There Is No "War on Terror"

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One of the most telling signs of the political naiveté of liberals and the Left in the United States has been their steadfast faith in much of the worldview that blankets the imperial state they call home. Nowhere has this critical failure been more evident than in their acceptance of the premise that there really is something called a "war on terror" or "terrorism"[1]—however poorly managed its critics make it out to be—and that righting the course of this war ought to be this country's (and the world's) top foreign policy priority.   In this perspective, Afghanistan and Pakistan rather than Iraq ought to have been the war on terror's proper foci; most accept that the U.S. attack on Afghanistan from October 2001 on was a legitimate and necessary stage in the war. The tragic error of the Bush Administration, in this view, was that it lost sight of this priority, and diverted U.S. military action to Iraq and other theaters, reducing the commitment where it was needed.

Of course we expect to find this line of criticism expressed by the many former supporters who have fled from the sinking regime in Washington.[2]   But it is striking that commentators as durably hostile to Bush policies as the *New York Times*'s Frank Rich should accept so many of the fundamentals of this worldview, and repeat them without embarrassment. Rich asserts that the question "Who lost Iraq? is but a distraction from the more damning question, Who is losing the war on terrorism?" A repeated theme of Rich's work has been that the Cheney – Bush presidency is causing "as much damage to fighting the war on terrorism as it does to civil liberties." Even in late 2007, Rich still lamented the "really bad news" that, "Much as Iraq distracted America from the war against Al Qaeda, so a strike on Iran could ignite Pakistan, Al Qaeda's thriving base and the actual central front of the war on terror."[3]

Other expressions of faith in something called the "war on terror" abound. Thus in a long review of several books in which she urged "[r]evamping our approach to terrorism" and "recapturing hearts and minds" around the world, Harvard's Samantha Power, a top lieutenant in the humanitarian brigade, wrote that "most Americans still rightly believe that the United States must confront Islamic terrorism—and must be relentless in preventing terrorist networks from getting weapons of mass destruction. But Bush's premises have proved flawed…."[4]   Most striking was Power's expression of disappointment that "millions—if not billions—of people around the world do not see the difference between a suicide bomber's attack on a pizzeria and an American attack on what turns out to be a wedding party"—the broken moral compass residing within these masses, of course, who fail to understand that only the American attacks are legitimate and that the numerous resultant casualties are but "tragic errors" and "collateral damage."[5]

Like Samantha Power, the *What We're Fighting For* statement issued in February 2002 by the Institute for American Values and signed by 60 U.S. intellectuals, including Jean Bethke Elshtain, Francis Fukuyama, Mary Ann Glendon, Samuel Huntington, Harvey C. Mansfield,

Will Marshall, Daniel Patrick Moynihan, Michael Novak, Michael Walzer, George Weigel, and James Q. Wilson, declared the war on terror a "just war." "Organized killers with global reach now threaten all of us," it is asserted in one revealing passage. "In the name of universal human morality, and fully conscious of the restrictions and requirements of a just war, we support our government's, and our society's, decision to use force of arms against them."[6] The idea that "killers with global reach" who are far more deadly and effective than Al Qaeda could be found at home doesn't seem to occur to these intellectuals. And like Power, they also make what they believe a telling distinction between the deliberate killing of civilians, as in a suicide bombing, and "collateral damage"-type casualties even in cases where civilian casualties are vastly larger and entirely predictable, though not specifically intended.[7] Throughout these reflections, the purpose is to distinguish *our* murderous acts from *theirs*. It is the latter that constitute a "world-threatening evil...that clearly requires the use of force to remove it."[8]

In the same mode, Princeton University international law professor Richard Falk's early contributions to *The Nation* after 9/11 found a "visionary program of international, apocalyptic terrorism" behind the events. "It is truly a declaration of war from the lower depths," Falk wrote, a "transformative shift in the nature of the terrorist challenge both conceptually and tactically....There is no indication that the forces behind the attack were acting on any basis beyond their extraordinary destructive intent....We are poised on the brink of a global, intercivilizational war without battlefields and borders...." Some weeks later, in a nod to "just war" doctrine, Falk argued that the "destruction of both the Taliban regime and the Al Qaeda network...are appropriate goals....[T]he case [against the Taliban] is strengthened," he added, "to the degree that its governing policies are so oppressive as to give the international community the strongest possible grounds for humanitarian intervention."[9]

Peter Beinart, a liberal-leaning former editor of the *New Republic* and the author of the 2006 book *The Good Fight: Why Liberals—-and Only Liberals—Can Win the War on Terror and Make America Great Again*, wrote in the aftermath of Cheney – Bush's 2004 re-election: "Today, the war on terrorism is partially obscured by the war in Iraq, which has made liberals cynical about the purposes of U.S. power. But, even if Iraq is Vietnam, it no more obviates the war on terrorism than Vietnam obviated the battle against communism. Global jihad will be with us long after American troops stop dying in Falluja and Mosul. And thus, liberalism will rise or fall on whether it can become, again, what [Arthur] Schlesinger called 'a fighting faith'."[10]

Even David Cole and Jules Lobel, authors of a highly-regarded critique of Cheney – Bush policies on "Why America Is Losing the War on Terror," take the existence of its "counterterrorism strategy" at face value; this strategy has been a "colossal failure," they argue, because it has "compromised our spirit, strengthened our enemies and left us less free and less safe." The U.S. war in Iraq "permitted the Administration to turn its focus from Al Qaeda, the organization that attacked us on 9/11, to Iraq, a nation that did not. The Iraq war has by virtually all accounts made the United States, the Iraqi people, many of our allies and for that matter much of the world more vulnerable to terrorists. By targeting Iraq, the Bush Administration not only siphoned off much-needed resources from the struggle against Al Qaeda but also created a golden opportunity for Al Qaeda to inspire and recruit others to attack US and allied targets. And our invasion of Iraq has turned it into the world's premier terrorist training ground."[11]

Elsewhere, appearing at a forum in New York City sponsored by the Open Society Institute

to discuss his work, David Cole made the remarkable assertion that "no one argued" the post-9/11 U.S. attack on Afghanistan was "not a legitimate act of self-defense." No less remarkable was Cole's statement shortly thereafter that the United States' "holding [of prisoners] at Guantanamo would not have been controversial practice had we given them hearings at the outset," because, as Cole explained it, such hearings "would have identified those people as to whom we had no evidence that they were involved with Al Qaeda and then they would be released."[12]

Cole's first remark ignores the UN Charter, which allows an attack on another state in self-defense only when an imminent attack is threatened, and then only until such time as the Security Council acts on behalf of the threatened state. But given the absence of such urgency and the absence of a UN authorization, and given that the hijacker bombers of 9/11 were independent terrorists and not agents of a state, the October 2001 U.S. war on Afghanistan was a violation of the UN Charter and a "supreme international crime," in the language of the Judgment at Nuremberg.[13] Would Cole have defended Cuban or Nicaraguan or Iraqi bombing attacks on Washington D.C. as legitimate acts of self-defense at any juncture in the past when the United States was attacking or sponsoring an attack on these countries? We doubt it. Cole also seems unaware that the United States attacked after refusing the Afghan government's offer to give up bin Laden upon the presentation of evidence of his involvement in the crime.[14] Furthermore, the war began long after bin Laden and his forces had been given time to exit, and was fought mainly against the Taliban government and Afghan people, thousands of whom were killed under targeting rules that assured and resulted in numerous "tragic errors" and can reasonably be called war crimes.

Given the illegality and immorality of this war—now already well into its seventh year—the killing of people in Afghanistan cannot be regarded as "legitimate"—and neither can the taking of prisoners there under any conditions. Cole's second remark also ignores the modes of seizure of prisoners, some turned over in exchange for cash bounties; or their treatment in Afghanistan, en route to Guantanamo, and in rendition facilities, apart from delays in or absence of "hearings at the outset." Last, Cole is wrong even on the alleged general agreement on the legitimacy of this act of "self-defense" in Afghanistan. Despite the domestic hysteria in the United States at the time, a number of lawyers here contested its legitimacy .[15] Furthermore, a series of opinion polls in 37 different countries by Gallup International in late September 2001 found that in no less than 34 of these countries, majorities opposed a U.S. military attack on Afghanistan, preferring instead to see the events of September 11 treated as *crimes* (i.e., non-militarily), with extradition and trial for the alleged culprits. The three countries where opinion ran against the majority in the other 34 were the United States (54%), India (72%), and Israel (77%). Otherwise, it appears that significant and sometimes overwhelming majorities of the world's population were opposed to the U.S. resort to war.[16]

What War on Terror?

But talk of the "failure" of the war on terror rests on the false premise that there really *is* such a war. This we reject on a number of grounds. First, in all serious definitions of the term,[17] terror is a *means* of pursuing political ends, an *instrument* of struggle, and it makes little sense to talk about war against a means and instrument. Furthermore, if the means consists of modes of political intimidation and publicity-seeking that use or threaten force against civilians, a major problem with the alleged "war" is that the United States and Israel also clearly use terror and support allies and agents who do the same. The "shock and awe" strategy that opened the 2002 invasion-occupation of Iraq was openly and explicitly

designed to terrorize the Iraq population and armed forces. Much of the bombing and torture, and the attack that destroyed Falluja, have been designed to instill fear and intimidate the general population and resistance. Israel's repeated bombing attacks, ground assaults, and targeted assassinations of Palestinians are also designed to create fear and apathy, that is, terrorize. As longtime Labour Party official Abba Eban admitted years ago, Israel's bombing of Lebanon civilians was based on "the rational prospect, ultimately fulfilled, that afflicted populations [i.e., civilians deliberately targeted] would exert pressure for the cessation of hostilities."[18] This was a precise admission of the use of terrorism, and surely fits Israeli policy in the years of the alleged "war on terror." Former Prime Minister Ariel Sharon has also acknowledged an intent to attack civilians, declaring in March 2002 that "The Palestinians must be hit and it must be very painful: we must cause them losses, victims, so that they feel the heavy price."[19]

The United States and Israel actually engage in big-time terror, like strategic bombing, helicopter attacks, torture on a continuing basis, and large-scale invasions and invasion threats, not lower-casualty-inflicting actions like occasional plane hijackings and suicide bombings.   This has long been characterized as the difference between *wholesale* and *retail* terror, the former carried out by states and on a large scale, the latter implemented by individuals and small groups, much smaller in scale, and causing fewer civilian victims than its wholesale counterpart.[20] Retail terrorists don't maintain multiple detention centers in which they employ torture (at the height of its state terror activities in the 1970s the Argentinian military maintained an estimated 60 such centers, according to Amnesty International;[21] the United States today, on land bases and naval vessels and in client state operated facilities, uses dozens of such centers).

Furthermore, retail terror is often sponsored by the wholesale terrorists—notoriously, the Cuban refugee network operating out of the United States for decades, the U.S.-supported Nicaraguan contras, Savimbi's UNITA in Angola in the 1980s, backed by both South Africa and the United States, the South Lebanon Army supported by Israel for years, and the Colombian rightwing death squads still in operation, with U.S. support. Thus, a meaningful *war on terror* would surely involve attacks on the United States and Israel as premier wholesale terrorists and sponsors, a notion we have yet to find expounded by a single one of the current war-on-terror proponents.

In short, one secret of the widespread belief that the United States and Israel are fighting—not carrying out—terror is the remarkable capacity of the Western media and intellectual class to ignore the standard definitions of terror and the reality of who does the most terrorizing, and thus to allow the Western political establishments to use the invidious word to apply to their targets. We only retaliate and engage in "counter-terror"—our targets started it and their lesser violence is terrorism.

A second and closely related secret of the swallowing of war-on-terror propaganda is the ability of the swallowers to ignore the U.S. purposes and program. They never ask: Is the United States simply responding to the 9/11 attack or do its leaders have a larger agenda for which they can use 9/11 terrorism as a cover? But this obvious question almost answers itself: Documents of the prior decade show clearly that the Bush team was openly hoping for another "Pearl Harbor" that would allow them to go on the offensive and project power in the Middle East and across the globe. In the rightfully infamous words of the Project for the New American Century (2000), "the process of transformation, even if it brings revolutionary change, is likely to be a long one, absent some catastrophic and catalyzing event—like a new Pearl Harbor."[22] The huge military forces that have been built up in this country

conveniently permit this power-projection by threat and use of force, and their buildup and use has had bipartisan support, reflecting in large measure the power and objectives of the military establishment, military contractors, and transnational corporations. The military buildup was not for defensive purposes in any meaningful sense; it was for power-projection, which is to say, for *offense*.

In this connection we should point out that at the time of 9/11 in the year 2001, Al Qaeda was considered by most experts to be a small non-state operation, possibly centered in Afghanistan and/or Pakistan, but loosely sprawled across the globe, and with at most only a few thousand operatives.[23] It is clear that such a small and diffuse operation called for an anti-crime and intelligence response, not a war. Of course a war could be carried out against the country which was their principal home, but given the lags involved and the threat that a war, with its civilian casualties and imperialist overtones, would possibly strengthen Al Qaeda, the quick resort to war in the post-9/11 period suggests covert motives, including vengeance and taking advantage of 9/11 for power-projection. And while a war could be launched against Afghanistan and an attack made on Al Qaeda headquarters, this was hardly a *war on terror*. Nor could the huge military buildup that ensued have been based on a fight in Afghanistan or against tiny Al Qaeda.[24]

It is also notable that there has been no attempt by the organizers of the war on terror to try to stop terrorism at its source by addressing the problems that have produced the terrorists and provided their recruiting base. In fact, for the organizers and their supporters in the "war on terror," raising the question of "why" is regarded as a form of apologetics for terror, and they are uninterested in the question, satisfied with clichés about the terrorists envy, hatred of freedom, and genetic or religious proclivities. This is consistent with the view that getting rid of terror is not their aim, and that in fact they need the steady flow of resisters-terrorists which their actions produce to justify their real purpose of power projection virtually without limit. Failure to end terrorism is not a failure of the "war on terror," it is a necessary part of its machinery of operation.

In short, the war on terror is an intellectual and propaganda cover, analogous—and in many ways a successor—to the departed "Cold War," which in its time also served as a cover for imperial expansion. Guatemala, Vietnam, Chile, Indonesia, Zaire (and many others) were regularly subverted or attacked on the ground of an alleged Soviet menace that had to be combated. That menace was rarely applicable to the actual cases, and the strained connection was often laughable. With that cover gone, pursuing terrorists is proving to be an admirable substitute, as once again a gullible media will accept that any targeted rebels are actual or potential terrorists and may even have links to Al Qaeda. The FARC rebels in Colombia are terrorists, but the government-supported rightwing paramilitaries who kill many more civilians than FARC are not and are the beneficiaries of U.S. "counter-terrorism" aid. Hugo Chavez's Venezuela, on the other hand, which does not kill civilians, is accused of lack of cooperation in the U.S. "counter-terrorism" program, and is alleged to have "links" to U.S. targets such as Iran and Cuba, which allegedly support terrorists.[25] Egypt, Jordan, Morocco, Algeria, and other torture-prone states are "with us" in the war on terror; states like Venezuela, Iran and Cuba are not with us and are easily situated as terrorist or "linked" to terrorist states.

If Al Qaeda didn't exist the United States would have had to create it, and of course it did create it back in the 1980s, as a means of destabilizing the Soviet Union. Al Qaeda's more recent role is a classic case of "blowback." It is also a case of resistance to power-projection, as Al Qaeda's terrorist activities switched from combating a Soviet occupation, to

combating U.S. intervention in Saudi Arabia, Palestine and elsewhere. It was also spurred by lagged resentment at being used by the United States for its Soviet destabilization purposes and then abandoned.[26]

While U.S. interventionism gave Al Qaeda a strong start, and while it continues today to facilitate Al Qaeda recruitment, it has also provoked resistance far beyond Al Qaeda, as in Iraq, where most of the resistance has nothing to do with Al Qaeda and in fact has widely turned against it. If as the United States projects power across the globe this produces resistance, and if this resistance can be labeled "terrorists," then U.S. aggression and wholesale terror are home-free! Any country that is willing to align with the United States can get its dissidents and resistance condemned as "terrorists," with or without links to Al Qaeda, and get U.S. military aid. The war on terror is a war of superpower power-projection, which is to say, an imperialist war on a global scale.

The issue of who terrorizes whom is hardly new. Back in 1979, Noam Chomsky and Edward Herman's The Washington Connection and Third World Fascism featured the U.S. terror gulag in great detail, and even had a frontispiece showing the flow of economic and military aid from the United States to 26 of the 35 countries using torture on an administrative basis in that era. Herman's The Real Terror Network of 1982 also traced out a U.S.-sponsored terror gulag and showed its logical connection to the growth of the transnational corporation and desire for friendly state-terrorists who would produce favorable climates of investment (recall Philippine dictator Ferdinand Marcos's statement to U.S. oil companies back at the time of his 1972 accession to power: "We'll pass laws you need—just tell us what you want."[27]). But these works were ignored in the mainstream and could hardly compete with Claire Sterling's The Terror Network, which traced selected retail terrorisms—falsely—to the Soviet Union. This fit the Reagan-era "war on terror" claims, which coincided with the Reagan era support of Israel's attack on Lebanon and subsequent "iron fist" terrorism there, Reagan's support of the Argentine military regime, Suharto, Marcos, South Africa, the Guatemalan and Salvadoran terror regimes, Savimbi, the Cuban terror network, and the Nicaraguan contras.

This historical record of U.S. terrorism and support of terrorism occasionally surfaces in the mainstream, but is brushed aside on the ground that the United States has taken a new course, so that long record can be ignored. In a classic of this genre, Michael Ignatieff, writing in the New York Times Magazine, claimed that this was so because President George Bush said so! "The democratic turn in American foreign policy has been recent," he wrote, adding that at long last, the current George Bush has "actually risked his presidency on the premise that Jefferson might be right."[28] This capacity to ignore history, and the institutional underpinning of that history, complements the mainstream media and intellectuals' ability to take as a premise that the United States is virtuous and in its foreign dealings is trying to do good or is just defending itself against bad people and movements who for no good reason hate us. As noted, the amazing definitional systems in use are de facto Alice-in-Wonderland: Terrorism is anything I choose to target and so designate.

Two novelties of the Bush era projection of power and wholesale terrorism are their brazenness and scope. Past U.S. employment of torture, and of gulags in which to hold and work-over alleged or possible terrorists or resisters, were more or less sub rosa, the cruelties and violations of international law and U.S. involvement kept more or less plausibly deniable. The Bush team is open about them, calling for legalization of torture and their other violations of international law, which they rationalize by heavy-handed redefinitions

of "torture" and claims of the inapplicability of international law to their new category of "enemy combatants."[29] Bush also brags in public about the extension of the U.S. killing machine to distant places and the extent to which declared enemies have been removed, implicitly by killing, obviously without hearing or trial. On September 17, 2001, Bush signed a "classified Presidential Finding that authorized an unprecedented range of covert operations," the *Washington Post* later reported, including "lethal measures against terrorists and the expenditure of vast funds to coax foreign intelligence services into a new era of cooperation with the CIA."[30] And in his State of the Union speech of 2003, Bush asserted that "more than 3,000 suspected terrorists" had been arrested across the globe "and many others have met a different fate—Let's put it this way: They are no longer a problem to the United States and our friends and allies."[31] As Chris Floyd has pointed out, this represents the work of a "universal death squad,"[32] the authorization and accomplishments of which were barely acknowledged in the mainstream media.

U.S. state-terrorism has also been broadened in scope and is a facet of globalization. In accord with the principles of globalization, there has been a major increase in the privatization of terrorism. Blackwater Worldwide is only the best known of mercenary armies in Iraq that now outnumber regular armed force members, and who are free from some of the legal constraints of the armed forces in how they treat the local population. The global American gulag of secret prisons and torture centers to which an unknown number of people have been sent, held without trial, worked over and sometimes killed as well as tortured, is located in many countries: The "spider's web" first described by a Council of Europe investigation identified landings and takeoffs at no fewer than 30 airports on four different continents;[33] and earlier research by Human Rights First estimated that the United States was operating dozens of major and lesser known detention centers as part of its "war on terror": These included the obvious cases of Guantanamo, Abu Ghraib and other prisons in Iraq, the U.S. Air Force base at Bagram in Afghanistan, Camp Bondsteel in Kosovo, and other suspected centers in Pakistan, Jordan, Diego Garcia in the Indian Ocean, and on U.S. Navy ships at sea.[34] Still others are operated by client and other states at the torture-producing end of the "extraordinary rendition" chain (Egypt, Syria, Jordan, Morocco). Given the vastness of this U.S. enterprise, surely we are talking about tens-of-thousands of prisoners, a great many picked-up and tortured based on rumor, the inducement of bonus payments, denunciations in vendettas, and accidents of name or location.[35] We know that a great majority of those imprisoned in sweeps in Iraq were taken without the slightest information on wrong-doing even on aggressor-occupier terms.[36] There is strong anecdotal evidence that suggests that the same is true in Afghanistan.

Another notable feature of the "war on terror" is the extent to which this mythical war has been advanced via the UN and the "international community," the UN's work in particular serving as an extension of U.S. policy. This has been in marked contrast to their treatment of open aggression and violations of the UN Charter's prohibition of aggressive war. Time and again the United States and Israel have violated this fundamental international law during the past decade, and they are clearly the global leaders in state-terrorism that many observers believe to be the main force inspiring a global resistance and spurring on various forms of Islamic terrorism, including Al Qaeda. But instead of focusing on the causal wars and state-terrorism, following the U.S. lead the UN and international community have focused on the lesser and derivative terrorism, and taken the "war on terror" at face value. In other words, they have once again assumed the role of servants of U.S. policy, in this instance helping the aggressor states and wholesale terrorists struggle against the retail

terror they inspire.

We can trace this pattern at least as far back as October 1999 (almost two years before 9/11), when the Security Council adopted Resolution 1267 "on the situation in Afghanistan." This Resolution deplored that the "Taliban continues to provide safe haven to Usama bin Laden," and it demanded that the "Taliban turn over Usama bin Laden without further delay to appropriate authorities in a country where he has been indicted." 1267 also created the Al-Qaida and Taliban Sanctions Committee to manage this effort to squeeze the Taliban and anyone linkable to either of them.[37] At the time, bin Laden had been indicted by a U.S. Federal Court for his alleged involvement in the August 1998 suicide bombings at the U.S. embassies in Kenya and Tanzania, killing some 250 people; Al Qaeda had also been designated a terrorist organization by the U.S. Department of State. "The international community has sent a clear message," President Bill Clinton announced. "The choice between co-operation and isolation lies with the Taliban." But the Taliban complained that "This unfair action was taken under the pressure of the United States....So far, there has not been any evidence of Osama's involvement in terrorism by any one"—essentially the same retort that the Taliban made to Bush White House demands after 9/11 that the Taliban surrender bin Laden.[38] 1267 thus extended key components of the 1996 U.S. Anti-Terrorism and Effective Death Penalty Act's category of states designated "not cooperating with U.S. anti-terrorism efforts" beyond U.S. borders to the level of internationally-enforceable law.

Only four days after 1267, the Council adopted companion Resolution 1269 "on the responsibility of the Security Council in the maintenance of international peace and security." 1269 condemned the "practices of terrorism as criminal and unjustifiable, regardless of their motivation," and stressed the "vital role" of the UN "in combating terrorism."[39] Similarly, Resolution 1373, adopted shortly after the 9/11 attacks and just days before the United States launched its war to remove the Taliban, greatly expanded the UN's involvement in the U.S. "war on terror," creating the Counter-Terrorism Committee to manage the fight against terrorism and criminalizing all forms of support for individuals and groups engaged in terrorism. Like 1267 and, later, 1540 (April 24, 2004), which created a committee to prevent "non-State actors" from acquiring "weapons of mass destruction,"[40] the Security Council adopted each of these resolutions under Chapter VII of the UN Charter, on the basis of which the Council is to supposed to respond to "threats to the peace, breaches of the peace, and acts of aggression."

All of this vigilance with respect to "terrorism," and the notion that "non-State actors" and "terrorists" of the Al Qaeda variety deserve this intense UN concern, stands in dramatic contrast with the treatment of literal aggression, as in Afghanistan and Iraq, and genocidal actions such as the U.S.-U.K.-UN "sanctions of mass destruction" that killed possibly a million Iraqi civilians during the years between the first and second wars against Iraq, *ca*. 1991-2003.[41] Yet, in his report *In larger freedom* (March, 2005), Kofi Annan argued that "It is time to set aside debates on so-called 'State terrorism'. The use of force by States is already thoroughly regulated under international law. And the right to resist occupation must be understood in its true meaning. It cannot include the right to deliberately kill or maim civilians."[42]

 But these comments contain a major falsehood and reflect serious pro-state-terrorism and anti-resistance bias—there is no "thorough" regulation of state-terrorism, and in fact there is none at all, as evidenced by the fact that the United States and its allies have been able to attack three countries in a single decade (the Federal Republic of Yugoslavia, Afghanistan,

and Iraq) without the slightest impediment from Kofi Annan's United Nations,[43] but also in each case with the UN's *ex post facto* assent. Note also Annan's failure to suggest that *states* should not have the "right to deliberately kill or maim civilians," a concern that he exhibits only as regards resisters to state violence and occupation. This despite the fact that in their recent and ongoing wars the United States and its allies have killed, maimed, starved, and driven from their homes vastly more civilians than has Al Qaeda or all of the world's retail terrorists combined. Note also that within the targeted countries, political leaders have been captured by these aggressors, and subjected to trial by tribunals—but never the leadership of the great powers. In pursuing their enemies to the farthest reaches of the earth, they continue to enjoyed complete impunity.[44]

Concluding Note

In sum, the war on terror is a political gambit and myth used to cover over a U.S. projection of power that needed rhetorical help with the disappearance of the Soviet Union and Cold War. It has been successful because U.S. leaders could hide behind the very real 9/11 terrorist attack and pretend that their own wars, wholesale terrorist actions, and enlarged support of a string of countries—many authoritarian and engaged in state terrorism—were somehow linked to that attack and its Al Qaeda authors. But most U.S. military actions abroad since 9/11 have had little or no connection with Al Qaeda; and you cannot war on a method of struggle, especially when you, your allies and clients use those methods as well.

It is widely argued now that the war on terror has been a failure. This also is a fallacy, resting on the imputation of purpose to the war's organizers contrary to their actual aims—they were looking for and found the new "Pearl Harbor" needed to justify a surge of U.S. force projection across the globe. It appears that Al Qaeda is stronger now than it was on September 11, 2001; but Al Qaeda was never the main target of the Bush administration. If Al Qaeda had been, the Bush administration would have tried much more seriously to apprehend bin Laden, by military or political action, and it would not have carried out policies in Iraq, Palestine, Pakistan, Iran and elsewhere that have played so well into bin Laden's hand—arguably, policy responses that bin Laden hoped to provoke. If Washington really had been worried at the post-9/11 terrorist threat it would have followed through on the 9/11 Commission's recommendations for guarding U.S. territory (ports, chemical plants, nuclear facilities, airports and other transportation hubs, and the like).[45] The fact that it hasn't done this, but instead has adopted a cynical and politicized system of terrorism alerts, is testimony to the administration's own private understanding of the contrived character of the war on terror and the alleged threats that we face.

Admittedly, the surge in power projection that 9/11 and the war on terror facilitated has not been a complete and unadulterated success. But the "war on terror" gambit did enable this surge to come about, and it should be recognized that the invasion-occupation of Iraq was not a diversion, its conquest was one of the intended objectives of this war. That conquest may be in jeopardy, but looked at from the standpoint of its organizers, the war has achieved some of the real goals for which it was designed; and in this critical but seldom appreciated sense it has been a success. It has facilitated two U.S. military invasions of foreign countries, served to line-up many other states behind the leader of the war, helped once again to push NATO into new, out-of-area operations, permitted a further advance in the U.S. disregard of international law, helped bring about quasi-regime changes in some major European capitals, and was the basis for the huge growth in U.S. and foreign military

budgets. While its destabilization of the Middle East has possibly benefited Iran, it has given Israel a free hand in accelerated ethnic cleansing, settlements, and more ruthless treatment of the Palestinians, and the United States and Israel still continue to threaten and isolate Iran.

Furthermore, with the cooperation of the Democrats and mass media, the "war on terror" gave the "decider" and his clique the political ability to impose an unconstitutional, rightwing agenda at home, at the expense of the rule of law, economic equality, environmental and other regulation, and social solidarity. The increased military budget and militarization of U.S. society, the explosive growth in corporate "counter-terrorism" and "homeland security" enterprises, the greater centralization of power in the executive branch, the enhanced inequality, the unimpeded growth of the prison-industrial complex, the more rightwing judiciary, and the failure of the Democrats to do anything to counter these trends since the 2006 election, suggests that the shift to the right and to a more militarized society and expansionist foreign policy may have become permanent features of life in the United States. Is that not a war on terror success story, given the aims of its creators?

Endnotes

[1] We will use the phrases 'war on terror' and 'war on terrorism' interchangeably. Nor are we aware of any nuance in meaning to be gained by distinguishing one phrase from the other. This caveat also holds for the similar phrase 'global war on terror'. (Etc.)

[2] See, e.g., Francis Fukuyama, *America at the Crossroads: Democracy, Power and the Neoconservative Legacy* (Yale University Press, 2006). Along with 24 others that included Dick Cheney, Donald Rumsfeld, Paul Wolfowitz, Zalmay Khalilzad, Lewis Libby, Paula Dobriansky, and Norman Podhoretz, Fukuyama was a founding member of the Project for the New American Century, whose efforts to "rally support for the cause of American global leadership" and a "Reaganite policy of military strength and moral clarity" the world continues to suffer beneath.—See the Project's "Statement of Principles," June 3, 1997.

[3] Frank Rich, "Where Were You That Summer of 2001?" *New York Times*, February 25, 2007; "The Wiretappers That Couldn't Shoot Straight," January 8, 2006; and "Noun + Verb + 9/11 + Iran = Democrats' Defeat?" *New York Times*, November 4, 2007.

[4] Samantha Power, "Our War on Terror," *New York Times Book Review*, July 29, 2007.—Power also used this review to lavish praise on the recently updated *The U.S. Army/Marine Corps Counterinsurgency Field Manual* (University of Chicago Press, 2007), assembled by U.S. Army General David Petraeus *et al.*, the current commander of the U.S.-led Multinational Force in occupied Iraq, along with critical input from members of the humanitarian brigades, including Sarah Sewall, a colleague of Power's at Harvard's Carr Center for Human Rights Policy.

[5] Note that Samantha Power implies that an "American [bombing] attack on what turns out to be a wedding party" is a unique and excusable "error." This is false. It was not even the only wedding party bombed in Iraq and Afghanistan by U.S. forces, and the notable feature of both U.S. wars in these countries is the lavish use of devastatingly powerful

explosives in places where civilian casualties are certain. In Afghanistan, the United States has bombed every kind of civilian infrastructure—dams, telephone exchanges, schools, power stations, bridges, trucks on roads, mosques, Al Jazeera radio, and even the well-marked Red Cross facilities in Kabul. It has also used cluster bombs on a massive scale. In his exhaustive analysis of civilian casualties, Marc W. Herold states that the 3,000-3,400 civilian deaths resulting from U.S. bombing in the period October 7, 2001 – March 2002 can be explained best by "the low value put upon Afghan civilian lives by U.S. military planners and the political elite, as clearly revealed by their willingness to bomb heavily populated areas." He concludes that "the U.S. bombing campaign which began on the evening of October 7th, has been a war upon the people, the homes, the farms and the villages of Afghanistan, as well as upon the Taliban and Al Qaeda." (Marc W. Herold, "A Dossier on Civilian Victims of United States' Aerial Bombing of Afghanistan," Revised Edition, March 2002.) This bombing war relied heavily on people like Samantha Power and the media to keep the ruthlessly anti-civilian character of this war out of public sight. (Also see Tom Engelhardt, "'Accidents' of War: The Time Has Come for an Honest Discussion of Air Power," TomDispatch, July 9, 2007.)

[6] What We're Fighting For: A Letter from America, Institute for American Values, February, 2002. This document is also reproduced in David Blankenhorn et al., The Islam/West Debate: Documents from a Global Debate on Terrorism, U.S. Policy, and the Middle East (Rowman & Littlefield, 2005), pp. 21-40.

[7] For a critique of this notion of civilian deaths as "collateral damage," a legal ploy by which Americans distinguish the "unintended" deaths caused by their "far more terrifying violence" from the "premeditated" deaths caused by enemies, see Michael Mandel, How America Gets Away With Murder: Illegal Wars, Collateral Damage and Crimes Against Humanity (Pluto Press, 2004), pp. 46-56.

[8] In their discussion "A Just War?" the Institute for American Values asserted: "Although in some circumstances, and within strict limits, it can be morally justifiable to undertake military actions that may result in the unintended but foreseeable death or injury of some noncombatants, it is not morally acceptable to make the killing of noncombatants the operational objective of a military action." They continued: "On September 11, 2001, a group of individuals deliberately attacked the United States....Those who died on the morning of September 11 were killed unlawfully, wantonly, and with premeditated malice – a kind of killing that, in the name of precision, can only be described as murder....Those who slaughtered more than 3,000 persons on September 11 and who, by their own admission, want nothing more than to do it again, constitute a clear and present danger to all people of good will everywhere in the world, not just the United States. Such acts are a pure example of naked aggression against innocent human life, a world-threatening evil that clearly requires the use of force to remove it." (What We're Fighting For: A Letter from America, Institute for American Values, February, 2002.)

[9] Richard Falk, "A Just Response," The Nation, October 8, 2001; and "Defining a Just War," The Nation, October 29, 2001.—To his credit, Falk was under no illusions that the Cheney – Bush regime would heed any limits on the use of force.

[10] Peter Beinart, "A Fighting Faith," New Republic, December 13, 2004 (as posted to the Free Republic website). Also see his The Good Fight: Why Liberals—-and Only Liberals—Can Win the War on Terror and Make America Great Again (HarperCollins, 2006).

[11] David Cole and Jules Lobel, "Why We're Losing the War on Terror," *The Nation*, September 24, 2007. Also see their *Less Safe, Less Free: Why America Is Losing the War on Terror* (The New Press, 2007), esp. Ch. 5, "The Costs of Overreaching," pp. 129-146.

[12] "OSI Forum—Less Safe, Less Free," Open Society Institute, November 14, 2007. —David Cole's own words were: "I just don't see anybody around the world who has questioned the notion that the United States has the right to respond to the attacks that we suffered [on September 11, 2001] by going to Afghanistan. There are people who say it wasn't the best policy. But no one argued it was not a legitimate act of self-defense." And: "If you have the right to go to war—you have the right to kill the people you're fighting against—surely you have the right to hold them for the duration of that conflict. So that's not a controversial issue. And holding them at Guantanamo would not have been controversial practice had we given them hearings at the outset. Which, for one, would have identified those people as to whom we had no evidence that they were involved with Al Qaeda and then they would be released—and then we wouldn't have the problem of innocent people being held at Guantanamo." (Our transcription picks-up Cole's remarks beginning at approximately the 49:35 minute mark of the full-length audio clip.)

[13] "The charges in the Indictment that the defendants planned and waged aggressive wars are charges of the utmost gravity. War is essentially an evil thing. Its consequences are not confined to the belligerent states alone, but affect the whole world. To initiate a war of aggression, therefore, is not only an international crime; it is the *supreme international crime* differing only from other war crimes in that it contains within itself the accumulated evil of the whole." See *Final Judgment of the International Military Tribunal for the Trial of German Major War Criminals* (September 30, 1946), specifically "The Common Plan or Conspiracy and Aggressive War," from which this passage derives.

[14] According to Radio Voice of Shari'ah in Mazar-e Sharif, the capital of Balkh province in northern Afghanistan, "senior officials" of the Taliban released a statement as early as September 13, 2001 in which they "honestly asked America to give clear and substantial evidence for what it considers Usamah to be responsible for, and the [Taliban] will hand him over to one of the Islamic courts of the world in order to be tried. The stance of the [Taliban] is clear in this regard. Otherwise, nobody can accuse others by bringing false and groundless allegations." In the same statement, the Taliban "condemn" the events of 9/11, calling them "against the welfare and interests of the world." The Taliban also "expresses its sympathy for the American people," adding that it "expects the USA not to resort to irreparable measures before discovering the facts." ("Afghan Taleban ready to hand Bin-Ladin to Islamic court if USA provides evidence – radio," BBC Monitoring Central Asia, September 13, 2001.) News of this and subsequent offers communicated by Wakil Ahmed Muttawakil, the Taliban's foreign minister, and by Abdul Salam Zaeef, the Taliban's ambassador to Pakistan, were reported by Reuters, *The Herald* (Glasgow), the *New York Times*, the *Washington Post*, the *International Herald Tribune*, the *Boston Globe*, and *The Independent* (London). But as the record makes clear, no one will ever know how genuine these offers really were—the Bush White House categorically rejected them, and the offers died there.

[15] Among the professors of law at U.S. universities who contested the legality of the U.S. war on Afghanistan are Marjorie Cohn, currently president of the National Lawyers Guild, Michael Ratner, now president of the Center for Constitutional Rights, Francis Boyle, Brian Foley, Jordan Paust, and John Quigley.

[16] See "Gallup International poll on terrorism in the U.S. (figures)," Gallup International, late September, 2001. Also see Abid Aslam, "Polls Question Global Support for Military Campaign," Inter-Press Service, October 8, 2001; and David Miller, "World Opinion Opposed the Attack on Afghanistan," Sterling Media Research Center, Scotland, November 21, 2001 (as posted to the Religion-online website). Miller noted that "When polling companies do ask about alternatives [to the war-option], support for war falls away." Hence, he added, this was the reason why so much news media coverage systematically distorts the facts away from informing people about real alternatives and the real impact of the war on Afghanistan. In Pakistan, a case with great resonance today, a Gallup International poll sponsored by *Newsweek* in the early days after the start of the U.S. war found that "Eighty-three percent of Pakistanis surveyed say they side with the Taliban, with a mere 3 percent expressing support for the United States." ("Shifting Sympathies," *Newsweek* Web Exclusive, October 18, 2001.)

[17] Here we are content to cite two definitions of *terrorism*. (1) "[V]iolent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;" and that "appear to be intended – (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping.…" (United States Code, Title 18, Part I, Ch. 113B, **Section 2331**, 1984.) And (2) "Any action…that is intended to cause death or serious bodily harm to civilians or non-combatants, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act." (*A more secure world: Our shared responsibility. Report of the Secretary-General's High-level Panel on Threats* (New York: United Nations, 2004), par. 164(d).)

[18] Abba Eban, "Morality and Warfare," *Jerusalem Post*, August 16, 1981.

[19] In Matt Rees, "Streets Red With Blood," *Time Magazine*, March 10, 2002.

[20] See, e.g., Edward S. Herman, *The Real Terror Network: Terrorism in Fact and Propaganda* (South End Press, 1982), esp. Ch. 2, "The Semantics and Role of Terrorism," pp. 21-45; and with Gerry O'Sullivan, *The "Terrorism" Industry: The Experts and Institutions That Shape Our View of Terror* (Pantheon Books, 1989), esp. Ch. 3, "The Western Model and Semantics of Terrorism," pp. 37-51.

[21] Oscar Alfredo González and Horacio Cid de la Paz, *Testimony on Secret Detention Camps in Argentina* (Amnesty International, 1980).

[22] Thomas Donnelly *et al*., *Rebuilding America's Defenses: Strategy, Forces, and Resources for a New Century*, Project for the New American Century, September, 2000, p. 51, col. 1.—Also see n. 2, above.

[23] The last major "terrorism" report by the U.S. Department of State prior to 9/11 was *Patterns of Global Terrorism 2000* (April 30, 2001). Within its Appendix B, "Background Information on Terrorist Groups," the entry for "al-Qaida" stated that the group "May have several hundred to several thousand members," adding that "Bin Ladin…is said to have inherited approximately $300 million that he uses to finance the group." In the Congressional Research Services' last major assessment of "Near Eastern Terrorism"

published the day before 9/11, the CRS reported that "Bin Ladin is estimated to have about $300 million in personal financial assets with which he funds his network of as many as 3,000 Islamic militants." (Kenneth Katzman, *Terrorism: Near Eastern Groups and State Sponsors, 2001*, Congressional Research Service, September 10, 2001, p. 13.)

[24] According to conservative estimates on global military trends in the annual *Yearbook* published by the Stockholm International Peace Research Institute, whereas the last Clinton budget for fiscal year 2001 devoted $345 billion to military account, by fiscal year 2006, Bush's fifth, this had increased to at least $529 billion (i.e., both in constant 1985 dollars). The *SIPRI Yearbook 2007* reports that "U.S. outlays…increased by 53 percent…between 2001 and 2006, primarily as a result of allocations of $381 billion for military operations in Afghanistan, Iraq, and elsewhere." World military expenditure in 2001 was $839 billion, but by 2006 was "estimated to have reached $1204 billion in current U.S. dollars," an increase of "37 percent between 1997 and 2006." The primary driver of these huge increases: The mythical Global War on Terror which, in reality, has witnessed the most aggressive U.S. and allied military expansion in history. (See *SIPRI Yearbook 2002 Summary*, pp. 12-13; and *SIPRI Yearbook 2007 Summary*, pp. 12-13.)

[25] See, e.g., Larry Birns and Michael Lettieri, "Washington May Soon Try to Pin the Venezuelan Uranium Tail on the Iranian Nuclear Donkey," Council on Hemispheric Affairs, May 9, 2006; and *Larry Birns and Tiffany Isaacs, "*Chávez Could Fuel U.S. Propaganda Campaign with Upcoming Bilateral talks with Kim Jong Il, If Misguided Strategy Is Adopted," Council on Hemispheric Affairs, July 16, 2006.

[26] See Chalmers Johnson, "Abolish the CIA!," *TomDispatch*, November 5, 2004. Also see Johnson's *Blowback: The Costs and Consequences of American Empire*, 2nd. Ed. (Metropolitan Books, 2004).

[27] "Philippines: A government that needs U.S. business," *Business Week*, November 4, 1972.

[28] Michael Ignatieff, "Who Are Americans to Think That Freedom Is Theirs to Spread?" *New York Times Magazine*, June 26, 2005 (as posted to the Harvard University website).

[29] See, e.g., Marjorie Cohn, *Cowboy Republic: Six Ways the Bush Gang Has Defied the Law* (PoliPoint Press, 2007).

[30] Dana Priest, "Foreign Network at Front of CIA's Terror Fight," *Washington Post*, November 18, 2005.

[31] George W. Bush, "President Delivers 'State of the Union'," White House Office of the Press Secretary, January 28, 2003.

[32] Chris Floyd, "Sacred Terror," *Moscow Times*, December 8, 2005 (as posted by the Information Clearing House).

[33] Dick Marty *et al*., *Alleged secret detentions and unlawful inter-state transfers of detainees involving Council of Europe member states* (Doc. 10957), Council of Europe, June 12, 2006,. Annex, "The global 'spider's web'." Also see Christos Pourgourides *et al*., *Enforced Disappearances* (Doc. 10679), Council of Europe, September 19, 2005; and Dick Marty *et al*., *Secret detentions and illegal transfers of detainees involving Council of Europe member states: Second report* (AS/Jur/2007/36), Council of Europe, June 7, 2007.

[34] Deborah Pearlstein et al., *Ending Secret Detentions*, Human Right First, June, 2004.

[35] Also see Deborah Pearlstein and Priti Patel, *Behind the Wire: An Update to* Ending *Secret Detentions*, Human Rights First, March, 2005; and *Guantanamo and beyond: The continuing pursuit of unchecked executive power*, Amnesty International, May 13, 2005.

[36] Based on interviews that it conducted in late 2003 and early 2004 with U.S. military personnel serving in Iraq, a confidential report that the International Committee of the Red Cross used to highlight prisoner abuses at Abu Ghraib and other prisons run by the occupying forces is reputed to have estimated that "70 percent to 90 percent of prisoners had been wrongly arrested"—and, we might add, this is assuming that the occupying forces had any right to arrest anybody. See Peter Slevin, "System Failures Cited for Delayed Action on Abuses," *Washington Post*, May 20, 2004; and R. Jeffrey Smith, "Army Report Warned in November About Prison Problems," *Washington Post*, May 30, 2004.

[37] Resolution 1267 (S/RES/1267), October 15, 1999.

[38] Anthony Goodman, "UN sanctions on Taliban to surrender Bin Laden force," *The Independent*, October 16, 1999; "Taleban slams U.N. sanctions over Osama bin Laden," Deutsche Presse-Agentur, October 16, 1999.—Among the body of statements attributed to bin Laden over many years are several that identify the United Nations with the United States precisely because, in his view, various agencies of the UN have aligned themselves with the U.S. "war on terror."

[39] Resolution 1269 (S/RES/1269), October 19, 1999. Barbara Crossette, "U.N. Council in Rare Accord: Fight Terrorism," *New York Times*, October 20, 1999.

[40] Resolution 1373 (S/RES/1373), September 28, 2001; Resolution 1540 (S/RES/1540), April 28, 2004.

[41] John Mueller and Karl Mueller, "Sanctions of Mass Destruction," *Foreign Affairs*, May/June, 1999.—These authors noted that economic sanctions (i.e., warfare) have been "deployed frequently, by large states rather than small ones, and may have contributed to more deaths during the post-Cold War era than all weapons of mass destruction throughout history....The destructive potential of economic sanctions can be seen most clearly, albeit in an extreme form, in Iraq....No one knows with any precision how many Iraqi civilians have died as a result, but various agencies of the United Nations, which oversees the sanctions, have estimated that they have contributed to hundreds of thousands of deaths....If the U.N. estimates of the human damage in Iraq are even roughly correct,...it would appear that...economic sanctions may well have been a necessary cause of the deaths of more people in Iraq than have been slain by all so-called weapons of mass destruction throughout history."

[42] Kofi Annan, *In larger freedom: towards development, security and human rights for all* (A/59/2005), United Nations, March 21, 2005, par. 91.

[43] In the case of Operation Allied Force, the U.S.-led NATO bloc's 1999 aggression against the Federal Republic of Yugoslavia, Kofi Annan had quietly advocated on behalf of war for as many as nine months in advance of it.—See, e.g., Kofi Annan, "Secretary-General Reflects on Intervention" (SG/SM/6613), Ditchley Foundation Lecture, United Kingdom, June 26, 1998; and Kofi Annan, "Secretary-General Calls for Unconditional Respect for Human Rights

of Kosovo Citizens" (SG/SM/6878), NATO Headquarters, Belgium, January 28, 1999. As Annan delivered these lectures in the context of NATO's threats of war, we hardly believe that they can be taken as calls for NATO to stand down.

[44] In the *Legality of Use of Force* cases (1999 – 2004), brought by the Federal Republic of Yugoslavia against ten of the members of NATO that attacked it in 1999, the International Court of Justice ruled that as the defendant-powers refused to recognize the ICJ's jurisdiction in the cases brought before it by the Federal Republic of Yugoslavia, the ICJ "manifestly lacks jurisdiction to entertain Yugoslavia's Application" and "cannot therefore indicate any provisional measure whatsoever"—that is, lacking jurisdiction, it cannot issue an injunction or rule on the legality of NATO's use of force. (See, e.g., *Yugoslavia v. United States of America*, June 2, 1999. Each of the other nine cases wound up the same.)

[45] *The 9/11 Commission Report*, National Commission on Terrorist Attacks Upon the United States, July 22, 2004, esp. Ch. 12, "What To Do? A Global Strategy," and Ch. 13, " How To Do It? A Different Way of Organizing the Government." As recently as the first week of January 2008, former Commission co-chairs Thomas H. Kean and Lee H. Hamilton complained about the CIA's withholding of evidence and obstruction of the Commission's inquiry. See "Stonewalled by the C.I.A.," *New York Times*, January 2, 2008.

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