

Obama's preventive war and the end of Nuremberg—Part 2

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The post-Soviet “New World Order”: “preventive” and “humanitarian” war

Following the collapse of the Soviet Union, the US ruling elite altered its military and strategic perspectives. It embarked upon a policy of establishing complete and unchallenged domination over key regions and resources against its major rivals in Europe and Asia, through the global projection of overwhelming military power. The politico-military transformation had its corollary in the ruling elite's attitude to constraints imposed on the use of force by international law. In a word, these constraints were repudiated. America was unbound.

In the twenty years since 1990, America's position on international law has crystallised –aggressive war is a legitimate instrument of national policy. It is appropriate to review some of the major milestones in this process, which culminated in Barack Obama's speech in Oslo last October. In his Nobel Prize speech, the president confirmed that he, too, was a supporter of the destruction of the Nuremberg precedents.

In August 1990, in a speech in Colorado, then US President George H. W. Bush proclaimed the “New World Order”. Bush declared that since the US had won the Cold War, it was its duty to establish a new international order, along with the principles that would govern it. In the next two years, policy and military strategy documents were prepared, including the 1991 *National Security Strategy of the United States* and the 1992 *Defence Planning Guidance*. Central to these documents were:

1. America's role in bringing “security and stability” to various regions around the globe.

2. The right of intervention in the internal affairs of sovereign states on the basis that the Westphalian principles of sovereignty and sovereign equality had been superseded.

At the NATO summit in Rome in November 1991, the US presented a “New Strategic Concept” for NATO, which emphasised the “global context” and the need for NATO to take a “more expansive and less defensive strategic military role”. The US and Britain both proclaimed the right to conduct “humanitarian interventions”, involving the use of military force to resolve disputes within other nations and to halt “human rights violations”.

The Gulf War of 1991 and NATO's military attacks on the territory of the former Yugoslavia were a direct expression of America's new

position: the repudiation of international law and acts of military aggression on “humanitarian” pretexts. The 1999 attacks on Kosovo were clear acts of armed aggression. Russia, China, India and Belarus protested them at the time. Serbia brought legal proceedings in The Hague, seeking declarations that NATO's actions were criminal violations of the law, but these were rejected on the basis that the actions were justified on humanitarian grounds.

By this time, the UN and the tribunals established under its auspices had become nothing more than tools of US and British imperialism. Under US pressure, Kofi Annan, notwithstanding the lack of UN Security Council support for the attacks, justified NATO's military action on the basis of a “state of necessity”, a concept without foundation in international law.

By the end of the 1990s, it was clear that the absolute prohibition on the use of force—except in self-defence—was no longer of any account. Acts of military aggression, leading to the deaths of thousands of civilians, many of them caused by cluster bombs and depleted uranium missiles, were legitimised as “humanitarian interventions”.

The relations of nation-states had reverted to the position prior to 1939. In 1938, Hitler had invaded Czechoslovakia on the pretext of the mistreatment of ethnic Germans in the Sudetenland by Czech authorities. In any event, in international law, violations of human rights do not justify armed interventions, which inevitably lead to killings, by foreign countries. The highly respected German scholar of international law, Bruno Simma, in his essay “NATO, the UN and the Use of Force: Legal Aspects” (*European Journal of International Law*, 10 (1) 1999) considered the NATO attack in Kosovo a flagrant repudiation of the UN Charter, and the justification made for it a resort to the medieval doctrine of *justa causa* (“just cause”). Given that the NATO attack was illegal, and that Serbia had not breached any international law with respect to any other sovereign state, the subsequent trial of Slobodan Milosevic in The Hague had no foundation in international law, and had no basis in the Nuremberg precedents.

Preventive war

The quest of US imperialism to establish unrivalled supremacy over the globe, which accelerated through the 1990s, was expanded, particularly to the energy rich regions of the Middle East and the Caspian basin, following September 11, 2001. The ensuing “War on Terror” and declarations of hostility toward “rogue states” led virtually immediately to the Bush administration's official adoption of the doctrine of preventive war.

This doctrine had been gaining ground since the early 1990s among intellectuals who supported a more aggressive US foreign policy. In 1992, for example, the liberal Michael Walzer circulated a document signed by

60 intellectuals formulating the tenets of a new conception of “just war”. In his book *Just and Unjust Wars* (New York, 1992), Walzer argued that, when the US was confronted with “unusual and terrible danger” and a “radical threat to human values”, no restriction of an ethical or legal nature could apply, and any means of preventive destruction was morally legitimate.

Others similarly took up the justification for preventive war, in the supposedly new “anti-terror” context, to counter “threats” to American interests. The proposition was generally accepted that when confronted with “evil”, it was legitimate to resort to evil, and that “9/11 changed everything”. Michael Ignatieff in his book *The Lesser Evil: Political Ethics in an Age of Terror* (Edinburgh University Press, 2004) reasoned that, faced with a terrorist threat, the US government was entitled to suspend democratic rights and use force to counteract evil. The US Constitution, so this perspective went, “is not a suicide pact” and must give way to the exercise of arbitrary force in an “emergency”. Ignatieff further elaborated, “In emergencies, we have no alternative but to trust our leaders to act quickly, when our lives may be in danger. In a terrorist emergency, we disagree... about the fact, chiefly about what type and degree of risk the threat of terrorism actually presents. Public safety requires extrapolations about future threats on the basis of disputable facts about present ones.”

The “War on Terror” pretext was advanced simultaneously to escalate the attack on constitutional norms in the US, and on international law in foreign affairs, as the ruling class lurched toward an arbitrary and lawless framework of rule and conquest.

In the *Quadrennial Defence Review Report*, September 30, 2001, and the *National Security Strategy of the United States*, September 17, 2002, the US government set out in detail its preventive war doctrine. The doctrine proclaimed the right of the US to unilaterally denounce other sovereign states, to force inspections in order to secure “preventive disarmament”, and to use military force if and when it considered it necessary or desirable. The UN was viewed as a body without power over American interests, and thus the US could and would use force without reference to the UN Security Council. Specifically, in terms of military strategy, the doctrine of preventive war encompassed the projection of US military power utilising its “asymmetrical advantages”. In particular, the consolidation of global hegemony required the establishment of a powerful, long-term military presence in Central Asia, to guarantee control over the immense energy resources of the ex-Soviet republics in the Caucasian, Caspian and Transcaspian region, as well as over Afghanistan and Pakistan, and to establish a military encirclement of both Russia and China. The *Quadrennial Review* specifically referred to the use of “preventive military measures”, including “regime change” in relation to “hostile states”, including the use of military force and occupation in order to achieve US strategic objectives.

The *National Security Strategy* of 2002 also proclaimed the right of the US to act “pre-emptively” in circumstances of a perceived threat. The document stated:

“The United States has long maintained the option of pre-emptive actions to counter a sufficient threat to our national security. The greater the threat, the greater is the risk of inaction—and the more compelling the case for taking anticipatory action to defend ourselves, even if uncertainty remains as to the time and place of the enemy attack. To forestall or prevent such hostile acts by our adversaries the United States will, if necessary, act pre-emptively.”

The doctrines of preventive war, pre-emptive self defence, humanitarian war and just war are all illegal in international law. The resort to force, to war, is prohibited following Nuremberg and its codification in international law charters and conventions. The adoption of these doctrines by the US represents, in historical terms, an immense regression in the ideological condition of Western civilisation.

In 2003, the US planned, and launched, its aggressive war against Iraq. The alleged threats of “weapons of mass destruction” were proven to be fraudulent and, in any event, could not have formed a lawful foundation for the launching of war. According to the precedents established at Nuremberg, those civilian and military leaders who planned and carried out the aggressive war against Iraq should be arraigned before a properly constituted judicial tribunal, afforded full and proper due process, and tried for crimes against peace, crimes against humanity, and crimes against the laws of war. If found guilty, they should be sentenced accordingly.

Obama in Oslo

Obama’s Nobel Peace Prize speech in Oslo confirmed the death of American liberalism and, one would think, the end of any illusion that international law and the humanistic conceptions embodied in the Nuremberg principles—in particular the inherent criminality of aggressive war—so eloquently and powerfully enunciated by Jackson 65 years ago, have any further meaning or significance for America’s ruling elite.

American liberalism proclaimed more than six decades ago that waging war was criminal and an affront to the morality and dignity of all civilised people. In a speech that ran amok over these conceptions, and international law, Obama glorified America’s military power and her “right” to use it in the pursuit of American political aims. The president declared that “Nations will continue to find the use of force not only necessary but morally justified”. He chastised “ambivalence over the use of military force” and proclaimed, with his usual vacuous eloquence, Washington’s claims to the use of military power for the purposes of “just war”, “preventive war” and “pre-emptive war”—all the illegal doctrines with medieval roots condemned at Nuremberg as nothing more than cloaks for aggression and conquest.

“The instruments of war”, Obama continued, “have a role to play in preserving the peace.” The US had the right to “act unilaterally” and that right “extends beyond self-defence or the defence of one nation against an aggressor.” He went on to single out various countries that might soon become the subject of US military action—including Iran, North Korea, Somalia, Sudan, Congo, Zimbabwe, and Myanmar—a veritable declaration of war on weak and poor countries. American finance capital, through its mouthpiece the *Wall Street Journal*, hailed Obama’s speech in favour of aggressive war. “Sometimes war is necessary,” it declared.

In the clearest possible terms, Barack Obama has signalled that he intends to continue, and to escalate, the imperialist policy of the United States for global supremacy, colonial subjugation and control of vital resources and markets that it embarked upon following the collapse of the Soviet Union. In Oslo, Obama declared that the use of military force to that end shall not be constrained in the slightest by international law or the Nuremberg principles. The great advance in consciousness represented by the development of these principles, has now been categorically and officially repudiated by the entire spectrum of political leadership of the United States.

Obama’s Oslo speech signifies the burning necessity for the international working class to build a mass, world socialist party against imperialist war. Unless such a party is built, and takes power, the world will once again be plunged into a third, and cataclysmic, global conflagration.

Concluded



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