodem, School of Business and Economic Studies, University of Leeds, April 1994), 53pp ISBN 1-898079-20-X *esp. p. iii, 12-13*; Military Adventurism: Learning From the Past – Looking to the Future, Briefing A/3 (SBES, University of Leeds, October 1995), 79pp ISBN 1-898079-25-0 *esp. p. iii, 30-42, 43-44 and Appendix E 'A Framework for Conflict Prevention and Resolution'*. All available through Legal Deposit libraries in the UK and Ireland.
- ⁵ . For copies of the Prodem judgments, see: <https://www.ipp2000.org/ipplaw.html> For an analysis of these judgments, see Peter M. Southwood, 'A Bleak House Today: How English Charity Regulators Missed the Mark in 2000 and Beyond', Article no. 2 (6 March 2019) at <https://www.directionofconflict.org/what-we-do> Additionally, see all of Peter M. Southwood's letters, articles and closing bulletins of 'The Paris Peace Conference 1919 Remembered' and 'The Education of Nations' bulletins, particularly the indictment of the English charity regulators on 10 April and 11 September 2020 available at: [Peace or War \(directionofconflict.org\)](http://www.directionofconflict.org)
- ⁶ . Southwood & Parsons v H M Attorney General, Re: Project on Demilitarisation ('Prodem'), Court of Appeal No: CHANF 98/1405/CMS3 [28 June 2000], para. 24.
- ⁷ . Report of the Iraq Inquiry, Report of a Committee of Privy Counsellors, HC 264 (Her Majesty's Stationery Office, 6 July 2016), Section 4.2, paras 88, 92, 167, 204, 369, 384, 449, and 462.
- ⁸ . Report of the Iraq Inquiry, section 4.2, para. 900 (fourth bullet point). See also para. 446.
- ⁹ . Contrary to the IISS press statement of 9 September 2002 as quoted in Report of the Iraq Inquiry, section 4.2, pp. 168-69.
- ¹⁰ . See Slade J. in McGovern v Attorney General [1982] Ch 321 at 333G-334B with respect to determining public benefit in the legally charitable sense.
- ¹¹ . See note 1 above.
- ¹² . David Ormerod QC and Karl Laird, Smith, Hogan, and Ormerod's Criminal Law, 15th Edition (Oxford University Press, 2018). However, this has also been checked against the recently published 16th Edition (Oxford University Press, 2021) which is cited below especially wherever a relevant update or difference occurs. There are two reasons for keeping references to both editions in this letter: first, Ormerod has shown in his field of law a sound ability to anticipate future developments, which ought to be recognised, as I have done in my field of peace studies as defined in law by the Prodem case; and, secondly, Ormerod's forward-thinking owes little or nothing to political judgement as it is put forward wholly within a framework of material fact and relevant law just as I argued, on the legal premises contained in the Prodem judgments, my forward thinking owes little or nothing to political judgement.
- ¹³ . The other two forms of the general fraud offence are: section 3 (fraud by failing to disclose information); section 4 (fraud by abuse of position). I regarded them as not applicable or not sufficiently applicable with respect to IISS. See the Fraud Act 2006.
- ¹⁴ . Ormerod, 15th ed., pp. 930-31 and 875- 81; and Ormerod, 16th ed., pp. 967-68 citing Ivey [2017] UKSC 67 and Barton [2020] EWCA Crim 575 and discussed in detail by Ormerod on pp. 909-18.
- ¹⁵ . Ormerod, 15th ed., p. 879; Ormerod 16th ed., p. 914.
- ¹⁶ . Ormerod, 15th ed., p. 880; Ormerod 16th ed., 915.
- ¹⁷ . Ormerod, 15th ed., p. 883-84.
- ¹⁸ . See Ormerod 16th ed., pp. 916-18 for 'Barton as a refinement of Ivey'. It does appear to me, though, that any attempt by those editing academic research to apply standards that ordinary decent people would regard as *lower* than their own, when academics generally are seeking to apply *higher* standards than are normally required in everyday life, are unlikely to be convincing, or even defensible.

- ¹⁹ . Ormerod, 15th ed., p. 933 referring to the Fraud Act 2006, s. 5; Ormerod, 16th ed., pp. 970-71.
- ²⁰ . Ormerod, 15th ed., p. 934; Ormerod, 16th ed., p. 971.
- ²¹ . Ormerod, 15th ed., p. 937; Ormerod, 16th ed., pp. 974-75 notes 'In its judgement in *Varley*, the Court of Appeal cited this paragraph with approval and held that it represented the proper construction of the 2006 [Fraud] Act'. His footnote reference is: [2019] EWCA Crim 1074, [106] and [108].
- ²² . Ormerod – as for note 21.
- ²³ . Ormerod, 15th ed., p. 938; Ormerod, 16th ed., p. 976.
- ²⁴ . Ormerod, 15th ed., pp. 938 and 951; Ormerod 16th ed., p. 976 and 988.
- ²⁵ . Ormerod, 15th ed., p. 943. I have also studied Ormerod's 'Representation by omission/continuing representations' on pp. 943-46. See also Ormerod, 16th ed., pp. 981-83. In considering the interrelationship between ss. 2 and 3, where representation by omission has occurred, I have concluded: in his first scenario, the S has actively misrepresented certain facts or opinions; his second scenario does not apply; and in his third scenario, S made no attempt to rectify the false statements I identified in my letter to the DG & CE of 27 January 2021 and, I now go on to prove under 'mens rea', knew they were (or might be) false at the time the IISS Strategic Dossier was published.
- ²⁶ . Ormerod, 15th ed., pp. 950-51; Ormerod, 16th ed., pp. 987-88. However, in the latter edition Ormerod has omitted material relating to any disparity in knowledge of the facts between the parties.
- ²⁷ . Ormerod, 15th ed., pp. 951-52; and Ormerod, 16th ed., pp. 988-90 citing *Gilbert* [2012] EWCA Crim 2392.
- ²⁸ . Ormerod, 15th ed., p. 953; Ormerod, 16th ed., pp. 990-91.
- ²⁹ . See Prodem Briefing No. 1 (March 1993) and Briefing A/1 (September 1993) detailed in note 4 above.
- ³⁰ . *NATO's Military Supremacy: What is It For?* Briefing A/1 (Prodem, September 1993), p. 10 (Table 2), p. 11 (Table 3), p. 13 (Table 4), and pp. 32-39 (Appendix D – 'Facts and Figures on NATO's Military Superiority').
- ³¹ . See note 1 above, pp. 2 and 5. [Emphasis added.]
- ³² . Or, it might be added, the standards of the wider community of political and social scientists in England and Wales engaged in the fields of war studies, peace studies, and international politics. Details of various warnings in open letters to them since 2005 are, for reasons of space, omitted here.
- ³³ . Special resolutions of an Extraordinary General Meeting of the International Institute for Strategic Studies held on 19 February 2008 (Companies House, 5 March 2008) – certified to be a true copy of the original by Farrer & Co. The full revised Memorandum and Articles of Association were filed on the same date. See Company no. 00615259 at: [THE INTERNATIONAL INSTITUTE FOR STRATEGIC STUDIES - Filing history \(free information from Companies House\) \(company-information.service.gov.uk\)](https://www.companieshouse.gov.uk/filing-history)
- ³⁴ . Certificate of Passing of a Special Resolution at a meeting of [IISS] held on 9 April 2019 (Companies House, 30 April 2019). Special Resolution with new Articles of Association (Companies House, 16 May 2019).
- ³⁵ . Charity Commission email to IISS dated 2 May 2019 'Re: [The IISS] – Ref 1131720 Change to charity's dissolution clause – Register updated CRM:0066510'. [Note – Although the copy of this email sent to Dr P. Southwood in response to his FOI request of 19 May 2021 is dated 27 February 2021, the Commission assured him this was due to a technical glitch and the email was actually sent on 2 May 2019.] Email response from Charity Commission Data Protection and Information Rights Team to Dr P. Southwood dated 16 June 2021. IISS charity registration no. 206504.
- ³⁶ . Certificate of Passing of a Special Resolution at a meeting of [IISS] held on 9 April 2019 with the new Articles of Association (Companies House, 16 May 2019). Stone King LLP have provided their contact details on Form CC03 located at the end of this document.
- ³⁷ . See *Russia's Military Modernisation*, copyright page; and note 1 above, p. 2 where the role and responsibility of the IISS DG & CE and his staff are cited.
- ³⁸ . IISS, *Annual Report and Financial Statements for the Year Ended 30 September 2020*, p. 12.
- ³⁹ . See note 33 above concerning Special Resolutions of an EGM of IISS (Companies House, 5 March 2008) enclosing (at the end) a letter dated 24 January 2008 from the Charity Commission to Farrer & Co, p. 1.
- ⁴⁰ . Charity Commission, 'Application for Registration of Concordis International Trust: Decision of the Commission Made on 23 July 2004', p. 2, s. 3.1.
- ⁴¹ . *Ibid*, pp. 6-7, s. 7; see note 5 above for website access to copies of both Prodem judgments.
- ⁴² . Charity Commission, 'Concordis', p. 11, s. 10.
- ⁴³ . *Southwood & Parsons v H M Attorney General*, High Court Case No: CH 1995 S No. 5856 concerning the Project on Demilitarisation ('Prodem') [9 October 1998], paras 10, and 31 referring to Prodem Briefing A/3, Appendix E – see note 4 above.
- ⁴⁴ . *Southwood v Attorney General* [28 June 2000], paras 29-30 for what became the objects clause of the International Peace Project²⁰⁰⁰ i.e. '... the advancement by all charitable means of the education of the public in the differing means of securing a state of peace and avoiding a state of war'; for IPP Peace Games see [Peace Games 2020 \(ipp2000.uk\)](https://www.ipp2000.org/); and, on IISS means, see letter of 27 January 2021 in note 1 above, pp 2 and 5.

⁴⁵ . See, for the current position on subscribers, [Join the International Institute for Strategic Studies | Facts, Analysis, Influence \(iiss.org\)](#) downloaded 25 June 2021. Note 33 provides details of the IISS M&A. An analogous case to IISS is that of [Incorporated Council of Law Reporting for England and Wales v Attorney General et al \[1972\] Ch 73 esp. 92](#). However, in that case the Court of Appeal spoke of law as a science and of its study as a study of science, which manifestly does not yet apply to the study of international relations and the advancement of peace but could do so on the legal framework provided by the Prodem case.

⁴⁶ . IISS, [Annual Report 2020](#), pp. 14 and 31 – note 5 ‘Staff costs’.

⁴⁷ . [Queen v Charity Commission for England and Wales ex parte International Peace Project](#)²⁰⁰⁰ [2009] EWHC (Admin) 3446, Case no. CO/1950/2009.

⁴⁸ . [Southwood v Attorney General](#) [28 June 2000], para. 29.

⁴⁹ . [Atlantic Council of the United Kingdom \(atlanticcounciluk.org\)](#) - accessed 26 June 2021. Charity reg. no. 1026837.

⁵⁰ . Claim form dated 27 February 2009 in Court bundle of [Q v Charity Commission ex parte IPP](#) [2009].

⁵¹ . See Peter M. Southwood, ‘A Bleak House Today: How English Charity Regulators Missed the Mark in 2000 and Beyond’, [Article no. 2](#) (6 March 2019), pp. 13-18 at <https://www.directionofconflict.org/what-we-do>

⁵² . Letter dated 7 March 2012 from Peter Southwood to Assistant Commissioner Mark Rowley, Central Operations and Specialist Crime Directorate, Metropolitan Police Service, ‘**Re: Misconduct in Public Office**’ enclosing a Summary, Core Evidence Supporting the Complaint, and the Public Benefit Issue at Stake; letter dated 17 April 2012 from Neil Matthews, Detective Inspector on behalf of AC Rowley; letter of reply dated 2 May 2012 from Peter Southwood to DI Matthews.

⁵³ . Ormerod, 15th ed., p. 963 notes ‘There may be overlap with [the Fraud Act 2006, s. 4 offence]... and misconduct in public office.’

⁵⁴ . The Charities Act 2006, s. 6 (subsequently consolidated within the Charities Act 2011), had abolished the office of Charity Commissioner and created a body corporate, the Charity Commission for England and Wales. The death of the (old) Charity Commission had been announced in an open letter dated 15 May 2004 by Peter Southwood, written on behalf of the Trustees of the International Peace Project and with their authority, to Mr Richard Sambrook, Director of BBC News, ‘**Re: A Tale of Two Dossiers**’.

⁵⁵ . Claim form dated 26 March 2018 in the Court bundle for [Q \(Southwood\) v The Rt Hon Lord Goldsmith QC \(Respondent\) & H.M. Attorney General \(Interested Party\)](#), Court of Appeal ref. C1/2018/1827 & 1828 (1 November 2018); [Report of the Iraq Inquiry](#), (HMSO, 6 July 2016); Iraq War Families Campaign Group, [Press Release](#) (17 December 2017).

⁵⁶ . [Q \(Southwood\) v Lord Goldsmith](#) (1 November 2018) at: <https://www.directionofconflict.org/what-we-do> (Emphasis in the original). Additionally, on that website, Southwood, ‘A Bleak House Today’, [Article no. 2](#) (6 March 2019), pp. 18-20 for full analysis and references.

⁵⁷ . See [Closing Bulletins & Article — Peace or War \(directionofconflict.org\)](#) under 31 October 2019 ‘*A private prosecution...*’

⁵⁸ . Charity Commission, ‘Concordis’, pp. 2-3 (s. 3.2), 4 (s. 5) and 8-9 (s. 8).

⁵⁹ . See note 44 above.

⁶⁰ . Crown Prosecution Service, [The Code for Crown Prosecutors](#) (CPS, October 2018) accessed through the SFO website on 28 June 2021 at: [Codes and protocols - Serious Fraud Office \(sfo.gov.uk\)](https://www.sfo.gov.uk/codes-and-protocols-serious-fraud-office/)

⁶¹ . See note 10 above. The crucial differences between ‘public benefit’ and ‘public interest’ are that the former must, in any particular case, either be self-evidently beneficial to the public or capable of proof that it will be. Public interest does not necessarily require proof but must be reasonable.

⁶² . See note 54 above.

⁶³ . However, see Ormerod, 16th ed., at p. 992 who takes the view that where D ‘... denies that he has knowledge as to the relevant law, if that is a denial of criminal law there is no excuse, but if D is denying a knowledge of civil law that may be a sufficient excuse.’ I respectfully disagree with respect to *relevant* civil law.

⁶⁴ . See note 1 above, p. 7.

⁶⁵ . Ibid.

⁶⁶ . [Southwood v Attorney General](#) [28 June 2000], para. 30.

⁶⁷ . See note 1 above, pp. 3-4 under the sub-heading ‘The Prodem Briefings (1993-94)’.

⁶⁸ . See [Inland Revenue Commissioners v McMullen](#) [1981] A. C. 1 at p. 15C-E, H.L.(E) cited in Peter Southwood, ‘The Law on Charity: A Layman’s Tribute’ (IPP, February 2005), p. 16 (last para. and end note 70) available at: [\(Microsoft Word - PDF document - article 'The Law on Charity' 021005_final_205\) \(ipp2000.org\)](#)

⁶⁹ . See, for example, Goulding J. in [Re Bushnell](#) [1975] 1 WLR 1596 at 1605E and referred to by Carnwath J. in [Southwood v Attorney General](#) [9 October 1998] at paras 17 and 26.

⁷⁰ . Obviously, I am referring here to the risks of any Great Power war turning nuclear. For those who need reminding about how close the world came to nuclear war during the Cold War read Serhii Plokhyy, [Nuclear Folly: A New History of the Cuban Missile Crisis](#) (Allen Lane, 2021).