

# Treating War as a Crime

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## **Of the Radical and the Quaint**

Remarks in Boca Raton, Fla., February 26, 2011

<http://warisacrime.org/content/radical-and-quaint>

*I really want to thank Nancy Parker and everyone who helped put this event together. I would have come just to hear the other two speakers. I've learned a lot from Sandy Davies and consider his book required reading for all Americans. And it's an honor to speak together with Ben Ferencz who has been advancing the rule of law since the age when — more so than not — the United States was a proponent of international justice.*

Today's Palm Beach Post's article about Mr. Ferencz and this event begins with this sentence:

"War is such a widespread force in the world that the very idea of treating it as a crime seems both radical and quaint."

As the proprietor of a website called War Is A Crime .org I have always strived to be radical and quaint. I don't dispute the Post's description, but I find it intriguing. How can an idea be both radical and quaint? One definition of quaint is "pleasingly or strikingly old-fashioned or unfamiliar." Another is "having an old-fashioned attractiveness or charm."

In fact the idea of treating war as a crime is, in a very real way old-fashioned. In 1928, our government made war a crime when the Senate ratified by a vote of 85 to 1 the Kellogg-Briand Pact which condemned and renounced all war. The Senate tacked on an exception for the traditional right of self-defense. But our Secretary of State Frank Kellogg had rejected a proposal from France to include that exception in the treaty. Kellogg argued that if any such exception were included the treaty's "positive value as a guarantor of peace" would be "virtually destroyed." And hardly a dozen years later he was proven right as a second World War took some 70 million lives with the participation of several nations that had signed the Kellogg-Briand Pact, and most of them acting in the name of defense. But the Pact remains the supreme law of the land under our constitution, and — even as adopted by the U.S. Senate — it treats legal war as an exception to the general rule that war is a crime.

When the second world war was over and the criminals on one side of it were prosecuted, another treaty was established called the United Nations Charter. This one too, which also remains the supreme law of the land, made war a crime — but this time with two narrow exceptions. One is the traditional right to defense. The other is in some ways a reversal of a second provision that the U.S. Senate had attached to the Kellogg-Briand Pact. The Senate had stipulated that the United States could not be required to go to war to enforce the ban on war. The UN Charter, on the contrary, stipulated that the UN could authorize particular

wars as a sort of global police officer. What ever you think of these exceptions to the ban on warfare or of that ban itself, the Palm Beach Post is perfectly right in understanding that the exceptions have overtaken the rule. We fight so-called defensive wars against impoverished unarmed nations halfway around the globe. And we maintain that the UN has authorized wars even in the face of the UN maintaining it has not. Defensive and global-policing wars are not exceptions so much as loopholes large enough to sail a fleet through. The assumption is now that war is legal. The burden of proof is on the quaint radicals to prove that a particular war is a crime.

Ben Ferencz is going to tell you about the hurdles to prosecuting war. There have been some advances in prosecuting lesser war crimes. The beautiful nation of Italy has prosecuted and convicted 23 CIA agents for kidnapping a man off an Italian street and sending him off to be tortured by the guy who now runs Egypt. But those 23 convicts go about their happy lives unnoticed in the United States, albeit unable to travel abroad. George W. Bush just canceled a trip to Switzerland for fear of arrest and prosecution for torture. Spain yesterday determined to move ahead with a case against US torturers, and a separate case may indict six former top US officials. But here in the Homeland, torture has been turned into a policy choice and aggressive war into a tool that needs to be used more quickly and efficiently going forward.

Another definition of quaint is “unusual in an interesting, pleasing, or amusing way.” It’s not just old-fashioned to look back to the early days of this nation before the permanent standing army, or to Pennsylvania’s banning of war in the extremely quaint year of 1682, or to rudely recall the goal of disarmament in the Atlantic Charter that I guess was already quaint by 1947. It’s also amusingly shocking and scandalous, and thus radical, to imagine a nonviolent economy in a nation that leads the world in weapons sales, maintains a thousand military bases around the earth, slices the globe into various “commands” to be dominated, operates special forces in 75 countries, fights multiple simultaneous ground wars, murders at will and across all borders with unmanned aircraft, and devotes well over half of federal discretionary spending to the military and wars.

But we never anymore speak about good slavery or just rape. A mere 10 years ago, Americans universally denounced torture. Yet the horrors of war far outstrip, while encompassing, these other outrages, and we go on referring to good wars and just wars, or at least the theoretical possibility of them. The very worst thing humanity has ever created is culturally legal, regardless of what the actual laws say. And yet we cannot survive its continued presence, and we do not need to try. The justifications offered for each particular war — before, during, and after — and the justifications for the machinery of empire are a tissue of lies all the way through.

The money we put into the military, over half of every dollar raised through income tax or borrowing, produces fewer and lower paying jobs than could be had by investing in other sectors, including education, infrastructure, and energy, and — if done right — even in tax cuts. Military spending is worse than nothing, in economic terms, and we cannot survive it. Nor can our environment survive the destruction that wars and weapons testing bring. The blowback and weapons proliferation encouraged by our current policies may kill us all. And we will be powerless to resist these trends if we allow the so-called wartime erosion of our civil liberties and representative government to continue — unless, I guess, we all master our impersonations of David Koch when phoning our elected officials.

There was a glitch in the “We’re #1” corporate media line last week when a New York Times column noted that among industrialized nations the United States is at or near the worst ranking in income equality, employment, democracy, wellbeing, food security, life expectancy, education, and percentage of the population in prison, but right at the top in military spending whether measured per capita or as a percentage of GDP or in absolute terms. When Dr. King said that a nation that continues year after year to spend more money on the military than on programs of social uplift is approaching spiritual death he wasn’t warning us. He was warning our parents and grandparents. We’re the dead.

But I think we’re only in a coma. We don’t choose to fund the war economy. When pollsters tell us what the budget looks like, we demand cuts to the pentagon. But the rest of the time we don’t bother to find out what happens to our money. A recent poll found that only 25% of Americans thought we should fund the military at a rate of three times the next most militarized nation, but only 32%, not 75%, wanted to cut military spending, which would in fact have to be slashed drastically to get it down to three times what China spends.

We have two-thirds of the country opposed to a war in Afghanistan that costs over \$100 billion per year, and a major debate in Washington over how to cut \$100 billion from the budget — a debate that does not include mention of that war. To effect change, we need more than majority opinion. We need massive strategic Wisconsin-Egyptian public pressure. And before we can generate that pressure to bring our war dollars home and defund the even more costly base military budget, we will have to show people that not just one war is based on lies; they all are.

The Iraq War is typical of any war in terms of its dishonesty. My book attempts to lay out and refute the major categories of lies used in every war effort, so that from now on we can reject alleged reasons for war immediately upon hearing them. These include claims that only war can oppose evil, that war is needed for defense, and that wars serve humanitarian goals. Chris Matthews on MSNBC recently discovered that the Iraq WMD story was not quite kosher and demanded an investigation of Iraq War lies, which is more than anyone in Congress has done since 2006. Next week tune in as Matthews may discover that there was no Gulf of Tonkin incident or begin to doubt that Spain really sank the Maine.

Did you read the Rolling Stone article on Thursday about the U.S. military’s program in Afghanistan to lie to visiting senators and think tankers and military officials themselves about the state of the war? It looks like an official from Florida saw his career suffer when he honorably refused to take part in that. And the people who did it may come off looking about as bright as the Men Who Stare at Goats, but the Senators who fell for it come off looking as bright as the goats. Seriously, for how many years can you believe victory is right around the corner?

An anonymous US military official was quoted in the New York Times yesterday explaining, as some of us have been screaming for nearly a decade, that the military occupation is itself causing violence and instability. The Secretary of War, Robert Gates, yesterday at West Point said that we shouldn’t launch any more wars like the ones in Afghanistan and Iraq. At the same time, in an interview just published, Gates argues for further prolonging the war in Afghanistan — an action every bit as criminal and immoral as initiating the war in the first place.

Nobody is apologizing to Barbara Lee for ostracizing her when she alone of all members of Congress voted against the war on Afghanistan. Ten years ago voting for an aggressive and

doomed to be disastrous war was the right thing to do. Never mind that the Taliban was willing to turn bin Laden over to a third country to be tried. Never mind that any pretense to the contrary could no more justify a war than Italy would now be justified in bombing Washington for not extraditing the CIA convicts. There was evil in the world, and only violence could get us drunk enough to believe we'd had nothing to do with it.

Now, 10 years later, ending a war because of its illegality is not an issue at all, except for quaint radicals. And ending it because the American people want it ended is just inappropriate. In wartime, leaders should not be swayed by public opinion when they are busy bombing a new democracy into place. Ending the war because it costs money or fuels terrorism or damages the earth or kills human beings doesn't make any sense. If it did, David Koch would be phoning in about it.

The disturbing side to Gates' desire to avoid future wars like these is that he and many in Washington think we should pursue a different kind of war: small wars, secret wars, assassinations, death squads, and unmanned drone attacks. This agenda, when combined with the ever expanding secrecy of our government, and when combined with Americans' relative lack of concern for the deaths of non-Americans spells trouble for advocates of peace. What if we were to finally catch on to the tricks of the second oldest profession on earth, the war propagandist, just in time for wars to proceed in the shadows without marketing campaigns, public debates, or even the pretense of authorization by a legislature?

The answer to this, I think, is two-fold. We must work with whistleblowers and publishers, such as wikileaks, to find out what our government is doing. And we must organize and train and engage in relentless nonviolent activism to radically and quaintly change what it is doing.

We may be past the point of spiritual death as a nation, yet somehow we're still kicking. And we're not just kicking our neighbors who have unions or health coverage, as we've been instructed. We're pushing back against the plutocratic plunderers of our children's future. Some of us whom the government taxes for working will be paying a visit to Bank of America this evening, which the government pays to rip us off. Nicole Sandler, our nation's best radio host, is here to lead that action.

There is a moment of activism in the world right now that should not be allowed to slip through our fingers. We have an absolute duty to fend off the twin dangers of collapse into apathy or degeneration into violence. Did you know that Egyptians studied the Montgomery Bus Boycott and learned from American scholars of nonviolent action? We are part of an ongoing exchange of ideas and inspiration. And while our government may not save a trillion dollars a year by hiring Egyptian activists to spread democracy instead of the Pentagon, we can take inspiration from what is happening across the Middle East and the Middle West and find our calling in the eternal nonviolent struggle for a better world.

There is no quick fix to the mess we're in. For godsake, peace is quaint and radical. You don't dig out of that hole in a matter of days. And this is good, not bad, news for you and me. Drug abuse, I guarantee you, has plummeted in Madison, Wisconsin. Nobody's skydiving. Nobody's reading their horoscopes or trying on new religions. Nobody engaged in the peace and justice movement has to look for meaning in life. Nonviolent action is what makes life worthwhile.

And we Americans can do it as well as anybody else and have done it before. Libyans are laying down their lives against brutal violence, and they are advancing the cause of peace and justice whether they win this year or decades down the road. They have no parties, no unions, no civil society, they're divided by region and tribe, and yet they are taking action and so can we.

Most human societies have not known war and many have known it and dropped it. The current issue of Yes magazine has an article about a group of baboons that engaged in constant violence for years and then developed a culture of peace. Now I'm not claiming we're all geniuses, but if baboons can do it we might want to try. War is not in our genes. It's not necessitated by the small-scale violence that responds to it. It's not needed to defend anything. It is worse than anything it can be used to remedy. And if the young people in this room live to be as old as the elderly in this room it will be because the thought of war as an acceptable human behavior has been made both radical and quaint.

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