

USA bomb Syria

Biden misses the International Law

by Binoy Kampmark*

On February 25, President Joe Biden ordered airstrikes against Syria. The premise for the attacks was implausible. "These strikes were authorized in response to recent attacks against American and Coalition personnel in Iraq," claimed Pentagon spokesman John Kirby, "and to ongoing threats to those personnel."

More specifically, the strikes were in retaliation for rocket attacks in northern Iraq on the airport of Erbil that left a Filipino contractor working for the US military dead and six others injured, including a Louisiana National Guard soldier. The targets in Syria were facilities used by Iranian-backed militia groups, including Kataib Hezbollah and Kataib Sayyid al-Shuhada. According to the London-based Syrian Observatory for Human Rights, the attack left up to 22 people dead.

The Biden administration has resorted to tactics long embraced by US presidents: to be noticed, you need to bomb a country. The measure, more a sign of raging impotence than stark virility, is always larded with jargon and bureaucratic platitudes. "We said a number of times that we will respond on our timeline," explained Defense Secretary Lloyd Austin to reporters keeping him company on a flight from California to Washington. "We wanted to be sure of the connectivity and we wanted to be sure about the right targets." He was convinced "that the target was being used by the same Shia militants that conducted the [February 15] strikes."

Seven 500-pound bombs were used in the operation, though *Stars and Stripes* initially repor-



Women with prams in Damascus. Biden continues "the eternal war" against Syria. (Picture keystone)

ted³ that "the type of weaponry used" was not disclosed. The Pentagon had been keen to push a larger range of targets, but Biden was being presidential in restraint, approving, as the *New York Times* puts it,⁴ "a less aggressive option".

Kirby insisted the operation had been the sensible outcome of discussions with coalition partners. "The operation sends an unambiguous message: President Biden will act to protect American and Coalition personnel." Defying credulity, the spokesman suggested⁵ that the US had "acted in a deliberate manner that aims to de-escalate the overall situation in both eastern Syria and Iraq."

Congress, the people's chamber, was left out in the cold, though not for the first time by this administration. Press outlets such as the *Associated Press* had ingested the *fable*⁶ that this was "the first military action undertaken by the Biden administration". But on January 27, the *New York Times* reported⁷ that the US Air Force had killed 10 ISIS members near Kirkuk in Iraq, including Abu Yasser al-Issawi. A spokesman for the US-led coalition against Islamic State, Colonel Wayne Marotto, was satisfied⁸ with the bloody result. "Yasser's death is another significant blow to Daesh resurgence efforts in Iraq."

Such casual non-reporting, even during the incipient stages of a presidential administration, should have received a tongue-lashing. Instead, there were a good number in the press stable

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who could only see the figure of the previous White House occupant, and feel relief that Biden was being so sensible.

The Daily Beast suggested,⁹ with little substance, that the airstrike lacked the recklessness of the Trump administration. *Bobby Ghosh* for *Bloomberg*, also falling into error in claiming this as Biden's "first military attack", was convinced¹⁰ that the actions were sound in letting those naughty Iranians "know" that the president "wasn't bluffing." Iran and its "proxies were caught completely off guard. They had been lulled into a sense of impunity by the administration's early reticence in attributing blame for the attacks in Iraq and the White House's determination not to 'lash out and risk and escalation'."

Ghosh even goes so far as to laud the February 25 military strike as a necessary antidote against paralysing and unproductive diplomacy, *ignoring accounts*¹¹ suggesting that Iran has encouraged Shiite militias in Iraq to refrain from excessive violence. The US, including its allies, Britain, France, and Germany, had initially embraced a posture of "*studied calm*".¹² Thankfully, that period of studiousness was over: "Biden has now demonstrated that he can walk and chew gum at the same time." And so, a vigilante act in violation of a State's sovereignty comes to be praised.

Not all have sanitised the act as a necessitous one. *Mary Ellen O'Connell* of *Notre Dame Law School* thought¹³ that the strike failed to meet the necessary "elements" of a necessary use of force. "The United Nations Charter makes absolutely clear that the use of military force on the territory of a foreign sovereign state is lawful only in response to an armed attack on the defending state for which the target is responsible."

Vermont Senator *Bernie Sanders* was also troubled by the strike, *worried*¹⁴ that it put "our country on the path of continuing the Forever War instead of ending it. This is the same path we've been on for almost two decades." Maine Democrat Senator *Tim Kaine* turned to the role¹⁵ of Congressional power. "Offensive military action without congressional approval is not constitutional absent extraordinary military circumstances."

Minnesota Democrat Rep. *Ilhan Omar* also pointed out¹⁶ that the current White House Press Secretary Jen Psaki had herself criticised President Donald Trump in 2017 for authorising a

strike in retaliation of a chemical weapons attack. "Assad is a brutal dictator," *tweeted*¹⁷ Psaki at the time. "But Syria is a sovereign country." Another sentiment forgotten in an increasingly amnesiac administration.

Unfortunately, war apologists tend to find ongoing justifications in the elastic imperial provisions found in the Authorization for the Use of Military Force (AUMF). The 2001 AUMF was focused on perpetrators of the September 11, 2001 attacks on the United States. The 2002 AUMF was directed to Iraq.

Their sheer broadness has irked the sole person to vote against them. "Nearly 20 years after I cast the sole 'no' vote on the 2001 Authorization for the Use of Military Force (AUMF)," *stated*¹⁸ Californian House Representative *Barbara Lee*, "both the 2001 and 2002 AUMFs have been employed by three successive Presidents to wage war in ways well beyond the scope that Congress initially intended."

Biden does not even go so far as to cite such authorities, instead *stating*¹⁹ that the strikes were "consistent with my responsibility to protect United States citizens both home and abroad and in furtherance of United States national security and foreign policy interests, pursuant to my constitutional authority to conduct United States foreign relations and as Commander in Chief and Chief Executive."

Overly stretching his argument, Biden opined that his action was also consistent with Article 51 of the *United Nations Charter*, acknowledging a state's right to self-defence. Not even Presidents *George W. Bush*, *Barack Obama* or *Donald Trump* had bothered to push the international law line for such thuggish intervention, confining themselves to domestic sources of power. But such virtue signalling did evoke some praise, notably *from*²⁰ former legal adviser to the State Department, *John B. Bellinger III*. The President's inaugural war powers report was "a model of war powers practice and transparency."

Congress has made a few efforts in recent years to restrain the Commander-in-Chief for overzealous commitments. The *War Powers Resolution* sought to end US participation in the Yemen conflict. In 2020, members of Congress resolved to modestly shackle Trump from commencing a full blown war with Iran. But the February 25 attacks show that the misuse and abuse of US military might by the imperial execut-

ive remains a dangerous orthodoxy, and one that continues to have its defenders.

Source: <https://orientalreview.org/2021/03/02/delusions-of-self-defense-biden-bombs-syria/>, 2.3.2021

- ¹ <https://www.stripes.com/news/middle-east/us-airstrikes-target-syrian-sites-connected-to-iranian-backed-militants-1.663641>
- ² <https://apnews.com/article/ap-top-news-john-kirby-iran-syria-iraq-c10b1fb0ed653e687bfbf57d04b591b5>
- ³ <https://www.stripes.com/news/middle-east/us-airstrikes-target-syrian-sites-connected-to-iranian-backed-militants-1.663641>
- ⁴ <https://www.nytimes.com/2021/02/25/us/politics/biden-syria-airstrike-iran.html>
- ⁵ <https://www.stripes.com/news/middle-east/us-airstrikes-target-syrian-sites-connected-to-iranian-backed-militants-1.663641>
- ⁶ <https://apnews.com/article/ap-top-news-john-kirby-iran-syria-iraq-c10b1fb0ed653e687bfbf57d04b591b5>
- ⁷ <https://www.nytimes.com/2021/01/29/world/middleeast/us-airstrike-kills-top-isis-leader-in-iraq.html>
- ⁸ <https://www.nytimes.com/2021/01/29/world/middleeast/us-airstrike-kills-top-isis-leader-in-iraq.html>
- ⁹ <https://www.thedailybeast.com/bidens-syria-airstrikes-may-feel-like-trump-deja-vu-heres-why-its-different>
- ¹⁰ [\[26/biden-s-military-air-strike-attack-in-syria-should-wake-up-iran\]\(https://www.bloomberg.com/opinion/articles/2021-02-26/biden-s-military-air-strike-attack-in-syria-should-wake-up-iran\)](https://www.bloomberg.com/opinion/articles/2021-02-</div><div data-bbox=)

- ¹¹ <https://www.middleeasteye.net/news/iraq-kurds-erbil-attack-shia-commanders-warning>
- ¹² <https://www.reuters.com/article/us-iran-nuclear-usa/u-s-allies-respond-to-iranian-provocations-with-studied-calm-idUSKBN2AP0F3>
- ¹³ <https://apnews.com/article/ap-top-news-john-kirby-iran-syria-iraq-c10b1fb0ed653e687bfbf57d04b591b5>
- ¹⁴ <https://www.sanders.senate.gov/press-releases/news-sanders-statement-on-air-strikes-in-syria/>
- ¹⁵ <https://www.vox.com/22302970/biden-syria-iran-strike-kaine-sanders-khanna-murphy-legal>
- ¹⁶ <https://twitter.com/IlhanMN/status/1365150215708299271>
- ¹⁷ <https://twitter.com/jrpsaki/status/850173258540474368>
- ¹⁸ <https://lee.house.gov/news/press-releases/congress-woman-barbara-lee-continues-efforts-to-stop-endless-wars>
- ¹⁹ <https://www.whitehouse.gov/briefing-room/statements-releases/2021/02/27/a-letter-to-the-speaker-of-the-house-and-president-pro-tempore-of-the-senate-consistent-with-the-war-powers-resolution/>
- ²⁰ <https://www.lawfareblog.com/president-bidens-inaugural-war-powers-report>