

Western States Legal Foundation

CONGRESS AND THE UNITED NATIONS MUST ACT TO STOP AN ILLEGAL WAR AGAINST IRAQ

Statement of Andrew Lichterman
Program Director, Western States Legal Foundation

March 17, 2003

In 1945, Robert L. Jackson, the U.S. Representative to the International Conference on Military Trials, wrote:

We must make clear to the Germans that the wrong for which their fallen leaders are on trial is not that they lost the war, but that they started it. And we must not allow ourselves to be drawn into a trial of the causes of the war, for our position is that no grievances or policies will justify resort to aggressive war. It is utterly renounced and condemned as an instrument of policy.

This principle— that military force only may be used for individual or collective self-defense— has been at the core of international order, and international law, since the end of World War II. It is embodied in the United Nations Charter, which requires recourse to the Security Council when there is a threat to international peace. Article 39 of the Charter gives the Security Council the responsibility to determine when a threat to peace exists, and what the collective response will be. A state may not decide for itself alone that a threat that justifies war exists, unless actually attacked, or, in the view of some experts, where there is a threat of attack that is immediate and unavoidable, and where there are no alternatives to the use of force.

No credible evidence has been provided by any government that Iraq poses an imminent threat to attack any other country. There has been no authorization for the use of force by the Security Council, however the U.S. government may choose to twist facts or words. Even if the United States somehow were able to pressure a majority of Security Council members into a new resolution authorizing force, the facts would remain unchanged.

The Bush Administration has argued strenuously that refusing to endorse the rush to war will make the United Nations irrelevant. Standing up for principles in the face of overwhelming force never has made principles irrelevant. To the contrary, principles only have meaning if one is willing to assert them when there is something real at stake. Both the United Nations and the Congress of the United States must exercise their lawful responsibilities, and act to stop this illegal war.