WHY US WANTS BSA WITH CRIMINAL IMMUNITY: AMNESTY REPORTS US WAR CRIMES IN AFGHANISTAN NOT PROSECUTED

Barack Obama faces a huge amount of pressure during the current meltdown of Iraq because he withdrew all US military forces from the country. As I have pointed out in countless posts, the single controlling factor for that withdrawal was that Iraq refused to provide criminal immunity to US troops who remained in Iraq past December 31, 2011.

A very similar scenario is playing out now in Afghanistan. Hamid Karzai has refused to sign the Bilateral Security Agreement that will provide criminal immunity to US troops remaining beyond the end of this year. Both Abdullah Abdullah and Ashraf Ghani have stated that they will sign the BSA immediately upon taking office, but the recount of their runoff election remains mired in dysfunction over how to eliminate fraudulent votes. John Kerry has visited twice to get the candidates to cease sparring, but dysfunction has quickly ensued after both visits. Meanwhile, the clock ticks ever closer to expiration of the current agreement providing immunity.

All along, the US framing for insisting on criminal immunity for troops is based on avoiding the chaos of soldiers facing false charges that might be brought through a court system that lacks the safeguards of the US court system or even the US military courts. But a report (pdf) released Friday by Amnesty International provides solid evidence that the

US has failed, on multiple verified occasions, to take any action to pursue those responsible for clear war crimes in Afghanistan. That stands out to me as the real reason the US insists on criminal immunity.

Amnesty sums up their findings in the press release accompanying the report:

> Focusing primarily on air strikes and night raids carried out by US forces, including Special Operations Forces, Left in the Dark finds that even apparent war crimes have gone uninvestigated and unpunished.
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> "Thousands of Afghans have been killed or injured by US forces since the invasion, but the victims and their families have little chance of redress. The US military justice system almost always fails to hold its soldiers accountable for unlawful killings and other abuses," said Richard Bennett, Amnesty International's Asia Pacific Director.
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> "None of the cases that we looked into – involving more than 140 civilian deaths – were prosecuted by the US military. Evidence of possible war crimes and unlawful killings has seemingly been ignored."

The description continues:

> Two of the case studies – involving a Special Operations Forces raid on a house in Paktia province in 2010, and enforced disappearances, torture, and killings in Nerkh and Maidan Shahr districts, Wardak province, in November 2012 to February 2013 – involve abundant and compelling evidence of war crimes. No one has been criminally prosecuted for either of the incidents.
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> Qandi Agha, a former detainee held by US

> Special Forces in Nerkh in late 2012, spoke of the daily torture sessions he endured. “Four people beat me with cables. They tied my legs together and beat the soles of my feet with a wooden stick. They punched me in the face and kicked me. They hit my head on the floor.” He also said he was dunked in a barrel of water and given electrical shocks.
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> Agha said that both US and Afghan forces participated in the torture sessions. He also said that four of the eight prisoners held with him were killed while he was in US custody, including one person, Sayed Muhammed, whose killing he witnessed.

Of course, the US claims that while it wants troops immune from prosecution in Afghanistan under trumped up charges, crimes will be investigated by US authorities. The Amnesty report puts that lie to rest. Again, from the press release:

> Of the scores of witnesses, victims and family members Amnesty International spoke to when researching this report, only two people said that they had been interviewed by US military investigators. In many of the cases covered in the report, US military or NATO spokespeople would announce that an investigation was being carried out, but would not release any further information about the progress of the investigation or its findings – leaving victims and family members in the dark.
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> “We urge the US military to immediately investigate all the cases documented in our report, and all other cases where civilians have been killed. The victims and their family members deserve justice,” said Richard Bennett.

Yeah, I'm sure the military will get right on that. Sometime in the next century or two.

The report provides three recommendations to the government of Afghanistan:

> - Create a credible, independent mechanism to monitor, investigate and report publicly on civilian deaths and injuries caused by the ANSF, and to ensure timely and effective remedies. This mechanism should include detailed procedures for recording casualties, receiving claims, conducting investigations, carrying out disciplinary measures including prosecutions where warranted, and ensuring reparation, including restitution, compensation, and rehabilitation.
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> - Ensure that accountability for civilian casualties is guaranteed in any future bilateral security agreements signed with NATO and the United States, including by requiring that international forces provide a regular accounting of any incidents of civilian casualties, the results of investigations into such incidents, and the progress of any related prosecutions. Such agreements should exclude any provision that might infringe upon Afghanistan's obligations under the Rome Statute of the International Criminal Court.
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> - Continue to press the US and NATO authorities to take meaningful steps to enhance civilian protection, investigate reports of civilian casualties, and prosecute violations of international humanitarian law that result in civilian casualties.

Those recommendations are terrific, but they are completely meaningless when applied to what is

really happening in Afghanistan. None of the good things in that list have any chance of even making it into the language of the already negotiated BSA, and even if they did, no enforcement of it would ever be allowed. After all, the US is the country that even has passed a law allowing use of military force to “rescue” any citizen facing charges in the ICC. It doesn’t matter whether George W. Bush or Barack Obama is the Commander in Chief, the US military will go wherever it wants, kill whoever it wants, and allow the vast majority of its crimes to go without consequence.

That is the particular freedom they hate us for.