BOOK REVIEW

# *Partly Cloudy: Ethics in War, Espionage, Covert Action, and Interrogation*, by David L. Perry

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War, espionage, covert action, and interrogation—the four principal subjects of Perry's book—are instruments of state power. David Perry attempts a Herculean task when he strives to examine each, and endeavors, with limited success, to find ethical justification or prohibition, or at least intimate ethical limits, for each as they are practiced by states today. With a few notable exceptions he bases his examination on how the United States applies—or seems to apply—these elements of power, and from that basis, he attempts to extrapolate to the wider world.

Theologians and philosophers have debated the moral aspects of war and acts of war for centuries. The early Christian philosophers, in an attempt to reconcile the obvious conflict between prohibitions against individual violence towards one's fellow man and the nation's quest for survival, developed what has come to be called the just war theory. This theory attempted to examine the totality of war and to determine the extent to which an individual could act within the context of war before crossing an ethical boundary. They attempted to bring some order to the chaos that is war.

But one hoping to find a thorough and objective ethical analysis of espionage, covert action, and interrogation in this book will find it wanting. The acts of espionage, covert action, and interrogation—which are certainly as old as warfare—have avoided the same degree of philosophical scrutiny. These three activities are subsets of intelligence, and, like the activities of intelligence, have been cloaked in secrecy. Hidden in the shadows, these activities have evaded study by academics and have dodged the probing examination of ethicists. Lately, however, the cloak has been partly drawn aside, and the apparent ethical deficiencies of the intelligence and those who work in this profession have become the subject of some ethical scrutiny.

Perry fails in his analysis when he tries to consider these four elements as similar and equal and thus subject to some general theory of ethics that might apply universally. Indeed, he establishes seven ethical principles, which he introduces in chapter 2 and reiterates in chapter 10, that are certainly appropriate for the consideration of an ethical appraisal of war, but which do not apply clearly to the other three elements he examines: espionage, covert action, and interrogation.

There are two significant differences between the first of his subjects and the remaining three. First, the study of the ethics of war examines all aspects of war, from the decision to go to war to the weapons and tactics that may be used to the conduct of soldiers toward the enemy, both military and noncombatant. The last three of Perry's subjects are not separate elements, as war is; they are, rather, parts of a greater whole which might be termed "secret state activity," and that would certainly be a fertile field for an ethical investigation.

Like Perry, most writers with an ethical bent examine the narrow intelligence fields of espionage, interrogation, covert action, and, to a lesser extent, counterintelligence. They rarely examine those intelligence activities that do not directly involve other human beings. But what are the ethical implications of reading another country's enciphered messages, for instance? Certainly any country that has enciphered its transmissions has done so because it expects privacy and security for those transmissions. What ethical bounds are crossed by penetrating this expectation of privacy? In a similar fashion, the ethics of intelligence analysis would be put under the ethicist's probe. What are, or should be, the ethical considerations of using material an intelligence analyst knows or believes to have been obtained through unlawful means or through torture? Is there or should there be a "fruit of the forbidden tree" in intelligence analysis, as there is in law?

If one wanted to compare war to this model of "secret state activity," one could perhaps develop a similar concept to *jus ad bellum* or *jus in bello* for intelligence operations. But examining espionage or interrogation and covert action without a broader framework would be like examining artillery or infantry without a larger ethical framework of war. These three elements are parts of a larger whole and ought not be considered separately.

A second distinction between these three subjects is more apt: War is about killing and destruction. Indeed, some crude theorists

opine that war is about killing people and breaking things. Clearly the moral implications are great when one nation seeks to kill the citizens of another nation or puts its soldiers in the position that they might kill or be killed. Espionage, interrogation, and covert action have as their collective goals the avoidance of killing people—or, at least in theory, killing a minimal number of people. They fall into the category of activities Sun Tzu categorized: "It is not the best of the best who wins one hundred victories in one hundred battles, indeed the best of the best is he who wins one hundred victories without ever having to fight at all."[1]

The actions of an individual are clearly Perry's focus, but one cannot apply the rules that define individual conduct to the actions of a state, although Perry would like us to believe that we can. An individual's moral behavior may be influenced by any number of factors. Perry provides the reader with several lists of such factors in chapter 1, where he provides a workable basis for moral behavior. But societies and nations are not individuals. Societies impel their populations to act in certain ways by way of laws or custom or social pressure or a host of other means. Those societies that believe in God often rationalize that bad conduct that is not punished in this life will be punished in the next.

But the penalty for a nation doing evil is not punishment in this life or the next. There is no law that is the final arbiter of the behavior of nations. One can inaccurately ascribe some authority to international law, but international law is whatever nations agree to and is not necessarily binding. If a nation violates a UN sanction, for example, what happens to it? Is it fined? Is it put in jail? Is it sentenced to death? The answer, of course, is no. So the actions of nations clearly fall into a different category than the behaviors of individuals.

From the second chapter, one surmises that Perry believes that ethics does not exist outside of a religious structure. Perry provides the reader with his interpretations of the credos of the world's major religions, showing that there is a universal lack of approval for general war. A nice thought, but it belies those philosophers who preach to those populations that do not have religion; the Chinese and the Russians under communism come to mind. While they do not believe in religion, their moral systems certainly allow war, and it would be against these folks that any other religious nation would find itself.

As noted above, Perry concentrates his study on the behavior of Americans and, when considering atrocities in war, focuses almost

entirely on the massacre at My Lai in Vietnam. While My Lai was horrific and certainly likely to be familiar to most readers, it might be more useful to explore atrocities that were apparently condoned or even encouraged by the military leadership and apparently accepted as morally correct, such as those committed by the Japanese in Nanking, China, prior to World War II.

Perry describes a number of instances of covert action. In all there is an uncomfortable feeling toward what has been done in the name of the United States, whether it is a coup d'etat or funneling money into a political campaign to keep communists out, or, from Perry's perspective, to keep a U.S. industry in business. But for some reason, the idea of a greater good—that is, accomplishing a U.S. national objective without large-scale loss of life—is not weighed in Perry's ethical equation of covert action.

Admittedly, the material to which Perry would have access concerning the nuts and bolts of espionage is highly limited. Although there are many books available on the actions of spies and the material they provided to those who worked with them, there are very few books available that describe the mechanical process of getting someone to agree to spy.

In Perry's mind, people decide to spy for two reasons: Either they volunteer or they are coerced. From the earliest days of counterintelligence, the motives for one to spy have been categorized into the acronym MICE (in English, money, ideology, coercion, and ego), and it has been clearly observed that the motive that caused one to spy at first is not the same motive which keeps him working as a spy.

In many cases, the larger moral issue of treason against one's own nation hardly comes to the fore at all. John Walker, the navy chief who gave away secrets for almost twenty years, did so because he was looking for cash. The thought of betraying his country or what it stood for hardly entered his thought process. The spies who worked for the Soviet Union in the 1930s and 1940s did not volunteer; they were recruited. True, they had an ideological inclination toward helping the worldwide communist organization, but they did not walk in and say, "Put me in; I want to be a spy."

One surmises that similar motivations propel someone who decides to leak classified information to the press. Often, a leaker strongly disagrees with a policy but is in no position to change it. He leaks the information in the hopes that the public outcry or the exposure of the program will achieve the goal he desires. Surely no one would consider the newspaper reporter who publishes the leaked

information as having moral deficiencies for using the information the leaker provides or in encouraging him to provide more.

Perry's chapter on interrogation is mistitled. It is nothing more than a condemnation of torture. One can express moral outrage at torture, but when one uses such words in the context of interrogation it is very difficult to have an objective consideration of the subject as an intelligence matter. This is certainly true with Perry. The chapter does not discuss the techniques the majority of interrogators use to obtain information; instead, it examines the use of waterboarding and stress positions and other so-called enhanced interrogation techniques. Perry loses the serious student of interrogation when he includes the infamous actions at Abu Ghraib in this chapter. It might have been more appropriate to include these activities under the chapter concerning atrocities. The courts-martial of the guilty established that the culprits falsely claimed they had been instructed to abuse prisoners at the direction of interrogators in hopes of escaping punishment.

In sum Perry has written a valuable but flawed text. The material in the first two chapters on general ethics and on theology is useful, but the later chapters leave much to be desired in the consideration of ethics and intelligence.

## Note

1. Sun Tzu, *The Art of War*, trans. Samuel B. Griffith (Oxford: Clarendon Press, 1963).

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