

“Anthropologists in Arms”

--The Ethics of “Military Anthropology”--

Inamouri International Center for Ethics & Excellence

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On Tuesday, 4 November 2008, Paula Loyd, assigned to US Army team AF-4 Blue, was conducting interviews among the local population in the small village of Chehel Gazi in southern Afghanistan. According to witnesses, she approached a man carrying a fuel jug and they began discussing the price of gasoline. Suddenly the man, Abdul Salam, doused her with the fuel in his



jug and set her on fire. She suffered second-and third-degree burns over 60 percent of her body.¹ Tragically, Paula Loyd died of her injuries a few weeks later in early January, 2009.

Her teammate, Don Ayala, initially apprehended the assailant and forcibly took him into custody. When news of the severity of Loyd’s injuries reached Ayala approximately 10 minutes later, he allegedly flew into a rage and executed Salam on the spot with a bullet to the brain. He, in turn, was arrested and placed in detention at Bagram Air Base pending extradition to the U.S., where (in February, 2009) he eventually pleaded guilty to manslaughter in the unlawful killing of a civilian noncombatant in custody.²

Neither Loyd nor Ayala were American soldiers. She was a civilian social scientist, and he her private security guard, both employed by a private military contractor, BAE Systems, Inc., as part of a relatively new project that the Army calls its “Human Terrain Systems” (HTS). She

¹ See (Schachtman 2008a), (Constable 2009), and (Stockman 2009)

² See (Schachtman 2009), (Stockman 2009). A criminal complaint of second-degree murder was filed against Mr. Ayala in the U.S. District Court of Eastern Virginia by the U.S. Army Criminal Investigation Division under the Military Extraterritorial Jurisdiction Act (MEJA) on 18 November, 2008.



and her teammates had been embedded with Army brigade combat teams in Afghanistan to gather cultural intelligence, provide regional knowledge and orientation, and interpret the customs of indigenous peoples to military commanders in order to mitigate conflict and minimize the kinds of misunderstandings that can lead to ill-will, unwarranted violence, or inadvertent casualties. Loyd’s presence as a civilian alongside combat personnel in contested areas of armed conflict – driven in turn by their need for reliable cultural understanding and accurate regional knowledge as well as linguistic skills to complement their technical prowess in war-fighting – is all part of a revolution that has transformed, and will continue to transform the nature of warfare in the twenty-first century. The use of these HTS teams by the Army and Marine Corps are, in turn, only the most dramatic, publicly visible, and controversial facets of a much broader, evolving collaboration between scholars and soldiers, between social scientists and military, security, and intelligence forces (MIS). This emerging collaboration has come to be known as “military anthropology.”

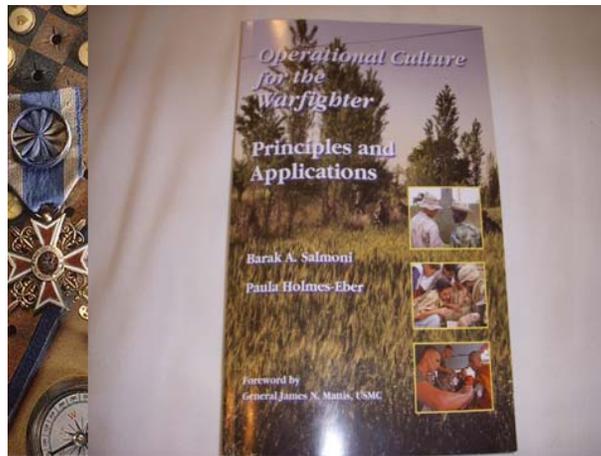
The rise of military anthropology, and the increasing recruitment and use of anthropologists in its various activities, has prompted a furious debate concerning the morality and academic or professional propriety of scholars working alongside, or otherwise providing assistance to, governments and their militaries in this fashion. The controversy in the U.S., in particular, has drawn an enormous amount of attention, set against the backdrop of grave public discord over the moral legitimacy of the U.S.-led war of intervention in Iraq, coupled with widespread uncertainty over the progress of the U.S.-led international effort to aid in reconstructing a viable government and civil society in war-torn Afghanistan. To be sure, the controversy is technically “about” anthropologists and the limits of professional probity, within this discipline, whenever its members are found working side-by-side with government and military officials. But the debate that these specific developments have generated holds wider ramifications for scholars, and for the general public, regarding moral justifications for the use of military force.

That larger debate, in turn, reflects a more general moral dilemma concerning the civic and social responsibilities of scholars and citizens, which is finally what makes the debate over “military anthropology” interesting for a wider audience. Should scholars and citizens simply refrain from supporting war efforts that they find unjustifiable, or are they sometimes obliged to use their particular expertise (as doctors, psychologists, and NGO humanitarian assistance personnel often do) to try to ameliorate the worst consequences of war and violence, notwithstanding their individual misgivings about their own nation’s participation in those conflicts?

The Ethics of Military Anthropology

In its broadest sense, “military anthropology” covers a variety of distinct activities, including, perhaps most dramatically, “embedding” anthropologists with military troops in combat zones (in Afghanistan, Iraq, East Timor, and other locations), where they assist military personnel on site with advice and consultation regarding strategic features of the local and regional culture.

The HTS project includes, however, a great deal more than this specific and controversial program. The larger HTS project also encompasses, for example, the somewhat less controversial efforts of anthropologists and other social scientists to provide advice, expertise, and the results of anthropological research on “culture,” and on the details of specific cultures, to military organizations for more general guidance in the formulation of effective strategy and tactics in war zones. Thus anthropologists at the Marine Corps “Center for Advanced Operational and Cultural Learning” (CAOCL) at the Marine Corps University in Quantico, VA, have aided the Marine Corps in composing new handbook for operational culture (Salmoni and



Holmes-Eber, 2008).³

³ Anthropologists Barak A. Salmoni (Ph.D., Harvard University) and Paula Holmes-Eber (Ph.D., Northwestern University) co-authored this new handbook, *Operational Culture for the Warfighter: Principles and Applications* at CAOCL.

Anthropologists have likewise been employed by the government to write guides and study materials on local cultures for military personnel deployed around the world. With the assistance of anthropologists, for example, the cultural programming unit of the Marine Corps Intelligence Activity (MCIA), also located in Quantico, Virginia, has produced a series of training and educational materials for its troops stationed overseas, including so-called “smart cards” that summarize the “most essential features” of cultures encountered in nations as diverse as Chad, Sudan, and the Philippines, as well as in Iraq and Afghanistan. Finally anthropologists engaged in the broader HTS project have assisted the U.S. Army in composing two new field manuals, FM 3-24, on “Counterinsurgency Warfare” or COIN (Patraeus, 2007) and the more recent “Peacekeeping and Stability Operations” (2008).



The aim of these learning aids is to provide a rapid and readily-available orientation to locale for young men and women of high school age and education who may never before have traveled far from home, let alone resided or worked in some of the exotic and unfamiliar

locations to which such individuals now find themselves routinely deployed. Gen. James H. Mattis, co-editor w/Patraeus of the COIN manual, is credited with the observation that “our soldiers/marines must learn to navigate the human (cultural) terrain with as much facility as they use maps to navigate the geographical terrain.”

While all of the foregoing HTS activities constitute an important form of military anthropology, the latter, much broader term, also encompasses the employment, by the U.S. military services, of anthropologists who perform routine educational and scholarly tasks for military and State Department personnel. Anthropologists teach and carry out their own individual scholarly research at federal service academies, war colleges, and language institutes. Anthropologists advise their academic employers in these institutions on how to increase cultural literacy, promote and enhance foreign language acquisition and competence among their students, and increase the “cultural awareness” and cultural sensitivities of those students. Anthropologists are being asked to assist in the development of new “regional studies” programs for the Department of Defense and its constituent military organizations. More recently, under the code name “Project Minerva,” Secretary of Defense Robert Gates (himself a historian and former university president) has sought to encourage, and to generously fund, broad-based scholarly contributions to national security studies from sectors of the academic and higher education community (including the discipline of anthropology) that have heretofore been under-represented and marginally utilized for such purposes.⁴

⁴ Criticisms and concerns from anthropologists regarding the orientation, administration, and likely impact of the Minerva program can be found in an AAA press release dated July 7, 2008, and located on the Association’s web site at URL: <http://www.aaanet.org/issues/press/upload/Advisory-Anthropologists-Critique-Pentagon-s-Minerva.pdf>



Types of Military Anthropology

Symbol	Type	Description
MA ₁	Anthropology <i>of</i> the Military	Anthropological Study of Military Culture
MA ₂	Anthropology <i>for</i> the Military	Human Terrain Systems (HTS)
MA ₃	Anthropology <i>for</i> the Military	educational programs (language, culture, regional studies) at military academies

Finally, the term “military anthropology” can be applied to a series of activities seemingly distinct from all those preceding; namely, making the military itself, or its distinct organizations and/or service sub-cultures, the *objects* of anthropological study and field research. In this third, distinct sense, the military anthropologist does not render some autonomous culture or society the object of investigation in behalf of purposes entertained *by* the military. Rather, the anthropologist renders the members and sub-cultures of the military *themselves* the objects of ethnographic study. The purpose here is first and foremost simply to understand those organizations and sub-cultures more completely, as objects of scientific study, much as one is curious about the members of an alien or radically unfamiliar culture one might encounter. The results of such study might simply satisfy scientific curiosity, help the military services better understand (and perhaps improve) their own organizations, or even help societies better understand the nature and role of the military organizations with whom they co-exist.

Confronting the Controversy over Military Anthropology

It is fair to say that this recent development, emerging gradually in the wake of “9/11” and the ensuing wars in Afghanistan and Iraq, has generated a firestorm of controversy, both within the discipline of anthropology itself, and among the wider educated public (Bender 2007; Rohde, 2007). At one extreme are anthropologists involved in the most controversial aspects of this new venture, advocating greater involvement of their colleagues in efforts to save innocent lives, reduce troop casualties, and aid in the successful rebuilding of devastated civic infrastructures, especially in Afghanistan and Iraq, two nations ravaged by decades of virtually continuous warfare and civil strife. At the other extreme are critics of any involvement of behavioral scientists and scholars with the government and military, who denounce initiatives like the human terrain teams as “mercenary anthropology,” or the “militarization” of anthropology. Caught in the cross-fire between proponents of HTS and anti-war activists are the bulk of those who would identify themselves as “military anthropologists” more broadly, who complain that their work is unfairly caught up in, and their own efforts and careers unfairly impugned by, this raging controversy over merely one, controversial project in a much wider and, for the most part, morally benign area of inquiry.

Critics of military anthropology, in their turn, often object that such close collaboration with military, intelligence, and security forces inherently violates basic norms and canons of “professional ethics.” Involvement in HTS, in particular, they worry, taints the profession generally, and potentially implicates participating colleagues in a variety of illegal and immoral activities (such as interrogation and torture, in which anthropologists are alleged to have assisted, both at Guantanamo Bay and Abu Ghraib prisons). HTS projects, these critics charge, aid more

broadly in the prosecution of what an *ad hoc* group, the “Network of Concerned Anthropologists” described as “a brutal war of occupation which has entailed massive casualties,” and what a resolution of the Executive Board of the AAA itself termed “a war that is widely recognized as a denial of human rights and based on faulty intelligence and undemocratic principles.”⁵

Because of these inflammatory concerns over the HTS program specifically, many anthropologists have gone so far as to denounce *any* cooperation with the government or military *whatsoever* as “unethical,” including even some of the more apparently benign scholarly studies or educational activities described above. Professor Terrence Turner of Cornell University, a persistent critic of both military anthropology and, more broadly, of forms of practical, applied, or “practice” anthropology in non-academic settings, for example, firmly believes that “classified work for the military is unethical. . .and the association should have the will and guts to say so” (Jaschik 2009).

By the fall of 2007, this controversy had occasioned national press coverage, in the pages of the *New York Times*, the *Chronicle of Higher Education*, and on National Public Radio. At its annual meeting in November, 2007, in Washington, D.C., the AAA’s *ad hoc* “Commission on the Engagement of Anthropology with the U.S. Security and Intelligence Communities” (CEAUSSIC), released the results of its year-long study of the problem, in which it began the

⁵ The phrase from the original version of the NCA’s “Pledge of Non-Participation in Counterinsurgency” was widely quoted in the news media in the fall of 2007 (e.g., Rohde 2007). The original, and a more recent “international” version of the pledge, somewhat more subdued in tone, are available at: <http://concerned.anthropologists.googlepages.com>. The October, 2007 resolution of the Executive Board can be found on the website of the American Association of Anthropologists (AAA 2007): <http://dev.aaanet.org/issues/policy-advocacy/Statement-on-HTS.cfm>.

arduous process of separating out, classifying, and examining these various controversies, and addressing the question of what (if any) official stance the profession should adopt toward each.⁶

Thus far, the public debate about the moral legitimacy and professional propriety military anthropology, and of HTS in particular, has been *a debate about principles* – either disagreements about what moral principles might be placed in jeopardy by HTS, or about basic canons of professional practice that might be found at odds with the demands placed upon the likely activities of HTS teams. It has been a debate about history, reflecting a widely-shared consensus about the meaning of anthropology’s history that I term its “litany of shame,” accompanied by a resolve never to repeat or add to that litany, again. *It has not, however, been a debate grounded in specific evidence, or widespread experience.* Apart from the three social scientists killed in Iraq and Afghanistan, none of whom were actually anthropologists (strictly speaking), there are no examples of victims, or complaints, or concrete evidence of malpractice.



⁶ The complete report is available at URL: http://www.aaanet.org/pdf/Final_Report.pdf.

If we turn to the historical accounts, we find that the history of anthropology is a complicated and – for members of the discipline or profession – a highly sensitive topic. It might seem wise for outsiders to steer clear of it altogether. The CEAUSSIC report, however, concludes with a plea to the wider public to understand just how concerned anthropologists themselves are with that history, and (if I may borrow a phrase from Nietzsche) how what might be termed “bad historical consciousness” afflicts their membership, and shapes attitudes in the present toward proposals and programs like HTS and “Project Minerva.” So we read in the report’s concluding comments:

“Despite a growing interest in anthropology, most institutions remain strikingly naïve about our discipline’s fraught history with institutions of power. Many people in the military and intelligence communities are largely unaware that scandals like Project Camelot still loom enormously in the collective anthropological memory, and tend to attribute anthropologists’ protests to present-day politics, rather than disciplinary history or ethics.” (CEAUSSIC 2007: 22)

In the past, anthropologists have been charged (probably quite unfairly) with having consorted with colonialists and aided in the oppression, victimization, and forced migration or resettlement of indigenous peoples and cultures by powerful foreign elites. Present-day anthropologists are quite rightly sensitive about such charges, and are determined not to be deceived into complicity with such atrocities again.⁷

⁷ Anthropology professor Anna J. Simons, in a review of an earlier draft of my manuscript, challenged the accuracy of this sweeping indictment that present-day anthropologists level on their predecessors, claiming that anthropologists during the waning days of colonialism often acted as spokespersons for the interests of indigenous peoples, and not always, or even usually in blind complicity with the malevolent schemes of colonial governments. She and an anonymous reviewer went so far as to suggest I avoid all treatment of this subject. Somewhat in contrast, Robert Rubinstein, in a presentation for a seminar on “Scholars, Security, and Citizenship” at the School of Advanced Research in Santa Fe in July, 2008 (Rubinstein 2008a) agreed that anthropology’s own understanding of its history on these matters was “incomplete and one-sided,” but suggested in addition that it deserved a fresh interpretation from a new perspective. Such concerns illustrate the challenge any author from whatever background will face in coming objectively to terms with anthropology’s past.

In light of this concern, it seems impossible simply to ignore that history. In my book, I make reference to some recent, representative historical instances, including “Project Camelot” and the so-called “Thailand Affair,” that helped shape the current collective consciousness of members of the discipline. It was particularly fascinating for an outsider to examine the fashion in which internal disciplinary histories are, in effect, mythologized, and forged into a kind of litany that enunciates and reinforces widely-shared core values. As with any society or culture, care must be taken to understand, and respect must be accorded to the importance of these values as represented in the group’s litany. At the same time, as with any mythology, the historical foundations turn out to be far more equivocal, and certainly less robust a source of support for the inferences drawn from them than the mythologized account would suggest. My historical examination of Project Camelot itself, for example, revealed that, as an understated British comedian might say, “it involved no actual *project*,” and even more importantly, no actual anthropologists, with one glaring exception (Assistant Prof Hugo Nuttini, University of Pittsburgh; see Horowitz 1967).

That wider history, however, does raise interesting and troubling questions about the relationship between routine ethnographic methodology and research, and espionage, as well as about the propriety of undertaking “secret” let alone “clandestine” research. The HTS effort, in particular, has been thought to involve all of these things, as did a divisive and controversial project involving field research on rural farming communities in Thailand during the Vietnam era. In just the last few weeks, for example, spokespersons for the Zapotec, an indigenous community in southern Mexico, allege that a geographer (anthropologist?) from the University of Kansas solicited their consent, under false and deceptive circumstances, to engage in an ethnographic mapping of indigenous communities. They claim that, unknown to them at the

time, his research was partially funded by the Foreign Military Studies Office of the U.S. Army, which maintains a proprietary global database (they claim) used for unknown purposes in the Human Terrain Systems project.⁸ On the other hand, examination of BAE and HTS web site job descriptions, and on blog and listserv sites for military anthropologists generally reveal no reports of job openings for, or other reports (apart from this allegation) of, anthropologists engaging in what we might accordingly label HTS₃, the most explicitly problematic of the HTS activities from the standpoint of professional ethics. When they were injured or killed, however, neither Bhatia, Suveges, nor Loyd were engaged in such clandestine activities. No published or broadcast accounts either document instances, or even suggest that such clandestine activities are part of this program.



Symbol	Description
HTS ₁	Providing cultural advice and regional knowledge (including language skills) on site to military personnel in combat zones
HTS ₂	Writing policy and doctrine; populating non-classified, nonproprietary cultural databases maintained in the U.S.
HTS ₃	Cultural espionage; gathering clandestine cultural data for classified databases (e.g., "Thailand Affair")
HTS ₄	Forensic anthropology (investigation of possible war crimes)
HTS ₅	preservation of valuable cultural patrimony in war zones

⁸ It is unclear whether their objection is to the failure of full disclosure, including funding sources and purposes to which the ethnographic data will be put, or obtaining "informed consent" allegedly under false pretenses, or, as with David Price, fear of the eventual use to which such data might be put by researchers. See "Zapotec Indigenous People in Mexico Demand Transparency from U.S. Scholar," by Saulo Araujo of the Union of Organizations of the Sierra Juarez of Oaxaca (UNOSJO), reported 22 January 2009 (<http://elenemigocomun.net/2059>). There has as yet been no verification that this research, or the personnel conducting it were, in fact, connected to the HTS program.

Nevertheless, this controversy has been framed by anthropologists themselves, however, as well as by the wider interested public, *primarily as a matter of “ethics” and “professional ethics.”* Here, I believe, we ought to take care to differentiate between two important kinds of moral discourse. First, we encounter internal, discipline-based debates about the core values, guidelines for best practice, and responsible constraints on professional practice – all of which comprise a “code of ethics” for the discipline of anthropology. Secondly, these indirectly invoke wider concerns about justice, human rights, and concerns for general welfare that inform the broader *moral* discourse, including hotly-contested debate about America’s involvement in war, counterinsurgency, and security operations (including the participation or support of anthropologists in these efforts). The latter include what is known as “just war” discourse, a specific historical form of moral debate about the justifications for the use of military force in international conflict resolution, the findings of which have shaped contemporary understandings of international law and international relations.



Ethical Issues in Military Anthropology

- ◆ Issues of “professional ethics” (what should anthropologists do or refrain from doing as anthropologists) – e.g. “Code of Ethics of the AAA” (1998/rev. 2009)
- ◆ Morality (moral principles like “justice,” the “common good,” or human rights)
- ◆ “Just War” arguments; responsibilities of both professionals and citizens

Accordingly, when invoking terms like “ethics” or “morality,” terms that are otherwise often used interchangeably, or in which the former is taken as the systematic study and analysis of various forms of the latter, there is something to be said for dignifying an implicit assumption in Anglo-American analytic “applied philosophy” that the term “ethics” should be reserved for discussions of specific group or organizational norms and principles (as in “medical ethics,” or the “Code of Ethics” for Certified Public Accounts), while the term “morality” would designate broad, widely-shared, and generally applicable *principles* or guidelines for human behavior (principles of distributive justice, for example, or basic human rights).⁹

Ethics and the Human Terrain

With respect to the first category of “professional ethics”: the debate over military anthropology at present has reinvigorated a longstanding dispute about the AAA Code of Ethics itself. The 1998 CoE was highly controversial for its omission of any explicit reference to the need for transparency, or of language explicitly condemning “secret or clandestine research,” language that had been explicit in earlier versions of that Code (PPR 1971, for example) forged in the aftermath of Project Camelot, Vietnam, and the so-called “Thailand Affair.” The discipline is currently engaged in ongoing efforts to revise that code by recovering, and returning to it, language from earlier versions of anthropology’s ethical standards that explicitly prohibit such activities. Thus, for example, we would surely want to know whether the undertaking of “clandestine research *projects*” (such as those now alleged by the Zapotec in Mexico) constituted a component of the HTS work plan, and if so, whether the *results* of that research were merely

⁹ This mirrors somewhat a distinction to be found in law, as well as in the work of the contemporary critical theorist, Jürgen Habermas. It is likewise a distinction to be found in the work of moral philosophers like Immanuel Kant, and in the “early” (as sharply opposed to the “later”) speculative and political philosophy of G. W. F. Hegel.

“secret” in the sense of “proprietary,”¹⁰ or whether they were being withheld from the wider public, including those upon whom the research focused, for nefarious purposes.

By far the more complex moral issue concerns item (2) in the list above, namely, the wider public moral discourse about the legitimacy of war. In my treatment of anthropology’s history, I endeavored to show how that wider moral discourse was reflected in the more focused and specific discussions of “professional ethics.” There I likewise show how much more difficult the latter discussions became for a given community of professionals whenever the general public itself, within which the profession functioned, was deeply divided over the moral justification of military conflicts in which that wider society found itself engaged. As a civic society, as well as a community of practicing professionals, we were found to grant a far wider license, and offer a wider degree of professional circumspection, when military, intelligence, and security activities were deemed to be, on the whole, morally justified (as during World War II) than we were prepared to grant when our nation’s struggles were, even for its own public, far more morally ambiguous (as during Vietnam and the Cold War).

As an example of how this larger moral issue might affect our judgments regarding the proper structures of “professional ethics” in the present circumstances, we might find that our arguments over the legitimacy of cooperating with military efforts in Afghanistan is likely to differ substantially (perhaps by offering more professional latitude) from the evaluation of cooperating with the “illegal” war in Iraq. These, in turn, will likely differ substantially from our

¹⁰ David Price offers this distinction, with wider latitude granted to the former, in “Anthropology Sub Rosa,” (2003: 29-30): “Secret or covert research is research in which an anthropologist does not disclose the true nature of his or her research to participants, or is research in which findings are made available only to a select body that does not include research participants. In principle, proprietary research differs from secret research because anthropologists engaging in proprietary research are unlikely to mislead research participants and the results of their research are often to be made available on a designated later date.” Clearly, to his credit, Price is bending over backwards to be fair to proponents of “practice anthropology,” entailing “proprietary” research, since he recognizes that this, too, could easily collapse into simple deception for inappropriate ends, as threatened, for example, in the case of the World Bank and the Pehuenche in Chile in 1998.

assessment of the professional appropriateness of collaborating with military forces engaged in humanitarian interventions (e.g., in Rwanda or Kosovo), or in drug interdiction in Latin America, or in aiding the democratically elected government of a country like the Philippines in dealing with a very limited and unrepresentative Islamic insurgency. The result is that it will prove difficult to formulate a professional stance that is likely to cover all these instances without ambiguity and disagreement.

In the first table above on “types of military anthropology,” I followed the order and distinction of the CEAUSSIC report in distinguishing various kinds of military anthropology. I reserved the label MA₂ to designate their treatment of the “use” of anthropology and ethnography by military forces in the field of combat to improve their knowledge of human or cultural terrain. In marked contrast to their other distinctions of military anthropology, MA₁ and MA₃, here members and constituent societies of the American Anthropological Association, and other scholars concerned with the kinds of precedents likely to be set by such work, *are* certainly correct to worry that the use of anthropology by the military in various guises *might* invoke a range of serious conflicts of “professional ethics.” In light of the functional distinctions we have employed between “ethics” and “morality,” however, it does not now follow from their ethical concerns that the activity of providing such assistance is also *morally* objectionable.

Our wider *moral* evaluation of such practices would instead depend upon *what purposes informed their use, and whether those purposes were aimed at morally worthy, or morally abhorrent objectives.*¹¹ Indeed, such moral arguments might just as well reflect badly on the

¹¹ So, for example, it would likewise matter for what purposes military force were deployed to keep order and enforce the law: would this preference for law and order merely serve the interests of an imperial power, or would it truly be intended for the purposes of peace-keeping, security, and protection of the innocent from threat of harm? Those radically different intentions would make a significant moral difference in evaluating what otherwise would appear to be indistinguishable military actions (Rubinstein 2008: 146).

incompleteness or inadequacies of “professional ethics” in this instance.¹² In the current absence of compelling concrete case studies, I think it helpful to do what the CEAUSSIC commission itself did at the conclusion of its report: construct useful or illustrative hypothetical cases. In the case of moral philosophy, this is a common tactic, constituting what the distinguished anthropologist, Clifford Geertz, once described condescendingly as “those little stories that Oxford philosophers like to tell themselves.” It is an interesting cultural practice that might prove useful in this instance. And besides, I must plead guilty to Geertz’s charge, for “these are the ways of my people.”

Case One: Government with Malevolent Intent

To begin, then, let us imagine that a malevolent government wishes to displace a “troublesome tribe” from their ancestral land, so that the majority population can settle on the “tribe’s” territory, or mine and sell oil and other natural resources located there without obstacles or resistance. Something like this actually transpired in Burma, in which the government of “Myanmar” sought to build a pipeline from the rich Yadana natural gas field off its coast to customers in Thailand. The pipeline traversed ancestral lands of an ethnic minority in the country, the Karen, whose members (according to accounts issued by Human Rights Watch and Amnesty International) were brutalized and enslaved by the ruthless Burmese regime to build the pipeline through their land.¹³

¹² If the newly-revised CoE, for example, were now found to prohibit or exclude activities which are either morally benign, or more seriously, to prohibit activities that are otherwise morally *obligatory*, then the fault would lie with the Code, and perhaps with its sponsoring organization, and not at all with the alleged “ethically wayward practitioner.” All of this needs to be thought through carefully in the present context.

¹³ An excellent account of this case can be found in Manuel G. Velasquez, *Business Ethics: Concepts and Cases*, 6th ed (New York: Pearson/Prentice-Hall, 2006), pp. 119-122. Astonishingly, after citing this relatively obscure case in (Lucas 2008) and in the first draft of this book, a new “Rambo” movie (starring Sylvester Stallone reprising his

In our hypothetical case, by contrast, we will suppose that there are reasons why the government doesn't wish to appear ruthless, or cannot afford to do so (e.g., because it's own citizens wouldn't stand for it). So, it employs anthropologists to engage in HTS-like ethnographic survey. These fictitious anthropologists are deployed (like anthropologist Theodore Downing actually was by the World Bank among the Pehuenche in Chile) to study and observe the local population secretly, covertly, on behalf of the government's military and intelligence forces. The aim of this clandestine research is uncovering some vulnerability that would enable the government to manipulate them into appearing to vacate voluntarily.

In our hypothetical case, the government in fact does not care in the least about the welfare or interests of "troublesome tribe" members; it just wants them to vacate without incident. Like the infamous Stasi ("Ministerium für Staatssicherheit") in the former East Germany, this government finds the use of such "soft power" more effective in achieving and enforcing its edicts than "hard power."¹⁴ HTS researchers discover that troublesome tribesmen are deeply afraid of evil spirits manifest as clumps of bloodied chicken feathers. Upon receiving this intelligence from its HTS researchers, the malevolent government adapts a strategy from "The Blair Witch Project," and orders the anthropologists in its employ to place clumps of bloodied chicken feathers covertly, where they will certainly be discovered by troublesome tribe members in numerous, and seemingly random locations throughout their territory. Terrified at the sudden appearance of these strange omens, the Counsel of Tribal Elders meets and advises its members to migrate at once away from the calamitous area to other sites (conveniently provided by the government), thereby achieving the government's morally illicit aims.

aging hero living out his life as a boatman and snake-catcher in Thailand) has been released, in which the plight of the Karen (who happen to be largely Christian) became the focal point for intervention by the movie's hero.

¹⁴ This distinction between coercive and persuasive power was first introduced in international relations in the 1980s by Joseph Nye, now Professor and (former) Dean of the Kennedy School of Government at Harvard University. See *Soft Power: the Means to Success in World Politics* (New York: Perseus/Public Affairs Books, 2004).

This case is a straightforward “con,” and the HTS researchers are complicit in the government’s immoral scheme of fraud, deception and theft of the tribe’s property. The anthropological research in question is clearly secret (either unknown, or not fully disclosed), and also clandestine (sneaky, deceptive, underhanded, and oriented toward nefarious purposes). Such research should be prohibited by the sponsoring profession’s code of ethics, because it is clearly immoral: that it, it engages in deception with malevolent intent. The secret research undertaken is morally objectionable, not simply *because* it is secret, but *because it is concealed precisely in order to enable the doing of harm to the research subjects*. The intent of this project from the outset is to victimize the research subjects (without any compensating benefits, and without their knowledge or consent) by violating their privacy, abrogating their liberty and right to self-determination, and presumably also violating their collective (if not their individual tribe members’) property rights.

Such research would have been unethical under the AAA’s earlier Principles of Professional Responsibility (1971), but it is important to note that this egregiously immoral scheme was also unethical and unprofessional under the terms of definition of the 1998 version of the CoE, violating explicitly paragraph III (A), provisions 1, 2, and 4, to wit: failing to avoid harm or wrong, and failing to “respect the well-being” of the research subjects (#1); failing to do everything in the researcher’s power “to ensure that their research does not harm the safety, dignity, or privacy of the people with whom they. . .conduct research, or perform other professional activities” (#2); and by failing to “obtain in advance the informed consent of the persons being studied,” and offering full disclosure of the nature of the work being conducted (#4).

This case is a perfect (if hypothetical) representation of the sort of research that critics imagined Project Camelot to be, and that the so-called “Thailand Affair” in 1971 almost surely was. The corresponding suspicion regarding HTS is that all such projects involve, intend, or ultimately will aim at conducting sorties of the “Thailand Affair” type. If this hypothetical example accurately captures the essential features of actual HTS requirements and practices, then HTS would rightly fall into the category in which it has provisionally been placed, for example, by the AAA Executive Committee resolution of October 31, 2007: namely, as a “problematic,” and finally as “an unacceptable application of anthropological expertise” (AAA 2007). There is absolutely no evidence, nor complaints from victims, that in fact any such activities have been conducted or proposed.



Hypothetical Cases

- ◆ Case One:
“Government with malevolent intent”
- ◆ Case Two: “Illegal Military Intervention”
 - (1) Germany’s invasion of Poland
 - (2) “Counterfactual” Rwandan Genocide
 - (3) Iraq-like instance

Case Two: Illegal Military Intervention

In order to see how background moral considerations affect our professional judgment, we consider a second hypothetical example. In this instance, we suppose that the large and powerful military forces of one nation invade another sovereign nation without bothering to obtain the authorization required under existing international laws and treaties that govern the

very limited conditions in which such interventions may be conducted. The leaders of these military forces now wish to eliminate armed resistance to their illegal occupation, and preferably, to capture, disarm, or kill the members of the opposing militia or insurgency embedded in the local population until the insurgency is put down. The invading force employs scholars for HTS research, in order to help it sort out key identifying characteristics of insurgent forces in a manner that will render them relatively transparent and easy to spot, without their knowledge, or that of the local populace. This makes it easier for the invaders finally to defeat the insurgency.

By intention, this second example hits closer to home. It could be taken to represent the U.S. war of intervention in Iraq. As we will see, however, it can be made to represent a number of other historical cases. No matter what historical examples one perceives mirrored within it, given the boundary conditions described, there would be, quite properly, a strong “hermeneutic of suspicion” about this military expedition, and certainly a reluctance on the part of social scientists to cooperate in carrying it out. Even in this instance, surprisingly, we can clearly demonstrate that the cooperation of anthropologists with the invading military force through various sorts of HTS activities is not, simply as a matter of principle, either unethical or immoral. Instead, the ethical and moral legitimacy of anthropologists participating in this invading military’s HTS efforts would depend critically upon the following factors:

- 1) the *moral* legitimacy of the invasion or intervention (given that, in this hypothetical case, it is technically in violation of international law);
- 2) a corresponding moral evaluation of the legitimacy of the insurgency; and finally,
- 3) the aims or objectives for which the “anthropological intervention” (e.g., HTS efforts themselves) are being carried out.

Rather than being automatically “off limits” to anthropologists, in this instance there is, quite clearly, an enormous burden of proof that must be met before anthropologists could

legitimately take part in HTS. One way moral philosophers might characterize the dilemma is by observing that there appears to be a strong *prima facie* moral duty for anthropologists not to collaborate with the invading forces in these circumstances. Specifically, there are objectives described in this example, similar to activities proposed during the Thailand Affair, in which no anthropologist should participate, such as helping the military to identify and kill enemy insurgents. This would be the case, *even if* the targeting and killing of the insurgents itself could be morally justified as an otherwise-legitimate military objective. That wider moral justification does not translate, in anthropology's case, into a professionally legitimate ("ethical") objective.

In this case, the overall burden of proof falls heavily upon the governing authorities in whose behalf the invading military forces are carrying out their intervention, because it is unauthorized by the legitimate forms of authority set forth in international law.¹⁵ The first two of the three criteria listed above that the military forces would have to meet in this case are *moral* criteria. They pertain directly to what we earlier described as "just war doctrine," or just war "theory." It is according to these first two criteria alone that the overall operation of invasion or intervention, as well as the general participation of military personnel and insurgents engaged in it, will be evaluated.

The third criterion, by contrast, pertains only to anthropologists in this instance. It invites the application of the anthropologist's own professional code of ethics to the specific activities in which they are asked to engage in support of the (justified or unjustified) war. All this follows, and in a sense explains, the pattern of guidance offered in the CEAUSSIC commission report.

¹⁵ Article 2(4) of the United Nations Charter prohibits the use or threat of force against the territorial integrity or political independence of any state. Article 2 (7) extends this prohibition to the collective action of the U.N. itself, granting full domestic jurisdiction to member states and prohibiting the supranational body from intervening in matters "which are essentially within the domestic jurisdiction of any state," save in the case of collective self defense as determined through an appropriate deliberative body of the U.N. (such as the Security Council), as described in Article 51, and Chapter VII. It is as straightforward as such matters can be that none of these conditions pertain to, or were satisfied by, the international deliberations leading up to the most recent war in Iraq, for example.

Judgments reached according to this third criterion are limited in jurisdictional authority. They do not, in contrast to judgments employing the first two moral criteria, help us whatsoever in determining the morality of the war of intervention itself, nor reach a moral evaluation or judgment of the military personnel, insurgents, or others participating in it. Judgments of “ethical” or “unethical” behavior according to the third criterion above pertain only to members of the profession.

What this jurisdictional distinction entails, for example, is that it would be quite possible to discover that the war of intervention was morally justified (even if illegal), but that it would still be “wrong” in the sense of “unprofessional” (i.e., a violation of some provision of the profession’s code of ethics) for anthropologists to participate in it. Conversely, it would also be possible to discover that the war of intervention was immoral (morally unjustifiable) as well as illegal under international law, and yet still discover that it *would* be acceptable for anthropologists to collaborate with one side or the other, depending upon the circumstances and on what they were being asked to undertake. Such is the nature and importance of professional jurisdiction. Thus, the only condition under which this last eventuality could be absolutely ruled out would be under what we might term the “Turner” condition: that is, the case in which any and all forms of collaboration of any sort, under any conditions, with military, intelligence, and security personnel were *ipso facto* prohibited in the profession’s written code of ethics.

It is critically important to keep these distinctions and questions of jurisdiction firmly in mind. It is quite easy, if utterly invalid, to stray back and forth from one to the other. In our first case, for example, the government’s (and military’s) larger objectives were immoral, and also we discovered that the collaboration of anthropologists in those activities would be unethical. In

contrast, we might find it morally justifiable to, say, pursue terrorists, or maritime pirates, and employ deadly force against them, if necessary. That is one question.

A separate question would be whether an anthropologist's disciplinary expertise could be enlisted in those efforts. In terms of these distinctions, for example, the anthropologist, like a medical doctor, or a psychologist, might be able to say without contradiction: "I approve *morally* of your pursuit of terrorists or pirates. But I am prohibited *ethically*, as a member of my profession, from bearing arms, or from materially aiding you otherwise in this pursuit." The doctor or psychologist could, of course, provide life-saving medical or psychological care for the military, provided such care was also available to any terrorists or pirates they might apprehend, and provided they were not asked to assist directly and materially in using force against or otherwise harming the pursued individuals (such as aiding in illegal interrogation or torture of captured suspects).

With respect to the first criterion applied to our second hypothetical case of illegal intervention, however, we might think that the moral burden of proof could not possibly be met by the invading government, simply because this invasion entailed a violation of what are termed the "bright-line" or "black letter" statutes of international law. That position, known as "legal positivism," (the law simply is what the legislators, and the statutes they legislate, say it is) does not work very well in international law. International law is composed of roughly three parts: the specific, written statutes and treaties (according to which this hypothetical invasion is illegal); what is known as *ius gentium*, the habits and customs of civilized nations and peoples; and thirdly, what are termed "tolerated practices," something analogous to the role of "precedent" in domestic law (Arend 1999). Sometimes the written statutes codify and clarify the

other two, as in the landmark “Lieber Code” (1863),¹⁶ and the subsequent formal treaty protocols of the several Hague and Geneva Conventions pertaining to the conduct of war and protection of war’s victims. But in other instances, different sources of law may conflict. There is no founding document, like the U.S. Constitution, or other “grounding document” or set of fundamental principles from which to resolve conflicts between practices sanctioned from these distinct sources. It is thus possible that even clear violations of specific statutes might be offset by the remaining factors – as in the case of NATO’s attacks against Serbia in the Kosovo war, which were deemed by British lawyers at the time, “illegal, but necessary.”¹⁷

The second factor, the legitimacy of the insurgency itself, seems to bear an inverse relationship to the first: that is, if the invasion or intervention is not morally justifiable, then, at least *prima facie*, but not necessarily or inevitably, the insurgency *is* morally justifiable. We will test this assumption further, below.

The third “professional” criterion (item #3 in the list above) is not only limited in jurisdictional authority. It is also not specific to Iraq, or even to assisting invading military forces in hypothetically illegal situations. Instead, as we have seen, that “professional ethics” criterion calls attention to questions that must be asked with respect to any sort of intrusion or intervention by an anthropologist into a host culture: for the sake of what, or whom, is the

¹⁶ This is the short-hand name for one of the founding set of “bright-line” statutes of international law, known formally as “General Orders 100,” promulgated by U.S. President Abraham Lincoln on 24 April, 1863, and prepared for that purpose by German-American lawyer and professor of jurisprudence, Francis Lieber. The statutes govern conduct by military personnel in combat, and were subsequently taken up as guidelines for the Prussian Army, and ultimately formed the cornerstone for provisions in the Geneva Conventions on the Conduct of War. The “Lieber Code” in a text from 1898 is available from the Avalon Project at the Yale University Law School: <http://www.yale.edu/lawweb/avalon/lieber.htm>.

¹⁷ This interesting phrase gained currency through use in a committee report for the British Parliament: Patrick Wintour, “MPs say Kosovo Bombing was Illegal but Necessary,” *London Guardian* (June 7, 2000). For a broader discussion of this dilemma, see Anthony C. Arend and Robert J. Beck, *International Law and the Use of Force: Beyond the United Nations Paradigm* (London: Routledge, 1993). Indeed, some international relations scholars argued that international law governing the resort to force had either broken down or had been effectively “re-written” through practice, in the wake of Rwanda, Bosnia, and Kosovo: e.g., Michael J. Glennon, *Limits of Law, Prerogatives of Power: Interventionism After Kosovo* (London and NY: Palgrave Macmillan, 2001).

cultural intervention taking place? In all anthropological research, including that undertaken for, or under the sponsorship of MIS (as the CEAUSSIC report makes clear), the project must, at very least (1) avoid deliberate doing of harm to the subjects studied; and (2) where possible, carry out the research for their benefit; and, in any case, *maintain transparency and informed consent, and avoid resort to secrecy* for any purposes other than to protect the privacy and confidentiality of research subjects.

It may seem at this point that we are proceeding too cautiously. After all, the second example sounds very much like Germany's invasion of Poland in 1939, or Japan's invasion of Manchuria in 1931 (or, closer to home, the U.S.-led coalition invasion of Iraq in 2003). And weren't all these wars of intervention patently unjustified?

Once again, the value of those "little stories" that philosophers tell themselves is that, in direct contrast to ethnographic accounts like Geertz's, these "stories" are intentionally devoid of specific cultural or historical content. That does not render them empty or useless. Instead, they allow us to examine the formal structure of certain circumstances, and helpfully vary the boundary conditions, independent for the moment of terribly confusing cultural specifics. And nothing could be more apt than to describe the cultural specifics, in the case of Iraq in particular, as confusing. So let us proceed to vary or "tweak" those boundary conditions in three distinct versions of this second case, and determine what results from those thought experiments.

Case Two, Variation One: Germany's Invasion of Poland

We begin with an easy example. We proceed to "fill in the cultural and historical blanks" in the formal, structural case above with "Nazi Germany" as the invading force, and "Poland" in 1939 as the sovereign nation invaded. None of the three criteria for HTS legitimacy cited above

could possibly be met. The invasion itself is immoral by conventional just war doctrine, as well as illegal under international laws and treaties in force then and since. Reciprocally, the status of any corresponding insurgency that might arise as resistance to tyranny and as a defense, by the victimized population, of its liberty and the basic human rights of its citizens, rather clearly, is morally justified. Hence any efforts to subvert it using social science are illegitimate, regardless of any enhanced scientific understanding that might result, simply because in this historical case, the anthropologist's collective professional criteria of ethical behavior, including "do no harm, avoid secrecy, and try where possible to benefit," also could not possibly be met.¹⁸

Case Two, Variation Two: The Rwandan Genocide

But now (by way of sneaking up on Iraq) let's try a harder case. This one is still, at least partially, "counter-factual," that is, it is not a historical case, but a hypothetical one based upon history. Imagine that the tragic Rwandan genocide of 1994 had unfolded in a slightly different fashion than it actually did. Rather than sending a paltry, under-manned peace-keeping force, as the U.N. initially did, imagine instead that the U.N. Security Council, faced with that impending crisis, had done absolutely nothing but stubbornly uphold the baseline principle of sovereignty and territorial integrity. Imagine that representatives of the Security Council's member nations had refused to intervene, upholding (as they often do) a contemporary variation of what philosopher John Stuart Mill denounced in his day as a "morally shabby refrain:" to whit, that

¹⁸ Robert Rubinstein poses an interesting question in this case: while the anthropologist clearly should not work for the morally illicit intervening military force, could he or she legitimately work for the insurgents fighting *against* this unjustifiable intervention? I suspect I would have Margaret Mead's concurrence in suggesting, "yes." But I can see how others might disagree in principle, since this collaboration with the resistance might involve their implication in secrecy or the doing of harm. Happily, insurgents in this case probably don't need anthropological expertise, since they're in their own country, so it is likely a moot point, although they would need the anthropologist merely as citizen to help fight against the invasion.

“none of our member-nations’ interests are involved.”¹⁹ Imagine likewise that, for a variety of reasons, the Belgian government, mortified by these consequences of its colonial legacy, had assumed full responsibility for the impending tragedy as stemming from its own, earlier policies in the region. Accordingly (in our counterfactual variation) Belgium unilaterally decides to send an invading military force to quell the violence, but *without either U.N. authorization or invitation from the recognized local government*.

In this admittedly hypothetical and decidedly counterfactual case of an unauthorized humanitarian intervention, quite different from the historical Rwandan genocide, I think it is pretty obvious we are faced with a very difficult moral dilemma. For starters, Belgium has no “right” to enter or invade Rwanda with a military force. For it to proceed to do so anyway, without U.N. authorization, would constitute a clear violation of the “bright line” statutes of international law. The Belgian government offers a different defense, flung, appropriately, “in the teeth of the law” (to use Father Daniel Berrigan’s phrase). *The Belgians argue that they have a moral responsibility to come to the aid of potential victims of genocide*, especially because their earlier colonial policies had helped bring these conditions about. So they argue that their intervention, while illegal, is nonetheless “morally necessary” or obligatory.

This is not so far-fetched a scenario, since members of the international community argued along these lines with respect to Kosovo in 1998, and are doing so now with respect to the civil strife in Darfur. The arguments are, in effect, that the *provisions of international law are just not sufficiently robust to address the moral responsibilities* befalling members of the international community to come to the aid of victims of genocide. With respect to the second criteria, pertaining to the legitimacy of the “insurgency”: I think it would be difficult to conclude

¹⁹ John Stuart Mill, “A Few Words on Non-Intervention” (1859). Reprinted in *Dissertations and Discussions: Political, Philosophical and Historical*, vol. 3 (London: Longman, Green, Reader and Dyer, 1867), p. 158.

that the marauding Hutu “Interahamwe” (the youth militia or “civilian defense force” founded by then-Rwandan president, Juvénal Habyarimana),²⁰ as a kind of “insurgency,” were morally legitimate in their intention to slaughter rival Tutsis as well as any of the intervening Belgian soldiers they could capture, merely because the Belgians were not legally entitled to intervene to prevent this.²¹

Now let us focus further on some essential features of this decidedly counterfactual case. Recognizing the enormity of the impending problem, in our hypothetical case, *the Belgians deploy anthropologists in HTS teams* to discover, if possible, ways of heading off the impending genocide. Let’s just say, for the sake of argument, that they find subtle cultural inroads that, when effectively deployed, have the effect of defusing the crisis. (As non-specialists, the Belgian military, like the author, has no idea what these “cultural inroads” might be, or whether there even are any. That is why they employ the anthropologists as subject matter experts.)

Our hypothetical Belgian HTS anthropologists, thankfully, *are* subject matter experts. They discover vital “cultural” information that, when properly used, helps defuse the crisis. Some Tutsis are regrettably killed by Hutu militia, but not nearly as many as might have been otherwise. Regrettably, also, the invading Belgian military forces incur some casualties of their own, and kill and wound some Hutus, and capture and imprison (but, importantly, do not torture

²⁰ It is not at all my intention to analyze further the actual historical events leading up to this well-studied disaster itself. For details of the Rwandan case, see (Lucas and Tripodi 2006).

²¹ *Nota Bene:* There was widespread confusion over this matter during the Rwandan crisis, in which leading diplomats assiduously avoided use of “the G-word” in order (so they apparently thought) not to incur a political obligation to intervene. The U.N. “Genocide Convention” of 1948, however, neither authorizes nor obligates nations to undertake *military* action in response to such emergencies. That, in turn, is because there are no *substantive* procedures defined or set forth in that document that would automatically be set into motion by calling an event a “genocide.” We can usefully compare U.S. State Department official, Madeline Albright’s concern over this during Rwanda, with the repeated recent invocations by former U.S. president George W. Bush, and earlier, by then-Secretary of State Colin Powell, all using the “G-word” regarding Darfur and Sudan, *to utterly no avail*. The 2004 report of a United Nations “High Level Panel on Threats, Challenges, and Change” invoked a “responsibility to protect” [R2P] citizens from civil violence of this sort, but this report, coming a decade after Rwanda (and not mentioning the Genocide Convention specifically) simply illustrates and laments the problem of a current absence of any meaningful institutions or procedures for dealing with such violence at the international level, although proposals to remedy this glaring deficiency abound.

or mistreat) others. It was no part of the intention of HTS anthropologists to aid and abet this unfortunate killing on both sides; indeed, quite the opposite.

This is quite problematic, I admit: but I would submit that, in this instance, the third criterion above, the one specifying the baseline duties of the profession itself in such instances, is fully met. *This HTS project is not only morally permissible, but praiseworthy.* As to the unintended negative consequences that did ensue, our anthropologists, are, accordingly, not guilty of any moral or professional wrong-doing or liability for these deaths. Indeed, in this instance, what is known in moral philosophy as the “Doctrine of Double Effect” (DDE) specifically comes to their rescues, clarifying that the legitimacy and praiseworthiness of their actions are not compromised by the secondary effect of some of the “insurgents” in this case being killed, wounded, or captured.

Here is how the DDE itself works. Recall, first, that it is a violation of the professional code of ethics to deliberately aid in targeting and killing enemy insurgents. In this case, we have stipulated that it was not part of the anthropologists’ intention to engage in, aid, or abet such killing. Quite the opposite. We believe intuitively that they cannot and should not, therefore, be held morally liable for these unfortunate occurrences, and indeed, that they deserve thanks and praise for helping ensure that the crisis (and the killing) was not much worse. Thomas Aquinas would account for this intuition by saying that the decision to deploy anthropologists in this campaign had “two effects,” one deliberately intended and morally legitimate (helping to defuse the genocidal crisis), the other entirely unintended, even though it is, strictly speaking, “morally evil” (that is, by aiding and supporting the overall intervention, the anthropologists also, strictly

speaking, aided in bringing about the deaths of Hutus, Tutsis, and even some of the Belgian soldiers who did end up dying).²²

As common sense would also seem to dictate in this case, we do not blame the anthropologists for these unfortunate “side-effects” of their primary activities. Nor do we accuse them of having somehow violated the ethics of their profession for having participated in the limited and specific way that they did in helping to limit the carnage, merely because some people ended up getting killed despite their best efforts to prevent this. Likewise, even if it was not fully possible to obtain “informed” consent, we may safely presume under the circumstances that they had the required consent of the victims, and that the consent of the perpetrators of genocide was, in this instance, irrelevant. More importantly, the anthropologists acted throughout to obey what we might term the “prime directive” of their professional code: to employ their knowledge and expertise to the benefit, and not the harm, of those whom they “studied.”²³

This variation of our second case, it seems to me, applies equally well to the role of anthropologists participating with U.S. military and security forces on HTS teams in Afghanistan

²² This principle, like the use of anthropology by governments and their militaries, has a long and somewhat troubling history. Aristotle suggests the rudiments of the doctrine in the *Nicomachean Ethics*, that a moral agent cannot be held morally blameworthy for the consequences of actions which are the unintended secondary result of an otherwise morally acceptable action. One of its earliest formulations is found in St. Thomas Aquinas, *Summa Theologica*, Part II, vol. II, Q. 64, article 7, invoking this Aristotelian principle to examine an action of killing in self-defense: “Nothing hinders a single act from having two effects, only one of which is intended, while the other is beside the intention. Now moral acts get their character in accordance with what is intended, but not from what is beside the intention, since the latter is incidental...” The DDE became a familiar instrument in medieval moral casuistry, especially concerning actions during wartime. For example, in his sharp criticism of the practices of Spanish Conquistadors, Dominican Francisco de Vitoria admits that the accidental and unintended killing of civilian noncombatants in an otherwise-legitimate act of warfare may be “occasionally lawful” if it is truly by mistake: *de juri belli*, Q3, article 3 (Vitoria 1539/1557: 314-17). As this insight was later codified, the so-called Doctrine of Double Effect (DDE) requires that: (1) a moral agent’s primary action be morally permissible; (2) that any negative consequences be entirely unintended; which entails specifically (3) that the negative or morally objectionable results *cannot be the means through which* the desired end is obtained; and also (4) that the good end be such as to vastly outweigh the inadvertent harm done (this is sometimes called “the principle of proportionality”). Rather clearly, all four conditions of the DDE are fully met in the foregoing example.

²³ I believe this reasoning likewise exonerates anthropologists who might collaborate with insurgents resisting a morally unjustified military intervention in Rubinstein’s example (see n. 14, above).

and Iraq. Whether those anthropologists are violating professional canons and codes of conduct, let alone whether they are morally blameworthy, will depend specifically upon what they are asked to do while deployed. They are not acting unprofessionally or unethically, let alone immorally, simply by agreeing in principle to assist with helping to limit the harm done to local populations by the military intervention in these cases.

While this may seem clear to some, others will remain suspicious of this conclusion, and we should attend carefully to those suspicions. In particular, even if I am right about the analogy with Afghanistan, how can this judgment of non-culpability extend to aiding the military in its war in Iraq, whose legal status is virtually beyond question, and whose moral legitimacy (to put the matter politely) remains sharply disputed? Let's proceed to find out.

Case Two, Variation Three: Intervention in Iraq

To explore these questions, consider a third variation of our second case, in which the moral legitimacy of the military invasion is initially in heated dispute, and *subsequently turns out to be insufficient* (or mistaken). The moral legitimacy of the insurgency, however, is mixed at best, and is certainly not like our first variation, a clear case of insurgents resisting aggression and defending the homeland's liberty and the rights of its citizens. Instead, it is more like the second variation just concluded, in which the insurgents are taking advantage of the breakdown of law and order caused by the questionable invasion, in order to avenge long-simmering ethnic, racial, or religious divisions and hatreds, or as in the case of Al-Qaeda in Iraq, foment dramatic, politically-charged mischief.

Interestingly, in this third case, the role of HTS anthropologists comes centrally to the fore. The invading force, seeking to minimize the impact of its mistakes, implores for help from

social scientists to defuse the insurgency, stop the killing, restore order, and extricate themselves from the mess they (or rather, their government has) made. Again, in this instance, and providing the overall “professional ethics” criterion (adhering to the provisions of one’s professional code) has been fully met or is being fully met, the participation in HTS projects is morally justifiable. Note that such HTS projects cannot be directed toward interrogation or torture, nor can their intent, consistent with that professional constraint, be to aid the invading force to capture or kill insurgents. Instead, their intention and objective is to assist the invading force to halt violence, restore order, make and keep peace, and get out and go home. To clarify: HTS team members cannot justifiably help the invading forces to capture, “illegally” interrogate (i.e., torture), or kill insurgents. Rather, their work is to understand and enlist the aid of the local population, for its sake and safety, to restore order, avoid violence, make peace, and establish the rule of law.



Summary of Results

For the moment, where do these hypothetical examples and variations leave us with the AAA and its problem with HTS in Iraq and Afghanistan? That depends upon whether either of those two wars, and the proposed role of HTS anthropologists in each, is more like variation one (Nazi Germany), or more like variation two (Belgium in Rwanda), or variation three. Now, of course, these two actual wars are like none of those three cases. But, I will argue that the current war in Afghanistan, at least, is vastly more akin to the second case-variation than the first, and Iraq is even more akin, by design, to the third case-variation (which is itself a slightly more morally ambiguous variation of the second). And in variations two and three, the matter of anthropologists serving on HTS teams is not automatically proscribed in principle (as the AAA Executive Committee originally proposed), but critically dependent upon the outcome of the larger, just war argument. That is: in this case (and, I suspect, most cases) the appropriateness of social scientists aiding and abetting government projects like HTS is critically tied to the moral legitimacy of those projects, and if those projects be wars, including wars of humanitarian intervention, or wars of counterinsurgency to topple tyrants or combat terrorism, then the moral legitimacy of HTS becomes inextricable from the larger “just war” debate about those conflicts themselves.

To summarize the argument and its provisional conclusions: we considered two distinct cases, and gave three variations of the second. Case One was designed to look like what Project Camelot was (mistakenly) thought to be, and what the Thailand Affair at the time surely seemed to be. And in that case, we had little difficulty discerning that the activities and proposed activities of the anthropologists in question were a violation of professional ethics, both because

any reasonable code of ethics would prohibit such activities, and because the specific activities were also not morally justifiable. That was fairly straightforward, and helped us discern that at no point did the relevant issue *ever* turn on involvement in “secret or clandestine research,” but instead turned entirely on the underlying intent of such research to gather information, covertly or otherwise, and use it to harm the research subjects without their knowledge or consent.

The initial broad and nonspecific outline of the second case was far more morally ambiguous: postulating an “unauthorized” war of intervention, with an accompanying request for anthropologists to assist in carrying it out. To help clarify the nature of the moral ambiguity, we considered three distinct variations of this second case. Variation one removed the ambiguity, by identifying the intervening force as Germany in Poland in 1939, an illegal and morally unjustifiable intervention, and the intent of the invading force to crush and destroy any insurgency and kill the insurgents. Such activities were clearly a violation of professional ethics, and also morally unjustifiable, because the activities themselves were prohibited by the profession’s code, and the war in which these professional activities were to be undertaken was itself illegal and immoral.

These conclusions, even granting the same formal structure of Case Two, did not carry over to the second variation of it, however, which involved a hypothetical “unauthorized” intervention by Belgium in Rwanda to halt an ensuing genocide. The provisions restraining anthropologists from deliberately engaging in research in order to do harm (such as helping to kill insurgents) were likewise not lifted in this case. But because there were no explicit provisions of the intervention aimed at such illicit activity, and indeed, since the overall intention of the “illegal” intervention was to safeguard potential victims of genocide, the intervention proved to be morally justifiable, and the involvement of anthropologists in it professionally

sound and morally praiseworthy, even though some members of the warring factions, and the intervening army, did end up getting killed. They were not killed *by* the activities of the HTS anthropologists assisting the intervention, but in spite of them. The anthropologists, by assisting the intervention, did not intend anyone's death; indeed, they intended the opposite. That they supported and assisted in an illegal intervention in which military forces, "insurgents" and other partisans ended up, nonetheless, getting killed does not itself, under these conditions, impugn either the professional probity or the moral rectitude of the anthropologists.

Finally, for the sake of thoroughness, we constructed a third variation of case two in which the intervention was illegal, and was also undertaken for reasons that were less morally straightforward and praiseworthy than the hypothetical Belgian intervention in Rwanda. By design, this final variation was constructed to resemble the U.S.-led invasion of Iraq. In this instance, the evaluation of professional conduct of HTS anthropologists was found to depend entirely upon what they intend to do, and what they are specifically asked or expected to do, provided that the background intention for involving them was as described. That is (as with the counterfactual Rwandan case), the purpose of the anthropologists' involvement must be to avoid casualties, restore trust and security among local populations for their benefit (and presumably with their consent), to extricate the intervening troops from the problematic conflict, and withdraw as quickly as possible. Once again, the matter of "secret or clandestine research" did not play a role in reaching these conclusions. What did play a role, and should actually play a role in real-world deliberations, however, is independent oversight and peer review of these projects, and sustained monitoring of the activities in question.

I believe that the conclusions drawn from the preceding examples are valid, inasmuch as they seem to follow, or represent the proper inferences to be drawn, from the specified boundary

conditions. They are also “sound,” in that they are grounded in the factual details stipulated. Nevertheless, these conclusions based on abstract principles, formal codes of conduct, and hypothetical cases, are sharply at odds with conclusions reached within the American Anthropological Association itself about the professional inappropriateness of HTS projects in particular. My analysis in this chapter suggests that those AAA conclusions, insofar as they are grounded in speculation about facts, or reflection upon principles alone, were and are badly mistaken. But of course, *I* could be mistaken in this conclusion. That is for the profession itself to decide.

What I think the preceding account demonstrates most clearly is how professional judgment about ethics can be clouded by moral controversy. The controversy in question concerns the moral legitimacy of this nation’s wars “against terror” in Afghanistan, and even more especially in Iraq. Against the backdrop of public controversy of this magnitude, it is quite easy to lose sight of one’s professional bearings. There is no great shame in that, but it is now time for the profession to do a much better job than it has thus far in examining these questions. In particular, what I hope colleagues will recognize is that, absent concrete examples of specific individuals whose behavior we can evaluate, or of specific incidents or affairs whose structure we can scrutinize, it is very easy to be led astray, and draw invalid, mistaken, and often irrelevant conclusions about what might constitute the limits of acceptable professional practice.

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Table One

Types of Military Anthrpology

Symbol	Type	Description
MA ₁	Anthropology of the Military	Anthropological Study of Military Culture
MA ₂	Anthropology for the Military	Human Terrain Systems (HTS)
MA ₃	Anthropology for the Military	educational programs (language, culture, regional studies) at military academies

Table Two
Forms of HTS Activities

Symbol	Description
HTS ₁	Providing cultural advice and regional knowledge (including language skills) on site to military personnel in combat zones
HTS ₂	Populating non-classified, nonproprietary cultural databases maintained in the U.S.
HTS ₃	Cultural espionage; gathering clandestine cultural data for classified databases (“Thailand Affair”)
HTS ₄	Forensic anthropology; investigation of possible war crimes
HTS ₅	preservation of valuable cultural patrimony in war zones