

# Civilian Dead do not exist for a (likely) War Criminal<sup>1</sup>: Bombs Away Marc Garlasco

by

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According to Marc Garlasco, currently senior military analyst at Human Rights Watch (HRW), the U.S. Air Force has so improved its targeting ability that *now only the “bad guys” are being killed*. This is of course an old trope in the “selling of modern U.S. wars” whereby precision-guided munitions are alleged to spare civilians.<sup>2</sup> Early proponents of this myth included William Arkin (in the *Washington Post*) and Colonel (ret) MacKubin Owens. “It’s sort of the immaculate approach to warfare,” was how Professor of Strategy, Col. (ret. U.S Marine) Mackubin Owens at the U.S. Naval War College (Newport, R.I.) described the U.S bombing campaign in Afghanistan in November 2001.<sup>3</sup> Garlasco is recently quoted in *Salon.org* that since June 2007<sup>4</sup>

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<sup>1</sup> Just as the village of Kama Ado in Afghanistan which was flattened by the bombs dropped by a United States Air Force B-52 in early December 2001, did not exist. See Richard Lloyd Parry, “A Village is Destroyed. And America Says Nothing Happened,” *The Independent* (December 4, 2001) at <http://www.commondreams.org/headlines01/1204-05.htm> .

<sup>2</sup> This theme has been debunked in numerous publications, most recently in Marc W. Herold, “Silent Slaughter: Our Modern Military Warfare Kills Primarily the ‘Bad Guys’,” in Peter Buchheit (ed), *American Wars: Illusions and Realities* (Atlanta: Clarity Press Inc., forthcoming 2008) and many years ago in, for example, Marc W. Herold, “U.S Bombing and Afghan Civilian Deaths: The Official Neglect of ‘Unworthy’ Bodies,” *International Journal of Urban and Regional Research* 26, 3 (September 2002):626-634.

<sup>3</sup> in Ann Scott Tyson, “US Prevailing with Its Most Finely Tuned War,” *Christian Science Monitor* (November 21, 2001) at <http://www.csmonitor.com/2001/1121/p1s2-usmi.htm>

<sup>4</sup> When U.S. air strikes in Afghanistan killed 167-234 innocent Afghan civilians, see Marc W. Herold, “The AP Speaks Newspeak. Reporting on Afghanistan and the 1,000 Civilians Killed in 2007 Parrots the Pentagon,” *Cursor.org* (December 12, 2007) at <http://www.cursor.org/stories/apnewspeak.html> .

“I have not seen a single incident of civilian casualties in Afghanistan.”<sup>5</sup>

But a quick glance at the “Individual Names” file of the Afghan Victim Memorial Project data base<sup>6</sup> reveals hundreds of civilian casualties in Afghanistan since July 1, 2007. Though one may wonder where Mr. Garlasco has been looking, no doubt should exist as to whom he and Human Rights Watch are serving.<sup>7</sup>

Garlasco is always “on call” (in ways more than one) to provide contorted justifications for the U.S. government about *its* bombs. Thus in a *60 Minutes* CBS television program interview in 2007 with Scott Pelley, we heard

"I don't think people really appreciate the gymnastics that the U.S. military goes through in order to make sure that they're not killing civilians," Garlasco points out.

"If so much care is being taken why are so many civilians getting killed?" Pelley asks.

"Because the Taliban are violating international law," says Garlasco, "and because the U.S. just doesn't have enough troops on the ground. You have the Taliban shielding in people's homes. And you have this small number of troops on the ground. And sometimes the only thing they can do is drop bombs."<sup>8</sup>

Human Rights Watch's Washington-based Advocacy Director Tom Malinowski stated that HRW's "*objective is not to end war; it's to change the way militaries wage war.*"<sup>9</sup> One cannot

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<sup>5</sup> Mark Benjamin, “Killing ‘Bubba’ from the Skies,” *Salon.org* (February 15, 2008) at [http://www.salon.com/news/feature/2008/02/15/air\\_war/](http://www.salon.com/news/feature/2008/02/15/air_war/).

<sup>6</sup> For the Afghan Victim Memorial Project database, see: <http://pubpages.unh.edu/~mwhero/d/memorial.htm>.

<sup>7</sup> A theme explored in Edward S. Herman, David Peterson and George Szamuely, “Human Rights Watch in Service to the War Party: Including a Review of Weighing the Evidence, Lessons from the Slobodan Milosevic Trial,” *ZNet* (February 25, 2007) at <http://www.zmag.org/content/showarticle.cfm?ItemID=12200>. See also Paul Treanor, “Who is Behind Human Rights Watch? (2004) at <http://web.inter.nl.net/users/Paul.Treanor/HRW.html>.

<sup>8</sup> Reported in Gabriele Zamparini’s “The Cat’s Blog” on October 30, 2007 at <http://www.thecatsdream.com/blog/2007/10/business-as-usual-iraq-body-count-human.htm>.

<sup>9</sup> this amazing statement was made by Tom Malinowski, Human Rights Watch’s Washington advocacy director in Josh White, “The Man on Both Sides of Air War Debate, Bomb Targeter-Turned-Human Rights Advocate Lobbies for Greater Restraint,” *Washington Post* (February 13, 2008) at [http://www.washingtonpost.com/wp-dyn/content/article/2008/02/12/AR2008021202692\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2008/02/12/AR2008021202692_pf.html).

imagine a more self-incriminating statement by an HRW official about the real character of the organization's mission. Because, in point of fact, U.S. territory was/is never threatened, let alone actually attacked, by other states; rather, it is the U.S. military that projects American power against other countries.

It is plainly fallacious and conveniently misleading for HRW to follow the U.S. and NATO-bloc lead in distinguishing between *combatants* and *civilians* (or more strictly speaking *innocents*) in the Afghan theater of war. First of all, the Kabul government is a creation of the invaders, and surely the right of the Taliban or any body else to resist the occupying militaries *precedes these militaries' effort to destroy this resistance* while distinguishing between combatants and civilians. The population in its entirety is innocent of the crime of bombing-aggression-occupation that has been waged against it since October 2001. But the high-value targeters and the bomb-droppers clearly are *not*.

Second, the U.S. military and HRW both operate according to the convenient fiction that purported *intention* and *discrimination* really are attributes of whatever the U.S. military does when it sets out to kill "combatants" in theaters of war. Pleading inadvertent casualties, "collateral damage," and the like allows the attackers to plead the purity of *intention*, even if the outcome kills untold numbers. This is the fig-leaf that Marc Garlasco hides behind with respect to his seven years of service inside the U.S. military, and HRW resorts to the same fig-leaf whenever it laments targeting "errors" even while it accepts the military enterprise in its larger sense.<sup>10</sup> But why would a quote-unquote human rights organization follow the Pentagon's lead, and accept this very cynical approach to U.S. war crimes? The answer is that, at least on these issues, HRW is serving less as a *human rights* organization than as an adjunct of the criminals.

Even when they took-up arms to fight back against their Nazi occupiers, weren't the Warsaw Jews *innocents* in some existentially prior sense of the term? No verdict of history has ever held that by their resistance the Warsaw Jews transformed themselves into actors on a par with their Nazi occupiers. Nor does anybody excuse the Nazis for targeting errors in their final offensive to crush the Jewish uprising.

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<sup>10</sup> For example, see "U.S.: Hundreds of Civilian Deaths in Iraq Were Preventable," News Release, HRW, December 12, 2003: <http://hrw.org/english/docs/2003/12/12/iraq6582.htm>; and Bonnie Docherty and Marc E. Garlasco, *Off Target: The Conduct of the War and Civilian Casualties in Iraq* (New York: Human Rights Watch, December, 2003) at <http://www.hrw.org/reports/2003/usa1203/>.

One should be struck by how much *prima facie* evidence the article printed recently in *The Washington Post*<sup>11</sup> provides for Marc E. Garlasco's war criminality, including (in a descending hierarchy of criminality): Nuremberg-class supreme international criminality<sup>12</sup> and breach of the peace and aggressive war under the UN Charter<sup>13</sup>; Geneva IV-criminality against civilians;<sup>14</sup> and customary international laws of war of the kind that HRW purports to watch, as well as those now spelled out by the Rome Statute of the International Criminal Court.<sup>15</sup>

Of course, the United States rejects the applicability of these laws to its own conduct.

In separate briefings for the *New York Times* and *Washington Post* in July 2003, U.S. Air Force Chief of Staff General T. Michael Moseley divulged that, as *The Times* reported, "Air war commanders were required to obtain the approval of Defense Secretary Donald L. Rumsfeld if any planner airstrike was thought likely to result in deaths of more than 30 civilians."<sup>16</sup> Garlasco also shared the same news with *Salon.org*:

At the beginning of the Iraq war in 2003, there was one number that was crucial to American military officials as they planned airstrikes. "The magic number was 30," said Marc Garlasco, who was the Pentagon's chief of high-value targeting at the start of the war. "That means that if you hit 30 as the anticipated number of civilians killed, the airstrike had to go to Rumsfeld or Bush personally to sign

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<sup>11</sup> Josh White (2008), op. cit.

<sup>12</sup> In the exact words of the *Final Judgment of the International Military Tribunal for the Trial of German Major War Criminals* (September 30, 1946), "The charges in the Indictment that the defendants planned and waged aggressive wars are charges of the utmost gravity. War is essentially an evil thing. Its consequences are not confined to the belligerent states alone, but affect the whole world. To initiate a war of aggression, therefore, is not only an international crime; it is the *supreme international crime* differing only from other war crimes in that it contains within itself the accumulated evil of the whole." See "The Common Plan or Conspiracy and Aggressive War," from which this passage derives: <http://www.yale.edu/lawweb/avalon/imt/proc/judnazi.htm#common> .

<sup>13</sup> See Article 2 of the Charter of the United Nations (1945): <http://www.un.org/aboutun/charter/chapter1.htm> . It is crucial to note that according to the UN Charter, it is in order to deter and, if deterrence fails, to counter breaches of the peace and aggressive wars of the kind that the United States committed in rapid succession against the Federal Republic of Yugoslavia (1999), Afghanistan (2001) and Iraq (2003) that the Security Council was created. See Articles 24 - 26: <http://www.un.org/aboutun/charter/chapter5.htm> .

<sup>14</sup> See Convention Relative to the Protection of Civilians in Time of War (Geneva IV, 1949): <http://www.yale.edu/lawweb/avalon/lawofwar/geneva07.htm> .

<sup>15</sup> For the Rome Statute (1998), see Part II: Jurisdiction, Admissibility and Applicable Law, specifically Article 8, War Crimes: [http://untreaty.un.org/cod/icc/statute/99\\_corr/2.htm](http://untreaty.un.org/cod/icc/statute/99_corr/2.htm) .

<sup>16</sup> Michael R. Gordon, "U.S. Air Raids in '02 Prepared For War in Iraq," *New York Times*, July 20, 2003; Bradley Graham, "U.S. Moved Early for Air Supremacy," *Washington Post*, July 20, 2003.

off." If the expected number of civilian deaths was less than 30, however, neither the president nor the secretary of defense needed to know.<sup>17</sup>

Garlasco neglected to share with *Salon.org* the fact that his former boss never once rejected any such targeting recommendation. "All of these targets were eventually struck during the war," *The Post* reported, "but U.S. forces have not determined how many [civilians] died in the process -- and have no plans to do so." Estimates of how many targets came under this category range between 40 and 50.

This indeed represents standard-operating procedures for the U.S. military, given its immunity before international law. But that a practitioner of the craft is welcomed at Human Rights Watch is cause for concern. No genuine advocate for human rights would distinguish between casualties among "bad guys" and casualties among innocents. True, these distinctions are spelled out by the laws of war. But these laws presume warmakers, and preserve for states rights related to making war. Advocacy on behalf of human rights is something much different. If, on the other hand, Human Rights Watch is imbued with a mentality in which "innocents" don't deserve to die under U.S. bombs (even though such targeting "errors" are pardonable, ultimately), but the "bad guys" do, then Human Rights Watch ought to state that its advocacy includes U.S. warmaking, and state this explicitly.

For as Marc Garlasco has noted: "...the airstrike had to go on..."

Bombs away!

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<sup>17</sup> *Salon, org*, op. cit.