

**HUMANITARIAN ISSUES IN  
MILITARY TARGETING  
WORKSHOP**

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**PROJECT ON THE MEANS OF INTERVENTION  
CARR CENTER FOR HUMAN RIGHTS POLICY**

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## **PREFACE**

On March 7-8, 2002, the Project on the Means of Intervention convened a meeting to consider the humanitarian challenges that arise during the military targeting process. The workshop is part of an ongoing dialogue between members of the security and human rights communities, conducted under the auspices of the Carr Center for Human Rights Policy.

Prior meetings sought to identify the most pressing humanitarian issues in the context of military interventions, focusing primarily upon the challenges associated with the use of airpower. These discussions led to the March 2002 workshop. The first day's agenda allowed participants to delve more deeply into the full range of challenges inherent in the airpower targeting process. Presentations and panel discussions covered the nuts and bolts of planning and operations, including the strengths and weaknesses of current practice. By applying historical, ethical, and legal perspectives to the current debates within the U.S. armed forces, participants also considered larger questions of targeting strategy. The complex and charged topic of evolving international legal standards, and their relationship to the modern and future use of force, became a recurring undercurrent of the workshop discussion.

On the second day, panelists offered a provocative glimpse of how technology may simultaneously ease and complicate many of the humanitarian challenges associated with the use of force. Participants also discussed the changing nature of modern combatants, and the implications for law and operations. Counter-terrorist operations repeatedly surfaced as a challenge to commonly understood rules and practice of warfare. Political imperatives, technological possibilities, and existing international humanitarian law create competing pressures with regard to anti-terrorism efforts. The potential blurring of the line between military operations and police operations, and the laws that govern both, was a source of concern for many.

One of the most satisfying aspects of the March workshop was the participants' increased level of comfort with both the substantive issues and each other. While the divergence of perspectives remained stark, the commitment to understand these differences appeared to have deepened since the November 2001 meeting. This encouraging development suggests the importance and feasibility of efforts to sustain a dialogue between the military and human rights communities.

The Project on the Means of Intervention is described on page 44. Additional materials, including several workshop papers, can be obtained on the web at <http://www.ksg.harvard.edu/cchrp/WkshpNov01.shtml>.

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# **HUMANITARIAN ISSUES IN MILITARY TARGETING**

This report summarizes the main points of discussion at a Carr Center workshop on humanitarian issues in military targeting held March 7-8, 2002, in Washington, D.C. The meeting brought together military, human rights, and legal specialists, a combination of academics and practitioners, and a mix of American and international participants.

Remarks are not attributed to speakers in order to preserve their anonymity and the openness of the forum. The meeting agenda and list of participants are included in the appendix.

# I. PLANNING AND OPERATIONS

## THE TARGETING PROCESS

Workshop participants discussed the targeting process in depth, covering both the theory and the operational realities confronted in practice. Many military participants made the point that humanitarian concerns figure centrally in the U.S. Air Force's targeting process, but there was disagreement regarding whether the armed forces viewed this as a positive or negative development.

The U.S. armed forces distinguish between collateral damage (anticipated damage when a weapon hits its target), which can be controlled to some degree, and unintended consequences (damage caused when the weapon misses). During the planning segment of the targeting process, significant effort goes into analyzing individual targets to ensure that collateral damage is minimized during an attack. The Department of Defense has developed modeling systems to evaluate the effects of weapon attacks. This modeling is so highly developed that it incorporates predicted commuter patterns and the radius and direction of bomb fragments. Preplanned attacks on fixed targets benefit from this sophisticated analysis, which also includes legal review at every necessary level of command, including, if necessary, the President. Legal review considers the legitimacy of the target and the predicted collateral damage. In some cases, legal review alters munitions choice, timing, or other aspects of the attack. In other cases, the target will not be approved. After target development is married with weapons choice and approved, the information is combined into a Joint Air Tasking Order (ATO). The ATO, a guide for a 24-hour cycle of air operations, is delivered to operators who will carry out the order. Because the ATO process is iterative, before the planners hand off a completed ATO to the operators, subsequent ATOs are already in the development process.

Military participants not only described the theory behind the targeting development process, but also provided a sense of the dynamism and unpredictability of that process, particularly in the case of targets that arise in the course of conflict.

*“It’s absolute chaos”*

A former Air Component Commander explained the commander’s position as sitting atop “absolute chaos.” Many targets arise in the course of conflict. These “emerging” targets will not have undergone the lengthy and deliberate target analysis applied to preplanned targets. Many emerging targets are time critical, forcing operations personnel to react immediately. Participants stressed that the quality of intelligence and the airmens’ instincts will likely determine the outcome of a given strike.

The increasing length and complexity of rules of engagement (ROE) further complicate a pilot’s job. Detailed ROE are not always available to the individual pilot because of security concerns. Today’s pilots have to make, in a matter of seconds, complex judgment calls that “go beyond ROE,” in the words of a participant. The human factor continues to be both a strength and a weakness of the targeting process.

Bomb damage assessment (BDA) is a critical aspect of the targeting process because the perceived effectiveness of an attack will determine the need for restriking a target. Yet BDA often is indeterminate. Camera video is considered too expensive for widespread use and ongoing ground threats often make detailed investigation impossible. The difficulties of accurately assessing damage may result in unnecessary additional strikes and undermine the military’s ability to respond to allegations of collateral damage. Even when available in near-real time, BDA generally provides information about the short-term effects of a given strike. The longer-term humanitarian effects may remain unanalyzed throughout a conflict.

Changing technology allows more individuals to participate in near real-time decision making. Participants noted that the national command authority can in effect “be in the cockpit” with a pilot, further complicating his job. This is particularly significant in the case of emerging, time critical targets. An unpredicted targeting opportunity that is available for only fifteen seconds will be lost if the approval process takes five hours. In some cases, fleeting targets may be the most important.

One military participant warned that because risk aversion is pervasive within the armed forces, humanitarian concerns easily can become an obsession. Some felt that this is currently posing a challenge at certain levels within the targeting process. A commander has the authority and responsibility to make the final call regarding target approval, but this may appear to grant him greater latitude than he experiences. That is because some concerns raised by a military lawyer (staff judge advocate) often require an unobtainable degree of certainty about a given target (e.g., what's going on inside that church? Who is in that bunker?). Some argued that this is a failure of intelligence to provide certainty in the context of essential legal questions and should not be confused with a legal veto over target selection. Too often, some felt, military lawyers are erroneously blamed for caution that is in fact caused by a lack of information.

Participants agreed that the public's grossly inflated expectations about military accuracy exacerbate the problems that operational errors create. Nonetheless, many participants argued, the military seemed reluctant to investigate or explain the mistakes when they do occur. This, they suggested, undermines the benefits of military attempts to minimize civilian casualties.

## STRATEGY

Strategic guidance is supposed to shape the targeting process, but many participants concluded that it is both the least debated and the least useful part of that process. The guidance, they said, fails to guide bombing choices. As a result, bombing choices reflect the triumph of, or compromise between, different schools of thought about targeting. Strategy may never be firmly defined, or may simply be the net result of what is inferred from the individual bombing choices made as a conflict develops.

Some observed that classic targets (e.g., massed forces, tanks) are less common in the course of a humanitarian intervention or a fight against terrorists. Indeed, the goals of modern intervention are rarely conquest but rather halting objectionable behavior or ensuring security. Modern technology facilitates the U.S.'s ability to pursue these ends by attacking non-traditional targets from a distance. In this context, airpower may in effect

serve as “coercive diplomacy without the diplomacy.” Thus strategic guidance becomes all the more critical.

Military participants stressed that the U.S. Air Force is not monolithic in its approach to targeting. Participants described two main schools of thought about the application of airpower. One was dubbed the “duration” school, which calls for applying force carefully from the outset. The second was termed the “ferocity” school, focused on doing maximum damage quickly in order to complete the mission. These two strategies compete in operational planning, with implications for civilians on the ground.

Participants also discussed the implications of the Air Force’s “effects based” targeting approach. Effects based targeting involves selecting aimpoints to achieve specific effects (e.g., render an airfield unusable) rather than necessarily eliminating entire target sets (e.g., destroy all buildings and runways associated with an airfield). It might include hitting key nodes that disable entire systems or achieving psychological effects that preclude the need for additional force. While this is considered a more efficient employment of force, it further obscures the relationship between a target and the self-evident military advantage that is so critical in legal analysis regarding the use of force (see legal discussion in the next section).

*“The lines between legal, ethical and political expediency considerations are increasingly blurred. But more importantly, legal considerations and ethical considerations may be taking us in two very different directions.”*

Discussions revealed enduring, if not increasing, tensions among concepts of morality, strategy, and law. Several participants pointed out that military strategy has long relied upon attacks on enemy centers of gravity, including infrastructure and political leadership. Yet international legal prohibitions on attacking civilian objects may complicate strategies of coercion. Under certain circumstances, it was argued, attacks on infrastructure that supports both military and civilian uses (e.g. electrical, transportation) may be the most effective means of achieving political objectives. Operation Allied Force in Serbia relied on the coercion of political leadership through attacks on such dual-use

targets, rather than a predominantly counterforce strategy. In such a circumstance, such attacks may seem at odds with the stated concern about humanitarian effects.

One participant criticized the military for failing to study why or how strategic bombing is effective and why civilians die. U.S. collateral damage models may be flawed, he argued, because they do not incorporate actual collateral damage data. It was alleged that the failure to “reality test” the models may have resulted in the overestimation of collateral damage effects, which may unnecessarily inhibit target selection. The lack of empirical data, it was suggested, prevents the military from accurately balancing tradeoffs between collateral damage and mission success.

A participant suggested that reliance on the use of airpower alone risks degenerating into attacks on predominantly civilian objects because, as a conflict continues, air forces are required to continue moving down a target list. In this view, it is the failure to consider the use of ground forces or other strategies that pose additional risks to combatants that leads to air attacks on controversial targets.

Some participants took umbrage at any implication that a failure to place American lives at risk rendered American military power morally suspect or that the lives of American service members were of any less value than civilian lives. Others questioned whether the apparent impunity that airpower offered U.S. forces created a greater obligation to use force discriminately. Left unanswered was the extent to which concern about weapons of mass destruction (and state survival) might change this obligation.

Others wondered if air superiority and precision-guided munitions (PGMs) would make the use of force more likely, eroding a presumption that the use of force is a last resort. Related was the question of whether advanced nations have a possible moral obligation to use PGMs wherever feasible, coupled with the acknowledgement that the U.S. continues to face severe shortages of such munitions, while allies lack equivalent capabilities for precision.

## II. INTERNATIONAL HUMANITARIAN LAW

The workshop considered the extent to which existing International Humanitarian Law (IHL) remained relevant to modern conflicts in terms of current U.S. strategic targeting theory, emerging counter-terrorism efforts, and increasingly widespread proliferation of weapons of mass destruction. The term IHL is used here interchangeably with the Law of Armed Conflict (LOAC), recognizing that many military participants consider the latter to be more focused on combat than IHL.

One observer noted the “touchingly bourgeois notions of war lurking behind LOAC” in that it envisions armies in uniforms in a specific geographical location, fighting over a clearly defined objective. Moreover, it was noted that in the twentieth century, states had failed to implement many of the laws upon which they had agreed.

*“War is a test of the law of armed conflict to see how relevant it is to actual problems as they arise and in many cases rules have fallen by the wayside because they have proven irrelevant....”*

Another participant suggested that American views toward international humanitarian law were hardening because of fears that it might actually prevent success in the current context of asymmetric warfare, sophisticated terrorist networks, and proliferating weapons of mass destruction.

### DEFINING COMBATANTS

Despite the significant disagreement between the United States and many other nations and non-state observers regarding the applicability of the Geneva Conventions to detainees from the conflict in Afghanistan, participants were reminded that provisions regarding the treatment of captured persons historically have been among the *least* controversial aspects of IHL. Nonetheless, workshop discussion revealed sufficient controversy exists even in this area.

Applying the laws of war to guerrilla movements has long been a point of contention in IHL, and applying the law to terrorists is a modern manifestation of this difficulty. The U.S. has opposed providing guerrilla movements with special standing under IHL. This objection lies at the root of the American rejection of the 1977 Geneva Protocol I. The U.S. argued that allotting POW status to terrorists could provide immunity for acts of war that should remain illegal when carried out by a terrorist, and that treating a terrorist as a POW would in effect be acknowledging his “right” to kill. Another view held that persons not committed to observing the Geneva Conventions did not deserve their application.

However, many others countered that the Geneva Conventions left no such holes. They pointed out that even in circumstances of doubt, captured personnel are, under the law, to receive treatment due to prisoners of war (POWs) pending a determination of status. Moreover, the IHL regime does not rely upon reciprocity. They pointed out that as the commitment of war crimes did not affect American treatment of Nazi soldiers, it should not define U.S. policy toward Al Qaeda members.

Participants discussed how the category of non-combatants codified under IHL is becoming blurred. The increasing numbers of civilian contractors supporting forward deployed military forces exemplify this trend. Combatants are those who, among other things, are in the U.S. chain of command and participate directly in hostilities. While certain contractor functions could be interpreted as direct participation in hostilities, contractors are not indisputably in the U.S. chain of command. Thus, there is a lack of certainty in applying IHL to this category of persons, including any possible U.S. responsibility to remove them from the battlefield in order to protect their non-combatant status. Another participant questioned whether United Nations peacekeeping forces should be considered combatants under certain circumstances.

The group also discussed the thorny issue of special operations forces operating in civilian garb. Under international law, combatants are required to wear uniforms or distinctive signs; disguise may compromise combatant status for special operations

forces. Moreover, it was noted that a soldier disguised as a civilian may compromise true noncombatants because enemies will cease to observe that distinction. It was suggested that a special operations soldier would be a legitimate target if he were operating in an obviously military context. Others observed that it is this process of inferring or assuming combatant status that bedevils U.S. forces when they attack a convoy or military headquarters that includes civilians.

### “CIVILIANIZING” THE LAWS OF WAR

The workshop discussion highlighted an increasingly visible split between the U.S. and many of its international allies with regard to IHL. The divergence is perhaps most acute with regard to the European nations that first created that body of law. Even as European states today have significantly demilitarized, they remain the driving force in efforts to regulate the law of armed conflict. To American military and political leaders these legal efforts appear to increasingly intrude upon the traditional and legitimate use of force by states. This process was referred to as the “civilianizing” of LOAC.

Some expressed concern about the U.S. government’s current approach toward IHL. The Administration appears to see IHL as optional and expendable, they argued, ignoring the law’s longer-term benefits. They argued that the U.S. military, as a beneficiary of the laws of war, should more actively support existing law. One participant pointed out that the U.S. military has so successfully internalized much of IHL that it is perceived as national law rather than international law. Nonetheless, the U.S. military *interpretation* of that law remains quite distinct from that of European allies or human rights organizations.

### MILITARY OBJECTIVES AND CIVILIAN OBJECTS

Illustrating this split is debate about whether and how international humanitarian law restricts attacks on infrastructure and other key strategic targets. This question is central to contemporary American doctrine regarding the use of airpower. American planners consider many objects that have civilian uses to be legitimate military targets,

and recent uses of U.S. airpower have relied heavily upon strategic bombing of infrastructure (rather than purely tactical bombing of fielded forces).

It was asserted that the law sought to develop concrete measures for assessing *results* instead of relying upon interpretations of military *intentions* to assess the legality of military actions. This effort is reflected in Article 52.2's requirement that an object makes an effective contribution to military action and that military action against it offers a definite military advantage. Some argued that several European states, despite having made their own declarations regarding Protocol I, still interpret this language more narrowly than does the United States. For example, it was argued that European states did not consider the media generally to fall under this definition. Several people expressed concern that a broad interpretation of Article 52.2 renders the principle behind the law meaningless.

*"Law isn't only the view of the superpower."*

A military officer noted that while the American position differs significantly from that of many other nations, it reflects longstanding international military practice. Clausewitz wrote that war involves a trinity of the people, the government, and the military and states have long targeted all of these aspects of war making. The direction in which the law has been moving does not reflect the reality of state actions in this regard, it was argued, and the United States should not forego the strategic advantage that airpower provides simply because others would draft laws to block longstanding state practice. In this view, U.S. airpower finally has become an effective tool to bend the will of the enemy, and it should not be unilaterally restricted.

Some participants identified distinctions in terms of how states approach strategic targeting, suggesting that some strategies are designed to inconvenience by making life more difficult through attacks on infrastructure, others aim to intimidate by demonstrating overwhelming force, and still others intend to kill civilian populations. Others rejected these distinctions as illegitimate. One participant stated that it may be acceptable to target morale in ways that do *not* include attacking civilian objects, or to

destroy leadership morale by attacking *military* targets. However, he continued, attacks designed to affect civilian morale are outlawed by the 1977 Geneva Protocol I. Objecting to “a therapeutic definition of war,” he said that any argument supporting the undermining of civilian morale placed the U.S. on a slippery slope, one that could lead toward justification of attacks on the World Trade Center. The U.S. should take the most restrictive view of the definition of military objectives precisely because it has the most open society and therefore is most vulnerable to attacks against civilian or dual use objects — be they oil facilities or computer networks. However, as another participant pointed out, the last clear example of exclusively targeting enemy forces was WWI, a conflict so bloody that nations were determined never to repeat it.

Some agreed that the law is not clear, but saw this is a strength as well as a challenge. It is not necessarily the case, one participant argued, that if a target is not military, it is civilian. Restrictive interpretations of the law could very well preclude important and necessary targets. The complex areas of dual use and symbolic targets involve subjective and contextual judgments. A variety of concerns should come into play in evaluating attacks on certain targets, including the difficulty of repairing the damage, prospective threats, and the distinction between objects and people. Some observed that the very concept of military advantage is difficult to assess without intimate knowledge of a battle plan, and that human rights groups or international legal bodies might be poorly equipped to make that judgment. The commander, military officials stressed, should be free to make that call.

In the end, both those supporting a broad definition of military objectives and those arguing for a narrow definition acknowledged the difficulty of identifying “red lines” or absolute clarity on this point. While one observer suggested that the concept behind the law be considered a principle rather than treated as law, another participant pointed out that the International Criminal Court has jurisdiction over war crimes and that individuals could well be charged with such legal violations.

## TERRORISM

In deliberately targeting civilians and using civilians as shields for their military activities, terrorist activity is predicated on a rejection of IHL's basic rules of the road. In promoting and glorifying death for the cause, terrorists further challenge our underlying assumptions about predictable behavior of combatants. The defining absence of reciprocity in applying IHL to a war on terrorism poses a fundamental challenge for states.

A participant suggested that while IHL "assumes a fair fight," American military dominance induces terrorists to use asymmetrical and unlawful attacks against civilians. It also was argued that the law appears to have assumed limits to the use of force. The possibility that weapons of mass destruction might fall into terrorist hands (and be intended to destroy an entire state and society, rather than to deter attacks thereon) seem to pose a profound challenge to existing legal codes. It was suggested that this issue exceeded legal technicalities and merited broader discussion within society at large. At least one workshop member felt that even this description of terrorism was selective because states have in effect turned a blind eye to the acquisition of weapons of mass destruction by other states.

*"In the final analysis, the Law of Armed Conflict  
keeps us from becoming the enemy we fight."*

Nonetheless, many argued that the rejection of the laws of war in fighting terrorism is simply not feasible because it risks descent into a political and moral morass. Coalitions historically have relied upon IHL to provide common guidelines for action, and modern coalitions are perhaps more fragile than those of the past given media exposure and public scrutiny. IHL also provides a means of setting expectations for local forces or proxies, another important aspect of the war on terrorism. And IHL remains important for internal discipline within the armed forces.

One participant suggested that the American use of force against terrorism might induce other states to take a more proactive stance to address terrorist activities within their borders. However, others expressed concern about the risk of relying on military action at the expense of law enforcement (see also discussion on technology below). Responses to terrorism may well blur the distinction between war and law enforcement, it was argued. State policies such as assassinating individuals and purposefully destroying civilian homes for psychological effect were offered as examples. Human rights representatives said that their organizations may feel a need to oppose the U.S. use of force against terrorism in foreign countries that have functioning law enforcement systems that provide an alternative means of addressing terrorism.

### **III. TECHNOLOGY**

#### **PROJECTED TRENDS**

Participants noted that collateral damage caused by U.S. military operations has significantly decreased during past decades. Precision and accuracy, while different concepts, have both improved. Bombing coordinates can be obtained in minutes rather than months. Sensors are rapidly becoming more effective; their digitization allows for enormous potential integration and analysis of data as computational power expands. But as capabilities have increased, so have the demands and expectations.

*“Thousands of years of military history and twelve years of modern airpower. Still a lot to learn. Twelve million civilians have died in those twelve years — only 500 by U.S. airpower.”*

Since WWII, the size of targets assigned to the US Air Force has continued to shrink—from cities, to buildings, to groups of armed vehicles, to small groups of people. Technology has continued to lag behind requirements, and precision depends upon the quality of information as well as guidance. Eventually, one participant predicted, the U.S. will be using air assets to hunt individuals, posing significant challenges for technology and information.

Weapons have become sufficiently well guided that some participants questioned the need for further improvements. Improved accuracy allows for the development of weapons with less explosive yield. A participant cited the case of a commander ordering that a bomb be filled with cement in order to avoid civilian casualties. Moreover, the decreasing cost of PGMs will increase their use relative to that of dumb bombs.

There was broad agreement on the need to improve intelligence capabilities if the trends in reducing collateral damage are to continue. Improved sensors, smarter and faster information processing, and better integration of information all suggest that technology may assist in the intelligence arena.

Among the possible future technological developments: Dial-a-yield conventional weapons that can be customized for a target; anti-jamming technology for laser guided bombs; internal inertial guidance systems in individual weapons; mechanisms for rendering a GPS or laser guided bomb inert in the event of a guidance malfunction; trailing cameras to provide BDM for GPS guided weapons; comprehensive and real time integration of information; new radar; directed energy weapons; and small unmanned vehicles with sensors. Participants suggested that one day sensors to find and recognize individuals could be dropped in denied areas, use facial or voice recognition software to identify and track targets, and then relay that information back to forces for targeting.

According to one participant, the armed forces have been slow to grasp the implications of precision for strategy. If the Air Force had PGMs during Vietnam, he asked, why did it fail to appreciate their potential application? Why, even today, do PGMs remain in such short supply?

## CHALLENGES

Technological developments often lead to unanticipated consequences, including their application by the enemy. For example, small, unmanned vehicles could be used to disperse chemical or biological agents. Sometimes technology does not offer the expected fix. Miniaturization of weapons will allow individual platforms to launch far

greater numbers of weapons, so net collateral damage may remain unchanged even if weapons delivery is cheaper and easier. And of course, the enemy will develop countermeasures— including moving targets further underground, dispersing them more widely, and collocating more closely with civilians—which may thwart an attacker’s ability to prevent civilian casualties.

The USAF may develop the equivalent of air delivered bullets—using no explosives at all. It was noted that such potential capabilities begin to blur the distinction between military operations and law enforcement. The ensuing controversy was foreshadowed by the Gibraltar incident in which British SAS forces killed unarmed members of the Irish Republican Army on city streets. The potential ability to hunt and kill individuals may push warfare toward assassination, some warned. One participant observed that a moralist might well prefer assassination for its precision, but this becomes a very different view of warfare—attacking an individual as such rather than attacking an individual for performing a military function.

*“Technology isn’t the area of most promise to remove the horrors of war. It is the intellectual work. We have lots of technology we can’t exploit.”*

Several military participants underscored the need for non-technological improvements such as increasing the qualitative “understanding” of enemy or coalition partner cultures and values, rather than simply expanding the collection of information. Participants also stressed the need for human intelligence: “It’s not enough to know that a building houses nuclear weapons. You need to know where the load bearing wall is.”

Technology has other implications for decision makers. Computers and communications could result in an overly centralized decision making process, said one participant. He also noted the possibility that an entire sequence of target identification and weapons release could occur without a person in a plane. One observer cautioned against incorporating judgment about acceptable targets into a formal algorithm of war instead of leaving it in the hands of those responsible for the decisions. The

organizational and interagency work hasn't kept up with technology, a military participant said.

There is a fundamental difference, one participant observed, between precision and correctness in targeting. Precision is the linear, technological, hardware side of the equation, but the correctness is the result of a decision maker's information and judgment. Increased precision, he opined, can create overconfidence and an "illusion of control" about the modeling process. It also further distances the fighter from the target. Thus precision risks becoming confused with correctness.

#### **IV. COLLATERAL DAMAGE MANAGEMENT — CDM**

Collateral damage can pose strategic challenges to an operation, particularly a highly public mission or one heavily reliant upon allies and international support. A senior U.S. airman was said to have acknowledged that concerns about civilian casualties nearly halted Operation Allied Force. To the military, concerns about effects upon civilians has become "like the weather — we may not like it but we have to deal with it. It's a normal part of our operating routine."

And yet, according to many participants, public allegations about collateral damage seem to be a contingency for which the armed forces are less than fully prepared (and one that is still perceived as diverting attention from ongoing military efforts). The military usually responds on an *ad hoc* and reactive basis, one observer remarked. An actual or alleged incident leads to criticism, pushing the military into a defensive posture while it seeks to determine the actual facts and causes of a given event. An investigation may lead to immediate operational adjustments or "hedges" to prevent future problems during the operation. However, neither the adjustment nor the broader process of anticipating or responding to collateral damage concerns may not be treated as a serious "lesson learned" from the campaign.

The U.S. armed forces undertake limited systemic, proactive effort to develop new approaches to preventing collateral damage. Efforts today focus largely on modeling and predicting the collateral damage that could be caused by certain types of attacks today, rather than developing means to monitor their occurrence during ongoing operations or develop means to minimize them in future operation. A range of participants argued that more can and should be done.

One participant proposed that the USAF create a new sub-discipline to study Collateral Damage Management (CDM). He noted an absence of literature in the field and saw this task as appropriate for technology experts. It would require a survey of the nature of the problem for the U.S. armed forces, an understanding of the work that already has been done to address this issue (e.g. why are fewer civilians dying as a result of recent Western uses of force) and an examination of future technologies and challenges. This effort also should develop approaches to minimize civilian casualties in the event attacks on weapons of mass destruction. He suggested that CDM be considered a weapons system akin to the Air Operations Center. A conceptual shift toward managing collateral damage could enable the military to take the initiative in this potentially strategically decisive area.

## **V. ROLES OF HUMAN RIGHTS ORGANIZATIONS**

A diverse array of human rights groups was represented at the workshop. In much the same way that military representatives stressed differences within the armed forces, human rights representatives described the differences in philosophy and action among relief, fact-finding, and advocacy organizations.

Many of the organizational representatives took legal positions more closely aligned with the European perspectives described earlier in this report. That is, they tended both to highlight the most restrictive existing laws and to adopt the most restrictive interpretation of permissible military action. For example, one participant

described his organization's goal as applying the highest existing standards in international law to a given issue, regardless of whether those standards have been universally adopted. The organization will "always push to expand the area of [legal] protection" for civilians and others such as soldiers placed *hors de combat*.

A participant observed that some human rights groups appear to conflate the concept of *universal* human rights with *international* organizations, standards, and responses. He further suggested that a claim of universality tends to bleed into human rights groups' recommendations, such that they are "colored with a tincture of the categorical imperative." This risks undermining the credibility of organizations, he said. A related challenge is the relationship between reporting and advocacy. A participant argued that organizations performing both functions should avoid acting as though policy recommendations deserve the same respect as factual reporting. Human rights representatives responded that the best advocacy incorporated alternative views and perspectives and did not purport to be fact. They also rejected the implication that international mechanisms necessarily were preferred by human rights organizations.

Many human rights groups work closely with states in international forums to refine and reinforce their interpretations of international law. Many are not simply observers of whether IHL is upheld but are actively shaping the law. Often, U.S.-based human rights groups are working to oppose official U.S. government positions. Some participants argued that these strategies were counterproductive in so far as they helped prevent the U.S. from signing up to important international norms and institutions. And by working with other states to prevent the United States from placing conditions on international agreements, they said, human rights organizations in effect were marginalizing both the U.S. and international law.

Participants discussed the difficulty of NGO-military coordination in the field. NGOs lack experience or comfort in dealing with combatants, and the military tends to hold NGOs at arms length. One human rights organization representative suggested that Enduring Freedom demonstrates that progress has been made in sharing information

regarding physical movements in country. Others viewed the bombing of a Red Cross warehouse as evidence of the broader failure of communication between the groups. One participant argued that despite their criticisms of the U.S. military, humanitarian organizations are much assured by its presence.

Nonetheless, the gulf in perspectives between the communities often emerged. One human rights representative noted that his organization approaches the use of force primarily from the perspective of civilians at risk. While acknowledging the legitimacy of national concerns about force protection, he expressed fear that these concerns may be taken to an extreme, resulting in disproportionate civilian casualties. Another human rights representative suggested that the military has an obligation to develop a doctrine that prevents civilian casualties. Military participants viewed their central doctrinal challenges in starkly different terms. One military participant rejected the very premise of these criticisms. The armed forces consider themselves morally obligated to consider civilian lives and the consequences of their actions. “You cannot make us consider [these issues] more deeply,” a participant stated.

Some participants took issue with the manner in which many human rights organizations criticized military operations. These groups often lack the operational expertise and understanding of the armed forces that many military participants consider essential for legitimate criticism. As a result, most human rights critics are ineffective in framing their arguments, thereby minimizing their potential impact, according to several participants.

A workshop member suggested that the adversarial approach of human rights groups might not be effective. She argued that many groups appeared to employ a “gotcha” approach toward the military that necessarily limits the military community’s ability to respond productively to criticism. It also was noted that many groups have failed to criticize terrorist organizations while focusing on Western actions in response to terrorism. This has only fueled international criticism, they contended, while failing to provide a balanced accounting of human rights problems. Others argued that criticism of

Western behavior was essential both in its own right and to dispel notions of Western hypocrisy.

One participant suggested that the NGOs' focus on the means of intervention might be rooted in discomfort about their role in inciting the use of force. He noted that human rights fact finding or advocacy work can contribute to the rationale or political pressure for military action. Thus human rights groups may compensate by focusing their criticism on the manner in which military force is used.

Human rights representatives pondered whether they needed to transcend "the *jus in bello* ghetto" and confront *jus ad bellum* questions more directly. Participants discussed the difficulty that human rights groups face with regard to being increasingly drawn into the issues about whether force is an appropriate policy option. Some human rights representatives spoke of their discomfort with the awareness that they did support acts of violence on behalf of human rights. Nonetheless, they viewed the *jus in bello* issues as highly relevant to the *jus ad bellum* questions. One person noted that advocates of early intervention in Somalia became dismayed by the nature of the intervention that ultimately occurred. This pattern, he said, is unlikely to diminish.

An observer noted that organizations might not want to "taint" their *jus in bello* criticism by engaging in the debate about whether the use of force itself is justified. Relief organizations in particular, it was argued, risked undermining their institutional missions if they became involved in advocacy. Others felt that entering into the debate about whether to intervene would render human rights groups even less relevant to public discourse.

Many concurred that a division of labor among human rights groups remained highly appropriate so as not to confuse roles and responsibilities with regard to monitoring human rights abuses versus endorsing specific policy responses to those abuses. Others felt that some organizations could do both under certain circumstances,

and argued that the war on terrorism increasingly would force human rights organizations to address the question of when force should be used.

## VI. CONCLUSION

The success of the two days' discussions lay not in any substantive areas of agreement, but rather in the transparency participants afforded one another. There was no attempt to disguise differences of opinion, but rather significant effort to explain, listen, and respond to alternative views. Regardless of the intensity of opinion, individuals treated one another with respect.

The group was able to delve more deeply into areas only touched upon during prior workshops, and the substantive quality of the discussions demonstrated the benefit of having plowed prior ground together. Among the topics that participants expressed a desire to explore in greater detail are: "operationalizing" collateral damage management; the implications of technology; the potential blurring of military action and law enforcement; and ground operations generally.



## **Appendix 1 — Workshop Agenda**

# **HUMANITARIAN ISSUES IN MILITARY TARGETING WORKSHOP AGENDA**

**Thursday, March 7**

### **Welcome and Introductions**

**Michael Ignatieff** and **Sarah Sewall**, Carr Center

### **Counter-terrorism, armed force and the Laws of War**

**Adam Roberts**, Oxford University

### **Civilian Casualties and Military Planning**

*The targeting process*

**Lt. Col. Tom Ehrhard**, USAF, School of Advanced Air Power Studies; **W. Harvey Dalton**, Office of General Counsel, OSD

*What are the weakest links in planning and execution?*

**Gen. Charles Horner**, USAF (Ret); **Claudio Cordone**, Amnesty International; **Col. Carol Hattrup**, USAF, HQ USAF/JAI, **William Arkin**, SAIS, **Lt. Gen. Tad Oelstrom**, USAF, (Ret), Harvard University

### **Strategic Targeting**

*Which dual use civilian objects are legitimate military targets and under what circumstances?*

**Francoise Hampson**, University of Essex; **Maj. Jeanne Meyer**, USAF, Army JAG School; **Ruth Wedgwood**, SAIS

*How does targeting strategy ultimately affect civilian populations?*

**James Turner Johnson**, Rutgers University; **Conrad Crane**, United States Army War College; **David Ochmanek**, RAND; **Martin Cook**, United States Army War College

### **Reception and Dinner**

Speaker: **Lt. Gen. Charles Wald**, USAF, Headquarters U.S. Air Force

## Appendix 1 — Workshop Agenda

# HUMANITARIAN ISSUES IN MILITARY TARGETING WORKSHOP AGENDA

**Friday, March 8**

### **Implications of Technology**

*How might technological advances further reduce collateral damage? Is the use of force becoming more precise but less responsible?*

**Gen. Charles Horner**, USAF (Ret); **Benjamin Lambeth**, RAND; **Joe Guilmartin**, Ohio State University; **Chris Bowie**, Northrop Grumman Corporation; **David Ochmanek**, RAND; **Philippe Loustaunau**, Defense Forecasts International

### **New Actors on the Ground**

*Who is a combatant in modern war? With what implications?*

**Yves Sandoz**, formerly of the ICRC; **W. Darrell Phillips**, Maxwell Air Force Base; **Francoise Bouchet-Saulnier**, Medicines Sans Frontiers; **Edward Cummings**, State Department

*What obligations do NGOs have to help prevent civilian casualties?*

**Roy Williams**, Center for Humanitarian Cooperation; **Maj. Gen. William Nash**, USA (Ret.), Council on Foreign Relations; **Bob MacPherson**, CARE; **Ken Anderson**, American University

### **International Humanitarian Law and Modern Conflict**

*What are the main paradoxes, strengths or deficiencies of IHL? What, if anything, is to be done?*

**Ken Roth**, Human Rights Watch; **Adam Roberts**, Oxford University; **Ruth Wedgwood**, SAIS

### **Wrap-up**

**Michael Ignatieff** and **Sarah Sewall**

## Appendix 2 — Participant Biographies

### HUMANITARIAN CHALLENGES IN MILITARY INTERVENTION WORKSHOP

#### ***Mr. Kenneth Anderson***

Mr. Kenneth Anderson is a Professor of Law at American University's Washington College of Law specializing in international human rights and humanitarian law. He served previously as Director of Human Rights Watch's Arms Division and on the General Counsel of the Open Society Institute-Soros Foundation. Currently he serves on the board of advisors for Human Rights Watch's Arms Division and the Landmines Project of the Open Society Institute. He served as legal editor of *Crimes of War*.

#### ***Mr. William M. Arkin***

Mr. William M. Arkin is a Senior Fellow at SAIS and Senior Military Adviser to Human Rights Watch. He is a correspondent and columnist for *The Washington Post* and *The Los Angeles Times* and is a military analyst for NBC. He is also an Adjunct Professor at the U.S. Air Force's School of Advanced Airpower Studies. Mr. Arkin has investigated the effects of warfare on civilian populations and pioneered the methods of post-war bomb damage assessments and environmental assessments, starting with the Gulf War in 1991. He has written extensively on targeting, weapons technology, and civilian casualties in warfare.

#### ***Mr. Kenneth H. Bacon***

Mr. Kenneth H. Bacon is the President and CEO of Refugees International. In the Clinton Administration, he served as the Assistant Secretary of Defense for Public Affairs and as the Pentagon spokesman. Previously, Mr. Bacon spent 25 years at *The Wall Street Journal* as a reporter, editor and columnist.

#### ***Mr. Mark Bartolini***

Mr. Mark Bartolini is the International Rescue Committee's (IRC) Vice-President for government relations, based in Washington, DC. He joined IRC in 1993 as a coordinator for humanitarian relief efforts in Bosnia. In 1996, he became director of IRC's Bosnia program. He also served as IRC's Deputy Director of Government Relations in Washington. In his work for the IRC, Mr. Bartolini has traveled extensively in the Balkans and Africa as a journalist.

## **Appendix 2 — Participant Biographies**

### ***Dr. Christopher J. Bowie***

Dr. Christopher Bowie is a Senior Analyst at the Northrop Grumman Analysis Center. He holds a D.Phil. in History from Oxford University. He began his career at the RAND Corporation, where he worked on nuclear bomber operations, fighter employment operations, and a variety of air power doctrine and strategy issues. Dr. Bowie left RAND to serve as a member of the Secretary of the Air Force's personal staff from 1989-1991, for which he was awarded the Exceptional Civilian Service Medal. Following this assignment, Dr. Bowie returned to RAND, where he worked until joining Northrop Grumman in 1994.

### ***Ms. Holly Burkhalter***

Ms. Holly Burkhalter is the Advocacy Director of Physicians for Human Rights and formerly coordinated the U.S. Campaign to Ban Landmines. Previously, Ms. Burkhalter served as the Advocacy Director of Human Rights Watch in Washington, DC and as a staff member of the House Foreign Affairs Subcommittee on Human Rights and International Organizations. She is a member of the Council on Foreign Relations and a board member of the U.S. Institute for Peace.

### ***Dr. Martin L. Cook***

Dr. Martin L. Cook is Professor of Ethics in the Department of Command, Leadership and Management (DCLM) of the United States Army War College (USAWC) in Carlisle, PA. Prior to joining the DCLM faculty, he was a tenured professor at Santa Clara University, CA, where he had taught since 1982. He has also taught at the United States Air Force Academy; the Graduate Institute of St. John's College in Santa Fe, NM; The College of William and Mary; Gustavus Adolphus College; and St. Xavier College, Illinois. Dr. Cook was awarded the Elihu Root Chair in Military Studies at the USAWC in 2001.

### ***Mr. Claudio Cordone***

Mr. Claudio Cordone is Director of the Research and Mandate Program at the International Secretariat of Amnesty International (AI) in London. From 1997-1998 he served as Chief of the Human Rights Office of the U.N. Mission in Bosnia and Herzegovina, taking charge of conducting human rights investigations as part of the UN program of police reform. Most recently he coordinated AI's policy with regard to the Israeli/Palestinian conflict, the aftermath of the September 11<sup>th</sup> attacks and the conflict in Afghanistan. He co-authored "NATO on Trial" with Avner Gidron.

## Appendix 2 — Participant Biographies

### ***Dr. Conrad C. Crane***

Dr. Conrad C. Crane is Research Professor of Military Strategy at the U.S. Army War College Strategic Studies Institute (SSI). Previously, Dr. Crane served for 26 years in the military that concluded with nine years as Professor of History at the U.S. Military Academy. He has published articles on military issues in such journals as *The Journal of Strategic Studies*, *The Journal of Military History*, *The Historian*, and *Aerospace Historian*, as well as in a number of collections and reference books. His most recent SSI studies include: *Alternative National Military Strategies*, published in December 2000; and *Landpower and Crises: Army Roles and Missions in Smaller-Scale Contingencies During the 1990's*, published in January 2001.

### ***Mr. Edward Cummings***

Mr. Edward Cummings is the Assistant Legal Adviser for Non-Proliferation in the Office of the Legal Adviser of the Department of State. He is a career member of the Senior Executive Service. He joined the State Department in 1979 after serving in the U.S. Army in the Pentagon in the Office of the Judge Advocate General of the Army (1974-1979). He is currently the Head of the U.S. Delegation to the Conventional Weapons Review Conference and has participated in many humanitarian law negotiations since 1977. He served previously as the Counselor for Legal Affairs at the U.S. Mission in Geneva (1995-2000) and as the Assistant Legal Adviser for Politico-Military Affairs (1987-1995).

### ***Mr. W. Harvey Dalton***

Mr. William Harvey Dalton serves as the Associate Deputy General Counsel (Intelligence) in the Office of General Counsel in the Department of Defense. He received his LLB from the University of North Carolina - Chapel Hill in 1965 and his LLM from the University of Miami in Ocean Law in 1973. He is a retired officer and has specialized in international and operational law throughout his 30-year Navy career.

### ***Mr. Stephen J. Del Rosso, Jr.***

Mr. Stephen J. Del Rosso, Jr. is a Senior Program Officer for the International Peace and Security Program at the Carnegie Corporation of New York. Previously, Mr. Del Rosso was Program Director of the Chicago Council on Foreign Relations and managed the Pew Charitable Trusts "Global Security" grantmaking program in Eastern and Central Europe. He also served overseas in the Foreign Service, on Secretary of State George Shultz's staff and as program coordinator of the National Democratic Institute for International Affairs.

## **Appendix 2 — Participant Biographies**

### ***Lt. Col. Tom Ehrhard, USAF***

Lt. Col. Tom Ehrhard of the United States Air Force is currently assigned to the Pentagon, serving as Chief, Special Issues Division for the Director, Air Force Quadrennial Defense Review. Prior, he served as the Chief, Strategy, Concepts, and Doctrine Division. He taught national security policy at the US Air Force Academy. He served as a space and missile operator with headquarters and joint duty assignments in the nuclear planning and targeting process. He earned a Ph.D. in International Relations at SAIS, where he wrote his dissertation on a comparative analysis of the integration of unmanned aerial vehicles into the US armed services.

### ***Mr. William Fenrick***

Mr. William Fenrick is the Senior Legal Adviser in the Office of the Prosecutor of the International Criminal Tribunal for the former Yugoslavia, serving in that role since 1994. He is also the Senior International Lawyer and Law of War Adviser to the Prosecutor. Mr. Fenrick was the main author of the June 2000 NATO Bombing Study. From 1992-1994, Mr. Fenrick was a member of the Commission of Experts appointed by the UN Secretary General to examine allegations of war crimes in the former Yugoslavia. Mr. Fenrick is a former Canadian Military Lawyer who served as Director of Law for International Law and Operations and Training.

### ***Mr. Avner Gidron***

Mr. Avner Gidron is Senior Policy Adviser at the Research and Mandate Program of Amnesty International. He previously served as a consultant for Human Rights Watch and as Research Director of the Committee to Protect Journalists. Recently, he has been working on Amnesty International's policy with regard to the armed conflict in Afghanistan and the status of prisoners held by the US in Guantanamo Bay. He authored Amnesty International's report "Collateral Damage" and co-authored "NATO on Trial" with Claudio Cordone.

### ***Mr. Jonathan Greenwald***

Mr. Jonathan Greenwald is Vice-President for Research and Publications of the International Crisis Group, with headquarters in Brussels and field programs in the Balkans, Africa, Asia, the Middle East, and Latin America. Previously, he served as a U.S. Foreign Service Officer, most recently as Minister Counselor for Political Affairs at the U.S. Mission to the European Union, 1993-1997 and as Office Director for Diplomatic Strategies under the Coordinator for Counter-Terrorism in the Department of State from 1991-93.

## Appendix 2 — Participant Biographies

### *Mr. John Guilmartin*

Mr. John Guilmartin is Professor of History at Ohio State University focusing on 16<sup>th</sup> and 17<sup>th</sup> century European history and authority on military, maritime, and technological history. He is also interested in aerospace history and has written about the Vietnam and Gulf wars. He is currently working on his latest book, which will be part of *The History of Warfare* series edited by John Keegan.

### *Mr. Roy Gutman*

Mr. Roy Gutman is a *Newsweek* Defense Correspondent in the Washington Bureau. He previously spent many years as *Newsday's* Foreign Correspondent. He is a Pulitzer Prize winner for international journalism, author of *A Witness to Genocide*, and founder of "The War Crimes Project." He also edited the unique journalists' handbook, *The Crimes of War*.

### *Ms. Françoise Hampson*

Ms. Françoise Hampson is a Professor in the Department of Law and Human Rights Centre of the University of Essex, UK. She was a member of the Steering Committee and of the Group of Experts for the ICRC study on customary law. She has appeared as the applicants' legal representative in cases before the European Court of Human Rights in cases involving the conduct of military operations, including the case of *Bankovic, et. al. v. Belgium and 16 members of NATO*.

### *Col. Carol Hattrup, USAF*

Col. Carol Hattrup is the Chief of International and Operations Law for the U.S. Air Force, at the Pentagon, Washington, D.C. She has served as Deputy Legal Counsel to the Chairman of the Joint Chiefs of Staff from 1991 to 1993; as a Staff Judge Advocate to a Fighter Wing Commander in South Korea in 1994; and as a Staff Judge Advocate to the Air Force Composite Wing Commander in Saudi Arabia in November 1996 following the Khobar Towers Bombing and deployment of US forces to Prince Sultan Air Base. Most recently, she served as Chief of International and Operations Law for the Air Force's Pacific Command, based in Hawaii (1997-2000), as well as appointment as an Appellate Judge on the Air Force Court of Criminal Appeals in 2001.

## Appendix 2 — Participant Biographies

### ***Gen. Charles A. Horner, USAF (Ret)***

Gen. Charles A. Horner retired from the United States Air Force while serving as the Commander In Chief of the North American Aerospace Defense Command and the United States Space Command, and commander of Air Force Space Command. During his career he led tactical fighter wings, air divisions, and the Air Defense Weapons Center prior to being assigned to command Unified Space Command/NORAD. Horner was also commander of United States Central Command Air Forces. During Operations Desert Shield and Desert Storm he was in command of all U.S. and allied air assets.

### ***Dr. Michael Ignatieff***

Dr. Michael Ignatieff is Director of the Carr Center of Human Rights Policy and Carr Professor of Human Rights Practice at Harvard University. He has researched ethnic war in Serbia, Croatia, Bosnia, Rwanda, and Afghanistan. Ignatieff's recent work combines eyewitness accounts of modern war with an historian's insight into human conflict. He is the author of *Virtual War: Kosovo and Beyond* (Metropolitan Books, 2000).

### ***Dr. James Turner Johnson***

Dr. James Turner Johnson is Professor of Religion and Associate Member of the Graduate Department of Political Science at Rutgers—The State University of New Jersey. His research and teaching primarily focus on the historical development and application of moral traditions related to war, peace, and the practice of statecraft. He is a Trustee, Editorial Board member, and former General Editor of the *Journal of Religious Ethics*.

### ***Mr. Thomas A. Keaney***

Mr. Thomas A. Keaney is the Executive Director of the Foreign Policy Institute and Senior Adjunct Professor of Strategic Studies at SAIS. Previously, he was Professor of Military Strategy at National War College, Washington DC, and Director of its core courses on Military Thought and Strategy. From 1991 to 1992 he was a researcher/author with the Gulf War Air Power Survey, during which time he co-authored two reports: *The Summary Report* and *The Effects and Effectiveness of Air Power* (both published by the U.S. Government Printing Office in 1993). His most recent publications include: *Revolution in Warfare?: Air Power in the Persian Gulf*, 1995 (with Eliot A. Cohen) and *US Allies in a Changing World*, 2000) and *Armed Forces in the Middle East, Politics and Strategy*, 2002 (ed. with Barry Rubin).

## Appendix 2 — Participant Biographies

### *Mr. Benjamin S. Lambeth*

Mr. Ben Lambeth is a senior staff member at RAND, where he has directed RAND's International Security and Defense Policy program. Mr. Lambeth has written more than six dozen articles and reports on air power, Soviet and Russian military affairs and other topics. His recent book, *The Transformation of American Air Power* (Cornell University Press, 2000), earned the U.S. Air Force Association's Gill Robb Wilson Award in Arts and Letters for 2001. He just completed a book on Operation Allied Force entitled *NATO's Air War for Kosovo: A Strategic and Operational Assessment* (RAND, 2001).

### *Dr. Ariel (Eli) Levite*

Dr. Ariel (Eli) Levite is currently a Visiting Fellow at the Center for International Security and Arms Control (CISAC) at Stanford and the co-leader of the CISAC Discriminate Force project. He is on sabbatical from the Israeli Civil Service, where he served as Deputy National Security Advisor and previously served as Head of the Bureau of International Security. Previously, he served as a Senior Research Associate and Head of the Project on Israel Security at the Jaffee Center for Strategic Studies at Tel-Aviv University. He authored several books, including *Offense and Defense in Israeli Military Doctrine* and *Israel's Nuclear Image*. Dr. Levite also serves as the Head of the Scientific Advisory Committee and Member of the Board of Directors for the Fisher Institute for Strategic Aerospace Research.

### *Dr. Philippe Loustaunau*

Dr. Philippe Loustaunau is a Senior Associate at DFI International. He leads DFI's technical military analyses. He has worked on a broad spectrum of national security issues, including strategy, force structure, nuclear deterrence and arms control issues. Dr. Loustaunau has a Ph.D. in mathematics and he spent the first part of his career as Professor of Mathematics at George Mason University.

## Appendix 2 — Participant Biographies

### *Mr. Robert MacPherson*

Mr. Robert MacPherson is the Director of CARE USA's Protection and Security Unit. Since joining CARE in 1994, he has helped the organization respond to emergencies in the Balkans, Africa, East Timor and Afghanistan. Macpherson is a former US Marine Corps Colonel with 25 years of service, including Vietnam, Desert Storm and Somalia. After completing active service with the Marines, he founded Enable, a humanitarian relief organization dedicated to assisting the survivors and victims of landmines and war. In 1992, as part of the United Nations Operation Restore Hope in Somalia, he served as Deputy Director for Civil/Military Operations prioritizing and coordinating multi-national relief efforts.

### *Maj. Jeanne M. Meyer, USAF*

Maj. Jeanne M. Meyer is a professor at the International and Operational Law Department at the Judge Advocate General's School, US Army. Previously, she served as Judicial Law Clerk for the Honorable Warren Matthews, Alaska Supreme Court, and as Assistant State Attorney General for the State of Alaska. She recently served as Staff Judge Advocate at the Ali Al Salem Air Base in Kuwait.

### *Col. Michael Murphy, USAF*

Col. Murphy currently serves in the Office of the General Counsel, White House Military Office. Prior, he was the Director of Staff, Air Force Quadrennial Defense Review and Chief of Commander's Action Group, Operation Enduring Freedom. He is a graduate of the University of Texas at Austin Law School.

### *Maj. Gen. William Nash, USA (Ret)*

Retired U.S. Maj. Gen. William Nash is Director of the Center for Preventative Action and Senior Fellow at the Council on Foreign Relations. He formerly commanded Task Force Eagle in Bosnia, a multinational division supporting the Dayton Peace Accords, and served as a UN administrator in Mitrovica, Kosovo.

## Appendix 2 — Participant Biographies

### *Mr. David Ochmanek*

Mr. David Ochmanek is a Senior Analyst at RAND. He has held several positions in the United States government, including service in the United States Air Force, the Department of State, and the Department of Defense. His most recent book is *The Real and the Ideal: Essays on International Relations in Honor of Richard H. Ullman*, which he co-edited with Anthony Lake.

### *Lt. Gen. Tad J. Oelstrom, USAF (Ret)*

Retired Lt. Gen. Tad Oelstrom is Director of the National Security Program at the John F. Kennedy School of Government, Harvard University. He directs Harvard's Program for Senior Executives in National and International Security, the National Security Fellows Program, a program on Initiatives in Conflict Management, two programs for Russian General Officers and the members of the Duma, and a program for senior leaders from countries surrounding the Black Sea. He joined the faculty after more than 35 years in the US Air Force. He has command experience at all tactical levels from flight through Numbered Air Force. Most recently, General Oelstrom was the Superintendent of the US Air Force Academy, Colorado (1997-2000) where he was recognized nationally for his leadership in character development at the university level. Key staff assignments include Director of Fighter Operations, Tactical Air Command; Executive Officer to the Deputy Commander US European Command; and Inspector General US Air Forces in Europe.

### *Mr. W. Darrell Phillips*

Mr. Phillips is the Chief of the International and Operations Law Division of the United States Air Force Judge Advocate General School, Maxwell Air Force Base, AL, lecturing to American and international audiences on such topics as the law of armed conflict, rules of engagement, operational law, legal considerations in operational planning, and fiscal law during overseas deployments. In January 2002, he directed a working symposium on the roles of civilians during military operations, composed of experts throughout the Department of Defense and the Department of State who examined current law and policy and made recommendations for changes to reflect the reality of modern military operations. He is a retired United States Air Force Judge Advocate and has been a civilian employee of the Air Force for over ten years.

## Appendix 2 — Participant Biographies

### *Ms. Samantha Power*

Ms. Samantha Power is Adjunct Lecturer in Public Policy at the Kennedy School of Government at Harvard University. From 1993-1996, Power covered the wars in the former Yugoslavia as a reporter for *U.S. News and World Report* and the *Economist*. In 1996 she joined the International Crisis Group (ICG) as a political analyst, helping launch the organization in Bosnia. She has just completed, *“A Problem from Hell”: America and the Age of Genocide*, which examines U.S. responses to genocide in the twentieth century.

### *Ms. Dana Priest*

Ms. Dana Priest is a Journalist for the *Washington Post*, where she has worked for 14 years on a variety of beats, including a position as Assistant Foreign Editor. Since 1995, she has written about the U.S. military, first as the *Washington Post's* Pentagon correspondent and now as an investigative reporter. Priest has written extensively about the nation's four regional commanders-in-chief, the Army's peacekeeping missions in Bosnia and Kosovo, women in the military, and the Defense Department's programs to rebuild the militaries of Central Europe. She was a guest scholar at the US Institute of Peace and a recent recipient of the MacArthur Foundation Research and Writing Grant. She is currently working on a book about the military's expanding influence over American foreign policy and its implications for civil-military relations.

### *Mr. Adam Roberts*

Mr. Adam Roberts is the Montague Burton Professor of International Relations at Oxford University, and Fellow of Balliol College. Previously, Mr. Roberts was Alastair Buchan Reader in International Relations and Fellow of St. Antony's College, Oxford and Lecturer in International Relations at the London School of Economics and Political Science, where he was elected Honorary Fellow in 1997. He also served as a member of the Council of the Royal Institute of International Affairs (Chatham House), London and as a Fellow of the British Academy. He has published articles in numerous journals and newspapers. He has been awarded a three-year Leverhulme Major Research Fellowship for 2000-2003.

### *Mr. James Ross*

Mr. James Ross is Senior Legal Advisor at Human Rights Watch. He previously worked with the humanitarian affairs department of Médecins Sans Frontières-Holland, the human rights office of the OSCE in Bosnia, the International Human Rights Law Group in Cambodia, and was Asia Program Director for the Lawyers Committee for Human Rights. He has conducted human rights fact-finding missions in some two-dozen countries, primarily in Asia.

## Appendix 2 — Participant Biographies

### ***Mr. Kenneth Roth***

Mr. Kenneth Roth is the Executive Director of Human Rights Watch, a post he has held since 1993. The largest US-based international human rights organization, Human Rights Watch investigates, reports on, and seeks to curb human rights abuses in some 70 countries. From 1987 to 1993, Mr. Roth served as Deputy Director of the organization. Previously, he was a federal prosecutor for the U.S. Attorney's Office for the Southern District of New York and the Iran-Contra investigation in Washington. He also worked in private practice as a litigator.

### ***Lt. Col. Timothy J. Sakulich, USAF***

Lt. Col. Timothy Sakulich is a Country Program Director at the Defense Security Cooperation Agency, Office of the Secretary of Defense, Arlington, Virginia. He received his M.S. in applied mathematics from North Carolina State University. He is an experienced military operations research and systems analyst whose assignments have included positions at Headquarters Air Force Logistics Command, San Antonio Air Logistics Center, and the Joint Staff. He has also served as an exchange officer with the Royal Air Force and on the faculty of the Air Command and Staff College of Air University. Most recently, he completed a National Defense Fellowship at the Institute for Defense Analyses, Alexandria, Virginia.

### ***Mr. Yves Sandoz***

Dr. Yves Sandoz is a Member of the Provisional Direction of the University Center of International Humanitarian Law in Geneva. Previously, at the ICRC, he served as Director of International Law and Principles for 18 years, as well as on the executive board of the Standing Commission of the International Red Cross and Red Crescent Movement. His academic work focuses on penal law and international humanitarian law. He is co-editor and author of the *Commentary of the 1977 Additional Protocols to the 1949 Geneva Conventions* and has authored several publications in *International Humanitarian Law*.

### ***Ms. Françoise Bouchet-Saulnier***

Ms. Françoise Bouchet-Saulnier has been Legal Director of the international humanitarian aid organization Médecins Sans Frontières (MSF) in Paris since 1991 and research director of the MSF Foundation since 1995. She has been pivotal in shaping MSF responses to conflict situations such as Rwanda, Somalia, and Kosovo and educating MSF aid workers on humanitarian law issues. In addition to her work with MSF, Bouchet-Saulnier teaches law at the University of Paris and is engaged in research on international justice. She is the coauthor of a book focusing on the Rwandan genocide and has written numerous articles on humanitarian law.

## Appendix 2 — Participant Biographies

### *Ms. Sarah Sewall*

Ms. Sarah Sewall is Adjunct Lecturer in Public Policy and Program Director at the Carr Center for Human Rights Policy at Harvard University. She served as Deputy Assistant Secretary of Defense for Peacekeeping and Humanitarian Assistance during the Clinton Administration and was Senior Foreign Policy Advisor to Senate Majority Leader George J. Mitchell.

### *Mr. Frank A. Sieverts*

Mr. Frank Sieverts has been Assistant to the Head of the ICRC Delegation in Washington, DC since 1995. From 1987 to 1994 he was Spokesman for the Senate Foreign Relations Committee. Before that he served in the State Department in many positions, including Deputy Assistant Secretary for Human Rights and Refugees, Deputy Assistant Secretary for Prisoners of War/Missing in Action, and Minister-Counselor for Humanitarian Affairs at the US Mission in Geneva. He was a member of US Delegations to the 1969-73 Paris conferences on Vietnam, to the United Nations and International Red Cross meetings and to the Diplomatic Conference on the 1977 Additional Protocols to the 1949 Geneva Conventions.

### *Lt. Col William Stooksbury*

Lt. Col. Stooksbury is the Associate Director of the Center for the Study of Professional Military Ethics at the United States Naval Academy. He coordinates all Marine Corps programs for the Center and also assists the Department of Leadership, Ethics and Law as one of the military instructors who teach, Moral Reasoning for Naval Leaders. He also served in Saudi Arabia and Kuwait from August 1990 to March 1991 during Operations DESERT SHIELD and DESERT STORM.

## Appendix 2 — Participant Biographies

### *Lt. Gen. Charles F. Wald, USAF*

Lt. Gen. Charles F. Wald is Deputy Chief of Staff for Air and Space Operations at U.S. Air Force Headquarters in Washington, DC. His responsibilities entail formulating policy supporting air, space, intelligence, nuclear, counter proliferation, homeland security, weather and information operations. He determines operational requirements, capabilities and training necessary to support national security objectives and military strategy. Previously, he served as Chief of the U.S. Air Force Combat Terrorism Center and U.S. Senior National Representative to Allied Air Forces Central Europe Headquarters. He is a command pilot who has flown combat missions over Vietnam, Cambodia, Laos, Iraq, and Bosnia.

### *Dr. Ruth Wedgwood*

Dr. Ruth Wedgwood, a professor at Yale Law School and SAIS, is Senior Fellow for International Organizations and Law at the Council on Foreign Relations and a member of the Secretary of State's Advisory Committee on Public International Law. From 1998-1999, Wedgwood served as the Charles Stockton Professor of International Law at the US Naval War College. She was later appointed by then-Secretary of Defense William Cohen to be a member of the National Security Study Group of the Hart-Rudman Commission from 1999-2001.

### *Mr. Howard Roy Williams*

Mr. Howard Roy Williams is President and Chief Executive Officer of the Center for Humanitarian Cooperation. Previously, he served as Director of the Office of Foreign Disaster Assistance, Bureau for Humanitarian Response (BHR/OFDA), of the U.S. Agency for International Development (USAID). As head of OFDA, he oversaw disaster preparedness and relief and rehabilitation programs throughout the world. Previously, he served with the International Rescue Committee as Vice President for Overseas Policy and Planning, during which he led efforts that resulted in the conceptualization, creation and staffing of IRC's Emergency Preparedness Unit.





## **PROJECT ON THE MEANS OF INTERVENTION**

SARAH SEWALL  
PROGRAM DIRECTOR

The Project on the Means of Intervention, directed by Sarah Sewall, aims to advance our understanding of humanitarian challenges that arise in the context of using military force. The project is supported by the Carnegie Corporation of New York. This effort brings active and retired officers from the United States military and other security specialists together with members of the human rights and humanitarian communities in a series of workshops to explore how human rights considerations are factored into, and affected by, military intervention.

The way that military force is used receives far less attention in policy circles than does the question of when states should intervene militarily. Yet the means of military intervention have dramatic implications for the security of civilians in the target country, the security of intervening forces, and the effectiveness of the intervention itself.

To explore these issues, the Project is bringing together practitioners and experts, largely from the military and human rights communities, for a yearlong series of workshops. Some participants view military interventions as concerned with force protection and mission accomplishment at the expense of protecting vulnerable civilians in the target country. Others see humanitarian constraints, whether legal or political in nature, as unduly complicating the use of force and compromising its effectiveness. By bringing these perspectives together, the project hopes to illuminate a range of topics while exposing participants to competing views. A central question for this project is the

degree to which moral and pragmatic interests may overlap in applying force consistent with humanitarian principles.

In 2001, a small group from the military and human rights communities gathered in Cambridge, MA to discuss concepts and project design. Later that year, a workshop was held in Washington, D.C. to survey humanitarian issues connected with the use of air power. Future workshops will be held during 2002 on topics such as collateral damage, ground forces, and lessons learned and best practices.

Through written products and a concluding conference, the project will capture substantive analysis and recommendations and bring them to a wider audience. The project aims to illuminate and dissect a set of issues that have become increasingly important during the last decade. It intends to foster more critical and nuanced thinking among participants, their associated institutions, and between the military and human rights communities both in the policy process and ultimately on the ground. Ultimately, the project aims to affect the way nations intervene militarily, making the use of military power more consistent with humanitarian principles.



## THE CARR CENTER FOR HUMAN RIGHTS POLICY

MICHAEL IGNATIEFF  
DIRECTOR

MICHELLE GREENE  
EXECUTIVE DIRECTOR

The Carr Center is a research, teaching and training program that critically examines the policies and actions of governments, international organizations, non-governmental organizations, and other actors that affect the realization of human rights around the world. The Center was formally launched in June of 1999 through a gift from Kennedy School alumnus Gregory Carr.

The yawning gap between the apparent attractiveness of human rights ideals and their realization has prompted the Center to focus on the tools and techniques for realizing existing norms. The next stage of human rights research also requires broadening into new areas of inquiry. The Center focuses on ways in which human rights policy issues intersect with other concerns such as military intervention, non-governmental advocacy, domestic politics, and economic development. Working effectively at the intersection of human rights and other disciplines also requires forging new relationships with those who are only just beginning to grapple with the human rights implications of their work, including multinational corporate executives, Internet entrepreneurs, public health professionals, political scientists, lawyers, military leaders, journalists, and economists.

Non-governmental human rights organizations are rarely tailored to conduct objective analysis of their own tactics and strategies; academic initiatives concerned with human rights often are removed from the public policy debate or can reflect a narrow

scholarly perspective. In the division of labor among human rights-related institutions, the Center occupies a unique niche. As an independent research center, it offers a forum in which diverse views about human rights can be considered. The Center hopes to draw new voices to the table, thereby extending and deepening the human rights dialogue.

The Carr Center's location in a school of public policy allows it to draw upon a range of disciplines and the case-based analytic approach for which the Kennedy School is known. The Center is developing programs that empirically and analytically address central issues in human rights policy and practice.

The Carr Center sponsors a speaker series, a film series, periodic conferences and workshops, and internal colloquia. It publishes a working paper series, an annual guide to human rights courses at Harvard, and a series of human rights policy cases, intended for use in graduate courses. Its book series, which was launched in 2000 with the publication of *Realizing Human Rights: Moving From Inspiration to Impact*, edited by Samantha Power and Graham Allison (St. Martin Press, 2000), includes Michael Ignatieff's recent *Human Rights as Politics and Idolatry* (Princeton University Press, 2001). More information about the Carr Center activities and resources is available on the Center's website: [www.ksg.harvard.edu/cchrp](http://www.ksg.harvard.edu/cchrp)

The Center is developing five substantive areas of focus: national security and human rights; "American Exceptionalism"; genocide prevention and punishment; NGO effectiveness and accountability; and corporate social responsibility. These topics, simultaneously overlapping and complementary, will create an integrated research agenda that reflects the Center's links to both the academic and policy communities. The Center is actively engaged in the following three programs:

The **national security and human rights program** has launched a project, with the support of the Carnegie Corporation of New York, on military strategies for humanitarian intervention. Program director Sarah Sewall is exploring the factors shaping these strategies and their implications for international humanitarian law, for

intervention objectives, and for civilians in target countries. The project seeks to place the character and dilemmas of modern humanitarian interventions in a broader historical context as well as suggest lessons for future intervention and for the laws of war.

The “**American Exceptionalism**” program analyzes the unique constitutional and civil rights tradition of the United States, exploring its divergence from other Western rights cultures. It also seeks to understand the root causes of the United States’ longstanding habit of exempting itself from international human rights obligations and international legal frameworks. A grant from the Winston Foundation has supported the formation of a Harvard-based working group and the launch of a year-long speaker’s series (2002-2003), which will result in a book (edited by Michael Ignatieff) on the causes and consequences of this exceptionalism.

The **genocide prevention and punishment program** examines legal, political, and military responses to mass atrocity. The program has hosted numerous speakers at the Kennedy School to analyze national and international mechanisms geared to curb atrocity. Samantha Power, who was funded by an Individual Project Fellowship from the Open Society Institute, has interviewed victims, perpetrators, and more than 300 U.S. government officials in the exhaustive study of U.S. responses to genocide in the twentieth century. The findings are published in “*A Problem from Hell*”: *America and the Age of Genocide* (Basic Books, 2002).

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