

THE ILLEGALITY OF THE BOMBARDMENT (1986) OF LIBYA: MORE THAN A NATIONAL TRAUMA

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I wish to start quoting a prophetic judgement of an extraordinary statesman whose words also proved to be academically valid and politically desirable. The following words of Mustafa Kemal Atatürk, the founder of modern Turkey, who translated many progressive ideas into deeds as early as the 1920s and the 1930s, may still illuminate and guide our thoughts and actions today. He had said:

...Just like pain at a finger's tip affects the whole body, a malady at any corner of the world should not fail to attract our attention... No matter how far the catastrophe may be, one should not fail to consider it close. Such an approach to international affairs will save the human beings, nations and governments from selfishness. If we desire a lasting peace, we should take fundamental precautions at an international level...¹

Exactly a dozen years ago, an event as tragic as it was illegal occurred - the aerial bombardment on 14 April 1986 of Libyan targets with limited military importance but in close proximity to urban centers by fleets of American war planes. It had then immediately caught public attention that, during the bombardment, there had been civilian casualties, including an adopted baby-daughter of Mohammed Al-Qaddafi, the Libyan leader. The people of Libya are also burdened, for the last seven years, with an unjust embargo seemingly attached to the explosion of an American plane over Scotland.

¹E. Z. Karal, *Atatürk'ten Düşünceler*, Ankara, 1956, pp. 130-131. Also quoted in M. Gönlübol and T. Ataöv, *Turkey in the United Nations: A Legal and Political Appraisal*, Ankara, 1960, p. 5.

While a few high-ranking American executives incidentally expressed official regrets for casualties, especially civilian losses could not have been unexpected on the part of the planners of the attack. The bombardment took place at night making targets less visible; the planes were flying at very high speed allowing mistakes in timing; some pilots recruited for the mission at a later date had not received adequate training; and the exact targets were selected by President Reagan at the eleventh hour depriving the pilots from precision preparation. Hence, doubts expressed as to the sincerity of official regrets have a rational basis.

It is only natural that the planning and execution of such an attack by a superpower on a country of proud but a small population should create a trauma on the part of the target. There is a saying in Turkish: 'The ball of fire burns the place on which it falls'. Pursuing this fact on the basis of the psychology of people facing aggression, feelings of hurt and inability to mourn, one may deduce that this tragic event will be remembered and also passed on from one Libyan generation to another.

It is true, as the saying goes, that the ball of fire burns especially where it falls, but other quarters cannot and should not escape from being affected by it. It is appropriate to recall here the great Atatürk's perceptiveness and guidance quoted at the beginning. The armed attack on Libya, which violates international law, should rouse at least the politically-conscious and the democratically-inclined sections of global public opinion.

Such motivation is especially imperative when the attacker is notorious for its offenses elsewhere and at other times. Few writers have questioned the validity of official explanations of American interventions abroad and exposed the coverups and distortions. The sudden bombardment of Libya in 1986 was one of the brutal interventions, frequently armed ones, that the United States carried on, especially after that country became a world power at the end of the Spanish-American War (1898)² and more specifically with the end of the Second World War.³ Consecutive U.S. Administrations have taken American troops to foreign lands seeking public support ostensibly on the basis of opposing a threat to democracy, frustrating an aggression or protecting its citizens abroad. When action was covert, the

²T. Ataöv, 'The Origins of U.S. Expansion'. *The Turkish Yearbook of International Relations*, Vol. 7, 1965, pp. 1-52.

³For a pioneering and comprehensive analysis shocking for many American citizens, J. Quigley, *The Ruses for War: American Interventionism Since World War II*, New York, 1992.

executives denied any complication, frequently proved to have occurred at a later date.⁴ The actual reasons were, however, economic or strategic.

Even armed conflicts that continued for years were presented to the public on false rationale. For instance, although it was not clear as to which side started the war in Korea, a domestic issue was internationalized and lasted for three years.⁵ The U.S. Department of State and the C.I.A. interfered in the domestic affairs of another country, Indonesia, in a bloody civil war while the White House announced, at the same time, that the troubles in Sumatra were internal matters. Although one U.S. government after another wanted 'to get rid' of Castro and the Cuban régime, the official explanation was always that they were not involved.⁶ What the United States did in Vietnam for about two decades was military interference in a domestic dispute. Truth was 'the first casualty'⁷ in all these instances as well as in the interventions in Guatemala, Laos, the Congo, Grenada and elsewhere.

The American justification for the attack on Tripoli and Benghazi was the White House accusation of Libya for an explosion (1986) in West Berlin that killed two persons, one of them American, and wounded several others. Not only Libya denied any part in that instance of violence, but West Germany's anti-terrorist police unit did not find a clue to tie the case with Libya. The U.N. General Assembly condemned the American raid, and a similar initiative in the Security Council that gathered the necessary nine votes, was stopped only by the vetoes of three permanent members, including the United States. President Reagan himself referred to Libya in a generalized manner when he said that terrorist activities could not be carried out without the support of 'régimes such as Col. Qaddafi's in Libya'.⁸

The attack on Libya was followed by similar acts or threats on some other countries. For instance, several thousand persons, mainly civilians, were killed as a result of the invasion (1989) of Panama by the United States.⁹ The justifications asserted by that country, namely that Panama had threatened the operations of the Canal and that the United States was acting in self-defence, were pretexts for the invasion. Panama was no threat to the Canal or the United States.

⁴J. Prados, *Presidents' Secret Wars: CIA and Pentagon Covert Operations since World War II*, New York, 1986.

⁵B. Cumings, *The Origins of the Korean War*, 2 vols., Princeton, N.J., 1981 and 1990.

⁶P. Wyden, *Bay of Pigs: The Untold Story*, New York, 1979.

⁷J. C. Goulden, *Truth Is the First Casualty*, Chicago, 1969.

⁸*New York Times*, 8 January 1986.

⁹J. Quigley, *The Invasion of Panama and International Law*, Vienna, 1990.

Although the U.S. Ambassador in Baghdad, in that now-famous private conversation with President Saddam Hussein on 25 July 1990, said that Washington had no opinion on the Arab-Arab conflicts including Iraq's border disagreement with Kuwait, everything changed on the 2nd of August, and the United States was involved in the crisis immediately after Baghdad's invasion of its southern neighbour. The authorization and the execution of the military action against Iraq (1991) were illegal in a number of ways.¹⁰ Resolution 678 of the Security Council exceeded the powers of that United Nations body, and the United States resorted to military option without utilizing all peaceful means, using excessive force even when Iraq actually started to withdraw from Kuwait.

On 27 June 1993, the United States launched cruise missiles from warships in the Red Sea, most of them striking the Intelligence Service building in Baghdad and a few others landing off-target in residential areas. The Clinton Administration defended itself by stating that its action was a response ostensibly to a plot by Iraq to assassinate former U.S. President George Bush. Such a broad interpretation of the right of self-defence opens the path to aggression.¹¹

These instances show that American troops were committed in too many places, especially since the Second World War, and that embargoes were imposed on some countries which challenged U.S. policies. How can the recurrence of such intervention, aggressiveness and deprivation of peoples from their basic needs be prevented?

The remedy should lie in the institution of a new system of international politics based on humane governance. Various associations, centers, departments, foundations, institutes and individual scholars have been cooperating for over a decade to introduce and develop programs combatting the traditional notions such as the inevitability of war as a means to resolve disputes. One of them, the World Order Models Project (WOMP) initiated a program called 'The Global Civilization: Challenges for Democracy, Sovereignty and Security Project' (GCP). The concept of humane governance

¹⁰An early assessment: J. Quigley, 'The United States and the United Nations in the Persian Gulf War: New Order or Disorder?' reprint from *Cornell International Law Journal*, Vol. 25(1), 1992, pp. 1-49.

¹¹For an assessment of factual and legal issues involved in the Baghdad raid to determine whether the United States acted lawfully and whether the Security Council proceeded properly in declining to issue a condemnation, as suggested by Iraq, see, J. Quigley, 'Missiles with a Message: The Legality of the United States Raid on Iraq's Intelligence Headquarters,' *Hastings International and Comparative Law Review*, University of California, Vol. 17(2), 1994, pp. 241-274.

emerged and grew from several international meetings that took place in four continents.¹² Some of the papers submitted in them were later printed.¹³

Professor Richard Falk, the Rapporteur of the GCP referred to above, was requested to gather, organize and express the thoughts of GCP. The result was an impressive volume which described global trends, especially focussing on non-state actors, non-territorial forces and global communications networks that move in more integrative directions.¹⁴ The book is also a call for persons at all levels of governance to work to make emerging forms of global governance more just, more humane and more secure for everyone.

Humane governance is the reverse of what may be termed as 'inhumane' governance, which is most evident in a number of aspects of international relations. The most significant aspect pertains to war as opposed to peaceful ways. There has been no real progress in efforts to abolish war. Several states, foremost among them the United States, resort to force, arguing sometimes that their actions are based on self-defence. Although the U.N. Charter prohibits war and restricts resort to force only to self-defence, the latter is frequently interpreted to suit particular interests. The law of war itself has historically developed to reflect the ambiguous concept of 'military necessity.'¹⁵

The balance-of-power geopolitics should be replaced by a rule-of-law-governed security system for all. Collective security to deter any aggression, not only in Kuwait, but also in Bosnia, should operate within the United Nations system, and not in Washington, D.C. The rule of law is presently enforced to conform to the requirements of power politics, and especially those of the United States and some of its allies. It may also be remembered in this connection that the Nuremberg and Tokyo War Crimes Tribunals, endorsed by the U.N. General Assembly, made individuals accountable for

¹²Nyon (1987, 1988), Moscow (1988), Yokohama (1990), Cairo (1990), South Bend (1991), Harare (1993).

¹³For example: R. B. J. Walker and S. H. Mendlovitz, *Contending Sovereignities: Redefining Political Community*, Boulder, Colorado, 1990; *Alternatives: Social Transformation and Humane Governance*, Spring 1991 and Spring 1994; R. Nakarada, *The Post-bipolar World: North-South Autonomies*, New York, 1995.

¹⁴R. Falk, *On Humane Governance: Toward a New Global Politics*, Pennsylvania, 1995.

¹⁵Leading studies: C. al Jochnick and R. Normand, 'The Legitimation of Violence: A Critical History of the Laws of War', *Harvard International Law Journal*, Vol. 35(1), 1994, pp. 49-95; R. Norman and C. al Jochnick, 'The Legitimation of Violence: A Critical Analysis of the Gulf War', *Harvard International Law Journal*, Vol. 35(2), pp. 387-416.

their actions irrespective of reasons of state. The supremacy of the state in war is, thus, challenged although the Nuremberg decisions exempted the crimes of victors from legal scrutiny. Examples of non-violent struggles from Gandhi's leadership to negotiated settlement in the former **apartheid** South Africa should discourage violent alternatives of conflict resolution.

Another significant aspect of inhumane governance is the division of the world along the line between the minority of humankind in the Northern industrial states and the majority in the South, the former being prosperous and powerful, and the latter poor and weak. This division is inherently unstable. The impoverishment of the South increased since decolonization, the richest fifth now controlling more than 80 percent of GNP, world trade, commercial lending, domestic savings and domestic investment while the percentages for the poorest fifth is one percent and even lower.¹⁶ Within this framework, the most vulnerable groups within national societies such as indigenous peoples, lower classes, women, elderly and children are even less protected in economic and legal terms. They have a much poorer share in food, shelter, health and education. Moreover, habitat consciousness, especially prohibiting the pollution of the natural surroundings of the Third World countries by some industrial states, should be emphasized since the failure to protect the environment endangers even the life of the coming generations.

People are the source of legitimate authority, not an object to be controlled by those who possess political or economic power. Domestic and international democracy should be expanded to all areas of human activity. There has been little progress, however, in grassroots or transnational democracy as well as in government or in business executive circles.

Humane governance is an alternative to a market-driven and militarist global world politics.

¹⁶E. Childers, "The Demand for Equity and Equality: The North-South Divide in the United Nations", in ed. H. Köchler (ed.), **The United Nations and International Democracy**, Vienna, 1995, pp. 17-19.