

How the World Can Help Americans Halt Bush Administration War Crimes

By Jeremy Brecher and Brendan Smith | June 8, 2005

On May 17 a legal summons was delivered to U.S. and UK embassies in capitals around the world—including Istanbul, Tokyo, Lisbon, and Brussels—on behalf of the World Tribunal on Iraq (WTI). The summons requested the attendance of President Bush and Prime Minister Blair to defend charges that they are in “violation of common values of humanity, international treaties, and international law” for waging war in Iraq.

The Istanbul session to which Bush and Blair are invited is the culminating tribunal of WTIs held in Paris, Tokyo, New York, and elsewhere around the world. While the summons was signed by leading international figures, including international legal scholar Richard Falk and former Assistant UN Secretary General Dennis Halliday, President Bush’s attendance is not anticipated.

Do such efforts, and the broader movement to which they aim to contribute, have any chance of affecting the actions of the United States? The Bush administration scarcely conceals its contempt for the opinion of its own allies, let alone the opinion of its critics. When millions of people around the world demonstrated against the U.S. attack on Iraq, Bush referred to it contemptuously as a “focus group.” But the emergence of new forces in the United States, combined with little-recognized aspects of American public opinion, may give events like the WTI a new effectiveness—if they wisely address the American public.

The World Tribunal on Iraq

In 1967, the British philosopher Bertrand Russell convened the International War Crimes Tribunal. The Tribunal was charged with conducting “a solemn and historic investigation” of U.S. war crimes in Vietnam in order to “prevent the crime of silence.”

Drawing on this tradition, the WTI—composed of lawyers, former parliamentarians and judges, journalists, artists, and victims of U.S. aggression—has held people’s tribunals on multiple continents in order to

build “a moral, political, and judicial record that contributes to build a world of peace and justice” as part of a broader campaign to “put an end to impunity enjoyed by the United States and its allies.”¹

At one level, the WTI functions as a ledger to record U.S. crimes in Iraq. According to its mission statement, it aims to “challenge the silence around aggression against Iraq” and “record wrongs, violations, and crimes as well as suffering, resistance, and silenced voices.” Just as in 1943 when the Allied troops set up the United Nations War Crimes Commission to act as a repository for war crimes evidence and compile a list of the accused, so the WTI has heard and documented the testimony of victims in Fallujah, archived video footage of journalists, and tracked the command responsibility of Secretary of Defense Rumsfeld. This record provides an important evidence trail for the numerous court challenges both in the United States and at the ICC against the Bush administration.

At another level, the WTI plays an important role in framing the issues for the global resistance movement to U.S. aggression. By speaking of the Iraq War in terms of Geneva Conventions, human rights treaties, and other aspects of international law, the WTI addresses all those who believe that states must act within legal restraints. As Hilal Kuey, the spokesperson for the upcoming WTI in Turkey put it: “Since the U.S. administration does not recognize the International Criminal Court ... the citizens of the world have undertaken an initiative to reclaim justice. The world is calling for Bush and Blair to be held accountable for the crimes committed in Iraq.”



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The New “Law and Order” Movement in the United States

A new and unexpected convergence of forces is developing in the United States around the Bush administration’s contempt for both international law and the U.S. Constitution. It includes not only peace and human rights activists but conservative constitutionalists and retired generals. The WTI offers an opportunity for people around the world to align with these new “legal allies” forming in the United States.

This movement can be traced to the law cases brought by the Center for Constitutional Rights claiming that U.S. detention of prisoners in Guantanamo without appeal to a court violated the most fundamental principles of the U.S. Constitution. The Supreme Court rejected Bush administration claims that the president as military commander-in-chief was in effect above the law and could not be restrained by Congress or the courts. This has been followed by a suit by the American Civil Liberties Union (ACLU), a powerful organization whose members include a wide swath of the mainstream legal profession. The ACLU sued Secretary of Defense Donald Rumsfeld on behalf of Iraqi citizens who have been brutalized and deprived of their rights by U.S. forces. Amazingly, a group of retired generals are co-counsels in the suit.

A similar set of forces converged to oppose the nomination of Alberto Gonzales as Attorney General, the top U.S. law enforcement official. Gonzales had written and commissioned memos defending torture and claiming that presidential powers to order it were unlimited. A group of mainstream human rights organizations were joined by retired generals and respected religious leaders in opposing the nomination.

These forces are now trying to force an independent investigation of U.S. torture and other abuses. Congressman John Conyers, along with fifty of his colleagues, sent a letter to Gonzales calling for the appointment of an independent counsel to investigate the culpability of high-ranking Defense

Department and White House officials in the abuses at Abu Ghraib, Guantanamo, and elsewhere. According to the letter, since so many high level officials “have been implicated in these events, the only way to ensure impartiality is through the appointment of a Special Counsel. Indeed, our nation’s integrity is at stake. We must reassure the world that we will fairly and independently pursue legal violations wherever they occur.”

On May 27, top Democratic representatives, led by Henry Waxman and including Democratic House leader Nancy Pelosi, the Democratic Whip, and the Chairman of the House Democratic Caucus, announced plans to introduce legislation to create a House select committee to investigate the abuse of detainees held in U.S. custody in connection with the war in Iraq and the global war on terrorism.²

International attention from events like the WTI can do much to strengthen the efforts of U.S. “legal allies” to fight the Bush administration and regain control of their democracy.

U.S. Public Opinion

While the Bush administration has little but contempt for global public opinion, the American people are extremely worried by the prospect of global isolation. In one poll, about 70% agreed that the primary lesson of September 11 is that the United States needs to cooperate more with other countries to fight terrorism, as opposed to acting more on its own.³

Most Americans believe that the only way to security is through international cooperation. In one poll, more than three quarters of Americans said that the “United States should do its share to solve international problems together with other countries.” In contrast to the Bush administration, most Americans support participation in the International Criminal Court, strengthening the United Nations, contributing U.S. troops to UN peacekeeping missions, and signing the Land Mines Treaty.⁴

The Bush project as a whole and in myriad specific actions contradicts the American people’s beliefs in international law, Constitutional government, and

the need for international cooperation, morality, and common sense.

The Bush administration engages in preventive war and maintains that it has the right to do so without UN approval or immediate threat. But Americans increasingly reject the Iraq war.⁵ In a May Gallup poll, 57% of Americans said that it was not worth going to war in Iraq—triple the number of two years ago. In a May Harris poll, only 39% said that “taking military action against Iraq” was “the right thing to do,” while 48% said that it was the wrong thing to do. The public disapproves of President Bush’s handling of Iraq by 61 to 37%.⁶

The American public has a strong and continuing belief that all nations, including the United States, are subject to international law. A 2004 University of Maryland poll, for example, found that “Majorities of the public and leaders do not support states taking unilateral action to prevent other states from acquiring weapons of mass destruction, but do support this action if it has UN Security Council approval. They also both reject preventive unilateral war, but endorse a country’s right to go to war on its own if there is strong evidence of an imminent threat.” They apply this view to specific U.S. policies. For example, “Strong majorities of the public and leaders also believe the United States would need UN Security Council approval before using military force to destroy North Korea’s nuclear capability.”⁷

The Bush administration maintains that the president as commander-in-chief has the authority to attack other countries without Congressional approval and to torture prisoners without constraint by courts. The American people do not accept this abrogation of the Constitution and the rule of law. Nor do they accept the destruction of basic civil liberties in the name of the war against terror. In fact, 372 local governments have passed resolutions demanding that Congress bring the “Patriot Act” in line with the Constitution.⁸

Americans tend to grant themselves and their government a presumption of innocence. While the rest of the world generally takes for granted the illegality of the U.S. attack on Iraq, the criminal brutality of

the occupation, and the responsibility of top U.S. officials for torture in Abu Ghraib and Guantanamo, the American people have been shielded from that knowledge by the government and the media. The evidence of crime in high places is only gradually trickling into the consciousness of the American people. International voices can help accelerate that process.

Strategy

As the rest of the world faces an aggressive, unilateralist superpower with apparent contempt for international law and the “decent opinion of mankind,” two responses come naturally. One is appeasement: trying to moderate U.S. aggressiveness through concession. The other is anti-Americanism: bashing the United States as uniquely the source of the world’s evil. Is there a better alternative?

The rest of the world can have a huge impact on American political dynamics if it can communicate simultaneously a rejection of the policies of the American government and a desire to work with the American people to build a better, safer world.

U.S. war crimes provide an opportunity for classic America-bashing. Indeed, such a response plays right into the hands of the Bush administration, which is always trying to persuade Americans that the rest of the world hates us and that only a militarized response will make us safe. But the war crimes issue also provides an opportunity to reach out to the American people and support them in bringing their government under control and building a more constructive—and safer—relationship with the rest of the world.

People around the world can reach out to Americans of all kinds to explain the significance of what the U.S. government is doing and encouraging opposition to it. The WTI offers an opportunity for the international community to speak to those in the United States who do not yet believe that the United States is committing war crimes. This outreach can involve media strategies, such as statements by notable people, speaking tours, and other events. It can also be person-to-person: as simple as writing

letters to Americans explaining personal concerns about U.S. policy—as thousands did during the 2004 election. It can involve institution-to-institution contacts: churches, labor, environmental groups, fraternal organizations, professional organizations, etc.—like the speaking tours of U.S. religious communities organized by British religious groups during the campaign against the attack on Iraq.

The war crimes issue also provides an opportunity for people all over the world to demand that their own countries end complicity with U.S. war crimes. The withdrawal of Spain, Poland, and other countries from the “coalition of the willing” has already undermined support for the Iraq War among Americans. Further moves, such as reversing ICC waivers, supporting national and international investigations of U.S. war crimes, diplomatic protests against abuse of nationals, and withdrawal from all forms of military cooperation, can validate Americans’ fears that Bush policies are leading to a dangerous isolation.

Examples are already cropping up all over the world. A parliamentary investigation in Sweden recently concluded that CIA operatives violated Swedish law by subjecting prisoners seized there to “degrading and inhuman treatment;” they can and should be prosecuted in Swedish courts.⁹ And U.S. threats to cut \$10 million in military aid if Kenya refuses to sign an ICC waiver are meeting stiff resistance. Kenyan member of parliament Paul Muite says, “America is being utterly immoral in refusing to sight up [to] the International Criminal Court and to go further and require economically weak countries like Kenya, blackmail them, is really very, very insulting to our sovereignty, to our sense of self-respect.” He says “over 90% of the parliament” will pressure the government not to sign the agreement.¹⁰

Such actions, multiplied world wide and communicated to the American people through every possible channel, can provide powerful support for those in the United States struggling to investigate and halt U.S. war crimes. The goal of such action should not be to express hatred for Americans (something the Bush administration can easily utilize for its own purposes) but to convey disapproval of the actions of the

U.S. government. The purpose is not to harm the American people, but rather to help them overcome an incipient autocratic regime and hold their government accountable to the rule of law.

Brendan Smith and Jeremy Brecher are co-editors, with Jill Cutler, of the forthcoming book In The Name Of Democracy: American War Crimes in Iraq and Beyond (New York: Metropolitan/Holt, 2005) and regular contributors to Foreign Policy In Focus (www.fpif.org).

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END NOTES

¹ For information on the Tribunal, visit <http://www.worldtribunal.org>.

² “Democrats to Introduce Legislation to Create Select Committee to Investigate Prisoner Abuse,” www.commondreams.org/news2005/0527-26.htm

³ PIPA release January 18, 2005. See also University of Maryland Program on International Policy Attitudes Release September 8, 2004.

⁴ PIPA release January 18, 2005.

⁵ Americans have tolerated Bush regime war crimes less because they don’t believe in international law than because those crimes have often been presented as a fulfillment of international law. President

Bush presented the U.S. attack on Iraq, for example, as the enforcement of UN Security Council resolutions.

- ⁶ “President Bush’s Rating on Handling of Iraq Declines to Lowest Level, According to Latest Harris Poll,” Press Release, May 18, 2005.
- ⁷ “American Public Opinion and Foreign Policy,” Chicago Council on Foreign Relations and University of Maryland Program on International Policy Attitudes (PIPA), Global Views 2004, <http://www.ccf.org/globalviews2004/>. Republicans and Democrats agree that the United States should not engage in unilateral preventive war. Asked when a country can take unilateral action against another, only 27% of Republicans and 12% of Democrats chose the option: “If they have strong evidence that the other country is acquiring weapons of mass destruction that could be used against them at some point in the future.” A majority of both Democrats and Republicans chose the “traditional” position that nations can go to war “only if they have strong evidence that they are in imminent danger of being attacked.”
- ⁸ ACLU release, “ACLU Calls on Gonzales to Engage in Open Dialogue on Patriot Act,” March 7, 2005.
- ⁹ Craig Whitlock, “New Swedish Documents Illuminate CIA Action,” *Washington Post*, May 21, 2005.
- ¹⁰ Cathy Majtenyi, “Kenians Angry Over US Pressure to Sign ICC Agreement,” *Voice of America News*, May 30, 2005.

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