

افغانستان آزاد – آزاد افغانستان

AA-AA

چو کشور نیاشد تن من مباد بدین بوم ویر زنده یک تن مباد
همه سر به سر تن به کشتن دهیم از آن به که کشور به دشمن دهیم

www.afgazad.com

afgazad@gmail.com

European Languages

زبان های اروپایی

<http://truth-out.org/opinion/item/15187-an-illegal-anniversary?tmpl=component&print=1>

An Illegal Anniversary

By Robert Jensen

3/19/2013



A sniper from Alpha Company, 2nd Battalion, 3rd Infantry Regiment searches for enemy snipers from a rooftop in Rashid, Iraq, June 2, 2007. (Photo: Sgt. Tierney Nowland / US Army) On the 10th anniversary of the United States' illegal invasion of Iraq, we can expect the war's supporters to argue that military action seemed necessary at that moment, while critics will remind us of the suffering that resulted from that tragic miscalculation.

But amid the rationalizations and critiques, we should linger on this uncomfortable term: "illegal invasion."

No matter how much we all ignore it, here is the reality: The US invasion of Iraq was unlawful. The leaders who planned and executed the war are criminals. US citizens bear some responsibility for not holding those leaders accountable.

The charter of the United Nations is clear about when the use of force in international relations is legal. War must be authorized by the UN Security Council, and in this case, the council rejected a resolution authorizing war. The only other condition under which a member state can go to war is in self-defense when attacked, a principle that is extended to the right to respond to an imminent attack, what is sometimes called "the customary right of anticipatory self-defense."

The basic principles are uncontroversial and clearly articulated in articles 39 and 51 of the UN Charter, though there is debate among legal experts about interpreting terms such as "imminent" and "anticipatory." But whatever one's position in those debates, there is no way to stretch the facts of this invasion to justify a self-defense claim.

At this point, many people respond by dismissing international law as irrelevant. Because US policymakers' first job is to protect Americans, they argue, our leaders shouldn't be constrained by international law - the US Constitution trumps international law or treaties.

But a small problem arises: Article VI of the Constitution states that "all Treaties made, or which shall be made, under the Authority of the United States" are part of "the supreme Law of the Land." Since the United States signed the UN Charter (and, in fact, wrote most of it), to reject international law in this matter is to express contempt for the plain meaning of the US Constitution. No patriot would dare.

So, back to those uncomfortable conclusions: A decade ago, US leaders launched what under the principles of the Nuremberg Tribunal is called a "crime against peace." Whether in the course of that crime, US forces also committed war crimes can be debated. For example, should the deliberate bombing of the civilian infrastructure of a country be considered a war crime? What about the use of cluster munitions in ways that predictably kill civilians? I believe both are criminal, but let's put those more complicated issues aside. The illegality of the invasion itself is not a tough question.

In my travels outside the United States, I have found that the vast majority of people agree that the US invasion was unlawful. Within the United States, mentioning this worldwide consensus typically is considered idealistic and irrelevant. But while we can ignore evidence and logic, and even ignore the world, we can't escape the implications of those choices.

The moral force of law, domestic or international, lies in the consistent application of clear standards. When laws are applied only to the poor, and the rich act with impunity, for example, we understand that as a perversion of the law.

Over and over in the United States, we proclaim our commitment to the rule of law - we are a nation of laws not men. If that were the case, we would turn over to the International Court of Justice high-ranking figures from the Bush administration, which initiated the war; from the Obama administration, which continued the war; from Congress, which enabled the war; and from the military, which prosecuted the war. We would determine the amount of reparations we owe Iraq and begin to make payments. And we would apologize to the Iraqi people and to the world.

Why is that unthinkable in our political culture? Perhaps it is because we worship power rather than respect law. Perhaps it is because we have no intention of acting on the moral principles we routinely impose on others.

Perhaps it is because we are not the people we tell ourselves we are.