

Chapter 7

Killing Civilians, Murder and Atrocities

“We go out and kill these people... I define success as continuing to kill the enemy ...”

– US Marine Captain Andrew del Gaudio¹

In the counter-insurgency campaign, Coalition commanders have established permissive “rules of engagement” to insure a swift and unhesitating use of force and to minimize their own casualties. At checkpoints and roadblocks, during house-searches and other operations, these rules allow troops to open fire with little hesitation or restraint. Increasing use of air power, notoriously indiscriminate, has further escalated the casualties. Commanders have seen the killing of Iraqi non-combatants in military operations as regrettable but unavoidable “collateral damage.” This environment of extreme violence has produced a rising number of killings, murders and even atrocities, committed by Coalition forces against Iraqi civilians.

Rules of engagement

Rules of engagement (ROE), drawn up by senior commanders, define when, where and how military personnel can “use force.”² Though field commanders set these rule, higher-level commanders – or even civilian leaders – must often give their approval. But the rules leave the final decision on the use of force to the troops on the ground (or pilots in the air), influenced by uncertainty, inexperience, nervousness, hatred, stress, and fear.

Because of the many civilian casualties,³ human rights organizations have sharply criticized the rules of engagement in Iraq. Human Rights Watch⁴, the American Civil Liberties Union⁵ and Amnesty International⁶ have asked the Department of Defense to make the rules public, but the Department has kept them classified, or restricted them to “limited” distribution. In a news conference in May 2005, when asked about video footage of a US Marine shooting a wounded Iraqi prisoner in Falluja, Pentagon Spokesman Lawrence DiRita answered: “We don't discuss rules of engagement... But [soldiers] have the right of self-defense at all times, and that's a consistent rule of engagement.”⁷

Human Rights Watch has argued that a hostile environment “does not absolve the military from its obligations to use force in a restrained, proportionate and discriminate manner, and only when strictly necessary.”⁸ Yet it seems that the rules are permissive and that there is further permissiveness in the application of rules on the ground. Local commanders use “kill counts” and other devices that encourage competition among soldiers to rack up “enemy kills.”⁹ The result has been a rapid “escalation of force” by troops, leading to large numbers of civilian casualties.

Roadblocks & Checkpoints

From the beginning of the occupation, troops have frequently opened fire at checkpoints, causing excessive and unnecessary deaths.¹⁰ Checkpoints that motorists cannot see in advance are the most risky – set up temporarily and suddenly, or in unexpected places, or at night, or in bad weather, or on curvy roads with poor visibility, they can be especially lethal. Approaching civilians do not see the checkpoint and learn of it only when they face a hail of bullets or heavy weapon fire. The troops, for their part, see approaching vehicles as a potential threat and tend to fire on the slightest suspicion.

Soldiers often say they direct their fire at disabling the vehicle, but the record shows that they often fire directly at the driver and passengers, who they assume (often incorrectly) to be hostile persons. Walid Fayay Mazban, who was driving with his family in Basra in August 2003, was an early roadblock victim. It was about 8:30pm and very dark because there was no electricity. The vehicle turned at a junction near a British temporary checkpoint. The soldiers, fearing “suspicious” behavior, shouted “stop” in English. After the vehicle failed to stop and passed through, they shot at it several times from behind. Walid Fayay Mazban did not understand English. He may not even have heard the order. He died from multiple bullet injuries.¹¹

Italian journalist Giuliana Sgrena brought checkpoint violence into broad public view. On March 4, 2005, after Italian intelligence had negotiated her release from abduction, Sgrena was riding in a car to the Baghdad airport with high-ranking Italian intelligence officer Nicola Calpari. As the car approached the airport, the Italian driver alerted US military authorities by phone. But suddenly, as the car rounded a turn, US soldiers at a temporary roadblock opened fire with 50mm machine guns mounted atop Humvee vehicles. The bullets wounded Sgrena and killed Calpari.¹² The incident caused great outcry in Italy, where the government demanded an inquiry. It turned out that the “mobile checkpoint” had been set up because US Ambassador John Negroponte was having dinner with US General George Casey, commander of US forces, somewhere in the neighborhood.¹³ US authorities apologized, but blamed the Italians for driving fast, not stopping, and not providing enough information about their whereabouts.¹⁴ The Italians said they were going no more than 25 miles per hour, did not see the checkpoint until it was too late, and had kept authorities fully posted.¹⁵ Even though none of the official procedures for warnings on the road had been followed, US commanders exonerated the soldiers involved. The media widely covered the incident and heavy criticism continued for weeks. Several other journalists and media workers have been injured or killed in checkpoint incidents.

Human Rights Watch issued a statement highly critical of checkpoint shootings, saying that many Iraqi civilians and others had died unnecessarily because Coalition forces had failed to take basic precautions.¹⁶ Human rights organizations have urged commanders to reduce these killings by putting out warnings at a distance from the checkpoint – prominent signs in Arabic, physical barriers to force vehicles to slow down (such as speed bumps and rubber cones), bright lights and lines in the road.¹⁷ Warning shots, the human rights experts have pointed out, are ineffective and dangerous, because drivers

sometimes mistake them as hostile fire and accelerate to escape. US commanders adopted many of the suggestions for improved procedures, but troops on the ground have rarely implemented them.¹⁸ Checkpoint killings have continued, and the press reports cases regularly.¹⁹

House-searches

Coalition forces routinely search houses, in pursuit of insurgent fighters and weapons caches. They often use disproportionate violence to break into houses – shooting door locks, placing a bomb or hand grenade outside the door and battering down front walls with military vehicles.²⁰ During the first two months of Operation Together Forward (August-September 2006), US and Iraqi forces damaged “more than 1,100 doors, 35 windows and 1,350 locks” in Baghdad alone.²¹

Searches are usually tense. Often, troops shout orders in English which family members cannot understand. Troops may “prep a room” by spraying it with gunfire or tossing in a hand grenade.²² In Haditha, two house-searches resulted in the death of fifteen civilians.²³ Sometimes, troops may consider a house to be a “free-fire zone” and commanders may give orders to “shoot first and ask questions later.”²⁴ Such methods have killed many civilians, including women and children.²⁵

Patrols

During patrols, Coalition forces regularly fire on innocent Iraqis, fearful that they might be insurgents. According to a *BBC* interview with an Iraqi witness, US patrols have shot and killed many civilians “by accident.”²⁶ Citing several examples from Anbar Province, the man claimed that “nearly 100 people have died in this way over the past year.”²⁷ According to estimates by the Iraqi Police in Baghdad, US forces killed 33 unarmed civilians and injured 45 in the capital alone, between May 1 and July 12, 2005.²⁸

Under constant fear of being ambushed, troops tend to shoot first. In each convoy, a soldier is stationed on the roof of a humvee, ready to open fire in case a car comes closer than 100 yards. In June 2005, Salah Jmor arrived in Baghdad with his brother to visit his family. As he was driving, he did not see a US military convoy entering the highway. Suddenly, he collapsed after being shot by a single bullet in the head. His brother claims that there was no warning and no signal to slow down.²⁹ This type of incident is not rare in Iraq. Iraqis complain that they often do not understand signals or do not see them until it is too late and the shooting has already begun.

During routine foot patrols at night, troops are even more nervous about potential car or road bombs. After curfew, they stop all vehicles by shouting words in English and firing a warning shot. But often, the drivers do not see them in the dark, and do not understand the calls, if they can hear them at all. If cars fail to stop, troops fire waves of bullets, often wounding the driver and passengers. In a January 2005 case gruesomely documented by photojournalist Chris Hondros, a US foot patrol fired on an approaching vehicle carrying an Iraqi family. A US soldier shouted “Stop that car!” Simultaneously another soldier fired warning shots. But the car did not stop immediately. A few seconds later, waves of

bullets hit the car until it stopped. Six children emerged from the vehicle. The two parents were dead.³⁰

Walking is not safer than driving at night. In one case, documented by Amnesty International, two men left their home in al-Majdiyeh, and went into the street to find out what was happening after hearing gunfire at night. A few minutes later, they were both dead, mistakenly shot by a British patrol. One of the men was hit by seven bullets in his chest and stomach. The other took five bullets in the right arm, the right leg, the chest and lower body. “I am sorry. There was a mistake. I apologize,” said a soldier to the father of one of the men. “It was dark. One colleague was in a hurry. I am sorry...”³¹

Air Strikes

The US is increasingly resorting to air strikes, to minimize US casualties and lower the risks of ground operations. According to military sources, the number of air strikes rose five-fold from January to November 2005.³² Official reports indicate that US and UK air forces flew 10,510 “close air support missions,” in 2006, a number that apparently does not include all types of offensive air operations.³³ In one typical week in March 2007, the Pentagon reported 327 missions, or about 48 every day – a rate about 50% above the previous year.³⁴ The intensifying air war has generated so much air traffic that US air bases in Iraq have installed new lighting and control systems enabling them to operate on a round-the-clock basis.³⁵

While the US Air Force claims to operate with sophisticated, precision-guided munitions to avoid civilian casualties, the electronic weapons are often aimed at houses or apartment buildings and they routinely kill or injure innocent civilians. Air assaults also use gravity bombs and rockets that have no claim to precision. And planes often rake the ground with high caliber cannon-fire.

In November 2005, the Coalition carried out an air offensive in Anbar Province. The US did not assess civilian casualties, but the *Washington Post* reported that according to eyewitnesses and doctors, many civilians were killed, including children.³⁶ The same month, Coalition air forces conducted an air strike against “two al-Qaida terrorist safe houses” in al-Qaim. While the military claimed to be acting on multiple intelligence sources, the UN *Integrated Regional Information Network* reported that “dozens of civilians including women and children” were killed.³⁷ In January 2006, US warplanes targeted a farmhouse in Baiji, killing in their sleep nine innocents in a family, including women and children.³⁸

The US military does not count civilian deaths from US attacks, claiming that “investigating deaths caused by any one strike is often impractical in dangerous areas.”³⁹ But it is clear from news reports and mortality studies that the toll has been large. According to the Hopkins mortality study, 13% of Iraqi excess deaths were due to Coalition air operations, or a total of about 78,000 through June 2006.⁴⁰ Commanders have certainly not hesitated to order frequent and deadly use of air power.

Criminal Homicide & Murder

US troops have occasionally committed premeditated murder against Iraqi civilians, in unprovoked situations. Many such murders escape notice, because they are attributed to “threatening behavior” that the perpetrator alleges came from the victim. Still, a number of cases have now come to light.

Haditha is the best-known case. On November 19, 2005, a squad of US marines went on a rampage after a roadside bomb killed one of their group. The squad's leader initially killed five unarmed young men who happened onto the scene in a taxi.⁴¹ The marines then raided nearby houses, firing freely and killing civilians, including women and children.⁴² Twenty-four Iraqis died in the incident, including ten women and children and an elderly man in a wheelchair.⁴³ The marines involved claimed that they were under a concerted attack by insurgents and their lawyers argued that their action was a “justifiable use of lethal force.”⁴⁴ But most evidence and court testimony suggests that the civilians were unarmed and that the marines shot the Iraqis in cold blood and then tried to eliminate damaging evidence, including a headquarters log and video from an aerial drone.⁴⁵ Like Abu Ghraib, US officials first described the Haditha massacre as an isolated case of misconduct. But the incident led to other revelations about atrocities, showing that it was part of a pattern of extreme and unrestrained violence that was more common among Coalition troops than anyone had realized.

Mahmoudiya was another massacre. On March 12, 2006, four army soldiers stationed at a checkpoint south of Baghdad had a drinking bout. They then changed into civilian clothes and walked to a close-by Iraqi home inhabited by the al-Janabi family. Leaving one soldier outside to guard the door, the others entered and killed the two parents and a five year old daughter. Two of the soldiers then raped a 14-year-old Iraqi girl, Abeer Qassim al-Janabi, and then murdered her. The girl's body was found naked and partly burned, evidently in order to destroy the evidence.⁴⁶ According to a FBI affidavit filed in the case, the men made advances towards the young woman for a week before the attack.⁴⁷ One of the cases, involving Specialist James Barker, has already come to trial and the defendant has pleaded guilty and been sentenced to 90 years in prison. Barker told the court: “To live there, to survive there, I became angry and mean. I loved my friends, my fellow soldiers and my leaders, but I began to hate everyone else in Iraq.”⁴⁸

Ishhaqi followed Mahmoudiya just three days later, on March 15, 2006. US marines attacked a farmhouse, eight miles north of the city of Balad, evidently because of intelligence that an insurgent was inside. Helicopter gunships fired on the house in support of the attackers. Some accounts say that fire was returned from the house, which US forces eventually captured. According to a report by the Iraqi police's Joint Coordination Center, based on a report filed after a local police investigation, US forces entered the house, “gathered the family members in one room and executed 11 persons, including five children, four women and two men. Then they bombed the house, burned three vehicles and killed their animals.”⁴⁹ Among those who died were a 75 year old woman and a six month old child.

Hamdaniya is similarly disturbing. On April 26, 2006, a squad of seven US marines and one navy sailor apparently dragged an innocent, unarmed and disabled Iraqi, Hashim Ibrahim Awad, from his home, bound his hands and feet, and repeatedly shot him at point blank range.⁵⁰ The squad had been lying in ambush for someone else and when that person did not appear they devised a plan to kill any Iraqi instead.⁵¹ The men entered Awad's home, dragged him out, shot him repeatedly in the head and chest, and then staged the scene to make it look like Awad had been an insurgent. The men were charged on June 21, 2006 with premeditated murder, kidnapping, conspiracy and making false statements to investigators. One participant, Petty Officer Nelson Bacos, who testified against the others in an early trial, said: "I didn't believe they would carry out a plan like that ... there was no justification ... I knew what we were doing was wrong."⁵²

Military commanders and courts have systematically referred to Haditha and other massacres as isolated cases. But the large number of such incidents suggests that the atrocities are systemic and have arisen from a broad culture of excessive violence, often condoned by commanders.

Cover-Ups

In most cases of serious misconduct and murder, soldiers directly involved have tried to cover up the crimes. Also, commanders have often ignored evidence, failed to pursue actively even the most serious cases and made exculpatory public statements. In the case of *Haditha*, the Marine Corps issued a press release the next day claiming that many of the Iraqis had died from the blast of an insurgent bomb, a version contested by witnesses. In spite of the many Iraqi casualties, the company commander did not inspect the site, choosing to rely on the report of the soldiers involved. Subsequently, investigators found that pages were missing from a company logbook and a video tape from a drone flying overhead had disappeared. Apparently, the perpetrators or those in collusion with them had destroyed or withheld evidence.⁵³ Those involved in the incident apparently also made misleading statements to investigators.⁵⁴ A marine inquiry determined that "some officers gave false information to their superiors" in the initial follow-up to the case.⁵⁵ In a later report, Major General Eldon A. Bargewell found "willful negligence" among Marine officers and "attempts to hide criminal conduct." Senior officers, he concluded, "exhibited a determination to ignore indications of serious misconduct, perhaps to avoid conducting an inquiry that could prove adverse to themselves or their Marines."⁵⁶

As in *Mahmudiya* where soldiers tried to conceal evidence of the rape and killing of the teenage girl and her family,⁵⁷ or in *Hamdaniya* where the soldiers put an AK-47 automatic rifle next to the man they had murdered,⁵⁸ those involved in the *Ishaqi* murders called in air support to blow up the house. It appears that they hoped that the crime would disappear beneath the rubble.⁵⁹ The US command first exonerated the soldiers, saying that three civilians died due to the exchange of fire in a military operation and also due to the collapse of the house which occurred during the combat. The civilian deaths were determined to be "unintentional," and US forces involved in the incident were said to have "followed the rules of engagement."⁶⁰ But neighbors and local leaders complained to Iraqi police that the soldiers entered the house while it was still standing. The police opened an inquiry, using a US-trained criminal investigation team that literally dug up the

facts from the collapsed house.⁶¹ After examining the bodies, hands bound, all in one room with execution-style bullet holes to the head and spent US cartridges nearby, the investigators concluded that the people had been murdered in cold blood. Eleven, not three, bodies were found in the rubble.⁶² Autopsies at Tikrit Hospital confirmed that all the victims had bullet wounds to the head.⁶³ The BBC has shown a video from an Associated Press cameraman, taken afterwards on the scene, that provides strong evidence of the atrocity.⁶⁴ But the US military has refused to open a case or to investigate further.

In the case of the death of Italian intelligence agent Nicola Calipari too, an Italian government report issued on May 3, 2005 criticized the way that evidence of the shooting disappeared. The scene of the incident was not preserved for investigation and the logs of the military unit on the day in question were later destroyed. At the very least, this was sloppy procedure. Quite possibly, it was obstruction of justice and the covering up of a crime.⁶⁵

A Pentagon mental health survey of troops in Iraq found that “less than half of Soldiers and Marines would report a team member for unethical behavior,” such as not following general orders, violating the rules of engagement, and mistreating or killing civilians.⁶⁶ US military authorities, embarrassed by a rash of atrocities, have chosen to back up the official version of the facts, insisting that victims died as collateral damage in military operations. Such cover-ups have kept some cases from public view entirely, and they have diminished the strength of the evidence against the perpetrators of the prosecuted crimes. They have contributed to the dismissal of cases and the very weak sentences that are usually handed down.

Impunity

The military justice system has acted very rarely to punish cases of murder and atrocities. Most such cases have never reached the point of a formal charge. Even when a charge has been handed down, the cases have usually been dismissed at the preliminary administrative tribunal stage or at the later court martial phase. Or they have been settled at either stage with a very mild rebuke or punishment. Very few charges have included premeditated murder, even in such egregious incidents as Haditha.

In late August 2006, the *Washington Post* reviewed military cases during the period June 2003 to February 2006. The *Post* report found that while thousands of Iraqis had been killed by US soldiers under questionable circumstances, the military justice system prosecuted only a “small portion of the incidents.”⁶⁷ No homicide prosecutions at all have arisen from shootings at checkpoints and very few high-ranking officers have been charged.

Commanders – who must make the decision to start a criminal investigation against their subordinates – have often failed to investigate Iraqi civilian deaths. They have preferred to consider them as unintended consequence of combat operations and ordered administrative or non-judicial punishments instead. “I think there are a number of cases

that never make it to the reporting stage, and [for those that do] there has been a reluctance to pursue them vigorously,” said Gary Solis, a former Marine prosecutor. “There have been fewer prosecutions in Iraq than one might expect.”⁶⁸ An army major quoted by the *Washington Post* concurred: “I think there were many other engagements that should have been investigated, definitely. But no one wanted to look at them or report them high... It was just the way things worked.”⁶⁹

Criticism

The killing of civilians by US troops has raised anger and outrage among the Iraqi population and has sparked strong statements from Iraqi officials. Asked to comment on the events in Haditha, Prime Minister Nuri al-Maliki called them “totally unacceptable” and qualified US violence against civilians as a “daily phenomenon” in Iraq. He said bluntly that Coalition troops do not “respect the Iraqi people.”⁷⁰ After the announcement that a US investigation had cleared troops in the Ishaqi case, the Iraqi government reacted strongly. Adnan al-Kazimi, an aide to Prime Minister al-Maliki, said the government would demand an apology from the US and compensation for the victims in several cases.⁷¹

The small number of convictions has pushed the Iraqi government to question the immunity given to members of Coalition forces since June 2004. Al-Maliki publicly said he believed immunity from Iraqi courts “encouraged [troops] to commit crimes in cold blood.”⁷² Iraq Human Rights Minister Wigdan Michael concurred, that the US failure to hold soldiers accountable for their crimes had fostered a climate of impunity among troops: “One of the reasons for this is the UN resolution, which gives the multinational force soldiers immunity. Without punishment, you get violations. This happens when there is no punishment.”⁷³ Michael also raised the possibility that Iraq would demand a review of the Multinational Forces’ immunity by the UN Security Council.⁷⁴

Conclusion

The United States and its allies claim they do everything in their power to prevent civilian casualties. Yet, there are many accounts of Coalition forces opening fire and killing Iraqi civilians in circumstances where there was no imminent threat. This is in clear breach of international human rights standards. In many cases of patrols, house searches, and relentless bombing campaigns, military personnel have used lethal force in absolutely unjustified circumstances. Studies of civilian mortality in Iraq suggest that tens of thousands of innocent Iraqis have been killed in this way since the occupation began.⁷⁵

Murders and atrocities are the extreme form of the daily deadly violence. In Iraq, where Coalition forces see every man of military age as a potential fighter, and where fear and anger affect the behavior of troops, events like the Haditha massacre are all too likely to occur. According to US Major General Eldon A. Bargewell, “all levels of command [tend] to view civilian casualties, even in significant numbers, as routine and as the natural and intended result of insurgent tactics.” “Statements made by the chain of command (...), taken as a whole, suggest that Iraqi civilian lives are not as important as

US lives, their deaths are just the cost of doing business, and that the Marines need to get 'the job done' no matter what it takes," he concluded.⁷⁶

This environment of extreme violence and impunity paves the way for murder, rape and atrocities. These acts are absolutely prohibited by The Hague Conventions and the Geneva Conventions and they constitute serious war crimes.

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³ See Chapter 8 on mortality

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²² Gary Younge, "If Wanton Murder is essential to the US Campaign in Iraq, It's Time to Leave" *Guardian* (June 26, 2006)

²³ Gary Younge, *op.cit.*

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²⁵ Richard Whittle, "Rules of Engagement: What Were They at Haditha?" *Christian Science Monitor* (October 10, 2006)

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