

“Any act of violence in an unjustified conflict is an atrocity”

US soldier seeks refugee status in Canada

By Joseph Kay
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Jeremy Hinzman, a 26-year-old former paratrooper in the US Marines 82nd Airborne Division, is seeking refugee status in Canada after fleeing the US. His hearing before the Immigration and Refugee Board (IRB) in Toronto ended on December 8.

In his testimony, Hinzman argued that he has an obligation to refuse orders to fight in Iraq because the war is illegal and immoral. “Serving even one day in prison for refusing to comply with an illegal order is too long,” he said. “I would be prosecuted for acting upon a political belief...for refusing to do something that was wrong.”

Hinzman’s lawyer, Jeffrey House, argued that “wrongful prosecution is persecution.” He continued: “It would be wrong to prosecute someone who doesn’t want to participate in atrocities or in an illegal war. A conscientious objector should not be forced to fight.”

Hinzman faces up to five years in prison for desertion if he is sent back to the US. He has deliberately sought to attract media coverage of his case, for fear that the Canadian government would otherwise quietly deny his request and send him back to the US. “By being public,” Hinzman said, “I could ensure it would be handled openly and fairly.”

Hinzman’s argument has been hindered by the decision of Brian Goodman, the IRB member who is presiding over the hearing, that the legality or illegality of the war will not be an issue in his ruling. Goodman will issue a ruling by February 2005 based only on whether Hinzman has a reasonable fear of persecution for his religious or political beliefs, or faces the risk of cruel and unusual punishment if he returns to the US.

According to Hinzman, he joined the Marines in order to help pay for his college education, which he could not afford on his own. He was attracted by recruitment material portraying the military in glowing

terms.

He quickly became disillusioned. He testified that during training his crew was repeatedly directed to chant slogans such as “What makes grass grow? Blood, blood, bright red blood,” and “Train to kill, kill we will.” He testified that in training, “We were on the run, singing cadences about raping and pillaging.”

The birth of his son in May 2002 further strengthened his opposition to war. “I didn’t want to have to kill babies,” he testified at his hearing.

Hinzman came to be attracted to the pacifist Quaker religion, and later to Buddhism. In 2002 he filed for conscientious objector (CO) status and requested to be transferred to a non-combatant post in the military. He was told that his application had been lost. The same year he was sent to Afghanistan, where he served as a paratrooper. He filed another CO application, which was rejected. He fled to Canada in January 2004, shortly before his battalion was to be sent to Iraq.

Despite the ruling by Goodman, Hinzman and his lawyers have repeatedly pointed to the fact that the Iraq war was unprovoked and illegal. “They said there were weapons of mass destruction,” Hinzman said. “They haven’t found any. They said Iraq was linked to international terrorist organizations. There haven’t been any links.” He has declared his belief that the war was motivated by the desire of the US to secure cheap sources of oil.

“I was faced with being deployed to Iraq to do what the infantry does, kill people, and I had no justification for doing so,” he testified. “This was a criminal war. Any act of violence in an unjustified conflict is an atrocity.”

He told CBS’ “60 Minutes” television program, “I was told in basic training that if I’m given an illegal or immoral order, it is my duty to disobey it, and I feel

that invading and occupying Iraq is an illegal and immoral thing to do.”

Hinzman has cited the systematic killing of civilians by American troops in Iraq and the illegal holding of detainees in Guantanamo Bay, Cuba. By participating in such actions, he argued, he would be committing illegal acts. For the US government to prosecute him and jail him for desertion for refusing to carry out atrocities would constitute persecution.

To support his claim that he would be forced to commit atrocities in Iraq, Hinzman told the IRB that the army encouraged soldiers to treat all Arabs and Muslims as potential terrorists. “We were being told that it was a new kind of war, that these were evil people and they had to be dealt with...We were referring to these people as savages.”

Supporting testimony in Hinzman’s hearing was provided by former Marine Sergeant Jimmy Massey, who stated that US soldiers, including his own battalion, on numerous occasions had been directed to fire on unarmed civilians. “I knew in my heart these vehicles were civilians, but I had to act on orders given,” Massey testified, referring to vehicles approaching checkpoints set up by the US military.

He continued: “I saw plenty of Marines become psychopaths...they enjoyed killing.” He said his own battalion killed over 30 civilians in a span of 48 hours. “We were shooting up people as they got out of their cars trying to put their hands up.”

“I was deeply concerned about the civilian casualties,” Massey said. “What they were doing was committing murder.”

He argued that if Hinzman is sent back to the US, he will be persecuted for his attempt to file CO status and his subsequent desertion. “There is a blackball system within the military if you file a CO petition: you’re giving yourself a death sentence.”

Hinzman and his family have received death threats and hate mail, including racist slurs against his two-year-old son and his wife, who is Vietnamese.

Hinzman’s hearing is seen as a test case. At least three other American soldiers have fled to Canada to avoid being sent to Iraq. Prominent voices in the Canadian political establishment have come out in opposition to granting Hinzman refugee status, in spite of Canada’s refusal to send troops to Iraq and the overwhelming opposition to the war in the country.

The *Globe and Mail* on December 9 published an editorial entitled, “A Deserter, Not a Refugee.” The newspaper made the extraordinary argument, repeated by other media and political figures, that Hinzman should be willing to accept jail time as a consequence of his actions, even if his arguments are valid. He “says that even one day in jail would be too much, which shows that he is not ready to pay the price in defense of his principle,” the newspaper wrote.

The *Globe and Mail* has also argued that since Hinzman originally volunteered, he has no basis for now rejecting service. This position was stated most crudely by columnist Margaret Wente, who wrote that the paratroopers Hinzman joined “are trained to drop out of the sky to kill people. He claims he was horrified by this revelation. You’ve got to wonder just what job skill he thought he’d signed up to acquire.”

All such arguments ignore the essential content of Hinzman’s claim: that the war is illegal and an atrocity, and therefore refusing to serve, regardless of whether or not he joined voluntarily, is entirely justified.

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