Ethics of War

Does the U.S. treat detainees from Afghanistan fairly?

The war on terrorism unleashed by the Sept. 11, 2001, attacks has raised questions about how civilized nations should confront enemies that flout established international humanitarian law. Amnesty International and other groups contend the United States is violating the Geneva Convention — which mandates humane treatment of civilians and prisoners of war (POWs) — by holding captives from the war in Afghanistan incommunicado. But the administration says its Al Qaeda and Taliban prisoners do not warrant POW status because they did not represent legitimate states. Meanwhile, religious leaders say attacking Iraq would not constitute a “just war” because Saddam Hussein does not pose an imminent threat. But others say Hussein must be confronted because he has used weapons of mass destruction before and could do so again.
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THE ISSUES

Londoner Zumrati Juma had not heard from her 22-year-old son Feroz for more than a year. After checking with the local police, and even the mosque where he worshipped, she began to think the worst.

But in January she was stunned to learn that Feroz, a British citizen, was being held incommunicado by the United States. He had been transported, hooded and in chains, to the U.S. Naval Station at Guantanamo Bay, Cuba, where he remains. The Justice Department says he is a member of Al Qaeda, the global terrorist group headed by Saudi exile Osama bin Laden.

Feroz is one of 625 detainees at Guantanamo captured last fall during the U.S.-led campaign launched against Al Qaeda and Afghanistan’s ruling Taliban regime following the Sept. 11, 2001, terrorist attacks on New York City and the Pentagon. For nearly a year, the detainees have been interrogated for information that might help prevent future terrorist attacks or aid in the capture of bin Laden and other terrorists.

Classifying the detainees as “unlawful combatants,” the Bush administration has refused to grant them access to either lawyers or U.S. courts. It contends that since the detainees are foreign nationals being held outside the United States, they do not warrant such rights.

“Are we supposed to read [terror suspects] their Miranda rights, hire a flamboyant defense lawyer, bring them back to the United States to create a new cable network of ‘Osama TV,’ provide a worldwide platform for propaganda?” Attorney General John D. Ashcroft asked the Senate Judiciary Committee on Dec. 6, 2001.

But lawyers representing Feroz and 16 other detainees have sued in federal court, arguing the Bush administration has unlawfully denied the Guantanamo prisoners their legal rights. “Intelligence gathering may go forward, detentions at Guantanamo Bay may go forward, but [not] without process of law,” said Joe Margulies, of the Center for Constitutional Rights, one of the lawyers. “The government says no court in the world may hear from my clients. Guantanamo is unique. It is utterly outside the law.”

The treatment of soldiers captured in warfare is one of the seminal issues addressed by the 1949 Geneva Convention and other treaties on the conduct of war.

These rules were developed in the 19th and 20th centuries, at the same time that new, more deadly weapons were being created. “War at its inception was a wholly barbaric business,” says Paul Stevens, a former legal adviser to the National Security Council. “But as our ability to inflict mayhem increased, we began to recognize the need to find ways to stop or control the violence.”

But while the rules of international humanitarian law only were developed over the past 150 years, efforts to regulate warfare date back to ancient times.

Indeed, three centuries after the rise of Christianity, the religion’s first great political theorist, St. Augustine of Hippo, set out the conditions that needed to be met before a state could go to war. His theory of the “just war,” later refined by St. Thomas Aquinas and others, mandates that war must be fought only for a good or just cause, by a legitimate authority and only as a last resort.

While the U.S. action in Afghanistan — dubbed Operation Enduring Freedom — was widely seen as ethically and politically defensible, many theologians and other observers say that U.S. action against Iraq, now being contemplated by the administration, would not meet the just-war test. They argue that although Iraqi leader Saddam Hussein is a brutal dictator who may indeed have biological and chemical weapons, there is no evidence that he directly poses an imminent threat to the United States.

“Before we justify going to war, we need to see that Iraq poses a clear and present danger, and I just don’t see it,” says Bob Edgar, general secretary of the National Council of Churches, which represents 50 million Christians. Before an attack is even considered, Edgar advocates the continued use of the weapons-inspection process and other non-violent means to bring Iraq into compliance with U.N. disarmament resolutions.
A Century of War Atrocities

More people died in violent conflicts during the 20th century than in any previous century — including millions killed through genocide. Several factors fed the bloodstream, including the rise of state-supported racism, population growth, the destructive power of modern weapons, competition for dwindling natural resources and the emergence of unstable states. Major contemporary atrocities cited by historians include:

The Armenian Genocide — From 1915-1923, an estimated 1.5 million ethnic Armenian Christians were killed in forced marches and executions carried out by the “Young Turk” government of the Ottoman Empire. The Turkish government continues to challenge the veracity of some facts surrounding the atrocity.

Ukraine’s Forced Famine — In an attempt to subordinate the Ukrainian republic, the Soviet leader Josef Stalin induced a famine in the Ukraine from 1932-1933 that killed an estimated 5 million people. While some organizations do not recognize famine as genocide, the Russian government has denounced Stalin’s campaign as genocide.

The Rape of Nanking — When Japanese military forces sacked the Chinese city in 1937, they raped 20,000 women, killed over 200,000 people and imprisoned thousands more in one of history’s bloodiest rampages.

The Holocaust — Under Adolf Hitler’s Nazi regime in Germany, an estimated 6 million Jews were systematically killed in an attempt to eliminate the Jewish race. Gypsies, dissidents, homosexuals and others were also persecuted, with estimates of the number killed ranging from thousands to 5 million.

Cambodia’s “Killing Fields” — The communist Khmer Rouge took control of Cambodia in 1975 and systematically forced most of the people into labor camps, where they starved or were worked to death. Vietnamese nationals, Chinese, Muslims, intellectuals and Buddhist monks were also “cleansed” from Cambodian society. An estimated 1.5 to 2 million people died during Pol Pot’s Khmer Rouge reign, which ended in 1979.

Bosnia — Bosnian Serbs in the former Yugoslavia began a murderous campaign of “ethnic cleansing” against Muslims and Croats in 1992, killing hundreds of thousands of men, women and children by execution, imprisonment and torture.

Rwanda — Ethnic Hutus slaughtered an estimated 800,000 members of the Tutsi ethnic minority and suspected Hutu collaborators between April and July 1994. Millions of Hutus and Tutsis fled the country.


But others support the administration’s contention that Iraq directly threatens the United States and its allies, as indicated by the failure of the decade-long, non-violent effort to disarm the oil-rich nation. In addition, war supporters point out, Hussein has repeatedly used weapons of mass destruction and is likely to do so again in the future. 6

“If attacking Iraq doesn’t meet the just-war threshold in some people’s minds, nothing ever will,” says Keith Pavlishek, director of the Civitas citizenship program at the Christian-based Center for Public Justice, in Annapolis, Md.

Ethical issues also surround the U.S. refusal to join the International Criminal Court (ICC), established in July to investigate war crimes.

Temporary war-crimes tribunals were used after World War II, when defeated German and Japanese leaders were tried for crimes against humanity. Currently, temporary tribunals in the Netherlands and Tanzania are prosecuting Yugoslavs and Hutus accused of committing atrocities during brutal conflicts in the former Yugoslavia and Rwanda. 7

The United States has refused to support the ICC, arguing that it could become politicized and ultimately be used by unfriendly states to target U.S. soldiers and officials, even when engaged in peacekeeping missions. “[O]ne cannot answer with confidence whether the United States would now be accused of war crimes for legitimate but controversial uses of force to protect world peace,” says John R. Bolton, under secretary for arms control and international security. (See “At Issue,” p. 1025.)

But human-rights activists and other supporters of the ICC counter that the administration’s concerns are overblown and that a permanent judicial body will better enable the international community to hold mass murderers accountable for their genocidal crimes.
While experts disagree about the ICC, many on both sides accept the contention that future conflicts may prove even more brutal and unregulated than past wars. Powerful countries, they predict, will find themselves fighting rebels or non-governmental entities like Al Qaeda, which are disinclined to follow generally accepted rules of humane warfare.

But human-rights activists argue that even though Al Qaeda and Taliban soldiers do not entirely fit the image or definition of traditional fighters, they still should be granted prisoner-of-war status when captured by the United States or other coalition forces.

The administration argues that the detainees do not warrant POW treatment — which might require their release, since the war in Afghanistan is largely over — because they have none of the trappings of regular soldiers, like uniforms and insignias.

“The whole idea behind awarding someone POW status is that they look and act like soldiers, which means they behave differently than civilians,” says David Rivkin, a former Justice Department official under former Presidents Ronald Reagan and George Bush. “These guys were no different than other men in Afghanistan, where everyone is armed and dresses in the same way.”

As policymakers and ethicists from the United States and other countries seek to apply the moral standards for warfare to today’s terrorism, here are some of the questions being asked:

**Would an invasion of Iraq be a “just war”?**

All the major religious traditions contain teachings on war, including Islam. Western views are influenced by the Christian notion of the “just war,” conceived nearly 2,000 years ago by St. Augustine of Hippo. According to generally accepted principles, a “just war” should be:

- based on clear, legitimate or just aims;
- undertaken by a legitimate authority — such as a recognized government;
- not undertaken out of hate, greed or other base motives;
- prosecuted only as a last resort; and,
- likely to succeed.

Many U.S. church leaders are among those who contend that war with Iraq would not meet most “just-war” tests, mainly because they say justification for an attack is absent. (Some religions, like the Baptists, say it meets the test.)

“Is there clear and adequate evidence of direct connection between Iraq and the attacks of Sept. 11 or clear and adequate evidence of an imminent attack of a grave nature?” asks Bishop Wilton Gregory, president of the U.S. Catholic Conference of Bishops, in a Sept. 13 letter to President Bush.

Gregory and others say “no,” adding that pre-empting threats that may or may not materialize sometime in the future doesn’t constitute adequate justification.

“Iraq has chemical and biological weapons and the ability to deliver them up to 400 miles,” says Edgar of the National Council of Churches. “But Saddam Hussein hasn’t used them for more than a decade, and it seems that the most likely way he will use them is by being backed into a corner by us — when we invade — and he has nothing to lose.”

In addition, some church leaders say, an invasion of Iraq, at least at this point, also would not be a measure of last resort. “No one is trying to defend Saddam Hussein, because he’s a dreadful person who has done dreadful things,” says James E. Winkler, general secretary of the United Methodist Church. “But we have other ways to pursue our goal of disarming him.” Among those, he says, are the U.N. weapons inspectors now...
Civilians Bear the Brunt of Warfare

Despite several treaties and international agreements designed to protect them, civilians bear the brunt of most fighting around the world.

Indeed, since World War II, non-combatants have made up 90 percent of all war-related casualties. 1 And academics estimate that between 1900 and 1987, a staggering 169 million civilians and unarmed soldiers were killed during conflicts, compared with the 34 million soldiers killed in combat. 2

In the past, armies often were expected to “live off the land,” pillaging and killing innocents as they moved from one area to another. In some conflicts, such as the religiously motivated Thirty Years’ War (1618-1648), civilians were the targets of military aggression, as Protestant and Catholic armies attacked non-combatants to stamp out “heresy.”

Civilians were constantly targeted during World War II. All sides bombed civilian areas, sometimes to destroy vital industries but sometimes to “demoralize” enemy populations, like the German V-2 rocket bombing of London, the U.S. fire-bombing of Dresden or even the atomic bombing of Hiroshima and Nagasaki by the United States. The Germans and the Japanese took the brutality a step further, wiping out entire towns and cities, and, in Germany’s case, establishing concentration camps to exterminate whole races and groups of people.

The war’s horrors prompted the International Committee on the Red Cross (ICRC) to recommend an international conference in Geneva, Switzerland, to regulate conduct during war. One of the four articles of the 1949 Geneva Convention specifically seeks to protect civilians and their property. The rules were refined and expanded in 1977 to protect civilians from the growing threat of terrorism. (See box, p. 1024.)

“The civilian population, as such, as well as individual civilians, shall not be the object of attack,” states Protocol I, from 1977. The protocol also outlaw terrorism during war: “Acts or threats of violence, the primary purpose of which is to spread terror among the civilian population [are prohibited].” 3

In addition, the Geneva rules prohibit the kinds of attacks, such as carpet-bombing, most likely to cause excessive civilian casualties. They also prohibit armies from using civilians as human shields to advance strategic objectives.

The Geneva code does not prohibit attacks against legitimate military targets that may or are expected to cause so-called collateral damage and produce civilian casualties. But in these cases, commanders must do all they can to avoid hurting civilians.

Although the rules governing the treatment of civilians are clear and have been ratified by most nations, conditions for non-combatants have, if anything, gotten worse since World War II, because the Geneva rules are, essentially, unenforceable.

“While we have this nice-looking piece of paper that says all the right things, states feel free to ignore it and to act in what they see as their best interest because there’s no enforcement mechanism, no way to hold them accountable,” says Thomas Lynch, an attorney at the International Human Rights Law Group in Washington, D.C. “So protecting civilians comes down to a matter of convenience.”

In addition, many conflicts of the last 60 years have taken place in the developing world, where armies are often disorganized, and non-uniformed soldiers blend in with the civilian population, a combination that often leads to the killing of many innocents.

In some recent wars, civilians have been specifically targeted. During the civil war in Bosnia in the former Yugoslavia, all sides, especially the Serbs, targeted non-combatants — often in an attempt to “ethnically cleanse” an area. Serb soldiers searching for weapons of mass destruction in Iraq.

Winkler also questions the likelihood that invading Iraq would be successful. “I’m sure we can beat them militarily, but what happens afterward?” he asks. “Everyone knows that this will seriously threaten the peace and stability of the Middle East, because so many people would be unhappy with the United States going in and killing a lot of Iraqis.”

But others counter that striking Iraq would clearly meet the just-war test, since Iraq has both the desire and capability to do great harm to the United States now or in the near future.

“It’s clear that there is a case for just war here,” says David Davenport, a research fellow at the Hoover Institution and past president of Pepperdine University, in Malibu, Calif. “If Saddam has weapons of mass destruction — and it’s pretty clear from the evidence that he does — and there is a likelihood of his using them — and, again, it seems clear that he very well might, since he already has — then you have a just case for going to war.” 4

Even if Iraq is not yet a direct threat to the United States, it could endanger important U.S. allies, say supporters of an invasion. “Israel and our Arab allies in the region are already in danger,” says Pavlischek of the Center for Public Justice.

In addition, Pavlischek says, an attack against Hussein would not be premature because he has been given — and is still being given — chances to disarm and has thwarted all of them so far. “I’m not sure what we’re supposed to do if Iraq doesn’t disarm,”

* It is well-accepted that Saddam Hussein used chemical weapons to kill thousands of people — combatants and civilians — in the late 1980s war against Iran and against Iraq’s own ethnic Kurdish population after the Persian Gulf War.
executed thousands of civilians and raped enemy women as a form of torture.

In Chechnya, a breakaway Russian province, up to 160,000 people, mostly civilians, have died since Russia sought to put down the uprising in 1994. Russian troops have been accused of every-thing from indiscriminately shelling Chechen villages to routinely torturing and executing suspected rebel sympathizers.

African conflicts have been especially hard on civilians. Over the last 40 years, civil wars in Angola, Sudan, Mozambique, Nigeria and elsewhere have left millions of innocents dead. In Sierra Leone, an entire generation has been maimed by machete-wielding soldiers who cut off the hands and feet of suspected enemy sympathizers or their children.

Even the United States is not immune from allegations that it has indiscriminately killed civilians. During the Vietnam War, for instance, American planes carpet-bombed targets in Vietnam and Cambodia. Recently, scholars have unearthed evidence suggesting that American officers ordered pilots to bomb defenseless Korean refugees, killing hundreds.

In a break from past atrocities, some recent mass killings of civilians, specifically in Bosnia and Rwanda, have led to the executions of some of the alleged perpetrators (see p. 1023).

Pavlischek says, “Do they need to be marching down Broadway before we do something?”

“In an era when we face the threat from weapons of mass destruction, the idea of last resort takes on a new meaning,” Davenport says. “Sure, we can try to keep putting pressure on Saddam to accept inspections and disarmament, but my guess is that this may be one of the last chances we have to go in and really address this issue.”

Such action would become much more risky if Iraq were to succeed in its long quest to make nuclear weapons — something that could be just a few years away — according to international arms-control experts.

But Edgar questions why, after more than a decade of sanctions and international isolation, Iraq is suddenly perceived as a great threat that must immediately be destroyed.

“There’s been little evidence that Saddam Hussein has moved out of the box we put him in after the Gulf War,” he says. “In fact, the last time he used those weapons was in the late 1980s, which was when we were supporting him. What makes him such a threat right now, and makes it so urgent that we go to war?”

“The idea of individual responsibility is novel,” Lynch says. “I can’t say, but maybe it will begin to deter some people in the future from committing atrocities.”

In fact, several potential atrocities have been prevented or at least mitigated by humanitarian intervention. For example, in Kosovo in 1999, a U.S.-led bombing campaign prevented Serbian attempts to ethnically cleanse the province of its Albanian majority. Likewise, the same year, the presence of Australian troops likely prevented mass killing in East Timor, an Indonesian province that became independent in May.

Are the detainees at Guantanamo Bay entitled to prisoner-of-war status?

Traditional warfare features enemy combatants wearing uniforms and fighting for a specific country. Under the Geneva Convention, when such soldiers are captured they are supposed to be declared prisoners of war, treated humanely and repatriated when the fighting ends.

But in the war against terrorism, the United States has been fighting a very different enemy. Al Qaeda is an organization, not a country, and those who fight for it come from many nations. Moreover, some of the countries

5 “The First Casualty,” op. cit.
that supplied most of Al Qaeda’s fighters — like Saudi Arabia, Egypt and Pakistan — are staunch U.S. allies.

In the case of the Taliban, the United States and nearly all other countries refused to recognize it as the legitimate government of Afghanistan. In fact, some Taliban soldiers are not even from Afghanistan but from the same states that supplied fighters for Al Qaeda.

The Bush administration has argued that the more than 600 Taliban and Al Qaeda fighters held at Guantanamo are, in practice, receiving many POW rights, even though the administration says they do not qualify as POWs under the Geneva Convention. In addition, declaring them prisoners of war would require their release once the conflict ended, something administration officials argue could prove dangerous, since many are alleged terrorists who could attack the United States again if freed. Instead, the government has opted to classify them as “unlawful combatants” and to hold them indefinitely.

The administration announced on Nov. 17, 2002, that an unspecified number of the Guantanamo captives eventually would be tried before U.S. military tribunals, which do not offer all of the due-process protections usually available in American courts. It’s unclear what will happen to the other detainees.

Federal courts, so far, have rebuffed efforts by civil-liberties groups and others to change the detainees’ status or to accord them the right to a lawyer and an appearance in court.

At a recent hearing, the 4th U.S. Circuit Court of Appeals agreed with the government’s contention that courts “may not second-guess the military’s enemy-combatant determination. Going beyond that determination would require the courts to enter an area in which they have no competence, much less international expertise [and] intrude upon the constitutional prerogative of the Commander in Chief.”

But civil-liberties advocates argue that President Bush has no right to unilaterally declare that the Afghan war captives are not POWs, noting that the Geneva Convention specifies that soldiers captured during a conflict are presumed to be prisoners of war until otherwise judged differently.

“It’s quite clear under the Geneva Convention that the U.S. has an obligation to declare all of these people at Guantanamo prisoners of war,” says Vienna Colucci, director of the International Law Program at Amnesty International, a human-rights advocacy group based in London. “Under the treaty, there is a presumption that someone captured on the battlefield is a prisoner of war until a court decides otherwise.”

“If the government wants to question someone’s status, they’re supposed to convene a competent military tribunal to decide,” agrees Jamie Felner, director of U.S. Programs at Human Rights Watch, an advocacy organization in New York. “So the administration not only has ignored the presumption but also has failed to convene the tribunal.”

But the administration and its supporters argue that the Geneva Convention covers the treatment of lawful combatants, but the Guantanamo prisoners are unlawful combatants. “People don’t seem to think that the term ‘unlawful combatant’ is legitimate, but it is,” says former National Security Council adviser Stevens, pointing out that international law recognizes that some fighters are not covered under the 1949 treaty.

Indeed, administration supporters dispute the notion that battlefield prisoners automatically deserve POW status until proven otherwise. “This presumption is only the case when you appear to qualify for POW status but something puts such a qualification into doubt,” says former Justice Department official Rivkin. “So if you’re captured and your uniform is hard to recognize because it’s been so damaged in battle, then the presumption exists until we clarify your status.”

But the Taliban and Al Qaeda detainees did not meet the criteria for POW status, according to Rivkin and Stevens. “These guys are not part of a regular armed force, with uniforms and insignias and other trappings of a real army,” Rivkin says. “Even the Taliban didn’t wear uniforms, were not all from Afghanistan and were virtually interchangeable with Al Qaeda, who fought alongside them.”

“The Taliban and Al Qaeda were indistinguishable from all other Afghans,” Rivkin says. “They’re supposed to wear uniforms because we’re not supposed to shoot civilians.”

In addition, Rivkin says, the detainees meet none of the other criteria for POW status, such as having a discernable chain of command. “Between [Taliban leader] Mullah Omar and the regional commanders and everyone else, there doesn’t seem to be a hierarchy,” Rivkin says. “As for Al Qaeda, we don’t know what their chain of command is.”

Finally, POWs must represent a military that itself follows the rules of war. “Both groups have completely ignored the rules of war,” Rivkin says, pointing out that they committed human-rights abuses against non-combatants before and during the war.

Stevens agrees, adding that the detainees at Guantanamo were not soldiers but terrorists. “All of these people were part of a huge terrorist network, and I’m sorry, you don’t treat terrorists the same way you treat men in uniform who are part of a real army.”

But administration critics contend the detainees in Guantanamo meet the test. “The Taliban were the de facto government of Afghanistan because they controlled over 90 percent

Continued on p. 1022
Before 1800s
Vague notions of the need to regulate war begin to take shape.

4th Century
St. Augustine of Hippo argues that countries should only go to war for good or just reasons.

13th Century
St. Thomas Aquinas says states must have good intentions when waging war.

17th Century
Dutch scholar Hugo Grotius sets out basic principles for the rules of war.

19th Century
The rise of mass media brings home the horrors of war and leads to international efforts to codify rules.

1854-1856
The barbarity of the Crimean War shocks Europe.

1863
Reports from the front during the Civil War prompt President Abraham Lincoln to ask for military rules governing the conduct of the Army. Swiss banker Jean-Henry Dunant founds the International Committee of the Red Cross (ICRC) in Geneva, Switzerland.

1864
The ICRC sets out humane principles for dealing with the sick and wounded in battle.

1899
A second international convention on war is convened in The Hague, Netherlands.

1900-1999
Unprecedented brutality and genocide lead to stronger rules of war and war-crimes tribunals.

1929
ICRC adopts rules for humane treatment of prisoners.

1939-1945
Millions of civilians in Europe and Asia die during World War II.

1945
Nazi and Japanese leaders face war-crimes tribunals.

1948
U.N. adopts Genocide Convention.

1949
Geneva Convention sets protocols for the treatment of civilians, prisoners and the sick and wounded.

1977
Protocols to the 1949 Geneva Convention protect civilians against terrorism and other acts of violence. U.S. refuses to sign, citing a reluctance to legitimize terrorists.

2000-Present
U.S. confronted with new threats.

Dec. 31, 2000
President Bill Clinton signs the Rome Treaty.

Oct. 7, 2001
Following the Sept. 11, 2001, terrorist attacks, U.S. confronts Taliban and Al Qaeda in Afghanistan.

January 2002
The first prisoners from Afghanistan arrive at the U.S. Naval Station at Guantanamo Bay, Cuba.

February 2002
War-crimes trial of former Yugoslav leader Slobodan Milosevic begins.

April 11, 2002
The ICC comes into existence in The Hague, after 76 nations ratify the Rome Treaty.

May 6, 2002
President Bush nullifies U.S. approval of the Rome Treaty.

July 12, 2002

December 2002
Weapons inspectors return to Iraq.
of the country, so the Taliban soldiers are soldiers for the government of a nation state and should be treated that way,” Amnesty International’s Colucci says. Even Al Qaeda troops meet the definition of POWs, she and others say.

“The Geneva Convention recognizes that you have irregular armies and makes allowances for that,” Felner of Human Rights Watch says. “The Al Qaeda might not have all the trappings of a modern military, but we have declared war on them and should treat them as if we are at war with them.”

“Al Qaeda forces were fighting alongside the Taliban to defend Afghanistan,” Colucci adds. “They were part of their force structure and deserve POW status as well.”

## Background

### Ancient Rules of War

Attempts to regulate war probably are as old as warfare itself. The ancients, most notably the philosophically minded Greeks, were known to have debated the morality of going to war or killing civilians.

But such exercises were the exception, not the rule. Weak neighbors typically were legitimate targets, and civilian populations and prisoners of war were often treated with great brutality.

The advent of Christianity, with its elements of pacifism, brought forth new doctrines on warfare. St. Augustine of Hippo (354-430), the first great Christian theologian to tackle political matters, theorized that war could be justified under certain limited conditions. In what became known as the “just-war” theory, Augustine argued that war was legitimate if it was fought by a proper authority and for what was then considered a good cause, which in those days might have meant a Christian kingdom prosecuting a crusade against non-Christians.

During the Middle Ages, theologian and philosopher St. Thomas Aquinas refined Augustine’s theory, adding the requirement that “belligerents should have a rightful intention, so that they intend the advancement of good, or the avoidance of evil.”

In the 17th century, the Dutch scholar Hugo Grotius used the just-war theory to broaden the code for regulating conflict. Grotius set down rules of war that would become standard in the ensuing centuries, including the humane treatment of prisoners and non-combatants. “I saw in the whole Christian world a license of fighting at which even barbarous nations might blush,” he wrote in 1625, explaining his desire to set down rules of warfare. “Wars were begun on trifling pretenses or none at all, and carried on without any reference of law, Divine or human.”

It was not until the 19th century, however, that efforts to regulate war really gathered steam. The invention of the telegraph and the development of industrial printing processes in the first half of the 1800s made on-the-scene reportage and widespread dissemination of information from the battlefront possible for the first time.

First in the Crimean War pitting Britain and France against Russia in the 1850s and then in the U.S. Civil War a decade later, war correspondents depicted the horror and cruelty of battle, shocking both officials and civilians back on the home front. The disturbing dispatches prompted President Abraham Lincoln to order the War Department to draft rules governing the army’s conduct during wartime. Issued in 1863, the rules mandated humane treatment of prisoners of war and the wounded. Historians consider it the first attempt by an army to regulate itself. 15

The same year, the International Committee of the Red Cross (ICRC) was founded by Jean-Henry Dunant, a Geneva banker who had been “seized with horror and pity” by what he witnessed at the Battle of Solferino in 1859, during the war for Italian unification. Tens of thousands had died, mostly from untreated wounds. Dunant resolved to find a way to prevent similar tragedies in the future.

In 1864, the ICRC held its inaugural conference in Geneva, Switzerland, and adopted the “Convention for the Amelioration of the Wounded and Sick in the Armies in the Field,” calling on all states to care for the wounded and sick on the battlefield — even if they had fought for the enemy — and not to attack medical personnel.

In 1899 and 1907, delegates from several countries met in The Hague, the Netherlands, to build on the foundation set down in Geneva in 1864. Under the “Geneva Codes” passed by these two conferences, armies were charged not to unnecessarily kill civilians or destroy or confiscate civilian property. Prisoners of war were to be treated with respect.

### World Wars

Only a handful of countries ever ratified any of the three treaties, and during the subsequent global wars the conventions were largely ignored by all sides, including the allies.

During World War I, all sides used gas and other new weapons to kill and maim millions. And in World War II, German bomb and rocket attacks destroyed much of London, and allied forces targeted and killed hundreds of thousands of civilians in bombing raids over German and Japanese cities.
But it was German and Japanese atrocities committed during World War II that prompted the nations to meet again in 1949 to try to mitigate the ravages of future wars. The world had been stunned by Japanese brutality in East Asia and China — including the so-called Rape of Nanking — and by Germany’s genocidal efforts during the Holocaust to exterminate entire populations of Jews, Gypsies (the Roma) and others it deemed “undesirable.”

Delegates to the Geneva Convention of 1949 produced what is considered the most significant and comprehensive document on the laws of war. Its four parts, ultimately ratified by 188 states, mandated countries involved in hostilities to treat the sick and wounded, prisoners of war and civilian non-combatants humanely and with respect. They also prohibited attacks on civilian targets or the use of methods of warfare likely to lead to high levels of civilian casualties, such as so-called carpet-bombing.

The horrors of World War II also led to the first formal, well-regulated war crimes trials for defeated Nazi and Japanese leaders held responsible for genocide and other mass attacks against civilians. Throughout military history, victors often executed enemy leaders and even regular soldiers and civilians without a trial. Only after the allied victory in 1945 did the notion of trying the leaders of defeated enemies fully take shape.

While ad hoc war-crimes tribunals had occasionally been convened after past wars, even in the Middle Ages, the tribunals at Nuremberg, Germany, and Tokyo set the standard by which subsequent war crimes trials have operated. Notably, the trials were the first instance where individuals were prosecuted for “crimes against humanity” — atrocities against non-combatants on a large scale.

Beginning in November 1945, in Nuremberg, 21 top Nazis — including Luftwaffe head Herman Goering, armaments minister Albert Speer and Deputy Führer Rudolph Hess — were tried for crimes against humanity, for their part in the murder of millions of Jews and others during the war. All but two were convicted, and 11 were executed. Similar trials occurred in Tokyo against Japanese leaders for their roles in massacres in China and elsewhere, including Prime Minister Hideki Tojo, who ordered the attack on Pearl Harbor. He was convicted as a war criminal and executed in 1948.

The United Nations Genocide Convention of 1948 was an outgrowth of the trials. It outlawed genocide, defined as a premeditated attempt “to destroy, in whole or in part, a national, ethnic, racial or religious group.”

Since World War II, international affairs have been largely driven by the competition between the capitalist United States and the communist Soviet Union and — to a lesser degree — by the struggle for independence by European colonies in Africa, Asia and elsewhere. Both factors sparked horrific conflicts around the globe, most of which were fought with little adherence to the Geneva Convention or any other humanitarian code or treaty. In conflicts from Cambodia, India and Pakistan to Afghanistan and Nigeria, civilians and combatants have been subjected to unimaginable brutality, and even genocide. Still, in some violent conflicts in the early 1990s, notably in Rwanda and Bosnia, the laws of war actually came into play in a meaningful way, even if only after the genocidal killing stopped. In both cases, some of the alleged perpetrators have been brought to trial and in some cases convicted and sentenced to prison.

CURRENT SITUATION

International Court

Since the Nuremberg and Tokyo trials, several tribunals have been
Atrocities Lead to Rules of War

Since ancient times, man has tried to impose ethical rules on wartime behavior, spelling out morally acceptable reasons for waging war and rules for how they are fought and how prisoners and civilians treated. The modern movement to regulate war began gathering steam in the 19th century, after such innovations as the telegraph, photography and, later, radio and television, brought the starkness of the battlefield into people's living rooms. Major contemporary efforts to regulate war include the following treaties:

Instructions for the Government Armies of the United States in the Field, April 24, 1863 — Prompted by descriptions of the horrors of the Civil War, President Abraham Lincoln ordered the War Department to create rules of conduct mandating humane treatment of prisoners during wartime. The so-called Lieber Code was drafted by Francis Lieber, a law professor at Columbia College, and revised by a board of Army officers.

Convention for the Amelioration of the Condition of the Wounded and Sick in Armies in the Field, Geneva, Switzerland, Aug. 22, 1864 — The first Geneva Convention — drafted by the fledgling International Committee of the Red Cross after the brutality of the Crimean War — called on all nations to care for the wounded, including those of their foes, and not to attack medical personnel treating soldiers.

Convention II with Respect to the Laws and Customs of War on Land and its Annex: Regulation Concerning the Laws and Customs of War on Land, The Hague, July 29, 1899 — The first Additional Protocol built on the 1864 Geneva agreement and used more precise language to define the rights of wounded combatants and non-combatants. Rights of voluntary aid organizations were expressly recognized for the first time, and rules were established for the burial of dead combatants.

Convention on the Prevention and Punishment of the Crime of Genocide, United Nations, Dec. 9, 1948 — Created in response to the atrocities of World War II, the so-called Genocide Convention outlawed abuse “committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group.”

Geneva Convention, Aug. 12, 1949 — Four conventions adopted in 1949 are the most significant and comprehensive efforts to codify the laws of war. Ultimately ratified by 188 nations, the conventions mandate humane treatment of sick and wounded ground and sea forces, prisoners of war and civilian non-combatants. They also prohibit attacks on civilian targets or methods of warfare that would injure civilians.

Additional Protocols to the Geneva Convention, June 8, 1977 — Two Additional Protocols expanded the scope of the 1949 Geneva Convention to cover modern weapons and victims of internal conflicts and terrorism.

Rome Statute of the International Criminal Court, July 17, 1998 — This treaty called for the creation of the International Criminal Court (ICC) to investigate crimes against humanity and serve as a permanent war-crimes court. Seventy-six nations have ratified the treaty, but on May 6, 2002, the Bush administration withdrew earlier U.S. approval by the Clinton administration. The court is expected to go into operation in 2003.


established to deal with horrific acts committed during war, often by soldiers. Currently, in The Hague, former Serbian leader Slobodan Milosevic is defending himself against charges that he deliberately ordered Serbia's military and paramilitary forces to commit genocide and other crimes against Muslims in Bosnia, Croatia and Kosovo. The international tribunal trying Milosevic was created in 1993 specifically to prosecute alleged war crimes associated with the war in Bosnia.

Besides Milosevic, more than 100 others also have been indicted and are either being tried or have had their cases resolved. So far, 11 defendants have been convicted and have served or are serving sentences. Meanwhile, in Arusha, Tanzania, dozens of Rwandans are facing charges stemming from the 1994 genocide — perpetrated by ethnic Hutus and largely directed against members of the Tutsi ethnic group — that killed up to 1 million people in Rwanda. So far, the tribunal has worked more slowly than its counterpart in the Netherlands, trying only nine people and convicting eight.


Of the 127 countries at the conference, the United States was among the seven to vote against the treaty. In the ensuing years, U.S. opposition to the court has only grown stronger. Earlier this year, the Bush administration threatened to withdraw American soldiers from U.N. peacekeeping missions and veto all future ones if the European Union and other strong ICC supporters did not exempt American peacekeepers from...
Is President Bush’s opposition to the International Criminal Court justified?

JOHN R. BOLTON  
UNDER SECRETARY FOR ARMS CONTROL AND INTERNATIONAL SECURITY  
FROM REMARKS TO THE ASPEN INSTITUTE, BERLIN, SEPT. 16, 2002

The International Criminal Court (ICC) has unacceptable consequences for our national sovereignty. [Its] precepts go against fundamental American notions of sovereignty, checks and balances and national independence. [It] is harmful to the national interests of the United States and harmful to our presence abroad.

The United States will regard as illegitimate any attempts to bring American citizens under its jurisdiction. The ICC does not fit into a coherent international “constitutional” design that delineates clearly how laws are made, adjudicated or enforced, subject to popular accountability and structured to protect liberty. . . . Requiring the United States to be bound by this treaty, with its unaccountable prosecutor, is clearly inconsistent with American standards of constitutionalism. . . .

The ICC’s authority is vague and excessively elastic, and the court’s discretion ranges far beyond normal . . . judicial responsibilities, giving it broad and unacceptable powers. . . .

This is most emphatically not a court of limited jurisdiction. Crimes can be added subsequently that go beyond those included in the [authorizing] statute. Parties to the statute are subject to these subsequently added crimes only if they affirmatively accept them, but the statute purports automatically to bind non-parties — such as the United States — to [those] new crimes . . . [which] is neither reasonable nor fair.

Numerous prospective “crimes” were suggested and commanded wide support from participating nations, . . . such as the crime of “aggression,” which was included in the statute, but was not defined. . . . There seems little doubt that Israel will be the target of a complaint in the ICC concerning conditions and practices by the Israeli military in the West Bank and Gaza. Moreover, one cannot answer with confidence whether the United States would now be accused of war crimes for legitimate but controversial uses of force to protect world peace.

Our concern goes beyond the possibility that the prosecutor will indict the isolated U.S. soldier who violates our own laws and values by allegedly committing a war crime. Our principal concern is for our country’s top civilian and military leaders — those responsible for our defense and foreign policy. They are the ones potentially at risk at the hands of the ICC’s politically unaccountable prosecutor. . . .

The prosecutor will answer to no superior executive power, elected or unelected. Nor is there any legislature anywhere in sight, elected or unelected. . . . The Europeans may be comfortable with such a system, but Americans are not.

HEATHER B. HAMILTON  
DIRECTOR OF PROGRAMS, WORLD FEDERALIST ASSOCIATION, AND COORDINATOR, WASHINGTON WORKING GROUP ON THE ICC  
WRITTEN FOR THE CQ RESEARCHER, DECEMBER 2002

Olding tyrants and war criminals accountable for their crimes not only serves America’s national interest but also extends the legacy of U.S. moral leadership since Nuremberg. The International Criminal Court (ICC) is a response to the horrors of the 20th century, which demonstrated the incapacity of nation states alone to ensure justice for genocide, egregious war crimes or crimes against humanity.

America has little to fear from the ICC. The crimes covered by the court closely follow U.S. military law and were largely crafted by American military negotiators. U.S. soldiers and leaders need not fear the court, because they already play by its rules. Bill of Rights protections are guaranteed to suspects. . . . Without a Security Council referral, the limited jurisdiction of the court extends only to atrocities committed on the territory of — or by nationals of — countries that have accepted its jurisdiction (thereby ruling out cases against Israel, which is not a signatory).

Countries like the United States, with a functioning, independent judiciary will not see their nationals brought before the court, which is blocked from acting when a domestic court is willing and able.

The ICC is the “Court of the Democracies.” Joining it means accepting its jurisdiction, where the vast majority of participating countries already respect the rule of law. Of the 85 states that are parties to the treaty, 65 percent are ranked by Freedom House as “totally free,” and another 29 percent are “partly free.” These democracies make up an oversight body that will elect (and can dismiss) judges and prosecutors, provide the budget and ensure accountability for the court’s actions.

The administration’s war on the ICC does not ensure protections from illusory threats, but only promotes the perception that America sees itself as above the rule of law and as uninterested in justice for genocide victims. Joining the ICC would allow the United States to oversee the election of U.S. judges and prosecutors, influence the workings of the court and hold accountable tyrants in Sudan, Iraq and other critical areas of concern.

But even without U.S. ratification, the United States would best be served by engaging with the court to ensure that it follows the carefully built-in safeguards and focuses on those cases — like Congo, Sudan, Burma — where justice is desperately needed.
A temporary compromise was worked out exempting U.S. troops for a year. In addition, the United States has been pursuing bilateral agreements with individual countries to prevent American troops or officials from being extradited to the court from their jurisdictions.

The administration is concerned that American soldiers and even civilian policymakers could be summoned before the tribunal by prosecutors and judges with political or anti-American agendas. They argue that even top American officials could be indicted, pointing to persistent efforts by human-rights activists and some judges in Europe to bring former Secretary of State Henry A. Kissinger to court for his alleged role in the bombing of Vietnam and Cambodia during the Vietnam War in the 1970s and the toppling of Chile’s left-wing President Salvador Allende. 22

“The administration’s concerns are fully justified,” says Ted Galen Carpenter, vice president for foreign policy and defense studies at the Cato Institute, a libertarian think tank. “This looks like a highly politicized body, and I could see them pursuing a politically motivated prosecution of U.S. officials.”

More important, the ICC lacks many fundamental due-process guarantees provided in the U.S. Constitution and in American courts, he says, “things like unanimous verdicts, the right to confront witnesses and protection against double jeopardy.”

But supporters of the new court counter that administration concerns about politicization are overblown. “If you look at European countries like Spain and Belgium, where the courts have wide jurisdictional latitude to indict anyone they want, you’ll find that none of them have ever indicted U.S. officials,” says Todd Howland, director of the Robert F. Kennedy Center for Human Rights. “Given the power and influence of the United States, it seems unlikely that the ICC would be hauling in an American official unless it had a very good case against that person.”

In addition, Howland says, while the ICC may not offer every protection afforded by a U.S. court, it basically follows the successful procedures used by the current war-crimes tribunals in the Netherlands and Tanzania, which the U.S. supports. “Look, no court is going to ever be perfect, and the ICC is going to have problems here and there,” he says. “But this system has been successful so far, and that’s why it’s internationally accepted.”

Even though the United States opposes the ICC, it supports ad hoc war-crimes tribunals to prosecute crimes associated with specific atrocities, like those in Rwanda and the former Yugoslavia. Most recently, the Bush administration said it would like to see Saddam Hussein and his inner circle charged with crimes against humanity — such as the gassing of Iraqi Kurds — if the regime falls. Hussein and about a dozen top officials — known as the “dirty dozen” — would likely be judged by an international tribunal specially established to dispose of Iraq-related cases, said White House officials. 23

**Outlook**

**More Brutal Wars?**

In his 2002 bestseller, Warrior Politics, Atlantic Monthly correspondent Robert D. Kaplan predicts that future wars will be more chaotic and vicious,
and less regulated. While international law likely will grow in significance because of its role in trade organizations and human-rights tribunals, Kaplan writes, it will play less of a role in the conduct of future wars because “war will increasingly be unconventional and undeclared, and fought within states rather than between them.”

Moreover, Kaplan predicts that wartime justice in future conflicts will not depend on international humanitarian law but on “the moral fiber of military commanders themselves.” In other words, every army will be as humane or inhumane as its leader.

Former Justice Department official Rivkin agrees that warfare will become more anarchic. But he says the efforts to regulate war are not keeping pace with the new reality that Kaplan and others envision.

While adversaries like Al Qaeda or the Bosnian Serbs don’t generally obey international norms, new and more restrictive rules and limits are being imposed on the United States and other “war-fighting countries” like Britain, Israel and Australia, Rivkin says. “We’ve lost control of the process,” he says, because the rules now are being made by humanitarian organizations like Amnesty International and international law professors. “These people are confining us more and more and giving our enemies more and more of a free hand.”

Whether it is U.S. troops in Afghanistan or Israeli soldiers in the West Bank, the armies of the developed world are held to increasingly high standards while their adversaries brook no standards at all, he says. For example, Rivkin says, international human-rights activists are far more outspoken about civilian deaths due to Israeli incursions into Palestinian refugee camps than they are about Israeli civilian deaths due to Palestinian suicide bombers.

“The pendulum needs to swing back a bit,” Rivkin says. “We need to say: If you don’t comply with the rules of war, we’re going to take the gloves off.”

The Hoover Institution’s Davenport agrees that the rules of war “need to change to fit new realities. We’re living in an age of terrorism, and my sense is that we’re still acting defensively because we feel constrained by these rules.”

But Howland of the Robert F. Kennedy Center for Human Rights says that ignoring the rules will simply make warfare more violent and horrific. “This idea that we should ‘take off the gloves’ is simply ridiculous,” he says. “Doing that merely makes the conflict more brutal.”

The solution is to bring everyone, even non-state entities, into the rule-making process, Howland says. “This is a structural problem, not a problem with the rules themselves,” he says. “You have these rebel groups and others who see the laws of war as Western constructs. We need to bring them in as parties to the process. We need to make the laws of war apply to everyone, not set a bad example by ignoring them ourselves.”

Notes

2 Ibid.

About the Author

David Masci specializes in science, religion and foreign-policy issues. Before joining The CQ Researcher in 1996, he was a reporter at Congressional Quarterly’s Daily Monitor and CQ Weekly. He holds a law degree from The George Washington University and a B.A. in medieval history from Syracuse University. His recent reports include “Confronting Iraq” and “Prospects for Mideast Peace.”


14 Quoted at www.rost.edu/instruct/ph302/philosophers/grotius.html; the Oregon State University Philosophy Web site.


18 Ibid.


20 For background, see Mary H. Cooper, “Women and Human Rights,” The CQ Researcher, April 30, 1999, pp. 353-376.


25 For background, see Mary H. Cooper, “Global Refugee Crisis,” The CQ Researcher, July 7, 1999, pp. 569-592.
Books

An encyclopedia with 140 entries concerning war crimes, including Bosnia, civilian immunity, genocide and prisoners of war.

A professor of religion at Rutgers University argues that “just-war” theory is not essentially a pacifist doctrine, as some theologians and others see it.

A Holocaust survivor and president of the Open Society Institute chronicles efforts to bring war criminals to justice, focusing on recent atrocities in the former Yugoslavia and Rwanda.

An excellent primer on international humanitarian law (IHL), including excerpts from the Geneva and Hague Conventions and U.N. Charter.

A professor of social science at Princeton University considers the moral implications of making war, using examples from ancient times to the 20th century.

Articles

An excellent overview of the war crimes trials dealing with alleged atrocities in the former Yugoslavia and Bosnia and what the new International Criminal Court can learn from their successes and mistakes.

The article looks at the dispute over the rights of the Taliban and Al Qaeda prisoners at Guantanamo Bay.

Frankel explores lawyers’ efforts to secure trials for the detainees from Afghanistan at Guantanamo Bay.

A senior associate at the Carnegie Endowment for International Peace defends the administration’s concerns about U.S. soldiers and officials being hauled before the International Criminal Court.

Lattin provides an overview of religious leaders’ opinions on whether a U.S. attack on Iraq would meet the “just-war” test.

A fellow at the Center for Public Justice contends many theologians mistakenly think that just-war theory is essentially a pacifist doctrine.

Slevin details administration plans to establish an ad hoc war-crimes tribunal to try Iraqi President Saddam Hussein and his inner circle for crimes against humanity, including gassing his own people.

A United Methodist bishop argues that an attack on Iraq would not meet “just-war” criteria.

Tammeus goes back to the ancient roots of just-war theory and explains how it is being applied differently in today’s global conflicts.

Reports

The report argues the International Criminal Court (ICC) contains adequate due-process protections and will not become a “star chamber.”

Papers and documents outline U.S. concerns over how the ICC could mistreat U.S. soldiers and officials.
Geneva Convention and U.S. Prisoners in Cuba

“For Whom the Bell Tolls — Civil Liberties Since Sept. 11th,” The Economist, Aug. 31, 2002.

Critics are appalled by President Bush’s profound lack of confidence in the criminal-justice system and his pursuit of unfettered power to select those who will be tried by military tribunals.


International rules for acceptable conduct in military operations are difficult to apply and enforce in densely populated West Bank towns and the Arab-Israeli conflict.


Switzerland will convene officials from a representative group of countries to try to update how the Geneva Convention is applied.


The White House is considering creating a high-level committee to decide which prisoners, including those in Cuba, should be denied access to federal courts.


Since the Sept. 11 attacks, White House Counsel Alberto Gonzales, a former real-estate attorney from Texas, has been rewriting the laws of war.


Some feel that complaints about mistreatment of the prisoners at Guantanamo Bay are ridiculous and that they should not be accorded rights under the Geneva Convention.


Lawyers for 16 men held at the Guantanamo naval base in Cuba asked a federal appeals court to allow the detainees to see their families and consult with lawyers.


A federal judge ruled that U.S. courts have no jurisdiction over prisoners in Cuba and that therefore they have no constitutional protections.

‘Just-War’ Theory and Iraq


The work of trying to define a just war against Iraq is what some experts call “crackpot realism.”


To justify international military intervention, just-war principles have to be satisfied: the “just-cause” threshold; four precautionary principles; and the requirement of “right authority.”


Given that more than 80 percent of U.S. citizens are reported to be Christians, it is interesting that few heed the declarations by Christian leaders that the Bush administration’s proposed war against Iraq is unjust and immoral.

Slobodan Milosevic and the Bosnian Genocide


While the former Yugoslav president continues to deny atrocities occurred in Bosnia, or his involvement in them, he is in court last, accused of crimes far worse than Al Qaeda’s.


Experts fear that Slobodan Milosevic is systematically eliminating former accomplices who could accuse him of war crimes and ethnic cleansing.


The trial of Slobodan Milosevic, the Yugoslav leader blamed for plunging the Balkans into a decade of war, entered a new phase as he faces charges of genocide.


Although Milosevic has been indicted on charges of war crimes, many Bosnian Serbs insist that the mass murder of Muslims never happened in former Yugoslavia.

Rwandan Genocide


Rwanda’s nightmarish slaughter was carefully plotted by Hutu leaders from all walks of life and carried out with unanimity of purpose that is bewildering even to the participants.

Despite the thousands of pages devoted to the Rwandan genocide, the international community still does not have a good answer to the basic question: Why?


A Rwandan woman is the first ever to be charged in an international court with crimes against humanity.


After a trial that opened new avenues for bringing war criminals to justice, a Belgian court sentenced two nuns for their roles in the 1994 genocide in Rwanda.


The rest of the world may want to forget the Rwandan genocide and wash its hands of what it represents, but those who survived will never forget.


Today’s prophets of anarchy suffer from a hysteria triggered by simplistic notions of ethnicity. Debates about intervention in Rwanda demand a more sober perspective.


In Rwanda, soldiers exterminated the “cockroach Tutsis” on a scale so massive that just about every Rwandan has a parent or sibling who was injured or killed.

**War Crimes**


Getting justice for the worst war crimes may be impossible. But two U.N. courts are trying, and one in Belgium has just joined in.


Bush administration lawyers are considering whether to classify membership in Al Qaeda as a war crime, allowing broad powers to prosecute terrorism captives.


Some feel that Henry Kissinger’s actions in Vietnam, Cambodia and South America constitute war crimes.


Gareth Evans of the International Crisis Group thinks genocide is a habit humankind can break, given enough time and international effort.


The U.N. established war crimes tribunals for the former Yugoslavia in 1993 and Rwanda in 1994 and is now creating international tribunals for Cambodia and Sierra Leone.


The White House formally rejected the International Criminal Court, declaring that it would be an unchecked power, able to prosecute U.S. soldiers and their superiors.
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