

The Weaponization of Integrity:

How the West's Enemies Try to Leverage its Ethics Against It

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This essay explores what might be called the *weaponization of integrity*. By such weaponization, I refer to instances in which one party engages in unfriendly or aggressive acts against another party in ways that either (a) take advantage of the latter's ethically-driven unwillingness to respond in like manner or hesitancy in responding vigorously enough to be effective, or (b) somehow stigmatize the ethical manner of the second party's response. (For present purposes, I am referring to the behavior of state and non-state actors in international affairs, though I suppose the idea could apply in broader contexts as well.)

This perhaps counter-intuitive phenomenon of weaponizing another party's integrity against it seems pervasive enough in modern international affairs as to merit its own categorization as a type, or at least sub-category, of competitive strategy all of its own. In a sense, in fact, this should be in no way surprising. After all, in an age in which it seems increasingly to be the case that adversaries and rivals maneuver against each other through "[the weaponization of everything](#)," why not?

Historically, of course, adversaries of the Western democracies have not infrequently sought to play to, and to leverage, those democracies' purported internal weaknesses and divisions. Think, for example, of how pleased the Nazis doubtless were to take advantage of Western anti-war sentiment - *e.g.*, in the form of the [infamous 1933 resolution](#) at Oxford that the English should not fight for their king and country, or the [Nazi-sympathetic isolationist enthusiasms](#) of "America First" activists such as the aviator celebrity Charles Lindbergh. During the Cold War, moreover, the Soviet Union, moreover, worked hard to [encourage and bankroll Western anti-nuclear peace movements](#), just as Russian President Vladimir Putin

today both encourages and benefits from [far-right European political activism](#) and [modern “America First” isolationists](#).

What is perhaps less common, at least until relatively recently, is the phenomenon of freedom’s adversaries seeking to leverage the West’s very *strength* against it – that is, specifically, its moral strength, ethical rectitude, and generally commendable discomfort with and aversion to rule-breaking, ruthlessness, and transgressive self-aggrandizing skullduggery. Such efforts have been lately made the subject of a growing body of literature, at least where they specifically relate to compliance with international law.

I would submit, however, that even beyond such examples of what has become known as “lawfare,” this moral leveraging actually constitutes a broader strategy of asymmetric competitive maneuver, to be employed against the more ethically and morally scrupulous by those who are notably less so. The following pages will explore this further.

Dynamics of “Lawfare”

As indicated above, the phenomenon of “lawfare” – which I suggest is, in effect, a lesser-included subcategory of the weaponization of integrity – is now a fairly well-studied one. According to Orde Kittrie, who wrote a whole [book on the topic](#), the term “lawfare” was introduced by then-U.S. Air Force Colonel (and now [professor](#)) Charles Dunlap in 2001. Dunlap defined the term as “using – or misusing – law as a substitute for traditional military means to achieve an operational objective.”

To be sure, it isn’t by any means a new idea to use legal arguments for tactical advantage in international competitive strategy. Arguably, in fact, it began centuries ago. The seminal Dutch legal thinker Hugo Grotius, for instance – whom some have described as the “father” (or at least *one* of the fathers) of modern international law – wrote some of his most famous work on the law of the sea as an advocate for the interests of the Dutch East India Company in its dispute with Portugal over access to sea lanes in the Indian Ocean, seeking to win acceptance for the Netherlands’ right to wage “private

war on its own account to redress injuries and protect its legal rights.”¹ Nevertheless, Dunlap appears to have coined the term itself, and played a key role in popularizing the idea of legal contestation as a form of competitive strategy.

As [Kittrie describes it](#), “lawfare” includes:

- (1) “instrumental lawfare,” in which legal tools are used to produce equivalent effects to “kinetic action”; and
- (2) “compliance-leverage disparity lawfare,” in which one party’s actual battlefield action is calibrated in order to gain advantage from the application (to the other party) of legal rules.

This definition certainly covers some important aspects of lawfare, but Kittrie’s definition tends to focus heavily on “combat”-equivalent applications. The use of legal argument and legally-informed posturing for asymmetric advantage can cover more than that, however, suggesting that “lawfare” should be understood to have broader political and strategic applications as well.

Either way, lawfare as a tool of strategy relies heavily upon asymmetry. It is usually essential to lawfare applications that the parties opposing each other do not care equally about fidelity to the law: it is this differential that the *less* scrupulous of them seeks to leverage against the *more* scrupulous. In this respect, lawfare should be regarded as a subcategory of the broader phenomenon of the *less* moral party seeking to weaponize the integrity of the *more* moral party against it. With lawfare, the moral or ethical strength of which an adversary seeks to take advantage is one’s commendable devotion to legal compliance.

In this regard, Western democracies – and arguably the United States in particular – would seem to be particularly vulnerable. Realpolitik-minded observers of international behavior commonly assume that major powers make foreign policy and national security decisions solely on the basis of self-serving interest, only offering legal

rationalizations afterwards, assuming they bother to provide them at all. And this, no doubt, often occurs. But not always.

In the U.S. case, in particular, it is hard not to be struck with how much we are sometimes willing to tie ourselves in knots in order not to feel like we are crossing some legal line. Opinions likely vary about the degree to which the United States in fact always ends up complying with legal rules as properly understood, but we obviously do care *hugely* about questions of legal propriety - even in circumstances in which a *Realpolitik* observer might expect us to be *least* abstemious.

The reader may recall, for instance, the infamous [March 2003 memorandum](#) on “Enhanced Interrogation Techniques” against international terrorists that was prepared by the Office of Legal Counsel (OLC) at the U.S. Department of Justice (DOJ). Most commentators probably cite that document [disparagingly](#), as demonstrating the moral bankruptcy of the decision-makers involved. In some ways, however, the so-called “torture memo” controversy also stands as sort of paradoxical monument to America’s almost fanatical devotion to legal propriety.

After all, the United States had recently seen more than 3,000 of its citizens butchered by terrorists in a single morning, and its intelligence operatives had captured some of the terrorist leaders who had planned that atrocity and were preparing others. Yet what did these operators - presumably a notably ruthless and steely-eyed lot - do when reportedly holding terrorist masterminds at secret “[black sites](#)” abroad? They sought legal guidance from higher authority on what they were *legally allowed to do* to those men to get them to reveal their terrorist secrets, and then (as far as we know) *complied* with the strictures the lawyers thereupon provided.²

Even if one thinks the various resulting legal memoranda were abhorrent and unconscionable, as many observers clearly do, it should be clear why I think this episode is also - in an admittedly strange, backhanded way - a testament to just now remarkably law-abiding Americans try to be. Where else could such a sequence of events possibly have occurred? (In most other countries, a safer bet would

surely have been on “torture at will, and only ask legal questions later, if at all.”)

One might disagree with the content of all the resulting high-level U.S. legal guidance documents, therefore, but their very existence is in its own curious way remarkable and commendable. Ours is a country in which even secret terrorist-fighters in time of crisis must obtain legal approvals for their activities – and in which counterterrorism agencies can expect to face legal, and indeed [public](#), accountability for their choices.

Weaponizing integrity, of course, is only possible against parties who *have* integrity. Lawfare is only possible against parties who care about the law, who wish to be seen as caring, or whose strategies and policy agendas depend to some degree upon support from those who do. This presumably does not entirely preclude using lawfare against a scofflaw, inasmuch as it still might be useful to peel comparatively scrupulous would-be supporters away from such a bad actor. But it does mean, in general, that the primary victims of lawfare are likely to be states which care about legal propriety and in which leaders may be held democratically accountable at the ballot box. That means us.

Our adversaries certainly recognize this. In China, for example, the Chinese Communist Party (CCP) clearly understands legal rules to be mere instruments of Party policy, which are to be employed, adjusted, or ignored in whatever ways most usefully serve CCP objectives. This is explicitly the case in how the Party governs China, insofar as the CCP and its directives are juridically antecedent and *superior* to the constitution and laws of the PRC, with the latter merely deriving from and being obliged to conform to the former.

Internationally, moreover, the CCP has made the legal argumentation part of its approach to gain advantage for China in the world, not least as part of Beijing’s “[Three Warfares](#)” concept. In this respect, CCP thinking on the instrumental and opportunistic employment of legal discourse conforms perfectly to what [some People’s Liberation Army \(PLA\) writers](#) have called “beyond-limits combined war” (or “unrestricted warfare”). In that construct, warfare is seen to “transcend[] the domains of soldiers, military units, and

military affairs, and is increasingly becoming a matter for politicians, scientists, and even bankers.”³

Orde [Kittrie](#), for example, quotes an international law handbook from the PLA that

“[w]e should not feel completely bound by specific articles and stipulations detrimental to the defense of our national interests. We should therefore always apply international laws flexibly in the defense of our national interests and dignity, appealing to those aspects beneficial to our country while evading those detrimental to our interests.”⁴

Similarly, observers of Russia’s all but routinized commission of [war crimes in Ukraine](#) will not be surprised to learn that Vladimir Putin’s regime cares little for international legal rectitude – except perhaps when it can be weaponized against the West. As Dima Adamsky has recounted in his [brilliant recent book](#) on Russian strategic culture and concepts of deterrence, for instance, Russian strategists are keenly interested in how “formal, legally binding international regulations” can be employed as part of “‘informational pressure’ on the adversary, its armed forces, state apparatus, citizens, and world public opinion” in order to produce “favorable conditions for other forms of coercion.”⁵

The techniques of lawfare are perhaps best known in connection with wartime targeting where – most recently, the Palestinian terrorist group Hamas has become notorious for hiding military facilities quite literally underneath civilian locations such as [hospitals](#) and even a [compound](#) run by the United Nation agency for supporting Palestinian refugees. As noted in the [U.S. Department of Defense Law of War Manual](#), the Law of Armed Conflict (LOAC) is quite clear that

“Parties to a conflict may not use the presence or movement of protected persons or objects: (1) to attempt to make certain points or areas immune from seizure or attack; (2) to shield military objectives from attack; or (3) otherwise to shield or favor one’s own military operations or to impede the adversary’s military operations.”⁶

It is unquestionably a war crime for Hamas to deliberately endanger Palestinian civilians by using them as human shields to help protect its fighters from Israeli attack – or perhaps in an attempt to “draw the foul” by eking propaganda advantage out of civilian casualties if and when the Israelis *do* attack legitimate military targets that Hamas has intentionally hidden behind civilians.⁷ Despite this, however, Hamas has been gaining [international propaganda benefits](#) from the casualties its own human shield strategy has ensured will be inflicted upon Palestinian civilians in Gaza.⁸ This is thus something of a *locus classicus* for modern lawfare, since Hamas’ callous and (literally) criminal strategy has been disturbingly effective.

Beyond Battlefield Lawfare

But the use of lawfare – or indeed the weaponization of an adversary’s ethical integrity against it more broadly – need not be limited simply to “tactical” applications, nor has it been. Somewhat more “strategically,” for example, a great many countries came together in 1977 to adopt the [First Additional Protocol to the Geneva Conventions](#), which among other things sought to give special status to groups said to be “fighting against colonial domination and alien occupation and against racist régimes.”⁹ This is [one of the reasons](#) the United States has not ratified that document, but in its effort to resist the strategic lawfare of other governments trying to give politically-favored insurgents special legal privileges vis-à-vis regular armed forces, Washington has remained [subject to lawfare-type criticisms](#) for its very refusal to give terrorists and other such irregular fighters full combatant status.

During the Cold War, it was also routine for the Soviet Union and its allies to use arms control proposals as propaganda weapons, proposing specific agreements that would privilege the Warsaw Pact in various ways while excoriating the United States for “rejecting arms control” when it understandably refused such daft ideas. After the USSR had finished deploying a new generation of strategic and intermediate-range nuclear missiles in the late 1970s, for instance, Moscow began offering “nuclear freeze” resolutions at the United Nations that aimed to fix the existing nuclear balance in place before

Washington could respond with its own nuclear deployments. Similarly, at a time when Warsaw Pact forces outnumbered NATO, the Soviets promoted a nuclear “no-first-use” (NFU) treaty that would have precluded a Western nuclear response to an overwhelming Warsaw Pact conventional invasion of Western Europe.

After President Ronald Reagan announced his desire to develop space-based missile defenses in 1983, moreover, the Soviets proposed a treaty to prohibit weapons in space, and as Reagan oversaw a U.S. defense buildup intended to match Soviet advances of the 1970s, Moscow proposed talks on reducing military expenditures.¹⁰ And, of course, as [Thomas Rid has ably chronicled](#), the Soviets spent hundreds of millions of dollars to help fund anti-nuclear movements in the West, seeking to weaponize Western publics’ anxieties about war and earnest desires for peace, manipulating such groups to stigmatize and erode domestic support for U.S. and allied nuclear weapons policies that helped deter Soviet aggression.

This is a game which is still being played by geopolitical revisionists against the United States today. As Adamsky has observed, in connection with the Russian concept of “informational struggle” or “informational warfare” (*informatsionnaia bor’ba* or *voina*), “[s]cholars tend to agree that since confrontation with the collective West began to intensify in 2014, Moscow has rather accurately identified Western strategic phobias, values, strengths, and vulnerabilities, and then designated the relevant tools to exploit them for political purposes.”¹¹

Such approaches are echoed, for instance, in China’s [recent suggestion](#) of its *own* nuclear NFU treaty that would prohibit the Americans from having the option of a nuclear response to China’s invasion of a U.S. ally in the Western Pacific. Such games are no-lose propositions from the perspective of Beijing or Moscow: if the Americans accept the offer, they are legally bound to rules carefully designed to disadvantage them; if they refuse, they are pilloried for supposedly being hostile to arms control. Strategic lawfare indeed.

There are numerous other examples of America’s adversaries employing such gamesmanship in recent years. China today [attacks](#)

the United States for failing to ratify the U.N. Convention on the Law of the Sea (UNCLOS), for instance, even while itself ignoring an UNCLOS arbitral decision handed down against China (which *did* ratify that convention and thus should be bound by its terms). After the United States decided to leave the Anti-Ballistic Missile (ABM) Treaty in 2002, moreover – lawfully following the specified withdrawal provisions rather than choosing either to violate that treaty or to leave America unprotected against growing North Korean and Iranian missile threats – Russian propaganda made much of America’s supposed contempt for arms control, notwithstanding Moscow’s own longstanding violation of the ABM Treaty.

Vladimir Putin has also criticized the United States for taking a long time to dismantle its Cold War chemical weapons pursuant to Chemical Weapons Convention (CWC) procedures, and has spuriously accused the country of Georgia of hosting a secret U.S. biological weapons lab, even as Russia itself brazenly employed illegal chemical weaponry on British soil and continues to maintain an illegal biological weapons program. Russian officials have also criticized the forward deployment of U.S. nuclear weapons on NATO territory for years, depicting it as a violation of the Nuclear Nonproliferation Treaty, even though the Soviets had accepted those arrangements when they were established and had in fact also maintained their own “nuclear sharing”-type arrangements with at least one Warsaw Pact ally during the Cold War¹² – and even though Putin has now himself deployed Russian nuclear missiles to Belarus.

Moreover, Russia successfully weaponized America’s political and ethical discomfort with the idea of withdrawing from arms control agreements by violating the Intermediate-range Nuclear Forces (INF) Treaty for the better part of a decade before the United States finally chose to withdraw in response. During that period, the Kremlin was able to bring an illegal cruise missile all the way from initial flight testing to deployment in the field before the United States was able to muster the political willpower to respond. Additionally, Russia – and perhaps also China – seems to have been conducting secret low-yield nuclear explosive tests for years. If such testing represented the Kremlin’s gamble that political and legal scruples would keep the Americans from following suit, that bet seems to be paying off: to this

day, the United States continues to forswear learning for itself whatever it may be that Russia is able to learn about nuclear weapons maintenance or development from such small-scale explosive tests.

At the same time, we are not well informed enough about history to understand the degree to which the Putin regime's contemporary geopolitical stompings-around and aggression against its neighbors have important connections to themes and tensions that present in Russian history for a very long time. Despite the growing availability of thoughtful English-language works quite accessible to the non-specialist,¹³ most of us know too little about Russia's long traditions of personalized absolutist autocracy dating from at least its years under Mongol rule, its conceit since the days of Ivan IV ("the Terrible") of having a messianic holy mission as the "Third Rome" and a bastion of Orthodox probity (*katechon*) standing for all that is right and good in a global struggle against Western malevolence and spiritual degradation, its fixation since Peter the Great upon catching and surpassing the West in military power and technological sophistication, and its focus since at least Catherine II ("the Great") upon territorial empire as the metric of its status as a great power able to proudly hold it head up vis-à-vis the countries of the West.

Nor do we sufficiently appreciate Russia's enduring desperate insecurities over civilizational identity and its love/hate relationship with the West – as seen in debates over "Normanist" theories of the origins of Kievan Rus, and in the longstanding contestation between Westernizers identifying with Europe and "Slavophiles" identifying with the Eurasian steppes – or the ways in which a cult of noble self-sacrifice to "save" humanity is used to valorize a callous Russian recklessness with human life. To have a history is not necessarily to be imprisoned by it, of course, and modern Russia certainly has agency in the world. Nevertheless, to see such longstanding themes as irrelevant to the Kremlin's contemporary behavior and bellicose predilections vis-à-vis Europe would be naïve.

Yet our modern instinct for self-criticism, our worry that we might be responsible for harm, and (let us be honest) our narcissism, are more than powerful enough to convince a remarkable number of Westerners to believe Putin's propaganda that the Kremlin's modern

warmongering is *our* fault because we heeded the pleas of free sovereign people in Eastern Europe – who have rather more historical experience with Russia than we do – to join the North Atlantic Treaty Organization (NATO).¹⁴ Such narratives continue to distort our security policy discourse today.

As the abovementioned examples show, America’s adversaries are often quite comfortable seizing the high ground of virtue-signaling propaganda discourse by signing up to international legal restrictions while cheating on such agreements all the while. For its legal conscientiousness and integrity in *not* ratifying agreements with which it is not sure it would want to comply (*e.g.*, Additional Protocol 1, UNCLOS, and the Comprehensive Test Ban Treaty), however, the United States is excoriated as a scofflaw and an enemy to diplomatic progress.

Even more worryingly, Putin has also been attempting to weaponize the anti-nuclear and anti-war instincts of Western publics and elite opinion-shapers through a campaign of incessant nuclear saber-rattling. Coupled with Russia’s development of a new suite of “exotic” strategic nuclear delivery systems and the theater-range nuclear systems it now possesses partly as a result of having ignored both its “Presidential Nuclear Initiative” (PNI) promises and the requirements of the INF Treaty, this saber-rattling is a part of the “offensive nuclear umbrella” under which Putin seeks to deter Western efforts to stop him from invading and annexing neighbors such as Ukraine.

The Russians’ approach to preparing for and undertaking geopolitically revisionist aggression has had many facets, but it is becoming increasingly clear that weaponizing the West’s ethics and integrity against it has played an important role. They counted on us to continue to comply with arms control agreements while they cheat, for example, scored propaganda points against us for not agreeing to just *any* disingenuous diplomatic initiative, and they expected us to be unwilling to provide support to Ukraine for fear of provoking Russia. This hasn’t worked perfectly for them, of course, but it certainly did work to a degree, and for a while.

More generally, moreover, it is now clearly part of Russia's strategy to distort and subvert our *own* value-discourses, weaponizing them – in effect – against themselves. As Peter Pomerantsev has pointed out in comparison to Soviet propaganda and as I have noted [in comparison to Chinese messaging](#), Putin-era Russian information warfare is “less about arguing against the West with a counter-model ... [than] about slipping inside its language to play and taunt it from inside.” The brilliance of this new approach, he writes, is that “it climbs inside all ideologies and movements, exploiting them and rendering them absurd.”¹⁵

Through such postmodern malevolence, in other words, we are encouraged not so much to doubt ourselves and our own values in the face of supposedly superior alternatives, as we are simply to doubt even the *possibility* of moral value, of genuine rectitude, in the first place. The profound corrosiveness of such conclusions is not coincidental: it is precisely the point. This is, in part, a weaponization of our otherwise commendable openness to ideas and traditions of moral self-interrogation.

Nor has China been above trying to weaponize the sometimes naïve earnestness of Westerners desirous of peace and anxious about the risks of war. It remains a staple of CCP diplomatic discourse, for instance, to accuse any Westerner expressing concern about Beijing's increasingly aggressive international behavior of having a “[Cold War mentality](#),” and to be desiring a return to Cold War-style confrontation and arms racing. For years, moreover, Western scholars of China who were worried that China's rise might prove more predatory than benign were told that such sentiments should not be voiced lest they become a “[self-fulfilling prophecy](#)” – thus transforming the well-intentioned *hope* that China would behave well into a dangerous tool for ignoring Chinese misbehavior and suppressing evidence of its global ambitions.

And indeed, on the whole, this Chinese approach was successful for many years, leveraging Western good faith and optimism to help the CCP stigmatize and muzzle criticism of the PRC and prevent other countries from responding to Beijing's growing power as China “[bided its time and hid its capabilities](#)” while preparing its [present](#)

challenge to the rules-based international order. (It should also be noted that China benefited enormously from the United States' unwillingness to withdraw from the INF Treaty for so many years, notwithstanding Russian cheating. China's military buildup made great progress during the 2008-2019 window during which the United States opted to remain in that treaty while Russia developed INF-prohibited weaponry, and it is only now that the Americans are working to deploy INF-class conventional weapons in the Western Pacific to help counter China.) Our intentions were eminently good, but we were shrewdly played; our adversaries have done well in weaponizing our integrity against us.

What Are We to Do?

So what is one to make of all this? One possible response to the challenge of adversaries who work to weaponize our integrity against us, of course, might be simply to *abandon* that integrity – that is, to ourselves become as ruthless and unprincipled as they are. In their 1999 book Unrestricted Warfare, for instance, PLA colonels Qiao Liang and Wang Xiangsui claimed that “[t]he most ideal method of operation for dealing with an enemy who pays no regard to the rules is certainly just being able to break through the rules” oneself.¹⁶

And, indeed, during the early part of the Cold War, the United States *did* have some officials who felt that we needed to “fight fire with fire” in responding to subversive activities carried out worldwide by the KGB and other East Bloc intelligence services. According to one government commission during the Eisenhower years,

“we must learn to subvert, sabotage[,] and destroy our enemies by more clever, more sophisticated[,] and more effective methods than those used against us. It may become necessary that the American people will be made acquainted with, understand[,] and support this fundamentally repugnant philosophy.”¹⁷

In our present circumstances, however, such a reflexive “toss out the rulebook ourselves” answer would surely be too rash. For one thing, while our adversaries do work hard – and are sometimes very

effective – at weaponizing our integrity against us, that integrity is also a source of strength that we should not throw away lightly. It helps us sustain a degree of domestic support for foreign and national security policy that would otherwise be much more difficult to achieve. Even if we felt a ferociously ruthlessly policy response *were* the right answer to our adversaries’ depredations, therefore, we would be unlikely to be able to implement it effectively over time.

Moreover, it is also our ethical integrity and commitment to principle that helps us draw upon the assistance of “likeminded” allies and partners in the international arena who do not *want* the brutal scofflaw imperialists of modern Russia and China to remake the rules-based order in their dark and lawless image. There is a compelling strength in moral courage, and we would squander much of this support were we to become “just like” our thuggish adversaries in the callous ruthlessness of our tactics.

These reasons are fundamentally pragmatic ones, of course, but there is also reason *within* our ethical discourse not to throw aside all our scruples. After all, we do care about our own integrity, and we would dishonor ourselves – and in some important sense cease to *be* ourselves – were we to do so.¹⁸

Yet in sticking to our moral guns, we need not just to do the right thing but also to have the moral courage, as it were, to *display* moral courage. We must have the fortitude to be forthright in firmly defending our choices. We must *not* be – as Western officials have sometimes tended to be over the years – defensive or awkwardly apologetic in the face of adversarial lawfare-type gamesmanship.

If our security interests require us to no longer comply with a treaty, for example, we must not violate it, but we should also be willing to withdraw from it promptly and lawfully, and we should be in no way embarrassed about having the moral courage to take this step. We should refuse the shallow virtue-signaling of feckless diplomatic engagement undertaken merely for its own sake, insisting upon meaningful dialogue or upon none at all; we should never agree to something we are not sure we wish to follow; and we should have

the courage stoutly to defend all such choices as the ethical and principled ones they are.

If our adversaries hide themselves behind civilians in wartime and a given legitimate military target is important enough to justify the associated casualties under the clear principles of [LOAC equity-balancing](#), moreover, we should be willing to “take the shot” and then defend that choice with a firm voice and a clear conscience, even if in sorrow at our enemies forcing us to struggle with such tragic choices. And we should give no quarter in pointing out other parties’ disingenuousness, hypocrisy, and gamesmanship – nor any less in excoriating their abuses and violations of law and of the norms of civilized behavior. Confronted with disingenuous lawfare or other efforts to weaponize our integrity against us, we must also be unsparing in pointing out who the *real* scofflaws and moral cowards are.

To be sure, this sort of thing is not easy, and such courageousness is not for the squeamish. But such is the behavior of a country confident in its moral compass, and that is what we need to be.

Western society’s tradition of self-criticism has been a powerful engine for political and social reform over the centuries as humans have striven, however imperfectly and inconsistently, to conform their conduct to principle; such striving has advanced human flourishing in numberless ways, and we should be proud of it and the tradition out of which it grows. In recent decades, however, we seem to have allowed this noble instinct to metastasize, growing into monstrous and self-destructive form as an [oikophobia](#) that teaches us a poisonous self-doubt and distaste for ourselves by reflex rather than (as before) encouraging us to continue to *improve* ourselves on the basis of careful critical reflection.¹⁹

It is this self-doubt that helps make us particularly vulnerable to lawfare, and an easy victim for unprincipled adversaries who seek to leverage our own integrity and best intentions against us. As my Pharos Foundation colleague [Patrick Nash and Deniz Guzel have noted](#), “America and her allies have thus far proved themselves

remarkably complacent” in the face of “lawfare” and related threats. We must do better.

There is no easy answer for the challenges such gamesmanship presents, but whatever it is, it must surely involve fortitude and clarity. We can counteract our adversaries’ efforts to weaponize Western moral integrity more effectively by seeing such challenges for what they are, and by finding within ourselves the self-confidence and moral courage to stick to our principles with stern resolution and defend them with vigor and thoughtful care.

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Notes

- 1) Edward Dumbauld, *The Life and Legal Writings of Hugo Grotius* (University of Oklahoma Press, 1969), 28. Ironically, however, this position came back to haunt Grotius later, however, when he was subsequently hired to defend Dutch claims in that area against the English. See Franz De Pauw, *Grotius and the Law of the Sea*, trans. P.J. Atherton (1965), at 45, in *Grotius Reader: A reader for students of international law and legal History*, eds. L.E. van Holk and C.G. Roelofson (Asser Institute, 1983), 144-45.
- 2) As has now been [publicly detailed](#), Central Intelligence Agency (CIA) and National Security Council (NSC) lawyers began debating what standards should apply to CIA and Defense Department (DoD) personnel in interrogating *al-Qaeda* and Taliban prisoners “almost immediately” after the terrorist attacks of September 2001, and in [August 2002](#) the Department of Justice (DOJ) provided CIA with a legal memorandum on the topic. In [January 2003](#), the CIA Director provided written interrogation guidelines to his personnel, [two months later](#) DOJ provided DoD’s General Counsel with the abovementioned OLC memorandum, and in December 2004, the CIA’s Office of Medical Services provided its [own guidelines](#) to govern such activity.
- 3) Qiao Liang and Wang Xiangsui, *Unrestricted Warfare* (Albatross, 2020), 176 & 190-91. In this description, unrestricted warfare both can and should weaponize every conceivable tool available – e.g., atomic, diplomatic, financial, conventional, network, trade, bio-chemical, intelligence, resources, ecological, psychological, economic aid, space, tactical, regulatory, electronic, smuggling, sanction, guerrilla, drug, media, terrorist, virtual (i.e., deterrence), and ideological. Qiao and Wang, *Unrestricted Warfare*, 123.

- 4) Orde Kittrie, *Lawfare: Law as a Weapon of War* (Oxford University Press, 2016), 22 (citing *Basics of International Law for Modern Soldiers*, ed. Zhao Peiying (1996)). He also recounts Iran's Supreme Leader Ali Khamenei describing international legal rules such as the Universal Declaration of Human Rights as being no more than "a collection of mumbo-jumbo by disciples of Satan." Kittrie, 22 (citing Ann Elizabeth Mayer *Islam and Human Rights: Tradition and Politics* 36 (5th ed. 2012); Abdulmumini A. Oba, "New Muslim Perspectives in the Human Right Debate," *Islam and International Law* 234, eds. Marie-Luisa Frick and Andreas Muller (2013)).
- 5) See Dmitry Adamsky, *The Russian Way of Deterrence: Strategic Culture, Coercion, and War* (Stanford University Press, 2024), 46 & 49-50.
- 6) U.S. Department of Defense, *Law of War Manual* (December 2016), ¶ 5.16, 290.
- 7) In such cases, Israel is still required to take into consideration the presence of human shields for purposes of weighing anticipated civilian collateral damage against the military necessity of striking a legitimate Hamas military target, see Department of Defense, *Law of War Manual*, ¶ 5.16.4, 293, which means taking such precautions as may under the circumstances be feasible to minimize such harm. Nevertheless, the party that hides behind human shields assumes primary responsibility for the harm to them that results. Department of Defense, *Law of War Manual*, ¶ 5.16.5, 293.
- 8) Nor is this the first time Hamas has gotten away with, or even benefitted from, such war crimes. Attentive readers may recall that several years ago, Richard Goldstone – a former South African judge who authored a United Nations report accusing Israel of war crimes during its 2006 campaign against Hamas in Gaza – publicly "[reconsidered](#)" some of his conclusions in that report. His [original report had concluded](#) that Israel had undertaken "a deliberately disproportionate attack designed to punish, humiliate, and terrorize a civilian population, radically diminish its local economic capacity both to work and to provide for itself, and to force upon it an ever increasing sense of dependency and vulnerability." As this author has described elsewhere, "Goldstone's fundamental, logically untenable inference – that because civilian casualties occurred in Gaza, Israel must therefore have intended them – was, therefore, all he thought was required in order to prove war crimes. The report's conceptual blindness was self-reinforcing ... [as] Goldstone's tendentious inference was not merely a substitute for actual evidence, but to some extent actually became an excuse not to look for any." Christopher Ford, "Living in the 'New Normal': Modern War, Non-State Actors, and the Future of Law," in *Rethinking the Law of Armed Conflict in an Age of Terrorism*, eds. Christopher Ford and Amichai Cohen (Lexington Books, 2012), 272. In 2011, however, Goldstone expressed "regret" that he had not had access to the full facts "explaining the circumstances in which we said civilians in Gaza were targeted, because it probably would have influenced our findings about intentionality and war crimes." Unfortunately, Goldstone's after-the-fact regrets [did almost nothing to mitigate the incendiary impact](#) of the original 2009 report, which has become in some sense the received wisdom of the international community about the 2006 Israeli campaign.
- 9) Irregular fighters who wear no uniforms and hide among the civilian population would normally be considered "unlawful combatants" or "unprivileged belligerents," and would thus [not be entitled to the privileges of combatant status](#) (e.g., combatant immunity to domestic law and POW status). The First Additional Protocol, however, attempted in its Article 1(4) through [Common Article 2](#) of the 1949 Geneva Conventions to [make those earlier conventions apply](#) to protect such politically-favored combatants. (Guerrillas fighting against communist dictatorships or left-wing authoritarian regimes were presumably not supposed to receive such special legal protection.)
- 10) These illustrations are all drawn from *The USSR Proposes Disarmament (1920s-1980s)*, eds. Ye. Potlarkin and S. Kortunov (Progress Publishers, 1986), 18, 220-21, 289-93, & 314-17.
- 11) Adamsky, *The Russian Way of Deterrence*, 89.
- 12) Some years after the INF Treaty had been signed, U.S. officials acquired information indicating that the USSR had cooperative arrangements with its Warsaw Pact allies whereby "the Soviet Union had understandings

that Soviet manufactured SS-23 missiles transferred to at least one of the East European countries could be mated with Soviet nuclear reentry vehicles” as part of an “undisclosed program of cooperation.” U.S. Arms Control and Disarmament Agency (ACDA), “Supplemental Report to Congress on SS-23 Missiles in Eastern Europe” (September 18, 1991), at p.3. As described, this would be a remarkably close analogue – albeit a secret one – to NATO’s “nuclear sharing” concept whereby forward-deployed U.S. nuclear weapons could be made available to NATO allies in time of conflict. (Because the Soviets had not disclosed its transfers of SS-23s to Warsaw Pact allies, moreover, the U.S. concluded that Moscow had negotiated the INF Treaty “in bad faith” and had “probably violated the Elimination Protocol of the Treaty by failing to eliminate in accordance with Treaty procedures, re-entry vehicles associated with and released from programs of cooperation [with Eastern European governments].” Acting ACDA Director Stephen R. Hanmer, letter to Senator Jesse Helms (September 19, 1991).

- 13) See, e.g., James H. Billington, *The Icon and the Axe: An Interpretive History of Russian Culture* (Vintage, 1970); Orlando Figes, *The Story of Russia* (Metropolitan, 2022); Orlando Figes, *Natasha's Dance: A Cultural History of Russia* (Metropolitan Books, 2002); Dina Khapaeva, “Russia: Fractures in the fabric of culture,” *Histories of Nations: How Their Identities Were Forged*, ed. Peter Furtado (Thames & Hudson, 2017); Walter Laqueur, *Putinism: Russia and Its Future with the West* (Thomas Dunne, 2015); Serhii Plokhy, *Lost Kingdom: The Quest for Empire and the Making of the Russian Nation* (Basic Books, 2017).
- 14) Iran is also not above weaponizing Western susceptibility to feelings of guilt, and frequently attempts to leverage for diplomatic advantage narratives of U.S. involvement in the 1953 coup in Tehran against the government of Mohammed Mossadegh. U.S. policy discourse on Iran all too frequently accepts this as a kind of American “Original Sin” vis-à-vis that country, for which some kind of atonement is presumably needed. The administration of U.S. President Bill Clinton, for example, was openly apologetic, with Secretary of State Madeline Albright [declaring in 2000](#) that the coup was “clearly a setback for Iran's political development,” that it was “easy to see now why many Iranians continue to resent this intervention by America in their internal affairs,” and that “[a]s President Clinton has said, the United States must bear its fair share of responsibility for the problems that have arisen in U.S.-Iranian relations.” (The Central Intelligence Agency itself, in fact, has [sometimes seemed contrite](#).) What is less well understood, however, is that the 1953 coup, undemocratic though it clearly was, was nonetheless [supported by Iran's Shi'ite clergy at the time](#) – that is, by the group that presently rules Iran and deploys the coup narrative in its anti-American propaganda – and indeed that some of those clerics may actually have received “[large sums of money](#)” from U.S. operatives. For his part, Ayatollah Khomeini loathed Prime Minister Mossadegh, hating the man as much as he hated the Shah. See, e.g., Ervand Abrahamian, *Khomeinism: Essays on the Islamic Republic* (University of California Press, 1993), 10 & 110.
- 15) See Peter Pomerantsev, *Nothing is True and Everything is Possible* (Public Affairs, 2014), 49 & 67.
- 16) Qiao and Wang, *Unrestricted Warfare*, 114.
- 17) Quoted by Loch K. Johnson, *The Third Option: Covert Action and American Foreign Policy* (Oxford University Press, 2022), 15.
- 18) Some years ago, in discussing the importance of honor and the internalization of restraint as an indicium of civilization, this author observed that “the interiorization of the modern LOAC as a sort of virtue ethics for liberal democracies under the rule of law – the moral operational code, as it were, for market states of consent even, or perhaps especially, in threatening times – ... [may] bring[] international law back to its Spanish, Grotian, and even Stoic origins as a system to shape the behavior of the sovereign, even non-reciprocally, because of the *kind* of virtuous ruler he is. Through this lens, in other words, the law is about *who you are*, not what your adversary does or what particular body of codified rules declares itself most relevant.” Ford, “Living in the ‘New Normal,’” 283.
- 19) Traditionally, it has been our own American values that have summoned us to self-improvement by calling attention, as Martin Luther King Jr. put it at the Washington National Cathedral shortly before his

assassination in 1968, "[to the gulf between promise and fulfilment.](#)" As the historian Jürgen Osterhammel has noted, the value system encoded in modern international law may have been "originally understood to be Christian," but it came to be seen as having a "transreligious humanitarian character" – and indeed has on occasion compellingly been invoked *by* Asians and Africans *against* "the culpability of colonial practice" by its European originators. Jürgen Osterhammel, *The Transformation of the World: A Global History of the Nineteenth Century*, trans. Patrick Camiller (Princeton University Press, 2014), 505-06 & 835; see also Osterhammel, 500; and Jeremy Black, *A History of Diplomacy* (Reaktion, 2010), 164. By contrast, rather than giving us signposts toward self-improvement, the ghastly politicized Left and Right postmodernisms of recent years offer only a dark and soulless pseudo-religiosity that offers an analogue to Original Sin and blood guilt, but without the admixture of forgiveness or Redemption: merely a crippling sensibility of sin, retribution, and endless penance, shorn equally of hope, of love, and of light.

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