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On Saturday, March 30th, the Leadership Council of the Islamic Emirate of Afghanistan under its nom de guerre, The Taliban, declared the launch of this year's spring military operations (the "Spring Offensive") against the "invading Americans", their foreign allies, internal supporters, high ranking officials of the Karzai government, including cabinet members and lawmakers, as well as heads of foreign and local companies who work with the International Security Assistance Force (ISAF). In response to, and in anticipation of, the Taliban's announcement, NATO officials in Brussels have advised that international forces in Afghanistan have tightened security, security services employed by "westerners" working in Afghanistan have issued lockdowns and travel restrictions, the Afghan government has tightened security across the country and security has been increased at military bases.

In Kabul, extra police have been stationed at the checkpoints known as the "ring of steel" which surround every entryway into the city by vehicle and foot; and the United Nations is relocating some of its staff after receiving "credible threats" of increased attacks in a number of locations around the country. That being said, it is with considerable irony that the spring offensive also brings with it the opportunity for the United States to begin to obey the laws which govern its presence in Afghanistan, however unlawful and however late, and its legal duty to protect, not kill, Afghan civilians. Much as it thinks and acts otherwise, the United States is not above the laws of war. It is just seldom held to account in a legal forum for thinking and acting so. That will change.

The United States is currently in command of 150,000 soldiers in Afghanistan, including NATO forces. This number does not include, however, the thousands of soldiers in the Afghan National Army, and it certainly does not count the untold number of "contractors", mercenaries and CIA types in the country. The number of Taliban in Afghanistan who actually engage in warfare, as opposed to ideology, is unknown, but suffice it to say that the differential between the number of US led forces and the number of Taliban they chase after is significantly disproportionate. Add to that the exponential increase in the equation given the never-ending supply and lethality of the military weaponry that the US has at its disposal in Afghanistan and the differential becomes enormous and concomitantly insane.

Notwithstanding this crushing military advantage, the Taliban has the US, et al, on the

defensive. But that didn't stop coalition spokesperson, Lt. Col. John Dorrian, from boasting (defensively) that the upcoming planned use of violence by the Taliban was a mere "propaganda ploy." In response to Lt. Col. Dorrian, a Taliban spokesperson responded (offensively) that: "The war in our country will not come to an end unless and until the foreign invading forces pull out of Afghanistan." In a situation such as this, an invasion by foreign forces of a sovereign state, the most committed wins and it is not an unreasonable presumption that those who have been invaded are the most committed. And so they are winning, ten years on, by keeping the US in the longest war in its history against an erstwhile enemy it cannot even recognize. Tens of thousands of US commanded soldiers chase lone shadows across a vast landscape and shoot blindly, literally and figuratively, into the dark.

Enter the civilian population of Afghanistan of 30 million people. Some of the poorest people on the earth who have had brutal war thrust upon them for over 30 years by the world's self proclaimed superpowers, the United States and the Soviet Union. They are not Taliban, they are not warlords, they are not drug traders. They are shepherds and farmers and students and shopkeepers. They work hard just to survive, much less live. They are a beautiful people. They are a peaceful people. They have nothing, yet they share all they have. They want to live without war, no matter who brings it. They are not collateral to anything or anyone, yet they are treated as such by everything and everyone. The term "collateral damage" should be stricken for all time.

The Taliban's announced escalation of attacks during the now current spring offensive, combined with the coalition forces' long-standing pattern and practice to occupy, bomb, drone, night-raid and engage in all manner of extrajudicial killing and destruction of property, can mean one thing and one thing only: Afghan civilians will die. Notwithstanding that the Taliban warned the Afghan people that they "should bear in mind to keep away from gatherings, convoys and centres of the enemy so that they will not become harmed during attacks of Mujahideen against the enemy", and that they will pay "strict attention...to the protection and safety of civilians during spring operations by working out a meticulous military plan", Afghan civilians will die. Afghan civilians have already died and it is only the third day of the offensive. The best the United Nations could do was issue this inanely bizarre and time-warped statement concerning the spring offensive and its consequences for Afghan civilians; *"Our mission is to make sure that civilians and Afghan people are not affected by now 11 years of conflict. What we are worried about, and I think every Afghan is worried about, is whether the Afghan people and the Afghan civilians will be again the victims of a long conflict."*

It should be noted that the UN Head of Mission in Afghanistan offered these 10 years too late comments to Reuters from "his heavily guarded compound" in Kabul. Afghan civilians do not have the luxury of living their lives in heavily guarded compounds like the UN, the Afghan army, and, most especially, like the American and NATO forces do. They don't live behind blast walls

and barbed wire. Most live and work in rural provinces, exposed and isolated. If they arm themselves for self-protection against the myriad of those in their own country who either seek to kill them or who negligently kill them, especially the US and NATO, they are labeled "suspected insurgents", which is all it takes to be murdered in Afghanistan by the military. "Suspicion" of being an "insurgent" in one's own country is the burden of proof which justifies civilian death in Afghanistan under its occupier, the United States of America. As Commander In Chief of the US military, and as the *de facto* head of both the United Nations Security Council and NATO, President Obama has mandatory obligations toward all Afghan civilians under international law which, heretofore, have been ignored and dismissed for 10 years with complete impunity. The time for that impunity must end and it must end now before one more Afghan civilian dies, no matter who pulls the trigger or drops the bomb. It is the ultimate responsibility of the Commander in Chief to ensure that his military subordinates comply with the International Humanitarian Law requirements of DISTINCTION, NECESSITY, PROPORTIONALITY, AND HUMANITY, among others. The United States must realize, or be made to realize, that it must afford the Afghan population the presumption to which it is entitled under international law: that each person be treated as a civilian if their status as a combatant is unclear. That is a legal lesson about which the US needs severe schooling. That is a legal mandate which should, in one stroke, shut down the drone program.

War and litigation are not a good fit, but sometimes a necessary one when the law goes unheeded by those who wage the war in the first instance. This is one of those times. The United States and its collaborators have been violating international law in Afghanistan for a decade. I can't do anything about what the Taliban or the warlords do to their own countrymen and women, but I can at least try to make my country do what it is supposed to do and not do what it isn't supposed to do in Afghanistan pursuant to international humanitarian law so that civilians stop being killed and stop living in fear of being killed, at least by the United States and those under its command. Mr. President, on behalf of the civilian population in Afghanistan, I will see you in court.

*Kathleen Kirwin recently returned from Afghanistan with a delegation from Voices for Creative Non-Violence. She is a trial attorney specializing in high-level civil rights and criminal cases and is currently based in Sarasota, Florida. She also practices international human rights and criminal law and has been an anti-war activist for the past 40 years. Kathleen can be contacted at [kdkirwin@gmail.com](mailto:kdkirwin@gmail.com) . Her new website, The Revolutionary Legal Front, is under construction and will be online soon.*