

**CHAPTER: The Military Necessity of Ethics**  
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People with the least understanding of the realities of modern warfare are often the first to excuse ethical transgressions on the grounds that they were unavoidable and emerged inevitably from the “fog of war.” They are eager to appear either worldly and “in the know” or deeply sympathetic to the troops, defending their best interests. In truth, they are neither. A significant number of unethical acts - including actual war crimes and atrocities - cannot in any way be defended as driven by military necessity. They do not help to win wars. Nor does suggesting that they do in fact help or support the troops.

There are two distinct points here that require separate justifications but strongly reinforce one another. First, there is the point that committing unethical acts in armed conflicts actively harms troops by causing psychological trauma and moral injury and undermining healthy transitions and readiness. If someone were to insist that these considerations are not enough to overcome the pressure of military necessity, they would then crash into the second point of the argument, which asserts (with the support of real world examples) that military necessity demands no such “gloves off” approach. In contrast, abandoning restraints in modern warfare is a path to strategic failure. Military necessity is not at odds with ethics. Ethics are a military necessity.

*How ethical breaches harm troops*

Sgt. Sammy Davis, a US Medal of Honor recipient for his heroic actions in the Vietnam War, was a guest speaker at the US Naval Academy in the early 2000s. On one occasion, he spoke to the students (midshipmen - future Navy or Marine Corps officers)

in the popular elective Ethics course, “The Code of the Warrior,” telling them about his experiences and taking questions. Clearly hoping to undermine the course’s themes and instructor, one midshipman took his shot with something close to this: “All semester, our professor has been talking to us about the importance of preserving our humanity in war. But you’ve lived through the realities of combat. Isn’t the truth that, as an officer, I should not waste time worrying about the humanity of my troops? My only job is to keep them alive.” The instructor describes what happened next:

I held my breath. Sgt. Davis now had the power to completely undo everything I had tried to accomplish as an ethics instructor that semester – not to mention potentially shatter my own faith in the material I had been teaching and writing about for so long. I need not have worried. Sgt. Davis’s response did more to encourage my midshipmen to take military ethics seriously than anything I had (or ever could have) done in the classroom, before or since.

Sgt. Davis went right up to Tom, and shouted at him as only a sergeant can, “If that’s what you believe, you do not deserve to be an officer, and you need to get out of my military right now!” After that opening blast, he went on with great passion to instruct Tom and all the other midshipmen present that, as officers, they must do everything in their power to safeguard the humanity – and not only the lives – of their troops. War is always an assault on the humanity of every individual caught up in its destructive path. That assault must be resisted as much as any physical threat. The men and women you lead into combat are your responsibility, and ensuring that what you lead them to do does not strip them of their humanity is critical to discharging your fundamental duties as an officer.<sup>1</sup>

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<sup>1</sup> French, Shannon E., “Sergeant Davis’s Stern Charge: The Obligation of Officers to Preserve the Humanity of Their Troops,” *Journal of Military Ethics*, David Whetham, guest editor, Volume 8, issue 2, 2009, pages 116-117.

It turns out that Sgt. Davis's instincts, unsurprisingly, were sound. There is considerable support now amongst those who study the welfare of combat troops that there are few if any mental, emotional, or spiritual harms more damaging - both lastingly and sweepingly harmful - than moral injury. Moral injury is generally defined as as a traumatic response to the violation of core values that cannot be reconciled or justified by circumstances. This violation may have been perpetrated by the sufferers or their leadership (or both).

One of the best known scholars on this subject is psychiatrist Jonathan Shay, whose seminal work, *Achilles in Vietnam: Combat Trauma and the Undoing of Character* opened many modern eyes to a phenomenon that is as old as war itself. Shay asserts that there are certain kinds of "catastrophic war experiences that not only cause lifelong disabling psychiatric symptoms but can ruin good character."<sup>2</sup> These experiences are not only violent or shocking to the system but involve centrally the "betrayal of 'what's right'."<sup>3</sup> The concept is studied across several disciplines, with similar conclusions. A recent integrative review published in the *Journal of Traumatic Stress* drew the following conclusion: "Rooted in the self-perceived transgression of core personal convictions and values, which are often imbued with social or sacred

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<sup>2</sup> Jonathan Shay, M.D., Ph.D., *Achilles in Vietnam: Combat Trauma and the Undoing of Character*, New York: Simon and Schuster, 1994, p. xiii.

<sup>3</sup> Jonathan Shay, M.D., Ph.D., *Achilles in Vietnam: Combat Trauma and the Undoing of Character*, New York: Simon and Schuster, 1994, p. xiii.

importance, perpetration- and betrayal-based moral injuries can have a devastating impact on the emotions, relationships, health, and functioning of affected individuals.”<sup>4</sup>

Strikingly, warfighters who have experienced moral injury due to their own actions that violated moral norms agree with Sgt. Davis about the stakes involved, including the recognition that some fates are worse than death. Consider this excerpt from a 2001 candid interview with then Senator Robert Kerrey, a former US Navy SEAL:

As an inexperienced, 25-year-old lieutenant, Kerrey led a commando team on a raid of an isolated peasant hamlet called Thanh Phong in Vietnam’s eastern Mekong Delta. While witnesses and official records give varying accounts of exactly what happened, one thing is certain: around midnight on February 26, 1969, Kerrey and his men killed at least 13 unarmed women and children. The operation was brutal; for months afterwards, Kerrey says, he feared going to sleep because of the terrible nightmares that haunted him.

The restless nights are mostly behind him now, his dreams about Vietnam more reflective. One of those, which he says recurs frequently, is about an uncle who disappeared in action during World War II. “In my dream I am about to leave for Vietnam,” Kerrey wrote in an e-mail message last December. “He warns me that the greatest danger of war is not losing your life but the taking of others’ and that human savagery is a very slippery slope.” [Kerrey] says he has spent the last three decades wondering if he could have done something different that night in Thanh Phong. “It’s far more than guilt,” he said... “It’s the shame. You can never, can never get away from it. It darkens your day. I thought dying for your country was the worst thing that could happen to you, and I don’t think it is. I think killing for your country can be a lot worse. Because that’s the memory that

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<sup>4</sup> Griffin, Purcell, Burkman, Litz, Bryan, Schmitz, Villierme, Walsh, and Maguen, “Moral Injury: An Integrative Review,” *Journal of Traumatic Stress*, June 2019, 32, pages 357-358.

haunts.”<sup>5</sup>

There is an even more extreme response to moral injury that must be confronted. Senator Kerrey and others in similar circumstances who suffer remorse have not lost their humanity. If they had, they would have no regrets and no empathy for their victims. Some who experience moral injury choose, consciously or unconsciously, not to mourn the violation of their values but to reject those values themselves. This is a profoundly self-destructive path. Essentially, such individuals decide that they should never have attempted to follow any rules or norms in the first place, and embrace a cynical or even nihilistic view of life and their role as a combatant. Such attitudes can spread like a virus through units, as new recruits are told that the rules exist only for show, written by lawyers far from the front lines. By rejecting boundaries that were drawn to protect their humanity, troops that buy into this jaded perspective cut themselves off from the ability to heal from their trauma and make healthy transitions back to civilian life.

Some of the more visible and tragic outcomes of moral injury include self-harm, substance abuse, and suicide. An extensive clinical study published in 2021 on the relationship between what the authors termed “PMIE,” or “Potentially Morally Injurious Exposure” and suicide rates among serving military and veterans produced the following stark conclusions:

Overall, findings of this study suggest that even after accounting for a host of factors including mental health symptoms, PMIE exposure due to perpetration is a risk factor for men’s suicide attempts during and after military service, and PMIE exposure due to betrayal is a risk factor for both

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<sup>5</sup> Gregory L. Vistica, “One Awful Night in Thanh Phong,” *New York Times Magazine*, April 25, 2001

women's and men's suicidal attempts during military service, but only women's suicidal attempts after service. Other important suicide risk factors include pre-military suicidal ideation and attempts, depression, PTSD symptoms, and MST. Of note, for men, while the relationship between PTSD and post-military suicide attempts weakened and was no longer significant (from peri- to post-military), the relationship between PMIE exposure by perpetration and post-military suicide attempt became stronger.<sup>6</sup>

As Shay further explains in "Casualties," the consequences of moral injury are in the end fully as destructive as a catastrophic physical injury:

I want to dispute the habitual mind-body distinction that I myself implicitly made early in this essay by distinguishing physical from psychological injuries. This distinction is often useful, but at its root, incoherent. "The body keeps the score," as traumatologist Bessel van der Kolk has so resonantly said. The body codes moral injury as physical attack and reacts with the same massive mobilization.<sup>7</sup>

Philosophers Jessica Wolfendale and Matthew Talbert explain in *War Crimes: Causes, Excuses, and Blame*, except in rare cases (such as genuine psychopathy), men and women who participate in atrocious acts during their military service are not able to disassociate themselves - their moral selves - from the actions and responsibility for them: "while perpetrators' dispositions, goals, beliefs, and values are affected by environmental factors, they are still attributable to perpetrators and are reflected in, and expressed through, their behavior. This is what gives perpetrator behavior its interpersonal moral significance for those affected by it, and what ultimately licenses

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<sup>6</sup> Maguen, Griffin, Vogt, Hoffmire, Blosnich, Bernhard, Akhtar, Cypel, and Schneiderman, "Moral injury and peri- and post-military suicide attempts among post-9/11 veterans," *Psychological Medicine* 1–10. <https://doi.org/10.1017/S0033291721005274>.

<sup>7</sup> Shay, Jonathan, "Casualties," *Daedalus: The Journal of the American Academy of Arts & Sciences*, 2011, p. 186.

victims' blaming responses."<sup>8</sup> Although they may attempt to compartmentalize their actions or set aside their combat experiences as occurring within some kind of separate moral sphere, ultimately they cannot escape the reality that they were perpetrators of crimes against humanity.

Committing war crimes is an obvious path to moral injury. Those who lead others to the perpetration of such acts may motivate their followers by false appeals to military necessity, usually combined with abhorrent dehumanization of the enemy. The role of dehumanization in war is complex, and it may be that some degree of at least detachment or empathy dampening is required in order for any non-sociopath to perform their role as a combatant. The level of dehumanization that precedes war crimes, however, is significantly more extreme and usually relies on associating victims either with subhuman or superhuman (and again non-human) creatures (e.g. vermin or demons): "Systematic devaluation of the victim provides a measure of psychological justification for brutal treatment of the victim and has been the constant accompaniment of massacres, pogroms, and wars."<sup>9</sup> It also produces levels of aggression that are directly at odds with the fundamental military necessity of good order and discipline.

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<sup>8</sup>Wolfendale, Jessica and Talbert, Matthew, *War Crimes: Causes, Excuses, and Blame*, Oxford University Press, 2018, p. 109.

<sup>9</sup> Stanley Milgram, *Obedience to Authority: An Experimental View*, New York: Harper Perennial Modern Thought, 2009 edition, p. 9. For more current (and excellent) analysis of obedience in the military context, please see Shanks Kaurin, Pauline (2020). *On Obedience: Contrasting Philosophies for the Military, Citizenry, and Community*. Annapolis, Maryland: Naval Institute Press and Coleman, Nikki, *Obedience in the Military*, Routledge, 2020.

General Benoit Royal calls out the disastrous loss of discipline that accompanies such dehumanization in *The Ethical Challenges of the Soldier*:

The soldier at war will always be liable to be overwhelmed by passion, a feeling of revenge, and the appeal of cruelty. In armies worthy of the name, it is right to require those who exercise command, at every level, to contain possible excesses of passion by their subordinates; for similar but more important reasons, it is essential that they prevent themselves using such excesses as a way of dramatically increasing their fervor in combat. ...[T]he essence of the profession of arms [is]...the responsibility that the leader accepts for the use of force and the management of lethal risk.<sup>10</sup>

As World War II veteran and celebrated author J. Glenn Gray further vividly describes in his autobiographical book, *The Warriors: Reflections on Men in Battle*, the effect of this dehumanization of the enemy is incredibly far-reaching:

The ugliness of a war against an enemy conceived to be subhuman can hardly be exaggerated. There is an unredeemed quality to battle experienced under these conditions, which blunts all senses and perceptions. Traditional appeals of war are corroded by the demands of a war of extermination, where conventional rules no longer apply. For all its inhumanity, war is a profoundly human institution (...). This image of the enemy as beast lessens even the satisfaction in destruction, for there is no proper regard for the worth of the object destroyed (...). The joys of comradeship, keenness of perception, and sensual delights [are] lessened (...). No aesthetic reconciliation with one's fate as a warrior [is] likely because no moral purgation [is] possible.<sup>11</sup>

Here again, the harms extend past the immediate experience of violations of the rules of war and can leave troops with long term or permanent psychological wounds. This is no longer a controversial claim. It is even the case that, as military ethicist David Whetham

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<sup>10</sup> General Benoit Royal, *The Ethical Challenges of the Soldier: The French Experience* (Paris: Economica, 2012), pp. 63–64.

<sup>11</sup> J. Glenn Gray, *The Warriors: Reflections on Men in Battle*, New York: Harper and Row, 1970, pps. 152-153.



notes, “governments are now held more accountable for the treatment of their soldiers in respect to basic human rights, both by society in general, and by their own legal systems.”<sup>12</sup> Given that crossing ethical “red lines” wreaks such havoc on everyone involved, all that is left to consider is a so-called “dirty hands” argument that military success requires this extreme sacrifice of not only combatants and non-combatants, but all participants’ mental and moral health. This is an empirical claim that demands an examination of whether such violations in fact support strategic ends.

### *How ethical violations undermine military strategy*

Carl von Clausewitz, arguably the most influential strategic theorist in the West, tells us that the physical and the moral are interconnected in warfare: “The art of war deals with living and moral forces.”<sup>13</sup> Accepting this contention means accepting that the moral is part of the choices people must make to conduct a war, a “Special Military Operation,” a peacekeeping engagement, or any other use of force that falls short of a comfortable definition of war. At times this may seem counterintuitive, especially to anyone whose concept of war comes from films like “Patton” that reify the worst excesses of an unrestrained commander and other media creations that condone the pardoning of murderers (those who have killed unjustly outside of the mandate given to them by the state as combatants) or torturers. Yet real world conflicts consistently support it.

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<sup>12</sup> Whetham, David. "What senior leaders in defence should know about ethics and the role that they play in creating the right command climate." *The International Journal of Ethical Leadership* 8.1 (2021): 73-93.

<sup>13</sup> von Clausewitz, Carl. *On War* (p. 86). Princeton University Press. Kindle Edition.

Clausewitz's clear lesson is that the ethical dimensions of war are inescapable. This is intrinsic to his conception of how wars are analyzed, how they are fought, and how they are won. To disregard it is to make the achievement of victory more difficult, to invite other players to the field, and to put leaders in peril of grim judgment once the dust has settled and the final accounting begins. It is often assumed, especially by non-specialists, that those prosecuting a war must discharge their dismal duty without paying attention to the niceties of ethical decision making. This is the path to victory, it is thought - to pursue the end effectively and with efficiency. However, doing so brings with it detrimental consequences at the tactical, operational, strategic, and grand strategic levels of military decision-making.

To begin with the tactical level, the level at which the tip of the spear is brandished, these negative consequences can be seen in the effects on those sent to fight, their opponents, and those caught between the warring parties. Imagine your state is asked to intervene in a conflict that is small but bloody, with an enemy worthy of respect. Your state's will to expend resources for conflicts abroad is generally limited. The conflict in question takes place far away and is reported to you, but not experienced by you. There is no direct threat to your state, but the conflict imperils people with whom you are sympathetic and allied (if perhaps not officially obligated). You may feel a moral compunction to act, to resolve the situation by sending a limited number of resources (arms, troops, etc.) to help protect your allies. This impulse is laudable and to be praised. However, if charged with the mission of repulsing the enemy with limited forces and the best of intentions, it is easy to see trouble ahead. There will be a natural desire

to save as many allies as possible, and shorn of restraint by exigency, there will be the temptation to use the maximum force available, without obeying the rules of war.

Firstly, consider the effect on your own troops. The maximum use of force, unconstrained by international norms, invites immediate considerations of those troops experiencing traumatic and post traumatic stress disorder (PTSD) and moral injury. As previously explained, PTSD and moral injury are ethical concerns, but they are also tactical and operational issues. A psychologically injured soldier is an injured soldier. Those with visible injuries are treated, those without may not be. Anyone bearing these injuries may no longer be as reliable as expected and may even “go rogue.” This was the defense used in the “Marine A”/Sgt. Blackman case in the United Kingdom<sup>14</sup>, who was accused of having killed a wounded Taliban fighter to reduce the charges against him from murder to manslaughter.

Sergeant Blackman had served several combat tours, including three in Iraq and two in Afghanistan. He had witnessed many horrors of war, and undoubtedly dishonorable behavior on all sides. As a result, he fell into the mindset of “anything goes,” without understanding that the rules of war were put in place to protect him from sacrificing his own humanity. The actions of others are irrelevant. Perhaps your enemy tortures prisoners. This does not mean you can with moral impunity torture him. The reasons for you not to torture are tied to your values, not his. The issue is not what the enemy does or does not do, but what your own code demands.<sup>15</sup>

Whatever else Sgt. Blackman was, at the point where he took that life, he was not a benefit to his unit, the mission, or his state. Psychological stressors beyond the breaking

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<sup>14</sup> See Cook, Martin L. "Military ethics and character development." *Routledge Handbook of Military Ethics*. Routledge, 2015. 123-132.

<sup>15</sup> French, Shannon E. and Haydar, Maysan, “Revelation and the Rules of Engagement,” *The Code of the Warrior*, second edition, Rowman and Littlefield, 2017.

point of the individual will render that individual less effective or indeed a hindrance to the mission. PTSD and moral injury are tactical issues in that they affect the reliability and availability of forces to do the business of fighting. Reducing the available fighting force from limited down to restricted is not a way to win. Readiness is a vital element of military necessity that is undermined by the unjust conduct of war.

Arriving with a force willing to fight the enemy at any cost presents further tactical challenges. Every strategist's favorite acronym in small wars, "WHAM" (which stands for "Winning Hearts And Minds"), becomes infinitely more difficult if a war is conducted without regard for rules and norms. Return to the imaginary conflict. If your state's troops act without honor and restraint, there will necessarily be innocent casualties. Your state then becomes part of the problem for the civilian population. Through civilian casualties and a perceived laissez-faire attitude to 'collateral damage' the trust in your forces will rapidly be diminished. This will be a propaganda bonanza for your enemies. Subsequent effects may include defection of the populace to the side of your enemy, loss of reliable intelligence, and the hatred even of those you were there to save.<sup>16</sup> Conversely, as proven by Colonel (later General) H.R. McMaster in Operation Iraqi Freedom, the softer approach, including engagement and provision of security, has an improving effect on all these matters.<sup>17</sup> Employing the WHAM policy, McMaster also saw losses among those he commanded decline and improvements in their readiness

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<sup>16</sup> Matthew Alexander, "McCain Backs Torture As Recruiting Tool for Al Qaida; Policy Led to the Deaths of U.S. Soldiers in Iraq," *Huffington Post*, August 31, 2009.

<sup>17</sup> Harford, T. 'Lessons from war's factory floor.' *Financial Times*, 23 May 2011.

and availability. The advances he made in operational and tactical command were not, however, harbingers of innovation in higher command, so the gains did not last.

Not committing the “unforced error” of unrestrained use of maximum force denies the enemy the psychological space they need to thrive. It represents attacking one corner of the Clausewitzian trinity (which consists of forces of chance - the military, fear and enmity - the people, and logic and reason - the government) and destabilizing the enemy’s center of gravity. This creates a significant tactical advantage by toppling the basis from which the other side of the conflict claims to fight. Exercising restraint makes it harder for your enemies to make their case, and easier for you to make yours.

Step back again into the imaginary conflict described above, no longer on the ground level, but on the next level up - the operational level. This is the level where decisions are made about which battles to fight and how they should be fought. Already on this level there is a consequential effect that bubbles up from the tactical level. A force that is ready and uninjured is clearly better than an unready and injured one, providing more resources to apply to any upcoming battle. Acting with restraint may seem to cause a drop in overall efficacy in the short term, but the advantages will be reaped in the long term. If your troops have behaved well, in addition to suffering less from physical and moral injury, they will be able to work with a civilian population that is likely to view them with less distrust. This will make it easier to help the allies and gain support and even intelligence from the civilian population. The discipline and reliability of your state’s forces will be more readily maintained with more troops available under less pressure.

Without events such as unjustified killings that need explanation and prompt investigation and questioning, the overall morale of the contingent will hopefully be better than it otherwise would have been. Your enemy will be facing a disciplined force, less likely to overreact or make mistakes that can be capitalized on, while they may make errors of their own that produce opportunities. All this is the result of increasing the ethical standards from nil to at least a minimum level that includes and hopefully exceeds those codified in the Geneva Conventions.

Moving up now to the strategic level, this is all good news. This level is about enacting policy decisions, aimed at victory or mission accomplishment. Tactical and operational decisions kept within the boundary conditions of the norms of military restraint will deliver policy in a sustained and sustainable manner. Granted, this may take more time than an unrestrained, unethical approach, especially in a resource limited environment. But the only way to speed up the pace of such a conflict without adding additional resources would be to abandon restraint and risk strategic consequences and failure. In our scenario, it has already been suggested that your enemies, being capable and intelligent, will seek to drive to such choices - because they know no good can come of it for your state. Imagine the propaganda victory handed to an enemy should the worst befall a civilian village, either by mishap or intent. War is not conducted in a vacuum. Regional and international eyes are always there, and this is even more true with the democratization of information brought about by advances in mobile technology. At the strategic and grand strategic level forces must be aware that their actions can turn opinion with them or against them. The behavior - or misbehavior - of troops can call

forth new allies or new enemies. Using the tip of the spear with elegance and thought (in modern terms, precision warfare with minimal collateral damage) will engender trust, but resorting to the broadsword or the blunderbuss will make allies turn away and foes (new or old) turn towards the enemy. At the grand strategic level (that of governments in organizations such as the United Nations), we risk the opprobrium of the international community and the squandering of any claim to moral authority we may have.

Moving away from thought experiments, history also supports these points on the convergence of ethics and strategy. A clear-eyed analysis of the Vietnam conflict will accept that the United States attracted old foes and handed the enemy horrific propaganda successes through the use of napalm and the indiscriminate Rolling Thunder bombing missions. Actions taken by US troops in Vietnam, including the well-publicized My Lai massacre, changed the perception of the US around the world. Similarly it showed the effect of too few resources, attempting to do too much, with too little restraint and how this produced obstructive effects on the readiness and trustworthiness of US forces. A more recent example of this dismal spiral is detailed in the outcome of the Brereton Report into war crimes committed by the Australian Special Air Service.<sup>18</sup> The ongoing illegal and unethical Russian 'Special Military Operation' in the Ukraine has also been disastrous on all these counts. Well documented atrocities by Russian forces and Russian-paid mercenaries have managed to expand NATO, drive the Russian Army to mass conscription and the use of unreliable and outdated

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<sup>18</sup> The Inspector-General of the Australian Defence Force Afghanistan Inquiry, available at <https://www.defence.gov.au/about/reviews-inquiries/afghanistan-inquiry> (accessed 21/14/2023)

equipment while predominantly Western European philosophical states have supplied Ukraine forces with state of the art tools of war and trained Ukrainian troops on their use. Russia has been isolated from international capital centers and inhibited by sanctions. All Russia's unrestrained behavior has done is to harden Ukrainian resolve and encourage their supporters. No matter the outcome of the war, Russia is unlikely to ever be able to claim any moral authority again, and will be treated with earned distrust by slightly wary friends and contempt by even more cautious competitors. As a test of the assertions above concerning the strategic cost of indefensible conduct of war, it could not be starker.

### *Conclusion*

The nature of war has not changed. It is still bloody and dangerous and treacherous, but the modern character of war is one where the moral element will be decisive. A commitment to restraint, to observing ethical norms even in the most stressful circumstances, becomes a requirement at the tactical, operational, strategic, and grand strategy levels. Definitively, "taking the gloves off" is not a supportable or successful strategy in modern armed conflict, either from the perspective of maintaining troop readiness and mental health or that of achieving desired foreign policy goals. The psychological cost to troops, combined with the international reputational damage done to the perpetrators' state, cannot in any way be balanced by any (dubious) claims of military necessity. Beyond being manifestly unethical, "Kill them all and let God sort them out" is, beyond question, a losing strategy.