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**NAVAL WAR COLLEGE
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KNOW WHEN TO HOLD'EM: THE ART OF MILITARY RESTRAINT

By

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A paper submitted to the Faculty of the Naval War College in partial satisfaction of the requirements of the Department of Joint Military Operations.

The contents of this paper reflect my own personal views and are not necessarily endorsed by the Naval War College or the Department of the Navy.

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Abstract

Restraint was recently and controversially added to the principles of war as one of the *other principles*. In doing so, joint doctrine established the principles of joint operations. Attempting to define restraint, the DoD has compounded the overarching issues by highlighting legal linkages and meanings instead of its moral necessity and conscience guiding qualities. This is also apparent in the attempted training aspects of restraint and their focus on the legalities of the use of force instead of unintended consequences and morality. This article demonstrates that the moral underpinnings embodied within military restraint make it an essential principle of joint operations with a fundamental application in military operations and a virtue demanded by society. It will accomplish this by showing the legal linkages and how they are fundamentally designed with adherence to moral values and societal norms. In doing so, it will prove that these moral underpinnings necessitate the use of restraint in the design, planning, and execution of military operations and that it spans the entire spectrum of conflict. Finally, it will show how the proper use of restraint can, with a potential short-term increase in risk, lead to an overall long-term risk reduction with a greater chance of enduring peace.

INTRODUCTION

In the recent *Wiki-leaked* video *Collateral Murder*, a U.S. Army attack helicopter crew is seen and heard, through cockpit voice recordings, firing into a crowd that consisted of several armed insurgents and numerous unarmed civilians, including two who were later identified as Reuters employees.¹ At one point in the lengthy video, a van was fired upon that was attempting to retrieve a wounded man from the scene. Once ground forces arrived they discovered the van contained two children who were wounded in the engagement. In response to the wounded children, a crewmember of the helicopter can be heard stating, “Well it’s their fault for bringing kids to the battle.”² Every parent and service member should be appalled and disgusted with the actions and lack of sanctity of life these officers demonstrated. Regardless of whether the crew was within the legal bounds of the rules of engagement (ROE) governing their situation, their lack of moral courage cannot be justified. The effects of this video and innumerable other instances of similar events are hard to calculate. However, one can easily see their negative impact on military operations and public opinion, not to mention the tremendous enemy recruitment capabilities inherent in such empathetic responses. Examining recent releases from the leadership of Afghanistan, a change can be seen in the rhetoric that seems to reflect these *unintended consequences*.

Gen Stanley McChrystal, commander of NATO’s International Security Assistance Force, speaks about certain inappropriate military actions playing into the insurgent’s hands by enhancing their ability to discredit the government and control the population.³ Specifically, and rightfully, taking aim at previous counterinsurgency (COIN) efforts, he stated, “A military force, culturally programmed to respond conventionally (and predictably) to insurgent attacks, is akin to the bull that repeatedly charges a matador’s cape--only to tire

and eventually be defeated by a much weaker opponent. This is predictable--the bull does what comes naturally. While a conventional approach is instinctive, that behavior is self-defeating.”⁴

In response to this *mindset* the forces in Afghanistan have been issued more restrictive ROE with respect to escalation and de-escalation of force, airstrikes, night raids and a host of other mission types.⁵ Increasingly the military command structure at nearly every level has come under scrutiny and criticism for these restrictive actions.⁶ For the most part, this criticism stems from the thought that by *restricting* the forces involved they are unnecessarily jeopardized and the commander’s hands are tied.

Ironically, most of the stories criticizing these restrictions are followed by ones that scrutinize military forces while globally highlighting the killing of innocent civilians or friendly fire incidents.⁷ This dichotomy of reporting, criticism, and social discourse not only highlights the fact that war is the “The Hardest Place” but also shows the need to have a complete understanding of the principle of *restraint*.⁸

Thus, the basis for this paper is that the moral underpinnings embodied within military *restraint* make it an essential principle of joint operations with a fundamental application in military operations and the virtue demanded by society. This article will attempt to show that these moral underpinnings necessitate the use of restraint in the design, planning, and execution of military operations and that restraint is a principle that spans the entire spectrum of conflict. Moreover, it will demonstrate that although restraint is a modern addition as a *principle* in doctrine, it has been a fundamental norm in society and military operations since the beginning of civilization. Its linkage of societal values, norms, and responsibilities to military necessity and proportionality give restraint a unique position

among a values based society as well as an impressive role in U.S. and International Laws of War. By focusing on this necessity, it will also show how the proper use of restraint can, with a potential short-term increase in risk, lead to an overall long-term risk reduction with a greater chance of enduring peace.

BACKGROUND

The *capstone* publication for U.S. joint doctrine lists twelve broad *principles of joint operations* which are to “guide the warfighter at the strategic, operational, and tactical levels of war” in order “to ensure achievement of the national strategic objectives through decisive action.”⁹ Containing the *historic principles of war*, this list also incorporates three *other principles* derived from experience across the spectrum of conflict.¹⁰ The addition of these *other* principles has prompted much debate stemming from whether the three *other* principles, which migrated from military operations other than war doctrine, belong among the *traditional* nine that historically address conventional war. These debates generally fail to acknowledge or grasp the true underlying reasons and causes for their inclusion or the failures and consequences of their dismissal.

One such debate that fails to grasp their true utility comes from an article written by Lt Col Bob Weimann (USMC Ret) about legitimacy.¹¹ In *The Loss of Strategic Legitimacy*, he attempts to show how the three *other* principles are more a legal issue and their inclusion was based solely on the negative press caused by *war crime* headlines. In the article, Weimann singles out legitimacy and the search for it as the reason for the increased prosecution of service members for collateral damage incidents. He argues that instead of searching for legitimacy in this manner, the military should focus on the strategic failures of

senior officers that enabled the incidents to occur. The article uses the Abu Ghraib detainee abuse and the Marine's collateral damage incident in Haditha, Iraq as its basis. However, Weimann misses the fundamental fact that regardless of the faults in strategic thinking, shortage of troops, or quality of the generals commanding the wars; the lack of restraint by the individuals involved caused the incidents.¹²

Another debate comes from Col John Waghelstein (USA Ret), a Special Forces officer from the Vietnam era with vast experience in the conduct and study of *small wars*, who sees and grasps the utility in factoring the *other* principles. In his article, Waghelstein goes to the point of labeling the addition of these principles as “a bittersweet admission of long-overlooked shortsightedness.”¹³ Conversely, his article fails to acknowledge the utility the *other* principles can afford the entire spectrum of conflict.

Additionally, there is an entire study and collaboration by Anthony Mc Ivor, *Rethinking the Principles of War* that analyzes nearly every aspect of the subject.¹⁴ However, to avoid getting bogged down in lengthy discussions and semantic arguments on the validity and inclusion of the *other* principles and the relevance of the historic nine, this article's primary focus is *restraint*.

DISCUSSION

Restraint is defined in the Encarta English dictionary as: holding back, an act or the quality of holding back, limiting, or controlling something. Referencing restraint in a thesaurus yields terms such as self-control, self-discipline, and moderation. In a planning context, joint doctrine in a negative and unwanted tone defines restraint as “a requirement placed on the command by a higher command that prohibits an action, thus restricting

freedom of action.”¹⁵ Although this definition may provide context to explain some of the negative cultural biases related to military restraint, it needs to be distinguished from restraint as a principle of joint operations. As a principle, doctrine attempts to define and clarify restraint by its purpose in *limiting collateral damage* and *preventing the unnecessary use of force*.¹⁶ It continues its clarification by stating that:

A single act could cause significant military and political consequences; therefore, judicious use of force is necessary. Restraint requires the careful and disciplined balancing of the need for security, the conduct of military operations, and the national strategic end state. For example, the exposure of intelligence gathering activities (e.g., interrogation of detainees and prisoners of war) could have significant political and military repercussions and therefore should be conducted with sound judgment. Excessive force antagonizes those parties involved, thereby damaging the legitimacy of the organization that uses it while potentially enhancing the legitimacy of the opposing party.¹⁷

Continuing, the publication briefly describes how and why commanders should be involved in the decision and implementation of restraint by stating:

Commanders at all levels must take proactive steps to ensure their personnel are properly trained including knowing and understanding ROE...Failure to understand and comply with established ROE can result in fratricide, mission failure, and/or national embarrassment. ROE in some operations may be more restrictive and detailed...in order to address national policy concerns, but should always be consistent with the inherent right of self-defense... Restraint is best achieved when ROE issued at the beginning of an operation address most anticipated situations that may arise...Additionally, ROE should be carefully scrutinized to ensure the lives and health of military personnel involved in joint operations are not needlessly endangered...commanders must be aware of national restrictions imposed on force participants.¹⁸

Upon critical analysis, this seemingly in-depth definition is littered with open-ended statements that truly lack the substance and appropriate linkages that are warranted of such a principle—a principle that has a monopoly on ominous undertones when it states that lack of adherence can result in “fratricide, mission failure, and/or national embarrassment.”¹⁹ The

definition itself seems to lend credibility to Weimann's comparison of the *other* principles to legal terms instead of the historic *war* principles.²⁰ However, the definition does directly provide linkages to the legal realm by mentioning ROE; and, indirectly by mentioning the collateral damage and use of force.

U.S. forces' ROE are directly tied to the Law of War (LOW), often termed the Laws of Armed Conflict (LOAC).²¹ Collateral damage and use of force aspects of restraint have a direct correlation to the four basic principles of the LOW; military necessity, distinction or discrimination, proportionality, and humanity or unnecessary suffering.²² Moreover, the LOW has a historical basis in international values and norms dating back to the beginning of civilization, the same basis upon which U.S. forces draw their values and principles. Therefore a thorough understanding of the foundations for the LOW is needed in order to understand the essence of restraint.

The *How to Guide* for practicing Judge Advocates, *Operational Law Handbook*, states that "the fundamental purposes of the LOW are humanitarian and functional in nature."²³ Continuing, the publication lists the humanitarian and functional purposes of the LOW to include limiting unnecessary suffering and restoring peace, good order, and discipline. Most importantly, it lists the functional purpose as "fighting in a disciplined manner consistent with national values; and maintaining domestic and international public support."²⁴ The publication continues by legally defining the four basic principles of the LOW, listed previously, while linking them to their codifying international laws, treaties, and agreements. As with any legal document, the language used contains a myriad of potential *escape routes* for the adjudication of issues, but this does not negate the fact that it clearly links the LOW to national and international morals and values.

With the linkage of the LOW to international values and the heart of restraint, where do military values rest? The first chapter of Joint Publication 1 (JP 1) is titled “Foundations” and not only contains the *principles* of joint operations but the *values* of joint service.²⁵ These values are said to be based on experience and proven vitality. They are also said to adhere to “the most idealistic societal norms...and represent the essence of military professionalism.”²⁶

Of the five key values, integrity is the foremost value and is essential for building trust. The other value that has the most utility in this discussion of restraint is moral courage. In the definition of moral courage, along with having the willingness to stand up for what is right even if unpopular, it states that “military power must be wielded in an unimpeachable moral fashion, with respect for human rights and adherence to the Geneva Conventions. This morality should not be a matter of legality, but of conscience.”²⁷ The definition continues by adding that moral courage involves risk taking and tenacity along with competence, and its role in separating “the professional from the foolhardy.”²⁸ Additionally, the definition links moral behavior to positive worldwide reputation, confidence, and support. This establishes a direct correlation between morality, moral courage, and conscience with international values, norms, and the LOW, all of which are held in the essence of the principle of restraint.

With this correlation established, only a breakdown in morality and conscience will allow for the disregard of the LOW with resultant violations and war crimes. These are the exact conditions and breakdowns that the principle of restraint is attempting to control and prevent. Once restraint fails to prevent this breakdown and a violation in one or all four LOW principles occurs, the value of integrity and the principle of legitimacy become jeopardized. This is the key issue illustrated in Weimann’s article as well as many of the

unfortunate cases where lack of restraint is highlighted. These cases include the previously mentioned killing of two Reuters' reporters and the May 2009 civilian casualty incident near Gerani Village in Farah Province, Afghanistan, in which U.S. airstrikes killed between 26 and 86 civilians.²⁹ More recent incidents include a German fratricide incident where six Afghan soldiers were mistakenly killed and an ISAF incident where forces fired at a civilian bus in the Zhari District of Afghanistan, killing four civilians.³⁰

This is not to suggest that these incidents are all definitive LOW violations, assign responsibility, or adjudicate right and wrong. They are mentioned only to identify recent events highlighted by the international press. These events, in retrospect and out of harm's way, illustrate examples of where restraint could have played an enormous role in affecting their unfortunate outcomes—measured in lives, increased restrictions and scrutiny, enemy recruitment, public opinion, and other unintended consequences.

Many critics suggest that restraint was wrongfully added to the principles of war and its addition was secondary to the efficiency of the current information environment combined with the inherent nature of the wars being fought. They are suggesting that restraint is useful only at the low end of the spectrum of conflict, operations that typify irregular warfare such as insurgencies. These arguments have validity with respect to the current information environment that offers the ability to instantaneously reach out to a majority of the world's population and tap into the public's empathetic responses by highlighting events of collateral damage and unnecessary use of force.

With this globalization and reach comes the ability, right or wrong, to influence public opinion prior to any investigation to determine the truth. Without a doubt, this has increased the attention restraint has received as well as its consequential actions on

legitimacy and overall public opinion. However, the argument fails to negate the fact that restraint has been decisively factored and a fundamental aspect in military operations and the use of force for centuries. Restraint has been utilized across the entire spectrum of conflict and prior to any form of effective globalized information flow. All of this highlights the fact that today's operating environment requires increased vigilance and adherence to the principle of restraint and its potential decisive impacts on military operations. It also validates Waghelstein's conclusion that it is perhaps "a bittersweet admission of long-overlooked shortsightedness."³¹

From a historical perspective, restraint has been a principle in the planning and conduct of military operations and the application of force for centuries. As early as 449 BC the *12 Tables of Rome* contained articles that required the use of restraint such as permitting the lawful killing of a thief at night but only to shout at a thief by day.³² This is to say that one must use restraint during the day due to the clearer ability to discern threats, whereas by night the difficulty is enhanced. Restraint can be seen in and is typically a fundamental aspect of every code, article, or treaty relating to the use of force, nearly all of which are inherent in the international laws of warfare.

One of the first examples of this type of restraint is in the *Lieber Code*, written by Dr. Francis Lieber and codified by President Lincoln in 1863.³³ Designated as General Order No. 100 the *Instructions for the Government of Armies of the United States in the Field* carried the "intent on drawing general principles of human morality...to humanize war through the application of reason."³⁴ Obviously, the intent of this order was to apply restraint to military operations through rules written according to ethics and morality. Through its coined idea of *military necessity* and other influences, the Lieber Code can be directly linked

to the Hague Regulations of 1899 and 1907, which are considered to be “the foundation of the Law of land warfare for the entire twentieth century.”³⁵ The Lieber Code specifically associates military necessity as a restraint on the conduct of war and a matter of morality and social responsibility to “one another and to God.”³⁶ Applying restraint to limit and regulate war with respect to human morality, ethics, and social responsibility are the fundamental reasons for the LOW and are explicitly expressed in its foundational documents such as both The Hague and Geneva Conventions.³⁷ As demonstrated in the Law of The Hague, many of these *forms of restraint* manifested with the introduction of new technologies or innovations in weapons and the conduct of war when compared, typically through horrific demonstrations of their effectiveness, with judgments of morality and conscience.

If nations and militaries failed to adhere to these forms of restraint, they would be playing the exact *interaction* game that Clausewitz discussed. The first chapter of *On War* explains this reciprocal action and how it would lead to an absolute or ideal form of war reaching extremes and requiring the maximum use of force.³⁸ With regard to this theory, no matter where on the spectrum of war politics (realpolitik, just war theory, or idealism) an individual, group or nation falls they, unless completely amoral, will see the necessity of the principle of restraint. The danger with these diametrically opposed political views of war is in their individual justifications for the level of restraint or lack of it. On the low end of this spectrum is the ultimate use of restraint embedded in idealism by doing nothing to defend a way of life. On the flip-side is the “ends justify the means argument” of realpolitik, so eloquently portrayed by George C. Scott in the movie *Dr. Strangelove*.³⁹

Restraint is demonstrated throughout history and religion. Nearly every religion has limitations on the use of force and lists requirements for the judicious use of restraint.

Michael Walzer points out several of these when speaking of the horrors of civilian deaths during war. He mentions the Catholic just war theory, Jewish statements from Philo, and Muslim traditions spoken by Umar.⁴⁰ Each of these specifically calls for the discrimination between combatants and non-combatants when fighting. Just war theory rules out any attack on non-combatants, while Philo makes an even broader restriction by including “those who have done very little.”⁴¹ The broadest distinction comes from Umar by restricting the fight to “only those who fight against them, and not to kill women or minors.”⁴² Couple these examples with the *Golden Rule* and there is ample call for the principle of restraint that crosses cultural, religious, and historical boundaries as well as the entire spectrum of warfare and politics of waging war.

A brief look at U.S. military history shows a past riddled with restraint or the lack of it. Unfortunately, the proper use of restraint at the operational and tactical level rarely becomes newsworthy enough to trump the instances of its improper use. Despite this fact, there are examples where the decisive impacts of restraint can be effectively studied through abstraction. Ideally, given time not afforded in this medium, these examples could be thoroughly examined utilizing a true *Clausewitzian* critical analysis to reach the incontrovertible truths.⁴³

During the American Revolution, public opinion and support was a critical requirement for both Protagonists. While the *Patriots* required the support of the public in order to field an appropriate army and militia to secure their independence, the British required *Loyalists'* support in order to succeed. It is largely held that the actions of the British forces on and off the field of battle were instrumental in fueling support for the Revolution. How did the actions of British Colonel Tarleton and *Tarleton's Quarter* affect

this support? Could restraint on his part have potentially affected the outcome of the conflict by maximizing the support of Loyalists to the Crown or limiting the rallying response by the Patriots? Similar questions can be asked of the overall British conduct during the events leading up to and during the conflict. Through the proper application of restraint the British could have minimized revolutionary support and either prevented the outbreak of hostilities or limited their scope and duration.

On 1 February 1917, Germany embarked on an unrestrictive submarine warfare campaign.⁴⁴ This desperate attempt to sever the line of communication from America to Britain was the catalyst for America's entry into the First World War only four months later.⁴⁵ If Germany would have used restraint by not conducting this campaign or limiting the manner and targets selected, could they have kept President Wilson from breaking diplomatic ties and entering the war? Ironically, the same general questions can be asked of the Second World War. Could Germany have used restraint in submarine warfare in order to keep the American public under their isolationist veil? The appropriate level of restraint would have kept the U.S. military response at a manageable level, from the German viewpoint, secondary to American isolationism and public support. More devastating to the American and Allied causes, would have been the coordinated use of restraint across the Axis Powers. Would the value of the object warranted investment of America's most treasured assets without the German attacks on merchant vessels and the Japanese attack on Pearl Harbor? Clearly, in both world wars, a decisive difference in U.S. resolve and corresponding military response was demonstrated, and publically sanctioned, due to the aggressors' lack of restraint.

During the Second World War, in order to ensure the unconditional surrender of Japan and set the conditions for enduring peace, U.S. planners showed a level of restraint in target selection for the atomic bombings. Regardless of their realist justifications and that the bombings of Hiroshima and Nagasaki are the best example of the lack of restraint, aside from acts of genocide, lessons can be learned. The atomic bombing of Tokyo would have completed the destruction of Japan's historical center and likely killed the Emperor. Would this lack of restraint negate the possibility of enduring peace afforded by leveraging the Emperor's influence over the population? A seemingly minor application of restraint, during such an enormous lack of it, was the decisive factor in the outcome and enduring peace.

During the Korean War, the U.S. demonstrated restraint by not utilizing *all means* to prevent overt Chinese involvement. Through an unrestricted bombing campaign, to include the potential use of nuclear weapons, the U.S. had the ability to limit Chinese involvement and complete General MacArthur's push to the Yalu River. Did restraint not to utilize *all means* allow for the heavy loss of U.S. and coalition forces and their operational gains while keeping the Soviet Union's involvement negated and thus preventing the escalation of hostilities? Some will suggest that Chinese involvement was caused by General MacArthur's lack of restraint after the successful Inchon landing in his decision to push towards the Yalu. If General MacArthur had restored the pre-war border and expelled the hostile North Korean forces, would the Chinese have overtly entered the war?

A thorough understanding in the essence of restraint coupled with a case study of the French-Algerian War would greatly assist in COIN operations. The study of the massacre at Phillipville, along with the strategic consequences from the anticipated French retaliation, would have greatly assisted the operational level commanders in Vietnam.⁴⁶ Could this study

have helped fill the void from the lack of moral courage in Lieutenant William Calley or Captain Ernest Medina at the Vietnam hamlet of My Lai?⁴⁷ Would the U.S. military members assigned to intelligence activities and detainee operations in our current conflicts, specifically Abu Ghraib, have benefited from the study of the strategic consequences of interrogation and detainee operations conducted by the French in the Battle of Algiers?⁴⁸

These examples were offered to demonstrate the potential utility the principle of restraint can have when factored into the design, planning, and execution of military operations. They also demonstrate the potential strategic consequences from the principle of restraint's dismissal or blatant disregard. The utility of restraint can be seen across the spectrum of conflict and at nearly every level of command. In today's globalized information environment the actions at the lowest tactical level can have an extreme and immediate strategic impact. This fact only exacerbates the need of planners and commanders to understand and apply the principle of restraint into military operations. In doing so, perhaps U.S. forces can begin to prove Winston Churchill's statement, "Battles are won by slaughter and manoeuvre. The greater the general, the more he contributes in manoeuvre, the less he demands in slaughter."⁴⁹

RECOMMENDATIONS

The most important aspect of this paper and the recommendations it offers is to change the way in which restraint is viewed with respect to military operations. This view needs to resonate from the very top levels of leadership and policymakers to the service members and contractors at the tip of the spear. Restraint needs to be viewed as a force

multiplier and an essential aspect of design, planning, and execution across the entire spectrum of conflict.

In order to accomplish this fundamental change in thought, restraint should be changed from an *other* principle of joint operations to an overarching fundamental to the principles. While adjusting the hierarchy of restraint in relation to the principles, a direct linkage of restraint to the values of military service and society as well as morality and conscience needs to be made. By linking these elements and promoting their understanding while gaining *buy-in*, the profession of arms can begin to establish an inherent mind-set that views them as conscience instead of items to memorize for an exam during military education or a pre-deployment training exercise. In this manner, the services can establish these elements as an innate aspect in the grooming of a member of the profession of arms.

Rules of engagement and use of force training are other aspects of restraint that need modification to more effectively increase its utility, understanding, and positive influence on operations. Typical classes and training on these topics always revolve around the legal aspects of force and *legal protection* of the service member and chain of command. This can be seen from the numerous examples of friendly fire or collateral damage instances when the resulting investigations and public affairs releases focus on the legal aspects of the ROE and whether the service members were legally justified instead of the morality or conscience of their actions.

ROE training needs to fundamentally change to instill service members with a sense of virtue and conscience. This foundational look at ROE training, instead of the current scenario based system that will always fail to capture the ever-changing and *chameleon* nature of war, will focus on guiding the critical thought process of service members to make

the *right* decision over the legally justified decision. Unfortunately, as highlighted by critics of restraint and restrictive ROE, this process contains risk and this risk must be included in the training process. The risk incurred to resist the *fight-or-flight* instincts resulting from a *perceived* threat to self typically requires a tremendous amount of instinct and discipline. This risk is due to the time required to process the perceived threat and apply the critical thought to make the *right* decision. Unfortunately, the reluctance to accept this extra time and risk is typically a major factor in many fratricide, collateral damage, and unnecessary use of force incidents. Though morally appalling, the majority of these incidents are adjudicated as *legally justified* and an unintended consequence due to the *fog of war*. Military training processes must account for these necessary risks and instill a sense of conscience, discipline, and moral courage in all service members in order to accept the risks, apply the critical thought, and make the *right* decisions.

CONCLUSION

This article has demonstrated the morality and conscience embodied within the principle of restraint. Additionally, it has shown that society, on a daily basis, places the principle of restraint as a virtue required in the application of force. By showing these moral underpinnings and the consequences and/or benefits of restraint, this article attempted to demonstrate the necessity of its fundamental application in military operations. Moreover, this application is necessary in the design, planning, and execution of military operations from the individual level to that of the overall campaign. It sees no boundaries within the spectrum of conflict or level of command. Through the fundamental change in the manner in which the principle of restraint is viewed, the profession of arms and the military professional will greatly benefit from the enhancement of critical thought and the overall

utility of restraint. However, this process is not without risk and, therefore, needs to be discussed, anticipated, and accepted. Unfortunately and controversial, the risk is necessary and part of the duty and obligation inherent in the profession and embodied in its history and oaths.

In the Quadrennial Defense Review, the Secretary of Defense stated, “The United States can lead only when others trust it to carry forward their best interest, to listen to their concerns, and to uphold the norms and values of the international community.”⁵⁰ The essence of the principle of restraint is the crossroads of military operations and the norms and values of the international community. Only with the wholesale buy-in, understanding, and application of the principle of restraint in military operations can we begin to embolden the Secretary of Defense’s realization that stressed, “Despite those who disregard the rules of the international system, the United States must remain a standard-bearer in the conduct of war.”⁵¹ A task that is a moral responsibility during the conduct of war and truly lies within the art of restraint and knowing *when to hold’em*.⁵²

NOTES

¹ *Collateral Murder*, Wiki Leaks (The Sunshine Press) Video, 39 min., 2010, electronic video, <http://www.collateralmurder.com> and <http://wikileaks.org/> (accessed 11 April 2010).

² *Collateral Murder* (see n.1) and documented by Sharon Weinberger, "Video of Slain Journalists Released by 'Leak' Group," *AOLNews.com*, 5 April 2010, http://www.aolnews.com/nation/article/pentagon-video-of-slain-journalists-released-by-leak-group-wikileaks/19426876?sms_ss=email (accessed 5 Apr 10).

³ Stanley A. McChrystal, "ISAF Commander's Counterinsurgency Guidance," Kabul, Afghanistan, 2009, http://www.nato.int/isaf/docu/official_texts/counterinsurgency_guidance.pdf (accessed 30 April 2010).

⁴ *Ibid.*, 2.

⁵ Stanley A. McChrystal, "Be Coin Mindful, Always," *Coin Common Sense* 1, no. 1, (February 2010), 2, <http://www.isaf.nato.int/COIN/feb10.pdf> (accessed 28 February 2010). See also Dexter Filkins, "U.S. Tightens Airstrike Policy in Afghanistan," *NYTimes.com*, 22 June 2009, <http://www.nytimes.com/2009/06/22/world/asia/22airstrikes.html> (accessed 28 February 2010).

⁶ Andrew Exum highlights this criticism when he writes about opinion columnist and bloggers referring to the restrictive ROE as "military malpractice" in his story, "The Price of Protecting Civilians," *The Daily Beast.com*, 23 February 2010, <http://www.thedailybeast.com/blogs-and-stories/2010-02-23/the-new-rules-of-engagement/full/#> (accessed 28 February 2010). See also Dan Lamothe, "Congressman Urges Hearing on Rules of Engagement," *Army Times*, 12 April 2010, 27.

⁷ (See n. 1, 2, 5, and 6) and also Christopher Lamb and Martin Cinnamond, "Unified Effort," *Joint Forces Quarterly*, Issue 56 (1st quarter 2010): 40-53.

⁸ Reference given to the Chapter 1 title and content "The Hardest Place" in, Anthony E. Hartle, *Moral Issues in Military Decision Making*, 2d ed. (Lawrence, KS: University Press, 2004), 1-9.

⁹ Chairman, U.S. Joint Chiefs of Staff, *Doctrine for the Armed Forces of the United States*, Joint Publication (JP) 1 (Washington, DC: CJCS, 20 March 2009 with change 1), I-2, http://www.dtic.mil/doctrine/new_pubs/jp1.pdf (accessed 17 April 2010) and Chairman, U.S. Joint Chiefs of Staff, *Joint Operations*, JP 3-0 (Washington, DC: CJCS, 13 February 2008 with change 1), xii, http://www.dtic.mil/doctrine/new_pubs/jp3_0.pdf (accessed 17 April 2010).

¹⁰ The 12 *Principles of Joint Operations* consisting of the nine *Principles of War* (Objective, Offensive, Mass, Economy of Force, Maneuver, Unity of Command, Security, Surprise, and Simplicity) and the *Other Principles* (Restraint, Perseverance, and Legitimacy) as listed in JP 3-0, *Joint Operations*, A-1 – A-2.

¹¹ Bob Weimann, "The Loss of Strategic Legitimacy," *Defend Our Marines, Sins of the Generals Series, Part Four*, 1 December 2009, http://www.warchronicle.com/DefendOurMarines/Weimann/SinsOfGenerals_PartFour (accessed 27 April 2010).

¹² *Ibid.*, 2.

¹³ John D. Waghelstein, "What's Wrong in Iraq? Or Ruminations of a Pachyderm," *Military Review* 86, no. 1 (January / February 2006): 112, <http://proquest.umi.com/> (accessed 30 March 2010).

¹⁴ Anthony D. Mc Ivor, ed., *Rethinking the Principles of War*. (Annapolis, MD: Naval Institute Press, 2005).

¹⁵ *DOD Dictionary of Military and Associated Terms*, JP 1-02 amended through 31 October 2009, s.v. "restraint," http://www.dtic.mil/doctrine/dod_dictionary/data/r/19332.html (accessed 17 April 2010).

¹⁶ JP 3-0, *Joint Operations*, A-4.

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ *Ibid.*

²⁰ Weimann, "Loss of Strategic Legitimacy," 1.

²¹ Chairman, U.S. Joint Chiefs of Staff, "SROE / SRUF," CJCS Instruction 3121.01B (Washington, DC: CJCS, 13 June 2005), in The United States Naval War College, Joint Military Operations Department, *NWC 1062A: Extracts from CJCS Instruction 3121.01B*, February 2010, A-1 – A-6. See also Brian Bill, Marie Anderson, and Jeremy Marsh, ed., *The Operational Law Handbook* (Charlottesville, VA: International and Operational Law Department, The Judge Advocate General's Legal Center and School, 2009), 10, http://www.loc.gov/rr/frd/Military_Law/pdf/operational-law-handbook_2009.pdf (accessed 30 April 2010).

²² Bill, *Operational Law Handbook*, 10-13.

²³ *Ibid.*, 10.

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- ²⁴ Ibid.
- ²⁵ JP 1, *Doctrine for the Armed Forces of the United States*, I-1 – I-5.
- ²⁶ Ibid., I-3.
- ²⁷ Ibid., I-4.
- ²⁸ Ibid.
- ²⁹ Weinberger, “Video of Slain Journalist,” (see n. 2) and the Gerani Village incident as described in U.S. Central Command, *USCENTCOM’S Unclassified Executive Summary*, U.S. Central Command Investigation into Civilian Casualties in Farah Province, Afghanistan on 4 May 2009 (Tampa, FL: U.S. Central Command, 18 June 2009), <http://www.centcom.mil/images/pdf/uscentcom%20farah%20unclass%20exsum%2018%20jun%2009.pdf> (accessed 1 May 2010).
- ³⁰ Lauren Frayer, “German Friendly Fire Kills 6 Afghan Soldiers,” *AolNews.com*, 3 April 2010, http://www.aolnews.com/world/article/german-friendly-fire-kills-6-afghan-soldiers/19425319?sms_ss=email (accessed 3 April 2010). For Zhari incident see International Security Assistance Force, Joint Command – Afghanistan, “Joint Team Assessing Civilian Casualty Incident in Zhari,” IJC Public Affairs Office News Release 2010-04-CA-034, 12 April 2010, <http://www.isaf.nato.int/en/article/isaf-releases/joint-team-assessing-civilian-casualty-incident-in-zhari.html> (accessed 12 April 2010).
- ³¹ Waghelstein, “What’s Wrong in Iraq,” 112.
- ³² “Table VIII Torts and Delicts,” *The 12 Tables of Rome*, 449 BC, http://avalon.law.yale.edu/ancient/twelve_tables.asp (accessed Apr 5, 2010).
- ³³ Burrus M. Carnahan, “Lincoln, Lieber, and the laws of war: The origins and limits of the principle of military necessity,” *The American Journal of International Law* 92, no. 2, (April 1998): 213, <http://proquest.umi.com/> (accessed Mar 30, 2010).
- ³⁴ Ibid.
- ³⁵ Ibid., 216.
- ³⁶ Ibid.
- ³⁷ A complete listing of foundational legal documents can be accessed at <http://avalon.law.yale.edu/subject.menus/lawwar.asp> (accessed Mar 30, 2010). For LOW foundational documents see Bill, *Operational Law Handbook*, 14-15.
- ³⁸ Carl von Clausewitz, *On War*, ed. and trans. Michael Howard and Peter Paret (1976; repr., Princeton, NJ: Princeton University Press, 1989), 75-89.
- ³⁹ George C. Scott played the character General Buck Turgidson, said to be based on Air Force General Curtis Lemay, in the Stanley Kubricks directed nuclear satire movie, *Dr. Strangelove or: How I Learned to Stop Worrying and Love the Bomb*, Columbia pictures, 1964, http://en.wikipedia.org/wiki/Dr._Strangelove (accessed 18 Apr, 2010).
- ⁴⁰ Michael Walzer, “Responsibility and Proportionality in State and Nonstate Wars,” *Parameters* 39, no. 1 (Spring 09), 40, <http://www.carlisle.army.mil/usawc/Parameters/09spring/walzer.pdf> (accessed 28 February 2010).
- ⁴¹ Ibid.
- ⁴² Ibid.
- ⁴³ Clausewitz, *On War*, 156-169.
- ⁴⁴ Chris Trueman, “Unrestricted Submarine Warfare,” History Learning Site, http://www.historylearningsite.co.uk/unrestricted_submarine_warfare.htm (accessed 19 April 2010).
- ⁴⁵ Ibid.
- ⁴⁶ Alistair Horne, *A Savage War of Peace: Algeria 1954-1962* (New York, NY: Review Books, 2006).
- ⁴⁷ Ibid.
- ⁴⁸ General Paul Aussaresses, *The Battle of the Casbah: Terrorism and Counter-Terrorism in Algeria 1955-1957*, trans. Robert L. Miller, (New York: Enigma Books, 2002).
- ⁴⁹ Winston Churchill quoted in U.S. Marine Corps, *Marine Corps Operations*, Marine Corps Doctrine Publication (MCDP) 1-0 (Washington, DC: Headquarters U.S. Marine Corps, 2001), 99.
- ⁵⁰ Department of Defense, Quadrennial Defense Review (Washington, DC: DoD, February 2010), 9, <http://www.defense.gov/qdr/> (accessed Apr 5, 2010).
- ⁵¹ Ibid., 10.
- ⁵² Reference to the lyrics in Kenny Rogers’ hit song “The Gambler.”

BIBLIOGRAPHY

- Aussaresses, General Paul. *The Battle of the Casbah: Terrorism and Counter-Terrorism in Algeria 1955-1957*. Translated by Robert L. Miller. New York: Enigma Books, 2002.
- Brian Bill, Marie Anderson, and Jeremy Marsh, ed. *The Operational Law Handbook*. Charlottesville, VA: International and Operational Law Department, The Judge Advocate General's Legal Center and School, 2009.
http://www.loc.gov/rr/frd/Military_Law/pdf/operational-law-handbook_2009.pdf (accessed 30 April 2010).
- Burke, Anthony. "Just war or ethical peace? Moral discourses of strategic violence after 9/11." *International Affairs* 80, no. 2 (2004): 329-353.
- Carnahan, Burrus M. "Lincoln, Lieber, and the laws of war: The origins and limits of the principle of military necessity." *The American Journal of International Law* 92, no. 2, (April 1998): 213-231. <http://proquest.umi.com/> (accessed Mar 30, 2010).
- Clausewitz, Carl von. *On War*. Edited and translated by Michael Howard and Peter Paret. 1976. Reprint, Princeton, NJ: Princeton University Press, 1989.
- Collateral Murder*. Wiki Leaks (The Sunshine Press) Video. 39 min., 2010. Electronic video. <http://www.collateralmurder.com> and <http://wikileaks.org/> (accessed 11 April 2010).
- Exum, Andrew. "The Price of Protecting Civilians." *TheDailyBeast.com*, 23 February 2010. <http://www.thedailybeast.com/blogs-and-stories/2010-02-23/the-new-rules-of-engagement/full/#> (accessed 28 February 2010).
- Filkins, Dexter. "U.S. Tightens Airstrike Policy in Afghanistan." *NYTimes.com*, 22 June 2009. <http://www.nytimes.com/2009/06/22/world/asia/22airstrikes.html> (accessed 28 February 2010).
- Frayer, Lauren. "German Friendly Fire Kills 6 Afghan Soldiers." *AolNews.com*, 3 April 2010. http://www.aolnews.com/world/article/german-friendly-fire-kills-6-afghan-soldiers/19425319?sms_ss=email (accessed 3 April 2010).
- Funk, Valerie. "The Need for Just Order: Just War Thinking is More Than Just Restraint." Paper presented at the annual meeting of The Midwest Political Science Association, Palmer House Hilton, Chicago, IL, 18 April 2004.
http://www.allacademic.com/meta/p82843_index.html (accessed 16 April 10).
- Hartle, Anthony E. *Moral Issues in Military Decision Making*. 2d ed. Lawrence, KS: University Press, 2004.
- Horne, Alistair. *A Savage War of Peace: Algeria 1954-1962*. New York, NY: Review Books, 2006.
- International Security Assistance Force, Joint Command – Afghanistan. "Joint Team Assessing Civilian Casualty Incident in Zhari." IJC Public Affairs Office News Release 2010-04-CA-034. 12 April 2010. <http://www.isaf.nato.int/en/article/isaf-releases/joint-team-assessing-civilian-casualty-incident-in-zhari.html> (accessed 12 April 2010).

- Lamb, Christopher J. and Martin Cinnamond. "Unified Effort, Key to Special Operations and Irregular Warfare in Afghanistan." *Joint Forces Quarterly*, no. 56 (1st quarter 2010): 40-53.
- Lamothe, Dan. "Congressman Urges Hearing on Rules of Engagement." *Army Times*, 12 April 2010, 27.
- Mark Rigstad's non-profit, critically annotated aid to philosophical studies of warfare Web site. "JustWarTheory.com." <http://www.justwartheory.com/> (accessed 28 February 2010).
- McChrystal, Stanley A. "Be Coin Mindful, Always." *Coin Common Sense* 1, no. 1 (February 2010): 2. <http://www.isaf.nato.int/COIN/feb10.pdf> (accessed 28 February 2010).
- McChrystal, Stanley A. "ISAF Commander's Counterinsurgency Guidance." Kabul, Afghanistan. 2009. http://www.nato.int/isaf/docu/official_texts/counterinsurgency_guidance.pdf (accessed 30 April 2010).
- Mc Ivor, Anthony D, ed. *Rethinking the Principles of War*. Annapolis, MD: Naval Institute Press, 2005.
- Trueman, Chris. "Unrestricted Submarine Warfare." History Learning Site. http://www.historylearningsite.co.uk/unrestricted_submarine_warfare.htm (accessed 19 April 2010).
- U.S. Central Command. *USCENTCOM'S Unclassified Executive Summary*. U.S. Central Command Investigation into Civilian Casualties in Farah Province, Afghanistan on 4 May 2009. Tampa, FL: U.S. Central Command, 18 June 2009. <http://www.centcom.mil/images/pdf/uscentcom%20farah%20unclass%20exsum%2018%20jun%2009.pdf> (accessed 1 May 2010).
- U.S. Department of Defense. *Quadrennial Defense Review*. Washington, DC: DoD, February 2010. <http://www.defense.gov/qdr/> (accessed 5 April 2010).
- U.S. Marine Corps. *Marine Corps Operations*. Marine Corps Doctrine Publication (MCDP) 1-0. Washington, DC: Headquarters U.S. Marine Corps, 2001.
- U.S. Office of the Chairman of the Joint Chiefs of Staff. *SROE / SRUF*. CJCS Instruction 3121.01B. Washington, DC: CJCS, 13 June 2005. In The United States Naval War College, Joint Military Operations Department. *NWC 1062A: Extracts from CJCS Instruction 3121.01B*. February 2010.
- U.S. Office of the Chairman of the Joint Chiefs of Staff. *Doctrine for the Armed Forces of the United States*. Joint Publication (JP) 1. Washington, DC: CJCS, 20 March 2009 with change 1. http://www.dtic.mil/doctrine/new_pubs/jp1.pdf (accessed 17 April 2010).
- U.S. Office of the Chairman of the Joint Chiefs of Staff. *Joint Operations*. Joint Publication (JP) 3-0. Washington, DC: CJCS, 13 February 2008 with change 1. http://www.dtic.mil/doctrine/new_pubs/jp3_0.pdf (accessed 17 April 2010).

- Waghelstein, John D. "What's Wrong in Iraq? Or Ruminations of a Pachyderm." *Military Review* 86, no. 1 (January / February 2006): 112-117. <http://proquest.umi.com/> (accessed 30 March 2010).
- Walzer, Michael. "Responsibility and Proportionality in State and Nonstate Wars." *Parameters* 39, no. 1 (Spring 09): 40-52. <http://www.carlisle.army.mil/usawc/Parameters/09spring/walzer.pdf> (accessed 28 February 2010).
- Weimann, Bob. "The Loss of Strategic Legitimacy." *Defend Our Marines, Sins of the Generals Series, Part Four*. 1 December 2009. http://www.warchronicle.com/DefendOurMarines/Weimann/SinsOfGenerals_PartFour (accessed 27 April 2010).
- Weinberger, Sharon. "Video of Slain Journalists Released by 'Leak' Group." *AOLNews.com*, 5 April 2010. http://www.aolnews.com/nation/article/pentagon-video-of-slain-journalists-released-by-leak-group-wikileaks/19426876?sms_ss=email (accessed 5 Apr 10).