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Obama with Blood on His Hand

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For many Americans, the promise of the new Obama administration was that finally the United States would reject the neocon concept that America can ignore international law and use indiscriminate violence around the world to assert its interests.

That hope was largely snuffed out Tuesday when President Obama gave his hawkish generals and the neocon pundits most of what they wanted by expanding the eight-year-old Afghan War and guaranteeing more violations of the laws of war, as Nicolas J S Davies writes:

President Barack Obama carefully avoided describing his decision to dispatch 30,000 more U.S. troops to Afghanistan as an "escalation," but that is what he announced.

So what will his decision to pour more troops, weapons and tons of ammunition into this already war-ravaged country really mean, for Americans and for the people of Afghanistan?

On Sept. 4, German forces in Kunduz province in northern Afghanistan called in a U.S. air strike on two fuel tankers that had been captured by "anti-coalition forces" (ACF).

German officials knew that there was a crowd of civilians around the tankers helping themselves to a windfall of free fuel, but they called in the air strike anyway. This was a clear violation of the laws of war, which prohibit attacking civilians even when there are believed to be combatants amongst them.

In the aftermath of the attack, it was found that 142 people had been killed, and that the great majority of them were civilians.

General Wolfgang Schneiderhan, the Chief of Staff of the German Army, and Franz Josef Jung, who was the Defense Minister at the time, were both forced to resign, and Peter Wichert, the junior civilian official who approved the air strike, was suspended.

An obvious question must occur to Americans reading this tragic story. We know that thousands of U.S. air strikes have killed tens or even hundreds of thousands of civilians in Iraq and Afghanistan. Why has no U.S. general or defense secretary resigned over any of those incidents?

In other ways, the stories in the press have followed the same pattern. They begin with denials and assertions that only combatants were targeted and killed. Then there are investigations, and eventually U.S. officials admit that they killed large numbers of civilians, although the figure acknowledged is always less than that cited in reports by U.N. or local officials.

But nobody is court martialed, and nobody resigns. We've all seen this story repeated dozens of times since 2001.

Air Strikes

In reality, U.S. troops in Iraq and Afghanistan have operated under standing orders to "call for fire" (an air-strike) whenever resistance fighters take cover in a house or apartment building, even when large numbers of civilians may also be inside the building.

The overriding priorities have always been to avoid risking American lives in dangerous house searches and to kill "insurgents."

Human rights reports by the U.N. Assistance Mission to Iraq (UNAMI) have documented many such incidents in which civilians have been killed, as well as extensive discussions between U.N. and U.S. officials about them.

For instance, in its human rights report for the 2nd quarter of 2007, UNAMI insisted that American air strikes in densely populated civilian areas were violations of international law.

The section of the report headed "MNF (multi-national force) military operations and the killing of civilians" included this footnote:

"Customary international humanitarian law demands that, as much as possible, military objectives must not be located within areas densely populated by civilians. The presence of individual combatants among a great number of civilians does not alter the civilian character of an area."

The report demanded, "that all credible allegations of unlawful killings by MNF forces be thoroughly, promptly and impartially investigated, and appropriate action taken against military personnel found to have used excessive or indiscriminate force... The initiation of investigation into such incidents, as well as their findings, should be made public."

On further examination, the contrast between American and international responses to the killing of civilians in Iraq and Afghanistan has roots that extend well beyond these immediate incidents and the officials involved.

American attitudes to protecting civilians in wartime and other requirements of international humanitarian law differ sharply from those of people in other countries.

This dichotomy raises questions of collective responsibility for war crimes that implicate American civil society as a whole, from our media and educational systems to our fundamental view of ourselves as a civilized people.

And it has made occupation by *American* forces especially dangerous and deadly for the people of Iraq and Afghanistan.

Public Attitudes

The *People on War* report by the International Commission of the Red Cross (ICRC) illustrates the dichotomy very well.

To commemorate the 50th anniversary of the Geneva Conventions in 1999, the ICRC conducted a survey of 17,000 people in 17 countries to see how well people understood the restrictions that the Geneva Conventions place on military forces in order to protect civilians, combatants and prisoners in wartime.

The 17 countries surveyed included 12 that had recently experienced war on their own soil, four permanent members of the U.N. Security Council, and Switzerland, where the ICRC is based.

The report noted that war has changed over the past century. Whereas about 86 percent of the people killed in the First World War were actual combatants, 90 percent of those killed in contemporary wars are civilians.

The report concluded that, in the modern world, "war is war on civilians." It went on:

"The more these conflicts have degenerated into wars on civilians, the more people have reacted by reaffirming the norms, traditions, conventions and rules that seek to create a barrier between those who carry arms into battle and the civilian population.

"In the face of unending violence, these populations have not abandoned their principles nor forsaken their traditions. Large majorities in every war-torn country reject attacks on civilians in general and a wide range of actions that by design or default could harm the innocent.

“The experience has heightened consciousness of what is right and wrong in war. People in battle zones across the globe are looking to forces in civil society, their own state institutions, and international organizations to assert themselves and impose limits that will protect civilians.”

Protecting Civilians

People in the United States, Great Britain, Russia, France and Switzerland were asked about the importance of protecting civilians in time of war.

They were asked to choose between a firm statement that combatants "must attack only other combatants and leave civilians alone" and a weaker one that "combatants should avoid civilians as much as possible."

In Great Britain (72 percent), Russia (77 percent), France (76 percent) and Switzerland (77 percent), about three quarters of those surveyed chose the absolute prohibition on attacking civilians, which in fact accords with international law under the Fourth Geneva Convention, while 17 percent in Russia and France, 16 percent in Switzerland and 26 percent in Britain chose the weaker one.

In the United States, however, a different pattern emerged. Only 52 percent agreed that combatants "must leave civilians alone," while 42 percent chose the weaker option, roughly twice as many as in the other countries.

The report said, "Across a wide range of questions, in fact, American attitudes towards attacks on civilians were much more lax."

A similar discrepancy emerged in response to questions about torture and the treatment of prisoners of war. More than one in three Americans thought that torture could be justified, compared with 19 percent in Britain and 10 percent in France.

The survey also asked questions about the Geneva Conventions themselves. Respondents were asked whether they believed that the Conventions can help prevent wars from getting worse or whether they "make no real difference."

Only a minority (28 percent) of people in the 12 countries that had experienced war thought the conventions "make no real difference," along with 33 percent of Russians and 45 percent in France.

But a majority of British (55 percent) and Americans (57 percent) agreed with the statement that the Conventions "make no real difference."

Why are "American attitudes towards attacks on civilians more lax" than the attitudes of people in other countries?

This is a form of American exceptionalism, but Americans have generally believed that they are exceptional in their commitment to justice and human rights, not in their disregard for them.

Breakdown of Norms

When the victims of war in the *People on War* survey were asked to explain the breakdown in civilized norms that led to combatants killing civilians, they chose the *will to win at any cost* and *disrespect for the laws of war* as the two principal factors.

Another reasonable explanation they offered placed greater responsibility with political and military leaders, and seems relevant to the case of the United States:

"Many people think the limits are breached because ordinary people have been ordered to harass, dislodge or even attack civilian populations, sometimes uncomfortably at odds with their own beliefs and prevailing norms.

"Political and military leaders, it is believed, have chosen to pursue the battle in ways that endanger civilians, but people are prepared to believe that the leaders have a plan or a good reason for their course of action. At the very least, they are ready to follow their orders, because as ordinary people they have little choice."

But these general explanations don't account for the discrepancy in the case of the United States. There must be specific factors in the U.S. educational and doctrinal system that result in either a lower regard for the lives of people in other countries or a disrespect for the laws of war or both.

Without further research, it is hard to be specific, but several factors that make the United States exceptional spring to mind.

One factor could be that Americans have not experienced war on their own soil since the American Civil War. Americans may therefore find it harder to empathize with the predicament of civilians in war-zones.

Or perhaps Americans have been gradually conditioned over time by deferential political and media responses to the killing of civilians by U.S. forces to regard it as regrettable but acceptable.

Or American leaders may have made a more or less conscious choice not to educate people about the laws of war for fear that that might weaken the United States' ability to commit military forces to combat or limit the ways in which they could be used.

But in that case we would still have to explain the difference between American leaders and their counterparts in other countries.

Crossing Lines

The history of U.S. wars, covert operations and proxy wars that have killed millions of people all over the world, must also be relevant. Covert forms of violence in particular, by their very nature, violate both laws and moral codes.

When the United States has already crossed legal and moral lines on such a scale since it signed the conventions in 1949, perhaps it is unrealistic to expect the public to respect rules that its government so flagrantly disrespects.

Some combination of these factors (isolation from the reality of war; the more deferential attitude of U.S. media; a deliberate lack of education in this area; and the corrosive effect of the government's own actions) may account for the unique results in the American portion of the *People on War* survey.

Whatever accounts for our country's disrespect for the laws of war, we cannot deny our collective responsibility for its consequences. While international law holds individuals responsible for war crimes, it also holds countries that commit war crimes collectively responsible for compensating their victims.

Iraq Veterans Against the War (IVAW) is a group of Americans who are uniquely qualified to assess the collective responsibility of the United States for the death and destruction inflicted on the people of Iraq.

IVAW has three principal demands. In addition to calling for the immediate withdrawal of occupation forces from Iraq and Afghanistan, and for adequate medical treatment and benefits for veterans, IVAW insists that the United States should pay reparations to Iraq.

Reparations are the traditional means of assessing collective responsibility for aggression and other war crimes committed by one country against another.

Following Iraq's invasion of Kuwait, a U.N. Compensation Commission ordered Iraq to pay \$52.5 billion in reparations to the government of Kuwait and its people.

A just imposition of U.S. reparations to Iraq would help to compensate some of the victims and rebuild some of Iraq's devastated infrastructure. And it could have an important added benefit. It might just teach us to take international law more seriously in the future.

Soldiers and the Rules

People on War also surveyed members of the armed forces in each country, and found little difference between the attitudes of military personnel and civilians.

This seems to confirm the premise of the study that it is the general attitudes of civilian populations that countries send to war with their soldiers.

The general lack of education in the United States could be overcome by intensive emphasis and education on the laws of war within its armed forces.

So it is unfortunate that the United States armed forces do not have such a program. Each soldier receives only a one-hour lecture on the laws of war during basic training and a refresher prior to deployment to a theater of war.

An officer I spoke to in the Centcom press office and other soldiers I've talked to remembered their JAG lecture covering the treatment of prisoners but couldn't remember what was said about the 4th Geneva Convention, which defines the responsibilities of occupying forces toward civilians.

This of course stands in stark contrast with the provisions of the Convention itself. Article 144 of the Convention requires that, "Any civilian, military, police or other authorities, who in time of war assume responsibilities in respect of protected persons, must possess the text of the Convention and be specially instructed as to its provisions".

Once in theater, military training and discipline is designed to produce unquestioning obedience to orders, but even the basic accountability of a military chain of command has been subverted throughout U.S. operations in Iraq and Afghanistan.

The National Guard unit from my neighborhood in Miami found themselves guarding Iraqi prisoners at Al-Assad air-base, preparing them for interrogation with techniques of sleep deprivation and death threats.

But the only orders their officers gave them were to do whatever they were told by "spooks," known by code-names like "Scooter" and "Bear." They had no idea who was really issuing their orders or from what military or civilian agency they originated.

Accountability for the crimes they were committing was not just absent - it was carefully and deliberately forestalled.

Killing Civilians

But the most far-reaching breakdown of the laws of war is the failure to make the fundamental distinction between civilians and combatants. This is especially difficult for soldiers in hostile occupied territory where any civilian can become a resistance fighter.

But the laws of war are clear that the distinction must be made on an individual basis and that collective punishment of groups or communities of people because of the actions of a few of them is prohibited.

In Afghanistan and Iraq, without proper training or strict discipline, U.S. forces have often come to treat all adult males and teenage boys as "insurgents."

At a court martial for murder at Camp Pendleton in California on July 14, 2007, a Marine Corporal testified for the defense that he did not see the cold-blooded killing of an innocent civilian as a summary execution.

"I see it as killing the enemy", he told the court, adding that, "Marines consider all Iraqi men part of the insurgency."

When this attitude extends to senior officers, it inevitably permeates the forces under their command.

Following the cold-blooded murders of three civilians on an island in Lake Tharthar in northern Iraq, a court martial heard that the colonel in command of the brigade had given the order at the outset of the operation to "kill all military-age males."

When the troops did not immediately kill two of the men, a sergeant at company headquarters asked over the radio why they had not killed them as they'd been ordered to do. They then told the men to run away and shot them in the back.

The colonel was allowed to testify in secret at the court martial of his troops and he was not charged with a crime.

Iraqi towns besieged by U.S. forces were sealed off with barbed wire and earthen berms and denied food, water, electricity and medicine, a classic case of collective punishment.

Any resistance to these medieval siege techniques became a pretext for air strikes and artillery fire into the besieged towns.

The Assault on Fallujah

In the case of Fallujah, an all-out aerial and ground assault was launched on a city where U.N. officials estimated that 50,000 civilians remained trapped.

U.S. forces had set up checkpoints around the city to prevent men and boys between the ages of 15 and 55 from fleeing the kill-zone before the assault began.

But, unlike the civilians, the Iraqi Resistance was able to evade the U.S. cordon, and it redeployed about half of its forces to Mosul and elsewhere before the attack.

This forced U.S. commanders to withdraw the two Stryker battalions manning the cordon around Fallujah four days into the battle as resistance erupted in Mosul. That maneuver, in turn, permitted most of the estimated 1,000 Resistance fighters remaining in Fallujah to escape.

U.S. Marines and air forces killed an estimated 4,000 civilians in Fallujah.

In a flagrant violation of the 1st Protocol to the Geneva Conventions, U.S. Marines are trained to "dead-check" wounded resistance fighters.

"They teach us to do dead-checking when we're clearing rooms," a marine told Evan Wright of the *Village Voice*. "You put two bullets into the guy's chest and one in the brain. But when

you enter a room where guys are wounded you might not know if they're alive or dead. So they teach you to dead-check them by pressing them in the eye with your boot, because generally a person, even if he's faking being dead, will flinch if you poke him there. If he moves, you put a bullet in the brain."

'Amoral' Behavior

Many present-day Americans have accepted the pseudo-realist proposition that foreign policy is "amoral" and that our country's war crimes are just part of a long and inevitable history of murderous and extra-legal behavior.

This indoctrination may partially explain the results of the *People on War* survey. But it is not historically accurate.

The United States emerged onto the world scene at the end of the 19th century with a genuinely new vision of international affairs. American diplomats and international lawyers led the "legalist" movement to construct a legal framework for international politics.

With American leadership, diplomats and international lawyers from the major powers negotiated mechanisms to peacefully resolve disputes; to establish international courts; to codify customary international law into explicit international treaties; and to regulate the conduct of war so as to limit some of its most horrific consequences.

They achieved limited but real progress, leading to the Hague peace conferences (1899 & 1907), the League of Nations, the Permanent Court of International Justice (1922), the Kellogg Briand Pact (1928) to "renounce war as an instrument of national policy," and eventually to the United Nations Charter (1945) and the Geneva Conventions (1949).

The U.N. Charter brought together many elements of the earlier treaties and institutions in a comprehensive system dedicated to peace as the predominant value and goal in international affairs.

The civilized norms established through this process did not originally extend to U.S. or European colonies, and the United States historically regarded the sovereignty of small countries in Central America and the Caribbean as subservient to its own interests.

However, with the end of the colonial era, the legal framework of international law was extended to apply to people everywhere on the basis of universally recognized rights.

The U.N. Charter, which originally offered protection from foreign aggression to the people of only 51 member countries, now extends to 192 countries.

America's commitment to the framework of international law that its former leaders and diplomats worked so hard to construct has gradually been eroded by a dangerous belief that its own military power can replace the rules and institutions of international law as the ultimate arbiter of international affairs.

Since the Cold War

This erosion has accelerated since the end of the Cold War. In 1997, the Quadrennial Defense Review published by the U.S. Department of Defense violated the United Nations Charter by explicitly threatening unilateral military action to gain access to economic and strategic resources in other countries:

"When the interests at stake are vital...we should do whatever it takes to defend them, including, when necessary, the unilateral use of military power. U.S. vital national interests include, but are not limited to... preventing the emergence of a hostile regional coalition ... (and) ensuring uninhibited access to key markets, energy supplies and strategic resources."

Different countries' "vital national interests" frequently come into conflict with each other, so that justifying military action based on "defending vital interests" simply resurrects the central historical problem of international relations.

This is the very problem that the legalist approach to international relations was designed to resolve.

As the senior British legal adviser told his government during the Suez crisis, "The plea of vital interest, which has been one of the main justifications for wars in the past, is indeed the very one which the U.N. Charter was intended to exclude."

But it is only in this decade that the desire of American leaders to replace the rule of international law with the rule of U.S. military power has been seriously tested in the real world, and the results have been catastrophic.

Instead of responding to terrorism by applying and strengthening the rule of international law, the United States trapped itself in a downward spiral in which its weakening economic position, its opportunistic and illegal applications of military force and the growing confidence of all who seek to break free of its control are reinforcing each other to exacerbate the underlying crisis in its political economy.

The opportunities that the Obama administration has missed to break this downward spiral during its first year in office may come to haunt the United States for the remainder of its history.

The decision to escalate the war in Afghanistan stands as a critical mistake, and reveals that U.S. leaders remain largely oblivious to their own folly. Despite all the evidence of recent history, they remain incapable of judging how other people and countries will react to American violence.

If we doubt that the corporate-backed U.S. regime is ultimately susceptible to overwhelming public pressure, we only have to look at other countries. It was public pressure on U.S. allies that stranded the United States as a lonely occupier in Iraq.

The Netherlands is withdrawing its troops from Afghanistan in 2010, followed by Canada in 2011. With enough public and international pressure, President Obama and his corporate backers will abandon a war that they can never win and that, like Iraq, is progressively undermining Brand U.S.A.

If President Obama finds it politically impossible to withdraw, his successor will do so, but how many people must die for his doomed ambitions and the dictates of our plutocratic political system?