



Court finds a right to jihad in the Constitution

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Colaboraciones n° 1087

July 13, 2006

There are several ways to fight a war. On the one hand, you can put on a uniform, climb into a tank, rumble across a field and fire on the other fellows' tank. On the other, you can find a 12-year-old girl, persuade her to try on your new suicide-bomber belt and send her waddling off into the nearest pizza parlor.

The Geneva Conventions were designed to encourage the former and discourage the latter. The thinking behind them was that, if one had to have wars, it's best if they're fought by soldiers and armies. In return for having a rank and serial number and dressing the part, you'll be treated as a lawful combatant should you fall into the hands of the other side. There'll always be a bit of skulking around in street garb among civilian populations, but the idea was to ensure that it would not be rewarded --that there would, in fact, be a downside for going that route.

The U.S. Supreme Court has now blown a hole in the animating principle behind the Geneva Conventions by choosing to elevate an enemy that dis-

dares the laws of war in order to facilitate the bombing of civilian targets and the beheading of individuals. The argument made by Justice John Paul Stevens is an Alice-In-Jihadland ruling that stands the Conventions on their head in order to give words the precise opposite of their plain meaning and intent. The same kind of inspired jurisprudence conjuring trick that detected in the emanations of the penumbra how the Framers of the U.S. Constitution cannily anticipated a need for partial-birth abortion and gay marriage has now effectively found a right to jihad -- or, if you're a female suicide bomber about to board an Israeli bus, a woman's right to Jews.

The old-school wars were Britain vs. Germany, Japan vs. Russia, that sort of thing. But we don't hold those as often as we once did, so, for the new school of warfare, Justice Stevens and his chums took refuge in Geneva's Common Article Three, which begins as follows:

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties . . .

The "High Contracting Parties" are nation states that are signatories to the treaties: America, Belgium, Fiji, Peru and so on. So what might an "armed conflict not of an international character" mean? Well, it refers mostly to civil wars and internal conflicts -- say, when the Northern Wackistani Liberation Army takes on the Southern Wackistani Patriotic Front. As a cursory glance at Rwanda, Sudan or the Balkans shows, these are some of the most depraved slaughterfests. But the aim of the article is the same as that for your full-scale France vs. Prussia fixture: to persuade the parties to wage war in a "civilized" manner.

And what did the Supreme Court do? They decided first that Afghanistan was a signatory to the Conventions and thus the various ructions were "occurring in the territory of one of the High Contracting Parties." They then decided that it was an "armed conflict" and not only that -- here it comes, folks -- but it was an "armed conflict not of an international character."

Hang on a minute. At the time most of the Gitmo detainees were picked up, Afghanistan had more teams than the World Cup: There were Americans, Brits, Aussies, Saudis, Pakistanis, Yemenis, Iranians, Chechens, Uzbeks and all kinds of other fellows running around. Few "armed conflicts" have had so many "international characters." The country was in the process of being bombed by the U.S. Air Force from bases on the British colony of Diego Garcia. It was being invaded by two permanent members of the U.N. Security Council.

Ah, but you're not a Supreme Court justice. The reason why this was an "armed conflict not of an international character" is that al-Qaida is not a nation. So an article designed to cover internal local conflicts in signatory states within a convention designed to exclude unlawful combatants has been extended to cover non-signatory unlawful combatants in a global jihad taking place on every continent -- and, in effect, read into U.S. law. Congratulations! Why not throw in a complimentary gay marriage for Osama and Mullah Omar while you're at it? Justice Stevens and his pals have now upgraded every terrorist to the rank of field marshal. Wherever you're picked up by the United States anywhere on the planet, chances are it's the "territory of one of the High Contracting Parties" -- Afghanistan, Brazil, Singapore, the world's your oyster -- and therefore, as you're a member of al-Qaida, by definition it's an "armed conflict not of an international character."

And, of course, al-Qaida never need to sign the Conventions now, do they? As the ultimate beneficiaries of the progressive mindset, they get all the benefits with none of the obligations. We're bound, they're not. If you're captured with the severed head of a U.S. soldier in your knapsack, you're covered by Geneva -- and, as your victim learned a mile back up the road, it's too late for him to call his lawyer.

In the broader scheme, Justice Stevens and co, in torturing the language to explain why the international jihad is not "international," have paradoxically conferred quasi-sovereignty on al-Qaida and its affiliates. The obvious question then is: doesn't that also apply to every other "non-state actor" out there? When Hezbollah blew up that Jewish community center and killed 100 people in Buenos Aires in 1994, surely that too was (as Justice Stevens would

see it) an "armed conflict not of an international character occurring in the territory of one of the High Contracting States." In fact, under this definition, what isn't?

The immediate consequence of this is that America's friends in India, Australia, Singapore, Denmark and elsewhere will conclude that this country is simply not serious and its descent into moral narcissism too advanced. The long-term consequence will be the opposite of what the justices intended -- the sidelining and eventual discarding of Ge-

neva, at least by nations that wish to survive the depredations of the jihad.

Oh, well. It wasn't all bad news this week. In Kuwait, women voted in parliamentary elections. In Afghanistan, the National Police opened a new regional command center in Kandahar.

I wish them well. It's good they seem to be getting the hang of this functioning society routine because in the long run they won't be getting much meaningful help from what's left of Western civilization.