

# Global War on Terror as De-Militarization

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The transformation of war into policing, and therefore its de-militarization is something that has been widely recognized, not least within the U.S. armed forces themselves. In 2004, for instance, the "Final report of the independent panel to review Department of Defense detention operations" dealt with the incidents of prisoner abuse at Abu Ghraib precisely by placing them in this context. It argued that the emergence of global terrorism and its "asymmetric warfare" made the "orthodox lexicon of war," like state sovereignty, national borders, uniformed combatants, declarations of war and even war itself irrelevant, for today

"the power to wage war can rest in the hands of a few dozen highly motivated people with cell phones and access to the Internet."<sup>1</sup> Furthermore, "the smallness and wide dispersal of these enemy assets make it problematic to focus on signal and imagery intelligence as we did in the Cold War, Desert Storm, and the first phase of Operation Iraqi Freedom. The ability of terrorists and insurgents to blend into the civilian population

further decreases their vulnerability to signal and imagery intelligence. Thus, information gained from human sources, whether by spying or interrogation, is essential in narrowing the field upon which other intelligence gathering resources may be applied."<sup>2</sup>

## Criminalizing the enemy

What all this means is that a place like Abu Ghraib was suddenly transformed into something it was never meant to be, an interrogation centre that was part of a new form of warfare in which "the distinction between front and rear becomes more fluid."<sup>3</sup> In other words, the novelty of the global war on terror was represented at the prison by the virtual collapse of distinctions between internal and external enemies, as well as between front and rear lines. Quite apart from the ineptitude exhibited by all concerned with the prison, then, as well as the infractions committed by some among its staff, the abuse at Abu Ghraib was important because it threw light upon the new role assumed by military detention, which was no longer to process front-line suspects quickly for distribution to judicial bodies in the rear, but rather to

hold them for extended periods in order to extract urgent or "actionable" information that might prevent future acts of terror, a function which is effectively one of policing because it turns enemy actions into criminal ones. Extracting information from prisoners of war, of course, is no new thing, but to do so in the theatre of war by intertwining and even confusing the jurisdiction of the army and the CIA is a departure from standard practice. For the very presence of the CIA at Abu Ghraib, signalled the introduction of rules outside traditional military logic as well as jurisdiction. Hence, a facility like Abu Ghraib lost its traditional function of providing one service in the linear logic of military deployment, something like an old-fashioned factory line, to become a multi-tasking node within a non-linear or network logic.

It was this very criminalization of enemy actions that had led to the partial suspension of the Geneva Conventions, which included the President approving, in principle, the use of torture for al-Qaeda and

**This essay argues that the emergence of al-Qaeda as a new kind of enemy has resulted in the paradoxical de-militarization of the war waged against it. The much-publicized incidents of abuse at the U.S. detention centre of Abu Ghraib provide an example of the way in which the Global War on Terror has increasingly become a criminal rather than military operation. By reclassifying Iraqi prisoners into "criminal-like" enemies they became mere human beings rather than prisoner of war properly defined, which meant that their captors, too, were ironically defined merely as human beings and not as soldiers subject to a set of positive regulations.**

Taliban detainees in Afghanistan and at Guantanamo Bay in Cuba. Precisely because such detainees did not seem to fall under the formal, public and state-centred categories listed by the Geneva Conventions they could be described as unlawful combatants, enemy combatants, or unprivileged belligerents. The debate generated by these developments, of course, has focused on the fact that such new enemies appear to possess no legal status at all, being defined neither as soldiers nor as civilians, neither as foreign subjects nor as domestic ones. This was exactly the concern expressed by the Interna-

tional Committee of the Red Cross as well as by the U.S. Supreme Court, since the government did not even have a negative definition for such combatants, i.e. those who could not fall into their ranks.<sup>4</sup>

What the debate did not take into consideration, however, is the fact that the suspension of any juridical definition for this new kind of enemy ended up pushing him from the public status of foreigner and soldier to the private one of domestic and civilian ambiguity. Because this enemy had no legal status under international as much as domestic statute, in other words, he existed underneath the law rather than under it. While a criminal, after all, enjoys rights because he possesses juridical status, this new enemy is not classed as a criminal, but rather as someone criminal-like. What this did was to transform the landscape of war into one of civilian and, therefore, of ethical life because the enemy was now increasingly given his due, not by right, but as a gift or favour. Treated thus he became a mere human being rather than prisoner of war properly defined, which meant that his captors, too, were suddenly and ironically defined merely as human beings and not as soldiers subject to a set of positive regulations. The historical precedent for such a status is that of slaves, who also existed underneath the law governing free men as much as criminals, becoming therefore merely human beings along with their masters.<sup>5</sup> For what could be more human than social relations governed by ethical rather than juridical practices?

## Civilian ethics and the military

All this is made very clear by the U.S. presidential memorandum of February 7, 2002, which suspends certain articles of the Geneva Conventions while at the same time emphasizing the need to adhere to their principles. "As a matter of policy," the President declared, "United States Armed Forces shall continue to treat detainees humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva."<sup>6</sup> In other words these formerly juridical duties of military experience have been turned into the ethical prescriptions of an ambiguously civil life, becoming discretionary and, therefore, gift-like. The place evacuated by the language of the law, then, is occupied by the vocabulary of ethics precisely because neither legal obligations exist nor even a clear doctrine regarding the treatment of detainees. Given this, it is not incidental that the "Final report of the independent panel to review Department of Defense detention operations" should recommend that all "personnel who may be engaged in detention operations, from point of capture to final disposition, should participate in a professional ethics programme that would equip them with a sharp moral compass for guidance in situations often riven with conflicting moral obligations."<sup>7</sup>

Instead of reading the recommendations of the independent panel either as a lot of eyewash, or as routine ways of addressing routine military problems, I see them expressing a genuine attempt to deal

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with a novel situation—one which includes the troubling insertion into military life of an ambiguously civilian space of ethical rather than juridical existence. “Some individuals,” states the report, “seized the opportunity provided by this environment to give vent to latent sadistic urges. Moreover, many well-intentioned professionals, attempting to resolve the inherent moral conflict between using harsh techniques to gain information to save lives and treating detainees humanely, found themselves on uncharted ethical ground, with frequently changing guidance from above.”<sup>8</sup> As if to support this position, the “Investigation of the Abu Ghraib Detention Facility and 205<sup>th</sup> Military Intelligence Brigade” even quotes Staff Sergeant Ivan L. Frederick II, one of the soldiers accused of the most egregious abuse, telling colleagues who rescued one of his victims, “I want to thank you guys, because up until a week or two ago, I was a good Christian.”<sup>9</sup> This was well before any photographs had surfaced from Abu Ghraib, or any investigation launched.

The emergence of such new spaces within the cultural and institutional life of the armed forces is neither accidental nor unplanned, for the prison we have been looking at in Baghdad marks one site in which the eminently private, civilian, and even ethical vision for the military proposed by the U.S. Secretary of Defense has achieved its crude beginnings: “We must transform not only our armed forces but also the Defense Department that serves them—by encouraging a culture of creativity and intelligent risk-taking. We must promote a more entrepreneurial approach: one that encourages people to be proactive, not reactive, and to behave less like bureaucrats and more like venture capitalists; one that does not wait for threats to emerge and be ‘validated’ but rather anticipates them before they appear and develops new capacities to dissuade and deter them.”<sup>10</sup>

Both the Armed Forces and the State Department had opposed the President’s suspension of certain articles in the Geneva Conventions, arguing not only that these were sufficient to deal with the enemy threat, but also that “to conclude otherwise would be inconsistent with past practice and policy, jeopardize the United States armed forces personnel, and undermine the United States military culture which is based on a strict adherence to the laws of war.”<sup>11</sup> Apart from the repercussions of this suspension in terms of international law as well as of international reputation, which were primarily the concerns of the State Department, the military was concerned with the fragmentation of its own culture that such partial suspensions of juridical uniformity represented. And indeed a whole new world of private or civilian practice soon hove into view, or rather out of view, within the armed forces. For example, interrogation techniques, as well as moral liberties that had been permissible in Afghanistan and Guantanamo Bay, where the relevant articles of the Geneva Conventions had been suspended, were introduced into Iraq, where they were still in force, through “a store of common lore and practice within the interrogator community circulating through Guantanamo, Afghanistan and elsewhere.”<sup>12</sup>

The juridical fragmentation and privatization of military life was compounded by its institutional fragmentation and privatization, given the presence of private contractors or the CIA at a facility like Abu Ghraib, all working under different rules. Naturally, the absence of legal or doctrinal uniformity, plus the sheer multiplicity of guidance, information, and authority present, created areas of confusion, negligence, and criminal opportunity in the prison.<sup>13</sup> All this, of course, would be avoidable once a doctrine governing relations between these various elements was formulated and enforced. What seems to be unavoidable even under the most serene of conditions is the military’s cultural and institutional fragmentation, signalled most disturbingly, not by the infiltration of private contractors and the CIA into its domain, but by the spread of private or civilian practices among its own troops. This is not a matter merely of temporary exigencies having to do with the particularities of time, place or resources, but apparently marks a new paradigm of war that has emerged since the attacks of 9/11. It is in this light that the deference accorded at Abu Ghraib to non-commissioned officers who had civilian correctional backgrounds becomes significant.<sup>14</sup> For no matter how accidental or temporary it might have been, such deferral points to the private, civilian, and even ethical nature of new military practices—which, paradoxically, end up treating foreign enemies *like* but not *as* domestic criminals.

Image not available online

PHOTO BY ALI JASIM / © REUTERS, 2006

**U.S. soldiers stand on guard at Abu Ghraib prison, Baghdad, 15 June 2006.**

Unlike many commentators on the incidents of abuse at Abu Ghraib, who, like those accused of it, blame such incidents on orders given from above, I suspect that American military culture itself had little to do with the sadistic fantasies of the soldiers involved. This is why the two official reports on these episodes are so concerned with the fragmentation of command structures, the private world of unauthorized behaviour, and the military risk they represent. Indeed the apparent tolerance of abuse among some of the superiors of those accused, as well as of their colleagues who did not participate in it, poses significant risks to military discipline, as the reports acknowledge by recommending punitive measures and additional training. The reports also make it very clear that the new paradigm of war announced by the attacks of 9/11, which entailed, among other things, suspending the traditional laws of war, are transforming the American armed forces in an unexpected fashion by breaking down some of its familiar structures in ways like opening it up to multiple sets of rules as well as to private contractors and other civilians.

I want to bring this set of reflections on Abu Ghraib and the transformation of American military life to a close by pointing out the chief repercussion that al-Qaeda’s jihad has upon its enemy’s identity and functioning: the problem posed by asymmetric warfare to conventional deployments of force. This problem is described very succinctly in the “Final report of the independent panel to review Department of Defense detention operations,” which states that asymmetric warfare “can be viewed as attempts to circumvent or undermine a superior, conventional strength, while exploiting its weaknesses using methods the superior force can neither defeat nor resort to itself.”<sup>15</sup> While this definition recognizes the structural impasse posed by al-Qaeda, whose organization, mobility, and aims no longer bear much comparison to those of guerrilla or terrorist groups in the past, it does not consider the ways in which such asymmetrical warfare has, in fact, changed the armed forces. But does not the collapsing of military distinctions between the external and internal enemy, or the front and rear line, mirror the global jihad’s own collapse of the distinction between the near and far enemy, or the military and civilian one? Does not the juridical, cultural, and institutional fragmentation of the U.S. armed forces mirror that of al-Qaeda? And does not diverting military life into private, civilian, and even ethical channels mirror a similar diversion in the lives of Islam’s holy warriors?

## Notes

1. See *The Abu Ghraib Investigations*, ed. Steven Strasser (New York: Public Affairs, 2004), 27.
2. Ibid. / 3. Ibid., 28. / 4. Ibid., 88-89.
5. I owe this point to Uday Singh Mehta.
6. Ibid., 30. / 7. Ibid., 99. / 8. Ibid., 25. / 9. Ibid., 167-68.
10. Donald H. Rumsfeld, “Transforming the military,” *Foreign Affairs* 81, no. 3 (May/June 2002): 24.
11. *The Abu Ghraib Investigations*, 30.
12. Ibid., 34-5. / 13. Ibid., 73-4. / 14. Ibid., 81. / 15. Ibid., 26-27.

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