

This War is Illegal.

October 9, 2001

By Michael Mandel

(Michael Mandel, professor of law at Osgoode Hall Law School in Toronto, specializes in international criminal law.)

A well-kept secret about the U.S.-U.K. attack on Afghanistan is that international law and the express words of the United Nations Charter

Despite repeated reference to the right of self-defence under Article 51 apply here. Article 51 gives a state the right to repel an attack upon its territory until the UN Security Council can take steps necessary for international peace and security.

The Security Council has already passed two resolutions condemning a host of measures aimed at combating terrorism. These include measures for the legal suppression of terrorism and its financing, and for co-operation in criminal investigations and proceedings relating to terrorism. The Security Council has set up a committee to monitor progress on the measures in the resolution and has given all states 90 days to

Neither resolution can remotely be said to authorize the use of military force. Neither resolution can be said to affirm the inherent right of self-defence, but they do not say military action against Afghanistan could be taken. That's because the right of unilateral self-defence does not include an attack that has stopped.

The right of self-defence in international law is like the right to defend yourself when the law is not around, but it does not give you a license to attack.

Since the United States and Britain have undertaken this attack without the Security Council, those who die from it will be victims of a crime against humanity, just like the victims of the Sept. 11 attacks.

Even the Security Council is only permitted to authorize the use of force to maintain and restore international peace and security." Now it must be clear that the attack on Afghanistan has nothing to do with terrorism. Even the Bush administration concedes that the attack is a combination of improved security, intelligence and a rethinking of U.S. foreign alliances.

Critics of the Bush approach have argued that any effective approach to international security must involve a re-evaluation of the way Washington conducts its affairs. Washington promoted violence for short-term gain, as in Afghanistan when it supported the Shah, Iraq when it supported Saddam Hussein against Iran, and Iran before that when it supported the Shah.

The attack on Afghanistan is about vengeance and about showing how the attack is being done on the backs of people who have far less control over their own destinies than the souls who died on Sept. 11. It will inevitably result in many deaths of civilians, both in Afghanistan and in the United States. The disruption of aid in a country where millions of people are suffering is a disaster. Sunday were pure PR, and so are the claims of "success" seen them before, in Kosovo for example, followed by

For all that has been said about how things have changed is U.S. disregard for international law. Its decade-long bombing of Yugoslavia were both illegal. The U.S. bombing of Yugoslavia were both illegal. The court condemned Washington for its harbours and funding the contras. In that case, the court rejected Article 51 in defence of Nicaragua's neighbours.

For its part, Canada cannot duck complicity in this lawlessness by invoking the NATO treaty, because that clause is made expressly subordinate to the UN Charter.

But, you might ask, does legality matter in a case like this? But, you might ask, does legality matter in a case where there is no limit to international violence but the power, ruthlessness and cunning of the international system, the international legality of the UN system, the international legal interests.

(continued on page 4)

Marine s Letter to Bush (continued from page 4)

MonthsMonths ago we sawMonths ago we saw unbearable images of a father and child helplessly pinned down in cross yourself, can you imagine thatyourself, can you imagine that parent's anguish as he felt the life ebb from his son? If we actionaction which callously traps other families in cross-action which callously traps other families in cross-fire, human within us.

This moment of deep crisis is also a moment of immense opportunity. I urge you to move our world away fromfrom violence and suffering toward peace, freedomfrom violence and suffering toward peace, freedom and abun letlet the voices of desperation be heard. Let us not repeat thelet the voices of desperation be heard. Let us not repeat th onon Racismon Racism in Durban, South Africa, but rather bring all voices to theon Racism in Durban, South Africa, telling the stories we do not want to hear.

We are trulyWe are truly a superpower, used to talking and expecting others to listen. Show theWe are truly a superpower strongstrong enough to learn to listen. I praystrong enough to learn to listen. I praythat youstrong enough to learn to li MayMay God giveMay God give you the wisdom to find the opportunity that liesMay God give you the wisdom to find II sincerely hope that future historians will look back at yourI sincerely hope that future historians will look back at yo cool sense of reason that guided you in moving our world closer to justice and democracy for all.

Respectfully, Greg Nees Former U.S. Marine Sergeant

Lurching Towards Catastrophe

Bush and Blair Have Become Bin Laden's Recruiting Sergeants

By Seumas Milne, *The Guardian*, October 11, 2001

ThisThis This is the fifth time since Tony Blair became prime minister that Britain and the US have taken milThis is actionaction - though not always together -action - though not always together - without anaction - though not always to g SierraSierra Leone andSierra Leone and Afghanistan. In four cases, the attacks have consisted overwhelm aerialaerial bombardments; in three, the targets have been Muslim statesaerial bombardments; in three, the targets have b andand none of those under attack has beenand none of those under attack has been able to offer anything but token resis assaultsassaults - such as the four-day Desert Fox operation nearly three yearsassaults - such as the four-day Desert Fo been a 10-year regime of relentless bombing raids and grinding economic sanctions.

FromFrom such a perspective, this conflict did not begin last Sunday or on SeptemberFrom such a perspective, this con thethe pattern of wars against dthe pattern of wars against developing cothe pattern of wars against developing c PresidentPresident Bush in his campaignPresident Bush in his campaign to drive Saddam Hussein from Kuwait. It was t sentst to sent to Saudi Arabia and the devastation of Iraq began - two of the three festering Muslim grie byby Osama bin Laden in his broadcast describing the New York and Washingt on atrocities as America tasting "what we have tasted".

ButBut none of the Anglo-American onslaughtsBut none of the Anglo-American onslaughts sinceBut none of the Anglo ofof one of the poorest and most ruined countries in the world by the planet's richest and most powerful state, assistedassisted as ever by itsassisted as ever by its British satrap. For allthe earnest assurances about pinpoint targeting, toll is alreadytoll is already mounting, including the incineration ofoll is already mounting, including the incineration aa cruise missile asa cruise missile as they lay sleeping in a Kabul suburb. The almost comical futility of the military overf epitomizedepitimized byepitomized by General Richardepitomized by General Richard Myers, US Joint Chiefs of Stat now have air supremacy over Afghanistan"

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Oil Pipeline Across Afghanistan
(Thanks to Connie Fogal for sending this information)
Congressional Hearings, 12 February 1998

Excerpts from Statement of John J. Maresca, V. President of International Relations, Unocal Corp
Mr. Chairman, the Caspian region contains tremendous untapped hydrocarbon reserves of the scale, proven natural gas reserves equal more than 236 trillion cubic feet. of the scale, proven natural gas reserves may well reach more than 60 billion barrels of oil. Some estimates are as high as 200 billion barrels
One major problem has yet to be resolved: how to get the oil to the markets where they are needed.

But even if (proposed pipelines through Russia and Turkmenistan) capacity to transport all the oil expected to flow from the Caspian region, the capability to move it to the right (rapidly growing Asian) markets.

One option is to go east across China, but this would mean constructing a pipeline of 2,000-km to reach the population centers along the coast.

The only other possible route is across Afghanistan, which has been involved in bitter warfare for almost two decades, and is still divided by civil war.

From the outset, we have made it clear that construction of the pipeline would not begin until a recognized government is in place that has the confidence of our company, Mr. Chairman, as you know, we have worked very closely with that government in developing a training program for Afghanistan which will be open to both parts of the country, the north and south.

Unocal foresees a pipeline which would become part of the pipeline infrastructure in Turkmenistan, Uzbekistan, Kazakhstan and Russia. The 1,600-mile pipeline would extend south through Afghanistan to an export terminal that would extend south through Afghanistan to the coast. This 42-inch diameter pipeline will have a shipping capacity of 1 million barrels per day. The estimated cost of the project, which is similar in scope to the trans-Alaska pipeline, is about \$2.5 billion.

On the Light Side:

Another Pearly Gates story:

Two priests died at the same time and met Saint Peter at the Pearly Gates.

St. Peter said, "I'd like to let you guys in now, but our computer's down. You'll have to go back about a week, but you can't go back as humans. What'll it be?"

The first priest says, "I've always wanted to be an eagle," The first priest says, "I've always wanted to be a saint." St. Peter, and says St. Peter, and off flies the first priest. The second priest says, "I've always wanted to be a stud."

"No, the computer's down. No records will be kept." "In that case, I'll have to go back about a week, but you can't go back as humans. What'll it be?"

"So be it," says St. Peter, and the second priest disappears.

A week later the computer is fixed, and the Lord tells St. Peter to recall the two priests. "Where were they? How were they located?" He asks.

"The first one should be easy, Lord. He's somewhere over there." "The second one may be difficult."

"Why?" asked the Lord. "Because," said St. Peter, "he's on a snow tire, somewhere in North Dakota."