



The War Lawyers: The United States, Israel, and Juridical Warfare

by Craig Jones.

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Over the past decade, Craig Jones (Newcastle Univ.) has studied the relationship between law and war with great theoretical sophistication. His publications concentrate on the legal geographies of war,¹ perceptions of “the civilian,”² and the application of operational law by the Israeli military.³ His recent book, *The War Lawyers*, aims to bring a fresh perspective to existing work on military lawyers, the laws of war, and military violence; it offers non-specialists a clearer understanding of the troubling relations among these entities.

The book concentrates on the role of law in state violence through an examination of the growing involvement of lawyers in US and Israeli war rooms. He finds that “war has become more law-full—full of law—in the sense that it is increasingly conducted and understood in relation to law, legal discourse, and legal debates” (37). His concentration of the United States and Israel reflects his interest in the serious implications of their collaboration in the early days of the “war on terror.” Neither country set out to disregard international law but to “creatively” interpret it to achieve their military goals *within* the law (11).

The laws of war are often understood either as a system of constraints limiting violence or as lip service that states pay to feign respect for the rule of law. Jones rejects both these theories. For him, the laws of war and state power have never been discrete entities (3). Rather, as practiced by the United States and Israel, they legitimize and extend violence, with the consequence that people may die not only despite the law, but *because* of it. Jones argues that the law is indeterminate. Hence the more militaries rely on the law, the more the need for lawyers grows. When states partake in targeting operations, lawyers are engaged in a law-making enterprises, which, over time, reshape the laws of war.

Jones begins with the US-led Vietnam War, inviting the reader to consider the roles lawyers *did not* play and how this war created the conditions for their involvement in future conflicts. He then turns to the emergence of “operational law,” a new legal regime that enabled the US military to “domesticate” the laws of war and deploy them to serve military aims. He continues with an analysis of American lawyers working in Iraq and Israeli lawyers in Gaza, illustrating the unprecedented extent to which lawyers have been integrated into war-making.

An interesting feature of the book is its in-depth exploration of “deliberate targeting,” that is, planned killing operations whereby

1. Jones, with M.D. Smith, “War/Law/Space: Notes toward a Legal Geography of War,” *Environment and Planning D: Society and Space* 33 (2015) 581–91.

2 “Forsaking the Civilian,” *Human Geography* 5.3 (2015) 103–4.

3. “Frames of Law: Targeting Advice and Operational Law in the Israeli Military,” *Environment and Planning D: Society and Space*, 33.4 (2015) 676–96.

the banality of the kill chain and its routinization of procedures contributes in no small part to the normalization and neutralization of aerial violence. In the later modern kill chain, more than ever, ethical horizons are eclipsed by technical effectiveness and procedural legality. (201)

These targeting operations vividly reveal how legal protocols can transform extreme violence into a bureaucratic process.

A particular strength of the book is its impressive empirical grounding: Jones carried out over sixty interviews as well as extensive archival research. The interviews in particular evoke the mindset of lawyers partaking in military operations, the atmosphere within which they operate, and the contemporary nature of military legal practice. A description of a senior military lawyer at the US Combined Air Operations Center (CAOC) in Qatar, and his busy daily routine of meetings with various military personnel leads Jones to observe:

Good kill chain lawyers leave their desks a lot ... They take it upon themselves to learn as much as they can about the various technical aspects of aerial targeting so that they are better able to situate their legal advice and speak in a language that commanders understand. Lawyers in the CAOC eat and breathe the targeting process. (199)

An Israeli military lawyer describes the moment when he coined the phrase “armed conflict short of war,” which legalized a host of war-like policies in Gaza and, at times, in the West Bank:

What we said is we have a new form of combat which is ... “armed conflict short of war.” And I could have used something else, later I changed it to “state vs. non-state armed conflict,” but it doesn’t matter. And that was the origin of the term. I just sat in my office one night and decided I needed a new name for this. (169)

Missing from the book is more on the role of race and colonialism in legal-military practice, especially as regards the categorization of people as either civilians or combatants. One lawyer who had taken part in US and coalition targeting operations in Afghanistan told him “in Afghanistan, everybody’s a fricking civilian” (38–39). But rather than stressing the need to better protect Afghan civilians, he favors a watering down of the civilian category and its associated protections. Elsewhere, Jones rightly observes

rather than asking the technical question of how militaries can distinguish between civilians and combatants and their infrastructures militaries find themselves ruminating on such questions as: what is a combatant and what is a civilian? (258)

The militaries’ answers to such questions often echo the colonial past and present of the laws of war. Frédéric Mégret, for instance, shows that the laws of war continually exclude the colonial “other.”⁴ And Helen Kinsella has forcefully argued that “distinction is both the privilege and product of civilized states and sovereigns.”⁵

The War Lawyers is an invaluable addition to the critical study of the laws of war and lawyers’ involvement in state violence. Its meticulous research and broad purview—from Vietnam to the present—make it a uniquely valuable reference for anyone interested in law and war.

4. “From ‘Savages’ to ‘Unlawful Combatants’: A Postcolonial Look at International Humanitarian Law’s ‘Other,’” in Anne Orford, ed., *International Law and Its “Others”* (NY: Cambridge U Pr, 2006) 265–317.

5. *The Image before the Weapon: A Critical History of the Distinction between Combatant and Civilian* (Ithaca: Cornell U Pr, 2011) 108.