

American Counter-Insurgency Operations in the Philippines and the Question of War Atrocities

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Abstract

Theories of war atrocities, both against enemy combatants and civilian populations, are almost entirely concerned with the motivations and factors contributing to states' norm-violating behaviors during war situations. In many cases, especially where the leading states of the international system are involved, states violate international norms when they believe they can justify their actions in the eyes of other states and the world's public opinion. I will argue, in this paper, that within the context of the colonial wars in the age of Imperialism, the justification was based on first, a "civilization" notion that distinguished between a group of nations organized into modern sovereign states and abiding by the conventional modes of Western warfare and those who did not, and second, on an alleged "civilizing" mission for imperialist acquisitions around the world that helped to replace the logic of war with that of law enforcement operation, on the other. Thus, by disassociating the military operations in the colonies from the context of war and placing it within the category of "policing actions", colonial powers claimed exemption from following the laws and customs of war norms regarding the humane treatment of the captured enemy combatants and the privileged status of neutral and uninvolved civilian populations.

Keywords

War Atrocities, The Laws and Customs of War, Imperialism

1. Introduction

Committing war atrocities both against enemy combatants and civilian populations in war situations is not only morally wrong but also, at least in the last 150 years, there have been various domestic and international rules and norms against

it. These rules are supposed to serve as the main principles regulating the conduct of war.

Nonetheless, war atrocities are still a persistent global reality. For example, the twentieth-century wars were characterized, compared to the previous two centuries' wars, by a sharp change in the ratio of civilian to combatant loss during armed conflicts (Epps, 2013; White, 2014). The dazzling rise in civilian loss in the wars of the past 150 years becomes more puzzling if we keep in mind that in addition to moral aversion and international law's ban against the practice, military strategists believe that targeting or terrorizing civilians is a bad tactic that does not help much in a war situation and could lead only to encourage more resistance (Carr, 2002: p. 12; Downes, 2008: p. 2).¹

Many of the international rules concerning the regulation of conducting international conflicts presuppose the existence of an inter-state war. However, the majority of armed conflicts both inside and beyond international borders do not entail two internationally recognized states. Rebellion and resistance against foreign occupation, colonial powers, and apartheid regimes demonstrate non-state actors' capacity to wage war against states or other non-state entities (Epps, 2013: pp. 312-315; Dezfuli, 2023). Thus, there are disagreements among international law scholars on categorizing armed conflicts and those cases that meet the criteria for designation as international conflicts.

Despite the occurrence of two world wars in the 20th century, statistical studies of armed conflicts in the past two centuries and especially in the period after the Second World War show that the frequency of inter-state wars is declining while a wide range of intra-state, extra-state and non-state ones are increasingly becoming prevalent. In light of this, M. R. Sarkees and F. W. Wayman conclude that the most common type of international armed conflicts were anti-colonial wars in the late 19th and early 20th centuries and counter-rebellion wars or combating terrorist organizations in the second half of the 20th and the first years of the present centuries (Sarkees & Wayman, 2007).²

With notable exceptions of two inter-state world wars of the early part of the 20th century, on the whole, other types of intra-state, extra-state, and non-state international conflicts tend to be more lethal than inter-state conflicts. This conclusion is corroborated in a 2001 report by the International Committee of the Red Cross that showed in modern counter-insurgency warfare, unlike the past inter-state wars where much of the fighting was restricted to battlefields, "Civilians have, both intentionally and by accident, been moved to center stage in the theatre of war" (Epps, 2013: p. 319; Dezfuli, 2016).

The ratio of civilian to combatant death in war-related situations has been rising in the past 150 years. During the Napoleonic Wars of the early 18th century, the civilian-to-combatant ratio of casualties was 2 to 1 in favor of combatants. The

¹Also, see: President George W. Bush's 2002 speech at the West Point's graduation ceremony at <https://georgewbush-whitehouse.archives.gov/news/releases/2002/06/20020601-3.html>.

²Article 82 of the General Order No. 100 in https://avalon.law.yale.edu/19th_century/lieber.asp.

situation changed with World War I when the ratio changed to 59% in favor of non-combatants (6 million combatants lost against about 10 million non-combatants). In World War II, the fatality ratio increased to around 65% in favor of civilians. Most studies give a ratio somewhere between 75 to more than 90 percent (in favor of civilians) for the post-Cold War period's international armed conflicts (Epps, 2013: pp. 323-325).³

Rogue states or violent non-state organizations are not the only ones who are to be blamed for the intentional targeting of civilians during war situations. The past 150 years' history strongly suggests that the leading states of the international system have also frequently resorted to such practices. The United States wars against the Indians in the American continent, the Philippines, the second World War, Vietnam, and most recently, the Global War on Terrorism are just a few examples.

This study will take one of these, the 1898-1902 war in the Philippines, as its case study. The goal is not to examine why state powers resort to targeting civilian populations during wars and what their motivations are. There are many theories to explain which I will come back to in the next section. Instead, this paper aims to explore what is missing in the existing literature on the subject. Given the strong moral and even legal sanctions against committing war atrocities, especially in regard to civilian populations and the costs associated with it, this paper asks how state powers justify their actions when they, in fact, commit war atrocities. I will explore the answer within the context of a particular type of international conflict in which a state power engages in a war with a non-state actor (a rebel or insurgent movement) somewhere outside its territories. The purpose is to discover the mechanisms through which war atrocities are committed, and the language employed to justify them.

Historically, examples of an international conflict between state power and insurgent movements include various colonial struggles during the age of imperialism in the late 19th and early 20th century. The tactics, institutions, and even the language invented within that context in order to exert military power against foreign populations and the resultant war atrocities and civilian losses were later reproduced and revived, on an alarming scale, during the second half of the 20th century and early years of the present one in various war theatres around the world by the leading states in the international system.

In what follows, I will begin with a history of war atrocities and explore some of the theories that seek to explain it. The section after that considers the results in light of the United States counter-insurgency operations between 1898 and 1902 in the Philippines.

2. Historical and Theoretical Framework

Prior to the 18th century, the war was waged against not only the enemy states and militaries but also against ordinary civilian populations. The latter were always

³For the text of the Lieber Code, see https://avalon.law.yale.edu/19th_century/lieber.asp#art14.

subject to the violence and cruelty of the combatants through murder, rape, plunder, enslavement, etc. Yet, to varying degrees, all cultures throughout history have developed moral aversion toward committing excessive savagery against innocent civilians and have tried to control it during war situations.

In a European context, Giovanni Da Lignano (1320-1383), a Milanese canon lawyer, was among the first who reflected on the question of civilians' suffering during wars. A preliminary form of proportionality principle that he developed, however, was restricted to wars among Christian nations, while the conduct of war between the Christians and Infidels required totally different rules (Holland, 1917: p. 269 & 300). Nearly two centuries later, faced with massive violence unleashed by European colonizers on native Americans, Francisco Vitoria extended a certain level of civilian protection to non-Christians by recognizing the notion of their innocence. In his opinion, wherever there was a possibility of applying a distinction between the guilty and the innocent, a Christian power should refrain from intentionally murdering non-Christian innocents. However, even in Vitoria's case, it is interesting to see how his objective criteria in identifying innocence in a Christian context (whole classes of peasants, the clergy, members of religious orders, and so on) differs with the same in regard to a non-Christian context where the main prerequisite for being "innocent" is not to have the ability to "carry weapons" (Bate, 1917: p. 35 & 60; Dezfuli, 2025).

The late 16th and early 17th centuries witnessed the secularization of the just war theory and earlier regularizations of the conduct of the war by mostly Protestant lawyers who attempted to reconcile the concerns for civilian protection with military necessities. None of their proposed rules were observed during one of the bloodiest episodes of modern European history a few years later, namely the religious Thirty Years wars. The establishment of civilian protection norms during war situations required a systemic incentive so that states recognize the benefits of following the legal and moral rules in conducting their wars.

This came through the consolidation of the nascent forms of modern sovereign states from the mid-17th century onwards. The reorganization of the political structures of states entailed a differentiation between civilian populations and their respective states. War and politics were no longer regarded as the business of the people but that of the states, their ruling classes, and their armies. The new understanding of the sovereign state challenged more ancient notions that the rulers and the ruled were bound by communal liability in which every subject had to share a lot with his or her sovereign (Schutte, 2015: p. 68). Thus, gradually it was accepted that wars have nothing to do with quiet and non-involved civilians, and there is no ground in targeting the latter for their rulers' actions.

A parallel development took place in the modern states' military organizations and the nature of their warfare. The ban on private wars (mainly among feudal) ensured that war became the states' business that monopolized the legitimate use of force to attain or protect national interests. The new military organizations primarily consisted of highly trained and professional soldiers whose entire lives

were dedicated to the business of war. Both moral and economic considerations (in terms of the costs of war) guaranteed the undesirability of all-out, frontal fighting in cities and other civilian environments. They restricted the conduct of wars to the battlefields where the only important target, the enemy's military organization, could be confronted (Christon et al., 2002: p. 324). This new development meant that there was now a sound strategic logic to keep the civilians out of war. From the late 17th century onwards, inter-state wars in a European context became less destructive for civilian populations.

The next transformative stage in the nature of the relationship between combatants and non-combatants came with the age of democratic revolutions and Napoleonic wars. The American Revolution mobilized the civilian population to serve the cause of independence from the colonial masters. The French revolutionary regime abandoned the ancien regime's reliance on disciplined, professional armies and resorted to en masse conscription to conduct its wars. Its adoption of a radically different approach did not remain restricted to the actual conduct of war as the revolutionaries devised a new rhetoric of war as well.

The new war rhetoric manifested in the revolutionary regime's declarations endangered the former distinction between civilians and combatants by requiring all the Frenchmen to participate in the war efforts to defend their representative government (Blanning, 2002: p. 111). The dilemma created by the massive involvement of civilians in revolutionary and democratic wars was how the concept of non-combatant could be reconciled with the new military organizations founded upon popular mobilization and to what extent the entire citizens of a country were immune from responsibility toward the wars in which they were so widely involved?

The enormous economic and logistical needs of the popular armies also required cooperation and sacrifice on the part of the citizens of the occupied countries that, at least in one notable case (Spain), led to widespread resistance and the perpetration of cruelty against civilians by the French army. In their efforts to ward off the aggression, France's adversaries, too, resorted to tactics such as economic blockade that entailed, to varying degrees, indiscriminate targeting of its entire population (Blanning, 2002: p. 121; Lynn, 2005: p. 199).

Nonetheless, the French revolutionary armies and the Napoleonic warfare did not constitute lasting phenomena as Europe's pre-revolutionary dynastic order was restored after 1815. The rest of the 19th-century wars were more modeled on their 18th-century counterparts rather than the French Revolutionary and Napoleonic ones. The only notable exception was the American Civil War in the 1860s which was a foreshadow of the wars of the next century in many respects. The Civil War was characterized by its unusually high levels of casualties, mass mobilization for the war, and the new determining factor of technological innovations.

Although it was an internal conflict, Civil war and its horrors played important parts in the progress of contemporary international law and its regulations about the conduct of war. The so-called Lieber code compiled by President Lincoln's

order marked one of the first efforts to codify the customary rules of the law of war. The Lieber code served as instructions for the government of United States armies in the field of war and offered the concept of military necessity as the indispensable element in defining the legality of military actions during war situations (Carnahan, 1998: p. 213). The Lieber code established the principle that any action not necessary to achieve the war's objectives is forbidden. The American innovation in regulating the conduct of the war was quickly imitated by many European nations whose armies began to compile similar manuals. They constituted basic materials for the further regularizations of the law of international armed conflicts in the mid-20th century. Nevertheless, there was a constraining element in the Lieber code that is vital for the rest of our discussion.

The code represented a vital effort to humanize war through managing the combatant-civilian relationship in a "civilized" context. In the parlance of the 19th century, being civilized did not refer to a simple racial-cultural differentiation but one that expressed itself in a political sphere as well. A civilized society was one organized into a modern sovereign state. According to the 19th-century notions, full statehood meant the ability to exercise effective control on a domestic level and the willingness to act according to a set of privileges and duties determined by the long-established rules of the Westphalian state over time that governed the international behaviors of states (Rao, 2016: pp. 253-270). However, it should be noted that statehood standards acted selectively because even when a less-developed non-Western nation would embark on reforms to create a modern state's institutional apparatus, it might be simply denied recognition as an equal member of the international state system. In the final analysis, full statehood, at least in the case of non-Western societies, meant having a modern military organization capable of protecting that society against other state powers and, more importantly capable of conducting a modern form of war under the laws and customs of Western warfare.

Article 14 of the General Orders No. 100, also known as the Lieber Code, reads like this: "Military necessity, *as understood by modern civilized nations*, consists in the necessity of those measures which are indispensable for securing the ends of the war, and which are lawful according to the modern law and usages of war".⁴ It may seem ironic that one of the earliest constitutive elements of the laws of international armed conflicts had its roots in an internal conflict. In fact, another innovative characteristic of the Lieber Code was that it gave the United States government a legal infrastructure to apply the rules and laws of international armed conflicts in the context of a civil war with an internal insurgency and to extend the privileges reserved for enemy combatants to the fellow Americans in the South who were fighting under the banner of the Confederacy without officially recognizing it as a legitimate international entity (Schutte, 2015: p. 77).

The civilized context manifested in the fact that although the Civil War was beyond any doubt one of the bloodiest war episodes humanity had experienced

⁴<http://nationalhumanitiescenter.org/pds/gilded/empire/text5/beveridge.pdf>.

until that time on the battlefields, the cases of committing atrocities against the other side's captured soldiers or the civilian population at large remained insignificant. General Order No. 100 even paved the way to treat captured Confederacy soldiers as prisoners of war and not rebels (Murray, 2005: pp. 219-248). The contrast with what happened a few years later in the "uncivilized" context of the wars of continental expansion where raiding Indian villages, destruction of their food sources, and the slaughter of Indian civilians was rampant is hard to miss (Grimsley, 2002: p. 152). In other words, while the United States government was ready to observe the civilized rules of international armed conflicts in its fight against the secessionist and rebel regime of fellow White Southerners, the "uncivilized" Indians could not be extended the same privilege because their mobile forms of warfare and hit and run tactics were regarded as uncivilized ways of fighting that prohibited regulated conduct of war.

Countless examples of war atrocities by the European powers against colonial adversaries and civilian populations at around the same time suggest that the 19th laws and customs of armed conflicts worked based on a clear distinction between a group of civilized nation-states that would abide by the rules and forms of modern warfare and the "uncivilized" others who would not enjoy the privileges preserved for the first group precisely because they did not abide by those forms of war. Later efforts to codify the customary international laws on the conduct of war were based on similar, although more hidden, notions of "civilization". The two Hague Conventions of 1899 and 1907 extended the rights and duties associated with the status "enemy combatant" to all kinds of armies, militias, and volunteer corps that were willing to "conduct their operations in accordance with the laws and customs of war". However, the objection on the part of some delegations that with this definition any rebellious movement can be regarded as a legitimate military organization or "enemy combatant"⁵ led to a compromise solution manifested in the so-called "general participation clause" that stated:

"...convention applies only if all the belligerents are parties to it. As a result ... even if one belligerent, however insignificant, was not a party, the convention did not apply to any of the belligerents" (Boczek, 2005: p. 427).⁶

Thus, being subject to the rights and duties of the laws and customs of war depended on the existence of an internationally recognized sovereign state. What was deemed to be unlawful in the context of a war between "civilized nations" could be regarded as legitimate in the context of a war with indigenous movements in a colonial setting. Furthermore, having the status of "enemy combatant" was a concomitant of being recognized as a "civilized enemy" while atrocities and unregulated conduct of war remained the defining characteristics of the war with

⁵James F. Rusling, "Interview with President McKinley," *Christian Advocate*, January 22, 1903.

⁶John Tirman calculates that the total war-related death has changed from a one-to-nine-ratio of civilians to soldiers in World War I to a nine-to-one civilian soldier ratio in the post-Cold War conflicts; see John Tirman, *The Death of Others: The Fate of Civilians in America's Wars*, (Oxford: Oxford University Press, 2011), p. 14 (Epub version).

the “uncivilized”, stateless parts of the world.

The contextual difference between the laws and customs of war among civilized states and those with “uncivilized”/stateless societies went hand in hand with another characteristic of military actions in colonial environments. However, before proceeding in that direction, it is necessary to look at the existing literature on war atrocities. There are various theories to explain why governments commit war atrocities, especially against non-combatants.

In one group of studies, regime type has been considered a determining factor as it is believed that democracies are less likely to violate international norms against war atrocities or those protecting civilians during war situations (Engelhardt, 1992: pp. 52-63; Rummel, 1995).⁷ Other statistical studies of war-related deaths among civilians suggest that democracies are just as likely as non-democracies to engage in violating the norms because the democratic leaders could be subject to more pressures by a war-weary public opinion and in their desperation to ensure a quick end to the war are likely to resort to drastic actions (Reiter & Stam, 2002).

The second group of explanations is focused on the military organization and military culture of those states that engage in violating the laws of war. The argument is that a pattern of assumptions, beliefs and ideas about how to adapt to the external environment and resolve internal affairs determines whether a particular army drives toward or away from civilian victimization. The military organization also plays a vital role in pursuing strategies that intentionally target non-combatants or commit atrocities against combatants (For military culture arguments: Legro, 1995; Hull, 2005. For military organization: Sherry, 1987). Others pay attention to the importance of individual leaders and the strategies they pursue to achieve goals such as a revolutionary transformation of their societies, implementing racist or nationalist ideologies through what they call national/ethnic purification, or defeating persistent guerrilla insurgencies.

In “*Targeting Civilians in War*”, Alexander B. Downes identifies two primary factors responsible for civilian victimization in regard to both inter-state and colonial wars. The first factor, the desperation logic, argues that states resort to norm-violating behaviors in their desperation to win protracted and costly wars of attrition. Civilian victimization in such situations intends to coerce the enemy force (whether another state or rebel group) to accede to the violator state’s demands. The second factor Downes identifies is the denial logic. In some situations, targeting the civilian population or committing atrocities against enemy combatants is meant to discourage them from resisting or undermining their ability to do so by, for example, killing civilian supporters of the other side, their forceful evacuation, or intimidating them in other ways, so they stop aiding the enemy (Downes, 2008).

Perhaps one of the most widely accepted explanations for war atrocities is the

⁷Meredith R. Sarkees and Rank W. Wayman’s conclusions include cases of armed conflicts in which at least one foreign state power has been involved. In reality, no category of war is more prevalent than domestic armed conflicts.

body of theories known collectively as the total war literature. The concept of total war is understood in its contrast with “small” or “limited” war. It refers to a particular kind of warfare common in the late 19th and early 20th centuries characterized by the intensity of the fighting, geographical span of the conflict, the nature of war objectives in terms of the total annihilation of the other side’s war capacities and the extent of civilians’ involvement both due to their victimization and social mobilization for war. The unique nature of wars explains the unusual levels of atrocities against civilian populations and the degree of socio-economic destruction in an industrial age characterized by the new military technologies with the capability of inflicting maximum suffering on civilians (Forster & Nagler, 1997; Boemeke et al., 1999; Chickering & Forster, 2000; Chickering & Forster, 2003; Dezfuli, 2024).

The problem with the total war theory is that it can only be applied to a limited number of examples in the context of wars inside or between great industrial nations while its basic assumptions do not conform with some of the most lethal examples of the 19th and 20th-century wars, including the colonial wars which are the subject of the present study. The advanced technology of the imperial powers could turn the colonial wars into total wars for the other side, who had to resort to popular mobilization in a fight over life and death, independence, or colonization. Nevertheless, in most cases, the intensity, social mobilization, and the level of material resources dedicated to the war efforts remained limited in the case of the imperial powers who were fighting for secondary goals of territorial expansion, securing trade concessions, or obtaining cheap raw materials for their domestic economies.

In any case, the purpose of this study is not to contribute to the body of theories that try to explain the reasons behind the states’ violation of the norms against war atrocities. Like any social actor, states need to project a positive self-image or seek approval for their actions. As Vaughn Shannon explains, states violate international norms only when “...an actor believes that it is behaving in a socially acceptable way whilst violating norms and can persuade others to share that belief” (Shannon, 2000). Social and ideational factors influence the states’ calculations of their norm, violating behaviors as they need a rationale to justify them. In other words, they need to explain why they are exempt from abiding by the established norms in a particular context. So, in connection with what came above about the “civilized” context of the 19th-century laws and customs of war and the racial, political, and military connotations of the “civilization” notion, we need to discuss the rationale used by imperialist powers in order to justify their atrocities against the “uncivilized”.

The argument about the “uncivilized” nature of colonial populations went hand in hand with a “civilizing” mission of imperialism that justified the colonization of foreign lands through a project of training them to embrace modernity, rationality, and the rule of law. Being full members of a universal system of states required the creation of political, legal, and military institutions capable of exercis-

ing effective control over any given territory and producing a rational system of governance that realized the necessity of abiding by the rules and duties that governed international relations among members of the state system.

The “uncivilized” colonial populations were deemed incapable of achieving that rational system of self-rule by themselves. Thus, imperialism became a program of intellectual upbringing to that end. In this sense, colonizing foreign lands could not be regarded as “war” in its conventional meaning but as a “pacification” operation to establish law and order. Also, those colonial groups and movements that resisted the colonization of their lands were not legitimate “enemy combatants” but mere “criminals” or “rebels” that should be put down by all means, necessary so that they could not further disrupt the legitimate, lawful “order”. “Counterinsurgency” that came to designate the various military operations in many colonial contexts was a conscious choice of words to disassociate imperialist conquests from the context of war and place them within the category of “law enforcement” operations. In other words, counter-insurgency became a code name to replace the logic of war with that of “policing” actions. This logic did not spare the civilian populations, as well. The laws and customs of war accrued privileged status of protection to the civilians who remained neutral and uninvolved during war situations, whereas in the context of police action, no person can refrain from active cooperation with the law enforcement authorities in their crackdown upon unlawful, rebellious activities.

In what follows, I will test the historical and theoretical framework outlined here in the case of war atrocities committed during the American counter-insurgency operations in the Philippines from 1898 to 1902 by using a historical and content analysis method relying on statements by government officials, the content from the newspapers, and also the letters and other written materials by the American military servicemen stationed in the Philippines.

3. American Counter-Insurgency Operations in the Philippines

During the course of its history, the United States has engaged in several numbers of what has been termed “small wars” (Boot, 2002), in which a highly advanced nation (militarily and industrially) fights less powerful military foes that in many cases are not even organized into the political and military apparatus of sovereign states.

These small wars began with the first military engagement of the American military beyond the continental United States in 1898 when in the name of both eliminating the Spanish colonization and bringing “civilization” to a savage island (which could, by the way, serve as a bridge to East Asia), the U.S. army conquered the Philippines. The patterns that were created in the subsequent years of local resistance against American occupation (the brave American soldier, the brutish enemy, the horrors suffered by the fallen Americans, and the indifference toward the same for the local population) persisted in other major military campaigns by

the American army until our own present time. The suppression of Pilipino independence served as “a model and a prelude to the major interventions following the Second World War, both in military strategy and outlook, and the attitudes of the American public.” (Tirman, 2011: p. 102).

In May 1898, just days after the United States declared war on Spain, Admiral Dewey, the head of the Asiatic Squadron of the U.S. Navy, was ordered to destroy the Spanish fleet stationed in Manila Bay. He succeeded in his mission but then asked Washington for permission to occupy Manila so that he could re-supply (Tucker, 2009: p. 34). The United States government’s decision to do so was the beginning of the Pilipino conquest that claimed the lives of tens of thousands of civilians in the subsequent years. Even two months later, when General Merrit was sent with 12000 soldiers to the island, the goals of his mission were to “reduce Spanish power in that quarter” and to establish “order to the islands while in the possession of the United States” as the McKinley administration had not decided yet what to do with the Philippines (Tucker, 2009: pp. 370-373).

American ignorance of the history and the culture of the Filipinos led to serious miscalculations that failed to predict the future course of events. By the time Admiral Dewey took Manila, the Filipinos had already risen against three hundred years of the Spanish occupation. Emilio Aguinaldo had set up a Republic of the Philippines in March 1897, and since then, his followers had been at war with the Spanish authorities. When the war broke out between Spain and the United States, Aguinaldo contacted a number of American diplomatic and military officials in his Singapore and Hong Kong exile. He later claimed that his contacts led him to believe that the United States would support Filipinos’ independence. He went back to his country, assumed the rebel forces’ leadership, and took much of the islands outside the central Cavite province. When the American forces occupied Manila, the rebels had already surrounded the town (Tucker, 2009: pp. 8-9).

When General Merrit entered Manila, he ordered the Filipino rebels to stay where they were. Later on, the Americans unilaterally accepted the Spanish forces’ surrender and, in December 1898, signed a peace treaty with the defeated country. Days later, the McKinley administration took its final decision on the fate of the island by announcing that:

“With the signature of the treaty of peace ... the future control, disposition, and government of the Philippine Islands are ceded to the United States. ...In the fulfillment of the rights of sovereignty thus acquired...the actual occupation and administration of the entire group of the Philippine Islands become immediately necessary, and the military government... is to be extended with all possible dispatch to the ceded territory”.⁸

The decision to deny the Philippines its independence was based on a notion among many in the McKinley administration that the people of the islands were

⁸One such objection was raised during the 1899 Hague Conference by a member of the British delegation who said: “There is a difference in the war between civilized nations and that against savages”; see: Boleslaw A. Boczek (Maryland: Scarecrow Press, 2005), “*International Law. A Dictionary*”, p: 427.

“unfit for self-government”, and if given their independence soon chaos and misrule would dominate that could be worse than the Spanish colonization. The American administration justified its decision to occupy the islands by arguing that it had no choice but to “take them all, and to educate the Filipinos, and uplift and civilize and Christianize them”.⁹

Thus, the overarching justification for annexing the Philippines and not recognizing the legitimacy of its newly established republic under President Aguinaldo was not that much different from the other contemporary imperialist projects by the European powers. U.S. Senator Albert J. Beveridge tied the “uncivilized” nature of the Filipinos and their inability to self-government to a divine mission on the part of the White Anglo-Saxon race to Christianize (civilize) mankind. In his “March of the Flag” address, Beveridge tried to answer the criticisms of those Americans who did not feel comfortable with witnessing their country becoming just another colonial power; he likened the Filipinos with native Americans who had been governed without their consent because they were savages or children that were incapable of sustaining self-rule.¹⁰

Denying the independence of the Filipinos and establishing the legality of the American military government over the islands gave the U.S. administration a justification to treat Aguinaldo’s troops stationed outside Manila as “insurgents” and primitive “cutthroats” who “resisted the beneficence of the U.S. occupation and rejecting civilization itself” (Tirman, 2011: p. 102). On February 4, the new U.S. commander, General Otis ordered his troops to march toward the “rebels” outside Manila. In a clash that ensued, around 300 Filipinos and 44 Americans were killed. The McKinley administration depicted the incident as an “insurgents’ attack on Manila” (Contosta, 2017: p. 87).

These developments made the war in the Philippines a struggle against the new colonial masters for the Filipinos, while in the Americans’ eyes, it was an anti “insurrection” operation against a marginal and violent faction who were just like the Indian savages in their hit-and-run and other insurgency tactics. Aguinaldo adopted a strategy to avoid engaging the well-equipped American army in a conventional battle and instead resorted to guerrilla tactics based on blending in the countryside, using propaganda to rally popular support against the colonizers and ambushing the American military units with a force that intentionally refrained from organizing into standard armies with uniforms.

As was mentioned earlier, the ability and willingness to engage in conventional warfare and fighting in uniforms were among the well-established conventions of civilized warfare in the 19th century’s laws and customs of war. Americans were quick to brand the Filipinos as uncivilized savages due to their mode of warfare. General Arthur MacArthur, who took over the command of the U.S. occupying forces in the Islands at the beginning of 1900, adopted a policing approach in putting down the rebellion by proclaiming martial law and announcing that the guer-

⁹See <http://www.msc.edu.ph/centennial/benevolent.html>.

¹⁰The cases that Valerie Epps cites on pages 323-5 of her article are also useful.

rilla forces would be treated like outlaws: “Men who participate in hostilities without being part of a regular armed force, divest themselves of the character of soldiers and if captured are not entitled to the privileges of prisoners of war.” (*Senate Documents, 1900*).

The laws of war require an occupying power to treat the civilian population humanely. Civilians cannot be involved in war situations, yet in a law enforcement operation, it is expected of citizens not to harbor criminals and to cooperate with the police forces. General MacArthur entered the Philippines with a firm belief that the Filipino guerrillas owed their continued success against American counter-insurgency operations to the “almost complete unity of action of the entire native population” (*House Documents, 1900*). The association between savage rebels who fought with a disregard for the conventional modes of warfare and the native population who actively supported them in their rebellious activities led to the attitude that the civilians should be held accountable and forced to choose between the occupying forces and the rebels. The order was given by President McKinley “to take whatever measures were necessary to crush the Filipino rebels” (*Contosta, 2017: p. 96*). meant that the U.S. Army, contrary to the laws of war among civilized nations, could force the natives to actively cooperate with it in its efforts to suppress outlaw activities.

The United States refusal to accept that it was engaged in a war in its conventional international law meaning and the insistence that the legitimate military government over the islands can designate supporters of the Philippines Republic as rebels or outlaws served as a justification to commit atrocities against civilians who were suspected of abetting the insurgents. One consequence of this attitude was that MacArthur decided to invoke General Order No. 100 (the Lieber Code), which stipulated that those who engage in fighting “without being part and portion of the organized hostile army, and without sharing continuously in the war... but who do so with intermitting returns to their homes and avocations, or with the occasional assumption of the semblance of peaceful pursuits, divesting themselves of the character or appearance of soldiers” should be treated like highway robbers and along with everybody (including civilians) who abet them could be subjected to the death penalty.¹¹ By forcing the entire civilian population to cooperate with the occupying forces or face the threat of punishment, the military government made it clear enough that neutrality would be considered equal to the resistance.

Another U.S. military leader, Brigadier General Franklin Bell, threatened to “make the existing state of war and martial law so inconvenient and unprofitable to the people that they will earnestly desire and work for the re-establishment of peace and civil government” (*Boot, 2002: p. 253*). Following MacArthur’s policy, the same general led 2500 men into a “search and destroy” mission in the countryside to kill or capture “all able-bodied men”. His explicit order to his subordi-

¹¹The Text of the Hague’s First Convention (29 July 1899) and its 1907 annex in <https://uscbs.org/1899---1907-hague-conventions.html>.

nate officer showed no respect for the neutrality of the native population: “Every inhabitant... should either be an active friend or classed as an enemy” (Storey & Codman, 1902: p. 68 & 73). His mission served as the beginning of a notorious counter-insurgency tactic: setting up concentration camps. To sever all means of contact between the insurgents and the civilian population even where there was no firm evidence of collaboration between the two, the U.S. army resorted to burning down entire villages and evacuating their inhabitants to special camps (sometimes known as reservations) for indefinite times (Tucker, 2009: p. 33); it was an old colonial practice used by both the British in the Boer War and the Americans themselves against the Indians.

There were also many instances of committing other forms of atrocities against both Filipino combatants and civilians, such as torture to obtain information. Many journalists and U.S. troopers, including Clarence Clowe, were shocked by such behaviors. Clowe, a U.S. trooper, wrote to a Senator from Massachusetts about the binding and gagging Filipino prisoners, striking them in their faces and knocking them down when they were bound (Teller, 1902: p. 58). The repulsion he felt by such actions was not shared by other U.S. soldiers who described unabashedly and with some details how they treated Filipinos. Many such letters or reports by journalists appeared in U.S. newspapers at the time. One notable form of torture known as the “water cure” had its roots in the Spanish Inquisition period in the 16th century. A Sergeant Riley described it as follows: “This was done by throwing him [a Filipino prisoner] on his back beneath a tank of water and running a stream into his mouth, a man kneading his stomach meanwhile to prevent his drowning ... the crafty old fellow soon begged for mercy and made full confession” (Storey & Codman, 1902: p. 48).

Reports about such incidents and an exceptionally bloody operation on the Island of Samar in 1902 that resulted in the deaths of 8344 Filipinos created an uproar among the American public (Tucker, 2009: 567-568). The debacle in the Philippines had already made its impact on the 1900 presidential election when the Democratic challenger to McKinley tried to invest in anti-imperialism sentiments among his countrymen in order to attack the policies of the administration. Under pressure, McKinley agreed to a probe into the conduct of the war in the Philippines while at the same time redoubling the efforts to put down the rebellions in the islands. Theodore Roosevelt, who succeeded the assassinated McKinley, admitted that Americans had committed abuses in their conduct of the war but justified U.S. military actions by accusing the Filipinos of committing far more severe crimes against American soldiers. A few numbers of military service members were arrested and ordered to stand trial so the Senate agreed to break off its investigations. In later months, many of those charged with war crimes were acquitted of all the charges (Contosta, 2017: pp. 116-119).

Aguinaldo was captured by a group of native militias mobilized by the U.S. Army in March 1901 (perhaps another tactic that violated the immunity of native civilian populations) and was forced to recognize U.S. sovereignty over his coun-

try. Until a year and a half later, the counter-insurgency operation had proved successful enough for Roosevelt to announce the end of it. Sporadic fighting continued for many years in isolated parts of the country. The conclusion of war came at the cost of 34/000 combatants and around 200/000 civilians who were killed directly or indirectly due to military operations. Some other studies put the overall number of deaths among civilians during the war period somewhere between 300/000 to 500/000 (Contosta, 2017: p. 122; Gates, 1898).

4. Conclusion

Despite moral revulsion and the existence of well-established international norms against war atrocities, the perpetuation of cruelty against both enemy combatants and civilians remains a persistent fact of war situations. Theories about the reasons for states' resort to norm-violating behaviors during wars, while rich in exploring the various motivations and factors that lead to such abuses, largely ignore the way violating states, both rogue regimes and the leading states of the international system, justify their deviations from acceptable norms. Like any social actor, states need to project positive images of themselves and get their counterparts' approval. Even when they violate international standards, states resort to widely accepted principles and notions to justify their actions or argue why they are exempt from abiding by them in a particular context.

In this paper, we explored the war atrocities within the context of colonial wars in the age of Imperialism. The 19th-century laws and customs of war were operating on the basis of a distinction between the "civilized" nations who had organized into modern sovereign states and abided by the conventional modes of Western warfare and those who did not. International norms regarding the humane treatment of prisoners of war or the privileged status of immunity accorded to civilian populations were reserved for wars among "civilized" nations. The war in an "uncivilized" context in which a stateless society or one without an internationally recognized state that refused to engage with the far superior armies of the colonial powers in a conventional manner on a fixed battlefield remained mostly unregulated, out of the confines of the laws and customs of "civilized" war and followed the "necessity to respond in kind to a savage enemy" (Tirman, 2011: p. 108).

This logic is compounded by the self-proclaimed Imperialist mission of civilizing the "uncivilized" who were deemed incapable of self-government until educated and uplifted by the "civilized white man". The civilizing mission of the Imperialists through the elimination of the forces of savagery and barbarism replaced the logic of war and the laws and customs that regulated it with that of law enforcement operation. Counter-insurgency became a code name for such a transformation, which reduced the colonial enemy combatants to "outlaws", "highway robbers", and "savage criminals".

The law enforcement mentality that came to characterize the military operations in many colonial contexts, including the American war of conquest in the Philippines (1898-1902), denied the privileged status of protection from the native

populations as well and compelled them, contrary to the laws and customs of wars, to choose sides in the war and to pay the price for it.

During four years of war in the Philippines, the war atrocities claimed the lives of 34/000 Filipino combatants and tens of thousands of civilians. They resulted in so many other forms of cruelty through forced evacuations, restriction of the freedom of movement, tortures, and expropriation of properties. Many of the tactics, institutions, and even the language invented during that time were revived and reproduced in the wars of the second half of the 20th and early years of the 21st centuries.

Conflicts of Interest

The author declares no conflicts of interest regarding the publication of this paper.

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