Chapter Five
International Law and the Invasion of Iraq

It is fair to state that there are clear moral principles underlying the law of war. For *jus ad bellum* concerns in Just War Theory, there exists the United Nations Charter which defines just cause and proper authority in agreed-upon articles. For *jus in bello*, there are the Geneva Conventions, the Hague Conventions, and the Nuremberg Principles, among others, defining what constitutes proper and improper behavior in war, and dealing with the Just War issues of Discrimination and Proportionality.

An interesting question immediately arises concerning the relationship between the Just War Theory and international law. Do Just War principles under gird international law or did international law overtake and replace Just War Theory as the basis for war and its conduct? Since the same categories of the analysis of war are covered in international law as in Just War Theory, and since the former is the latecomer on the scene, I want to argue that international law has largely taken over the role of deliberation concerning war, but that the ethical principles and constraints discussed in Just War Theory are presupposed by international law and inform the latter discipline. Therefore, Just War Theory is not and cannot be "outmoded," since it is the foundation of our international law dialogues concerning the issues of war, and in fact is mixed in with the legal discussions. Put most succinctly, the position taken here is that the principles and restraints which have for centuries been discussed under the ethical auspices of "Just War Theory" now find their clearest and most widely accepted and functional expression in the international laws of war. A clear cut distinction between the morality and legality of war, then, cannot be made. Michael Walzer also places them together under the title "The War Convention," but he clearly maintains the same idea put forth here:

"…the legal handbooks are not the only place to find the war convention, and its actual existence is demonstrated not by the existence of the handbooks but by the moral arguments that everywhere accompany the practice of war. The common law of combat is developed through a kind of practical casuistry."[1]

The *jus ad bellum* in international law

We begin then, with the notion of just cause in international law. The U.N. Charter stipulates in two different articles what the legal understanding of just cause is to be:

Article 2(4): "All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state or in any other manner inconsistent with the purposes of the United Nations."

---

[1] Walzer, *Just and Unjust Wars*, pgs. 44-45.

Article 51: “Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security…”

Many international lawyers add to the understanding of Article 51 the Just War condition that if an attack is imminent, the nation going to war may bypass U.N. Security Council authorization.

There is also the issue of aggression, related to just cause in that it is a direct violation of it:

Article 39: “The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations or decide what measure shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.”

Article 41: “The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.”

Article 42: “Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.”

Adding to the law concerning aggression, there is also the *Report of the Special Committee on the Question of Defining Aggression*, presented to the U.N. General Assembly (1974). In that report, the definition of aggression is presented in Article 1:

“Aggression is the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations, as set out in this definition.”

Finally, the Nuremberg Military Tribunal condemned aggression as “the supreme international crime.”

The question that immediately rises is the one concerning how to interpret these Articles. Although we cannot involve ourselves in the lawyerly discussions of interpretation, we

can acknowledge that there is a certain ambiguity contained in the laws, as there are in the principles of restraint we call Just War Theory.[2]

Concomitant with our discussion of just cause, we have also answered the question of proper authority: international law requires a nation considering going to war to obtain the approval of the U.N. Security Council before proceeding, unless it is being attacked or under threat of imminent attack.

How did the United States fare in applying this to the wars in Afghanistan and Iraq? Since these are two wars, we must engage in two separate analyses. If it is true that the attackers of the U.S. on 9/11 were members of the Al Qaeda terrorist network based in Afghanistan, and the de facto government of that country, the Taliban, deliberately supported and gave shelter to the organization members in order to prevent them from being brought to justice, the attack on Afghanistan could perhaps be justified by international law standards, provided the U.S. was willing to work with the International Court of Justice. However, there is sufficient reason to doubt all of these premises. Thus, the just cause criterion of the Just War Theory and of international law has likely not been met. First, the FBI does not have the 9/11 attackers posted on their web site, because they state that the evidence is lacking for putting him there as the culprit for 9/11. Here is the salient quote from the reporter who first noticed that no mention of bin Laden involving 9/11 has ever been placed on the FBI web site. He had interviewed Rex Tomb, Chief of Investigative Publicity for the FBI.

"When asked why there is no mention of 9/11 on Bin Laden's *Most Wanted* web page, Tomb said, "The reason why 9/11 is not mentioned on Usama Bin Laden's Most Wanted page is because the FBI has no *hard evidence* connecting Bin Laden to 9/11." [3]

Second, the Taliban in fact offered to turn over Al Qaeda members to the international court of justice. The U.S. refused to accept this offer.[4] Third, it is a plausible argument that the criterion of proper authority was not met, as the United Nations did not sanction the U.S. attack on Afghanistan, called "Operation Enduring Freedom." Those who maintain that the U.S. did not need the approval of the U.N. would have to argue that this

---

[2] Yehuda Melzer presents an excellent discussion of the problems of interpretation in his book Concepts of Just War (Leyden: A.W. Sitjthoff, 1975).

[3] Ed Hass, "FBI Says 'No Hard Evidence Connecting bin Laden to 9/11," *Muckracker Report*, June 6, 2006. If they had no evidence in 2006, they had none in 2001 or 2003. Thanks to Mickey Huff of Project Censored for providing this reference.

[4] See Rory McCarthy and Julian Borger, "Taliban Ready to Strike a Deal on bin Laden," *Guardian*, February 22, 2001. See also Alexander Cockburn and Jeffrey St. Clair, "How Bush was Offered bin Laden and Blew it," *Counterpunch*, November 1, 2004. While the date of this latter story is later than my stipulated cut-off point regarding legitimate evidence of the March 19, 2003 invasion, I am using it because it highlights the fact that even the American media reported this fact in 2001—e.g. CBS News, on September 25, 2001.

attack was a response to an attack on the U.S., in which case the attack on Afghanistan would come under the right to collective self-defense, as permitted by Article 51 of the U.N. Charter. If there are significant doubts concerning whether the attack was done by Al Qaeda, then this defense becomes moot.

The attack on Iraq, however, was done under different pretenses than Afghanistan, and thus must be analyzed separately from the case of Afghanistan. Although the public and the corporate media generally group both attacks under the umbrella phrase "the war on terrorism," they only loosely fit together in this way. This is shown when one goes through the moral and legal analysis of each.

There have been several articulate cases made to cast doubt on the arguments of those who maintain that a U.S. attack on Iraq is covered under UNC Article 51. One of the most significant is the article "The Myth of Preemptive Self-Defense," by Mary Ellen O'Connell, Professor of Law at The Ohio State University. The other noteworthy ones are from the Center for Economic and Social Rights, "Tearing up the Rules: The Illegality of Invading Iraq," and the letter to U.N. Secretary General Kofi Anan by the organization Lawyers Against the War. I will rely on primarily on the O'Connell paper to synopsize the application of the laws of war to the U.S. invasion of Iraq, for the reason that she presents counter-arguments to the case against the legality of U.S. actions, and refutes them.

Regarding just cause and proper authority with Iraq, O'Connell begins as we did above, with U.N. Charter Articles 2(4) and 51, and concludes that the U.S. committed violations of international law with the invasion of Iraq. Regarding 2(4), Professor Anthony D'Amato counters that Article 2(4) is only a prohibition on force aimed at the territorial integrity and political independence of states. O'Connell responds that the U.N. Security Council passed a unanimous resolution condemning the Israeli bombing of Iraq's Osirik nuclear plant, which "helped solidify the general understanding that Article 2(4) is a general prohibition on force."[5] This understanding is opposed to the conservative argument in favor of attacking Iraq, represented by D'Amato's narrow interpretation of 2(4).

Applying Article 51, O'Connell goes on to state that "an attack must be underway or must have already occurred in order to trigger the right of unilateral self-defense."[6] The International Court of Justice upheld this interpretation in 1986 in the case *Nicaragua v. U.S.* Today, the Bush Doctrine of preventive war counts as just cause for war "striking an enemy even in the absence of specific evidence of a coming attack," or even the alleged

---

[5] Mary Ellen O'Connell, "The Myth of Preemptive Self-Defense," *The American Society of International Law*, August, 2002, p. 5.

[6] Ibid.

violation of a disarmament requirement.[7] Both of these issues were rejected as *casus belli* by the International Court of Justice in an advisory opinion.[8] Again, the unanimous condemnation by the U.N.S.C. of the Israeli bombing of Osirik is cited by O'Connell as a case in point.

The counter argument presented by O'Connell is from Professor Louis Henkin, who argues that Article 51 provides an "inherent" right to anticipatory self-defense. O'Connell counters with an extended rebuttal, specifically that Henkin's position "is fundamentally at odds with the Charter's design." Aside from the fact that this "requires privileging the word 'inherent' over the plain terms of Article 2(4), an important reason for rejecting this kind of interpretation is that "it is an exception that would overthrow the prohibition on the use of force in Article 2(4) and thus the very purposes of the U.N."[9] This is because when there is a lack of evidence of an armed attack, Article 2(4) requires multilateral decision-making, not that of a single nation-state.

O'Connell acknowledges that the pro-invasion defenders leaned heavily on UNSC Resolution 678 (1990) as providing continuing authorization to use force against Iraq until international peace and security are restored. However, the defenders neglect to mention that Resolution 687 terminated the use of force authorization by declaring that "a formal cease-fire is effective between Iraq and Kuwait and member states…"

We can extend this line of counter-argument to those who would use any UNSC resolution to justify an attack on Iraq. When the Security Council authorizes force, it does so quite clearly, usually by using the phrase "all necessary means." It did not do so on any other resolution concerning Iraq; not even the oft-cited Resolution 1441, in which it threatens 'serious consequences" of any "material breach" of past resolutions by Iraq. The United States had to take it upon itself to make this judgment in order to justify its attack on Iraq, and that is beyond its proper authority, as we have seen.

The *jus in bello* in international law

We now turn to international law of *jus in bello*. In this analysis, we will refer to five areas of international law concerning the conduct of war: the Charter of the International Military Tribunal at Nuremberg; the First Geneva Conventions; the Geneva Convention Protocols; the Third Geneva Convention; and the Convention against Torture.

---

[7] Michael E. O'Hanlon, Susan E. Rice, and James B. Steinberg, "The New National Security Strategy and Preemption," www.brookings.edu/comm/policybriefs/pb113.pdf, January, 2003.

[8] 1996 I.C.J. 226, 266. Cited in O'Connell, p. 12.

[9] Ibid. p. 13.

1) The *Charter of the International Military Tribunal at Nuremberg*, Section II, Article 6, presents the definition of international crimes "coming within the jurisdiction of the Tribunal" as the following:

(a) "Crimes Against Peace: namely, planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing;"

(b) "War Crimes: namely, violations of the laws or customs of war. Such violations shall include, but not be limited to, murder, ill-treatment or deportation to slave labor or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity."

(c) "Crimes against humanity: namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war,; or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated."

"Leaders, organizers, instigators and accomplices participating in the formulation or execution of a common plan or conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any persons in execution of such plan."

Article 7 stipulates that Heads of State "shall not be considered as [exempt] from responsibility or mitigating punishment."

Article 8 continues in the same line and states that "the fact that the Defendant acted pursuant to order of his Government or of a superior shall not free him from responsibility…"

We have already seen some of the number of horrific acts that were approved by Bush cabinet members and set into motion by generals and then actually performed by soldiers on the civilians or Iraq to see the war crimes that have been committed in our names. We will see more as this chapter progresses. Taken together, these instances should be sufficient to demonstrate that the war has not been fought justly by these standards alone. But let us continue our *in bello* analysis.

2) *The Geneva Conventions*

It is not an understatement to say that the United States has violated a large number of the Geneva Conventions in its occupation of Iraq. Such a case cannot be fully made here due

to the number of Articles of the Convention that have been violated. However, some of the more important violations will be outlined here.

Geneva Convention IV (1949) concerns the *Protection of Civilian Persons in Time of War*.

That the Conventions apply unequivocally to the United States is not only clear from the fact that the U.S. is a signatory to the Convention (as is Iraq), but from the fact that it is explicitly stated in Part I, Article 2:

"In addition to the provisions which shall be implemented in peace-time, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more other High Contracting Parties, even if the state of war is not recognized by one of them. The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Part, even if the said occupation meets with no armed resistance."

So who is protected by the Convention? Article 3 states that

"Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances by treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria."

Here are the parts of the Convention by which one can make the case that the United States has illegally conducted the war on Iraq:

First, the U.S. has directly attacked hospitals in violation of the Convention. Part II, Article 18 states that "Civilian hospitals organized 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."

We have already documented the incidents at Fallujah and numerous other cities, in which the U.S. directly bombed a hospital and refused to allow civilian humanitarian organizations such as the Red Crescent access to the city after the civilians were directly attacked.

Second, with regard to the treatment of protected persons under the Convention, Part III, Article 31 states that "No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties." Article 32 is even stronger in its wording regarding this issue:

"The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. This prohibition applies not only to murder, torture, corporal punishments, mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person, but also to any other measures of brutality whether applied by civilian or military agents."

We have already examined just a few of the noted instances of torture that have been occurring at numerous locations controlled and maintained by the United States. That the actions engaged in such places as Abu Ghraib, Guantanamo Bay, and various other locations in Iraq and Afghanistan are direct violations of the Geneva Conventions can be asserted here without further elaboration. But for more information, one might consult the Human Rights Watch (HRW) report entitled "Enduring Freedom: Abuses by U.S. Forces in Afghanistan (2004)," in which numerous cases of abuse of detainees have been documented at various sites in Afghanistan, including "extreme sleep deprivation, exposure to freezing temperatures, and severe beatings." The various places documented by HRW in Afghanistan where these activities are occurring include Bagram airbase, Kabul, Kandahar, Jalalabad, and Asadabad. Bagram alone was the scene of four to five deaths by torture. The same situation was reported in Abu Ghraib by HRW as well. The American Civil Liberties Union has obtained 44 autopsy reports of detainees in Iraq and Afghanistan, and has concluded that all 44, as well as a summary of other autopsy reports of detainees in both countries, were all the direct result of U.S. interrogation methods. Twenty-one of the 44 deaths were homicides.[10]

Further, Part III, Section III, Article 76, and Section IV, in its entirety, specifically regulates the treatment of detainees by requiring occupying powers to "be detained in the occupied country, and if convicted…serve their sentences therein," along with the right to receive medical attention, spiritual assistance (Article 76), live in cells protected against the rigors of climate, dampness, and heat, as well as adequate ventilation and lighting, and with sanitary facilities "for their use, day and night" (Article 85). Significantly, the Convention takes great pains to specify in detail, in a separate section covering numerous Articles (105-116), the rights of the detainees to communicate with the outside world. In Afghanistan and Iraq, the ICRC has access to only a few of the U.S. controlled sites where detainees are being held, according to the HRW report. None of the published reports on detainee conditions has failed to underscore the fact that these conditions have not been met by U.S. (detainee) prisons.

3) *Geneva Convention Protocols*

---

[10] "U.S. Operatives Killed Detainees During Interrogations in Afghanistan and Iraq," American Civil Liberties Union, October 24, 2005.

Continuing with this theme, Additional Protocol I of the Geneva Conventions, Part III, Article 35, limits the use of types of weaponry:

"It is prohibited to employ weapons, projectiles and material and methods of warfare of a nature to cause superfluous injury or unnecessary suffering."

As if to test that law, there have been several weapons the U.S. has reportedly used in Iraq which are directly designed to cause immense suffering and even death at the end of that suffering. For example, one device being used is a small megaphone that can "emit a piercing tone so excruciating to humans, its boosters say, that it causes crowds to disperse, clears buildings and repels intruders…It will knock [some people] on their knees." It is also possible that this weapon can produce permanent hearing loss or even cellular damage.[11]

Next, there have been charges coming out of Iraq that the United States has been using laser weapons which incinerate various sections of the body without piercing the skin or damaging the surroundings. The same claim is being made for alleged U.S. microwave weapons.[12]

Article 35 continues with a ban on weapons "which are intended, or may be intended, to cause widespread, long-term and severe damage to the natural environment." In direct violation of this Article, the U.S. uses depleted uranium (DU) in its bombs and shell casings, which in turn spread intense radiation into the soil, water, and buildings around them. This was first done in the 1991 Gulf War, and is continuing today in Iraq. The results have been nothing short of stunning:[13]

- Eight out of twenty men who served in one unit in the 2003 invasion of Iraq now have malignancies. That means that 40% of the soldiers in that unit have developed malignancies in just 16 months.
- Those who develop malignancies that quickly can expect to develop multiple cancers, as attested by studies from the results of the NATO use of DU in the former Yugoslavia.
- Out of 580,000 soldiers who served in the first Gulf War in 1991, 11,000 are dead, and by 2000 there were 325,000 on permanent medical disability.
- The number of disabled vets has been increasing by 43,000 every year.
- Women who have had sexual intercourse with men who served in the Gulf War that resulted in pregnancy, have a significantly high number of babies born with

---

[11] William M. Arkin, "The Pentagon's Secret Scream," *The Los Angeles Times*, March 8, 2004.

[12] "Star Wars in Iraq: Is the U.S. Using New Experimental Tactical High Energy Laser Weapons in Iraq?," *Democracy Now!*," July 25, 2006.

[13] Each of these seven facts was reported first by the American Free Press. The list here has been excerpted from the article by Leuren Moret, "Depleted Uranium: Dirty Bombs, Dirty Missiles, Dirty Bullets," *San Francisco Bay View*, August 22, 2004.

birth defects. In a group of 251 soldiers from a study group in Mississippi who had had normal babies prior to the Gulf War, 67% had deformed babies after the war. They were born with missing legs, arms, organs or eyes.

- DU weapons have been sold by the U.S. to 29 countries, including Israel, who used them in the Yom Kippur war in 1973.
- Today, 42 of the 50 United States are contaminated with DU from manufacture, testing, and deployment.

In addition, today in Afghanistan, the urine samples show the highest level of uranium ever recorded by a civilian population. Test results have been analyzed for a number of possible causes, but they all point to the same source: use of DU by U.S. forces.[14]

Although Secretary of Defense Donald Rumsfeld and Attorney General Alberto Gonzalez have attempted to bypass the Geneva Conventions by designating captured prisoners as "enemy combatants" rather than as "prisoners of war," that designation itself is forbidden under international law, specifically by Article 45 of the Additional Protocol:[15]

Section 1: "A person who takes part in hostilities and falls into the power of an adverse Party shall be presumed to be a prisoner of war, and therefore shall be protected by the Third Convention…Should any doubt arise as to whether any such person is entitled to the status of prisoner of war, he shall continue to have such status and, therefore, to be protected by the Third Convention of this Protocol until such time as his status has been determined by a competent tribunal."

Section 2: "If a person who has fallen into the power of an adverse Party is not held as a prisoner of war and is to be tried by the Party for an offence arising out of the hostilities, he shall have the right to assert his entitlement to prisoner-of-war status before a judicial tribunal and to have that question adjudicated."

So we can see that the United States, by refusing to grant the status of POW to the detainees, by refusing them the ability to claim that status, and by refusing them the right of adjudication of that title, is committing three ongoing counts of direct violations of international law.

With regard to the civilian population, Part IV of the Additional Protocol sets very strict parameters.

---

[14] Mohammed Daud Miraki, "Perpetual Death from America," www.rense.com, February 24, 2003.

[15] The now-famous Gonzalez memo, authored in 2002, called the Conventions "quaint," and argued in numerous ways that the U.S. was not obliged to follow them. See Alberto Gonzalez, "Decision Re Application of the Geneva Convention on Prisoners of War to the Conflict with Al Qaeda and the Taliban," January 25, 2002.

First, Article 48, "Basic rule," requires that "Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives." Further, Article 50 states that "the presence within the civilian population of individuals who do not come within the definition of civilians does not deprive the population of its civilian character." Therefore, "acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited" (Article 51, Section 2). The article continues by banning all "*indiscriminate*" strikes on civilians, including an attack on a whole city in which one or more military targets are located, and an attack violating the rules of *proportionality* between civilian casualties and military objective (Article 51, Section 5).

In other words, there may be *no direct attacks on civilians of any means and for any purpose*. Any failure to abide by those limits is a violation of international law.

But the actual stories from the soldiers returning tell us that there is massive violation of the laws of the Geneva Conventions and Protocols regarding the treatment of civilians going on in Afghanistan and Iraq. *The Nation* magazine interviewed fifty combat veterans of the 2003 Iraq invasion from around the U.S. Published on July 30, 2007, the interviews show clear patterns of slaughters of Iraqi civilians, many of them women and children. This was reinforced by the report from Human Rights Watch called "Hearts and Minds: Post-war Civilian Deaths in Baghdad Caused by U.S. Forces." Together, they make for not only compelling reading, but for an open and shut case regarding United States violation of the ethical norms of *jus in bello* and of the Geneva Conventions and Protocol concerning treatment of civilians. Here is a sampling of the stories the returning soldiers told *The Nation* interviewers.[16]

1) Specialist Michael Harmon: "An IED [improvised explosive device] went off, the gun-happy soldiers just started shooting anywhere and the baby got hit. And this baby looked at me…like asking me…Why do I have a bullet in my leg? I was just like, This is it. This is ridiculous."

2) "Veterans described reckless firing once they left their compounds. Some shot holes into cans of gasoline being sold along the roadside and then tossed grenades into the pools of gas to set them ablaze. Others opened fire on children. These shootings often enraged Iraqi witnesses."

3) Veterans talked of lawless raids on the homes of Iraqi citizens, where, "stymied by poor intelligence, [they would] invade neighborhoods where insurgents operate, bursting into homes in the hope of surprising fighters or finding weapons. But such catches, they said, are rare. Far more common were stories in which soldiers assaulted a home, destroyed property in their futile search and left terrorized civilians struggling to repair

---

[16] Chris Hedges & Laila Al-Arian, "The Other War: Iraq Vets Bear Witness," *The Nation*, July 30, 2007.

the damage and begin the long torment of trying to find family members who were hauled away as suspects…Physical abuse of Iraqis during raids was common."

4) Tens of thousands of Iraqis—military officials estimate more than 60,000—have been arrested and detained since the beginning of the occupation." Orders were given to detain Iraqis based on their clothes alone. On raids, anyone of military age was taken.

5) Specialist Resta: "We were told from the first second that we arrived there, and this was in writing on the wall in our aid station, that we were not to treat Iraqi civilians unless they were about to die."

6) Supply convoys, operated by KBR (Kellogg, Brown & Root), "often cut through densely populated areas, reaching speeds over sixty miles an hour…leapt meridians in traffic jams, ignored traffic signals, swerved without warning onto sidewalks, scattering pedestrians and slammed into civilian vehicles, shoving them off the road. Iraqi civilians, including children, were frequently run over and killed. Veterans said they sometimes shot drivers of civilian cars that moved into convoy formations or attempted to pass convoys as a warning to other drivers to get out of the way…Convoys did not slow down or attempt to brake when civilians inadvertently got in front of their vehicles."

7) "Following an explosion or ambush, soldiers in the heavily armed escort vehicles often fired indiscriminately in a furious effort to suppress further attacks…[leaving] many civilians wounded or dead…civilians being shot or run over by convoys…were so numerous that many were never reported."

8) Patrols "fired often and without much warning on Iraqi civilians in a desperate bid to ward off attacks."

9) Sometimes killing innocent civilians was justified by framing them as terrorists by planting a gun on them after the American troops fired on crowds of unarmed Iraqis.

10) Rules of engagement were often improvised. Staff Sgt. James Zuelow stated that "we were given a long list of stuff and, to be honest, a lot of time we would look at it and throw it away." "Cover your own butt was the first rule of engagement" said Lt. Van Engelen. "There's no such thing as a warning shot" confirmed Specialist Resta.

The Pentagon report on how it deals with civilians in Iraq totaled just two pages.

4) *Geneva Convention III*

The Third Geneva Convention deals with treatment of POW's, who by definition include "members of other militias and members of other volunteer corps, including those of

organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory…"

Such prisoners are immune from brutal treatment, according to Part III, Section I, Article 17:

"No physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatever. Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to any unpleasant or disadvantageous treatment of any kind."

5) *The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*

Continuing with the torture theme, this Convention defines torture very specifically, and it should be quoted in full:

"For the purposes of this Convention, torture means any act by which severe pain of suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions."

That the use of torture is itself legally superfluous is seen in Article 15:

"Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made."

Given the instances we have examined, there can be no doubt that the U.S. is in gross violation of international law on the subject of torture. What is more useful regarding this Convention, though, is the other stipulations it makes concerning torture.

Article 2 states that "no exceptional circumstances whatsoever…may be invoked as a justification of torture." Further, "an order from a superior officer or a public authority may not be invoked as a justification of torture."

The conduct of the war in Iraq marks a new low for the world leadership role of the United States. When a nation that is supposed to lead the world in its vision and its

adherence to common, nearly universally accepted principles of conduct, flatly refuses to do so on the grounds of its own self-interest and overwhelming immense power, and further looks for ways to justify their presumption that "power exempts from law," it is a nation in serious trouble in terms of its function as a role model for the world, in terms of its own commitment to international cooperation and processes, and perhaps most of all in terms of the principles of morality and the rule of law.