

Fallujah and the laws of war

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Even as US forces launch new offensives against Iraqi cities, the flow of reports of serious war crimes committed by the American military in the assault on Fallujah continues. The United States and world media have focussed on one incident that occurred in full view of a television crew—the slaying of a defenceless Iraqi prisoner. It has been portrayed as an isolated incident.

On the contrary, all the independent evidence establishes beyond any doubt that the killings and destruction committed by US forces were so gross and deliberate that the name Fallujah will be recorded in the history books alongside such infamous atrocities as the 1937 bombing of Guernica, the crushing of the 1944 Warsaw uprising and the Vietnam War.

In its very conception, the onslaught on Fallujah was a calculated and illegal mass reprisal against the city and its inhabitants. It was undisguised revenge for the failure of the earlier operation by US forces in April 2004 to destroy the resistance of the city. It was conducted in flagrant and contemptuous violation of all the Geneva Conventions on the laws of war, which were adopted in 1949 in response to the horrors of the Second World War, and in particular the atrocities inflicted by the Nazi armed forces in Eastern Europe and the Soviet Union.

In a pep talk before the operation, Sergeant Major Carlton Kent, the most senior enlisted marine in Iraq, told his troops: “You’re all in the process of making history. This is another Hue city in the making. I have no doubt if we do get the word that each and every one of you is going to do what you have always done—kick some butt.” (The former Vietnamese imperial capital of Hue was nearly destroyed by the US military while attempting to counter the Tet Offensive in 1968.)

New York Post columnist and former military officer Ralph Peters summed up the mentality guiding the White House and Pentagon. “We must not be afraid to make an example of Fallujah. We need to demonstrate that the United States military cannot be deterred or defeated. If that means widespread destruction, we must accept the price... Even if Fallujah has to go the way of Carthage, reduced to shards, the price will be worth it.”

There is an objective, historical measure by which the actions of the Bush administration and the US forces can be judged. All acts of reprisal and collective punishment are explicitly outlawed by the 1949 Geneva Conventions, under Protocol 1, which was adopted in 1977. Article 51, Protocol 1 states: “Collective penalties and likewise all measures of intimidation or terrorism are prohibited.”

The scale and frenzied character of the slaughter had an almost psychotic character to it. For over a week the city was subjected to awesome air and ground bombardment of a kind which militarily

would only be justified by the presence of massive defensive forces and installations. The size of some of the bombs used (up to 2000 lbs) were greater than any used by Luftwaffe dive-bombers in the attacks on Poland, France and Russia.

The obliteration of much of the city was designed to terrify the entire Iraqi population into submission and to cower all further resistance to US military aggression throughout the country. Article 51 plainly prohibits “acts or threats of violence, the primary purpose of which is to spread terror among the civilian population....”

The opening stages of the attack included the capture or pinpointed destruction of the city’s medical facilities and the killing of medical staff. During the week-long operation, virtually all medical facilities were rendered inoperable. Humanitarian and medical aid was refused access to the city in order to heighten the trauma and suffering of the wounded.

Article 18 of Convention IV states: “Civilian hospitals organised to give care to the wounded and sick, the infirm and maternity cases, may in no circumstances be the object of attack but shall at all times be respected and protected by the Parties to the conflict.”

The protection given to civilian hospitals is regarded as so paramount that Article 19 states that it is no excuse that “sick or wounded members of the armed forces are nursed in these hospitals”, nor is “the presence of small arms and ammunition taken from such combatants which have not yet been handed to the proper service”.

The bombardment of Fallujah was indiscriminate, as was the killing of the population. There was no distinction made between civilians and resistance fighters. All males in the city between 15 and 55 were specifically targeted. As the carnage was wreaked upon the city people attempting to flee the city were shot. There are reports of whole families being shot and killed as they tried to swim across the Euphrates River to escape.

Article 51 of Protocol 1 further provides: “The civilian population as such, as well as individual civilians, shall not be the object of attack... Indiscriminate attacks are prohibited. Indiscriminate attacks are: (a) those which are not directed at a specific military objective; (b) those which employ a method or means of combat which cannot be directed at a specific military objective; or (c) those which employ a method or means of combat the effects of which cannot be limited as required by this Protocol.”

An indiscriminate attack is also defined as one “which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military

advantage anticipated”.

Houses and buildings in which people were detected—often with the use of heat-detection equipment—were strafed with machine gun fire and subjected to artillery attack, irrespective of the identity of those inside. Many hundreds of dead and wounded civilians are buried beneath the city rubble. Dozens more lay strewn across streets and footpaths throughout the city. The death toll will never be known but it is probably in the many thousands.

Protocol I, Article 18 states: “The Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives.”

Significantly, not a shred of evidence has emerged from the smoking ruins of Fallujah to back the US propaganda that the resistance was primarily comprised of foreign terrorists or that such terrorists were holding the city “hostage”. On the contrary, it is clear from events that a legitimate armed struggle of Iraqi citizens against the violent and illegal occupation by the United States is underway.

Even assuming, however, that the reasons asserted by the US for its destruction of Fallujah had any truth in them, that is, that Abu Musab al-Zarqawi and others were using Fallujah as their base, this could never amount to a legitimate justification for what was perpetrated by US forces. Article 50, Protocol I says: “The presence within the civilian population of persons that do not come within the definition of civilian does not deprive the population of its civilian character.”

In its onslaught on the people of Fallujah, the United States has repudiated the modern laws of war, which have evolved over nearly 400 years. In their most developed form these laws reflect the attempts of civilised society to reduce the suffering of war to a minimum and to insist, to the fullest extent possible, on its humane conduct.

In 1625 the Dutch jurist Hugo Grotius, in his work *On the Law of War and Peace*, first condemned the conception that one nation could attack another “arbitrarily or for profit”. This was the origin of the modern international legal doctrine outlawing wars of aggression.

The US war crimes in Iraq, beginning with last year’s invasion, are being carried out arbitrarily and for profit. Specifically, Washington is seeking to gain control of the oil and gas resources of the Middle East and Central Asia in an effort to reverse the decline in the position of heavily-indebted US capitalism in the world economy.

The Geneva Conventions emerged directly from the experience of the American Civil War. The horrible suffering in that conflict, which was the first modern technological war, resulted in 12 nations signing the First Geneva Convention in 1864. It dealt primarily with the care of sick and wounded military personnel, treatment of prisoners and the neutrality and protection of medical personnel and hospitals. In the first war crimes trial conducted on American soil—in 1865—Confederate officer Henry Wirz was convicted and hanged for the murder of Union prisoners of war.

War crimes committed overseas can also be prosecuted under US law. Serious infractions of the Geneva Conventions and

Protocols are criminal offences under the federal War Crimes Act 1996. This law provides for penalties including life imprisonment and death in cases where a victim of criminal conduct dies.

As US imperialism unleashes its terrifying violence in the Middle East, the world should recall the trials at Nuremberg in 1946. In his judgment, the British judge, Judge Parker said:

“The evidence relating to war crimes has been overwhelming, in its volume and its detail. The truth remains that war crimes were committed on a vast scale, never before seen in the history of war... There can be no doubt that the majority of them arose from the Nazi conceptions of ‘total war’, with which the aggressive wars were waged. For in this conception of ‘total war’ the moral ideas underlying the conventions which seek to make war more humane are no longer regarded as having force or validity. Everything is made subordinate to the overmastering dictates of war. Rules, regulations, assurances, and treaties all alike are of no moment, and so, freed from the restraining influence of international law, the aggressive war is conducted by the Nazi leaders in the most barbaric way. Accordingly war crimes were committed when and wherever the Fuhrer and his close associates thought them to be advantageous. They were for the most part the result of cold and criminal calculations.”

These words could be written about the Bush administration. Taking place in the immediate aftermath of its re-election, the war crime of Fallujah is a grave warning of the future direction of the American ruling class. The US administration and its puppet government in Iraq face a political and military quagmire. The interim regime under Allawi has no social base to speak of, in either the Shiite south or the Sunni regions. Hence the ferocity of the American forces. But the destruction of Fallujah has only compounded all the political and military problems.

As the debacle deepens and America’s imperial mission in the Middle East suffers further reversals, the clamour for more troops will get louder in the administration and in the media. The *New York Times* has already called for a further 40,000 troops. (See *New York Times* calls for more troops in Iraq, 9 November 2004.) Soon we may hear calls for a new version of “total war”.



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