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Iraq: Crisis of Conscience

Guest Viewpoint

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In memoriam: Robert McAfee Brown

The drums of war are getting louder. A pre-emptive strike against Iraq is emerging as a major test of the Bush administration's "war against terrorism." Buoyed by its supposed victory in Afghanistan, the administration seems ready for more. "Wars are not won on the defensive," asserts Vice President Dick Cheney. "We must take the battle to the enemy and, where necessary, pre-empt grave threats to our country before they materialize."

Taking the battle to the enemy is an idea that, so far, has met with little opposition. Key Democrats like Senate Majority Leader Tom Daschle, and key organs of elite opinion like the *Washington Post*, have in principle openly endorsed it. According to its advocates, a war of pre-emption will bring about the administration's much-desired "regime change" in Iraq, install a democratic government there, and free the Iraqi people. Press leaks indicate that plans are in the making for the United States to attack Iraq some time between September and early next year.

The only problem is that, by just-war standards, a pre-emptive attack against Iraq must be condemned. The proposed war fails to meet these standards at virtually every point.

The historic just-war tradition, as upheld by the churches and codified in international law, rests on two basic considerations. In order for a war to be acceptable, justifiable reasons must exist for going to war (*jus ad bellum*), and then justifiable means must be employed in conducting it (*jus in bello*). Although grave questions exist about whether a U.S. war against

Iraq can meet the second consideration, it is the first one that is here most relevant. Unless it can be met, a pre-emptive strike against Iraq -- regardless of how odious Saddam Hussein may be -- would be little more than an unlawful act of aggression.

According to just-war theory, three criteria determine whether the reasons for going to war are justifiable: the cause must be just, the chances of success must be reasonable, and the authority to wage war must be competent. None of these conditions can be met by the pre-emptive strike planned against Iraq. Nor is it likely that the main criteria for justifiable conduct -- non-combatant immunity and proportionality between means and ends -- can be met as well. The planned U.S. attack may become our worst military disaster since Vietnam.

1. Just Cause

Having a sufficient cause is the most important condition of *jus ad bellum*. It has historically been understood to refer (a) to self-defense (b) to defense against an act of aggression and (c) as a last resort. Initiating an act of war violates this requirement. The only sufficient reason for warfare is self-defense against physical aggression.

The right to pre-empt an anticipated attack can be extrapolated from the self-defense principle. Nevertheless, pre-emptive strikes must meet a high standard of justification. The attack being prevented must be imminent, not merely conjectured or vaguely feared in the long run. Everything depends, therefore, on whether Iraq can be anticipated to launch an attack against the United States in the near future.

Eliminating Saddam Hussein has been the feverish dream of Bush administration hawks. It has become a policy goal in search of a pretext. Despite massive media campaigns to whip up charges, previous pretexts have failed. No link could be established between Iraq and the Sept. 11 atrocities, for example, or between Iraq and al Qaeda. Nor could the anthrax scare be blamed on Iraq. The zeal with which these phony pretexts were pursued is instructive in itself. Finally, however, a successful pretext has been found. According to U.S. national security advisor Condoleezza Rice, "The one thing that is clear is that the *status quo* in Iraq is unacceptable, because it permits Saddam Hussein to possess weapons of mass destruction."

Two questions are relevant here. Does he in fact possess weapons of mass destruction? And if so, do they pose a clear and imminent danger to the United States or its allies? On any fair-minded assessment, the answer to both these questions seems to be "No."

No evidence has been produced that Iraq is manufacturing weapons of mass destruction. According to experts, both the capacity to manufacture them and the capability of delivering them are lacking. This assessment has been confirmed by sources as diverse as former Defense Secretary William S. Cohen, Secretary of State Colin Powell, and former United Nations arms inspector Scott Ritter.

As a result of the Gulf War, Iraq had virtually all of its major weapons programs destroyed -- including, as reported by the International Atomic Energy Agency, its nuclear weapons capability. Denis Halliday, the former head of the U.N.'s humanitarian program in Iraq,

sums the situation up:

"Saddam Hussein is not a threat to the U.S., although the U.S., which continues its illegal bombing campaign in the no-fly zone, is a threat to Iraq. . . . Nor is Iraq a military threat to its neighbors. In fact it's probably the reverse. It's Iraq's neighbors, like Iran and Israel and others, who have the military weaponry, including nuclear weapons, some of which are clearly pointing from Israel at Baghdad itself, thereby justifying the anxieties and concerns of the Iraqi people and the Iraqi leadership."

Lacking all credible evidence of sufficient cause, and with strong evidence to the contrary, the administration's case for pre-emption against Iraq collapses. Even if Hussein does retain some minimal capability in weapons of mass destruction, mere possession, by just war criteria, is not enough. Iraq has obvious incentives not to implicate itself in using such a capability against the U.S. -- unless Iraq itself should be attacked first in an unprovoked war of pre-emption. In that case, Saddam Hussein would have nothing to lose by unleashing, in desperation, anything he may have.

2. Reasonable Chance of Success

Although this requirement by itself is not decisive, the just war theory requires the consequences of a military campaign to be stringently weighed in advance. No one who has read Tolstoy's *War and Peace*, or who has regarded the horrors of Galipoli (March 1915-January 1916), or who remembers Vietnam, can fail to be aware that when success is made to sound too easy, skepticism is the order of the day. Precious human lives and scarce economic resources are at stake.

So would "liberating" Iraq really be a "cakewalk," as Ken Adelman, former U.S. arms control director, has claimed? Or is Immanuel Wallerstein of Yale University more to the point when he warns that invading Iraq "will have nothing but negative consequences for the United States -- and the rest of the world"?

According to some estimates, as many as 250,000 U.S. troops will be needed. While other estimates are lower, one Pentagon study has projected an "acceptable" death rate of 20,000-30,000 U.S. soldiers. (The number of "acceptable" Iraqi deaths has apparently not been calculated.)

Iraqi soldiers will be defending their homeland against a foreign invader who has been bombing them for years. Dissident military analyst Carlton Meyer puts it this way: "Ideally, the campaign can be won by sending in 50,000 troops charging in from the air and sea. . . . However, they could get bogged down if the Iraqis fight in the cities and mine the roads. In every military operation there are a hundred things that can go wrong; if you can anticipate half of them, you're a genius." The Iraqi army is estimated at 500,000 troops.

Arab leaders have warned that a U.S. war against Iraq could destabilize the entire region. Iraq itself threatens to collapse into anarchy. Rather than anything resembling "democracy," a puppet regime is far more likely to result, and even that would be difficult to achieve. Senior U.S. military officials reportedly have serious doubts about whether defeating Iraq

would be worth the high military and diplomatic cost. A unilateral war against Iraq would be widely perceived as an American bid for colonial occupation in the Middle East. An occupation of oil-rich Iraq, says Meyer, "will not be about freedom, democracy or security; just money and power."

Wallerstein worries that Iraq could become another Vietnam: "Just as in Vietnam, the war will drag on and will cost many U.S. lives. And the political effects will be so negative for the U.S. that eventually Bush (or his successor) will pull out. A renewed and amplified Vietnam syndrome will be the result at home."

Other dire consequences are indicated by Ritter: "If we go against Iraq, we're going to lose the war on terror. We will lose any support for our actions, because we will be seen as an arrogant, bullying superpower who is using September 11 to pursue our unilateral world domination."

3. Legitimate Authority

It is doubtful that the U.S. possesses legitimate authority, by itself, to launch a pre-emptive war against Iraq. "Unilateral action by the United States to overthrow the government of another sovereign nation," writes law professor George Bisharat, "would constitute a grave breach of international law." Yet that is what the administration proposes to do.

Almost no country supports a U.S. invasion of Iraq. Not a single Arab state (with the possible exception of Jordan) supports it, not the bulk of Europe, not Russia, Turkey, Pakistan or Iran. Israel and Great Britain are the two notable exceptions, though Tony Blair has pledged that no attack on Iraq will be permitted without U.N. assent. Whether he will stand by this pledge, however, is by no means clear.

Article 51 of the United Nations Charter allows for international attacks only if there are no alternatives, and if there is immediate danger with no time for deliberation. The U.S. will almost certainly disregard the U.N., since it knows in advance that its planned invasion will be opposed. Our country will then look less like the honest international broker it claims to be, and increasingly like a rogue state.

Doubts about legitimate authority are also rife on the domestic front. Recently, Sen. Robert C. Byrd, D-W.Va., gave a major speech urging the Senate to play a central role in determining whether our nation should invade Iraq. According to the Constitution, he insisted, it is the role of the Congress to declare war. "I am determined to do everything in my power to prevent this country from becoming involved in another Vietnam nightmare," he declared. "This determination begins with Congress being fully and sufficiently informed on the undertakings of our government, especially if it involves the commitment to military action." Yet the Bush administration seems as reluctant to seek advice and consent from the U.S. Congress as it does from the U.N. Security Council.

4. Proportionality and Non-combatant Immunity

The threatened invasion of Iraq represents a grievous violation of just war principles. Devoid of sufficient cause, portending disaster and lacking in legitimate authority, it fails every significant test of *jus ad bellum*. Moreover, by these same principles, the means by which the war will be conducted (*jus in bello*) also promises to contradict justice.

The principles of proportionality and non-combatant immunity concern how much force is morally appropriate and who are legitimate targets of war. They distinguish the legitimate conduct of war from acts of murder. There is reason to believe that our country honors these principles too often in the breach.

According to respected military analyst William Arkin, the Pentagon fails to take civilian casualties with sufficient seriousness. Having surveyed recent U.S. military engagements in the Gulf War, the Balkans and Afghanistan, Arkin concludes that though some progress has been made, U.S. efforts are just not good enough. "The U.S. military can assert all it wants that it takes 'all' measures to minimize civilian harm. But until it is willing to actually study why civilians die in conflict, it is an assertion that has little credibility."

The planned U.S. pre-emptive strike will take place against the background of comprehensive UN sanctions. These sanctions have already wreaked havoc on civilians. They have targeted the weakest and most vulnerable members of Iraqi society: the poor, the elderly, the sick, the newborn and the young. According to UN reports, over one million civilian lives, the vast majority of whom are children and the elderly, have died since 1990 because of this suffocating blockade. Iraq now has a mortality rate of over 200 people per day. UNICEF officials estimate that in the year 2000 more than 5,000 children were dying each month, primarily because of the sanctions.

Denis Halliday resigned from the U.N. humanitarian program in Iraq, calling the sanctions "genocidal." His successor, Hans Von Sponeck, also quit in disgust. Last November they wrote: "The death of 5,000-6,000 children a month is mostly due to contaminated water, lack of medicines and malnutrition. The U.S. and the United Kingdom governments' delayed clearance of equipment and materials is responsible for this tragedy, not Baghdad." The Pope and U.S. Catholic bishops have also been vocal in calling for an end to the sanctions.

From this perspective, the planned invasion will be a continuation of outrages begun by other means. "Regime change," states Halliday, is "really a nice word for murder and chaos and killing." Cluster bombs, such as were used in Afghanistan, and other ghastly weapons dropped from 15,000 feet, are sure to produce massive civilian casualties. Earlier this year, in a change of official policy, our government announced a possible strategy of "first-use" for "low yield" nuclear weapons. Richard Perle, chairman of the Defense Policy Board which advises the defense secretary, has said that "no strategist would reject, in principle, using nuclear weapons against Iraq."

As George Kennan has observed years ago, just war principles mean little without a commitment to keep civilian casualties to the absolute minimum -- "and this, if necessary, even at the cost of military victory." The just war tradition requires that "victory" alone cannot be the overriding goal. Kennan continues:

"For victory itself, even at its apparent best, is a questionable concept. I can think of no judgments of statesmanship in modern times where we have made greater mistakes -- where the relationship between calculations and results have been more ironic -- than those which related to the supposed glories of victory and the supposed horrors of defeat. Victory, as the consequences of recent wars have taught us, is ephemeral; but the killing of even one innocent child is an irremedial fact the reality of which can never be eradicated."

Let it not be said that Americans remained silent while their government plotted openly to pursue an unjust and ill-considered war.

Postscript (Aug. 19)

Since mid-July when this article was written, dissent has arisen from an unexpected quarter. Grave doubts about the administration's war plans have been raised by prominent Republican foreign-policy experts. The *New York Times* has called this dissent "the equivalent of a cannon shot across the White House lawn."

It is interesting to observe which just-war principles are considered by these experts and which neglected.

- 1. Just Cause.** "An unprovoked attack against Iraq would violate international law," according to Rep. Dick Armey (R- Texas). He adds that such an attack would not be justified even if United Nations efforts remain deadlocked to send weapons inspectors back into Iraq. "In my estimation," he says, "it is not enough reason to go in."

Former National Security Advisor Brent Scowcroft also finds the cause for war insufficient. Although Iraq is a threat to U.S. interests, "there is scant evidence to tie Saddam to terrorist organizations, and even less to the Sept. 11 attacks." Scowcroft insists, however, that an Iraqi refusal of new arms inspectors would be sufficient cause for war. At this point, it is Armey who upholds the just war tradition.

- 2. Reasonable Chance of Success.** Consequences weigh heavily on the minds of these experts (more so, it seems, than matters of principle). "An attack on Iraq at this time," states Scowcroft, "would seriously jeopardize, if not destroy, the global counterterrorist campaign we have undertaken." Moreover, although the Iraqi regime would be defeated and destroyed, "it would not be a cakewalk." It could well provoke Saddam to use the weapons of mass destruction that we fear, thus "unleashing Armageddon in the Middle East." Finally, "a large-scale, long-term military occupation" would result with heavy military, diplomatic and financial costs.

Long-term consequences are the special concern of Henry Kissinger. A pre-emptive attack could destroy the international order that has prevailed since the Treaty of Westphalia in 1648. "It is not," he warns, "in the American national interest to establish pre-emption as a universal principle available to every nation."

- 3. Legitimate Authority.** None of the main critics -- Arney, Scowcroft or Henry Kissinger -- have argued that the war would be illegal without formal Congressional approval. Among others, however, Sen. Richard Lugar (R-Ind.) has made at least consulting with Congress an essential condition. Whether or how the administration will meet it remains to be seen.

None of these critics goes as far as the *Atlanta Journal-Constitution*: "The U.S. Constitution is as clear on the issue as words can possibly be: The authority to declare war is vested in Congress, and only in Congress. For Bush to commit this nation to an unprovoked war without congressional approval would be a clear violation of his presidential oath."

These critics also express no concern about gaining approval from the U.N. Security Council.

- 4. Proportionality and Non-combatant Immunity.** Perhaps most striking is that none raises questions about the means and methods of the war (though Scowcroft mentions that it could be "bloody"). None sounds the courageous note of a George Kennan. Rather than conduct a war by criminal means, he urged, "there are times when we have no choice but to follow the dictates of our conscience, to throw ourselves on God's mercy, and not to ask too many questions." Courage to question the criminality of the means is indispensable to the just war tradition.

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