

From Nanjing 1937 to Fallujah 2004: War Crimes in Perspective

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The roots of the Japan-China War (1937-45) can be traced back to the surprise attack that Japanese army officers launched, in September 1931, on Chinese forces in Manchuria. Their premeditated coup led to Japan's seizure of the vast, resource-rich region. Initially carried out in the name of self-defense and national security, the Manchurian takeover was later justified as a step toward establishing a new status quo in Asia. A long series of clashes alternating with truces followed between Japanese forces and Chinese un-reconciled to Japanese rule.

Starting with the battle of Shanghai, a port city at the mouth of the Yangzi River in early autumn 1937, the war began in earnest. During fighting near the foreign concessions, Japanese forces started killing Chinese prisoners of war on the spot. Three-months later, after they had completely encircled and isolated Nanjing, Chinese resistance crumbled and the capital of Nationalist China fell. Frustrated and exhausted Japanese army units, their discipline frayed by fierce fighting, went on a rampage. The news of killing, pillage, arson, and rape was widely reported and spread quickly throughout the world. Chinese anger increased; nationalist resistance hardened and a "fight Japan" attitude spread.

Japan's decision to take Nanjing and the ensuing bloodbath marked strategic and symbolic turning points in a war of conquest for

which no solution short of withdrawal would ever be in sight. But Nanjing might not have become a symbol of massacre in the West had the interests of the Great Powers not been served by remembering it. For the Japanese sinking of the U.S. gunboat "Panay" and the British gunboats "Lady Bird" and "Bee," occurred in the midst of the attack on Nanjing. News of these incidents overlapped with reporting on the massacre and highlighted the seriousness of the challenge that Japan was mounting to Anglo-American imperialism in China.

By late 1938 the Japanese imperial armed forces had bogged down. They had been constantly treating the Chinese as a conquered people, underestimating the hatred that their brutal behavior had engendered. Now, they could neither win the war nor, for domestic political reasons, acknowledge having lost it. They could only go on winning battles, occupying coastal cities and their hinterlands, and setting up puppet governments with Japanese officers in the background, running the show. Hoping to break the stalemate, Tokyo spread the fighting to Southeast Asia, then escalated again by attacking Pearl Harbor. The road to diplomatic failure and calamity that Japan's leaders had embarked on in 1931 ended, fourteen years later in August 1945, with the unconditional surrender of a nation in ruins from American bombing.

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Imperial Japan was hardly alone in killing the innocent. The second half of the twentieth century, which really began in 1945, witnessed

massive attacks on civilian populations and countless atrocities from which Americans too easily averted their eyes because their own government or one of its client regimes was doing most of the killing. To pose comparative questions about war crimes in different situations, times, and places is a simple but useful strategy for illustrating this nationalist bias. The U.S. war in Vietnam, Israel's thirty-seven-year-long occupation of the West Bank and Gaza, and the U.S. occupation-war in Iraq are three events that, when brought together with Japan's China War, illustrate the usefulness of the comparative approach. They also serve to make explicit how war crimes are used to justify as well as criticize the international behavior of states.

In the 1960s and early 1970s the United States was fighting in Vietnam. It was the heyday first of President Kennedy, who started the war, and Johnson and Nixon who escalated the killing to genocidal levels because they too were unwilling to acknowledge defeat in an ideological crusade against global communism. Leading voices of sanity, Noam Chomsky and Howard Zinn most notably, grappled with historical analogies to 1930s Japan. It should have been only a matter of common sense for American elites to have recognized the parallels between the imperialisms of Japan and the United States, and to have grasped that the weaknesses of the American position in Vietnam would eventually result in defeat. Unfortunately, few had the courage or vision to recognize the power of the analogy. As the case of former Sec. of Defense Robert S. McNamara illustrates, no senior American decision-maker ever acknowledged that the concept of "crime" was applicable to what the U.S. did in Indochina.

After the cold war I revisited the 1930s in order to study the varied roles that the Showa Emperor Hirohito had played in mobilizing the energies of the Japanese people for war, and in making an immoral war seem moral. Later I

drew parallels between Japanese atrocities in China and American atrocities in Vietnam.^{1} One general similarity was that between the mainstream, postwar Japanese response to the Nanjing massacre, and the debate over American involvement in Vietnam, which came to a climax at the time of the My Lai or Son My village atrocity, in which American soldiers murdered more than five hundred unarmed, non-combatant civilians, mostly women, young children, infants, and old people.

Japan's postwar leaders were forced to draw lessons from their lost war. The Japanese people, exposed for the first time to eyewitness testimony and photographic evidence presented at the Tokyo international war crimes trial, learned the truth about some of the atrocities and war crimes that their soldiers had committed. Other crimes, such as the sexual slavery of "comfort women," would remain hidden for decades. But after the American occupation of their country had ended, and throughout most of the cold war, official denial of mass atrocities and the repetition of lies rather than the clarification of facts dominated Japanese government responses to the Nanjing massacre. This suggests that the deep wounds inflicted by war on the Japanese people penetrated their conservative political class the least.

In the United States after the Vietnam War something similar happened. Political and military leaders, as well as young, ambitious future-politicians like Dick Cheney and Donald Rumsfeld, who served in the Nixon, Ford, and Reagan administrations, and bureaucrats like Paul Wolfowitz who started his government service under Ford, failed to learn any "lessons" from the U.S. war beyond the need to avoid another "quagmire." The only flaws in the war that they ever perceived were strategic and tactical ones, and those pertaining to media access to the battlefield. No international war crimes tribunal stood in judgment on American war crimes, nor did the

American polity (unlike Japan's) undergo any radical restructuring. The anti-war movement, effective in mounting critiques and helping to end the war, was unable to sustain pressure for domestic institutional reforms that would lead to fundamental changes in U.S. foreign policy.

Neither the House nor the Senate held Presidents Johnson and Nixon legally accountable for lying repeatedly to the American people about the origins and reasons for the war. Neither president nor top civilian and military advisers were ever charged with having committed war crimes. The mainstream American response to atrocity was to shift blame for events like the My Lai massacre downward onto a lowly second lieutenant while ignoring the larger operation of which My Lai was a part: Operation Wheeler Wallawa, which killed an estimated 10,000-11,000 Vietnamese civilians.^{2} Treating My Lai as an exception, and covering up countless other atrocities against unarmed civilians -- from the murders committed by Bob Kerrey's unit at Thang Phong to those committed by the US Army's "Tiger Force" unit -- was part of a larger pattern of justifying the Vietnam War to the American people.^{3}

At the end of Nixon's presidency no moral reckoning with American war crimes occurred. The sole lesson from the My Lai incident that political elites drew (and that the corporate media echoed) was that "we are great and good" for My Lai was the exception, not the rule. Perhaps that conclusion was understandable given the public's immersion in the propaganda of that time. Subsequent presidents and their advisers did recognize that it was in their self-interest to avoid a situation like the one that had humbled the U.S. in Vietnam. But dominant political and military values never altered. In dealing with weak states that refused to follow Washington's orders, the Pentagon and the White House again and again resorted to indiscriminate terror, coercion, and intimidation to achieve

their objectives. After a brief interregnum, U.S. global military interventionism resumed in response to the rise of Islamic nationalism in Iran, civil war in Lebanon, and movements to overthrow U.S. client regimes in Latin America.

Three decades later the failure to reform America's deeply flawed political system, and the rise of the war-mongering neo-cons, led to Bush's own "Vietnam" in Iraq. And this time, in place of My Lai, Thang Phong, or Son Thang, the U.S. marines are conducting a revenge massacre of civilians in Fallujah, a city of some 300, 000, thirty-five miles west of Baghdad, on the edge of the Iraq desert.

Opinions about Fallujah and the April rebellion are still forming, but the general outlines are clear, as is the context in which the fighting arose. In late March, after six months of relative quiet in the rebellious Sunni city of Fallujah, U.S. marines, newly arrived in Iraq, took over from the Army's 82nd Airborne Division, and tried to enter Fallujah to assert their control. Their provocative actions set off a cycle of revenge killings which, on March 31, led to the ambush-murder and mutilation of four U.S. mercenaries by a small band of unknown men.

Shortly afterwards, on March 25, 2004, proconsul Paul Bremer, head of the isolated U.S. "Provisional Coalition Authority" in Iraq, announced that the U.S. government intended to retain its occupying army and permanent military bases in Iraq no matter what any future Iraqi government might do or request. Not since the Japanese imperial army established "suzerainty" over "Manchukuo" in 1932, and later ruled occupied China from behind the façade of other puppet governments had an imperialist power resorted to such a nakedly colonial formula. But Bremer communicated precisely that to Iraqis: Outwardly the U.S. would proclaim the existence of a new state of affairs; in practice it would continue to exercise complete dominion

over Iraq and not allow it to control its armed forces, police, or foreign policy, let alone rescind his earlier orders privatizing the Iraqi economy. This legerdemain was to be displayed for all the world to see on June 30, the day something called "sovereignty," which the U.S. never legitimately possessed, was "transferred" to some other U.S.-selected entity.

Bremer then moved to eliminate an outspokenly anti-American Iraqi leader: the young Shiite cleric Muqtada al-Sadr, descendant of a leading Shiite family that had provided both religious and political leadership for modern Iraq from its earliest days. His grandfather was Iraq's prime minister in 1932; Ba'athists murdered his uncle, a venerated Ayatollah, in 1980 and his own father nineteen years later.{4} To arrest Sadr and destroy his militia, the "Army of the Mahdi," became Bremer's objective. A small newspaper published by Sadr's followers was closed; a Sadr deputy in Najaf arrested. In reply, protestors took to the streets and Sadr called on his supporters to conduct sit-ins against the occupation. The largest demonstration occurred in East Baghdad, in an impoverished district known as Sadr City. On April 3, the U.S. military command escalated the crisis, ordering troops to fire on the crowds and sending tanks into Baghdad's streets.{5}

Over the next few days small-scale fighting erupted across Iraq between Iraqis and so called "Coalition" troops, consisting mainly of soldiers sent by their governments, against the wishes of overwhelming majorities of their people, in return for deals cut with the Bush administration. Joining with several other religious militias, the "Mahdi Army" expelled Coalition police and soldiers from towns and cities where resentment against the Americans was strongest.{6} Because Sadr's and other religious militias represented a social movement with broad popular support, they easily gained control of six Shiite cities, including Karbala, Kufa, and parts of nearby

Najaf, with little loss of human life. In this way, moving more quickly than Bremer, Sadr and his militia ignited a nationwide rebellion which exposed the political powerlessness of the occupation and brought to an end the impunity of both the American military and private mercenaries who comprise a growing proportion of U.S. forces.

By April 4 American forces, their assorted Coalition partners, and Iraqi collaborators were under assault throughout south, central, and northern Iraq. Two days later, when marines intent on avenging the earlier murder of the four Americans made another foray into Fallujah's central residential neighborhoods, they responded to stiff resistance by slaughtering unarmed civilians, including women and children. Concurrently, in Baghdad's Sadr City, Shiite militiamen supportive of al-Sadr, took control of the city hall and police headquarters.{7} An AP journalist, writing from the sacred pilgrimage city of Najaf, quoted al-Sadr as declaring, "America has shown its evil intentions, and the proud Iraqi people cannot accept it They must defend their rights by any means they see fit."{8} The Shiite and Sunni rebellions had become linked.

At that point the stunned U.S. military deployed all the force it could muster to shatter the Iraqis' will to resist. Overstretched American combat soldiers, applying Israeli street-fighting tactics against the Sunnis and Shiites, retaken many Shiite cities that the militias had controlled. But they have been unable to regain control of East Baghdad, and they have yet to capture or kill al-Sadr or destroyed his militias, their stated objectives.{9}

As reports spread of the marine siege and "lockdown" of an entire city, the heroism of the poorly armed Fallujah resistance and the indiscriminate U.S. destruction of civilian lives and property has kindled a fire of intense hatred in the hearts of many Iraqis. Energized

through their mosques, Shiites and Sunnis, historic enemies, began to cooperate in sending food assistance and joining the national resistance. In the capital as in the provinces, U.S. troops fired on pro-Sadr demonstrators. Adding to their numerous violations of international law, they barged into hospitals and arrested the wounded. To prevent banned weapons from being sent to Fallujah along with food aid, they conducted punitive searches of mosques, kicking in doors, spraying walls and ceilings with gunfire, and in other ways desecrating them. In the process they destroyed tons of foodstuff earmarked for the encircled cities.

In besieged Fallujah, where the resistance fought the marines to a standoff, the worst war crimes occurred. The U.S. military dropped 500-ton, laser-guided bombs and body-shredding cluster bombs, destroying mosques, schools, and whole residential areas. "Predator" drones, helicopters, and AC-130 gunships rained death on all who ventured onto the streets. When this level of "shock and awe" failed to quell the uprising, the US military command declared a "truce," hoping to wait out the rebellion until the marines determined the next appropriate level of destruction. While preparing to launch a full-scale invasion of the city, marine artillery continued firing on residential neighborhoods and teams of marine snipers -- their motto "one bullet, one kill" -- made forays into Fallujah in order "to clear the streets and undermine the insurgents." {10}

Firing from bridges and the rooftops of factories and apartments, using explosive dum-dum bullets, the marines shot up ambulances and killed women together with their infants, young children, and old men -- some as they tried to flee the fighting. One refugee, interviewed in Baghdad by independent journalist Dahr Jamail, recalled that "There were so many snipers, anyone leaving their house was killed." {11} Los Angeles Times journalist Tony Perry cited a proud corporal

who said, "sometimes a guy will go down, and I'll let him scream a bit to destroy the morale of his buddies, then I'll use a second shot." {12}

In Iraq private mercenaries, employed by "privatized military firms," roam the war zones in civilian clothes and indigenous garb, selling their fighting and logistical services for cash. Also unlike Nanjing, no disbanded army is present in Fallujah, only resistance fighters, comprised of "Shias, Ba'athists, Sufis, tribes, and Arab fighters." {13} They represent mainly the youth of the community, buoyed by its sympathy. But judging from statements issued by senior American commanders and their spokesmen, the same self-righteous, narrow-minded thinking that characterized Japanese officers in wartime China during and after the Nanjing massacre, prevails today among U.S. officers, from Gen. John Abizaid at Central Command to frontline generals Ricardo Sanchez and spokesman Mark Kimmitt. And just as the Japanese press once served the needs of the state by failing to report the truth of the Nanjing massacre, so American corporate media perform a similar function by not reporting the full extent of the U.S. military's killing and general mistreatment of unarmed civilians throughout Iraq.

After three weeks of rebellion the casualty figures from Fallujah alone ranged from a low of 600 to 650 combatant and non-combatants killed and over 1,200 injured -- readily admitted to even by the U.S. command -- to estimates ranging upward from one thousand. {14} The overwhelming majority may be women, children, and old people but who knows their real numbers? The U.S. occupiers are attacking on many fronts with artillery, planes, and tanks, but most Iraqis still wait to see how far the Americans around Fallujah and Najaf will push their collective punishments. In the U.S. military command some believe that if they are to reassert control in western and central Iraq, they must retake symbolically important Sunni Fallujah, and destroy al-Sadr and his militia in

the Shiite "Shrine cities" of Kerbala, Kufa, Najaf, and Nasiriya.^{15} The occupation army's drive to crush the resistance has rendered concern for civilian casualties largely irrelevant.

At this writing Fallujah has been elevated to the level of a presidential targeting decision. Whether Bush will choose to destroy the Fallujah resistance, which he mistakenly denigrates as "a bunch of thugs and killers," or allow his field commanders to heed the advice of Iraqi collaborators and negotiate a solution with them remains unclear.^{16} If his generals tell him that an offensive is feasible, and his close advisers warn that he must escalate the violence in order to "stabilize" Iraq, he will probably give the order. Despite any temporary truce, the eventual outcome will be determined by policy issues having to do with Fallujah's influence on the larger U.S. position in Iraq and throughout the Middle East, and not by worry over committing more acts in violation of international law. Having lost the trust of the current generation of Iraqis by the brutal manner in which it has mismanaged a full year of occupation, the U.S. military may be unable to sustain its presence in Iraq no matter what tactical victories it achieves or changes of strategy it adopts.

The people of Fallujah have paid dearly, but the events in that city have redefined the conflict in ways that highlight the complete political bankruptcy of the U.S. occupation and point to the likelihood of U.S. failure to gain military and economic control of oil-rich Iraq. As in Nanjing and My Lai in earlier wars, the April battles for control of Fallujah, East Baghdad, Najaf, and other Shiite Shrine cities, and the large numbers of dead and wounded particularly on the Iraqi side, have clearly signaled to the world that Iraq is again at war. Above all, these needless battles have shed light on the criminality of the U.S. conquest and occupation, and in the process raised important questions about U.S. war crimes in

Iraq and Afghanistan.

II

More discussion is needed to clarify the connections between the Nanjing massacre and the global issues of war and military occupation that I raised in my earlier review of Nanking 1937 (Bix, "Remembering the Nanking Massacre"). As the large, growing literature on the Nanjing massacre makes clear, important questions remain unresolved. But we also need to use the study of war crimes to reflect on what Edward Herman calls the "global structure of interest and power" that determines which massacres become widely known and acted upon, and which are forgotten or glossed over. Where the Middle East is concerned, one way to advance such reflection is to address the Israeli-Palestinian conflict and the problem of Israeli violations of international law. Are there fruitful comparisons to be drawn to the Israeli-Palestinian conflict?

In studying why aggressors commit war crimes, I argued the importance of broad comparative studies of both historical and contemporary events. Shifting from a bi-national to a cross-national or global, comparative framework, allows us to perceive the universal within the particular in each major case of war criminality. It is also a way to address the vital moral and social problems of the present. A comparative approach, however, requires that the historian discard double standards rooted in myths of national exceptionalism, and apply to one's own government and its allies the very same principles that Americans and their allies, as victors, once applied in assessing the crimes of Nazi Germany and Imperial Japan.

From such a perspective "the logic of Japan's atrocities" in 1930s China may be compared with many contemporary instances of aggression and war crimes, including the official "policies that Israeli governments (past but especially present) pursue against the

Palestinians." These policies long antedate the second intifada. They include torturing detainees, assassinating political and spiritual leaders, taking Palestinian land directly by annexation or indirectly by building security roads around illegal Israeli settlements, and redrawing the boundaries of Israel by constructing high cement barriers and electronic fences (called "terrorism prevention fences"). Such "walls" turn Palestinian territory into Bantustan-like enclaves where individuals live in dire poverty, without hope of ever having a bounded, contiguous territorial state of their own.{17}

These statements of fact are amply corroborated, daily, by official Israeli policy statements and reliable press accounts of Israeli conduct. For thirty-seven years Israeli government's have committed countless criminal acts against the Palestinian people, in violation of the canons of international humanitarian law, including Article 6 of the 1945 "Nuremberg Charter" and the 1949 Geneva Conventions pertaining to the protection of people under occupation.

The U.S. government has been a co-actor in Israel's warfare, an accomplice to its murders of Palestinian civilians, and a defender of its iron-fisted occupation. Washington provides the weapons, financial aid, and diplomatic protection for Israel's repeated violations of traditional international law. On twenty-eight occasions since 1970, Democratic and Republican administrations, strongly backed by Congress, have vetoed UN Security Council resolutions criticizing Israel's illegal human rights violations.{18} The U.S. also turns a sympathetic eye to Israel's nuclear weapon's program while selectively criticizing nuclear proliferation in so-called "axis of evil" countries, North Korea and Iran. President Bush has even formally endorsed Prime Minister Sharon's plan for retaining substantial, illegal Jewish settlements on the West Bank, something that previous

administrations had long described as "obstacles to peace."

To be sure, every human rights abuse and every atrocity event has a different significance; the historical contexts in which they occur are distinctive; and issues of causation, even within a single individual, are extremely complex. Yet it is also true that among Israeli soldiers facing legitimate Palestinian resistance in the refugee-camps of the occupied territories, are many of the very same factors that once led Japanese invaders to commit mass atrocities at Nanjing and elsewhere in China, and U.S. forces to do the same with impunity in Vietnam, and again today in Iraq and Afghanistan.

Virulent racism, which causes the occupier to denigrate the native people, treat them as sub-human, and demean their national culture seems to be a constant in situations that produce war crimes. Racism heightens the foreign invaders' level of frustration, hatred and rage while he struggles to determine who the enemy is, and to destroy all forms of resistance. The physical and emotional exhaustion of occupiers confronting indigenous resistance increases their likelihood of committing atrocities. So too does low troop morale caused in part by assignments that require them to trample on the rights of the subjugated people in a colonial war of repression.

In the background to acts of overt aggression and war criminality one often finds political leaders with an extreme "Machiavellian mind-set," who "proclaim the absolute primacy of state interests" and pursue aggressive unilateralism.{19} Much like war criminals of the twentieth century, most of them are secularists. They pursue strategies that bring "short-term benefits" to their most important constituents and act "rationally" within their own "doctrinal framework," which is anything but rational.{20} That they have a personal

interest in never being held accountable to any higher authority goes without saying.

A second conditioning factor is policy makers who, like Bush and Rumsfeld, deny to an occupied population, or to prisoners-of-war, treatment in accordance with international law, or who directly order or sanction military strategies of indiscriminate violence against all who resist their aims, thus opening the way to the commission of atrocities as part of routine operations. This occurred in Vietnam; it has happened again in occupied Iraq where the level of fighting is less intense.

Harder to weigh in the political background of massacres are the dominant beliefs and commitments of persons in the top ranks of leadership: what are their beliefs, and how does their example influence subordinates lower down in the chain of command?

Particularly difficult to assess is the concept of religious mission, used by the leaders of many aggressor states. In wartime Japan belief in spreading a national creed, even if it meant depriving the Chinese and other Asian peoples of their lives and liberties, helped to generate public support for the China War. In Israel under Ariel Sharon's Likud rule religion is also deployed for instrumentalist purposes. Sharon's strongest supporters, however, are mostly secularists, and the policies he follows are similar to those of his Labor Party predecessors. In the U.S., surely one of the most religiously obsessed countries in the world, the creed of the Chosen People who have God on their side underpins and encourages violence. Bush's speeches, larded with references to God, reflect his understanding of that fact. But neither religion nor religiosity lie at the root of the zealotry of Cheney, Rumsfeld, Wolfowitz, and their minions. Rather, theology is the red meat that the extreme realists of the Bush administration throw to their Protestant evangelical and fundamentalist constituents in the Republican

Party, hoping it will ensure their support.{21}

By pursuing these and other comparisons, historians may be able to isolate in each situation the most relevant causal factors that give rise to mass murders and crimes against humanity.{22}

For the past three years researchers in Japan and Europe have been gathering and sifting evidence of American war crimes in both Afghanistan and Iraq. Their ultimate aim has been to bring before an international tribunal, in absentia, President George W. Bush, the leader who bears the highest responsibility for crimes committed in pursuit of his policies. At public hearings held in Japan on sixteen different occasions between December 2002 and November 2003, Japanese field researchers presented their findings, which were later published in seven volumes.{23} Human Rights Watch has also reported on how American troops in Afghanistan "are operating outside the rule of law, using excessive force to make arrests, mistreating detainees and holding them indefinitely."{24} Amnesty International and Occupation Watch, Physicians for Human Rights and other NGOs, UN officials, independent journalists and researchers are all documenting the criminal acts that American forces in Afghanistan and Iraq are repeatedly committing against civilians and prisoners of war.

One of the most notorious war crimes occurred in Dasht-e Leili, Afghanistan. On November 26, 2001, thousands of Taliban troops surrendered at Kunduz after negotiations with the Northern Alliance warlord, General Dostum. Allegedly in the presence of members of the 595 A-team from the U.S. Fifth Special Forces, which worked with the notorious Dostum at the surrender negotiations, as well as U.S. Army personnel and CIA agents, the prisoners were stuffed into truck containers, "up to 300 people in each," and then transported over a ten-day period to a prison near the Dasht-e Leili desert.

En route most of them "slowly strangled to death from . . . lack of oxygen." Their bodies were dumped in an "acre-large, densely packed" grave site. Estimates of the number of prisoners of war who died in the containers vary widely: some give a low of about 1,000 people; one documentary film maker estimated over 3,000, others say as many as 5,000.{25}

Four facts stand out: (1) the deaths of the surrendered prisoners "by [slow] asphyxiation in transport containers" was a major war crime under international law; (2) the American state had some form of control over the militarily weak Northern Alliance, and American officers as well as CIA agents worked with the Northern Alliance troops and "at various points seemed in overall command;" (3) nevertheless, both the U.S. government and its men in the field appear to have acquiesced in the killing; (4) "[Physicians for Human Rights] and Amnesty International representatives urged that the site be protected for further examination and that an investigation be carried out But nothing happened." As Edward Herman explains, "The neglect of Dasht-e Leili . . . follows from . . . U.S. (and British) support of the killers and partial direct as well as command responsibility for the killings. The United States refuses to allow its personnel to be dealt with by international bodies on matters of possible criminal behavior, and as standard practice it denies or plays down any criminal incidents or massacres carried out by its personnel or by its clients."{26}

Dasht-e Leili is but one example of the American double standard on war atrocities. Independent researchers and journalists are also scrutinizing the system of secret American concentration camps at Guantanamo Bay, Cuba, and elsewhere around the world where "detainees" captured in Afghanistan, Iraq, Bosnia, and other countries are held without charge, in isolation, many subjected to beatings and other forms of torture. Overall estimates of

such prisoners, including very young boys, women, and old men, range from 14,000 to over 20,000. Most of them are being held in Iraq, without charges, in open-air concentration camps on U.S. military bases, or in solitary confinement in Hussein's old prisons.{27} They are denied family visits and subjected to various forms of ill treatment and torture-- all in blatant violation of international law.

Because U.S.-occupied Iraq is for American and Coalition soldiers an "atrocities-producing situation" in much the same way as occupied China was for the Japanese, and Vietnam for an earlier generation of Americans, the practice of torturing prisoners is widespread, often encouraged by military intelligence specialists.

Unique to the Iraq situation, however, is the Pentagon's heavy reliance on privatized military industry to conduct tactical operations, gather intelligence, and interrogate prisoners. {28} Recent evidence of how American intelligence officers and civilian mercenaries, working for Virginia-based CACI International and the Titan Corporation of San Diego, interacted in running the notorious Abu Ghraib prison complex bears this out. Mercenaries participated (directly and indirectly), along with CIA agents, intelligence officers, and army guards in the torture, beating to death, and sexual humiliation of Iraqi male and female detainees, most of whom were civilians, "picked up in random military sweeps and at highway checkpoints."{29}

At the end of April 2004 graphic photographs and videos of their crimes, taken by American M.P.s at the prison, began to appear in many newspapers in the West and throughout the Arab world. The irony of morally depraved American soldiers "supposedly bringing freedom and democracy and the American way of life" to the Middle East became clear for all to see.{30} Not only did the images fully support allegations of widespread torture and

humiliation of Iraqis, they also brought from the shadows the mercenary issue, revealing a Pentagon-created legal void beyond the reach of the Uniform Code of Military Justice or any international law. Ultimate responsibility for systemic criminal abuses in the U.S. global prison system rests with the two top civilians in the military chain of command: Secretary of Defense Rumsfeld and Commander-in-Chief Bush. How useful will law be in clarifying their personal accountability for the war and the ensuing military criminality occurring on a massive scale?

In short, historians wishing to gain a deeper understanding of the Nanjing massacre or any other large-scale atrocity event from the past would be well advised to study historical and contemporary materials, especially if they wish to contribute to combating war crimes in the present.

They might also ponder Judge Radhabinad Pal's final judgment at the Tokyo war crimes tribunal. The most politically independent of the eleven Tokyo judges, his enduring contribution was to have condemned "Western" imperialism, racism, and double standards, while pointing to the state terrorist methods of warfare that lay in the future. The U.S. had set a new standard of killing the innocent in 1945 by its strategic bombing of Japanese cities, and, above all, by its decision to use the atomic bomb. Pal, sounding an alarm, called it "the only near approach to the directives of the . . . Nazi leaders during the [S]econd World War."³¹ His use of historical analogy in a courtroom setting cut to the point, illuminating one of the twentieth-century's worst crimes.

Today, in a time of perpetual American global wars and colossal American policy failures, it is incumbent on historians to condemn governments that turn their soldiers into terrorists, and work politically to punish arch war criminals.

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