

Thursday, September 11, 2008

Seven years later.

Â The Silver Spring, Maryland, YMCA has become an eerie place of sorts. On September 11, 2001, I was working out there before starting the workday. On my way to the locker room to the office, I saw the television playing the horrifying footage of the World Trade Center attack and collapse, and learned that the Pentagon -- just about ten miles away --Â also had been attacked. Â A year later, on October 22, 2002,Â I hit extraordinarily heavy morning traffic on the way to the same YMCA. The radio said that another sniper shooting had just happened.Â I finally arrived at the YMCA, and laterÂ learned that, in all likelihood, now-convicted snipers John Allen Mohammed and Lee Malvo were at the YMCA while I worked out there that morning, and probably numerous times before that. If I ever saw them there, I was never able to match their photos in the media with anyone I saw at the YMCA. Â In July 2005, I visited for the first and only time the site of the World Trade Center attack. Eerie does not begin to describe the feeling. For the year before law school, I worked just six blocks from the World Trade Center, sometimes used its subway and commuter train stop, and rode its elevators several times. Now those buildings were gone. Â In airports and beyond, our civil liberties have been tremendously curtailed after September 11. After first dealing with the horror and sadness of the tragedies of that day, anger ran rampant with countless people, and I do not fault the feelings of anger. How best to channel and diffuse that anger? Do violent responses guarantee further violent counter-responses? Â As I often do when pondering such questions, I ask "what would my teacher Jun Yasuda do?" Jun-san once said:Â "You know, several times I have had somebody hitting me during a prayer. I do not hit back. That would just make him more angry, more hateful. My way, if somebody is trying to hurt me, is to bow to him and to pray. I try to ask why he is angry, and to listen to him. I want to know why is he wounded inside." In that regard,Â I onceÂ asked Jun-san what she would do if she lived in the 1940's and bumped into Hitler, since I knew her response would not have mirrored my response of shooting him dead first and asking questions later. Whether or not I agreed, Jun-san explained that everyone has several personalities including good parts of their personalities; she mentioned Hitler's having been a painter. Jun-san would have asked Hitler why he was so angry. She said she might have started by offering him a massage, looking at it as soothing the soul of a savage beast, I suppose.Â Â Before closing, I repeat and continue agreeing with the following article I wrote about September 11 soon after it happened, which was published in a special edition on the tragedy in the Trial Lawyers College'sÂ Warrior magazine,Â and I reprint itÂ here:Â Â ON JUSTICE, MILITARY RESTRAINT AND PEACE:Â Â SEPTEMBER 11 LEADS TO CRITICAL CROSSROADSThe only just goal of battle and war -- if there is any -- is to achieve a just peace. There can be no just war if no side struggles for justice, restraint, peace and love within and without.Â The September 11 terror attacks hit all the more home for me, because I have spent plenty of time living and working near the Pentagon and World Trade Center, and have visited people who work in both buildings. To the extent that these attacks involved an anti-Israel campaign, the attacks also strike at my strong support over the years for a secure and just peace for Israel and for a just Israeli government and military.Â It is hard enough for me to have sufficient faith in the United States government and military in general, let alone when the United States is preparing for battles and warmaking. The United States military has not shown that it can stop more My Lais and more military atrocities. The United States government and military executed the unjustified Grenada invasion, the unjustified Panama invasion, the premature invasion of Iraq, and the numerous premature post-war bombings of Iraq. The United States government and military also push for military solutions to drug trafficking, often empowering unjust foreign governments in the process.Â Before the September 11 attacks, we already had a government that provided insufficient protection of civil liberties and civil rights, and a president who vocally supported the Texas death penalty machine and who can be expected to do the same at the federal level. In the weeks and months ahead, we can expect unjustified and unconstitutional gags and obstacles on peaceful demonstrators and the press, further erosion of Fourth Amendment rights, increased harassment of immigrants, expanded use of the unconstitutional secret terrorism courts, and expanded enforcement of the statutes criminalizing financial donations to organizations that the State Department deems to be terroristic.Â For those of us who oppose the death penalty and embrace full due process rights for criminal defendants and civil litigants, how do we jibe such sentiments with sending United States troops to battle where they will cause soldier and civilian deaths and wounds without any sufficient semblance of due process? How can death penalty abolitionists harmonize their total opposition to court-ordered killing, with the even wider-spread killing of soldiers and civilians that comes from going to war? For those, like myself, who are scared about putting a gun and power of arrest in a rookie police officer's hands, how do we feel about putting guns and bombs in the hands of inexperienced soldiers and unjust soldiers?Â The power of love has been a big focus at the Trial Lawyers College. Wartime cannot suspend our struggle to continue to be loving -- or at least just -- even towards our most heinous enemies.Â Through it all, I continue to be reminded of the message of so many pacifists that violence begets violence, and also of my intention to flee or fight when those I love or myself are threatened with immediate physical harm.Â To sufficiently restrain themselves, United States warmakers must listen to the voices of the rational pacifists. One of them is Jun Yasuda of Grafton, New York, who is a longtime peace activist and nun with the Nipponzan Myohoji Buddhists. She once told me about the day

she joined a protest supporting the land rights of native people in Canada. At some point, an opponent of the protest rushed towards Jun-san and some other protesters swinging a metal pipe. Jun-san expected she would die. Instead of protecting herself, Jun-san prayed for the attacker, because he and all human life are sacred to her. Jun-san did not flee or fight in fear, because she has resigned herself that she will die one day anyway, and she sees death as just another part of life. Somehow, the attacker's pipe never hurt anyone, and he was subdued (clearly not by Jun-san).
Rev. Ishi Bashi-san of Queens, New York, also with Nipponzan Myohoji, told me about being held up at gunpoint one summer evening in Central Park. Instead of fleeing or fighting or fearing, Ishi Bashi-san profusely apologized to the robber that he had no money on him, since he only had on shorts and a t-shirt without pockets. Ishi Bashi-san told the robber that the robber clearly needed money more than Ishi Bashi-san, so he invited the robber to come home with him, where he could give the robber money. The robber became scared, bowed, and ran away.
I asked Ishi Bashi-san whether he thinks it wrong for a person to defend against an immediate physical attack. He accepts this as an option, but says he would never do so himself.
Let us learn from past military injustices, atrocities and overkill. Let us learn from the rational pacifists. We are at a critical crossroads where we all must struggle to maintain and enhance justice and human rights during the heightened national security and military actions and hysteria that will take place. We will pay a high price if we do otherwise.
Originally appeared in the Trial Lawyer's College's Warrior magazine (October 2001 special edition), Jon Katz shares copyright with the Warrior.
Jon Katz
ADDENDUM: While the horrors of September 11 must not be allowed to trump civil liberties, this does not preclude the deep importance of keeping the victims in our hearts and memories.

Posted by Jon Katz in Constitutional Law at 00:00