

# *Soft War: The Ethics of Unarmed Conflict*

Michael L. Gross and Tamar Meisels

Forthcoming Cambridge University Press, 2017

## **Preface**

## **Contributors**

## **Forward**

Michael Walzer

## **Introduction**

Michael L. Gross and Tamar Meisels: Introduction

## **Definitions and Meta Views**

1. Jessica Wolfendale: Defining Soft War
2. Valerie Morkevicius: Coercion, Manipulation and Harm: Civilian Immunity and Soft War

## **Economic Warfare**

3. Joy Gordon: Reconsidering Economic Sanctions
4. Cécile Fabre: Conditional Sale

## **Cyber Warfare, Media Warfare and Lawfare**

5. George R. Lucas, Jr. State Sponsored Hacktivism and the Rise of 'Soft' War
6. Laurie R. Blank: Media Warfare, Propaganda and the Law of War
7. Sebastian Kaempf: The Ethics of Soft War on today's Mediatized Battlespaces
8. Janina Dill: Abuse of Law on the 21st Century Battlefield: A Typology of Lawfare

## **Nonviolence**

9. James Pattison: Unarmed Bodyguards to The Rescue? The Ethics Of Nonviolent Intervention
10. Christopher J. Finlay: How Subversive are Human Rights? Civil Subversion and the Ethics of Unarmed Resistance
11. Cheney Ryan: Bearers of Hope on the Paradox of Non-Violent Action

## **Hostage Taking and Prisoners**

12. Ariel Colonomos: A Cooperative Globalist Approach to the Hostage Dilemma
13. Tamar Meisels: Kidnapping and Extortion as Tactics of Soft War

## **Conclusions**

14. Michael L. Gross: Proportionate Self Defense in Unarmed Conflict

## **References**

## Forward

Michael Walzer

When Clausewitz wrote that war was the extension of politics by other means, he had a very narrow view of those other means: our armed men attacking the armed men of the opposing side. Advances in military technology have expanded the available means to include tanks, airplanes, and missiles without changing the character of Clausewitz's contrast between arguing with intent to persuade (politics) and fighting with intent to kill (war). The argument of this book is that Clausewitz's contrast is too simple. War isn't necessarily lethal, and even when it is, the deaths it causes are not always the result of military combat.

"Soft war" isn't entirely new, as the example of economic sanctions suggests. But some versions of soft war, like cyberwar, are so radically new that we have barely begun to think about them. I have argued for a long time that our actually existing morality (just war theory, for example, but not only that) can guide our response to new tactics and technologies, and I believe that this is true for both hard and soft tactics and technologies. But it is true, so to speak, at too high a level of generality. It doesn't mean that responses in particular cases won't be difficult and contested, as this book demonstrates.

Casuistry, the application of conscience to its cases, is a continuously necessary activity. The activity fell into disrepute years ago because it too often was an apologetic and permissive enterprise. But that's not what it should be or need be. This book is a series of casuistic exercises--in the best sense of that term: careful, nuanced, worried efforts to reach a preliminary understanding of what is allowed and what is prohibited in wars that are fought, so to speak, away from the battles.

We can get some sense of the difficulty of applying old principles to the new world of soft war by looking briefly at the core principle of jus in bello: noncombatant immunity. It is an immoral act and a crime to aim your weapons at civilians. The purpose of the prohibition

is to minimize the death and injury of innocent men and women. But what if the "weapons" are non-lethal--they don't cause death or injury, at least not directly. The consequences of economic boycotts, for example, range from inconvenience and discomfort to large-scale suffering and avoidable deaths. At what point does noncombatant immunity come into play? And what if the avoidable deaths have more than one cause? The blockade is, so to speak, the initiating cause, but the refusal of the blockaded regime to shift resources from military to civilian needs is another and not insignificant cause. "Smart sanctions" are supposed to be aimed narrowly at the regime and not at its citizens, but, as several of the authors report, these sanctions haven't yet proved smart enough.

In some of the versions of soft war discussed here, it is hard to know who the combatants are and, therefore, who the civilians are. Which groups of men and women are participating in, or complicit in, or necessary to, the soft warfare? These people, once they have been identified, are liable to counter-attack--but the counter-attacks presumably have to be as "soft" as the attacks. Or can a lethal response to non-lethal warfare ever be justified? And what if the attack or the counter-attack harms people who are entirely innocent, disengaged from both the hard and soft warriors? What does the principle of proportionality tell us about the harms that extend to them, the soft version of collateral damage?

Sometimes soft war is the continuation of hard war by other means. The discussion of "lawfare" below takes up a key example of this continuation. In asymmetric war, which is very hard, civilians are often used as shields by one side and then killed by the other side. Both sides try to mobilize public opinion against the other, and one way to do that is to appeal to human rights NGOs, UN agencies, and international courts. The appeal most commonly comes from insurgents who put civilians at risk but hold their opponents responsible for their deaths. The opponents may indeed be responsible for not doing enough to protect civilians who are, voluntarily or involuntarily, shielding the insurgents, but they are

unlikely to be the only ones responsible. So we need to distinguish good faith moral and legal appeals from bad ones. But this may be a case where the judgments we make about the soft war depend on the judgments we make about the hard war--that is, the asymmetric engagement. We know that there can be crimes in warfare, and we need to argue about what those crimes are and who the criminals are. Can there also be crimes in lawfare--when it is aimed, say, at the wrong people?

Cyberwar is probably the scariest form of soft war because of the growing dependence of contemporary social and economic life on vast systems run by highly sophisticated computers. Hack the computers and the damage can reach very far, breaching the privacy of millions of people, shutting down electrical networks, disrupting financial services, obliterating medical records, intercepting military communications, and breaching the control systems of dangerous weapons. I am not sure that this is soft war; it doesn't seem soft enough; but it also isn't anything like conventional military activity. It belongs in this book because it requires the kind of out-of-the-box thinking that the editors have required of all the contributors.

Many forms of soft war are less frightening than cyberwar is, but they all involve a radically adversarial relationship: "we" are trying to harm enemies who are trying to harm "us." And in this kind of warfare, as in any other, the combatants need to know what harms are permissible and what harms aren't, who can be targeted and who must not be targeted. Anyone who has talked to soldiers fighting in conventional wars will know how important moral guidelines are to them. They want to distinguish what they are doing from mere butchery; they want to feel justified. These feelings may be softer in soft war, but they will take the same form. That's why the arguments of this book are necessary and important.