Ashcroft's Indoctrination

Do you wish to see into the strange mind of Attorney General Ashcroft? What ticks there? Look at the late Chicago University's leading fascist ideologue, Ashcroft's Professor Leo Strauss.

The state of mind behind such proposals, is indicated by the following background, here presented only in bare outline.[1] Recent news stories in Germany and the U.S.A. named John Ashcroft as one of a number of prominent protégés of the late philosopher Leo Strauss. Others named were: now-Deputy Defense Secretary Paul Wolfowitz (a leading advocate of war against Iraq for the past 12 years); Supreme Court Justice Clarence Thomas; neo-conservative warhawk William Kristol of the *Weekly Standard;* former Secretary of Education William Bennett; and *National Review* publisher William Buckley.

Although Strauss was nominally a Jewish refugee from Nazi Germany, he was actually one of a network of Frankfurt School Jews, such as Theodor Adorno and Hannah Arendt, who, lacking the prerequisites of a Nazi Party card, left to spread their decadent philosophy against the United States which they hated as "The New Weimar." Strauss came to the United States in the 1930s under the personal sponsorship of Carl Schmitt, the "Crown Jurist of the Third Reich," who provided the legal rationales for the devolution of Weimar Germany into the dictatorial Nazi state.

Strauss, in his long academic career in the United States, never abandoned his fealty to the three most notorious shapers of the Nazi philosophy: Friedrich Nietzsche, Martin Heidegger, and Schmitt. Carl Schmitt, in his 1932 book *The Concept of the Political,* contended—as do the Straussians today—that it is essential to define an "enemy" for the population to fight; only a belief in a mortal enemy can unify the population, and invest a regime with meaning. Today, for John Ashcroft, not only do the "terrorists" constitute that required enemy; but also, those who complain about his police-state methods.

Recall Ashcroft's statement during a Senate hearing in December 2001: "To those who scare peace-loving people with phantoms of lost liberty, my message is this: Your tactics only aid terrorists, for they erode our national unity and diminish our resolve. They give ammunition to America's enemies."

Ashcroft's "Himmler II" legislation would give draconian, Gestapo-type powers to the Justice Department, to deal with those whom the Attorney General defines as giving aid to terrorists by opposing the Administration's war drive, or by complaining of "lost liberty."

While you are still a citizen, make the Congress stop him, now!

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1. For more background, see articles recently posted on www.larouchein2004.org and www.larouchepub.com.

Can Bush, Rumsfeld Be Tried for War Crimes?

by Edward Spannaus

What the United States did, on the evening of March 19, in launching an imperial, "preventive" war on Iraq, is unquestionably in violation of the Charter of the United Nations and other agreements by which the United States of America, as a signatory, is bound. Indeed, UN Secretary General Kofi Annan repeatedly stated in the days leading up to the U.S. attack, that a unilateral attack by the United States on Iraq would be a violation of the UN Charter.

Were the unlawful actions of the United States to stand as a precedent, the United Nations, which America was instrumental in initiating and founding at the end of the Second World War as a means for preventing war, would lie in shambles, and relations among nations would be reduced to a Hobbesian "war of each against all" in which raw power, not morality or legality, would be the only currency. With the UN unable to protect smaller nations from the U.S. superpower, countries are less likely to bring disputes to the UN Security Council; and, drawing the obvious lesson in the contrasting U.S. treatment of Iraq and North Korea, they will see the acquisition of nuclear weapons as the only means of deterring the United States and getting respect.

The Bush Administration is obviously well aware that this war has no basis in legality. The legal justifications being cynically offered by the Administration are so transparently fraudulent, and rejected by most of the world, that its spokesmen can only be hoping that most citizens will not get behind the headlines and the sound-bites; above all, that they will not act as real citizens, taking personal responsibility for the fate and future of the nation.

The White House Legal Brief

At the March 13 White House press briefing, for example, spokesman Ari Fleischer was asked about the legality of the war, and responded by reading a prepared legal opinion, apparently coming from the State Department Legal Adviser.

Fleischer first read: "The United Nations Security Council Resolution 678 authorized use of all necessary means to uphold United Nations Security Council Resolution 660 and subsequent resolutions and to restore international peace and security in the area. That was the basis for the use of force against Iraq during the Gulf War." (In fact, Resolution 678 authorized the use of force only for the purpose of expelling

the Iraqi military from Kuwait, fully accomplished in 1991.)

"Thereafter," Fleisher continued, "the United Nations Security Council Resolution 687 declared a cease-fire, but imposed several conditions, including extensive WMD-related conditions. Those conditions provided the conditions essential to the restoration of peace and security in the area. A material breach of those conditions removes the basis for the cease-fire and provides the legal grounds for the use of force."

(But, what Fleischer failed to say, was that the implementation of Resolution 687's disarmament provisions is left solely to the Security Council, which was "to remain seized of the matter and to take such further steps as may be required for the implementation of the present resolution and to secure peace and security in the area.")

The UN Charter

This is, in fact, consistent with the provisions of the Charter of the United Nations, signed in 1945. Article 2 of the Charter made it clear that a major purpose of the creation of the United Nations was that member-states were to "refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state," except under certain narrowly defined circumstances.

At all times, member-states are to seek a solution to their disputes through the UN Security Council (Security Council Art. 33), and it is left to the Security Council to make the determination with respect to a threat to the peace, a breach of the peace, or an act of aggression, and to determine what measures are to be taken to maintain or restore international peace and security (Art. 39).

It is only the Security Council that can decide upon the use of force: "Plans for the application of force shall be made by the Security Council with the assistance of the Military Staff Committee. . ." (Art. 46).

The Security Council may designate all or some member-states to use force to carry out its decisions, but only the Security Council is empowered to make such a determination: "The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine. . ." (Art. 48).

The exception to this, is if a member-state is attacked by another state: "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 the measures necessary to maintain international peace and security" (Art. 51). This is generally understood to include the case in which an attack were imminent, so imminent that the member-state did not have time to take the matter to the Security Council. But that is obviously not the case with respect to the United States and Iraq; no one, even the most rabid chicken-hawk, seriously argues that Iraq is an imminent threat to the security of the United States. Indeed, with the exception of Israel, those countries which are actually within striking range of Saddam Hussein oppose the U.S. attack, and the idea that the weakened and destroyed nation of Iraq poses a threat to U.S. national security, is nonsensical—and is seen as such by the overwhelming majority of the world's nations.

Resolution 1441 and the Security Council

But, what about Resolution 1441, unanimously adopted last November, which is constantly cited by President Bush and members of his Cabinet as giving to the United States the authority to attack Iraq? Did not Resolution 1441 threaten Iraq with "serious consequences" if Iraq remained in "material breach" of its obligations to disarm? The answer is that yes, it did; but again, the determination of both matters was explicitly left to the Security Council to "consider," not to one or two of its members.

It is patently clear that the Security Council does *not* believe that a material breach has occurred which justifies the immediate use of force. After promising to seek a vote in the Security Council, in which all members would have to "stand up and show where they stand," Bush was forced to abandon the quest for a vote, when it became clear that a majority of Council members were opposed to the U.S.-British-Spanish resolution. And the official summary of the statements by the 15 member-countries in the debate on March 19, shows that *no* other countries, beside the United States, Britain, and Spain, supported the use of force against Iraq—not even Bulgaria, which had been counted as the fourth vote in favor of the U.S.-U.K. resolution. There were always five countries known to oppose the United States, and there were six deemed "undecided." All of those six ultimately opposed ending the inspections and resorting to force at this time.

Thus, when the United States attacked Iraq, it was not simply "by-passing" the Security Council; it was flagrantly violating the Security Council's intention and will.

Nuremberg Tribunal Precedent

The Administration's desperation to provide a legalistic justification for the war, is undoubtedly related to the fact that many statesmen and commentators have challenged it on this point—but it may also have to do with the fact that a number of commentaries and articles have appeared warning that President Bush and Defense Secretary Rumsfeld could eventually find themselves charged with war crimes before the newly inaugurated International Criminal Court (ICC).

While *EIR* regards the ICC as an abomination (see *EIR*, July 27, 2002), it is nonetheless the case that the United States is bound by other treaties and conventions it has sponsored and signed, which could put Bush and others of the war party in legal jeopardy. For example, as we have shown (*EIR*, Oct. 18, 2002), launching aggressive war is a violation of the Char-

ter of the Nuremberg Tribunal, to which the United States is bound as a signatory, and whose principles were formally adopted by the UN General Assembly in 1950.

The four-power agreement creating the International Military Tribunal for Germany, included in its list of offenses for which there is individual responsibility: "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."

The indictment in the trial of the major war criminals at Nuremberg contained four counts: 1) Conspiracy; 2) Crimes against peace; 3) War crimes; and 4) Crimes against humanity.

Count Two of the Indictment stated: "All the defendants, with diverse other persons, during a period of years preceding 8 May 1945 participated in planning, preparation, initiation, and waging wars of aggression which were also wars in violation of international treaties, agreements and assurances." Twelve defendants were convicted on Count Two, in combination with other counts; seven were sentenced to death by hanging, and the others to imprisonment.

What Is Aggressive War?

In 1974, the UN General Assembly adopted a "Definition of Aggression," which stated: "Aggression is the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations." It further stated that among the acts which qualify as an act of aggression, are: "The invasion or attack by the armed forces of a State of the territory of another state, or any military occupation; . . . Bombardment by the armed forces of a State against the territory of another State."

The Chief Delegate of the United States, Warren R. Austin, told the UN General Assembly on Oct. 30, 1946, that the United States was bound by the principles of law declared in the Nuremberg Charter, as well as by the UN Charter, saying that the Charter "makes planning or waging a war of aggression a crime against humanity for which individuals as well as nations can be brought before the bar of international justice, tried, and punished."

Documentation

World, U.S. Opponents Of Iraq War Speak Out

Russian President Vladimir Putin on March 20 issued the strongest of scores of statements by France, Germany, and many other nations:

"Let me stress from the outset, that these military actions are being carried out contrary to world public opinion, and contrary to the principles and norms of international law and the UN Charter. Nothing can justify this military action—neither the accusation that Iraq supports international terrorism (we have never had and do not have information of this kind), nor the desire to change the political regime in that country, which is in direct contradiction to international law. . . .

"And, finally, there was no need to launch military action in order to answer the main question posed by the international community: namely, are there, or are there not weapons of mass destruction in Iraq? . . . Moreover, at the time of launching this operation, Iraq posed no danger either to neighboring countries, or to other countries and regions of the world, since—particularly after the decade-long blockade—it was a weak country, both militarily and economically. . . .

"The military action against Iraq is a big political mistake. I have already referred to the humanitarian aspect. But the threat of the disintegration of the existing system of international security is no less cause for concern. If we allow international law to be replaced by 'the law of the fist,' according to which the strong is always right, and has the right to do anything he please, with no restriction on his choice of means to achieve his goals, then one of the basic principles of international law will be called into question—that is the principle of the inviolable sovereignty of nation-states. And then no one, not one country in the world, will feel secure. And the vast area of instability that has emerged will expand, causing negative consequences in other regions of the world."

John Brady Kiesling, 20-year State Department officer who was serving in Athens, left office on March 7. From his letter of resignation:

". . . But until this Administration it had been possible to believe that by upholding the policies of my President I was also upholding the interests of the American people and the world. I believe it no longer.

"The policies we are now asked to advance are incompatible not only with American values but also with American interests. Our fervent pursuit of war with Iraq is driving us to squander the international legitimacy that has been America's