

# Fighting By the Rules, Not Against Them

By Col. Dan Smith, USA (Ret.) | December 15, 2003

The guiding maxim of medicine, “Do no harm,” has a common-sense counterpart in anti-guerrilla military operations. This should not be surprising, for these military operations, when conducted by lawful governments, try to excise a perceived imminent and grave danger to civil society without causing additional trauma to the body politic.

The military maxim might be summarized inelegantly as, “Do nothing that boosts or gives comfort to the guerrilla cause.” This suggests that the main objective is not the guerrillas themselves (whose pursuit can lead to the deaths of innocent non-combatants, as happened twice this past week in Afghanistan) so much as their message and its rationale as motivation for the population’s support. If these can be undercut, the guerrillas will either wither or be exposed.

Unfortunately, reports emanating from Iraq—as well as from Afghanistan—suggest that this maxim is more often ignored than followed by U.S. troops pursuing those who attack coalition forces, assassinate cooperating Iraqis, and indiscriminately kill ordinary Iraqis who hold no brief for any side.

Most disturbing is the obvious adoption by the U.S. authorities in Iraq of punitive measures, considered by many to be violations of international law (especially Article 33 of the 1909 Hague Regulations), that have been employed for years in the occupied Palestinian territories by the Israeli Defense Forces and Shin Beth, Israel’s secret intelligence organization. Houses belonging to guerrillas or occupied by their relatives, even if the latter take no part in anti-occupation actions, are either bulldozed to the ground or blown up as collective punishment. So too, are structures and vegetation that interfere with “fields of fire,” or from where fire is directed at coalition forces, or where guerrillas are believed to have met and planned their activities.

Another borrowed tactic, one which has a Vietnam pedigree for U.S. forces—is enclosing inhabited areas with barbed or razor wire and controlling movement into and out of the enclosure. The Vietnam effort,

the “strategic hamlet” program, sought to cut popular support for the guerrillas by concentrating and isolating the general population, with the resulting “uninhabited” areas becoming “free-fire” zones—with predictable, deadly consequences for many innocent Vietnamese. And in severing the people from the land, the program trampled Vietnamese traditions and practices, further alienating the population.

Ironically, in Iraq (and in Palestine), the primary purpose of enclosing villages and towns with razor wire seems to be to reduce the number of attacks on coalition forces—what might be called “preemptive defense.” But the result is the same—anger and frustration among many Iraqis, a questioning of the “real” intent of the U.S. military invasion, and an all-too-accurate perception that the Westerners have no sense of or respect for Iraqi sensibilities and Islamic traditions.

Then there is another concern, this one involving international as well as U.S. military law. The immediate cause celebre is the case of Lt. Col. Allan B. West, a battalion commander in Iraq. In the course of interrogating an Iraqi suspected of working with armed anti-coalition forces, West fired his gun next to the Iraqi’s head. This “induced” the Iraqi to reveal, *inter alia*, plans for an attack on coalition force positions, an attack that might have cost U.S. and Iraqi lives had West, with knowledge of the plan, not taken steps to thwart the attack.

Many commentators aver that the end achieved—avoiding U.S. casualties—justified the means, even though the means employed violates the law of land warfare relative to prisoners of war. They decry the Army’s decision to conduct an “Article 15” proceeding, a non-judicial, administrative hearing by a senior

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officer whose options are quite circumscribed in terms of the severity of punishment he can impose. Specifically, the Article 15 proceeding ought not affect West's retirement, anticipated in Spring 2004, nor will it follow West into civilian life, as would a court-martial proceeding were he found guilty.

Admittedly, this incident is a far cry from atrocities committed in Vietnam for revenge or in the quest for intelligence on Viet Cong and North Vietnamese plans. But "minor" disregard of the law, especially by a commander, both sets a disturbing precedent and breaches the fundamental principle on which democracies rest: the rule of law rather than the rule of men. Under Saddam, the Iraqis endured the latter for 24 years; the U.S. should not be seen as doing the same thing.

Central Command head General John P. Abizaid struck the right military tone for his troops when he noted that commanders at all levels must carefully weigh in their plans and preparations "whether or not

the offensive operation is actually decreasing the problem....[If] for every 10 enemy you kill, you bring 20 new recruits to their cause, then essentially you are working against yourself."

In which case, mistakes by the occupation forces are likely to multiply in frequency and severity, reinforcing the nascent anti-democratic backlash already evident in some Iraqi circles.

Or, as Sadokhan Ambarkhil, deputy governor of Afghanistan's Paktika province put it: "Every innocent who is killed has brothers, uncles, sisters and nephews—and behind them the tribe. If 10 people are killed, how many people are saddened?" Or worse?

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