

US bombings in Syria and Afghanistan

A new stage in the repudiation of international law

By Mike Head
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The Trump administration's unprovoked April 7 cruise missile attack on Syria, followed closely by the dropping of the largest non-nuclear weapon in its arsenal on the Afghanistan-Pakistan border, signals a new period of breakdown in international law.

Since the first Gulf War of 1990–91, the ever-greater assertion of US militarism by successive presidents—George H. W. Bush, Clinton, George W. Bush, Obama and Trump—has brought humanity to the point where the rules of war adopted after the massive casualties and horrors of the last world war are being nakedly flouted.

The Trump administration has made no attempt whatsoever to provide legal pretexts for its bombardments. As made explicit by the statements of President Donald Trump and Vice President Mike Pence, the primary purpose of the Syrian and Afghanistan attacks was to demonstrate that there is no limit to the level of violence that the United States is prepared to unleash, completely unilaterally, in pursuit of the interests of American imperialism.

Blatant aggression

The Pentagon's attack on Syria clearly defied international law. The UN Charter adopted in 1945, after two world wars, provides for only two justifications for the use of military force: authorisation by the UN Security Council or self-defence *after* an armed attack has occurred. No Security Council resolutions sanctioned the US attacks, and Washington did not try to claim they were necessary for self-defence.

At the UN Security Council meeting called to discuss the US attack, Washington and its allies flatly dismissed the Syrian government's denial of responsibility for the alleged use of chemical weapons, along with the fact that US-backed forces inside Syria have used such weapons in the past. Without any evidence, the US blamed the Syrian government, as in Ghouta in 2013.

Syria's ambassador to the UN called the missile strikes a "flagrant act of aggression," in violation "of the charter of the United Nations as well as all international norms and laws." In response, US Ambassador to the UN Nikki Haley contemptuously declared: "When the international community consistently fails in its duty to act collectively, there are times when states are compelled to take their own action."

In other words, the US insists it has the right to wage aggressive war against any country it chooses, unless the "international community" agrees to carry out "its duty"—in other words, US diktats.

Article 2(4) of the UN Charter prohibits "the threat or use of force against the territorial integrity or political independence of any state." Article 51 exempts only "the inherent right of individual or collective

self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security."

Even then, Article 2(7) specifies: "Nothing contained in the present Charter shall authorise the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state." That would include an internal gas attack by a government, even if proven.

Marjorie Cohn, professor emerita at Thomas Jefferson School of Law, wrote: "Syria had not attacked the United States or any other country before Trump ordered the missile strike... So, Trump committed an illegal act of aggression against Syria when he lobbed his missiles."

Even if the Syrian government did carry out a chemical weapons attack, that would not legally justify the US missile strike. Notre Dame law professor Mary Ellen O'Connell noted: "The use of chemical weapons within Syria is not an armed attack on the United States."

The US president and his officials are guilty of the primary crime for which leading Nazis were tried at the Nuremberg tribunal in 1946: conducting a war of aggression. Article 6(a) of the Charter of the International Military Tribunal, upon which the Nuremberg prosecution was based, defined as "crimes against peace" the "planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing."

Equally significant is the ready acceptance of US war crimes by other imperialist powers—including Germany, France and Britain. This signals their readiness to follow the US precedent in pursuit of their own interests.

Illegal weapon

Just as illegal was dropping the huge 22,000-pound Massive Ordnance Air Blast (MOAB) bomb (referred to by the US military as the "Mother Of All Bombs"), supposedly on tunnels built by "Islamic State forces" near the Afghanistan-Pakistan border.

The use of the largest explosive device America has utilised since demolishing Hiroshima and Nagasaki with atomic bombs in World War II was in blatant disregard for civilian casualties.

Under international humanitarian law (IHL), any military operations, even if sanctioned by the UN, must obey the rules of "necessity" and "proportionality." First, the scale of the military force must be necessary to deal with the purported threat.

Second, the rule of proportionality prohibits “an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.”

Third, IHL forbids the use, or threat of use, of any weapon or tactic when the primary purpose of the operation is to terrorise the civilian population.

Clearly, the use of the MOAB was disproportionate to any threat posed by the relatively small number of ISIS fighters claimed to be in the region. It was designed to terrorise the people of Afghanistan and the world.

This is a war crime despite the fact that in Afghanistan, the US operates militarily under the cloak of the fraudulent “war on terror” that was rubberstamped by the UN in 2001 following the 9/11 terrorist attacks in America. UN Security Council resolution 1373 required states to combat terrorism “by all means,” effectively giving the US a licence to pursue its predatory bid to take control of the resource-rich and strategically vital regions of the Middle East and Central Asia.

A quarter century of criminal wars

The Trump administration’s belligerent “America First” doctrine takes to a new level the drive by US imperialism to use its global military supremacy to claw back the hegemony that it established in the wake of its victories over its main rivals—Germany and Japan—in World War II.

Over the past quarter century, in the wake of the liquidation of the Soviet Union, the US and other imperialist powers have already arrogated to themselves the so-called right to militarily attack, invade or overturn governments in other countries.

In the first Gulf War assault on Iraq, the George H. W. Bush administration obtained an initial fig leaf for its invasion of Iraq on the fraudulent pretext of defending “little Kuwait.” Assisted by Russia’s complicity and China’s abstention, Washington secured a UN Security Council resolution that empowered states to use “all necessary means” to force Iraq out of Kuwait. This rapidly became a green light for a murderous assault that went far beyond that remit, leading to the partial dismemberment of Iraq by a US-led coalition.

The UN Security Council, a cabal dominated by the major imperialist powers, proved itself to be a clearinghouse for war. Nevertheless, in order to free themselves from any, even formal, legal constraints, the US and its allies brought forward two doctrines to justify overturning the post-World War II prohibition of aggressive wars: “humanitarian” interventions and “preemptive self-defence.”

During the NATO attacks in Kosovo and other parts of the former Yugoslavia in the 1990s, the Clinton administration operated illegally outside the UN, via the NATO alliance. Having helped foment the breakup of Yugoslavia, the US adopted a phony “humanitarian” mask, claiming to be protecting minorities from Serbian aggression, yet was unable to push an authorising resolution through the UN Security Council.

In 2005, an attempt was made to legalise such “humanitarian” military operations and override Article 2(7) of the UN Charter banning domestic interventions. The US and its allies, notably Britain, orchestrated a UN General Assembly “responsibility to protect” resolution, nominally to prevent governments committing “genocide, war crimes, ethnic cleansing and crimes against humanity.” However, the use of force for such purposes must still be approved by the UN Security Council.

In the latest attack in Syria, for all President Trump’s claim to be

motivated by the plight of “beautiful babies,” the US acted alone, without even bothering to seek a UN rubber stamp.

The doctrine of “preemptive war,” which is explicitly excluded by the UN Charter, was promulgated by the Bush White House in 2002. The criminality of this credo was underscored in March 2003 with the invasion of Iraq, based on lies about “weapons of mass destruction.”

The Bush doctrine overturned the UN Charter’s insistence that self-defence was confined to responding to an armed attack that had already occurred. The US claimed the right to attack any state that it considered to have the potential to pose a danger at some point in the future.

The invasion of Iraq resulted in the deaths of countless thousands of innocent people and set in motion catastrophic processes that have engulfed the Middle East ever since. It was conducted by the US and its closest allies (“the coalition of the willing”) in defiance of their inability to obtain a prior UN Security Council vote of authorisation. The war was launched despite the protests of millions of people, including hundreds of lawyers and legal academics who denounced it as an illegal war of aggression.

The bipartisan nature of this criminality was demonstrated by President Obama’s December 2009 speech—given, ironically, in acceptance of the Nobel Peace Prize—in which he embraced the Bush doctrine. Obama declared the exclusive right of the US to conduct “preventative wars” against any identified “threats” to Washington’s interests. In effect, Obama sought to enunciate a wider doctrine to sanctify wars of aggression. He declared: “Nations will continue to find the use of force not only necessary but morally justified.”

In carrying out the latest attack on Syria, the Trump administration cast aside any pretence of self-defence against a threat by the Syrian regime—either at the time or in the future—and thus did not bother to appeal to the doctrine of pre-emptive war used by Bush and Obama.

Trump’s presidency represents both a continuation and a qualitative deepening of the illegal use of military force by US imperialism. All pretences of abiding by international law have been swept aside in order to assert Washington’s untrammelled right to use its military arsenal wherever and whenever it chooses.

With the breakdown of the post-World War II legal framework, the danger of another world war is growing. The WSWS warned in a Perspective on the attack on Syria: “In the effort to reverse the long-term decline of American capitalism, the US ruling class has bombed or invaded one country after the next in regional conflicts that are rapidly developing into a confrontation with its larger rivals, including China and Russia.”

As Leon Trotsky forewarned in 1934, writing in the wake of the collapse of the UN’s predecessor, the League of Nations, the irresolvable contradictions of the global capitalist nation-state system are again “bringing humanity face to face with the volcanic eruption of American imperialism.”

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