War, Peace, and the Liberal Arts?

Lent is a propitious season to participate in a conference on war and peace. Violence is a failure of peace, and rightly engenders compunctio cordis — “uneasiness of guilt” or “remorse of the heart.” Peace is the condition for which we are made. War is a condition characterized by violence. Peace is characterized by the fullness and security enjoyed in mature friendship and love. Violence arises from envy, blame, and hatred, and is vicious. Peacemaking arises from love and is virtuous. The telos of the liberal arts is to make people virtuous, and to diminish their vices. The telos of justice is to reward virtue and to punish vice. Lent is an annual season to contemplate the compunction to peace and violence.

We lament violence, but simultaneously acknowledge that international law recognizes the right of sovereign States to defend themselves by means of armed conflict. When soldiers

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1 Or, “Where has humanity gone?” These are reputedly the last words of Henri Dunant, founder of the International Committee of the Red Cross (ICRC).

2 Wisdom comes to the scribe in the right moment in leisure, and the one with less busyness can be made to grow wise. Sir. 38:24

3 Bruce K. Waltke and James M. Houston, *The Psalms in Christian Worship*, Grand Rapids, Wm B. Eerdman’s, 50

4 This assertion sets me quite consciously and intentionally in direct conflict with the fiction ‘state of nature’, a disastrous metaphor invented by Hobbes to answer the question of why there was so much warfare, and provided a sturdy rationale for the heavy-handedness of the State to compel negotiating a ‘social contract’. Instead it created the false-consciousness that the biblical doctrine of the Fall dooms us to believe that we must conquer human nature in order to create ‘quality of life’.

5 Article 51, Charter of the United Nations
kill people as participants in their State's legal conflicts they cannot be arrested, indicted, or convicted of crimes, at home or abroad, unless they violate International Humanitarian Law (IHL). Members of a State’s armed forces are legally combatants. Those who are not combatants—civilians who participate in armed conflict or who commit crimes against civilians—have no such protection under IHL in most cases. They can be tried for crimes in domestic criminal courts. My task in this paper is to contemplate the question: what “in the name of humanity” are we to do with them when they are captured because they are hors de combat—i.e., captives due to illness, injury, or surrender?

A moral and political theologian approaches the complexity of this predicament with some trepidation, mindful of the need for free space within which to contemplate. This space is called leisure, and its curriculum is the liberal arts. I am well aware of the implausibility of this assertion in the [post]modern academic world. The positivist commitments of our law schools shun the old understanding that law is a liberal art. The great political, corporate, and military leaders listen to scholars only when they flatter the leaders. My apologia is that this predicament was created by these leaders and we must explore other avenues.

My focus is the specific question of detaining, interning, and repatriating fighters who are not combatants. The legally ambiguous ‘twilight zone’ they inhabit is the consequence of many factors including the metaphor ‘war on terror’. Promiscuous metaphors of war are extremely dangerous, largely because warfare legitimates using deadly force. To declare war on terror, or terrorists, or terrorism is a useful rhetorical flourish for propaganda, but it muddles serious

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6 In some cases, so are combatants in a war of national liberation. Cf. Protocols Additional to the Geneva Conventions I & II.

thought. In this case it had the ironic consequence of making ‘terrorists’ appear to be combatants, even when the President wanted to deny them the protected status of POWs.

Our reflections must include the notable fact that such civilians must endure internment for security reasons until domestic law and IHL develop suitable guidance for their continued detention or repatriation. As the current Administration has discovered, it is easy to talk about releasing those held at Guantanamo prison, but it not so easy to do it without serious repercussions. My argument is that the development of domestic law is a legislative mandate, and the development of IHL is a diplomatic mandate requiring a multilateral treaty successfully negotiated as a Protocol Additional to the Geneva Conventions.

My argument unfolds in this manner: leisure is the natural habitat of the liberal arts; the liberal (free) arts are the curriculum for scholarly inquiry; and the telos of the liberal arts is the virtue necessary to pursue scholarly inquiry. In this context we consider the problems of criminal violence, armed conflict, and the imprisonment and repatriation of those captured. This strategy reflects the belief that these unique problems in domestic and international law are amenable to resolution only in the realm where communities of scholars can reflect in liberty on what should be done, free from the external pressures of political and commercial ideologies.

Leisure and the Liberal Arts

Josef Pieper argues that leisure is the basis of culture. From the Greek σχολή (Latin scholé) we derive school, scholar, and scholarship. Leisure is not loafing about, ‘goofing-off’, or ‘down-time’. It is, among other things, the active habitat of schools, where scholars undertake their scholarship. Its uniqueness is that it is activity requiring no external political or economic justification. When Sartre declared himself to be an intellectual worker, it was emblematic of the
enfolding of scholarship into the bourgeois process known as proletarianization. Now all intellectual work must produce a product useful to the titans of commerce or the military. In this manner possibility of scholarly liberty has been neutered. Sartre failed to discern that like the ‘work’ of the artist and the priest, there is no commensurability between money and scholarship. One cannot serve the liberal arts and mammon!

Leisure is the heart of the Sabbath, which is marked by intrinsically valuable activity. It is not ‘recharging one’s batteries’ in order to be ready again for work on Monday morning. Rest in “the totalitarian work state” is a mere means to the end of more work. The Sabbath, however, declares the opposite: we work to be at leisure. Leisure is the crown of God’s work of creation. God’s work is very good, both morally (the fact of being rather than non-being) and aesthetically. God rested, not because God needed a break, but because it was the appropriate moment to enjoy the creation. For those made in God’s image: leisure is the time to praise the wonder and beauty of God’s handiwork and to be engaged in those activities that are ends in themselves.

Worship is not justified by a product—happy feelings, or getting God to do what we want. Indeed, seeking a formula by which to manipulate God to do what we want is magic, not faith. In a society entirely committed to producing products that redound to human happiness and solving all human ills via the technological conquest of nature we have developed entirely utilitarian moral sensibilities—even for the worship of God. Thus all actions must be justified by their ends, pursued largely for commercial interests. Contrarily, the old view insists that the fear of God is the beginning of prudence, and that fear creates the space to contemplate the truth of

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8 One need hardly point out the takeover by bean-counters in the college accreditation system, with their ‘outcomes-based’ evaluations and ‘common-core standards’. The concentration on learning useful factoids—what we now call data—has more in common with maximizing efficiencies in the commercial world. Indeed, business leaders lecture the academy regarding the educational ‘product’ business wants.

9 Josef Pieper, *Leisure: The Basis of Culture*. Ignatius. p. 37. Pieper often uses this phrase and others similar to it.
God's world. Otherwise everything, human and non-human nature, begins to present itself to us as objects, means to other ends. In the technological society people become the projects of our making. Thus the work of human hands becomes idolatrous.

In the liberty of the liberal arts, artists and scholars, like clergy are called to remind the commercial and political realms that people are not means to their ends. Our students are not ‘customers’ (nor are a physician’s patients, a lawyer’s ‘clients’, or a priest’s penitents). Students, patients, clients, and parishioners are driven by a necessity that cannot be satisfied by a commodity. Young scholars are being trained to know their heritage concerning what is real, true, good, just, and beautiful. Scholarship is a profession because it is a practice. Scholars are not ‘service-providers’, managers, therapists, or liberators—in other words, they are not the priesthood of modernity’s coping techniques. The scholar’s vocation is to train the young in the contours of their heritage so that they take their places in society as mature adults.10

Sound scholarship requires free inquiry, not subservience to political or commercial ends. If one avoids the iron-grip of the ideologies du jour, the liberal arts cultivate the habits of thought and temperament necessary, for example, to seek to understand the nature of violence and how to treat those who commit it. Despite the babylonian captivity of the liberal arts in [post]modern multiversities (which now look like factories and are typically operated according to the principles of industrial management, and too often require the efficiencies and profit-centers of commercial concerns), it may well be that the Christian liberal arts college is the last fortress of leisure, like monasteries! The legitimacy of scholarship, like worship and prayer, is not justified

10 The utilitarian nature of most work is exposed when people win the lottery. The language of customers and value-preferences belong to the commercial world, not the school. The naivete of the 1960s counter-culture is revealed in the ease by which the ‘revolutionary’ demand for ‘relevant curricula’ was so easily co-opted by commercial and political interests. Ironically, universities could have made no more bourgeois capitulation than to fawn on the idea of curricular choice maximization. Commercial and political interests seek increasingly proletarianized workers and contractualized relationships for “the totalitarian work state.”
by its usefulness. In *scholé* one is liberated, among other things, to seek understanding of the nature and contexts for human violence without serving an economic or political agenda.

**Virtue and the community of scholars**

We have become depressingly familiar with a North Nigerian neologism *Boko Haram*: “Western education is sin.” It is derived from the Hausa word *boko* meaning Western education, and the Arabic word *haram* which means forbidden, or more colloquially sin. Referring to education in the technological arts, *boko haram* springs from the fear and loathing of modernization. Referring to the liberal arts it is ideologically xenophobic. We probably do not know whether Muhammad Yusuf, the founder of *Boko Haram*, has more in common with Osama bin Laden or Joseph Kony. Nevertheless, the name introduces the question of whether a Western liberal arts education is intrinsically imperialistic and thus to be blamed for violent anti-colonial reactionary movements.

The short answer is that the scholarly vision of the Western liberal arts tradition has changed at an accelerating pace since the Seventeenth Century. Its purpose was eviscerated by the growing elitism of the political and commercial classes and their need for training to rule empires.\textsuperscript{11} Emerging from the medieval monasteries, the original vision sets free a community of scholars to study and to teach. The goal is to cultivate people who embrace virtue and renounce vice.\textsuperscript{12} Thus occupied they challenged commerce and government to be mindful of humanity, and

\textsuperscript{11} Cf. George Parkin Grant, *Technology and Empire*.

\textsuperscript{12} This is recounted and argued in CS Lewis’s slim volume, *The Abolition of Man*.

“Aristotle says that the aim of education is to make the student like and dislike what he ought. When the age for reflective thought comes, the pupil who has been thus trained in ‘ordinate affections’ or ‘just sentiments’ will easily find the first principles of Ethics: but to the corrupt man they will never be visible at all and he can make no progress in that science.” 26
thereby to discomfort.\textsuperscript{13} That vision was co-opted by empire-building and the training and commercial power necessary to it. However, the subversion of the original vocation need not be doubted just because the New World was discovered! That scholars or their students fail to realize the vision is, tragically, the consequence of human fallenness. If the ancient Donatist controversy teaches us anything it is that the worthiness of the scholar who has lost faith or hope ought not diminish the worthiness of the goal: to shape human sensibilities to love the good.

Paul Valery famously declared to the French Academy—“Virtue gentlemen, the word ‘virtue’ is dead,\textsuperscript{14} or at least is on the point of being extinguished. ... I’ve only heard it mentioned in conversations as a curiosity or as a subject of irony.” Ironically the mounting obsessions and addictions of our own era have reawakened an awareness concerning the relation between habit and character, and have thus given new plausibility to the language of virtue. Sadly, in our time the \textit{products} of Western education know more about the problems of televisual characters than they do about the contours of authentic mature character.

How \textit{should} the liberal arts shape us for protecting humanity, especially as we contemplate the treatment of captured fighters? \textit{Prudence}, practical wisdom, equips us to see the truth of real things and thus to know what we owe to them in justice and charity. \textit{Justice} is the ready willingness to render to all their due, which is to ensure that everyone remains in possession of what is theirs. \textit{Courage} steadies us in willingness even to lay down our lives in order to restore justice. \textit{Temperance}, the only inward-directed virtue, equips us for self-examination in order to remove inordinate desires. \textit{Faith}, upon which we all rely for knowledge beyond our own experience, is concerned with whom to believe and the basis for that reliance.

\textsuperscript{13} Cf. the arguments of the Thomists Francisco de Vittoria Francisco Suarez and from Salamanca against the brutal conquest and enslavement of the native peoples in the New world.

\textsuperscript{14} Noted in Pieper, \textit{An Anthology}, Ignatius, x.
Hope, opposing despondency (acedia), despair, and complacency, is the belief that one can realize a measure of the greatness to which God calls everyone (magnanimity). Charity is not blind, but rather believes and wills the good for all.

The complex questions scholars contemplate require love of the good. Commercial and political leaders who want to be cool enough to hang-out with Hollywood celebrities lack the necessary gravitas to undertake the task. Gravitas transcends cliches and commonplaces in a society riddled with false sentiment (while yet denying that there are false sentiments). In any society the requisite seriousness to contemplate difficult matters can only be commended to communities of scholars dedicated to enucleate the difficulties of being just in the world. Virtue cannot be manufactured or mass produced. Like a farm or garden it is the consequence of careful, prayerful cultivation and nourishment. Schole liberates scholars from the need to be useful to commercial and political interests. It is haunting to note that Adolf Hitler’s Mein Kampf, so useful to the commercial and political interests of Germany at the time was published in 1925, the same year Edith Stein’s remarkable reflections were published in, An Investigation Concerning the State. No two books could be more different: one the ravings of a vicious man, the other the result of careful scholarship by a truly virtuous women.

**Identifying combatants**

Many of us remember clearly the ersatz liberation that seized us when adolescent angst was given the diagnosis ‘identity crisis’. Later the folly of that liberation became embarrassingly clear with the realization that the word ‘identity’ has nothing to do with discovering or creating an autonomous self, but rather is concerned with identifying what, or whom one is like. In the Judaeo-Christian tradition this question is answered in the opening chapters of Genesis: human beings are made in the image and likeness of God.
order to determine identity of the denizens of places like Guantanamo, one endeavors to determine whom they are like. So far, this has been an insurmountable legal problem, rendering the issues of their treatment, internment, and repatriation unresolvable.

We begin by comparing them with organized criminals like Somalian pirates, the Mafia, ‘drug cartels’, and street-gangs like MS-13. They have much in common: they are all willing to use any means at their disposal to terrorize civilians, their operations and memberships are international, their command structure is scornful of people’s rights under IHRL and IHL, they torture and decapitate hostages and prisoners, and they kill civilians indiscriminately. However, one big difference between these folk and criminal gangs is a politico-religious ideology. Criminal gangs terrorize citizens for the sake of economic exploitation, and they attack States in order to maintain the power and profit. ‘Politico-religious fighters’ (PRFs) like al Qaida terrorize citizens in lieu of attacking States, because they cannot challenge a modern military in open battle. PRFs terrorize citizens in order to motivate them to push for change in State policy.

However, it often happens that PRFs are welcomed into and sponsored by States to conduct armed conflict by proxy. Osama bin Laden’s sheltering in The Sudan and in Afghanistan included al Qaida’s willingness to participate in those civil wars. ¹⁶ The symbiosis between State manipulation of PRFs and PRF manipulation of States provides a new analytical lens. Genocide is a State action, and is typically undertaken by paramilitary forces under the cover of armed conflict. PRFs share some characteristics in common with genocidal paramilitaries like the Janjaweed in South Sudan and Darfur, Hutu Interahamwe, Serbian Tigers and Chetniks, and the

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¹⁶ This is characterized currently, for example, by the Pakistani government and its proxy relationship with Lashkar-e-Jhangvi. The fact that this relationship has soured is to be expected, and the group is now allied with the Taliban.
Nazi SS: in the case of al Qaida and those linked with it there is a declared intention to commit genocide (against Jews), accompanied by seeking the technological means to accomplish it.

Like PRFs, paramilitary forces have similar characteristics to criminal gangs. Paramilitary forces, like PRFs, paramilitary typically have a political ideology. When PRFs are engaged in combat as proxies for States from within the State, they are very much like paramilitary forces. If they are similarly engaged from outside a State, they are like mercenaries which are by definition hired from outside. Due to the fact that PRFs like al Qaida include people from many States, the difference may be without a distinction. If this is the case, treatment of such forces when captured is further mired in the debate over the legal status of paramilitary forces and mercenaries. The Geneva Conventions make no mention of mercenaries or paramilitary forces. Many assume that mercenaries were included as combatants of a State under the Conventions. However, under Article 47 of AP I, mercenaries are specifically denied the status of POW if captured. Paramilitary forces have a similarly ambiguous status. Therefore, when a State (like the United States) sends its armed forces to respond defensively to attacks undertaken by PRFs (al Qaida in Afghanistan), what protection is owed to each of the various fighters under IHL? What does it matter whether they are combatants, criminals, mercenaries, or paramilitary forces?

Like Switzerland, its country of origin and host, the ICRC seeks to remain neutral with a single-minded intention to protect as many as possible from the horrors of armed conflict. They have responded to this dilemma by tasking various lawyers and researchers to convene international conferences in order to find a resolution. The ICRC is in a unique political position. It is not an intergovernmental organization (IGO) like UNESCO or the World Bank, but is rather

17 The Interahamwe is now a terrorist group living in the forests of the Democratic Republic of Congo and Uganda. They are no longer officially associated with the State of Rwanda. The flexibility of these categories is part of the problem for domestic and international law.
a non-governmental organization (NGO) with *treaty relationships* with most States. (Treaty relationships are generally between States only.) Due to these treaty relations it takes a more functional approach. The four Geneva Conventions protect combatants captured in international armed conflicts (IACs). If civilians enter combat they do so illegally, and they can claim only the protections of the Conventions’ Common Article 3.

Since World War II, conflict has become increasingly dominated by non-international armed conflicts (NIACs), especially those of anti-colonial liberation movements. The two Protocols Additional to the Geneva Conventions were negotiated in the early 1970s in order to provide a measure of protection to the parties involved. The Protocols have not been ratified by the United States, and enjoy less adherence even among States parties. The new problem is with ‘mixed’ armed conflicts: i.e., those that begin as NIACs but are internationalized by one or more parties. The ‘civil wars’ in Mali and Syria right now are good examples. Each type of conflict has its own rules concerning combatant status. PRFs are generally not covered by any of them, unless they are directly involved in hostilities as proxies alongside combatants. Here the ICRC has taken the position that they are combatants and that when captured they are POWs. The opinion of the ICRC is not legally determinative in this matter, and it is unlikely that the States that engage PRFs will adopt such an inclusion. Even if the United States and NATO States adopted PRFs as combatants, the problem of when the conflict ceases would remain.

Reckoning with what to do with captured PRFs will compound over the coming years. The many thousands of dislocated men, mostly, who have no desire to return home when a specific engagement is over pose complex problems for States and for those in them who want to protect humanity as much as possible. For the past century-and-a-half, modernity has fallen heavily on pre-modern societies as they become aware that industrialization has made them
dependent on developed States. Rather than evolving slowly, this recognition of their inability to compete economically and militarily with the industrialized world motivates them to attempt a quick catch-up policy. Violence is often the consequence in order to prove that parity has been achieved with the industrialized States. Examples include the behavior of Russia, Turkey, Japan, China, and now the two-thirds world since World War II. Resentment has a growing literature.

Rene Girard argues forcefully that cultures arise from sacrificial violence, and that ritualized scapegoating is necessary to maintain social harmony. This theory of sacred violence is based upon his mimetic theory of desire, arguing that all human desire is triangulated—i.e., we desire things not because a thing itself is innately desirable, but rather because the others whom we imitate desire them. Therefore, desire is necessarily the fruit of mimesis (imitation) which too often deteriorates into envy. On this account solving social problems without violence requires that citizens and their commercial and political leaders be willing to recognize their own blame for social disharmony—a necessity that seems to be unlikely, by and large. Otherwise a scapegoat is needed.

The implications of Girard’s theory in an era of rising tribalism helps scholars to contemplate PRF behavior as a species of scapegoating. Jacques Semelin’s “pernicious tree of propaganda” is also exceptionally helpful. Agreeing with Girard’s analysis of scapegoating, he explains the mechanism by which scapegoating leads to violence. Social leaders invent “the imaginaire of destruction.” This imaginaire, is a story depicting a common past of suffering and trauma which most of a particular people must believe enough for them to say: “Look what they’ve done to us. We’ll never let that happen again.” As Semelin argues, this story is the trunk of the ‘pernicious tree of propaganda’, and “it sprouts two large branches that together make up

18 Cf. The Scapegoat; Violence and the Sacred; and Deceit, Desire, and the Novel.
its entire stature: the almost eternal principle of grandeur and purity of our people who ... will not put up with such humiliations again” and the other branch which demonizes the ‘other’, which is “the source of all our people’s unhappiness.” 19 This is the story told by the newly dependent in Ottoman Turkey, Nazi Germany, the former Yugoslavia, Rwanda, Sudan, Liberia, Cambodia, North Korea, and on and on. It is the lingua franca of all PRFs as well.

The implications of attentiveness to scapegoating puts the pronoun deadly back in front of the seven ‘deadly sins’ (eight in Orthodoxy). Girard insightfully exposes most peoples’ unwillingness to take the blame for their own contributions to social crises. It is far easier to participate in the ways social leaders—political, cultural, and economic—develop schemes to evade their own culpability with an imaginaire of blame, relying on resentment and scapegoating to restore harmony, social cohesion, and support for their policies. Envy, blame, and resentment—it sounds like the Garden of Eden!

It is particularly useful to point out that scapegoating is not simply the penchant for PRFs, but for all societies. The imaginaire is useful for analyzing the ideology and behavior of PRFs as well as those they fight. The conceptual challenge is this: IHL is designed to humanize the conditions of warfare, which is not a primary concern of those who scapegoat. IHL is designed for combatants who seek to return to their lives as butchers and teachers and farmers once the conflict is over. IHL’s psychological premise is that the vast majority of soldiers do not live to fight, but rather fight to live. Its doctrinal premise is that peace is the state for which we are created, and that war is the aberration intruding on our desire to live together peacefully. These assumptions may not be as universally valid as like to think.

The task ahead for domestic and international law

During Michael Mukasey’s confirmation hearings for United States Attorney General, he was grilled by Senator Patrick Leahy (D-VT) and others about whether waterboarding is torture. His answers were greeted with predictable derision because he insisted that the Attorney General enforces the law, and the relevant domestic statutes do not list waterboarding as torture. 20 The Constitution requires that legislators enact implementing legislation—i.e., it is Senator Leahy’s and his Senate colleagues’ legal duty to define what is and what is not torture. It is the duty of the Department of State to initiate negotiations to develop commensurate treaty law.

The domestic task

The failure of the United States Congress to pass implementing legislation on the CAT and the fate of those captured in armed conflict is a colossal failure of legislative statecraft. It is, however, characteristic of the worldwide chaos concerning how to define, detain and repatriate PRFs. Judges need statutory guidance from statutes in order to determine how to adjudicate these matters. The lack of success in prosecuting these men is the consequence of inadequate legislation to deal with the specific problems of this dilemma. The problem is a good one because we seek to be humane, and to guarantee due process to each captive, when States simply executed them in earlier years. The details, however, have still not been worked out satisfactorily. These men must be returned to their families when and if it is safe to do so. Otherwise there must be an objective reason that conforms to domestic statutes and IHL to keep them imprisoned. Closing Guantanamo as a prison depends on the United States Congress.

The diplomatic task

20 The Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT) is equally vague, and the CAT Committee appointed to evaluate treaty compliance has no legal authority to interpret it.
Closing the prison at Guantanamo also depends on the development of IHL. However, the ICRC has treaty obligations that impose political concerns on their proposals. Specifically, they have treaty obligations to States that use PRFs as mercenaries or paramilitary forces, which acts as a weakening of their resolve. They think that they need to heed bogus academic and political claims about the justifiability of violence against civilians. In individual conversation they see the problems clearly, but by the time an organizational statement arrives it accepts far more violence than one would hope.

For example, under IHL, there are three categories of persons during times of war: participants of the conflict as members of military services (combatants), those who are levee en masse, (such as Bosnian Muslims reacting against the murderous Serbian paramilitaries), and those who are civilians. The latter are protected by against violence by IHL, the first may participate in violence if they follow IHL, and those who are levee en masse have de minimus protections from the Protocol Additional to the Geneva Conventions of 1949 (AP I). Those outside the first two groups have no protection against being tried and convicted of murder.

However, the difficulties are in the details. Hamas, for example is a recognized government, with combatants as well as PRF proxies. Their leadership is responsible for the actions of its members. If they violate Geneva law the command structure should be prosecuted. Hezbollah is also a political party, and its members hold office in Lebanon. They cannot have an armed force of combatants (that is for the entire Lebanese government to direct), but they have fighters. Do these fighters belong to a paramilitary force, a PRF, or are they proxy mercenaries for the Syrian and Iranian governments? Determining the status of other groups like al Qaida and Boko Haram is similarly difficult under current law. They are not political parties or
governments, and as such their members have no protection when they commit violence. This is the new problem for IHL.

If members of al Qaida fight alongside the Taliban, a recognized party to the conflict in Afghanistan, the ICRC has proposed that they become members of a recognized combatant organization, and are protected by the Additional Protocols. Thus they become combatants and are entitled to POW status. On the one hand, they do not enjoy the protections of civilians. On the other hand, they have a quasi-protected status given to civilians who leap spontaneously and intermittently into the conflict. Further, this implies that until members of a PRF formally join with combatants like the Taliban, they enjoy the protections of civilians and cannot be killed with impunity. This view is unlikely to gain traction in the United States. The problems of battlefield identification in these conflicts is well-known, and to muddy the water even more is unacceptable. The same is true in regard to their treatment expected if they are captured.

In order to summarize the policy concerns let us recall that the purpose of determining the identity of armed forces and the nature of their actions is to know whether they can be tried and convicted of crimes if captured. If they are POWs who have not committed war crimes, they may be interned until the hostilities are over. If they are POWs who have committed crimes, they can be tried and convicted. If they are not POWs, they can be tried and convicted for any crimes they have committed. As we have found over the past decade, the business of trying captured civilians without jeopardizing national security is no small problem. Neither is determining for PRFs when hostilities are really over.

Until these matters are settled domestically by statute and internationally by treaty States have no choice but to continue interning captured PRFs. The scholar’s vocation is to remind all the parties that protecting humanity from wanton bloodshed is is till pose a threat to their
respective societies. Under IHRL, there’s only a right against arbitrary detainment, not against internment per se. In the U.S., discussions about internment must always be mindful of our own practices, especially of the experience of Japanese-Americans during WWII.

**Conclusion**

It involves no contradiction to argue that scholars must approach problems like what to do with captured PRFs in a space free from ideological and practical usefulness, and to admit that it is a mounting global concern. No matter whether captured personnel are POWs or not, they are human beings who must be treated humanely. We are only too mindful of the photographs from Abu Ghraib prison—hooded heads masking the humanity of humiliated flesh. If photographs are like proverbs, what do we learn from regarding a waif staring vacantly at a naked man she holds by a leash? Beyond “not getting it,” we recognize the ease with which imprisoned enemies come to be seen as not human, and then abused. The men in these photographs belong to wives, children, parents, and communities. Our regard for them must resist the temptation to dehumanize—they are made in the image of the living God.

I once opined to a friend, “You don’t have to hate the people you’re fighting.” He answered, “Yes, but it makes it a lot easier.” Scholé involves not only study, but also the practice of spiritual disciplines. In both we hope to cultivate the charity, prudence, and justice necessary to love our enemies, and to resolve problems like what to do with them when they are under our control. Even if PRF detainees are proven guilty of crimes their humanity must be preserved. Perhaps the Gaede Institute can co-host a conference with the Martin Institute for Christianity and Culture and Dallas

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21 Sontag’s fascinating assertion is: “Memory freeze-frames: its basic unit is the single image. In an era of information overload, the photograph provides a quick way of apprehending something in a compact form for memorizing it. The photograph is like a quotation, or a maxim or a proverb.” Susan Sontag, *Regarding the Pain of Others*. New York, New York: Picador, Farrar, Straus, and Giroux, 2003. 22
Willard Center for Christian Spiritual Formation concerning the ways the spiritual disciplines *form* scholars in order to undertake the complex scholarly projects facing us in this time

— Stephen Paul Kennedy, Ph.D.
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Biola University, Adjunct Professor, Political Science