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War Crimes and Misdemeanors, and The Culture Of Indifference In Afghanistan

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United States Defense Secretary Leon Panetta apologized for photographs published by the Los Angeles Times showing U.S. soldiers posing triumphantly with the maimed bodies of dead Afghans.

In one photo, two soldiers held the severed hand of a dead Afghan and made an obscene gesture with it.

However, Secretary Panetta's remarks did not directly address the clear violation of the laws of war, regarding treatment of the dead, the need to bring those implicated to justice, or the moral grotesqueness of such behavior. Regrettably, some may read his remarks as indirect justification, when he told a news conference during a meeting of NATO allies in Brussels, "I know this is war, and I know war is ugly, and is violent. And I know young people sometimes caught up in the moment make some very foolish decisions."

I am sure he did not mean to excuse those acts, but those very remarks could be read as justification or at least indifference to the moral and legal implications of those transgressions.

It is true that Secretary Panetta also said: "That behavior absolutely violates both our regulations

and more importantly our core values. My apology is on behalf of the Department of Defense and the U.S. government ... Again, that behavior is unacceptable.” Yet there were no clear expressions of moral outrage at the grotesque behavior of the soldiers, nor what specifically the U.S. was going to do about it.

It seemed that the U.S. officials were concerned about damage to the image of the U.S. military and possible retaliation, more than the violations in and of themselves. Secretary Panetta said he regretted the decision of the Los Angeles Times to publish the photos, which he said might trigger retaliatory violence against foreign soldiers stationed in Afghanistan: “Neither do I want these images to bring further injury to our people, or our relationship with the Afghan people. Those kinds of photos are used by (the) enemy to incite violence, and lives have been lost as a result,” he said. Pentagon Press Secretary George Little said U.S. forces in Afghanistan were taking security measures to protect against a possible backlash over the photographs, adding that the images could be “used by the enemy to incite violence.”

But in order to repair the U.S. “relationship with the Afghan people,” it has to be more forthcoming and very specific about how it is holding the soldiers responsible accountable.

It is important to keep in mind that this latest act is not an isolated incident, but part of what has become a pattern of behavior. In one incident, also from Afghanistan, a video circulated of U.S. Marines urinating on corpses of dead Afghans. Other U.S. troops burned copies of the Qur’an, an incident that led to wide protests, resulting in the death of dozens of Afghans and six U.S. soldiers. In one of the most serious incidents, a U.S. soldier last month left his base in rural Afghanistan and slaughtered 17 civilians while they slept in their homes, a clear breach of the laws of war.

In the most recent revelation, it was not the military which exposed the misconduct, but the Los Angeles Times, which published 18 photos showing members of the 82nd Airborne Division posing with Afghan corpses and body parts. In fact, the military appealed for the newspaper not to publish them, and perhaps as a result the paper published only part of its find.

Whatever the U.S. has done in the aftermath of previous war crimes and misdemeanors committed by its forces, it is clear it has not been enough to prevent repetition, time and again.

More ominously, the recurrence of those acts may betray a culture of indifference to the laws of war among military personnel and a perception of impunity for those who violate them. L.A. Times said it obtained the photos from a member of that unit who was concerned that they were “evidence of a breakdown in leadership and discipline,” which confirms suspicions about that culture of indifference and impunity, especially when you combine it with what the paper reported as the projection of slides with racial and sexist overtones during daily briefings of that unit.

In light of that disturbing evidence, the responsible thing was for the L.A. Times to publish this story, although it felt it had to defend that decision, saying: “After careful consideration, we decided that publishing a small but representative selection of the photos would fulfill our obligation to readers to report vigorously and impartially on all aspects of the American mission

in Afghanistan.” It was regrettable, however, that it published only 18 photos of a larger find.

It is clear that repeated violations of the rules of war by U.S. forces, and especially the manner with which U.S. authorities deal with them, consistently weaken the rules of international law. When rogue states commit similar acts, their transgressions have little impact on international law. However, when a major power does it, the impact is much greater, especially in the case of the U.S., which has been a leader in the codification of international rules of war and support for institutions upholding them.

In terms of policy challenges, unless dealt with decisively and convincingly, these incidents will only complicate U.S. South Asia strategy and elsewhere. They will also make it more difficult to negotiate a strategic partnership agreement to define its presence once most foreign combat troops pull out of Afghanistan by the end of 2014.