**War crimes**

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This March marked the 20th anniversary of the US invasion and occupation of Iraq. The war left at least 800,000 to 1.1 million Iraqis dead, and certainly many more injured, maimed, and permanently displaced.

The invasion and subsequent military occupation destroyed Iraq’s once-modern infrastructure and much of its environment while shredding the country’s social fabric. The war gave rise to religious and ethnic divides, created unfathomable levels of corruption, left a legacy of sectarian militias and terrorist organizations including ISIS. War crimes by the US military and private contractors, even beyond the initial crime of aggression, exploded from Abu Ghraib to Fallujah to Nisour Square and beyond.

Last week the International Criminal Court in The Hague announced its war crimes indictment of the president of the country whose troops had invaded and occupied another country, and committed horrific war crimes. While we continue to call for an immediate ceasefire and negotiations to end the war in Ukraine, we know that justice for war crimes – in all wars – remains an urgent necessity. The indictment of President Vladimir Putin is appropriate as the invasion of Ukraine was illegal and Russia’s ongoing assault and occupation of Ukrainian territory is a clear violation of international humanitarian law. US war criminals are missing from the same dock.

So it is also true that the president, as well as the vice-president, the secretary of defense (now dead), and many more high-ranking officials of the United States should have been – and still should be – indicted for war crimes. The invasion of Iraq was, like Ukraine, illegal. The US occupation was a violation of international humanitarian law. And US troops committed horrific and well-documented war crimes.

Moscow’s clearly illegal Ukraine war is condemned by the United States primarily as a violation of Washington’s self-defined “rules-based order.” Accountability is demanded, and the United States even grants the ICC, albeit grudgingly, some level of legitimacy to impose accountability on Putin and other Russian officials. We have witnessed the possibility of Putin being held to account by the Court greeted with cheers in Washington and in the media across the United States.

President Biden and other officials are among those cheering Putin’s indictment, despite the longstanding US refusal to provide intelligence or other assistance to the ICC regarding war crimes in Ukraine or elsewhere. Indeed they recognize supporting the ICC would set a precedent for ICC jurisdiction over US troops and political leaders responsible for Iraq and other war crimes in so many places in the world – an accountability long rejected in Washington.

It’s not new for Washington to claim to support the ICC in principle even while refusing to actually recognize its jurisdiction. The United States was among the seven outlier countries – joining Israel, China, Iraq, Libya, Qatar and Yemen – that voted against the Rome Treaty which established the International Criminal Court in 1998.

Russia signed the Treaty in 2000, but withdrew its signature in 2016, two years after its intervention in Ukraine and annexation of Crimea. Washington, finally, also signed on in 2000 but never ratified the Treaty, and withdrew its signature even before Russia did. In 2002 then-President George W Bush, already mobilizing for his illegal war in Iraq, instructed his UN ambassador John Bolton to “unsign” the treaty. Three years later Bush signed what became known as the ‘Invade The Hague’ Act, authorizing the US military to use whatever force necessary to free any US citizen ever arrested by the International Criminal Court.

This kind of victor’s justice – a longstanding component of American exceptionalism – is an old story in US politics and historiography since World War II. But it has become less hidden and more explicit in the last two decades as the Global War on Terror reshaped so much of the world. In even more recent years, the elusive “rules-based order” has replaced international law as the basis (albeit aspirational, if nothing else) of global legitimacy for Washington. And some of that shift goes back to the war in Iraq.

In 2002 and early 2003, as the United States and its British backers prepared to invade Iraq based on lies about non-existent weapons of mass destruction, imaginary links between al Qaeda and Iraq’s government, claims of bringing “democracy” to Iraq and more, they pushed for a UN Security Council resolution that would explicitly authorize their war. Earlier resolutions threatening Iraq were not passed under Chapter VII of the UN Charter, a prerequisite for legalizing an act of war. At the time, 11 of the 15 UNSC members refused to pass a second resolution. Without Council authority, the US and UK launched their war in clear violation of international law. The UN’s then-Secretary General Kofi Annan would eventually acknowledge that the war was illegal.

But that finding was based on actual international law – the treaties, conventions, and covenants that were written, agreed to, signed, and ratified by governments committed to upholding their terms. Those included the UN Charter, the Geneva and Hague Conventions, prohibitions on producing or using specific kinds of weapons (now finally including nuclear weapons), and much more. The US war in Iraq was illegal because the invasion violated Articles 39 and 51 of the UN Charter; the use of white phosphorous as a weapon violated the Chemical Weapons Convention; the torture of prisoners at Abu Ghraib and elsewhere and a host of other military actions all violated many of the Geneva Conventions; and more. When US officials and pundits accuse other governments of rejecting the never-defined, never written-down, never agreed-to ‘rules-based order’, there is no identifiable law or rule being referenced, it is simply a statement that the US doesn’t like the way another government operates.

The ‘rules-based order’ of the 21st century is the order defined and imposed by the United States and its closest allies.

Washington’s clearly illegal Iraq war didn’t violate some amorphous ‘rules-based order’. It violated long-established and specific principles of international law. The war’s violations of actual international law were widely known and discussed but largely ignored by officials and mainstream media, and US accountability for war crimes has never been on the table. No US officials have been held accountable for their crimes, no US reparations for the massive destruction the war wrought on Iraq and Iraqis have been offered, and no apologies have been made.

Excerpted: ‘War Crimes, Theirs and Ours’. Courtesy: Counterpunch.org