

Cheney Could Be Prosecuted As International War Criminal

by Nancy Spannaus

A group of academics, analysts, think-tankers, and former government officials have issued a letter under the auspices of the group Advocacy for Principled Action in Government, demanding that President Bush correct, or repudiate, statements made by Vice President Dick Cheney on Sept. 10, in which he embraced the concept of aggressive war. The letter, which was distributed to every Congressional office on Sept. 27, was accompanied by extensive documentation of how Cheney's statements violate the entire post-World War II history of U.S. government commitments.

"His public statements open Cheney to potential prosecution as an international war criminal," commented former Democratic Presidential candidate Lyndon LaRouche, in reference to the letter's argument. In fact, Cheney knew there was no threat by Iraq, and was explicitly acting in violation of the Nuremberg Principles against unprovoked aggression.

Already in October of 2002, *EIR* pointed out, under the title "Launching Aggressive War Is a Nuremberg Crime," that the pre-emptive war which the Bush Administration was in the process of launching at that time, was a war crime in violation of fundamental principles of international law and treaties to which the United States is a party. At the point when the actual invasion of Iraq was carried out, in March 2003, *EIR* again cited the prohibition against launching aggressive war, which was embodied in the Charter of the Nuremberg Tribunal, to which the United States was and is bound as a signatory, and whose principles were formally adopted by the UN General Assembly in 1950.

Cheney, who has done everything possible to try to prevent prosecution of administration officials, starting with himself, for crimes such as torture, has now put himself out front as champion of the blatantly illegal, as well as immoral, international war crimes.

Documentation

Cheney Must Be Challenged

The following open letter from analysts and former government officials was issued on Sept. 27, 2007, under the title "Cheney's Statements on Justification of War Must Be Challenged."

On September 10th, in a televised interview on NBC's Meet the Press, Vice President Dick Cheney stated with little ambiguity that we would have invaded Iraq in 2003 even if we knew that Saddam did not have weapons of mass destruction. This statement by our nation's vice president repudiates the legal and moral principle of non-aggression which has been accepted by the international community and has won the United States international trust and respect. This repudiation must not go unnoticed or unchallenged by Congress and the American people.

Of the many findings of "fact" in the Joint Congressional

Authorization for Use of Military Force Against Iraq Resolution of 2002, the key finding was that Iraq was producing and stockpiling weapons of mass destruction and had both the capability and intent to use them in short order. Under the principles of international law that we helped design, and to which we have committed ourselves, only a perception of imminent armed attack justified our first use of force against the territorial integrity and political independence of Iraq in 2003.

Congress must clarify to the administration and to the American people that Congress would not have supported an invasion of Iraq in the absence of the intelligence reports and administration assurances that Iraq did have weapons of mass destruction posing a threat of imminent attack to us and our allies. In addition, it is vital that Congress demand that the president correct, or repudiate, the recent remarks made by Vice President Cheney.

In the aftermath of the death and economic devastation of World Wars I and II, the United States led the world in the development of an international legal framework condemning non-defensive acts of war. This was codified and ratified



White House/Kimberlee Hewitt

Policy analysts write in an open letter: "Vice President Cheney's statement that we would have invaded Iraq even if we knew they had no weapons of mass destruction is a repudiation of what we have repeatedly avowed for more than fifty years: that we shall not attack another nation in the absence of an attack or truly imminent attack on us or our allies, unless it is done under the authority of international law and/or the direction of the United Nations, e.g. in response to a humanitarian crisis." Here, Cheney with Illinois Rep. Henry Hyde (left), Sept. 19, 2006.

by all major powers in the United Nations Charter, and explicitly accepted as binding by all members of the United Nations (now including virtually every nation in the world). Regardless of other concerns we have had about the UN over the ensuing years, this aspect of international law codified particularly in Articles 2 and 51 of the UN Charter has often been re-affirmed and never repudiated by the United States.

For over half a century our government has recognized that this legal framework serves our long-term interests and faithfully reflects the moral stance of the American people. The American people do not approve of war as an instrument of foreign policy, but only as a justified and necessary response to forceful attacks upon us or our allies. Even when the case was not clear, in certain conflicts, our government has at least formally supported the international legal framework of the UN Charter.

In 2003, the Bush administration assured Congress and the American people that there was no doubt that Saddam Hussein had weapons of mass destruction. Many in our military, intelligence, and diplomatic communities still had doubts. Many in Congress expressed concerns, but in the end a majority decided to authorize the president to respond to the immediate threat his administration described.

Alternative justifications offered by Vice President Cheney during the recent interview are clearly legally insufficient for military action. A capability to produce weapons

of mass destruction in the future, the use of weapons of mass destruction in the past, crimes against the people of Iraq, possible connections with terrorist organizations—all of these qualify as grievances which the United States might bring against Iraq in the United Nations, as we did, but do not constitute grounds for the first use of force without UN approval.

In particular, the justification offered by Cheney that Iraq would have become a threat in the future is exactly the kind of argument that the international legal principles are designed to inhibit. Any nation might perceive another nation as a future threat. Germany perceived France and Russia as threats in 1914. Japan perceived the United States as a threat in 1941. North Korea and Iran view the United States as a threat today, particularly after our invasion of Iraq. China could view Taiwan or the United States as a future threat. A non-imminent future threat justifies preparedness, diplomacy, changes in

policy, and appeals for UN action, but does not justify military force.

Vice President Cheney's statement that we would have invaded Iraq even if we knew they had no weapons of mass destruction is a repudiation of what we have repeatedly avowed for more than fifty years: that we shall not attack another nation in the absence of an attack or truly imminent attack on us or our allies, unless it is done under the authority of international law and/or the direction of the United Nations, e.g. in response to a humanitarian crisis. We cannot allow Cheney's repudiation to stand, even if it was made extemporaneously and unofficially. Congress and the president must provide a clear statement that Vice President Dick Cheney's remarks do not represent US policy and that we remain committed to a policy of non-aggression.

Signatories include Samuel R. Berger, Chairman, Stonebridge International LLC, Fmr. National Security Advisor; Gen. Wesley Clark, Fmr. NATO Supreme Allied Commander, Distinguished Sr. Advisor, Center for Strategic and International Studies Trustee, Center for American Progress; Scott Horton, Adjunct Professor, Columbia Law School, Committee on International Law, Assn. of the Bar of the City of New York; Ray McGovern, Retired CIA Analyst, Political Policy Analyst and Commentator; and many others. Organizational affiliations are listed only for identification purposes. Signa-

tories are acting in their individual capacity and not in representation. Full list at www.principledaction.org.

The following documentary evidence of how Vice President Cheney's remarks violate U.S. principles and practice, is excerpted from that included with the letter to Congress.

1. NBC Meet The Press Interview with **Vice President Dick Cheney**, 9/10/2006 (Transcript available at <http://www.msnbc.msn.com/id/14720480/>)

Mr. Russert: But Mr. Vice President, the primary rationale given for the war in Iraq was Saddam had weapons of mass destruction. You, on August of 2002, this is what you told the VFW. Let's just watch it. (Videotape, August 26, 2002)

Vice President Cheney: Simply stated, there is no doubt that Saddam Hussein now has weapons of mass destruction. (End of videotape)

Mr. Russert: In fact, there is grave doubt, because they did not exist along the lines that you described, the president described, and others described. Based on what you know now, that Saddam did not have the weapons of mass destruction that were described, would you still have gone into Iraq?

Vice President Cheney: Yes, Tim, because what the reports also showed, while he did not have stockpiles, clearly the intelligence that said he did was wrong. That was the intelligence all of us saw, that was the intelligence all of us believed, it was, when George Tenet sat in the Oval Office and the president of the United States asked him directly, he said, George, how good is the case against Saddam on weapons of mass destruction? The director of the CIA said, It's a slam dunk, Mr. President, it's a slam dunk. That was the intelligence that was provided to us at the time, and based upon which we made a choice.

Mr. Russert: So if the CIA said to you at that time, Saddam does not have weapons of mass destruction, his chemical and biological stocks have been degraded, he has no nuclear program under way, you'd still invade Iraq?

Vice President Cheney: Because, again, look at the Duelfer Report and what it said. No stockpiles, but they also said he has the capability. He'd done it before. He had produced chemical weapons before and used them. He had produced biological weapons. He had a robust nuclear program in '91. All of this is true, said by Duelfer, facts. Also said that as soon as the sanctions are lifted, they expect Saddam to be back in business.

2. Joint Congressional Authorization for Use of Military Force Against Iraq Resolution of 2002:

Whereas Iraq both poses a continuing threat to the national security of the United States and international peace and security in the Persian Gulf region and remains in material and unacceptable breach of its international obligations by, among other things, continuing to possess and develop a sig-

nificant chemical and biological weapons capability, actively seeking a nuclear weapons capability, and supporting and harboring terrorist organizations; Whereas Iraq's demonstrated capability and willingness to use weapons of mass destruction, the risk that the current Iraqi regime will either employ those weapons to launch a surprise attack against the United States or its Armed Forces or provide them to international terrorists who would do so, and the extreme magnitude of harm that would result to the United States and its citizens from such an attack, combine to justify action by the United States to defend itself;

3. Nuremberg International Conference on Military Trials, Agreement and Charter, 8/8/1945:

Article 6. (a) CRIMES AGAINST PEACE: namely, planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing.

4. United Nations Charter

Chapter I, Article 2:

All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations. Chapter VII, Article 51: Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

5. Vice President Dick Cheney, Speech to Veterans of Foreign Wars, August 26, 2002:

Simply stated, there is no doubt that Saddam Hussein now has weapons of mass destruction. There is no doubt that he is amassing them to use against our friends, against our allies, and against us.

6. President George Bush, Press Conference at Camp David September 7th, 2002:

The one thing that no one can deny is that Saddam Hussein is in breach of the United Nations resolutions on weapons of mass destruction—that is, chemical, biological, nuclear weapons; that that poses a threat not just to the region, because there is no way, if those weapons were used, that the threat would simply stay in the region.

7. Statements of past presidents confirming U.S. accep-

tance of the legal principles embodied in the United Nations Charter:

President Harry Truman, Address to the Opening Session of the United Nations General Assembly, 10/23/1946:

The United States of America has no wish to make war, now or in the future, upon any people anywhere in the world. The heart of our foreign policy is a sincere desire for peace. This nation will work patiently for peace by every means consistent with self-respect and security. Another world war would shatter the hopes of mankind and completely destroy civilization as we know it.

I am sure that every delegate in this hall will join me in rejecting talk of war. No nation wants war. Every nation needs peace.

To avoid war and rumors and danger of war the peoples of all countries must not only cherish peace as an ideal but they must develop means of settling conflicts between nations in accordance with the principles of law and justice.

The difficulty is that it is easier to get people to agree upon peace as an ideal than to agree upon principles of law and justice or to agree to subject their own acts to the collective judgment of mankind.

But difficult as the task may be, the path along which agreement may be sought is clearly defined. We expect to follow that path with success.

In the first place, every member of the United Nations is legally and morally bound by the Charter to keep the peace. More specifically, every member is bound to refrain in its international relations from the threat, or use, of force against the territorial integrity or political independence of any state.

In the second place, I remind you that 23 members of the United Nations have bound themselves by the Charter of the Nuremberg Tribunal to the principle that planning, initiating or waging a war of aggression is a crime against humanity for which individuals as well as states shall be tried before the bar of international justice.

President Dwight D. Eisenhower, Address Before the 15th General Assembly of the United Nations, 9/22/1960:

The first proposition I place before you is that only through the United Nations Organization and its truly democratic processes can humanity make real and universal progress toward the goal of peace with justice. Therefore, I believe that to support the United Nations Organization and its properly constituted mechanisms and its selected officers is the road of greatest promise in peaceful progress. To attempt to hinder or stultify the United Nations or to deprecate its importance is to contribute to world unrest and, indeed, to incite the crises that from time to time so disturb all men. The United States stands squarely and unequivocally in support of the United Nations and those acting under its mandate in the interest of peace.

The United States wants the Soviet Union and all the nations of the world to know enough about United States

defense preparations to be assured that United States forces exist only for deterrence and defense—not for surprise attack. I hope the Soviet Union will similarly wish to assure the United States and other nations of the nonaggressive character of its security preparations.

President Richard Nixon, Address Before the 24th Session of the General Assembly of the United Nations:

The test of the structure of peace is that it ensure for the people of each nation the integrity of their borders, their right to develop in peace and safety, and their right to determine their own destiny without outside interference.

As long as we live with the threat of aggression, we need physical restraints to contain it.

But the truest peace is based on self-restraint—on the voluntary acceptance of those basic rules of behavior that are rooted in mutual respect and demonstrated in mutual forbearance.

The more closely the world community adheres to a single standard in judging international behavior, the less likely that standard is to be violated.

President Ronald Reagan, Remarks Before the United Nations General Assembly, 6/17/1982:

As both patriots of our nations and the hope of all the world, let those of us assembled here in the name of peace deepen our understandings, renew our commitment to the rule of law, and take new and bolder steps—to calm an uneasy world. Can any delegate here deny that in so doing he would be doing what the people, the rank and file of his own country or her own country want him or her to do? Isn't it time for us to really represent the deepest most heartfelt yearnings of all of our people?

Let no nation abuse this common longing to be free of fear. We must not manipulate our people by playing upon their nightmares.

President George Bush, Sr., Address to the 46th Session of the United Nations General Assembly, 9/23/1991:

Where institutions of freedom have lain dormant, the United Nations can offer them new life. These institutions play a crucial role in our quest for a new world order, an order in which no nation must surrender one iota of its own sovereignty, an order characterized by the rule of law rather than the resort to force, the cooperative settlement of disputes rather than anarchy and bloodshed, and an unstinting belief in human rights.

Finally, you may wonder about America's role in the new world that I have described. Let me assure you, the United States has no intention of striving for a Pax Americana. However, we will remain engaged. We will not retreat and pull back into isolationism. We will offer friendship and leadership. And in short, we seek a Pax Universalis built upon shared responsibilities and aspirations.