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Jus En Bello Isn't Enough: Human Terrain, COIN and a Reasonable Chance for Success

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BRENT J. STEELE, AUG 6 2012

The Human Terrain System (HTS) program has been considered by several scholars at *e-IR* over especially the past year. Professor George Lucas Jr. ('Military Ethics and Cultural Knowledge') provided a nice overview piece which followed from his comprehensive treatment of the HTS. Professor Dan Cox assessed its 'morality' as one which 'clashed' with the morality of the field and discipline of anthropology, especially the latter's professional association, the American Anthropological Association ('Understanding the Human Terrain in Warfare: A Clash of Moralities'). Anthropology scholar Marc W.D. Tyrrell, in a follow-up piece ('Clashing Moralities or Rhetorical Dead Horses?'), challenged Cox's assertions by pointing to some of the 'start-up' problems with the HTS, and the ambiguous results that HTS has produced so far in its five years of operation. And Dr. Michael Mosser engaged what the use of 'identimetrics' – the instrumental exploration of local identities – can do to help counterinsurgency (COIN) strategies. Mosser also demonstrates the contingency, the 'tenuous bargain' of competing group identities in a particular area of operations.

With words like 'morality' and 'warfare' peppering these contributions, it is somewhat surprising that the HTS program hasn't been more widely discussed with some reference to the Just War 'tradition'. Dan Cox's recent *Parameters* article is a timely contribution in this respect, considering the HTS especially within a *jus en bello* framework (Cox 2011). In this entry, I plan to suggest some further ways in which scholars and practitioners well-versed in COIN and the role of the HTS program might utilize the Just War tradition, but *especially* the *jus ad bellum* set of principles, to shape future debates, and to ultimately help assess the utility of programs like HTS (programs which, as Tyrrell notes, have existed for some time). More pointedly, I suggest that the utility of such programs cannot be measured by their ability to improve the conduct of war in areas of HTS operations alone, for the debate must also draw upon the *jus ad bellum* tradition to determine the ultimate 'prospect for success' that an HTS and COIN approach requires.

Readers of *e-IR* will most likely be familiar with the Just War tradition, so only a cursory overview is required here. The tradition is usually organized into two sets of principles, *jus ad bellum* (the justice of war) and *jus en bello* (the conduct of war), although there has been some push for a third set of principles regarding the justice after war, or what has been termed *jus post bellum*. Because it centralizes a more 'moral' conduct of war, it would appear that debates, like Cox's and Tyrrell's, over Human Terrain should be located mainly in the *jus en bello* set of principles which focus on noncombatant immunity and the proportionality of means (Heinze and Steele 2009: 6-7). It is no surprise, then, that the *jus en bello* features prominently in Cox's recent *Parameters* article (Cox 2011). And in this respect, I even tend to agree with Cox's assertion that the Human Terrain approach centralizes at least a *type* of 'moral war' and allows for a more 'moral warrior' by increasing cultural aptitude and promoting a more flexible approach to local communities and individuals.

That said, what has been noticeably absent from larger discussions of COIN, and what should help us in considering the utility of the HTS, is the set of principles of the *jus ad bellum*. One of the most neglected, but, in my view, necessary precepts is the so-called 'reasonable chance for success' condition. This condition, titled one of the 'prudential' considerations of *jus ad bellum* by James Turner Johnson (1999), has been largely overlooked with most work only mentioning it in passing or ignoring it altogether. Though one of the prudential considerations, it has even

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been deemed in a 21st century context to pervert classical Just War, 'smother[ing] just cause' and other *ad bellum* principles, thereby 'blocking the possibility of Just War reasoning' (O'Driscoll 2008: 76).

Nevertheless, we should consider how 'successful' a war's chances are if it has to be 'fought' by means of COIN and HTS. There is no doubt, in *jus en bello* terms, that this approach, precisely because it embodies a more restrained approach towards noncombatants, represents a more just way to conduct war. Yet, the key to building some of the networks and local alliances in regions where the HTS has been used is *trust*, something which requires the development of relationships, cultural familiarity and ultimately *time* on the ground. As Professor Lucas notes, among the many practical problems of the HTS was a tendency for 'some HTS members to quit prematurely'. Couple this with the rotation times of the Human Terrain Teams (HTTs), and much of the *practice* of the HTS can be contingent, fleeting, and ephemeral.

The 'justice' embedded in the reasonable chance for success principle is that: 'Political leaders have a responsibility to their citizens (and combatants) to not sacrifice their welfare by going to war if military victory is unlikely' (Heinze and Steele 2009: 6). Some could argue that the key to the success condition is figuring out what the term 'reasonable' means, but I would rather simply suggest that it is more minimal than that. It should be used to provoke a debate on what 'victory' or 'success' *actually is* – what its content consists of, ideally before a war begins, rather than being clichés invoked to justify continuing conflict after it has started.

What has not yet occurred, but needs to, is an explication on where exactly these approaches leave the overall US polity regarding the pursuit of national interests in conflicts which require the type of approaches HTS is modeled to employ. Can the US polity sustain these long slogs financially or materially? Are US political leaders prepared to stick out this approach, and more importantly, can they *honestly* translate what these temporal, financial, and material commitments will entail if 'victory' is to be achieved?

I have one other minor point relevant to the preceding discussions of HTS, some of which center on the role of 'social science', morally and professionally, working with the military. This is a robust debate that needs to continue. Many academics, myself included, have interacted with the military precisely because we do believe in a more 'moral' conduct of war (*en bello*). In this respect, HTS can help, for it is perfectly situated to exemplify the overlap between what David Cortright calls 'pragmatic pacifism' and the principles of *jus en bello* (Cortright 2008). But the ambivalence some of us hold about the use of social science to service military ends stems from a decade in which we saw social scientific theories employed to shape the debates, if not the content, of defense policies. One might recall the macro use of democratic peace theory by the Bush administration to justify the Iraq War in this vein (see Steele 2010).

I might conclude with a small vignette. I was attending a Just War workshop a few years back which gathered a good number of Just War theorists (or those, like me, who simply do a *bit* of their own work on Just War). A few scholars working with the military, or at military academies, were also there. During one session, one of them spoke in forceful terms (I am paraphrasing here) about how 'you people [scholars] need to be visiting with and talking to the military to get their perspective and experiences, and let those inform what you are doing and writing'.

I for one am quite used to these types of 'suggestions' from practitioners or people in the 'real world' towards us academics who need to be more grounded and engaged with those agents (including the military) we study in our work. But when it comes to issues like the feasibility or even 'justice' of approaches like the HTS, or COIN more broadly, the military would do well to pay attention to debates which have consumed the interdisciplinary field of International Studies for several decades, especially those focusing on the utility of the Westphalian state system. What exactly are HTTs doing but trying to put 'back together' nations which may be nothing more than convenient geopolitical fictions, existing as real entities on our maps but not in the regions where HTS has been deployed?

As someone who has interacted professionally and academically with the military, it comes as no surprise that it has proven to be the one institution most capable of *transforming* its approach to improve the trajectory of the wars in Iraq and Afghanistan, so this only suggests that we should keep the conversations going between the military and the academy, as dialogue can help soften the confidence or certainty of either realm. In this way, the Just War tradition,

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regardless of how impoverished or out of date it may seem, can provide the grounds for which these debates continue to help chasten, enliven and even improve the scholarship on war and its conduct, in the future.

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