



Matthew Evangelista, Henry Shue, eds. *The American Way of Bombing: Changing Ethical and Legal Norms, from Flying Fortresses to Drones.* Ithaca: Cornell University Press, 2014. 328 pp. \$24.95 (paper), ISBN 978-0-8014-7934-2.



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In the 1921 edition of Giulio Douhet's now famous book, *Command of the Air*, the Italian general proclaimed at the very beginning that aviation had created a new battlefield in the air. While much of what followed that rather bold statement has been proven false or, at the very least, remains deeply controversial, Douhet was absolutely correct in making this observation. What is more, that new battlefield now embraced entire nations and societies, including, and in Douhet's mind, most importantly, civilian populations and the societal infrastructure upon which they relied. Douhet is famous—or perhaps more accurately, infamous—for his theories on air warfare in which attacks on civilians took center stage. These attacks were to be violent and relentless; in an age of industrial warfare, Douhet reasoned, the more humane path to victory lay through the collapse of an enemy's home front than through the loss of another generation of young men in the trenches of some future world war. At the same time, civilians who toiled in an enemy's factories, producing the sinews of war—and who ostensibly supported the opposing regime—were now military targets. Better to see the loss of a dozen cities and hundreds of thousands of civilians in a relatively short if bloody war, so his reasoning went, than to lose millions in another years-long grinding war of attri-

tion.

In the United States, on the other hand, airmen considered the most effective employment of airpower to be aimed at attacking an enemy's military capabilities, including industrial and economic centers, which provided the enemy the wherewithal to resist. At the same time, American airmen have largely sought to affect only indirectly an enemy's morale—that of the opponent's leadership as well as that of the population at large—as a means of more efficiently and effectively reaching political goals without costly and protracted force-on-force engagements. Of course, it is not quite so simple—either in practice or in matters relating to the legal, moral, and ethical use of force. Still, the character of air warfare has changed radically since 1945, and largely for the good.

The American Way of Bombing: Changing Ethical and Legal Norms, From Flying Fortresses to Drones, edited by Matthew Evangelista and Henry Shue, brings together an array of historians, practitioners, and legal experts from both the military and civilian worlds. One should note at the outset, however, that the contributors are primarily academics, even if they previously worked within governmental structures or with nongovernmental organizations. While the contributors include a for-

mer deputy judge advocate for the US Air Force, there are no perspectives presented here from serving military officers, including but especially, aviators. Nevertheless, the contributors' focus, as the title of the book implies, is on America's conduct of aerial warfare and how it has changed over time. As Evangelista notes in his well-crafted introduction, the authors consider the United States to be the world's pre-eminent military power and the one most frequently engaged in air warfare (p. 7). Therefore, according to Evangelista, the President White Professor of History and Political Science in Cornell University's Department of Government, its behavior has influenced normative change and will continue to do so. The authors set out to answer a question central to the past and future conduct of military operations in and through the air: "What accounts for the dramatic changes in ethical and legal norms governing air warfare over time?" (p. 1). Are we, as Evangelista mused, "fighting different wars rather than fighting wars differently?" (p. 4). The book's twelve chapters were drawn from papers presented at a workshop at Cornell University in June 2011 and are arranged in three parts: "Historical and Theoretical Perspectives"; "Interpreting, Criticizing, and Creating Legal Restrictions"; and "Constructing New Norms."

Tami Davis Biddle, the Hoyt S. Vandenburg Chair of Aerospace Studies at the US Army War College, provides a crucial first chapter on Anglo-American airpower theory and practice from the conclusion of World War I through the interwar period and the end of the Second World War. Biddle rightly notes the early emphasis airmen placed on the "moral effects" on an opponent's society (and, they assumed, their leaders) of aerial attack, aside from the direct effects such attacks would generate toward their ability to arm and field modern, industrial-age armies. She concisely lays out the moral qualms felt by both British and American airmen and political leaders as they came to grips with the immensely destructive nature of their air forces in the context of a brutal "total war." Indeed, in noting the near-apocalyptic denouement of the war in Europe and the Pacific, Biddle writes that "it [allied air attacks on Germany and Japan] revealed the full extent to which peoples who considered themselves civilized ... could be brutalized by fear (of defeat, of humiliation) and by the uniquely pernicious spiral of total war" (p. 45). Had they not found their conduct in the air war so "problematic," she concludes, the victorious Western Allies would not have rushed to embrace so quickly the "protective language of the new Geneva Conventions of 1949" (p. 46).

What sets the first chapter apart from the remainder of this work is that it considers Anglo-American norm-setting and behaviors in the context of a global war perceived by both sides as a struggle to the death. Far less has been at stake in the conflicts in which the United States has taken part since then. In the second and third chapters of the book's first section ("Historical and Theoretical Perspectives"), Sahr Conway-Linz and Neta C. Crawford build on Biddle's work and her conclusions. Through a concise yet insightful examination of America's conduct of aerial warfare in the "limited" conflict in Korea, Conway-Linz, Senior Archivist for American Diplomacy with the Yale University Library, amply demonstrates that Americans did not accept the conventional "strategic" campaigns, much less the employment of atomic weapons, as "a common and legitimate method of warfare" (p. 47). American leaders, both during and after World War II, however, may have clung rhetorically to a norm against attacks on civilians, but experience showed it to be little more than that. This point is developed further in Crawford's chapter, "Targeting Civilians and U.S. Strategic Bombing Norms." Crawford, professor of political science at Boston University and a widely published scholar of international relations, notes the tension between military necessity and perceived military advantage and civilian immunity from attack. The war in Vietnam, Crawford writes, was a turning point in US policy but only to a degree while American military and civilian leaders felt a heightened concern for civilian casualties, military necessity still "trumped" that concern and continues to do even into the present day and despite the availability of weapons of far greater accuracy and precision (p. 74).

Charles Garraway, a fellow at the Human Rights Center at the University of Essex, follows Crawford's chapter with a useful "consumer guide to the laws of war." His chapter is a brief yet coherent history of the laws of war; he cautions the reader that "law by its nature is cast in stone and not easy to change" (p. 87). Ethics or even the concept of "justice itself," in Garraway's view, can evolve and change while the law stands firm "law of air warfare is no exception" (p. 87). Garraway concludes from his historical review that the laws of armed conflict must be "pragmatic in [their] application" "the technology available in many of the conflicts under study simply did not permit compliance with early attempts to regulate aerial warfare; thus such rules were ignored" (p. 104). He returns to "ethics, chivalry, the warrior ethos" to put law into action, admonishing soldiers "to do what you think is the right thing to do" (p. 105). Certainly this common-

sense advice should appeal to anyone in uniform as well as those who send them forth in the country's name. Still, as the chapters preceding Garraway's demonstrate, what is in tension here is not simply the balance between military necessity and a commander's obligation to protect civilian lives and property from "excessive" or "unnecessary" risk or harm. One must also confront the seeming elasticity of those words as well as what constitutes "concrete" or "direct" military advantage and effects in making political and military decisions about the use of force.

The book's second section, "Interpreting, Criticizing, and Creating Legal Restrictions," brings that tension and elasticity into full view. Charles J. Dunlap Jr., former deputy judge advocate general for the US Air Force and now a member of the faculty at Duke University's law school, provides an "official" view of "bombing norm debates" in a chapter entitled "Clever or Clueless." While critiquing those who misuse terms or fail to fully understand the technology they seek to limit (or ban altogether), Dunlap also clearly sees airpower as the weapon of choice, particularly for "those favorably disposed toward the overthrow of oppressive regimes" (p. 109). He argues forthrightly that the "erosion of the will of an adversary through the *indirect* [emphasis in original] effects of aerial bombardment on civilians is a key element of victory in modern war" (p. 116). Dunlap does not seek to justify direct attacks on civilians themselves or the casual and indiscriminate employment of aerial firepower. He is also highly critical of contemporary counterinsurgency doctrine, and parts of his chapter reflect familiar interservice rivalries and debates rather more than a discussion of humanitarian norms. On the other hand, he asserts that the use of airpower, however imperfect, has averted even greater suffering in places such as Kosovo and Libya and that without it, America can prevail only at a much higher cost in blood and treasure, if it can prevail at all. These positions—and more—clearly put Dunlap at odds to one degree or another with most of the other contributors to this volume.

Indeed, Dunlap's chapter and the one that follows it, written by Janina Dill, embody the tensions noted earlier in this review between the US military's interpretation of the "logic of efficiency" relative to the use of airpower/force and the "logic of sufficiency," relative to the attainment of military and, ultimately, political goals (pp. 139, 140). Dill, lecturer in the Department of Politics and International Relations at Oxford, tackles the tension between the "logic of efficiency" and that of sufficiency. Taking an opposite approach to Dunlap's, she criticizes

the American military's tendency to lash tactical and operational actions too closely to the political goals and outcomes of a conflict. Dill explicitly recognizes that her position puts her squarely at odds with airpower thinkers and advocates who saw that it offered a more "direct" route to the fulfillment of political objectives than battlefield attrition—the logic of efficiency. On the contrary, she argues that the "alternative logic for regulating war rests on two commands ... first, sharply distinguish objects that are closely (meaning one causal step) connected to the competition between the enemy militaries and *everything else* [emphasis added]" (p. 142).

But Dill's prescriptions would also lead to the type of force-on-force engagements that are most problematic for the use of airpower in anything other than a conflict characterized by set-piece battles undertaken in a clearly defined battlespace. For example, she asserts that attacks against an enemy's food supply are unlawful, as the effect generated by such attacks is two causal steps from the attack itself. The first causal step is to create hungry soldiers; the second—and military step—is a decline in combat effectiveness brought on by that hunger (p. 134). Thus, the effect sought is two causal steps from the actual attack and, therefore, such an attack should be prohibited. On the other hand, a nation's fuel supply is another matter altogether. As with food, the civilian population of a modern state relies on fuels of various types to maintain a "normal" standard of living. Modern mechanized forces, however, are altogether useless without fuel. What is an air planner to do if the enemy does not conveniently store its fuel in easily distinguishable, military-only depots? In other words, if combat effectiveness, for example, is nearly always the second causal step (i.e., step one—mechanized forces lack fuel; step two—fuel-starved mechanized forces are less effective in combat), airstrikes would be limited to what pilots call tank plinking on the battlefield. Moreover, if military fuel depots are attacked successfully, are US air strikes responsible for a population's suffering if the opposing regime simply diverts fuel supplies to military units but still moves it through a civilian infrastructure? Likewise, one could engage in semantic tricks and argue that by attacking fuel supplies, airpower generates the intended effect in one causal step—mechanized forces, starved of fuel, are less effective in combat.

It is this concept of delayed or what military planners would call second- and third-order effects that Henry Shue tackles in his chapter, "Force Protection, Military Advantage and 'Constant Care' for Civilians." Shue, the volume's co-editor and a senior research fellow at

the Center for International Studies at the University of Oxford, argues that the guidance employed by the US military in the 1991 war with Iraq placed friendly force protection first, followed by mission accomplishment and finally, the protection of civilian lives. He examines the allied coalition's attacks on Iraq's electrical grid and generation capacity, considered a "key node" literally powering Iraq's air defenses and command and control structure. Importantly, Shue does not simply argue that soldiers (or airmen), presumably armed, trained, and equipped to fight, should suffer needless casualties or take unjustifiable risks. What he does argue, however, is that targeting choices and the execution of an aerial campaign must not be undertaken with an "either/or" attitude—minimize military losses *or* civilian suffering—but carried out in a manner that balances both and accomplishes the mission but that never increases civilian losses in pursuit of this balance. On the other hand, Shue argues that, by choosing to drop the entire Iraqi electrical grid, the United States violated the Geneva Convention's 1977 First Additional Protocol, Article 57 (3). While Washington has not ratified that protocol, Shue argues it was bound to its principles by "custom and common sense" (p. 154). The other option, according to Shue, would have been the targeting of discrete elements within Iraq's defenses—individual radar sites or command and control facilities. The question remains, however, whether such an approach would have led to greater losses among coalition forces, extended the fighting, led to yet other instances of collateral damage or, in the end, resulted in less widespread harm.

Richard W. Miller, Hutchinson Professor in Ethics and Public Life at Cornell University, takes a somewhat broader approach to the topic at hand, examining civilian deaths from the overall perspective of the use of American power, not simply airpower. He acknowledges American moral repugnance at the suffering of foreign civilians. Still, Miller argues rather convincingly, while "U.S. combatants typically want American attacks to be morally conscientious" (p. 159), domestic and non-American outrage over unnecessary civilian suffering and death also limits the exercise of US military power. But as he departs from a more focused examination on the "American way of bombing," Miller argues that the choice of targets together with the post-conflict management of the consequences (exacerbated by a suite of crippling sanctions) exposed a willingness to inflict (and tolerate) a higher degree of civilian suffering in the "strategic pursuit of transnational power" (p. 163). Miller also stipulates that civilian losses in Afghanistan have

been remarkably low. He attributes this in large measure, however, to US counterinsurgency doctrine that recognizes the damage to US strategic interests caused by high numbers of civilian deaths and excessive collateral damage in a fight aimed at winning hearts and minds, to use a trite, time-worn phrase. "When the dictates of strategy and morality coincide, this is cause for celebration" (p. 166). Military readers might also object to Miller's seeming rationalization of Taliban practices that likewise generate collateral damage. The absence among Taliban forces of the advanced systems possessed by the United States and its allies, as well as the asymmetrical nature of the conflict, essentially forces them, in Miller's view, to operate in a fashion that puts civilians at greater risk in order to protect their own forces. He does acknowledge the "one-sidedness of standard means of assessing civilian tolls" (p. 170) but concludes that the resentment that same one-sidedness generates means that such observations have no place in electoral politics or foreign policy deliberations. This leaves one wondering, then, how such standards can be maintained, particularly in a conflict with an "unsympathetic" foe like the Taliban.

The final section of the book, "Constructing New Norms," builds on the first eight chapters in order to lay out a path forward. Margarita H. Petrova's chapter on the role of nongovernmental organizations and the debate over proportionality and the use of force superbly captures the central theme of the entire volume—the tension between military necessity and the need to protect innocent human life. Petrova, an assistant professor at Institut Barcelona d'Estudis Internacionals, describes the successful effort to first limit and then ban the use of cluster munitions. Accepting the effectiveness of cluster munitions, nongovernmental organizations sought to call public (and political) attention to the threat these weapons posed to noncombatants. These groups "used principles of proportionality (and discrimination) from IHL [international humanitarian law]" together with an expansion of the temporal span during which incidental harm to civilians occurs to effectively argue that humanitarian costs of using such weapons "far outweighed" their military utility (pp. 176, 177). Once again, the meaning or interpretation of certain terms became critical to the resolution of this debate: what, for example, is "unacceptable" risk/loss to human life?

The last three chapters of the book all deal in one way or another with remotely piloted aircraft (RPAs, or "drones") and autonomous weapons. Hugh Gusterson, professor of cultural studies and anthropology at George Mason University, opens by citing two wildly

different accounts of battle: the first from Homer's *Iliad* and the second from a 2009 *New Yorker* piece on the use of RPAs over Pakistan. His aim is to illustrate the degree to which RPAs have remade space, time and, in his words, valor in combat. True, drones have made the battlespace global, the lethal nature of their employment is decidedly one-sided and, in the author's view, they have removed the sense of valor and bravery from such combat operations. Armies (and navies and air forces) have always sought a range advantage over an opponent, from the long bow to stand-off weapons such as cruise missiles. Today, America's asymmetrical advantage in the air is eroding steadily with the development of ever more sophisticated ground-based air defenses and fifth-generation interceptors. Thus, it is rather logical that the United States would continue to seek ways to penetrate such defenses while placing as few of its military personnel at risk as possible. Gusterson worries, however, that such lopsided capabilities—the ability to wage a virtually bloodless war, from our side, at any rate—would make resort to lethal force too easy for politicians and remove the public from any meaningful discussion on the matter as well. He predicts a time when classic lumbering drones in the sky will be joined by backpack drones and even smaller drones (p. 205). Indeed, these drones already exist and are in wide use by numerous nations and their militaries—and with domestic law enforcement agencies as well.

While Gusterson sees the use of RPAs as opening a Pandora's box (p. 206), Klem Ryan argues that such weapons have not simply despatialized the battlefield, they have despatialized it (p. 208). Ryan earned a doctorate in political theory from the University of Oxford and works on disarmament and the regulation of small arms in South Sudan. By dissolving the battlefield and disassociating targets from the source of the violence aimed at them, any remaining barriers to killing and violence are essentially gone (p. 214). Ryan places himself among those who point to independent air war as dissolving the connection between belligerents; yet that overlooks the aerial combat between defending fighters and attacking bombers and/or their escorts that characterized air warfare into Korea and beyond. And while a pilot may not see the crew of a surface-to-air missile battery, he or she certainly feels connected to them upon receiving a missile launch warning in the cockpit. For that matter, artillerymen rarely saw their targets in the great wars of the twentieth century, and crews aboard battleships often caught only a fleeting glimpse of the opposing vessels. Yet, both Gusterson and Ryan would ar-

gue, in those cases, the target could at least fight back and threaten the attacker with physical harm as well. That does not and cannot happen currently in global operations employing RPAs. Ryan's most powerful argument, however, relates to international humanitarian law: the widespread and growing use of RPAs outside of conventional military operations, in his view, collapses the distinction between battlefield and other spaces and therefore, the key barrier upon which the concepts of combatant identity and distinction rely for their [IHL] efficacy (p. 222).

However, the P in RPA stands for piloted—humans remain in control of the drone. Mary Ellen O'Connell rounds out this volume with a clear call to ban autonomous killing and the weapons that permit it before they are fielded widely. Here she echoes concerns lodged in previous chapters that once a technology is fielded and proven useful in combat, the very best that can be done is to try to bring its use either in line with existing laws and norms or adapt them to ensure they are used not only lawfully but morally and ethically as well. In O'Connell's view, autonomous killing is simply beyond such adaptation. Some forms of autonomous weapons are already in use, such as landmines or sensor-fused weapons. But O'Connell, the Robert and Marion Short Chair in Law at the University of Notre Dame, is considering in this chapter those types of weapons that can select and engage targets without further human input after activation (p. 227). At the time of her writing, O'Connell realized that breakthrough to such weapons has already happened or will occur in the foreseeable future (p. 228). Indeed, emerging technologies, such as small unmanned aerial sensors, designed to swarm enemy aircraft, are in advanced stages of development. Airmen will be among the first to argue for keeping a man in the loop, recognizing, as O'Connell does, that conscience, common sense, intuition, and other essential human qualities are not likely to be programmable (p. 232). O'Connell declares that it is imperative that human beings not give up sovereignty over these vital aspects of what it is to be human: to have a conscience and to be subject to accountability (p. 236). Her appeal to the reader's humanity is measured and impossible to discount. Her call for a treaty completely banning fully autonomous killing, however, is, if history is any guide, likely to face an uphill battle, just as attempts to ban aerial warfare failed in 1907. To paraphrase a statement from the introduction, the genie may be already out of the bottle.

The American Way of Bombing hangs together quite well. There will be inevitable overlap in a collection of

this nature—each chapter stands on its own—but such repetition in this case is neither excessive nor distracting and particularly for those unfamiliar with just war theory, the law of armed combat, and/or air warfare/history, some repetition can be “good.” The fact that there were no serving military officers included in this work, as noted above, leaves a critical gap in the discussion. Overall, however, the volume is balanced and the authors engage with logic and consistency. There are a few flashes of cynicism here and there, but the editors and contributors

avoid polemics and are measured in their critiques of US policies and the conduct of aerial warfare. This collection is a vital resource for military professionals, policymakers, and scholars alike. Unfortunately, the challenges of norm-setting in aerial warfare chronicled here are far from over and likely to become even more contentious in light of ongoing military and counterterrorist operations across the globe and in the face of rapid technological change.

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