

Absurdities and Atrocities

From Mark LeVine, "War Crimes Have Doomed the Occupation," TomDispatch.com, March 11, 2004. See full article and source links at www.nationinstitute.org/tomdispatch/index.mhtml?emx=x&pid=1434

Following the revelations of prisoner abuse and torture at the Abu Ghraib prison, the swirl of apologia, controversy, and debate has managed to avoid a basic truth: the occupation is essentially one giant war crime, and there's no longer a way for it to be anything but a war crime, which is why it has to end now; not be fixed, not improved, not stayed-the-course. Ended.

As the internationally recognized occupying power in Iraq, the United States and other members of the coalition are obligated under UN Security Council Resolution 1483 of May 22, 2003 to "promote the welfare of the Iraqi people through the effective administration of the territory, including in particular working towards the restoration of conditions of security and stability and the creation of conditions in which the Iraqi people can freely determine their own political future." More broadly, the resolution also calls upon the coalition to "comply fully with their obligations under international law." What this means is that the coalition—in practice, the Americans and the British—must assure humane treatment for the civilian population (under Article 27 of the 4th Geneva Convention) and permit life in Iraq to continue as unaffected by its presence as possible.

At the same time it must ensure the public order, safety and welfare of the Iraqi people. This includes using all the means at its disposal to meet the basic food (Article 50), health (Articles 20, 50, 55, 56 and 59, among others), and education needs (Article 50) of the population. Moreover, Articles 68 and 69 of Protocol 1 of the Geneva Conventions (which is accepted as customary international law by the U.S. even though it hasn't signed the Protocol) reaffirm as a central obligation the provision of medical care while adding the requirement to provide "clothing, bedding, means of shelter and other supplies essential to the survival of the civilian population."

The problem of possibly systematic U.S. and coalition war crimes has been an issue in the foreign press over the past months and has resulted in direct accusations by normally cautious human rights organizations like Amnesty International and Human Rights Watch. As, speaking of the occupiers, an April report by Amnesty on the human rights situation in Iraq makes clear, "Under international humanitarian law, as occupying powers it was their duty to maintain and restore public order, and provide food, medical care and relief assistance. They failed in this duty, with the result that millions of Iraqis faced grave threats to their health and safety."

If millions are threatened, then thousands are surely dying. Some of this I saw myself in a recent visit to Iraq and tour of Baghdad's desperately starved hospitals, clinics, schools and poor neighborhoods. As international law professor and author Victor Conde explains, with each death due to a decrepit health care system that could have been fixed with modest inputs of money, supplies, and effort, the purposeful targeting of ambulances, or the prevention of or delay in the receiving of medical care, as happened during the fighting in Falluja and on numerous other occasions, the U.S. crosses the line between "merely" violating international humanitarian law (specifically articles 17 through 19 of the 4th Geneva Convention) and the commission of actual war crimes. These are defined as grave breaches of the 4th Geneva Convention as described in article 147, including "willful killing, torture or inhuman treatment, including... willfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person... or willfully depriving a protected person of the rights of fair and regular trial ...taking of

hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly."

Though the issue of war crimes is almost inescapable in Iraq itself and has been a subject of much discussion abroad, the American media has largely avoided the issue. I searched the archives of the *New York Times*, the *Los Angeles Times*, and the *Washington Post* to no avail for any article dealing with this issue substantively; CNN and the *Christian Science Monitor* have occasionally discussed it, but only on progressive webzines or at blogs can one find the issue considered in any detail.

Given the lack of coverage of such an important issue, perhaps Americans should take a minute next time they're online to actually read the 4th Geneva Convention. Or they could simply read the US Army Field Manual 27-10. If we assume that, among the thousands of people in coalition prisons, significant numbers aren't simply civilians arbitrarily detained in sweeps of supposed insurgent neighborhoods (which is probably not a good assumption), then this manual clearly defines prisoners like the ones in the infamous Abu Ghraib photos as "prisoners of war," since the Army considers "members of other militias and members of other volunteer corps, including those of organized resistance movements" (art. 61(2)) as falling under this category.

And so "softening them up" for interrogation, as several of the soldiers now charged with their abuse have said they were ordered (or was it merely asked?) to do, is expressly prohibited both according to U.S. military law and the 4th Geneva Convention. Yet both the U.S. and British armed forces have special training camps to teach their military intelligence personnel techniques—code named "R2I" (Resistance to Interrogation)—to do just what was done at Abu Ghraib. In other words, they are literally training their soldiers to commit war crimes as part of the normal practice of war.

This is not an issue of soldiers exceeding their authority. It's an issue of the commander-in-chief of the United States armed forces, along with his top commanders and civilian officials, being responsible for a military system that, once unleashed, cannot but commit systematic violations of humanitarian law. Without making ludicrous comparisons between President Bush and Slobodan Milosevic or Saddam Hussein, the same logic and international laws that led the U.S. to support their captures and trials could leave both President Bush and Prime Minister Tony Blair open to prosecution for the systematic commission of war crimes by the military forces and civilian personnel under their command.

Indeed, well before the circulation of the torture photos, evidence of war crimes was in the morning newspaper, for those who cared to note it. To take but one example, in the midst of cease-fire negotiations in the city of Falluja, an extemporaneous remark by American commanders might have alerted Americans to the commission of war crimes by their troops. In explaining to reporters that they would start "letting in medical and relief supplies" after two weeks in which the main hospital was also closed and medical personnel were prohibited from entering the city, Marine commanders implicitly admitted that they had, in fact, prevented those supplies from reaching the city and so, to that moment, were in "grave breach" of Articles 55 and 147 of the 4th Geneva Convention. These articles, so crucial to the protection of civilians in wartime, insist that "to the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate." Not only is the prevention of medical care prohibited, but any deaths resulting from such an action are considered war crimes.

The sad reality is that evidence of systematic war crimes in Iraq is impossible to ignore, especially when you're in Iraq. From the sorry state of the country's hospitals, to torture at Abu Ghraib—when I was

there in March the reality of torture at the prison was already old news to Iraqis—to the innumerable civilians killed by coalition forces, even the most modest of tours of the country left one with the feeling that the Americans and British were no better than the Israelis at the game of belligerent occupation. Even before the outbreak of the current insurrection it was hard to travel around the country and not feel that the level of violence deployed to maintain the occupation was a major reason it had lost legitimacy in the Arab two-thirds of the country.

And so to Iraqis and much of the rest of the world—but not most shocked Americans—the torture photos did not reveal an isolated phenomenon; they reflected a larger well-known structural problem (at the heart of which was the commission of "war crimes" as defined both by American military manuals and by international law). The situation had, in fact, become so bad that UN special envoy to Iraq Lakdar Brahimi alluded to the problem of war crimes on *This Week* when speaking of the situation in Falluja. He asked ABC News' George Stephanopoulos, "When you surround a city, you bomb the city, when people cannot go to hospital, what name do you have for that?" Indeed, only weeks after the occupation began a group of Belgian doctors who have spent the last year in Baghdad explained that, whatever crimes might be committed by Iraqis, as the internationally recognized belligerent occupiers "the current humanitarian catastrophe is entirely and solely the responsibility of the US and British authorities." Even that early into the occupation they documented violations of at least a dozen articles of the 4th Geneva Convention by coalition forces (including articles 10, 12, 15, 21, 35, 36, 41, 45, 47, 48, 51, and 55).

Countrywide, beyond the decrepit health, education, and infrastructure systems, of the estimated over ten thousand civilian deaths at the hands of coalition forces, many would certainly qualify as war crimes as defined in Article 147 of the 4th Geneva Convention as well as Article 3 of the Hague Tribunal statute—which was drafted in large part by the U.S. as the basis for trials of war crimes committed in the former Yugoslavia and Rwanda. (It describes the "wanton destruction... or devastation not justified by military necessity [and] attack, or bombardment, by whatever means, of undefended towns, villages, dwellings, or buildings, [and] the seizure of, destruction or willful damage done to institutions dedicated to religion, charity and education..." as war crimes). . . .

Moreover, there are at least 8,000 Iraqis being held without charge in what were previously Saddam's prisons as well as new detention camps set up by the Coalition forces, 70-90% of whom coalition military intelligence officials (according to the International Red Cross) now admit were likely arrested by mistake. Since almost none (if indeed any) of them have been charged with and convicted of a crime, or defined as prisoners of war (a label it seems the U.S. will only bestow on Iraqi soldiers captured during the invasion last year), their detention is a war crime under Geneva IV (articles 17, 18, 33 and 147), which states that "no protected person [that is, civilian] may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited." And prohibited as well is the detention of relatives of wanted persons ("the taking of hostages" in Articles 34, 53 and 147) and the destruction of homes of suspected insurgents or their families (Article 147), all of which have been widely reported in the international, and especially Arab press, and generally more grudgingly in the American press, and admitted to by U.S. forces.

The silence of much of the political opposition in our country on the most essential aspects of the war and occupation is making the issue of war crimes particularly damaging to America's position in the world. Even John Kerry, who today may or may not be part of that opposition, but who once had the courage to call American actions in Vietnam "war crimes," has offered only the most muted criticisms of American actions in Iraq. In fact, like many of his colleagues, he's called for even more troops to be sent in, which, given his Vietnam experience, he surely

must realize can only mean more war crimes and other violations of international law. As for the peace movement, it's been strangely silent on the war crimes issue. While critics are focusing on the "privatization" of military prisons or a loose chain of command as culprits in the abuses now confronting us, generally speaking, occupying other people's countries is by nature a criminal enterprise that requires increasingly brutal and dehumanizing means to keep the occupied, and no less important the occupiers, in line.

When I'm outside the US, whether in the Muslim world, Europe or almost anywhere else, people invariably ask me why Americans don't care that their country is violating the very principles of international law the U.S. helped design. Some might say it isn't fair that the occupiers, and not the occupied, are the only ones facing international condemnation and even prosecution for the violence. And in fact, while under international humanitarian law Iraqi civilians have no obligation of loyalty towards the occupying power, they are also prohibited by international humanitarian law from violently resisting the occupation or attempting to liberate Iraq., and according to Article 5 of the 4th Geneva Convention can in fact be detained by the coalition if they are "definitely suspected" of engaging in violent opposition.

But however bloody or criminal the actions of the Iraqi insurgency, the onus is on the coalition, as Iraq's internationally recognized occupying power, to conduct itself strictly according to international law. In this context, expressions of "disgust" or even apologies, however slow in coming, by President Bush or Prime Minister Blair, or promises of "independent" investigations by people connected to the occupying powers are meaningless, while admissions that the abuses at Abu Ghraib are "systematic" are misleading if the system referred to is only the prison system, and not the occupation as a whole. . . .

Given the possibilities, why is the peace movement not moving on this issue? Certainly it can't be because it's not relevant to the larger issues of peace and justice in Iraq. As Voltaire reminded us over 250 years ago: "Those who can make you believe absurdities will get you to commit atrocities... As long as we believe in absurdities we will commit atrocities." In other words, as long as the occupation of Iraq is based on the absurdities sold to us by the Bush and Blair governments, its very structure will make atrocities a necessary part of the functioning of the system it's put in place. And as long as Americans continue to believe in the absurdities behind the much larger "war on terrorism," they will continue to be accomplices to international crimes, and to increasing violations of the rights of their fellow citizens as well—and on a grand scale at that.

As damaging to the image and credibility of the United States, millions of people around the world . . . will believe that the United States has arrogated to itself the right to engage in practices it correctly condemns when done by other states it defines as enemies. If such perceptions and the reality shaping them are not changed soon, not only will Iraq descend into chaos and large-scale violence out of which -- if past wars of liberation are any indication -- it will take years to emerge, but the larger war on terror, for whose benefit Iraq was ostensibly occupied, will surely be lost, with grave consequences for the entire world.

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