

## **Human Shields: Social Scientists on point in modern asymmetrical conflicts<sup>1</sup>**

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Those who continue to harbour a late-20th century view of war and the armed forces that fought them would be surprised if they were to visit a brigade-level or higher headquarters of Western armed forces in any of the several fronts in what has recently been described as the 'continuous war' currently on-going. There are some strange people to be found there.

In addition to the professional – almost exclusively since the abolition or suspension of conscription in most Western armed forces – military personnel trained in infantry operations, fire-support, PsyOps and the host of other military specialties that one should reasonably expect to find, there are also anthropologists, archaeologists, art experts, the occasional theologian (in addition to the chaplains, who have other concerns), and representatives from disciplines that have apparently nothing to do with what is perceived to be the dirty business at hand: to wit, killing people and blowing things and people up.

The deployment of anthropologists with combat forces has probably attracted the most attention in the popular press since it became known that the US was using them in Iraq as part of General Petraeus' counter-insurgency (COIN) doctrine (see for example Rohde 2007). Their role as part of the Human Terrain System (HTS) (see US Army 2009) – which involves collecting and/or analysing information about the societies and groups within them in areas of combat operations and providing the results of that analysis to the local and higher-echelon commanders for consideration in their operations – has been discussed and criticised at length (see below).

Those who look favourably on the use of anthropologists in this way point out that the information they provide makes it possible for commanders to better understand the human side of the often-extremely-alien social environments in which they are operating and thereby to make choices that do not exacerbate through ignorance an

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<sup>1</sup> This article was included with some minor changes in P. G. Stone (ed.), *Cultural heritage, ethics and the military* (pp. 172-181). Woodbridge, Suffolk: Boydell Press. 2011.

already difficult situation. It can also help them to be more effective militarily, such as when they target the actual combatants rather than indiscriminately selecting from a group, all of whom, given the predilection of non-conventional forces to not wear the Geneva-mandated 'fixed distinctive sign recognizable at a distance' (ICRC 1949) of armed forces affiliation, dress alike.

Critics, of whom anthropologist Roberto J González – author of *American Counterinsurgency Human Science and the Human Terrain* - has probably the highest profile, says that anthropologists have been specifically recruited to be intelligence assets and the HTS programme is an 'attempt to whitewash counter-insurgency' (Redden 2009). One of his prime objections is that the work of the anthropologists and other social scientists deployed in the HTS teams could be used to target individuals and/or societies, which violates the ethical principle that the subjects studied by social scientists should not be harmed by the study. Gonzalez further points to the ethical dilemmas that could (should?) be encountered by anthropologists studying a society in which the military unit they are attached to is operating: how can they in good conscience provide research notes or information to the commander if that information is to be used to, for example, identify groups or individuals who have ties to opposing military forces?

A group of military and civilian experts in Cultural Property Protection in Conflict Situations encountered similar objections in the summer of 2008 during an academic session at the sixth World Archaeological Congress in Dublin. Protesters accused the experts, and especially one Dutch and several American experts who had been militarised and were actually serving members of their countries' armed forces, of having 'blood on their hands' for collaborating with armed forces engaged in, with specific reference to Iraq and, to a lesser extent, Afghanistan, illegal or at least unjust wars (and see Introduction).

In October 2007, the Executive Board of the American Anthropological Association issued a statement opposing the HTS programme, which, in the AAA's view, could lead to violations of the association's code of ethics and put other anthropologists and the people they study at risk (American Anthropological Association 2007).

The AAA statement is not a blanket condemnation, however, but is specifically related to the war in Iraq, stating: 'In the context of a war that is widely recognized as [constituting] a denial of human rights and based on faulty intelligence and

undemocratic principles, the Executive Board sees the HTS project as a problematic application of anthropological expertise, most specifically on ethical grounds' (ibid). Nevertheless, the AAA statement's conclusion does support the use of anthropology as a legitimate and effective guide to US policy to serve the humane causes of global peace and social justice (ibid).

Quite apart from the inherent contradiction in the AAA statement's conclusion (ie the HTS or a similar programme, with all of its ethical conundrums intact, might be acceptable in a war that had not been 'widely recognized as a denial of human rights...and undemocratic principles'<sup>1</sup>), there are several other things that one can say about social sciences professionals working in a conflict situation. One of the first questions relates to the not-insignificant question of the proper role and station of a nation's armed forces. Especially with regard to militarised reserve or regular-force officer anthropologists, the critics are implying that they should not carry out their duties as serving members of their country's armed forces. This would, in the opinion of the critics, require them to take an ethical stand as individuals and refuse to carry out a legal order from a superior.

In armed forces of the 20th and 21st centuries, refusal to carry out an order on ethical grounds is well founded in law and military regulation. With the stark example of the Nuremberg defence ('I was just following orders') following the collapse of the National-Socialist regime in Germany at the end of World War II, armed forces quickly moved to embed such provisions to forestall such a defence in future in their own regulations, providing for individual military personnel to refuse to carry out an illegal order, though the phrasing is usually positive: personnel must carry out a legal order. As Sparrow and Inbody point out (Sparrow and Inbody 2005), military personnel, especially officers, who have received extensive training in ethics tend not to distinguish between an illegal and an unethical order. An illegal order is by definition unethical and an unethical order is by definition illegal.

Sparrow and Inbody contend that this is quite distinct from the commonly held civilian view, which holds that there is 'more of a difference between illegal decisions [...] and unethical [...] orders' (ibid, 13). They further note that civilians tend, as the AAA has done, to support disobeying what they perceive to be an unethical order (ie that the militarised anthropologists and other social scientists provide information gleaned by the application of their professional skills to the military chain of command), even though it may be a legal order. This distinction, which consequently represents differing

views of 'what constitutes military obedience and insubordination [...] could', Sparrow and Inbody contend, 'have considerable consequences' (ibid). From the perspective of the serving officer or other rank, the civilian position as stated by Sparrow and Inbody would undermine the very basis for effective armed forces.

The very point of the armed forces is – within the frameworks provided by codes of military justice, national and international civil law, treaties, memoranda of understanding and status of forces agreements and the law of war – to carry out the missions that they are assigned. Disobeying a legal order renders moot the entire concept of national armed forces: obedience to the chain of command and under civilian control. The critics are therefore asking the individual militarised social scientist to intervene in place of, and place themselves above, the democratic political entities that are to decide when and how the armed forces are to be deployed. With specific reference to cultural property protection, they are, furthermore, asking the social scientists to cause their countries to violate their international obligations under the Hague Convention with respect to the protection of cultural property.

In the British context, joining the armed forces (especially the army) is known as 'taking the Queen's penny'. Once one has done that, one has *voluntarily* (in today's armed forces) waived something of the autonomy that civilian personnel enjoy<sup>2</sup>. Those who object to this principle are, in fact, calling for the armed forces to cease being an effective instrument of the political leadership and are asking the serving social scientist to do on his own what the critics and their supporters are unable to do politically, to wit: reduce the ability of the armed forces to carry out its mission.

A second issue relates to whether the subjects of the social scientists' interest are worthy of particular treatment. In the anthropological realm, this relates to people being treated in accordance with the laws of war, the Geneva Conventions, and similar undertakings with regard to personal dignity and personal integrity. In the Western armed forces, at least, the consensus view is that they should.

The contribution that social scientists can make in helping commanders understand what a population that is within the forces' sphere of action, if not outright control, understands as personal dignity and personal integrity can be a very important contributor to complying with all of the principles and regulations in this regard. To use a very obvious example: if one is distributing food packages to a local population and does not know that pork is not only unwelcome, but is in fact religiously 'unclean', a

situation can potentially arise that leads to social unrest, armed incidents and escalation, which not only interferes with the military mission of the unit, but is also, and more seriously, disruptive, at the least, to the social stability of the indigenous population. If we place the same issue in the context of cultural property, which has been specifically designated by international treaty as being worthy of protection during conflicts, then one is hard-pressed to understand what the criticism is based on in substance, beyond opposition to anything that could be perceived as support to an armed force engaged in combat operations in war.

If a cultural property or artefact is worth protecting, then efforts to ensure that it is protected should be welcomed by all concerned. Where it is not protected, as was the case during the early weeks of the US/British invasion of Iraq in 2003 and looters emptied out the National Museum of artefacts that were (and are) important to understanding the cultural history of Iraq and much of the rest of the world, popular opinion turns massively and immediately against those perceived to be culpable for the loss of human heritage. 'If only there had been someone high enough in the chain of command to have ensured that resources were reserved to protect them!'

The creation of the International Committee of the Blue Shield in 1996 to support the provisions of the *Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict* of 1954, is only the most obvious expression of the national and international obligation to protect cultural property. Since 1954, an increasing number of countries have ratified and/or implemented the provisions of the Hague Convention in legislation and regulation, thereby taking upon themselves the legal obligation to actually provide the protection called for in the Convention.

To a certain extent, the Blue Shield organisation is analogous to the International Red Cross, which was founded following the harrowing Battle of Solferino in 1862. The creation and operations of the Red Cross since 1862 have not ended war or armed conflicts of other kinds. It has, though not with 100% success, made the treatment of combatants and non-combatants more humane than it had been, however. Almost no-one would ask a doctor to not go to a conflict zone as part of a military force, even though one consequence of a military doctor or surgeon's activities is to render the armed forces more effective.<sup>3</sup>

People *have* asked social scientists not to participate in military activities, however. Logic would therefore seem to dictate that, based on the consequences of having

social scientists not take part in the military activities, the critics who make those calls would prefer that the negative consequences take place rather than that the professional reputation of a branch of research. If we extend that argument to archaeologists, for example, the act of preventing military action from destroying an archaeological artefact (eg by pointing out to a commander that there is one in his field of fire) is logically less preferable than not having the archaeological community be associated with the military operation – with the result that the artefact might be destroyed, leaving the archaeologists, and society at large, with pictures (if any have been taken) or with nothing but grounds for academic papers assailing the heartless soldiers who destroyed it. It is simply not so that failing to have an archaeologist on the military staff would somehow bring the operation to a halt.

The ethical foundation for a great deal of military ethics, especially with regards to war and other combat operations, goes back to Aristotle and the principles of the ‘Just War’ as they have evolved since. The tradition of the Just War has traditionally been based on two principles: *ius ad bellum* – go to war justly – and *ius in bello* – conduct the war justly. As Desiree Verweij shows, both of those pillars contain aspects that relate to the deployment of social scientists in wartime (Verweij 2007). *Ius ad bellum*, is concerned with several things: righteous cause, correct intention, proper authority, and creating peace. If we, as Verweij has done, examine each of those in the context of the war in Iraq with specific attention to the deployment of social scientists, we can draw several conclusions.

‘Righteous cause’ with respect to Iraq is usually dismissed, especially given the evidence that has come to light since the war began, that the officials in the George W Bush administration manipulated the data and public opinion to justify invading Iraq. There were no weapons of mass destruction; therefore there was no legitimacy to the war. Whether Bush *cum sui* had other ‘righteous reasons’ that rise above the suspicions of most that it was really about oil and ‘getting the man who tried to kill my daddy’ (King 2002), is not yet known (and may never be). It is possible, however, to conceive of several, but as it is not germane to the subject at hand and does not involve personnel at the level that we are concerned with here, I do not explore this further. The same applies to ‘Correct intention’, which Verweij says goes to the deeper motivations for going to war.

The third and fourth aspects are directly relevant to our discussion here. The principle of proper authority goes to the question of whether the US Congress is the properly

constituted body for declaring war and whether it did so legally. That it is the properly constituted body, from a domestic US position, is beyond doubt. Article 1, Section 8 of the US Constitution gives Congress – and not the President, contrary to popular belief, which makes Iraq President Bush's war – the sole authority among the three of the separated branches of power to declare war, which it did by means of the *Authorization for Use of Military Force Against Iraq Resolution* of 2002, a joint resolution of the House of Representatives and the Senate and passed on 16 October 2002. The broader question of whether Congress was the competent authority goes to the status of the United Nations Charter, which states that only wars of self-defence or wars that are sanctioned by the United Nations Security Council are legal.

There is some grey here that is still being debated by legal scholars, of which I am not one, as to whether, as the Bush administration maintained, the series of UN Security Council resolutions dating back to 1990 constituted approval. At the level under discussion here, however, an individual might reasonably conclude that, based on previous UN Security Council resolutions and the authority of the US Congress, the proper authorities had acted, thus eliminating this, or at least weakening it substantially, as grounds for insisting that individuals withhold their participation. The fourth principle, that of creating peace, is the most relevant of the categories of *ius ad bellum* that concerns us here.

If the efforts of the social scientists contribute to achieving peace, either by making the conflict shorter through their efforts or by helping to create the conditions for lasting peace when the combat stage is over, then a justification for participating is clearly present. This is even more the case in view of the increased importance of the principles expressed in the Constitution of the United Nations Educational, Scientific and Cultural Organisation (UNESCO):

That since wars begin in the minds of men, it is in the minds of men that the defences of peace must be constructed;

That ignorance of each other's ways and lives has been a common cause, throughout the history of mankind, of that suspicion and mistrust between the peoples of the world through which their differences have all too often broken into war;

That the great and terrible war which has now ended was a war made possible by the denial of the democratic principles of the dignity, equality and

mutual respect of men, and by the propagation, in their place, through ignorance and prejudice, of the doctrine of the inequality of men and races; That the wide diffusion of culture, and the education of humanity for justice and liberty and peace are indispensable to the dignity of man and constitute a sacred duty which all the nations must fulfil in a spirit of mutual assistance and concern.

(UNESCO 1945)

Where the activities of the deployed social scientists are focused on these issues, and current strategic thinking seems to indicate that no one believes that wars and conflicts will be decided *over the long term* by arms alone, then those social scientists, even when working as deployed militarised experts or embedded civilian consultants, are justified in participating in pursuit of the long-term peace.<sup>4</sup>

With Verweij, I agree that the *ius in bello* criteria are concerned with how force is applied. The criteria were created to bind to rules the force that the armed forces, by definition, apply in exercising their role as instruments of force, and thereby to restrict and legitimise them. From that perspective, and based on the principle of humanity, one proceeds on the basis of the immunity of non-combatants (Verweij 2007).

Those social scientists whose activities led to the protection of even one non-combatant are therefore also acting in keeping with the *ius in bello* principles. Where opposing military force *combatants* are identified in a larger group – targeting them for military action, say the critics correctly – the *non-combatants* are also being identified at the same time, thereby protecting, or making a ‘best-efforts’ attempt to protect them, from military action. This is an admirable objective, and in keeping with the principles of force proportionality.<sup>5</sup>

Social scientists who are concerned with the protection of cultural infrastructure – archaeologists, museum curators, etc – who advise military commanders on where not to direct their fire and where not to build an encampment, are similarly advising with respect to proportionality and are thereby limiting the military force applied and, again, contributing to the attainment and maintenance of peace, thus reinforcing the pursuit of peace which is the fourth pillar of *ius ad bellum*.

Conclusion



The critics claim embedding social scientists either structurally or organisationally in the combat organisation means that they are aiding and abetting the evil, jackbooted forces of oppression. Such a claim completely reverses the actual role of the social scientists concerned.

While John Rambo, as portrayed by Sylvester Stallone in a series of movies that turns the point of the character in the original book by David Morrell completely on its head, is not the typical professional soldier of my acquaintance,<sup>6</sup> it must be said that soldiers are concerned primarily with accomplishing the missions they are assigned, and taking shortcuts is a not unacceptable way of doing that.

The social scientists, whether concerned with the much-maligned phrase 'human terrain' or with cultural artefacts or with some other area, are in fact often a hindrance to the most expeditious *tactical* execution of some missions. While they are arguably an important contributor to the *strategic* success of the mission, they can tend to get in the way when an officer's or a senior NCO's prime concern is to clear a village of insurgents. It is their task to inform the planners that, for a variety of reasons, some actions *in this theatre* are inadvisable and/or unacceptable to the indigenous population and would do more harm than good or that there are artefacts in the area that must be taken into consideration when planning operations. The social scientists, therefore – and I am putting this entirely in the context of the modern, professional armed forces that I have worked with and not in the historical contexts that Gonzalez and others would like to bring into the argument of oppressing colonial, or occupied or subject populations or worse – are on the side of the indigenous population and the cultural artefacts of, first, that society and only secondarily of humanity in general. Social scientists being attached to or deployed with Western military organisations in combat are operating in complete accord with the principles of the Just War and within the social framework of the civil-military relationships that define how our countries use military organisations.

The critics of the support of embedded or professional social scientists in a military organisation should rather therefore welcome the presence of such professionals: they are mitigating, perhaps not as much as we would like, but mitigating nonetheless, the damage being done in both the human and cultural spheres. They are, in fact, the human shields, protecting indigenous populations and artefacts from our armed forces

and protecting our armed forces from the consequences of their own potential excesses.

## Postlogue

On 23 February 1967 – Stardate 3192.1 – an episode of the Gene Rodenberry television series *Star Trek* titled 'A Taste of Armageddon' (Hamner and Coon 1967), which examined the question of cultural property protection at its most extreme, was aired for the first (but through the magic of reruns, far from the last) time. Two societies in the solar system of star cluster NGC 321 – Eminiari Seven and Vendikar – have been at war for 500 years. So concerned are the warring parties that the conflict would destroy their infrastructure and cultural property that they have abolished the use of actual troops and weapons and fight the entire conflict via computer simulation. Casualties, by name and numbers, are calculated by the simulation and the population is expected to voluntarily appear at death stations to be killed. Failure to do so would see the conflict degenerate into actual conflict, with all of the concomitant damage to the cultural property: Suicide as an obligation of civic duty.

Captain James Tiberius Kirk of the United Starship Enterprise immediately sees the inherent moral evil in this situation and sets about destroying the death chambers, thereby throwing the computer simulation off and raising the very real threat of actual, bloody, messing and cultural property-unfriendly conflict. Faced with that reality, the parties immediately begin serious peace negotiations.

In the real world, the author is not aware of anyone in anything resembling a position of authority who suggests that cultural property should be protected at the expense of the real population as was portrayed in the *Star Trek* episode. One could point to a slight deviation from that position, in practice if not in policy, with the development, initially by the United States, and planned (threatened?) deployment of the enhanced-radiation weapons known collectively as the neutron bomb, whose stated objective was precisely that – human death and injury – with little to no damage to non-biological materials, ie infrastructure and most types of cultural property. That programme, developed in 1958 by Samuel Cohen of the Lawrence Livermore National Laboratory in Livermore California, led to weapons testing in 1963. The US programme was finally terminated by US President Jimmy Carter in 1978 following international protests against planned deployment of ERW weapons in Europe, but then restarted by President Ronald Reagan 1981. According to published reports, the US no longer has

any ERW weapons (though media reports from 2007 hint that an ERW weapon may have been used in Iraq during the Battle of Baghdad in 2003) (see for example Wilson 2007), nor does France, which also developed and tested them. China, Russia and Israel are all said to have arsenals (some estimates state that they are of considerable size). Be that as it may, the author is not aware of the military doctrine of any country putting the preservation of infrastructure and cultural property above the protection of the human population, especially the non-combatant population.

In the opinion of the author of this paper, cultural property protection – both physical cultural property and intangible cultural traditions and forms of expression – can only be considered as being worth saving as an extension of mitigating the overall damage that armed conflict inevitably brings to the *people* involved, and if social scientists can contribute to that mitigation, so much the better.

### **Remarks**

Late in 2009, as the production processes for this book were far advanced, the American Anthropological Association released a more detailed consideration of the role of the anthropologists in particular and social scientists in general in armed conflicts (AAA Commission, 2009). The 73-page report focuses primarily on the use of anthropologists within the context of the U.S. Human Terrain Systems programme. Time and space do not unfortunately permit a detailed analysis of that report here. I hope that I shall have an opportunity to address it in more detail elsewhere. Suffice it to say that, while the 2009 report is incomparably superior to the 2007 statement referred to earlier in this paper in terms of philosophical coherence and logical reasoning, it is still, in my opinion, too much concerned with the impact that the participation by anthropologists in HTS and similar structures might or does have on the anthropologists themselves and the practice of anthropology and not enough concerned with the broader philosophical and ethical considerations of the results of that participation in reducing suffering and destruction and contributing to the creation and maintenance of peace and security, not in the last place for the indigenous populations in conflict areas.

I note, in closing, that the position of the AAA Commission also opens an interesting philosophical discussion (and one that seems to be being carried out solely in Western liberal democracies) about the disconnect between the interests and values of a society as a whole and those of its component parts. Is it reasonable for a body, such as the AAA, to justify non-participation in questions of national interest on ethical grounds where the national interest is being putatively pursued on the basis of similar

or equal ethical grounds? Discuss.

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<sup>1</sup> How it is undemocratic, when the decision to go to war was issued, under the US constitution (Article 1, Section 8) by the Congress, a democratically elected body, is left unstated.

<sup>2</sup> It should be noted here that while that freedom may be waived, it is never surrendered. Depending on the armed forces concerned and the operational situation, however, the consequences of exercising that freedom in disobeying a legal order can range from reprimands to suspensions to incarceration. The author is unaware of any armed forces of the Western Alliance in the 21st century (or that could broadly be considered Western, though not necessarily part of the North Atlantic Alliance) that still have the death penalty for insubordination.

<sup>3</sup> One course module in Military Medical Ethics, for example, states unambiguously that 'The role of the physician in a combat theatre is to treat and conserve the fighting strength'.

<sup>4</sup> I note in passing that these principles are not only of interest to the anti-military section of the population, but they have become a common introduction to a great many strategic papers by

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high-ranking military personnel (some of which are for internal Ministry of Defence consumption and can therefore not be seen to be a sop to public opinion).

<sup>5</sup> 'Proportionality' as used here is a technical term that is not completely equivalent to its less rigorous civilian usage. 'Proportionality' as used in civilian sources, such as newspaper reports, usually relates to the size of opposing forces: ie using a battalion to engage 3 teenage boys with a rocket-propelled grenade launcher is disproportional. Although there is no official NATO definition of 'Proportionality' or 'Proportional Force' in the NATO Glossary of Terms and Definitions (the document of terms whose meaning have been agreed by terminologists of the NATO Members States, more commonly referred to as AAP-6), a working definition of 'proportionality' from a military perspective could be 'the degree of force required to achieve the mission, and no more'. With that definition, using a battalion might be proportional to engaging the three youths with the RPG7 referred to above, especially if a search had to be mounted first to find out where they were, but using cluster bombs or an artillery barrage to 'lift the [map] grid' (it's a technical term) in which they were located would clearly be disproportionate, regardless of how effective.

<sup>6</sup> Full disclosure: the author spent 6 years in the Canadian Armed Forces, participating in international exercises and deployments, including the UN UNIFIL mission in Lebanon in 1978, ending his career as an NCO and has worked for nearly a decade in the International Military Cooperation Branch of the Netherlands Defence Staff.