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ONE OF the striking things about international law is how often people right across the ONE OF the striking things about international law is how often people right across the political spectrum appeal to it. Take the current debate over U.S. threats to wage all-out war on Iraq. Here is George W. Bush, speaking before the United Nations General Assembly on September 12, 2002:

All the world now faces a test, and the United Nations a difficult and defining moment. Are Security Council resolutions to be honored and enforced, or cast aside without consequence? Will the United Nations serve the purpose of its founding, or will it be irrelevant? The United States helped found the United Nations. We want the United Nations to be effective, and respectful and successful. We want the resolutions of the world's most important multilateral body to be enforced.¹

And here is David Krieger, president of the Nuclear Age Peace Foundation:

[T]he United States under the Bush administration has initiated an intense assault on international law in order to pursue short-term and short-sighted interests that avoid, evade, ignore or violate the standards painstakingly developed by the international community, including the United States, over many decades. If the United States continues to shirk, even denounce, its responsibilities to uphold international law across a range of global problems and concerns, it will tear open the fabric of world security and international cooperation.²

Examples of such prowar and antiwar appeals to international law are everywhere. On the one hand, Saddam Hussein's Iraq is a dangerous "rogue state" that must be held to account for its violations of international law; on the other, it is the U.S., with its plan for "regime change" in Iraq, that poses a grave threat both to the letter and the spirit of international law.

Contradictory claims about violating or upholding international law have also characterized the broader debate about the September 11 terrorist attacks and the "war on terrorism." In his earliest statements following the attacks Bush confusingly and opportunistically blended together appeals to chauvinistic, racist patriotism with descriptions of al-Qaeda and the Taliban as "barbaric terrorists" guilty of "crimes against humanity" that had to be judged, condemned and punished by the international community according to such agreements as the 1948 Genocide Convention and the 1949 Geneva Convention Relative to the Protection of Civilian Persons in Time of War.

I'll say more about the hypocrisy of such rhetoric in a moment. What needs to be recognized at this point, however, is that appeals to "international law" and the international community have also been prominent in statements by those who oppose or question Bush's declaration of "unending war." In its online pamphlet "No More Innocent Victims," the organization Global Exchange included the following statement: "The architects of the September 11 attacks must be apprehended and brought to justice in full compliance with international law."³ The *Nation* has repeatedly urged, as in its February 11, 2001 editorial, that "The struggle against terrorism...become a cooperative global intelligence and law-enforcement campaign, with a strong UN presence," and that "Washington...work through international bodies so that legitimate self-defense is not seen as a U.S. war on the Arab world."⁴ The American Friends Service Committee (AFSC), an active antiwar force in many cities around the country, emphasized "the UN resolutions against terrorism" and argued for the formation of "an International Anti-terrorist Monitoring Group" that could intervene in Pakistan and other countries.

It is, of course, essential that the antiwar movement expose the hypocrisy of the Bush administration and its allies when they cloak their justifications for military action in pious celebrations of international law and the need to defend "lawful" societies around the world. It is

notable, for example, that the U.S., with one of the world's largest biological and chemical weapons program, refuses to allow international inspections of its facilities on the grounds that it might violate "proprietary commercial interests."⁵

But it is also necessary to look critically at the peace movement's own reliance on international law and international institutions. If, as *New Left Review* editor Peter Gowan puts it, "International law...is nothing other than the past codified policy of the dominant capitalist states" and "has no popular democratic source of legitimacy whatever,"⁶ it is crucial for the antiwar left to think carefully about the consequences of basing its arguments and its practical alternatives to military brutality on existing international laws, resolutions, conventions and institutions. An uncritical reliance on international law amounts to more than just misguided and illusory idealism. It deflects the attention of antiwar activists away from grassroots organizing and mass action and directs it towards institutions dominated by the imperialist aims of the U.S. and its allies.

International Law in History

It is understandable that in a world where ruthless competition and war between powerful nations is a constant threat and a recurrent reality, well-meaning people would long for forms of multinational agreement, compromise and limitation on the unbridled use of military force. The modern idea of international law arose during a period in European history when powerful nation-states were threatening to consume each other in their greed for power and influence. The Thirty Years War (1618—48), a devastating struggle between the German Protestant states and their allies on one side and the Catholic Holy Roman Empire on the other, finally came to an end with the Peace of Westphalia. This war was crucial in consolidating the principle of national sovereignty and independence, but it also generated theories that "emphasize the moral imperatives of law between nations and...a larger natural law tradition—a 'common law' of States backed up by religious and philosophical principles of good faith and good will between men and nations."⁷ The most famous of these 17th century international law theorists was Hugo Grotius (1583—1645), often called the "father of international law." Grotius drew his principles from the Bible and from classical history. He argued that nations as well as individuals were subject to "natural law," and that it was criminal to wage war without clear moral justification.

Two points are worth noting about the historical origins of modern international law. The first is that it arises in direct response to savage international war and appeals to sovereign nations to conceive of themselves and their interests in ethical terms. The second is that both the Thirty Years War and the ideals of international law it gave rise to belong to the period when European capitalism was beginning to consolidate itself politically. The end of the Thirty Years War coincides with the first great bourgeois revolution in Europe, the English Revolution of 1640—49. Early modern international warfare and the doctrines of international law are both outgrowths of the violent socioeconomic transition from feudalism to capitalism.

Subsequent developments in the theory and practice of international law correspond strikingly to major crises in the history of Western capitalism. In *International Law Frameworks*, legal scholar David J. Bederman provides this useful and revealing overview:

One can almost linearly chart the progress of new international organizations, new substantive rules of international conduct and new procedures of dispute settlement between international actors by the dates that mark the end of cataclysmic wars: the 1763 Definitive Peace (concluding the Seven Years War or Great War for Empire), the 1815 Final Act at Vienna (ending the Wars of the French Revolution and Napoleon, 1791—1815), the 1919 Treaty of Versailles and Covenant of the League of Nations (completing the First World War, 1914—18) and the 1945 Charter of the United Nations (marking the end of World War Two, 1939—45). It thus appeared that international law was the step-child of war and destruction, offering a utopian hope of order and moral renewal.⁸

Bederman's reference to "utopian hope" in the last sentence of this passage is telling. Even more telling is his observation following this overview: "International law has only prospered by

extolling State power and sovereignty, and as an antidote to national conflict." Throughout its history international law reflects this basic contradiction: it emerges as a "utopian" effort to check the aggressive power of the modern state, and yet at the same time it subordinates itself to national sovereignty and power.

The way in which international law developed as a response to the destructive exploitation and rivalry of early capitalism and, at the same time, reflected capitalism's characteristic ideological contradictions is evident in 19th century attempts to control the slave trade. The British parliament voted in 1806 to prohibit the slave trade from operating through British ports. In the United States, the Supreme Court and individual state courts handed down a series of decisions abolishing, regulating or justifying the slave trade. But did these laws and court decisions have validity beyond national boundaries? Did they apply to a brutal dimension of the socioeconomic system that was inherently international? As Bederman points out, by the end of the 19th century it was clear "that slavery and the slave trade could only be suppressed if States explicitly agreed that their nationals could not legally engage in it"—and even this compromise between national sovereignty and international law, he adds, "came only after the bloody Civil War in the United States."⁹ Violent oppression produces the desire for international law—and in the end, it has often been war that determines what kinds of international law a particular stage in the development of capitalism will tolerate.

From the outset there were economic and commercial dimensions of international law: treaties, agreements, pacts and so forth existed among nations to advance, facilitate, regulate and protect the interests of capitalism in ways that reflected the global dimension of the capitalist mode of production, as Karl Marx repeatedly emphasizes. Today, institutions such as the UN Commission on International Trade Law (UNCITRAL), the International Monetary Fund (IMF), the World Bank and the World Trade Organization (WTO) figure enormously in the flow of capital from one part of the world to another. Documents such as the UN Convention on Contracts for the International Sale of Goods and the General Agreement on Tariffs and Trade (GATT) set the terms for how international economic activity is conducted. As the global justice movement has made increasingly evident in recent years, these powerful international institutions and documents are in no way an alternative to the rivalry and struggle for advantage dominated by the major capitalist countries. Rather, they directly reflect the economic, military and political power of the so-called "G7"—the exclusive club made up of the world's seven richest countries. If anything, "International law is today playing an unprecedented role in creating and congealing inequities in the international system."¹⁰ The result is that "Formal equality in [international law] goes hand in hand with material inequality, and democratic principles and norms with neo-colonialism."¹¹

The formative crises of the modern world provide examples of the contradictions and limitations of international law in all its aspects, and I will look more closely later at the periods following both the First and Second World Wars. What needs to be clearly established at this stage is that international law has always been subject to the aims and interests of powerful nations. "Power politics," writes Antonio Cassese, former president of the Council of Europe Committee for the Prevention of Torture and former president of the UN International Criminal Tribunal for the former Yugoslavia, has always "conspired to reduce [the legal] freedom" theoretically invested in international law. International legal agreements among nations have always left "members free to act as they liked, provided they did not grossly and consistently trespass on the freedom of other members. Clearly, this approach could not but favor the Great Powers. In practice, international law was modeled in such a way as to legitimize, 'codify' and protect their interests."¹²

International Law and the "Bush Doctrine"

Given the historical subordination of international law to the interests of the "Great Powers," it is not surprising that in our current era of a single world superpower such subordination is both glaringly obvious and unprecedentedly hypocritical. During the Clinton 1990s the accent was definitely on hypocrisy: A whole series of U.S. military interventions—in Somalia, Haiti, Bosnia and Kosovo—were publicly justified in internationalist humanitarian terms. In each instance the U.S.

government said it was taking military action on behalf of the "international community," rectifying a "humanitarian" disaster and restoring the "rule of law" to a dysfunctional nation or a "rogue state."¹³ In each case, of course, the U.S. was really pursuing its political and economic interests as the world's one remaining superpower—but you would never know that from the unctuous tones of Bill Clinton or then-Secretary of State Madeleine Albright.

A major shift in the U.S. approach did not come immediately with the pseudo-election of George Bush at the end of 2000. It came nine months later with the terrorist attacks in New York and Washington on September 11. There were hints before then of a new willingness in Washington to flout international consensus—in March 2001, for example, when Bush announced that the U.S. was withdrawing from negotiations related to the Kyoto Protocol on global warming. And, as we have seen, right after September 11 there was still some lip-service being paid to a bogus internationalism, such as when Bush represented the attack on the U.S. as an assault on the entire "community of civilized nations." But the post—September 11 keynote was a defiantly unilateral superpower nationalism: the world's richest, most powerful country had been violated by fanatical barbarians, and it would demonstrate just how great and divinely ordained it was by relentlessly hunting down the "evil-doers" and punishing them and any country on earth suspected of harboring or supporting them.

September 11 was a tremendous gift to and opening for a group of right-wingers in the new Bush administration who had, since the waning days of the first Bush administration following the 1991 Gulf War, systematically developed a more aggressively unilateral and unapologetically imperialist model of U.S. foreign policy. Vice President Dick Cheney, Deputy Secretary of Defense Paul Wolfowitz, Cheney's Chief of Staff Lewis Libby, Cheney's senior foreign policy advisor Eric Edelman—these Republican hawks, with the support of Secretary of Defense Donald Rumsfeld and of the fanatical Richard Perle, chairman of the Defense Policy Board—produced the new foreign policy initiative made public in the National Security Strategy document issued on September 20, 2002.¹⁴ It has come to be known as the Bush Doctrine, and its main points are: (1) The U.S. claims the right to preemptive use of military power, including nuclear weapons; (2) The U.S. will not be bound by international treaties or agreements if these are deemed by the government to interfere with our national self-interest; (3) The U.S. will actively work to prevent the emergence of any strategic rival on the world scene; and (4) The U.S. will use military policy and power to advance the interests of U.S. capitalism around the world.

The Bush Doctrine immediately caused alarm, at home and abroad, because it so obviously dismisses even the token deference to international law and cooperation that characterized post—Second World War foreign policy right through the Clinton administration. From now on, the U.S. might make use of the cover provided by UN resolutions and international coalitions for the sake of expediency, but Bush and his team were openly declaring that the world's only superpower would do as it wanted without being bound in any serious way by the international community.

In the year between September 11 and the public declaration of the Bush Doctrine there were many indications of the administration's open contempt for international law. The bombing of civilian areas and the use of cluster bombs in Afghanistan stood in direct violation of the 1949 Geneva Conventions for the Protection of War Victims. Also in flagrant violation of other Geneva Convention provisions is the detention at Guantánamo Bay Naval Base, Cuba, of foreigners arrested in the war on terrorism. More than 600 detainees from more than 40 countries are currently being held at Guantánamo. Declared by the Bush administration to be "unlawful combatants" and not "prisoners of war" whose rights are protected under the Geneva Conventions, these detainees have been prevented from seeing family members or having access to lawyers.

While the case of the Guantánamo detainees exemplifies U.S. disregard for international law, it also illustrates limitations in the Geneva Conventions themselves. These conventions, like all other instruments of international law, were designed to favor the interests of powerful nations. In 1999, a U.S. federal appeals court ruled that the Geneva Conventions apply only to prisoners of established and recognized nations, not to prisoners from groups such as al-Qaeda. "A foreign entity without property or presence in this country has no constitutional rights," the judges said.¹⁵ As Judith Butler points out in an informative article in the *Nation*, "the Geneva Convention accord

on POWs, which seeks to protect prisoners of war from hostile governments that may well be unwilling to recognize their rights to fair treatment, also functions as a civilizational discourse that favors prisoners who belong to established nation-states."¹⁶ This allows a U.S. court to step in and say which people involved in a conflict are or are not entitled to basic human rights and legal protection.

The list of instances where the Bush administration has scrapped or refused to support various agreements with other powers is extensive. In addition to scuttling the Kyoto Protocol, the U.S. has:

Withdrawn from the 1972 Anti-Ballistic Missile Treaty; walked out of a London conference of the 1972 biological and toxic weapons convention; reiterated its refusal to comply with the Land Mine Treaty; and withdrawn from the International Conference on Racism in Durban, South Africa.¹⁷

One way of summarizing the attitude of the Bush administration is to say that the U.S. is now ready to hold everyone in the world accountable under international law—except itself. Nowhere has this attitude been more conspicuous than in the administration's policy towards the International Criminal Court (ICC). The ICC has been a major subject of international discussion and negotiation for years and was scheduled to come into existence on July 1, 2002. It will be made up of judges and a prosecutor chosen by the 66 nations that have ratified the 1998 Rome Statute of the ICC and will claim to have jurisdiction over the most heinous abuses resulting from international conflicts.

The U.S. signed the Rome Statute in December 2000. But last May the Bush administration declared that it would refuse to recognize the ICC unless participating countries formally stated that U.S. soldiers and other officials were exempted from prosecution for war crimes. What the U.S. was really worried about, as one senior official acknowledged, was not so much the charges that would be brought against ordinary military personnel, but rather an international version of the kind of "legal actions brought against former Secretary of State Henry A. Kissinger in Chilean and American courts" for his "aiding in the 1973 coup in Chile and in the ensuing 17-year dictatorship of Gen. Augusto Pinochet."¹⁸ The Bush administration pressured European Union leaders to allow individual countries to sign bilateral agreement with Washington to exempt Americans from the jurisdiction of the new court. In June it warned that the U.S. "would not take part in United Nations peacekeeping missions [such as the ones currently in effect in Bosnia and in Kosovo] unless the Security Council granted them immunity from prosecution by a new global criminal court."¹⁹ Using provisions in new antiterrorism legislation, the U.S. also warned participants in the ICC that they risked losing all U.S. military assistance unless they pledged to protect Americans serving in their countries from any ICC prosecutions. Despite widespread criticism from many European Union and UN member countries, the Bush administration finally prevailed. On September 30, 2002 the European Union agreed "to exempt American soldiers and government officials from prosecution for war crimes at the International Criminal Court."²⁰

The whole ICC fiasco was a horrifying demonstration of the ability of the U.S. to bend the international community to its will—and of the readiness of other countries to cover over their powerlessness with noble sounding pronouncements. German Foreign Minister Joschka Fischer, once a revolutionary student militant and still a politician identified with the left, said that the U.S. exemption agreement "is very important because the Milosevics and Pinochets of tomorrow will be brought to justice."²¹ We are left to assume that the Kissingers and the Bushes of tomorrow will not be brought to justice. What kind of credibility can an International Criminal Court operating on this basis possibly have in the eyes of the world?

International Law and Liberal Illusions

In focusing on what the Bush administration has done to undermine the ICC, we must not make the mistake of assuming that even with formal U.S. support such an international legal institution

could really be fair and effective in bringing war criminals to justice. Such a court might prosecute and convict those guilty of genocide and torture in Serbia, or Chile or Rwanda. But it will never enforce the same international laws against government officials in the U.S., or China or Britain. Any future judgments against figures such as Milosevic or Pinochet will be seriously compromised by the world's knowing that such judgments will not be handed down against a Kissinger or a Jiang Zemin.

Recognizing this reality brings us back again to the tendency of many liberal human rights and antiwar activists to rely on international law and on existing international institutions as alternatives to U.S. military and economic imperialism. Some of the most influential groups opposed to war on Iraq and to the Bush administration's war on terrorism regularly tell their supporters that international agreements or an international peacekeeping force—or the UN itself—can provide the practical means of preventing another bloodbath in the Middle East. Organizations opposed to the U.S.-led sanctions regime responsible for the deaths of as many as a million innocent Iraqis argue that we should place our confidence in UN weapons inspection teams or a UN peacekeeping force—as if the sanctions were not themselves a UN instrument.

Consider, for instance, an article posted on the Web site of Boston Mobilization for Survival, a well-connected antiwar organization. The article, "A New Policy Needed for Iraq," first appeared in the *Boston Globe* in March 1999 and is jointly authored by Denis Halliday, former UN humanitarian coordinator in Iraq, and Jennifer Horan of Boston Mobilization for Survival. Lamenting the U.S. government's "myopic obsession with Saddam Hussein," the authors argue that "Iraq needs to be let back into the family of nations. Retain arms control on it, but weapons monitoring needs to be a genuine, international instrument of disarmament and not be turned into a tool of U.S. espionage and subversion, as was UNSCOM [the old weapons inspection entity withdrawn from Iraq in 1998]."²² This statement is characteristically confusing about the role of the UN and of international law when it comes to U.S. policy towards Iraq: On the one hand, we have to prevent UN resolutions and operations from again becoming a tool of U.S. war aims and spying; on the other hand, we have to do this by continuing to look to the UN to "control" and "monitor" Iraq in a fair way.

The point here is not to question the antiwar sincerity of Denis Halliday, whose criticism of U.S. and British policy in Iraq has been extremely important, or of Boston Mobilization for Survival. It is rather to make clear that the antiwar movement cannot plausibly see the UN and its various instruments and resolutions as dominated by U.S. imperialism while at the same time urging those in the movement to look to the UN as the alternative to imperialist war. This weakness in the position taken by Halliday and Horan was evident when their article appeared in 1999; it is even more evident now, post—September 11, given the aggressive, opportunistic unilateralism announced in the Bush Doctrine.

Halliday himself makes the fundamental problem crystal clear in his introduction to the new edition of Phyllis Bennis's *Calling the Shots: How Washington Dominates Today's UN*:

The blatant use of Chapter VII of the UN Charter to attack carefully chosen enemies under hastily raised UN umbrellas, while protecting allies guilty of equal or even worse depredations, presents a double standard of approach that calls into question not only the integrity of the member states concerned, but far worse: the very credibility of the United Nations worldwide.²³

Or consider another example, this one from the American Friends Service Committee's "10 reasons to oppose the war with Iraq."

A preemptive attack violates the UN Charter. The UN Charter forbids member countries from attacking another country except in self defense. If the U.S. puts itself above international law, it will further encourage other nations to do the same.²⁴

The reference in this statement to the UN Charter is perfectly true. One reason the Bush administration eventually decided to get a UN resolution on the disarming of Iraq is in order to hide

behind the principles of the UN Charter when it decides to launch its attack. On this, as on other occasions, the U.S. was able to pressure, threaten and buy the kind of international law cover it could (perhaps with a few minor inconveniences) manipulate in the future. In the end the most influential voice in deciding whether the U.S. "puts itself above international law" is the U.S. itself—and though this might well encourage "other nations" to be cynical and manipulative about international law, no other nation has the power or the money to spin the system's most idealistic and prestigious features in this way. Clinging to the fantasy that international law as it currently exists can provide a real alternative to U.S. military aggression seriously weakens the antiwar movement. Though reliance on international law and the international community may initially appeal to moderates with questions about Bush administration policies, it ultimately leads to discouragement and resignation as the U.S. goes right ahead with its war plans. Most important, illusions about international law get in the way of building the kind of broad-based, democratic mass movement from below that offers the only real hope against imperialist violence.

This is not to say that the antiwar movement shouldn't refer to violations of international law when doing so is part of exposing the hypocrisy and cynicism of the U.S. and its allies. The antiwar movement should point to the double standard whereby Israel can safely defy dozens of UN resolutions over the past 30 years ordering it to withdraw from the West Bank and Gaza, while the U.S. punishes Iraq's alleged non-compliance with incessant bombing raids, devastating sanctions and now, a pending invasion.²⁵ The U.S. has actively used its power in the UN to shield Israel: "In 29 separate cases between 1972 and 1991, the United States...vetoed resolutions critical of Israel."²⁶ The correct conclusion to draw from this, however, is not to hope for an improved UN that can really enforce international rules fairly, but to understand that UN decisions only have teeth when U.S. policy requires it. The UN was in fact deliberately set up after the Second World War to function that way—to reflect "international consensus" as determined by the United States and its allies. Israel can invade Lebanon, the West Bank and Gaza, and kill with impunity, because it is Washington's most important ally in the Middle East, and no UN resolution is going to change that.

International laws and agreements advocating reproductive rights or condemning torture are certainly worth supporting when such support is part of a concrete grassroots effort to improve the lives of ordinary people or to challenge the deceit and arrogance of powerful countries. But this kind of perspective is very different from the illusion that existing international laws and institutions, subject as they are to the interests of the U.S. government and its allies, can provide a real basis for stopping the drive to war.

A Marxist Perspective on International Law

Among the important contributions socialists can make to the antiwar movement is to offer a critical, realistic analysis of international law and the UN combined with a consistent, practical emphasis on democratically organized and independent mass action. The basic elements of the socialist position in this regard are already present in Marx's writing: under capitalism, international laws and institutions are inevitably controlled by the capitalist ruling class to serve their interests and to regulate or conceal their ceaseless rivalries. Such laws and institutions cannot therefore provide a substantial basis for resisting or preventing the wars and other miseries that are an inherent feature of global capitalism.

Marx studied law at the Universities of Bonn and Berlin in the 1830s, and his early writings show a sustained concern with the political and economic realities underlying the "rule of law." In *The German Ideology*, co-authored with Frederick Engels in 1845—56, Marx argues that far from being the kind of ideal, transcendent embodiment of rational and universal human values familiar in bourgeois celebrations of the rule of law, of "a society of laws, not of men," law is in fact a product of and inevitably represents the real material and historical "life process" of people living at a particular historical moment, in specific social relation to the forces of economic production.²⁷ This means that in all class societies, law is an instrument of class rule. In capitalist society, law is an instrument of capitalist rule and exploitation, however elaborate the ideological claims may be of its representing a "higher" expression of values that are above or beyond class interest.

Marx's analysis of what law is and how it functions in the capitalist nation-state can be extended to international relations and institutions. Capitalist countries may agree to laws that appear to regulate and systematize their fiercely competitive relation to each other—and they will always give such laws the idealized cover of transcendent altruism, of appeals to peace, harmony, the "natural" rights and freedoms of humanity. But in truth these international laws will always be determined by the material and political interests of the dominant class in the dominant countries. It is a dangerous fantasy to think otherwise. "Theories of social morality," writes historian E.H. Carr,

are always the product of a dominant group which identifies itself with the community as a whole, and which possesses facilities denied to subordinate groups or individuals for imposing its view of life on the community. Theories of international morality are, for the same reason and in virtue of the same process, the product of dominant nations or groups of nations.²⁸

It was on the basis of these principles that Russian revolutionary V.I. Lenin, in the aftermath of the savage imperialist bloodbath of the First World War, referred to "the robber League of Nations" and argued that Woodrow Wilson's great plan for international peace and cooperation was really an extension of the very imperialist forces that had created the war in the first place.²⁹ "Socialists have always condemned wars between nations as barbarous and brutal," Lenin writes. "We understand the inevitable connection between wars and the class struggle within a country; we understand that wars cannot be abolished unless classes are abolished and socialism is created." Lenin was acutely aware that socialism had not yet been fully created after the First World War, either in Russia or internationally. Because of this he understood that "The League of Nations and the entire postwar policy" coming out of the Treaty of Versailles were in fact agreements among the winners in the Great War about how to assure their continued domination.

Lenin was a great internationalist and devoted his life to the struggle for a society in which real international laws and institutions, devoted to meeting human needs, would be possible for the first time in history. But he realized that such a society could be built only through the coming to power of an international majority class—the international working class.

The Polish-born revolutionary Rosa Luxemburg shared Lenin's belief that the laws, treaties and pacts established between capitalist governments that exploit and oppress their own citizens can never bring genuine peace and are an obstacle to serious antiwar resistance:

The bourgeois friends of peace are endeavoring—and from their point of view this is perfectly logical and explicable—to invent all sorts of "practical" projects for gradually restraining militarism, are naturally inclined...to take every expression of the ruling diplomacy in this vein at its word.... [Socialists, however,] must consider it their duty...to expose the bourgeois attempts to restrain militarism as pitiful half measures,...and to oppose the bourgeois claims and pretenses with the ruthless analysis of capitalist reality.³⁰

These "peace utopias" were illusory because international relations were not determined by abstract morality—which merely serves as an ideological cover—but by the ruthless logic of economic and military competition, as Russian revolutionary Leon Trotsky noted:

Capitalism has transferred into the field of international relations the same methods applied by it in "regulating" the internal economic life of the nations. The path of competition is the path of systematically annihilating the small and medium-sized enterprises and of achieving the supremacy of big capital. World competition of the capitalist forces means the systematic subjection of the small, medium-sized and backward nations by the great and greatest capitalist powers.³¹

The great powers make international agreements and create institutions that temporarily establish how their competition for world plunder will be regulated, but these agreements are continually upset by competition for these same spoils. At each new historical phase, a new balance of world forces is established by fresh military conflict, followed by a fresh set of

agreements, and so on. "Peace clauses," wrote Trotsky, "merely draw the balance sheet of what has been achieved by force of arms."³²

Advocates of international law fail to note that these features of international relations are a reflection of the contradiction between the existence of a world economy in a context of competing national states:

The economy has become fundamentally world-wide in character. But the appropriation of profit, that is, the right to skim the cream of this world economy, has remained in the hands of the bourgeois classes of particular nations.... The world economy, closely bound together into a single productive entity, creates unprecedented sources of enrichment and power. The bourgeoisie of each nation tries to seize these sources for itself, thereby disorganizing the world economy....

[T]he bourgeoisie itself has felt obliged to seek a way out of the problem by establishing a "League of Nations".... [However] it is this clash between bourgeois appetites that makes it hard for the bourgeois governments to decide the question of the "League of Nations."³³

Trotsky was therefore unsparing in his criticism of those on the left who would rely on "disarmament" agreements. "War is not a game which is conducted according to conventional rules," he argued. When powerful capitalist countries decide that it is in their interest to go to war, "all the peace limitations will fall aside like so much chaff."³⁴

Socialists need to bring into their antiwar work, as part of helping to build the broadest and strongest movement possible, an understanding that under capitalism international laws and institutions are inevitably part of the ruling order, and that appeals to international law will always be part of the propaganda that the capitalist ruling class and the imperialist states that represent that class use to justify going to war. Socialists must also contribute something in addition: the conviction that there is a real political alternative to relying on the rules and institutions created by the very forces that generate war in the first place.

Such conviction is often missing in antiwar and anti-imperialist politics—not just in the positions taken by idealistic liberals and pacifists, but from its most informed and radical voices. In "World Order and Its Rules," the last chapter in *The New Military Humanism* (1999), Noam Chomsky brilliantly exposes the cynical hypocrisy of U.S. appeals to international law since the Second World War. "The main innovation of the Reagan-Clinton years," Chomsky writes, "is that defiance of international law and solemn obligations has become entirely open, even widely lauded in the West as 'the new internationalism'."³⁵ He reminds us that when Yugoslavia brought charges against the U.S. and its NATO allies in the World Court following the Kosovo war, the U.S. simply convinced the court "that its actions did not fall under court jurisdiction" because of a stipulation in the Genocide Convention ratification document that "the specific consent of the United States is required" if charges are brought against it." Such manipulation of international legal structures leads Chomsky to this conclusion:

It is all very well to speak abstractly of the "innovative but justifiable extension of international law" that creates a right of "humanitarian intervention," or to accord to the enlightened states the right to use military force where they "believe it to be just." But it should also be recognized that, hardly by accident, the states that are self-qualified as enlightened turn out to be those that can act as they please.³⁶

Up to this point Chomsky's analysis is forceful and accurate. But he then goes on to say that "in the real world, there are two options":

(1) Some kind of framework of world order, perhaps the UN Charter, the International Court of Justice, and other existing institutions, or perhaps something better if it can be devised and broadly accepted. (2) The powerful do as they wish, expecting to receive the accolades that are the prerogative of power.³⁷

Here socialists must come in and say that "existing institutions" like the UN Charter and the International Court of Justice are not the only alternative to letting the "powerful do as they wish." A broad democratic mass movement against the war in Iraq and the war on terrorism that doesn't rely on the "existing institutions" that Chomsky so effectively exposes can be built. And building it doesn't have to be as hopelessly vague as Chomsky makes it sound when he gestures towards "perhaps something better if it can be devised and broadly accepted." Grassroots organizing and struggle from below played an essential role in stopping the Vietnam War; it is beginning to play an essential role in the revival of the international global justice movement. The real alternative to international laws made by and for the U.S. and other powerful capitalist nations is independent international solidarity and resistance.

Endnotes

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