

The Coming War with Iran

It is more than a rumor that the United States is preparing to attack Iran. This would be a gross violation of International Law and all ethical and legal codes concerning war. First, we will review the evidence for the coming attack, and then proceed to agreed-upon ethical norms concerning such actions. Next we will examine some of the conceivable consequences of such an attack. Finally, we will examine international law. The coming assault on the sovereign state of Iran violates every moral and legal constraint on nations and every rational examination of the conceivable disastrous consequences of such an action.

There are three facts about Iran that corporate media has and will continue to ignore. The first fact is that Iran is a democracy in the sense that its leaders have all been elected by the people. This makes the Congressional passage of the “Iran Freedom Support Act” hypocritical in the extreme, since it imposes deeper sanctions on Iran and explicitly calls for bringing democracy there. This also gives lie to the alleged Bush doctrine of spreading democracy a reason for an attack.

The second fact is that nuclear experts worldwide are agreed that Iran is ten years or more away from developing a nuclear weapon, if that is their goal.

The third fact is that no one in the Bush White House or anywhere else has proffered evidence that Iran is attempting to build a nuclear weapon. Even the International Atomic Energy Agency (IAEA) admitted that all the evidence it has accumulated so far on Iranian plutonium production is circumstantial. It is also important to note that the Nuclear Non-proliferation Treaty (NPT) allows every signatory, of which Iran is one, to produce plutonium for peaceful purposes. Perhaps Christopher de Bellaigue, reporter for *Harper's* magazine, said it best: “In the absence of incontrovertible proof that Iran has developed a bomb, or seeks to do so, the crisis is about intentions, and no outsider knows Iran's intentions.”¹

I. The Bush Plan

Investigative journalist Seymour Hersh has presented the following evidence that Bush is planning on invading Iran:²

1. The administration has admitted to increasing clandestine activities inside of Iran;
2. Bush has charged the Air Force with drawing up lists of targets for bombing Iran;
3. Bush has ordered teams of American combat troops into Iran to collect target information and support anti-government ethnic-minority groups.
4. American Naval tactical aircraft have been flying simulated nuclear-weapons delivery missions within range of Iranian coastal radars.
5. The U.S. is ignoring the International Atomic Energy Association and its recommendations, having told the world nuclear energy body to get out of its way as it makes its plans for Iran.

6. President Bush is now giving speeches about “bringing freedom for the Iranian people.”

7. The U.S. has been flying unmanned aerial surveillance drones over Iran since 2004.³

There are also eerie parallels of the current situation in Iran with the build-up to the invasion of Iraq. These include the following:⁴

1. Iran is an oil-rich state;
2. The Bush administration is exaggerating the WMD threat that Iran poses;
3. The Bush administration has accused Iran, without evidence, of harboring Al Qaeda operatives and supporting terrorist groups. For just one example, Secretary of State Condoleezza Rice stated that Iran is the "central banker for terrorism" in the Middle East and is the single most dangerous threat to the United States today;⁵
4. Bush is spending millions of dollars on propaganda efforts and alliances with dubious ethnic groups in Iran. This includes spending \$85 million to support dissent groups in Iran;
5. U.S. officials are openly talking about bypassing the U.N. when it comes to attacking Iran. As John Bolton, Bush’s appointed representative at the U.N., said: “If this is déjà vu, then so be it. That is the course we are on.”⁶
6. The Bush administration is scrambling to make a connection between Iran and Hezbollah, something which should not be terribly difficult to do, although no concrete evidence has surfaced yet to make the connection.
7. There is open talk on the part of Bush administration officials, of the phrase “regime change.”

II. Ethical Norms Concerning Attack

It is important to come to an understanding of the principles that underlie both domestic and international laws of war, as well as military training manuals. These principles have an extended history, and are universal and widely used. The laws of war and military manuals are instantiations of these principles. Each of the principles we will review has traditionally been said to be a necessary, not a sufficient condition for going to war with a country. That being the case, if any one of these criteria is unmet, the contemplated or performed action is unethical.

The invasion of Iraq was widely and roundly condemned as unethical by the vast majority of ethical scholars in the U.S., so it stands to reason that the unprovoked bombing of Iran would be unethical in the extreme. Here’s why. (It is worth noting that the principles, laws, and consequences we are about to cover would be quite applicable to the Israeli attack on Lebanon of the past week. But that would take us too far afield from the current issue, Iran.)

The first criterion that ethicists have for centuries demanded of a political collective that seeks military action against another is that the action have a “just cause.” This is usually defined as self-defense. In other words, the country considering a military attack against

another must either be under attack from that country, or must be in danger of an imminent attack. In our current case with Iran, Iran must present an imminent danger of attack to the U.S. However, when one takes account of four critical facts, the notion of “imminent danger” evaporates. First, Iran has never targeted the United States. This alone is sufficient to refute any charge that they are an imminent danger. Second, there is no evidence to indicate that they are preparing to do so at this time. Third, the general consensus of the experts is that Iran is a decade away from producing nuclear weapons. Fourth, in mid-July of this year, Iranian officials disclosed that the largest of Iran’s nuclear facilities, and the one that seems to be the main concern of the Bush administration, the plant at Natanz, has encountered severe technical difficulties in the form of poor quality control and impurities in the uranium gas produced. The failure rate was said by an informant to be at about 50%.⁷ If confirmed, this is a severe setback for Iranian nuclear plans, and nearly negates any case the U.S. wants to make for attacking Iran.

A second principle by which to judge the morality of a planned military exercise against another country is that the war produce at least as much good as destruction. Since the future holds no certainties, this principle must be exercised by a probabilistic calculus, weighing the benefits and costs of a war. Because this principle is inherently utilitarian in design, I will present the deeply troubling potential outcomes of an invasion of Iran in point IV, below. For now, it will suffice to list the conceivable positive outcomes of a military strike against Tehran. First, it is conceivable that if the alleged connections between Iran and Hezbollah are true, it is possible that a fundamental source of terrorism will have been cut by a U.S. bombing of Iran. Second, this could result in a decrease in terrorism in the future, if the main players are out of the picture. Third, it is plausible that the Mideast will be rid of a possible nuclear state in Iran, deterring potential Armageddon. If this is to be averted entirely, it would have to be applied to disarming Israel as well, of course. Fourth, a new regime in Iran, should it come to that, could be much friendlier to American interests and also provide us with more stability in oil supplies and prices. Fifth, it might be an important step to American hegemony in the region. It must be noted this last conceivable outcome, although clearly a neoconservative goal, is in direct violation of international laws and other ethical principles, as we will see. Further, in my judgment, these potential positive outcomes of an attack on Iran are far outweighed by the possible catastrophic consequences, as I will argue below (in section IV).

Another criterion requires that planned military action cannot ethically be engaged without attempting and exhausting all reasonable peaceful alternatives. The key term here is “reasonable,” or else this principle becomes self-defeating, in that there are always logically possible alternatives available instead of military action. So far the Bush administration has *a priori* rejected any possible dialogue with Iran, starting the refusal to respond to the letter to Mr. Bush from Iranian President Mahmoud Ahmadinejad. Even more importantly, in 2003 Iran had requested, through the Swiss ambassador to Tehran, direct negotiations with the United States about the nuclear issue. According to Colin Powell’s former chief of staff, General Lawrence Wilkerson, the response of the Bush regime to this gesture was to flatly rejected any negotiation with Iran.⁸ Mr. Bush himself

has taken the line that no negotiations with Iran are possible until “the Iranian regime fully and verifiably suspends its uranium enrichment and reprocessing activities.”⁹ This requirement is the very point on which the negotiations should be centered, but the Bush team wants Iran to concede the point (and its right under NPT) before talking to them, putting the Iranian leadership into an impossible position. But unless there are negotiation attempts of some sort on the part of the U.S., a military excursion into Iran could never be ethically justifiable.

A fourth principle for going to war is to have the right intention to do so. Why do we want to bomb Iran? The signals from Mr. Bush and company are mixed: to stop them from producing nuclear weapons (refuted by the “timetable” of Iranian production, noted above); to spread democracy (not only a direct violation of international law, as we shall see below, but already a miserable failure so far in Iraq, the country of the great suffering populous resulting from the Bush invasion); to prevent terrorism (no solid evidence has been presented that Iran is connected to al Qaeda or other terrorist networks). So far, this ethical criterion is far from being met by the Bush administration regarding Iran.

Another necessary condition for a military campaign requires that the action be predictably successful. As we will see when we line up the conceivable backfires of such an attack on Iranian installations, this condition would not be met by a U.S. bombing of Iran. Seymour Hersh examines in great detail the fact that the Pentagon brass is highly dubious that a strike on Iran would be at all successful. Beyond this, we can question whether a strike on Iran will be successful by examining the alleged reason Bush wants to bomb the country: its connection to terrorism. Even if it turns out to be true that Iran has provided some weapons to Hezbollah and/or the Iraqi resistance, this does not mandate a U.S. military strike on their nuclear facilities. The U.S. has recourse to the U.N. Security Council for its complaints, as it is mandated to do by international law. More importantly under this principle, though, it must be recognized that because terrorism is a process, not a country or concrete enemy, there is no infrastructure, no governmental apparatus, no army, no territory, and no concrete way of apprising whether or not success has been achieved. Thus, this condition alone negates the militarism of the Bush administration, launched as it is under the blanket term of “terrorism.”

Finally, the ethical principles used to judge war require that civilians remain unharmed to the greatest degree possible, and that any harm that comes to them must not be in great numbers. The problem for the Bush regime is that some of Iran’s most extensive nuclear production plants are in or near civilian centers, and the possibility of hitting them without concomitantly killing large numbers of civilians in the process is a minimal.¹⁰

III. International Law

But few persons are so naïve as to believe that an appeal to moral principles alone is sufficient for a critique of unwarranted and dangerous military action. James Madison said it best in the *Federalist Papers*: “If the impulse and opportunity be suffered to coincide, we well know that neither moral nor religious motives can be relied on as an adequate control” (*Federalist* n. 10). So if moral principles will not stop Bush and

Cheney, the possibility that they could be wind up being charged as war criminals might give them pause. Well, on second thought, probably not. However, a population of U.S. citizens who know the ethics and the laws of war and who demand that Bush and Cheney stand down when it comes to Iran, at the cost of the Republican party being thrown out of power in the Legislative and Executive branches of American government, might be a bit more of a deterrent than appealing to their (lack of) consciences.

International law is quite clear about one country attacking another country unprovoked. Since international law derived from the ethical principles of war, examined above, we will scrutinize international law on war by attempting to stay close the categories we used in discussing the ethical principles concerning warfare.

First, one must look at the Charter of the United Nations, to which it is untiringly added that the U.S. is a signatory to and thus bound by it, as our Constitution requires (Article III, Section 2). The U.N. Charter very specifically states the international understanding of a “just cause” in Article 51. However, prior to that, the general rule of relations between nations is stated in 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...” But it does recognize that there are times when the use of force becomes necessary. The sole exception to the presumption against military force in Article 2 is self-defense, contained in Article 51. This is largely recognized to include an imminent attack in addition to a real one. It need hardly be remarked here that Iran in no way poses such a threat to the United States. Even if it did, the U.S. has legal recourse to the U.N. Security Council, but no legal recourse to military attack. In addition, Article 33 of the Charter states that “parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.” That the Bush administration rejects this is clear from their doctrine of preventive war, contained in the National Security Strategy of the United States of America, and states that the U.S. now reserves the right to attack any nation they *perceive* as being potentially harmful to their interests.¹¹ This policy, called “pre-emptive war” by the Bush administration, but “preventive war” by everyone else, in itself quite clearly falls under the status of “war crimes” adopted by the Hague and Geneva Conventions. Yet the world remains inexplicably silent about it. More to the point, this policy of preventive war has made the U.S. into an outlaw or rogue state, or to use Noam Chomsky’s latest term, a “failed” state, since it ignores all laws that apply to it while holding others to both international law and to its (the U.S.’s) own will. Finally, there is a question as to whether the Bush declaration of a “war on terror” is a violation of Article I, Section 8 of the U.S. Constitution, which posits the power to declare war to the U.S. Congress.

Next, let us see who the proper international authority is to authorize military action short of immediate self-defense. According to Articles 39, 41 and 42 of the U.N. Charter, the U.N. Security Council the sole authority to determine if and when armed force is to be applied from one nation against another, and specifies what forms of force the U.N.

might take (again with the sole exception of self-defense). To date, the U.N. Security Council has not authorized an attack on Iran. That they did not do so with Iraq either means, of course, that the U.S. is an outlaw state when it comes to Iraq, punishable by international law and sanction.

Third, there is an acknowledged body of international law called “*jus cogens norms*” (i.e. “compelling law”), also called “peremptory norms,” adherence to is mandatory of all nations.¹² Wars of aggression are among those activities condemned under *jus cogens* norms.

Furthermore, an attack on Iran (and all the more the one on Iraq) are direct violations of the U.S. sponsored Kellogg-Briand pact of 1928, Article I of which states that the contracting parties “condemn recourse to war for the solution of international controversies, and renounce it, as an instrument of national policy in their relations with one another.”

Fifth, an attack on Iran would fit the definition of “Crimes Against Peace” contained in the Charter of the International Military Tribunal from Nuremberg, on the basis of which prosecution of the Nazis took place. Article 6 of that Tribunal defines such crimes as the “planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties.”

Finally, the necessarily significant number of civilian casualties that would occur from the bombing of nuclear facilities located in population centers, and from having over 400 targets in the bombing, would entail a direct violation of the Nuremberg Charter, Article 6; U.N. Charter Articles 39; 41-43; 46, and Protocol I of Geneva Conventions, Articles 50-56. It also would violate Articles 3 and 5 of the Universal Declaration of Human Rights, which state that everyone has a right to life, liberty, and security, and that no one shall be subjected to inhuman or degrading punishment.

IV. Consequences of Attempted Hegemony

The conceivable consequences of such U.S. aggression towards Iran include these very serious possibilities.

1. The Generals inside the Pentagon have stated forcefully that bombing Iran will probably not succeed in putting an end to its nuclear program.¹³ At the very least, the U.S. will have to occupy Iraq with ground troops to make sure the program stops.

2. Iran might retaliate to a selected bombing campaign by stopping tanker traffic through the Strait of Hormuz.

3. Iran could retaliate by directly interfering in the mess in Iraq, making the situation there much worse.¹⁴ Imagine 150,000 angry Iranians pouring across the border into Iraq, ready to retaliate against American troops for casualties inflicted on their home land.

4. If the U.S. strikes civilian structures as well as military and nuclear sites, it would almost certainly set up a long-term war with Iran and its allies.

5. Russia and China, who rely heavily on Iran for their oil, would not likely stand idly by while the U.S. moves into Iran. Both countries had massive contracts with Iraq before the U.S. invaded that country and negated those contracts. Now China alone has deals with Iran, one of which is a 25-year contract worth \$100 billion.¹⁵ So we could be in for a protracted Cold War once again, if not the hot war of military action, with China and Russia.

6. Iran could attack the oil and gas fields in Saudi Arabia, Qatar, Kuwait, and the United Arab Emirates.

7. Hezbollah will no doubt engage in renewed and intense targeting of American soldiers and civilians.

8. A true jihad would undoubtedly arise from the Muslim world, who would see the combined attacks on Iraq and Iran as attacks on the Muslim world in general. This would then become a very protracted and bloody war, spread worldwide.

9. Bush and Cheney's seriousness about use of nuclear weapons against Iranian targets invites a renewed nuclear arms race. Even the U.S. threat of using nuclear weapons decreases stability in the world and almost forces any government which feels threatened by the U.S. to gain access to nuclear weapons, including terrorists. This is not to submit that these things might not happen anyway; just that Bush actions accelerate the pace of a nuclear-armed world.

10. The consequences of a nuclear attack on Iran are grave, as we know from Hiroshima and Nagasaki.

11. There is a distinct lack of military intelligence about Iran. In other words, the military does not know which targets to hit in Iran. No one knows where all the nuclear programs might exist. As a consequence, military planners have over 400 targets in mind for a military strike.¹⁶

12. The citizens of the U.S., already deeply divided, would divide even more over an attack on Iran.

13. Without solid evidence of Iran's nuclear intentions, the U.S. would have to attack Iran virtually without ally, further alienating us from the world community. The Brits and the Europeans are positively against a military attack on Iran at this time.

14. According to many experts, one of the consequences of an attack on Iraq would be that oil prices would raise to around \$100 a barrel, far above what they are now.

VI. The Ethical and Logical Need for Consistency

One of the primary principles by which ethics and law work is a logical one: it is usually called the principle of universality, and is roughly defined as applying the same principle in the same way to all parties. The United States has been anything but consistent when it comes to following ethical and international legal norms. In fact, the U.S. administration is currently leading the world in its inconsistencies, lies and duplicity regarding its actions in the Mideast. The Bush administration's lies leading to war in Iraq are now legion, so we will pass them by here and look at their lies and inconsistencies in dealing with Iran.

First, while the Bush regime demands that Iran and other nations follow the Nuclear Non-proliferation Treaty to the letter, the regime itself violates it at all turns. For example,

this year President Bush went to India and announced the selling of nuclear technology to them, not only violating NPT but overturning the balance of power between India and Pakistan.

Second, while it declares its strategy in Iran as being one of preventing them from obtaining nuclear weapons in violation of NPT, the Bush administration threatens to use nuclear weapons in Iran and has plans on the table to do so.

Third, while requiring all nations it deals with to follow the United Nations Charter and Resolutions, the U.S. ignores and even expresses contempt for those with which they disagree. For example, the Bush-appointed (not congressionally approved) U.S. ambassador to the U.N., John Bolton, stated: “The United States makes the U.N. work when it wants to work, and that is exactly the way it should be, because the only question—the only question—for the United States is what’s in our national interest.”¹⁷

Fourth, according to Article IV of the NPT, each signing party, of which Iran is one, has the “inalienable right...to develop research, production and use of nuclear energy for peaceful purposes...” The U.S. thus has no right to deny Tehran the production of nuclear energy. In fact, as Edward S. Herman and David Peterson report, Britain, France, and Germany reached an agreement with Iran in November, 2004, that would have had these three countries give “objective guarantees that Iran’s nuclear programme is exclusively for peaceful purposes” while giving “firm commitments to security issues.” This agreement failed because the United States would not agree to the “security issues” part, and in fact raised the level of its threats toward Iran. Thus, the U.S. prevented Iran from exercising its legal rights under NPT.

Fifth, the United States has made it a central plank of its Mideast policy that places like Iraq and Iran comply with complete openness to U.N. inspectors, while simultaneously rejecting its agreement to have the same done to it and to Israel.

With such gross inconsistencies in following principle and law, it should be clear to all who have eyes that the United States has become the “Untied States,” a rogue or outlaw state and a far greater threat to world peace by its actions than weak countries like Iraq or Iran. The Bush regime and its supporters need to remember that its own actions of ignoring all laws and conventions that are not in their self-interest, when applied universally, as those whose demise they now seek will do, then those who seek to harm us will have every rationale they need for their acts of terror in the current example set by the United States. But if self-interest is the motto of the Bush foreign policy, and self-interest means anything, it means not jeopardizing the health and safety of one’s own country, as the Bush administration is currently doing. At that point, there is no appeal to law or ethics that would not be hypocritical in the extreme and rightfully ignored at that point by the rest of the world community. But as argued above, there is no way to stop a philosophy or procedure (i.e. terrorism) except by a better one, and “might makes right” has shown itself throughout history to be a philosophy that ultimately fails its defenders.

VII. Conclusions

This is a perilous adventure we are discussing here. A military attack on Iran would not be supported by the principles of ethics concerning war; it would not be countenanced by international law; it would violate many of the international laws of war; it could well lead to a world war; and it almost certainly will cause a true jihad in response from the Arab world. Reason and thus prudence would dictate that we not strike Iran with our military muscle, but rather engage in the diplomatic route for a change. The United Nations Security Council, the proper place for legal complaints against U.S. policies of aggression and illegal actions, is handcuffed by the ever-present threat of a U.S. veto of its resolutions, such as the U.S. did by its veto on July 13 of a U.N. resolution calling for a ceasefire in the Israeli aggression in Lebanon.¹⁸ So it is left for the member nations of the U.N. to push for weapons inspections in Iran and elsewhere, and to demand openly that the U.S. stay within the boundaries of international law and universal disarmament, as required by NPT. If the U.S. does not accede to world demands, the world has the option of the International Court of Justice. Most of all, though, the first and perhaps most important step to take is to force the U.S. into negotiating with its perceived enemies. However, we now know that Bush and Cheney have no interest in dialogue or negotiations. It is not the neocon way. If the neoconservatives see this as World War III, as Newt Gingrich has called it, then it is absolutely imperative that they be stopped before they can go any further.¹⁹ They must be forced, by weight of public outcry, to follow ethical and international norms and engage in dialogue. It is time to engage in protest in whatever way possible and to call or write your Congresspersons today.

¹ Christopher de Bellaigue, "Under the Olive Trees: Waiting for the war in Iran," in *Harper's*, July, 2006.

² Seymour M. Hersh, "The Iran Plans," *The New Yorker*, July 17, 2006.

³ Edward S. Herman and David Peterson, "U.S. Aggression-Time Once Again: Target Iran," Counterpunch.org, May 11, 2006.

⁴ Taken from Robert Dreyfus, "Next We Take Tehran," *Mother Jones*, July/August, 2006.

⁵ For this and other good summaries of the speeches and statements made lately by top administration officials concerning Iran, see Tom Englehardt, "Iran and the Irrationality Factor," March 21, 2006, www.TomDispatch.com.

⁶ Ibid.

⁷ "Glitches hit Iran's Enrichment Work," *Aljazeera*, July 11, 2006.

⁸ See Gary Leupp, "The Secret Cabal Got What it Wanted: No Negotiations," Counterpunch.org, April 26, 2006.

⁹ Seymour M. Hersh, "Last Stand," *The New Yorker*, July 17, 2006.

¹⁰ Ibid.

¹¹ "The National Security Strategy of the United States of America," www.whitehouse.gov/nsc/nss.html.

¹² See Duffy, Helen. *The 'War on Terror' and the Framework of International Law*, Introduction (2005: Cambridge). See also *Restatement of the Law, Third, Foreign Relations Law of the United States*, The American Law Institute, 1987.

¹³ Ibid.

¹⁴ These first two possible consequences were outlined in two papers: Anthony Cordesman and Khalid AlRodhan's "Iranian Nuclear Weapons? The Options if Diplomacy Fails," published by the Center for Strategic and International Studies, and "Iran: Consequences of a War," by Paul Rogers of the Oxford Research Group, in Britain. Both were quoted in and taken from Christopher de Bellaigue, "Under the Olive Trees: Waiting for the war in Iran," in *Harper's*, July, 2006, p. 59.

¹⁵ Robert Dreyfus, "Next We Take Tehran," *Mother Jones*, July/August, 2006.

¹⁶ Hersh, "The Iran Plans," op. cit.

¹⁷ Remarks made at a symposium in 1994, called “Global Structures: A Convocation: Human Rights, Global Governance and Strengthening the U.N.,” and quoted in Herman and Peterson, *op. cit.*

¹⁸ “U.S. Vetoes Resolution on Mideast,” www.cnn.com, July 13, 2006.

¹⁹ In an televised interview on Sunday, July 16, 2006.