

# THE CRITICAL CRIMINOLOGIST

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“Teaching about the Criminality of the U.S. War on Iraq”

BY DAVID KAUZLARICH AND RICK MATHEWS PAGE 4

## The Bush Administration’s War On Iraq is a Criminal Event

By  
Ronald Kramer

A number of recent events have raised issues concerning the illegality of the Bush administration’s invasion and occupation of Iraq. On July 5 the US Army filed charges against 1<sup>st</sup> Lt. Ehren Watada, an infantry officer stationed at Fort Lewis, Washington. Watada has refused to deploy to Iraq because he believes the war there to be “manifestly illegal.” On June 29 in *Hamdan v. Rumsfeld*, the US Supreme Court rebuffed President Bush’s assertion of expansive executive power when it ruled that the military commissions set up to try detainees at Guantanamo Bay lack the power to proceed because their structures and procedures violate both the Uniform Code of Military Justice and the Geneva Conventions. And, as of July 6, there were at least five current criminal investigations into accusations that American troops in Iraq had killed, and in one case raped, unarmed civilians.



As a criminologist who specializes in the study of state (government) crime, and has published several articles in professional journals on the criminality of the Iraq war, I agree with Lt. Watada’s assertion that the war is illegal because “it usurps international treaties and conventions that by virtue of the Constitution become American law.” The vast majority of legal scholars who have addressed the issue also concur that the invasion and occupation of Iraq was illegal under international and American law. The complicated legal arguments can be summarized as follows.

First, the Bush administration engaged in an illegal war of aggression against Iraq in violation of the Charter of the United Nations (a treaty that under the US Constitution is part of the supreme law of the land). Article 2 (4) of the Charter prohibits the use of military force in international relations. There are only two exceptions: self defense to an actual armed attack and UN Security Council authorization. Neither applied in this situation. Iraq had never attacked the United States and there was no

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NAMES ARE IN  
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Security Council authorization to use force. No nation has the legal right to invade another to change its regime or form of government. The US led Nuremberg Tribunal after World War II defined a war of aggression as the “supreme international crime.”

Second, as Commander-in-Chief, President Bush, along with Secretary of Defense Rumsfeld and other U.S. officials, committed numerous violations of International Humanitarian Law (IHL) in the invasion and occupation of Iraq that have resulted in the death of tens of thousands of innocent civilians. During the phase of active hostilities these crimes consisted of decapitation strikes, the use of depleted uranium shells, the use of cluster bombs and the use of napalm. During the occupation phase these crimes have included the failure to provide for the safety and security of the Iraqi people, torture and other cruel and inhumane practices, the death of innocent civilians in excessive military responses to the Iraqi resistance, and the illegal reconstruction of the Iraqi economy. Violations of International Humanitarian Law constitute “war crimes.”

The *Hamdan v. Rumsfeld* decision supports the claims of Watada and the legal scholars that the Bush administration is breaking international law. The Supreme Court found the President’s conduct at Guantanamo illegal because it violated international treaties that the US had ratified. As legal scholars Jeremy Brecher and Brendan Smith note, the ruling “means the government must obey the provisions of the Geneva Conventions—such as the ban on cruel and degrading treatment and the obligation of an occupying power to protect civilians. And it solidifies the incorporation of other treaties—notably, the UN Charter, with its ban on military aggression—into US law.”

Finally, since the invasion of Iraq was a crime of aggression under international law and numerous war crimes have been carried out during the course of the occupation, the political leaders who made these illegal decisions, including the President, the Vice-President, and the Secretary of Defense, should be tried and convicted as war criminals. Criminal trials should not be limited only to low-level soldiers in the field who commit murder and rape. The war on Iraq itself is a criminal event and the leaders who deceived the country into it should be held legally and politically accountable.

### ***The Critical Criminologist Needs You!***

We invite submissions from the membership for future issues of the newsletter. We are interested in a variety of materials: research notes, essays, opinion pieces, teaching ideas and syllabi, book and film reviews, creative projects, as well as more traditional news items (e.g., Got a book coming out? Did you just get tenure and need to crow?). Please send all items to either [dawn.rothe@uni.edu](mailto:dawn.rothe@uni.edu) or [christopher.mullins@uni.edu](mailto:christopher.mullins@uni.edu).

## **From the Editors**

This marks our first issue as co-editors of *The Critical Criminologist*, the newsletter of the Division on Critical Criminology and we are both excited and eager to have this responsibility. During our tenure as editors we plan to make several exciting changes to the newsletter while maintaining the solid core aspects which those who have gone before us have endeavored to build.

The most obvious change: the newsletter will now be published on-line and is available for download in pdf form from the division's website. This move was made for a number of reasons, primarily cost. University budgets are tight everywhere these days, as is the division's budget. Moving it to a purely electronic publication allows us to save division funds as well as funds in our home department at the University of Northern Iowa. Without costs for printing and shipping, funds can be better spent to support the division and its members. Of course, those of you who still need to carry around a hard copy can download it and print it off.

The next change is actually facilitated by the first. As a purely on-line product, we do not have to consider size limitations. It costs us the same to produce a 10 page newsletter as it does to produce a 25 page one. This has allowed us to present material to the membership which otherwise would not have been feasible. A case in point: Kauzlarich and Matthew's excellent article on teaching about state crime and the war in Iraq in this issue; had we gone with a hardcopy format, this piece would have had to be severely truncated. We hope to continue to publish longer pieces such as this one and invite the membership to send us just about anything our readers would find interesting.

We will continue to use the newsletter as a venue for announcements, call for papers, and other 'news' items of note. Due to being web-based, the audience is potentially much wider than before. Ken Mentor has done an admirable job redesigning the division website and positioning it so search engines find it. This makes both the website and the newsletter an important venue for communicating critical criminology to students and the general public. Thus, *The Critical Criminologist* is no longer purely a communicative tool for the division to talk to itself; it is a place for the division to talk to the world.

Dawn L. Rothe and Christopher W. Mullins

**Lakoff's Framing Theory and Teaching about the Criminality of  
the U.S. War on Iraq\***

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\*A previous version of this paper was presented at the 2005 American Society of Criminology meeting in Toronto, Canada. Thanks to Jeffrey Ian Ross and the Editors of *The Critical Criminologist* for their valuable feedback on previous drafts of this essay.

Since the early 1980s, there has been a steady shift to the right in American politics. This change is perhaps most evident in the U.S. response to crime and criminals. American politicians have declared various "wars" on drugs and crime beginning with the Reagan administration, followed by Bush I and Clinton. Penalties for criminal offenses have increased over the past 25 years leading to both record per capita prison populations and money spent housing them.

Most of the students we have in our classrooms were born after Nancy and Ronald Reagan began their "war on drugs," were five years old when Bush I left office, and have only pre-teen memories of the Clinton years. They have, in essence, grown up in what has been one of the most conservative eras in American history. Critical criminologists have identified several conservative crime-control policies which are ineffective at best, and destructive at their worst. Three strikes laws, mandatory minimum sentencing, and the expansion of waiver laws for juveniles are but a few such policies. Moving beyond these issues to reveal the not so hidden dimensions of racial, gender, and class inequality in the criminal justice system often proves to be daunting for instructors. Further, discussing crimes by the U.S. government also has its challenges. This leads us to the question: "How does one teach critical criminology to a group of young people that have grown up in an era dominated by conservative

politics?”

One way in which we have had some success in getting students to think more critically about crime and crime-control policies is to have them read solid texts that deal with the “facts” as much as possible. When presented with facts, particularly those that dispute the effectiveness of particular policies, we have found that some students open up and think more critically about crime (two such texts are Samuel Walker’s [2005] *Sense and Nonsense about Crime and Drugs* and David Cole’s [2000] *No Equal Justice*).

Presenting the “facts as such” can be an effective way to expand student thinking about crime. However, there are instances when even the facts prove ineffective at combating long held positions about crime. How might we, as critical criminologists move beyond this seeming impasse? Additionally, there are also differences between addressing street crime and state (or corporate) crime where one directly calls into question the legitimacy of an organization or group of individuals.

Here we shall discuss another option to the overwhelming weight of facts: Framing political issues. In doing so, we will use the U.S. war on Iraq as a case-study in state crime and discuss some ways of reframing it so that students move beyond their existing ways of thinking about violence.

### ***Frames and Why They Matter***

George Lakoff, a prominent cognitive scientist, has written several books and articles on the subjects of language, frames of reference, and political debate. Lakoff’s (2004) basic arguments can be summarized as follows:

- Frames are mental structures that shape the way we see the world.
- These frames are part of the cognitive unconscious.
- To be accepted, the “truth” (whatever that is) must fit people’s frames.
- If a strongly held frame doesn’t fit the facts, then the facts will be ignored and the frame will be kept.
- Concepts are not things that can be changed simply by telling someone a fact (which is why the “facts as such” approach isn’t always effective).

- Because people are more concerned with their “identity” than their self-interest, they will often act (particularly in voting) against their own self interest (a good example is in the area of adolescent rights, for those of us who try to get students to see the self-defeating and paradoxical nature of their views on adolescent responsibility).
- If you make a point that really upsets someone, it is likely that you have challenged a frame, which is like hitting a raw nerve (this is likely why the whole business about the war in Iraq and pre-war intelligence really riles Republicans, and why Bush had to go out on the circuit to make the weak argument that “hey, Democrats believed the same intelligence reports we did.”). Hitting a frame is like hitting a nerve, and if you do it, keep whacking away at it!
- Ideas come in the form of frames, and when you lack frames you lack ideas.
- In politics our frames shape social policies and the institutions formed to carry them out.

To help better understand these frames and why conservatives and liberals think so differently about the world, Lakoff uses two metaphors: The Nurturant Parent Model (which represents the liberal world-view), and the Strict Father Model (which represents the conservative world-view).

### *The Strict Father*

The strict father model begins with the following assumptions about the world:

The world is a dangerous place, and it always will be, because there is evil out there in the world. The world is also difficult because it is competitive. There will always be winners and losers. There is an absolute right and an absolute wrong. Children are born bad, in the sense that they want to do what feels good, not what is right. Therefore, they have to be made good. What is needed is a strong, strict father who can protect the family in a dangerous world. The father is a moral authority who knows right from wrong. A good person—a moral person—is someone who is disciplined enough to be obedient, to learn what is right, do what is right and not do what is wrong, and to pursue his/her self interest to prosper and become self-reliant (Lakoff, 2004, pp. 7-8).

These assumptions lead to the support of several policies related to crime and criminal justice. For example, the state as strict father “knows best,” how to “punish bad people,” and to “teach right from wrong.” In terms of social policy, welfare and other social spending programs are bad because they diminish “self-reliance” and the desire to pursue self interest. In terms of foreign policy, the “United States has the moral authority (and responsibility) to protect the rest of the world from dangerous terrorists by invading Iraq.” Even if the rest of the world does not agree, it is irrelevant, since the United States has a special claim on the “truth” and the moral authority to tell other people what it is.

### *The Nurturant Parent*

The nurturant parent model begins with the following assumptions:

Both parents are equally responsible for raising the children. The assumption is that children are born good and can be made better. The world can be made a better place, and our job is to work on that. The parent's job is to nurture their children and to raise their children to be nurturers of others. . . nurturing means two things: empathy and responsibility. . . parents have to know what every cry means, and they must be responsible enough to take care of their children by taking care of themselves. If you empathize with your children you will provide protection (including all kinds of things, like pollution, cars without seat belts, smoking, etc.). The nurturant parent model also relies heavily on the following values: fairness, freedom, opportunity, communication, community building, and service to the community (Lakoff, 2004, pp. 12-13).

Lakoff (2004) points out that the two models are ideal types. It is likely that some of the frames of the nurturant parent exist in most conservatives, and that most liberals identify with some of the frames of the strict father (which also may be a function of patriarchy and gender relations).

Central to Lakoff's (2004) argument, however, is that liberals and conservatives rely on these broader models to tap into pre-existing frames. For example, with the U.S. war on Iraq, it is clear that the Bush administration has relied heavily on the strict father model of protection through moral authority of the United States. On the other hand, protection is part of the moral system of the nurturant parent, but in terms of post-911, they (liberals/progressives) have not done a good job articulating what protection means. Conservatives, on the other hand define protection as invading Iraq and "taking the war to the terrorists," or "striking them there, so they don't strike us here," or "hunting them down and smokin' them out of their caves." Liberals and progressives who rely too heavily on the "facts" to dismantle the Bush rationale for continued war may not be effective. Therefore, a more fruitful approach may be to address these particular frames and to reframe the issue from one of strict father (e.g., father as great protector) to something else (or, perhaps, take a different kind of strict father approach). In what follows, we explore potential ways through which this may be accomplished.

### *Framing the U.S. War on Iraq as Criminal (Not Just Unwise, Harmful, or Unjustified by the Facts)*

In teaching courses on white collar crime, we often find ourselves discussing state and corporate crime more than occupational crimes such as embezzlement. To frame state crime so that the average undergraduate student can grasp the concept, we rely on a fairly legalistic framework. Sociology and criminal justice undergraduate students, however, like many Americans,

are ignorant of international laws governing the use of violence by states. Therefore, one strategy we use to get students thinking critically about state misuses of power is through a thorough discussion of details within the United Nations Charter and other international codifications of law (easily attainable by visiting the United Nations' website [www.un.org]). Our premise is that using a legalistic approach to the definition of crime can be more effective in communicating a critical criminology of state violence than what could be easily interpreted to be completely moralistic, ideological, or political bias on the part of the instructor. Of course, nothing is inherently apolitical, and international law is no exception, but students do seem to grant more legitimacy to the corpus of international law than if one were to rely primarily on abstract moralistic principles of nonviolence and peacemaking. Of course we subscribe to these values but find it more strategic at times to express them indirectly in the classroom.

The following is a brief summary of the basic orientation we provide to students on the relationship between international law and state uses of force, with a focus on the U.S. war on Iraq. Much of this is drawn from Kauzlarich and Kramer (1998) and has recently been developed into a comprehensive analysis of the illegality of the war on Iraq (see Kramer & Michalowski [2005] and Kramer, Michalowski, & Rothe [2005]). Readers are encouraged to consult these essays for both classroom and activism purposes.

Essentially, international law binds states to a set of rules of policy and practice, and is normally created by treaties, customs, judicial decisions, international and regional conventions, and U.N. General Assembly resolutions. Its history is rich, especially in the area of humanitarian law and in the laws of war, where its primary function is to eliminate the "arbitrary use of force and violence in international relations." International agreements limiting the military practices of states date as far back as 1868, when the Declaration of St. Petersburg prohibited the express attack of civilians in times of war.

The primary purpose of the U.N. Charter was to "render the use of force between states unlawful and to end the scourge of war." The Charter remains the authoritative statement of the law on the use of force, acts as a principal norm of international law, and constitutes basic rules of international conduct that all member states are ostensibly committed to observe.

(continued on Page 12)



## Call for Nominations : Division on Critical Criminology Awards

Nominations are requested for the following awards:

- The Lifetime Achievement Award honors an individual's sustained and distinguished scholarship, teaching, and/or service in the field of critical criminology.
- The Critical Criminologist of the Year Award honors a person for distinguished accomplishments which have symbolized the spirit of the Division in some form of scholarship, teaching, and/or service in a recent year or years.
- The Undergraduate Student Paper Awards recognize and honor outstanding theoretical or empirical critical criminological scholarship by undergraduate students.
- The Graduate Student Paper Awards recognize and honor outstanding theoretical or empirical critical criminological scholarship by graduate students.

Nominations must be received by September 25, 2006. Awards will be presented at the Division on Critical Criminology meeting at the ASC conference in November. Please send a letter of nomination describing the nominee's contributions, the award for which you are nominating the individual, and a vita for the nominee.

Please send nominations to:

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ASHGATE'S ADVANCES IN CRIMINOLOGY SERIES, EDITED BY  
DAVID NELKEN: OF INTEREST TO CRITICAL CRIMINOLOGISTS

I wish to call the Advances to Criminology series edited by David Nelken (Distinguished Professor of Legal Institutions and Social Change at the University of Macerata in Italy) to the attention of North American critical criminologists. The books in this series have a significant audience among European critical criminologists, but seem to be less well-known to community of critical criminologists in North America. I was recently asked to review one of the books – Fiona Haines' Globalization and Regulatory Character - for THEORETICAL CRIMINOLOGY. This sophisticated study explores a crucially important issue: How developing countries address regulatory standards in the context of increasing industrialization. The Kader Toy Factory fire in Thailand, the worst such catastrophe in the 20<sup>th</sup> century, provided the specific impetus for this study, and Haines demonstrates the need to attend to the indigenous “regulatory character” of developing countries if one is to understand the response to such catastrophes.

Alessandro De Giorgi's Re-Thinking the Political Economy of Punishment is still another recent book in this series that has come to my attention. De Giorgi argues that current penal policies in Western nations are importantly shaped by the need to control a new, more flexible labor force that has been emerging in a post-Fordist system of production. This book importantly situates penal policies within the context of an increasingly globalized world of the late 20<sup>th</sup> century and early 21<sup>st</sup> century, and accordingly updates the classic contribution of Rusche and Kirchheimer to the understanding of the political economy of punishment. I have also seen in manuscript form a forthcoming volume in the series, The Policing of Transnational Protest, edited by Donatella della Porta, Abby Peterson, and Herbert Reiter. The growth of an “anti-globalization” or global justice movement in recent years, challenging the economic policies of the G8 countries and the international financial and trade institutions such as the World Trade Organization, the World Bank, and the International Monetary Fund, is surely one of the noteworthy developments in the contemporary world scene. This volume complements earlier books (e.g., by della Porta) on transnational protest and global activism with a series of articles analyzing strategies adopted by policing entities in various countries in response to the protest demonstrations.

Many other volumes in the Advances in Criminology series address topics such as environmental crime, family violence, transnational policing, informal criminal justice, delinquency, migration, prison riots, and crime control. I believe that

George Pavlich's Critique and Radical Discourse on Crime was the first book published in this series, and his book should be known to the critical criminological community. But the volumes published subsequently seem to me to be highly relevant to the projects of many North American critical criminologists, and offer "cutting edge" interpretations of criminological phenomena within the context of a rapidly changing world. David Nelken, himself surely on anyone's list of outstanding contemporary criminologists, has done a very fine job of shepherding these books into print. Critical criminologists will be stimulated by the ideas and findings of the European and Australian critical criminologists whose books are published in this series.

David O. Friedrichs  
University of Scranton/  
Flinders University

The United States is a founding member of the U.N. and a co-author of the U.N. Charter.

Chapter One, Article One of the U.N. Charter states that the purpose of the United Nations is:

To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace...and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace.

Moreover, Article Two of Chapter One (4) states that:

All members shall refrain from the threat or use of force against the territorial integrity or political independence of any state, or in any state in which the United Nations is taking preventive or enforcement action.

As a source of customary and treaty law, then, the United Nations Charter prohibits the threat to use force, and intentional breaches of peace.

The only exception to the prohibition of Article 2(4) on the threat or use of force is found in Article 51 of the Charter:

Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security.

The intention of this U.N. article is to allow a state under attack to defend itself. Importantly, however, the right to defend is limited so that this right is only executable until the Security Council provides an international plan of action. Thus, the Security Council ultimately retains the authority to enact the specific responses to an armed invasion.

Of course, the Security Council did not approve the U.S. request by former Secretary of State Colin Powell to use

force against Iraq. At this point in a lecture we have actually been stopped by students who asked: "So, then, the U.S. war on Iraq is illegal, right?" And we respond something like "Yes, according to this framework, it would be difficult to reconcile the war with these legal principles."

In the history of the United Nations, the specific legal meaning of the Article 51 exception in relationship to Article 2 (4) has been defined in only one case: *Nicaragua v. The United States* (1986). Here the International Court of Justice (ICJ) ruled that Article 51 applies only when a state has been subjected to an armed attack. Specifically the Court ruled:

States do not have a right of collective armed response to acts which do not constitute an armed attack. If no armed attack occurred, collective self defense is unlawful, even if carried on in strict compliance with the canons of necessity and proportionality.

The fundamental precept of international law in the context of the U.S. war on Iraq is that war and the use of force more generally should and must be the very last measure taken in times of international dispute and conflict. The Bush Administration's "preemptive" strike against Iraq was therefore a violation of the spirit and letter of international humanitarian law governing the relationship between disputing parties.

All of this is based on decades of accepted international legal jurisprudence, but it is also intuitive, yet somehow it has escaped widespread discussion. One possible legal justification for war raised by some pundits (and in less legalese by the Bush and Blair administrations) is that of so-called "anticipatory self-defense." Created by American politician Daniel Webster in 1837, this doctrine allows the use of force by a country that faces a threat considered to be "instant, overwhelming, leaving no choice of means and no moment of deliberation." Of course, despite all the hyperbole coming from the U.S. and British administrations, this situation was never reasonably broached. Further, the legal standing of the preemptive doctrine is highly tenuous and the few states that have attempted to use this justification have been largely unsuccessful in making their cases in international courts and in the U.N. Security Council.

What should we make of equivocal stands on international law? We ask students: "Should we discard laws because they clip our wings and trumpet only those laws that serve our immediate interests?" "Would we excuse a person's criminal cul-

pability for burglary, shoplifting, or assault because they found the laws prohibiting those behaviors to be inconvenient or difficult to follow?" We ask students to see the results of applying this logic to domestic crimes in general and most if not all reject the idea of selectivity.

We further ask students: "Should all countries and statespersons be held to the same standards of behavior under principles articulated by international law?" If so, then these standards *did not* allow for U.S. military against Iraq; they do not encourage one country to thumb its nose at the will of the majority of the world; and most importantly, these standards *do not* allow one country to attack another country that does not pose a clear and present danger to national security.

Students sometimes ask: "Why should we be so concerned with abiding by international law?" We have four answers to that question:

1. U.S. violation of international law sets a poor example for other countries involved in international disputes. If the U.S. can snub the U.N. and act unilaterally outside of the law, what would keep any of the other 200 or so countries around the world from doing the same? One of the reasons the U.N. was founded was to make this kind of situation less probable.
2. U.S. violation of international law is interpreted by other states as arrogant, like its recent withdrawal from the International Criminal Court (see Rothe and Mullins, 2006). Just how many exceptions to the mandates of international law, then, should the U.S. be granted? How many exceptions to international law should other countries have? 4 a year? 5, 6? This would turn the spirit and substance of international law on its head.
3. U.S. violation of international law acts to downplay and potentially dismiss laws that have helped the world community deal with truly aggressive and imperialist countries in the past. Indeed, the same corpus of laws that the U.S. used as a pretext for the Gulf War are in essence the same as the laws the U.S. may now be considering as "breachable." If these laws are only used to keep "the other" in line, they lose their meaning and relevance, and it is clear that this is not what the most want.
4. U.S. violation of international law is like a car company retracting the substance of its owners' manual. The U.S. co-authored much

of the U.N. Charter and international law more generally. We should practice what we preach and hold true to our word.

This latter point seems to resonate better with students than the first three. Why? Our guess is because it taps into prized fundamental values about “keeping your word” and “doing as you say,” which are probably equally acceptable to those coming from both the strict father and nurturance perspectives.

### ***Discussion***

Of course, classroom teaching about issues such as the illegality of war from a criminological perspective necessarily taps into some strong feelings of patriotism and nationalism. What may be most challenging is calmly discussing the matters with students who have served or who have loved ones in the military, some of whom may be on the front lines in the U.S. war on Iraq. That’s when the appeal to a legalistic approach seems to help make things clearer because it focuses on the *policy* - the administrative decisions, not the particular conduct of, for example, an infantry soldier. *This distancing of the individual from the policy is where the framing techniques matter the most.* It goes something like this: We should protect soldiers and civilians from being unnecessarily put in harm’s way by politicians who might have other goals in mind. The popular bumper sticker and yard signs reading “Support our Troops,” which were partially created in response to the anti-war movement, is an interesting example of how this plays out. In response to that slogan, progressives started using the phrase “Support our Troops: Bring Them Home Now!” to help frame the position that we are above all else concerned with protecting people/soldiers who shouldn’t have been put in danger in the first place. How did this work? Did it help reframe the issue? Maybe.

Certainly evidence that there were no weapons of mass destruction in Iraq, that Iraq and Saddam Hussein had no connection to 9/11, and that the war has cost both in human lives and dollars far more than it was imagined have helped turn public opinion against Bush. As of this week (the first in August 2006), in fact, Bush has a 35% job approval rating, his lowest ever, and while the CIA leak case scandal, the failure of the Harriet Miers nomination, and the incompetent response to Hurricane Katrina are all probably variables in this, Americans are also very unhappy with the situation in Iraq (<http://www.pollingreport.com/iraq.htm>). Indeed, almost two-thirds of the American public do not approve of Bush’s handling of the war. Over half of the people surveyed in another poll believe that Bush deliberately misled the public in making the justification for going to war, yet half the public believes that troops should stay in Iraq and “finish the job,” even though half the public believes going to war in

Iraq was a mistake (<http://www.pollingreport.com/iraq.htm>).

So, could public opinion be gravitating more towards a progressive view because of newly emerging facts or because the topics have been reframed or because of perhaps both? While this is a much larger question in need of far more study, it might be food for thought in terms of thinking about strategies to promote openness to progressivism in criminology students, as it could be that some combination of facts and proper framing can at least keep the critical lines of thinking open. We know that most students seem to find such an approach to thinking about the war on Iraq as reasonable, as long as it is presented/framed in what is thought of as a more neutral way, which is most likely to be found in the legalistic terminology identified above. We encourage criminologists, especially critical criminologists, to read Lakoff (2004) and think hard about framing issues in ways that open lines of communication with students and the broader community.

We should be careful how this is done, however. In an exploratory study of the attitudes of peace activists untrained in criminology, Kauzlarich (2007) found that while all of the interviewees think of the U.S. war on Iraq as criminal, many would be reluctant to use the term as an organizing theme in public discourse. The following exchange reveals the logic behind this concern:

**Interviewer:** Would you feel comfortable calling Bush and company war criminals?

**Respondent:** Yes. That's what they are, so I would feel comfortable calling them that. I'm not sure it is politically helpful calling them that though.

**Interviewer:** Why might it not be politically advisable?

**Respondent:** It potentially alienates the swing votes in the middle. Then the war criminals get a working majority, like what happened in the [2004] election.

**Interviewer:** Why wouldn't this work?

**Respondent:** The majority doesn't see this as a crime. They might see it as ill-advised or a mistake, but if you call the President a criminal they see that as stepping over the line.

**Interviewer:** But what if it's true?



**Respondent:** It is not always politically effective to tell the whole truth. You only have to say some of what's true. To two-thirds of the U.S. population, saying [President] Bush is a war criminal is outrageous, even though it is true, then it is not politically effective to call him a war criminal, and I think the Left spends too much time doing things that feel good but that are not politically effective (Kauzlarich, 2007).

For critical criminologists, there are a couple of ways to approach these types of concerns. First, we need to remind ourselves how deeply the term "criminal" continues to be associated with traditional street crimes and criminals. We all know how richly developed the study of elite crime has become in our field over the last three decades, but has society followed along? Many of us could be awakened from a deep slumber and cogently discuss alternatives to the traditional definition of crime, but have we changed anyone's mind outside of academe? Perhaps this is the most urgent call of all: To intentionally and intelligently spread the message beyond the usual scholarly audiences.

The call for "newsmaking criminology" (Barak, 1995) has never been more necessary, whether it is through press releases about creative exercises in the classroom and intelligible research, editorials in newspapers, internet blogs, the continued development of the [www.critcrim.org](http://www.critcrim.org) webpage, and of course, directly engaging social service and social movement groups as well as political and criminal justice agents and agencies. Administrative criminologists in the mainstream do much of the latter, but do critical criminologists?

Second, we could consider rejecting the application of the term "crime" to unnecessary war and instead frame the subject as "harmful." A recent body of work by critical scholars (Hillyard, Pantazis, Tombs, and Gordon, 2004) has proposed just that by developing a new field of study – zemiology – which focuses exclusively on harm in all of its manifestations. This intriguing proposal differs from other work because it does directly not call for criminology to expand its focus and definition of crime (a la the Schwendingers, 1970; Tiff and Sullivan, 1980; 2006) but rather to potentially distance the study of harm from the field altogether. The zemiologists' searing critique (Hillyard, Sim, Tombs, and Whyte, 2004) of the failure of traditional criminology to do anything truly meaningful to promote radical social change is similar to many established critical criminological critiques (a la Taylor, Walton, and Young, 1975), but the proposal to possibly jettison criminology is unique. The zemiological perspective should be taken very seriously by the Critical Criminology Division as it provides an excellent opportunity to reflect not only on the value of our scholarship in all of its facets, but the extent to which praxis can be best achieved.

(Continued on page 21)

*Class, Race, Gender, and Crime: The Social Realities of Justice in America*, 2<sup>nd</sup> edition by Gregg Barak, Jeanne Flavin, and Paul Leighton will be published October 28, 2006 by Rowman & Littlefield.

PREPUBLICATION REVIEWS OF THE SECOND EDITION INCLUDE-

"*CLASS, RACE, GENDER, AND CRIME: THE SOCIAL REALITIES OF JUSTICE IN AMERICA* IS HIGHLY RECOMMENDED FOR THOSE WHO WISH TO LEARN MORE ABOUT THE COMPLEX WAYS THAT RACE, CLASS AND GENDER CONDITION THE EXPERIENCE OF JUSTICE - AND INJUSTICE - IN THE UNITED STATES. THIS BOOK EXPOSES THE POWERFUL AND COMPLEX RELATIONSHIP BETWEEN IDENTITY, STRUCTURED SOCIAL INEQUALITY, LAW, AND THE EVERYDAY PRACTICE OF JUSTICE. THE STRENGTHS OF THE NEW EDITION INCLUDE ITS EXTENDED DISCUSSION OF VICTIMIZATION, CRIMINAL JUSTICE PRACTICE, AND POLICY, AS WELL AS ITS INTERROGATION OF THE ROLE OF LAW AND MEDIA IN THE SOCIAL CONSTRUCTION OF DIFFERENCE. STUDENTS IN MY CLASSES PRAISE THE TEXT FOR ITS READABILITY, CONCEPTUAL CLARITY, RICH EXAMPLES, AND CONTEMPORARY RELEVANCE - IT'S AN INFORMATIVE AND ENGAGING READ!"

**NANCY A. WONDERS, PROFESSOR AND CHAIR, DEPARTMENT OF CRIMINAL JUSTICE, NORTHERN ARIZONA UNIVERSITY**

"IT'S ALL HERE. BARAK, FLAVIN, AND LEIGHTON DEMONSTRATE HOW CLASS, RACE, GENDER, AND CRIME--FOUR EXPLOSIVE TOPICS WE'RE RELUCTANT TO TALK ABOUT PUBLICLY--ARE INTERRELATED AND, MORE IMPORTANTLY, HOW THESE ISSUES AFFECT EACH AND EVERY ONE OF US. FOR THE AUTHORS, "CLASS" IS NOT SHORTHAND FOR THE POOR BUT INCLUDES THE MIDDLE CLASS AND THE UPPER CLASS; "GENDER" IS NOT SHORTHAND FOR WOMEN BUT INCLUDES MEN; "RACE" IS NOT SHORTHAND FOR MINORITIES, BUT INCLUDES WHITES; AND "CRIME" IS NOT SHORTHAND FOR STREET CRIME BUT INCLUDES THE CRIMES OF THE RICH AND POWERFUL. ENLIGHTENING, SOBERING, AND ULTIMATELY ESSENTIAL READING. THIS IS AN ADMIRABLE WORK."

**KATHERYN RUSSELL-BROWN, PROFESSOR OF LAW AND DIRECTOR OF THE CENTER FOR THE STUDY OF RACE AND RACE RELATIONS, UNIVERSITY OF FLORIDA**

"BARAK, FLAVIN AND LEIGHTON DON'T ONLY PROMISE TO INTEGRATE CLASS, RACE AND GENDER ANALYSES OF CRIMINAL JUSTICE, THEY DELIVER! *CLASS, RACE, GENDER & CRIME* STARTS BY GIVING READERS A BASIC UNDERSTANDING OF THE PERSPECTIVES OF THE CONCEPTS AS THEY FUNCTION IN HISTORY AND IN SOCIAL ANALYSIS. SUBSEQUENT CHAPTERS APPROACH DIMENSIONS OF CRIMINAL JUSTICE POLICY AND PRACTICE, FIRST IN TERMS OF EACH SUBJECT TAKEN SEPARATELY, AND THEN AS THE THREE INTERSECT. CONCLUSIONS ARE WELL-REASONED, AND SUPPORTED WITH UP-TO-DATE RESEARCH AND STATISTICS. CHAPTERS ARE INTRODUCED WITH STRIKING EXAMPLES FROM HISTORY, NEWS STORIES OR POPULAR CULTURE; AND TEXT IS WRITTEN IN LIVELY AND STRAIGHTFORWARD LANGUAGE: CLEAR ENOUGH FOR BEGINNING STUDENTS OF CRIMINAL JUSTICE OR CRIMINOLOGY, MEATY ENOUGH FOR ADVANCED UNDERGRADS AND GRAD STUDENTS. ALL WILL BE CHALLENGED TO THINK FRESHLY AND CRITICALLY ABOUT CRIMINAL JUSTICE IN AMERICA."

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## CALL FOR ARTICLES

### CRITICAL CRIMINOLOGY: AN INTERNATIONAL JOURNAL

Critical Criminology is the official journal of the Division of Critical Criminology of the American Society of Criminology. The journal deals with questions of social, political and economic justice. Critical Criminology is for academics and researchers with an interest in anarchistic, cultural, feminist, integrative, Marxist, peace-making, postmodernist and left-realist criminology. The journal does not limit the scope of the inquiry to state definitions of crime and welcomes work focusing on issues of social harm and social justice, including those exploring the intersecting lines of class, gender, race/ethnicity and heterosexism. The journal is of interest for all persons with an interest in alternative methodologies and theories in criminology, including chaos theory, non-linear analysis, and complex systems science as it pertains to the study of crime and criminal justice. The journal encourages works that focus on creative and cooperative solutions to justice problems, plus strategies for the construction of a more inclusive society.

Manuscripts should be approximately 6,000 to 8,000 words (including tables, illustrations, notes and references). Please send four hard copies of manuscripts, as well as an electronic copy (on 3.5 diskette or on CD-ROM) to Dr. Shahid Alvi, Editor-in-Chief, Faculty of Criminology, Justice & Policy Studies, University of Ontario Institute of Technology, 2000 Simcoe St. N, Oshawa, Ontario, Canada L1H 7K4.

We do not have the space here to consider the potential impact of the zemiological movement, but in lieu of further study, at this point we are not ready to give up on critical criminology's ability to employ the term "crime" for practical advantages, despite the obvious roadblocks. As we know, there is a certain linguistic power in the term "crime" that is not found in other words, as the implied moral condemnation and distaste of the behavior in question seems to carry more profundity with wider audiences. This, however, is a double edged sword: Though the term is forceful, it may be too powerful for some to apply to state agents and practices, as the research discussed above suggests. The obvious way to solve this problem is by concentrating intellectual energy in order to bring the humanistic values we all share to the level of legitimacy in the wider social arena. The apparent reticence on the part of progressives untrained in criminology to use the term crime to publicly describe the U.S. war on Iraq is really just a call for critical criminologists to do a better job of articulating and communicating the humanistic vision in a language everyone can understand. Indeed, if the term "criminal" is loaded, the term "harm" is perhaps even more so, and to their credit, zemiologists have clearly recognized this problem (Hillyard, Pantazis, Tombs, Gordon, and Dorling, 2005). It seems to us that in the limited time frame we have in our classrooms, the questions students may have about the ambiguity of the term "harm" may be more difficult to answer than relying on clear international legal frameworks that reject violence. Further, since most of our students are interested in criminal justice and criminology, it makes sense that they could more easily identify with discussions framed around law. There may be more acceptance of this approach now since the International Criminal Court has reached formal legal status and is actively investigating state officials accused of war crimes in three central African cases. There is also an opportunity to drive the point home during the upcoming trials of former Khmer Rouge leaders in Cambodia. Although the details of international law and justice can get tricky, their basic spirit is relatively simple to explain, and while this is not ordinarily the basis upon which intellectual choices should be made, brief pedagogical moments often require parsimony. Of course, there may be fruitful ways to integrate insights from the zemiological approach with alternative definitions of crime, and we encourage serious analysis of this possibility.

Following Arrigo (2001), Barak (2003), and Tunnell (1995), we would like to challenge our critical criminological colleagues to think more deeply about praxis in general, but specifically by making every moment in the classroom count.

Where else do we have so many people listening? In terms of discussing the war on Iraq in classes within the framework we have suggested here, there is no reason to fear David Horowitz, the celebrated right-wing pundit, because the legal case is airtight.

This is not something to be flippant about, as Horowitz's group, *Students for Academic Freedom*, attacked a criminal justice professor last year after a student complained about an exam question that was erroneously thought to be phrased in the following manner: "Explain why George Bush is a War Criminal." Investigation by university administrative officials revealed that the actual question was quite different and was in fact optional. According to a University of Northern Colorado spokesperson, the actual exam question read:

The American government campaign to attack Iraq was in part based on the assumptions that the Iraqi government has "Weapons of Mass Destruction." This was never proven prior to the U.S. police action/war and even President Bush, after the capture of Baghdad, stated, "we may never find such weapons." Cohen's research on deviance discussed this process of how the media and various moral entrepreneurs and government enforcers can conspire to create a panic. How does Cohen define this process? Explain it in-depth. Where does the social meaning of deviance come from? Argue that the attack on Iraq was deviance based on negotiable statuses. Make the argument that the military action of the U.S. attacking Iraq was criminal? (Jaschik, 2005).

Horowitz (2005) has apologized for getting the facts wrong in the first place but has maintained that the actual question was still inappropriate. We assume he is granting primacy to the last parts of the exam question above, as the lion's share of the query seems quite standard. Nevertheless, Horowitz (2005) writes: "What happened in [the professor's] class at the University of Northern Colorado is not education, it is indoctrination. And that violates the academic freedom of the students who were subjected to it."

To avoid such backlash and the subsequent waste of time, energy, and resources it causes, it would be better to ask students to review applicable international laws and relate them to the conditions and circumstances under which Iraq invaded Kuwait in 1990, the U.S. invaded Iraq in 1990-91 and then again in 2003. Unfortunately, there are hundreds of other examples that could be used as well. Students are then free to form their own conclusions but must demonstrate the ability to apply established legal frameworks to various events. Then, by discussing various approaches to the definition of crime, students could address the question of the criminality of the events in question. We all want our students to think critically, but we also need to respect their rights to form their own conclusions on controversial issues that fall outside the realm of a course's subject matter. Asking students to wrestle with law and actual events does nothing to compromise student freedom. On the contrary, it makes them better thinkers.

Lakoff's ideas seem to be helpful in thinking about these matters because how we frame crime and justice issues has a

lot to do with how they are heard and subsequently what people ultimately understand to be the “reality” of the phenomena. Indeed, facts are useful but have limited impact unless they are framed in ways that are sensitive to divergent audiences. This is all the more important right now given the especially violent and widespread nature of criminal state policies and practices.

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1. Some may argue that the Clinton administration represented a break in the chain of conservative presidents dating back to Reagan. However, when one examines Clinton's positions on various crime issues, it is clear that they were not liberal (e.g., Clinton was pro-death penalty, wanted more funding for police officers, and never slowed or opposed punitive legislation like three strikes laws and mandatory minimums for drug offenders. In addition, the Clinton administration continued to dismantle the welfare state as his predecessors Reagan and Bush I). See Kramer and Michalowski (1995) for a full discussion of the Clinton's administrative record on crime and criminal justice.

2. Both of us have used these essays in courses. Kauzlarich used them in a recent graduate sociology class, and while many of the students were progressive, some were not. All of the students gave extremely positive feedback about the articles. Some even said that they were going to copy the articles and pass them out to acquaintances, friends, and family members. Matthews used one of the essays in an undergraduate class and found that students were quite receptive to the analysis. He even had one student comment that the Kramer and Michalowski (2005) argument was "airtight." We agree.

3. Because of the substantive falsity of his 2003 presentation to the U.N. Security Council, Powell has called the effort a "blot" on his record (ABC News, 2005).

We are not suggesting that the boundaries of academic freedom should not be tested directly, but rather that the costs involved in such challenges may prove to be so significant and stressful that the ultimate goal of expanding and developing students' critical thinking skills could be seriously compromised.

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