Can the US War on Terrorism be Justified?

Recommended Citation

Dr. W. Pal S. Sidhu, "Can the US War on Terrorism be Justified?", Special Policy Forum 9/11, November 21, 2001, https://nautilus.org/napsnet/special-policy-forum-911/can-the-us-war-on-terrorism-be-justified/

November 21, 2001

By Dr. W. Pal S. Sidhu

I. Introduction

This piece is by Dr. W. Pal S. Sidhu, an associate at the New York City based International Peace Academy. Sidhu asserts that the US-led war in Afghanistan is wrong-headed and unjust, and that the current unilateral approach to combating terrorism by the US will only exacerbate regional instability and foment future acts of terrorism. Sidhu argues that what is needed is a global and multilateral anti-terrorist coalition based on universally accepted norms and grounded in UN conventions, declarations and resolutions.

II. Essay By Dr. W. Pal S. Sidhu

"Can the US War on Terrorism be Justified?"
by Dr. W. Pal S. Sidhu, International Peace Academy

The taking of innocent lives - be they American, Indian, Pakistani, Palestinian or Israeli - cannot be justified on any grounds whatsoever and should be condemned. Therefore the events of September 11, 2001 on the United States, the largest-ever terrorist attack in terms of both mass destruction and mass disruption, must be condemned in the strongest and most unequivocal of terms. Perhaps this is why organisations as diverse and disparate as the Organisation of the Islamic Conference and the Asia Pacific Economic Cooperation forum had no hesitation in unanimously condemning the acts of Terrible Tuesday.

As a logical corollary, therefore, there can be no doubt that any country which is a victim of such heinous attacks has every right to retaliate against the perpetrators of such acts as laid out in Article 51 (in Chapter VII) of the United Nations Charter, which recognises the "inherent right of individual or collective self-defence if an armed attack occurs against a member of the United Nations." This right was reiterated in United Nations Security Council (UNSC) Resolution 1373 passed on September 28, 2001 - the same day that the Nobel Peace Committee awarded the prize jointly to the UN and Secretary General Kofi Annan. The resolution reaffirmed not only the "inherent right of individual or collective self-defence" but also the "need to combat by all means, in accordance with

the Charter of the United Nations, threats to international peace and security caused by terrorist acts..." Therefore, at the very least it could be argued that the US has fundamental grounds to go to war to punish those responsible for the horrible acts of 11 September.

There are, however, several other important conditions that should be met before the war can be justified. First, only the guilty party or parties should be punished. As per the principles of just war the retaliation should be aimed to redress only the wrong suffered and should not be seen as an excuse to launch a crusade against people or states that one does not like (even though there are, clearly, many states that Washington loves to hate).

Second, the operation should also take into consideration whether there is a reasonable chance of success. Apart from the objective of punishing those responsible, the military action should also ensure as far as possible that the perpetrators are not free to strike again, and that the crime cannot be repeated. Consequently, it is crucial that those responsible for the dastardly acts have been correctly identified, and equally important that the guilt of the terrorists can be publicly proven.

Third, in carrying out the punishment it should be ensured that innocent victims are spared, otherwise the distinction between those who have committed the crime and those who are doling out the punishment becomes blurred. This is in line with the just war principle that war must discriminate between combatants and non-combatants.

Finally, the ultimate goal of the military operation should be to re- establish peace. The peace established after the war must be preferable to the peace that would have prevailed if the war had not been fought. This implies not only achieving the short-term military objectives, but also taking long-term measures to ensure that the conditions - political, economic, ideological - that led to the initiation of these terrorist acts in the first place are resolved. Failing to do so risks a recurrence of similar terrorist acts in the future.

How do these conditions hold up when applied to the present war on terrorism, which is now erroneously being equated with the war in Afghanistan? First, even today there is no evidence that will stand up to legal scrutiny (unlike the Pan Am 103 case) and conclusively prove that these terrorists were linked to Al-Qaeda or Osama bin Laden. Even assuming for a moment that these terrorists were connected to Al-Qaeda and bin Laden, how does that link them to the Taliban and Afghanistan? There is no evidence to suggest that the corporate headquarters of Terrorism Inc. is located in Afghanistan. None of the hijackers were from Afghanistan nor were they trained in camps run by the Taliban. It is not even clear whether any of them ever went to Afghanistan. By most accounts they were reasonably well off men from Egypt, Saudi Arabia and the United Arab Emirates who used Germany as a base for their operations. Does this make all these countries legitimate targets of retaliation as well? How then is the Taliban regime (a truly contemptible regime in is own right) culpable in the September 11 attacks?

The only crime Afghanistan has accountable for is having the misfortune of being the last Cold War battleground of the US and the Soviet Union. As a result of this struggle between two superpowers, Afghanistan has been reduced to a non-state leaving it vulnerable to exploitation by the likes of bin Laden and Al-Qaeda.

On the issue of innocent victims, there is already evidence that civilians have become what the military euphemistically calls "collateral damage." However, a greater humanitarian disaster is looming on the horizon. According to UN estimates as many as 7.5 million people - a quarter of the total population of Afghanistan - is on the verge of starvation. Even worse, the original token food drops carried out by the US have backfired, literally, because many of the yellow food packets looked very similar to the yellow coloured cluster bombs that are particularly civilian unfriendly.

Thus the situation has been further exacerbated by the US-led war. According to one estimate, between now and December 2001 the number of innocent Afghanis who will die will be more than the number of innocent victims of the twin tower tragedy. Sadly neither group had anything to do with the horrific events of September 11 and yet both have become hapless victims.

Finally, despite the realisation that Washington's disastrous decision to walk away at the end of the Cold War has compelled its desperate return now to Afghanistan, it seems Washington is likely to repeat this same mistake, as soon as its short-term military objective of eliminating bin Laden, dismantling the Al-Qaeda network and defeating the Taliban is achieved. Senior members of the present Bush administration have admitted that they may fail to achieve their originally prescribed goals. Defense Secretary Donald Rumsfeld publicly confessed that bin Laden may never be caught and that Al-Qaeda might never be destroyed. This failure is likely to haunt them not only abroad but also at home. The American intelligence agencies, while candidly acknowledging the presence of Al-Qaeda cells within the US, have been spectacularly unsuccessful in exposing them, let alone destroying them. One indication of this is the fact that despite more than 1,000 people arrested in the aftermath of September 11, not one has been charged.

However, whatever the outcome of the war, the administration's stalwarts have already publicly expressed their aversion to getting their hands dirty with the messy business of nation-building. This shortsighted policy will essentially guarantee that Afghanistan will remain ripe for the picking by yet another group of extremists who would no doubt exploit the vulnerability of the Afghani people and perpetrate the cycle of terrorist violence. The only difference is that this time around the repercussions are not going to be confined strictly to Afghanistan, but will also have serious ramifications for the six countries that surround it.

Given the moot justification and serious limitations in the present US approach to combating terrorism, what are the alternatives? Strategically, there are three parallel paths: first, there is a need to create a truly global and multilateral anti-terrorist coalition-- not just fragile alliances of convenience that exist at the moment. This coalition must be based on universally accepted norms, ideally located in the various UN conventions, declarations and resolutions. Here the record of the 12 anti-terrorist conventions adopted by the UN since 1963 is telling. While most of these are already in force, compliance to them remains patchy at best. Moreover, one critical convention - the International Convention for the Suppression of the Financing of Terrorism adopted in 1999 - which obligates state parties either to prosecute or to extradite persons accused of funding terrorist activities and requires banks to enact measures to identify suspicious transactions has yet to enter into force. It requires 22 countries to ratify the treaty to enter into force, but until the end of October 2001 only five countries (Azerbaijan, Botswana, Sri Lanka, the United Kingdom and Uzbekistan) have ratified it.

Second, this counter-terrorism norm should be enforced universally. In this context the difficult experience of bringing those responsible for Pan Am 103 to justice could serve as a model for future approaches to dealing with the scourge of terrorism. Here the establishment of UNSC Counter-Terrorism Committee, headed by the United Kingdom, to "deny space, money [and] haven to terrorism" is a step in the right direction.

Finally, a long-term engagement policy, which could stretch into decades, will have to be sustained with states of concerns or non-states to ensure that they do not play willing or unwilling hosts to terrorists. In this context the tendency to follow a blunt "sanction only" approach should be avoided. Instead a sanctions-cum-incentive approach should be adopted. Simultaneously, the UN, particularly the Secretary General, should agree to get involved only when they have received an extended mandate and the necessary resources to support the mandate. Here the role of Ambassador Lakhdar Brahimi, who has been adept in traversing the minefield in the UN (when he chaired the Panel on

United Nations Peace Operations) as well in Afghanistan (where he has had vast experience negotiating with the various warring parties) will be critical.

Clearly, the US could play a lead role in strengthening both the UN's normative and operational capability in combating terrorism. However, in order to be taken seriously Washington must abandon its multilateralism a la carte policy in favour of a policy of genuine multilateralism, which implies not walking away from treaties or conventions that are perceived to be unpalatable. The question is: will it?
