The New Law of War

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The Long War: CENTCOM, Grand Strategy, and Global Security, by John Morrissey, University of Georgia Press, 184 pp, $24.95, ISBN: 978-0820351056

John Morrissey is a political geographer at NUI Galway. He has been studying how modern warfare is changing, looking, in particular, at the novelties introduced by CENTCOM, one of six regional coordinated command regions of the US military. After the Second World War, the US decided that in its major theatres of war, its military should be under consolidated command, as provided for the US military as a whole by the Joint Chiefs of Staff. These regional combined commands were given specific AORs, Areas of Responsibility, and were set up in the Pacific, in the Caribbean/South America, in the Far East, and in Europe. No more were established until CENTCOM in 1983, which was first given the Middle East and later extended to the former Soviet republics of Central Asia.

Morrissey gives two reasons for the creation of CENTCOM. The first was the desire to project US power and restore its international swagger in the aftermath of the humiliating defeat in Vietnam. The second was a wish to prevent the oil-producing states of the Persian Gulf from inflicting unwanted shocks upon the US polity and economy. The oil price hike of 1973-74, the so-called OPEC oil crisis, had quadrupled the price of petrol in the United States and had produced drought at the pumps. The Iranian revolution of 1979 had resulted in 52 US diplomatic staff being held hostage by radical students from November 4th, 1979 to January 20th, 1981.

Together, these crises gave further weight to pleas for a more interventionist US posture in the region. Many of the countries in the region were ex-colonies and they were not at first keen to receive permanent US bases. Working inwards from ships on the Mediterranean and the Indian Ocean to port facilities and bases on islands such as Diego Garcia (shamefully depopulated and then ceded to the United States by the United Kingdom), and then taking advantage of every regional conflict to get temporary and then more permanent facilities on land, the United States had basing agreements with six countries in the CENTCOM region by 1994 and a total of 128 bases in the region by 2006. Morrissey tracks this expansion of power in commendable detail and there are two elements highlighted by his analysis that are particularly striking: the first is the way that insecurity and thus intervention is presented as a permanent condition, and the second is the role of the law in justifying these interventions.

As Morrissey shows, CENTCOM presented its region as always and forever unstable. In doing this, its ideologues ignored the continual engagement of the US in the region and instead portrayed it as an external place from which the United States was repeatedly threatened and to which it was periodically required to return. Secondly, it treated any possible harm to its own economy or polity as weighing more heavily in the balance than any manner of injuries it might itself inflict in its permanent campaign to pacify the Middle East, or Afghanistan, or Pakistan, its AOR.

If we return to those shocks from the 1970s, we find that, in fact, the US was at least partly to blame. With the Bretton Woods agreement after the Second World War it was guaranteed that the dollar would always be convertible to gold at a fixed rate. Thus the dollar served as a universal currency. This meant that all countries had to hold dollars in order to buy imports. This stock of dollars would have been balanced by the sale of goods to the United States and as long as the dollars circulated in the global economy or were held as stocks by other countries, the US had been placed under no obligation to return goods of its own for its imports – it simply printed money.

When, in August 1971, the United States reneged on this agreement and allowed the dollar to float competitively against all other currencies, its value fell, and thus oil exporters were getting much less when they sold their oil for dollars. Against this background the OPEC countries revalued oil in 1973.

However, there was also a proximate cause of the revaluation, and that was US support for Israel in the Arab-Israeli war that began in October 1973. The war began with an attack upon Israel from Egypt and Syria on October 6th. On October 12th, the US announced military aid for Israel, and on October 16th, OPEC raised oil prices by 70 per cent and also cut production.

The Iranian hostage crisis likewise had deep links with US foreign policy dating back to the mid-1950s, when a democratically elected government in Iran decided to raise money for economic development by nationalising oil reserves. This was unacceptable to the British and US oil companies in the region and in 1953 the CIA and MI6 collaborated to topple Mohammad Mosaddegh and installed a shah answerable to the interests of British and American oil. This was the autocratic regime that was ultimately overthrown in 1979.

Morrissey argues that forgetting the past is matched by ignoring the present. Insisting on the likelihood of future crises in the region, CENTCOM avoids having to show that it has met any realistic expectations about what it might have delivered already. Thus more than thirty years after it was founded, it still proclaims its mission as stabilising a turbulent region. From its successive mission statements, Morrissey shows that it repeatedly promises brief and decisive action to snuff out trouble, without any long-term obligations to reconstruction, yet each of its past actions suggests interventions will be drawn-out and inconclusive. Focusing upon a continual state of crisis points to a future with a succession of military interventions across the region, and it is in this sense that, from 2003, CENTCOM, in its Long War Briefs, accepted that it must retain a permanent state of war-readiness. In general, the military feels it can only be battle-ready if it is also repeatedly battle-hardened. The projection of power, then, feeds upon these anxieties about an uncertain future.

The projection of power by CENTCOM is also served by the creative work of legal minds and Morrissey makes this "lawfare" a central feature of his analysis. He identifies two related strands in this work. The first is a downgrading of the rights of non-US non-combatants and the second is a downgrading of the culpability of US combatants. The US has negotiated bilateral agreements (Status of Forces Agreements – SOFAs) with several countries so that its troops will not be subject to local justice. This allows the troops to move through and act within foreign spaces as if foreign sovereignty could lay no finger upon them. Under most of these SOFAs US personnel are subject only to US law as interpreted by the US military itself.

At the other end of the gun, the targets of US power find themselves framed by new interpretations of non-combatants. Morrissey quotes former deputy judge advocate general Charles Dunlap, who argued that Geneva Convention protections for non-combatants are unworkable because civilian deaths are inevitable in war given that terrorists will hide themselves among them. The convention, then, limits the effectiveness of military action and is thus, for Dunlap, a hostile agent. Here is how Dunlap ended his newspaper article on "lawfare and warfare" (*Washington Times*, August 3rd, 2007):

> Though excessive civilian losses must always be avoided, it may very well be a more humane approach to kill bad guys when the opportunity presents itself even though some civilian losses may also occur.
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> Establishing a paradigm of "zero tolerance" for casualties may well come back to haunt us in yet another way. Specifically, it encourages the enemy to do exactly what we do not want

> them to do: surround themselves with innocent civilians so as to virtually immunize themselves from attack. It creates a sanctuary that the bad guys are not entitled to enjoy, and sends them exactly the wrong message.
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> International law is the friend of civilized societies and the military forces they field. However, if we impose restraints as a matter of policy in a misguided attempt to "improve" upon it, we play into the hands of those who would use it to wage lawfare against us.

There is no suggestion that anyone wants to "improve" international law. The question is whether the US will follow that law at all, and the answer is that it will not. But that does not mean that the US wants to operate in a legal vacuum. No, as Morrissey describes in chilling detail, the US military is ensconced within its own versions of the law. By having rules of engagement for its forces, the military claims the legitimation of following rules, even following law, albeit rules and laws of its own devising and revision. Law becomes a way to enable killing rather than to protect life.

With lawfare, instead of protecting civilians, law serves instead only to judge cases of excessive or egregious violence by the military. The data on civilian deaths and the process of judging that evidence are neither conducted in public, with even the best reported of cases yielding little more than the release of heavily redacted findings. For CENTCOM operations such as those in Iraq we rely upon leaks and investigative journalism. As Morrissey also notes, in all this legitimation of violence through legal innovation, the state of Israel was something of a pioneer.

Israel is not part of CENTCOM's AOR and is allocated to EUROCOM. The geography of CENTCOM is a function of geopolitics and of geoeconomics. Due to the general hostility of the region towards the United States, the headquarters of CENTCOM was placed far way in Florida whereas EUROCOM was directed locally from Stuttgart in Germany. The configuration of the region is best explained by its geoeconomic and geopolitical rationale. In geoeconomic terms, the mission of CENTCOM was to protect the flow of oil from the Persian Gulf and to prevent unwelcome price hikes or interruptions to production. In geopolitical terms, CENTCOM was to counter Soviet influence in the region. So, at its inception in 1983, the region included all the countries bordering the Persian Gulf and the Red Sea and then was extended to the immediate neighbours to the east up to the limits of the Soviet and Indian borders. In 2007, apart from Egypt, CENTCOM lost the countries south and west of the Red Sea to a new combined command, AFRICOM. However, with the break-up of the Soviet Union, CENTCOM grew into the oil-rich Central Asian republics, also again taking its sphere up to the Russian border.

The Long War describes how CENTCOM took shape around the world's oil spigot. In preserving this control, it gives little heed to the local inhabitants whose fate, as Morrissey writes, "is to repeatedly pick up the pieces of unremitting military violence. Families, homes lives: shattered and lost". Morrissey recognises a series of ways that the distinction between war and non-war has been blurred. In the first place, the complementarity of lethal and non-lethal actions means that their conjoint use will be a continuing feature of military intervention. In the inelegant language of the 2008 version of the US Field Manual 3.0: Operations, quoted in *The Long War*, the military now accepts "the essentiality of nonlethal actions with combat actions". Morrissey concludes his discussion of lawfare by noting that this "reflects, ultimately, a blurring of what counts as war". He also remarks that, with their 2006 statement of the US military posture, the Joint Chiefs had "dropped the legal distinction between 'War' and 'Military Operations Other Than War'".

This is an important observation. The irrelevance of a declaration of war underlines still further the US loss of respect for the sovereignty of other states. Its claim to a permanent right of military intervention is an assertion that in all places and at all times "military operations other than war" can take lethal form. Here one of the truly distinctive features of CENTCOM has been its reliance

upon drone warfare; in that respect it further claims the right to kill, to kill civilians, to do so without warning, and to do so outside a zone recognised as at risk by declaration of war. The drone is a very significant extension of the separation of killing from the rules of war and CENTCOM has pioneered this.

Geopolitics and geoeconomics: the defence industries and the oil industries. These have dominated US interventions in the so-called Middle East and CENTCOM oversees both, priming military spending both in the United States and as exports to its "allies", but also by making oil exporters dependent upon the "protection" of the US military. This has cost the US taxpayer a large fortune but it has made fortunes for the vested interests attached to CENTCOM. We inherit a world made by CENTCOM, which involves conflict without end. Or as Morrissey concludes this important book: "Imperialism has always been about shaping, and there is no endgame."

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