

A photograph of two men running through a rocky, grassy field. Both men are wearing balaclavas that cover their faces, leaving only their eyes visible. The man on the left is wearing a light blue balaclava and a white t-shirt with frayed edges. The man on the right is wearing a blue balaclava and a white tank top. They are both holding long, thin sticks or poles. The background consists of a rocky hillside with sparse green vegetation.

THE HUMAN RIGHT TO DOMINATE

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Is There a Human Right to Kill?

How governments, NGOs, and conservative think tanks turned the language of human rights on its head.

By [Nicola Perugini](#) and [Neve Gordon](#)



Protecting women's rights? A US Marine brandishes his weapon in Helmand province, southern Afghanistan. (AP Photo/Brennan Linsley, File)

EDITOR'S NOTE: *In their new book, [The Human Right to Dominate](#), Nicola Perugini and Neve Gordon trace the way human rights—generally conceived as a counter-hegemonic instrument for righting historical injustices—are being deployed to further subjugate the weak and legitimize domination. What follows is a short adaptation of the first and third chapters.*

On a cool spring day in May 2012, the members of the North Atlantic Treaty Organization (NATO) met in McCormick Place, Chicago. The 28 heads of state comprising the military alliance had come to the Windy City to discuss the withdrawal of NATO forces from Afghanistan, among other strategic matters. Nearly a decade before, in August 2003, NATO had assumed control of the International Security Assistance Force, a coalition of more than 30 countries that

had sent soldiers to occupy the most troubled regions in Afghanistan. Not long before the Chicago summit, President Barack Obama had publicly declared that the United States would begin pulling out its troops from Afghanistan and that a complete withdrawal would be achieved by 2014. NATO was therefore set to decide on the details of a potential exit strategy.

A few days before the summit, placards appeared in bus stops around downtown Chicago urging NATO not to withdraw its forces from Afghanistan. “NATO: Keep the progress going!” read the posters. The caption was spread over a photograph of two Afghan women wearing burkas that covered their entire body, including head and face. Walking between them is a girl who seems surprised by the voyeuristic photographer; hers is the only visible face, which looks neither frightened nor happy, but is nonetheless alert. The photograph’s subtext seems clear: The burka is this child’s future. Connecting the caption with the image, one understands that, according to the logic of the placard, NATO needs to continue its mission in Afghanistan in order to emancipate Afghan women, particularly Afghan girls.



The poster was part of a public campaign against President Obama’s declared intention of withdrawing US and NATO troops from Afghanistan. Under the

banner “NATO: Keep the progress going!” there was notification about a “Shadow Summit for Afghan Women” that was to take place alongside the NATO summit. Sponsoring the event was not a Republican think tank or a defense corporation, such as Lockheed Martin, but Amnesty International, the first and one of the most renowned human-rights organizations across the globe.

Amnesty also prepared a letter that emphasized the importance of NATO’s continued intervention in Afghanistan and managed to secure the signature of former secretary of state Madeleine Albright, among others. During the shadow summit itself, participants made remarks that dovetailed nicely with the US State Department’s “Responsibility to Protect” doctrine, otherwise known as “humanitarian intervention.”

The idea that the most prominent international human rights NGO was campaigning against the withdrawal of US and NATO military forces from a country halfway around the globe is something worth dwelling on. The assumption underlying Amnesty’s campaign that the deployment of violence is necessary to protect human rights suggests that violence and human rights are not necessarily antithetical. Violence protects human rights from the violence that violates human rights. Violence is not only the source of abuse but, as Amnesty’s placard clearly implies, can also be the source of women’s liberation. Yet if violence is traditionally associated with domination and human rights with emancipation, then the connection between the two seems odd. Are human rights unavoidably connected to domination, or is this campaign just an exceptional case?

We are living in an era where human rights are used by the state and human rights organizations to “civilize” the ways of killing.

Amnesty International’s campaign against the withdrawal of NATO troops from Afghanistan is merely a paradigmatic example of a much wider trend whereby human rights are being deployed in the service of domination. If during the 1980s and 1990s, conservatives in the United States tended to reject the expanding human-rights culture and were often even hostile to it, at the turn of the new millennium they began to alter their strategy, embracing human-rights language.

In few areas is this more pronounced than in the widening overlap between human rights and the laws and rituals of war. “Once considered obstacles to the war effort,” according to human-rights law scholar Thomas W. Smith, “military lawyers [and human rights experts] have been integrated into strategic and tactical decisions, and even accompany troops into battle.” Indeed, we are now living in an

era where human rights are frequently used by the state, and by conservative and even by liberal human rights organizations, to “civilize,” in Achille Mbembe’s words, “the ways of killing and to attribute rational objectives [and justifications] to the very act of killing.”

The Human Right to Kill

The “unprecedented public scrutiny” that military forces have been subjected to in recent years triggered a pedagogic process in which men and women in uniform started learning through multiple ad hoc education programs the philosophical and moral foundations of the deployment of violence. International human rights and humanitarian law occupy a prominent position in these programs. Indeed, human-rights classes are often mandatory in the US military, while the government trains each year approximately 100,000 foreign police and soldiers from more than 150 countries. The interesting issue for us is not so much that human-rights professionals train soldiers, but rather that human-rights NGOs and militaries converge with respect to the use of human rights as an epistemic and moral framework for judging the significance of killing within a given context.

Prominent Harvard law professor David Kennedy describes the human-rights training programs run by the US military in recent decades as courses in which the message is clear: “This is not some humanitarian add-on—a way of being nice or reducing military muscle,” he says. “We asserted, with some justification, that it is simply not possible to *use* the sophisticated weapons one purchases or to coordinate with the international military operations in which they would be used without an internal military culture with parallel rules of operation and engagement.”

An expert on the relation between international humanitarian and human-rights law and war, Kennedy has gained a considerable amount of experience and public recognition working with numerous human-rights organizations as well as with the US military and other armed forces. As early as 1996, he travelled to Senegal as a civilian instructor with the Naval Justice School “to train members of the Senegalese military in the laws of war and human rights.” At the time, he notes, “The training program was operating in fifty-three countries, from Albania to Zimbabwe.” Describing the message conveyed to the trainees in these countries, he writes: “We insisted, humanitarian law will make your military more effective—will make your use of force something you can sustain and proudly stand behind.”

Kennedy's ongoing reference to a "we," whereby the well known law professor simultaneously portrays and considers himself as part of the military machine waging civilized wars, is not an oversight. To be sure, Kennedy, who called one of his books *The Dark Sides of Virtue*, is aware of the uncomfortable complicity between those who are trained to kill and those who are trained to defend human rights. But this complicity—the fundamental and recurrent convergence of human rights and violent forms of domination—is a conundrum that needs to be further interrogated beyond the questions that Kennedy asks in his pragmatist effort to make the international human-rights movement more coherent and effective.

Kennedy maintains in his book that, in order to participate in the international military profession, one has "to learn its new humanitarian vocabulary. We had no idea, of course, what it meant in *their* culture [i.e., of militaries of other countries] for violence to be legitimate, effective, something one could stand behind proudly. But they had learned something of what that meant in their culture of global humanitarian and military professionalism." What stands out in Kennedy's description of the US military's training program is that human rights and military professionalism are not part of antithetical spheres informed by an opposing ethos, but are or have become part of the same political culture that aims to produce a specific ethics of violence.

A culture of ethical violence is coalescing; one in which human rights, humanitarianism, and domination are tied.

Not unlike its American counterpart, the Israeli military also emphasizes its concern with human rights and humanitarianism. On its official blog it describes, for example, how over the years "the IDF's humanitarian aid has served as a source of relief for people all over the world." The blog notes that an IDF rescue delegation just returned (November 2013) from 12 days in the Philippines, assisting civilians in Bogo City whose lives were uprooted by Typhoon Haiyan. "Upon arrival," the blog post continues, "IDF doctors immediately set up a field hospital, where they treated over 2,600 patients, performed 60 surgeries, delivered 36 babies, and worked on repairing schools damaged by the storm."

The blog's readers are then referred to a map in order to "discover the long history of IDF aid delegations all around the world." The poster, entitled "#IDFWithoutBorders," mirrors the motto of Doctors Without Borders, perhaps the most prominent humanitarian organization in the world. The Israeli military, which for years has been an instrument of domination in the Occupied Palestinian Territories, is thus cast within a moral framework of global humanitarianism.

Considering that attempts to regulate war are “as old as war itself,” this convergence between killing and humanitarian aid is the culmination of a long process. Over the past decades legal experts, munitions experts, medical doctors, philosophers, statisticians, and, more recently, human-rights professionals have been working together to continuously develop additional treaties and ethical codes to regulate and refine the methods and means of warfare, and, purportedly, to protect civilians as well as combatants in armed conflict. Simultaneously, leading academic institutions and think tanks have been organizing conferences and workshops that bring together these diverse experts and thus have helped to produce a shared space where a common culture of ethical warfare can develop.



IDF Without Borders

A paradigmatic example is the Carr Center for Human Rights Policy at Harvard, which helped the US military revise its counterinsurgency field manual. Following vocal criticism, Sarah Sewall, the Center’s faculty director who wrote an introduction to the manual and had previously been a Pentagon official, explained that faculty members were trying to instill institutional change within the military. This convergence between human-rights discourse (informed by the imperative to protect civilians) and forms of legal killing is constantly deepening, for, as Kennedy describes in his books, militaries the world over are inviting human-

rights experts to give talks and offer advice about what is permissible and impermissible in contemporary warfare. In this way they not only regulate the forms of killing but also offer the state itself protection from accusations that its way of killing violated international law.

Israel is, of course, no exception. Working together with the Israeli military, philosophy professor Asa Kasher of Tel Aviv University formulated guidelines outlining when it is ethical to “assassinate in fighting terror.” The right to assassinate, according to Kasher, is grounded by the obligation of the state to protect the human rights of its citizens, including the right to life. Put differently, assassinations are carried out within the framework of human rights (i.e., morally permissible) when they satisfy two forms of protection: the protection of the citizens by the state and the protection of the state itself. Human rights serve as the justification for killing and thus transform killing into a right.

One of the patent manifestations of this convergence is the widespread phenomenon of bringing experts in international humanitarian and human-rights law into the war room and bestowing upon these lawyers the authority to make decisions that directly affect combat. It appears that the 1991 Gulf War was a watershed in this respect, with some 200 lawyers being brought in to work in the US Army’s theater of operations, ensuring that military decisions “were impacted by legal considerations at every level.”

In Israel, this has also become common practice. Following the 2014 war in Gaza, one of Israel’s first conclusions was that the IDF’s international legal department had to be further enlarged. In a 2013 magazine interview, Zvi Hauser, Israel’s former cabinet secretary and longtime aide to Prime Minister Benjamin Netanyahu, revealed the level of influence lawyers with expertise in international law have in the Israeli decision-making process. He described in detail a meeting in the days preceding the attempt of the Mavi Marmara, an unarmed ship manned by mostly Turkish citizens, to break Israel’s military siege on the Gaza Strip in order to provide humanitarian aid to its Palestinian residents.

In contrast to others, I said: “Wait a minute, why shouldn’t we allow this unarmed ship to enter Gaza?” I did not anticipate the nine [Turkish citizens that would be] killed, but I didn’t understand why we had to play the bad guy part for which we were cast by the Turks in that bad movie. I know the prime minister. I saw in his eyes that he grasped the situation. Netanyahu likes to hear out-of-the-box ideas. But the jurists in the meeting argued that from the legal aspect, as long as a closure was in effect, Israel was obliged to enforce it. End of discussion. The political

decision-makers don't think they can make a decision that is contrary to the imperative of the judicial level.

The humanitarian maritime convoy was stopped by Israeli combat units, which, according to Israeli legal experts, abided by international law when they killed nine civilians who were on the Mavi Marmara. This process whereby experts in international humanitarian and human-rights law influence decisions that bear directly on combat has not been unidirectional but rather reciprocal. Parallel to the military's incorporation of a humanitarian logic, human-rights NGOs have been utilizing military know-how and military rationales to advance their goals.

As Eyal Weizman points out, human rights NGOs have also begun integrating military theory and knowledge into their work, using, for example, munitions experts to gather evidence about the kind of bombs utilized to demolish houses in the Gaza Strip. From a slightly different perspective, it was Amnesty International USA's former executive director, Suzanne Nossel, who launched the campaign against NATO's imminent withdrawal from Afghanistan, claiming that military force helps to protect women's rights. Nossel was hired by the Obama administration as the deputy assistant secretary of state for international organization affairs and from there she moved on to Amnesty International. This relocation is interesting because it reveals that Amnesty and the State Department occupy social spaces that are not all that distant from each other.

In the first case, then, the human-rights organization hires a munitions expert as an authority on violence, while in the second case the human-rights organization hires a State Department official who encourages the deployment of violence as a way of protecting human rights. It is accordingly not only the military that mobilizes a humanitarian vocabulary of international law and uses it as a strategic asset, but also human-rights organizations that use the military vocabulary, knowledge, and logic to protect human rights.

This discursive and practical proximity underscores that a culture of ethical violence is coalescing; one in which human rights, humanitarianism, and domination are intricately tied. The extent of this propinquity makes it, at times, difficult to understand if human rights and humanitarianism are regulating violence or whether violence is determining the parameters of human rights. In this brave new rights-based world, in other words, human rights are not the other side of killing, and killing is not necessarily the other side of human rights.

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