

# US Journalists and War Crime Guilt

**From the Archive:** With few exceptions, mainstream U.S. news personalities are again selling war to the American people, this time on Syria by asserting false certainty on who launched the Aug. 21 chemical weapons strike and pretending the Syrian government not the rebels blocked peace talks, a media crisis that lingers from the Iraq War, as Peter Dyer wrote in 2008.

By Peter Dyer (Originally published on Oct. 15, 2008)

On Oct. 16, 1946, Julius Streicher was hanged, a historical precedent that should hold considerable interest for American journalists who have written in support of "Operation Iraqi Freedom" the invasion and occupation of Iraq.

Streicher was one of a group of 10 Germans executed that day following the judgment of the first Nuremberg Trial a 40-week trial of 22 of the most prominent Nazis. Each was tried for two or more of the four crimes defined in the Nuremberg Charter: crimes against peace (aggression), war crimes, crimes against humanity, and conspiracy.

Julius Streicher, a German publisher and Nazi propagandist who was hanged at Nuremberg after being judged complicit in crimes against humanity. All who were sentenced to death were major German government officials or military leaders. Except for Streicher. Julius Streicher was a journalist.

Editor of the vehemently anti-Semitic newspaper Der Stürmer, Streicher was convicted of, in the words of the judgment, "incitement to murder and extermination at the time when Jews in the East were being killed under the most horrible conditions clearly constitut(ing) a crime against humanity."

Presenting the case against Streicher, British prosecutor Lieutenant Colonel M.C. Griffith-Jones said: "My Lord, it may be that this defendant is less directly involved in the physical commission of the crimes against Jews. The submission of the Prosecution is that his crime is no less the worse that he made these things possible made these crimes possible which could never have happened had it not been for him and for those like him. He led the propaganda and the education of the German people in those ways."

The critical role of propaganda was affirmed at Nuremberg not only by the prosecution and in the judgment but also in the testimony of the most prominent Nazi defendant, Reichsmarshall Hermann Goering: "Modern and total war develops, as I see it, along three lines: the war of weapons on land, at sea and in the air; economic war, which has become an integral part of every modern war; and,

third, propaganda war, which is also an essential part of this warfare.”

Two months after the Nuremberg hangings, the United Nations General Assembly passed Resolution 59(I), declaring: “Freedom of information requires as an indispensable element the willingness and capacity to employ its privileges without abuse. It requires as a basic discipline the moral obligation to seek the facts without prejudice and to spread knowledge without malicious intent.”

The next year another General Assembly Resolution was adopted: Res. 110 which “condemns all forms of propaganda, in whatsoever country conducted, which is either designed or likely to provoke or encourage any threat to the peace, breach of the peace, or act of aggression.”

Although UN General Assembly Resolutions are not legally binding, Resolutions 59 and 110 carry considerable moral weight. This is because, like the United Nations itself, they are an expression of the catastrophic brutality and suffering of two world wars and the universal desire to avoid future slaughter.

### **Propaganda Crimes**

Most jurisdictions have yet to recognize propaganda for war as a crime. However several journalists have recently been convicted of incitement to genocide by the International Criminal Tribunal for Rwanda. Because there is stiff resistance, especially from the United States, the effort to criminalize war propaganda faces an uphill battle.

However in legal terms it seems relatively straightforward: if incitement to genocide is a crime, then incitement to aggression, another Nuremberg crime, could and should be as well. After all, aggression starting an unprovoked war is “the supreme international crime differing only from other war crimes in that it contains within itself the accumulated evil of the whole,” in the words of the judgment at Nuremberg.

Criminal or not, much of the world now sees incitement to war as morally indefensible. In this light and in light of Goering’s three-part recipe for war (weapons, economic war and propaganda), it is instructive to look at the role which American journalists and war propagandists have recently played in bringing about and sustaining war.

The Bush administration began to sell the invasion of Iraq to the American public soon after 9/11. In order to coordinate this effort President Bush’s chief of staff, Andrew Card, established the White House Iraq Group (WHIG) in the summer of 2002 expressly for the purpose of marketing the invasion of Iraq.

Among the members of WHIG were media figures/propagandists Karen Hughes and Mary

Matalin. WHIG was remarkable not only for its recklessness with the truth but for the candor with which it acknowledged it was running an advertising campaign.

A Sept. 7, 2002, New York Times article entitled *TRACES OF TERROR: THE STRATEGY; Bush Aides Set Strategy to Sell Policy on Iraq* reported: "White House officials said today that the administration was following a meticulously planned strategy to persuade the public, the Congress and the allies of the need to confront the threat from Saddam Hussein.

"'From a marketing point of view,' said Andrew H. Card Jr., the White House chief of staff who is coordinating the effort, 'you don't introduce new products in August.'" It was as if the "product" the unprovoked invasion of a sovereign state was a consumer good, like a car or a TV show. The sales pitch was the manufactured "imminent threat" of Iraqi weapons of mass destruction.

In other words, the business of WHIG was incitement to aggressive war primarily through the propaganda of fear. Along those lines WHIG's most prominent member, National Security Advisor Condoleezza Rice, invoked the specter of an Iraqi-generated nuclear holocaust in a Sept. 8, 2002, CNN interview with Wolf Blitzer:

"We do know that there have been shipments going into Iran, for instance into Iraq, for instance, of aluminum tubes that really are only suited to high-quality aluminum tools that are only really suited for nuclear weapons programs, centrifuge programs. The problem here is that there will always be some uncertainty about how quickly he can acquire nuclear weapons. But we don't want the smoking gun to be a mushroom cloud."

The smoking gun/mushroom cloud images were among the most memorable of all the White House war propaganda. They were generated just a few days earlier in a WHIG meeting by speechwriter Michael Gerson. (Gerson is now a Washington Post columnist.)

The existence of Iraqi weapons of mass destruction was central to the Bush administration's campaign for war. Other important elements were Saddam Hussein's ties with Al Qaeda and the strongly implied association of Iraq with the tragedies of 9/11. All were false. In propaganda, though, selling the product trumps truth.

### **Unquestioning Submission**

The role played by American mainstream media during the run-up to the invasion of Iraq was marked by widespread unquestioning submission to the Bush administration and abandonment of the most fundamental journalistic responsibility to the public.

This responsibility is embodied not only in Resolution 59 but in the Society of Professional Journalists Code of Ethics as well, which states: "Journalists should test the accuracy of information from all sources and exercise care to avoid inadvertent error."

The failure of influential American journalists, such as the New York Times' Judith Miller, to test the accuracy of information played a critical role in the Bush administration's successful effort to incite the American public to attack a country which was not threatening us.

Though she was far from alone in selling the case for war, Miller, through her seemingly uncritical reliance on dodgy informants, was probably responsible to a larger degree than any other American journalist for spreading the fear of nonexistent Iraqi weapons of mass destruction.

As such she and other influential journalists who failed in this way bear a share of moral, if not legal, responsibility for hundreds of thousands of deaths, millions of refugees and all the other carnage, devastation and human suffering of "Operation Iraqi Freedom."

Some prominent American media figures, however, went considerably further than simple failure to check sources. Some actively and passionately encouraged Americans to commit and/or approve of war crimes, before and during Operation Iraqi Freedom.

Prominent among these was Fox News' Bill O'Reilly who regarding both Afghanistan and Iraq advocated such crimes forbidden by the Geneva Convention as collective punishment of civilians (Gen. Con. IV, Art. 33); attacking civilian targets (Protocol I, Art. 51); destroying water supplies (Protocol I Art. 54 Sec. 2) and even starvation (Protocol I, Art. 54 Sec. 1).

Sept. 17, 2001: "The U.S. should bomb the Afghan infrastructure to rubble: the airport, the power plants, their water facilities, and the roads" in the event of a refusal to hand over Osama bin Laden to the U.S. Later, he added: "This is a very primitive country. And taking out their ability to exist day to day will not be hard. We should not target civilians. But if they don't rise up against this criminal government, they starve, period."

On March 26, 2003, a few days after the invasion of Iraq began, O'Reilly said: "There is a school of thought that says we should have given the citizens of Baghdad 48 hours to get out of Dodge by dropping leaflets and going with the AM radios and all that. Forty-eight hours, you've got to get out of there, and flatten the place." [See Peter Hart's "O'Reilly's War: Any rationale, or none, will do" Fairness & Accuracy in Reporting, May/June 2003]

## Collective Punishment

Another tremendously influential journalist, Pulitzer Prize winner and former executive editor of the New York Times, the late A.M. Rosenthal, also advocated attacking civilian targets and collective punishment in regard to waging war against Muslim nations in the Middle East.

In a Sept. 14, 2001, column, "How the U.S. Can Win the War," Rosenthal wrote that the U.S. should give Afghanistan, Iraq, Iran, Libya, Syria and Sudan three days to consider an ultimatum demanding they turn over documents and information related to weapons of mass destruction and terrorist organizations.

During these three days, "the residents of the countries would be urged 24 hours a day by the U.S. to flee the capital and major cities, because they would be bombed to the ground beginning the fourth day."

Right-wing media figure Ann Coulter, on the Sean Hannity Show on July 21, 2006, called for another war and more punishment of civilians, this time in Iran: "Well, I keep hearing people say we can't find the nuclear material, and you can bury it in caves. How about we just, you know, carpet-bomb them so they can't build a transistor radio? And then it doesn't matter if they have the nuclear material."

This pattern of the major U.S. news figures advocating aggressive wars even predated 9/11. Three-time Pulitzer Prize winner Thomas Friedman published a strident call for war crimes including collective punishment of Serbs and the destruction of their water supplies over the Kosovo crisis:

"But if NATO's only strength is that it can bomb forever, then it has to get every ounce out of that. Let's at least have a real air war. The idea that people are still holding rock concerts in Belgrade, or going out for Sunday merry-go-round rides, while their fellow Serbs are 'cleansing' Kosovo, is outrageous. It should be lights out in Belgrade: every power grid, water pipe, bridge, road and war-related factory has to be targeted.

"Like it or not, we are at war with the Serbian nation (the Serbs certainly think so), and the stakes have to be very clear: Every week you ravage Kosovo is another decade we will set your country back by pulverizing you. You want 1950? We can do 1950. You want 1389? We can do 1389 too." [New York Times, April 23, 1999]

These casual, even joking, comments about inflicting war on relatively weak countries came from American journalists and media figures at the very top of their profession. Each was addressing an audience of millions. It is difficult to overstate their influence.

Over the past decade alone, the massive destruction and carnage wreaked by American pursuit of “the supreme international crime” of aggression has been enabled by negligent, reckless and/or malicious use of this influence.

Sadly, the words of Nuremberg Prosecutor Griffith-Jones concerning the propaganda of German journalist Julius Streicher hold considerable meaning today for some of the most prominent journalists in the country which, after World War II, provided the guiding light at Nuremberg: Streicher “made these things possible made these crimes possible which could never have happened had it not been for him and for those like him.”

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Unfortunately, more than six decades later, little progress has been made. War propaganda is still legal and very much alive flourishing, in fact, as demonstrated by periodic calls for one more invasion of a country which has never threatened the U.S.: Iran.

As matters stand today, with the United States still the world’s preeminent military power, the American propagandists who enabled Operation Iraqi Freedom and other wars of aggression have little need to worry about their legal responsibilities under the Nuremberg principles. A strong case can be made, though, that they have blood on their hands.

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## A 2012 Look-Back at Consortiumnews

The year 2012 was an important one for the United States as it faced a presidential election, issues of war or peace, and the choice of extreme right-wing economic theories or greater political pragmatism. Here is a selection of stories from Consortiumnews.com.

[“Turning America Into Pottersville”](#) by Robert Parry, projecting how the Right’s policies would work out for the average person, Jan. 14, 2012

[“Getting Rid of ‘Anti-Israel’ Presidents”](#) by Robert Parry, recalling the trouble U.S. presidents can encounter when they cross Israel, Jan. 21, 2012

[“US/Israel: Iran NOT Building Nukes”](#) by Ray McGovern, revealing that U.S. and Israeli intelligence agree that Iran has not decided to build a bomb, Jan. 24, 2012

[“Selling the Supply-Side Myth”](#) by Robert Parry, exploring how Ronald Reagan’s “supply-side” economics hurt the American middle class, Jan. 27, 2012

[“Reagan’s Road to Climate Perdition”](#) by Sam Parry, tracing America’s lost way on alternative energy to Ronald Reagan’s mistakes, Jan. 29, 2012

[“The Almost Vanunu”](#) by Marshall Wilson, tracing Israel’s global pursuit of a rogue intelligence officer, Feb. 1, 2012

"Theocracy Comes to Virginia" by Sam Parry, exposing the extremism of the state's anti-abortion legislation, Feb. 18, 2012

"Americans Abandon International Law" by Nat Parry, observing a continuing drift away from universal principles of behavior, Feb. 22, 2012

"Madison: Father of the Commerce Clause" by Robert Parry, disputing the Right's odd reinvention of James Madison, Feb. 24, 2012

"The 'Winners' Take Everything" by James DiEugenio, explaining why the American middle class keeps shrinking, Feb. 29, 2012

"LBJ's 'X-File' on Nixon's 'Treason'" by Robert Parry, a look-back on what Lyndon Johnson knew about Richard Nixon's sabotage of the Vietnam peace talks, March 3, 2012.

"Romney's Made-Up History on Iran" by Robert Parry, piercing the mythology around Ronald Reagan and Iran, March 6, 2012.

"How the Right's Smear Machine Started" by Robert Parry, tracing the pattern back to Nixon, March 8, 2012.

"Israel's Tragedy of 'Victories,'" by Morgan Strong, observing how Israeli attacks on its neighbors have left it more insecure, March 10, 2012.

"The Surge Myths Deadly Results" by Robert Parry, examining how Iraq's "successful" surge led to a similar approach toward Afghanistan. March 17, 2012.

"The 1%'s Doctrine for the 99%" by Mark Ames, exploring the history of the rich treating average Americans as chattel, March 21, 2012.

"GOP Justices Clown Over Health Care" by Robert Parry, pointing out the constitutional absurdity of questions from Republican justices, March 27, 2012.

"Bin Laden's Personal Debt to Bush" by Robert Parry, reflecting on how the terrorist leader enjoyed his final decade., April 4, 2012

"Render to Caesar, Extraordinarily" by Ray McGovern, objecting to the hypocrisy of Christians celebrating Easter and tolerating torture, April 6, 2012

"America's Founding Pragmatism" by Robert Parry, looking back at the true founding principles of the United States, April 15, 2012

"The 1%'s Hand in the Afghan Murders" by Mark Ames, tracing Sgt. Bales's rampage to his family's struggles at the hand of unscrupulous banks, April 16, 2012

"How Obama Recycled a Lie About Iran" by Elizabeth Murray, tracing how a big lie ended up in a key presidential speech., April 25, 2012

"The US Press Sell-Out on Iraq War" by Coleen Rowley, recalling the American media's failure to stand by whistleblowers, April 26, 2012

"Not Explaining the Why of Terrorism" by Ray McGovern, noting how the Obama administration still ducks this tough question. May 2, 2012.

"How US Hubris Baited Afghan Trap" by Robert Parry, explaining the real mistake of U.S. policy toward Afghanistan. May 3, 2012.

"Hiding the True Jesus" by Rev. Howard Bess, peeling back the layers of deception around this historical figure. May 8, 2012.

"The Enduring Secrets of Watergate" by Robert Parry, shedding light on some of the continuing mysteries of the 40-year-old burglary. May 22, 2012.

"The Moral Challenge of 'Kill Lists'" by Ray McGovern, reflecting on morals and the war on "terrorists." May 30, 2012.

"Showing that Hostage-Taking Works" by Robert Parry, reflecting on the GOP success in making the U.S. economy "scream," June 1, 2012.

"Jesus, the Radical Economist" by Rev. Howard Bess, learning from the economic teachings of Jesus, June 11, 2012.

"The Dark Continuum of Watergate" by Robert Parry, defining the lasting footprint of Richard Nixon's politics, June 12, 2012.

"Sorting Out the Facts About Iran" by Ray McGovern, puzzling over the neocon persistence in exaggerating the Iranian threat, June 5, 2012.

"The Almost Scoop on Nixon's 'Treason'" by Robert Parry, recalling how an investigative story in 1968 nearly changed history, June 7, 2012.

"Madness of Late-Stage Capitalism" by Phil Rockstroh, comparing today's economy with an aged Howard Hughes, June 11, 2012.

"Why Jesus Died" by Rev. Howard Bess, describing recent historical findings that give context to Jesus's execution, June 26, 2012.

"Roberts Embraces Right's Fake History" by Robert Parry, noting that Justice Roberts's support for health reform came with a concession to the Right, June 29, 2012

"How Scalia Distorts the Framers" by Robert Parry, challenging how a right-wing

justice depicts the Commerce Clause, July 4, 2012

"Did Reagan Know about Baby Thefts?" by Robert Parry, questioning how much President Reagan knew about his Argentine "death squad" allies, July 6, 2012

"Bohemian Grove and Reagan's 'Treason'" by Robert Parry, recalling a strange Republican alibi involving the rich man's retreat, July 13, 2012

"Harassing the Whistleblowers" by Ray McGovern, explaining the importance of honest scientists at the Food and Drug Administration, July 17, 2012

"America: A Nation of Wildebeest" by Robert Parry, commenting on how gun violence continues to cull the national herd, July 22, 2012

"Caro's Flawed Tale of LBJ's Rise" by Jim DiEugenio, critiquing a much-touted account of President Johnson's ascension to the White House, July 28, 2012

"Why Romney Insulted the Palestinians" by Robert Parry, explaining the neocon meme about cultural inferiority. Aug. 1, 2012

"Israel's 'Bomb Iran' Timetable" by Ray McGovern, gauging Israeli thinking about Iran's nuclear program and the U.S. election. Aug. 12, 2012

"Romney-Ryan Bet on Greedy Geezers" by Robert Parry, dissecting the cynicism of the GOP delay in implementing Medicare changes. Aug. 13, 2012

"Atomized America of Late Capitalism" by Phil Rockstroh, reflecting on the human vacuum at the heart of a decaying empire. Aug. 15, 2012

"Forgetting the Why of the New Deal" by Lawrence Davidson, explaining the role of government in stopping abuses of capitalism. Aug. 20, 2012

"Ryan's Clash with Catholic Teachings" by Daniel C. Maguire, describing Paul Ryan's disdain for the poor. Aug. 22, 2012

"Still Praising Ryan as 'Fiscal Hawk'" by Robert Parry, challenging media boilerplate that Paul Ryan is a deficit fighter. Aug. 22, 2012

"The Human Cost of War on Iran" by Elizabeth Murray, assessing the death and destruction from bombing Iran's nuclear reactors. Aug. 23, 2012

"Is Mitt Romney a Racist?" by Robert Parry, questioning the GOP nominee's troubling remarks that appeal to bigotry. Aug. 25, 2012

"Selling War as 'Smart Power'" by Coleen Rowley, exploring the new rationale for U.S. interventionism. Aug. 28, 2012

"Romney World's Freedom from Facts" by Robert Parry, marveling at what the GOP convention did with reality. Aug. 31, 2012

"Romney's New Global Warming Joke" by Robert Parry, noting how the GOP presidential nominee finds climate change amusing, Sept. 3, 2012

"Mushroom Cloud Sales Pitch Is Back" by Peter Dyer, comparing the hysteria over Iran to past hysteria over Iraq, Sept. 8, 2012

"The Neocons and 9/11" by Robert Parry, explaining how the neoconservatives contributed to the catastrophic intelligence failure and then profited, Sept. 11, 2012

"Romney's Jaw-Dropping Incoherence" by Robert Parry, cataloguing how the GOP nominee shifts positions and jumps the gun, Sept. 13, 2012

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"Why the Mideast Exploded, Really" by Ray McGovern, looking at the whys of Muslim resentment rather than the whos and hows, Sept. 17, 2012

"The Delusional Mr. Romney" by Robert Parry, observing how the GOP nominee sees himself as disadvantaged, Sept. 18, 2012

"Dismantling FDR's Legacy" by Beverly Bandler, warning what another extremist Republican victory might mean, Sept. 20, 2012

"Netanyahu Backs Off on Iran" by Ray McGovern, interpreting the Israeli prime minister's strange speech to the UN., Sept. 28, 2012

"The Burden of Pentagon Spending" by Melvin A. Goodman, contesting the need for a giant military budget. Oct. 1, 2012

"The Silence of the Drones" by Ray McGovern, questioning the practicality and morality of the U.S. drone attacks. Oct. 1, 2012

"Ryan's Distortion of America's Founding" by Jada Thacker, disputing Paul Ryan's reference to the Founders. Oct. 6, 2012

"Mitt Romney Lies to the World" by Robert Parry, dissecting the deceptions in Mitt Romney's foreign policy address. Oct. 9, 2012

"How to Save the Middle Class" by Beverly Bandler, explaining what an economic turnaround really requires. Oct. 13, 2012

"Warnings from the Cuban Missile Crisis" by Don North, a first-hand account of

when the world faced extinction. Oct. 14, 2012

"The Real Blame for Deaths in Libya" by Ray McGovern, pointing the finger at violent U.S. interventions. Oct. 15, 2012

"The October Surprise Mysteries" by Robert Parry, recounting GOP treachery in the 1968 and 1980 elections. Oct. 22, 2012

"Romney's Shape-Shifting Foreign Policy" by Melvin A. Goodman, noting the GOP candidate's troubling inconsistencies. Oct. 23, 2012

"'Moderate Mitt': Neocon Trojan Horse" by Robert Parry, detecting subterfuge behind Romney's shift to the foreign policy center. Oct. 24, 2012

"Telling Truths about Israel/Palestine" by Lawrence Davidson, reporting on the admissions of aging Israeli military veterans. Oct. 28, 2012

"Iran War on the Ballot" by Robert Parry, explaining how a Romney victory would disrupt Obama's negotiations. Oct. 28, 2012

"The Source of Romney's Lying" by Robert Parry, tracing Mitt Romney's strained relationship with the truth to Mormonism. Nov. 1, 2012

"The Why Behind the Benghazi Attack" by Melvin A. Goodman, disclosing the CIA operation based in Benghazi, Libya. Nov. 4, 2012

"A Great Night for US Democracy" by Robert Parry, noting the failure of right-wing strategies for suppressing and confusing voters. Nov. 7, 2012

"Behind Petraeus's Resignation" by Robert Parry, reporting on the strains between the celebrated general and the White House. Nov. 10, 2012

"Pundit Tears for Petraeus's Fall" by Ray McGovern, mopping up the many tears shed by Washington pundits for their beloved general. Nov. 10, 2012

"The Neocons' Waterloo" by Robert Parry, assessing the recent losses for Washington's neocons from Romney to Petraeus. Nov. 14, 2012

"Separating War from the Vets" by Matthew Hoh, warning that nostalgia for veterans can help perpetuate unnecessary wars. Nov. 15, 2012

"Likening Palestinians to Blades of Grass" by Elizabeth Murray, criticizing the Israeli dehumanization of the Palestinian people. Nov. 16, 2012

"The Death Toll of Watergate" by Robert Parry, linking the political scandal to its origins in Vietnam War deceptions. Nov. 17, 2012

["Ron Paul's Appalling World View"](#) by Robert Parry, dissecting the quirky congressman's neo-Confederate philosophy. Nov. 27, 2012

["The Humiliation of Bradley Manning"](#) by Ray McGovern, reporting on the strange trial of a brave whistle-blower. Nov. 28, 2012

["Walmart's Tears for a Tragedy"](#) by Barbara Koepfel, questioning the sincerity of Walmart's concerns for dead garment workers. Nov. 29, 2012

["How the World Was Saved"](#) by Jim DiEugenio, reviewing the secrets of the Cuban Missile Crisis. Nov. 30, 2012

["How the GOP Promoted Gun Madness"](#) by Robert Parry, naming names in the long march toward gun madness, Dec. 16, 2012

["The Right's Second Amendment Lies"](#) by Robert Parry, explaining what the Framers were really trying to do. Dec. 21, 2012

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## In Case You Missed...

Some of our special articles from September, focusing on the U.S. presidential election, the prospect for war with Iran and various historical twists and turns.

["A Strange New Watergate Book,"](#) reviewed by Jim DiEugenio. (Sept. 2, 2012)

["Romney's New Global Warming Joke"](#) by Robert Parry, noting how the GOP presidential nominee finds climate change amusing. (Sept. 3, 2012)

["Obama Ruling Shields Torturers"](#) by Ray McGovern, criticizing the Justice Department's decision against prosecution. (Sept. 7, 2012)

["Narrowing Love Thy Neighbor"](#) by Rev. Howard Bess, regretting how some Christian faiths have forgotten Jesus's commandment. (Sept. 7, 2012)

"Mushroom Cloud Sales Pitch Is Back" by Peter Dyer, comparing the hysteria over Iran to past hysteria over Iraq. (Sept. 8, 2012)

"A Test for the Right's Machine" by Robert Parry, reflecting on the Right's challenge in securing the election for Mitt Romney. (Sept. 8, 2012)

"Romney's Audacious Corporate Raid" by Robert Parry, citing the similarities between a Bain corporate takeover and Romney's election as president. (Sept. 10, 2012)

"The Neocons and 9/11" by Robert Parry, explaining how the neoconservatives contributed to the catastrophic intelligence failure and then profited. (Sept. 11, 2012)

"Would Neocons Control Romney?" by Paul R. Pillar, assessing the neoconservative advisers around the GOP nominee. (Sept. 12, 2012)

"Romney's Jaw-Dropping Incoherence" by Robert Parry, cataloguing how the GOP nominee shifts positions and jumps the gun. (Sept. 13, 2012)

"US Media Distorts Iran Nuke Dispute" by Robert Parry, noting a rare rebuke on pro-Israeli bias from the Washington Post's ombudsman. (Sept. 14, 2012)

"The Constitution's Unhappy Birthday" by Beverly Bandler, worrying about growing threats to the founding principles. (Sept. 17, 2012)

"Why the Mideast Exploded, Really" by Ray McGovern, looking at the whys of Muslim resentment rather than the whos and hows. (Sept. 17, 2012)

"The Delusional Mr. Romney" by Robert Parry, observing how the GOP nominee sees himself as disadvantaged. (Sept. 18, 2012)

"Cuba's Post-Castro Future" by Don Ediger, projecting what a new era might be like. (Sept. 19, 2012)

"How to Save the GOP" by Robert Parry, explaining that the only way to restore the Republican Party is to reject the right-wing takeover. (Sept. 20, 2012)

"Dismantling FDR's Legacy" by Beverly Bandler, warning what another extremist Republican victory might mean. (Sept. 20, 2012)

"Lucky Voters Can Pick Romney" by Robert Parry, reporting on how the Romneys view the rest of America. (Sept. 21, 2012)

"Netanyahu's Red Line on Obama" by Lawrence Davidson, showing how the Israeli prime minister views the U.S. president. (Sept. 25, 2012)

“The Fuzzy Line of Terrorism” by Coleen Rowley, dissecting the strange logic on delisting an Iranian terror group. (Sept. 27, 2012)

“Romney’s Curious View of Freedom” by Robert Parry, contrasting the different founding narratives driving the two campaigns. (Sept. 28, 2012)

“Netanyahu Backs Off on Iran” by Ray McGovern, interpreting the Israeli prime minister’s strange speech to the UN. (Sept. 28, 2012)

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## ‘Mushroom Cloud’ Sales Pitch Is Back

**Exclusive:** A decade ago, George W. Bush’s administration, citing the specter of “mushroom clouds,” launched a PR campaign to rally the American people behind an invasion of Iraq. Today, Israeli Prime Minister Benjamin Netanyahu is undertaking a similar effort against Iran, writes Peter Dyer.

By Peter Dyer

Israeli Prime Minister Benjamin Netanyahu complained to his cabinet on Sept. 2 that “the international community is not setting Iran a clear red line and Iran does not see international determination to stop its nuclear project.”

But Netanyahu also is having trouble convincing the Israeli people about the need to attack Iran, with one recent poll indicating less than one-third of respondents favor a military strike.

Ten years ago this week, President George W. Bush faced a similar dilemma in persuading the American public that it was necessary to go to war with Iraq. Like Netanyahu, the Bush administration also resorted to the specter of a hypothetical nuclear threat to rally the public.

On Sept. 8, 2002, National Security Advisor Condoleezza Rice, in a CNN interview with Wolf Blitzer, spoke of intercepted shipments to Iraq of “aluminum tubes ... that are really only suited for nuclear weapons programs, centrifuge programs. ...

“The problem here is that there will always be some uncertainty about how quickly [Iraqi President Saddam Hussein] can acquire nuclear weapons. But we don’t want the smoking gun to be a mushroom cloud.”

The claim that these tubes were to be used to build nuclear centrifuges – repeated by Vice President Dick Cheney, President Bush and Secretary of State Colin Powell in his Feb. 5, 2003, address to the U.N. Security Council – was later debunked, as was the existence at the time of any Iraqi nuclear weapons program. But the scare tactics worked in rallying a frightened U.S. public behind the Iraq invasion.

The Bush administration’s fear-mongering also was no fluke. It was part of a carefully scripted propaganda campaign, coordinated by the White House Information Group (WHIG), which was established expressly to “market” the invasion of Iraq. Organized by Bush’s chief of staff, Andrew Card, WHIG was remarkable not only for its recklessness with the truth but for the candor with which it acknowledged it was running an advertising campaign.

The day before Rice’s fear-mongering and mendacious pitch for war, the New York Times published a short article about WHIG, entitled “TRACES OF TERROR: THE STRATEGY; Bush Aides Set Strategy to Sell Policy on Iraq.”

The lede read: “White House officials said today that the administration was following a meticulously planned strategy to persuade the public, the Congress and the allies of the need to confront the threat from Saddam Hussein.” Card was very frank about the project and the timing: “From a marketing point of view, you don’t introduce new products in August.”

Unlike Prime Minister Netanyahu who is still struggling to win over the Israeli public President Bush soon was enjoying favorable marketing results. A Gallup poll for Sept. 5-8, 2002, showed 58 percent of Americans were sold on a U.S. invasion of Iraq. By comparison, a survey published last month by the Dialogue Institute showed 32 percent of the Israeli public supporting a strike against Iran.

### **Disdain for Rule of Law**

Besides their fear-based marketing, the Netanyahu and Bush campaigns for war share another element: contempt for international law.

As Bishop Desmond Tutu recently pointed out, the unprovoked invasion of Iraq had devastating human consequences that warranted the prosecution of ex-President Bush and former British Prime Minister Tony Blair before an international tribunal at the Hague. The Nobel Peace Prize laureate noted:

“More than 110,000 Iraqis have died in the conflict since 2003 and millions have been displaced. By the end of last year, nearly 4,500 American soldiers had been killed and more than 32,000 wounded.

“On these grounds alone, in a consistent world, those responsible for this suffering and loss of life should be treading the same path as some of their African and Asian peers who have been made to answer for their actions in the Hague.”

As Bishop Tutu recognized, international law on the issue of aggressive war is well-established. Regarding Netanyahu’s wished-for “clear red line,” there already is a “red line” for military action by any state against any other state. It’s set forth in Chapter 7, Articles 2(4) and Article 51 of the United Nations Charter.

Though there is some ambiguity concerning whether and to what extent Article 51 may allow anticipatory or interceptive self-defense, such questions typically involve degrees of imminence, i.e., has an armed attack begun or is one clearly about to begin?

These questions have little relevance to the present state of Iran’s nuclear program, which Iran says is for peaceful purposes only. There also is a consensus in the U.S. intelligence community that Iran has not made a decision to build a nuclear bomb.

On the other hand, Israel’s existing (though unacknowledged) nuclear weapons arsenal, coupled with consistent and numerous threats to attack Iran, renders at least an equally plausible and frightening specter of imminent nuclear attack in the other direction.

No single individual, state or any other organization has the legal right to unilaterally draw a red line to justify war. Nor is there any right grounded in law to initiate military action based on any arbitrary standard. Indeed, a call for, much less the establishment of, such a line indicates willful disregard of the U.N. Charter.

An attack grounded in such disregard would constitute aggression, a crime characterized in the 1946 judgment of the first Nuremberg Trial as “the supreme international crime differing only from other war crimes in that it contains within itself the accumulated evil of the whole.” At this Nuremberg trial, five of the 21 German defendants were sentenced to death for crimes including aggression.

A case is easily made that President Bush and other members of his administration (along with key allies such as Prime Minister Blair) committed

this “supreme international crime” of aggression in March 2003 with the invasion of Iraq.

Today, there is more tragic irony in the prospect of an American-enabled Israeli violation of the single most prominent feature of the Nuremberg Charter: the outlawing of aggressive war and the principle of individual criminal responsibility for leaders guilty of this crime.

After all, it was largely the moral authority wielded by the United States at Nuremberg that sent Nazi war criminals to the gallows for their use of aggression to trigger World War II and for their industrial barbarity evidenced in the Holocaust, which grew more intense as the war dragged on.

Though today’s White House maintains that “all options are on the table” concerning Iran, other reports are that President Barack Obama is presently no more enthusiastic about a possible Israeli attack than the Israeli public is.

Perhaps, in this instance, Obama will continue to show more restraint, better judgment and more respect for international law than his belligerent predecessor did ten years ago.

**Peter Dyer is a freelance journalist who moved with his wife from California to New Zealand in 2004. He can be reached at [p.dyer@inspire.net.nz](mailto:p.dyer@inspire.net.nz) .**

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## What Your Support Meant in 2011

As you know, Consortiumnews.com relies almost exclusively on the support of our readers. So, as 2011 ends, we wanted to express our thanks and present a selection of the important articles from the past year that your donations helped make possible.

Though we invite you to explore the Web site more fully and to check out the [“In Case You Missed These Stories”](#) archive below we have grouped more than 80 stories in broad categories that reflect some of our notable work in 2011:

### **Democratic Ideals:**

[“How I View the American Crisis”](#) by Robert Parry, suggesting history can point to future strategies. (April 17, 2011)

[“McGovern Reflects on Truth-Telling”](#) by Ray McGovern, noting the role of honesty in a democracy. (April 18, 2011)

"Questioning Obama's Americanism" by Robert Parry, challenging the tactic of portraying the President as un-American. (April 29, 2011)

"Making the US Economy Scream" by Robert Parry, looking at the Republican style of politics. (June 3, 2011)

"Is Obama to Blame for America's Mess?" by Robert Parry, assessing the President's responsibility for what went wrong. (Sept. 3, 2011)

"Resetting the American Narrative" by Robert Parry, describing how the debate over "free markets" could be revised. (Sept. 8, 2011)

"Moneyball: the Value of Reason" by Lisa Pease, looking at the deeper message underlying a popular movie. (Sept. 29, 2011)

"Three Pillars of a Revived Republic" by Robert Parry, looking past the Occupy encampments. Dec. 2, 2011

#### **Foreign Policy and War:**

"Obama Should Read WikiLeaks Docs" by Ray McGovern, suggesting the president could learn some key facts. (January 3, 2011)

"Reagan's Epoch Shatters in Egypt" by Robert Parry, noting an end of authoritarian era. (February 4, 2011)

"America's Stay-at-Home Ex-President" by Ray McGovern, noting human rights complexities to George W. Bush's travels. (February 8, 2011)

"Standing Up to War and Hillary Clinton" by Ray McGovern, explaining why he protested Secretary of State Clinton's speech. (February 23, 2011)

"How to Read Gates's Shifts on the Wars" by Ray McGovern, assessing the Defense Secretary's new skepticism. (March 2, 2011)

"NATO Pushes 'Regime Change' in Libya" by Peter Dyer, exposing the West's strategy in the Libyan civil war. (April 22, 2011)

"Trying 'Shock and Awe' in Libya" by Robert Parry, describing NATO's strategy of high-tech intimidation. (April 27, 2011)

"Petraeus: A Threat to CIA Analysis" by Ray McGovern, critiquing President Obama's selection of Gen. Petraeus to run the CIA. (April 28, 2011)

"Finishing a Job, Obama Gets Osama" by Robert Parry looking back on George W. Bush's failures. (May 2, 2011)

"Politics of Revenge and Submission" by Phil Rockstroh, lamenting how the American republic had to die to get bin Laden. (May 5, 2011)

"The Curious Bush/Bin Laden Symbiosis" by Robert Parry, tracking the odd way the two adversaries helped one another. (May 7, 2011)

"Netanyahu Sets Limits for Obama" by Robert Parry, describing the audacity of the Israeli prime minister in the Oval Office. (May 21, 2011)

"Cheering Netanyahu's Intransigence" by Robert Parry, marveling at how Congress groveled before the Israeli prime minister. (May 25, 2011)

"Netanyahu's Pyrrhic Victory" by Daniel C. Maguire, questioning the long-term success of the Israeli prime minister's arrogant visit. (May 27, 2011)

"The Reality of Robert Gates" by Paul R. Pillar, challenging the myth that has surrounded the Defense Secretary. (May 28, 2011)

"The Mysterious Robert Gates" by Robert Parry, contesting the Defense Secretary's record as a straight-shooter. (May 31, 2011)

"Gen. Keane Keen on Iran Attack" by Ray McGovern, describing a confrontation with an Iran war hawk. (June 5, 2011)

"Gaza and American Security" by Ray McGovern, explaining his decision to challenge Israel's blockade of Gaza. (June 18, 2011)

"More US Soldiers Die in Vain" by Ray McGovern, recognizing the harsh reality in the mounting death toll from America's two misbegotten wars. (August 7, 2011)

"Orange Jumpsuits / Double Standards" by Robert Parry, contrasting the harsh treatment of London looters with benign neglect of UK/U.S. war criminals. (August 25, 2011)

"New War Rationale: Protect Civilians" by Robert Parry, questioning the rationale for NATO's "regime change" intervention in Libya. (August 27, 2011)

"Why Do All Hail Gen. Petraeus" by Robert Parry, examining the myths surrounding the new CIA director. (Sept. 1, 2011)

"Israel's Window to Bomb Iran" by Ray McGovern, warning of a likely escalation in hostilities sooner rather than later. (October 3, 2011)

"Petraeus's CIA Fuels Iran Murder Plot" by Ray McGovern, revealing how the new CIA hierarchy pumped up a buffoonish plot. (October 13, 2011)

"The Tale of Two Assassination Plots" by Robert Parry, contrasting the alarm

over a dubious Iranian scheme and disinterest in a real Chilean one. (October 14, 2011)

"Is Mitt Romney a Neocon Purist?" by Robert Parry, noting how the Washington Post chided Romney for some deviations. (October 15, 2011)

"Ending the Iraq Catastrophe" by Robert Parry, reflecting on the promised exit of U.S. combat forces from Iraq. (October 21, 2011)

Sen. McCain's Libyan Two-Step" by Morgan Strong, investigating John McCain two-faced approach toward Muammar Gaddafi. (October 28, 2011)

"An Iraq-WMD Replay on Iran" by Robert Parry, observing how some of the usual suspects from the Iraq fiasco are back pushing a conflict with Iran, Nov. 8, 2011

"DÃ©jÃ  vu Over Iran A-Bomb Charges" by Robert Parry, recalling the parallels between the furor over Iraq and now Iran, Nov. 10, 2011

"Iran Nuke Report: Little New, Big Impact" by Paul R. Pillar, noting the absence of much new in much-touted allegations about Iran, Nov. 11, 2011

"NATO's Law of the Jungle in Libya" by Peter Dyer, explaining how NATO wrote its own rules in achieving "regime change" in Libya, Nov. 11, 2011

"No Room for Smugness on Iran" by former CIA analyst Elizabeth Murray, tracing how the neocons conned the U.S. regarding Iraq and are back on Iran, Nov. 16, 2011

"Slanting the Case on Iran's Nukes" by Robert Parry, exposing the secret political agenda of the new leadership of the UN atomic energy inspectors, Nov. 21, 2011

"Are Americans in Line for Gitmo?" by Ray McGovern, examining another draconian "war on terror" law. Dec. 3, 2011

### **Economics and Domestic Policy:**

"Budget Crisis? Duh, Tax the Rich" by Robert Parry, examining the one option that Washington politics forbids. (February 24, 2011)

"Republicans Embrace 'Greedy Geezers'" by Robert Parry, observing a cynical ploy to split the retired and near-retired. (April 25, 2011)

"The Robber Barons Are Back!" by Aeric Vondenburg, retracing the restoration of an unequal gilded age. (April 30, 2011)

"How Greed Destroys America" by Robert Parry, analyzing how tax cuts incentivized destructive greed. (June 28, 2011)

"Spain's Battle Against Austerity" by Pablo Ouziel, giving a front-line look at what's in store for Western societies as banks are pampered and people pay the price. (August 7, 2011)

"The Dangerous Reagan Cult" by Robert Parry, tracing modern-day Republican extremism back to the anti-government rhetoric of Ronald Reagan. (August 16, 2011)

"Jesus: Redistributionist-in-Chief" by Rev. Howard Bess, contrasting the Gospel message with right-wing Christianity. (Sept. 4, 2011)

"The Dark Legacy of Reaganomics" by Robert Parry, recounting how Ronald Reagan's policies damaged America. (Sept. 20, 2011)

"The One Answer: Tax the Rich" by Robert Parry, explaining why raising taxes on the rich would solve so many problems at once. (Sept. 26, 2011)

"Occupying the Heart of the Beast" by Phil Rockstroh, reporting from Zuccotti Park with the Occupy Wall Street protests. (October 5, 2011)

"Reagan's Greed Is Good Folly" by Robert Parry, explaining how Ronald Reagan's economics devastated the middle class. (October 5, 2011)

"Free Market v. Government Intervention" by Robert Parry, noting Republican confidence in rejecting President Obama's job plan. (October 12, 2011)

"Looming Crisis of Climate Chaos" by Richard Lee Dechert, warning that time is running out to address global warming, Nov. 7, 2011

"Would Jesus Join the Occupy Protests" by Rev. Howard Bess, putting the new opposition to greed in a religious context, Nov. 26, 2011

### **Historical Context:**

"Justice Scalia's 'Originalist' Hypocrisy" by Robert Parry, dissecting Antonin Scalia's double standards on judicial philosophy. (January 5, 2011)

"The Power of False Narrative" by Robert Parry, observing how systematic lies can change history. (January 7, 2011)

"The Violence of Deformed Christianity" by Rev. Howard Bess, reflecting on how today's Christianity tolerates violence. (January 14, 2011)

"Ronald Reagan's 30-Year Time Bombs" by Robert Parry, describing the delayed

havoc that President Reagan wrought. (January 28, 2011)

"Ronald Reagan, Enabler of Atrocities" by Robert Parry, marking Reagan's 100th birthday with some inconvenient truth. (February 6, 2011)

"Recalling the Slaughter of Innocents" by Ray McGovern, remembering a U.S. bombing raid that killed Iraqi women and children. (February 14, 2011)

"Kicking the Vietnam Syndrome" by Robert Parry, recalling the Persian Gulf "victory" that won Americans back to war. (February 28, 2011)

"Inside America's 'Adjustment Bureau'" by Robert Parry, comparing the movie to how reality is really manipulated. (March 14, 2011)

"A Two-Decade Detour into Empire" by Robert Parry, describing how cover-ups in the early 1990s distorted U.S. history. (March 31, 2011)

"Spy vs. Spy: the First Patriots Day" by Robert Parry, giving the larger context of Paul Revere's ride. (April 18-19, 2011)

"Jimmy Carter's October Surprise Doubts" by Robert Parry, noting the ex-president's questions about how his reelection was spoiled. (May 12, 2011)

"Halberstam's 'Best-Brightest' Blunder" by James DiEugenio, reflecting on how a historical narrative was botched. (May 17, 2011) And Part Two.

"Drug War's March of Folly" by Richard L. Fricker, measuring the disaster of the four-decade war on drugs. (June 22, 2011)

"The Lie Behind the Afghan War" by Robert Parry, debunking one of the "known facts" about the U.S. role in Afghanistan. (June 24, 2011)

"Inside the October Surprise Cover-up" by Robert Parry, examining Bush Sr.'s White House records about 1980 mystery. (July 12, 2011)

"October Surprise Evidence Surfaces" by Robert Parry, disclosing proof of what Republicans knew about a secret trip. (July 14, 2011)

"US Lost Its Way From Omaha Beach" by Robert Parry, reflecting on how America's bravery in liberating Europe has been betrayed by subsequent actions. (August 10, 2011)

"Truth Still a Casualty at Dieppe" by Don North, reflecting on the press propaganda that surrounded a World War II catastrophe. (August 18, 2011)

"Dick Cheney: Son of the New Deal" by Robert Parry, reflecting on the irony of how this right-wing icon found success. (Sept. 16, 2011)

"Tea Party Gets the Constitution Wrong" by Robert Parry, exposing the sloppy historical analysis from the Right. (Sept. 18, 2011)

"Taking a Bush Secret to the Grave" by Robert Parry, exposing a three-decade-old secret about the identity of George H.W. Bush's key October Surprise alibi witness. (Sept. 27, 2011)

"Would the Founders Back Health Law?" by Robert Parry, examining "original intent" about American competitiveness. (Sept. 29, 2011)

"Rick Perry's Revolutionary War History" by Robert Parry, debunking the Republican Right's early American narrative. (October 12, 2011)

"Intriguing Shakespeare Author Mystery" by Lisa Pease, examining the complex history of the movie, "Anonymous." (October 21, 2011)

"Unmasking October Surprise Debunker" by Robert Parry, exposing the dangerous biases of Steven Emerson. (October 30, 2011)

"Richard Nixon's Darkest Secret" by Robert Parry, tracing a new Archive disclosure into Nixon's heart of darkness, Nov. 11, 2011

"Clint Eastwood's Dishonest J. Edgar" by James DiEugenio, filling in the many historical gaps of the new movie on J. Edgar Hoover. Nov. 30, 2011

"The Lost Opportunity of Iran-Contra" by Robert Parry, reflecting on a moment when the course of U.S. history might have changed. Dec. 1, 2011

### **Media Ethics:**

"NYT's Keller Disparages Assange" by Coleen Rowley, disputing the New York Times' dissing of WikiLeaks' Julian Assange. (February 6, 2011)

"How the US Press Corps Lost Its Way" by Robert Parry, reflecting on the death of press corps "dean" David Broder. (March 11, 2011)

"Through the US Media Lens Darkly" by Robert Parry, assessing the biased coverage of the Middle East. (March 18, 2011)

"Neocons Spin Two Lost Wars" by Robert Parry, describing how neocons won't acknowledge the disasters in Iraq and Afghanistan. (June 8, 2011)

"Three Deadly War Myths" by Robert Parry, examining how false narratives keep America at war. (June 9, 2011)

"Who Are These People?" by Robert Parry, marveling at the limited Iraq War mea culpa of the New York Times' Bill Keller. (Sept. 12, 2011)

“On Libya, Now They Tell Us” by Robert Parry, noting the Big Media’s belated admissions about the dark side of the Libyan rebels. (Sept. 15, 2011)

“Falling for New Neocon Propaganda” by Ray McGovern, commenting on how a Washington Post columnist gets snookered again. (October 22, 2011)

“Switching Focus from Iraq to Iran” by Ray McGovern, citing how the Washington Post’s neocon editors still spoil for a fight. (October 23, 2011)

“The Warning in Gary Webb’s Death” by Robert Parry, recalling the wretched behavior of the Big Media toward a truthful reporter. (Dec. 9, 2011)

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## In Case You Missed...

Some of our special stories in November explored the meaning of the Occupy Wall Street protests, examined the new case for heightened tensions with Iran, explained some lost history of Richard Nixon and J. Edgar Hoover, and more.

“Modern-Day Hooverville with Hope” by William Loren Katz, giving his historical perspective on Occupy Wall Street, Nov. 1, 2011

“End of the Reagan Narrative?” by Robert Parry, wondering if the Occupy protests finally will bring the Reagan era to a close, Nov. 2, 2011

“Assessing Obama’s Peace Moves” by Robert Parry, examining right-wing anger over President Obama’s pullback from a decade of war, Nov. 4, 2011

“The GOP’s History of Hostage-Taking” by Robert Parry, reflecting on Republican hard-ball politics over the past decades, Nov. 6, 2011

“Dehumanizing Late-Stage Capitalism” by Phil Rockstroh, viewing the Occupy protests as a rebellion against the depredations of greed, Nov. 7, 2011

“Looming Crisis of Climate Chaos” by Richard Lee Dechert, warning that time is running out to address global warming, Nov. 7, 2011

["An Iraq-WMD Replay on Iran"](#) by Robert Parry, observing how some of the usual suspects from the Iraq fiasco are back pushing a conflict with Iran, Nov. 8, 2011

["Who Is Judge Richard Leon?"](#) by Robert Parry, describing how a Republican political operative ended up on the federal bench, Nov. 9, 2011

["DÃ©jÃ vu Over Iran A-Bomb Charges"](#) by Robert Parry, recalling the parallels between the furor over Iraq and now Iran, Nov. 10, 2011

["Iran Nuke Report: Little New, Big Impact"](#) by Paul R. Pillar, noting the absence of much new in much-touted allegations about Iran, Nov. 11, 2011

["NATO's Law of the Jungle in Libya"](#) by Peter Dyer, explaining how NATO wrote its own rules in achieving "regime change" in Libya, Nov. 11, 2011

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["Next Challenge for the Occupy Protests"](#) by Danny Schechter, laying out what the movement needs to do next, Nov. 28, 2011

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## NATO's Law of the Jungle in Libya

**Exclusive:** The murder of Libyan strongman Muammar Gaddafi was widely hailed in the West as a just outcome. But it involved powerful nations making up the rules as they went along, the law of the jungle disguised as international justice, observes Peter Dyer.

By Peter Dyer

If there is one thing the "humanitarian" intervention in Libya has convincingly demonstrated it is this: the only real international law is the law of brute force.

The Libyan dust now appears to be settling. Colonel Muammar Gaddafi has been summarily executed and the NATO intervention has officially ended. The dominant narrative is that the intervention was a timely, legal and morally justified action that fulfilled the primary purpose of United Nations Security Council Resolution 1973, passed on March 17: the protection of civilians in Libya's civil war.

But there is an alternative narrative: three major powers invoked the United Nations Charter in order to violate it. The United States, the United Kingdom and France engineered a "humanitarian" intervention that was in reality an unprovoked act of war against a sovereign state.

The intervention resulted not only in illegal regime change – a violation of Article 2(4) of the UN Charter – but in the extrajudicial assassination of its head of state.

The primary stated purpose of UNSC Res. 1973 was indeed the protection of civilians through an immediate ceasefire but that was not how the resolution was implemented.

Paragraph 1 states: “[The Security Council] *Demands* the immediate establishment of a cease-fire and a complete end to violence and all attacks against, and abuses of, civilians.”

Instead, NATO intervened on the side of the rebellion, violating Res. 1973. Instead of preventing civilian casualties by stopping the civil war, NATO extended the conflict by another seven months, ignoring the willingness of the Gaddafi government to accept a ceasefire and thus increasing civilian casualties.

In doing so, NATO degraded further what remains of the rule of international law, destroyed a secular Arab government and may have facilitated its eventual replacement by an Islamist state.

On April 10, three weeks after the NATO bombing began, Libya accepted a proposal by the African Union for an immediate ceasefire; the unhindered delivery of humanitarian aid; protection of foreign nationals; a dialogue between the government and rebels on a political settlement, and the suspension of NATO air strikes. The next day the Libyan rebels rejected this offer.

The rebels and the three NATO powers leading the invasion France, UK and the U.S. were not focused on any of this. Despite their mandate to “protect civilians,” regime change was their actual goal.

The “Big Three” made their intentions clear in a joint statement three days after the rebels rebuffed the African Union by saying: “Gaddafi must go and go for good.”

On May 10 at the United Nations, the alternative narrative of Big Power abuse was touched upon as several states, including three Security Council members, belatedly warned against these developments.

Brazil’s Ambassador to the UN, Maria Luiza Ribeiro Viotti, said: “We must take the greatest care to ensure that our actions douse the flames of conflict instead of stoking them.”

Though South Africa had voted in favor of Res. 1973, Ambassador Baso Sangqu said: “United Nations peacekeeping operations should never be seen to be siding with one party to a conflict, as that would undermine the integrity of United Nations efforts. (W)e are concerned that the implementation of these resolutions appears to go beyond their letter and spirit.

“International actors and external organizations should refrain from advancing political agendas that go beyond the protection of civilian mandates, including regime change.”

Chinese Ambassador Li Baodong was more blunt: "There must be no attempt at regime change or involvement in civil war by any party under the guise of protecting civilians."

Nicaraguan Ambassador Mrs. Rubiales de Chamorro was passionate: "The Security Council must explain to us, particularly in the light of resolution 1973 (2011), how civilians are to be protected from shelling. We ought to be told, because we have the right to know, how many civilians have perished in the name of this alleged protection of civilians."

"We need to be told who is going to protect the civilians from their supposed protectors. Someone needs to explain to us how, in applying the protection of civilians, the assassination of a head of State of a sovereign country is planned. We must be told how the bombing death of innocent children contributes to the protection of civilians."

Dr. Lawrence Emeka Modeme, a lecturer in International Law at Manchester Metropolitan University, UK, made a strong case that the Security Council by itself had no authority to intervene in Libya.

In "The Libyan Humanitarian Intervention: Is it Lawful in International Law?" he pointed out that UN Charter Chapter VII authorizes the Security Council to approve military intervention in a country only as a response to a breach of, or threat to, international security. The Libyan conflict was internal there was no military threat to any other country.

Though a humanitarian intervention may have been called for, Dr. Modeme argued, the General Assembly rather than the Security Council was the legitimate organ to authorize it. Dr. Modeme cited UN Charter Articles 10 and 14 as well as UN General Assembly Resolution 60/251, which established the Human Rights Council.

He contended that "it should be the prerogative of the Human Rights Council to determine whether the threshold for humanitarian intervention has been reached and to recommend to the General Assembly whether collective humanitarian intervention should be undertaken. The General Assembly would then vote to authorize any necessary action."

This, he argued, would entail removing the disproportionate power wielded by the five veto-bearing permanent members of the Security Council.

Majority decisions in the Human Rights Council and in the General Assembly would make "the process more transparent, more consensual, and less open to abuse. Security Council interventions, due largely to the influence of the veto-wielding members, is largely inconsistent, political and influenced by self-interest. This inconsistent and selective use of [UN Charter] Chapter VII powers

has observably irked many states and has undermined the integrity of humanitarian interventions.”

In July 2003, after the United States had invaded and overthrown the government of Iraq, a country that was not presenting a threat to international peace, American international law expert Dr. Thomas M. Franck wrote: “The law based system is once again being dismantled. In its place we are offered a model that makes global security wholly dependent on the supreme power and discretion of the United States and frees the sole superpower from all restraints of international law and the encumbrances of institutionalized multilateral diplomacy.” [American Journal of International Law, July 2003, Vol. 97 p 608]

At the time this perspective, too, represented an alternative narrative to the dominant storyline at least in the United States.

Sadly, though, Dr Franck’s words proved prophetic. Less than eight years later, the U.S., acting through its proxy NATO, invaded another Arab country presenting no threat to international peace.

As U.S. Rep. Dennis Kucinich, D-Ohio, said: “NATO’s top commanders may have acted under color of international law but they are not exempt from international law.

“If members of the Gaddafi Regime are to be held accountable, NATO’s top commanders must also be held accountable through the International Criminal Court for all civilian deaths resulting from bombing. Otherwise we will have witnessed the triumph of a new international gangsterism.”

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## A 9/11 ‘What If?’

**From the Archive:** In recognition of the tenth anniversary of the 9/11 attacks, we will be publishing some past stories about the consequences of that momentous day. On Sept. 11, 2008, the seventh anniversary, Peter Dyer reflected on “what if” the United States had responded with demands for justice, not wars of conquest.

By Peter Dyer

What if we had never gone to war? What if, after the shocking crimes of

September 11, 2001, the United States had pursued a different course?

What if all the blood which has been spilled in the name of justice still flowed in living veins; all the American, Iraqi and other lives shattered were still whole; all the homes destroyed or lost still standing, still occupied by families who never harmed us?

We have spent monumental treasure and energy on two wars. What if, instead, we had invested a fraction of that in a determined, unrelenting effort to bring Osama bin Laden to justice in a fair and transparent trial in a court of law?

Of course, we'll never know.

When we were confronted with the most heinous series of terrorist acts in our history, Americans overwhelmingly lined up behind President George W. Bush's call for a "Global War on Terror."

We can only speculate on what might have been the result of a different course of action, guided by a fundamentally different vision.

For two reasons, though, such speculation would not be entirely baseless:

One week after the U.S. began bombing Afghanistan, the Taliban presented us with an opportunity to investigate the possibility of a peaceful, legal resolution to the crimes of 9/11.

On Oct. 14, 2001, Afghanistan's deputy prime minister, Haji Abdul Kabir, announced that if the United States stopped the bombing and produced evidence of bin Laden's guilt, "we would be ready to hand him over to a third country" for trial.

President Bush, determined to launch and pursue the "war on terror," refused even to discuss, much less investigate this possibility. (By March 2003, the United States was also at war with Iraq, having pulled a number of allies, including Spain, into a "coalition of the willing.")

## **A Different Course**

Exactly 30 months after 9/11 (and a year after the invasion of Iraq), there was another catastrophic terrorist attack in another country: Spain. On March 11, 2004, 191 people in Madrid were killed and over 1,800 injured when 10 backpack bombs exploded on four morning rush-hour commuter trains.

As with 9/11, "11-M" was the most devastating series of terrorist acts in Spanish history.

But Spain chose the path the U.S. rejected.

The Spanish government addressed the crimes of 11-M with the tools, techniques and resources of law enforcement. There was an investigation, arrests, a trial, and appeals. This process is today essentially complete.

Spain has demonstrated an effective alternative to war as a means of addressing and resolving the bloody horrors of terrorism.

The Spanish example can thus help us make an educated guess at how things might have gone had the Bush administration not immediately and contemptuously rejected Kabir's offer of Oct. 14, 2001.

And while such an endeavor can't undo the past seven years, perhaps it can help us make a better choice next time our leaders tell us it's time for another war.

Here's how Spain did it.

Two days after the bombings, the police made their first arrests.

After a 25-month investigation, 29 people 15 Moroccans, nine Spaniards, two Syrians, one Egyptian, one Algerian and one Lebanese were indicted on April 11, 2006. The Madrid bombing trial opened on Feb. 15, 2007, and ended on July 2.

Four months later, on Oct. 31, 2007, the three-judge tribunal delivered the verdicts. Three men were convicted of murder, attempted murder and committing terrorist acts. They were sentenced to thousands of years in prison each, although under Spanish law, none will serve longer than 40 years. There is no capital punishment in Spain.

Eighteen were found guilty of lesser offenses. Seven were acquitted. During the trial all charges were dropped against one of the defendants.

On July 18 of this year, four of the sentences were overturned on appeal to the Supreme Court. Thus, in the end, 17 out of the original 29 indicted have been convicted.

The Supreme Court also concluded that the real ringleaders of the crimes of 11-M were among seven suspects who, three weeks after the bombs exploded, blew themselves up in an apartment outside Madrid when a police assault began.

The U.S. experience and the Spanish experience are, of course, not identical. But there are arguably enough parallels to facilitate a comparison and enable some credible answers to the question: what if?

## **Parallels/Contrasts**

Each (9/11 and 11-M) was the worst terrorist attack in the history of the country, inflicting massive, unprecedented, public physical and emotional trauma. In both countries the attacks were brought about primarily by foreign Islamic terrorists.

Although many more people were killed on 9/11, taking into account the relative population sizes, the numbers come much closer: the U.S. suffered roughly one death for every 95,000 Americans; Spain roughly one for every 225,000 Spaniards.

Several contrasts also come to mind. One of the first is money: what was the budget for the Spanish legal process following 11-M and how does this figure compare to the price of the "war on terror"?

Unfortunately, expenditure figures for the 11-M trial are difficult to come by. But 2007 Spanish Ministry of Justice Budget figures are available. The total 2007 budget for all Spanish Courts was, \$1,865,239,200 (â,-1,295,305,000).

If we liberally assume that this gargantuan, drawn-out and complicated trial consumed 75 percent of the 2007 Spanish Courts budget and then triple that figure to include the costs of the police investigation and appeals, then round up generously we get a theoretical budget for the entire process of \$6 billion: almost certainly much higher than the actual expenditure.

What about the "war on terror," soon to begin its eighth year?

A recent U.S. Government (Congressional Research Service) estimate places the costs of the "war on terror" to the end of Fiscal Year 2009 (Sept. 30, 2009) at \$857 billion, or 142 times an upper-end estimate of the cost of the Spanish trial.

The Spanish judicial process, from start to finish, is likely to have cost considerably less than seven-tenths of one percent of the price of the "war on terror." That is, in the unlikely event the "war on terror" ends by Sept. 30, 2009. (Though the name has been dropped by the Obama administration, the global campaign to hunt down and kill suspected Islamic terrorists has continued unabated.)

### **Human Costs**

It's important to remember that the Congressional Research Service figure does not include what is undoubtedly the largest portion of the total costs of the "war on terror": the price of repairing the harm done to the people, economy and infrastructure of Afghanistan and Iraq.

Money was not the only price Spain paid for the investigation of the crimes of

11-M. A Spanish Special Forces Police Officer died along with the seven suspected terrorists during the April 3, 2004, assault on the apartment building in Leganes, a southern suburb of Madrid.

So, eight deaths were directly related to the investigation of the crimes of 11-M. As tragic as this figure may be, compared to the deaths which the "war on terror" has wrought, it is small indeed.

The "war on terror" casualty figures are stunning by comparison. As of September 2008, they include:

-86,72494,622 documented Iraqi civilian deaths from violence as of June 9, 2008, according to Iraq Body Count. (Other estimates put the total Iraq death toll in the hundreds of thousands, possibly over 1 million.)

-4,464 "coalition of the willing" deaths, including 4,150 Americans, according to Iraq Coalition Casualty count, as of Aug. 31, 2008.

-Thousands of Afghan civilian deaths and 939 Coalition deaths in Afghanistan, including 578 U.S. deaths, as of Sept. 1, 2008.

The Iraq Body Count's Web site states: "Gaps in recording and reporting suggest that even our highest totals to date may be missing many civilian deaths from violence." The IBC figure is significantly lower than estimates based on studies by other organizations including the Iraqi Ministry of Health, Opinion Research Business, and The Lancet Medical Journal.

Another cost to the unfortunate people on the receiving end of the "war on terror" has been loss of home. The scale of Iraqi refugee numbers is catastrophic: about five million have fled their homes. Around one million were displaced prior to 2003.

As of the end of 2007, there were about 2.3 million Iraqi refugees living outside the country, according to the United Nations High Commissioner on Refugees. In addition, within Iraq, as of March 2008 there were 2,778,000 internal refugees, according to the Internal Displacement Monitoring Centre.

The 2002 population of Iraq was 24 million. Since then, because of the "war on terror," one out of every six Iraqis has lost his or her home.

Other costs the citizens of Iraq have borne due to the "war on terror" have yet to be fully quantified, and may never be. Among these are the damage which five-and-a-half years of war has done to the Iraqi economy, infrastructure, health care (including long-term health care to those injured in the war), education and the environment: all of it aggravated by the loss of manpower and talent

embodied in the refugee crisis.

Other costs of the “war on terror” must include losses suffered by other members of the “coalition of the willing (including Spain, which lost 11 soldiers before pulling their troops out of Iraq within three months of 11-M).

There are also enormous expenses incurred by countries hosting refugees, especially Jordan and Syria, and by international agencies such as the United Nations providing aid to refugees.

In short, the magnitude of the human and financial expenditure which the Bush administration has so far incurred and with which it has burdened others in the effort to resolve the crimes of 9/11 is, for all practical purposes, incalculable and approaches the unimaginable.

It makes the loss of eight lives and the theoretical \$6 billion involved in the Spanish resolution of the crimes of 11-M look like a relatively minor sacrifice.

### **Different Approaches**

Why was the Spanish approach so fundamentally different from the American approach? Why did Spain turn to the courts as opposed to the military?

I asked Spaniards and a New Zealand journalist who recently lived and worked for two years in Spain for their perspectives. One reason for the difference: Spain, sadly, has a much broader experience with terrorism than the U.S., primarily with the Basque Separatist Organization ETA. ETA has, over the course of 40 years, killed over 800 people.

Spanish diplomat Emilio Perez de Agreda pointed out that in Spain terrorism has always been a police matter, rather than military, even under dictator Francisco Franco. It was natural that this tradition would determine the Spanish response to the Madrid railway bombings.

Much of the answer seems to be based, as well, in a general Spanish aversion to war. There is a long history of bloody armed conflict on Spanish soil going back to Napoleon’s 1808 invasion of Spain and continuing through the brutal Civil War of 1936-39.

Julio Valenzuela (not his real name), a professional from Valencia in his 40s, feels that first-hand experience with the horrors of war at home has helped foster the Spanish tradition of neutrality. He points out that the last Spanish international war was with the U.S. in 1898, over a century ago.

Legality was a theme stressed by Mr. Agreda, who holds a degree in law. Just as

the horrors of war caused Spain to turn away from war, so the long years of Franco's ultra-conservative one-man rule (1936-1975) directly influenced the Spanish evolution into a highly progressive state with a healthy respect for the rule of law.

Unlike Desert Storm in 1991, in which Spain participated, the invasion of Iraq was not sanctioned by the United Nations Security Council. The overwhelming majority of the Spanish public viewed the war as illegal. Despite this, President Aznar committed Spanish troops to the coalition.

The Madrid commuter trains were attacked three days before the national election of March 14, 2004. The Socialist Party, which had campaigned on a promise to bring home Spanish troops from Iraq, won an upset victory. In less than three months, Spain had withdrawn from the "war on terror."

As Agreda sees it, "The country has become so progressive there's no way it could have reacted to 11-M similar to the U.S. reaction to 9/11" The culture would not allow it.

Speaking of the "war on terror," as far as Spain is concerned, he said simply: "There is no war."

Journalist Jeremy Rose agreed: after 11-M the Socialist government "could have gone nutty" with a rise in reactionary anti-immigration populism. Instead, "Spain went the other way at the very time you might have expected a backlash," he said.

Another factor mentioned by both Agreda and Valenzuela was the long history of Spanish coexistence, cooperation and friendship with Arabs and Arab countries. This goes back to 711 and the Moorish invasion and occupation of much of the Iberian peninsula.

There ensued long periods of peaceful cohabitation between Christians, Moslems and Jews, although as Rose pointed out, this coexistence was interrupted by periods of conflict and even ethnic cleansing: in particular, the Spanish Inquisition.

During the Franco years, when Spain was generally treated by the rest of Europe as a pariah state, Arab and Latin American countries were among Spain's closest friends.

Despite, or perhaps because of the "war on terror," Spain manifested a desire to maintain ties of friendship with the Islamic world. This was manifested by the formation of the Alliance of Civilizations, Rose said.

On Sept. 21, 2004, only six months after the Madrid bombings, President Zapatero and Turkish Prime Minister Recep Tayyip Erdogan cofounded the Alliance of Civilizations.

Backed by the United Nations, the mission of the Alliance is “to improve understanding and cooperative relations among nations and peoples across cultures and religions and, in the process, to help counter the forces that fuel polarization and extremism.”

### **Rating the Strategies**

It is fair to ask how effective each approach, the Spanish and the American, has been. Reading through reports of the 11-M trial verdicts and the reactions of victims and their relatives, it is clear some were unhappy.

Although the majority of suspects are now serving time, 12 were released. This perceived high rate of release was an injustice, according to some interested parties and to some international observers, as was perceived leniency in sentencing. For these people the trial has not brought proper closure.

A smaller group believes ETA was involved in the bombings and that the government purposely overlooked this for political advantage. Others have voiced satisfaction and believe justice was done.

It is not unusual for criminal trials to end leaving victims and others with a sense of justice denied or only partially fulfilled. This was probably inevitable in a case of this size and complexity.

But most of the criticisms focus on perceived flaws in the investigation, trial and/or appeals process, while some accuse the government of bias. The possibility that Spain might have done better through war does not appear to be a part of the Spanish public discourse.

“Probably most Spaniards think that if Spain had gone to war Spain would be less safe,” Agreda said.

The legal process is complete. As a society, Spain seems to have resolved the crimes of 11-M enough to be able to move on.

Valenzuela said: “PP (the Popular Party who were voted out of office after 11-M) is not talking anymore about it, and have sidelined the hardliners. I think in Spain most people consider it a past thing.”

How effective has the monumentally costly and seemingly unending “war on terror” been in addressing and resolving the crimes of 9/11?

As of Sept. 11, 2008, after seven years, two wars, possibly hundreds of thousands of deaths, and costs approaching \$1 trillion, Osama bin Laden was still at large. (After President Barack Obama refocused on pursuing al-Qaeda leaders hiding in Pakistan, bin Laden was killed by a U.S. Special Forces raid in the Pakistani garrison town of Abbottabad on May 2, 2011.)

However, on Aug. 6, 2008, in its first trial, the U.S. military tribunal at Guantanamo Bay convicted Salim Hamdan, bin Laden's driver, on five counts of supporting terrorism. Hamdan, who has already spent five years in prison waiting for his trial, was acquitted of conspiring to aid the al-Qaeda effort to attack the United States.

Many allege Hamdan was denied basic rights by the U.S. government.

Here's how Army Lt. Col. Stephen Abraham, a former Guantanamo official who has since become critical of the legal process, viewed the choice of Hamdan for the tribunal's first trial, as reported in the Associated Press:

"We can only trust that the next subjects ... will include cooks, tailors, and cobblers without whose support terrorist leaders would be left unfed, unclothed, and unshod, and therefore rendered incapable of planning or executing their attacks."

Recently the prestigious Rand Institute, hardly known for left-wing speculation, published a report partially funded by the U.S. Defense Department: *How Terrorist Groups End: Lessons for Countering al Qaeda* by Seth G. Jones and Martin C. Libicki.

In their report, Jones and Libicki directly address the question of the efficacy of the "war on terror." Citing an increase in quantity of al-Qaeda terrorist attacks over a larger geographical area as well as the evolution of al-Qaeda organizational structure since 9/11, they conclude that the U.S. approach to ending terror has been unsuccessful.

The report calls for a fundamental shift in emphasis to police work and intelligence as the primary tools for countering terror. Jones and Libicki advocate the use of American military force only sparingly if at all.

Based on the experience of the previous seven years they conclude that direct American combat engagement in the Muslim world in the effort to end terrorism is actually more likely to encourage terrorism.

The foundation of the American experiment in democracy is 220 years of dedication to the rule of law. The calamities of 9/11 shook that foundation severely enough to rupture it.

Since then Spain, a country only a generation removed from dictatorship, has given the world a lesson in the very practical benefits of dedication to the rule of law in the most trying of circumstances.

It is likely another opportunity for war will present itself. When this happens perhaps Americans will take into account the tragic and criminal waste embodied in the “war on terror” as well as the promise of the living example provided by Spain and choose a wiser course.

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