

SPECIAL REPORT

A SELECTION OF PAPERS PRESENTED AT THE 2017 FORT LEAVENWORTH ETHICS SYMPOSIUM

2017 Fort Leavenworth Ethics Symposium



The Ethics of Future Warfare



An intellectual forum co-sponsored
by the U.S. Army Command and General Staff College and the CGSC Foundation, Inc.

April 24-25, 2017
Lewis and Clark Center
Fort Leavenworth, Kansas



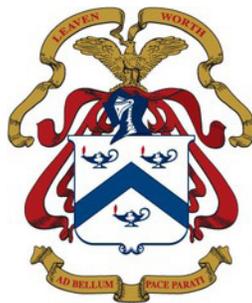
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The Ethics of Future Warfare

*A Selection of Papers Presented at the
2017 Fort Leavenworth Ethics Symposium*

Foreword by

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Fort Leavenworth Ethics Symposium
The Ethics of Future Warfare
24-25 April 2017

Agenda

Monday, 24 April

- 8:30-8:45 a.m. Introduction by Lieutenant General Michael D. Lundy
- 8:45-10:20 a.m. Remarks by Dr. James Crupi, “Character: The Foundation of Leadership”
- 10:20-10:30 a.m. Break
- 10:30-12:00 p.m. Panel Discussions and Breakout Sessions
- 12:00-1:30 p.m. Lunch and Break
- 1:30-3:00 p.m. Panel Discussions and Breakout Sessions
- 3:00-4:00 p.m. Social

Tuesday, 25 April

- 8:30-10:00 a.m. Closing by Dr. Shannon E. French, “Warrior Ethos”
- 10:00-10:20 a.m. Recognition and Awards
- 10:20-10:30 a.m. Break
- 10:30-11:20 p.m. Wrap Around
- 12:00-1:20 p.m. Lunch

Panel Discussion Topics

Ethical Considerations of Unparalleled Technologies

Moderated by Dr. Samuel White, Deputy Director of the Center for Strategic Leadership, Army War College

Moral Injury and Implications of Advanced Technologies

Moderated by Dr. Charles Pfaff, Professor of the Professional Military Ethic, Army War College

Character Development of the Future Force

Moderated by Chaplain (Lieutenant Colonel) Peter Dissmore, Center for the Army Profession and Ethic Ethicist

Contents

Foreword	9
<i>by Roderick M. Cox</i>	
Secession and <i>Jus Ad Bellum</i>	11
<i>by Richard E. Berkebile</i>	
Why Robotic War Will Challenge Current Morality in War Thinking.	23
<i>by John Brock and Dan G. Cox</i>	
You Can't Say No: Find a Way to Say Yes	31
<i>by O. Shawn Cupp and Nils J. Erickson</i>	
How Can the United States Army Leverage the Strengths of Three Disparate Generations to Fight and Win the Nation's Wars?	37
<i>by Robert M. Farmer</i>	
Promises, Preponderance, Politics, and Provisions (Revisited)	45
<i>by Dorothy Farrar</i>	
The Ethics of ISIS: Takfir in Surah 9	53
<i>by Joshua Gilliam</i>	
A Leader's Duty in Tragedy and Loss.	59
<i>by Francisco M. Hernandez</i>	
Jus ad Bellum: A Noble Concept in Need of Renewal	69
<i>by Prisco Hernandez</i>	
The Moral Magnetic Field	75
<i>by Jonathan Holm</i>	
The Islamic State's Tactics in Syria: Role of Social Media in Shifting a Peaceful Arab Spring into Terrorism	77
<i>by Steve Johnston</i>	

Contents (*cont'd*)

Lethal Targeting on the Conventional Battlefield: An Ethical Argument	93
<i>by Kenneth T. King</i>	
The Assumption of Employing Ethically Sound and Trusted Agents for the Future of Cyber Capabilities Must be Challenged	101
<i>by Timothy Middleton</i>	
The Commanders Dilemma: Using Ethical Denial and Deception	109
<i>by Kailah M. Murry</i>	
The “Ring of Gyges” Effect: An Ethical Critique of Lethal Remotely Piloted Aircraft	119
<i>by Matthew D. Pride</i>	
Is the Just War Tradition Good Enough as a Framework for Future War?	133
<i>by Bruce Roeder</i>	
Ethics of Hacktivism	143
<i>by Tennille W. Scott and O. Shawn Cupp</i>	
Neuroethics Meets Just War Theory: Ethical Issues and the Development of the Third Offset Strategy	149
<i>by Jason Unsworth</i>	

Foreword

by Roderick M. Cox

Beginning in 2009, the Command and General Staff College Foundation has partnered each year with the U.S. Army Command and General Staff College to host an annual ethics symposium at Fort Leavenworth. These annual symposia provide an opportunity for academics and practitioners to come together to discuss ethics as they relate to the profession of arms, the practice of state controlled violence, and national security.

The 2017 Fort Leavenworth Ethics Symposium was conducted April 24-25, 2017, with the theme of “The Ethics of Future Warfare.” The symposium included a variety of guest speakers, panel discussions, and paper presentations.

Twenty papers were accepted for presentation at the symposium. This publication is a collection of seventeen of those papers, published as submitted. The three others, authored by Terrance Allen, Joel Funk, and Erik Jens, have been published in the Simons Center’s *InterAgency Journal*. Their articles can be found in the following editions of the *InterAgency Journal*.

InterAgency Journal Vol. 8, Issue 3 (2017)
“A Clear Deterrence Strategy Required for Cyber”
by Terrance Allen

InterAgency Journal Vol. 9, Issue 1 (2018)
“The Syrian Refugee Crisis: A Moral and Ethical Obligation of Resettlement
or ‘I’ll Pass on the Poisoned Skittles”
by Joel Funk

InterAgency Journal Vol. 8, Issue 4 (2017)
“A Brief History of Scandals: Special Oversight Challenges in National Security Interrogations”
by Erik Jens

Secession and *Jus Ad Bellum*

by Richard E. Berkebile

If the ethical dilemmas of traditional warfare remain unsettled there is at least a wide body of literature exploring them. Domestic use of military force, however, is rarely addressed. The subject is almost taboo; too dismal a prospect for public contemplation. The direct use of force within the United States would undoubtedly be accompanied by wrenching emotional responses for both individual service members and the military institution. There are no glorious victories in the homeland. Passions could run deep enough to call into question military cohesion and effectiveness. Prudence dictates considering ethical conduct in advance of a crisis.

The character of war is evolving. Regimes were recently toppled or rendered ineffective through terrorism, subversion, separatism, or even mass civil disobedience. It seems unlikely any state would acquiesce to collapse without calling on its military. The United States certainly used military force during the Whiskey Rebellion, the Civil War, and the Bonus March. The Insurrection Act establishes *legal* procedures for presidentially directed military operations. The ethical dimension is largely unaddressed. Addressing the entirety of ethical domestic military conduct is beyond the scope of this short article. Instead, it focuses on a futuristic *jus ad bellum* scenario. *Is the suppression of secession from the United States just war?* I argue that under conditions of civil impotence, the suppression of secession is an ethical domestic use of military force.

The *jus in bello* use of force to defeat secession is a different question than the *jus ad bellum* employment of the military. This chapter solely addresses the *jus ad bellum* question. It unfolds in three steps. First, I briefly review secession theories. Next, I apply the arguments to the contemporary American context. Finally, I probe the *jus ad bellum* scenario.

Secession Theory

Secession questions concern a number of venerated yet ultimately incommensurable values. First, self-determination, championed by President Woodrow Wilson in his famous Fourteen Points speech, posits all nations and distinct cultures are entitled to sovereignty over their historic territory. The resulting argument concerns who qualifies and what territory? Second, consent of the governed is a bedrock principle of democratic liberalism. Argument centers on exactly whose consent is needed. Third, compensation is expected for property unjustly seized-inevitably the case with secession. Predictably, disputes arise over the value of property, countervailing claims, and the likelihood of payment. Fourth, the rule of law and the peaceful settling of disputes are integral to a just society. Here the struggle is over the justice of law, human rights, and the state processes producing them.

Is the morality of secession universal or contextual? Universalists argue principles are derived rationally, and therefore are general in nature. However, secession from a state is deeply rooted in *existing* social relationships among fellow citizens. The ethics are both individual and contextually societal. While some duties and obligations are universal, in some contexts compatriots merit special consideration.¹ Citizen relationships are mutual, multiplying duties to do good or not do harm to each other.² The ethics of secession and political borders are special cases bounded by the complex conditions of each situation. Secession, therefore, is a contextual, or particularist, not universal question.

Moral rights must be distinguished from legal rights. In *Texas v. White*, the Supreme Court ruled the Constitution created a perpetual and indissoluble union.³ While the rule of law is relevant to *jus ad bellum*, it is not synonymous with ethics. Although there is variation, moral arguments revolve around interlaced consent, qualifying groups, territory, injustice, and successor regime criteria. Typical, but not exclusive, criterion explanations follow.

Consent

Voluntary consent, as evidenced by some form of majoritarian plebiscite, is a necessary condition for just secession. This consent is amongst a *qualifying* group, not the wider national citizenry. Secession theorists argue consent is an elemental value of liberalism but it is not permanent. In other words, the consent of the group's ancestors is not binding on contemporary members. Alternatively, theorists may argue there never was original consent to incorporate into the state. In an American example, Hawaiian separatists argue the consent criterion was not met because the United States used force and subterfuge to remove the Hawaiian monarchy.

Qualifying Groups

Theorists are divided into two broad, but mutually exclusive, categories of legitimate groups. Ascriptive, or identity, groups are formed around hereditary or environmental characteristics usually beyond individual control such as ethnicity, race, gender, religion, nation, language, or culture. In this theory, any "nation," as distinguished from ethnic groups and minorities, may secede.⁴ An ascriptive argument emphasizes how aspects of group history, religion, language, traditions, physical characteristics, economics, and especially culture differ from the common national experience.

For associative or ideological theorists ascriptive characteristics are irrelevant. Voluntary political or ideological agreement is what matters.⁵ Associative theory rejects the requirement for long historical ties to territory and ascriptive commonality. This theory derives from the Kantian ideal of individual, not social, moral autonomy.⁶ In other words, all people are equal citizens of the state and ascriptive characteristics are of minor importance. Legitimacy is a function of majoritarian consent.

Territory

A valid claim to territory of sufficient size to support an independent state is another necessary condition. However, validity is a contested concept. Some argue historical claims are necessary. Either the qualifying group's ancestors lived in the territory or the territory was unjustly taken from the group in the past and annexed to the current national territory. Others reject the validity of historical claims because of their involuntary nature. In this view, territorial claims are solely a function of current population patterns and voluntary political choice.

Injustice, or not

Theorists are divided on whether or not injustice is a necessary condition to justify secession. Primary right theorists argue secession is a general right of groups⁷ even in the absence of injustice. Secession is an unquestioned right provided the criterion of majoritarian consent, territory, and qualifying group are met. Remedial right theorists posit secession is moral only as a result of longstanding and systemic injustices. As a special case, remedial right theorists recognize just secession in the absence of injustice if the state's constitution provides secessionary procedures.⁸

Injustice has standards. First, the injustice must be systemic, prolonged, and have little chance of rectification through other remedies. Examples include physical extinction, cultural extinction, or economic exploitation. State enforced *extinction* is a difficult and unambiguous standard. Alternatively, the state

may simply fail to perform its security function, resulting in outcomes such as ethnic cleansing. Economic exploitation also has a grim standard. The state policies must result in discriminatory redistribution that methodically disadvantages one group to benefit others “in morally arbitrary ways”.⁹ In other words, it is far beyond state redistribution of wealth for the social benefit of all citizens. Moralists recognize the merits of good intent and are tolerant of the reality of flawed execution.

Many argue secession from illiberal regimes is always and completely moral.¹⁰ The injustice of illiberal regimes is simply assumed. Secession from a liberal regime is justified by appeals to consent, an exercise in self-determination, or a lack of political expression and choice. Colonial regimes are another special case where a liberal or illiberal nature does not matter, but simply their foreign origin. For example, the United Nations General Assembly declared self-determination and independence from colonial regimes a *right*.¹¹

Successor Regimes

Both remedial and primary right theorists argue only liberal successor regimes are justifiable. Anything short of liberal democracy causes moral harm to citizens, even if they desire illiberal practices.¹² For example, secessionists may wish to establish a state religion, restrict rights of expression, or limit employment based on gender. In addition, if the successor regime is based on ascriptive characteristics, it may not be unjust to its newly created national minorities be they ascriptive or associative. Successor regimes must be able to protect themselves and perform the security and justice functions of a state.¹³ Lastly, the original state is entitled to compensation for property, a condition rarely met in practice.¹⁴

American Context

A casual observer might reasonably conclude the American secession question was settled in the Civil War - our bloodiest war to date. Even symbolic references to the Confederacy such as the battle flag on the South Carolina state house grounds,¹⁵ Sons of Confederate Veterans on Texas license plates,¹⁶ or the names of former slave owners on university buildings¹⁷ are under rhetorical and physical attack. Nonetheless, the ethics of secession continue to intrude on the public discourse. Whether identity separatism or brinksmanship politics, American secession advocates are multiplying.

A new American secession movement may not use the same methods as the Confederate States of America. In the emerging security environment, subnational groups have successfully used political intimidation in the form of compellence, the use or threat of violence to force action the government would not otherwise take, and deterrence, creating conditions requiring governmental violence to proceed with an intended action. The United States is not immune to illegal political tactics. Widespread use of organized violence or political intimidation tactics could speculatively require military forces to enforce or reinforce the rule of law and federal sovereignty. Before judging military suppression of secession, one must examine the particulars. In the American context, qualifying groups, injustices, autonomy, and rule of law are particularly salient.

Qualifying Groups and Consent

In the American context, common nationality is a poor ascriptive characteristic. With the formation of the United States, the ascriptive relationships of blood ties were jettisoned for the political culture of liberal ideology.¹⁸ After almost 250 years of relatively open immigration policies and “melting pot” culture, the vast majority of ascriptive nationality claims are tenuous.¹⁹ Even among identity supremacists such as the Northwest Front or Black Riders Liberation Party, separatist appeals are along *racial* lines, not nationality. No mainstream secessionist theory even suggests race as a secessionary justification. Even if a racially based national “cultural” grouping as “an indispensable source of self-identification and self-definition”²⁰ existed, inventing a “historical” territory would necessarily involve inflicting significant human misery on innocents bringing it to fruition.

The cases of native Puerto Rican and Hawaiian separatists bear additional scrutiny. Puerto Rico is an unincorporated territory of the United States. As such, there was never a Constitutional ratification process and there are few legal impediments to separation. However, plebiscites in 1967, 1993, 1998, and 2012 clearly indicate there is no *consent* to independence. At its best, independence garnered 5% of the vote in the 2012 plebiscite.²¹ Another federally funded plebiscite is scheduled for June, 2017.

On the other hand, Hawaii did accede to the United States, albeit under questionable circumstances. An ascriptive Hawaiian secession movement with a hypothetical majoritarian mandate, however, would represent a mere 6% of the current residents.²² Even including native Hawaiians mixed with other Pacific Islander nationalities garners only 26% of the population.²³ This illustrates how both the problem of ascriptive characteristics and fluid American residential patterns call into question claims of national identity and historical ties to territory.

Recall associative groups coalesce around political belief and not historical ties to territory or national identity. If one accepts liberal ideology is the founding principle of American “national” identity, associative secession groups are a better ideological fit. Anti-secessionist objections to associative secession are based on grounds such as lack of injustices, autonomy, illiberal outcomes, or the rule of law.

Injustices

No one wants to suffer injustice and no government rules without periodically creating it. The costs accompanying secession are only defensible in order to correct grievous harms. Despite the hyperbolic rhetoric of separatist groups, little evidence exists of current systemic, prolonged governmental physical or cultural extermination efforts. For example, white separatists claim immigration, demographic shifts, and cultural change are evidence of a government conspiracy harm and disenfranchise whites. Nevertheless, change is far short of extermination. Among associative Texan and Californian separatists, alleged injustices primarily concern the results of lost federal elections and the redistribution of tax revenues.

Rectificatory justice theory claims secession is justified if a region was unjustly incorporated.²⁴ In the case of the United States, this could include the state of Hawaii. Many native Hawaiians argue, and Public Law 103-150 agrees, Queen Liliuokalani was forcibly and unjustly removed prior to annexation in 1898.²⁵ Therefore, their ancestors never consented to union with the United States. Although there has been significant movement toward autonomy similar to Indian tribes,²⁶ it appears there is only minority support for secession among native Hawaiians.²⁷ An even bigger roadblock to consent is the question of who gets to vote. If all people must *morally* be treated equally, then a majority of *all* residents regardless of nationality would be necessary for consent. The Supreme Court confirmed this principle *legally* in the 2000 Rice versus Cayetano decision, observing “race is treated as a forbidden classification . . . [because] it demeans the dignity and worth of a person to be judged by ancestry instead of by his or her own merit and essential qualities”.²⁸ The court further observed Hawaiian ancestry was a proxy for race²⁹ and opened Office of Hawaiian Affairs elections, a state established native Hawaiian advocacy agency, to all voters.³⁰ To the extent a Hawaiian secessionary movement exists, it is based on ascriptive rather than associative characteristics.

Territory

Four ascriptive groups, two associative groups, and one individualist ideology have substantive movements advocating secession from the United States. They also make more or less definitive claims to territory. The Puerto Rican Independence Party and underground groups such as *Ejercito Popular Boricua* desire an independent Puerto Rico. The Institute for the Advancement of Hawaiian Affairs and Nation of Hawaii, *Ka Pakaukau*, and The Ohana Council of the Hawaiian Kingdom all desire an independent state or kingdom over part or all of the Hawaiian Islands.³¹ Other ascriptive groups with a debatable claim to “nation” status include white separatist groups such as the Northwest Front. They seek an Aryan homeland in the

Pacific Northwest to include Washington, Oregon, Wyoming, Montana and sometimes adjoining states or provinces of Canada.³² Over time, the Nation of Islam varied the intensity of its advocacy for an African homeland in the United States.³³ The relative newcomers of the Black Riders Liberation Party are strongly, if incoherently, committed to separation.³⁴ In both cases the location of the wished-for national territory is unclear.

The two associative groups laying claims to territory are relatively young, but appear to have a sustained appeal.³⁵ The Yes California Independence Campaign advocates for the independence of California.³⁶ The Republic of Texas organization and the Texas Nationalist Movement similarly argue for an independent Texas. The concept even garnered a reference with unclear intent from former Texas Governor Rick Perry.³⁷ Followers of the Sovereign Citizens and Moorish Nations ideology even advocate *individual* secession.³⁸ Sovereigns and Moors claim their personal property as independent territory but on occasion elect “state” representatives and appoint “judges.”

Successor Regimes

All the aspiring new states are latent. Characterizing their regime type is unavoidably speculative. Nonetheless, judgments may be made based on their rhetoric or past actions. The white separatists and black separatists would establish strongly illiberal regimes. In addition to their racist and chauvinistic ideas and sometimes violent activities, creating racial homelands would necessarily forcibly displace hundreds of thousands or even millions of people. The violent history and Marxist-Leninist orientation of the *Ejercito Popular Boricua* would not bode well for liberal outcomes. Much of the Hawaiian independence movement espouses liberal ideas, but the form of a successor regime is not well mapped out. At least some groups favor reestablishing a monarchy. The associative groups of California and Texas emphasize consent, legal processes, and disavow violence. Assumedly they would desire liberal regimes although it is unclear if their toleration would extend to residents who disagreed with their political positions.

Jus ad Bellum

A future declaration of secession from the United States is a possibility. Some groups have already gone as far as to create shadow national officials albeit with no actual power beyond their small group. Forceful suppression does not necessarily include the use of military. Suppressing extralegal political tactics is usually a civil police function. Arrest, economic sanctions, or argumentative intimidation or persuasion could be sufficient to subdue separatism. However, widespread insurgency tactics could overwhelm the civil security apparatus. Even nonviolent tactics such as ballot initiatives as advocated by Yes, California create the appearance of legality and consent in order to politically intimidate the federal government through compellence or deterrence. Nonviolent beginnings do not guarantee nonviolent endings. After all, the former Confederate states *voted* for secession before war broke out.

The *jus ad bellum* question concerns a future scenario where secession cannot be contained by civil agencies. Would the use of military force to prevent secession from the United States be just? Using a utilitarian approach, I argue it is. Secession and union are *social* dilemmas. The deontological approach informs the conduct of military campaigns, but the future of the United States is a political problem requiring defense of the greater good. In short, potential secessionists have autonomy alternatives. They promise mostly, if not completely, illiberal regime outcomes. Cascading anarchy would result from disrupting the rule of law. Lastly, armed forces cohesion and subordination is a necessary condition for a just society in an anarchic world, particularly in the homeland.

Autonomy

Political autonomy represents an ethical solution granting considerable local control but not the entire scope of sovereignty exercised by a national government. Autonomy avoids the violence of a secession and allows

substantive public policy choices affecting daily life. Although many national issues such as foreign and defense policies are not impacted, autonomy allows better alignment with local and regional circumstances. In the United States, states already exercise a strong version of autonomy. The 10th Amendment specifies “powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” For example, states have considerable ability to regulate education, regulate industry, raise funds, create a justice and police system, create a government, pass legislation, and a system of dual state and federal control over Air and Army National Guard forces.³⁹ Given the considerable autonomy granted to states, making a case against an abusive and overreaching national centralization is difficult. In the case of Puerto Rico, a completely legal pathway to independence already exists. Were national policy so morally deficient as to be egregious, in time the errors would be corrected. Should the wrongs prove uncorrectable, then Lockean *revolution* of the whole is justified, not the separation of a portion.⁴⁰

Illiberal Outcomes

Illiberal states limit the human rights of their citizens or those of new minorities created by the secession.⁴¹ Resisting the *emergence* of illiberal states concerns not only people desiring secession, but the opportunities of their descendants as well. Secession based on ascriptive characteristics necessarily divides people unequally. While benefits and duties may morally be unequally distributed between citizens and noncitizens, it cannot be done so *among* citizens.⁴² Ascriptive secession creates new minorities who may be treated unjustly or ethnically cleansed. All the American ascriptive groups are unlikely to achieve consent for independence from either national or local citizenry. Associative groups could plausibly achieve consent within their state, but are unlikely to on a national level. Associative secession unjustly incentivizes the emigration of ideological minorities. Given these potential harms, forcible federal paternalism to preserve human rights is just.

Cascading Anarchy

The number of potential secessionist groups and real or imagined grievances is so large that uncontested secession would atomize the international system⁴³ and the United States. Unchallenged secession incentivizes malign behaviors such as immigration to or forced emigration from economically valuable regions with a view to subsequent secession.⁴⁴ Secession provides fertile ground for additional identity demagoguery. Even primary right theorists differentiate nations, which have a right to secede, from ethnic groups and national minorities, which would not.⁴⁵ But nations, ethnic groups, and national minorities are necessarily protean concepts.⁴⁶ For example, in the United States black and white separatists do not even claim these categories but enflame *racial* divisions. Further decomposition of ascriptive and associate groups would follow. Demagogues do not rely on reasoned rationalizations but rather effective grievance narratives.

Even the threat of secession severely handicaps political bargaining by allowing strident minorities to enforce their will on the majority through the threat of costly separation.⁴⁷ Democratic politics become dysfunctional because a minority has *de facto* veto power even when the national government is acting justly. For example, by agreement contentious issues such as interstate tariffs are removed from the political system to diminish “... the power of highly controversial questions to create factionalism, instability, impulsiveness, chaos, stalemate, collective action problems, myopia, strategic behavior, or hostilities so serious and fundamental as to endanger the governmental process itself.”⁴⁸ In other words, the political system will not work if every aspect of governance is subject to bargaining and the threat of secession. Extralegal secession creates increasingly smaller, and potentially hostile, microstates bickering over territory and economic advantage. Lincoln’s desire “that government of the people, by the people, for the people, shall not perish from the earth”⁴⁹ would, literally, perish.

The rule of law is a just end in itself. While particular laws may be unjust, worse are polities that ignore the rule of law. The United States has political procedures that can and do change law. The most obvious method is through elections and changes in legislators. Courts may invalidate unjust law as well. Even acts of civil disobedience, perhaps illegal but considerably less disruptive and permanent than secession, have resulted in changes to laws or policies. Admittedly, some causes have little hope of achieving their ends through political processes. Nonetheless, secession from a liberal regime causes greater harm to both the whole and the parts secessionists claim to represent.

Secession ignites the worst type of civil rights abuses. Sherman's description of conditions during the prelude to the Confederate secession is instructive. "Our country has become so democratic, that the mere popular opinion of any town or village rises above the law - men have ceased to look to constitutions and law books for their guides, but have studied popular opinion in bar rooms and village newspapers and that was and is law ... and everywhere from California to Maine any man could do murder, robbery or arson if the people's prejudices lay in that direction ...".⁵⁰ The anarchic conditions and misery of failed states reflect the complete breakdown of law and order. Conditions in dictatorial states mirror what happens when the rule of law is replaced by the arbitrary rule of man. Secession from a liberal regime leads to deprivations before, during, and after the fact.

Armed Forces Cohesion and Subordination

As Prisco Hernandez pointed out at the 2015 Army Command and General Staff College Ethics Symposium, the decision to serve and judge the justice of any particular conflict is individual.⁵¹ *Pace* Hernandez, utilitarian concerns must be part of the *jus ad bellum* calculus, particularly when the threat is existential. The military institution has a special responsibility with regard to outcomes. The deontology of ethics has a rightful place informing the *jus in bello* conduct of individual military members. But individual service member calculations must also include the social ethics of political consequences.⁵² In the United States, the social harm of secession outweighs the harms of deviation from traditional military missions.

What are the competing virtues complicating a decision to be an instrument of suppression in the homeland? First, the dilemma of constitutional loyalty versus the protector of the people. Military forces' *raison d'être* and primary, and often only, self-conception is as protector against foreign threats. In this role, they are loved by citizens. While *Army Doctrine Reference Publication 1, The Army Profession* considers the American people a unitary variable, it acknowledges the possibility of domestic enemies as reflected in enlistment and commissioning oaths.⁵³ Domestic suppression will cause the military to be hated by those endeavoring to become erstwhile former Americans. The optics of suppression will earn additional enmity from otherwise sympathetic observers.

The second dilemma is the apolitical professional versus the ultimate arbiter and defender of Constitutional processes. The desire for separation from domestic politics runs deep amongst the professional military.⁵⁴ The military even strenuously resists involvement in foreign governance,⁵⁵ let alone any role in domestic politics. Nonetheless, when domestic tranquility is threatened during national times of distress, the military finds itself drawn or pushed into encroaching on politics, law, and order. For example, during World War I, the Bonus March, and the Vietnam War before 1971, covert military intelligence and overt civil disturbance operations proliferated.⁵⁶ Regardless of the choice, military intervention or nonintervention is a political decision with an ethical outcome.

The third dilemma is between obedience and loyalty versus warrior codes and emotion. All United States military forces swear or affirm obedience to their hierarchical superiors and the Constitution. The hierarchy clearly ends at the president. Interpretation of the Constitution is considerably more difficult. Although the Supreme Court decided the issue in *Texas versus White*, the nuanced logic of Constitutional arguments are not a service member's specialty. In a secession crisis, the public media tumult would be overwhelming.

As Sunstein observed, “technocratic rationality does not characterize deliberations in which the specter of secession is involved”.⁵⁷ Further, *Posse Comitatus* strictures are thoroughly socialized within the active military. However, the many exceptions and caveats of the *Posse Comitatus* Act are generally simplified to “do not enforce law on civilians” among rank and file service members and leadership alike. Secessionists may not look like, or even be, combatants. The military would be pulled between the virtue of obedience, subordination, and warrior codes of not interfering with your fellow citizens.

A fractious armed forces response to secession is perhaps the biggest social harm of all. In the prelude to the Civil War 296 officers (over 25% of the total) resigned from the active Army and 270 took Confederate commissions.⁵⁸ Another 26 enlisted men left the Union army, although it is unclear if they joined the Confederates.⁵⁹ A future secession is certainly not guaranteed to produce the carnage of the Civil War. There is little doubt, however, an incohesive military is less effective at best, and the venue or instrument of political change at worst. Cohesion may return over time, as it did during the Civil War, but the risks to the citizenry and liberalism are high. While the outcomes of a future secession are wildly speculative, as then Major George Patton observed in the aftermath of the Bonus March, “remember that when the Army has done its duty, liberty has flourished and that when it has failed, riot has changed into rebellion.”⁶⁰

Conclusion

American politics are traditionally contentious, but a rising tide of strident demands and extralegal political intimidation emboldens separatism and nascent secessionary movements. A future secession crisis cannot be ruled out. Theories of just secession are bifurcated into two schools of thought. Primary right advocates believe injustice of the parent state is irrelevant. Ascriptive nation characteristics supplemented by historical, cultural, and territorial conditions justify secession. Remedial right advocates justify secession based on injustice and ideological agreement supplemented by the preeminence of political opinion within a territory. While ultimately incommensurable, both schools of thought agree successor regimes must be liberal democracies. Neither of these schools of thought can be convincingly applied to the United States. The harms of secession outweigh the harms of forcible union.

If extralegal secession occurs, civil security operations and political processes are the preferred resolution methods. As always, the military must be ready to perform its ethical duties. The oaths of office wisely acknowledge the perpetual existence of potential domestic enemies. There is *jus ad bellum* in the military suppression of secession from the United States. The far more difficult question is the *jus in bello* conduct of military operations against nontraditional threats and extralegal political agitation. The prospect is gruesome. There are no readily apparent solutions. New research must address that problem because it is likely to emerge, perhaps in the not too distant future.

Endnotes

- 1 David Miller, "The Ethical Significance of Nationality," *Ethics* 98, no. 4 (1988): 650; Robert E. Goodin, "What is So Special about Our Fellow Countrymen?," *Ethics* 98, no. 4 (1988): 663
- 2 Goodin, 673.
- 3 *Texas v. White*, 74 700, 725 (1869); Cass R. Sunstein, "Constitutionalism and Secession," *The University of Chicago Law Review* 58, no. 2 (1991): 633.
- 4 Kai Nielsen, "Liberal Nationalism, Liberal Democracies, and Secession," *University of Toronto Law Journal* 48, no. 2 (1998): 265-266; Miller, 658-659; Murray N. Rothbard, "Nation by Consent: Decomposing the Nation-State," in *Secession, State and Liberty*, ed. David Gordon (New Brunswick, NJ: Transaction Publishers, 1998), 83. Note both Nielsen and Miller have several descriptors differentiating nations from national minorities and ethnic groups.
- 5 Scott Boykin, "The Ethics of Secession," in *Secession, State and Liberty*, ed. David Gordon (New Brunswick, NJ: Transaction Publishers, 1998), 70; Steven Yates, "When is Political Divorce Justified?," in *Secession, State and Liberty*, ed. David Gordon (New Brunswick, NJ: Transaction Publishers, 1998), 37; Allen Buchanan, "Theories of Secession," *Philosophy and Public Affairs* 26, no. 1 (1997): 39.
- 6 Matthew J. Webb, "Is there a Liberal Right to Secede from a Liberal State?," *Trames: A Journal of the Humanities and Social Sciences* 10, no. 4 (2006): 376; Louis P. Pojman and James Fieser, *Ethics: Discovering Right and Wrong*, 7th ed. (Boston: Wadsworth CENGAGE Learning, 2012), 124; Miller, 651.
- 7 Sovereign Citizens and Moorish Nation defenders argue the group can be a single individual.
- 8 Allen Buchanan, "Theories of Secession," *Philosophy and Public Affairs* 26, no. 1 (1997): 36.
- 9 Buchanan, "Theories of Secession," 330.
- 10 Thomas Paine, "Common Sense," (Philadelphia: R. Bell, 1776).
- 11 "Resolution 1514 (XV): Declaration on the Granting of Independence to Colonial Countries and Peoples," (New York: United Nations General Assembly, 1960).
- 12 Matthew J. Webb, "Is there a Liberal Right to Secede from a Liberal State?," *Trames: A Journal of the Humanities and Social Sciences* 10, no. 4 (2006): 375.
- 13 Scott Boykin, "The Ethics of Secession," in *Secession, State and Liberty*, ed. David Gordon (New Brunswick, NJ: Transaction Publishers, 1998), 72.
- 14 Allen Buchanan, "Toward a Theory of Secession," *Ethics* 101, no. 2 (1991): 340; U.S. Grant, *Personal Memoirs of U.S. Grant: Two Volumes in One*, ed. Brooks D. Simpson (Lincoln, NE: University of Nebraska Press, 1996 [1885]), 130.
- 15 Michael E. Miller, "Jenny Horne: How a descendant of the President of the Confederacy helped vanquish his flag," *The Washington Post*, July 9, 2015.
- 16 Adam Liptak, "Supreme Court Says Texas Can Reject Confederate Flag License Plates," *The New York Times*, June 18, 2015.
- 17 John J. DeGioia, "An Update Regarding Mulledy Hall and McSherry Hall," news release, November 14, 2015, <https://president.georgetown.edu/update-on-slavery-memory-and-reconciliation-november-2015>.
- 18 Robert Kagan, *Dangerous Nation: America's Place in the World from its Earliest Days to the Dawn of*

the 20th Century (New York: Alfred A. Knopf, 2006), 42; Seymour Martin Lipset, *Continental Divide: The Values and Institutions of the United States and Canada* (London: Routledge, 1990), 19.

19 Will Kymlicka, "National Cultural Autonomy and International Minority Rights Norms," *Ethnopolitics* 6, no. 3 (2007): 382.

20 Nielsen, 263.

21 Jason Koebler, "Despite Referendum, Puerto Rico Statehood Unlikely Until At Least 2015," *U.S. News and World Report*, November 7, 2012 2012.

22 "American FactFinder," United States Census Bureau, <https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=CF>.

23 "American FactFinder".

24 Lea A. Brilmayer, "Secession and Self-Determination: A Territorial Interpretation," *Yale Journal of International Law* 16 (1991): 190-191.

25 Meller, "Hawaiian Sovereignty," *The Journal of Federalism* 27, no. 2 (1997): 168; *103d Congress Joint Resolution 19*, Public Law 103-50, (November 23, 1993).

26 Dan Nakaso, "U.S. says sovereignty decision is Hawaiians'," *Honolulu Star Advertiser*, September 23, 2016.

27 Casey Tolan, "Why some Native Hawaiians want to declare independence from the U.S.," (2016), <http://fusion.net/story/278126/native-hawaiian-constitution-independence/>.

28 *Harold F. Rice, Petitioner v. Benjamin J. Cayetano, Governor of Hawaii*, Kennedy, Anthony M., 20 (2000).

29 *Harold F. Rice, Petitioner v. Benjamin J. Cayetano, Governor of Hawaii*, 18.

30 *Harold F. Rice, Petitioner v. Benjamin J. Cayetano, Governor of Hawaii*, 24.

31 Meller, 179-180.

32 Harold Covington, "Northwest Front: Principles of Migration," Northwest Front, <http://northwestfront.org/about/principles-of-migration/>; Martin Durham, *White Rage: The Extreme Right and American Politics* (New York: Routledge, 2007), 140.

33 "Nation of Islam," (2007), <https://www.splcenter.org/fighting-hate/extremist-files/group/nation-islam>; Elijah Muhammad, "A House of Our Own," The Final Call, http://www.finalcall.com/artman/publish/Columns_4/article_8235.shtml.

34 "Nation of Islam," (2007), <https://www.splcenter.org/fighting-hate/extremist-files/group/nation-islam>; Mischa Culton, "African Intercommunalism by General T.A.C.O.," Black Riders Liberation Party, <https://www.facebook.com/notes/black-riders-liberation-party/african-intercommunalism-i-by-general-taco/588793647802154>; Mischa Culton "African Intercommunalism Part II: It is Easy to Criticize from the Sideline but Harder to Struggle from the Frontline," Black Riders Liberation Party, <https://www.facebook.com/notes/black-riders-liberation-party/african-inter-communalism-part-ii-it-is-easy-to-critisize-from-the-sideline-but-/588798241135028>.

35 Vermont and New Hampshire also have secession movements but their staying power and appeal is unclear.

- 36 Liam Dillon, "Secessionists formally launch quest for California's independence," *Los Angeles Times*, November 21, 2016.
- 37 Rachel Weiner, "Rick Perry opposes Texas secession," *The Washington Post*, November 13, 2012 2012. Note Governor Perry subsequently denied considering secession.
- 38 J.M. Berger, "Without Prejudice: What Sovereign Citizens Believe," in *George Washington Program on Extremism* (Washington D.C.: George Washington University, 2016), 3-6, 8.
- 39 John C. Griswold, "The Changing of the Guard: The National Guard's Role in American Politics," *The Forum* 9, no. 3 (2011): 1-2.
- 40 Brooks D. Simpson and Jean V. Berlin, eds., *Sherman's Civil War: Selected Correspondence of William T. Sherman, 1860-1865* (Chapel Hill, NC: The University of North Carolina Press, 1999), 24; U.S. Grant, *Personal Memoirs of U.S. Grant: Two Volumes in One*, ed. Brooks D. Simpson (Lincoln, NE: University of Nebraska Press, 1996 [1885]), 130; Cass R. Sunstein, "Constitutionalism and Secession," *The University of Chicago Law Review* 58, no. 2 (1991): 665-666.
- 41 Allen Buchanan, "Toward a Theory of Secession," *Ethics* 101, no. 2 (1991): 336; Matthew J. Webb, "Is there a Liberal Right to Secede from a Liberal State?," *Trames: A Journal of the Humanities and Social Sciences* 10, no. 4 (2006): 382; Grant, 133.
- 42 Goodin, 681-682.
- 43 Buchanan, "Toward a Theory of Secession," 337; Webb, 379.
- 44 Buchanan, "Theories of Secession," 54.
- 45 Nielsen, 255-256.
- 46 Buchanan, "Toward a Theory of Secession," 328-329; Webb, 379; Miller, 648.
- 47 Buchanan, "Toward a Theory of Secession," 336-337; Sunstein, 639.
- 48 Sunstein, 642.
- 49 Abraham Lincoln, "The Gettysburg Address," (Gettysburg, PA 1863).
- 50 Simpson and Berlin, 30.
- 51 Prisco Hernandez, "*Jus ad Bellum*, Conscience, and the Oath of Office: The Problem of Selective Conscientious Objection in the United States Military," in *Fort Leavenworth Ethics Symposium: The Professional Ethic and the State*, ed. Kristy G. Russell and Ted G. Ihrke (Fort Leavenworth, KS: US Army Command and General Staff College Press, 2015), 101.
- 52 Hans Morgenthau, *Politics Among Nations: The Struggle for Power and Peace*, 4th ed. (Caledonia: McGraw-Hill, 1967), 10.
- 53 Raymond T. Odierno and John M. McHugh, "Army Doctrine Reference Publication 1: The Army Profession," (Washington D.C.: Department of the Army, 2015), 4-2, B-1-B-2.
- 54 Samuel P. Huntington, *The Soldier and the State: The Theory and Politics of Civil-Military Relations* (Cambridge: Harvard University Press, 1957), 83-84; Richard D. Hooker, "Soldiers of the State: Reconsidering American Civil-Military Relations," *Parameters US Army War College Quarterly* 23, no. 4 (2003): 6-7.
- 55 Richard E. Berkebile, "Reframing Strategy: Framing, Unity of Effort, and Operational Outcomes," ed.

David A. Anderson and Heather R. Karambelas (Fort Leavenworth, KS: Army University Press, 2017). (forthcoming)

56 Frank Church and John G. Tower, "Final Report of the Select Committee to Study Governmental Operations with Respect to Intelligence Activities together with Additional, Supplemental, and Separate Views," (Washington D.C.: United States Senate, 1976), 356, 800-804.

57 Sunstein, 653.

58 Herman Hattaway and Archer Jones, *How the North Won: A Military History of the Civil War*, 1st ed. (Champaign, IL: University of Illinois Press, 1991), 9-10.

59 Hattaway and Jones, *How the North Won*, 10.

60 George S. Patton, "Federal Troops in Domestic Disturbances," ed. Charles M. Province (The Patton Society, 1932).

Why Robotic War Will Challenge Current Morality in War Thinking

by John Brock and Dan G. Cox

The post-Cold War era has been marked by the twin desires of U. S. presidents to limit casualties and reduce the risk of exposing U. S. and coalition Soldiers to direct conflict on the ground. The first aspiration to limit casualties, especially civilian casualties, comes from modern Just War Theory developed in western countries' academic institutions. Frederik Rosen sums up this desire perfectly, "Never before in history have military powers expressed so much concern for the fate of civilians in war."¹ The second comes from political expediency and a perceived intolerance for combatant casualties on the part of American citizens. These foreign policy aspirations have led to U. S. presidents relying on air power and precision-guided munitions and, to some degree, remotely piloted aircraft. It has also led to the increasing use of Unmanned Aerial Vehicles (UAV). However, the United States and other industrialized countries in Europe have chafed at the prospect of deploying fully autonomous lethal weapons systems. Lethal Autonomous Weapons Systems (LAWS) used in Russia help safeguard mobile nuclear missile launch sites, and East Asian countries have shown no compunction against developing LAWS for use in military endeavors.² As Russia, China, and other eastern countries develop LAWS, it will become increasingly difficult for the United States to refrain from developing and deploying LAWS in large numbers. The post-Cold War tenets of limiting casualties, adhering to the laws of war, and limiting troops to on-the-ground exposure may cause the United States to lag dangerously behind in the development and employment of LAWS. If Artificial Intelligence (AI) continues to proceed at its current pace, the country who falls behind in the development and employment of AI enhanced LAWS may never catch up. For these reasons, we feel that LAWS are beginning to challenge western nations previously held conceptions of morality and war.

The next section of this article deals with the growing overreliance on air power, specifically the proliferation of UAV. This portion precedes a brief overview of current western conceptions of just war. We then encapsulate the difference between western and eastern cultural interpretations of AI and autonomous robots. Finally, we anticipate the future of warfare given the proliferation of LAWS and how this proliferation will challenge notions of dispersion on the battlefield and just war theory.

Air Power Saves Boots on the Ground

A growing belief that military engagements can be decided from a standoff position began in earnest with President Bill Clinton and his foreign policy advisors in the Kosovo conflict, but it has roots in Operation Desert Storm under President George H. W. Bush. Several scholars argued after Desert Storm that U.S. airpower was not only decisive but heralded in a new era of warfare where airpower would neutralize much of the threat on the ground. Proponents assumed from this single case that when ground troops were introduced, they would not only have an easier time accomplishing objectives but they would also be at far less risk.³ This lightning success in Operation Desert Storm, along with the emerging scholarly consensus, laid the foundation for much of the thinking that followed under the Clinton Administration.

Some foreign policy leaders hailed NATO bombings under Operation Allied Force in Kosovo as a success, while others saw it as a future way of war. Defense Secretary William Cohen was correct in noting that this

was one of the most precise applications of air power.⁴ The implication was more forceful. Precision warfare was not only possible; it was preferable, perhaps even the only moral way to conduct war.

President Clinton expanded on the belief that precision guided air power could win conflicts for the United States relatively risk-free during the Kosovo campaign. In a speech given by President Clinton on the eve of U. S. intervention in Kosovo, President Clinton related that the United States would lead a NATO air campaign against Serbian forces who were perpetrating human rights abuses against ethnic Albanians. President Clinton emphasized that he did “not intend to put our [U.S.] troops in Kosovo to fight the war.”⁵ Despite tens of thousands of U. S. and NATO troops later deployed to Kosovo, and hundreds of U. S. troops still stationed there as part of Kosovo Force (KFOR), the myth of an effortless air victory has persisted.

This fallacy has only gained momentum with initial successes in Libya under President Obama. President Obama was quick to note that the United States and our allies had successfully established a no-fly zone and ended the human rights abuses of the Qaddafi regime. President Obama, like President Clinton before him, emphasized that the U.S. military would use no troops in the endeavor.⁶ Again, likely due to initial success and the eventual overthrow of the Qaddafi regime, the fallacy of precision air power grew in the west. The fact that Libya is in a near constant state of civil war and that portions of the Libyan populace are supporting ISIS have done little to dent this mythology.

Limiting casualties is also politically expedient. Colin Powell’s famous argument in the first Gulf War that President George H. W. Bush had to cease hostilities against the Saddam Hussein regime, for if the “highway of death” ever became public there would be a domestic backlash, is but one example of the perceived political constraints against producing even enemy combatant casualties. Powell’s assessment is steeped in his personal experience in Vietnam, but casualties are something modern presidents have sought to avoid. The notion of a risk-free or low-risk war is steeped in an overemphasis on air power and precision guided warfare. Airpower as a humane answer to military challenges is also at the heart of political expediency, and the emphasis on precision dovetails nicely with the development and increasing adherence in the western industrial countries to modern just war theory.

Western just war theory has gained increasing influence over western nations military operations since Michael Walzer published his book on the topic after the Vietnam War. Western just war theory can be broken into two broad categories: *Jus ad Bellum* and *Jus in Bello*. *Jus ad Bellum* deals with whether the war is justly declared, by a competent authority, as a last resort, with the right intention, has a high probability of success, and is proportional to the wrong or potential threat the country declaring war is facing.⁷ These tenets deal mainly with the country, and specifically the competent authority or government declaring war and are, therefore, not as germane to our argument. Still, we should note that “proportionality” is a consideration for the country going to war. Consequently, policymakers start from a predisposition of limited damage in a war, which helps to feed into a preference for precision guided munitions and little collateral damage.

Jus in Bello deals with Western notions of justice during a war. The main components of justice during warfare are discrimination and proportionality. Discrimination refers to the duty of a Soldier to distinguish between combatant and civilian and only use force against legitimate combatants.⁸ Obviously, discrimination would be easier in a conventional conflict where combatants are wearing uniforms and using nationally marked military vehicles. In contrast, it would be much harder to discriminate in an insurgency where enemy combatants dress and blend in with civilian populations. Even Hugo Grotius notes that those who supply direct military support for combatants could rightly be declared combatants themselves.⁹ Walzer believes that munitions manufacturers and their civilian employees, can, under certain circumstances, also be designated enemy combatants.¹⁰ Despite Grotius’ and Walzer’s expansion of enemy combatant, difficulty in discrimination is not an acceptable excuse for the use of indiscriminate violence. This point becomes more important later in our argument.

Proportionality under *Jus in Bello* refers to the degree of force used. Military force should be proportional to the threat while also considering the harm engendered. Even when justified at the time, proportionality considers whether the military action precludes the building of a lasting peace in the future.¹¹ To some authors, this would mean that “battle plans to cross a certain river directly and immediately are condemned if they lead to a victory but do so with high costs to both sides that could have been avoided had some other reasonable plan been adopted.”¹² This is obviously a ridiculous assertion given that the military commander would have to be nearly omniscient to consider all plans equally in a complex environment over multiple time-horizons. Still, this example is used here to illustrate how forcefully western just war proponents argue their case and how constraining the strictures of international law on just war can become. Finally, collateral damage is called out by at least one scholar as a form of ill in a war that we should no longer tolerate in its current legal form. Frederik Rosen argues, “We should have serious concerns about the killing of civilians in war as collateral damage,”¹³ lamenting throughout his book that collateral damage victims never receive just treatment under the current international law.

Taken as a whole, Western societies growing casualty aversion, adherence to western notions of just war, overconfidence in airpower, and reliance precision-guided munitions has led Western policymakers to deride the possibility of using LAWS or AI in warfare. Given what we have described above, the moral and political risks are too high. However, this is only the beginning of the western constraints against the use of LAWS. We now briefly outline the cultural constraints in the West and the cultural embracing of robots, LAWS, and AI in the east.

The East-West Cultural Divide

Modern western culture is replete with examples of robots and artificial intelligence went awry creating a dystopian or apocalyptic future, and the destruction of humanity. The movies *Terminator*, *I Robot*, *Westworld*, and *2001: A Space Odyssey* are a few prime examples. Famous western scientists and entrepreneurs have begun to sound the bell of alarm regarding artificial intelligence as well. Elon Musk, Steven Hawking, and many other notable scientists signed an open letter warning against the dangers of artificial intelligence, which they likened to the dangers posed by nuclear weapons.¹⁴ Besides potential physical dangers posed by AI, westerners also fear to become irrelevant in the face of increasingly advanced robotic counterparts.¹⁵ Much of the western apprehensiveness with robots and AI is rooted in the western world’s view heavily influenced by Judeo-Christian beliefs. Under this belief system, only God can give life, and anyone who attempts to create artificial life is considered a blasphemer.¹⁶ These beliefs likely inspired early warnings in fiction such as the Jewish story of Golem or Mary Shelly’s *Frankenstein*. All of this has led to self-imposed restrictions even to research LAWS. The fear of autonomous robots deciding to take human lives is so pervasive that Secretary of Defense Ashton Carter stated that the United States would never use fully autonomous lethal robots or machines.¹⁷

Further, Western international law constrains only industrialized western powers, mainly the United States, the European Union, Australia, and Canada. Genocides and ethnicides have occurred with regular frequency in African countries and Eastern Europe. Very few trials have ever been held for mass atrocity perpetrators and, with the exceptions of Slobodan Milosevic and the atrocities committed in the former Yugoslavia, almost no one has been convicted or punished for any crimes resulting from human rights abuses. China operates unconstrained by the strictures of just war theory and recently Russia was named by *Human Rights Watch* as a mass atrocity perpetrator in Syria. *Human Rights Watch* alleges that Russia engaged in widespread indiscriminate bombing of civilians in support of the Assad regime.¹⁸ No one in Russia is ever held accountable for these acts, and the public condemnation will not force Putin to stop such abuses. Non-western nations simply view warfare differently than their western counterparts.

Eastern culture and religious worldview lay in stark contrast to western ideas and perceptions regarding

robots and AI. There is a belief in eastern culture that the best attributes of humanity can be programmed into robots and AI. Asians tend to view robots and AI as a potential benefit rather than a scourge to be avoided.¹⁹ Eastern culture is already gearing up for a far more pervasive introduction of robots into society. In South Korea, for example, engineers are already designing robots to replace elementary school teachers.²⁰ Robots are often positively portrayed in popular culture. This view reaches its apogee in the 1951 Japanese cartoon *Tetsuwan Atomu* where a robot named Astro Boy has many innocent adventures while being powered by an atomic heart. It is particularly surprising that the Japanese were simultaneously accepting a robot boy and, in some respect, taking the atomic bomb which had so recently caused so much pain in Japan and turning into a force for good.²¹ The ability of Easterners to view robots in such a positive light likely stems from Animistic beliefs that permeate Shintoism, Buddhism, and Hinduism. One of the core beliefs of is that all things, animate and inanimate, have a spirit. This view means that robots, cars, tables, animals, and humans all have a spirit and that spirit can be influenced and appealed to.²² Unlike western culture, creating sentience in not taboo since all things have a spirit, to begin with anyway.

This stark difference in cultural outlook between the east and the west has created an opportunity for eastern cultures to forge ahead of the west in the development and use of LAWS in warfare. One of the main concerns comes from western just war theory and its aversion to casualties, but western politicians also desire to refrain from sending Soldiers overseas. The second problem is the predominant fallacy that airpower will win the day will create a tension point in Western thought regarding LAWS. As LAWS continue to develop and appear on the battlefield, a crisis in Western thought will emerge. The next section of this article deals with the increasing dispersion of military forces on the battlefield LAWS will engender and how this begins to place western policymakers and military practitioners into an ever-deeper morality conundrum.

LAWS and Dispersion on the Battlefield

James Schneider argued in 1992 that linear thinking regarding warfare and a slavish devotion to the Napoleonic concept of massing troops and firepower on the enemy had become outdated with the emergence of “the empty battlefield and the rise of distributed free maneuver.”²³ Schneider argues that beginning with the rifled musket, greater ranged lethality caused looser formations resulting in a battlefield that he claims was mostly empty.²⁴ Schneider argues further that the dispersion of troops on the battlefield led to dispersion in firing.²⁵ This theory is an especially important point, as LAWS may disperse the battlefield even further burying strategic, operational, and tactical assets into the sovereign nations embroiled in conflict and, as we will argue later, into civilian cities. Ultimately, Schneider notes that casualty rates fell on the battlefield as increased lethality caused military leaders to develop operational art and emphasize maneuver rather than linear control over lines of musketeers. Unfortunately, if LAWS, standoff weaponry, UAVs, etc. continue to proliferate, then dispersion of troops and military vehicles will continue as well.

The battlefield will continue to devolve to the point where the distinction between enemy combatant and civilian becomes hard, if not impossible, to distinguish. Every asset within a country could become a viable target, including large concentrations of civilians in the major cities. The United States already runs a majority of its UAV from an air base in Las Vegas, Nevada, which arguably extends the legitimate battlefield deep into the continental United States. ISIS has identified U.S. city populations as aspirational targets for their developing UAV force.²⁶ ISIS may soon have the ability to accomplish a few lower-level UAV attacks on the major urban centers of the United States. What is more worrisome is imagining a conventional war between two or more major powers. A peer-competitor will have far greater capacity for destruction. If that peer-competitor is using AI, enhances LAWS, and the United States clings to its insistence on using only human controlled UAVs, the results could be disastrous for the United States. In the next section, we examine a little more carefully some of the arguments we have postulated here.

The Rise and Implications of Artificial Intelligence

In 1996 and 1997, Deep Blue, an IBM algorithm, beat the reigning world champion at chess. In 2016, Google's DeepMind algorithm beat the South Korean Go champion four out five times. Go was previously thought to be a game almost impossible for a machine to win because it requires human intuition to play. Early in 2017, Libratus, another AI algorithm, out bluffed three of the world's best Texas Hold 'Em poker champions. The AI played so exceptionally that poker champion Dong Kim started to feel the machine could see his cards. He stated, "I am not accusing it of cheating. It was just that good."²⁷

There are two reasons why AI is beginning to develop so quickly. The first is computing technology is almost improving exponentially. By 2020, a computer will surpass the human brain's processing power. By 2030, personal computers will be equivalent to over 1,000 brains. By 2055, a single computer will exceed all of Earth's human brains processing power.²⁸ The second reason AI is developing so quickly is due to machine learning concept. Machine learning uses the techniques of 'deep learning' and 'reinforcement learning.' Deep learning develops computer neural networks similar to those found in the human brain. These neural networks improve AI's ability to analyze massive amounts of information, making the system more intelligent. Reinforcement learning then virtually repeats tasks or games continually, allowing the AI algorithm to learn from its successes and mistakes. The improvements in computing power and machine learning concepts have made AI science fiction now science fact. Nations are now using this technology to develop LAWS capable of beating the world's best human Soldiers.

The implications are potentially staggering. If one nation falls behind another in the development of AI and the use of LAWS, they may never be able to catch up. Since sentient AI will have the capacity to clone and improve itself (as well as develop better and faster computer platforms from which to operate), being behind a mere six months may mean the country that is behind will never be able to catch up. Current just war, cultural, and political aspects preventing the West from developing and using these technologies may put the entire existence of western nations at risk.

The Challenge for Western Just War Theory and Western Cultural Preconceptions of LAWS and AI

Current western just war theory means to constrain warfare and make it a more humane endeavor. Just war theory and international law emphasize protecting non-combatants and civilian infrastructure and housing. In the United States, there is a political preference for a standoff military. This is resulting in an increasing reliance on UAVs which are remotely operated from Las Vegas, Nevada. As operators of military technology increasingly operate from within their home country, more viable targets will be found there. The increasing emphasis on lowering non-combatant casualties and limiting collateral damage begins to seem untenable.

For example, are UAV pilots only viable targets while on the air base? Can they be targeted on the highway to and from work? Can they be targeted in their homes? In a scenario where the battlefield continues to empty from the stage that James Schneider observed, there are no discernible front lines and strategic assets, like population centers, begin to look like viable targets. Since drones are increasingly easier and easier to make, multiple manufacturing facilities become viable targets as well. Is the economy of the nation itself integral to the development of UAVs, LAWS, and AI? If the answer is yes, then current western notions of just war fall apart almost entirely.

There is already a reticence to in the west to develop, let alone deploy LAWS. Such reticence does not exist in the East and Russia has already deployed LAWS in defense of its mobile nuclear force. There is an incredible fear of sentient AI in the west, which does not exist in the east. Given what we have outlined above, Western scholars and policymakers may become even more reticent to develop LAWS and AI for warfare.

Unfortunately, this may be an untenable position for the long term as the first to market advantage may be permanent in the case of AI development. In terms of LAWS, the advantage may be so great that the country caught off guard may not be able to catch up in time to win the conflict. Western culture and just war theory/law continue to constrain Western thinking on warfare and the use of LAWS and AI. The time has come to address the moral conundrum we currently find ourselves in and discuss it with an open mind no matter how distasteful the alternatives seem initially, for to fail to do so could mean the end of some western countries.

Endnotes

- 1 Frederik Rosen, *Collateral Damage: A Candid History of A Peculiar Form of Death* (London, UK: 2016), 1.
- 2 Patrick Tucker, “Report: Weapons AI Increasingly Replacing, Not Augmenting, Human Decision Making”, *Defense One*, last modified 2014. <http://www.defenseone.com/technology/2016/09/report-weapons-ai-increasingly-replacing-not-augmenting-human-decision-making/131826/?oref=d-topstory> (accessed March 12, 2017).
- 3 See for example Rick Atkinson, *Crusade: Inside Story of the Conflict in the Gulf* (Boston, MA: Houghton Mifflin, 1993); Thomas A. Kearny, “The Linkage of Air and Ground Power in the Future of Conflict,” *International Security*, vol. 22, no 2, (Fall 1997): and James A. Winnefield, Preston Niblack, and Dana J. Johnson, *A League of Airmen: U. S. Air Power in the Gulf War* (Santa Monica, CA: RAND, 1994).
- 4 Bradley Graham, “Cohen: Air Power Was `Effective, Successful; Need for NATO Cohesion Limited Options,” *Washington Post*, (11 June 1999).
- 5 President Bill Clinton, “Statement on Kosovo, March 24, 1999.” <http://millercenter.org/president/speeches/speech-3932>.
- 6 President Barak Obama, “Libya Speech, March 28, 2011,” <http://www.politico.com/story/2011/03/obamas-libya-speech-full-text-as-delivered-052093>.
- 7 Michael Walzer, *Just and Unjust Wars: A Moral Argument With Some Historical Illustrations*, 4th edition (New York: Basic Books, 2006), 45.
- 8 Martin L. Cook, *The Moral Warrior: Ethics and Service in the U. S. Military* (New York: Suny Press, 2004), 22.
- 9 Hugo Grotius, *The Rights of War and Peace*, trans. A. C. Campbell, A. M. (Washington: M. Walter Dunne Publishers, 1901), 293.
- 10 Walzer, *Just and Unjust Wars: A Moral Argument With Some Historical Illustrations*, 145.
- 11 Guy van Damme and Nick Fotion, “Proportionality,” *Moral Constraints on War*, 2nd edition, Bruno Coppieters and Nick Fotion, eds. (New York, NY: Lexington Books, 2008), 160.
- 12 Nick Fotion, Bruno Coppieters, and Ruben Апресян, “Introduction,” in *Moral Constraints on War*, 2nd edition, Bruno Coppieters and Nick Fotion, eds. (New York, NY: Lexington Books, 2008), 13.
- 13 Rosen, *Collateral Damage: A Candid History of A Peculiar Form of Death*, 3.
- 14 Michael Sainato, “Stephen Hawking, Elon Musk, And Bill Gates Warn About Artificial Intelligence,” *Observer*, last modified 2015. <http://observer.com/2015/08/stephen-hawking-elon-musk-and-bill-gates-warn-about-artificial-intelligence/> (accessed March 12, 2017).
- 15 Ian Tucker, “Genevieve Bell: ‘Humanity’s Greatest Fear Is About Being Irrelevant,’” *The Guardian*, last modified 2016. <https://www.theguardian.com/technology/2016/nov/27/genevieve-bell-ai-robotics-anthropologist-robots>. (accessed March 12, 2017).
- 16 Christopher Mims, “Why Japanese Love Robots (And Americans Fear Them),” *MIT Technology Review*, last modified 2010. <https://www.technologyreview.com/s/421187/why-japanese-love-robots-and-americans-fear-them/> (accessed March 12, 2017).
- 17 Sydney Freedberg Jr and Colin Clark, “Killer Robots? ‘Never,’ Defense Secretary Carter Says,” *Breaking*

Defense, last modified 2016. <http://breakingdefense.com/2016/09/killer-robots-never-says-defense-secretary-carter/>. (accessed March 12, 2017).

18 *Human Rights Watch*, “Russia/Syria: War Crimes in Month of Bombing Aleppo,” (1 December 2016) <https://www.hrw.org/news/2016/12/01/russia/syria-war-crimes-month-bombing-aleppo>

19 “Better Than People”, *The Economist*, last modified 2005 <http://www.economist.com/node/5323427> (accessed March 12, 2017).

20 Tim Hornyak, “Korean Schools Welcome More Robot Teachers”, *CNET*, last modified 2010, <https://www.cnet.com/news/korean-schools-welcome-more-robot-teachers/> (accessed March 12, 2017).

21 “Better Than People”, *The Economist*, last modified 2005. <http://www.economist.com/node/5323427> (accessed March 12, 2017).

22 Christopher Mims, “Why Japanese Love Robots (And Americans Fear Them),” *MIT Technology Review*, last modified 2010. <https://www.technologyreview.com/s/421187/why-japanese-love-robots-and-americans-fear-them/> (accessed March 12, 2017).

23 James J. Schneider, “Vulcan’s Anvil,” *Fort Leavenworth Theoretical Paper No. 4* (Fort Leavenworth, KS: 1992), 5.

24 Schneider, “Vulcan’s Anvil,” 9.

25 Schneider, “Vulcan’s Anvil,” 11.

26 Rowan Scarborough, “How Isis-controlled drones like this are striking new fear within the U. S. military,” *The Washington Times* (24 January 2017). <http://www.washingtontimes.com/news/2017/jan/24/isis-drone-dropping-precision-bombs-alarms-us-mili/>

27 Cade Metz, “Cite A Website-Cite This For Me,” *Wired.Com*, last modified 2017. <https://www.wired.com/2017/02/libratus/> (accessed March 12, 2017).

28 Ray Kurzweil, “The Coming Merging Of Mind And Machine Kurzweilai,” *Kurzweilai Accelerating Intelligence*, last modified 2001. <http://www.kurzweilai.net/the-coming-merging-of-mind-and-machine> (accessed March 11, 2017).

You Can't Say No: Find a Way to Say Yes

by O. Shawn Cupp and Nils J. Erickson

In today's U.S. Army culture, when leaders are directing subordinates to complete a task saying no is normally not an option. One must find a way to yes, no matter the task. This "can do" attitude can achieve spectacular results, inspire innovation, or drive initiative. The down side is that it can also establish an unethical or toxic environment. In finding a way to yes there is tremendous potential for subordinates to do so, regardless of the ethics or legality. Often subordinates may operate in the gray area, rationalizing that it is ethical or legal. Many in the U.S. Army believe that the topic of lying, or even suggesting that lying happens often, is an affront to the Army profession. However, studies over the past decade show that a problem exists. Acknowledging the problem exists is the first step in solving that problem. As an institution, the Army must acknowledge that senior leaders often ask for information, and expect to hear yes to all queries.

Literature Review

One overarching operating paradigm that has been part of business theory for the past 25 years is the Bathsheba Syndrome. Ludwig and Longenecker wrote about the Bathsheba Syndrome in their 1993 article stating, "Research suggests that many managers are poorly prepared to deal with success."¹ This would indicate that as senior leaders move up the ladder within an organization, they are not properly prepared for the benefits and power that comes with this success. Success also includes "privileged access, unrestrained control, and ability to manipulate outcomes."² Therefore, the business world understands that individuals moving up higher into greater levels of responsibility are increasingly tempted to use their position for excess and corruption. The authors surmised that ethical failures from the 1980's into the 1990's was a "result of success and lack of preparedness in dealing with personal and organizational success."³ This seems to match some of the same operating environment experienced by the U.S. military since 9/11. More often than not, operations conducted supporting OPERATION IRAQI FREEDOM (OIF 2003-2009), OPERATION NEW DAWN (OND 2009-2011), OPERATION INHERENT RESOLVE (OIR 2011-present), and OPERATION ENDURING FREEDOM (2001-present) were successful by self-measurements. During this same time we have seen a number of high profile senior officers who did not meet the challenges of their success. The most recent is a wide ranging and long-term scandal involving senior Navy officers and contractors.⁴

Some state that toxic leaders may be the problem. Within the literature some toxic leaders were described as "they succeed by tearing others down."⁵ Others seem to focus on attributes already mentioned. For example, in Kathy Simmons "Executive Update Online," Rob Rosner describes a toxic atmosphere. "It's all about ends; nothing is said about the means." If the U.S. Army can be described in simple terms, it is about accomplishing tasks or getting things done. Toxic leaders are present in our force, which is confirmed by numerous studies conducted over the past decade. During this same period, doctrine was further refined in regards to changing from battle command to mission command.

The U.S. Army is a very commander centric organization and the unit commander is central to everything the unit does or fails to do. This unique positional power is coupled with mission command (the Army's philosophy of command). "The concept traces its roots back to the German concept of *Auftragstaktik*,

which translates roughly to mission-type tactics. *Auftragstaktik* held all German commissioned and noncommissioned officers duty bound to do whatever the situation required, as they personally saw it.”⁶ Through mission command, commanders drive the operational process, develop teams within their organization, and inform and influence audiences inside and outside of their commands.

This combination of mission command and the power of the commander allows units who employ it properly to accomplish great things on the battlefield, in training, and even in garrison operations. This philosophy is based on leaders who exemplify and live by the Army values. If the leader is toxic or someone who is only results driven (ends justify the means), there is potential to establish a less than ethical environment.

A good commander understands the impact their words and actions have on the units command and ethical climates. In ethical command climates, subordinates are not punished for bearing bad news or making honest mistakes. In fact, making honest mistakes and establishing trust (being honest in word and deed) are cornerstones of the mission command philosophy. Toxic and ineffective leaders have a tendency to look at only results. They are concerned about what their boss or their boss’s boss will see or are interested in, and have been successful by achieving spectacular, short-term results. Because of personnel management policies, leaders may trade long-term effects for short term gain because they will reap the reward of the success, but not be in the unit when the negative impacts appear. I contend it is in these environments that people say things like, “You can’t say no! Your job is to find a way to yes, I don’t care how you get it done, just get it done.” These are situations where the leader may set the conditions for an unethical climate.

Current Operations

The current operations detailed earlier are strenuous to all components of the U.S. Army. The nearly continuous operations and persistent conflict causes people to execute the Army leadership requirements model unevenly. (See Figure 1 on page 33.) The bottom half of the model includes leads and achieves. The operations since 9/11 have almost entirely focused on this part of the model. Continuous operations, deployments, redeployments, and repeat actions ensure that leaders and Soldiers understand and constantly exercise this portion of the model. In fact, very few individuals are in trouble or relieved for problems of leading, competency, or getting results. Almost every relief for cause action (in the U.S. Army) from the past 30 years was based upon some error in the attributes portion of this model. The number of officers relieved for competence during that same time is miniscule by both data points and a review of news articles.

Why is this so? What does this have to do with not taking no for an answer? What else is influencing our current operations over the past decade? One major issue is overseas contingency operations or OCO.

OCO started as “supplemental” in 2001 and in 2009 was formally known as Overseas Contingency Operations. In general terms, it is designed to provide emergency funding for missions that come about unexpectedly. Some facts must be understood about this category of money. It is not in the base budget, nor has it ever been in its existence during our recent and current military operations. This is funding in addition to military “operations and maintenance” budget resources. Since it is not part of the base budget in pragmatic terms, it is not subject to the same oversight or justification of base budget line items. “Because OCO funding is intended for war-related activities that cannot be forecasted well in advance, it is not restricted by the Budget Control Act (BCA) budget caps.”⁸ Therefore, “administrations have moved items from the base budget to the OCO budget as a way of circumventing the BCA budget caps.”⁹ In terms of the Congress, “OCO is a great way to authorize funds without having to exercise the same level of oversight and responsibility. Because OCO can swing so drastically from year to year, this also leaves Congress the option to ‘turn off the spigot’ without confronting the same level of institutional resistance that a base budget cut might provoke.”¹⁰ Within the military, this “slush fund” has been used to support base operations and not wartime costs.¹¹ However, the problem exists and the military must acknowledge it.

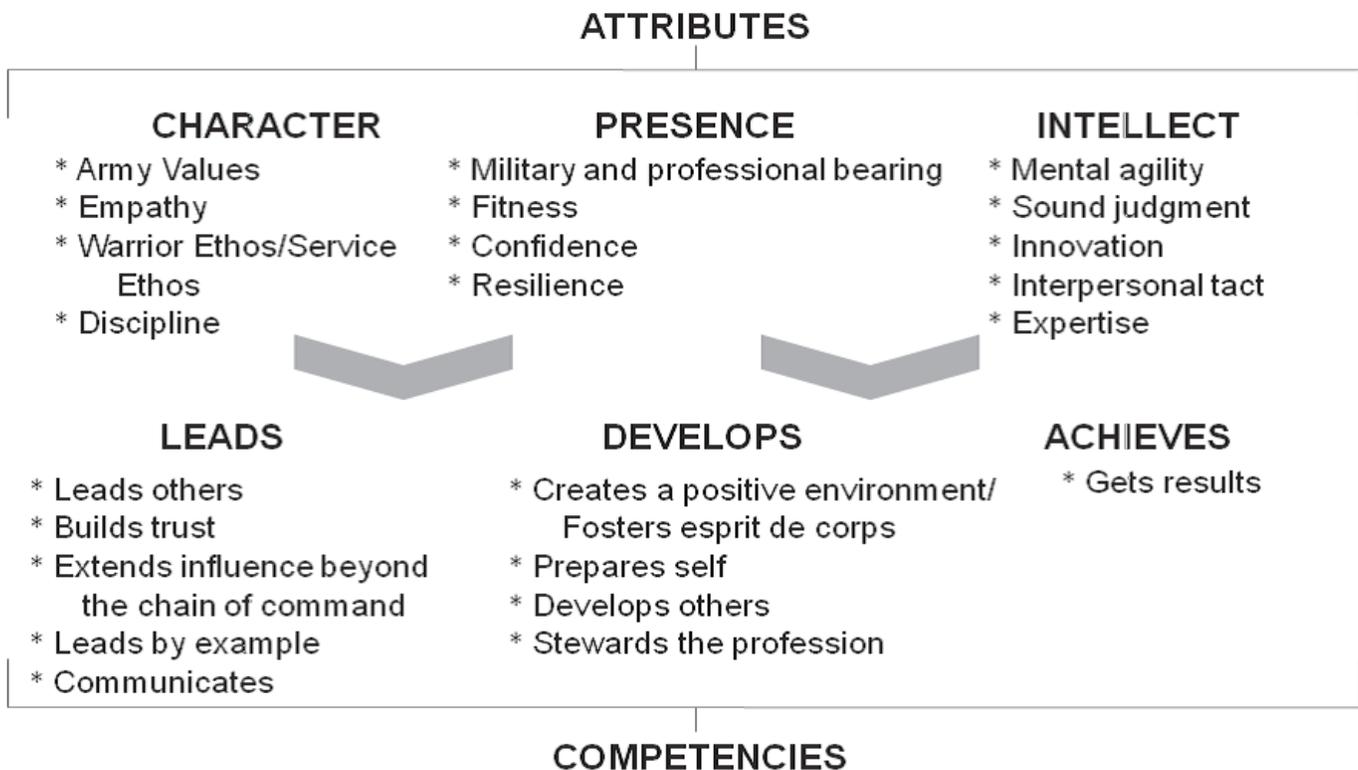


Figure 1. The Army leadership requirements model⁷

Problem?

In today’s military culture it is believed some leaders are asking about accomplishment of tasks and the only requirements is to find a way to say yes. Why is the current environment within the U.S. Army conducive to less than truthful answers about tasks? In other words, why are senior leaders seemingly only looking for yes to questions of status, task completion, and readiness?

Acknowledging a problem comes down to several key concepts and ideas. The first is acceptance. Accepting an ethical norm is not necessarily practical throughout the U.S. Army. This acknowledgement must first take place. It is a foregone conclusion based upon Wong and Gerras¹² work that lying does take place. Their research from self-reported survey data demonstrates that Soldiers across COMPOS (composition of forces) at all levels of organizations confirm that lying does take place.

A number of ethical and contracting issues were noted in the 2015 GAO Report on Military Personnel: Additional Steps are Needed to Strengthen DOD’s Oversight of Ethics and Professionalism Issues. This report discussed all the ethics, training, education, and measuring outcomes surrounding military personnel. A number of steps were taken to ensure that oversight was provided to all DOD leaders. One in particular seems to be indicative of how serious the administration understood the problem of ethics and decision making in senior officers.

In November 2012, President Obama “directs the Secretary of Defense to review general and flag office ethics training.”¹³ This seems incredulous, but what other time has a president directed the leader of our defense organizations to conduct such analysis? Therefore, it would seemed that based upon a number of high profile and flagrant violations of senior military officers (predominately) from 2010-2012, that the POTUS was aware of problems we may have with military officers ethical conduct. This action is just one of many that were covered and recommended by this GAO report.

Recommendations

Under the new guidelines of talent management, some metric of ethics could be produced and tracked. Ethical bearing or moral metrics may be hard to quantify, but managing talent in the U.S. Army demands that we are able to identify those who exhibit these behaviors via some other independent means. It seems that based upon the cases identified in this paper, an ethical measure should be investigated for use in assessment potential and providing another data point for ethical behavior. Last year during this CGSC Ethics Symposium, Dr. Tom Gibbons proposed such a solution. His other suggestions included using the Defining Issues Test (DIT)¹⁴ as one of the “most extensively validated and most widely used measure of moral judgment.”¹⁵ This metric is more direct because it “allows subjects to select from a list of responses rather than formulate a response to an interviewee’s open-ended question.”¹⁶ Using this or another measure to try to identify ones ethical reasoning would be a great enhancement to not just talent management, but overall officer assessment.

Another recommendation involves the Command and General Staff Officer Course. For a number of years the core course required eight hours of ethics instructions for all students, including resident, satellite, and distance learning (which includes some 7600+students annually). In addition, based upon recommendations from the Gansler Report,¹⁷ another eight hours of contracting were required in K200. The K200 course was taught within the advanced operations course (AOC) and not the core; therefore, not all satellite students received this instruction. The ethics instruction for AY 2017 was integrated into the core and the K200 contracting instruction was reduced to two hours.

In regards to both doing what is ethical correct and not continue the new normal of OCO funding, maybe we should listen and follow closely what GEN Milley, chief of staff (CSA) recently expressed to Congress on the issue of a budget. Continuing to pass continuing resolution (CR) after CR on a defense budget is “the new normal.” GEN Milley stated, “A year-long CR or a return to the [budget control act] funding (risks our national security). It will increase risk to the nation and it will ultimately result in dead Americans on a future battlefield.”¹⁸ GEN Milley, in response to this systemic CR continuation as a new normal, based on a question from Rep. Susan Davis from California said, “I don’t accept that it is the new normal, congresswoman. Candidly, failure to pass a budget, in my view as both an American citizen and the chief of staff of the United States Army, constitutes professional malpractice.”¹⁹

Conclusion

Persistent conflict, as experienced by the military over the past sixteen or so years, does provide a “new normal.” This environment is where military leaders are required to operate. For the foreseeable future, military officers will continue to function within OCO funding and will most likely use self-measured metrics for assessing performance. Within this, new normal ethical considerations are even more important for all leaders. All commanders should not expect nor demand to hear yes to every mission or query. Ethical concerns are paramount in developing and maintaining formations that continue to act with moral courage.

Endnotes

- 1 Dean C. Ludwig and Clinton O. Longenecker, "The Bathsheba Syndrome: The Ethical Failure of Successful Leader," *Journal of Business Ethics* (1993): 265-273.
- 2 Ludwig and Longenecker, "The Bathsheba Syndrome: The Ethical Failure of Successful Leader," 265.
- 3 Ludwig and Longenecker, "The Bathsheba Syndrome: The Ethical Failure of Successful Leader," 266-267.
- 4 Department of Justice, Office of Public Affairs, "U.S. Admiral and Eight Other Officers Indicted for Trading Classified Information in Massive International Fraud and Bribery Scheme," *States News Service* (March 14, 2017).
- 5 COL George E. Reed, "U.S. Army, Toxic Leadership," *Military Review*, July-August (2004): 67.
- 6 US Army, *ADRP 6-0 Mission Command*, (Washington, D.C.: Department of the Army, 10 September 2012) v.
- 7 US Army, *ADRP 6-22 Army Leadership*, (Washington, D.C.: Department of the Army, 1 August 2012) 1-5.
- 8 Todd Harrison, "The Enduring Dilemma of Overseas Contingency Operations Funding," *Defense 360*, (January 2017). <https://defense360.csis.org/enduring-dilemma-oco-funding/>
- 9 Harrison, Harrison, "The Enduring Dilemma of Overseas Contingency Operations Funding."
- 10 Emerson Brooking and Janine Davidson, "How the Overseas Contingency Operations Fund Works—and Why Congress Wants to Make it Bigger," *Defense in Depth*, (2015): 17-22.
- 11 Personal Communication with a Finance Office from CGSOC AY 2017.
- 12 Leonard Wong and Stephen J. Gerras, *Lying to Ourselves: Dishonesty in the Army Profession* (United States Army War College Press, Carlisle Barracks, PA, 2015).
- 13 United States Congress, United States Government Accountability Office Report to Congressional Committees, *Military Personnel, Additional Steps are Needed to Strengthen DOD's Oversight of Ethics and Professionalism Issues*, September 2015, GAO-15-711.
- 14 Thomas J. Gibbons, "A Metric for Military Ethics Instruction," CGSC Foundation, Inc. 2016 Ethics Symposium, Fort Leavenworth, Kansas, accessed <http://www.cgscfoundation.org/events/ethics-symposium/2016-ethics-symposium-archive/> (accessed on 17 March 2017).
- 15 Muriel J. Bebeau and Stephen J. Thomas, "Designing and Testing a Measure of Intermediate Level Ethical Concepts," (Paper presented at the Annual Meeting of the American Educational Research Association, San Diego, CA, April 13-17, 1998).
- 16 Gibbons, "A Metric for Military Ethics Instruction," 8.
- 17 U.S. Congress. Report of the "Commission on Army Acquisition and Program Management in Expeditionary Operations," by Jacques S. Gansler. Cong. Place of publication not identified: Commission on Army Acquisition and Program Management in Expeditionary Operations, 2007.
- 18 Matthew Cox, "Consequence of Budget Failure? 'Dead Americans,' Chief Says," *Military.com*, (2017):<https://www.dodbuzz.com/2017/04/05/consequence-budget-failure-dead-americans-chief-says/> (accessed on 10 April 2017).
- 19 Cox, "Consequence of Budget Failure? 'Dead Americans,' Chief Says."

How Can the United States Army Leverage the Strengths of Three Disparate Generations to Fight and Win the Nation's Wars?

by Robert M. Farmer

Guided by our professional ethos, our leaders and units will continue the Army's transformation into an agile, expert, innovative, interoperable, expeditionary, scalable, versatile, and balanced force that can provide additional strategic options for civilian and military leaders in future crises.¹

—The Army Vision: Strategic Advantage

Because absolute confidentiality protects sacred communication, Army chaplains hear Soldiers' thoughts and grievances and those Soldiers give them without fear of retribution or reprisal. I am honored to be one such chaplain. During interactions with individuals in the performance of my duties, I noticed several differences in attitude that concerned me as an Army officer, counselor, and spiritual advisor. I noted that specific issues and behavior patterns could be categorized and segregated by age.

I have learned that these age groups are called generations and are part of the naming convention of the generational theory. Most Soldiers in the U.S. Army are between the ages of 22 and 30.² At the time of this writing, most of the U.S. Army is Generation Z, also known as millennials. The Army's leadership, however, is largely comprised of Generations X and Y. Only the very highest general officers remain from the boomer generation. Generations X, Y, and Z perceive and interpret the Army values model (afterwards referred interchangeably as "LDRSHIP") in diverse ways based on their worldview.³

Generational theory asserts that patterns of behavior and reactions are similar for groups of people born during a specific period. Their shared timeline fosters a common worldview with similar cultural experiences.⁴ My observations found consistent, generational reactions to the institutionalization of the Army's LDRSHIP values in Army culture. Therefore, generational theories might apply to explain the observed differences in values and provide guidance on how to minimize the disparity between groups who must work closely together. Specifically, I wanted to address behaviors that could upset good order and discipline in the force and limit operational capability in units. Preventing interpersonal problems not only preserves resources, but eliminates friction between parties involved. My career as a chaplain puts me at the center of decreasing interpersonal strife, teaching conflict resolution, and enhancing communication skills as these relate to morale.⁵ However, chaplains are not alone in this challenge. The organizational-level leader has the authority, responsibility, and accountability for decreasing conflict and increasing performance through establishing and maintaining a "good command climate." In the Army, the brigade commander is the leader who has perhaps the most influence to change Army culture, given the brigade-centric structure of the force and his or her direct influence on leadership at the battalion and company levels. Company commanders are the lowest-level leader with Uniformed Code of Military Justice (UCMJ) authority to mete out punishment. Because the brigade commander guides the company commander in all leadership matters, including discipline and command climate, the brigade commander has broad influence and can

develop leaders early in their careers. Thus, as the Army's principal unit of combat power, charged with developing and implementing leadership policy to address challenges to the unit's capabilities, the brigade commander is critical to influencing cross-generationally.⁶ The brigade commander is the focused audience for implementing the recommendations emanating from this research.

Generational Theory as it Pertains to the Army from 2017 to 2050

Generational theory proposes that differences exist among generational cohorts and each generation has distinguishable, defining corporate views.⁷ Most researchers in generational theory agree on how to define the generational cohorts. Generational theorists classify cohorts by year groups, with separations to begin and end each categorical bracket. Momentous events that change our culture, such as the end of World War II, create a dividing line between generations; these culture-altering events create new shared experiences and values which distinguish between generations.⁸ Because any culture consists of shared beliefs formed from group values and norms, a generation's cultural experiences shape the values and the norms of their group. The values of the group are generally homogenous and based on events during their lives with which they cognitively and emotionally interacted—especially socially momentous events—technology application, scholastic standards, activities, vocations, and relationships to work, family, values, ideas, and time.⁹ In short, members of each generation share common behaviors, beliefs, and desires.

The Army currently has four generations occupying the force: Boomer [aka baby boomer or me generation] (1946-1964), Generation X [aka baby buster, slacker, or Gen X] (1965-1980), Generation Y [aka echo boomer, Generation Y, or generation next] (1981-2000), and Generation Z [aka millennials] (those born after 2001 with a yet-to-be-determined endpoint).¹⁰ (See Table 1 on page 39.) These groups each have unique values which affect how they interpret, use, and diverge from the Army's values. Significantly, generational values can be used to predict responses for each group, so reactions can be anticipated and either mitigated or maximized to achieve better unit cohesion, increase group and individual understanding, and provoke less interpersonal strife. Specifically, this research asks, "How can military leaders mitigate the negative relationship between a cohort's generational values and the Army values while using positive alignments of values to maximize the ability to project land power with Force 2050?"¹¹

Generational Values

The values of national executive and legislative leaders are usually tied to the national strategic goals. Rooted in America's foundational documents, laws, and strategic goals, our leaders attempt to sculpt what they think is the desired image of the nation. Strategic goals are the end state from which the operational approach is derived, bridging the gap between our current situation and our desired end state.¹² Values change over time and are influenced by many sources. Decision makers cast a vision and keep their end state in mind as they steer the country towards this goal. As decision making is influenced by the culture of the decision maker, Army culture influences Army decision makers. The Army values are part of Army culture and they should influence decisions made by leaders at all levels in the Army. If the Army values are not shared by those affected by a decision or order, then the decision or order may not make sense. If subordinates do not understand the decision or order, it is less likely to garner commitment and only achieves compliance. Today's operational environment values complexity and decentralized control under the concept of mission command, which requires Soldier commitment rather than compliance.¹³ Therefore, bridging generational gaps to create shared understanding of the Army values becomes essential to good order and discipline in today's Army. Generational values are definable and give a clear picture of how—as a group—the individuals will conduct themselves, develop, and expect rewards. Research on generational behavior shows distinct differences across the generations.

It is the opinion of the author that the chief of chaplains has the best potential to influence epistemological and ethical issues within the force. The chief's special position and authority allow unilateral

Boomer	1946-1964
Generation X/Buster	1965-1980
Generation Y/Echo Boomer	1981-2000
Generation Z/Millennial	Beginning 2001

Table 1. Generation Breakdown for Study

implementation of policy to all chaplains. Although brigade commanders are spread throughout the force, the Army chief of staff (CoS) has capabilities analogous to the chief of chaplain’s influence over all chaplains. Influenced by the Army chief of staff, Brigade Commanders’ Course and annual evaluations may provide points of influence to direct brigade commanders with particular vision and feedback. The CoS’s purview is the entire Army and his or her brigade commanders have specific areas and means of influence beyond the Army chaplaincy. Brigade commanders in recruiting and initial entry training units, combat and support units, and across the components—active, reserve, and national guard—can lead the implementation in a significant and meaningful way tailored to their specific units’ mission. Their influence is paramount to no other single group. Brigade commanders do not have specific proponent capabilities for individual branches of service, but do command training units who teach doctrine, allocate funds, and influence systems used to support Army values.

Projecting National Power Through Relativism

After reviewing the materials, there is one major difference noted between older and younger generations; how people interact with the concept of truth is changing. Significantly, millennials, Generation X, and Generation Y approach the topic of truth (its application and basis)—known as alethiology—in a consistently shifting manner. The application of fairness, especially as it pertains to social justice, affects ethical behavior in both positive and negative ways. The idea of the equality of all cultures and religions allows for learning sans worldview barriers, accepting novel practices, and easing group integration. However, it has also manifested in entitlement and lowered standards of excellence (questioning even the idea of excellence). Additionally, obedience to authority presents a source of friction between the national values and the military’s current expectation. Unlawful orders already have the provision for required, protected disobedience; the emerging belief is that personal disagreement with an order or policy should be treated the same as demonstrably illicit orders. What will happen to the military as the ideas of truth, fairness, and obedience change?

National power and the relationship outlined in the Constitution necessitate military means translating into national security end states. The military does this by forming strategic goals nested within the elements of national power (diplomatic, informational, military, economic, financial capability, intelligence capability, legal capability or “DIME-FIL”) model to affect nodes on the adversaries’ operational variables (political, military, economic, intelligence, information operations, physical terrain, time or PMESII-II capabilities). One of the commander’s roles is to create teams that align the ways and means of the force with the ends required. Team leaders communicate a vision, rely on trust, and build cohesion to the mission. Trust and cohesion require transparency, time, and a strong ethical stance. While leading by example, the transparent leader shows their work ethic, values, and expectations. The Army’s Command General Staff Officer

College strongly supports the Kotter model for leading change.¹⁴ Hence, the key leaders identified are the coalition for driving change, in accordance with the Kotter model and chief of staff of the Army (CSA) vision.

Trust is essential to team-building, and the generational studies cited above show that Generations X, Y, and Z are increasingly concerned with trust. Truth is critical to trust because it forms the basis of common belief and gives an objective stance from which to judge experiences and predict outcomes. Values-based leadership is the Army model, which relies on truth as a concept. Contrarily, Generations Y and Z operate by understanding that truth is a social construct which is personal, situational, and unverifiable. Contemporary phrases like “that may be true for you, but...” exemplify personal truth, while statements like “that only is true in the suburbs, but here in the city...” indicate situational truth. Contemporary questions like “how can anyone know x, y, or z?” demonstrate unverifiable truth.

Using truth in this way degrades the concept, perverts the application, and does not fit with military ideology. However, the person conversant in this method of thought can be used by the military leader. An aspect of treating truth as a social construct is relativistic thinking—especially in respect to truth, fairness, and social justice—which reduces bias when studying cultures or interpreting intelligence. Belief that all cultures and faiths are equal prevents American exceptionalism and support of unchecked hegemony.

Measured against millennial or net generational beliefs that support universal entitlement, truth fundamentally challenges the concept of self. As part of understanding the self, categories of values as an American, as a citizen, as a military member, as an officer, et cetera commence the process of inclusion, which begin the team-building process. Generations Y and Z, via relativistic philosophy, have come to the belief that all answers are valid and useful; therefore, all work is progress. This makes any participation worthy of reward, and a reward must be equal, regardless of perceived value to the organization or boss (because perception is limited to the individual). Though the military does support limited entitlement, generally it molds the individual into compliance. Placing these concepts together allows for universal non-discrimination where all forms of everything are equal (positive) and participation is the necessity, not excellence (negative). The leader must accentuate the positive while making the minimum acceptable to serve the needs of the mission and commander. Standards, laws, regulations, and policies create the framework to influence the group and mitigate interpersonal friction.

Though the research does not conclusively prove that personal values override authority directives, all sources agree that personal values are increasingly important. Considering that choice predicates conformance and agreement predicates compliance, it follows that teambuilding requires influence. There is nothing more influential than the truth. However, relativism allows each person to operate under a self-directed concept and application of truth. An aspect of this is the potential for disagreement requiring disobedience. The millennial or net generation cohort is more likely to take a position (be true to themselves) based on personal belief, which they equate to truthfulness. When values and beliefs collide, Generation Z creates interpersonal friction. Agreement prevents friction, and rules, laws, and policies are concrete. Mutual belief is imperative to congruence, and having an absolute definition of truth (or at least shared values) fosters similar understanding. Application of truth as a concept which is real, knowable, and external to the person prevents dissent and fiction.

Stakeholder Analysis

Generations interact with the Army values model differently. The chief of chaplains and brigade commanders have different perspectives on what is important and why. Additionally, people assign importance and worth of concepts based on opinion, worldview, and occupation. For example, chaplains may focus on integrity as being most important, while the brigade commander desires duty as the top value.

While learning about generational theory and considering its implications, the primary goal of matching all Army personnel to the LDRSHIP values became paramount. Since all personnel in the Army entered understanding certain laws, values, and principles are imposed upon them, universal application of the Army values does not undervalue individuals or eliminate corporate congruency. As the people who are making the decisions are changing, so too will the interpretations of data and standards of implementation.

Generation X interacts with loyalty as a risk. Generation X believes in the concept but has major mistrust and needs continual reassurance. Generation X well understands and expects duty, having volunteered to the military in a time of war and serve knowing that they can be called upon to give their life (and freedoms) to protect the Constitution. Respect is not a natural fit for Generation X since they have a situational understanding of truth and have seen many leaders fail over their life span. Generation X relates to self-less service in a completely situational manner and is very given to large acts, but lament small ones. Since Generation X prefers time, space, and order to best perform, they do not always work well with others. Self-less service requires giving up little things as much as big, so it is one area of ire in this population. This cohort is the last to interpret, expect, and use honor in a traditional way. Generation X interacts with integrity in surprising and hypocritical ways. Generation X has a high expectation of it in officials, but does not address it in themselves. Ultimately, Generation X has difficulty with integrity because they do not define it as something concrete or external to the agent. Generation X is quite willing to exercise personal courage to achieve a goal, right a wrong, or to better themselves.

Bottom line: Generation X behavior can be transformed through rigid application of fair rules, consistent and frequent feedback, and demonstration of a higher purpose for actions (seeing the big picture). Chaplains provide the brigade commanders with feedback on observations within the unit, equip Generation X with communication and conflict-resolution skills, and establish low-risk avenues to elevate ideas and gripes to commanders (empowering the person). Brigade commanders provide vision to link individual actions to the strategic level, manage interpersonal conflicts quickly and fairly, and avidly work to deserve trust and loyalty rather than expect it.

Generation Y is very willing to give loyalty and expects it until circumstances or actions dictate otherwise. They are the most dutiful of the cohorts explored here. They respect concepts rather than people, but can come close to adulation in some circumstances (someone they see as an idol or above all others). This is because they grew up in a culture where fame is more important than character. Generation Y gives and expects respect from all, to all. Generation Y holds each person equally and does not think it is inappropriate to demand a superior to show them respect in kind. Generation Y is prone to linking respect to loyalty; if a leader loses respect they feel entitled to reduce their loyalty and duty. Self-less service is not foreign to them but this cohort links it to altruistic ideas and viewpoints rather than to a system or position of authority. Generation Y understands honor in a relativistic, situational manner. Generation Y conflates it with integrity and does not interpret it with personal prestige according to American Army culture. Generation Y interprets integrity as a corporate need rather than a personal one. Relativism allows situational ethics and groups of peers are expected to draft and enforce rules as a society of peers. Generation Y displays personal courage in many ways. This cohort will use resources to better themselves and are keenly interested in making better environments and societies. Generation Y interprets overcoming social obstacles as being tantamount to the highest forms of courage displayed on the battlefield and they are very interested in social justice.

Bottom line: Generation Y behavior can be transformed through accessing, participating with, and guiding teams. Chaplains have experience in small group leadership, assessing moral climates, and influencing groups through strategic messaging. Brigade commanders approach leading groups from the Kotter model, and use the “guiding coalition” to express vision, make changes, and enable Soldiers by removing barriers.¹⁵ Both chaplains and commanders approach homogeneity by grounding divisive ideology in regulation, facts, and group norms.

Generation Z approaches loyalty in terms of self and are the most likely to experience significant friction with this concept. Generation Z is not inherently disloyal, but they have been taught to put self first and group loyalty second. Millennials approach duty as an agreement between parties and expect both sides hold to stated or expected roles and requirements. Respect is earned, multilateral, and non-hierarchical to Generation Z. They will expect equal return to that which is given from all parties. This stems from a high regard for fairness and hyper-relativism, which makes all people equal regardless of position, age, or experience. Millennials show high regard for self-less service. Indeed, Generation Z desires to make a difference in their environment and are altruistic. Generation Z has a varied relationship to honor. They view honor negatively when it leads to violence or assertion of a single viewpoint, and regard it highly when applied to upholding cultural norms. Generation Z most highly values integrity, but self is placed above others. This manifestation of integrity can be hypocritical, and it will be applied unfairly, based on perceived need or warrant derived from experience or philosophical viewpoint. Ultimately, this is the best and worst generational match for the LDRSHIP values.

Transforming a hyper-relativistic, sub-clinical narcissistic culture into the Army definition of integrity requires consistent, directed application of effort to inculcate. Millennials use the concept of personal courage individually and corporately. Having grown up in a more diverse social environment than previous generations, identity is one of the biggest topics. Hence, millennials are unable to define self and struggle to act in meaningful ways to illustrate selflessness. Generation Z will experience conflicts between personal courage based on interpretations of self-integrity and duty. Millennials may conflate personal courage with duty, as in they have a duty to be true to self and disobey orders. Generation Z will not see this as disorderly because they are able to place both these ideas together without friction in their mind, using justification and caveat. In addition, since each person is both an agent and someone who merely reacts to stimuli, millennials may create a “group-self” responsible for certain roles. An example would be a work-self being compartmental from family-self and separate from weekend-self. Millennials will expect superiors to support and respect their boundaries and efforts.

To understand where specific generation groups relate to each Army value, I developed a metric of values mapping. The Y axis of the map relates how much the cohort associates a value with authority or seniority. The X axis relates how much the cohort connects a value with personal choice or agency. The overall goal is to create a visual representation of convergence and divergence involving each Army Value. (See Figure 1 on page 43.)

What Does this Mean for the Future Leader?

As a prerequisite to military service, each person in the Army has sworn to uphold the U.S. Constitution and follow the orders of those appointed over them. The Army values offer an ethical base that is devoid of religious or cultural connotations; this makes it an ideal framework for establishing group ethics. The Army values are not legally binding or regulatory; however, they can be enforced by the positional authority of brigade commanders. A shared values system such as the Army values fosters trust among service members. Trust is a key component to maximizing the best generational behaviors while avoiding generational pitfalls.

Shared values create teams, and all generations in the military are united in a firm desire to accomplish missions. Each generation brings strengths and barriers which must be understood to optimize unit effectiveness and cohesion. Generations Y and Z will form groups that can teach themselves quickly, accept anything new (operations, cultures, et cetera), are very good at thinking creatively, and are willing to experiment. Generation Z will constantly question authority and have a strong need to create personal power and relationship networks.

Generations Y and Z approach learning and reasoning through the paradigm of relativism. Generations Y and Z apply relativism in a way that removes prejudices that can prevent accurate and adequate

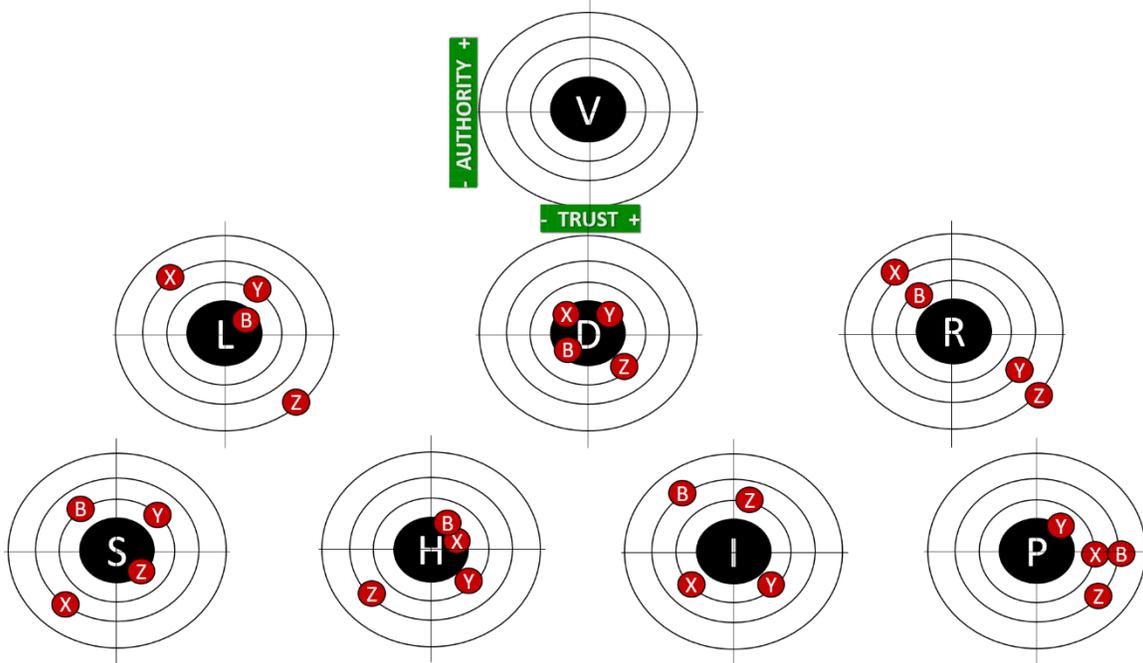


Figure 1. Army Values Mapping Model

understanding of concepts. They have learned the skill of an unbiased approach through interpersonal interaction from an uninformed position. The millennials, especially, have been taught to begin a conversation by gaining an understanding of the other person's point of view, beliefs, and preferences. Operating under this paradigm of relativism, there is an increased capacity to learn other cultures, allow group consensus to have increased value. Mindful that values such like honesty, integrity, and honor are treated as ambiguous or situational, relativistic philosophy allows flexibility in action and thought. This relativistic focus on justice and the person fosters rapid norming to environments, strong belief in personal capability, and an ardent desire to understand other cultures or ideologies. Negatively, relativism leads to poor moorings when confronted with contradictory information. This may result in disillusionment or anger, followed by pragmatism. Relativism limits duty, integrity, and responsibility to those activities and persons which yield direct and personal benefit.

In terms of creating a cohesive team, relativism requires a strong initial mental investment for projects. Expect even the most junior member's willingness to question terms or ideas to clarify understanding directly and frequently. There are pitfalls to relativism as well. Since truth in this model is so personal, it fosters strong responses when challenged. Rebelliousness is conflated with personal courage, which conflicts with loyalty, duty, and respect. Individuals expect rewards when any effort is produced because they believe incentives should be based on the person rather than objective standards or team achievements.

Endnotes

- 1 Department of the Army, *The Army Vision*. (Washington, DC: US Government, 2015). 2-3 https://www.army.mil/e2/rv5_downloads/info/references/the_army_vision.pdf (accessed 1 April 2017).
- 2 Statistics Brain, “Demographics of Active Duty U.S. Military,” (August 12, 2016). <http://www.statisticbrain.com/demographics-of-active-duty-u-s-military/> (accessed March 30, 2017).
- 3 Department of Defense. *Army Doctrine Reference Publication (ADRP) 6-22, Unified Land Operations* (Washington, DC: Government, September 2012), 3-1 - 3-3.
- 4 Jean M. Twenge and Stacy M. Campbell, “Generational Differences in Psychological Traits and Their Impact on the Workplace,” *Journal of Managerial Psychology* 23, no. 8 (2008): 862-877, www.emeraldinsight.com/0268-3946.htm, (accessed 8 November 2016).
- 5 Department of Defense, *Field Manual (FM) 1-05, Religious Support* (Washington, DC: Government, October 2012), 1-3 - 1-5.
- 6 Department of Defense. *Army Doctrine Publication (ADP) 3-0, Unified Land Operations* (Washington, DC: Government, October 2011), 7-9. Based on the tenets of unified land operations being grounded on tactical and operational leaders, which reside in the Brigade in the Army.
- 7 Craig A. Triscari, “Generational Differences in the Officer” (Master’s Thesis, Army Command and General College, 2002), 1-2.
- 8 Major Ryan Schrock, “Generational Theory and the U.S. Army: Harnessing the True Power of N/A” (Master’s Research Paper, USMC Command and Staff College, 2011), 1-3.
- 9 Twenge and Campbell, 1.
- 10 Cameron B. Caine, *Generational Differences in Workplace Ethics: A Supplemental Report of the 2011 National Business Ethics Survey*. (Arlington, VA: Ethics Resource Center, 2013), 2-3.
- 11 Col John P. McDonnell, “National Strategic Planning: Linking DIMEFIL/PMESII to a Theory of Victory” (Master’s Thesis, Joint Forces Staff College, 2009), 30-31.
- 12 Department of Defense. *ADP 3-0*, 1.
- 13 Scott Borerud. “An Overview of Ethical Philosophy”, (Command General Staff Officer College, 2016), 1-3; and Angela R. Febraro. “Leadership and Command: Individual Leadership Characteristics in the Context of Multinational, Intercultural Military Operations”, (Command General Staff Officer College, 2017), 3.2.1.
- 14 LTC K. Brogan Farren, USA. In-class lecture “L104: Leading Organizations in Change”. (Command General Staff Officer College, Delivered 12 September 2016), transcribed as a note-taker to personal notes for the lecture.
- 15 Dr. John P. Kotter, PhD. *Leading Change*. (Harvard Business Review Press: Boston, MA, 2012), 37-39; 53-57; 69-75; 87-93; 105-107; 121-125; 137-144; 153-160.

Promises, Preponderance, Politics, and Provisions (Revisited)

by **Dorothee Farrar**

It is said, “those who refuse to acknowledge history are doomed to repeat it.” In today’s military operations, the occurrence of dealing with displaced people is becoming a frequent occurrence. For the U.S. military, this is not a new development. From its inception, there has been a recurrent involvement in what is known in operations planning as the “phase IV.” Yet our planning is often minimal in this critical recovery phase. The adage, “as we train, so we fight” applies. This observation has led to the question, “Could understanding of the forced relocation of the Cherokee be useful in future dealings with relocations of displaced populations?” This event occurred on our own soil, with our own citizens, less than two-hundred years ago, and could be an example of a near perfect case study. However, it is often avoided, minimized, and in some cases, blatantly absent from military history education.

In the complete version of Promises, Preponderance, Politics and Provisions, the author’s Masters’ Degree thesis, there is an in-depth review of the stakeholders and the PMESII (political, military, economic, social, infrastructure and information) model assessment. For this condensed version, the content will include the original question and a discussion of the secondary and tertiary questions, a general overview of each stakeholder plan. This work is not intended to assign blame, pass judgment or elicit any misplaced emotion. It is an attempt to take a critical look at one of our own historical events, and facilitate thought as to how we, as the military and community can improve these operations today.

For a military plan to be viable it must meet the criteria of adequate, feasible, acceptable, distinguishable, and complete.¹ While this is current doctrine, it is not new criteria. This criterion has existed for centuries prior to the forced removal and was common teaching in military schools prior to the plans development. Viewing the plan through a historical lens, it may have been adequate, feasible, acceptable, distinguishable; it appears lacking in the “complete.” There are areas of sustainment that only considered the initial movement and not the extended movement.

In 1836, what had been a 100-year struggle to decide who would occupy the land east of the Mississippi River came to dramatic end. The natives had resided in the land long before the settlers arrived. In fact, that was a portion of the conflict. The Supreme Court had difficulty categorizing their status; were they “residents” or “British possession?” If they were British possession, then their land, possessions, and persons would be “spoils of war,” and therefore U.S. government owned. Land ownership was foreign to the natives who resided in communities with established boundaries but did not hold “titles,” as was the European custom.

Meanwhile, more and more settlers arrived, the natives were pushed further and further west, and the Mississippi provided a geographical marker that seemed appropriate at the time. Land was obtained and provisioned as “Indian Territory” in what is now Kansas, Missouri, Oklahoma and Arkansas. That is where this portion of the story will begin.

The native plan for relocation is that it would not occur. Although a portion of the tribes had resigned themselves to the move and left prior to the event; most (16,000) had stood fast, going about daily tasks,

living as they had for the previous years that the debate had occurred. John Ross (Cherokee Principal Chief) continued to negotiate through the legal channels of the new government by repeated appeals and petitions. The legal system moved slowly and the decisions often conflicted. His guidance to the people was to allow the system to work, stay calm. It was the belief by most that the new government could not help but see reason when presented to them.²

The settlers had been present in smaller numbers for over a hundred years. Several generations had lived through this continuing debate. As their numbers increased, it was evident that the natives would go “somewhere.” They felt they were the more advanced race and were entitled to the “undeveloped land.” Most expressed little opinion regarding the “how” of the move would take place. They were aware there would be a move, but continued to interact with their native neighbors as they had in years past.

The state of Georgia needed the natives to go so they could capitalize on the growth opportunities presented by the industry developers. The Supreme Court had told them the natives would go; until the last decision that came after the relocation was already in motion. The development of the railroads, refineries, and discovery of gold on native lands further complicated the timeline. Hostilities with encroachments were increasing.³ The state was certain they would be validated and supported by the Federal Government.

The clergy had observed it all from the beginning, assisting in the assimilation efforts, and interacting closely with both the settler and native populations. One or two clergy members assisted in drawing up cessation agreements that were signed by small portions of the natives (later used as the fulcrum of the Georgia position).⁴ Others served as interpreters and conductors during the relocation.⁵ This divided effort added ambiguity.

The executive branch consisted of first, Andrew Jackson, and finally, Martin Van Buren. Andrew Jackson’s plan was to have the natives peacefully relocated across to the Mississippi to the land provided with all their belongings and people. The natives would be compensated for their land and structures. These proceeds would provide means for the natives to travel. The natives were allotted two years to accomplish the move.

After eighteen months, there were very few natives that had moved. Most were waiting for a legal resolution. The order was issued for military force to be used to facilitate the move. Initially, General John Wool was selected for this duty, but his statements regarding the motivations and ethics of the action held him up in court too long to be retained. He was later cleared of any wrongdoing.⁶ Andrew Jackson was nearing the end of his presidency and the new President Martin Van Buren took office. Both presidents were intensely aware of the brewing conflict. A few years earlier, a depression had followed the economic crisis of the bank collapse. Citizens were eager to see improvements and progress. The Natives’ hesitancy to move and increasing defensive posture regarding the encroachments added to the urgency.

General Winfield Scott was summoned. He was given a two-week period to put the operation together. He would receive four-thousand regular troops and supplement his forces with another three-thousand National Guard and reserve. He immediately began identifying existing stockades and constructing new ones that would be used as collection points and internment centers. Those natives located furthest out would be transported by rail to the river landings. The natives would then be transported with their livestock and belongings by water and disembark near Indian Territory. The provisions for food (self-provided), water, shelter (self-provided), medical, and spiritual (clergy volunteers) were assembled.⁷ Strict instructions were given that there was to be no undue suffering of the natives. The trip would take about 80 days.

The Cherokee leadership realized after the military action began that there was no turning back. The challenge encountered in the military operation proved to be more cumbersome than initially anticipated and after the first five thousand Natives were transported. The removal was transferred to contract.⁸ Fifteen hundred natives died in the first effort. Most deaths were attributed to disease and exposure from the prolonged waiting for transport and crowded conditions at the internment camps.

The contract was granted to Chief John Ross. The remaining eleven thousand were transported by both land and water routes. The routes chosen depended on the navigation status of the river and the season. The government allocated money and the relocation continued. Another twenty-five hundred natives died in this phase of the relocation. There continues to be discussion and controversy regarding the motivations and ethical status of the relocation.

What was the turn of events that called for military action to complete the forced migration? The continual increases in settler population growth was forcing the physical space between cultures and economies to collide. While the legal and moral debate extended the better part of three decades (and longer in some instances); physical space is more limited and the population was steadily increasing inside the finite geographical boundaries. Finite resources such as land, water, food, boundaries, gold, and railroads become strained, and the victor in this instance was the enlarging United States. The two remaining options were to relocate or be removed through hostility and bloodshed.

Did the urgency and alterations in timelines lead to critical inadequacies in preparation, planning and sustainment? Yes. This answer becomes quickly apparent in the bottleneck that resulted at the internment centers when the river was not in an acceptable state due to turbulent currents, debris, icy conditions or low water levels. Resources quickly became inadequate. The forced urgency and timeline became the factor most influencing survivability. Adjustments were attempted, as indicated by the willingness for the action to be delayed until the “bad season” had passed. Medical personnel continued to report rampant disease and sanitation issues. The effort was moved to contract (which the Native Chief John Ross won) when the situation exceeded acceptable losses.⁹

The delay of the regular forces was unexpected. The rush to complete the operation with the forces present formed the acceptance of compliance through violence policy. The insistence that the natives immediately comply left no time to gather even the most meager of supplies.

The incongruences and indefinite decisions also opened doubt as to whether preparation was necessary at all. The delays in messaging, as well as the obstacle of language barriers and media delivery methods, all added to the confusion.

A lack of contingency for a pause and regroup when the conditions became bottlenecked at the river caused critical short supplies in space, food and sanitation. The extended timeline caused travel to fall during the heat of Midwest summer and harshness of the winter. The strict timeline and inability to go backward (to the east) forced all the populous to move westward at once, thus depleting foraging and hunting opportunities.

Was the relocation an attempt at genocide? No. For the term genocide to be accurate there must be an inarguable demonstration of intent to exterminate. If this had been the case, there would have been no expenditure on the establishment of plans, stockades, internment, gathering of transportation and supplies, securing of destination lands, or notification of the move order (however brief). General Scott’s orders to the troops to use the highest manner of humanity toward the natives and President Jackson’s struggle with the outcome demonstrated their conflicted motivations to keep the settlers from extinguishing the natives and to uphold his sworn duty to preserve the Union.

Why did the timing suddenly become urgent when the issue had been discussed for 40 years? The Nation was amid financial crisis and there was little policy to guide actions. Economic depression was quickly extinguishing growth in the east. Only the growth and access provided by the railroads and industry could stabilize the sinking economy.¹⁰ Standing between the settlers and this growth and development was the Cherokee Nation.¹¹

What was Jackson’s motivation? President Jackson had participated in military operations against the natives to secure the status of the new nation. He had also rescued native children that fell victim to those

operations and raised them as his own. He also recognized the critical impact the economic state of the union would have on the new Nation's ability to function and sustain. He often referred to his obligation to consider and provide for the stability and preservation of the Union.

Where in the legal process did the natives stand--sovereign, or not? The decision that the new American territory had been secured from the British and all the territory within the boundaries became American territory set the precedent for all future debates. The Native Tribes were within the boundaries of the British occupancy and therefore as a conquered nation, the Native Tribal Land became possession of America.

Could the lack of disclosure and transparency in this historic event have produced an unnecessary and enduring resentment and complicated population unity? Yes. A message that is delivered clearly and consistently, with explanations as required and appropriate, is far more effective than an unclear one.

The fact that this remains a topic of uncertainty and elicits such strong debate and emotion from both native and Non-Native Citizens demonstrates the issue is not "closed".¹² There are clear road signs in Oklahoma (formerly Indian Territory) that still mark Tribal Nation boundaries. Many native business establishments and older natives decline the U.S. twenty-dollar bill, requesting instead another denomination due to the image of Andrew Jackson on the currency. A common practice of land title transfer among families in this area holds that if sold it must first be offered to and declined by the other family members before it can be sold publicly (informally known as the Indian clause). Native schools and offices are usually open on the Federal holiday celebrated as "Columbus Day."

Native American Public Telecommunications (2006) presented a series called "Indian Country Diaries" that discussed the assimilation efforts and forced relocation. The term "genocide" is frequently used. The title "Assimilation, Relocation and Genocide" leaves little room for speculation regarding the tone for the presentations.

There are few, if any native museums that do not contain poems and artwork depicting the suffering and sadness that accompanied the relocation, the loss of home, the loss of loved ones, and wounds that "will never heal." It is impossible to not feel compassion and sympathy, but as military professionals, that alone is inadequate.

As recently as September of 2016, the Federal government is continuing to make amends for the events and dealings with American Natives through redistribution of funds and lands. The settlements were with more than 100 tribes and exceeded 3.3 billion dollars.¹³

The answer to "Could understanding of the forced relocation of the Cherokee be useful in future dealings with relocations of displaced populations?" is yes.

Now, it is our duty to learn from that how to best avoid needless suffering and maltreatment by reviewing what could have been improved in this situation. The way to understand that is to objectively study and teach the events.

In this analysis, we have reviewed the events using the PMESII model and identified areas that could have been improved upon. Many of these same areas remain poorly addressed in current practice. Repeatedly, cultural and religious aspects of populations are not considered, thus increasing an already emotionally charged situation. This presents fertile ground for enduring resentments when the friction and fog of actual action begin to arise. Miscalculations and misjudgments then are viewed as intentional and purposeful. Today's communication methods place these actions in open view for the world community. It is essential that the military leaders of today recognize this and improve on these relationships.

After the round up was completed, there is no indication that there were any "be prepared to" orders

issued to the irregular troops. All indications are that they were released to return home. This left the 4,000 regulars, who had recently arrived, with the responsibility of the containment and 800-mile move to the receiving military installations on the other side.

We have one account from a private regular Soldier that was written as an 80th birthday letter to his family. It indicates that his rank remained PVT. One can surmise that his service in the Army extended just past the relocation for a while. The emotional letter implies that he had remained silent for years after his military service, and this letter contains the story his family had been requesting all those years. The account is brief, detailed, and heartwrenching. The young Soldiers memories are haunting. Yet, today's military still sacrifices their own in a similar manner. In the military setting, today even more than yesterday, the need to retain and nurture Soldiers that can grow into seasoned leaders capable of sorting through such complicated issues as this is essential. The impact of premature loss due to lack of insightful action is a powerful motivator for change.

It is evident the native population received mixed messages and timelines. The legal boundaries were vague. The decision to use military force was made and initiated without an adequate force ratio and with no immediately evident means of execution if obstacles were encountered or adaptations required. The loss of life and the circumstance surrounding them continue to cause doubt and elicit feelings of the need for restitution.

Albert Einstein is attributed to be the originator of the quote, "Insanity is doing the same thing again and again and expecting different results." Current U.S. Army Doctrine includes the PMESII model. This is an important step for dealing with populations that have been or will be relocated. The awareness of each group's unique situation and history will enhance our ability to influence the experience. The circumstances may never be reversed, but as ambassadors of freedom and compassion we hold a unique responsibility to facilitate as atraumatic a transition as possible.

Planning after conflict phase operations (recovery and transition of power) is an area that could be improved in the military. Many of these operations are left to the non-governmental and social agencies. These efforts have limited funding and resources. While the military is in place, planners could share their expertise and connections to identify pending trouble areas and anticipate mitigation actions that would set conditions for success after withdrawal.

These things cannot be accomplished using only our own perceptions of "right." The culture and belief systems of the people that have been relocated must be the starting point. Provision of simply monetary or materiel solutions is not enough. These solutions may not be sustainable without direct support. Rather, understanding the need and supplying training and reconstruction assistance, sustainable sanitation, food and water, and healthcare are basic elements of life. The refusal of food and medicine by the Native Americans, even in times of starvation and sickness demonstrates how fearful, suspicious populations can be resistant to comply with authorities.

The messaging supplied by the "softer" elements of public address, public affairs, engineering, chaplaincy, and medical forces can be used to ease suffering, anxiety, and build positive relationships. These disciplines must be included in planning military operations from the conception to the completion. By building positive relationships with the displaced populations, there can be a greater expectation of peaceful compliance than what would be produced by strangers shouting orders.

A further recommendation would be further study, perhaps of other relocation efforts. The reintegration and residual attitudes of the Japanese and German internment detainees are a possible cohort. The current U.S. efforts toward secure borders have segregated out several populations, these could be a focus for study and intervention as well.

Further uses of this information may be for students at Command and General Staff College to exercise planning around historic events such as this to gain insights and critical thinking pathways that could be used to further develop doctrine in these areas. Additional studies that could build on this example and then apply to more recent operations could be a benefit to extend applicability. There is room for improvement in our incorporation of the softer skills alongside the military might for which the U.S. is known.

If there is conflict that forces populations to flee or be annihilated, the military will be faced with assisting with this type of relocation. Events other than war, such as nuclear accident or chemical or biological contamination have forced evacuation and “no further occupancy” orders. Natural disasters have eliminated communities and cities, forcing the people residing there to relocate en mass to other locations. Many reside in temporary living quarters until they can be processed and moved into a more permanent setting. The transition from independently functioning citizen to dependent, displaced person cannot be anything but frightening. Frightened individuals can become dangerous hordes. Hostilities flare and innocents are caught in the middle.

It is a worthy undertaking to attempt to identify a specific set of steps that could be applied to lessen this impact on these people and facilitate their peaceful reintegration to world community. By applying the resulting concepts, lingering resentments can be minimized and the transition can be just a little less painful, for all concerned.

Endnotes

- 1 United States Joint Chiefs of Staff, *Joint Operation Planning, Joint Publication 5-0*, (Washington, DC: U.S. Joint Chiefs of Staff 2011).
- 2 Ronald N. Satz, *American Indian Policy in the Jacksonian Era* (University of Oklahoma Press, Norman, Oklahoma 2002), 99.
- 3 John D. Benedict, *Muskogee and northeastern Oklahoma: including the counties of Muskogee, McIntosh, Wagoner, Cherokee, Sequoyah, Adair, Delaware, Mayes, Rogers, Washington, Nowata, Craig and Ottawa* (S. J. Clarke Publishing Company, Chicago, Illinois, 1922), 27-29. Accessed February 26, 2017, <http://lcweb2.loc.gov/service/gdc/scd0001/2012/20120509001mu/20120509001mu.pdf>, p. 54-57
- 4 Satz, *American Indian Policy in the Jacksonian Era*, 100.
- 5 Theda Perdue, *The Cherokee Removal; a Brief History with Documents* (Bedford/St. Martin's Press, Boston, MA, 2005), 71.
- 6 John S.D. Eisenhower, *Agent of Destiny: The Life and Times of General Winfield Scott* (University of Oklahoma Press, Norman, Oklahoma, 1997), 189.
- 7 Eisenhower, *Agent of Destiny: The Life and Times of General Winfield Scott*, 199.
- 8 Benedict, *Muskogee and northeastern Oklahoma: including the counties of Muskogee, McIntosh, Wagoner, Cherokee, Sequoyah, Adair, Delaware, Mayes, Rogers, Washington, Nowata, Craig and Ottawa*, 87-88.
- 9 John Ehle, *Trail of Tears: The Rise and Fall of the Cherokee Nation* (Bantam Doubleday Dell Publishing Group, Inc. New York, NY, 1988) 344-345.
- 10 Website of Golden Ink Internet Solutions; “*Cherokee Removal Forts*” Aboutnorthgeorgia.com. http://www.aboutnorthgeorgia.com/ang/Cherokee_Removal_Forts (accessed February 27, 2017).
- 11 Steve Inskeep, “The Cherokee leader who paved the way for MLK,” *Washington Post*, May 29, 2015, 4-5. https://www.washingtonpost.com/opinions/the-chokeee-leader-who-paved-the-way-for-mlk/2015/05/28/7325d05c-ffef-11e4-833c-a2de05b6b2a4_story.html?utm_term=.59d47e5b9da4 (accessed March 4, 2017).
- 12 Steve Inskeep, “The Cherokee leader who paved the way for MLK,” *Washington Post*, May 29, 2015, 1-2. https://www.washingtonpost.com/opinions/the-chokeee-leader-who-paved-the-way-for-mlk/2015/05/28/7325d05c-ffef-11e4-833c-a2de05b6b2a4_story.html?utm_term=.59d47e5b9da4 (accessed March 4, 2017).
- 13 Sari Horwitz, “U.S. To Pay 17 Indian Tribes \$492 Million To Settle Long-Standing Disputes,” *Washington Post*, September 26, 2015. https://www.washingtonpost.com/world/national-security/us-to-pay-17-indian-tribes-492-million-to-settle-long-standing-disputes/2016/09/26/61d55e02-83fc-11e6-92c2-14b64f3d453f_story.html?utm_term=.ad896c006ee2 (accessed March 4, 2017).

The Ethics of ISIS: *Takfir* in Surah 9

by Joshua Gilliam

Introduction

On February 3rd, 2015, the Islamic State (ISIS) posted a video showing the burning of a captured Jordanian pilot. The gruesome video sparked outrage across the Middle East. Ahmed al-Tayeb, the leader of Sunni Islam's most venerated institution, Egypt's Al-Azhar University, said, "The militants deserve the Quranic punishment of death, crucifixion or the chopping off of their arms for being enemies of God and the Prophet Muhammad."¹ Meanwhile, westerners viewed the incident with shock and horror, bewildered at the incompressibility of such barbarism. Since such behavior is so outside of our ethical framework, we assume there is no coherent ethical framework behind it. However, is this indeed the case?

To further complicate our understanding, a debate rages within the US government over associating Islam with ISIS or others espousing *salafi-jihadist* ideology. Presidents Clinton, Bush, and Obama identified these threats as pure terrorism that had nothing to do with Islam.² President Trump, on the other hand, has insisted on the public use of the phrase "Radical Islamic Terrorism" saying, "Unless you're going to say that, you're never going to solve it."³ Many others, including the national security advisor, have warned against such language.⁴

While there are compelling strategic reasons for divorcing *salafi-jihadist* ideology from Islam,⁵ there might be dangers in dismissing this worldview as well. Over time, might our strategic messaging effect our own understanding and shape our operational approach? While this paper does not intend to suggest that ISIS is the correct form of Islam, it does submit that they believe they are. Said pointedly, the *Islamic State* believes they are *Islamic*.

Therefore, it is logical to accept their worldview as the basis for understanding them. As Shadi Hamid said, "For Muslims and non-Muslims alike, there should be one overarching objective: to understand and to explain, rather than to make judgements about which interpretations of Islam are correct."⁶ For the US military, understanding Islam from the perspective of ISIS may be a core part of "knowing thy enemy."⁷ We should not only condemn, but endeavor to comprehend.⁸

This paper hopes to make a small contribution toward comprehending the Islam of ISIS (and other *salafi-jihadist* groups) and the behaviors—or ethics—that flow from a literalist interpretation of the Qur'an. While much research exists to explain the political, economic, and sociological factors that have led to *salafi-jihadist* ideology, there is little attention given to its theological roots.

To make the scope sufficiently narrow, the author will look exclusively at the practice of *takfiri* in Surah 9, *al-Tawbah*. *Takfir* is the verbal noun for a Muslim declaring another Muslim an apostate (i.e. "you have transgressed and are no longer Muslims. You are excommunicated and deserving of death").⁹ The following exposition does not represent the majority view of Islamic scholars;¹⁰ but attempts to show that the ethic of *takfiri* can be derived from the principal Islamic source of authority—the Qur'an. First, we shall consider a few concepts that empower *salafi-jihadist* to diverge from mainstream Qur'anic understandings.

Factors Enabling Divergence

Salafism: A *salafi* is a Muslim who was alive during the first three generations. A number of *salafi* groups have emerged in the last 40 years, desiring to return to the pristine Islam of the *Qur'an* and *Sunnah* as practiced by the first three generations who learned it directly from Muhammad.¹¹ *Salafis* preach a total rejection of any innovation (*bi'da*) within Islam. They call Muslims to disregard traditional understandings and embrace the pure Islam of the *Qur'an* and *Sunnah*. The purpose of these groups is to purify Muslim society and return it to the pattern of the early community.¹² *Salafist* are not only “scripturalists but also literalists” who believe “Muslims must behave exactly like the pious forefathers whose deeds and thoughts were found in the sources of Islam.”¹³ Therefore, a *salafi* tends to give more weight to a plain reading of scripture at the expense of contextual nuances or the consensus of the *ulama* (Islamic legal scholars). In a sense, Salafism is akin to the *sola scriptura* of the protestant reformation.

Abrogation (naskh): Some verses are considered “cancelled” by a more recent abrogating passage.¹⁴ In these cases, abrogation means not only a repeal of the old verse but a replacement with the new.¹⁵ This doctrine is based, in part, off *Surah* 2:106 which says, “None of our revelations do we abrogate or cause to be forgotten, but we substitute something better or similar.” Moreover, in *Surah* 17:86 it says, “If We willed, We could take away that which We have revealed to you.” While this was first understood to apply only to Jewish and Christian Scriptures, *surah* 22:52-53 showed that abrogation relates to the *Qur'an* as well (the so called “Satanic verses”).¹⁶ In recently years, *salafi-jihadists* have applied the doctrine of abrogation in a more intense way, abrogating the verses that for centuries tempered the concepts of *takfir* and *jihad* and laying increased emphasis on later revelations. As the narrative goes, Mohammed was first told to “turn away” from the infidels (Q 15:94) in 621 AD, then to “debate” with them, then to fight if attacked (Q 22:39) in 622 AD, then fight offensively after then “sacred months” had passed (Q 9:5) in 630 AD, and finally until all non-believers convert or pay *Jizya* (Q 9:29).

Ijtihad: *Ijtihad* means to struggle or strive intellectually and is used for legal or independent reasoning. This principle originally allowed for the Sunni schools of Islamic Jurisprudence to form and accept one another. However, at the beginning of the 10th century Sunni jurists agreed that further *ijtihad* would be harmful to the Muslim community, and the doors to new interpretations were closed.¹⁷ For many centuries, interpretation within Sunni Islam was rather static and *taqlid* prevailed (the strict following of an established juristic school of thought). Then in the early 20th century, Muhammad Iqbal championed the use of *ijtihad* as necessary to restore the vitality of Islam.¹⁸ Although Iqbal intended to make Islam compatible with modernity, the opening of *ijtihad* ultimately served to take power out of the hands of the *ulama* and gave it over to the people.¹⁹

Mujaddid: A *mujaddid* is a renewer of Islam.²⁰ Muslims believe that through periods of decline, Allah has appointed men to call Muslims back to the straight path and the pristine teachings of Islam. As Abu Daawood in his *sahih* (authentic) hadith records: “God will send to this *ummah* at the beginning of each century those who will renew its faith.”²¹ Muslims recognize that a true *mujaddid* has the authority to exercise *ijtihad* and to correct the religious community. The difficulty lies in determining who is a *mujaddid* during their lifetime. Nevertheless, the existence of the concept can empower some Muslims to champion views contrary to the establishment (i.e. ISIS declared al-Zarqawi a *Mujaddid*).²² These are only a few factors that empower Muslims to adopt interpretations of the *Qur'an* that are outside the exegesis of the establishment. Having established the possibility of alternative interpretations, this article now turns to *surah* 9 to look specifically at the concept of *takfir*.

Al-Tawbah (Surah 9)

Al-Tawbah is one of the last, if not actually the last, *Qur'anic* revelation.²³ Because of the doctrine of abrogation, this is an eminently significant point. According to ‘Abdullah Yusuf ‘Ali this *surah* was revealed

in the ninth year after the *hijra* (A.D. 630) “and sums up the lessons of the Prophet’s Tabuk expeditions” that summer against those pagans who had broken treaties with the Muslims.²⁴ Because of this, the *surah* has a strong emphasis on fighting the idolaters in Arabia and champions the necessity of taking part in such fighting. It commands Muslims to fight the Jews and the Christians (29-36) and calls Muslim “hypocrites” who do not want to fight.

Verse 5 is known as the “verse of the sword” among classic Muslim commentators.²⁵ In this passage Allah commands Muslims to “fight and slay the idolaters wherever you find them.” While “idolaters” primarily refers to the non-Islamic Arabian tribes Muhammad had a treaty with, it is not unreasonable to conclude that this verse abrogates the earlier passages calling for peace, tolerance, and restraint toward polytheists “on the earth in general.”²⁶ Averroes, the 12th Century legal scholar, went so far as to say this verse gives “as a general rule that every polytheist must be slain, whether he is a monk or not.”²⁷ In his classic and widely accepted *tafsir* (commentary), Jalalyan said this shall continue until “they have no choice except being put to death or Islam.”²⁸ These two examples are only provided to show that this is a reasonable position for a group to take.

A few verses later Allah says, “Fight them, and Allah will punish them by your hands.” (v. 14). We see here that Allah’s perfect will is revealed and brought forth through warfare. It was not enough for Muslims to do nothing and watch Allah bring vindication upon the pagans. That vindication was executed through the obedience of *jihad*. Considering Qur’anic abrogation, it is reasonable that these verses may impact how ISIS views its relationship with the nations that surround it, and the pagan countries of the world.

Verse 20 says, “Those who believe, and suffer exile and strive with might and main, in Allah’s cause, with their goods and their persons, have the highest rank in the sight of Allah: they are the people who will achieve salvation.” First notice that Allah’s cause here includes violent physical *jihad* against the Pagans that surrounded the *ummah* (community of Muslims). In historical context, this is the meaning. Those that strive (*jihad*) with “their persons” are those who are willing to risk their lives in Muhammad’s wars. A few verses later (v. 25) Allah says, “Assuredly Allah did help you in many battlefields,” further exposing the context. The reference to “their goods” in this verse refers to the act of leaving all behind in Mecca and migrating to Medina.²⁹ ISIS had this very “blessing” in mind when, in the third issue of *Dabiq* (“A Call to *Hijrah*”), they called Muslims everywhere to join them.³⁰

Therefore, this verse says that those who *jihad* (fight) the pagans in war, risking their lives and forsaking their homes—they will be the ones who earn paradise. And for the *salaf*, who has discarded centuries of jurisprudence, little stands in the way of a twenty-year-old with average intelligence reading this and concluding that he must personally immigrate and fight to merit paradise. This conclusion emerges from a literal reading of the text.

In verse 38, Allah gives a sharp rebuke to non-violent Muslims. It reads, “O ye who believe! What is the matter with you, that, when you are asked to go forth in the Cause of Allah, ye cling to the earth? Do ye prefer the life of this world to the hereafter?” He rebukes Muslims for resisting war. In the next verse he then warns, “Unless ye go forth, He will punish you with a grievous penalty, and put others in your place” (verse 39). Ibn ‘Abbs translates this as: “If ye go not forth with your Prophet at the Battle of Tabuk...” This is a straightforward demand with a serious consequence for disobedience—“March to war or go the hell.” This narrative is simple and emerges from a plain reading of the text. As leaders—and those believed to be *mujaddid*—exercise *ijtihad* and champion this literal meaning, it is reasonable that devout Muslims would follow.

In verse 41 Muslims are instructed to “go yea forth (whether equipped) lightly or heavily, and strive and struggle, with your goods and your persons, in the Cause of Allah. That is best for you, if ye (but) knew.” Ibn Kathir, in his *tafsir* emphasizes that this was against “the disbelieving, People of the Book,

the Romans.”³¹ In this verse, Allah essentially says that there are no excuses for not joining the fight. If someone does not feel he has the proper weaponry or skill, he should deploy anyway. Allah says it will be best for them. If someone feels they are too old or too feeble, they can give money in support of the cause.³² None are excused. Given this interpretation, it is not difficult to imagine a *salafi-jihadist* calling the disenfranchised and those who lament Islam’s political weakness to come and join the fight. It is not difficult to conceive of these same ideologues declaring *takfir* upon those who excuse themselves from the call of *jihad* against the crusaders.

In verses 44-45 Allah rebukes Muhammad for allowing some to turn back from fighting: “Those who believe in Allah and the Last Day ask thee for no exemption from fighting...only those ask thee for exemption who believe not in Allah and the last day” (verses 44-45). One can see how *jihad* can become the test of whether one is a true Muslim or not. This verse is part of the theological underpinning for declaring *takfir* against those who do not migrate to the Islamic State or otherwise support their cause.

In verses 67-68 the Qur’an then declares that “Allah has promised the hypocrites [those who do not respond to Muhammad’s call to Jihad] the fire of hell.” In verse 73 Allah orders the prophet to fight against both the unbelievers and the hypocrites. This *surah* has thirty references to “not believing” (*kafara*) and “unbelief” (*Kufr*) or “unbelievers” (*kafir*, *kafirun*, *kuffar*, *kawafir*), and many of these references are to those who called themselves Muslims.³³ Cashin explains:

This level of anger can only be explained in the context of a military campaign. In modern parlance, these soldiers have gone AWOL in time of war in their disobedience to the Prophet. This is why male apostates from Islam are executed according to all books of Islamic law. A Muslim male who leaves Islam deserts the Muslim army in time of war. That war is conceived of as perpetual until the non-Muslim lands or *dar ul-harb* (house of war) is conquered, so the punishment of death on apostates is also perpetual.³⁴

Verse 90 says those who “sat inactive” and did not campaign are “Unbelievers” and will receive a “grievous penalty.” Here again the Qur’an declares these pacifist as unbelievers and therefore fit objects of the wrath of *jihad*. In the ensuing verses this *surah* states that “Hell is their dwelling place” (verse 95) and that these desert Arabs “are the worst in unbelief and hypocrisy.”

Next follows praise of the “Vanguards” starting in verse 100. *Vanguard* literally means those of the first rank. That is, those who stand in the first rank during battle. “Well-pleased is Allah with them.” In verse 111, the passage says that “The Believers...they fight in His Cause, and slay and are slain: A promise binding on Him in truth, through the Law, the Gospel, and the Qur’an.” Here we see that Muhammad understood the responsibility of *jihad* as a reaffirmation of what was first given in the *tarat* (torah) and then the *injl* (gospel). That is how important the concept was to Muhammad’s understanding of Islam. It should not be shocking that those who attempt to follow in his way (*sunnah*) feel likewise. This, from our examination of *surah* 9, it appears that a prime reason to declare another Muslim an apostate is his refusal to participate in *jihad*.

This reading of *surah* 9 does not include nuanced scholarly understandings, nor has it included the classic conditions placed upon *jihad*.³⁵ Nevertheless, for a *salafi* who believes in abrogation and *ijtihad*—and who puts his faith in a charismatic leader (*mujaddid*), the practice of *takfir* does not appear to be unethical from his worldview. Since the *takfir* narrative is simple and concrete, an uneducated but devote Muslim could come to the following conclusion from a plain reading of the text: *Those who refuse to participate in jihad are hypocrites and apostates. They have become non-Muslims, and as such deserve death. Ethics demands that good Muslims join Allah in this cause.*

While it is understandable that western political strategists seek to disassociate *salafi-jihadist* from Islam, the military must not get sidetracked by this message. The armed forces must continue to understand *salafi-jihadists* from their worldview—a worldview rooted in the Qur’an. Let us not lose sight of this.

Endnotes

- 1 CBS News, “Jordanian pilot’s “obscene” burning death by ISIS sparks outrage in Mideast,” *CBS News/AP*, (2015): <http://www.cbsnews.com/news/jordanian-pilots-obscene-burning-death-by-isis-sparks-outrage-in-mideast/> (Accessed February 18th, 2016).
- 2 Barack Obama, “The President’s Statements on ISIS: Speech to the Nation on U.S. Strategy to Meet the Terrorist Threat,” *Congressional Digest* (November 2014), 9, 32.
- 3 Jim Acosta: “Trump refers to ‘radical Islamic terrorism’ despite NSC pushback,” Cable News Network, (2017): <http://www.cnn.com/2017/02/28/politics/radical-islamic-terrorism-hr-mcmaster-trump-speech/>. Updated 9:37 PM ET, Tue February 28, 2017, (accessed 10 March 2017).
- 4 Jim Acosta: “Trump refers to ‘radical Islamic terrorism’ despite NSC pushback,” Cable News Network, (2017): <http://www.cnn.com/2017/02/28/politics/radical-islamic-terrorism-hr-mcmaster-trump-speech/>. Updated 9:37 PM ET, Tue February 28, 2017, (accessed 10 March 2017).
- 5 Many have pointed out that if westerns assert that the Islamist view of Islam is correct, we will help fuel the spread of this ideology and alienate ourselves from our Muslim allies.
- 6 Shadi Hamid, “Does ISIS really have nothing to do with Islam? Islamic apologetics carry serious risks,” *The Washington Post* (November 2015).
- 7 Sun-Tzu, *The Art of Warfare*, trans. by Roger T. Ames (New York: Ballantine Books, 1993), 113.
- 8 Jason Burke, *Al-Qaeda: The True Story of Radical Islam* (New York: I.B. Tauris, 2004), 291–292.
- 9 PJ Bearman, C.E. Bosworth, E. Van Donzel, and W.P. Heinrichs. *Encyclopedia of Islam Vol. 10* (Leiden: Brill, 2000) 122. Excommunication of a Muslim provides today, as it did in medieval Christianity, a rationale for executing that person as a “heretic.”
- 10 For a refutation of *salafi-jihadist* ideology from 500 Islamic scholars from over 50 countries see *The Amman Message, The Royal all Al-Bayt Institute for Islamic Thought* (Jordan, 2009). Available at www.jordanembassy.de/Amman%20Message%20English.pdf. These scholars recognized the validity of all 8 Islamic *Mathahib* (Sunni, Shi’a, Ibadi, Ash’arism, Sufi), forbade *takfir* between Muslims, and established clear rules for issuing *fatwas*.
- 11 John Esposito, *Islam: The Straight Path* (New York: Oxford University Press, 2005), 133.
- 12 Abdulbasit Kassim, “Defining and Understanding the Religious Philosophy of jihādī-Salafism and the Ideology of BokoHaram.” *Politics, Religion & Ideology* 16, no. 2-3 (2015): 173–200, 175.
- 13 David Cashin, “Takfir: Excommunication in the Salafi-Jihadist Narrative.” Unpublished Paper (Received from author on 20 January 2017). 7
- 14 Oliver Leaman, ed., “Abrogation,” *The Qur’an: an encyclopedia* (New York, New York: Routledge, 2006), 3.
- 15 Oliver Leaman, ed., “Abrogation,” *The Qur’an: an encyclopedia* (New York, New York: Routledge, 2006), 3.
- 16 Oliver Leaman, ed., “Abrogation,” *The Qur’an: an encyclopedia* (New York, New York: Routledge, 2006), 4.
- 17 James P. Piscatori, *Islam in a World of Nation States* (Cambridge University Press, Cambridge, 1986), 6.

- 18 John Esposito, *Islam: The Straight Path* (New York: Oxford University Press, 2005), 139.
- 19 John Esposito, *Islam: The Straight Path* (New York: Oxford University Press, 2005), 139.
- 20 John Esposito, *Islam: The Straight Path* (New York: Oxford University Press, 2005), 139.
- 21 Abu Dawud, *English Translation of Sunan Abu Dawud: Volume 4*, ed. by Fafiz Abu Tahir Zubair ‘Ali Za’I (Riyadah: Darussalam, 2008), 37:4291.
- 22 “Dabiq, Issue #1: The Return of the Khilafah,” <https://clarionproject.org/docs/isis-isil-islamic-state-magazine-Issue-1-the-return-of-khilafah.pdf> (accessed March 15th, 2017).
- 23 Sayyid Qutb, “Sura 9: Al Tawbah,” in *Tafsir Fi Zilalil: In the shade of the Qur’an*, accessed February 18th, 2016, <https://tafsirzilal.files.wordpress.com/2012/06/at-taubah-eng.pdf>.
- 24 ‘Abdullah Yusuf ‘Ali, *The Meaning of The Holy Qur’an: New Edition with Revised Translation, Commentary and Newly Compiled Comprehensive Index* (Beltsville, Maryland, Amana Publications, 2002), 435.
- 25 “*Quran Tafsir of Ibn Kathir*,” http://www.qtafsir.com/index.php?option=com_content&task=view&id=2581&Itemid=64 (accessed March 11th, 2017).
- 26 “*Quran Tafsir of Ibn Kathir*,” http://www.qtafsir.com/index.php?option=com_content&task=view&id=2581&Itemid=64 (accessed March 11th, 2017).
- 27 Andrew Bostom, *The Legacy of Jihad: Islamic Holy War and the Fate of Non-Muslims* (New York: Prometheus Books, 2005), 151.
- 28 *Jalal al-Din al-Mahalli*, trans. Feras Hamza (Amman, Jordan: Royal Aal al-Bayt Institute for Islamic Thought, 2007), 194.
- 29 Abdullah Ibn ‘Abbas and Muhammad al-Firuzabadi, *Tanwir al-Miqbas min Tafsir Ibn ‘Abbas*, trans. Mokrane Guezzou (Amman: Royal Aal al-Bayt Institute for Islamic Thought, 2007), 196.
- 30 “Dabiq, Issue 3: A Call to Hijrah,” <https://clarionproject.org/docs/isis-isil-islamic-state-magazine-Issue-3-the-call-to-hijrah.pdf> (accessed March 15th, 2017).
- 31 “*Quran Tafsir of Ibn Kathir*,” http://www.qtafsir.com/index.php?option=com_content&task=view&id=2581&Itemid=64 (accessed March 15th, 2017).
- 32 “*Quran Tafsir of Ibn Kathir*,” accessed March 11th, 2017, http://www.qtafsir.com/index.php?option=com_content&task=view&id=2581&Itemid=64 (accessed March 11th, 2017).
- 33 David Cashin, “Takfir: Excommunication in the Salafi-Jihadist Narrative.” Unpublished Paper (Received from author on 20 January 2017). 19. He further records that surah nine of the Qur’an uses these terms in the following verses: (kafara): Verses 3, 26, 30, 37, 40, 54, 66, 74, 80, 84, 90, (kufir): Verses 12, 17, 23, 37, 74, 97, 107, and (kafir, kafirun, kuffar, kawafir): Verses 2, 26, 32, 37, 49, 55, 68, 73, 85, 120, 123, 125. Most of these verses deal with Muslim “hypocrites”. “This is the foundation to declaring Muslims to be non-Muslims (*takfir*), and the attitude towards such is abject hatred.”
- 34 David Cashin, “Takfir: Excommunication in the Salafi-Jihadist Narrative.” Unpublished Paper (Received from author on 20 January 2017), 19.
- 35 Shaybani, *The Islamic Law of Nations: Shaybani’s Siyar*, trans. Majid Khadduri (Baltimore: John Hopkins Press, 1966).

A Leader's Duty in Tragedy and Loss

by Francisco M. Hernandez

Introduction

Make no mistake about it, the United States is a nation at war, and inherent in war, is the loss of life. Today, the United States continues its war on terror against radical ideologies, extremist and criminal organizations, and influencers of anarchy and violence. Since the Global War on Terrorism began on September 11, 2001, the U.S. military has lost almost 7,000 service members in combat theaters of operation and over 3,300 to suicide.¹ For those surviving family members left behind, the loss of their loved one brings forth many questions, challenges, and emotions as they work through their loss and cope with the grief. Following these tragedies, surviving families can turn to various individuals, organizations, and institutional services for counseling, outreach, and support.² Each of these elements have an important role and function; however, a key figure to their healing process remains underutilized; the military leader. Similarly, leaders may not understand how beneficial a connection to these surviving families is to their healing process, as well.

Background and Context

Military leaders are charged with the overall responsibility for the safety, health, and welfare of the service members assigned to them, creating a unique relationship between the leader and the service member. When tragedy befalls one of their assigned members, the loss affects these military leaders in ways that cannot be fully understood, except by the surviving family members. It is in the similarity of their responsibilities where military leaders and surviving families can find a space to connect. In tragedy and loss, leaders may find that they have an innate obligation or duty to reach out to surviving family members. By acting upon this calling, leaders may find that they are able to provide a support service to families that cannot be replicated or offered elsewhere, while also improving their own resiliency and the resiliency of others during these most challenging of times.

However, for military leaders to connect with surviving families, provide support, and improve their resiliency, better care must be taken of leaders to ensure that they are equipped with necessary tools to endure through such tragedy and loss. Although there are military sponsored programs designed to support surviving family members throughout such hardship, there is little focus outside of the prescriptive psychological and psychiatric care offered by behavioral and mental healthcare professionals on supporting military leaders as they work through their own grief, possibly connect to surviving family members and continue to lead warriors.³ Research has been conducted to help improve the resiliency of military leaders, however the research and programs are generally focused on how to help leaders overcome stress caused by deployments, not on how to support them as they connect with other leaders and families who have endured loss.

As we continue examining the operational environment of today senior leaders, analysts, strategists, and historians all seem to have one common view of tomorrow; the future of the U.S. includes warfare. If the U.S. continues to send its military into the global arena to preserve its national security and interest, is it not a reasonable expectation that the military and its leaders need to be better prepared for warfare and on what to expect from warfare? The first Special Operations Forces' truth states, "Humans are more important than

hardware.”⁴ In short, investing in the development of service members is better than developing weapons systems.

Chaplain (Major) Doug Windley, a Tragedy Assistance Program for Survivors (TAPS) survivor care team counselor and brigade chaplain, summarized it best in saying, “we are human first, and a warrior second.” Further, Chaplain Windley expressed that prior to deployment the human element must be prepared for those things we expect to face as a result of combat, to include how we deal with loss and grief. Preparedness in this fashion helps ensure that service members become better warriors while also enhancing their combat-readiness.⁵ When it comes to leaders dealing with loss and trying to make sense of it, inaction is often the result of fright. Leaders need to understand what they can do and whom they can impact before, during, and after such tragedy.

What Leaders Can Provide

If we want our leaders to be more resilient, to connect with surviving families, and support the future leaders of tomorrow, what is the problem that must be addressed and answered to get us to our desired state? In an era of rapid innovation, technology, and warfare, how do we better equip military leaders for the harshest moments of leadership, preparing them for all the duties and responsibilities of leading following the loss of a service member under their lead?

What can a leader who is better prepared for the realities of loss provide that another leader cannot? Within the context of this article, we argue there are two things a better-prepared leader can provide:

A leader can offer better support to surviving families following the loss of their loved one.

A leader can provide better support to future leaders, offering counseling and mentorship on what to expect following the loss of a service member.

By analyzing some of the support services offered, as well as interviews with leaders, surviving family members, and field professionals this article will discuss the benefits and challenges of leader-to-family connections. It will also address the importance of leader-to-leader counseling following loss, and will conclude with recommendations on how we can better support and prepare leaders for the most challenging of situations they may face. The intent is that leaders become more resilient for the surviving families, for those that they continue to lead, and for themselves. No leader or family ever wants to face such circumstances, yet today’s leaders must recognize that service members’ lives will continue to be lost in the ongoing fight against terror, in non-combat related incidents, and to enemies not yet known.

Literature Review⁶

Researchers, including the Department of Defense’s 2007 Task Force on Mental Health made recommendations to improve service member and family access to mental health services and recommendations to make cultural changes within the military that encourage outreach to psychological health services following a traumatic event.⁷ The Task Force on Mental Health acknowledges the inherent risks that military members face in the performance of their duties, as well as the psychological impacts upon both the military members and surviving families once a service member passes.⁸ Research in reports such as the Task Force on Mental Health Report are thorough and the recommendations are often valid. However, the research and outputs produced fail to address the focus of this article; namely leaders engaging with surviving families, leaders providing support to future leaders who may experience loss as leaders, and how to better equip leaders to lead affectively following loss.

Military Psychology published an article discussing 2016 research by the Center for the Study of Traumatic Stress, Uniformed Services University of the Health Services, providing examples of how military units

and organizations afford social support services to its leaders and members that are designed to decrease psychological stress brought on from combat and non-combat related experiences.⁹ In the article, the authors define social support as “one’s overall social network and its associated functional outcomes (e.g., emotional support)...[and] moderates behavioral and physiological stress response outcomes”.¹⁰ Further, they argue and demonstrate that in military members, the greater the perceived social support, the stronger the resiliency and lower the depression is following a combat related traumatic event. However, the authors also acknowledge that the preponderance of research is only focused on military-to-military support (due to shared experiences) and that there is not enough research on how to successfully integrate external support services, such as those that would include family, friends, and outside organizations.¹¹ This study further illustrates the need to conduct research that incorporates other methods, including expanding social support networks to improve resiliency and help all affected in coping with and through loss. This is important because “In any significant event, people tend to gravitate to those who have experiences something similar. Connecting with people who have suffered a loss like yours can be very helpful.”¹²

In an era of social media connectedness, building networks is not too great a challenge. The *Prism* article, “Building a Network,” identified four areas of the networking process: first, the narrative is the story or event that attracts individuals to a network; second, the social aspect is the diversity within a network; third, the doctrine of the network is the rules or concepts that determine the network’s mission or use; finally, the technological kit is that which allows the ease of communication to occur. When effectively used together, a leader can facilitate a variety of networks in which to operate, both as the supported and the supporter.¹³

If we have determined that the building of networks, social or otherwise, is important to the long-term successes of our military, diplomatic, and development strategies, could the same concept be applied to the support offered and provided to our leaders? The authors of an article in *The Leadership Quarterly* contend that the most valuable resource to reduce psychological pressure in a leader is the emotional support and palpable concern from his or her senior leaders, as this has shown to improve overall well-being, increase performance, and lower various forms of stress, including PTSD. However, the authors also note that although the benefits of supportive leadership are valuable, more research needs to be conducted to understand how stressors truly impact a leader’s ability to provide comfort or support to subordinates.¹⁴

Further Insights

In addition to current studies and literature, some senior leaders recognize the existing gap between the military and society in relation to loss. The current Secretary of the Department of Homeland Security, General (Retired) John Kelly, former Commandant of the United States Marine Corps and a Gold Star father, is to date the highest-ranking military officer to lose a child fighting in the war on terror. Secretary Kelly’s perspective on tragedy and loss are unique, feeling the pain as both a military leader and as a surviving family member. In a 2010 speech to the Semper Fi Society of Saint Louis, he stated:

*Only a tiny fraction, less than a percent, shoulder the burden of fear and sacrifice, and they shoulder it for the rest of us. Their sons and daughters who serve are men and women of character who continue to believe in this country enough to put life and limb on the line without qualification, and they serve so that the sons and daughters of the other 99% don’t have to.*¹⁵

Secretary Kelly’s speech highlighted the growing disconnect between the military and society in how they deal with sacrifice and tragedy. With such a small segment of society that is quantifiably susceptible to suffering the loss of a member in the armed forces, efforts must be made to bridge any divide between military leaders and those surviving families who are forever bound in tragedy. Personal experiences in loss have shaped many leaders, having shown them the importance of connecting leaders-to-surviving families, leaders-to-leaders, and leaders-to-support services.

In an interview discussing a leader's duty in loss, Colonel (Retired) Jeanette McMahan, a West Point graduate and Gold Star widow, shared what many leaders and surviving families have echoed when discussing the appropriateness, timeliness, and need for leaders to connect with grieving families; each will be dependent upon circumstance.¹⁶ Speaking from her experience as both a military leader and as a surviving family member, COL (Ret) McMahan conveyed what other professionals and families expressed while being interviewed for this research; the ideal circumstances for a "leader-to-surviving family connection" begins prior to the loss and that this connection should consider the mutually-supporting benefits that can be provided to all affected. Terry Meyer, a respected Gold Star father and TAPS counselor, reiterated this same sentiment. While discussing how the military has shown a gracious and generous desire to comfort his family following the loss of his son, Specialist Brandon Meyer, Mr. Meyer expressed that "leaders must know the family before deployment."¹⁷ Elaborating further, he explained that leaders should be proactive in the pre-deployment process, to include learning some of the more intimate family dynamics surrounding their service members, as well as being able to speak face-to-face with families specifically about worst-case scenarios. In sharing his story, Mr. Meyer recounted how the interactions he continues with members of his son's unit have been overwhelmingly fulfilling, and above what he would term, "the call of duty." Equally important, he spoke of how he believes families can be of support to the leader in their grieving process. As he expressed, "The families feel that they have a duty to give back to those who were willing to die for their loved one."

Many military members often assume that families may hold them accountable, or the families may be caused additional pain by having a connection to those who served alongside their loved one. Others may experience "survivor's guilt" and some simply may not be ready. Although these assumptions and feelings may be true, the sticking point is that leaders may not know or realize the role they can play in helping a family heal and how a connection to the surviving family can help them heal as well. Nonetheless, as Gold Star father Mr. Andrew Marshall conveyed,

Nothing that you [the leader] can say [regarding the event surrounding the loss], will make me hurt any more than I have already hurt, because when I lost my son, I maxed out my ability to hurt. I may have an emotional response, but I cannot hurt any more than I already do. With that, please share with me all that you can, so that I may be able to experience some of what you have.¹⁸

The words of this Gold Star father should strike a chord with all leaders. The underlying message is that surviving families acknowledge that they were not part of the event in which their loved one, your service member, lost their life. These words also express a deep empathy for what leaders carry from that traumatic experience. A leader-to-surviving family interaction is not about unloading one's pain onto the other. The connection between a leader and a surviving family relationship is based in part on the shared understanding of losing someone that both cared about and had a responsibility for during various times in their lives. As some leaders and commanders wrestle with the timeliness and appropriateness of reaching out to surviving families, it is important to understand that there may be emotional responses and plenty of questions. More important, leaders need to understand that these surviving families want to connect to those leaders that knew and cared for their loved one, and that they are not forgotten. Most importantly, a leader-to-surviving family relationship is about remembering these fallen heroes impacts on our lives, and for the families and leaders there is great comfort in not forgetting.

Connecting Resources¹⁹

By looking at what families need from leaders and what leaders need from families we can identify those programs, ideas, concepts, and concerns that are of most benefit to a leader-to-surviving family connection. In addition, we can identify what leaders wish they had known to be better prepared for the duties of leadership following tragedy and loss. Professionals, such as Jaime Fitzpatrick, a Licensed Clinical

Professional Counsellor with close ties to the military community, acknowledge that leader-to-family connections will vary based on needs and reactions to grief and loss. Therefore, Mrs. Fitzpatrick suggests the more resources and options available to leaders and families, the better to all those impacted and affected by the loss.²⁰

Organizations such as TAPS and Survivor Outreach Services (SOS) provide immediate and long-term support and services to surviving families. A key component to the success of these programs is their ability to connect and network a community of those who have a shared or similar experience in loss. As stated in part of the TAPS message, “Being a military family requires a special commitment and dedication.”²¹ The networks of TAPS and SOS enable them to reach and connect surviving families to the support and resources they need, based on where there are in their grieving process. The function of these networks is to raise awareness, let these families know what is out there, and provide tools to help as they cope and react through their various stages of grief.

A study noted in *Military Psychology* found that in group settings, individuals who have lived through similar traumatic experiences are afforded more credibility within the group, and that these experiences can help create a support network able to support others with these same experiences, perspectives and questions.²² As stated in the Army Community Service Grieving Guide, following a significant event, individuals will gravitate to those with who have similar experiences.²³ Any leader or family member who has experienced loss understands that the grieving process is not a successive process, and often the five stages of grief (denial, anger, bargaining, depression, and acceptance) will not necessarily occur in an orderly process. In fact, affected individuals may move back and forth between the stages and may revisit one or more throughout their journey. Knowing this, as well as having an understanding of the challenges that come with dealing with loss, should magnify the need to seek connections with others who have suffered similar losses to help with the grieving process.

Recommendations

If we as a military expect that our future will include warfare, there are things we need to continue doing to better prepare our leaders for the most difficult of duties that come with leading the servicemen and women of today and tomorrow.

First, a leader support network comprised of leaders who have lost service members under their lead or command should be created. The leader support network should include a service-wide database for management and oversight. A database similar to what SOS and TAPS utilize to manage their vast networks of individuals and families over lengthy periods of time and distance would likely be sufficient for this task. A network such as this will further support a tool kit approach to providing leaders with networking, support, and the ability to share recommendations of “battle drills” or “best practices” following the loss of a service member.

Second, if a worst-case scenario happens within a unit, the impacted leader should be automatically integrated into the leader support network for mentorship and counseling in an effort to better support the leader through this most challenging of times and circumstances. Similar to how the Department of Defense made a concentrated effort to reduce the stigmas associated with receiving mental and behavioral health services, leaders should not feel hesitant to reach out to others who have experienced this type of loss. Because of the leader-centric mentorship and counseling being proposed here, behavioral and mental services should also be utilized to meet each individual leader’s needs.

Next, there is a need for leader-specific pre-command/mission/deployment training that focuses on what to expect following worst-case scenarios. This training should be provided to leaders by leaders who have experienced loss while leading (i.e., a leader support network). Leader training should continue to

include those services provided by Army Community Service because, as SOS coordinator Lisa Pokorny stated, “Even when the war is over, we are still here.”²⁴ Army Community Service will continue to provide Soldiers, leaders, families, and the installation with great resources, services, and support and is often the connecting tissue between surviving families and the military community.²⁵

Fourth, and most important within the context of this article, given these tools, resources, and knowledge, it is the hope that leaders will act upon their innate sense of duty to reach out to surviving families. Leaders may find that families do not hold them responsible for the loss of their loved one and may find that the interaction helps put the family’s mind at ease. It is important for leaders to understand that the families are not looking to them for counseling support or services. They are looking to them to help bring the life of their loved one full circle, to close gaps, and to provide a sense of closure to the event that took the life of their loved one. Each family will have different dynamics, meaning that there is no prescriptive approach to how to approach each interaction. It is critical that leaders know the benefits and services that are offered to surviving families and be able to speak to or point families to those services should it be necessary during an interaction.²⁶

Lastly, the timing of grief will affect the ability to build a relationship between the leader and the family. Because of this, a leader’s actions and activities prior to the event (or deployment) will help open the lines of communication and set the conditions to support the leader-to-surviving family relationship following a traumatic experience.²⁷ Although the lack of a preexisting relationship with the family does not mean that a relationship cannot be established after a loss, it will help with the initial outreach that is key to a connection following a loss.²⁸

Conclusion

The challenges of continuing to lead, fight, and live life following a tragic and untimely loss must be further mitigated so the U.S. military can continue to put forth the best force capable of defending our nation, while also recognizing and remembering the sacrifices of those who gave their lives out of a profound sense of duty. For many leaders, the care and concern for service members does not end when the guidon is passed. Although the responsibility for them may no longer be that leaders to shepherd, the duty they feel will remain. Those leaders who have lost service members should act upon that same sense of duty, connecting to surviving families and letting them know the legacy of their loved one still continues to grow. In doing so, leaders will also be provided with a great resource to help you in their grieving and coping process that will improve overall mental fitness and make them more resilient leaders.

*It pays great dividends to reach out to surviving families.
It demonstrates that the military cares beyond that knock at the door.
Our continued interactions with these families demonstrates
the significance of their loved one on us and on the unit.*

- Chaplain Doug Windley²⁹

Endnotes

- 1 6,866 U.S. service member deaths and 3,318 suicides from 9/11/01 to current date. <http://thefallen.militarytimes.com>, and <http://www.usatoday.com/story/news/nation/2016/04/01/us-military-suicides-remain-stubbornly-high/82518278/> (accessed December 10, 2016).
- 2 <http://www.taps.org/survivors/survivor.aspx?id=6762&c=1120> (accessed December 10, 2016). The Tragedy Assistance Program for Survivors (TAPS) offers compassionate care to all those grieving the death of a loved one serving in our Armed Forces (www.taps.org).
- 3 <https://www.hrc.army.mil/content/CMAOC> (accessed December 10, 2016). The Casualty and Mortuary Affairs Operations Center executes the full-spectrum of Army Casualty and Mortuary Affairs to support DOD-directed missions, Soldiers and Families for present and past conflicts. CMAOC serves as lead agent for the Defense Casualty Information Processing System (DCIPS) and provides assistance to the families of fallen Soldiers.
- 4 “ARSOF 2022,” United States Army John F. Kennedy Special Warfare Center and School’s Office of Strategic Communication (May, 2013).
- 5 Interview with Chaplain (Major) Doug Windley conducted January 31, 2017 telephonically from Fort Leavenworth, KS. CH (MAJ) Windley is a TAPS Survivor Care Team counselor and the 60th Troop Command Brigade Chaplain in the Army National Guard. He holds a Master of Divinity and a Master of Arts in Theological Studies.
- 6 The author would like to thank Major Tabitha Hernandez for her support in the editing of the literature review and her help in providing synthesis to the material.
- 7 “An Achievable Vision: Report of the Department of Defense Task Force on Mental Health,” Department of Defense Task Force on Mental Health. Falls Church, VA: Defense Health Board. 2007. <http://www.taps.org/uploadedFiles/TAPS/RESOURCES/DOD%20Mental%20Health%20Task%20Force%20Report.pdf> (accessed December 11, 2016).
- 8 “An Achievable Vision: Report of the Department of Defense Task Force on Mental Health,” Department of Defense Task Force on Mental Health. Falls Church, VA: Defense Health Board. 2007.
- 9 Dale W. Russell, David M. Benedek, James A. Naifeh, Carol S. Fullerton, Robert D. Forsten, and John T. Cacciopo, “Social Support and Mental Health Outcomes Among U.S. Army Special Operations Personnel,” *Military Psychology* 28, no. 6 (November 2016) 361–375.
- 10 Dale W. Russell, David M. Benedek, James A. Naifeh, Carol S. Fullerton, Robert D. Forsten, and John T. Cacciopo, “Social Support and Mental Health Outcomes Among U.S. Army Special Operations Personnel,” *Military Psychology* 28, no. 6 (November 2016) 362.
- 11 Dale W. Russell, David M. Benedek, James A. Naifeh, Carol S. Fullerton, Robert D. Forsten, and John T. Cacciopo, “Social Support and Mental Health Outcomes Among U.S. Army Special Operations Personnel,” *Military Psychology* 28, no. 6 (November 2016) 361.
- 12 Grieving Guide. (2017). Army Community Service.
- 13 John Arquilla, “To Build a Network,” *Prism* 5, no.1 (2014): 22-33.
- 14 Payal Sharma, and Matthew J. Pearshall, “Leading Under Adversity: Interactive Effects of Acute Stressors and Upper-Level Supportive Leadership Climate on Lower-Level Supportive Leadership Climate,” *The Leadership Quarterly* 27 no.6 (2016): 856-868.

15 Transcript of Speech given by Lt. Gen. John Kelly to the Semper Fi Society of St. Louis on November 13, 2010. Transcript published by American Thinker. http://www.americanthinker.com/articles/2010/12/an_extraordinary_speech.html (accessed December 13, 2016).

16 Interview with Colonel (Retired) Jeanette McMahon conducted February 17, 2017 telephonically from Fort Leavenworth, KS. In addition to retiring as an Operations Researcher from the U.S. Army, COL (Ret) McMahon is a Gold Star spouse. COL (Ret) McMahon continues to support the military community around West Point, NY, supporting leadership development programs such as the Thayer Leadership Development Group.

17 Interview with Mr. Terry Meyer conducted February 3, 2017 telephonically from Fort Leavenworth, KS. Mr. Meyer is a Lutheran Minister, holds a Master of Divinity degree and provides counseling services. Following the loss of his son, Specialist Brandon Meyer, on January 28, 2008, Mr. Meyer along with his wife, Genia, are active members of the TAPS community.

18 Shared with the author by Mr. Andrew Marshall of Athens, Georgia, regarding the author's experience of the events on January 28, 2008, in which Mr. Marshall's son, Corporal Evan Marshall, was KIA along with four other soldiers by an IED in Mosul, Iraq.

19 The central question of this paper could have been addressed solely from a social scientist perspective however, it was also important to integrate psychological research and components because of the mental and behavioral health impacts that can manifest from a traumatic-event experience. In addition, most current literature and studies related to trauma, resiliency and coping with loss come from the field of psychology. However, the primary focus of their research is on the mental health aspect of military-to-military support, survivor-to-survivor support, organization-to-survivor support, or community-to-survivor support. A sociological perspective allows for a careful examination of the relationship between military leaders, surviving family members, the organizations that support each, and the communities in which they surround themselves.

20 Interview with Mrs. Jaime Fitzpatrick, Licensed Clinical Professional Counselor (LCPC), conducted January 30, 2017 at Fort Leavenworth, KS. Mrs. Fitzpatrick holds an M.S. in Clinical and Mental Health Counseling and works as a private practice LCPC.

21 US Army, *Tragedy Assistance Program of Survivors Survivor Guide*, (Washington, DC: Department of the Army, 2010).

22 Dale W. Russell, David M. Benedek, James A. Naifeh, Carol S. Fullerton, Robert D. Forsten, and John T. Cacciopo, "Social Support and Mental Health Outcomes Among U.S. Army Special Operations Personnel," *Military Psychology* 28, no. 6 (November 2016) 363.

23 US Army, *Grieving Guide*, (Washington, DC: Department of the Army, 2017).

24 Interview with Ms. Lisa M. Pokorny, Survivor Outreach Services Coordinator, Army Community Service, conducted February 6, 2017 at the Fort Leavenworth Resiliency Center.

25 Interview with Ms. Janice L. Downey, Division Chief, Army Community Service, Fort Leavenworth, conducted February 6, 2017 at the Fort Leavenworth Resiliency Center.

26 Interview with Colonel (Retired) Jeanette McMahon conducted February 17, 2017 telephonically from Fort Leavenworth, KS.

27 Interview with Jo Dempsey conducted February 8, 2017 at the Command and General Staff College, Fort Leavenworth, KS. Ms. Dempsey is a West Point graduate, and following her time in the service as an Operations Research Analysis, she worked at the Family Readiness Support Advisor for the 101st Airborne

Division (Air Assault), and as a director of Army Community Service in Germany and Joint Base Lewis-McChord. Ms. Dempsey is currently a student at the Army Command and General Staff College.

28 Interview with Dr. Tracy Epps conducted January 31, 2017 at the Command and General Staff College, Fort Leavenworth, KS. Dr. Epps holds a Ph.D. in Industrial Organizational Psychology. In 2009, Dr. Epps helped develop the sustainment modules for the Army's Comprehensive Soldier Fitness Program. She serves in the Army as a Research Psychologist and is currently attending the Army Command and General Staff College.

29 Interview with Chaplain (Major) Doug Windley conducted January 31, 2017 telephonically from Fort Leavenworth, KS.

Jus ad Bellum: A Noble Concept in Need of Renewal

by Prisco Hernandez

The idea that that going to war is a moral decision that can be justified only in light of the need to preserve or achieve a greater social good, namely, to rectify an unjust situation and to achieve a lasting peace, is one that has dominated Western moral thinking about war for centuries. Although the ideas which developed under the concept of *jus ad bellum* are still present in discussions about decisions about war and peace, the original moral grounding for these ideas has been largely forgotten. This loss of connection between the underlying moral concepts which validate the idea of the just war and the expressions of the just war in international law and protocols have diluted the moral authority of these legal documents. Without moral authority decisions to go to war become merely a matter of political expediency and are removed from the domain of morality. Once removed from the moral realm, decisions on war and peace tend to become a matters of raw power-politics. Granted, foreign policy realists would argue that these decisions, when stripped of their rhetorical justification are truly reducible to what leaders deem advantageous to their personal or national interests. But others may point out that, given the need for justification in public diplomatic discourse and most especially in international forums such as the United Nations, arguments based on moral authority, when solidly grounded, cannot be so easily ignored. Our purpose is twofold: first, to examine the reasons for the loss of connection between the justification of war and morality, and then, to determine whether the ideas expressed in the traditional concept of *jus ad bellum* are still valid even in what many believe to be a radically different global environment. Finally, we offer some ideas on how the idea of *jus ad bellum* could be recovered and revitalized for a globalized and diverse world.

To understand the concepts that govern *jus ad bellum* it is important to understand that they are rooted in the idea of natural law. The concept of natural law, *ius naturalis* in Latin, was developed by Roman statesmen such as Cicero and other juridical thinkers. These men united the concept of Roman civic duty, the idea that the laws that order relations among nations—*ius gentium*—are governed by rational norms akin to those of nature *ius naturalis*, and the idea that decisions for war must be morally justified. Both of these ideas were rooted in the ethical ideals proposed by the Stoic school of philosophy which was very influential among the Roman educated classes and which hold up Nature (with a capital N) as a divine force which ultimately orders all that exists for the good. As Cicero noted: “If we follow Nature as our guide, we shall never go astray.”¹ Romans could be cynical pragmatists and were certainly ruthless in imposing their will on other peoples; but even so, they did not, as a rule, make decisions to go to war lightly, or on mere impulse. To the orderly Roman mind, war was too grave an affair to be left to arbitrary decisions of despots and its consequences too severe to be merely a tool to be used at whim. When advising on whether a state should go to war Cicero observes that: “... in the case of a state in its external relations, the rights of war must be strictly observed. For since there are two ways of settling a dispute: first, by discussion; second, by physical force; and since the former is characteristic of man, the latter of the brute, we must resort to force only in case we may not avail ourselves of discussion.”² Furthermore, Cicero clearly stated that the natural state of affairs between nations was one of peace, not war. “The only excuse, therefore, for going to war is that we may live in peace unharmed; and when the victory is won, we should spare those who have not been blood-thirsty and barbarous in their warfare.”³ This was indeed, one of the main difference between civilized peoples, such as the Romans and the Greeks, and mere barbarians. Once conquered peoples were brought

under Roman rule, they were offered the guarantee of a peaceful existence under what came to be known as the *Pax Romana*—the Roman rule of law.

After having enjoyed several centuries of security under the *Pax Romana*, the peoples living under Roman rule expected protection from the state as barbarian tribes continued to exert more pressure on Roman frontiers. By the fourth century A.D., the Roman Empire was crumbling. It had also officially become a Christian state. Bishops were not only responsible for the spiritual wellbeing of their flocks. They also served as imperial functionaries. At times, they had to offer even military advice to a failing imperial system. Bishop Augustine of Hippo was a brilliant writer. Had he only written his *Confessions*, it would still be counted among the classics of Western literature. But it is in his massive tome, *The City of God*, where Augustine attempts to understand the meaning of history and of tragic contemporary events, such as the sack of Rome by the Vandals, as part of God's overall plan of salvation. In it, he explains the relationship between "The City of the World" and the "City of God" or as we would say today, between church and state. Since he was not a systematic thinker, we cannot find a detailed theory of war and peace anywhere in Augustine's writings. What we do find, are ideas on fruitful ways in which the competing demands of evangelical perfection and the imitation of Christ may be accommodated to the demands of justice, the protection of the vulnerable, and the responsibility of society to protect its citizens. Christian ethics demands justice or right moral reason not only in the decision of going to war but also in one's actions in war. First, it is necessary to decide whether war is a valid moral option at all. As we have seen, from the Christian perspective, an individual person always has the option of submitting to martyrdom in perfect imitation of the example of Christ. However, martyrdom, strictly speaking, does not include meek submission to a criminal or to unlawful violence. Martyrdom is offering one's life only because one is a Christian. Thus, a Christian need not submit to criminal assaults, barbarian depredations, or (in our time) terrorist assaults. In such cases, Christians are not being asked to renounce their faith and offered the choice of life or death, they are simply being victimized. Furthermore, when a large proportion and even a majority of a state's population is Christian and Christians are in positions of social responsibility, they have an obligation to protect their fellow citizens by virtue of their position. Even if when martyrdom would be feasible as a personal choice, it is still not a choice that could be made by one person on behalf of others, particularly if his/her position includes the responsibility to protect others.

The next step towards the systematization of Christian thinking in matters of war and peace was taken in the thirteenth century by Thomas Aquinas, a Dominican Friar and professor of Theology at the University of Paris. As an admirer of Aristotle, Aquinas was a master of deductive reasoning from premises. As a Christian philosopher, Aquinas distinguished between the domain of theology and that of philosophy. Christian theology could legitimately rely on premises derived from scripture and revelation whereas philosophy would have to rely on premises obtained solely through the use of natural reason. As a matter of practice, moral matters were treated in the light of Christian revelation and doctrine and were therefore considered theological rather than philosophical problems by Aquinas. Accordingly, Aquinas treated the problem of whether it is legitimate to go to war, and under what conditions would this be permissible in his encyclopedic work of theology, the *Summa Theologiae*. The masterly use of deduction and the systematic acknowledgement and critique of reasoned objections make his logic almost watertight provided that one accepts the premises Aquinas' proposes. He examines the problem of war in terms of the legitimate defense of justice within a Christian commonwealth of nations. He uses both Scripture and the ideas expressed by Augustine to delineate what may be termed the classic Christian position on this issue. "Those who wage war justly," writes Aquinas, "aim at peace, and so they are not opposed to peace, except an evil peace" meaning an unjust peace.⁴ Thus, just war is not only legitimate, but sometimes morally necessary to preserve or institute justice in this world. Next, Aquinas establishes the conditions that must be met in order to wage just war. These are: 1) it must be waged by someone in a position of rightful authority, that is a Christian sovereign; 2) it must be waged for a just cause; and 3) those who wage it must do so with rightful intention;

that is, not for any base motives of personal ambition or revenge, but for the establishment of a just peace. From the perspective of scholastic philosophy and theology, Aquinas' guidelines had unquestionable authority, an authority that eroded only with the dissolution of Christendom and the advent of secularism in foreign relations.

The Italian thinker Niccolò Machiavelli was the first to diverge sharply from the principles maintained by Aquinas. He proposed what many took to be a pragmatic, cynical, and ultimately amoral view of the role of war, and power generally, in political life. In his treatise *The Prince* he wrote: "The man who wants to act virtuously in every way necessarily comes to grief among so many who are not virtuous."⁵ Machiavelli's writings may have reflected more faithfully the political realities of his time, but as ideals to follow and as policy guidelines, his ideas were roundly condemned by most thinkers at the time and his name has forever come to be associated with cynical political manipulation. The sixteenth century saw the division of Christendom into a Catholic and a Protestant camp. This led to a century of very bloody wars in the name of what the contenders proclaimed to be the true religion. In the end, out of sheer exhaustion, and war-weariness, both camps signed a momentous peace treaty at Westphalia. The Peace of Westphalia, among other things, ensured that European powers would in future refrain from waging war in the name of religion. It also marked the beginning of the modern era of international relations dominated by the nation-state as the sovereign entity. These interests, in turn were now entirely secular. Arguments were framed in terms of what the French called *raison d'état* and on legal grounds and became increasingly divorced from any moral claims. Wars were now waged for narrowly dynastic interests among the crowned heads of Europe as exemplified by the wars waged by Louis XIV of France who famously equated the state's interests to his own—"L'état c'est moi." The French Revolution and the Age of Napoleon glorified concepts of nation and ethnicity and ushered in the age of nationalisms. In the nineteenth century European nations consolidated their power and expanded their reach to the point that most of Asia and Africa came under direct or indirect colonial rule by Europeans. The rise of capitalism and democracy only meant that narrow dynastic interests were replaced by broader nationalistic ideals of a country's "civilizing mission" and "rightful place in the world" as well as the commercial and financial interests of the ruling elites. This extreme nationalism was exemplified by the aggressiveness of the Prussian state and later of a unified German state guided by the militaristic policies of Chancellor Otto von Bismarck, who advocated a policy which we would now call "preventive strikes" against neighboring states.

The twentieth century saw the breakdown of the balance of power system which was the foundation of European stability for nearly a century following the Napoleonic Wars. The systematic mobilization of entire societies, the tremendous power of modern weapons, and the technologies generated by the industrial and scientific revolutions of the nineteenth century made war ever more pervasive throughout entire societies and more destructive at the point of conflict. The introduction of machine guns, heavy artillery, tanks, airplanes and submarines made gruesome caricatures of the traditional notions of gallantry and *élan*. After all, what could hundreds, or even thousands, of valiant men do against the death of traditional romantic notions of jingoistic nationalism? Out of its ashes and unresolved problems emerged the brutal totalitarianisms of the mid-twentieth century—Nazism, Fascism, Stalinism, and Japanese militarism which brought about an even greater conflagration—World War II. The unprecedented levels of destruction on a sustained scale world war made even more terrible by new weapons and tactics of mass destruction such as aerial carpet bombing, fire bombing, mechanized warfare, unrestricted submarine campaigns, were complemented by social policies such as the imprisonment and enslavement of whole classes of people, cruel experimentation with human beings, and Nazi policies of ethnic cleansing and extermination. Totalitarian regimes abused and tortured prisoners without regard to the traditional standards of warfare. Many combatant armies used rape and physical abuse of civilian populations as an instrument of policy and revenge. Both war and policy were united as never before and entire societies were mobilized for war. The crescendo of destruction culminated only when a lone airplane dropped two small bombs with

unprecedented destructive power over Hiroshima and Nagasaki thus ending the war. Ironically, the fear of nuclear annihilation was probably the only thing that prevented a further clash between a victorious and confident Soviet Union and the United States and its allies. The end of WWII saw the institution of war crimes tribunals at Nuremberg and Tokyo and the conviction of those found guilty of having committed “crimes against humanity.” This led to a desire for international agreements to prevent, limit, and regulate the conduct of war.

After the disaster of World War II, the leaders of the victorious allied powers decided to create an international forum intended to avoid future wars. Thus the United Nations, emerged out of a desire for peace born out of sheer war-weariness. A similar institution, The League of Nations, had been tried and found wanting after the First World War—arguably the failure was due to the lack of participation by the United States and lack of representation by other key powers on the losing side of the war. This time, the United States took the lead and pressured other countries to join in the creation of the United Nations. As is well known the United Nations is, at present, a very flawed institution plagued by internal divisions, unwieldy, and beholden to a wasteful bureaucracy. Time and again, it has proved impotent in the face of crisis. Despite its weaknesses, it is all we have; and it is better than nothing. The United Nations has adopted a universal declaration of human rights which has been signed by most members. This and other similar documents embody the principles embraced and defended by secular liberal democracies. From the start, the communist bloc and other totalitarian nations resisted the universal adoption of these ideals. Soon after the massive process of decolonization in Africa and Asia, many newly-independent regimes protested what they deemed the imposition of foreign values, often to cover their own failings and violations of human rights, and as such is resented by nations that claim that these principles represent nothing other than ideological colonialism. This approach takes advantage of the perceived equivalence of morality and custom and of the moral relativism advocated by many in the social sciences. Thus, the moral force of traditional Western thinking about the just war became greatly diluted and reduced to a form of legalism and persuasion based on emerging common acceptable practices in the community of nations.

Almost from the moment that Soviet tanks rolled over the ruins of Hitler’s bunker in Berlin, the Soviet Union emerged as an ambitious and powerful rival to the allied powers who, under the leadership of the United States, came to be known as the Western democracies, or simple as “The West.” The Soviet Union under Stalin’s totalitarian dictatorship sought the spread of its brand of communism throughout the world embracing the Marxist-Leninist ideals of class struggle. The rise of the Berlin Wall and Winston Churchill’s famous declaration that “an iron curtain has descended upon Europe inaugurated the Cold War between the western democracies headed by the United States, and the communist world headed by the Soviet Union and China. The acquisition of nuclear weapons by the communist bloc made the specter of nuclear holocaust real; but, at the same time, made war between the two superpowers, the United States and the Soviet Union highly improbable. However, given the realities of superpower competition for world supremacy, both camps supported minor allies that served as their proxies around the world. Thus, the Cold War Era was also the time of innumerable “small wars” which were in many cases not so small in the numbers of casualties, destruction of civilian infrastructure, and human suffering. There were wars in Greece, Eastern Europe, Malaya, Vietnam, Indochina, Angola, South Africa, Eritrea, the Middle East, El Salvador, Cuba, and many other well-known and obscure places around the globe. The record of the United Nations in preventing or stopping these wars was dismal. This was mostly due to the dysfunctional structure and the fact that two nearly equal opposing camps were part of the organization and generally neutralized each other as permanent members of the Security Council.

Since it was created by secular democracies and officially atheistic powers such as the Soviet Union and China, the United Nations embraces secular values and has little space for religion. These values are often described as “humanitarian” and ultimately derived mostly from the values of the European Enlightenment and a materialistic world-view. The resulting political discourse has little use for standards of objective

morality such as are offered by the major world religions or even secular absolute values such as the Kantian categorical imperative, or other deontological, natural law based, or eudaimonistic moral theories. In concert with its governing world-view, religious views are tolerated, and occasionally, religious figures such as the Pope or the Dalai Lama are invited to speak at its halls, but they are not taken seriously as part of the political discourse. As former President Jimmy Carter points out in his preface to the book *Religion: The Missing Dimension of Statecraft*, “Historically and currently, we all realize that religious differences have often been a cause or a pretext for war. Less well known is the fact that the actions of many religious persons and communities point in another direction. They demonstrate that religion can be a potent force in encouraging the peaceful resolution of conflict.”⁶ In recent years, various Popes, as leader of the Roman Catholic Church, a religious group that numbers nearly 1.3 billion souls world-wide have been very influential in world politics. At the outbreak of WWI Pope Benedict XV called on European leaders to stop what he termed their collective suicide and the underlying attitudes of nationalism, racism, and class conflict. The documents of the Second Vatican Council condemn war as evil and outline the responsibilities of national leaders to achieve peace with justice. Pope John Paul II was instrumental in accelerating the fall of totalitarian communism in Eastern Europe. Pope Benedict XVI engaged in constructive dialogue with Muslims and Jewish leaders. Today Pope Francis has continued the need for dialogue and for working together for common causes among all Christians, as well as between Christians, Muslims, Jews and all other men and women of good will. In order to reduce the persecution of Christians in the Middle East and other places, he will be meeting with Muslim leaders in Cairo’s Al Azhar University. Another leader who is a strong advocate for peace is the Dalai Lama, the leader of Tibetan Buddhism. Anglican Archbishop Desmond Tutu is of course a hero to millions for his role in South Africa’s dismantling of apartheid and his pioneering work in establishing truth commissions for social healing.

The failure of the United Nations to prevent war and even to intervene effectively once war has started is now compounded by the lack of moral consensus other than a vague interest by most member nations at a given time to abide by “humanitarian values.” This vague humanitarianism is further weakened by the prevailing Machiavellian political realism that places the perceived national, and in many cases, the personal interest of authoritarian leaders, over the greater good for humanity. As some observers have pointed out, only the major world religions have the philosophical and historical depth, and possess sufficient hold over the minds and hearts of millions of people to provide the ethical force needed for lasting peace. Despite Marx’s famous dictum the religion was the opium of the masses, Marxism, in its various forms proved to be far more oppressive and stultifying to the human intellect and spirit than any religious system had ever been. Western unbridled capitalism or neoliberalism, has proved entirely empty of moral meaning and Secular Western philosophies rose and fell with dizzying rapidity and have ended in tautological, often nihilistic pronouncements devoid of any real meaning and with little ability to inspire or shape a moral life. The Islamic revival has reminded the West that religion as a human aspiration to the eternal cannot be denied. If it has often taken the form of a dogmatic fundamentalism, this does not mean that the religious impulse could not be channeled into more productive and humane forms of expression. We now have tried to legislate morality. But law in and of itself, has little persuasive power when divorced from its moral foundations. As we have seen in our short survey of the development of the idea of the just war and the *casui belli* that may be used to justify the decision to go to war lack of consensus and reliance on secular values grounded on custom or preference will not carry the moral authority necessary to persuade leaders and population to the cause of peace. Our contention is that only when religious leaders from the major world religions have the requisite moral authority to design a code of ethics based on absolute values that could be morally persuasive. The challenge is that this can only happen when the various world religions agree to search within the ethical bases of their respective traditions for a set of common values that would be applicable and acceptable to the faithful. This is a clear and present challenge; it is also our hope.

Endnotes

- 1 Marcus Tullius Cicero, *De Officiis*, trans. Walter Miller (New York: Macmillan, 2014), par. 100.
- 2 Marcus Tullius Cicero, *De Officiis*, trans. Walter Miller (New York: Macmillan, 2014), par. 34.
- 3 Marcus Tullius Cicero, *De Officiis*, trans. Walter Miller (New York: Macmillan, 2014), par. 35.
- 4 Thomas Aquinas, *Summa Theologiae, Quaestio 40 De bello*, accessed 21 January 2017, <http://www.newadvent.org/summa/3040.htm>.
- 5 Niccolò Machiavelli, *The Prince*, trans. George Bull (New York: Penguin, 1981), 43.
- 6 Jimmy Carter, “Foreword,” in *Religion, The Missing Dimension of Statecraft*, ed. Douglas Johnston and Cynthia Sampson (New York: Oxford University Press, 1994), vi.

The Moral Magnetic Field

by Jonathan Holm

The world is an imperfect place and humans are imperfect beings. In light of this, societies have developed ethics to guide their members through life by assigning “good/right” or “bad/wrong” value judgments to their actions. These value judgments steer the members toward preferred behaviors. Three of the most common ethical frameworks are virtue ethics, mission ethics, and duty ethics. The world is too complex for one’s moral compass to be attuned solely to one of these schools of thought. Not one ethical paradigm provides a flawless framework to guide moral behavior. Perhaps the most compelling case for this argument is that if one paradigm were clearly sufficient it would be universally adopted. This is not the case and even people from similar cultures often incorporate elements of virtue, duty, and mission ethics. In order to maintain appreciation for the complexities inherent in each of these ethical lenses, organizational leaders would be well served to see the ethical landscape of their organization, and for each individual within that organization, as a moral magnetic field, characterized by the interplay of these concepts.

More than a decade ago the Army instituted the Army values, a set of principles intended to provide ethical guidance to Soldiers. Though referred to as values, the Army values of loyalty, duty, respect, selfless service, honor, integrity, and personal courage are consistent within the context of virtue ethics. Aristotle described a virtue as the “golden mean” between the extremes of excess and deficiency in a certain quality.¹ This is a useful way to consider each of the Army values. Using the Army value of personal courage as an example, this virtue exists as the “golden mean” between cowardice (an extreme of deficiency) and foolishness (an extreme of excess). However, the challenge is finding the “golden mean” in practice since the lines between cowardice, courage, and foolishness are not always distinct. In a firefight, when perfect awareness is impossible, under what conditions is it courageous or foolish to move out of a covered position or to assault a fortified position? Ultimately, the answer is a judgment call based upon the individual’s understanding of the situation and ability to remove emotions from the decision-making process. Understanding that a virtue which may seem straight-forward is actually imbued with nuance and uncertainty in practice is an important first step toward sensing the moral magnetic field.

The application of virtue ethics to Army values does not end here. There are times when a virtue may be in conflict with itself. In describing the Army value of loyalty, the Army’s official website describes a loyal Soldier as “one who supports the leadership and stands up for fellow Soldiers.”² There may be times when loyalty to both the commander and subordinates are not congruous. One may then feel pulled between these two metaphorical magnets. When this occurs, the magnitude of these forces may be unequal-pulling the leader toward one side.

Additionally, a leader may experience a situation where multiple Army values seem to be in conflict with one another. Again, the magnitude and vector of these forces may vary and this variance can help the leader arrive at a decision. For instance, in some hypothetical case, the ethical pull of duty may more closely align with the ethical pull of loyalty to the commander, thus helping the leader decide between several ethically imperfect decisions.

Using the moral magnetic field as a mental model is not bereft of potential hazards. Like a true magnetic field, an ethical magnetic field can be felt. Unlike a true magnetic field, though, it cannot be empirically measured. For a leader considering multiple ethical options, the moral magnetic field will not provide a

numerical solution, able to be expressed in terms of greater or lesser ethical virtue. Instead, the worth of the moral magnetic field lies in approaching ethical decisions with a more nuanced appreciation of the decisions at hand and the multiple ethical factors at work.

The same mental model of an ethical magnetic field can be applied when considering duty ethics versus mission ethics. Duty ethics (or the “ethics of rules”) and mission ethics, (also known as outcome-based ethics) each have strengths and weaknesses. Rules can be thought out ahead of time, and they simplify and expedite ethical decision-making. This provides a standard for ethical behavior to be applied in every situation. The greatest weakness of duty ethics is that rules cannot be generated in advance for every conceivable scenario, potentially leading to a mindless adherence to rules resulting in tremendous harm. Conversely, the value of mission ethics emphasizes anticipating the outcome of an action and drives a decision that would generate the most good or least harm. The greatest flaw with mission ethics is that the world tends to be unpredictable. A leader’s expectation that a certain action will result in greater good than harm does not guarantee the case in reality. In dealing with this dilemma, applying the magnetic field approach may be useful where the magnitude of the force of duty ethics may be governed by the applicability and purpose of the rule, while the magnitude of mission ethics is determined by the likelihood, recipients, and severity of the outcome.

Each of the ethical frameworks examined above—virtue ethics, duty ethics, and mission ethics—have advantages and disadvantages. While fully subscribing to one framework or the other may ease one’s ethical decision-making, it does not guarantee better ethical decisions. The world is simply too complex. A “one size fits all” approach to ethical decision making also does not account for the fact that most people are impacted by virtue, duty, and ethics at varying times and to varying degrees with each ethical decision they face. People feel buffeted by questions of “what is the virtuous thing to do here” and “what do the rules tell me to do” and “what will produce the greatest good” all in rapid succession. The moral landscape as a magnetic field with various forcing pulling the needle of one’s moral compass in different directions. Understanding the complexity of this magnetic field is a necessary first step toward ethical leadership.

Endnotes

1 Command and General Staff College, “E103 Virtue and the Soldier Leader site,” *Virtue Theory Summary*, n.d., https://cgsc.blackboard.com/bbcswebdav/pid-55419-dt-content-rid-119916_1/xid-119916_1 (accessed on October 15, 2013).

2 The United States Army, “Army Values,” *The Army Values*, n.d., <http://www.army.mil/values/> (accessed on October 15, 2013).

The Islamic State's Tactics in Syria: Role of Social Media in Shifting a Peaceful Arab Spring into Terrorism

by Steve Johnston

Introduction

This article will examine the Islamic State's use of social media to gain support from within the Syrian public during the 2011 Arab Spring. The public revolt in Syria followed other such revolutions in Tunisia, Egypt, and Libya. However, unlike these countries, the Syrian revolution evolved into a civil war that provided a suitable environment for the Islamic State to increase its support base. This descriptive study seeks to determine how the Islamic State used social media to exploit this emerging opportunity within Syria.

The turbulent situation in Syria created an opportunity for some extreme Islamists, who believe in al-Qaida ideology, to insight the formation of the Islamic Caliphate under the Islamic Sharia in 'Bilad al-Sham' (the Levant).¹ The Islamic State (IS), otherwise called Islamic State of Iraq and al-Sham (ISIS), Islamic State of Iraq and the Levant (ISIL), or Da'ish (translated letters of ISIS using Arabic language: Al-Dawla al-Islamiya fi al-Iraq wa al-Sham), provided an opportunity for the Islamic State of Iraq (ISI) to establish a safe haven in Syria for operations in Iraq.² (See Figure 1.) Abu Bakr al-Baghdadi, leader of the ISI, authorized Abu Mohammad al-Joulani, a Syrian and al-Qaeda in Iraq militant, to begin a new subdivision of al-Qaeda in Syria.³ In August 2011, al-Joulani and a group of prominent al-Qaeda operatives crossed the border from Iraq into Syria. Al-Baghdadi sent this group, armed with the plans and funding needed to win the Syrian civil war, to meet with pre-existing extreme Islamists in northeastern Raqqa, Aleppo, Hasakah and Azaz in Syria.⁴ Together, they formed Jabhat al-Nusra (JN) in October 2011.⁵

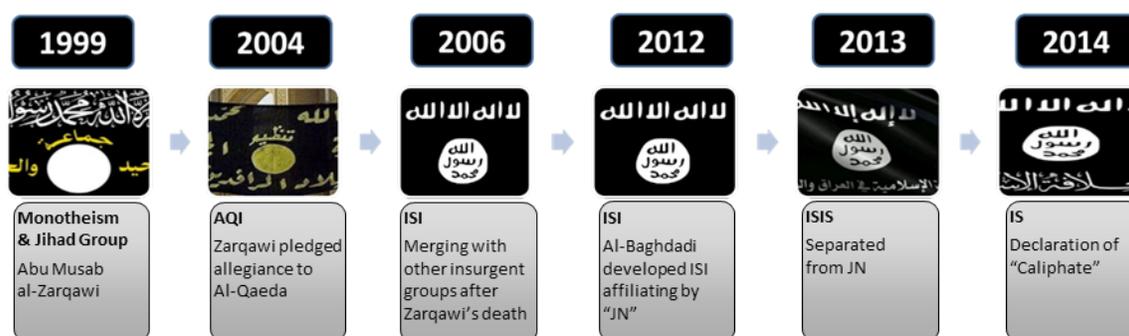


Figure 1. Origin of Islamic State

On April 8, 2013, Abu Bakr al-Baghdadi released a recorded audio message on the Internet. He announced that JN was merging with ISI to become the “Islamic State of Iraq and al-Sham” (ISIS), under his command.⁶ The next day al-Joulani rejected the merger and affirmed the group’s allegiance to al-Qaeda and its leader, Ayman al-Zawahiri.⁷ Al-Nusra then split into two groups. Some members, particularly foreign fighters, followed Baghdadi’s edict and joined ISIS, while others stayed loyal to al-Joulani.⁸ On June 29, 2014, and despite al-Zawahiri’s announcement in late 2013, Abu Bakr al Baghdadi announced his new title as “the Caliph” for the newly established Islamic State, which extended from Aleppo in Syria to Diyala in Iraq.⁹

Importance of the Problem

The importance of the present article lies in its practical significance of media literacy, fighting terrorism, oppression, and the double-edge of social media. There is an urgent need for governments to curb the negative effects of social media, know how to utilize it, and to find effective ways to combat terrorists that are using social media as a weapon. Social media has become a means by which IS can increase its support base, and increase the likelihood that an Islamic Caliphate is possible. Social media is an ideal propaganda platform that might launch a misinformation campaign. As such, it is critical to understand how terrorist groups like IS use social media because it is the new domain within modern theaters of global war.

Fundamental Concepts

Terms defined as part of this article are described below. Below are the manners in which these terms are used within the context of this article.

Islamists: Members of Islam who reject the notion of a separation between religion and public life. Islamists believe that ideals, values, or principles rooted in Islam are relevant to the modern world, and that they provide useful guidance on contemporary political and public policy issues.¹⁰

Jihad: According to the Islamic Supreme Council of America, the Arabic word “Jihad” means “struggling” or “striving” for the God. In a religious intellect, in the Quran and the teachings of the Prophet Muhammad (s), “jihad” refers to the efforts to be a good Muslim or a believer, as well as working to inform people about the faith of Islam.¹¹

Relevant Literature

This section presents the relevant literature review pertaining to the use of social media to cultivate collective strength by uniting people with a common set of objectives. Though this article subject is specific to the Islamic State, the concept of social mobilization is not exclusive to it. Social media, in its ‘golden age,’ has evolved significantly over the last sixteen years.¹² There are sites such as Facebook, Twitter, Instagram, and Snapchat that provide an interface for users to not only access the vast amounts of data, but also provide digital communities. These users can congregate virtually with a lot of posting, pinning, and tweeting circulating around the globe.¹³

The Role of Social Media in the Syrian Arab Spring

Protestors presented the main content in social media during the Arab Spring. They used the social tools available on the internet to share ideas, social mobilization techniques, and gain popular support that allowed the rapid spread of analogous active social movements across North Africa and the Middle East. This resulted in mass cyber communities united by similar aspirations. In this domain, the professors Richard Fox and Jennifer Ramos, in their iBook: *iPolitics: Citizens, Elections, and Governing in the New Media Era*, wrote that new media sources and tools provide new opportunities for citizens to express and organize themselves around their political interests.¹⁴ The notion of their claim was also seen in the

Syrian rebels' use of social media tools. The Syrian rebels scheduled the events using Facebook posts and prearranged their protest slogans in tweets.¹⁵

In early February 2011, Syrian protestors started creating Facebook pages that were shared widely, one of which called for protests across the country on February fourth and fifth.¹⁶ More than 16,000 Syrians on Facebook expressed support. However, the demonstrations, organized entirely on Facebook, did not take place because the people feared the Syrian regime apparatus.¹⁷ On February 9, 2011, Al Jazeera described Syria as a "kingdom of silence" because anti-government protests did not happen for many years.¹⁸

Syrian intellectuals created 70 Local Coordinating Committees (LCCs) initially to document the Syrian revolution, but they evolved into the primary organizers of protests and information disseminators.¹⁹ The committee members include "young Syrian journalists and human rights activists from different ethnic, religious, and class backgrounds operating within Syria."²⁰ The primary objective of the organizations is to overthrow the Syrian regime.²¹ As information disseminators, the LCCs are responsible for reporting updates on the movement to Arab and international media. The primary means of reporting is through the LCC website and its Facebook page.²²

In March 2011 and parallel to the efforts of the LCCs, Syrian activists created a Facebook page called "The Syrian Revolution 2011." It had up to 120,000 followers, mainly from the local Syrians and the Syrian opposition activists globally, to disseminate their message, which produced a rallying effect for all those involved.²³ Furthermore, social media provided a mechanism to reveal human rights violations to the international media. Media channels monitored the "The Syrian Revolution 2011" Facebook page to get pictures and videos of what was happening in Syria, which facilitated the propagation of the reality that Syrian protestors faced.

In the Internet realm of social mobilization, Twitter functions in a centralized networking role as a clearinghouse of revolutionary propaganda.²⁴ Twitter enabled the leaders of the Syrian opposition to create a substantial network of Internet supporters. On Twitter, opposition organizers published videos and tweets revealing violence perpetrated by the Syrian regime that resulted in an emotionally energized effect on supporters. Zeina Karam, in her article "Social Media's role in the Syrian Civil War," estimated that in January 2012 the twitter account "#SyrianRevolution" had 183,000 tweets, 23,400 photos and videos posted, and 144,000 followers.

Ahmad Shehabat, in his article "The social media cyber-war: The unfolding events in the Syrian revolution 2011," observed that videos uploaded to YouTube from people's cell phones were their primary retaliatory weapon against the Syrian regime during demonstrations.²⁵ Jennifer Preston in her article "Seeking to Disrupt Protesters, Syria Cracks Down on Social Media" argues that the Syrian government began targeting activists on social media.²⁶ The purpose of this targeting was two-fold. First, the regime monitored social media in order to identify people associated with the protests. Secondly, the regime wanted to limit the spread of information on-line. This targeting methodology was effective because of the regime's extensive censorship protocols that involved sequential blocking and allowing access to the internet and social media sites.²⁷ Syrian officials denied access to the Internet as well as the 3G mobile Internet in Damascus, Daraa, and Homs, in order to control uploading videos and photos of protests inside Syria to the world.²⁸ Additionally, the Syrian regime created a cyber-army to continue the virtual conflict.²⁹

IS and Social Media

Mobilization using social media is not limited to peaceful protestors. Terrorist networks require similar capabilities to recruit, raise funds, and deter opposition. As such, this section examines the literature illustrating IS's successful use of social media to establish a foundation within Syria and project the perception of strength regionally.

Many researchers have analyzed how IS used social media to spread its terroristic message and attract followers. Jonathon Morgan and J. M. Berger assert in their paper “The IS Twitter Census: Defining and Describing the Population of IS Supporters on Twitter” that from September through December 2014, IS supporters used at least 46,000 Twitter accounts, although not all of them were active at the same time.³⁰ Authors of the United States Department of State Publication report, *Country Reports on Terrorism 2015*, agree that IS is a group of violent extremists that currently occupies parts of Syria and Iraq. IS has also taken to posting violent videos and recruiting materials on many other digital platforms, posing a dilemma for companies such as YouTube, Google, Facebook, Twitter and others.³¹ These companies have censored terrorism and have pledged to crack down on terrorists who use their sites.³² In 2013, Ines von Behr, Anaïs Reding, Charlie Edwards, and Luke Gribbon wrote a report named *Radicalisation in the Digital Era: The Use of the Internet in 15 Cases of Terrorism and Extremism*. They found that the Internet enables more opportunities to become radicalized, because of its availability, and enabling connections of like-minded individuals from across the world 24/7.³³

Extreme Jihadists used social media in their operations in Syria, Iraq, and many other countries. Twitter was the main social media used. Klausen Jytte’s article entitled, “*Tweeting the Jihad: Social Media Networks of Western Foreign Fighters in Syria and Iraq*,” collected informational data over a period of three months, from the Twitter accounts of 59 Western-origin fighters known to be in Syria.³⁴ She used the snowball method, which is a non-probability sampling technique where existing study subjects recruit future subjects from among their acquaintances, to collect data about the most popular accounts in the network-at-large.³⁵ Social network analysis points to two conclusions. First is the controlling role played by feeder accounts belonging to terrorist organizations in the insurgency zone. Second, that Europe-based organizational accounts were associated with Al Muhajiroun, the banned British organization, and in particular with Anjem Choudary, the London-based preacher.³⁶

Brenden I. Kderner in his article, “*Why ISIS is Winning the Social Media War*,” in April 2016, groups IS’s social media achievements in five themes: (1) Cultivate the brand, through messaging propaganda on social media to stir the hearts of potential recruits and to boost the organization’s ghastly brand. (2) Innovate across platforms, in taking pride in its flair for developing innovative and repugnant content through farewell scenes videos some of which captured by a drone. (3) Crowdsourcing the distribution, by means of its widely distributed high-quality media via different social media channels. (4) Inspire real-world action, because of recruiting people and convincing them that recruiters’ violence actions must show that they are following to God and they are pledging allegiance to IS. Finally, (5) steer the conversation, via focusing on its ability to governance in the area it controlled.³⁷

Domino Effect Theory

Clay Shirky in his book, *The Political Power of Social Media: Technology, the Public Sphere, and Political Change*, asserts that social media did not play a central role in the evolution of social mobilization. Social media rather allowed protestors to perform by different rules of engagement and to create a booster to stimulate the formation and development of social movements.^{38,39} Accordingly, social media plays the role of associate factor rather than a causative factor in social movements. One of the social media theories to develop social media strategies is the theory of “Domino Effect.”

Gerri Baum, a marketing and communications professional, proposes six questions for “Domino Effect Theory” that addresses the creation of an effective social media strategy. The answers of the questions determines the targeted people, the appropriate social media platforms, organization’s plan and goals, and the proper tool to measure the results.⁴⁰

Shivani Sinha, in her article “*Will There Be a Domino’s Effect on Social Media?*” counter argues that the problem of “Domino Effect Theory” is that the user must be active online to view the websites and

social media forums' outputs. This might give the user more than enough time to think of the issue.⁴¹ The effectiveness of this campaign remains considered, but the tactics used could have an overwhelming impact on the way big organizations publicize products to their users, one of which is IS.⁴²

Methodology

In the light of research discussed in the relevant literature review, this article will answer the following primary question: How did the Islamic State use Facebook, Twitter, and YouTube to radicalize peaceful protestors during Syria's Arab Spring in 2011 and create a foundation of tacit and explicit support that enabled them to evolve into a viable terrorist group that had global aspirations? The guiding sub-questions include:

1. What social media capabilities did the Islamic State develop and use between 2011 and 2014?
2. What subgroups of the Syrian population did the Islamic State target and why?

In this study, the topics used for collecting qualitative data include IS's social media capabilities and their relative applications on social media, and the targeted subgroups within the Syrians. The sources used for the study are a selection of secondary sources and open media that provide information about IS's social media usage of YouTube, Twitter, and Facebook. The data collection method used for evaluation in this article is the document review method.⁴³

The qualitative research design methodology used for this article is the narrative design. The inductive approach used to analyze the data collected is the framework analysis, which is similar to both thematic analysis and content analysis.⁴⁴ Framework analysis produces similarities and variances within collected data that facilitates the formation of descriptive conclusions based on inferred thematic relationships.⁴⁵ It focused on the audiences of IS social media, IS's social media capabilities, and sustainability of its usage.⁴⁶

Organizational capability analysis was used to analyze evidence associated with guiding sub-question one, determining IS's social media capabilities between 2011 and 2014.⁴⁷ Technological resources (tools and systems) and technical expertise (knowledge, skills and behaviors) were the two variable factors of organizational capabilities analysis. This framework was used to derive IS's capabilities to perform specified tasks to recruit, fear, fund, and coordinate and synchronize, and achieve established goals. The Domino Effect Theory matched perfectly the primary research question and the sub-questions as illustrated in Figure 2.

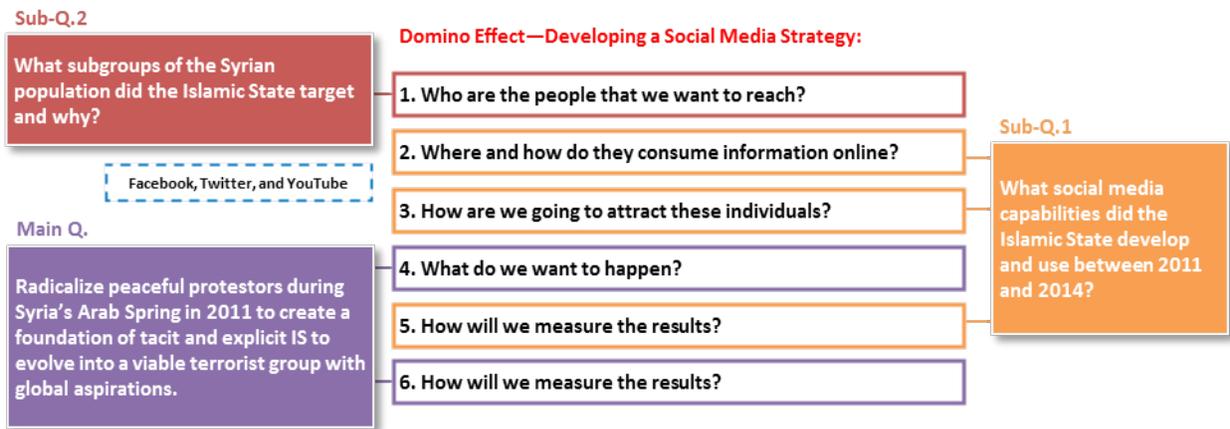


Figure 2. Relation Between Domino Effect Theory and the Research Questions

Findings

Addressing the First Guiding Research Question

The first guiding question of this article addresses the social media capabilities that the IS developed and used for its rise in the world. Social media enabled IS militants to raise its status among other terror groups acting in Syria. It served to coordinate troops in battles, facilitated governance in its area of control, and expand far beyond its physical territories. They posted hi-tech videos of group and individual execution of victims, blasted across the social media platforms through an offensive hacking capability using imitated Twitter accounts. Moreover, it showed an advanced capability to humanize its fighters and recruit more people of both genders using online magazines, televisions, and radios.

Twitter Application: “Fajr al-Bashaer”

The Islamic State executes a portion of its psychological warfare campaign using Twitter because it offers the capability for users to tweet and retweet automatically by using key words and hashtags. An application called “Fajr al-Bashaer,” or “The Dawn of Glad Tidings” is an official IS product promoted through its top users.⁴⁸ Hundreds of users have subscribed to the application through either the Internet or the Google Play store on their Android smart phones.⁴⁹ In addition to sending updates on the fighting, IS also uses this capability to prove that they are able to govern the controlled areas in Syria. However, Twitter is not the preferred method to disseminate IS’s violent media.

Video Production

YouTube is the IS’s primary technique to propagate its brutal tactics, which requires a significant video production capacity. These YouTube videos are filmed documentary style and are available in high definition in multiple languages, and are available by conducting simple searches on the internet. IS recruited professional film crews. It invested in Hollywood-caliber software to produce its videos. The videos portray violent executions using bizarre inhumane executions, such as shooting, drowning, and being thrown off buildings. The videos have a psychological impact on its viewers, who cannot help but tense up when watching the cruel acts depicted on screen. The tension can be classified as either excitement or fear. As such, the videos are used as both a recruitment tool and a terror tool. IS taped and posted on social media platforms most of the mass executions of Syrian Army soldiers and other ethnical and religious executions in order to threaten and discourage its enemies who were fighting. They threatened bloodshed against any Muslims thinking in joining other Syrian rebel groups in Syria to fight IS.⁵⁰ This led to the reinforcement of IS rules in the area of control and showed the power of the organization to its followers of the ability of gaining territories and executing the enemies in groups. The execution of a Jordanian pilot, named Maaz Kasabeh, showcases the professionalism of IS’s production capability in terms of filming.⁵¹

Offensive Hacking

IS began amassing a significant cyber warfare capacity in 2014. The Islamic State Hacking Division, also known as the Cyber Caliphate, officially launched in 2014 when it published recruitment ads on extremist internet sites.⁵² The Cyber Caliphate has the ability to breach other network defenses by exploiting network or computer program weaknesses. IS’s cyber-soldiers are as important as the IS’s ground forces, and the British expert “Junaid Hussein” trained them. Hussain was recruited from England to teach IS hackers how to conduct cyber warfare.⁵³ He became a prominent leader within the organization, the head of the Cyber Caliphate, and a celebrity.^{54,55}

After IS’s declaration in September 2014 to create a Cyber Caliphate, it took until January 2015 to evidence IS’s cyber-attacks in hacking websites and posting extremist propaganda on defaced websites.⁵⁶ The group launched itself into the spotlight timing its attack on the Twitter and YouTube account of US Central

Command (CENTCOM) with President Obama's cyber security speech on January 12, 2015.⁵⁷ IS's goal is to manipulate social media to facilitate recruitment and funding while also showing its capacity to project power beyond Syria.⁵⁸

Synchronization and Coordination

For IS, Twitter is a critical means of social communication that terrorists use for interaction and coordination. It provides virtual communities that are composed spontaneously during major events, which would benefit those groups by following up the latest information about any issue that appears in the public domain. IS has increased its ability to coordinate and operate under the radar of its enemies, keeping its electronic communications secret. IS's use of cyber experts to stay several steps ahead of law enforcement. IS recruited communication experts. They taught terrorists how to use encryption and communication platforms like Silent Circle, Telegram and WhatsApp.⁵⁹

"DABIQ": Online Magazine

"DABIQ" is a monthly high quality online magazine issued in different languages that covers the building of the Islamic State as an organization and its insight. It talks about the world war against it through the coalition strikes led by USA, the Russian strikes, and the conspiracy against it from some Arab countries. IS visualizes a culture distinct from the Islamic culture and it is spreading the culture of what is called "radical Islam." It is culture of atonement, brutality of offenders, and the legalization of bloody attacks to rule and spread the Islamic State. In general, the magazine encourages people who read it to join the Islamic State in the way they show itself as the right destination to follow and meet God in a proper way. It discusses the extreme Islamic thoughts, ideology, faith, and importance of Jihad in its fields by money, by hands, and by tongues.⁶⁰

Radio and Television

The Islamic State launched the state radio "Al-Bayan" in Iraq and Syria in early 2015. It broadcasts al-Baghdadi speeches and vocal newsletters that contain the local news of the organization in Syria and Iraq. In addition, it covers IS's battle achievements and the world war against it. IS also launched a television channel in early 2015 called "Caliphate Channel," which broadcasts over the Internet, focusing on encouraging the Muslims to join the organization.⁶¹

Sexual Violence

IS uses sexual violence as a tactic to increase the returns of its field achievements and inflate the base to recruit followers, as well as destroy the social unity of the targeted communities. They displayed women as sexual slaves as a strategic pull factor in attracting men, including local youths and foreign fighters, to join the organization.⁶² Women and girls were sold in auctions on the Internet.⁶³ In addition, the IS's picture of women dressed in traditional Islamic dress holding weapons next to luxury vehicles has proved proactive and enticing to both young men and women to join the organization. IS's leaders believe that this leads to recruiting more females, which will result in more families and a more socially stable Islamic State.⁶⁴

Humanize the IS Soldiers

IS used social media platforms as a means to humanize its followers. It showed scenes of soldiers visiting its wounded peers in the hospitals, which reflected the comfort of the injured soldiers. In addition, the videos showed IS fighters handing out candy and ice cream to smiling children to show its care for children. It organized, imaged, and displayed entertainment for children and elderly people in Aleppo and Raqqa. The organization installed "media points" kiosks as informational points. The kiosks distributed all publications of the organization free as a replacement of the social media, and announced specific times so people can gather and watch on TV its media publications in areas near the kiosks.⁶⁵

Funding and Moral Support

IS utilized social media to attract and direct funding to buy weapons, pay salaries, improve infrastructure, and operate civil and social services in the areas of control. IS relied on some of the fatwas from some preachers who tweeted on Twitter for the sacrifice of money and souls. In addition to financial support, IS got moral support through social networking sites. Some web pages showed the virtual allegiance of supporters to IS, such as “Allegiance of the Faithful Abu Bakr al-Baghdadi,” “Forensic Alliance of the faithful Abu Bakr al-Baghdadi Advertising,” and others. They played a role in the spread of the organization and the expansion of its supporters across the virtual world.⁶⁶

Second Guiding Research Question

IS targeted some of the Syrian population and used social media as a part of its recruitment procedure to encourage new followers and fighters within its ranks. The targeted population is categorized into three groups as illustrated in Figure 3. (See page 85.) The first group was the Syrian Islamists who share the same religious ideology of the Islamic Caliphate. The second group was the majority of people within its control area, mainly youths and poor people, to get its support and win the public opinion in order to assert influence on wider community. The third group was the armed people of other rebel groups that were already in Syria and fighting the Syrian regime.

Syrian Islamists

Some Syrian Islamists were the first supporters of IS who saw the power and will to achieve its goals through the organization’s ideology and achievements on the battlefield. The short-term goal of both was to get rid of the Syrian regime, and the long-term goal was to establish the Islamic Caliphate. IS skillfully used its powerful religious ideology to convince these Islamists of all ages to leave other rebel groups and join the organization. IS publications on social media typically used out-of-context or out-of-period quotes from the holy book Qur’an as an alluring religious attraction such as Jihad for God’s sake as obligatory, and the true presence of living is in “al-Janna” which means Paradise.

Syrian Population

IS focused its social media capabilities on the Sunni population in Syria. It used the aggressiveness of the Syrian regime against the population of the Sunni majority. This aroused the religious background of young Sunni Syrians, who are jobless and have low standards of living, to join the sound of Islamic Sunni rights and Sharia law of Islam. Some of the Syrian population saw on social media platforms that IS was the first force to promise to get rid of the uncertain and shameful life being loyal to rulers under civilian laws—a route to a brilliant environment for Sunnis. The access to the organization, the financial benefits, and the social services attracts some Syrians.⁶⁷ Some of the Syrians consider what is happening in Syria as an adventure that is good to experience. These recruits are considered dangerous because they might go to extreme actions for the sake of their adventure. IS offered complete installations of social service networks in the areas it rules. It pays good salaries. IS tries to provide an acceptable social atmosphere to facilitate the living in its areas.⁶⁸

Armed Syrian Population

Some of the experienced retired soldiers and officers of the Syrian Army, who have had trouble earning a living, were happy to join IS, which gave them employment, a renewed sense of honor, and a way to continue their fight against the Baathist party who rule the army. These veterans have provided IS with seasoned military and organizational expertise. They saw the shift from a retired person seeking to work for living, to a zone commander ruling the area of their living. Social media platforms offered them a good medium to communicate with the organization to prepare meetings in mosques and join processes for local recruitments.

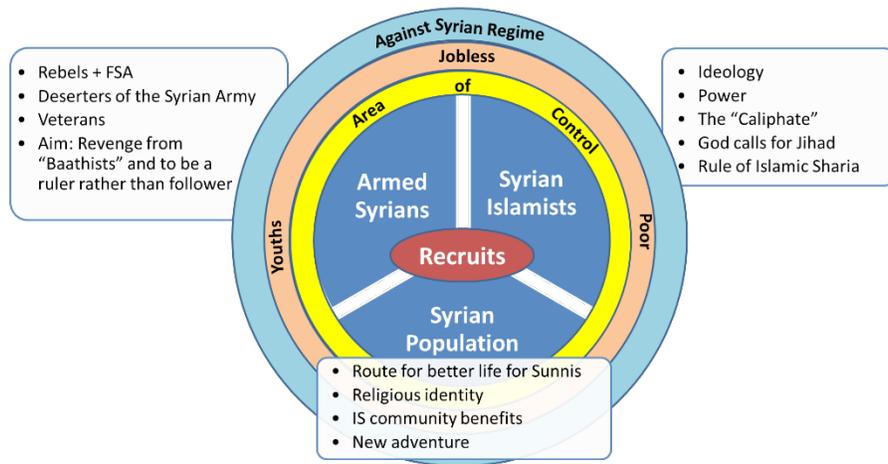


Figure 3. IS Targeted Populations in Syria

IS worked hard on social media to encourage those who joined the Free Syrian Army (FSA) to join it. They used the intimidation and coaxing methods on the Free Army followers. IS propaganda of its rigid ideology on social media attracted the rebels to run from FSA and other militias and join it. Others saw that they have the power to put an end to the Syrian regime. IS's brutality on social media towards people against IS made the rebels fear the organization and forced them to join it to save their lives.

Addressing the Main Research Question

IS leaders used the following tactics to establish the foundation: Sending representatives to identified groups, focusing on illegal behaviors of the Syrian's armed forces, emphasizing the need for an Islamic State, highlighting the state of victimized prisoners, and connecting those in the subgroup with diverse social media platforms. It also employed social-media tactics that expanded its message, recruit, radicalize, and raise funds.⁶⁹

The majority of the Syrian rebels in 2011 were youths who did not have adequate expertise to determine effective, durable methods to realize their ambitions.⁷⁰ The smart phones became their tongues to express, their pens to write their opinions, and their weapons to attack their government and the rulers. They also offered this weapon for others to get its benefits to use and reach the hidden goals, one of which is IS. (See Figure 4 on page 86.)

Syrian rebels and exiled and persecuted Syrians abroad encouraged those who still lived in Syria to use social media to proceed with their uprising. The efforts did not combine into one "aim" which gave Islamic State militants the opportunity to lead the ground movement in a very professional, well-organized way to move some of Syrian rebels towards it. The IS militants, in contrast, had a definite religious vision in mind and a well-developed strategy for using newly developed weapons-social media tools.

The rebels were easily led to join any ideology, repeat any slogan, or accept any propaganda. The extreme Syrian Islamists found an opportunity to manipulate the various sects of the Syrian and foreign Muslims to take revenge on the Syrian government, which blocked their freedom of speech and made them keep silent to survive.

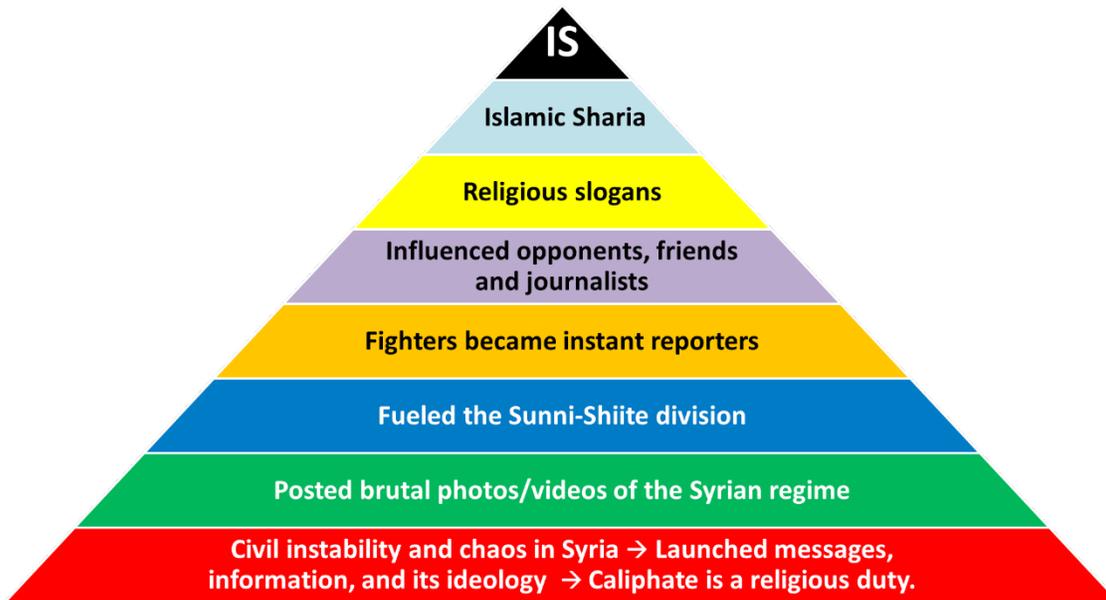


Figure 4. IS's Social Media Tactics

The violence of the Syrian uprising transformed Islamist speech from an uprising of the Syrian people to an uprising of Sunnis to fight the Syrian “Alawite” regime. This fueled the Sunni-Shiite division in some Arab countries, especially Syria, and has encouraged the Islamic Syrian Sunnis to join IS in Syria. IS sheds light using social media platforms on the Syrian regime help that was obtained from Iran and the Shiite militant groups from Lebanon (Hezbollah) and Iraq. That frustrated the Syrian Sunnis more. This has gradually changed the revolution from a Syrian uprising to a Sunni rebellion. The Syrian rebel slogans of protestors changed from yelling “silmeyyah silmiyyah” (peaceful, peaceful) to “Allahu Akbar” (God is great) with bearded rebel fighters posting their brutal videos of the executions of the Syrian soldiers on YouTube and Facebook, such as one of the extremists who removed the heart of a Syrian soldier. That gave a real image of IS's brutality.

Implications of the Findings

The vision of IS's leaders is that IS will survive and expand. A way to achieve these goals is the effective use of social media. IS uses the Internet and social media for propaganda, recruitment, facilitation of foreign terrorist fighters, communications, coordination and synchronization, and fund raising. It is also used as weaponry information and technical knowledge for manufacturing explosives.

It is clear that IS wants to share its actions and views in public. It is part of its propaganda. However, international media institutions indirectly helped IS to rise by highlighting its videos, speeches, publications, and wrong concepts of Islam as an ideology. Many people are drawn to watch its videos, irrespective of the brutality and violence in them, when they hear from international media about a certain publication.

IS successfully used social media platforms to attract part of the Syrian population who share the same religious ideology or goals to recruit them as “ready soldiers” to fight under IS flag. Not only young people joined IS, but also mature men and women did. Some Syrians joined the organization in spite of its terroristic ideology. On one hand, IS changed the peaceful Syrian Arab Spring into a bloody terroristic civil war. On the other hand, it indirectly affected the whole world by spreading fear and terror through attacks.

The analysis showed that the organization uses social media platforms in more than one language (Arabic, English, French, and German). It also uses quotes from the Holy Qur'an, to influence the greatest number of individuals. It clarifies the power of the organization through broadcasting its field of operations. In addition, IS followers showed that they enjoyed life in the area IS controls, which made many Syrian youths want to experience it as well. On the other side, IS publishes many of the videos on YouTube that show its use of violence and brutality.

What is distinct about IS is the way it merges traditional media broadcasting like television, radio, and jihad web forums, with pop cultural platforms such as Twitter, YouTube, and Facebook, to intensify its message. IS uses Twitter as a primary means of media propagation. Its distribution is public and characterized by its efficient, controlled, and decentralized plan. Twitter allows IS to reach its audience very rapidly, within seconds, which makes the relation between IS leaders and followers closer and in real time. Tweeting and retweeting is a simple procedure to interact and spread the posts. This tactic of IS convinces the followers that they are part of the decision-making for establishing the Caliphate and provokes them to physically join.

Social media companies like Twitter, Facebook, and YouTube have adjusted their regulations to block the accounts related to IS that show violence and brutal content. However, because of the decentralized social media tactics of IS, it is difficult to control the suppression of the material issued. IS's social media users are able to create new accounts rapidly and with ease. This contributes to a partial failure of social media companies' strategy to stop IS on the Internet. IS has the ability to spread false information and hack others' sites and pages with ease through the Internet. IS's social media users formed well organized and methodical networks through which social media followers access and distribute IS publications like "DABIQ," and synchronize posts and hashtags.

Through social media posts and IS publications IS has shown a long-term strategy, the establishment of the Islamic Caliphate. IS showed that it does not want to have a decisive combat with the West or engage in regional sectarian (Sunni-Shiite) war. IS finds the use of brutality in Syria against the regime or innocent populations who refer to other religions a necessary mean to reach the desired end of establishing the Caliphate. In Syria IS adopted many features to sustain the area it controlled through social media platforms. For example, it launched public services including medical aids, education, local and religious security services (Sharia courts), and infrastructure projects. It made the Syrians in those areas dependent on IS to get the required resources to live.

Recommendations

As a result, because IS succeeded in influencing some of the Syrian population and young people from other countries to join it through social media, this study recommends the following:

Syrian Population

Syrians must encourage a return to their diversity and the acceptance of other partners in the country from other sects and religions. All terrorists' social media platforms must be blocked in Syria. Syrians must launch counter social media activities to show IS followers the illusions and psychological traps of its ideology. Jihadists must view social media posts defining the real meaning of "Jihad" as what Islam religion instructed and the Prophet Muhammad called for in the forgiveness and respect of others.

Muslim Communities

Muslim voices who represent the real Islam should reach young Muslims in each country who are vulnerable to radical extremism through social media platforms. Starting from the Syrian population, Middle Eastern, and Western countries. Muslims must post on-line what Islam really calls for and how IS is shifting the religious concepts to match its goals.

International Communities

Countries must work to fight it through social media platforms too. Some countries have already begun to do so, as they closed many of IS pages. In addition, they deleted the brutal and violent videos the organization published to provoke horror to the community. Also, the recruiting videos that were posted to attract many young people through the idea of a Caliphate should be obstructed or stopped. Countries must also contain the young people who come back from such organizations. They can do this by providing them with jobs, in addition to seminars and lectures to educate these young people.

Schools and Universities

Schools and universities must launch anti-IS social media messages and videos that can be shared within educational institutions and local media. As a result, the number of social media intelligence experts will increase in communities to fight terrorism electronically.

Social Media Companies

Social media companies must update their policies against terrorism and brutality scenes, and focus on infiltrating and abolishing the social media networks (real and virtual) behind IS's social media campaign. By detecting and targeting IS followers Twitter accounts individually, social media companies might be able to break IS's global social media campaign.

Suggestions for Future Studies

The article can be expanded through further testing against the social media usage that ties the terrorist groups found in Iraq, Syria, Sudan, Pakistan, Bangladesh, Nigeria, Egypt, Libya, and the lone wolves found all over the world. IS supporters are ready to explode themselves among innocent people, and the trigger is set in a tweet on social media. Is IS request from its followers to use knives to kill people a declaration of IS falling? The coming days will reveal everything.

Endnotes

- 1 Noman Benotman and Roisin Blake, “Jabhat al-Nusra li-ahl al-Sham min Mujahedi al-Sham fi Sahat al-Jihad: A Strategic Briefing,” *Quilliam Foundation*, January 8, 2013, accessed October 29, 2016, <https://www.quilliamfoundation.org/wp/wp-content/uploads/publications/free/jabhat-al-nusra-a-strategic-briefing.pdf>.
- 2 Aaron Zelin, “Al-Qaeda Announces an Islamic State in Syria,” Washington Institute for Near East Policy (April 9, 2013): <http://www.washingtoninstitute.org/policy-analysis/view/al-qaeda-announces-an-islamic-state-in-syria> (accessed January 12, 2017).
- 3 Zelin, “Al-Qaeda Announces an Islamic State in Syria.”
- 4 Zelin, “Al-Qaeda Announces an Islamic State in Syria.”
- 5 Quilliam Foundation, *Jabhat al-Nusra a Strategic Briefing* (January 8, 2013): <https://www.quilliamfoundation.org/wp/wp-content/uploads/publications/free/jabhat-al-nusra-a-strategic-briefing.pdf> (accessed September 22, 2016).
- 6 The Middle East Media Research Institute, *ISI Confirms That Jabhat Al-Nusra Is Its Extension In Syria, Declares ‘Islamic State Of Iraq And Al-Sham’ As New Name of Merged Group* (April 8, 2013): <https://www.memri.org/> (accessed January 21, 2017).
- 7 Abouzeid, “The Jihad Next Door.”
- 8 Richard Spencer, “Syria: Jabhat al-Nusra split after leader’s pledge of support for al-Qaeda,” *The Telegraph*, (May 21, 2013): <http://www.telegraph.co.uk/news/worldnews/middleeast/syria/10067318/Syria-Jabhat-al-Nusra-split-after-leaders-pledge-of-support-for-al-Qaeda.html> (accessed January 19, 2017).
- 9 Cameron Glenn, “Timeline: Rise and Spread of the Islamic State,” *Wilson Center* (July 5, 2016), <https://www.wilsoncenter.org/article/timeline-rise-and-spread-the-islamic-state> (accessed October 30, 2016).
- 10 Glenn, “Timeline: Rise and Spread of the Islamic State.”
- 11 The Islamic Supreme Council of America, *Jihad: A Misunderstood Concept from Islam - What Jihad is, and is not* (February 2012): <http://islamicsupremecouncil.org/understanding-islam/legal-rulings/5-jihad-a-misunderstood-concept-from-islam.html?start=9> (accessed January 15, 2017).
- 12 Kimberlee Morrison, “The Evolution of Social Media [Infographic],” *Social Times* (May 29, 2015): <http://www.adweek.com/socialtimes/the-evolution-of-social-media-infographic/620911> (accessed November 4, 2016).
- 13 Kwik turn media, *Social Networking Sees Widespread Growth Around the World* (February 19, 2014): <https://kwikturnmedia.com/blog/social-networking-sees-widespread-growth-around-the-world/> (accessed January 15, 2017).
- 14 Richard L. Fox and Jennifer M. Ramos, *iPolitics: Citizens, Elections, and Governing in the New Media Era*, (Cambridge University Press, 2012), 3.
- 15 Fox and Ramos, *iPolitics: Citizens, Elections, and Governing in the New Media Era*, 18.
- 16 Deborah L Wheeler, and Lauren Mintz, *New Media and Political Change: Lessons from internet users in Jordan, Egypt, and Kuwait*, (Research Gate, January 2011), 259.
- 17 Soraya Chemaly and Catherine Buni, “The Secret Rules of the Internet,” *The Investigative Fund* (April 13, 2016): <http://www.theinvestigativefund.org/investigations/rightsliberties/2226/Most%20>

Read?page=entire (accessed April 27, 2017).

18 Caisa Wikstorm, "Syria: 'A kingdom of silence'," *Al Jazeera English* (February 9, 2011): <http://www.aljazeera.com/indepth/features/2011/02/201129103121562395.html> (accessed October 30, 2016).

19 Carnegie Middle East Center, "Local Coordination Committees of Syria," *Syria in Crisis* (December 20, 2012): <http://carnegie-mec.org/diwan/50426?lang=en> (accessed May 2, 2017).

20 Carnegie Middle East Center, "Local Coordination Committees of Syria."

21 Carnegie Middle East Center, "Local Coordination Committees of Syria."

22 Amer Abu Hamed, *Syria's Local Coordination Committees: The Dynamo of a Hijacked Revolution*, (Polity Press, 2016), 22-26.

23 Zeina Karam, "Social media's role in the Syrian civil war," *Global News* (October 19, 2013): <http://www.mediameasurement.com/the-role-of-social-media-in-the-syrian-civil-war/> (accessed October 14, 2014).

24 Karam, "Social media's role in the Syrian civil war."

25 Ahmad Shehabat, "The social media cyber-war: the unfolding events in the Syrian revolution 2011," *Global Media Journal: Australian Edition* 6, no 2 (2012).

26 Jennifer Preston, "Seeking to Disrupt Protesters, Syria Cracks Down on Social Media," *The New York Times* (May 22, 2011): 1-5

27 Abdelberi Chaabane, Terence Chen, Mathieu Cunche, Emiliano De Cristofaro, Arik Friedman, and Mohamed Ali Kaafar, "Censorship in the Wild," *Proceedings of the 2014 Conference on Internet Measurement Conference-IMC 14* (February 14, 2014):

28 Shehabat, "The social media cyber-war: the unfolding events in the Syrian revolution 2011"

29 Preston, "Seeking to Disrupt Protesters, Syria Cracks Down on Social Media," 1-5.

30 Jonathon Morgan and J. M. Berger. "The IS Twitter Census: Defining and describing the population of ISIS supporters on Twitter." *Brookings*, no 20 (March 5, 2015): 43

31 United States Department of State, Bureau of Counterterrorism and Countering Violent Extremism, *Country Reports on Terrorism 2015*. (Washington, DC: Government Printing Office, 2016), chapter 2.

32 Kerry Flynn, "ISIS Propaganda Lawsuit: Twitter, Google and Facebook Sued by Father of Paris Attack Victim." *International Business Times* (June 15, 2016): 1-2. <http://www.ibtimes.com/isis-propaganda-lawsuit-twitter-google-facebook-sued-father-paris-attack-victim-2382522>.

33 Ines von Behr, Anaïs Reding, Charlie Edwards, and Luke Gribbon. "Radicalisation in the Digital Era: The Use of the Internet in 15 Cases of Terrorism and Extremism," *Rand Corporation*, (2013): 7. http://www.rand.org/content/dam/rand/pubs/research_reports/RR400/RR453/RAND_RR453.pdf.

34 Leo A. Goodman, "Snowball Sampling," *The Annals of Mathematical Statistics* 32, no. 1, (1961): 148-170.

35 Leo A. Goodman, "Snowball Sampling, 166."

36 Jytte Klauen, "Tweeting the Jihad: Social Media Networks of Western Foreign Fighters in Syria and Iraq," *Studies in Conflict and Terrorism* 38 no. 1 (2014): 22, <http://www.tandfonline.com/doi/abs/10.1080/1057610X.2014.974948>.

- 37 Brenden I. Kderner, "Why ISIS is Winning the Social Media War," *Wired*, (April 2016): 1-11, <https://www.wired.com/2016/03/isis-winning-social-media-war-heres-beat/>.
- 38 Clay Shirky, "The Political Power of Social Media: Technology, the Public Sphere, and Political Change," *Foreign Affairs*, (January/February 2011): <https://www.foreignaffairs.com/articles/2010-12-20/political-power-social-media>.
- 39 Reinoud Leenders and Steven Heydemann, "Popular Mobilization in Syria: Opportunity and Threat, and the Social Networks of the Early Risers," *Mediterranean Politics* 17, no. 2 (2012): 139-59.
- 40 Gerry Baum, "Social Media Strategies and The Domino Effect," *Sociality Squared Blog* (blog), *S2 Sociality Squared*, January 26, 2017, <http://blog.socialitysquared.com/social-media/social-media-strategies-domino-effect/>.
- 41 Shivani Sinha, "Will There be a Domino's Effect on Social Media?" *Talent Zoo*, no date, http://www.talentzoo.com/digital-pivot/blog_news.php?articleID=21477.
- 42 Shivani Sinha, "Will There be a Domino's Effect on Social Media?" *Talent Zoo*, no date, http://www.talentzoo.com/digital-pivot/blog_news.php?articleID=21477.
- 43 US Department of Health and Human Services, *ETA Evaluation Briefs, Data Collection Methods for Evaluation: Document Review*, special report prepared January 2009. (Washington, DC: Government Printing Office, 2009).
- 44 Celia Taylor and Graham R. Gibbs, "What is Qualitative Data Analysis (QDA)?" *Online QDA*, (December 1, 2010): http://onlineqda.hud.ac.uk/Intro_QDA/what_is_qda.php. (accessed March 30, 2017).
- 45 Aashish Srivastava and S. Bruce Thomson, "Framework Analysis: A Qualitative Methodology for Applied Policy Research," *JQAAG* 4, no. 2 (2009): 17-22.
- 46 Celia Taylor and Graham R. Gibbs, "What is Qualitative Data Analysis (QDA)?" *Online QDA*, December 1, 2010, http://onlineqda.hud.ac.uk/Intro_QDA/what_is_qda.php. (accessed March 30, 2017).
- 47 *Website of Strategy &*, "What is a Capability?" (December 18, 2012): https://www.strategyand.pwc.com/global/home/what-we-think/multimedia/video/mm-video_display/what-is-a-capability (accessed May 2, 201).
- 48 Mustapha Ajbaili, "How ISIS conquered social media," *Al Arabia English* (June 24, 2014): <https://english.alarabiya.net/en/media/digital/2014/06/24/How-has-ISIS-conquered-social-media-.html> (accessed January 20, 2017).
- 49 J. M. Berger, "How ISIS Games Twitter," *The Atlantic* (June 16, 2014): <http://www.theatlantic.com/international/archive/2014/06/isis-iraq-twitter-social-media-strategy/372856/> (accessed December 22, 2016).
- 50 Alalam News, "Horror Video Shows ISIS Mass Execution of Militants Beheading Syrian Rebels + Pics," *Alalam News Site* (October 4, 2014): <http://en.alalam.ir/news/1868806> (accessed January 4, 2017).
- 51 Catherine Herridge and Nadiah Sarsour, "New ISIS Video Shows Jordanian Pilot Being Burned Alive," *Fox Nation* (February 3, 2015): <http://nation.foxnews.com/2015/02/03/new-isis-video-purportedly-shows-jordanian-pilot-being-burned-alive> (accessed March 4, 2017).
- 52 Thomas Halleck, "Junaid Hussain: Cyber Caliphate Leader And ISIS Member Was Behind CENTCOM Hack Report Says," *International Business Times* (January 13, 2015): <http://www.ibtimes.com/junaid-hussain-cybercaliphate-leader-isis-member-was-behind-centcom-hack-report-says-1782870>.
- 53 Emma Graham-Harrison, "Could Isis's 'Cyber Caliphate' Unleash a Deadly Attack on Key Targets?" *The*

Guardian (April 12, 2015): <https://www.theguardian.com/world/2015/apr/12/isis-cyber-caliphate-hacking-technology-arms-race> (accessed April 26, 2017).

54 Halleck, “Junaid Hussain: CyberCaliphate Leader And ISIS Member Was Behind CENTCOM Hack, Report Says.”

55 Paul Szoldra, “Inside the hacker underworld of ISIS,” *Business Insider* (June 16, 2016): <http://www.businessinsider.com/isis-hacking-division-operates-2016-6> (accessed January 15, 2017).

56 RFSID, “Cyber Caliphate: ISIS Plays Offense on the Web,” in *The Recorded Future Blog* (blog) (April 2, 2015): <https://www.recordedfuture.com/cyber-caliphate-analysis/> (accessed April 26, 2017).

57 RFSID, “Cyber Caliphate: ISIS Plays Offense on the Web,” in *The Recorded Future Blog* (blog) (April 2, 2015): <https://www.recordedfuture.com/cyber-caliphate-analysis/> (accessed April 26, 2017).

58 Graham-Harrison, “Could Isis’s ‘cyber caliphate’ unleash a deadly attack on key targets?”

59 Josh Meyer, “Are ISIS Geeks Using Phone Apps, Encryption to Spread Terror?” *NBC News* (November 16, 2015): <http://www.nbcnews.com/storyline/paris-terror-attacks/are-isis-geeks-using-phone-apps-encryption-spread-terror-n464131>.

60 The Clarion Project, “The Islamic State’s (ISIS, ISIL) Horrific Magazine,” *The Clarion Project*, no. 1 (September 10, 2014): 1-12.

61 Adam Withnall, “Isis to launch first 24-hour online TV channel featuring British hostage John Cantlie and flagship show ‘Time to Recruit’,” *Independent*, 18 January 2015, 30-33.

62 United Nations, *Second UN report on ISIL*. <https://www.un.org/sc/suborg/en/sanctions/1267/monitoring-team/reports> (accessed January 10, 2017).

63 United Nations, *Second UN report on ISIL*.

64 Daniel M. Walsh, “As ISIS’ Social Media Tactics Prompt Changes in U.S. Counter-Terror Strategies, We Should Be Educating Our Student,” *Hillard Heintze*, October 20, 2015, <https://www.hillardheintze.com/threat-violence-risk-management/as-isis-social-media-tactics-prompt-changes-in-u-s-counter-terror-strategies-we-should-be-educating-our-students/>

65 Steven Stalinsky and R. Sosnow, “The Islamic State (ISIS) Establishes ‘Media Points’ In Syria, Iraq, Libya To Indoctrinate Caliphate Citizens And Enhance Its Cyber Activities On The Ground: A One-Year Review,” *Memri Cyber and Jihad Lab*, October 13, 2015, <http://cjlaboratory.org/analysis-and-special-reports/the-islamic-state-isis-establishes-media-points-in-syria-iraq-libya-to-indoctrinate-caliphate-citizens-and-enhance-its-cyber-activities-on-the-ground-a-one-year-review-2/>.

66 The Camstoll Group, “Use of social media by terrorist Fundraisers and Financiers,” *The Camstoll Group*, April 2016, <https://www.camstoll.com/wpcontent/uploads/2016/04/Social-Media-Report-4.22.16.pdf>.

67 John Graham, “Who Joins ISIS and Why?,” *HUFFPOST*, December 29, 2015, accessed January 17, 2017, https://www.huffingtonpost.com/john-graham/who-joins-isis-and-why_b_8881810.html.

68 Graham, “Who Joins ISIS and Why?”

69 J. M. Berger, “How ISIS Games Twitter,” *The Atlantic* (June 16, 2014): <http://www.theatlantic.com/international/archive/2014/06/isis-iraq-twitter-social-media-strategy/372856/> (accessed December 22, 2016).

70 Halla Diab, “How the Syrian Uprising Led to ISIS’ Rise, not Democracy,” *Al Arabia English*, October 11, 2014, <https://english.alarabiya.net/en/views/news/middle-east/2014/10/11/How-the-Syrian-uprising-led-to-ISIS-rise-not-democracy-Part-1-.html>.

Lethal Targeting on the Conventional Battlefield: An Ethical Argument

by Kenneth T. King

Introduction

The U.S. defense establishment may face an ethical dilemma in the next conventional war. Several technological advances in the last two decades have made lethally targeting specific Soldiers possible during conventional operations. Additionally, the changing nature of warfare, in which an enemy will attempt to exploit asymmetries in relation to U.S. capabilities, may necessitate creative targeting methodologies beyond what the U.S. military tried in the Gulf War, OIF, or OEF. The familiarity the U.S. military has with lethal targeting may have decreased the ethical threshold for targeting in a conventional conflict. The U.S. is uniquely responsible for structuring the normative, or commonly accepted, understanding of lethal targeting. This article will address the contextual aspect of lethal targeting by addressing the prima facie ethical considerations associated with such operations. It will also analyze lethal targeting based on international law and normative considerations. Lastly, the article will address the utility of targeting efforts within the context of jus in bello and jus ad bellum. The next war may allow the U.S. to target, based on better intelligence and more precise weaponry, those persons of an opposing military force. This specific targeting would lead to a political or morale advantage on the battlefield. With deference to the ethical concerns regarding such targeting, the U.S. should capitalize on those lethal targeting efforts and kill particular commanders or opposing armies because doing so is normatively and morally permissible. Lethal targeting, categorized for this paper into “targeted killing” and “assassination,” depending on context, is a fundamental capability the U.S. may have over its enemies. It is important to know the definitions of assassination and targeted killing to understand lethal targeting within the context of a conventional war.

There is important U.S. military historical context for targeting particular military leaders in war. Providing several examples of such operations is instructive. However, the distinguishing element in future wars, opposed to past wars, very well may be the frequency of targeting efforts. A normative shift in the military over the last decade, as well as technological capability, may make targeting specific persons on the battlefield a rule rather than an exception. Three examples will illustrate the historical context of targeting. The first is the operation carried out by the U.S. Navy to kill Admiral Isoroku Yamamoto during World War II. Then we will discuss decisions to target Saddam Hussein during the Gulf War. Lastly, the effort to target Osama Bin Laden, specifically at Tora Bora, is germane to the discussion of targeted killing on the battlefield.

Examples of Lethal Targeting on the Conventional Battlefield

Operation Vengeance, the mission to kill the Japanese Admiral Isoroku Yamamoto during World War II, provides the best example of lethal targeting conducted by U.S. forces in combat. The admiral was conducting an inspection of the Solomon Islands and New Guinea in April 1943. On 14 April Nisei military intelligence interpreters decoded orders using naval signal intelligence intercepts which detailed the itinerary of Admiral Yamamoto later in that month. The intelligence confirmed that the admiral would be flying in a bomber with six A6M Zero fighters providing an escort. The Navy provided the information to President Roosevelt, who authorized an operation to kill Yamamoto. Eighteen P-38 fighters from the 339th Fighter

Squadron, 347th Fighter Group were tasked to penetrate Japanese radar coverage and intercept the bomber. The fighters did so at 0934 on 18 April, engaging the bomber with their 20mm cannons and .50-caliber machine gun. Though the bomber eventually crashed into the jungles of New Guinea, Japanese authorities determined that before the crash a bullet impacted the bomber and killed Yamamoto. The event raised U.S. morale and struck a blow to Japanese operational effectiveness. The U.S. government suggested that the killing of Yamamoto was a chance event, though this wasn't true.¹ The killing of Yamamoto established the precedent for the targeted killing of military leaders by the U.S. within the context of a conventional war. However, the targeting of Yamamoto is a near-perfect case. The U.S. military has attempted other operations, such as attacks on Saddam Hussein, which were less successful.

The targeting of Saddam Hussein by the U.S. military during Operations Desert Storm and Iraq Freedom is instructive in the lethal targeting of a military leader during conventional operations and the U.S. political justifications for such action. During Operation Desert Storm, Robert M. Gates, a National Security counselor at the time, stated that the killing of Saddam Hussein within the context of "bombing leadership targets" was a goal of the initial bombing campaign at the beginning of the Gulf War. The U.S. effort targeted 580 command and control compounds and 260 "leadership targets, including Saddam Hussein's palaces and other buildings he had been known to frequent."² The U.S. again sought to kill Hussein during its opening salvo of Operation Iraqi Freedom, where the U.S. military tasked F-117A Nighthawks to drop a pair of EGBU-27 bunker-busting bombs on Dora Farm in the early morning hours of 19 March 2003. A group of informants passed information that Saddam, and his two sons, Uday and Qusay, would be at the compound.³ In both cases targeting Saddam, the intelligence community had little knowledge of Saddam's location at any given time. Saddam would "move around each night, sometimes more than once" and would use decoys to deceive those that would try to find him.⁴ The targeting of Saddam Hussein illustrates the problems associated with intelligence in targeting operations, both pre- and post-strike. However, the utility of the example is problematic because Saddam Hussein was a political, as well as a military, target as the dictator of Iraq. The highest levels of the U.S. government debated on the targeting of both Yamamoto and Saddam Hussein and the president made the decision to target the individuals. This level of governmental oversight was not the case in the example of Osama Bin Laden in Tora Bora.

Osama Bin Laden's role in the Battle of Tora Bora, as a part of a larger Taliban and Al-Qaeda force, provides a relevant example of how to conduct lethal targeting on a contemporary battlefield. There are inconsistencies in using the targeting of Osama Bin Laden as an example of conventional targeted killing, such as his status as a non-state actor. However, the focus of this anecdote is on Bin Laden's tactical role in the battle. Members of the 5th Special Forces Group deployed to Afghanistan in 2001 in the beginning stages of Operation Enduring Freedom. The team conducted laser designation of Taliban and Al-Qaeda forces for precision bombing in support of the Northern Alliance, a semi-conventional force opposed to the Taliban and the Al-Qaeda (AQ) terrorists that conducted the 9/11 attacks. The Northern Alliance and U.S. forces chased the Taliban-AQ forces into the Tora Bora Mountains in eastern Afghanistan and the boundary with Pakistan's Federally Administered Tribal Areas (FATA). The Central Intelligence Agency (CIA) had intelligence that Bin Laden was with the force in Tora Bora. During the campaign, the U.S. mounted massive air strikes to destroy Taliban-AQ positions and kill Bin Laden. Team Juliet of the 5th Special Forces Group was able to intercept and translate some messages thought to be transmitted by Bin Laden inside Tora Bora. The team identified a group of fighters, including Bin Laden, entering a cave. The team directed aerial bombardment of the cave entrance. They thought they killed Bin Laden but he had escaped. It is clear that Bin Laden withdrew from Tora Bora, but did so under significant pressure by Team Juliet.⁵ There is no unclassified evidence that there was oversight of the operation outside of Afghanistan. This presumed lack of oversight in the targeting operation contrasts with the operations against Yamamoto and Hussein, but more important is the transition Team Juliet made from conventional aerial bombing the Taliban and Al-Qaeda to lethal targeting of Bin Laden. The distinction between "leadership targets," "targeted killing" and other activities that fall under the more insidious term "assassination" are important.

Moral Arguments of Lethal Targeting

The crux of the definition of assassination has to do with its ‘treacherous’ nature and its focus on accomplishing political consequences. The term assassination has several definitions but is not defined by the 1907 Hague Conventions, 1949 Geneva Conventions, or the United Nations Charter. Assassination as defined during an armed conflict is “the specific targeting of a particular individual by treacherous or perfidious means.”⁶ The Hague convention notes that “it is especially forbidden...to kill or wound treacherously individuals belonging to the hostile nation or army.”⁷ A 1989 Army Judge Advocate memorandum defines assassination in peacetime as “murder of a targeted individual for political purposes.”⁸ Lastly, Abraham D. Sofaer, a former legal advisor for the U.S. State Department, notes that assassination is “any unlawful killing of particular individuals for political purposes.”⁹

Often military leaders are a part of political decision-making and are more important politically than tactically. Helmuth von Moltke the Younger, Chief of the German General Staff during World War I, is a perfect example of a military leader who advised political action. His help in developing and implementing the Schlieffen Plan, which counselled invalidating Belgium sovereignty during the invasion of France, had significant political, as well as military, consequences.¹⁰ The marriage of politics with military leaders is not the only remnant of the past. There are many dictators in countries alive today that marry military and political decisions. However, the phenomenon is not isolated to dictatorships; the U.S. also mixes the political and the military. The geographic combatant commanders, for instance, take part in “military diplomacy” by developing “regional engagement strategies, efforts to build capacity in other countries, strategic information, and the disbursement of humanitarian, development, and security assistance.”¹¹ Examples of military leader involvement in politics abound, even in the U.S. They include General Curtis LeMay’s advice against a blockade of Cuba during the Cuban missile crisis, and advocacy of sanctions and other political decisions by General Colin Powell during Operation Desert Shield.¹² Beyond direct military involvement in politics, sometimes the persona of military leaders and their effect on Soldiers and citizens of the leader’s country, far exceed their tactical significance. Thus, lethally targeting specific individual Soldiers, usually strategically important officers, could be an act of assassination because its political consequences are greater than its tactical consequences.

Lawful combatants (members of an army, navy or air force) are normatively the executors of a nation’s military policy and receive protection of ‘combatant equality’ under the laws of international armed conflict.¹³ Combat equality is the principle that absolves a Soldier, no matter which nation for whom he fights, from criminal prosecution unless involved in war crimes. Unlawful combatants, as defined by Solis earlier in this article, are not subject to the same principle of combat equality, which designates that “unless soldiers are, in some sense, criminals, there is no cause to hunt them down and kill them.”¹⁴ A Soldier, indiscriminately placed on a foreign battlefield by his superiors, is fighting more for self-preservation than for any other reason, ignorant of *jus in bello*.

The ethical foundations for combat equality, far from applying to all Soldiers, exists along a continuum as military leaders become more senior and are increasingly responsible for political decisions to go to war and how to conduct it. The international community holds Soldiers to the moral standard of *jus in bello* (how the war is conducted), but the common Soldier was not directly involved in the decision to conduct the war, *jus ad bellum*. However, combat equality may erode somewhat when one country invades another, when the military’s strategic position is not *de facto* self-defense, and the Soldier understands his or her role as an invader. The bellicose foreign policy of a country could be construed as a criminal act if the country seeks to impugn another country’s citizens of “their right to self-determination, freedom, and independence” or in disruption of “territorial integrity.”¹⁵ Empirically, the normative conclusion is that an aggressive action by a country does not fall on the shoulders of its Soldiers. The common Soldier of Napoleon or Hitler’s armies was not treated like a criminal after the war. However, the Nuremberg trials, and later UN Resolution 3314,

do bring attention to the idea that there is a continuum used to define the authority and moral innocence of a Soldier.

The most problematic distinction, as it relates to combat equality, are those general officers that are intimately involved with political decisions to go to war and how to conduct it from a political and strategic viewpoint. These officers, directly participating in the conduct of a bellicose foreign policy against another country may be less equal as a combatant and more of a war criminal than the common Soldier focused on self-preservation. This position does pre-suppose the ability to assign the label of “aggressor” to a particular nation. The distinction of “aggressor” is hard to make because different perceptions of aggression must be taken into account and are often situational. An additional consideration is that Soldiers closer to political decision makers have a much better understanding of *jus in bello*, the way warfare is conducted, and are not morally innocent. This type of Soldier has a level of understanding that a common Soldier with a “narrow grasp of world events, limited political participation, and susceptibility to political indoctrination” may not be able to achieve.¹⁶ Considering this argument, it seems that the echelon at which the spectrum of combat equality dissipates, and thus the moral imperative for targeted killing begins, is situational. International norms and laws helped to define further situations in which targeted killing is appropriate in general terms and specific to the conventional battlefield.

Legal and Normative Arguments of Lethal Targeting

The idea of combat equality and the lawfulness of a combatant is present in the laws of international armed conflict as far back as the Civil War. The 1863 Lieber Code roots U.S. policy in a strong moral imperative against assassination. However, Lieber assumes the ability to distinguish between a criminal and a combatant in his definition of assassination. The Lieber Code was written by a Prussian immigrant jurist to the United States, Francis Lieber, as Lincoln’s “General Order 100, Instruction for the Government of Armies of the United States in the Field.”¹⁷ The code’s section IX addresses assassination and states that a Soldier of an opposing country is not an “outlaw, who may be slain without trial...”¹⁸ He assumes actions by Soldiers on the battlefield, wrought of self-defense, are required due to the belligerence of their governments as an a priori position.¹⁹ The international community used the Lieber Code as a guide to constructing the 1907 Hague Convention stance on assassination that “has survived in more or less the same form in subsequent international agreements and conventions.”²⁰ The Hague Convention established the norm against assassination and the imperative of self-defense of the combat Soldier, a stance that eroded over time.

The Church Committee, created by the U.S. congress, specifically addressed the idea of killing civilian foreign leaders as it applied to U.S. policy and clarified the government’s stance on lethal targeting. The 1975 U.S. Congressional review of the federal intelligence community investigated several allegations of U.S. involvement in the assassination of foreign leaders. While U.S. agents were not successful in any assassination attempt on a foreign leader, there was an admission concerning the participation of various intelligence agencies of the U.S. in attempts to orchestrate such assassinations. Interestingly, the committee supported the condition that the killing of foreign officials “absent a declaration of war or the introduction of U.S. Armed Forces” would be a criminal offense, and thus a form of murder.²¹ The committee’s report prompted President Gerald Ford to issue Executive Order 11905 in 1976. This order stated, “no employee of the United States Government shall engage in political assassination.” The loopholes in the phrasing of this EO are evident, with an emphasis on *political* assassination and *engaging* in the act, leaving open the possibility of using proxy agents. The wording was interesting, especially since the majority of the cases that the Church Committee investigated ultimately used proxies in attempting to kill foreign leaders. In 1978, President Jimmy Carter sought to close some of those loopholes in EO 12036, which states, “no person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination.” The same language was brought forward by President Ronald Reagan into EO 12333,

which remains a standing EO. The constant theme through the EOs is that federal law forbids assassination. However, there are still some unanswered questions regarding the language in the EOs. Primarily, a precise definition of assassination versus lethally targeting combatants.

War being an “extension of politics by other means” shifts the moral foundation of lethal targeting and redefines “perfidy” as “surprise.” Gary Solis, in particular, confirms this stance by stating that military necessity justified the operation to kill Yamamoto and that military leaders do not fall under the same particular moral designation of targeted killing.²² This idea is contrary to the position of Lieber, which outlines the moral innocence of the individual Soldier, however, conforms to the shift in perception precipitated by the Church Committee. Interestingly, Solis also places the role of government officials within the category of ‘civilians,’ depending on their position and involvement in war making.²³ Solis’ definition includes the president, the secretary of defense, and similar government officials with authority associated with the war effort. It is their decisions that propelled the country into war in the first place. Certain military leaders are also involved in these decisions to go to war and how the war is conducted. Thus, it seems the legal threshold for lethal targeting has declined since the Hague Conventions through contemporary definitions used to justify the targeting of “unlawful combatants” in the War on Terror.

Norms against assassination were in place to play to the strengths of states that have large armies. In an age where the United States has a strong military, lethal targeting by the U.S. may degrade the norm against assassination.²⁴ Historically, the norm against assassination is thought to have been a deliberate agenda by those countries that have a larger military than their neighbors, to put pressure on smaller nations not to use alternative methods such as assassination that would circumvent military might. Assassinating leaders may introduce disruptive and retaliatory tactics to war.²⁵ For example, in 1610 an anarchic organization assassinated the religiously progressive King Henry IV of France, causing infighting and conflict of the French government; eventually leading to the 30 Years War.²⁶ This is one of only a few examples where killing leaders have precipitated larger political-military issues. However, lethal targeting on the conventional battlefield begs an additional argument, and that is its utility; especially concerning its ability to prevent or end major hostilities.

Utilitarian Argument of Lethal Targeting

The number of Soldiers in the U.S. military has become less relevant given the U.S. military’s ability to conduct precision strikes based on highly sophisticated intelligence and satellite imagery. The U.S. military has always sought to increase the effectiveness of each Soldier. This policy of efficacy is why the tooth-to-tail ratio, the ratio of Soldiers directly involved in tactical operations to Soldiers in support of those fighting in the U.S. military, has continued to decrease over time from under half to over three-quarters of the force from World War I to Operation Iraqi Freedom.²⁷ Additionally, precision weapons allow small, highly trained Soldiers to place fire on enemy positions accurately.²⁸ Precision weapons can very quickly be oriented based on military intelligence of distinct persons, turning the purpose of the operation into lethal targeting. Of course, the question becomes what the Soldier can find through intelligence that will make a large impact on the battlefield. Few other countries possess the capabilities of the U.S. in satellite technology and technical intelligence. The ability to precisely strike, either with precision guided munitions or special operations forces, against very specific hostile forces is an asymmetric advantage that only the U.S. and a few other countries are uniquely capable of doing.²⁹

An emphasis on lethal targeting decreases the chances of collateral damage inherent in the wide-scale deployment of troops against conventional and unconventional targets. Lethal targeting, by either air delivered munitions or special operations forces (SOF), have a small footprint. An important distinction of lethal targeting is that by definition the government, not non-state actors, are carrying out the action. This difference is significant for several reasons. First, the intentions of state policymakers are assumed to be furthering state objectives, versus a lone assassin’s attempt to destabilize a system for destabilization’s sake.

Second, government actions include a fair amount of oversight of targeted killing, unlike individual actors. This control provides targeted killing a legitimacy that assassination, or other acts like it, committed by individual (possibly mentally ill) agents do not have.

Conclusions

There is little moral obstruction to lethal targeting on the conventional battlefield but it is important to understand the sometimes blurry line between peacetime and wartime international laws; particularly in this instance as it applies to lethal targeting. International law has maintained the preeminence of combatant equality, though the U.S. normative interpretation of lethal targeting has become more permissive since the turn of the century. This permissiveness is especially apparent as it relates to the killing of military leaders. The Civil Wars' Lieber Code and the Hague Convention of 1907 developed the idea that a Soldier involved in the war was not by consequence a criminal. A focus on post-war criminal trials, political assassination through mid-century, and practical experiences with lethal targeting during combat operations have degraded this normative viewpoint, especially for strategic leaders.

There is a distinct utility in conducting lethal targeting, decreasing the number of combatants involved, and affecting very specific centers of war making. The advent of technological advances in weaponry and intelligence have made the efficacy of lethal targeting increasingly morally plausible. Efforts to decrease the suffering in war, both by the Soldiers involved in the conflict and civilians' experiences collaterally, both abide by the use of lethal targeting in a conventional war. Lethal targeting in a conventional war is ethically defensible, though situationally dependent. The U.S. military must strike a delicate balance in determining the tactical utility of targeting versus the moral imperative of combat neutrality. Lethal targeting must have a positive impact on ending the war to be ethically solvent. If lethal targeting meets this threshold then targeting becomes a function of possibility.

Endnotes

- 1 Burke Davis, *Get Yamamoto* (New York: Random House, 1969), 151-221.
- 2 Walter Pincus, "Saddam's Death Is a Goal, Gates Says," *Washington Post*, Page A36 (February 15, 1998), <http://www.washingtonpost.com/wp-srv/inatl/longterm/iraq/stories/saddam021598.htm>
- 3 Bob Woodward, "U.S. Aimed for Hussein as War Began," *Washington Post*, April 22, 2004, 1A. http://www.washingtonpost.com/wp-dyn/articles/A32572-2004Apr21_3.html
- 4 Bob Woodward, "U.S. Aimed for Hussein as War Began," *Washington Post*, April 22, 2004, 1A. http://www.washingtonpost.com/wp-dyn/articles/A32572-2004Apr21_3.html
- 5 Gary Bernstein, *Jawbreaker: The Attack on Bin Laden and Al-Qaeda* (New York: Three Rivers Press, 2005), 269-276.
- 6 Matthew J. Machon, "Targeted Killing as an Element of U.S. Foreign Policy in the War on Terror" (monograph, School of Advanced Military Studies, Fort Leavenworth, Kansas 25 May 2006)
- 7 *Convention (No. IV) Respecting the Laws of Customs of War on Land, with Annex of Regulations*, 18 October 1907, Annex 1, 36 Stat. 2277, TS 539 (26 January 1910), art. 23(b).
- 8 Judge Advocate Memorandum of Law (27-1a) <https://www.law.upenn.edu/institutes/cerl/conferences/targetedkilling/papers/ParksMemorandum.pdf> (accessed 21 March 2017).
- 9 Abraham D. Sofaer, "Terrorism, the Law, and the National Defense," *Military Law Review* 126 (1989): 117.
- 10 Isabel V. Hull, *Absolute Destruction, Military Culture and the Practices of War in Imperial Germany* (Ithaca, NY: Cornell University Press, 2005), 171-81.
- 11 Shoon Murray, "Ambassadors and the Geographic Combatant Commands," *EMC Chair Conference Paper*. [https://www.usnwc.edu/Academics/Faculty/Derek-Reveron/Workshops/Maritime-Security,-Seapower,---Trade-\(1\)/papers/murray.aspx](https://www.usnwc.edu/Academics/Faculty/Derek-Reveron/Workshops/Maritime-Security,-Seapower,---Trade-(1)/papers/murray.aspx) (accessed 21 March 2017).
- 12 John Garofano, "Deciding on Military Intervention: What is the Role of Senior Military Leaders?" *Naval War College Review* (Spring 200): 48. <https://www.usnwc.edu/getattachment/bf1e3c5d-26f5-46f7-8d7b-9b2de1e7545f/Senior-Military-Leaders-and-Intervention-Decisions.aspx>
- 13 Michael Gross, *Moral Dilemmas of Modern War* (New York: Cambridge University Press, 2010), 33.
- 14 Michael Gross, *Moral Dilemmas of Modern War* (New York: Cambridge University Press, 2010), 34.
- 15 UN General Assembly Resolution 3314 (XXIX), Definition of Aggression (General Assembly 29th Session, December 14, 1974): 142-4.
- 16 Michael Gross, *Moral Dilemmas of Modern War* (New York: Cambridge University Press, 2010), 34.
- 17 *Encyclopedia Britannica* (December 9, 2014), <https://www.britannica.com/biography/Francis-Lieber> (accessed March 8, 2017).
- 18 Francis Lieber, "General Orders No. 100: The Lieber Code," *The AVALON Project: Documents in Law, History and Diplomacy*, (2008), http://avalon.law.yale.edu/19th_century/lieber.asp#sec9 (accessed March 8, 2017).
- 19 Michael Gross, *Moral Dilemmas of Modern War* (New York: Cambridge University Press, 2010), 29.

- 20 Ward Thomas, *The Ethics of Destruction* (Ithaca, New York: Cornell University Press, 2001), 59.
- 21 U.S. Government Printing Office, “Church Committee: Interim Report - Alleged Assassination Plots Involving Foreign Leaders.” <https://www.maryferrell.org/showDoc.html?docId=1156&search=definition#relPageId=298&tab=page> (accessed March 8, 2017).
- 22 Gary Solis, “Targeted Killing and the Law of Armed Conflict.” (Naval War College), <https://www.usnwc.edu/getattachment/764f1498-9f87-406c-b8e5-0068336aa9ed/Targeted-Killing-and-the-Law-of-Armed-Conflict---S>.
- 23 Ward Thomas, *The Ethics of Destruction* (Ithaca, New York: Cornell University Press, 2001), 82-83.
- 24 U.S. Department of the Army Training and Doctrine Command, *The Army Capstone Concept: Operational Adaptability; Operating Under Conditions of Uncertainty and Complexity in an Era of Persistent Conflict*. TRADOC Pamphlet 525-3-0 (Washington, DC: U.S. Department of the Army, Training and Doctrine Command, October 31, 2014), 12-14.
- 25 Ward Thomas, *The Ethics of Destruction* (Ithaca, New York: Cornell University Press, 2001), 61.
- 26 Stephen Toulmin, *Cosmopolis: The Hidden Agenda of Modernity* (New York: Free Press, 1990), XX.
- 27 John McGrath, *The Other End of the Spear: The Tooth-to-Tail Ratio (T3R) in Modern Military Operations* (Ft. Leavenworth: Combat Studies Institute Press, 2007), 64-67.
- 28 George Friedman, *The Next 100 Years: A Forecast for the 21st Century* (New York: Anchor Books, 2009), 178.
- 29 Robert Farley, “America’s Ultimate Weapon of War: Precision-Guided Munitions,” *The National Interest*, (October 2, 2014), <http://nationalinterest.org/feature/americas-ultimate-weapon-war-precision-guided-munitions-11389> (accessed March 8, 2017).

The Assumption of Employing Ethically Sound and Trusted Agents for the Future of Cyber Capabilities Must be Challenged

by Timothy Middleton

In a speech to the Association of the U.S. Army in October 2016, GEN Mark A. Milley, Chief of Staff of the Army, directs leaders to challenge every assumption¹. An area that the U.S. Army needs focus on is the recruitment of candidates who are not security threats for the new Cyber Command. The assumption that those individuals recruited are worthy of trust with the U.S. Army's system should be challenged. In fact, the working assumption should be that these new recruits are the critical vulnerability of the system. If the newest members of the U.S. Army are the system's weakness, we should approach this challenge as an ethical problem instead of assuming those that show up have the nation's best interest at heart.

When Admiral William A. Owens was the Vice Chairman of the Joints Chief of Staff, he wrote a paper about a new revolution in military affairs.² He describes a "system of systems" that will help commanders lift the fog of war. In the pursuit of advanced technology, the modern U.S. Army is living this reality and it has come with inherent issues. The primary one is that technology usage has been the realm of a younger generation. The old guard, well versed in the technologies of a simpler time, appear to assume those who show up to serve are best suited to handle the security issues accompanying the latest advancements. ADM Owens mentions those doing the work and defines them as people working hard to realize the future who are "far from ignorant of the danger of inherent flaws."³ He expounded on this idea for the private sector in a 2012 TED talk by outlining the number of folks trustworthy to use this technology as 10,000 individuals.⁴ It is possible to arrive at the 10,000 individuals, but these Soldiers need to be recruited, selected, and trained. We should not assume that their presence in a recruiting station or merely holding a security clearance warrants trust.

Before giving an in-depth explanation of the ethical dilemma posed by the tech savvy recruits of today, it is worth offering examples that challenge the idea that individuals are "far from ignorant of the danger of inherent flaws" that handle the U.S. Army's system. The easiest example to highlight from a U.S. Army standpoint is Chelsea Manning's document dump to WikiLeaks.⁵ The courts handed down a sentence that was commuted by an outgoing U.S. President.⁶ Right, wrong, or indifferent; the Soldier was the weakness of the system. The process or system that investigated this Soldier's background, in a rush to employ a tech savvy individual, also cleared the way for access to potentially damaging items. This Soldier's military occupational specialty was 35F, intelligence analyst.⁷ In eras gone by, someone with a lack of computer and technological awareness could be trained. Today, this specialty requires some level of specific knowledge or the products needed to build the intelligence preparation of the battlefield will be meager. This Soldier was tried in court and sentenced, but the damage was done. The result for the U.S. Army's system was upgrading security protocols and various other features, such as eliminating the use of portable memory or "thumb" drives. The information in U.S. diplomatic cables, video on air strikes, and disposition of detainees at Guantanamo has been published and the political fallout weathered, but was the system safe again? No, it was not safe. Manning handed WikiLeaks the data and it was released starting early in 2010.⁸ By 2013 another "far from ignorant of the danger of inherent flaws" individual was busy downloading more damaging data.

Eric Snowden was not a U.S. Soldier when he violated the law, but his example is still important. Snowden did try to enter military service with the U.S. Army in the Special Forces as part of the 18x program.⁹ He did not stay in the U.S. Army an entire year. What is important to note about Snowden is his skills as a recognized expert in computer security.¹⁰ Snowden had access to significantly higher levels of data than a Soldier would need but he violated national trust and used WikiLeaks to disseminate classified information and programs. He lists no formal computer training, but held positions with the Central Intelligence Agency and Dell.¹¹ He has been formally charged and is currently somewhere in Russia on a temporary asylum visa. Snowden's impact has been so formidable to U.S. intelligence that companies were forced to upgrade software and operating systems based on revelations in the information he released.¹² Snowden was not the last person to release classified U.S. data.

Vault 7 is the latest data dump of material classified by the U.S.¹³ The information was also released to WikiLeaks and the impact of this new leak has yet to be felt. What is significant about the data dump is the Central Intelligence Agency and the U.S. President have made rare public comments about it.¹⁴ This is not usually the case. Since the data dump appears to be authentic, a closer examination of the items is needed for a complete picture of this ethical dilemma. According to news agencies reporting on the data dump, the focus of the information is on the intelligence communities' offensive capabilities in the cyber realm.¹⁵ Offense is the specific domain of the U.S. Army. Whether these tools are in the hands of Soldiers is not clear, but it would make sense that some type of cyber-attack would precede a high intensity conflict and this capability release authority does not currently reside with the combatant commanders. There has been speculation about the identity of the individual who released the data, and that person has been dubbed Snowden 2.0, by the world press.¹⁶

Chelsea Manning, Eric Snowden, and Vault 7; why are these important? The U.S. public has shown two points of view on the topic, one they are "whistleblowers" and heroes who deserve protection,¹⁷ and two, traitors who should be punished.¹⁸ Neither of these can be impacted by U.S. Army policy, and even in the case of Chelsea Manning the U.S. Army courts have had their say. The real take away from this should be twofold. One, the vetting process for U.S. Army cyber warriors needs to be wide-ranging and exhaustive. Two, the overall impact of one individual is enormously damaging. In the case of infantrymen, artillerymen, and armored forces, one individual does not impact national policy, but a single cyber warrior can expose the application of doctrine and tools needed to accomplish U.S. Army objectives. Here lies the critical vulnerability of the cyber community. Just these three data releases, ultimately these three individuals, have completely undermined the entire U.S. cyber operation. The monetary cost in damage has not even been calculated. Here is a thought about the money spent, if the Manning data dump spurred spending to secure systems it was undermined by the Snowden dump. The investment was completely wasted in a very short span of time. The release of the Vault 7 data alerted the nation's enemies on what to protect and forced U.S. planners back to the drawing board for new capabilities. The human cost and damage to U.S. international relations has taken an even higher hit.

When Manning released information, the cyber community responded by spending resources to institute new security rules that Snowden circumvented. Snowden's release of data required new resources to apply a new set of rules that the Vault 7 folks got around. In the past, security violators either benefitted monetarily from selling data or were helping a foreign government gain advantage over the U.S. No one individual or country seems helped by these three data breaches and anyone with an internet connection can access the information. These are no longer isolated incidents; it is a pattern.

Similar breaches have not occurred for the U.S. allies or enemies. There are no 24-hour news cycles dedicated to a Chinese or Russian defector who dumped all the intelligence gathering capabilities of these two countries, so this is uniquely an American issue. With this as the backdrop, it is now time to challenge ADM Owens' idea that individuals that are "far from ignorant of the danger of inherent flaws" and are

threats to running the U.S. Army “system of systems.” ADM Owens provided the path to challenge his own assumption by outlining certain technologies that were open to “hacking.”¹⁹ This insider threat is more relevant than outsiders attempting to breach the system. ADM Owens also acknowledged that each system builds on others, in turn making the infrastructure harder to take down. In the case of the three data breaches, the entire Department of Defense relies upon these national security systems. Relying on the system to protect itself also needs to be challenged.

It is time to take a deeper look at considerations of why or what is driving this shift. Specific reasons may be hard to fathom but broad concepts have emerged and these can be examined for factors. The simplest concept may be embedded in the actual spread of technology itself, specifically for the youngest generation entering military service. For the newest cyber warriors, the ethical dilemma is based on community versus individual. As it applies to security technology, the world community is more important than the individual needs of the United States. Dr. Jack D. Kem’s work on this subject provides a starting point for the discussion of the ethical dilemma of community versus the individual measured against the utilitarian base of what will produce the greatest good.²⁰ Since the community is more important than the individual, divulging the information will do the greater good. An argument can be made for the base being a principles approach as well, meaning if the information is released everyone else will change the rules and follow suit. However, the argument of the greater good is more important to the young recruits, rather than changing the system’s rules. In the case of the new recruits, the greater good is not the United States, it’s the larger worldwide community. They feel it is their personal responsibility to save the world.

If teachers ask these student (potential recruits) to make their lives more ecologically sustainable because the entire planet is counting on their actions, how can the intelligence community expect them to focus on just one country? The fact is that U.S. secrets are released with almost calendar like regularity by members of the same generation. The point of this is to juxtapose the current thinking that the U.S. Army is recruiting individuals who can be trusted with the “system of system” against the fact that most recruits today do not understand the need for international borders. For these newly recruited individuals it is an ethical dilemma, and the U.S. cyber warfare community is on the losing end of it. Ideally, students who show aptitude in the wide range of areas needed to be an effective cyber warrior will have acquired those attributes in multiple school activities. Many of the scholastic programs that afford deeper understanding in technology also require the student to participate in service projects that demonstrate long-term positive impact on the environment.²¹ This global perspective diminishes a nationalist view required to maintain the U.S. Army’s “system of systems”.

In a 2016 Deloitte report about those born after 1982, 64% of people surveyed demonstrated no loyalty to the company where they were currently working.²² Even those in senior positions were more likely to leave. Since only 17% of initial entry Soldiers remain on active duty past the primary commitment, this tracks with expectations. The problem with this for cyber security is that the more educated population tends to be mobile. Why is this important? It takes a long time to make an effective cyber warrior and investing in someone who does not think U.S. interest should needs protecting is dangerous.

How much time does it take to make a cyber warrior? In “Outliers: the story of success,” Malcom Gladwell builds on earlier work and postulates the deeper meaning of the 10,000-hour rule.²³ For those unfamiliar, 10,000 hours of activity is needed to be considered an expert in a given task. Author Gladwell highlights Bill Gates of Microsoft as logging in the required 10,000 hours, building the needed technical background for his company’s financial successes long before its founding. The individual who puts in the time has a chance at making a fortune. Balance money making with security and there does not seem to be a clear need for national borders. Computing is global. If a company uses a portal to sell goods or services, anyone in the world with an internet connection can view the products. The young student who logs the requisite number of hours learning new programing skills can write their own ticket at larger commercial companies.

This problem is so pervasive that companies are spending large sums of money to keep the visa application process free flowing.²⁴ Paying to hire a computer genius from India is cheaper than hiring an American with the same skills. Does the U.S. Army risk spending 10,000 hours on training someone that might leave to start the next internet company? This question must be asked for every innovation but the internet's commercial usage is not new, the military application of interconnectivity is still evolving. For the Army, the cart is in front of the horse and attracting a Bill Gates is highly improbable.

What is at the heart of this ethical dilemma is a cultural change. One the cyber community has fully embraced, but not the cyber security community. This cultural change has made the planet flat, according to New York Times author Thomas L. Friedman. In his book "The World is Flat: A Brief History of the Twenty-First Century," he describes the technologies that created the commercial use of the internet, which was used by up to a third of the world's population in a short span of time.²⁵ The author's point is clear, people can effortlessly communicate across great distances. This communication has changed the face of business, how people choose to be governed, and how people view the planet itself. In addition to monitoring the status of the planet's health, these potential cyber warriors get to converse with other inhabitants of the earth, without a real understanding of the true separation. Whether the future cyber warrior is playing a first-person video game, on-line chatting about the environment, or updating social media it is likely the other members of the online forum are in other countries ranging from India to China. To add another layer, the future cyber warrior does not have to learn the respective languages, either software will automatically translate the conversation or the other members of the forum will speak English. It becomes clear that the U.S. Army cyber warrior may actually be at odds with the commander's intent on a personal level and view the guidance as illegal.

This all adds up to clearly show that Soldiers recruited today will not view the U.S. as needing security in the way the U.S. Army needs its "system of systems" protected. Whether the view stems from a global perspective of community or one derived from commerce, the theme is the same. There is no need for borders. Manning and Snowden still view themselves as winning the war against secrecy. Time will tell what the motives are behind the Vault 7 breach, but the investigation is narrowed to contractors, the same title Eric Snowden had when he was discovered. This perspective is cultural, not isolated. According to the 2016 Deloitte report, the need to ensure the entire world is aware of all activities only exists in the generation born after 1982.²⁶ This generation came of age when the internet had already reached critical mass. They did not have to wait for it to mature in order to benefit. There is an inherent understanding that this generation comprehends all things computer but does not see the need to keep it private or secure. A "hacker" who posts a video on how to "undo" the security protocols, with little or no repercussion, follows almost every single technological advance by a corporation.

A watershed event for file sharing and what could be the groundwork of a community ethos occurred with the music industry. The destruction of the music industry's ability to control their product highlights this shared community value. Since file sharing has taken hold, no artist has seen profits from music on the level that were once possible. Today the industry subsists on licensing and live performances, not music sales, because of the cultural change of community sharing.²⁷ This cultural shift is bad for securing systems with technology and it creates windows for exploitation.

With these ethical dilemmas in mind, what is the answer? Is there a solution to ensuring the generation born after 1982 can be counted on to protect a cyber system? The Deloitte report also had a glimmer of hope. The key to this generation is "liking" their efforts.²⁸ On line activity that receives recognition elevates the author. In the case of cyber warriors, this will mean being reintroduced to actual Soldiering techniques that have lay dormant for the past decade or more. The recent attempts to create mentors is the fundamental way to stem the tide and prevent further loss of sensitive data. Current security protocols prevent one data area from bleeding over into another one, but it also separates personnel. This may be an effective method to

prevent spillage, but at this point the genie is out of the bottle. There is a sincere need for community among these individuals. This is not a call to put Soldiers in open bay barracks, however, the core training elements of that could build a positive view of their country. The net effect of instructing cyber protocols has been similar to teaching Ranger students to conduct a linear danger area crossing without posting security. The patrol leader would be receiving a “no-go” at the end of phase counseling.

With Ranger school as an idea, there is merit to isolating the potential trainees and conducting an assessment and selection process. The selection process should not mirror those currently in use, but should work more on creating community for the Soldiers not accustomed to it. It must be more intense than current initial entry training. If there is no groundwork in the U.S. Army, then the training circumstances used by the U.S. Navy to train sailors in submarine warfare is a good starting point. Before the detractors become entrenched in the “old ways” it may be worth pointing out that nuclear subs and cyber weapons have the same release authority, but one of them gets to run rampant and post sensitive information to WikiLeaks.

Nassim Taleb, noted Black Swan theorist, wrote “...science evolves from funeral to funeral.”²⁸ If this is true of scientists, it is probably true of other ideas as well. ADM Owens set the idea that individuals that understood the inherent dangers of a system breach were working on solutions. The time will come that those Soldiers tasked with monitoring the system and attending to its upkeep will decide it is not worth the effort, or it is unethical. Once that vulnerability exists in the technological advantage it will cease to provide protection or benefit. This is not a call to abandon the pursuit of more advances; this is call to ensure those that present the greatest threat to the system receive the most encouragement to protect it.

Endnotes

1. Samuel Ezerzer, "U.S. Army's chief of staff; Warning to Enemies "Russia', will defeat any foe in ground combat"." *YouTube* (October 05, 2016), https://www.youtube.com/watch?v=_6oNMImmMuU (accessed May 29, 2017).
2. William A. Owens, "The emerging U.S. system-of-systems" Washington, D.C.: National Defense University, Institute for National Strategic Studies, 1996.
3. Owens, "The emerging U.S. system-of-systems". 3.
4. TEDxTalks. "The Future of Innovation: Admiral William A. Owens: TEDxMonroe.mp4." YouTube. August 30, 2012. Accessed May 29, 2017. https://www.youtube.com/watch?v=DmUvUYqs_FA.
5. Tate, Julie. "Bradley Manning sentenced to 35 years in WikiLeaks case." *The Washington Post*. August 21, 2013. Accessed May 29, 2017. https://www.washingtonpost.com/world/national-security/judge-to-sentence-bradley-manning-today/2013/08/20/85bee184-09d0-11e3-b87c-476db8ac34cd_story.html?utm_term=.93cc0d41c952.
6. Savage, Charlie. "Chelsea Manning to Be Released Early as Obama Commutes Sentence." *The New York Times*. January 17, 2017. Accessed May 29, 2017. https://www.nytimes.com/2017/01/17/us/politics/obama-commutes-bulk-of-chelsea-mannings-sentence.html?_r=0.
7. O'Brien, Alexa. "Bradley Manning's full statement." *Salon*. March 1, 2013. Accessed May 29, 2017. http://www.salon.com/2013/03/01/bradley_mannings_full_statement/.
8. Barnes, Julian E. "What Bradley Manning Leaked." *The Wall Street Journal*. August 21, 2013. Accessed May 29, 2017. <https://blogs.wsj.com/washwire/2013/08/21/what-bradley-manning-leaked/>.
9. Ackerman, Spencer. "Edward Snowden did enlist for special forces, US army confirms." *The Guardian*. June 10, 2013. Accessed May 29, 2017. <https://www.theguardian.com/world/2013/jun/10/edward-snowden-army-special-forces>.
10. Drew, Christopher, and Scott Shane. "Résumé Shows Snowden Honed Hacking Skills." *The New York Times*. July 04, 2013. Accessed May 29, 2017. <http://www.nytimes.com/2013/07/05/us/resume-shows-snowden-honed-hacking-skills.html>.
11. Drew, Christopher, and Scott Shane. "Résumé Shows Snowden Honed Hacking Skills."
12. Casino, Khier. "5 ways Edward Snowden has changed the world since NSA leaks." *NY Daily News*. October 01, 2015. Accessed May 29, 2017. <http://www.nydailynews.com/news/world/5-ways-edward-snowden-impacted-world-nsa-leaks-article-1.2381980>.
13. Burgess, Matt. "WikiLeaks drops 'Grasshopper' documents, part four of its CIA Vault 7 files." *WIRED UK*. April 07, 2017. Accessed May 29, 2017. <http://www.wired.co.uk/article/cia-files-wikileaks-vault-7>.
14. Borger, Julian. "To security establishment, WikiLeaks' CIA dump is part of US-Russia battle." *The Guardian*. March 07, 2017. Accessed May 29, 2017. <https://www.theguardian.com/media/2017/mar/07/wikileaks-cia-documents-us-russia-conflict>
15. Domonoske, Camila. "WikiLeaks Releases What It Calls CIA Trove Of Cyber-Espionage Documents." *NPR*. March 07, 2017. Accessed May 29, 2017. <http://www.npr.org/sections/thetwo-way/2017/03/07/519010317/wikileaks-releases-what-it-calls-cia-trove-of-cyberespionage-documents>.
16. Cuthbertson, Anthony. "Who was behind WikiLeaks Vault 7 Leak-an insider, a hacker or Russia?"

Newsweek. March 14, 2017. Accessed May 29, 2017. <http://www.newsweek.com/who-cia-vault-7-wikileaks-dump-russia-insider-contractor-565296>.

17. Žižek, Slavoj. "Edward Snowden, Chelsea Manning and Julian Assange: our new heroes | Slavoj Žižek." *The Guardian*. September 03, 2013. Accessed May 29, 2017. <https://www.theguardian.com/commentisfree/2013/sep/03/snowden-manning-assange-new-heroes>.

18. Geraghty, Jim. "Manning, Assange, Snowden: These Are Not the Good Guys." *National Review*. January 18, 2017. Accessed May 29, 2017. <http://www.nationalreview.com/corner/443953/manning-assange-snowden-these-are-not-good-guys>.

19. Owens, "The emerging U.S. system-of-systems"., 3.

20. United States. Combined Arms Center. Command and General Staff Officer Course. Ethical Decision Making: Using the "Ethical Triangle". By Dr. Jack D. Kem. Fort Leavenworth, KANSAS: CAC. 1-12.

21. "Community Service Idea Starters | NHS." National Honor Society & National Junior Honor Society. Accessed May 29, 2017. <https://www.nhs.us/hyfn/honor-your-future-now/community-service-idea-starters>.

22. "Millennial Survey 2017 | Deloitte | Social impact, Innovation." Deloitte. April 27, 2017. Accessed May 29, 2017. <https://www2.deloitte.com/global/en/pages/about-deloitte/articles/millennialsurvey.html>.

23. Gladwell, Malcolm. *Outliers: the story of success*. New York: Back Bay Books, Little, Brown and Company, 2008.

24. Schouten, Fredreka, and Alan Gomez. "Tech companies driving the lobbying on immigration." *USA Today*. April 29, 2013. Accessed May 29, 2017. <https://www.usatoday.com/story/news/nation/2013/04/29/tech-companies-lobbying-immigration-facebook-family-visas/2121179/>.

25. Friedman, Thomas L. *The world is flat: a brief history of the twenty-first century*. Bridgewater, NJ: Distributed by Paw Prints/Baker & Taylor, 2009.

26. Deloitte., "Millennial Survey 2017 | Deloitte | Social impact, Innovation."

27. "Music Industry Revenue In 2016." *Careers In Music | Music Schools & Colleges*. January 03, 2017. Accessed May 29, 2017. <https://www.careersinmusic.com/music-industry-revenue>.

28. Taleb, Nassim Nicholas. *Foiled by randomness: the hidden role of chance in life and in the markets*. London: Penguin, 2013.

The Commanders Dilemma: Using Ethical Denial and Deception

by Kailah M. Murry

Introduction

Denial and deception have played an essential role in military operations since the inception of warfare; there is no refuting their relevance to operations and their benefit when used successfully. Seldom examined in relation to denial and deception are the ethical considerations the commander must take into account when conducting operations. Ethics is a crucial area of research and study as the military moves into a world hyper aware of political correctness, international opinion, and legal issues. When viewing denial and deception through the lens of ethics and morality, do the ends justify the means? This article will discuss various ethical consequences of conducting denial and deception, and suggest an ethical framework for future operations.

For the purpose of this article, the definitions for denial and deception come from joint doctrine. Deception, in broad terms, is the manipulation of information and perceptions to induce the target of that deception to take or not take an action, thereby benefiting the deceiver.¹ Denial includes methods used to conceal state and military secrets, particularly from foreign intelligence collection.² John Yurechko noted, “Denial and deception are interrelated. Denial is the basis for successful deception. One cannot manipulate or blur the truth or lie convincingly unless the truth is first concealed.”³ To focus the discussion in this paper, Joint Publication 3-13.4 defines military deception as “actions executed to deliberately mislead adversary military, paramilitary, or violent extremist organization decision makers, thereby causing the adversary to take specific actions or inactions that will contribute to the accomplishment of the friendly mission.”⁴ In all current and previous campaigns, denial and deception are important facets of the overall strategy.

Multiple military strategists endorse denial and deception, and current U.S. military doctrine recognizes it as vital to operations. The writings of Sun Tzu note, “All warfare is based on deception... Offer the enemy a bait to lure him; feign disorder and strike him.”⁵ Clausewitz states, the desire “to take the enemy by surprise... is more or less basic to all operations, for without it superiority at the decisive point is hardly conceivable.”⁶ The 1978 Department of Army Field Manual on Battlefield Deception states, “Military deception has proven to be of considerable value in the attainment of national security objectives, and a fundamental consideration in the development and implementation of military strategy and tactics.”⁷ Policy, manuals and theorists all suggest deception is an indispensable component of warfare, and American military commitment is clear in their agreement based on the litany of varied courses offered through training and education.

The Ethical Triangle and Deception

When viewing denial and deception through the lens of ethics and morality, do the ends justify the means? This article will apply the ethical triangle to short case studies taken from various periods of war. The ethical triangle, as shown in Figure 1, combines the theories of rules-based ethics, virtues-based ethics, and consequences-based ethics.⁸ (See page 110.) Theology is not included in this writing; the reader may apply their own views to denial and deception while maintaining the ability to interpret their beliefs through the theories discussed. In the end, with the application of various concepts contained in the ethical triangle, the reader may find not all is fair in love and war, at least in the context of war.

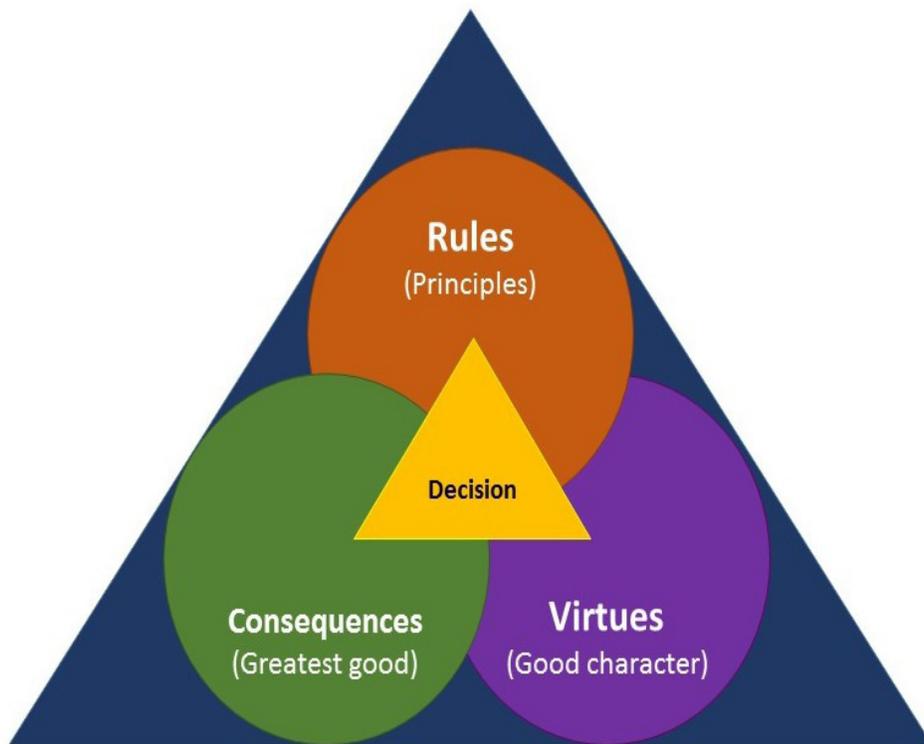


Figure 1. The “Ethical Triangle”

A generally accepted definition of rules-based, also known as principles-based, ethics states, “one should not act according to the consequences of an action, but instead according to agreed-upon or settled values and principles.”⁹ Dr. Jack Kem, professor at the United States Army Command and General Staff College, noted, “when looking at ethical dilemmas through the lens of rules-based ethics, consideration must be made for the rules that exist.”¹⁰ Immanuel Kant, a central figure in contemporary philosophy and the primary rules-based ethics philosopher, felt that man knows the difference between right and wrong; it is man’s choice to decide between the two.¹¹ Rules, laws, and regulations provide a framework for what is acceptable within a culture. The difficult part is assessing in a larger, strategic context what rules fit which society when acting in times of war or peace.

One set of agreed upon laws pertaining to deception would include excerpts from the Geneva Conventions. Current accepted law discusses perfidy and ruses of war. The law of armed conflict prohibits the use of “Perfidious acts” under the 1977 Protocol I Additional to the Geneva Conventions of 12 August 1949. This addition states:¹²

Article 37. – Prohibition of perfidy

1. It is prohibited to kill, injure or capture an adversary by resort to perfidy. Acts inviting the confidence of an adversary to lead him to believe that he is entitled to, or is obliged to accord, protection under the rules of international law applicable in armed conflict, with intent to betray that confidence, shall constitute perfidy. The following acts are examples of perfidy:

- (a) The feigning of an intent to negotiate under a flag of truce or of a surrender;*
- (b) The feigning of an incapacitation by wounds or sickness;*
- (c) The feigning of civilian, non-combatant status; and*
- (d) The feigning of protected status by the use of signs, emblems or uniforms of the United Nations or of neutral or other States not Parties to the conflict.*

However, Protocol I does not prohibit “ruses of war;” this includes misleading or prompting the enemy to act hastily.¹³ Ruses of war are not perfidy because, “they do not invite the confidence of an adversary with respect to protection under that law.”¹⁴ Ruses include the use of camouflage, placing decoys, conducting mock operations, and disseminating misinformation. By viewing deception in a broad sense, it is legally acceptable within certain limits.

Consequences-based ethics, also known as utilitarianism, focuses on the approach that the best decision produces the greatest good for the greatest number of people.¹⁵ William Shaw goes a step further by stating, “According to consequentialism, an action is right if and only if nothing the agent could do would have better results.”¹⁶ A commander and his staff must rely upon education, training, and experience, as well as gut feeling, to assess the possible consequence of an action and if it will produce the greatest good. However, it is difficult to evaluate with accuracy the exact outcome of a chosen strategy prior to conducting the course of action. What complicates matters is the fact that the measurements can be subjective in nature. There is an additional question of whether or not the omission of acting is the same as acting to produce results, some would see a substantial moral difference between a deliberate and non-deliberate actor. The accurate measurement of consequences usually takes place after the operation.

Good character is the central theme of virtues-based ethics.¹⁷ A virtue-based ethics philosopher will identify virtues that a virtuous person personifies, such as courage, temperance, and truthfulness. To the philosopher, having these virtues is what makes one moral. Philosophy professor Heather Battaly notes, some virtue ethicists have been happy to work on the assumption that there is no principled reason for limiting the number of virtues and plenty of reason for positing a plurality of them.¹⁸ Ultimately, a person’s actions are a reflection of that inner morality.

Viewing Virtues-Based Ethics Differently

When applying the ethical triangle to a deception plan, one may find that the virtues-based point of the triangle is already at issue. Throughout the philosophical history of the West there is or was a strong moral belief against essentially all forms of deception.¹⁹ There are countless examples of battles where a combatant has fallen because they would not stoop so low as to deceive the enemy; the combatants would “fight fair.” British Colonel Garnet Wolseley once said, “As a nation we are bred up to feel it a disgrace even to succeed by falsehood; the word spy conveys something as repulsive as slave; we will keep hammering along with the conviction that ‘honesty is the best policy,’ and that truth always wins in the long run.”²⁰ To apply the ethical triangle, one must alter the application of the virtues-based portion when the result is tantamount to lying.

One must view the lie in another manner in the case of denial and deception. A virtue ethicist may view ethics through this lens: “Act as a virtuous person would act in your situation.”²¹ Although some would view lying as not being virtuous, others may view the lie to be of no consequence if the intent was good. If the act were legally acceptable, under the circumstances noted in the Geneva Conventions, then the next step would be to associate an ethical reason behind the lie. According to the peer reviewed academic resource Internet Encyclopedia of Ethics:²²

Virtue is determined by the right reason. Virtue requires the right desire and the right reason. To act from the wrong reason is to act viciously. On the other hand, the agent can try to act from the right reason, but fail because he or she has the wrong desire. The virtuous agent acts effortlessly, perceives the right reason, has the harmonious right desire, and has an inner state of virtue that flows smoothly into action.

In this manner, the reason behind the deception becomes a focal point, not the lie itself.

Deception Case Studies and the Ethical Triangle

It is rare for an officer to have many opportunities to conduct tactical denial and deception on the battlefield against the enemy and then reflect upon the ethical consequences. *Practise to Deceive* notes:²³

Deception in [Barton Whaley's] analysis is a mind game, and the variations in guilefulness between opposing individuals or groups can be crucial in deciding the victory in combat. First, intensive and sophisticated application of deception can compensate for smaller numbers and inferior technology. Second, this intensity and sophistication is probably best learned through frequent practice. Third, practice can be supplemented, perhaps even replaced, by studying historical cases of successful deception operations.

The following short case studies will illuminate what Whaley believes, that the study of historical cases supplement an officers understanding of denial and deception.

General George Washington became the original American master of spies with an aptitude for leaking false intelligence to deceive the enemy. Washington deceived British General Clinton by the use of fictitious movement of provisions, forage, and barges to the north for an attack on Staten Island, so that forces could attack a weakened Cornwallis at Yorktown. General Clinton felt his 25,000 troops were superior to Washington's 19,500 and decided to split his force around New York to open a campaign to outflank Washington. By dividing his forces, Clinton gave Washington two attractive targets; the enemy armies were too far apart to support one another.²⁴ Washington's deception convinced General Clinton that New York was the target of military operations. Meanwhile, Washington began a secret buildup for an assault at the coastal city of Yorktown where Lord Cornwallis "lounged in a false sense of safety in numbers."²⁵ The assault worked and Lord Cornwallis surrendered on October 19, 1781. England lost 10,000 British and Hessian troops, which amounted to 40% of the entire army in the colonies, and the colonists suffered only approximately 300 casualties. Whaley notes that American historians see Washington as "either merely lucky or as a master of the Fabian strategy and tactics, ever-retreating to preserve his army until the British simply got tired of the chase and gave up."²⁶ Assuming this is accurate, Washington's ability to deny accurate information to the British and his deceptive plans succeeded in defeating a larger and more capable British Army. Moreover, his deception in regards to Yorktown neatly fits within expectations of the ethical triangle due to Washington's consistent awareness that the Americans had to live in the same country they fought in after the war. The rules of war were followed according to the times, the consequences for the Americans were low in relation to the disaster that it could have been had it drag on much longer, and as noted previously, Washington acted in a manner to shorten the Revolutionary War. Even today, there are not many instances where the American military would be held in contempt for violating basic human rights or other applicable laws when viewed through the overall ends of becoming a free nation.

During World War II, the Allied Command implemented a deception strategy code-named Bodyguard that included OPERATION FORTITUDE. OPERATION FORTITUDE deceived German forces as to the Normandy location by placing forces in the north at Norway and the south at Pas de Calais that were considered to be "phantom invasion armies."²⁷ One may view success through the eyes of the Germans:²⁸

Field Marshal von Rundstedt conducted his own analysis of the situation on 29 May utilizing all the intelligence available and his personal observation that the Allies had dropped twice as many bombs on the Pas de Calais area than they had in the Normandy area. He concluded and reported back to the OKW his reaffirmation that the Allied main effort would be against the Pas de Calais area... Hitler also stated that while the Allies might conduct elaborate feints against Normandy or the Netherlands, the Allied main effort would still be against Pas de Calais.

FORTITUDE's primary objectives included allowing the Allies to land at Normandy. This would essentially keep German forces uncommitted in areas of interest to the Allies.²⁹ This formidable deception plan followed the rules of war of the times; however, the consequences were high on all sides when including the assault on D-Day and the Normandy beach landings. Unless the world broke out into another world war, it is unlikely one would see another FORTITUDE with such high costs again. In the end, the Allies acted in a virtuous manner intending to shorten World War II and save lives. In retrospect, the world views FORTITUDE as a bold plan that accelerated the end of the war in Europe.

In a more recent example from the early 1990's, in OPERATION DESERT STORM Central Command (CENTCOM) planned for two Army Corps augmented with French and United Kingdom divisions to sweep west of the Iraqi defenses. Forces were to "strike deep into Iraq, cut Iraqi lines of communication, and destroy the Republican Guards forces; while a supporting attack along the Kuwait-Saudi Arabia border by the I Marine Expeditionary Force with Arab Coalition Forces to hold forward Iraqi divisions in place."³⁰ However, news sources worldwide broadcasted the plan openly across multiple platforms, which essentially ruined any level of secrecy to the planning effort. To deceive the enemy, CENTCOM decided to conduct a leaflet operation.³¹ On January 11, 1991, the coalition dropped 12,000 leaflets in empty plastic water bottles to warn Iraqis of imminent attacks; the deception being that there is only an attack from the sea.³² To further the plan, the United States Navy maneuvered in the waters just off the Kuwait shoreline, conducting reconnaissance operations while the Marines practiced invasion procedures.³³ Meanwhile, south of Kuwait, the 1st Cavalry Division moved into Kuwait from their positions in Saudi Arabia. Coalition forces broadcasted radio traffic to indicate the presence of several military divisions. This deception fits within the desired outcomes of the ethical triangle; the coalition followed the rules of war according to the times, the consequences for the Americans were low, and as noted previously, commanders acted in a manner to shorten the operation to the extent needed to end hostilities and ensure a peaceful resolution.

Deception Beyond Warfare

Military theory and practice thoroughly establish denial and deception as vital to operations; however, this gives rise to subsequent ethical concerns. John Mattox notes, "even if deception is morally acceptable in at least certain military contexts, the alleged moral acceptability is largely without parallel in the remainder of the whole of human experience."³⁴ If one accepts denial and deception in connection to the ethical triangle, two issues remain. First, should the deceivers be trusted beyond warfare, and second, should nations who deceive be trusted outside of war.

If one accepts that deception is not the same as lying in a fundamental sense within the setting of war, there remains the issue of trusting the deceivers to remain within the bounds of conducting deception in warfare. One need not look far to find examples such as Colonel T.E. Lawrence, also known as Lawrence of Arabia, in a case of deception and self-deception. Lawrence of Arabia created his own mythical legends and "romantic or self-serving writers" have perpetuated them for generations.³⁵ Whaley states, "Lawrence was a con man whose deceptions were directed more against allies than foes. He risked lies to gain fame and social acceptance among the famous, whose names he freely dropped."³⁶ However, Whaley studied Lawrence not so much for what he did to deceive those he worked with, but because of the effect he had on the imaginations of those around him.³⁷

Lawrence's real contribution to military history was his articulately argued theory of guerilla war, which gained undeserved weight by the mythical success that surrounded its author. But this myth gave encouragement and ammunition to such advocates of unconventional – and successful – surprise attack operations as Churchill, Wavell, and Liddell Hart.

Lawrence, although later uncovered to be a liar in all facets of life, did contribute to denial and deception; he

even preceded Dudley Clarke in the conception of a notional unit, a brigade size force deceptively created from a smaller battalion to confuse the Turks in 1918 during desert offensive operations.³⁸ In the end, the military has no choice but to trust the deceivers of the battlefield unless proven to act deceptively in an illegal or unethical manner beyond their given mission.

The second issue with deception on the battlefield rests between nations that engage in war. Mattox posits, “The extent to which true and lasting peace and cooperation among nations can be established depends upon the extent to which nations trust one another.”³⁹ Famous national leaders have advocated their use of deception; including Winston Churchill who told Joseph Stalin at the Tehran Conference in 1943, “In wartime, Truth is so precious that she should always be attended by a bodyguard of lies.”⁴⁰ The amount of questions posed by philosophers and theorists would overwhelm this article, but John Chomeau posits a series of questions that require continued thought:⁴¹

How far can a military commander or the national command authority properly go in lying to an enemy? It is no longer “all’s fair in love and war” (and it probably never was). To whom is it proper to lie? In some cases, certainly the enemy. But can one also lie to one’s allies, either to make the lie to the enemy more credible or because we don’t believe our allies can keep a secret? What about the units of your own force which are not involved in the deception? How much can be held back from them? Can we deliberately deceive them in order again to strengthen the lie?

Various attitudes prevail to these answers based upon the previously discussed theories of rules-based ethics, virtues-based ethics, and consequences-based ethics. However, if a nation does not lie, they could be caught in a dilemma that Wavell discusses:⁴²

Possibly because the British character is normally simple and straightforward, more probably because our military training is stereotyped and unimaginative, deception of the enemy does not seem to come naturally to us. Hence we are apt to suffer in the field through lack of guile and to fall too easily into the enemy’s traps and to miss opportunities of setting traps of our own.

Mattox concludes, “Military leaders sensitive to this reality are far better equipped to use deceptive measures in a way that minimizes their long-term negative effects than are those who ignore the moral dimension of deception.”⁴³ However, nations acting to deceive must remember, those who are deceived do not always overlook or forgive actions taken in war. This may even include actions taken outside of war, such as deterrence or diplomacy. Again, as with trusting the deceivers, nations have to work together in good faith, either as allies during war or as reconciliation partners post war, according to the agreements struck at the end of hostilities.

There are many other issues that remain in the denial and deception issue beyond the two mentioned above. How does a nation trust its government if the administration deceives the population? What role does religion take when applied to virtues? Should international law reflect current issues in cyber or information operations in relation to denial and deception? The research is endless into the ethical dimensions of denial and deception. The two noted issues above are not all inclusive of the expanse of additional questions or concerns not covered in the scope of this article, and should be the basis for continued research and discussion on ethics.

Why Do We Care?

The author presented this article during the 2017 Command and General Staff College’s Ethics Symposium and one great question arose in the discussions: why do we care? Why do we care if we all deceive on the battlefield and we expect it to happen? Why would we even need an ethical triangle to view our operations

through like a morality lens? We care because even when officers expect to be deceived and are deceiving others, the second and third order effects can be life altering.

Take for example the World War II British military intelligence operation code named ULTRA. Individuals who worked on the project broke through highly encrypted radio and teleprinter communications from the Germans.⁴⁴ The British and the United States went through incredible steps to maintain the secrecy of ULTRA. The team decided which messages to transmit and which messages not to transmit, no doubt incurring the cost of Allied lives for those messages left on the cutting room floor. In essence, the ULTRA team deceived the Allies and those within their own government. The ethical triangle discusses moral obligations and what would a reasonable person do; something the ULTRA team had to take to heart while essentially deciding who lived and who died.

It is not the fact that we deceive that is under view from the ethical triangle; it is the possible outcomes brought to light. The first outcome is accepted, someone lied and it went well or bad. The acceptance of the second and third outcomes happens later after the action has taken place and the toll is calculated.

Conclusion

The ethical triangle could be one way of applying an ethical framework to denial and deception. Mattox further presents three alternatives as potential accounts for the moral status of deception when considering the conversation of virtue. The first is simply to reason that deception is “tantamount to lying;” the second is to argue since “all is fair in war;” and the third is to contend that “deception is, in fact, something different from lying as understood by philosophers such as Immanuel Kant.”⁴⁵ Although some would think the third alternative seems to be the position adopted almost unanimously, one may argue that all three are accepted depending on the situation and the context surrounding the situation.⁴⁶ By applying the various facets of the ethical triangle, a commander can attempt to answer all sides of the ethical deliberation sufficiently before making a decision on a course of action.

Endnotes

- 1 Joseph W. Caddell, "Deception 101 - Primer on Deception," (Army War College Monograph, 2004), 18.
- 2 Caddell, "Deception 101 – Primer on Deception," 17.
- 3 John Yurechko, Defense Intelligence Agency, "DOD Briefing on Iraqi Denial and Deception," October 8, 2002. Quoted in Caddell, "Deception 101 – Primer on Deception," 17.
- 4 Department of Defense, *Joint Publication 3-13.4 26, Military Deception*. (Washington, DC: US Government, 2012). Vii.
- 5 Sun Tzu, *The Art of War* (London: The Oxford University Press, 1971), 66.
- 6 Carl von Clausewitz, *On War*, 1832, ed. and trans. Michael Howard and Peter Paret. (Princeton: Princeton University Press, 1984), 198.
- 7 Department of the Army, *Field Manual 90-2, Battlefield Deception* (Washington, D.C.: Government, 1978), iii.
- 8 James H, Svava, "The Ethical Triangle: Synthesizing the Bass of Administrative Ethics," CSG & ASPA Public Integrity Annual (1995), 38-39, and Dr. Jack Kem, "Ethical Decision Making: Using the "Ethical Triangle," Command and General Staff Officers Course, L102: Ethical Dimensions of Organization Leadership. (Fort Leavenworth, KS: US Government, 2016), 4.
- 9 Dr. Jack Kem, "The Use of the 'Ethical Triangle' in Military Ethical Decision Making," Public Administration and Management Vol 11, No. 1 (2006), 27.
- 10 Kem, "The Use of the 'Ethical Triangle' in Military Ethical Decision Making," 28.
- 11 Kem, "The Use of the 'Ethical Triangle' in Military Ethical Decision Making," 28.
- 12 International Committee of the Red Cross. "Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977," <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/7c4d08d9b287a42141256739003e636b/f6c8b9fee14a77fdc125641e0052b079> (accessed 27 February 2017).
- 13 ICRC, "Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977."
- 14 ICRC, "Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977."
- 15 Kem, "The Use of the 'Ethical Triangle' in Military Ethical Decision Making," 32.
- 16 William Shaw, *Utilitarianism and the Ethics of War*. (New York, New York: Routledge, 2016), 21.
- 17 Kem, "The Use of the 'Ethical Triangle' in Military Ethical Decision Making," 32.
- 18 Heather Battaly, "A Pluralist Theory of Virtue", *Current Controversies in Virtue Theory*, (New York, New York: Routledge, 2015) 7–21.
- 19 John Mattox, "The Ethics of Military Deception," (Command and General Staff College Thesis, 1998), PAGE.
- 20 Colonel Garnet Wolseley, *The Soldier's Pocket-Book for Field Service*, (1869), 169. Quoted in Barton Whaley, *Practise to Deceive: Learning Curves of Military Deception Planners*. (Annapolis, Maryland: Naval Institute Press, 2016), 190.

- 21 Nafsika Athanassoulis, "Virtue Ethics," Internet Encyclopedia of Philosophy. <http://www.iep.utm.edu/virtue/#H4> (accessed 21 March 2017).
- 22 Athanassoulis, "Virtue Ethics."
- 23 Shaw, *Utilitarianism and the Ethics of War*, xvi
- 24 Whaley, *Practise to Deceive: Learning Curves of Military Deception Planners*, 61.
- 25 Dave Richard Palmer, *The Way of the Fox: American Strategy in the War for American, 1775 – 1783*. (Westport, Connecticut: Greenwood Press, 1975.) 170-178 and Whaley, *Practise to Deceive: Learning Curves of Military Deception Planners*, 61.
- 26 Whaley, *Practise to Deceive: Learning Curves of Military Deception Planners*, 62.
- 27 Lieutenant Colonel Michael Donovan, "Strategic Deception: Operation Fortitude," (Army War College Research Project, 2002), 2-5.
- 28 Michael J. Donovan, "Strategic Deception: Operation Fortitude," 13.
- 29 Anthony Cave Brown, *Bodyguard of Lies*. (New York: Harper & Row, 1976), 389 and Donovan, "Strategic Deception: Operation Fortitude," 15.
- 30 Department of Defense, *Conduct of the Persian Gulf War*. (Washington, DC: US Government, 1992), 275.
- 31 Department of Defense, *Conduct of the Persian Gulf War*, 622.
- 32 Department of Defense, *Conduct of the Persian Gulf War*, 190.
- 33 Department of Defense, *Conduct of the Persian Gulf War*, 298.
- 34 Mattox, "The Ethics of Military Deception," 4.
- 35 Whaley, *Practise to Deceive: Learning Curves of Military Deception Planners*, 80.
- 36 Whaley, *Practise to Deceive: Learning Curves of Military Deception Planners*, 81.
- 37 Whaley, *Practise to Deceive: Learning Curves of Military Deception Planners*, 80-83.
- 38 Whaley, *Practise to Deceive: Learning Curves of Military Deception Planners*, 83.
- 39 John Mattox, *The Moral Status of Military Deception*, <http://isme.tamu.edu/JSCOPE00/Mattox00.html> (Accessed 14 February 2017).
- 40 Whaley, *Practise to Deceive: Learning Curves of Military Deception Planners*, 65.
- 41 John Chomeau, "All is Fair in Love and War", *The International Society for Military Ethics*, <http://isme.tamu.edu/JSCOPE95/Chomeau95.html> (accessed on 3 March 2017).
- 42 Archibald Wavell, *Speaking Generally* (London, England: Macmillan, 1946), 80.
- 43 John Mark Mattox, "The Moral Limits of Military Deception," *The Journal of Military Ethics* Volume 1, Issue 1 (2002), 15.
- 44 Hinsley, F. H.; Stripp, Alan, *Codebreakers: The Inside Story of Bletchley Park*, (Oxford: Oxford University Press, 1993).
- 45 Mattox, "The Ethics of Military Deception," 10.
- 46 Mattox, "The Ethics of Military Deception," 10.

The “Ring of Gyges” Effect: An Ethical Critique of Lethal Remotely Piloted Aircraft

by Matthew D. Pride

The U.S. Army pledges to defend the country against all enemies, foreign and domestic, in a manner that upholds national values. One such way recent presidential administrations make good on their pledge to protect the American people is by authorizing military strikes using the remotely piloted aircrafts (RPA). If RPA do act as a political deposit on the sacred oath sworn by our leaders to protect and defend the constitution, does the policy likewise uphold the traditional norms associated with justice in war (*jus in bello*)? In other words, does the U.S. Government violate *jus in bello* in its use of RPA to conduct military strikes? This article aims for two broad areas. The first, and most substantial, is the legal and moral basis for any justifiable military action. The second deals in understanding the intention behind such policy that uses RPA to achieve a desired end state. This article critiques the morality, legality, and military ethics of the United States’ RPA Policy.

Introduction and Background

If it remains true that “the strongest is never strong enough to be always the master, unless he transforms his strength” into virtue, we may ask ourselves the following question: what kind of right or virtue is needed by these modern Gyges?

— Grégoire Chamayou, 2015

U.S. elected officials and military professionals pledge to defend the country against all enemies, foreign and domestic, in a manner that upholds national values and principles. One such way in which the executive branch of government makes good on their pledge to protect the American people is by authorizing military strikes using remotely piloted aircrafts (RPA). If tactical strikes using RPA do act as a political deposit on the sacred oath sworn by our leaders to protect and defend the constitution, does the policy likewise uphold the traditions of U.S. military service and justice in war (*jus in bello*) writ large? In other words, does the United States government violate the ethical principles that comprise *jus in bello* in its use of RPA to conduct military strikes? To examine this question further, it is necessary to explore three broad areas. This article aims for two broad areas. The first, and most substantial, is the legal and moral basis for any justifiable military action. The second deals in understanding the intention behind such policy that uses RPA to achieve a desired end state.

Doctrine comports that for the U.S. Military “to maintain legitimacy as a profession while protecting the interests of the American people, it cannot violate the rights of others when using lethal force to protect our own rights.”¹ This need ties explicitly to the self-evident, unalienable rights denoted in the U.S. Declaration of Independence. On its surface, however, the legitimate use of force to end life appears contradictory with the moral obligation to protect life. As such, legitimate military action presupposes a rigorous internal examination, particularly since the gravity of such a decision subjects it to a moral inquiry. As it were, the legal and moral grounds in Western society for killing in war stems from Just War traditions.

At its core, Just War theory (*jus bellum iustum*) deals with the “right” or “law”—*jus* being the Latin root for justice—of human activity in a state of conflict. *Jus bellum iustum* requires certain conditions to exist

in order for a legitimate authority to choose the option of military force to impose one's will on another sovereign entity. The conditions are: the damage inflicted by the aggressor must be lasting, grave, and certain; all other means of putting an end to the threat must be impractical or ineffective; there must be serious prospects of success; and the use of force must not produce an evil or disorder graver than the evil to be eliminated.²

Generally, *jus bellum iustum* is comprised of two main parts, justice for war (*jus ad bellum*) and justice in war (*jus in bello*). Under *jus ad bellum*, nation-states establish a just cause for conflict as the burden for war, publically proclaimed as a formal declaration by a legitimate authority. Under *jus in bello*, military commanders discriminate between civilians and combatants, use proportionality against adversaries, minimize unnecessary suffering, prohibit illegal weapons, and oblige to accept terms of surrender without slaughter. The separate treatments of *jus ad bellum* and *jus in bello* begs the question whether the categories necessarily function in separate domains, thereby are bifurcated. This is not a correct assumption. “[T]he so-called ‘separation’ between *jus ad bellum* and *jus in bello* is mainly for focusing attention on different issues. It does not denote a complete split between the two, as if they had nothing to do with each other.”³

To examine the relationship between RPA and *jus in bello*, one must start at first the internal structure of *jus in bello*, which deals with the moral dilemma of whether it is ever acceptable to kill. “The decriminalization of warrior homicide presupposes the structure of reciprocity. The killing is allowed only because it is a matter of killing each other.”⁴ The U.S. RPA policy, on its surface, invalidates this premise. Political scientist Sarah Kreps and contemporary philosopher John Kaag observed that “remote-controlled machines cannot suffer the consequences [of their actions] and the humans who operate them do so at a great distance; the myth of Gyges is more a parable of modern counterterrorism than it is about terrorism.”⁵ In other words, one may kill without the risk of being killed himself. Put another way, one may kill his victim without the victim having the chance to self-defend.

The “Gyges” effect—when individuals accept as legal and moral the targeted killing of enemy combatants unseen, with impunity, and with zero risk to their person—harkens back to the tale of the “Ring of Gyges,” from book II of Plato’s *The Republic*, written circa 360 B.C. In life, Gyges was a real person—he was the king of Lydia, an ancient kingdom that once existed in the western region of modern day Turkey. Plato used Gyges’ unusual ascension to power as a way to explore the nature and origin of justice. According to Plato, Gyges started life as a poor shepherd. One day, after an earthquake, he stumbled across a cave and found a magical ring on the finger of a dead giant. He soon discovered the ring could cloak his appearance so others could not see him when he wore it. With the power to do whatever he pleased without fear of capture, Gyges seduced the queen, slew the king, and seized power.

In light of this ancient tale, contemporary French philosopher Grégoire Chamayou asked, “If it remains true that ‘the strongest is never strong enough to be always the master, unless he transforms his strength’ into virtue, we may ask ourselves the following question: what kind of right or virtue is needed by these modern Gyges?”⁶ U.S. military doctrine’s answer to the Gyges effect is strict moral and legal observance of the military ethic. According to the Army’s doctrinal publication on the Army Profession, “The Army professional’s moral awareness and sensitivity is required for *legally* and *morally justifiable action* [emphasis added].”⁷ Upon this essential burden, all military professionals must understand and frame their actions in both moral and legal terms to uphold national values. This thesis examines the nature of the Army professional’s obligation to take legally and morally justifiable action based upon a moral structure founded by the same religious tradition that conceived *jus bellum iustum*—namely, Judeo-Christian theology. Moreover, this thesis examines the morality, legality, and military ethics of the United States’ RPA policy. Its aim is to serve as a primer for a more substantial conversation military professionals and political leaders must have concerning the constraints we ought to place on the prosecution of modern and future warfare.

Moral Framework

U.S. freedom to employ military capability largely unimpeded by foreign governments is explicable linked to its legitimacy, restraint in its use of military force, and trust in American decision-making. The restraint of military force is a form of limited warfare. The U.S. Government protects the rights and interests of the American people by conducting limited warfare as directed by civilian leaders in a manner that also respects the basic rights of others.⁸ RPA represent the continuance of limited warfare within the global security environment.

The U.S. government explicitly intertwines moral obligations with national interests as an act of policy. For instance, the 2015 *National Security Strategy* outlines that U.S. strength to “defend democracy and human rights is related to every enduring national interest.”⁹ Army doctrine explicitly states that the Army professional must adhere to the Army ethics, duty that is a moral obligatory. According to the regulation, “The Army professional’s moral awareness and sensitivity is required for legally and morally justifiable action.”¹⁰ In order to understand the nature of the Army professional’s obligation to take legally and morally justifiable action whenever necessary, one must define a moral act.

Morality, simply put, is judgment between what constitutes an inherently good act from wrong or evil acts. For Western society, the earliest forms of moral study pertaining to human behavior stems from the Greek philosophical writings of Socrates and Aristotle. The early Christian church fathers used divine teaching (*sacra doctrina*) to preserve written and oral traditions, and infused Judeo-Christian theology with Greek philosophy to generate a mature moral theology centered upon the intrinsic moral quality of human action. Ethicist Romanus Cessario wrote in *The Theological Virtues and Theological Ethics* that “classical virtue theories depend to a considerable degree upon the work of ancient and, therefore, non-Christian philosophy.”¹¹ However, this does not necessarily equate to theologians having co-opted an otherwise secular invention of ethics and morality. On the contrary, both Greek philosophy and Christian moral theology point to the same intrinsic moral quality of non-materially derived transcendent virtues and morality. Furthermore, Cessario pointed out the following:

As long as Aristotle contends that ‘human good turns out to be the soul’s activity that expresses virtue,’ the exercise of the moral virtues inescapably brings the person into relationship with others. This happens either directly, as in the obvious case of justice, or indirectly, as when others benefit from one who possesses the virtues of personal discipline, temperance, and fortitude.¹²

The church “insists upon a morality that takes seriously the intrinsic quality and nature of each human action.”¹³ Humans are free to act. While natural law implicitly—through conscience—informs right conduct, practical reason and normative experience dictates that we should seek the good and avoid evil. However, before intrinsic moral critique is possible, the individual whose action is in question must be free to act on his or her own cognizance. Natural law provides the framework inside which humans discern right acts from wrong acts in accordance with functional mental faculties empowered through logic and reason.

As previously stated, the early church fathers taught, “A virtue is a habitual and firm disposition to do the good.”¹⁴ In a similar fashion, the Army profession provides a moral, ethical, and just framework to do “good” and avoid wrongdoing. Just as the Christian Church teaches that the human agency is complicit in moral and immoral acts, the Army officer freely accepts his or her obligation to uphold the values and traditions of the profession of arms. This is further clearer in the third part of the officer’s oath of service: I take this obligation freely without any mental reservation or purpose of evasion.

Christian theologians understand the moral good to possess a concrete form, namely three principal elements that shape and explain human activity. The moral act comprises the object, the intentionality

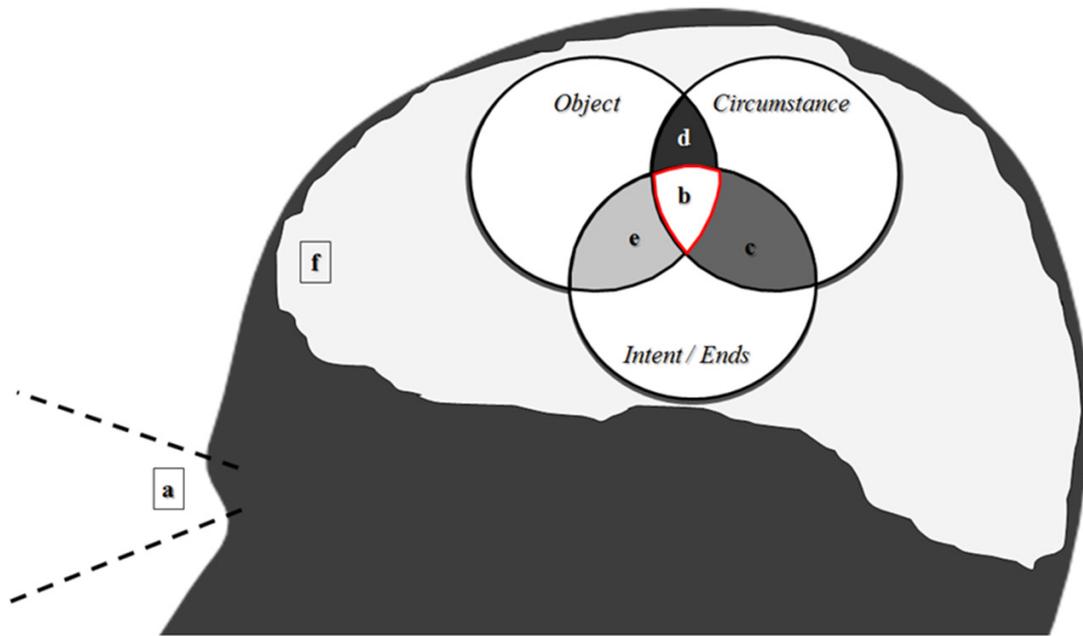


Figure 1. The Three-Part Model of Moral Acts

(also known as the moral ends meant by the act), and the circumstance. “A morally good act requires the goodness of the object, of the end, and of the circumstances together. An evil end corrupts the action, even if the object is good in itself (such as praying and fasting ‘in order to be seen by men’).”¹⁵ For a visual of the three constituent elements to a moral act, refer to Figure 1.

For an action to possess full intrinsic moral quality as being an objectively good act, each of the three elements must be present and upheld, as depicted by the area labeled *b* in Figure 1. “In any human action, the complete form of moral goodness derives from the interplay of these three constitutive elements which determine the action’s moral character.”¹⁶ An act’s intrinsic moral quality diminishes if one of the three elements is short of being good. For instance, acts that fall within areas *c*, *d*, and *e* as depicted in Figure 1 would all have a diminished intrinsic moral quality. It is, therefore, erroneous to judge the morality of human acts in light of only the intention that inspires them or the circumstances that supply their context.¹⁷

Before providing examples, it is noteworthy that not every aspect of human acts can be perfectly knowable. Therefore, understanding the individual’s perspective who reports the details of an act will lend itself more fully to the discerning the intrinsic moral quality of the act. The area labeled by the letter *a* indicates the important role perspective plays in moral judgment. Everyone views events differently. It bears weight to consider the perspective of the individual who reports the details of any act before passing moral judgment. The area labeled by the letter *f* indicates that humans can discern moral and immoral acts to the extent that they exercise sound reason and judgment, informed by a mature conscience, and deliberated upon through the lens of human tradition. Long-standing traditions associated with war converge with the framework and structure of the profession of arms. The Army professional obliges to take legally and morally justifiable action in times of peace and at war.

The moral object refers to the human action that actually takes place, in this case, the use of RPA to conduct military strikes. With the RPA, the object is the actual employment of the RPA to destroy designated targets that threaten national interests. In accordance with the principle of military distinction, the target of an RPA strike must be a legitimate target, either a combatant or an object tied explicitly to an adversarial military function or capability. The U.S. may employ an RPA to destroy a bomb-making facility, weapons cache, or a

terrorist agent. An individual acting independent of legal mandate or apart from legitimate authority may not take the liberty of employing an RPA under any circumstance. Using an RPA to conduct legal warfare is properly a sovereign state right, not an individual right. The U.S. Government's moral standing to employ the RPA is legitimate, so long as the principles of military necessity, discrimination, and proportionality uphold.

When considering the moral ends of the employment of RPA, one must weigh the intent behind the policy itself, as well as the individual intent of the pilots who decide to destroy the target. If a properly deputized military official remotely pilots an aircraft and employs high explosive munitions to destroy an enemy target, inadvertently killing innocent bystanders in the process, the end is justified so long as the military professional intended to minimize collateral damage to the greatest extent possible. Of course, this condition requires a great deal of scrutiny. Nonetheless, if the pilot's intent was to destroy the target, though inadvertently killing civilians, the principle of unnecessary suffering may uphold. In the aforementioned case, so long as the military professional did not intend to target the innocent non-combatants, the act itself may be legally and morally justifiable, difficult though it may seem. Although acts of war often times result in the loss of human life, the aim of all moral acts in war must not be primarily to lay waste to one's enemies. The total annihilation of one's enemy might be the only way to achieve a lasting peace, but for war acts to be moral, the total destruction of an enemy when necessary must be a secondary or tertiary end, not the primary end.

The final element of a legally and morally justifiable action is the circumstance. The U.S. may employ an RPA to destroy a bomb-making facility, weapons cache, or a terrorist agent, and by doing so, may kill non-combatants as legally and morally justifiable collateral damage. However, the removal of that one bomb-making facility, weapons cache, or terrorist agent, while legitimate, legal, and moral itself, may not achieve enough of a measured impact on the overall war effort as compared to the consequences of the many non-combatants who would lose their lives in the attack. As such, the non-combatants' death might be used as an enemy recruiting tool or as anti-war propaganda, thereby threatening the overall just cause of the war.

The literature on RPA struggles with direct answers to whether the U.S. Government's policy is an evolution in modern warfare that is in keeping with moral and legal norms of *jus in bello*, or if the policy is a wholly different approach to warfare that violates *jus in bello*. Moreover, the literature is absent a coherent moral standard by which one judges the morality of military acts. Most scholars attempt one of two moves on the topic of setting objective moral standards. Some assume away the moral standard, arguing that "the moral world of war is shared not because we arrive at the same conclusions as to whose fight is just and whose unjust, but because we acknowledge the same difficulties on the way to our conclusions, face the same problems, talk the same languages."¹⁸

Michael Walzer, whose study of *jus bellum iustum* has widely influenced contemporary interpretations of the theory, admitted that a "common morality is the critical assumption" of his work. He further admitted, "were I to begin with the foundation [of morality], I would probably never get beyond them; in any case, I am by no means sure what the foundations are."¹⁹ He did, however, contend, "the study of judgments and justifications in the real world moves us closer, perhaps, to the most profound questions of moral philosophy, but it does not require direct engagement with those questions."²⁰

A second and more substantial group of scholars and contemporary philosophers equate morality to legality, forcing morality to conform to legal standards. This position quite understandably derives from the legal mind of Hugo Grotius, whose hallmark work is titled, *Concerning the Law of War and Peace*.²¹ For instance, modern writers argue that *jus in bello* governs the way force is applied, and finds its legal expression through international humanitarian law, particularly in the Geneva Conventions, as well as associated laws, conventions, and treaties.²²

Proponents of this latter position goes further to argue *jus bellum iustum* “is not grounded in firm moral positions, but in conventions that are open to widely divergent interpretations that change over time and circumstance.”²³ It bears mentioning that this article contends quite differently. It rather argues that *jus bellum iustum* grounds firmly upon a fixed moral position, that morality has objective standards that are knowable to the intellect and available for critique and study. Objective moral standard is accessible using the Three-Part Model of Moral Action, which supplies the necessary (historical, traditional, and theological) framework for judging human acts.

The U.S. government contends that the RPA policy conforms to both legal and moral standards and reflects the historical norms of warfare, a position for which this article tacitly agrees. For instance, in defense of RPA, Bradley J. Strawser, an assistant professor at the U.S. Naval Postgraduate School argued in his book, *Killing By Remote Control: The Ethics of an Unmanned Military*, that RPA provide maximum protection to just agents who pursue a just cause, and therefore, the state’s use of RPA is morally obligatory. “His thesis is based on what he calls the ‘principle of unnecessary risk,’ according to which it is ‘wrong to command someone to take on unnecessary potentially lethal risk’.”²⁴ Strawser sides with the reasonable notion that the field commanders and policy makers are morally obligated to wage a “clean” war when possible. Strawser’s wrote, “[I]t is wrong to command someone to take on unnecessary potentially lethal risks in an effort to carry out a just action for some good; any potentially lethal risk incurred must be justified by some strong countervailing reason. In the absence of such a reason, ordering someone to incur potentially lethal risk is morally impermissible.”²⁵ Strawser justified his claim in the following way:

I argue that there is an ethical obligation to use UAVs. I argue that remotely controlled weapons systems are merely an extension of a long historical trajectory of removing a warrior ever farther from his foe for the warrior’s better protection. UAVs are only a difference in degree down this path; there is nothing about their remote use that puts them in a different ethical category. My argument rests on the premise that if an agent is pursuing a morally justified yet inherently risky action, then there is a moral imperative to protect this agent if it [is] possible to do so, unless there exists a countervailing good that outweighs the protection of the agent. Thus, I will contend that, as a technology that better protects (presumably) justified warriors, UAV use is ethically obligatory, not suspicious.²⁶

However, a critical problem with Strawser’s argument deals in the moral quality of the intent and circumstance behind the principle of unnecessary risk. For instance, Strawser argued that protecting national combatants is a moral imperative for the state when confronting the army of an unjust nation, while dismissing the moral equality of combatants under *jus in bello*. Combatants are not morally culpable for their participation in an unjust war if they possess “invincible ignorance”—a complete ignorance of whether their state satisfactorily met all criteria for *jus ad bellum*. Combatants are not morally culpable for the reasons their nations go to war, particularly if they are not privy to the intelligence and information available to the political leaders, but they are accountable for how they fight a war.

Integral to Strawser’s argument is the dismissal of the notion that there is a moral equality between combatants. The principle of unnecessary risk necessitates states to mitigate risk for “just” combatants to practically nothing, while capitalizing on the death of “unjust” combatants who have no moral equality, thereby making it a principle of riskless slaughter. Strawser wrote, “[T]he warrior fighting for a just cause is morally justified to take the life of the enemy combatant, whereas the unjust fighter is not justified, even if they follow the traditional principles of *jus in bello*.”²⁷ This article contends differently, arguing rather that the principle of unnecessary risk, as it stands, is morally unacceptable and if adopted will cause otherwise moral agents to pursue immoral ends and diminished moral circumstance.

Israelis Asa Kasher and Major General Amos Yadlin aim similarly to analyze the established principles of *jus bellum iustum* to create space for RPA in modern military ethics by incorporating observations and lessons from the IDF. The two authors argue for “combatant immunity.”²⁸ Their argument runs along the lines of the state’s moral obligation to preserve the life of its citizens—combatant and noncombatant alike—over and above a moral obligation to protect the lives of noncombatants of other states. In this case, the lives of national Soldiers have greater regard to the state than those of noncombatants who are citizens of other states. Their argument, set forth in *Military Ethics of Fighting Terror*, follows:

A new model of warfare—the counter-terrorism war—requires a new set of rules on how to fight it. The other side is fighting outside the rules and we have to create new ethical rules for the international law of armed conflict, in keeping with the traditional IDF concept of ‘the purity of arms’. . . The duty of the state is to defend its citizens. Any time a terrorist gets away because of concerns about collateral damage, we may be violating our main duty to protect our citizens. We look for alternatives so as not to cause collateral damage, or to cause the minimum amount of collateral damage, but the main obligation is to defend our citizens.²⁹

Military professionals who hold to the principle of “combatant immunity” would utilize RPA to eliminate threats without regard to civilian casualties, or, at the very least, noncombatant consideration would be an afterthought. It should be understood that this article upholds that “non-combatant immunity” is an essential criterion of *jus in bello*, represented in U.S. Army doctrine as “the principle of military distinction.” The principle of combatant immunity is objectively immoral. If adopted, it will cause unnecessary suffering and lead to graver evils than whatever good its authors intend to achieve through its practice.

A third theory concerning the morality of “drone warfare” centers on the eventual move to autonomous unmanned systems. Ronald C. Arkin argued in a 2010 article published in the *Journal of Military Ethics* that in light of the continuing investment, research, and development companies and countries, military professionals should embrace autonomous unmanned systems as a morally superior option to human activity in warfare. Arkin posited, “As robots are already faster, stronger, and in certain cases smarter than humans, is it that difficult to believe they will be able to treat us more humanely on the battlefield than we do each other? Fortunately, for a variety of reasons, it may be anticipated that in the future autonomous robots may be able to perform better than humans.”³⁰ Arkin provided a compelling argument that autonomous unmanned systems present a better moral alternative to human activity and builds upon the notion that autonomous unmanned systems are more conservative, dispassionate, focused, and clear when confronted with the fog of war.

However, Arkin fell short in that autonomous “drones” cannot act morally. Drones are extensions of human activity. Drones cannot act, save for how humans program them to act, and their performance on the battlefield is an extension of the moral values of those who created and employed their use. Humans behave morally or immorally. As such, autonomous unmanned systems will never perform “better” than humans with respect to moral action. Autonomous “drones” are only the object of the moral form of human acts, and in and of themselves cannot have intent or ends in mind as they execute their program. No matter how humans might incorporate autonomous artificial intelligence and RPA into warfare, war will not cease to be a human endeavor, an endeavor wrought with weighty moral, ethical, and legal considerations that is not transferable to autonomous systems.

One can clearly see how RPA adds complexity to moral discernment within in the context of *jus bellum iustum*. Strawser, Kasher, Yadlin, and Arkin all stretch the tradition norms of *jus bellum iustum* to accommodate modern war tools and strategies around the notion that unmanned systems are moral weapons.

Legal Framework

As previously mentioned, the law of armed conflict has its roots firmly set in Just war theory. (See Figure 2 on page 127.)

Traditionally, wars necessitate a just cause, particularly in Western culture. Rulers and politicians argue for why a war is justified in order to kindle their people's passion for war. Using Figure 2, theologians and philosophers have set certain criteria to justify war: (1) a just cause (2) legitimate authority; (3) public declaration; (4) just intent; (5) proportionality; (6) last resort; and (7) reasonable hope of success.³¹

Scholars may label the criteria differently, but the necessary conditions prior to war have largely unchanged since their earliest conceptions.

In contrast to *jus ad bellum*, where nation-states are responsible for determining the just cause for war, *jus in bello* holds the individual responsible for just conduct in war. More specifically, military leaders and Soldiers are responsible for their individual behavior and group conduct during conflict. Examples of these responsibilities follow: discipline and training; types of munitions and methods of delivery; discrimination between combatants and non-combatants; treatment of POWs; and medical aid to friendly and enemy wounded Soldiers.³² Martin Cook narrows *jus in bello*'s scope to two fundamental areas: discrimination and proportionality. "Together," Cook asserts, "they set limits in the conduct of war—limits on who can be deliberately attacked and on how war can legitimately be conducted."³³

One of the most firmly established provisions of international law of armed conflict is the right of self-defense. *Jus ad bellum*, for both tradition and modern international law, allows nations to defend themselves with the use military force in the wake of imminent danger. After the tragic events of September 11, 2001, President Bush and his national security council formulated four tenets to a doctrine that would later bear his name. Bush wrote in his memoir:

After 9/11, I developed a strategy to protect the country that came to be known as the Bush Doctrine. First, make no distinction between the terrorists and the nations that harbor them – and hold both to account. Second, take the fight to the enemy overseas before they can attack us again here at home. Third, confront threats before they fully materialize. And fourth, advance liberty and hope as an alternative to the enemy's ideology of repression and fear.³⁴

The first three tenets of his doctrine set forth a new course for the U.S. and the international community in terms of justice for the use of military force. The president claimed exclusive right to strike preemptively not only those who might be responsible for international terrorism, but also sovereign nations who are unwilling or unable to deal with the threats that exists within their borders. Both the 2002 NSS and the 2006 NSS took unprecedented steps toward a significant expansion of the use of force doctrine. The Bush Doctrine of preemption re-casted the right of anticipatory self-defense based on a different understanding of "imminence." The Bush Doctrine, simply put, is to strike one's enemy first, in full view of an "imminent" national security threat, before the enemy's first strike.

For the first time in NATO's fifty-two year history, the members of the alliance voted to invoke the NATO Charter's Article 5, commonly stated as, "An attack on one is an attack on all." Additionally, on September 12, the UN Security Council passed UNSCR 1368, which explicitly recognized the United States' inherent right of individual or collective self-defense pursuant to Article 51 of the UN Charter against the terrorists (non-state actors).³⁵ The Obama administration adopted the policies that stem from the Bush Doctrine. Although expressed in less assertive terms, the 2010 NSS, stated, "The United States must reserve the right to act unilaterally if necessary to defend our nation and our interests, yet we will also seek to adhere to standards that govern the use of force."³⁶

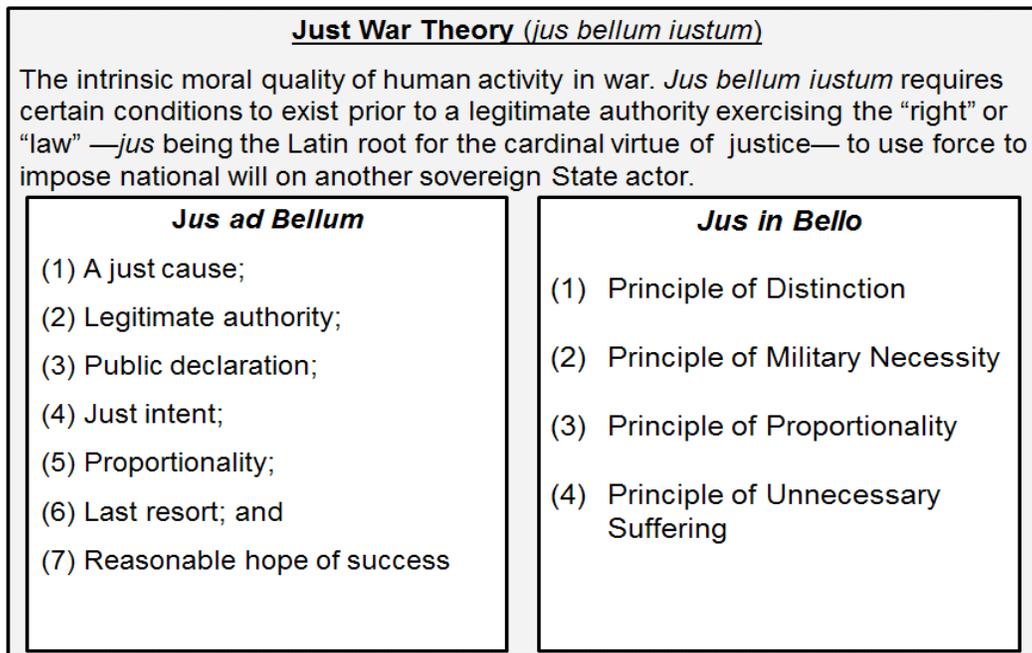


Figure 2. Criteria for *Jus ad Bellum* and *Jus in Bello*

On September 14, 2001, Congress passed Public Law 107-40, which authorized President George W. Bush:

...to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons.³⁷

The congressional Authorization to Use Military Force (AUMF), while short of a declaration of war, granted President Bush wide latitude to prosecute a war against those who perpetrated the acts on 9/11, as well as states who harbored terrorists within their borders. “A notable feature of P.L. 107-40 is that, unlike all other major legislation authorizing the use of military force by the president, this joint resolution authorizes military force against not only nations but also organizations and persons linked to the September 11, 2001, attack on the United States.”³⁸ This authorization is unprecedented in U.S. governmental and military history—a first of its kind. Today, the administration uses PL 107-40 to justify its use of RPA military strikes as an act of policy. In a letter to the speaker of the house in June 2016, President Obama stated the following:

I have directed the participation of U.S. Armed Forces in all of these operations pursuant to my constitutional and statutory authority as Commander in Chief and as Chief Executive (including the authority to carry out Public Law 107-40 and other statutes), as well as my constitutional and statutory authority to conduct the foreign relations of the United States.³⁹

Ultimately, what lies at the heart of the discussion concerning the RPA policy is whether the U.S. is a legitimate victim with just cause to prosecute the war against international terrorist organizations. Furthermore, one may question whether the proper authorizations to use military force to target “enemy overseas before they can attack us again here at home,” as Bush argued, is legal and is in keeping with *jus ad bellum*.

Conclusion

At the outset of research for this article, it seemed intuitive that human experience and normative moral reasoning would certainly uphold the ethics of a weapon that could eliminate, or at the very least mitigate, the ugly and destructive reality of war. Likewise, it appeared obvious that if a military leader could avoid having to subject his or her Soldiers to the peril of potential loss of life or serious bodily harm while performing a voluntary patriotic duty or service obligation, they would. In other words, if the U.S. could invent a way to fight wars cleanly—a “clean” war—it would hasten to that end. Suppose America invented a weapon that could deliver all the effects of war without actually endangering the lives of its Soldiers or citizens. It is conceivable that the remotely piloted aircraft (RPA) is the precursor to just such a weapon, one that would place combatants far back from the combat zone that future Soldiers may not need to fight in an actual war.

Far from the forefront of the public mind is the debate on the science and efficacy of the RPA. The area where most attention focuses is on the debate of whether America could, or should, remove “trigger pullers” from combat while preserving the “moral obligation” for someone to “pull a trigger” that kills. In other words, war will forever remain a human endeavor, but it may no longer be a mutually shared human experience between warring parties. While pilots who operate RPA indeed report combat fatigue after spending long hours in windowless rooms, undoubtedly, those windowless rooms are comfortable, air-conditioned quarters. The “combatant” likely sits in ergonomically designed chairs. Indeed, waging war may someday become a clean sport, rather than the messy business it is, more like a remote controlled international manhunt rather than mutually shared bloodshed.

In many ways, *jus bellum iustum* is an impossible standard. “Too often,” critics argue, “the ‘just war theory’ has been used to endorse rather than prevent or limit war. Suggesting that a ‘just war’ is possible also undermines the moral imperative to develop tools and capacities for nonviolent transformation of conflict.”⁴⁰ At this point, one must bear in mind the tradition from which *jus bellum iustum* and the three essential elements of moral action derive. Christianity itself, with its idyllic moral precepts and its call of perfect conformity to natural and eternal law, is an impossible standard to meet on our own. Yet, it is precisely in view of such an impossible standard that clergymen and theologians, particularly those who formulated *jus bellum iustum* in the first place, compelled men to pause and reflect, to examine the source of human value and the value of a just society, and to ponder man’s ultimate fulfillment. Upon such deep reflection, it becomes clear that human life is sacred, a just society is beyond value, and the defense of both against a darkness that seeks to destroy it is just.

As our leaders review national policies coming off the heels of the recent elections, we ought to always aim for true legal and moral actions that ultimately and quite purposefully lead to order, peace, and tranquility. While the RPA policy as it stands appears weakly legal and moral, one is compelled to question whether it can lead to the sort of habits needed to live just lives, to make just decisions, to pursue true happiness. This author fears the policy leaves military professionals and public officials easily susceptible to falling victim to the Gyges effect, even as it upholds *jus in bello*. As such, it is the fixed opinion of this author that strict observance of *jus bellum iustum* is precisely the impossible task to undertake to force our eyes to heaven in search of the spirit of prudence, justice, temperance, and fortitude, to fill us with the strength to do the impossible.

The RPA pilot might stretch the traditional notion of lawful combatants, but asymmetry is contingent on other nations gaining technological parity with the U.S., a reality rapidly approaching. A legitimate enemy combatant might be engaged in acts other than activity hostile to the U.S. as he faced demise from an RPA strike, but his death is within a context of war, and the intent for his death is to bring about peace. The RPA might appear to deliver excessive force against defenseless targets, but the cost of capture using

large military forces would gravely deteriorate regional tranquility and stability. The AUMF might appear outdated, but the provisions contained within are unprecedented, recognizing for the president a wide swath of authorities to prosecute the war on international terrorism against state and non-state actors.

Individual RPA military strikes might appear unreasonable to some, but according to Al Qaeda's own leadership, they are highly effective. Finally, it might seem an inordinate amount of civilian casualties suffer from RPA strikes, but the Judeo-Christian *prima facie*, "Thou shalt not kill," is overcome by other weightier moral imperatives inherent to *jus bellum iustum*. The policy, as it appears is moral, but to wield its power may prove to be unwise. It may convince our just military professionals that they could commit an injustice free of accountability, yet uphold a false just image and reputation. The Gyges effect is a slippery slope, and human nature appears all too willing to embrace easier wrongs over the harder and more difficult moral-ethical and legal rights.

Endnotes

- 1 U.S. Department of the Army, *ADRP 1: The Army Profession* (Washington DC: Government Printing Office) June 2015, 3-4.
- 2 The Holy See, *Catechism of the Catholic Church* (Citta del Vaticano: Image, Doubleday, 1997), 1803.
- 3 Brian Orend, *The Morality of War* (Peterborough, Notario, Canada: Broadview Press, 2006), 105.
- 4 Grégoire Chamayou, *A Theory of the Drone* trans. Janet Lloyd (Paris, France: La Fabrique Editions 2013), 196.
- 5 Grégoire Chamayou, *A Theory of the Drone*, 96.
- 6 Grégoire Chamayou, 97.
- 7 U.S. Department of the Army, *ADRP 1: The Army Profession*, 4-2.
- 8 U.S. Department of the Army, *ADRP 1: The Army Profession*, 3-4.
- 9 Barack Obama, *National Security Strategy*, (Washington, DC: The White House, 2015), 3.
- 10 U.S. Department of the Army, *ADRP 1: The Army Profession*, 4-2.
- 11 Romanus Cessario, *The Moral Virtues and Christian Faith*, (Norte Dame, IN: University of Notre Dame Press, 1991), 19.
- 12 Romanus Cessario, 20.
- 13 Romanus Cessario, *Introduction to Moral Theology* (Washington D.C.: The Catholic University of America Press, 2001), 151.
- 14 The Holy See, *Catechism of the Catholic Church*, 495.
- 15 The Holy See, 486.
- 16 Romanus Cessario, *Introduction to Moral Theology* (Washington D.C.: The Catholic University of America Press, 2001), 159.
- 17 The Holy See, *Catechism of the Catholic Church*, 486-487.
- 18 Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (New York: BasicBook, a Member of the Perseus Books Group, 1977), xxviii.
- 19 Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, xxix.
- 20 Michael Walzer, xxix.
- 21 Malham M. Wakin, *War, Morality, and the Military Professional*, ed. (Boulder, Colorado: Westview Press 1986), 230.
- 22 Ann Rogers and John Hill, *Unmanned: Drone Warfare and Global Security* (New York: Pluto Press, 2014), 103.
- 23 Ann Rogers and John Hill, 104, 114.
- 24 Grégoire Chamayou, 137
- 25 Bradley Jay Strawser, “Moral Predators: The Duty to Employ Uninhabited Aerial Vehicles.” *Journal of*

- Military Ethics, Volume 9, Number 4* (Storrs, CT: University of Connecticut, 2010), 344
- 26 Bradley Jay Strawser, 343.
- 27 Bradley Jay Strawser, 356.
- 28 Grégoire Chamayou, 131.
- 29 Amos Yadlin, “Ethical Dilemmas in Fighting Terrorism.” *Jerusalem Center for Public Affairs Volume 4, Number 8*. November 25, 2004, accessed on April 26, 2017. <http://www.jcpa.org/brief/brief004-8.htm>.
- 30 Ronald C. Arkin, “The Case for Ethical Autonomy in Unmanned Systems.” In *Journal of Military Ethics, Volume 9, Number 4*, (Atlanta, GA: Georgia Institute of Technology 2010), 333.
- 31 Martin L. Cook, *The Moral Warrior: Ethics and Service in the U.S. Military* (Albany, NY: State University of New York Press 2004), 222.
- 32 Cook, Martin L. 223.
- 33 Cook, Martin L. 220.
- 34 George W. Bush, *Decision Points* (New York, NY: Crown Publishers 2010), 396-397
- 35 International and Operational Law Department (IOLD). *Operational Law Handbook* (Charlottesville, VA: The Judge Advocate General’s Legal Center and School 2015), 7.
- 36 *Operational Law Handbook*, 7.
- 37 Jennifer K. Elsea, and Matthew D. Weed, “Declarations of War and Authorizations for the Use of Military Force: Historical Background and Legal Implications.” *Congressional Research Service*. April 18 2014, accessed on April 13, 2017 <https://fas.org/sgp/crs/natsec/RL31133.pdf>, 14
- 38 Jennifer K. Elsea, and Matthew D. Weed, 15.
- 39 Barack H. Obama, *Letter From the President—War Powers Resolution* (Washington, DC: The White House 2016).
- 40 Joshua J McElwee, “Landmark Vatican conference rejects just war theory, asks for encyclical on nonviolence.” *National Catholic Reporter*. April 14, 2016, accessed on April 28, 2017. <https://www.ncronline.org/news/vatican/landmark-vatican-conference-rejects-just-war-theory-asks-encyclical-nonviolence>

Is the Just War Tradition Good Enough as a Framework for Future War?

by Bruce Roeder

My colleague Steve is a baseball enthusiast and is particularly enthusiastic about being a Kansas City Royals fan. A few years ago, when the Royals went to their first World Series in many years, Steve revealed the club's record of wins corresponded to his record of watching the games while drinking from a certain Royals souvenir cup. My co-workers and I noted that correlation is not causation, and fans for the other teams are drinking from their lucky cups with the same rationale. Furthermore, merely saying something does not make it so, but Steve countered with surprisingly detailed data from his model and its linkage to the success of the Kansas City team. We pointed out the obvious importance of the players' hitting, fielding, running, and pitching. Steve readily acknowledged that reality, but maintained the perception that his drinking from his cup had a deep connection to the Royals' success. When the discussion turned to the characteristics of the future dynamics of professional baseball—characterized by more reliance on Sabermetrics, the importance of talent management, salary caps, marketing and advertising, farm systems, and contract negotiations—Steve would smilingly continue to include the influence of his souvenir cup in the conversation.

In a similar way, one can get the impression that the mere assertion that the just war tradition (JWT) and its constituent principles account for the success of America's military in modern war, but the assertion does not make it so. Our perception may become more like Steve and his lucky cup. It is possible, even likely, that our opponents view their resistance to the U.S. as “just” according to the light of their own reasoning or tradition. America's astonishing investment in people, equipment and training, as well as the determined use of other elements of national power is obviously vital to our military success, yet we still include adherence to the JWT in the conversation. The JWT enjoyed an understandable post-Vietnam revival in the Army's professional military education, and recent graduates from both West Point and Command and General Staff College have demonstrated their ability to describe it properly. The question of whether the JWT is an adequate framework is rarely asked. The distinction of a combatant as a uniformed employee of the state, for example, is an assumption imbedded in the framework of the JWT, yet often that is not how the facts on the ground exist in the current operating environment. The current environment includes different characteristics: the prominence of *non*-state actors, passing Authorizations for the Use of Military Force (AUMFs) in lieu of declarations of war, religious leaders issuing fatwahs, cyber-attacks, non-uniformed combatants fighting in densely populated urban areas, lethal drones both in and outside declared combat zones, the blurring of criminal activity from warfare, and outside intervention in revolutions and civil wars.

These are just some of the characteristics of the environment today. In the next few years, there will be more changes. The U.S. armed forces have accepted that the future concept of warfare includes some aspect of what the U.S. Army has dubbed the multi-domain battle (MDB), a joint combined arms concept of not only land, air, and sea, but also space, and cyberspace—including the electromagnetic spectrum (EMS), the information environment, and the cognitive dimension of war.¹ There will be further ethical considerations for the new characteristics expected for future battle, including nanotechnology, megacities, artificial intelligence (AI), so-called “hactivism,” the right to protect (R2P), weaponized refugee movements, ethnic cleansing, human enhancement of combatant Soldiers, narco-terrorism, and more. We readily admit these

characteristics are apt to describe future war, yet, as long as the team is winning, it is difficult for JWT advocates to question the perception of a strong linkage between the JWT model and the team's success. The JWT as a normative model will become an even harder fit for future war and we should recognize its unaltered use threatens to unmoor the profession of arms from its traditional adherence to a morality-based framework of action and restraint.

As a point of clarification, the term "just war *theory*" is an acceptable and commonly used expression, but this paper will use JWT as a reference to the term "just war *tradition*" instead. Because a *theory* is the result of a contemplative and rational type of abstract or generalized thinking, it connotes a scientific approach—something that can be repeatedly tested and confirmed through observation and experimentation. The word *theory* does not lend itself well to how we wage modern warfare. On the other hand, a *tradition* is a belief or behavior with origins in the past that is passed down within a group or society with a distinctive meaning or special significance. While both terms are adequate, *tradition* is the better term here.

There was a revitalization of the historical JWT, led in part by the work of Michael Walzer. Certainly, his 1977 book "Just and Unjust War" has been influential in the U.S. Army.² In order to anticipate the role of the JWT in future war, it is helpful to begin by examining its role currently and in the recent past. This article briefly touches upon the three constituent parts of the JWT—*jus ad bellum* (*JAB*), *jus in bello* (*JIB*), and *jus post bellum* (*JPB*) and examines the adequacy of each part of the JWT in both the current operating environment and for the MDB concept.

In the interest of brevity, the long history of the JWT is beyond the scope of this article, but there are a few points to keep in mind. One is that the purpose of the JWT has not been simply to justify war, but to limit and restrain war using objective moral principles. Furthermore, for the purpose of this argument, in order to enter into a just war, all criteria for *JAB* must be met. Likewise, in order for conduct during a just war to be considered just, all of the criteria for *JIB* must be met. Similarly, the *JPB* criteria must all be satisfied. The failure to meet any single criterion opens the question of the justness of the entire undertaking.

According to ADP 6-0, the U.S. Army practices the concept of mission command to enable disciplined initiative within the commander's intent to empower agile and adaptive leaders in the conduct of unified land operations. This doctrine further requires Army leaders to become critical and creative problem solvers who are agile and able to make decisions in uncertainty, complexity, and change.³ Accordingly, as stewards of the profession of arms, Army leaders must accept the challenge to do the hard work of sorting through the criteria and thinking through the problems wrought by the complexities of modern warfare and the effects of the changes the U.S. Army is bringing to it as we update and refine our warfighting doctrine.

The application of the JWT into law of war after World War II came through primarily as seen in the UN Charter, the Geneva Conventions, and the Nürnberg principles later adopted by the UN General Assembly. The current UN Charter forbids "the threat or use of force" except in two circumstances: if authorized by the Security Council, or in "self-defense" against "armed attack" under Article 51 of the Charter until the Security Council acts.⁴ A resort to force under any other circumstances is a war crime, in fact "a supreme offence against international morality," including all the evil that follows, in the words of the Nürnberg tribunal.⁵

This article uses the criteria for each of the three constituent principles of the JWT discussed by Dr. Brian Orend in his 2006 work "The Morality of War."⁶ It then examines the adequacy of each criterion first in the current environment, and then in light of the Army's new MDB concept, as described in the 24 February 2017 *Multi-Domain Battle: Combined Arms for the 21st Century* white paper.⁷ It is worth noting that the U.S. Army does not consider MDB as a change in direction, but an organic development of the principles of combined arms and the concepts of Air Land Battle doctrine that applies capabilities in more advanced ways. Thereby, the aim of this article is to provide evidence to show the JWT is an impractical framework

for the current operational environment, an even less practical one for future wars fought according to MDB, and to challenge U.S. Army leaders to undertake the difficult task of solving this problem.

Jus Ad Bellum (JAB)

The six criteria for *JAB* include a just cause, a right intention, a public declaration by proper authority, last resort, probability of success, and proportionality—and all of the criteria must be satisfied in order for the demands of *JAB* to be met.⁸ The prototypical example of a “just cause” is the case of self-defense in Article 51 of UN Charter, which on its surface makes an armed attack the condition for its use. However, few of the combat operations since the establishment of the UN have met this central requirement. The U.S., which has arguably been engaged in more warfare than other nations, has not been invaded by another country. We can see objectively that one cannot use Article 51 to argue there is a “just cause” for the U.S. to invade Iraq, to invade Afghanistan, to bomb Kosovo, to occupy Bosnia, to liberate Kuwait, and to invade Panama. There is an argument in the JWT for “other defense” as a “just cause” and there are relevant facts to present as evidence in support of such an “other defense” argument. There is also the rarely acknowledged, but obvious possibility that both sides have “just cause” and we must study and weigh the competing arguments for each case. Clearly, the matter of a “just cause” will always be a subjective matter requiring a serious debate.

Consider the U.S. decision to invade Afghanistan and depose the Taliban government after the Al Qaeda attacks of September 11, 2001. From the American point of view, this is widely accepted as a “just cause” since they constituted attacks on U.S. soil and the government of Afghanistan, which was harboring bin Laden and his organizers, refused to turn them over. The record of public discussion in the U.S. at the time reveals little evidence that U.S. decision makers critically analyzed the “just cause” criterion for *JAB* found in the JWT. Still reeling from the catastrophic events of 9-11, the authorities spent little time debating and the press spilled little ink on editorializing relevant facts. The lack of substantial, credible evidence that Afghanistan’s Taliban government had advanced knowledge of, was involved in the planning for, or provided direct material support to the 9-11 attacks was not held up for serious consideration. There is little to show an evaluation of whether the obligation felt by Afghanistan’s government to adhere to their deeply held cultural tradition of *Pashtunwali*, which includes the concept of *melmestia*—or hospitality and offering asylum—was a mitigating factor. The point here is not to say these arguments would have prevailed, nor that OEF is an unjust war, but merely that these arguments were largely absent from the decision-making calculus, at least in the public sphere. It is reasonable to conclude that in this instance, the *JAB* criteria of a “just cause” was accepted without a serious debate.

The adoption of the MDB as the construct for future war offers little evidence there will be a more deliberate debate regarding the requirement of a “just cause” under *JAB*. Indeed, under the auspices that our potential enemies will use deception, surprise, and speed while integrating economic, political, technical and informational means against us, it would seem foolish to take time to deliberate whether the criterion of a “just cause” is met, allowing our adversaries precisely the time they require in order to prevail.⁹

Similarly, the criterion of “right intention” is an equally subjective matter and demands that it be approached with an equally serious degree of determination. In the complexities of international relations, a “right intention” may be bound up with one or more bad ones. The points of contention when it comes to a “right intention” may never be clear. Still, it is widely accepted that motives are relevant to the moral quality of an act, and a war unambiguously waged for *bad* intentions will lead to further problems. The MDB doctrine aims in the direction of preserving the relative advantages of the U.S. to pursue its interests and maintaining order, which is just as ambiguous as our current doctrine when it comes to whether they are a “right intention,” at least internationally.

Although a “public declaration by proper authority” is also required criterion, the U.S. Congress—the only

proper authority under the U.S. Constitution—has rarely declared war. Usually Congress has instead passed an AUMF. While this method of going to war is not in the Constitution, it is an old method of avoiding this straightforward requirement. Congress, in fact, has only declared war in five conflicts: the War of 1812, the Mexican-American War, the Spanish-American War and the two world wars.¹⁰ Since the end of World War II, Congress has accelerated this relinquishment of the power to declare war, formalizing much of it into the War Powers Act, which has a mixed history. America’s recent act of military intervention in Libya in 2011, for example, received no form of Congressional authorization at all. Several ongoing military interventions are instead noted in the President’s semi-annual war powers report to Congress, like the recent one that acknowledged military actions in Yemen and Somalia.¹¹ This certainly appears to fail the criterion. By the same token, anyone taking the JWT seriously must weigh whether a religious leader issuing a fatwah, for example, carries the same moral weight as a “public declaration by a proper authority.”

The future MDB doctrine is silent on the requirement for a “public declaration by a proper authority,” although there seems to be an underlying sense that military operations will not be encumbered by awaiting a “public declaration.” Moreover, since MDB insists that our potential adversaries will target our ability to command and control our joint capabilities, there is a logical inference that the very communications channels necessary for a public declaration to be promulgated may be suspect. A “public declaration” under a MDB framework is therefore unlikely and indeed is a poor fit.

Next, consider the *JAB* requirement that war may only be a “last resort.” The problem here seems evident in that acts of preventive war such as the 2003 invasion of Iraq or the ongoing lethal drone operations across the globe, especially those outside of declared hostile combat zones, fail to meet this requirement and are therefore apparently unjust. Waging a preventive war would seem unable to meet the requirement of “last resort” because it is simply not possible to wage a *preventive war after* all other options have been exhausted. The decision to wage preventive war, then, appears to be a decision to ignore or dismiss an important part of the JWT. Without ever mentioning “last resort,” the future MDB doctrine does explain the idea of overmatch as the application of capabilities “with the intent to prevent or mitigate opposing forces from using their current or projected equipment or tactics.”¹² We can see then, that this significant departure from the JWT will continue in the future under MDB.

The next *JAB* criterion is “probability of success”—a just war must not be waged in a futile cause or in a case where disproportionate measures are required in order to achieve success. With this in mind, consider that in 2001, President Bush notably announced a Global War on Terror (GWOT), which envisioned neither an enemy force nor an end state.¹³ In 2007, Army Chief of Staff General George Casey famously used the term “era of persistent conflict” to describe both the current and projected period of protracted confrontation among states, non-states, and individual actors willing to use violence to achieve their political and ideological ends.¹⁴ Again, this vision of war without end does not reconcile easily with the JWT requirement for a “probability of success.” President Obama then modified GWOT in 2013 to rather “a series of persistent, targeted efforts to dismantle specific networks of violent extremists that threaten America.”¹⁵ These persistent efforts still do not fit within the criterion of “probability of success” required by the JWT. The key leadership might have some persuasive argument that meets the JWT criterion in this regard, but if so, they have not yet presented it. Indeed, the MDB white paper on future war expresses its purpose “in order to seize, retain, and exploit the initiative; defeat enemies; and achieve military objectives.”¹⁶ There is no mention of a “probability of success,” winning a final victory, nor achieving an end state. The MDB doctrine thereby gives no indication of meeting this required criterion of the JWT.

Finally, consider the *JAB* criterion of “proportionality”—the expected damage from waging the war cannot exceed the expected damage from avoiding the war. In other words, a just war may not create greater evils than the evils it is being fought to remedy. The 2003 invasion of Iraq fails to meet this standard because a preventive war, while creating certain damage, eliminates only *potential* future damage from developing

threats that have not yet been attained. Such a damage comparison will always reveal disproportionate real damage from the war being waged and potential damage having been remedied. The idea of persistent conflict fails on this criterion as well because the damage from the ongoing war is certain, mounting, not yet complete and potentially will go on indefinitely. Therefore, we can see that both of these examples—preventive war and persistent war—do not adhere to this criterion of the JWT. Moreover, future MDB doctrine states that since U.S. Joint Forces can no longer assume a continuous superiority in any domain, we will create and exploit temporary windows of superiority across multiple domains.¹⁷ This approach eliminates the capacity of the commander to escalate and de-escalate the tempo of the battle traditionally used in warfare to ensure the “proportionality” demanded by the JWT.

There appears to be ample evidence then, that the criteria for *JAB* within the JWT is not being met and the future of warfare will continue this failure. Only when all of the *JAB* criteria are met, a just war may be waged only under the conditions of *JIB*.

Jus In Bello (JIB)

A primary *JIB* principle governing just war conduct is that of “distinction”—making the distinction between combatants and non-combatants. In order to be considered just, acts of war should be directed towards enemy combatants and not towards non-combatants caught in a situation they did not create. The prohibited acts include bombing civilian residential areas that have no value as legitimate military targets, committing acts of terrorism and reprisal against civilians, and attacking neutral targets. Moreover, combatants are not permitted to attack enemy combatants who have surrendered, been captured, are injured and not presenting an immediate lethal threat, are parachuting from disabled aircraft (except airborne forces), or are shipwrecked. We typically invoke adherence to locally developed rules of engagement, the Law of Armed Conflict (LOAC) and the Geneva Conventions. Even so, the significant amount of non-combatant death and injuries are undeniable. In the current environment, estimated counts of so-called collateral damage varies. For example, the civilian casualty ratio in the Iraq War, as calculated by the UK-based group “Iraq Body Count,” is either 1:2 (civilian) or 3:1 (combatant), depending on whether we include all of the casualties of the war, or strictly the deaths reported as resulting from Coalition actions.¹⁸ The detention and harsh treatment of “enemy combatants” without trial is another area in which the standard is not being met, at least as it is described in the JWT. Either way, the casualty ratio of non-combatants in modern war is much higher than a strict adherence to the *JIB* principle of “distinction” would set as a goal. The MDB doctrine of the future adds cognitive domains to the physical domains it includes in military operations, and thus widens rather than narrows the variety of areas included in combat operations. Therefore, the large square peg of MDB appears an even worse fit into the clear, round hole of the JWT principle of “distinction.”

Likewise, the *JIB* criterion of “military necessity” demands that all actions must be intended to help defeat the enemy; they must be on a legitimate military objective, and the harm caused to civilians or civilian property must be proportional and not excessive in relation to the concrete and direct military advantage anticipated. This principle is meant to limit excessive and unnecessary death and destruction. It requires a very subjective discernment into the balance between the harm imposed by a measure and the advantage of the act. Such external versus internal measures vary widely according to the point of view of the one doing the measuring. Given the obvious difference in the perception in discerning such proportions, meeting this criterion is usually very difficult.

The next *JIB* principle is the “fair treatment of prisoners of war.” The JWT asserts that enemy combatants who have surrendered or who are captured no longer pose a threat. It is therefore wrong to torture them or otherwise mistreat them. It is less clear how *JIB* deals with combatants who continue to pose a threat and are not uniformed employees of any state. The complexities of the U.S. policy at Guantanamo Bay, Cuba, for example, exceeds the scope of this article. It is sufficient to point out, however, that this criterion, like the others within the JWT framework, seems based more upon the model of previous conflicts than the current

operating environment. The MDB concept does not single out this criterion, but does “describe a future of contested norms” and refers to increasingly powerful adversaries establishing their own set of rules unfavorable to the U.S. Whether this continues to obligate us to observe our set of rules may be open to question.¹⁹

The final *JIB* criterion prohibits means which are *malum in se*, or intrinsically evil. Combatants may not use weapons or other methods of warfare that are considered innately evil, such as mass rape, forcing enemy combatants to fight against their own side, or using weapons whose effects cannot be controlled, such as nuclear or biological weapons. The threat of U.S. adversaries using, or threatening to use, nuclear weapons and other weapons of mass destruction throughout the bipolar standoff of the Cold War was a unique peril to mankind and is also beyond this article’s limits. It is worth noting the MDB doctrine also mentions “weapons of mass disruption” as a risk of escalating the threat of warfare.²⁰

We continue to realize the demands of the JWT within the *JIB* criteria do not easily match, nor necessarily apply as they were written and have traditionally been interpreted. Finally, we will examine the most recent addition to the JWT, the *JPB* criteria for terminating a war justly.

Jus Post Bellum (JPB)

The first *JPB* criterion is “right intention” which says a state must only terminate a war under agreed upon conditions and revenge is not permitted. The victor state must apply the same level of objectivity and scrutiny into any war crimes that its own armed forces may have committed that it applies to investigating and prosecuting its enemies. The U.S. has a history of demanding unconditional surrender, which violates this principle, but since *JPB* was not an accepted part of the JWT in 1945, let us focus on the current operational environment and the future doctrine of MDB.

The next criterion is a “public declaration and authority” which says the terms of peace must be made by a legitimate authority, and the terms must be accepted by a legitimate authority. While this seems straightforward, the U.S. debate over whether to withdraw forces from Iraq based upon the conditions on the ground or an agreed upon timetable, and the ensuing resurgence of hostilities, is a recent example of the difficulties involved. The MDB idea of “outmaneuvering adversaries in the cognitive dimension” involves using information to confound the enemy’s situational understanding and decision-making, thereby creating an advantage.²¹ This appears on its surface to go against the idea of public disclosure of measured and reasonable terms for settlement.

The next *JPB* criterion is “discrimination.” This principle says the victor state is to differentiate between political and military leaders, combatants, and civilians. Leaders of the unjust aggressor must face fair and public war crime trials, if necessary. Soldiers from all sides of the conflict must be held accountable for war crimes and atrocities. Civilians must be reasonably immune from punitive measures. This requirement prohibits broad-sweeping social or economic sanctions. Punitive measures are limited to those directly responsible for the conflict. Publicly disclosing the truth and achieving reconciliation may be more important than punishing war crimes. Given the U.S. is not a participant in the International Criminal Court, adherence to the war crime aspect of this standard is unclear. The MDB doctrine is silent on this aspect of *JPB*.

The final criterion of *JPB* is “proportionality,” that any terms of surrender must be proportional to the rights that were initially violated. Ruthless measures, absolutist campaigns, and any attempt at denying the surrendered country the right to participate in the world community are not permitted under this principle. While the MDB is admittedly silent on this principle as well, the intention of creating windows of dominance for U.S. forces to exploit across many domains of an adversary’s society could give one concern whether “proportionality” is a consideration.

Conclusion

Like most analogies, my comparison of the JWT to a friend's souvenir cup seems to break down rather quickly. At this point, it might be best to say what this article is not. This article is not an argument against having a JWT at all, leaving us to choose between a Machiavellian realism and some sort of Amish pacifism. A reasonable middle way can and must be available, and it must achieve international acceptance to be effective. The JWT, at its most basic, accepts the need for war within moral and legal boundaries and provides good guidance in several areas. The JWT claims that sometimes war may be justified and preferable to an immoral peace, and if war is to take place, it must be guided by our moral traditions and the most evil aspects of warfare must be muted, limited, or eliminated. The general Law of Armed Conflict and specific rules of engagement rest upon the ideas articulated within the *jus in bello* criteria of the JWT.

If we view warfare as imposing our will on the enemy, then we will tend to emphasize overwhelming, coercive strategies of attrition and annihilation to eliminate resistance. While such a view does not ignore the constraints in war, we should not cling to the claim that it constitutes adherence to the principles of the JWT. The future of MDB does seem to blur the distinction further between what is, and is not, easily separable from warfighting as the range of potential targets expands. As this distinction blurs, the risk of completely disconnecting our warfighting doctrine from the JWT increases.

To paraphrase GK Chesterton's quip about Christianity, perhaps the problem is not that the ideals have been tried and found wanting, but rather they have been found very difficult and been left untried.²² There are valid reasons to question the value of the JWT for creating a consensus within a nation among the Clausewitzian paradoxical trinity (*wunderliche dreifaltigkeit*) of the people, the Army, and the government.²³ It no longer has utility for Soldiers to know what kind of conduct to expect in combat and, if captured, what to expect in a POW camp. It is no longer clear how the JWT helps individuals avoid committing war crimes or atrocities. The JWT needs to be a relevant, well thought out, comprehensive, and managed solution in order for its proper implementation and use.

The most salient idea is that the JWT is a tradition, and as such it has been refined and developed over the centuries and we must continue to do so. It is rooted in "natural law" and its roots predate shoulder-fired weapons, motorized transport, powered flight, and digitized communications. There is reason to expect that its continued refinement can arrive at a satisfactory framework for the future of warfare. Whether it will be refined is an open matter, but one that demands clear-eyed engagement. In order for the framework to be practical, it must be authoritative and accepted. We need to reassert the link to ethical objectivism upon which the international acceptance of the JWT relies.

To be clear, we will need to familiarize ourselves with the thinking of such ethicists as John Lango and his cosmopolitan just war theory, and other contemporary just war thinkers, such as Cecile Fabre, Alexander Leveringhaus, and David Rodin.²⁴ We ought to acknowledge the ongoing work of the Pax Christi movement in the Catholic faith tradition, from which much of the JWT has come, in moving away from a JWT to a so-called just peace teaching. Catholic Church leadership has apparently determined that the JWT is truncated and minimalist. Modern wars have made the JWT obsolete and the objective to discriminate justified from unjustified wars has been rendered null and void by the massive, indiscriminate violence of modern wars causing more casualties among civilians than combatants.²⁵

In closing, a sober professional reflecting on this problem might take time to ponder a few iconic data points. The first is the famously radical work of the highly decorated USMC Brigadier General Smedley Butler, in his outspoken activities against military adventurism and war profiteering, mostly from World War I, and his short 1935 book, "*War is a Racket*."²⁶ The second is President Dwight Eisenhower's televised farewell address to the nation on 17 January 1961, in which he cautioned against the unwarranted influence of the military-industrial complex and "the disastrous rise of misplaced power" that could result.²⁷ The third

is Secretary of State Madeleine K. Albright in the 1990s, asking then Chairman of the Joint Chiefs of Staff General Colin Powell about Bosnia, “What’s the point of having this superb military that you’re always talking about if we can’t use it?”²⁸ These final points of consideration offer an uncomfortable perspective for a steward of the military profession to question what is guiding America’s behavior in warfighting and whether the JWT is determinant, or just a handy totem to invoke when justifying the use of military force. Such serious issues cannot be examined outside the current context of intense interest in post-traumatic stress, the tragic rates of suicide among military veterans, and the work of Dr. Jonathan Shay and others regarding the concept of moral injury associated with exposure to extreme events which “transgress deeply held moral beliefs and expectations.”²⁹ The JWT in its current configuration is not good enough to decisively affect the nature or outcome of the current situation. With the advent of new Army doctrine on future warfare, it is vital for military thinkers to recognize the dissonance and do the difficult work in refining and validating a proper model for our moral framework.

Endnotes

- 1 Department of the Army, *Multi-Domain Battle: Combined Arms for the 21st Century*, 24 February 2017, 2. https://www.tradoc.army.mil/MultiDomainBattle/docs/MDB_WhitePaper.pdf (Accessed 2 March 2017).
- 2 Michael Walzer, *Just and Unjust Wars*, 2nd Ed. (New York: Basic Books, 1992).
- 3 Department of the Army, *ADRP 6-22 Army Leadership*. (Washington, DC: US Government, 2012). 1-19.
- 4 Charter of the United Nations and Statute of the International Court of Justice, 1945. <http://www.un.org/en/charter-united-nations/> (Accessed 2 March 2017).
- 5 *Principles of International Law Recognized in the Charter of the Nürnberg Tribunal and in the Judgment of the Tribunal*, 1950, 6. http://legal.un.org/ilc/texts/instruments/english/commentaries/7_1_1950.pdf (Accessed on 10 March 2017).
- 6 Brian Orend, *The Morality of War*, (Ontario, Canada: Broadview Press, 2006), 20.
- 7 Department of the Army, *Multi-Domain Battle*, 1.
- 8 Orend, *The Morality of War*, 31.
- 9 Department of the Army, *Multi-Domain Battle*, 2.
- 10 United States Senate, *Official Declarations of War by Congress*, (Washington, DC: US Government, 2017). https://www.senate.gov/pagelayout/history/h_multi_sections_and_teasers/WarDeclarationsbyCongress.htm.
- 11 Barack Obama, *Presidential Letter – 2016 War Powers Resolution 6-Month Report*, (Washington, DC: US Government, 2016). <https://obamawhitehouse.archives.gov/the-press-office/2016/06/13/letter-president-war-powers-resolution>
- 12 Department of the Army, *Multi-Domain Battle*, 2.
- 13 George W. Bush, *Address to a Joint Session of Congress and the American People, 20 September 2001* <https://georgewbush-whitehouse.archives.gov/news/releases/2001/09/20010920-8.html> (Accessed on 8 March 2017).
- 14 General George Casey, *Dominant Land Forces for 21 Century Warfare – Defense Technical Information Center*.
- 15 Paul D. Shinkman, “Obama: ‘Global War on Terror’ Is Over,” *U.S. News & World Report* (23 May 2013). <https://www.usnews.com/news/articles/2013/05/23/obama-global-war-on-terror-is-over> (Accessed 8 March 2017).
- 16 Department of the Army, *Multi-Domain Battle*, 4.
- 17 Department of the Army, *Multi-Domain Battle*, 4.
- 18 <https://www.iraqbodycount.org/> (Accessed 8 March 2017). This analysis is based on 51,032 database entries from the beginning of the war to 31 Dec 2016, and on monthly preliminary data from that date onwards.
- 19 Department of the Army, *Multi-Domain Battle*, 2.
- 20 Department of the Army, *Multi-Domain Battle*, 2.
- 21 Department of the Army, *Multi-Domain Battle*, 4.

- 22 Gilbert Keith Chesterton, *What's Wrong with the World*, (London, England: Pantianos Classics, 1910), 25-26.
- 23 Carl von Clausewitz, *On War*, Howard, M. and Paret, P. (trans.), (Princeton, New Jersey: Princeton University Press, 1976/1984), 89.
- 24 John W. Lango, *The Ethics of Armed conflict: A Cosmopolitan Just War Theory*, (Edinburgh, Scotland: Edinburgh University Press, 2014).
- 25 <https://nonviolencejustpeacedotnet.files.wordpress.com/2016/05/appeal-to-catholic-church-on-gospel-nonviolence.pdf> (Accessed 9 March 2017).
- 26 Smedley D. Butler, *War is a Racket*, reprint edition (Feral House: 2003).
- 27 Dwight D. Eisenhower, "Eisenhower's Farewell Address to the Nation," January 17, 1961. <http://mcadams.posc.mu.edu/ike.htm> (Accessed 13 March 2017).
- 28 Madeleine K. Albright, *Madame Secretary: A Memoir*, reprint edition. (Harper Perennial, 2003). 182.
- 29 Brett T. Litz, Nathan Stein, Eileen Delaney, Leslie Lebowitz, William P. Nash, Caroline Silva, & Shira Maguen, "Moral injury and moral repair in war Veterans: A preliminary model and intervention strategy," *Clinical Psychology Review*, 29, (2009): 695-706.

Ethics of Hacktivism

by Tennille W. Scott and O. Shawn Cupp

Introduction

Do hacktivists have ethics? Some would say yes and others suggest that no, they do not. Are there rules that those who engage in hacking follow or abide by during the conduct of their activities? Does the hacktivist maintain any semblance of actions described under the just war theory? If so, it would seem to be only in *ius in bello*¹ or the just conduct in war, due to the perpetual nature of hacker activities and hacktivist operations.

First, what is a hacktivist?² They are defined as those who through the nonviolent use for political ends of “illegal or legally ambiguous digital tools” like website defacements, information theft, website parodies, denial-of-service attacks, virtual sit-ins, and virtual sabotage.³ This provides the basis for understanding more about where hacktivists’ motivations come from and what kinds of ideologies they may exhibit.

Nevertheless, hacktivists must conform to some sort of norm. Based upon the nature of hacktivist activities, there must be a way to categorize or identify their overarching ethic. Understanding the motivation of this group is a huge undertaking because of the great variance and diversity of the people who make up the hacktivist collective. Unlike cyberterrorists, who typically belong to a hierarchical group structure and have a common cause, hacktivists are not bound in the same way, which makes them more dynamic and difficult to analyze. A prime example is the hacktivist group known as Anonymous and its spinoff group, Lulz Security (LulzSec), who eventually participated in different activities with different motives.

The future of cyber warfare will include hacktivists, either as full combatants or as proxies, and understanding the underlying ethics of their activities provides context for decision-making throughout all levels of war. Understanding the ethical construct of hacktivists will assist in leveraging those areas within cyberspace that we can manage, or in small segments dominate, for short periods. The ethical construct of hacktivism will also allow us a better overall sense of “how things are done” within cyberspace, which translates directly into securing vital national security interests across the globe.

Somewhere in the history of hacktivists and their interaction with cyberspace, one would suggest that rules do exist for their conduct. However, understanding the motivations of hacktivists would provide the context to answer the ethical question. These rules may not rely or be built upon the traditional set of values that are associated with fully developed theoretical models of ethical behavior. Although some commonalities exist within the self-justification of the activities of hacktivist groups, it is impossible to bind them to a common ruleset regarding ethical decision-making.

Current ethics frameworks are not sufficient for classifying hacktivists, their actions, or motives. We propose models consisting of an asymmetric view and application of a complexity framework to analyze hacktivism in today’s environment. These models provide context and predictability to understand the impact of hacktivist ethics on the future of warfare.

Social contract theory answers the question of the reason to act moral—because “people collectively agree to behave morally as a way to reduce social chaos and create peace.”⁴ In this case, most hacktivist do probably not want to reduce social chaos, but increase it. This is evident considering “the lifeblood of the hacker ethic has always been the freedom of information and the full democratization of the public sphere.”⁵

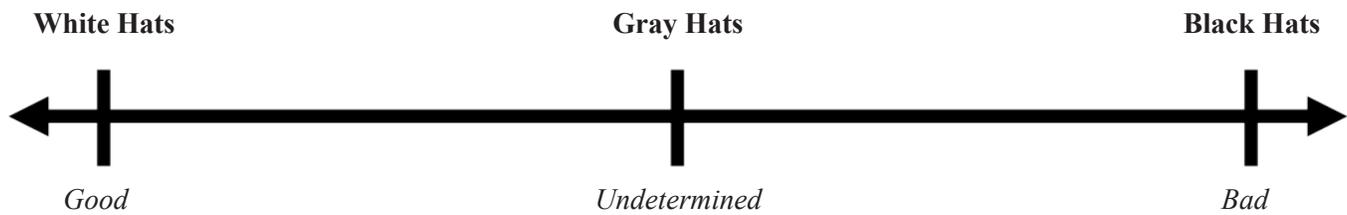


Figure 1. Conventional Thinking of Hacktivists and their motivations

Many others have described a “hacker ethic.” Steve Levy described two maxims in his book *Hackers* in 1984. They are “all information should be free and mistrust authority and promote decentralization.”⁶ This seems to be really three maxims, but for arguments sake we will treat them as two. This freedom of information pledge is evident in a number of theorists and writers who state that all information should be available to everyone in society. This is the ultimate in execution of Levy’s twin maxims of hacker ethic.

Categorization of Hacktivists

The term hacktivist describes a person who conducts computer hacking in order to promote an activist agenda, but there are people within hacktivist groups who participate in hacktivist activities that have no hacking skills nor actually hack systems. Often, the lines between activism, hacktivism, and cyberterrorism are blurred and hacktivist activity is misidentified.⁷ The definition for hacktivist should be broadened to represent one who leverages technology to promote social activism.

Hacktivist attacks were previously categorized by identifiable individuals or groups and their motivations. In the past, white hats, black hats, and gray hats were hackers and activists motivated by a particular means or agenda. (See Figure 1.) Their motivations were usually placed upon a linear scale or continuum with white being good, black being bad, and gray somewhere in-between. Now, hacktivists consist of a number of subgroups with a variety of motivations not secured to a good-bad continuum. The scaled metric no longer applies because the positions of individuals and groups do not fit neatly into clearly defined categories. They appear more on a circular basis with a variety of motivations and positions.

Red hats, green hats, yellow hats, orange hats, purple hats, and blue hats are possibilities for different categories of hacktivists. These categories could be based upon religion, global region, political ideology, social status, economic considerations, etc. The fundamental realization is that all hacktivists can no longer be categorized on a continuum. Their positions are far too diverse and their motivations are even more varied. Purposes are no longer singular and linear, but are across a variety of positions. These positions could be categorized in a variety of colored hats to keep with the current typology. Not only are motivations different but they are also based upon the characteristics of using cyberspace to further a group’s agenda.

Characteristics of Cyberspace

Understanding the ethics of hacktivists requires that we understand the environment in which they operate. Defining cyber is a difficult task, as shown by the slow adaptation by the U.S. government of developments in cyber.⁸ There exists a need to develop and debate a comprehensive theory of cyberspace. Up until this date, parts of this military domain were debated and discussed; however, a single holistic theory eludes contemporary theorists. Table 1 compares military domains and current characteristics of those domains in terms of military use. (See page 145.) These comparisons provide the basis to determine if new principles of warfare are required for the cyberspace domain.

The major cyberspace characteristics that hacktivists rely on are accessibility, internetworking, and sociability. The absence of these three elements makes it difficult for hacktivist groups to achieve their agenda. Accessibility is the core of the hacker subculture and the attribute largely at odds with the law. Anyone can acquire equal access to cyberspace. Internetworks provides a means to share data and information globally. Sociability gives individuals the convenience of socializing in the virtual space and allows them to expand their influence in a way that would be otherwise difficult or impossible. Cyberspace affords hacktivists an optimal platform for planning, organizing, and executing their activities.

Principles of Cyberspace

Below are some central principles of cyberspace derived from the comparison above and a review of the current literature. These primarily describe cyberspace but do have connections to the other domains of military conflict. “Cyberspace differs fundamentally from the traditional physical domains. It requires as much of a reexamination of basic principles as did air, relative to land and sea warfare.”⁹ It is the domain of warfare based upon connectivity,¹⁰ and may require different principles of warfare.¹¹

Continuous of the domain—Cyberspace is ever expanding and constantly adding to the domain, almost infinite in propensity. It is the only domain of warfare that is in a constant state of replicating itself.¹² It is not constrained by borders or boundaries. Cyberspace is endlessly increasing in size, scale, and scope.

Flattening of operational environment—strategic, operational, and tactical levels of war are no longer adequately descriptive of the cyberspace domain. They are flattened into a single “plane” or level of war. “Achieving global cyber superiority or global cyber control by any organization is no longer technically possible.”¹³ Cyberspace is no longer an area that is divided into levels of war, nor is it a domain that an entity (nation state, non-state, nor criminal actor) can exhibit dominance over.

Physical destruction not necessary—It is the domain in which a nation state or a non-nation state actor can attack, destroy, degrade, or affect an enemy without causing physical destruction.¹⁴ Historically, the preponderance of attacks through the land, sea, air, and space must include physical destruction to influence an enemy. Nonlethal effects can be achieved persistently through cyberspace.

Domain	Physical	Virtual	Cognitive	Connect with other Domain	Dominance can be exerted over Domain	Nation State Sponsored Requirement	Non-State Actor Usage	Growing as a Domain
Land	Yes	No	No	Yes	Yes	Yes	Yes	No
Sea	Yes	No	No	Yes	Yes	Yes	Maybe	No
Air	Yes	No	No	Yes	Yes	Yes	Manned Unlikely	No
Space	Yes	No	No	Maybe	Maybe	Yes	Unlikely	Maybe
Cyber	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes/Infinite

Table 1. Comparison of Domains

Multi-symmetrical—As opposed to other military actions, namely symmetric and asymmetric warfare, cyberspace is multi-dimensional in nature and in use of this domain by state, non-state, and criminal actors. Cyberspace is greater than the sum of its technological parts.¹⁵ Access to other domains is instantaneous and cyberspace is the only military domain that can influence all the other domains of warfare. In fact, it is the only domain where one can operate and influence all the other domains.

Politics is not required - Fundamentally, cyberspace can no longer be adequately described by Clausewitz definition of warfare as merely an extension of politics.¹⁶ There may be no political purpose or goal to their attacks but “cyberspace will be an integral part of future warfare.”¹⁷ Some may say that this will end in politics of chaos. That may be true, but with the internet we have a new series of entities to deal with, manage, or mitigate, which includes the “hactivist.”

Defense industrial base not required—During World War I, capital ships were measured as a national expenditure and defined as such, however this rubric is no longer valid in cyberspace. Today large industrial manufacturing plants, both mechanical and electronic, are not required for one to engage or even dominate within this domain.

Given these principles, one can clearly see the ease a noncombatant, such as a hactivist, could participate in cyberwarfare.

A Proposal for Understanding Hactivism Ethics

Usually when a practicing or overarching ethic is identified, it is for a group. There are group norms and rules that govern the operations and activities of that group. One prominent group in hactivist circles is Anonymous. Anonymous is “everything and nothing,” have “no structure or leader,” and reveal themselves “more like *Fight Club* due to the rules that they do reveal to the public.”¹⁸ Besides these obscure operating instructions, there should be some kind of definitive rule set applied, understood, and used.

<p style="text-align: center;">Complex Domain (Unknown knows)</p> <p>Actor: Anonymous Motivation: Expose rights violations Target: Church of Scientology Method: Street protests (global)</p>	<p style="text-align: center;">Complicated Domain (Known unknowns)</p> <p>Actor: Anonymous Motivation: Protest Internet censorship Target: Church of Scientology Method: Denial of Service, Google bomb</p>
<p style="text-align: center;">Chaotic Domain (Unknown unknowns)</p> <p>Actor: Edward Snowden Motivation: Whistleblowing Target: National Security Agency Method: Retrieved classified documents</p>	<p style="text-align: center;">Simple Domain (Known knows)</p> <p>Actor: Anonymous Motivation: “Lulz” (laughs) Target: Church of Scientology Method: Pranks (phone calls, emails, faxes)</p>

Table 2 Application of the Cynefin Framework

Our current understanding of hacker ethics expands on Levy's description and emphasized in the Hacker Manifesto written by The Mentor and the Guerilla Open Access Manifesto written by Aaron Swartz. Today, the principles of freedom of access to information, freedom of information sharing, and freedom to explore intellectual curiosity are only a fraction of the motivations within the hacktivist culture. The color wheel model provides a one-dimensional understanding of hacker motivations, but the Cynefin framework proffers a means to analyze the complexity of hacktivist culture in its entirety.

The Cynefin framework helps leaders visualize and understand interactions of systems within various environmental conditions. The purpose is to give decision-makers the ability to analyze where their systems lie in order to affect outcomes. The external environment is represented by a continuum of ordered and unordered states, and within this continuum are five domains in which systems operate: simple; complicated; complex; chaotic; and disorder.¹⁹ These domains represent various levels of knowledge and available information about a system. This framework is advantageous for military leaders because they constantly operate in dynamic environments, which often require solutions to problems of varying complexity.

The ethical construct of hacktivism can be aligned with the simple, complicated, complex and chaotic domains of the Cynefin framework, which also represents varying levels of context and predictability. For example, Anonymous' campaign against the Church of Scientology in 2008, also known as Project Chanology, morphed from a simple problem of pranks to a complex problem of global street protests in a few weeks' time. The members of Anonymous went from being computer geeks to cyberterrorists and everything between, even though there are Anonymous members who are not hackers. Technology leveraged for activism in a way that makes it impossible to categorize these activities linearly because regular computer users are also able to participate in hacktivist efforts in legitimate ways.

Table 2 shows the Cynefin framework applied to two different instances of hacktivism, the Anonymous hacktivist group and Edward Snowden. (See page 146.) Anonymous activity spanned across three domains, from simple to complex, representing behaviors and motives that range from explainable connections to unexplainable connections. Edward Snowden's case represents the chaotic domain where connections are not obvious or explainable, and therefore not predictable but may reveal connections after subsequent analysis.

Conclusion

Framing the operational environment in the cyber domain will be a critical step for conducting multi-domain operations in the future. The characteristics and principles of cyberspace affords hacktivists an optimal platform for planning, organizing, and executing their activities. Linear categorization of hacktivist activity is no longer sufficient to understand their motives. We cannot ignore hacktivists in future warfare because the evolution of their activity suggests increasing complexity of actors, motivations, and targets. The Cynefin framework provides a means for military leaders to understand the ethical decision-making of hacktivists and the impact of their actions on future warfare. Understanding the ethical construct of hacktivists will assist in leveraging those areas within cyberspace that we can manage or dominate for short periods. We can also gain a different perspective of operating within cyberspace, which translates directly into securing vital national security interests across the globe.

Endnotes

- 1 Brian Orend, *The Morality of War* (Orchard Park, New York, 2006): 105.
- 2 Alexandra Whitbey Samuel, “Hacktivism and the Future of Political Participation,” (Sept 2004) (unpublished Ph.D. dissertation, Harvard University), available at <http://www.alexandrasamuel.com/dissertation/pdfs/Samuel-Hacktivism-entire.pdf>.
- 3 Noah C.N. Hampson, “Hacktivism: A New Breed of Protest in a Networked World,” *Boston College International and Comparative Law Review*, 35, no. 2 (2012): 514.
- 4 Lois P. Pojman and James Fieser, *Ethics Discovering Right and Wrong* (Boston, Massachusetts, 2012): 65.
- 5 Mark Manion and Abby Boodrum, “Terrorism or Civil Disobedience: Toward a Hacktivist Ethic,” *Computers and Society* (June 2000): 18.
- 6 Peter Ludlow, Wikileaks and Hacktivist Culture, *The Nation* (October 4, 2010): 25.
- 7 John Arquilla and David Ronfeldt, “Networks and Netwars: The Future of Terror, Crime, and Militancy” (monograph, Rand Corporation, 2001), available at http://www.rand.org/pubs/monograph_reports/MR1382.html, 2001, 241.
- 8 Megan L. Ortagus, “The Internet’s Impacts on Power Differentials in Security and Conflict” (masters thesis, John Hopkins University, 2014), <https://jscholarship.library.jhu.edu/bitstream/handle/.../ORTAGUS-THESIS-2014.pdf>.
- 9 Sean C. Butler, “Major Refocusing Cyber Warfare Thought,” *Air and Space Power Journal*, Jan-Feb, (2013): 54.
- 10 Thomas M. Chen, “An Assessment of the Department of Defense Strategy for Operating in Cyberspace,” *The Letort Papers*, (Strategic Studies Institute, U.S. Army War College, Carlisle, PA, 2013), 6.
- 11 Raymond C. Parks, and David P. Duggan, Proceedings of the 2001 IEEE, Workshop on Information Assurance and Security, United States Military Academy, West Point, NY, 2001, 122.
- 12 John B. Sheldon, “Deciphering Cyberpower Strategic Purpose in Peace and War,” *Strategic Studies Quarterly*, Summer (2011): 95-112.
- 13 Martin R. Stytz and Shela B. Banks, “Toward Attaining Cyber Dominance,” *Strategic Studies Quarterly*, Spring (2014): 55.
- 14 Phillip S. Meilinger, “The Mutable Nature of War,” *Air & Space Power Journal*, Winter (2010).
- 15 Hans-Inge Langø, “Slaying Cyber Dragons: Competing Academic Approaches to Cyber Security,” NUPI Working Paper 820, Norwegian Institute of International Affairs, Oslo, Norway, 2013, 27.
- 16 Thomas Rid, “Cyber War Will Not Take Place,” *Journal of Strategic Studies* 35, no. 1 (2012): 5-32.
- 17 Thomas M. Chen, “An Assessment of the Department of Defense Strategy for Operating in Cyberspace,” *The Letort Papers*, (Strategic Studies Institute, U.S. Army War College, Carlisle, PA, 2013), 10.
- 18 Parmy Olsen, *We Are Anonymous: Inside the Hacker World of LulzSec, Anonymous, and the Global Cyber Insurgency*, (New York, New York, 2012), 7.
- 19 William Dettmer, “Systems Thinking and the Cynefin Framework: A Strategic Approach to Managing Complex Systems,” *Goal Systems International* (1 August 2011): <http://www.goalsys.com/books/documents/Systems-Thinking-and-the-Cynefin-Framework-Final.3.pdf>, 2011, 10.

Neuroethics Meets Just War Theory: Ethical Issues and the Development of the Third Offset Strategy

by Jason Unsworth

“It’s incredibly obvious, isn’t it? A foreign substance is introduced into our precious bodily fluids without the knowledge of the individual, and certainly without any choice. That’s the way your hard-core Commie works.”

- Brigadier General Jack D. Ripper (from *Dr. Strangelove*)

Introduction

In 2008, 2009, and 2014 the National Research Council published a series of reports commissioned by the Defense Intelligence Agency (2008), the U.S. Army (2009) and the Defense Advanced Research Projects Agency or “DARPA” (2014). These reports detailed and analyzed new and emerging technologies, many of which focused on cognitive neuroscience and its possible application in the service of national defense measures. This article will summarize each of the reports and show that many of the technologies detailed therein have found their way into the recently announced Third Offset Strategy and have also found funding in support of President Obama’s 2013 BRAIN (Brain Research through Advancing Innovative Neurotechnology) Initiative. Relevant issues in bioethics/neuroethics as well as Just War ethics are noted along the way.

On November 15th 2014, then Secretary of Defense Chuck Hagel officially announced the Third Offset Strategy in a speech delivered from the Ronald Reagan Presidential Library in Simi Valley, California.¹ The Third Offset Strategy is an attempt to allow U.S. warfighters to recapture technological superiority over peer and near-peer nations and reinsure U.S. battlefield dominance for the next generation of conflicts. Like all technology dependent enterprises, national defense is in continual need of modernization in order to maintain its edge and effectiveness against competitors. The price tag for the strategy is 18 billion dollars over 5 years, starting in 2017.² Technologies that the strategy will focus on developing include those in the fields of robotics, autonomous systems, miniaturization, big data, and advanced manufacturing.³

What is now called the First Offset Strategy resulted from the response of the Eisenhower administration to the Warsaw Pact of 1955. The main effort of this strategy was nuclear deterrence and proliferation; the Cold War was the result. The Second Offset Strategy came in the post-Vietnam years and focused on developing technologies aimed at improving capabilities in intelligence, surveillance and reconnaissance platforms, precision guided weapons and stealth technology, as well as space based military communications and navigation.⁴ Technologies resulting from this strategy include the Airborne Warning and Control System (AEW&C), the F-117 Stealth Fighter and related stealth technologies, modern precision guided missiles and bombs, and the Global Positioning System (GPS), among others. Learning from past conflicts and anticipating future conflicts, the Third Offset Strategy seeks to propel U.S. war fighting capabilities beyond that of peer countries who now have access to the same technologies developed in the previous two strategic efforts.

The Reports of the National Research Council

The National Academy of Sciences was established by congressional charter and received presidential approval from Abraham Lincoln in 1863.⁵ The National Research Council was established under the same charter in 1916.⁶ The mission of the National Academy of Sciences and the National Research Council is to serve the U.S. Government as an advising body on matters of science and technology. Government agencies may submit an appropriate inquiry to the National Research Council and, upon researching the issue, the council submits a written report which is then published through the academy's own press.

The National Academy of Sciences members are largely volunteer scientists, researchers, and academics who work pro-bono as a form of national service. The academy receives most of its funding to do its work through the Federal Government.⁷ The three reports considered in this article all came about through a request by a government agency to the National Research Council to offer analysis and advice on the militarization of emerging technologies.

One can see the government's interests in the militarization of neuroscience and related cognitive technologies through examining a series of reports from the National Research Council (NRC). Many of the technologies detailed in those reports have made their way into DARPA's current research programming and have found funding through the BRAIN Initiative.⁸ What follows is a review of each of the relevant reports from the NRC.

In 2008, the NRC published "Emerging Cognitive Neuroscience and Related Technologies."⁹ This report stemmed from a task given by the Defense Intelligence Agency to the NRC to "identify areas of cognitive neuroscience and related technologies that will develop over the next two decades and that could have military applications that might also be of interest to the IC."^{10,11} The report explores such technologies as cognitive enhancement, brain-machine interface, "mind reading" technologies for the purpose of gathering human intelligence, nanotechnologies dedicated to precision delivery of drugs, brain modeling, and genetic screening to reveal specific attributes in individuals. Many similar technologies have found their way into current DARPA research programs.

A key admission found early in the report is "...the study of ethical issues related to the design and deployment of distributed human-machine systems is virtually in its infancy and this is deplorable given the great potential of such systems for doing good or harm."¹² This is an important issue as brain-machine interface technology comes to the forefront of defense technology. The report advises that a crucial component of any technology and its related research is that it fall under the "Common Rule"—that is, the set of regulations and protections governing human subjects research in the U.S.¹³ Additionally, the authors consider the unresolved dilemma of whether or not "...classified research can ever be ethically sound inasmuch as it lacks transparency, such as in the form of public accountability."¹⁴ Certainly an interesting question to mull over as we consider the use of cognitive neuroscience in the service of nation intelligence and defense measures.

The NRC published "Opportunities in Neuroscience for Future Army Applications" in 2009. The origins of this report stemmed from a request from the Assistant Secretary of the Army (Acquisition, Logistics, and Technology) to "...conduct a study of neuroscience in terms of its potential to support military applications."¹⁵ In the section entitled "Improving Cognitive and Behavioral Performance," the report notes two promising technologies (both were then-current DARPA programs) that improve cognitive abilities of operators. The first was the Neuroscience for Intelligence Analysts system that used electroencephalography (EEG) to "...detect a brain signal corresponding to perceptual recognition (which can occur below the level of conscious attention) of a feature of interest in remote (airborne or space-based) imagery."¹⁶ So, an intelligence analyst equipped with an EEG could have her attention brought to the relevant images while scanning a reconnaissance photograph, or other object of analysis. The second DARPA technology

referenced is similar in nature: the Cognitive Technology Threat Warning System, which used a signal processing system in conjunction with a helmet mounted EEG. The object was to help combatants better identify battlefield threats and then direct the operators' attention to those threats. Such load-shedding technologies can improve a user's level of cognition and attention beyond normal levels.

The report, *Opportunities in Neuroscience for Future Army Applications*, demonstrates the Army's interest in neuroscience and its possible application for a variety of training and battlefield purposes. Although only some of the technologies mentioned in the report have some relevance or relation to later technologies proposed by the Third Offset Strategy, this report, along with the 2008 report for the Defense Intelligence Agency, show that those engaged in national defense are increasingly curious and interested in how the latest brain science might be put to use in military and intelligence operations and training. The 2009 report was not to be the last time the national defense industry approached the NRC for analysis and recommendations on neuroscience and related fields.

In 2010 (just one year after the publication of the 2009 report) DARPA approached the National Academies to:

...develop and articulate a framework for policy makers, institutions, and individual researchers that would help them think through ethical, legal, and societal issues (ELSI) as they relate to research and development on emerging and readily available technologies with military relevance.¹⁷

The result of this request was *Emerging and Readily Available Technologies and National Security: A Framework for Addressing Ethical, Legal, and Societal Issues*. Unlike the previous two reports for the Defense Intelligence Agency and U.S. Army respectively, this report had ethical and legal ramifications of emerging technologies as a central question to the inquiry. This latest report was published in April of 2014, a full 6 months before the announcement of the Third Offset Strategy by Secretary Hagel in November of that year. Perhaps the previous reports encouraged enough of the possibilities of the science and technology detailed therein, and now the task was to find a way to justify the research and military use of such technology to lawmakers and the public at large. The express purpose of the 2014 report is to provide such a framework to address questions of ethics, legality, and societal issues in the face of the militarization of emerging technologies.

The technology and applications analyzed in this report closely mirror the technologies listed as part of the Third Offset Strategy: robotics, autonomous systems, miniaturization, big data, and advanced manufacturing. Again, it is possible to see this report as a precursor to, and perhaps justification of, the Third Offset Strategy, or at least as a fortunate convergence of the military's interests in certain emerging technologies.

Like the previous two reports, this report also considers the possibilities for advances in neuroscience to deliver in the areas of cognitive enhancement to combat the effects of sleep deprivation or to enhance attention and working memory,¹⁸ brain-computer interfaces for utilization of communication implants or implants designed to allow a human operator to remotely control a vehicle or other system,¹⁹ and uses in deception operations and interrogation such as brain imaging devices to detect lies in a subject or the use of oxytocin to encourage trust in a human asset.²⁰ Such uses were analyzed in previous reports and the authors of the 2010 report continue to champion the possibilities of military applications of neurotechnology.

The report considers the following ethical issues in light of the military application of neuroscience: informed and voluntary consent, privacy, safety, responsibility and loss of control, and the impact of classification.²¹ Can we order Soldiers to receive enhancements? Do certain neurotechnologies have the ability for a third party to override the will of another? How well do we understand the risk to the patient/

volunteer when it comes to brain-machine interfaces? Are neurally manipulated Soldiers accountable for their actions? Many of these technologies are certainly new ground that provides a host of ethical quandaries that would need exploration before they are field-tested.

In the section “Prosthetics and Human Enhancement” the report notes, “To date, prosthetic devices are under development only for the replacement of lost human function (e.g. a prosthetic limb).”²² However, despite the current therapeutic trend for such devices, there is always the question of if/how such technology might be used to create a stronger, faster, more resilient, more lethal Soldier or find a use in developing a more lethal combat exoskeleton. Does the costs/benefit analysis support the militarization of this technology? How do we add this functionality to a Soldier and then take it away when she/he retires from military duty—can we enhance a Soldier for a mission and then “normalize” them upon completion of the mission? If we make a super Soldier, how might that enhancement affect other parts of their lives (being a mother, father, wife, or husband for instance)? A war-fighting enhancement may be a deterrent to other aspects of the Soldier’s life.

It seems that since this report was so closely followed by the announcement of the Third Offset Strategy that it serves as something of a precursor to and moral justification of the Third Offset Strategy and the technologies it seeks to fund and develop. This 2014 report builds on many of the same findings and issues that are addressed in the earlier reports, and many technologies that seem to be part of the Third Offset Strategy and are in development by DARPA are found within the pages of these reports. I now turn to those technologies currently being investigated or in some stage of development.

Biotechnology and the Third Offset Strategy

Specific technologies explicitly part of the Third Offset Strategy are difficult to identify due to the vague pronouncements of those who discussed the strategy in public. In announcing the strategy, Secretary Hagel mentioned the five main technological fields that would define the strategy: robotics, autonomous systems, miniaturization, big data, and advanced manufacturing.²³ Looking back to the summaries presented of the three reports by the National Research Council—these five fields seem familiar.

This section will focus on technologies mentioned in the press as having to do with the Third Offset Strategy that also have some integral human component. Specifically, I will discuss two types of militarized biotechnologies: centaurs (human machine teaming) and implants that purportedly offer some enhancement. Additionally, this section will conclude with a look at technologies currently in research and development by DARPA in support of the BRAIN Initiative.

Human-machine teaming, or “centaurs,” is where each component, the machine and human, are joined at the hip, each bringing their unique advantages. Military futurist Paul Scharre has said that the idea is to combine “...machine precision and reliability, human robustness and flexibility.”²⁴ This idea of human-machine teaming is not limited to the usual example of militarized exoskeletons, but also includes the idea of “cognitive teaming,” that is, human-machine co-thinking and co-decision making to produce a better result. According to former Deputy Secretary of Defense Robert “Bob” Work, “Human-machine collaboration is allowing a machine to help humans make better decisions faster.”²⁵

One example of this type of cognitive teaming technology is that of the F-35 Joint Strike Fighter. Rather than simply being a traditional fighter jet, Work describes the F-35 as “...a flying sensor/computer that sucks in an enormous amount of data, correlates it, analyzes it, and displays to the pilot on his helmet...We are absolutely confident that F-35 will be a war-winner. That is because it is using the machine to make the human make better decisions.”²⁶ The pilot is the human component and decision maker, but (s)he is making those decisions based on the correlated information presented by the machine component of the onboard systems. Both are vital components, not only the high tech sensors and computers, but also a pilot trained and familiar with the technology who can utilize it in effective and creative ways to fulfill a given mission.

When coming to this sort of human-machine teaming or cognitive teaming, Work, borrowing an example from the comics, wants us to think about it more in terms of Ironman rather than comparing it to the Terminator. Rather than independent militarized, lethal, autonomous systems, Work wants more of a system like JARVIS (the AI system that is built into Tony Stark's Ironman suit). Work envisions, "a machine to assist a human where the human is still in control in all matters, but the machine makes the human much more powerful and much more capable."²⁷ The teaming of the human and the machine is what makes the craft work properly. This is what the Pentagon seems to hope for in future military systems.

One example of human-machine teaming is the "Grey Eagle—Apache Run" where human pilots of the Apache attack helicopter control Grey Eagle drones from the cockpit.²⁸ Another is militarized exoskeletons that promise to "...provide superior protection from enemy fire and in-helmet technologies that boost the user's communications ability and vision."²⁹ The baseline idea remains consistent—human-machine teaming can provide human operators with the ability to make faster, better battlefield decisions when presented with relevant information and/or capabilities stemming from an advanced technological system.

The notion that high tech implants can enhance human capabilities has been a possibility considered by the National Research Council, as well as others. One hoped for technology is the implantation of a device that allows the brain to plug directly into a computer system, allowing for a socket or some other communication system to pass and process information both ways.³⁰ In addition to communications and information processing, militarized implants could allow Soldiers to more effectively control a combat exoskeleton or improve human sight or hearing capabilities.³¹ Battlefield medicine is another area where implant technology could prompt a breakthrough. DARPA is researching implants that can speed up the body's natural healing and recovery response to injury.³²

Many current DARPA technologies center on implant-based technology. The following technologies are just a few examples that DARPA highlights on their DARPA and the BRAIN Initiative webpage.³³ Electrical Prescriptions (ElectRx) would allow ultraminiaturized devices to modulate organ functions in an effort to promote bodily healing. Hand Proprioception and Touch Interface (HAPTIX) is an implantable device that would deliver natural feeling touch sensations to prosthetic wearing amputees. Neural Engineering Systems Design (NESD) is an implantable technology that would allow signal resolution and data transfer between the human brain and the digital world. Reliable Neural-Interface Technology (RE-NET) is an implant that proposes to extract information from the nervous system that a human operator needs to effectively control an exoskeleton or interface with other complex technologies. Restoring Active Memory (RAM) is a program seeking to develop an implantable neural interface device to help restore the memory functions of brain-wounded individuals. Finally, the Systems Based-Neurotechnology for Emerging Therapies (SUBNETS) is a research program seeking to create implantable devices to combat neuropsychological illnesses. Implantable devices to heal and interface with the digital world seem to be a DARPA explicit focus when it comes to the BRAIN Initiative and neurotechnology.

With implants and the possibility of enhancing a Soldier's abilities beyond normal human levels, or adding an ability to directly connect the brain to a computer, militarized technology takes a transhuman turn. Such technologies will force us to rethink what it means to be human. Certainly implants are already in use, usually to correct some physical defect: cochlear implants, pace makers, etc. However, what do we make of explicitly militarized neurotechnologies? Such questions lead to the final section of neuroethics and the Third Offset Strategy.

Ethical Issues

In 2003, *Nature* published a short editorial piece titled "The Silence of the Neuroengineers."³⁴ In the piece the authors note the great advances that have been made in brain-machine interfaces and pose an ethical concern with the fact that much of the neuroscience behind that technology was (and still is) funded by

DARPA—an organization with explicitly militarized goals. Rather than demonizing DARPA or the need for innovative research in national defense measures, the authors simply wished for a more robust engagement on the possible consequences of neuroscience and engineering for the military. Certainly, considering ethical issues, a risk/benefit analysis should be a part of any kind of research, especially research involving humans and research in support of national defense. The following section will highlight a few ethical questions and concerns regarding the previously mentioned technology supporting the Third Offset Strategy.

In his book *Mind Wars: Brain Science and the Military in the 21st Century*, Jonathan Moreno questions if it is even possible to do science properly under the classified system of military secrecy: “Yet science and secrecy are almost antithetical concepts. For science to advance effectively there must be wide dissemination of results.”³⁵ In order for a proper understanding of science, the results must be available for scrutiny, replication, and made part of the wider dialogue of scientific research and advancement. Research performed secretly, under classification, may not meet the standards set by the rest of society for what constitutes science. Although, as Moreno points out, the DoD and CIA are subject to the framework of the Common Rule for research requiring human subjects,³⁶ it remains problematic that those agencies could conduct human subjects’ research under an umbrella of secrecy. However, adherence to the Common Rule and the presence of Institutional Review Boards (IRBs) reviewing research with an eye towards the protection of human subjects is encouraging.

The authoritarian culture of the military provides additional concerns when it comes to getting volunteers for such research. The principles of autonomy and informed consent are cornerstones of modern bioethics, but how do those principles play out in a culture where subordinates are expected to follow orders, usually without question, and execute the given mission? What protections are put into practice when it comes to getting volunteers for militarized “enhancement” or brain-machine interface technology?

Harvard psychology professor Steven Pinker told CNN in an interview, “We have little to no idea how exactly the brain codes complex information” and cited the problems from foreign objects triggering brain inflammation that can cause serious neurological issues.³⁷ So, questions on what possible unintended consequences could occur when placing an implant or performing certain brain-machine interfaces still remain. Again, it is worth asking what protections are in place for volunteers for these types of research programs.

Writing of the “dual use” dilemma, where one is forced to confront the fact that a therapeutic technology could also have a second use that may be more nefarious than intended by the designers, author and journalist Annie Jacobsen questions the motive behind the previously mentioned DARPA technologies supporting the BRAIN Initiative. Many of those technologies have, according to DARPA’s write up on their webpage, therapeutic interests: restoring memory to the brain-wounded, restoring touch sensation to amputees through innovative prosthetics, etc. However, as Jacobsen notes, “. . . DARPA’s stated goal is advancing weapons technology, not curing . . . illness. What is DARPA’s primary goal in researching the brain?”³⁸ Certainly DARPA is not the Veterans Affairs. They are not in the business of helping veterans to heal, so questions of dual use and DARPA’s primary motives are worth asking. Can prosthetics used to impart a sensation of touch be used to build a better killer robot or combat exoskeleton? Can implants designed to improve the cognitive functions of the brain wounded also be used to improve a healthy brain, resulting in a smarter Soldier? Can an implant used to remove a fear or guilt response to prevent PTSD also cause a Soldier to lose moral sensibility in war and possibly lead to an atrocity? What happens when a Soldier’s tour of duty is over—do we remove the enhancement? At what cost or side effect to the Soldier? Does DARPA, a government agency with a mission to improve America’s war fighting abilities, have an ethical obligation to be upfront about their interests in specific technologies or does some research need to remain classified in order to better protect Americans by keeping our enemies from tapping into our national defense measures? Tough questions, but worth tackling by voters, legislative bodies, and policy advisors.

One aspect of Just War Theory is “jus in bello”—that is, concerning what is right conduct in war. It seems that jus in bello concerns might be applicable to brain research in the service of national defense. How far can and should we go in tampering with evolution, personal identity, and “improving” humans in an effort to attain battlefield superiority? If we don’t have such capabilities, will our enemies develop them first to our expense and regret? Do we compromise our values in terms of bioethics and human subject protection in order to preserve our values of a secure, superior nation? Such questions are worth considering as funding is poured into DARPA and the Third Offset Strategy.

Conclusion

As a Soldier and citizen, I firmly believe that our nation should make robust efforts to attain a strong military, able to defeat any enemy on any field of battle. To that extent, I am excited by the prospect of the Third Offset Strategy and the technologies it seeks to develop and field. However, as a chaplain, one charged with being the commander’s primary advisor on matters of morals and ethics, I do share many of the ethical concerns addressed above. How will these technologies affect the troopers outfitted with them? What would such “enhancements” mean to them as husbands and wives, mothers and fathers? What will such “enhancements” mean once the Soldier is no longer a Soldier and has exited military service? Can they safely be removed? At what cost? Is military science taking a transhuman turn, and if so, do we properly understand the consequences for altering or seeking to improve upon evolutionary human systems?

DARPA seems to be aware of such concerns, which is apparently why they commissioned the 2014 report in the first place—to address emerging technologies in light of ethical, legal and societal implications. Hopefully the neuroengineers are no longer silent and do have a moral stake in the technologies they develop. The sometimes-competing values of a strong secure nation and robust human protection in military research will likely remain in tension for the foreseeable future. What is needed is a continued dialogue on how to best navigate those tensions and keep our security and our values in place.

Endnotes

- 1 Chuck Hagel. “Defense Innovation Days” Opening Keynote Address (3 September 2014). <http://www.defense.gov/News/Speeches/Speech-View/Article/605602> (Accessed June 2016)
- 2 Mackenzie Eaglen. “What is the Third Offset Strategy?” *Real Clear Defense*. (February 16 2016). http://www.realcleardefense.com/articles/2016/02/16/what_is_the_third_offset_strategy_109034.html (Accessed June 2016).
- 3 Hagel. “Defense Innovation Days”
- 4 Tomes, Robert. “The Cold War Offset Strategy: Assault Breaker and the Beginning of RSTA Revolution.” *War on the Rocks*, (20 November 2016). <https://warontherocks.com/2014/11/the-cold-war-offset-strategy-assault-breaker-and-the-beginning-of-the-rsta-revolution/> (Accessed 27 March, 2017).
- 5 National Academies of Science, Engineering, and Medicine. FAQ <http://www.nationalacademies.org/about/faq/index.html> (Accessed June 2016)
- 6 National Academies. FAQ.
- 7 National Academies. FAQ.
- 8 Defense Advanced Research Projects Agency. “DARPA and the Brain Initiative.” <http://www.darpa.mil/program/our-research/darpa-and-the-brain-initiative> (Accessed June 2016).
- 9 National Research Council. *Emerging Cognitive Neuroscience and Related Technologies*. (Washington D.C.: The National Academies Press, 2008).
- 10 National Research Council, *Emerging Cognitive Neuroscience and Related Technologies*, 1.
- 11 “IC” = Intelligence Community.
- 12 National Research Council, *Emerging Cognitive Neuroscience and Related Technologies*, 8.
- 13 National Research Council, *Emerging Cognitive Neuroscience and Related Technologies*, 114.
- 14 National Research Council, *Emerging Cognitive Neuroscience and Related Technologies*, 118.
- 15 National Research Council. *Opportunities in Neuroscience for Future Army Applications*. (Washington D.C.: National Academies Press, 2009), 1.
- 16 National Research Council. *Opportunities in Neuroscience for Future Army Applications*, 68.
- 17 National Research Council. *Emerging and Readily Available Technologies and National Security: A Framework for Addressing Ethical, Legal, and Societal Issues*. (Washington D.C.: National Academies Press, 2014), ix.
- 18 National Research Council. *Emerging and Readily Available Technologies and National Security*, 69.
- 19 National Research Council. *Emerging and Readily Available Technologies and National Security*, 70.
- 20 National Research Council. *Emerging and Readily Available Technologies and National Security*, 71.
- 21 National Research Council. *Emerging and Readily Available Technologies and National Security*, 70.
- 22 National Research Council. *Emerging and Readily Available Technologies and National Security*, 93.
- 23 Hagel. “Defense Innovation Days”

- 24 Sydney J. Freedburg, "Centaur Army: Bob Work, Robotics, and the Third Offset Strategy." *Breaking Defense*, (9 November 2015). <http://breakingdefense.com/2015/11/centaur-army-bob-work-robotics-the-third-offset-strategy/> (Accessed June 2016).
- 25 Freedburg. "Centaur Army"
- 26 Freedburg. "Centaur Army"
- 27 Sydney Freedburg, "Ironman, not the Terminator: The Pentagon's Sci-Fi Inspirations" *Breaking Defense*. (3 May 2016). <http://breakingdefense.com/2016/05/iron-man-not-terminator-the-pentagons-sci-fi-inspirations/> (Accessed June 2016)
- 28 Richard Whittle. "Grey Eagle—Apache Run Shows Tech's Not Enough; Ya Gotta Have Doctrine." *Breaking Defense*. (7 May 2015). <http://breakingdefense.com/2015/05/grey-eagle-apache-run-shows-techs-not-enough-to-use-drones-ya-gotta-have-doctrine/> (Accessed June 2016)
- 29 Ryan Browne. "U.S. Military Spending Millions to Make Cyborgs a Reality." CNN. (7 March 2016). <http://www.cnn.com/2016/03/07/politics/pentagon-developing-brain-implants-cyborgs/index.html> (Accessed June 2016).
- 30 Greg Stevens, "The Military Paves the Way for Super-Humanitarian Cyborgs." *Second Nexus*. (29 March 2016). <http://secondnexus.com/technology-and-innovation/military-humanitarian-cyborgs/> (Accessed June 2016).
- 31 Browne. "U.S. Military Spending Millions to Make Cyborgs a Reality."
- 32 Mia De Graaf. "Micro-chipped Super Soldiers Are Already a Reality" *Daily Mail*. (28 September 2015). <http://www.dailymail.co.uk/news/article-3252239/Micro-chipped-super-soldiers-reality-book-claims-Implants-combat-PTSD-make-military-resilient-warfare-rolled-couple-years.html> (Accessed June 2016).
- 33 Defense Advanced Research Projects Agency. "DARPA and the Brain Initiative."
- 34 "The Silence of Neuroengineers" *Nature*. Vol 423, No 6942. (19 June 2003).
- 35 Jonathan Moreno. *Mind Wars: Brain Science and the Military in the 21st Century*. (New York: Bellevue Literary Press, 2012), 39.
- 36 Moreno, *Mind Wars: Brain Science and the Military in the 21st Century*, 196.
- 37 Browne, "U.S. Military Spending Millions to Make Cyborgs a Reality."
- 38 Annie Jacobsen. *The Pentagon's Brain: An Uncensored History of DARPA, America's Top Secret Military Research Agency*. (New York: Little, Brown and Company, 2015) 424.

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