

# Iraq War: Constitutional And Moral Questions

by Pete McCloskey

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In the last few days of August, warlike statements by the President and Vice President have focused national attention on two questions: Should the United States force a "regime change" in Iraq by a preemptive action of some sort, in effect declaring war on Iraq? And, are we prepared to accept a new principle of international law, that the threat of use of weapons of mass destruction by a Third World nation justifies a unilateral attack by one nation in violation of the UN Charter?

This question comes before us on the eve of the emotional anniversary date of Sept. 11, America's first taste of the type of civilian casualties our own bombardments have inflicted on others in Lebanon, Somalia, Kosovo, Iraq, Libya, the Sudan and Afghanistan in recent years.

More importantly, Congressional elections are only two months away. The stakes in the November election are enormous. Which political party will control the House and Senate during the final two years of the current Administration? The President is understandably dedicated to staying in office and having a Republican majority in both houses.

I suggest that the political system, which we have been so fortunate to see evolve over the past 225 years, is not well suited for a quick decision on the serious matter of whether or not to go to war in violation of international law. I believe this because of two unique aspects of the American political system which have historically led us into grave difficulties in the past, notably in 1812 and 1964.

First, in times of domestic difficulty, Presidents have learned that their popularity will most certainly increase if the people can be convinced that a foreign "enemy" threatens us. And second, our elected representatives in Congress have learned to never, ever, challenge the decisions of a President,

who is the Commander-in-Chief, during a war.

In such a situation, the Congress can be expected to act more like a herd of sheep than the sober decision-makers the Constitution intended when our forefathers assigned the war power solely to Congress. As Abraham Lincoln observed, Congress was assigned the war power, because kings in domestic difficulties were only too prone to go to war to preserve their regimes.

There is another constitutional provision that has been largely ignored in the current debate. That is the constitutional provision that treaties duly ratified by two-thirds of the Senate become the law of the land, of equal stature with the Constitution. In 1945 we were proud to lead the world to a new type of treaty, the United Nations Charter, dedicated to the principle that no one nation should ever again invade another save with UN support.

In light of the tremendous human tragedies of World Wars I and II, the concept of world peace under international law seemed clearly preferable in 1945 to a world where an Adolf Hitler, or any one country, could create a holocaust. In 1950 we went to war to support that principle. If Saddam Hussein is indeed another Hitler, we may well have to, again, go to war. But should it be a unilateral decision on our part?

We live in a world of nuclear weapons, nerve gas, shoulder-fired missiles, and anthrax. They have been largely perfected by the technology of the United States and proliferated throughout the world by the U.S. dispensation as to which nation should be allowed to have certain weapons. Now, the capability no longer exists for one nation to be sure such weapons will not fall into the hands of a hostile entity. Is it then the right of the most powerful country in the world to unilaterally decide who is hostile enough to justify war?

Whatever may be the threat from religious zealots who believe in the eradication of evil—as religious leaders have believed since the Spanish Inquisition—we are not at war. I suggest that the time to go to war against Iraq has not yet arrived, and that there is a prior action we should take before doing so. If we really want to achieve peace in the explosive Asian/Persian Gulf/Mediterranean region, perhaps we should turn our attention and efforts towards achieving the goal of UN Resolution 242, a Palestinian state, with dignity for Palestinians, as well as security for Israelis. That might be a good place to start.

It is a time for cool heads, not wartime hysteria such as existed in 1812 or was created in 1964 by Lyndon Johnson's deliberate lie to the people and the Congress that two U.S. destroyers had been attacked by the North Vietnamese in the Gulf of Tonkin.

The Sept. 11 attack, which the President maintains put us "at war," came from the understandable perception in the countries of the Muslim and Arab world that we—not the Soviets, Iran, or Iraq—have become the "evil empire." Rightly or wrongly, ordinary people in the Muslim world believe that the U.S. has become an international bully with



*Former Representative Pete McCloskey writes, "It is time to stand up to Ariel Sharon before we attempt to deal with Saddam Hussein."*

enormous material wealth, a dependency on drugs, and a hypocritical promotion of our own special brand of democracy, while at the same time supporting monarchies and tyrants around the world. Our greatest evil, however, in the eyes of most of the countries of Europe and Asia has been our armed and financial assistance to over 50 years of Israeli repression of Palestinian aspirations.

Even our greatest patriots have to admit that these new Muslim and Arab "enemies" present a case of some merit. We see Israeli infantry officers and soldiers refuse to serve in the occupied territories and, in their words, "to humiliate, terrorize, and remove" the Palestinian population. Meanwhile, the United States continues to veto all UN Resolutions critical of Israel, continues to countenance the controlled possession of weapons of mass destruction by Israel, and, worst of all, continues to finance Israeli settlements in Palestinian territory and the killing of Palestinians with U.S.-supplied helicopters and weaponry. The Israeli settlements in the occupied territories, financed with U.S. dollars, not only destroy the U.S. reputation for fairness in world affairs, but also make it impossible for the Israeli political system to turn its back on militant settlers who now number over 300,000 people.

President Bush has committed the United States to Palestinian statehood, a statehood that cannot be achieved without the removal of those 300,000 settlers. Despite that commitment, he has done nothing to deter their continued growth as his father had the courage to do in 1991. The younger Bush calls Ariel Sharon "a man of peace." But to most of the world he is perceived as a war criminal who, like Pontius Pilate, stood aside willingly 20 years ago this month and permitted the massacre of over 800 Palestinians in the Shabra and Chatilla refugee camps.

So long as we unconditionally support the Israel of Ariel

Sharon, we can expect to some day reap our own holocaust from young people who see moral victory in attacking the richest country in the world. We can only expect them to hate a country which is willing to use unmanned cruise missiles but is at the same time unwilling to see its own soldiers die in the same numbers as the civilians killed by our long-range smart bombs.

As those who enjoy the American heritage of "Give me liberty or give me death" and "Live Free or Die," we should be the first to understand why young Arabs and young Muslims are willing to become suicide bombers against oppressive forces. "Right or wrong, my country" were the words of an American military hero, not those of an Iraqi or Saudi.

The high moral purpose we demonstrated during the last half-century in UN leadership, foreign aid, and the ending of colonialism seems regrettably subordinated today to an obeisance to Ariel Sharon and his supporters in Israel and the United States. There will be no peace until we return to the high ground and insist that Israel remove its settlers from the territories occupied since 1967, and that a Palestinian state be established amongst the family of nations, free of occupation by militant Jewish fundamentalists.

To attack, invade and occupy Iraq will require courage, not just of political leaders but from as many as 100,000 young Americans, many of whom will die in the process. If the cause is just and the threat of Hussein's use of weapons of mass destruction is as imminent as Vice President Cheney says it is, the casualties will be worth it. To attack Iraq without showing the courage to stand up to Israel, however, may doom our children and our children's children to the forces of hatred and revenge for generations.

We may be the greatest military power in the world today, but no American can ever feel safe again, here or abroad. For lasting security, we must return to an even-handed policy with the Israelis and the Palestinians, based on the principles of the United Nations Charter and Security Council Resolution 242. So strongly defended by George Bush, Sr., those resolutions are now nearly abandoned by his son who does not have the privilege of combat experience to temper his aggressive concept of peace through armed victory rather than by international law.

If peace is to be preserved, I suggest that it is time to stand up to Ariel Sharon before we attempt to deal with Saddam Hussein. Ironically, a regime change in Israel may offer more to world peace than one in Iraq.

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