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PREVENTING AN 'OWN GOAL' – CIVILIAN CASUALTIES IN TWENTY-FIRST CENTURY WARFARE

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JCSP 38

Master of Defence Studies

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PCEMI 38

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By Maj D.J. Dyer

Word Count: 22,519

Compte de mots: 22,519

ABSTRACT

Militaries, accustomed to the large scale conventional war of the first half of the twentieth century, have, during that period, targeted civilian populations, or made little efforts to protect the civilian population from the effects of their combat operations. By the end of the century, changes in the technological and legal realms have greatly increased the ability of modern militaries to prevent collateral civilian casualties. The first decade of the twenty-first century saw the translation of this paradigm from the tactical activities to strategic policy during the conflicts in Afghanistan, Iraq, and Libya.

The new paradigm is such that the prevention of civilian casualties is considered tantamount to force protection; should a commander fail to protect the civilians within his battle space, he will suffer reduced popular support both at home and in theatre, and have significantly less freedom of action, and concomitantly potentially increase the risk to military personnel. This is especially true in the case of counter-insurgency operations, which focus on the civilian population as key to the success or failure of a campaign. Even in the aftermath of a possible future terrorist activity, the appetite for causing civilian casualties will remain extremely low by western nations.

Using Dr. Lorenzo Zambernardi's "impossible trilemma" of counterinsurgency operations model, this paper will explore the trade-offs a commander must make between protecting his own forces, protecting the civilian population and destroying the enemy through case studies on the wars in Afghanistan, Iraq and Libya.

CHAPTER ONE - INTRODUCTION

The western media has recently carried multiple stories with such titles as "Afghanistan Civilian Deaths: 2011 Was Deadliest Year for Civilians in Afghan War,"[1] and "Why do Americans ignore civilian casualties in our wars."[2] These stories arrive on the tail-end of a particularly long period of western involvement in counter-insurgency warfare in South-West Asia andthe Middle East. As these conflicts come to an end, it is normal for the commentariat to conduct an analysis of the costs and perceived errors in these wars.

It would not be correct, though, to accept the premise that the nations involved in recent conflicts, such as Iraq, Afghanistan, and Libya, have negligently disregarded the safety of the civilians in those countries. It can be argued that in each case, the western coalition partners took great strides to reduce and avoid civilian casualties. In fact, the instances of civilian casualties have been infrequent enough to merit special press coverage. The implication is that there must be pressures to reduce and avoid civilian "collateral damage."

The issue of when and how civilians are killed in conflict deserves some study. The impacts of these deaths, aside from being a statistic, have the potential to resonate far beyond the limits of their conflict to the very halls of power in world capitals. The pressure placed on commanders, or relative tolerance levels for casualties accepted in a given mission is an interesting question which can be explored in light of constantly changing social and political mores.

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[1] Kay Johnson, "Afghanistan Civilian Deaths: 2011 was Deadliest Year for Civilians in Afghan War " *The Huffington Post*February 4, 2012, 2012 (accessed 2/6/2012).

[2] John Tirman, "Why do American Ignore Civilian Casualties in our Wars " , sec. Opinion, January 15, 2012, 2012 (accessed 2/6/2012).

These changing mores are also affected by changing technology and the nature of warfare. How casualties are perceived in the military as well as the public and legal realms has changed with time, but today the close link between these realms make it likely that there is pressure across all three domains. Given that western nations have recently completed ten years of almost continuous warfare, it is unlikely that there will be a better time for this examination.

THESIS

Traditionally commanders have regarded warfare as a trade-off between the number of civilians to be killed and the number of one's own troops to be killedduring the conflict. Over the last three-quarters of a century, that dynamic has changed significantly. No longer can these be viewed as mutually exclusive options. By causing too many casualties, be they military or civilian, there will be a dramatic impact on the ability to conduct the war. This reality has become especially apparent in the wars fought in the first dozen years of this century; the reasons for exercising 'courageous restraint' will remain extant in future conflict.

LITERATURE REVIEW

There has been much writing on the conduct of warfare, and rarely more than the present day, when the world's single super power, the United States, has been engaged in more than a decade of continuous and simultaneous engagement in multiple conflicts. The consideration of the treatment of civilians in the conduct of war is somewhat different; until the First World War, civilians were not much considered in the conduct of war. This mindset changed with the advent of air power.

Giulio Douhet, an Italian infantry officer turned air officer became an early advocate of the offensive capabilities of an air force. His theories, which have tended to dominate most western air forces in the almost one hundred years since he began writing, offered up the enemies civilians as a vulnerable, and ripe target to be used to force a quick end to the next war.[3] Finishing the war as a general, he rose to be Mussolini's Minister for Air before he died in 1936.

These theories were adopted in the writings of many other early air-power theorists, including American Brigadier General Billy Mitchell, who worked to demonstrate the vulnerability of the existing naval and army equipment to the bomber. While Mitchell did not advocate the direct targeting of civilians, he did recognize the potential effect of bombing on enemy morale. His efforts and especially the methods he used eventually antagonized too many members of the American military establishment, and was court-martialed and dismissed from the service. David MacIssac, a former United States Air Force (USAF) Officer and professor of military history at the USAF Academy, links these early air advocates with the Royal Air Force and the USAF.[4]

David Bashow, editor of the *Canadian Military Journal* and a professor at the Royal Military College of Canada, has also covered the Second World War bombing campaign. It must be said, however, that his book, None but the Brave, was written with the express purpose of justifying the bombing campaign in the context of that war. His work, despite this bias, is a very good secondary source, as he has drawn from an

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[3] David MacIssac, "Voices from the Central Blue: The Air Power Theorists," in *Makers of Modern Strategy: From Machiavelli to the Nuclear Age*, ed. Peter Paret (Princeton, NJ: Princeton University Press, 1986), 631.

[4] Ibid., 633

extensive collection of primary sources to demonstrate the effect and importance of this campaign to the overall war, both in Europe, and as well as its effects in Japan.[5]

The works of several other historians were useful to develop the context of the various conflicts of the twentieth century. Sir John Keegan is both a noted historian and a prolific writer whose body of work span the entire range of conflict as well as specific wars and specific characteristics of warfare.[6] Charles Messenger, another British historian with Meirion and Susie Harries, provide the context for the remainder of the Second World War, covering the European[7] and Pacific[8] theatres respectively.

The specific work on civilian casualties though falls into broader domains from this point. In the legal domain, numerous experts, ranging from the Canadian Forces Judge Advocate General, Brigadier General Ken Watkin, to John Cerone, the Director of the New England School of Law's Center for International Law and Policy. Their writing has focussed on the overlap of international humanitarian law, or the law of armed conflict, with international human rights law.

In this group, Marko Milanovic[9], from the University of Nottingham School of Law, and Naz Modirazadeh[10], senior associate at the Harvard Progarm on Humanitarian

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[5] David L. Bashow, *None but the Brave: The Essential Contributions of RAF Bomber Command to Allied Victory during the Second World War* Canadian Defence Academy Press, 2009), XI .

[6] John Keegan, *Intelligence in War: Knowledge of the Enemy from Napoleon to Al-Qaeda* (New York: Knopf, 2003), 387.; John Keegan, *The First World War* Vintage, 1998).; John Keegan, *A History of Warfare* (New York: Alfred A. Knopf, 1993), 432.; John Keegan, *The Face of Battle* (New York: Viking Press, 1976), 354.

[7] Charles Messenger, *The Second World War in the West* (London: Cassell, 1999), 224.

[8] Meirion Harries and Susie Harries, *Sheathing the Sword: The Demilitarisation of Japan* (London: Heineman, 1989), 364.

[9] Marko Milanovic, "Al-Skeini and Al-Jedda in Strasbourg," *European Journal of International Law* 23 (2012), http://ssrn.com/paper=1917395 (accessed January 30, 2012).

[10] Naz K. Modirzadeh, "The Dark Sides of Convergence: A Pro-Civilian Critique of the Extraterritorial Application of Human Rights Law in Armed Conflict," *U.S. Naval War College International Law Studies (Blue Book) Series* 86 (January 27, 2010, 2010): pp. 349-410, Available at SSRN: http://ssrn.com/abstract=1543482.

Policy and Conflict Research are two other pre-eminent authors on the convergence of humanitarian and human rights law, especially as regards the recent rulings of the European Human Rights Court. That court's rulings provide the most recent, and obvious incursions of human rights law into the law of armed conflict, and have had immediate and important consequences for military commanders.

Also of import to modern commanders are the various writers who have commented on counterinsurgency operations (COIN), as well as the directives and doctrine manuals which have recently been promulgated by coalition forces in the last half dozen years or so. The recent US Army and Marine Corps counterinsurgency manual[11] was issued in 2006, mid-way through both the Iraq and Afghanistan wars. Key advisors in the drafting of that document were General David Petraeus, on whose authority it was published, and Lieutenant Colonel John Nagl, a US Army officer, and noted author of several articles and works on the subject of COIN. He is best known for his case study on the conflicts in Malaya and Vietnam, in which he identifies among other lessons, the need for militaries to adopt the lessons of the current conflict as well as other similar conflicts in order to be successful.[12]

Both these gentlemen, along with former commander of US and coalition forces in Afghanistan, General Stanley McChrystal, have been influenced heavily by the writings of several foreign officers who have commented on the French experience in the

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[11] United States of America., *Counterinsurgency*, Vol. FM 3-24 (Washington, DC: Department of the Army, 2006).

[12] John A. Nagl, *Counterinsurgency Lessons from Malaya to Vietnam: Learning to Eat Soup with a Knife* (Westport, Conn: Praeger, 2002).

Algerian campaign of 1954-1962. Like French Infantry major David Galula[13], and Colonel Roger Trinquier,[14] they have highlighted the importance of gaining the support of the population in marginalising and defeating the insurgency. McChrystal notably issued a series of directives while he commanded in Afghanistan which placed limits on the use of force where civilians might be injured in order to avoid alienating the Afghan population.[15]

Other theorists which have discussed COIN have focussed as well on the population, though two other groups have recently emerged. Those groups focus on either the leader or the insurgent themselves. These two groups include successful insurgent leaders Mao, and Che Guevera,[16] and modern writers such as former US Army intelligence officer Ralph Peters,[17] and Israeli historian Martin Van Creveld.[18] Importantly, though is the recent work of Lorenzo Zambernardi, an Italian political scientist. He was constructed a model which places destruction of the enemy, the protection of the population, and the protection of forces at the apexes of a triangle, with the understanding that any COIN strategy requires a trade-off between the accomplishment of any two of these at the expense of the third.[19]

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[13] David Galula, *Pacification in Algeria, 1956-1958* (Santa Monica, CA: RAND Corporation, 2006).

[14] Roger Trinquier, *Modern Warfare: A French View of Counterinsurgency*, trans. Daniel Lee (Wesport CT: Praeger Security International, 2006).

[15] Stanley McChrystal, *Tactical Directive* (Kabul, Afghanistan: International Security Assistance Force, 6 July, 2009), 1-2.; Stanley McChrystal and Michael Hall, *ISAF Commander's Counterinsurgency Guidance* (Kabul, Afghanistan: International Security Assistance Force, 2009), 1-7.

[16] Che Guevara, *Guerrilla Warfare* (Lincoln: University of Nebraska Press, 1998), 175.

[17] Ralph Peters, *Wars of Blood and Faith: The Conflicts that Will Shape the Twenty-First Century* (Mechanicsburg, PA: Stackpole Books, 2007).

[18] Martin L. Van Creveld, *The Changing Face of War: Combat from the Marne to Iraq* (New York: Ballantine Books, 2008), 319.

[19] Lorenzo Zambernardi, "Counterinsurgency's Impossible Trilemma," *Washington Quarterly* 33, no. 3 (Summer2010, 2010): 21-34, http://search.ebscohost.com/login.aspx?direct=true&db=mth&AN=51744099&site=ehost-live.; Lorenzo

Likewise, Alexander Downes, a political scientist at the Elliot School of International Affairs at George Washington University has conducted extensive research into the use of force against civilians during conflict. His work has focused on the conditions prevalent at the time of civilian casualties to provide a predictor for the re-occurrence in future conflict. Several other researchers, including Benjamin Valentino[20] and Michael Mann[21] have written about both civilian casualties in war, ethnic cleansing, and genocide. These two gentlemen are professors at Dartmouth College, and the University of California, Los Angeles, respectively.

The future of war, on the other hand has had numerous commentators, from the earliest days of history. To the list of theorists described above, it is important to add Eric Larson and Bogdan Savych,[22] whose work for the RAND Corporation has highlighted the effect of technology on the public, especially the public's impression of the military. Likewise, the Canadian Army's vision of the future[23] and the United States' roadmap for unmanned vehicles[24] are instrumental in understanding what Western militaries expect

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Zambernardi, "Ends without Means:How Casualty Aversion is Undermining the Clausewitzian Relationship between Politics and War in Irregular Conflicts" (Chatham House, London, European Security and Defence Forum, November 11, 2009, 2009).

[20] Benjamin A. Valentino, Paul K. Huth and Sarah E. Croco, "Bear any Burden? how Democracies Minimize the Costs of War," *Journal of Politics* 72, no. 2 (04, 2010): 528-544, http://search.ebscohost.com/login.aspx?direct=true&db=aph&AN=48811407&site=ehost-live.; Benjamin Valentino, Paul Huth and Dylan Balch-Lindsay, ""Draining the Sea": Mass Killing and Guerrilla Warfare," *International Organization* 58, no. 2 (Spring2004, 2004): 275-407, http://search.ebscohost.com/login.aspx?direct=true&db=poh&AN=13257518&site=ehost-live.

[21] Michael Mann, *The Dark Side of Democracy: Explaining Ethnic Cleansing* (New York: Cambridge University Press, 2005), 580, Publisher description http://www.loc.gov/catdir/description/cam041/2004045626.html Sample text http://www.loc.gov/catdir/samples/cam051/2004045626.html.

[22] Eric V. Larson and Bogdan Savych, *Misfortunes of War Press and Public Reactions to Civilian Deaths in Wartime* (Santa Monica, CA: RAND, 2007).

[23] Canada, *Designing Canada's Army of Tomorrow* (Ottawa: Department of National Defence, 2011), 23.

[24] James R. Clapper and others, *FY2009-2034 Unmanned Systems Integrated Roadmap* (Washington, DC: Department of Defense,[2009]), http://www.acq.osd.mil/psa/docs/UMSIntegratedRoadmap2009.pdf (accessed February 10, 2012).

the future to look like. To this, Dr Boaz Ganor, Founder and Director of the Institute for Counter-Terrorism has added the understanding of the modern battle space as occurring simultaneously on three planes: the traditional force-on-force conflict, the media space, and the legal space. Failure to appreciate that fact is akin to shooting oneself in the foot, or scoring on your own net.

In short, the study of civilian casualties in wartime has been ongoing for some time. It is necessary, however, to examine the impact of civilian casualties upon military operations. Given the nature of the wars fought in the first dozen years of this century, it is an opportune time to discuss how the interaction between Western militaries in the Afghanistan, Iraq and Libya conflicts have dealt with civilians, and to incorporate those lessons into our preparations for future wars.

METHODOLOGY

This paper will examine the impact of civilian casualties upon the practice of modern war. To do that, the three wars which have dominated Western military activity in the first twelve years of this century will be examined through the lens of Dr. Zambernardi's "impossible trilemma" model. From these case studies, it will be possible to develop several conclusions which commanders may use to shape their own planning for future conflict.

This remainder of this paper will be divided into four chapters. Chapter Two will outline the development of modern military theory and the growing frequency of civilian victimization by war, especially throughout the final two-thirds of the twentieth century. This will include an analysis of some of the traits of wars believed to make civilian targeting more acceptable, and the trends in international law and technology which have

also shaped the current context of war. Finally, this chapter will identify the situations in which commanders are more likely to face pressure to accept higher levels of civilian casualties during operations.

Chapter Three will discuss counterinsurgency warfare and the modern, or twenty-first century context of war.It will also introduce the model by which the case studies of Chapter Four will be examined. By comparing the decisions made regarding force protection, destruction of the enemy and the effort made to distinguish between civilians and combatants, from Zambernardi's model, it is possible to appreciate the effect of these choices on the overall military success.

Chapter Four consists of three case studies, the 2003-2011 Iraq War, the ongoing war in Afghanistan against a Taliban lead insurgency, and the 2011 Libyan NATO air campaign. Each war provides its own unique lens into modern warfare, as well as into the interaction between modern militaries and the civilian population. Chapter Five will draw upon the lessons drawn from the case studies as well as the remainder of the research project.

From these conclusions, commanders will be able to prepare themselves for the pressures they will face as they operate in a future battle space that will increasingly large numbers of civilians. Without this knowledge, it is possible, even probable, that commanders will make decisions about the treatment of civilians which will have unintended consequences. To ignore these lessons would be folly, but by their study it may be possible to keep from scoring an 'own goal.'

CHAPTER TWO – WARFARE, CIVILIANS, AND THE TWENTIETH CENTURY

> *Historically, civilians have constituted half of all war deaths, in large part the result of being targeted intentionally by belligerents in campaigns that include massacre, bombardment, starvation and destruction of the means of life…*
>
> *Alexander Downes*

Intuition tells us that western democracies involved in conflict do not intentionally cause civilian casualties. After all, it is the western democracies that have actively sought to remove the yoke of oppression from the downtrodden around the world. If we were to kill the very people we seek to free, can we really be helping them - of course not. Thus, it follows that western militaries do not cause civilian casualties, or if they do, these events will be very limited in size and frequency.

Unfortunately, this is most definitely not the case. Noted Duke University professor of political science Alexander Downes has conducted extensive research into the use of force in conflict. He argues that democracies are in some cases more likely to target civilians, especially in long, protracted wars. It is widely acknowledged, though, that since the Second World War, there has been a declining trend in the violence caused by western democracies against civilians during wars.[25] To properly understand the tipping point at which the current trend began, it is necessary to examine the level of tolerance for "civilian victimization" present during that war, and the historical context in which it occurs.

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[25] Alexander B. Downes, "Restraint Or Propellant? Democracy and Civilian Fatalities in Interstate Wars," *The Journal of Conflict Resolution* 51, no. 6 (Dec., 2007): 881, http://www.jstor.org/stable/27638584.

In the Second World War, we can find the nexus of the defining traits of modern warfare. It is here that we can see the impetus for the revision of the laws of warfare, and the need for protection of human rights. It is also here that the tenet of command responsibility is reinforced, while warfare becomes mechanized, and more devastating than ever before.

What were the reasons behind this transition? Was it the revulsion at the destruction caused? Was it the belief that the killing of innocents was against the values of a liberal democracy? Or was it instead the realization that the targeting of civilians did not in fact hasten the end of the conflict? All three can be said to contribute to the overall change; none has an exclusive claim. Still, the most important reason that a modern commander must appreciate is that the targeting of civilians is not a particularly efficient way to conduct warfare. Key to understanding the import of civilian casualties in warfare then is the pressure that will be brought to bear upon the military commanders as they conduct operations. It is the context of the decisions they make which will offer the insight necessary to appreciate those choices.

THE DAWN OF MODERN WARFARE THEORIES

The aftermath of the First World War (1914-1918) saw a shift in strategic thinking, to prevent a reoccurrence of the slaughter experienced in the trench-warfare of that conflict. The failure of either side to out-manoeuvre the enemy in a race to gain a positional advantage that would force the other side to sue for peace led to a drawn out war of attrition.[26] Hundreds of thousands of soldiers were killed in the fighting, leading

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[26] John Keegan, *The Face of Battle* (New York: Viking Press, 1976), 212.

to a general rejection of the pre-war tactics, and a revulsion for anything that might allow a war to become attritional in nature.[27]

In the interwar years, this shift sought to take advantage of the new technologies which had first been used in the recent conflict. Western theorists, such as Captain Sir Basil Liddell Hart and Major General J.F.C. Fuller argued that the stalemate of 1914-1918 could be avoided by employing the various arms together, taking advantage of armour and infantry strengths and weaknesses to complement each other, and by focusing these forces against enemy weak points.[28] This indirect approach against enemy vulnerabilities was the opposite of most of the previous war, where armies were thrown against their opponents strongest points in an effort to gain very little advantage.

The combined arms groupings proposed would instead reinforce the relative weaknesses of each arm with the advantages offered by the other arm. For example, infantry vulnerability would be reduced by the protection and firepower offered by the tanks, and the tanks vulnerability to close in attack would be mitigated by the use of dismounted infantry who could prevent enemy infantry from getting close enough to disable the tanks. The whole would be supported by the destructive capacity of such indirect fire assets as artillery and aircraft.[29] That this was the method actually used to

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[27] G. D. Sheffield, "The Shadow of the Somme: The Influence of the First World War on British Soldiers' Perceptions and Behaviour in the Second World War
," in *Time to Kill : The Soldier's Experience of War in the West, 1939-1945*, eds. Paul Addison and Angus Calder (London: Pimlico, 1997), 36.

[28] Brian Bond and Martin Alexander, "Liddell Hart and De Gaulle: The Doctrines of Limited Liability and Mobile Defense," in *Makers of Modern Strategy: From Machiavelli to the Nuclear Age*, ed. Peter Paret (Princeton, NJ: Princeton University Press, 1986), 600.;Charles Messenger, *The Second World War in the West* (London: Cassell, 1999), 37.

[29] David MacIssac, "Voices from the Central Blue: The Air Power Theorists," in *Makers of Modern Strategy: From Machiavelli to the Nuclear Age*, ed. Peter Paret (Princeton, NJ: Princeton University Press, 1986), 632.

great effect by the allies during the final one hundred days of the war was lost on many in the armies.

Likewise, many theorists began to try and comprehend the capability of the air force. Some, such as First World War Italian General GiulioDouhet saw the destructive capability offered by airborne bombers as negating the need for future land war. He was initially drummed out of the service for the efforts he took to secure bombers for his country.[30] Like-minded US Brigadier General Billy Mitchell was court-martialed for the lengths he took to prove the vulnerability of militaries and navies to air forces.[31] Key among these theories and especially in the writings of Douhet was the belief that air forces could, and should, target enemy civilian populations. The terror and destruction caused by the air force in such attacks would force an opponent to sue for peace rather than face further attacks.[32]For a number of reasons, most notably the rivalry between the functional branches within each service,[33] these theorists were marginalized within their own militaries, and were not generally accepted by the western forces at the beginning of the Second World War.

As a result, the western powers were initially not ready for the German attacks of 1939 and spring 1940 which quickly overran Poland, and the combined allies in France, respectively. Through the use of improved technology and doctrine, such as radio communications and combined arms teams consisting of infantry and armoured forces well supported by artillery and airplanes, German theorists such as Guderian had devised

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[30] Colonel Philip S. Meilinger, ed., *The Paths of Heaven: The Evolution of Airpower Theory* (Maxwell Air Force Base: AIr University Press, 1997), 5-6.

[31] Ibid., 79

[32] MacIssac, *Voices from the Central Blue: The Air Power Theorists*, 630.

[33] Ibid., 630

way to out move and out fight the western allies.[34]Guderian himself was a Division commander during the *Blitzkrieg*, or lightning war, which pushed the British off the European continent in May 1940.

By the end of the war, both sides had accepted the importance of combined arms fighting, though much more telling was the general acceptance of the use of air power against civilian population centres.[35] While both sides launched attacks against cities, the justifications each used varied greatly. In classifying the civilian workers involved in the production of military equipment as military targets, it was argued that the war could not continue without the support of these workers. The targeting of their homes and families then was justifiable.[36] Likewise, the destruction of entire cities, such as Dresden, and Tokyo were justified for the strategic psychological effect they had – by reducing popular support for the war among the population, it would be possible to force the enemy to seek an early end to the war.[37]

Such attacks were compounded by the fact that they were conducted by both sides in the European theatre,[38] and that the weapons used were both notoriously inaccurate, and indiscriminate. Incendiary bombs set fire to the cities, while the inaccuracy of the bombs required a deliberate "carpet" bombing to be conducted if a specific building was to be destroyed with any degree of certainty. As a result, these bombing missions often left many legitimate military targets minimally damaged, while nearby civilian locations

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[34] John Keegan, *A History of Warfare* (New York: Alfred A. Knopf, 1993), 369-372.
[35] Ibid., 372-373
[36] MacIssac, *Voices from the Central Blue: The Air Power Theorists*, 636-637.; Robert Sparrow, ""Hands Up Who Wants to Die?": Primoratz on Responsibility and Civilian Immunity in Wartime," *Ethical Theory and Moral Practice* 8, no. 3 (Jun., 2005): 300-301, http://www.jstor.org/stable/27504355.
[37] Keegan, *A History of Warfare* , 374-375.
[38] David L. Bashow, *None but the Brave: The Essential Contributions of RAF Bomber Command to Allied Victory during the Second World War* Canadian Defence Academy Press, 2009), 11.

were devastated.[39] Worse, though, was the fact that the psychological effect of such missions was not that predicted by theorists or commanders.[40]

The German *Blitz* bombings and V1 rocket attacks destroyed much of London, but these attacks seemed to only harden British resolve. Far from having the desired effect of terrorizing the populace, it created a certain perverse pride amongst them. As the *blitz* failed, so too did the indiscriminate bombings of German cities.[41]

Sir Arthur "Bomber" Harris, who lead the Royal Air Force's Bomber Command through most of the war fervently believed the effectiveness of the Douhetian campaign against civilian targets would be effective.[42] To bolster this belief, several reports were received by allied intelligence organizations which lent credence to this viewpoint; some indicated that should the bombing continue, the SS would in fact need to be deployed against the rioting population.[43] During the course of the war, nearly 600,000 German non-combatants were killed and 7,500,000 were made homeless by the aerial bombing campaign.[44] Of course, the cost in ordnance, aircraft and airmen was exorbitant. Some 18,000 planes and 81,000 airmen lost their lives during the bombing campaign.[45] In 1944, the bombing campaign switched its focus to attacks that supported allied ground

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[39] Downes, *Restraint Or Propellant? Democracy and Civilian Fatalities in Interstate Wars*, 879.

[40] Chester Wilmot, *The Struggle for Europe* (Ware, UK: Wordsworth Editions, 1997), 155. "From Hitler's point of view, the indiscriminate bombing had certain advantages, because it awakened in the German people an urgent sense of national danger, and a readiness to make sacrifices which hitherto he had been reluctant to demand."

[41] Keegan, *A History of Warfare* , 378.; Bashow, *None but the Brave: The Essential Contributions of RAF Bomber Command to Allied Victory during the Second World War* , 176. Some contemporary allied intelligence reports indicated that the RAF's strategic bombing campaign was in fact having its desired effect on the German population, however the political pressure after the bombing of Cologne forced a change in RAF policy.

[42] Ibid., 18-19, 125

[43] Ibid., 21

[44] Ibid., 148-149

[45] Ibid., 122

operations,[46] and after the bombing of Dresden, political pressure ended any attacks on cities that were not directed against military targets.[47]

Despite this, the most famous instance of the targeting of civilians in the 1939-1945 period, the August 1945 attacks on Hiroshima and Nagasaki appear to have had the desired effect psychological effect. Soon after the use of two atomic bombs on Japanese cities, the Imperial government surrendered unconditionally to the United States.[48] The arguments for using atomic weapons included such justification as a quick end to the war was preferable and much more cost effective in the terms of lives saved when compared with a long, drawn out advance by American forces to defeat the notoriously determined Japanese forces.[49] As US President Harry Truman himself explained the decision to use the Atomic bomb, "I felt that to extract a genuine surrender from the Emperor, and his military advisers they must be administered a tremendous shock which would carry convincing proof of our power to destroy the Empire."[50] With some 200,000 people killed or wounded by these attacks,[51] Japan succumbed to the threat of further atomic attacks, but largely without the pressure from its own people.

It is important to note that while the deliberate, conventional targeting of civilians was largely repudiated in the post-war period, nuclear weapons have always been seen as affecting civilian populations. This is likely why the mere threat of nuclear war caused

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[46] Ibid., 23, 122-124

[47] Ibid., 44-49, 151

[48] Meirion Harries and Susie Harries, *Sheathing the Sword: The Demilitarisation of Japan* (London: Heineman, 1989), xvi.

[49] Bashow, *None but the Brave: The Essential Contributions of RAF Bomber Command to Allied Victory during the Second World War* , 158.

[50] Keegan, *A History of Warfare* , 379.

[51] "Avalon Project - the Atomic Bombings of Hiroshima and Nagasaki " http://avalon.law.yale.edu/20th_century/mp10.asp (accessed 3/18/2012, 2012). And Bashow, *None but the Brave: The Essential Contributions of RAF Bomber Command to Allied Victory during the Second World War* , 157.

strategists to develop options to combatants short of nuclear war.[52] In fact, the terrific nature of nuclear conflict lends credence to the claims of some historians who believe the atomic attacks were really used to signal the USSR. This signal was meant to relay the West's position, and specifically America's concern, that USSR should limit its desire to expand its influence, essentially starting what would be known as the Cold War.[53]

What are the changes that have led to the current, "new" paradigm? They are improvements in technology, and the development of international humanitarian law and its partner international human rights law. Together, they have created a more aware civilian populace, armed with a moral and a legal framework against which they will measure any military actions taken.

So it is that since the Second World War, commanders have faced ever-more strict restrictions on how they are to conduct war. The news is not all dark however; other areas have worked to increase flexibility. These areas include the benefits of modern technology, such as improved communications and better, more accurate weapons.

Technology

Technology is much like the Roman god Janus when looking at its effect on warfare in the last half of the Twentieth century. The first face is fairly easy to trace as far as its impact on the military goes. The quality and accuracy of weapons has increased dramatically over time, and the military has been able to achieve more complex tasks as a result. Likewise, many of these same technologies have greatly improved the quality of

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[52] Keegan, *A History of Warfare* , 381.

[53] D. Clayton James, "American and Japanese Strategies in the Pacific War," in *Makers of Modern Strategy: From Machiavelli to the Nuclear Age*, ed. Peter Paret (Princeton, NJ: Princeton University Press, 1986), 731.

life of the general population, allowing for more time to be devoted to other activities than the original level of work and chores.

The second face is somewhat less easy to trace, and that darker face, or rather unintended consequence of the new technologies is a hyper-aware civilian population. This population has been told of the improved accuracy made possible by technology, and now expects the flawless, precise use of force previously advertised.[54] At the same time, the population is much better informed than before, and will quickly learn of any civilian deaths. Now, of course, they will act on it, at home, or abroad.

It is not uncommon to see demonstrations in cities around the world against military actions. These demonstrations are fuelled by the information which they are able to receive almost instantly. As the news travels, it is no longer filtered as it once was, by a limited number of news organizations, or by government censors or state-controlled media outlets.

Shortly after the Second World War, television became commonplace, and along with radio, offered a means to reach almost every single group within society. For only the cost of the appliance itself, it was possible to receive information. End-users no longer needed to pay for each day's news, but rather had an almost endless stream of information to consume at their own desire. Over time, a multitude of sources were able to make use of this technology, reducing the ability of a single entity to control what information was published. Further, the time between an event occurring, and its being reported has shrunk dramatically.

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[54] Eric V. Larson and Bogdan Savych, *Misfortunes of War Press and Public Reactions to Civilian Deaths in Wartime* (Santa Monica, CA: RAND, 2007), xxiv.

This unfettered information stream served to mobilize home-populations to the activities of soldiers in distant countries. Notably, in the Vietnam War, many have cited the pervasive nature of the reporting as having a negative effect on the United States' ability to wage the war.[55] In response to the nightly news reports of Edward Murrow and Walter Cronkite, the US government was unable to gain or maintain the necessary public support for the conflict. This war was the first "to be lost in the living rooms" of the nation,[56] and in the end, a large anti-war movement was mobilized.

Only a short time before, the Dutch had faced an anti-colonial insurgency in the East Indies. Information on the conflict, though, was largely kept from the Dutch people.[57] Despite a large number of civilian deaths, and numerous accounts of torture by Dutch forces against the insurgents, popular support for the campaign remained high in the Netherlands.[58] Had information been as freely accessible at that time, it is likely that the Dutch would have faced similar popular anti-war support.

Since these wars, the reach of information media has become even more pervasive. There are few places which do not have access to twenty-four hour a day news sources, from a variety of countries, in a variety of languages. Television and radio are no accompanied by the internet and mobile telephones which allow the poorest peoples around the world to be in almost constant communication with others.

The resulting information blanket makes it unlikely an event can happen without someone taking notice. Mobile phones now often have cameras which are capable of

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[55] "Vietnam the War that's Still with Us: More than Three Decades After the Last Soldiers Came Home, the Longest War in American History Still Casts a Long Shadow
," *The New York Times*19 February 2007, (accessed 4/4/2012).

[56] Ibid.

[57] Laurens Van der Post, *The Admiral's Baby* (New York: W. Morrow, 1996), 340.

[58] Jan Van der Meulen and Joseph Soeters, "Dutch Courage: The Politics of Acceptable Risks," *Armed Forces and Society* 31, no. 4 (Summer 2005, : 540.

taking still or full motion video, and immediately transmitting them anywhere in the world. Added to these are the various software programs known as "social media" which serve to link individuals with similar interests instantly. These social media links serve to offer instant ready-made audiences for whatever atrocity or incident has been reported.

These audiences are fertile ground for the message, and invariably, the message grows into one of strategic proportions. Witness the impact of social media on recent incidents in Tunisia, Libya, Egypt, and the Middle East, where single examples of state mistreatment of individuals has resulted in popular demonstrations, and in many instances, the subsequent fall of the government. In Tunisia, reports of a vegetable salesman setting himself on fire in protest over his mistreatment by the police led to mass demonstrations, and ultimately, a change in government.[59] Likewise, in Syria, the abuse of a teenager who wrote anti-government graffiti has resulted in over a year's worth of widespread anti-government demonstrations and government "crack down" in response.[60] Despite ongoing military efforts to extinguish the anti-government sentiment, pressure within and without the state are increasing. The United Nations alleges that over 9,000 Syrians have been killed during this violence, and the popular uprising shows no sign of abating.[61]

In recent months, there have been several incidents where relatively obscure and unintentional incidents, once passed on using social media, have had long lasting,

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[59] Brian Whitaker, "How a Man Setting Fire to Himself Sparked an Uprising in Tunisia," *The Guardian*28 December 2010, 2011, http://www.guardian.co.uk/commentisfree/2010/dec/28/tunisia-ben-ali (accessed 3 April 2012).

[60] "Syria's Machinery of Repression: Can Fear be Overcome? - TIME " *Time Magazine*1 June 2011, 2011 (accessed 4/4/2012).

[61] "Syria News " *The New York Times*, sec. News, 2 April 2012, 2012 (accessed 4/4/2012)., Ross Ruthenberg, "Syrian Victims: When Truth is the First Casualty of War " Global Research, http://www.globalresearch.ca/index.php?context=va&aid=29995 (accessed 4/4/2012, 2012).

damaging consequences. For example, in 2005 and again in 2012, American forces mistreated copies of the Islamic holy text, the Koran.[62] In the resultant furor, popular support among the Afghan population decreased dramatically, and in the days and weeks that followed, there was an upsurge in anti-NATO demonstrations, insurgent activity, and even targeted killings of western military trainers by their Afghan trainees. It is important, then not only for commanders to use media to deliver their message, but to also quickly counter or respond to any negative messages that are passed by the opposition. To do this effectively, a commander must have a well-trained and proactive public affairs staff; it can be argued that properly "targeted" messaging and effective counter messaging may be more effective than well executed kinetic operations.

To this hyper-aware social-media fueled population, we add an expectation that modern weaponry is so precise that it can be used to only kill the enemy. This expectation was created by our own hand. During recent conflicts, militaries have, at great pains to themselves, tried to demonstrate to their own public just how precise their "weaponeering" could be.[63] It would seem that military and political leaders believed that in order to convince their own public to trust them in the use of deadly forces, they had to promise to be the most responsible. Over time, this promise has created a false expectation in some quarters that the responsible use of force was a flawless application of force which would result in absolutely no casualties.[64]

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[62] "Obama Apologizes to Afghanistan for Quran Burning - CNN " http://articles.cnn.com/2012-02-23/asia/world_asia_afghanistan-burned-qurans_1_nato-troops-qurans-afghan-officials?_s=PM:ASIA (accessed 4/4/2012, 2012).

[63] Lorenzo Zambernardi, "Counterinsurgency's Impossible Trilemma," *Washington Quarterly* 33, no. 3 (Summer2010, 2010): 21-34, http://search.ebscohost.com/login.aspx?direct=true&db=mth&AN=51744099&site=ehost-live.

[64] Larson and Savych, *Misfortunes of War Press and Public Reactions to Civilian Deaths in Wartime* , 216-217.

Amazingly, it would appear, from studies conducted by the likes of the RAND Corporation's Eric Larson and BogdanSavych, that the domestic public is actually much more aware of the realities of war. In fact, they hold that "…it is the resilience of the belief that – notwithstanding any civilian casualty incidents that may have taken place – the U.S. military is making its best effort to avoid civilian casualties"[65] Their research, examining several incidents involving American forces and civilian casualties over the last 20 years, and the public reaction to them, indicates that that the public believes it is important to make efforts to avoid civilian casualties. Interestingly, there is a difference between the perception of domestic American, and foreign audiences. By and large, the non-American public does not hold much faith that the US will make a proper effort to avoid killing civilians.[66]

And thus, we have another consideration for commanders. While it is likely that domestic audiences trust their military leaders to conduct the war appropriately, they are not the only audience with which a commander must be concerned. This is even truer in today's social media environment, when the population is already inclined against believing that you are doing your best to minimize civilian casualties, any mistakes are likely to be quickly seized upon by the local crowd. Certainly, this will be exploited by your enemy, but it should not be the driving factor in determining a course of action. As noted by Larson and Savych,

> "…it also seems to be attributable to beliefs they have about how the media and public react to incidents of civilian casualties. Indeed, there is some reason to believe that concern about casualties shapes the constraints that are imposed on military operations."[67]

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[65] Ibid., 4
[66] Ibid., 208
[67] Ibid., xvii-xviii

If your enemy chooses to exploit your aversion to any course which might endanger civilians, as insurgents, for example, tend to do, then you may have limited your options to no tangible advantage – after all, the local civilian population is already disinclined to trust you.[68] This is the key to modern warfare; the solution may well be the modern Holy Grail.

Legal Impacts

The same hyper-awareness that feeds anti-war and anti-casualty demonstrations resonates among the international legal community. International law is itself a recent phenomenon. It is based on two types of law, that created by treaties or conventions, and that set by precedent based on the dealings between states over time. Only recently has there been sufficient treaty law and general acceptance of international institutions to even consider this realm as a factor. With the near universal acceptance of the United Nations, and the numerous regional and international courts and tribunals which have been established in the last fifty years, international law is, and will remain for the foreseeable future, as a key consideration for commanders at all levels.

International law is divided into two realms which are applicable to the conduct of military operations. The first, international humanitarian law (IHL) is also generally referred to as the law of armed conflict (LOAC), or the laws of war, and has a long tradition. The second, international human rights law (IHRL) is a relative newcomer to military affairs, and has only recently been applied to commanders for conduct during operations themselves.

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[68] Ibid., 208

IHL, which is how the law of war or LOAC will be referred to throughout this paper, is generally seen as those rules that govern the conduct of wars, once armed conflict begins. These rules trace their lineage to the concepts of *jus in bello* and *jus ad bello* presented by Saint Augustine in the fourth century, and have been built upon by numerous events and treaties since then. The most recent of these documents are the Geneva Conventions of 1948, and the Additional Protocols of 1977.

As John Cerone, Director of the Center for International Law and Policy at the New England School of Law has described it, IHL was meant to govern the interactions between states. IHRL, on the other hand was meant to cover the methods by which a state treats people within its own borders. As states engage non-state actors, though, the delineation has become less clear. In theory, the relationships between a state and individuals should be governed by human rights law (IHRL). At the same, under IHL, non-combatants are protected from intentional and indiscriminate harm. "But just as humanitarian law ultimately began to press inward against that external membrane of a state's domestic jurisdiction, human rights law has now begun to exert outward pressure against the inner wall of the state's jurisdiction."[69] The result is the application of IHRL in cases previously reserved exclusively for IHL.

The IHL, among its provisions governing the treatment of non-combatants includes restrictions on the use of force. These restrictions can, for the purposes of this argument, be summed up in three criteria for the use of force. First, force must be proportional to the perceived military benefit of the action. Second, that force must not be

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[69] John Cerone, "Jurisdiction and Power: The Intersection of Human Rights Law & the Law of Non-International Armed Conflict in an Extraterritorial Context," *Israel Law Review* 40, no. 2 (2007): 3, http://ssrn.com/paper=1006833.

indiscriminate in nature, and third, commanders must distinguish between combatants and civilians when choosing targets.[70] None of these forbid the killing of civilians; in fact, as Brigadier General Watkin, the Canadian Forces Judge Advocate General, noted, citing International Criminal Tribunal for Yugoslavia President Meron, "[u]nlike human rights law, the law of war allows, or at least tolerates, the killing and wounding of innocent human beings not directly participating in an armed conflict, such as civilian victims of lawful collateral damage."[71]

The nuance of the "collateral damage" is such that the question under IHL is not whether any civilians will be killed or injured, but whether they were the intended target.[72] The above listed criteria focus first on the military nature of the target, and the benefit of destroying that target or objective must outweigh the net negative effect of any civilians injured or killed during that attack. There are limits on just how broadly one can define military targets – the German factory workers targeted by the US Army Air Force in the Second World War mentioned in above do not meet the aim of these criteria.

First, they were targeted, similarly to how the Royal Air Force's Bomber Command, which included squadrons of the Royal Canadian Air force (RCAF), chose targets. That is to say that the targets were chosen so that they would sow unrest among the population and force the government to sue for peace.[73] Even if they were targeted for their military gain – that the parts produced by their factories were critical to the war

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[70] International Committee of the Red Cross, "Customary IHL - Rule 1. the Principle of Distinction between Civilians and Combatants " ICRC, http://www.icrc.org/customary-ihl/eng/docs/v1_cha_chapter1_rule1 (accessed 4/4/2012, 2012).

[71] Kenneth Watkin, "Assessing Proportionality: Moral Complexity and Legal Rules," *Yearbook of International Humanitarian Law* 8 (2005): 35..

[72] Ibid.: 8-9

[73] Alexander B. Downes, *Democracy and Civilians in War: American and German Bombing in World War II*American Political Science Association, 2003), 1-39.

effort, and once destroyed, the German campaigns would cease to be able to function[74] – the relative destruction amongst the civilian population arguably outweighed the military advantage to be gained. On the grounds of proportionality, these targets would not have been appropriate military objectives.[75]

Second, the weapons used by the American bombers tended to be mostly incendiary weapons as opposed to the high explosives needed to damage hardened infrastructure like factories.[76] The accuracy of the bombers also made it unlikely that any single payload would actually hit its target, resulting in all likelihood that the workers' homes near the factories would be hit instead.[77] Combining these two facts, we have weapons designed to burn less-protected buildings, like houses and apartment buildings, being used by inaccurate bombers, resulting in a very high likelihood of civilian deaths, with little impact on the original intended targets, the factories.[78] The weapons being used were in indiscriminate.

On the surface, not only were these targets indiscriminate, but no attempt was made to distinguish between combatants and civilians. In fact the opposite appears to be the case – the weapons and targets chosen by planners appear to have been made specifically for the effect they would have on the population itself. Thus, the targets were not chosen for their military effect, but rather serve as a textbook example of how not to engage a target under the IHL.

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[74] Wilmot, *The Struggle for Europe* , 766.
[75] Downes, *Democracy and Civilians in War: American and German Bombing in World War II*, 4-7.
[76] Ibid.
[77] Wilmot, *The Struggle for Europe* , 766.
[78] Downes, *Restraint Or Propellant? Democracy and Civilian Fatalities in Interstate Wars*, 876.

To be fair, the IHL really grew out of the failures of the Second World War. One cannot strictly evaluate the decisions made during the war against the rules which have since been codified at the Geneva Conventions, or in the Additional Protocols to those agreements. Also, one must understand that the targets chosen by the US Army Air Force bombers were originally strictly military in nature, but once the relative inaccuracy of their attacks was recognized, and pressure grew to hasten the end of the war, the nature of the targets morphed.[79] Thus, it is a cautionary tale for commanders as well – simple adjustments to your objectives can have a wildly different effect on the ground.

So it is for clear inter-state actions. For non-international conflicts, however, the IHL is somewhat less clear. In the years following the Second World War, this concept was given ample opportunity to be tested. One of the great legacies of the war was that many of the European colonies throughout Africa and Asia were able to begin their own struggles to free themselves from their colonial masters.[80] In many of the colonies, the struggle took the form of an armed insurgency, a fight between a state, and a non-state actor.

The insurgents were generally seen to be criminals, and not legitimate combatants, and thus were not afforded the protections of IHL,[81] with one exception. Common Article 3 of the Geneva Conventions applies to "armed conflict[s] not of an international character occurring in the territory of one of the High Contracting Parties" and states that certain"acts are and shall remain prohibited at any time and in any place

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[79] Downes, *Democracy and Civilians in War: American and German Bombing in World War II*, 23-24.

[80] Keegan, *A History of Warfare* , 379.

[81] Roger Trinquier, *Modern Warfare: A French View of Counterinsurgency*, trans. Daniel Lee (Wesport CT: Praeger Security International, 2006).

whatsoever with respect to" persons "taking no active part in the hostilities," including those placed hors de combat.[82]

In law, then, the actions of the government were limited. Unfortunately, in practice, often the insurgents were denied many of these rights, and in some cases the murder and mistreatment of civilians was commonplace. The Dutch, for instance caused thousands of civilian deaths during their struggle to retain the East Indies.[83] By this article, for the first time IHL makes an effort to acknowledge and regulate those instances where the conflict is between a state, and an individual, or non-state. By identifying "personal dignity" as worthy of protection, it formed in essence the core nugget of what is IHRL.[84]

The IHRL was first and foremost created to protect the universal rights of the person against infringements by a state. In conflict, it is generally accepted that no commander will have perfect situational awareness, and that "[d]etached reflection cannot be demanded in the presence of an upturned knife."[85] Still, in non-international conflict, despite the fact that the insurgents are actively attacking the state, it is difficult to separate the insurgent "fish" from the surrounding civilian "sea," to use Mao's

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[82] *Convention (III) for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention o, Convention (III) for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention of 22 August 1864* (2009): 1, http://search.ebscohost.com/login.aspx?direct=true&db=mth&AN=21212390&site=ehost-live.

[83] Van der Meulen and Soeters, *Dutch Courage: The Politics of Acceptable Risks*, 537-558.

[84] Cerone, *Jurisdiction and Power: The Intersection of Human Rights Law & the Law of Non-International Armed Conflict in an Extraterritorial Context*, 2-4.

[85] Watkin, *Assessing Proportionality: Moral Complexity and Legal Rules*, 35., citing Brown v. United States 256 US 335, 343 (1921) Brown had been convicted by a lower court of murder in the second degree. He had been attacked by a man with a knife, and shot the man down. The original court had instructed the jury that the test for self defence included fleeing from the attack; the Supreme Court reversed the finding.

metaphor.[86] It is the tension between IHL, which accepts if not condones civilian death or injury as a byproduct of conflict, with IHRL's fundamental position that the right to life is above all else. Without that right to life, it would be impossible to enjoy any of the other rights belonging to an individual.[87]

Here, to use Dr. Cerone's metaphor, the membranebetween the battlefield and legal arena has begun to thin. Continuing that metaphor, where previously the concepts had moved by osmosis, mostly from IHL to IHRL, now IHRL is being directly applied in the non-international conflict space that had been seen as the domain of IHL exclusively.[88] As some have said, it may be possible to apply both legal regimes simultaneously.[89] That is, of course, problematic. IHL, as previously mentioned, accepts that some civilians will be injured or killed during the conduct of military operations. IHRL does not. In a spate of recent case law, certain international human rights tribunals have ruled that states must limit as much as possible their discretion to use force against a belligerent, while expanding as widely as possible their obligation to protect civilians.[90]

The tribunals did not end there. In 1998, the European Court of Human Rights found that it was necessary for commanders to consider all of the possible ramifications

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[86] Benjamin Valentino, Paul Huth and Dylan Balch-Lindsay, ""Draining the Sea": Mass Killing and Guerrilla Warfare," *International Organization* 58, no. 2 (Spring2004, 2004): 275-407, http://search.ebscohost.com/login.aspx?direct=true&db=poh&AN=13257518&site=ehost-live.

[87] Watkin, *Assessing Proportionality: Moral Complexity and Legal Rules*, 35.

[88] Cerone, *Jurisdiction and Power: The Intersection of Human Rights Law & the Law of Non-International Armed Conflict in an Extraterritorial Context*, 3.

[89] Ibid.: 3, Watkin, *Assessing Proportionality: Moral Complexity and Legal Rules*, 35.

[90] Ibid.: 31Here Watkin cites Prosecutor v. Kupresic (ICTY), "A similar sense of challenge is reflected in the Kupreškić196 decision, where the ICTY first referred to the Additional Protocol I provisions as leaving a wide margin of discretion to belligerents and then suggested that the 'elementary considerations of humanity' provisions emphasised [sic] in IHL decisions of the International Court of Justice and the Martens clause 'be fully used when interpreting and applying loose international rules…' This then led to the determination that the customary and conventional law should be read so as to construe 'as narrowly as possible the discretionary power to attack belligerents, and by the same token, so as to expand the protection accorded to civilians'."

of a firefight, including any effects caused by enemy fires upon the civilian population.[91] This, despite the fact that it occurred during an ongoing operation against armed insurgents (the PKK, or Kurdish People's Party an insurgent group outlawed in Turkey), sets the bar extremely high for the application of force in anything beyond possibly precise special operations targets. It even exceeds the normal standard for the use of force required by criminal law.[92]

In 2011, the same court found that there is also a requirement to provide procedural fairness to any victims of, belligerent or neutral, of military attacks.[93] This, the recent Al-Skeini ruling, in many ways is worrisome for its apparent innocuousness. The Al-Skeini case is based on the fact that the investigations into the death of Mr. Al-Skeini and subsequent reports to his family did not follow strict procedural rules, and in fact were able to be closed on the authority of a more junior officer (a brigade commander), as opposed to the Division commander.[94]

The logic allowing the application of the European human rights law in this instance was that the killing occurred during a security operation by British forces near Basra, Iraq, the British must have had some form of control over the area. That control, demonstrated by numerous decrees by both the US forces and British forces after the fall of Sadaam Hussein's regime, was enough to allow the extra-territorial application of the same human rights offered civilians in Britain.[95] This implies that once combat

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[91] Ibid.: 36
[92] Ibid.: 36
[93] Marko Milanovic, "Al-Skeini and Al-Jedda in Strasbourg," *European Journal of International Law* 23 (2012): 13, http://ssrn.com/paper=1917395 (accessed January 30, 2012).
[94] Ibid.
[95] Ibid.

operations cease, but before security has been restored, or a new government established, IHL will begin to be marginalized, and IHRL will, in some cases apply.

The exact areas in which IHRL will take precedence have not yet been determined;[96] that will depend on the actions of future combatants, and the imaginations of future litigants. It is safe to assume however, that commanders will be tested, and their decisions dissected after the fact. It is comforting to remember that one should not need to reflect too long upon a situation "in the presence of an upturned knife," and that it was our Judge Advocate General himself who argued the point.[97]

In the end, we must prepare our men and women for these challenges, by offering them the best training and advice we can on such scenarios. Sound operating and record keeping practices can mitigate the threats caused by procedural irregularities, balancing the need for swift and efficient action with the protection of our people from prosecution.[98] It would be wrong, however to create more legal risk for our people by either ignoring the challenge, or by avoiding the challenge and giving the additional risk of injury to our personnel. As commanders, it is no surprise that the responsibility for errors is theirs.

Targeting of civilians

To this point the theoretical, technological and legal context of twentieth century warfare has been described. It can be seen that while many theorists had correctly identified the need to target an enemy's weak points, the method by which they are targeted are extremely important. The effects of an attack on the psychological plane are

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[96] Ibid.
[97] Watkin, *Assessing Proportionality: Moral Complexity and Legal Rules*, 35.
[98] Milanovic, *Al-Skeini and Al-Jedda in Strasbourg*

much more difficult to understand or predict than early theorists suggested; they may actually show that kinetic attacks against the enemy's morale actually harden his resolve. This is especially true in cases where one is claiming to offer a "better" ideology. So why do democracies, which claim to offer superior systems of government allow civilians to be targeted in war?

The question of how effective a strategy the deliberate targeting of civilians during conflict has been given a great deal of study in the last two decades. These studies have looked at this problem from several points of view, including the type of government practiced by the belligerents, the relative strength or weakness, of the opponents, or the amount of casualties caused. They have mostly focused on the causes of the killing, rather than the actual effectiveness of this strategy.[99] Of course, pre-eminent political scientists Robert Pape and Alexander Downes have separately argued that if anything, such strategies have not helped. Both have written extensively on the.

Their writings on the subject of coercive use of force against civilians have included detailed statistical analysis of the numbers of civilians killed in various conflicts, compared with the types of governments involved, the aims of the combatants, types of terrain encountered, and other variables. These studies have focused across almost 200 years of war, and have provided a wide range of responses. Key though, are the findings that no one type of government is immune to the danger of targeting

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[99] Alexander B. Downes, "Hypotheses on the Effectiveness of Civilian Victimization in War," *Conference Papers -- International Studies Association* (2006, 2006): 1-2, http://search.ebscohost.com/login.aspx?direct=true&db=poh&AN=27206010&site=ehost-live.

civilians, the likely rationale for choosing such strategies, and that as a strategy, it is not effective at winning wars.[100]

What is most interesting about the studies conducted is the wide range of results that these studies came up with. It is generally accepted that democracies are less likely to deliberately target civilians, however it has been noted that in no way does the mere fact a state is democratic preclude the commission of atrocities against civilians. In fact, both Valentino, and Downes agree in this regard[101]. In a long, attritional conflict, states are likely to target the civilian population, especially when an insurgent is popular and draws its strength from that population.[102]Downes goes further, and suggests that the indiscriminate killings of civilians in guerrilla wars can be quite successful, but only when it occurs in amongst sufficiently weak insurgencies who do not offer a realistic alternative to the in place force.[103]

Pape, Valentino, and Downes, in separate works have highlighted the inefficacy of aerial bombings against civilians in changing the course of a war.[104] The examples cited are from the Second World War and highlight the effect of the bombings was the opposite of the sought effect– a hardened enemy civilian resolve, and retaliatory attacks against its own civilian population. Since the attacks had sought to reduce the enemy's

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[100] Alexander Downes, "Killing (Civilians) to Win? some Preliminary Evidence on the Military Effectiveness of Civilian Victimization in War," *Conference Papers -- International Studies Association* (2008, 2008): 1-52, http://search.ebscohost.com/login.aspx?direct=true&db=poh&AN=42974054&site=ehost-live.

[101] Valentino, Huth and Balch-Lindsay, *"Draining the Sea": Mass Killing and Guerrilla Warfare*, 275-407. ; Downes, *Killing (Civilians) to Win? some Preliminary Evidence on the Military Effectiveness of Civilian Victimization in War*, 1-52.

[102] Valentino, Huth and Balch-Lindsay, *"Draining the Sea": Mass Killing and Guerrilla Warfare*, 275-407.

[103] Downes, *Hypotheses on the Effectiveness of Civilian Victimization in War*, 1-41.

[104] Downes, *Killing (Civilians) to Win? some Preliminary Evidence on the Military Effectiveness of Civilian Victimization in War*, 1-52. ; Valentino, Huth and Balch-Lindsay, *"Draining the Sea": Mass Killing and Guerrilla Warfare*, 275-407. ;

morale to the point that the population forced its government to seek a quick end to the conflict, the strategy can only be seen as a failure.[105]

In fact, in a series of papers spanning most of the last decade, Downes has outlined his position that neither democracies, nor liberal norms reduce the likelihood of what he calls "civilian victimization." He defines civilian victimization as the deliberate targeting of civilians or the use of weapons which are so indiscriminate that civilian casualties are inevitable. Interestingly, he includes both direct kinetic action as well as harm caused by such methods as economic sanction and blockades if these methods are meant to affect the civilian population as opposed to only the military or government.[106]

Downes argues convincingly that the best predictor of a combatant embarking on a campaign targeting civilians is the increase of cost in the overall conflict. He explains that the cost of war is the number of military casualties or the length of time it will take (or be expected to take) to reach one's objectives. An increase in the cost requires a strategy to mitigate that cost, and it can be argued that one way to do this is to target civilians. Such costly wars are often wars of attrition, wars where an attacker is disadvantaged due to the defensive capabilities of the defender, or when the aim of the war changes over time.[107]

To these examples, he added a fourth, the "cleansing" of a territory to be annexed, thus reducing the future costs of policing and controlling the territory. In a subsequent paper, Downes concludes that of these reasons for cutting costs by targeting civilians, only the fourth example appears to have a high correlation with overall success in the

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[105] MacIssac, *Voices from the Central Blue: The Air Power Theorists*, 635.
[106] Downes, *Hypotheses on the Effectiveness of Civilian Victimization in War*, 4.
[107] Ibid.: 7

war, and even then it only has a high correlation as it is a product of the victory, rather than the cause of the victory.[108] If nothing else, then, Downes' work shows that there will be many pressures placed upon military commanders to reduce the cost to their own troops at the expense of the safety of noncombatants. It cannot be stressed enough though, that the targeting of civilians is not a sound strategy.

The pressures that commanders face have, for example in the Second World War, come from both outside the military and from within. Western politicians sought as quick a defeat of the German Reich as possible, and were more than willing to accept a high level of enemy noncombatant casualties to achieve it. Roosevelt and Churchill both implemented strategies which looked to destroy German morale by deliberately targeting German cities, though only the British policy was explicitly implemented as such by its air force.[109]

Similarly, at the same time, commanders have sought ways to reduce their own numbers of casualties. In the Second World War, though the US Army Air Force officially sought to conduct only precision bombing of military and key production nodes, in practice, the USAAF actually conducted inaccurate and indiscriminate bombing of these military targets using munitions designed for civilian targets and not hardened military targets.[110] This practice was adopted after the USAAF received devastating losses against the more effective German Luftwaffe in the summer of 1942. As the costs of the prosecution of the war increased, new methods of waging the war needed to be

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[108] Downes, *Killing (Civilians) to Win? some Preliminary Evidence on the Military Effectiveness of Civilian Victimization in War*, 5.

[109] Downes, *Democracy and Civilians in War: American and German Bombing in World War II*, 1-39.

[110] Ibid.

adopted. Is it realistic to expect a commander to incur risk for his soldiers, sailors and airmen while refusing to impose similar risk upon the enemy civilian population?

Conclusion

So how can one prosecute a war, while guaranteeing the right to life for all of those within your battle space? It is impossible. To cope with the procedural requirements expected to meet domestic regulations when using force threatens the very ability of a fighting force to function. Likewise, a single misstep can have disastrous public affairs consequences. It is possible, however, to mitigate those risks, be they threats of prosecution under IHRL for events legal under IHL, or the challenges posed by operating in a media-saturated environment.

The 1939-1945 war was a watershed for much of the western world's understanding of the conduct and morality of war. The horrors inflicted by both sides led to drastic changes in the accepted law of armed conflict, and saw the birth of what has become international human rights law. That notwithstanding, the pressures which caused the deaths of so many civilians in that war have not disappeared. The longer a war or the more soldiers killed or expected to be killed, and the greater the pressure will be to accept higher levels of civilian casualties. While these pressures can be understood, they must be resisted – they are not effective war-winning strategies.

It essential, then, that from the start of any campaign, commanders are aware of the level of political and strategic tolerance there is for either a long war, or for a high military casualty count. Either option may be avoided by accepting a greater level of tolerance of civilian casualties during the conduct of operations. This may not in fact be the preferred choice, however, depending on the nature of your involvement in the

conflict, especially if you have become involved to "protect the civilian population." Technological advances, like the additional legal concerns created by the European Court rulings mentioned above, will often provide additional incentive to protect the population. As we move further into the twenty-first century, this will become increasingly true.

CHAPTER THREE –TWENTY-FIRST CENTURY WARFARE

Introduction

War is a difficult subject to understand at the best of times; to predict its future form is that much more problematic. It is safe however to assume that conflicts will occur, and that some clues can be gleaned from recent conflicts to help us prepare for future ones. To that end, it is possible to examine the three most recent conflicts to illustrate and inform this discussion.

The wars in Iraq (2003-2011), Afghanistan (2001-Present) and Libya (2011) serve as both the West's most recent conflicts, but also represent an entire spectrum across which it is possible to draw lessons. The Iraq war consisted of a quick and devastating conventional inter-state conflict between a peer and a near-peer rival. After only six weeks, the Iraqi regime had been overthrown, and coalition combat operations ended. In Afghanistan, the war began as with the provision of Special Forces support to one side of an intra-state conflict, and Libya ostensibly consisted of the provision of air and naval support to protect an indigenous civilian population which was being mistreated by their own government.

From these three conflicts, one can extrapolate situations which can be expected in the short to mid-term. It is safe to say that it will be more difficult to conduct the business of warfare in coming decades. Differentiating between combatants and civilians will continue to be a challenge, which will only be aggravated by the advent of technologies which increase the distance between "weaponeers" and their targets, and the pervasive nature "new media" which will record and broadcast mistakes instantly and

widely. To be successful, the commander will need to use these very restrictions to their own advantage.

First, though, it will be important to understand the theories which have arisen around counter-insurgency operations, as they played a key role in shaping coalition doctrine before and during the Afghan and Iraq wars. As in Libya, there existed a significant popular or insurgent movement which characterized the conflicts. It is therefore likely that a future war will have some element of Counter-insurgency (COIN) theory which will apply; it should also be noted that COIN theories tend to more closely consider the population than do other military theorists.

COIN Theory

COIN warfare is possibly the most difficult arena in which to avoid civilian casualties. It is also, however, the arena in which it is most important to do so. As Mao called the civilian population the sea in which the insurgent fish swim, the difficulty of differentiating combatants from the general public is apparent.

Likely for this reason, the number of civilian casualties in COIN operations has tended to be quite high. In fact, many of the efforts to overcome insurgencies in the second half of the twentieth century were particularly known for the abuse and wholesale slaughter of civilian populations. In the Dutch East Indies, Algeria, Kenya and Afghanistan, the numbers of civilian casualties were high, and the regimes in place used especially brutal methods to try and regain control of the populations involved.[111]

Population-centric COIN theory holds that the civilian population is actually the central issue to the success of any insurgency or counter-insurgency campaign. Efforts

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[111] Jan Van der Meulen and Joseph Soeters, "Dutch Courage: The Politics of Acceptable Risks," *Armed Forces and Society* 31, no. 4 (Summer 2005, : 537-558.

are made to secure the population, and thereby isolate it from the enemy. The key question to the argument presented by this paper is how a commander should treat that population. It follows, then, that special care needs to be taken by commanders to ensure that their actions in this regard match the expectations they have created within the population. Leadership of COIN operations, then, is possibly the most difficult military activity. This chapter will highlight the necessity to align action with civilian expectations, or promise.

It is important to note, that for ease of understanding, throughout this chapter, a differentiation will be made between the civilian populations involved in a conflict. The term "domestic population" will refer to the civilian population which is not experiencing fighting within their own borders. Likewise, the term "indigenous population" will refer to the civilian population of the country or region in which the insurgency is occurring.

Before describing COIN theories, it would help to first discuss the insurgent and his strategy. Former Australian Infantry officer and special adviser to the commander of US Forces in Iraq, David Kilcullen describes the insurgent's basic strategy in the "PIPE" model, where he says that the insurgent uses the tactics of provocation, intimidation, protraction, and exhaustion.[112] In this model, the insurgent is trying to provoke the government into a violent response, which will serve to alienate the indigenous population, and intimidate any indigenous population cooperating with or working for the government. As the indigenous population begins to be separated from the government, the insurgent attempts to conduct operations that allow it to preserve its own strength

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[112] David Kilcullen, "Counterinsurgency in Iraq: Theory and Practice, 2007 " harmonieweb, http://scholar.googleusercontent.com/scholar?q=cache:OtjLUXnW6UgJ:scholar.google.com/+provocation,+intimidation,+protraction,+exhaustion&hl=en&as_sdt=0,5&as_vis=1 (accessed April 18, 2012,

while making the COIN forces expend increasing amounts of effort to conduct activities that are secondary to the mission itself.

In this way, the insurgent seeks to drive a wedge between the government forces and the public it is ostensibly there to protect. At the same time, the insurgent seeks to make the investment of time and money into COIN operations as being too expensive to pursue over the long run. This can be seen today in the modern Afghan proverb which states that westerners "may have the watches, but the Taliban have the time." Clearly, then, patience in this aspect is clearly a virtue; it must be noted that patience is required not only for commanders who wish to avoid being provoked into an overly harsh and counter-productive response as well as to the domestic population whose support is also necessary to any COIN campaign.

Mao, the father of modern insurgency theory, also had a similar prescription for the insurgent,[113] as did the urban, or "focoists" such as Guevera or Marighela, though all three differed on the pre-requisites for the start of the insurgency campaign itself.[114] Maoists will begin by developing the support among the indigenous population before beginning their campaign of provocation and intimidation. Focoists, on the other hand believe that they can create the needed indigenous popular support after the government has over-played its response, and in doing so alienated the public. Regardless, once the violence has begun, it will largely follow Kilcullen's PIPE model.

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[113] John Shy and Thomas W. Collier, "Revolutionary War," in *Makers of Modern Strategy*, ed. Peter Paret (Princeton, NJ: Princeton University Pess, 1986), 840.

[114] Che Guevara, *Guerrilla Warfare* (Lincoln: University of Nebraska Press, 1998), xii-xiii, 77.

The three major schools, as identified above, are divided by what each theory holds to be the center of gravity or essential part. The enemy-centric authors, typified by Ralph Peters, a former US Army intelligence officer, tend to view terrorists as being either "political" or "apocalyptic" terrorists. The former may be possible to deal with, but with the most hardened, as with the apocalyptical, or religious, terrorists we need to "wipe them out."[115] While one may choose to argue the practicality of this line of reasoning, that a religious zealot-terrorist cannot be reasoned with, and therefore must be killed, it is important to recognize that such a response would appear to play into the insurgent's desired response to provocation. For that reason, it is not necessarily helpful to frame the problem as a clash between civilizations or religions.

After all, in most insurgencies, the clash is between members of the same culture or civilization, and the COIN forces are only there to assist the government's efforts to re-establish security. The clash is then amongst members of the indigenous population, and is really a conflict over the population itself, or so the population-centric theorists would argue. David Galula and Roger Trinquier, both veterans of the French efforts to suppress the Algerian uprising, are relied upon by many modern writers. Both stressed the importance of "the unconditional support of the population"[116] to the resultant victory, though there is a considerable gulf between their recommended treatment of the population.

Trinquier was a regimental commander during the brutal Battle of Algiers in 1957, and it is likely here that he developed his belief that "[c]ertain harsh actions…"

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[115] Ralph Peters, *Wars of Blood and Faith: The Conflicts that Will Shape the Twenty-First Century* (Mechanicsburg, PA: Stackpole Books, 2007), 6.

[116] Roger Trinquier, *Modern Warfare: A French View of Counterinsurgency*, trans. Daniel Lee (Wesport CT: Praeger Security International, 2006), 6.

such as torture may be necessary.[117] He does, however point out that these actions may not be appreciated "by a sensitive public," and that the enemy will attempt to exploit these for his own purpose. To this he proposes that forces must be disciplined, "to prevent wanton acts."[118] Discipline can be maintained through the quick and public use of the military justice system to punish any, and all, who overstep their authority.

Galula, on the other hand was a company commander deployed in the rural Kabilya area in 1956-1958, the same time that Trinquier served in Algiers. This region is where the original insurgency had incubated and hatched in 1954. In a paper written in 1963 for RAND, outlined both the pre-requisites for an insurgency to occur, and a general plan for the conduct of the COIN operation.[119] Despite his relatively junior rank (a captain commanding a company), his writings have resonated with modern American theorists more than any other.

Galula's pre-requisites for an insurgency, cause, perceived government weakness, geographic environment, and external support, in order of priority, show that the indigenous population, and to a lesser degree, the domestic population are central to the insurgency.[120] It is the grievances of the indigenous population that serve as a breeding ground for insurgents. The indigenous population's perception of the relative ability of the government to provide for it and to deal with a revolt will colour the insurgent's decision to act.[121] Also, the domestic population's attachment to the issues related to the indigenous grievances will shape the government response, as well as any external

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[117] Ibid., 40
[118] Ibid., 40
[119] David Galula, *Pacification in Algeria, 1956-1958* (Santa Monica, CA: RAND Corporation, 2006).
[120] Guevara, *Guerrilla Warfare* , 10.
[121] Galula, *Pacification in Algeria, 1956-1958*

support that may be made available to insurgents. Importantly, the terrain is next to last in importance, contrary to conventional wisdom and tactics.

Both Galula and Trinquier, however, did largely agree on the broad outlines of how to conduct COIN. They saw the priority as being the isolation of the insurgent from the population through the identification of the causes of the insurgency, broad use of "police work"[122], and the sealing of borders to deny the enemy safe haven and resupply from external sources.[123] Both gentlemen also stress the need for what is now termed a "comprehensive" or multi-disciplined approach to put in place the various political, social, economic, and security institutions needed to restore the country, and the need to actively counter enemy propaganda.[124] In fact, much of their theories have been included in the recent US joint publications on Counterinsurgency.

The third or leader-centric school, largely espoused by Mark Moyar describes COIN as being a struggle between elites. Once these elites are convinced, the majority of the population will follow that elite to one side or another. Moyar's premise is that it is possible to deliver the population by convincing some of both the enemy and the neutral "fence sitters," to switch sides, and actively support the government. He holds that at the same time some elites are being convinced, it may be necessary to remove, or destroy others that are unwilling or incapable of changing sides.[125] In many ways, this assessment is correct, and is paralleled in numerous advertising and psychological research efforts of the last fifty years.

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[122] Trinquier, *Modern Warfare: A French View of Counterinsurgency*, 40.
[123] Galula, *Pacification in Algeria, 1956-1958*
[124] Trinquier, *Modern Warfare: A French View of Counterinsurgency*, 40.
[125] Mark Moyar, Donald Kagan and Frederick W. Kagan, *A Question of Command: Counterinsurgency from the Civil War to Iraq (Yale Library of Military History)* Yale University Press.

As well formulated as this concept may be, it is should not be seen as the only method to deliver success. After all, this struggle is centered on the population, and the ways to gain its support. Therefore, it is important to consider the elites among but not as the main objective, but as one of several levers which must be manipulated to achieve the overall goal. As such, these theories work well in support of many of the concepts outlined by Galula, and Kilcullen and Trinquier, among others.

Perhaps a better way of considering COIN leadership is that espoused by noted Israeli military historian Martin Van Creveld, who holds that "[t]he core of the difficulty is neither military or political, but moral."[126] Van Creveld holds that when required, government security forces must be hard, quick, and unapologetic. At the same time, he holds that soldiers and leaders must be disciplined to a fault. In this, his writing is reminiscent of Trinquier, who also espoused brutal action, but a strict and public discipline.

Population, or more precisely the support of the indigenous population, is undoubtedly the center of gravity for any COIN campaign. The key to reaching that popular support though, like in most military activities resides in the exercise of leadership. Specifically, the exercise of leadership by our own commanders will be central to the outcome of the campaign. Those outcomes will be determined by the very trait that makes a military force: discipline. It will be the discipline of the soldiers who treat the population firmly, but fairly, and exercise force, but never abuse it that earns the respect and support of the population. It will also be the public acknowledgement and punishment of any who break that discipline that will carry the day.

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[126] Martin L. Van Creveld, *The Changing Face of War: Combat from the Marne to Iraq* (New York: Ballantine Books, 2008), 269.

The Impossible Trilemma

In economics, there is a commonly recognized problem, where a market is given three options which may be pursued, but only two of which may be in effect at any given time. This trade-off is known as an "impossible trilemma," and Lorenzo Zambernardi argues that such a three-way situation exists in COIN. He sees, as in figure 3.1, the three options facing a COIN commander as being 1) protection of one's own forces; 2) distinguishing between combatants and lawful combatants; and 3) the physical destruction of insurgents. If a COIN campaign can only achieve two of the three options, it must choose to forego one option.[127]

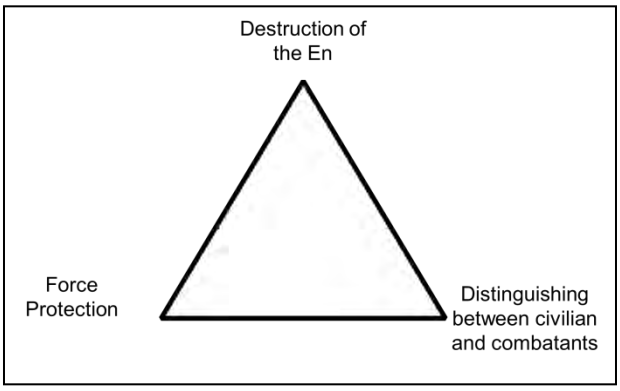

Figure 3.1. The ZambernardiModel, or "Impossible Trilemma"
Source: Lorenzo Zambernardi, "Counterinsurgency's Impossible Trilemma." p 22.

Ideally the choice will be the one that is least unpleasant; but no option is truly attractive. As Zambernardi explains, democracies especially make a special effort to demonize their enemy to justify the military intervention in the first place[128]; to negotiate

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[127] Lorenzo Zambernardi, "Counterinsurgency's Impossible Trilemma," *Washington Quarterly* 33, no. 3 (Summer2010, 2010): 22, http://search.ebscohost.com/login.aspx?direct=true&db=mth&AN=51744099&site=ehost-live.

[128] Ibid.: 24-25

with the enemy will nothing but scorn, similar to that faced by Jack Layton.[129] Likewise, western governments do not want to be seen as killing civilians indiscriminately. Of course, it can easily be argued that governments do not lightly commit soldiers to a task, and that they must only do so after offering soldiers a suitable level of protection. Recent scandals in the UK over the suitability of military equipment provided to the British soldiers in Helmand province highlight this point.[130]

So which of the three unpalatable choices is best? Let us begin by examining each choice, and its effect on the population. First, by not distinguishing combatants from non-combatants, COIN warriors will hurt their relation with both the indigenous and domestic population, if one accepts that the domestic population will over time lose confidence in any campaign that continuously causes civilian casualties.[131] For the indigenous population, the effect of such a policy is twofold. The insurgents will gain support from those members of the population who lose non-combatant friends and relatives in this way,[132] and the government's effectiveness as protector and provider for its people will be significantly reduced. Using Kilcullen's model, these government attacks provide the provocation that build popular insurgent support; with a lower domestic popular support, the COIN forces feel the reduced political will for a protracted fight.

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[129] "Afghan War Debate Haunts all NATO Partners " *The Vancouver Province*July 6, 2007, (accessed 4/18/2012).

[130] "The Real Scandal is Not Hacking but Helmand," *The Telegraph*July 17, 2011, 2011 (accessed 5/7/2012).

[131] Eric V. Larson and Bogdan Savych, *Misfortunes of War Press and Public Reactions to Civilian Deaths in Wartime* (Santa Monica, CA: RAND, 2007). Eric Larson explains that the US population tends to believe that US military commanders make an effort to avoid casualties. Their research has shown, however, that as more instances of civilian casualties become apparent, that this level of trust declines, as occurred after the bombing of the Chinese Embassy by US warplanes during the Kosovo campaign in 1999.

[132] Zambernardi, *Counterinsurgency's Impossible Trilemma*, 23.

The issue of force protection is also an interesting one. Soldiers have unlimited liability, and be the very nature of their profession, risk their lives for the accomplishment of objectives.[133] Despite this fact, it is difficult for soldiers to accept that in a war, the value of their life is less than that of a civilian, especially in conflicts that are seen as being "wars of choice" instead of "wars of necessity."[134] When wars are not existential in nature, it is difficult to understand the overriding necessity to trade Canadian, or any other nations', lives for this particular conflict. The dissatisfaction that results from wounded and dead soldiers among the domestic population erodes political support for the COIN effort; this dissatisfaction at home only grows as the fight continues over time.

This perceived tradeoff, between the life of a soldier and of a civilian, is largely a falsehood. Using Zambernardi's model, displayed below as Figure 1, we can see that it is not a binary choice, but rather one of three choices. As described above, neither the indiscriminate killing of civilians, nor a large "butcher's bill" is an acceptable outcome. The third option, then, needs to be considered.

The physical destruction of insurgents then must at least be considered as more palatable than either of the other options previously dismissed as being too costly in terms of indigenous and domestic popular support. If at first glance, this is the least desirable option, it becomes, especially as a conflict becomes "drags on," the most feasible. The reasons why it is resisted are interesting enough to bear some scrutiny.

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[133] *Duty with Honour: The Profession of Arms in Canada* ([Ottawa]: Canadian Forces Leadership Institute, 2009), 10.

[134] Zambernardi, *Counterinsurgency's Impossible Trilemma*, 25.

First, as mentioned above, the political imperative created by the "demonization" of the enemy is somewhat self-evident. A second, and less obvious reason may be identified is the military's predilection for force-on-force operations. Modern armies have been trained extensively for conventional combat against peer or "near peer" foes. In particularly poignant passage, Nagl describes the US involvement in Vietnam as "the triumph of the institutional culture of an organization over attempts at doctrinal innovation and the diminution of the effectiveness of the organization at accomplishing national objectives."[135] He goes on to say, citing Andrew Krepinevich that the US Army refused to learn because it had "a Jominian vision of the object of warfare as the destruction of the enemy's forces."[136]

In the Second World War, the US and Japan were also committed to a high casualty course of action by the US's signaling of a strict requirement for unconditional surrender. The Japanese understanding of exactly what those terms could be resulted in a choice between the high risk to US soldiers incurred in an invasion of the Japanese home islands, or, the ultimate result, a massive destruction of the civilian population, as displayed in figure 3.2.[137]

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[135] John A. Nagl, *Counterinsurgency Lessons from Malaya to Vietnam: Learning to Eat Soup with a Knife* (Westport, Conn: Praeger, 2002), 115.

[136] Ibid., 116

[137] D. Clayton James, "American and Japanese Strategies in the Pacific War," in *Makers of Modern Strategy: From Machiavelli to the Nuclear Age*, ed. Peter Paret (Princeton, NJ: Princeton University Press, 1986), 725.

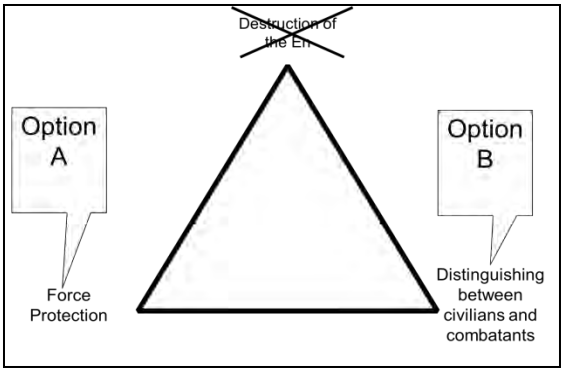

Figure 3.2. The Zambernardi Model applied to the Second World War in the Pacific

Canada is, at least as much as any other nation involved in Afghanistan equally guilty of both examples in the paragraph above. Our own rhetoric has made it impossible to advocate dealing with the "scumbags."[138] It must not be lost on the reader that our own Chief of Defense Staff described the Taliban as "detestable murderers and scumbags" who would attack Canada if our soldiers didn't take the fight to them first. This attempt to make this war one of necessity in the domestic populations mind has set much of the tone for all subsequent debate on Canadian involvement in the war.

Likewise, despite our claims to be interested in gaining the support of the indigenous population, in practice we have remained overly fixated on both our own force protection, and the destruction of the enemy. Throughout the Canadian operations in the South of Afghanistan from 2005 to 2011, with few exceptions, Canadian forces remained in well-fortified bases, and only ventured forth to conduct aggressive "raids as

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[138] "Helping Afghanistan Will Protect Canada, Says Top Soldier - Canada - CBC News " http://www.cbc.ca/news/canada/story/2005/07/15/hillier-attack050715.html (accessed 4/18/2012, 2012).General Rick Hillier, was the Canadian Chief of Defence Staff at the time, and was a former Commander of the International Stabilisation Force (ISAF) in 2003-2004.

well as kinetic actions in armored [sic] vehicles with frequent use of strikes by warplanes."[139]

Similarly, Canadian military involvement in both the Provincial Reconstruction Team (PRT) and the Operational Mentor Liaison Team (OMLT) were significantly reduced more than a year before the end of Canadian "combat operations" in June 2011. These two organizations were created for the explicit purpose of developing those other parts of the multi-disciplinary solution to insurgency. Both were created with a view to correcting the Afghan government's perceived ineffectiveness and thus earn the support of the indigenous population. In many quarters of the Canadian Forces, the lessons learned in this war will have been the use of kinetic force to destroy insurgents[140], and not how to develop a plan to systematically win over the population, and in so doing, destroy the insurgency itself.

If, to use Nagl's metaphor, militaries founder on the rocks of their own training and experience when conducting COIN[141], what can be done to correct the course that has been set? Ideally, the rhetoric that creates the political impasse must be curtailed if not avoided completely. The need to "sell" a mission to domestic populations will always be extant. We must make sure that we do not oversell it, if only to preserve the ability to offer our commanders the freedom to manoeuvre. By so doing, we preserve the opportunity to ensure that our objectives line up with the methods we are actually able to use.

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[139] Zambernardi, *Counterinsurgency's Impossible Trilemma*, 27.

[140] Colloquially, several field grade officers openly refer to the kinetic fight in Kandahar during this period as the "Big Sexy," and by inference the professionally attractive part of our experience there.

[141] Nagl, *Counterinsurgency Lessons from Malaya to Vietnam: Learning to Eat Soup with a Knife* , 116.

Interestingly, there may be ways to reframe the constituent elements of the impossible trilemma. If the items are considered differently than they are now, it may possible to accept more risk in one apex, thus finding ways to achieve the impossible trilemma after all. One such example was used by the then Commander of US and NATO forces in Afghanistan in 2009. General McChrystal issued a Tactical Directive which said that increased force protection might be gained by accepting a lower level of force protection.[142] This paradox is based on the notion that by being less protected from kinetic attack, soldiers would be better able to interact with the local population and make better distinctions between civilians and insurgents. Soldiers would thus gain the support of the population, making insurgent attacks less likely. If this apex can be re-imagined, then it may be necessary to do the same for the other apexes.

Twenty-First Century Conflict

Over the past thirty years, the technology of war has greatly increased. As described in chapter two above, these advances have been in three main areas: 1) the sheer kinetic power and range over which and with which a target can be destroyed; 2) the raised expectations that we have created; and 3) the civilian public's ability to disseminate information quickly and broadly. The effect of having fully autonomous weapons in the battlespacecan be added to these three areas.

Accuracy has been the hallmark of indirect weaponry for at least the last twenty years, since the term "precision guided weaponry" entered the modern lexicon.At no time has the need for accurate weapons been higher. As the commander of Operation Unified Protector, the 2011 NATO campaign in Libya, recently claimed, "[w]e have to be able to

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[142] Stanley McChrystal, *Tactical Directive* (Kabul, Afghanistan: International Security Assistance Force, 6 July, 2009), 1-2.

operate in an environment where targets will be between two buildings […]between a school and a hospital."[143] Many targets during the Libyan campaign were in fact located in the midst of dense civilian populations; the ability to accurately and precisely destroy those targets while preventing nearby civilian injury was paramount to the mission's success.

Similar technological advances that allow accuracy have allowed targets to be engaged from a much greater distance. The range of artillery fires can be more than 40 kilometres from the gun. As the distance between the target and the person controlling the weapon increases, it is reasonable to expect that the weaponeer's situational awareness may degrade enough that he can no longer properly engage the targets he faces.

The use of precision munitions and advanced weaponry has actually been used to reduce the amount of collateral damage caused in each attack. On the surface this then is a nod to the third apex of Zambernardi's triangle. Unfortunately the ability to kill a precise target does not mean that the effort was made to ensure the target was in fact a combatant. To do that, it will still be necessary to risk either a measure of force protection to verify the nature of a target, or forego that chance to kill the enemy.

Drones or unmanned aerial vehicles (UAV) are piloted remotely from bases that can be hundreds of kilometres, or even on another continent from their target. The United States Congress gave its Department of Defense the goal of having up to one third of their deployed forces being unmanned by 2015. This target has been somewhat modified over the last decade, but there remains a significant effort to dramatically increase the

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[143] Lee Berthiaume, "Canada Needs More Accurate Bombs, Says Head of Libya Mission " *Montreal Gazette*February13, 2012, 2012 (accessed 2/15/2012).

number of unmanned systems in use, and to increase their range of situations in which they can be employed.[144]

The main drawback to the use of drones is the fear that the process will be automated to the point that the drone will be able to engage targets on its own. The US Department of Defense has said that this will not be the case as a human will remain as the final link in the chain that decides whether or not to engage a specific target. It must be noted, though, that as soon as all "legal, rules of engagement, and safety concerns have all been thoroughly examined and resolved," they will fully automate their wepons systems.[145]

Lieutenant-General Bouchard's viewpoint on this matter is especially relevant. During the Operation Unified Protector, he led a campaign which used almost uniquely indirect fires against an enemy that operated and hid among its civilian population. During this campaign, which lasted over six months, he encouraged his pilots and crews to exercise "courageous restraint"[146] when engaging targets, as Gadhafi Loyalist forces often "would often be… position[ed] in civilian population centres… we didn't have much room to manoeuvre to hit those specific targets."[147] Because of this restraint, significantly fewer casualties resulted from the campaign. Still, it is estimated that 100 civilians were killed by NATO airstrikes, and the International Criminal Court has begun an investigation in response to the demands of human rights organizations.[148]

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[144] James R. Clapper and others, *FY2009-2034 Unmanned Systems Integrated Roadmap* (Washington, DC: Department of Defense,[2009]), http://www.acq.osd.mil/psa/docs/UMSIntegratedRoadmap2009.pdf (accessed February 10, 2012).

[145] Ibid.

[146] LGen Charles Bouchard, Personal Communications, 2012.

[147] Berthiaume, *Canada Needs More Accurate Bombs, Says Head of Libya Mission*

[148] Ibid.

As weapons become autonomous, once of course the legal and safety concerns have been dealt with a certain measure of force protection may have been achieved. Despite comments to the contrary above, the US' policy paper on unmanned systems clearly states that they are seeking fully automated systems which may be able to operate independently for months or even years with minimal control.[149] Figure 3.3, from that same document, shows the both the timeline and desired attributes for these systems.

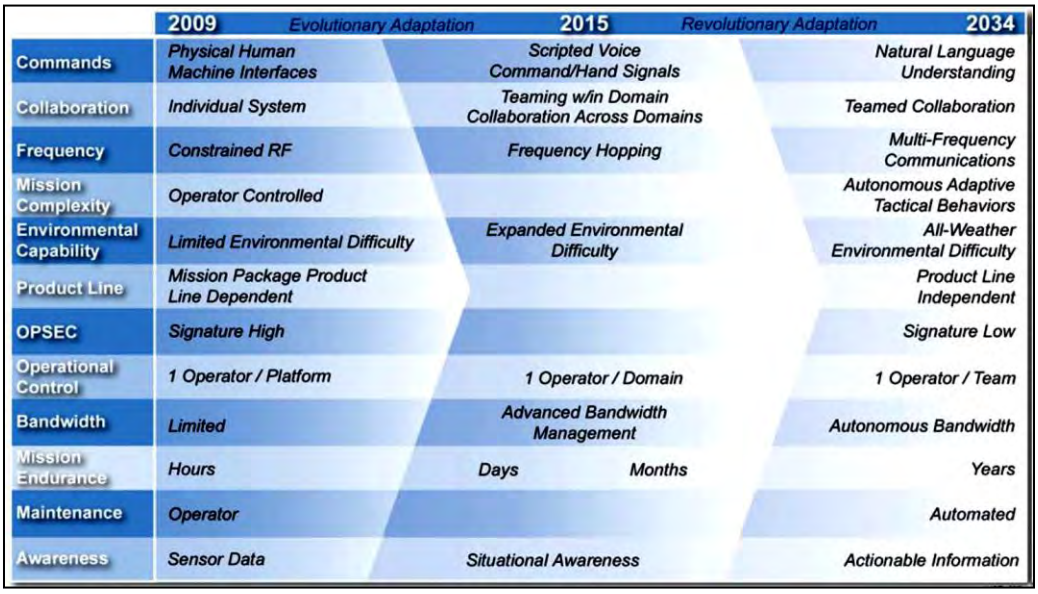

Figure 3.3. The Unmanned System Performance Envelope, 2009-2034
Source: Department of Defence. *The Unmanned Systems Integrated Roadmap*. Washington, D.C. 2009. p 27.

If we look again at Zambernardi's model, autonomous weapons increase the risk of civilian casualties while appearing to increase the level of force protection. By removing a human from the decision loop, there will be a risk that the automated weapon will make the wrong targeting decision, or that it will be programmed incorrectly. Even if it does normally function well, and even target nearly perfectly, any instances that fall within its natural margin of error will leave no human to blame for the error. It is

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[149] Clapper and others, *FY2009-2034 Unmanned Systems Integrated Roadmap*, 27.

impossible to discipline a machine, and both domestic and indigenous populations are unlikely to be supportive of such an error.

What is not readily apparent in this discussion is that these autonomous weapons may actually reduce the effectiveness of the overall campaign by handing the narrative of an attack to the insurgents. Because there are fewer soldiers who will be in the vicinity of a given attack, if involved at all in the decision to engage a target, those given the first chance to exploit the failure will be the insurgents and the indigenous population. If today's population is described as being hyperaware and media-savvy, then it follows that a future population will be accustomed to passing information via their wireless phones, and the message, with accompanying video can be disseminated quickly. By not having personnel in a position where they can learn of the enemy propaganda, or reliably refute those messages, the friendly forces will lose control of the story. Worse, this same tactic can be used in a properly executed action; the truth is only real if it can be proven.

Such is the nature of the information war, that it is important to get the message out quickly, and to be able to prove it.[150] Much of the information war is also fought on the basis of the expectations that are created within the various populations. By raising expectations at how well we will protect a population, or how accurately our weapons can hit a target, one should expect a larger public expression of disapproval when we are proven wrong.[151] The resulting loss of popular support in theatre will result in reduced operational effectiveness;[152] the loss of support at home can result in strategic failure.

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[150] Bouchard, *Personal Communications*

[151] Larson and Savych, *Misfortunes of War Press and Public Reactions to Civilian Deaths in Wartime* , 216-217.

[152] Zambernardi, *Counterinsurgency's Impossible Trilemma*, 27.

Similarly errors may fall under the legal domain, and potentially have just as devastating a result. The increased number of civilians that we can expect to encounter in any future battlespace will result in more, and likely, new legal considerations. Many more civilians are likely to be in the area of conflict, and they will be more difficult to distinguish from the combatants. This will create challenges for commanders who operate in this environment. As we have seen in earlier chapters, the legal context in which civilian casualties are examined ends up being the most recent conflicts. The circumstances by which the casualties occurred will determine how, and if, the legal context needs to change before the next conflict.

The horrors inflicted upon civilians in one war invariably lead to restrictions being placed on future commanders to respect civilians in the next war. In the future, this will occur on two main fronts – through the increased restrictions being imposed in subsequent treaties, or through the increased codification and application of international human rights law (IHRL) in areas traditionally reserved for international humanitarian law (IHL), or more familiarly, the law of armed conflict (LOAC). While both avenues offer potential serious limitations on the commander's ability to use force, the way to prevent such restrictions from being applied will be the same. Commanders must judiciously apply force in order to minimize, if not avoid, civilian casualties. Interestingly, it can be argued that those areas in which IHRL have begun to infringe upon IHL, are areas where force has been exercised inappropriately, and corrective action has not been made, or has been insufficient.[153]

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[153] Marko Milanovic, "Al-Skeini and Al-Jedda in Strasbourg," *European Journal of International Law* 23 (2012), http://ssrn.com/paper=1917395 (accessed January 30, 2012).

The net effect of the changes outlined in chapter two is that extra restrictions have been placed on a commander in two areas of the trilemma model. Clearly, there is an obligation to distinguish civilians from combatants, as there has been previously under the LOAC. Likewise, there are restrictions placed on how and when an enemy may be killed. The standard by which the decisions to use force will be judged will very likely remain the same; that a reasonable commander having the knowledge he possessed at the time of the decision to use force would make the same decision, and respect the principles of distinction, discrimination, and proportionality. Zambernardi, on the other hand would indicate that by codifying those to poles, the third will be sacrificed.[154]

Conclusion

Warfare in the coming century will continue to resemble, in some form, the most recent conflicts NATO and the United States have been involved in. Specifically, civilian populations and the support they offer will continue to be of operational and strategic importance, as well as tactical, and the lessons drawn from COIN conflicts will apply. Through the marvels of technology, the public will be able to be more easily engaged in debate, or express their frustration with the course of events.

Commanders must carefully consider not only what weapons to employ in a given situation, but also how they engage the indigenous population, as they would the domestic audience. To be successful, they will need to maintain a firm, and public discipline. Only by so doing will they earn any chance at converting the population to their position.

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[154] Zambernardi, *Counterinsurgency's Impossible Trilemma*, 22-23.

To that end, a commander and his staff must build a strong working relationship with his Public Affairs officer and his Legal Adviser. These specialist officers are required more than ever to develop a close working relationship with the commander and his staff than ever before. It is recommended that these officers join the staff as soon as possible to allow the development of a comfort level borne of countless weeks spent training and working together. This will allow for the development of strong TTPs to be developed between them, the commander, and the staff at an early stage. In the new operating construct, they will be enablers of the highest order.

The importance of the population is no longer merely the concern of COIN operations, but as will be shown in chapter four, is critical to the success or failure of a mission. Neither will the trilemma posited by Zambernardi will apply in any conflict in which the public is of concern be applicable only in COIN operations. For that reason, it is necessary that one understand the trade-off between force protection, protection of civilians, and the physical destruction of the enemy.

One would do well to remember that the goal is the defeat of the insurgency, not merely the defeat of the insurgent. It is therefore imperative that in the next war, the choice is not rendered moot by overselling the conflict, and demonizing the enemy. These lessons will be drawn out in greater detail in the next chapter, where Zambernardi's model will be used to examine the Afghanistan, Iraq and Libyan campaigns.

CHAPTER FOUR – CASE STUDIES

> *War used to be easy – there was only one battlefield on which we fought. There are now three battlefields on which we fight; the traditional military battlefield, the media and public opinion battlefield, and most recently, the legal arena, or what I refer to as the arena of 'lawfare.' …You can view these battlefields as concentric circles, placed on top of each other, on which we are fighting simultaneously. An action in one arena will certainly have a reaction, possibly unintended in another.*[1]
>
> *Dr. Boaz Ganor,*
> *Director of the Institute for Counter-Terrorism*

INTRODUCTION

As we have seen, the trends that have arisen in technology, the international legal system, and in the conduct of war itself are dramatically different than what had been experienced prior to the Second World War. As Dr. Ganor has suggested, the modern battlefield is much more complex than previously imagined, or was even possible. The three most recent conflicts in which the west has been involved are good examples of this more difficult type of warfare. The interrelation of the legal and media arenas work to heighten the importance of making sound decisions about the trade-offs between the three summits of the Zambernardi triangle.

Each case to be studied in this chapter evolved from a war that was initially fought under different conditions. Afghanistan was initially fought by a handful of special operations forces and coalition air power in support of an indigenous insurgent group. After the quick initial victory, it turned into a protracted counterinsurgency campaign. The Iraq war, on the other hand was initially a conventional war between peer and near-peer forces. After another quick victory, it too devolved into mayhem. The

power vacuum left after the fall of the Hussein regime resulted in a civil war and multiple insurgencies occurring simultaneously.

Libya, on the other hand, consisted of an international intervention to protect civilians who were being attacked by their own government. It too led to the fall of a regime, but western involvement ended shortly afterward. Because it did not include a ground campaign, it was almost exclusively conducted by the application of indirect fires from air and naval forces. Since the cessation of coalition operations in the Libyan theatre, it can be said that while a new central government has been established, there continues to be clashes on the ground between different factions seeking power.

Each case, then used a different method for its original prosecution, and arguably had similar end states. In order to understand the outcomes these conflicts, it is interesting to look at the methods and measures taken to protect civilians in each campaign. The resulting trade-off with either the protection of one's own force or with the ability to destroy the enemy will demonstrate the importance of accepting risk in the other two areas rather than putting the risk onto the indigenous civilian population.

THE AFGHANISTAN CONFLICT

The Afghan conflict began in the aftermath of the September 11, 2001 terrorist attacks on the US by the Islamist terrorist group Al-Qaeda. After these attacks on Washington, D.C. and New York, in which some 3,000 civilians were killed, the US

invoked Article 5 of the North Atlantic Treaty which required the alliance to support the US in its response to these attacks.[155]

Al-Qaeda had used Afghanistan as a base of operations, and was currently housing the group's leader, Osama bin-Laden.[156] US Special Operations Forces (SOF), augmented by air forces and cruise missiles, were used to arrange the overthrow of the Afghanistan government, then led by Mullah Omar and the Taliban.[157] Afghanistan had undergone over twenty years of continuous conflict at that time, with multiple insurgencies, an invasion by the Soviet Union in 1979, and a protracted civil from 1992 until 2001. Though the Taliban had taken control of most of Afghanistan by 1996, a large section of the North of the country remained under the control of a rebel faction.

It was this rebel faction in the north that the US SOF worked with to engineer the overthrow of the Taliban, and to force the expulsion of Al-Qaeda from the country. This relatively small group of American and allied SOF managed to, through the liberal application of western funds, and the judicious use of force, arranged for the complete collapse of the Taliban by the end of the year.[158] After the fall of the Taliban, however, the new government in Kabul was slow to take shape, and the western commitment to stabilizing Afghanistan was significantly diminished by the US decision to go to war in Iraq.[159]

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[155] Ahmed Rashid, *Descent into Chaos: The U.S. and the Disaster in Pakistan, Afghanistan, and Central Asia* Penguin (Non-Classics), 2008), 65.

[156] Steve Coll, *Ghost Wars: The Secret History of the CIA, Afghanistan, and Bin Laden, from the Soviet* (London: Penguin Books, 2004), 9-10.

[157] Rashid, *Descent into Chaos: The U.S. and the Disaster in Pakistan, Afghanistan, and Central Asia* , 62, 74.

[158] Ibid., 96

[159] Bob Woodward, *Plan of Attack* (New York: Simon & Schuster, 2004), 426.

The International Stabilization Assistance Forces (ISAF) of NATO and the US Operation Enduring Freedom (OEF) forces in the country were too few through much of the first decade of the war to be effective. The Government of the Islamic Republic of Afghanistan (GIRoA), led by former exile Hamid Karzai never fully established a nationwide hold on power, or delivered this governance to the rural outlands of the country. Power in much of the country was held by local warlords and tribal factions with their own agendas.[160] Without stability, much of the country was rife for a new insurgency, and by 2006, ISAF faced such a re-born Taliban-led enemy.

The OEF especially, but also several ISAF nations participating in the more volatile regions focussed on offering security to the people by destroying the enemy.[161] This focus on the enemy was only second to a strong desire to provide force protection. As a result, there were numerous instances where Coalition forces either killed civilians during firefights with the insurgents, or during attempts to protect their own forces. Between 2006 and the end of 2011, there were over 12,000 civilians killed in Afghanistan and the insurgency remains a force in to be dealt with in almost every area of the country.[162] Coalition forces are looking to establish the minimum criteria to allow them to leave the country by 2014, without having managed to complete the destruction of the insurgency itself.

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[160] Rashid, *Descent into Chaos: The U.S. and the Disaster in Pakistan, Afghanistan, and Central Asia* , 125-144.

[161] This point is discussed with regard to Canadian operations in Kandahar province in Chapter three.

[162] "Afghanistan Civilian Casualties: Year by Year, Month by Month. Visualised Data | News | Guardian.Co.Uk " http://www.guardian.co.uk/news/datablog/2010/aug/10/afghanistan-civilian-casualties-statistics (accessed 05/01/12, 2012).

Analysis

The Afghan conflict can be characterized in four phases. Initially, the coalition, led by the US used SOF and indirect fires in support of anti-Taliban forces within Afghanistan. After defeating the Taliban government, there was an extended phase where US forces continued to target and kill Taliban and Al-Qaeda fighters, while the rest of the coalition developed a strategy to build enough strength to secure the country's capital before expanding into the rest of the country. The third phase occurred once ISAF began to take over responsibility for security in the rest of the country from the US forces. This period was also dominated by a focus on the physical destruction of the remaining insurgents and the protection of coalition forces from the insurgent threat. The final phase began when sufficient numbers of soldiers were deployed throughout the country to allow the insurgency to be met head on while offering some protection to the population. This final phase, though has also been overshadowed by the finite term that the war will be allowed to take, as an end date has been set for the end of coalition combat operations in 2014.

During the conflict, the use of unmanned aerial vehicles by coalition forces was widespread. The ability to engage targets from these platforms significantly increased the reach of the western forces while drastically reducing the threat to those same forces. Likewise, the electro-optical imaging capability of airborne and space-based sensors greatly increased the ability to find and destroy targets. Unfortunately, the effect of such a distance between the soldier and the target, often on separate continents, decreased the force's ability to positively identify a target as a combatant, while seemingly increasing the ability to do so.

Likewise, the use of media, both traditional TV and radio, and non-traditional forms increased exponentially within the country of Afghanistan. Before the US-led invasion in October 2001, the ruling Taliban had outlawed TV and radio. Afterwards, there were three television networks established in Kabul and the various provincial cities, providing regular information updates to the population. As well, the use of mobile wireless telephones increased dramatically, to the point where the insurgents tried to target and control the cellular networks by 2010.[163] Both sides used the mobile phone networks to pass on information, and at various times, the insurgent's ability to get its message to the public via telephone, internet and radio allowed it to generate the perception that any civilian casualties, even those caused by insurgent-placed IEDs was the result of ISAF actions. This ability to exploit the new media often worked to increase indigenous popular support for the insurgents, and often increasing the size of the insurgency as more people were recruited to fight against ISAF.

The coalition forces, on the other hand were slow to counter insurgent messages, and focussed much of their information campaign on their own domestic audiences, to shore up domestic support for the campaign. Inevitably, such concern with domestic popular support forces the combatant nations' forces to be increasingly concerned about their own force protection. Similarly, the effect of arguing the reasons for remaining committed to the conflict had the effect of demonizing the insurgents. By making the

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[163] During 2009-2010, this author witnessed attacks on the cellular towers in Kandahar province, and experienced daily cellular blackouts after the local insurgents threatened the operators of the Kandahar networks, forcing them to turn off the transmission capabilities throughout the province from 1800-0600 hours daily. This was done, it is believed, to prevent local supporters of the ANSF from reporting on details of the insurgent's nocturnal activities.

Taliban appear so hateful a group, it is not possible to seek an alternative resolution to the conflict other than the complete physical destruction of the insurgents.

During this war, an important consideration took shape as well. By late in the campaign, commanders began to understand the importance of protecting the public.[164] They also began to implement the policy of "courageous restraint," whereby soldiers did not engage enemy positions if there was a likelihood that civilians would be killed or injured as a result. In 2009, the policy in Regional Command (South), the NATO divisional level headquarters which included responsibility for the Kandahar area, required soldiers to refrain from engaging targets which might include civilians in the danger template of their weapons. This direction, while working to gain the support of the indigenous population, also mirrors the *Ergi v, Turkey* ruling of the European Court on Human Rights.[165]

Looking through the lens of the Zambernardi triangle, we can examine the effect of the trade-offs made in each phase of the war. In the first phase, we can see at figure 4.1 that the initial objective was the defeat of the enemy forces. By having relatively few forces on the ground, and negotiating for forces to switch sides, it was often unnecessary to use force against targets in which there was a high likelihood of civilian casualties. If anything, there was a reduced emphasis on force protection, and an indifference to the civilian population. The success of the campaign to that point appears obvious.

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[164] Stanley McChrystal and Michael Hall, *ISAF Commander's Counterinsurgency Guidance* (Kabul, Afghanistan: International Security Assistance Force, 2009), 1-7.

[165] Kenneth Watkin, "Assessing Proportionality: Moral Complexity and Legal Rules," *Yearbook of International Humanitarian Law* 8 (2005): 36.

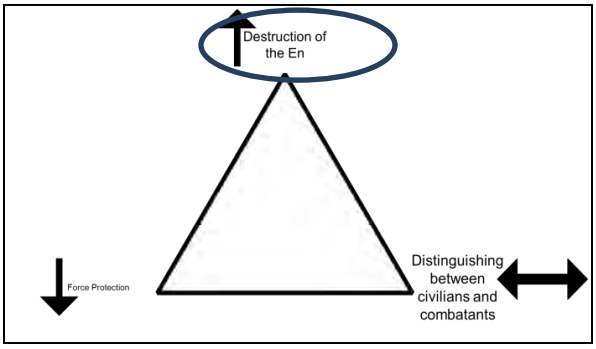

Figure 4.1. The Zambernardi Model in the First Phase of the Afghan War

As the war progressed into the second phase, the US forces focussed on destroying individual insurgents and Al-Qaeda terrorists. The phased ISAF approach to moving into the outlying regions of the country resulted in the indigenous populations' perception that they were once again abandoned by the country's rulers, and by the Western coalition. At the same time, in late 2002 and early 2003, the US and the UK were drawn into the Iraq war, requiring an increased level of force protection by the coalition forces. Militaries were stretched by the simultaneous conflicts, and Afghanistan became a secondary effort for the coalition's largest contributors.[166]

Of course, the use of the internet and other media by insurgents in both Afghanistan and Iraq inarguably led to an increased perception that the western nations were engaged in a crusade against Islamic peoples everywhere. Incidents involving the mistaken killings of civilians in either country served to increase the indigenous population's sense that it was being deliberately targeted by coalition forces.[167] As a result, there were increased numbers of attacks throughout many outlying areas, just as ISAF prepared to expand into those areas.

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[166] Woodward, *Plan of Attack* , 426, 434.
[167] McChrystal and Hall, *ISAF Commander's Counterinsurgency Guidance*, 3.

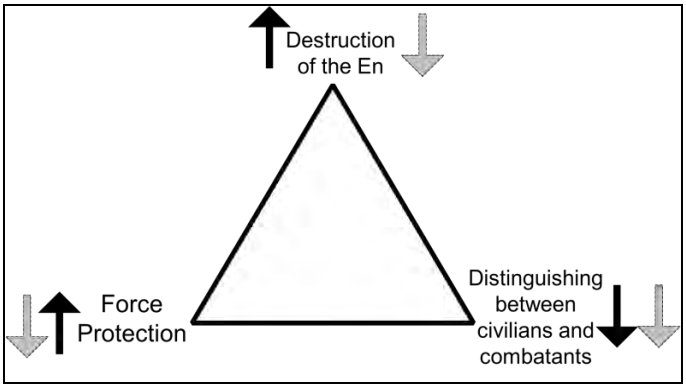

Figure 4.2. The Zambernardi Model in the Second and Third Phases of the Afghan War

The result, at figure 4.2, is that overall effectiveness in all three measures decreased. If we look at the black arrows as being the desired outcome chosen by the commanders, and the grey arrows representing the net effect or perception after the strategy was put in place, the lowered sense of support from the government and coalition forces lead to increased support for the insurgency and more insurgent fighters. This leads to reduced force protection, as the larger number of insurgents is able to more frequently attack coalition forces; likewise, the tendency of coalition forces to operate from armoured vehicles and fortified patrol bases results in a greater separation from the population.[168] The resulting lack of support from the population creates a vicious cycle which results in less and less force protection for the coalition forces.

In the third phase, as ISAF extends its influence throughout the country, it is generally unable to demonstrate to the indigenous population that it is protecting them. Force Protection continues to be a concern, as more forces are placed in harm's way, but the focus of operations on the ground remains on the physical destruction of the enemy. The result remains unchanged from that demonstrated by figure 4.2. In fact, it is only in

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[168] Ibid.

areas like Kandahar that this paradigm is changed in the 2009-2010 timeframe. The commander of Task Force Kandahar, Canadian Brigadier General Jonathan Vance develops a strategy, called the 'model village' where a concerted effort is made to show the local population that ISAF forces, and GIRoA are in fact there to stay.

He accepted a level of risk in the protection of his forces by moving platoon and company sized groups of combat troops into an area such as the village of Degh-e-Bah east of Kandahar city. Once cleared of enemy, the village is occupied by the soldiers living in relatively vulnerable outposts in and around the village. They interact with the villagers as a combined ISAF and GIRoA team work to establish the basic services expected by the population. As the population gains a level of comfort, they actually begin to provide details to the ISAF forces of insurgent activities and supply caches. The insurgents are marginalized in this village as well as in neighbouring districts, while the soldiers experience less threat than before.[169] Figure 4.3 illustrates this 'model village' in terms of Zambernardi's model. All three measures are increased, despite the risk taken by putting soldiers into more vulnerable outposts.

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[169] Assignment Kandahar: Panjwaii's combat outposts,and a midnight patrol, Posted and National Post, "By: Assignment Kandahar: Panjwaii's Combat Outposts, and a Midnight Patrol | Posted | National Post " *Comments on: Assignment Kandahar: Interview with Jonathan Vance, Canada's Top Commander in Kandahar* (Thu, 19 Aug, 2010), http://news.nationalpost.com/2010/08/13/assignment-kandahar-interview-with-jonathan-vance-canadas-top-commander-in-kandahar/.

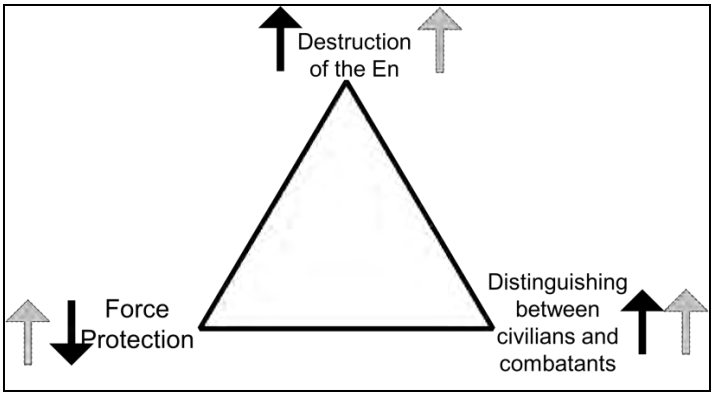

Figure 4.3. The Zambernardi Model Applied to The 'Model Village' Concept

General Stanley McChrystal and General David Petraeus, as commander ISAF, chose to limit the use of force at times when civilian casualties could not be prevented.[170] This follows a similar path as those of the model village. Risk is accepted in both force protection and in allowing the enemy to escape in order to increase the protection afforded to the civilian population. The result ends up being a less effective enemy and less friendly casualties, thanks to the increased support of the indigenous civilian population.

The final phase of the Afghan war sees the dramatic increase in the number of ISAF soldiers, thanks to an American troop surge.[171] Using the model, this creates a lower level of force protection, as more soldiers are risked in the conflict. Unfortunately a number of actions taken by those forces have served to strain the support of the indigenous population. Accidental killings of civilians and mistreatment of the Koran have resulted in a generally less supportive civilian population. Added to that, the alleged deliberate murder of Afghan civilians by an American soldier in the village of Belenday

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[170] Stanley McChrystal, *Tactical Directive* (Kabul, Afghanistan: International Security Assistance Force, 6 July, 2009), 1-2.

[171] Barack Obama, "The U.S. Strategy in Afghanistan," *Vital Speeches of the Day* 76, no. 2 (02, 2010): 65-69, http://search.ebscohost.com/login.aspx?direct=true&db=aph&AN=47883421&site=ehost-live.

(the second of Vance's model villages) in early 2012 has resulted in a much lower public perception of protection by ISAF.[172]

With the announcement of an end date for NATO and American combat operations, the public support of the ISAF mission can only be lower still. The Zambernardi model would predict that indigenous support for the insurgency will grow as domestic tolerance for friendly force casualties diminishes. The result is that the only solution is a negotiated end to the conflict. Unfortunately, the coalition and GIRoA are no longer able to negotiate from a position of strength.

Conclusion

In the Afghan case, the initial success of the campaign can be attributed to the trade-off between force protection and the desire to destroy the enemy. The shift in focus away from the Afghan campaign to Iraq, however, changed the dynamic of the Afghan war. The Zambernardi model demonstrates repeatedly that the coalition efforts to guarantee their force protection while focusing on the physical destruction of the enemy was counter-productive.

In each phase, when the coalition lost its focus on protecting the population, its effectiveness at defeating the insurgency diminished, while it lost ever more soldiers as casualties. It was only in the acceptance of increased risk that the tide turned, either locally as in the model village program, or nationally with the 2009 change in tactical directives by McChrystal. Unfortunately these changes did not have lasting effect as a

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[172] Matthew Fisher, "Bloodbath in Afghanistan's Model Village," *The Calgary Herald*March 12, 2012, 2012, http://www.calgaryherald.com/news/Bloodbath+Afghanistan+model+village/6287068/story.html (accessed May 6, 2012).

number of incidents have transpired that have once again driven a wedge between ISAF and the indigenous population.

This wedge is continually exasperated by the messaging of the various western troop contributing nations which sought to generate support for the war in the face of growing numbers of casualties by portraying the Taliban as "detestable murderers and scumbags."[173] Thus, the same western politicians find themselves in an untenable situation as they are forced to negotiate with the very people they had declared as untouchables. Had more attention been paid to the indigenous population earlier in the campaign, it is possible that the insurgent messaging could have been counteracted effectively, thus creating both the support and force protection to allow the coalition to negotiate from a position of strength.

Finally, some of the lessons of the earlier COIN conflicts are brought home in this case. First and foremost is the importance of gaining the support of the population and protecting it from the insurgent. Second, but also extremely important is the need to maintain strong discipline within the COIN force. The failures of a few continue to have a devastating effect on the outcome of the campaign. Last, the messages delivered by the COIN force are as important as the kinetic effect delivered against the enemy. Be it a domestic or indigenous population that message will either restrict or expand a commander's freedom of action. As we move into the Iraq and Libya case studies, it is important to hold these lessons close at hand.

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[173] "Helping Afghanistan Will Protect Canada, Says Top Soldier - Canada - CBC News " http://www.cbc.ca/news/canada/story/2005/07/15/hillier-attack050715.html (accessed 4/18/2012, 2012).

IRAQ

While the Afghan war was as unconventional in its initial make up, the Iraq war, on the other hand, was extremely conventional in nature. It was designed to quickly defeat the Iraqi government in a wave of targeted strikes and quick manoeuvre to overwhelm the Iraqi ability to respond to the American invasion. Arguably, it worked, though possibly it worked too well. In barely 6 weeks, Saddam Hussein's forces had been destroyed, and the American-led coalition controlled the entire country.[174]

During the invasion, many dual-purpose facilities, including power generation and civilian support infrastructure had been destroyed.[175] While these did not directly target civilians, the result was that the civilian population was deeply affected by the lack of electricity and other utilities. As well, the coalition chose to remove all members of the old regime from power, effectively removing the entire security and public service infrastructure.

With these people forced out, there was no corporate knowledge or organization which could assist in the restoration of services for the public. Shortly after the declaration of victory and the conclusion of 'major combat operations,'[176] the country erupted in violence and multiple insurgencies. Over time, the situation also became one of civil war, as the various factions and insurgent groups fought each other and the coalition forces for control of the country.

After working with the leading ethnic political groups, a negotiated settlement was achieved that allowed for an end to the civil war. There remained a large insurgent

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[174] Woodward, *Plan of Attack* , 412.
[175] Ibid., 401

threat, but as sufficient troops were devoted to the effort, a secure situation was created and the new Iraqi government was able to provide for the basic needs of its population. By the end of 2011, all coalition combat forces had been withdrawn from the country, and though an insurgency still exists within the country, Iraq has been working to deal with the situation on its own.

Analysis

There were significant advances in technology throughout this conflict. Unmanned Aerial Vehicles, both armed and unarmed variants were used extensively by the coalition forces. Likewise, both sides took unprecedented steps to present their version of the conflict to the greater world. The coalition used embedded reporters throughout the campaign to present their message, while insurgents and rebel factions made extensive use of the internet and new media to rally support for their cause.

On the legal front, the extra-territorial applicability of human rights obligations is strengthened after a number of court cases, most notably the *Al-Skeini v Regina* ruling by the European Court of Human Rights. Combined with earlier decisions by that body, it is possible to perceive a reduced influence of the traditional body of IHL upon the application of force in a modern war. The incursion is made possible by the fact that the conflict is no longer an international conflict, but has evolved into an intra-state conflict involving non-state actors. This is a legal grey area not envisioned by the drafters of IHL, and allows for the IHRL rules to be applied. As a result, the imperative for commanders to protect civilians grows stronger at the cost of a commander's prerogative of selecting targets and accepting the risk of some collateral damage being justified to meet the military necessity of the situation.

The war in Iraq can be examined in three phases. First, there was the initial invasion and destruction of the Iraqi regime in a conventional peer/near-peer conflict. Second, there was the simultaneous rising insurgency and civil war. Finally there was the counter-insurgency fight in support of the new Iraqi government.

In the first phase, the emphasis was placed on the destruction of the Hussein regime. In order to overcome what was perceived to be a well-armed and potentially fierce Iraqi military, a strategy was developed that would provide the best option to achieve that goal while risking the least amount of coalition casualties. Using Zambernardi's model, we can see, at figure 4.4, that the chosen strategy emphasized the destruction of the Hussein regime over all, and that the protection of coalition forces was given greater attention than the effect of the strategy on the civilian population.

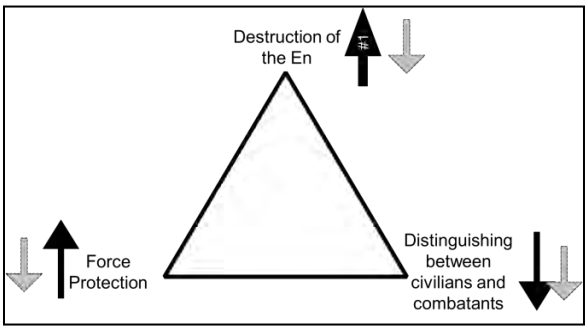

Figure 4.4. The Zambernardi Model in the First Phase of the Iraq War

As in the Afghan scenario above, the general disregard for the Iraqi population iherrent in the conduct of phase one of the conflict led to an insurgency, and over time, popular indigenous support for the various factions fighting for control of the country and notably, for the factions fighting the coalition. As a result, the initially high level of force protection that had been achieved was drastically reduced (Figure 4.5). US and ally casualties reached staggering levels due to the regular use of improvised explosive

devices and direct attacks on coalition bases and supply lines. As well, the inability to find any weapons of mass destruction in Iraq invalidated the original arguments for entering the war. As a result, pressure to reduce Coalition casualties increased, and the arguments for refusing to negotiate with one side or the other vanished.

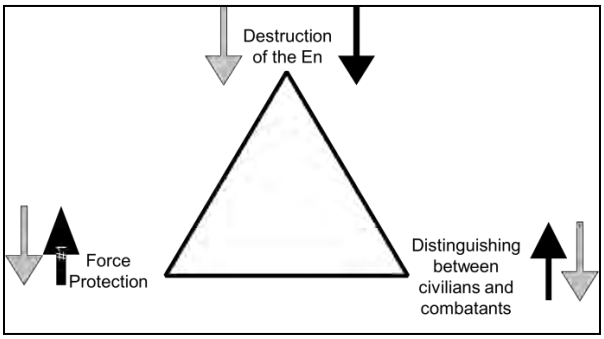

Figure 4.5. The Zambernardi Model in the Second Phase of the Iraq War

In time, the increased attacks on coalition forces resulted in greatly reduced domestic popular support for the overall war effort. There were also numerous examples of abuses by American and coalition soldiers, most notably at the Abu Ghraib prison.[177] The resultant backlash at home and in Iraq itself made the coalition position increasingly untenable.By 2006, the US had developped a new COIN strategy, focused on protecting and gaining the support of the indigenous Iraqi population.[178] This led to a reduced focus on the physical destruction of the enemy, and allowed for the negotiated end to the civil war, and transition to a new Iraqi government.

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[177] Department of Defense, *Final Report of the Independent Panel to Review DoD Detention Operations* (Arlington, VA: Department of Defense,[2004]).

[178] United States of America., *Counterinsurgency*, Vol. FM 3-24 (Washington, DC: Department of the Army, 2006).

The final phase of the war was the COIN campaign in support of the new Iraqi government. It was achieved through the new focus on protecting the Iraqi population, and supported by a massive troop surge. As in the Afghan scenario, the increased troop density though seeming to increase the risk to force protection, actually substantially decreased that risk. Likewise, the high casualty rate drove down the political imperative to physically destroy the enemy. As represented in figure 4.6, the net effect of these decisions was the ability for the US and its coalition partners to exit the conflict altogether.

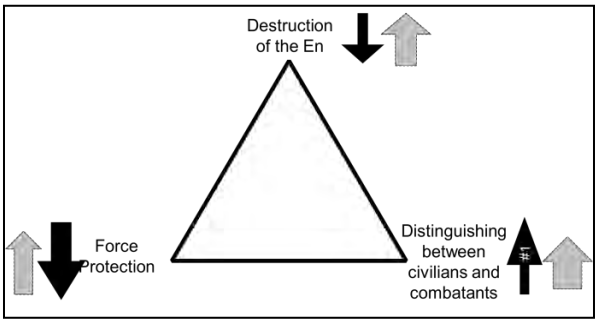

Figure 4.6. The Zambernardi Model in the Final Phase of the Iraq War

Conclusion

The Iraq war is notable for both the effort it drew away from other international affairs, and for the failure of the arguments for the campaign to endure until the completion of the war. The first point is a reminder of the importance of the first principle of war, the selection and maintenance of the aim. By shifting efforts from Afghanistan and elsewhere to the Iraq theatre, momentum in other areas stalled.

The Iraq war demonstrates the ability for a conventional war to devolve into a protracted counter-insurgency conflict. This result was almost inevitable from the start as the operational planners created a situation which ignored and ultimately hurt the civilian

population. By focusing first and foremost on the destruction of the enemy and the protection of their own forces, they caused the resultant insurgency and civil war.

As harsh a condemnation as that may be, the subsequent shift in strategy attempted to overcome the harm done to the civilian population. Added to that was the reduced need to aggressively hunt and kill the enemy after the original arguments were negated. The ultimate US withdrawal extended from that paradigm, as negotiated settlements were possible with the various ethnic and political factions. Finally, sufficient troop numbers allowed the Iraqi government to gain its own momentum.

Key lessons are the need to consider the protection of the civilian population in any type of modern war, be it conventional or not, and the requirement for commanders to understand the lack of definition of the legality of the modern battle space. While IHL applies in conventional inter-state war, the modern intra-state conflict has nuances that allow for the application of both IHL as well as IHRL. This reality reinforces the need for commanders and planners to consider the protection of the civilian population in the conduct of any type of military operation. The Libyan campaign will further reinforce these points, and again demonstrate the need for disciplined forces and courageous restraint.

LIBYA

In early 2011, a groundswell of public demonstrations swept through Northern Africa and the Middle East. In public squares from Tunis to Sana'a, protestors railed against the repressive regimes ruling the Arab states. In both Tunisia and Egypt, the ruling regimes crumbled, and were replaced. In Libya, the ruling Gadhafi clan clung to

power as it had for over fifty years. Public demonstrations in Tripoli and Benghazi came under intense reprisals from the Libyan military.

Eventually, in March 2011, the repression of the civilians was severe enough that the United Nations Security Council issued a resolution condemning the violence. Subsequently, in April, the UNSC authorized the use of force to prevent the use of military force against the Libyan population.[179] This was initially conducted by a US led task force, but the effect of involvement in two other large conflicts meant that the Americans did not have the desire to take the lead overthrowing a third Muslim country in a decade.

NATO established a multi-national operation under the title Unified Protector, and led by the Alliance's deputy commander of its Southern European headquarters in Naples. A Canadian, Lieutenant General Charles Bouchard developed a strategy that sought to destroy any government forces threatening the Libyan public while maintaining aerial and naval embargoes against the government. This campaign was notable in the fact that not only was it created for the express purpose of protecting a population, but also because it involved no land component.

It was also notable for the dissent among NATO allies about the decision to enter this conflict. Several nations refused to support the mission, while others overtly championed it. The tensions caused by this schism threatened to de-stabilize the entire alliance, strained already by the ongoing Afghanistan conflict, and the differing levels of commitment of each member nation to it.[180]

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[179] *The Situation in Libya,* 1973, 6498th sess., (March 17, 2011, 2011): .
[180] LGen Charles Bouchard, Personal Communications, 2012.

Over the course of a little over six months, the allied campaign destroyed the Libyan military, and enabled the overthrow of the Gadhafi regime by a popular movement which developed out of the original civil unrest. Importantly, there were relatively few accounts of civilian casualties arising from the NATO bombing campaign.[181] Targets were routinely rejected if the threat of collateral damage was too high. General Bouchard even spoke of requiring his pilots to exercise courageous restraint by not engaging targets if they could not ensure that civilians would not be harmed, after all, the credibility of a mission created to protect civilians would be destroyed by the inadvertent killing of those same civilians.[182]

Analysis

Technology, by the spring of 2011 had ensured that information could be spread quickly and widely by witnesses to any event. Using the internet, social media sites, and video-enabled cell phones images of the abuse of force by Libyan security forces spread quickly. It mobilized world opinion against the Libyan government, and eventually led to the NATO campaign. That same technology, importantly, would be used to just as quickly communicate any missteps by the alliance's bombers.

This campaign also saw the use of precision guided munitions to deliver precise strikes against targets which were very close to civilian targets, as well as the use of multiple air and space platforms such as UAV to identify targets and provide sufficient information to rule out civilians in the vicinity of the target. [183] Because there were so few ground based sources of intelligence that could shape the commander's understanding of

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[181] Ibid.
[182] Ibid.
[183] Ibid.

the battlefield, there necessarily evolved a reliance on information from a variety of other sensors and spectrums.

The commander was deliberate in his use of these sensors to provide information to both justify an attack, and to determine the effectiveness of that attack afterwards. That information, he found was vital to his ability to counter the pro-Gadhafi forces information campaign to discredit his forces. By quickly and aggressively conducting his own response to any Gadhafi claims of wrong doing, he could shore up popular opinion for the campaign at both home and more importantly, in Libya.

This countering of the Gadhafi misinformation attacks was vital, in that the UNSC resolution which authorized the mission specifically authorized operations to protect the civilian population. Bouchard had himself declared to his forces that there was to be "zero tolerance for civ-cas [civilian casualties]," as he saw the protection of Libyan civilians as his main effort. He also saw their protection as the vital ground he needed to hold to protect his own center of gravity, the cohesion of the coalition. General Bouchard relied upon the use of accurate images of targets from immediately before and after individual airstrikes to counter claims of OUP attacks on civilian targets.[184]

Using the Zambernardi model again, we can see that the main effort was on protecting the civilian population. The secondary concern was on force protection, as high casualty rates would place extra, possibly insurmountable strain upon the alliance itself. These casualty rates, be they either friendly forces or civilians would lead to a fall in domestic public support for the war, and could cause the force to splinter. In this way, we can show, at figure 4.7, that the main concern was protecting civilians, which in turn

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[184] Ibid.

increased force protection. While destroying enemy units occurred, and occurred often, it was in no way the desired end state of the mission, and any attack would be called off if it risked other of the other two apexes of the triangle.

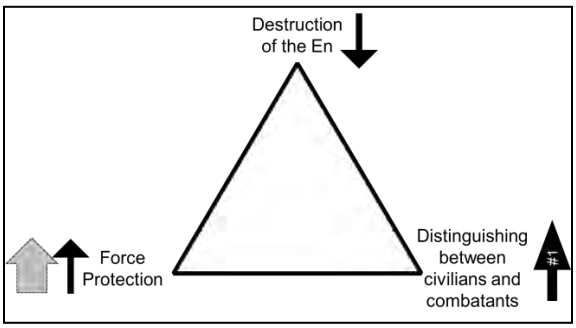

Figure 4.7. The Zambernardi Model applied to Operation Unified Protector

Conclusion

That Operation Unified Protector was ultimately successful should not be surprising after examining the campaign using Zambernardi's model. What is important to note is that General Bouchard expected his pilots to be highly disciplined in the conduct of the campaign, and that his pilots exercised courageous restraint. Clearly, the protection of civilians was paramount in the conduct of this campaign.

Technology continued to be a major factor in the conduct of this war; air war without technology would be uneventful. The very means used to find and destroy the pro-Gadhafi forces relied upon the most advanced technologies. Precision bombs were used to great effect, and allowed the OUP forces to engage targets closer to civilians than previously believed possible. More vital was the OUP's ability to synthesize and respond quickly to claims of OUP-caused civilian casualties. By ensuring that he was armed with accurate imagery that he could show to the world, it was possible for General Bouchard to fend off attacks in the media dimension.

The protection of civilians in this campaign actually turned out to be a multiplier for the NATO forces. Not only was the protection of civilians the original mandate provided by the UNSC, but it also served to enhance the operations credibility with the indigenous population, and especially among the world's leaders. Interestingly, the ground to be held in this campaign was to be high ground, but on the moral plane. It was held by disciplined sailors and airmen who, rather than engage targets regardless of the risk, exercised courageous restraint.

CONCLUSION

The three case studies above are remarkable not only for their recency, but for their span along the spectrum of conflict. These three wars ranged from a conventional, peer on near-peer war on one extreme, to the use of special operations forces in an intra-state conflict on the other. This span covered most types of conflicts envisioned in the coming years, and therefore form the best window we have at present into the future.

The similarities of the lessons that can be drawn from each case are also important. The central theme deriving from each case is the importance of protecting the civilians, and distinguishing them from combatants before engaging the enemy. In both Afghanistan and Iraq, the civilian population was in many ways an afterthought for the planners; both countries turned into a protracted insurgency in the aftermath of the initial coalition victory. In Libya, on the other hand, commanders and staffs maintained the primacy of protecting civilians throughout every engagement. While the stability of the new Libyan government has yet to be determined, the mandate provided by the UN Security Council was achieved, and the NATO forces returned to their other duties.

From this, two additional threads can be discerned. First, the need to select and maintain an aim throughout the conflict is highlighted by the success in Libya as much as by the loss of ground in Afghanistan when forces are re-committed from that country to support the invasion of Iraq. While history is replete with might-have-beens, one can only guess at how the Afghanistan conflict might have evolved had a much larger force been committed to it throughout its eleven years to date. Examining the case through the lens of the Zambernardi model, as above, it is likely that such a commitment of troops would have offered the improved security for the civilian population much like it eventually did in the Iraq scenario. This would have likely allowed a negotiated settlement with the enemy.

The second thread that also can be pulled at this point is the consideration of the physical destruction of the enemy in the conduct of a war. In both Afghanistan and Iraq, the enemy were demonized to the most extreme levels. As a result, negotiations with the Taliban only began recently in the first instance, and in the second, the campaign lost legitimacy and credibility when the arguments for the conflict were determined to be unfounded. Libya, on the other hand, potentially had an antagonist quite easily demonized. By not focussing to the same extent on the destruction of the Gadhafi regime, OUP maintained a level of flexibility throughout the conflict that was not as readily available in the other case studies.

The discipline, espoused by Trinquier and Galula in chapter three, applied by the NATO forces in Libya provided that freedom of action which was lost in the other theatres. Abu Ghraib in Iraq and the multiple burnings of Koran by ISAF forces in Afghanistan combined with civilian casualties to hinder the coalitions' abilities to

prosecute their war. Here, we see the convergence of the three concurrent and concentric battlefields which Dr. Ganor described in the introduction to this chapter. Actions on one plane, the physical battlefield resonate in the media and legal fields; it is necessary to be able to fight in these planes as well to be successful in the first. Discipline, especially when selecting targets, and effective counter-information efforts will provide the needed operational freedom of action.

CHAPTER FIVE - CONCLUSION

> Our forces were vastly superior to the rebels. Then why couldn't we finish them quickly? Because they managed to mobilize the population through terror and persuasion… It was therefore imperative that we isolate the rebels from the population and that we gain the support of the population. This implied that under no circumstances could we afford to antagonize the population even if we had to take risks for ourselves in sparing it.
>
> David Galula[185]

The "art" of command remains the ability to achieve the mission upon which the forces set out without losing the war on the issues of civilian and military casualties. As conventional wars now tend to be achieved quickly, the resultant unconventional aftermath tends to last much longer. It is on this aftermath that much of our military effort will be placed in the future.

Each soldier and civilian killed or injured may serve to weaken our position as the conflict extends over a long period. Commanders will be challenged by the pervasive and instantaneous nature of modern media. To prevent from scoring points for the enemy in this contest, commanders must consider these five issues:

- **the new nature of modern society;**
- **the hidden dangers of technology;**
- **the fact that civilians do not make good targets;**
- **the need to avoid demonizing the enemy;** and
- **the transfer of risk from soldiers to civilians is fraught with danger.**

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[185] David Galula, *Pacification in Algeria, 1956-1958* (Santa Monica, CA: RAND Corporation, 2006), v.

The Nature of Modern Society

As discussed in chapter two, modern society has evolved to a point where conflict is no longer restricted to the battlefield. Because of advances in technology, information moves quickly within a community, and even around the world. Any action on the battlefield is then also occurring on this informational plane simultaneously.

Once the battle moves to the informational plane, it is no longer merely between the individual combatants. Now, it involves the populations locally, domestically, and internationally. Empowered with this information, and able to themselves operate on this plane, these populations can choose to express their own opinions, and as a result apply pressure indirectly or directly upon the original combatants.

The pressure that can be brought to bear by these groups can, and likely will range from the local, tactical level concern to the international strategic level. Local groups may choose to withdraw support from an ongoing operation in their neighbourhood, or to switch allegiance based on their understanding of events occurring around them. Larger events such as the bombing of an entire city or the desecration of a religious artifact may enrage groups nationally or internationally, and have a lasting effect on the mission due to the loss of popular support domestically, internationally, or across the entire theatre.

Likewise, each military action, while being scrutinized by the public, will also be rigorously scrutinized for legality. Transgressions of the law of war will be highlighted, and tried both in the court of popular opinion, and ultimately in a court of law. Failure to appreciate this reality may lead to strategic failure; it will certainly cause tactical and operational setbacks. On the other hand, a quick and public acknowledgement, followed

by the public administration of justice can demonstrate the discipline needed to be successful.

To successfully operate in the three realms of military, media and 'lawfare,' commanders and staffs must be aware of this interconnectedness. The implications, to be understood require specialists to be integrated with the commander's decision making cycle. The public affairs and legal advisers, then, are essential team members in all military operations.

The Hidden Dangers of Technology

Technology is a double-edged sword. The benefit of improved range and accuracy in weapons is self-evident, as is the benefit of being able to transmit and receive vast amounts of information quickly across a battle space. Equally important, though are the challenges created by these technological improvements.

The ability to engage targets accurately from a greater distance increases force protection in the short term. It does not, however, guarantee that the target chosen is actually a target deserving of being hit. There remains at all times a need to distinguish between enemy combatants and civilian non-combatants. As the range between the 'shooter' and the target increases, the possibility of error increases, as does the inability of a military to recognize the effect of the engagement.

Battle damage assessment in the modern arena is not merely examining a target from 20,000 feet. It is also sensing the response from those closest to the target physically, emotionally, and ideologically. As information is quickly transmitted and filtered by new media technologies, it too becomes a weapon of sorts. Physical separation

from the target offers initial force protection, but over time, that standoff distance can allow a massing of force on the informational plane where the greatest distances become infinitesimal.

From the informational plane, the force protection afforded by distance is transferred to a lack of protection in the other planes. In the traditional conflict plane, force protection is reduced as the enemy and the populations are given more strength. To counter this, commanders and staffs must rethink the force protection paradigm. Through creative methods such as the use of 'courageous restraint' or McChrystal's direction to derive force protection from the security of the population, it is possible to achieve a return to the level of force protection desired without risking the mission itself.

Civilians Do Not Make Good Targets

In the past, it may have made sense to treat indigenous populations brutally, and through the targeting of civilian communities, force a state to capitulate. As late as the inter-war period from 1918 to 1939, theorists, especially airpower theorists proposed the destruction of cities to cause fear and terror in the enemy.[186] By so doing, the enemy morale would crack, and the war would be ended expeditiously.

The bombings of British cities in the Second World War, and even the attacks of September 11, 2001 would prove that the opposite may in fact be true. In the first case, the bombings hardened the public resolve to endure the war, and to support the destruction of Germany. The second case arguably awoke a population that was largely ignorant of the Islamic militant position, and turned it almost unanimously against it.

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[186]It bears noting that nuclear strategy also bears many of these same hallmarks, and in some form these ideas have persisted to at least the end of the Cold War in 1991.

Such targeting of civilians is not beneficial. Deliberately doing so will have consequences which will reverberate throughout the conflict, and will create greater risk for your own forces. It quite possibly might prevent you from being able to achieve the victory over your foe.

The Need to Avoid Demonizing the Enemy

It is far too easy to oversell the missions to which forces are committed. The very fact that rarely has military force been needed to be used within Canadian borders makes the use of force a discretionary event. In order to organize the support for committing forces in a democracy, it is often necessary to provide a suitable rationale.

Unfortunately, these rationales can be overly forceful, and even jingoistic. Hyperbolic arguments can quickly turn into a false dilemma akin to President Bush's challenge that "either [countries and politicians] are with us or you are with the terrorists."[187] Such positions make it difficult to strive for anything less than the total destruction of the enemy, as any shortcomings would appear to be treasonous.

In the less straight-forward modern battle space, it is rarely possible to demand and receive the unconditional surrender offered in past wars. As a result, the complete destruction of the enemy is not likely to occur, and may not be desirable. Where the Iraqi government was defeated and dismantled in 2003, it was replaced by a vacuum that gave birth to multiple enemy organizations. Instead, considering the "impossible trilemma," it becomes necessary to envision an end state short of the complete defeat and destruction of an enemy.

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[187]President Bush made this statement during his address to the US Congress on September 20, 2001, shortly after Al-Qaeda attacks on the World Trade Center and the Pentagon.

Transferring Risk from Soldiers to Civilians is Fraught with Danger

There is a temptation to reduce the risk to our own soldiers to as near zero as we can. We are aided in this by the promise of technology; we do this in order to maintain our own morale and the support of our domestic population. This reallocation of risk is a falsehood.

The effect of allowing the indigenous civilian population to carry the risk is threefold. It inevitably turns their support to the enemy, and as reports of the high civilian casualty rates are received at home, it begins the erosion of domestic support for the war. Finally, it creates a moral and legal problem which must be faced by those same soldiers for which the protection had been sought in the first place.

It is important to realize that nothing in war is absolute. Our soldiers will never be free of risk, and we cannot guarantee that no civilians will be injured in battle. What we must not do though is deliberately shield our soldiers at the expense of the civilian population.

Areas for future research

The issue of civilians in and around modern conflict will continue to be a subject of discussion until the end of war. Two areas which would bear further study in this regard came forth during the writing of this paper. First, the enemy dynamic with the indigenous population is different than that of the western COIN force. Despite the use of deliberate terror and kinetic attacks on the population as well as the numerous collateral damage injuries inflicted during attacks on security forces, the population usually

maintains some form of allegiance with the enemy. In fact it often switches sides to this same enemy if COIN or security forces to protect it effectively. This may prove to be not only interesting, but offer critical insights for the future non-kinetic targeting of those relationships in order to isolate the enemy.

The second issue which deserves attention is the issue of autonomous weapons, and their ability to effectively distinguish targets. At this point, the decision to engage still rests with a human, but it is likely that within the next two decades, it may be possible to have systems capable of selecting and engaging targets on their own. From both a legal viewpoint, and from a military perspective, this issue is both interesting, and potentially calamitous.

Coda

Civilians will be in every battle space we will experience in the future. Without a doubt, they will become increasingly relevant factor in all operations, from the lowest tactical to operational and strategic levels. By understanding their place in the battlefield, and on the "trilemma" of security choices, we can set the conditions to make the civilian population an advantage. Our only concern is whether that advantage counts for us, or against us.

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