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Bad Apples or Bad Policies?

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Abstract

In a scene from the Woody Allen film *Hannah and Her Sisters*, the haughty and cantankerous character Frederick (Max von Sydow) is telling his girlfriend (Barbara Hershey) how he spent the evening flipping through channels on television. Ever the arrogant social critic, Frederick remarks,

You missed a very dull TV show on Auschwitz. More gruesome film clips. And more puzzled intellectuals declaring their mystification over the systematic murder of millions. The reason they can never answer the question: "How could it possibly happen?" is that it's the wrong question. Given what people are, the question is: "Why doesn't it happen more often?" ... Of course, it does.

Keywords

Human rights, Iraq, United States, War, Soldiers, Veterans, Civilians, War crimes

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by Daniel J. Whelan

In a scene from the Woody Allen film *Hannah and Her Sisters*, the haughty and cantankerous character Frederick (Max von Sydow) is telling his girlfriend (Barbara Hershey) how he spent the evening flipping through channels on television. Ever the arrogant social critic, Frederick remarks,

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Frederick is not denying the horror of the Holocaust, or that it happened. We can compare his observation just as easily to the violations of human rights and humanitarian law we read about in this article. Frederick asks why we "puzzled intellectuals" are horrified by what we see. He wonders why we should be shocked at the prospect of American soldiers who terrorize and kill innocent Iraqi civilians, mock their culture and religion, treat them as sub-human, and freely express deep racial animosity toward those whom they have been sent to protect. Frederick mocks us for our naïveté: why we fail to ask the right question.

Perhaps we are confused intellectuals, shocked by what we see. But hopefully we are thoughtful intellectuals, who do want to dig deeper into this unsettling state of affairs. If we are thoughtful, this article confronts us with an irreconcilable tension—even conflict—between the virtue of the American soldier or Marine and the lack of virtue of the architects of this policy that these soldiers and Marines must execute. High profile atrocities, such as the horrific events that transpired at Abu Ghraib, prompt the Bush administration to yield the "bad apple" defense—and quite effectively, [by all accounts](#). This article should give us pause to think critically about that defense, upon which is predicated the idea of the out-of-control rogue soldier who somehow does not understand the difference between right and wrong—but who should "know better." The problem is not the leadership, nor the policy, nor the mission—it is merely the "bad apple." However, those of us who believe in the values that are meant to undergird our institutions are faced with a deeply troubling question. Are the institutions and those who lead them flawed, or does the flaw lie in the very human beings who, because they believing in those institutions and are doing what they believe to be right, are doing what they are told to do? After all, we are talking about soldiers and Marines.

Let's take a look at these institutions. The myopic leadership of the Bush administration—the intelligence failures, the rush to war in a swirl of (un)patriotic exuberance with nary a serious debate about the consequences, the ideological fantasies that envisioned Iraqi flowers showered upon [American "liberators"](#)—inevitably led to the insurgency our soldiers and Marines now face in Iraq: the descent into truly Hobbesian anarchy. We created this state of affairs. And in so doing, we created a situation wherein intelligence-starved, poorly trained and poorly equipped soldiers are forced into situations where the rules of engagement—which are the bedrock of the fourth Geneva Convention—are so fluid as to be practically meaningless. If the paramount

principle driving the actions of the soldiers and Marines typified in this article is self-defense, and their enemy could be anyone, anywhere, in essence, we have bestowed upon “our brave fighting men and women” the necessity—indeed, the *right*—to do anything and everything to protect themselves—including committing acts inconsistent with our idea of military virtue and international law.

Think about how the actions of the soldier or Marine in this article parallels the United States’ claim to a right to act preemptively in international affairs—to shoot now and ask questions later. The only plausible defense of pre-emption was that Hussein had or was developing weapons of mass destruction. They did not exist. But what if they had been there and we had failed to act? What about that mushroom cloud we imagined might be the result of inaction? How is our national policy of pre-emption (which actually is preventive engagement...which is illegal under international law) any different, on a larger scale, than what we witness through the stories and testimonies emerging from the pages of this article?

What *should* we expect of our soldiers when our institutions inspire reckless, blind fear and sense of the *imperative* of shooting first, and asking questions later?

There is one ray of light shining through this article: It is the possibility that all soldiers who have struggled with similar challenges and horrors in Iraq will have a chance to reflect upon their experiences and their actions for what they are—violations of humanitarian law and human morality rather than patriotic acts and following orders. The virtue of the soldier can be rescued and redeemed. Our soldiers and Marines are placed in an impossible situation, in which they cannot be successful in carrying out their orders and abide by humanitarian law at the same time. One notices that all those interviewed for this article were no longer serving actively. They needed to be out of the theatre to think about what they had done, and what that means for the ideals of the nation whose principles they believed they were protecting and honoring through their actions. President Bush has said he would veto any Congressional act that guarantees to servicemen and women at least 12 months out of Iraq before their next rotation. One wonders if the Administration is worried about what 12 months of reflection might mean for its ability to fight an illegal war using illegal means.

What we read in this article is evidence of substantial and significant—[perhaps even routine](#)—violations of the fourth Geneva Convention. But the laws of war are predicated on the idea that the “bad apples” will either be punished by their own states, or face the consequences of international justice (as did the Nazis and the Japanese after World War II). In the final analysis, I have to conclude that there is no way to reconcile this kind of war (illegal and so poorly executed, it reveals an even deeper contempt for government than I thought imaginable) with the humanitarian law as expressed in the third and fourth Geneva Conventions. No matter what, those principles are supposed to provide a framework of limitations for armed conflict—no matter what the mission or who is doing the fighting. But without the context of leadership that is committed to those principles as the rule of law, we find that Frederick was right: If we want to know what is wrong with these soldiers profiled here, we are asking the wrong question.

Daniel J. Whelan (Ph.D., DU, 2006) is currently Assistant Professor of Politics and International Relations at Hendrix College. He was founding editor (with Laura A. Hebert) of HRHW from 2001-2004, and Senior Editor from 2004-2007. He now serves on the HRHW Editorial Review Board. His doctoral dissertation, "Interdependent, Interrelated, and Indivisible Human Rights: A Political and Historical Investigation," was awarded the 2006 Best Dissertation citation by the Human Rights Section of the American Political Science Association.