

## FOREWORD

The International Law Studies "Blue Book" series was initiated by the Naval War College in 1901 to publish essays, treatises and articles that contribute to the broader understanding of international law. This, the sixty-seventh volume of that series, is the product of a conference on low-intensity conflict hosted by the Naval War College in April of 1992.

Sponsored by the Office of the Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict, the Symposium on Low-Intensity Conflict brought together scholars, government officials and military officers to address the legal and moral constraints on the ability of the United States to engage in low-intensity conflict operations. Symposium participants included international law scholars, military officers, political scientists and philosophers uniquely well-suited to explore normative constraints, both legal and moral, upon a democratic society's ability to engage in international conflict at the low end of the spectrum of violence. This volume consists principally of papers written for and presented at that symposium, as well as panel discussions and intercessions from the floor. The principal papers focus on low-intensity conflict and the international legal system, just war doctrine, and American morality and legal limits of conflict. The result is a balanced analysis of the philosophical and legal underpinnings of low-intensity conflict. While the opinions expressed in this volume are those of the individual authors and participants, and not necessarily those of the Office of the Secretary of Defense, the United States Navy or the Naval War College, they provide a most valuable contribution to the study of low-intensity conflict. On behalf of the Secretary of the Navy, the Chief of Naval Operations, and the Commandant of the Marine Corps, I extend to the editors, Professor Alberto R. Coll, Major James S. Ord, and Captain Stephen A. Rose, and the contributing authors of this informative and provocative work, our gratitude and thanks.

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## PREFACE

In a book such as this, it is essential to start out with a definition of "low-intensity conflict." The term is far from precise, and so are any of the numerous replacements offered for it. This should not be surprising. Despite the hankerings of many political scientists to the contrary, the reality of human conflict and war is difficult to categorize into neat, easily distinguishable phenomena. The standard definitions offered by civilian or military planners and their doctrine manuals suffer from being designed often more with an eye to bureaucratic turf preservation than intellectual coherence or clarity. Hence, the best one can do is follow Aristotle's injunction to any would-be political scientist in his *Ethics*, and aim as well as possible, realizing all along that any definition will be less than fully satisfactory by leaving out some dimensions of the problem.

In general, this book uses the term "low-intensity conflict" to describe conflicts other than those in which two or more States use as the preponderant mode of military operations their regular, uniformed armed forces directly against each other. Under this criterion the Vietnam War would be considered a "mixed" conflict in which conventional warfare alternated with "unconventional" or "low-intensity" modes of conflict. In low-intensity conflicts either one of the primary actors is a non-State entity, or the States involved use as the principal means of coercion against each other instruments of violence short of their regular armed forces, such as guerrilla warfare, terrorism, subversion, assassination and coups d'état. Because this type of warfare is different from the "conventional" use of regular armed forces against each other, it makes sense to use the term "low-intensity conflict" interchangeably with "unconventional warfare", even if this usage departs from that in some of the military manuals.

Low-intensity conflict is intensely political. At the strategic, and even tactical level, political considerations guide its logic with greater force and thoroughness than is the case with many conventional conflicts. This also differentiates low-intensity conflict from a resort to violence that is non-political in nature, such as some types of criminal activity or social turmoil that lack an underlying political objective as the chief guiding compass. Beyond these general criteria it is difficult to go much further without either narrowing the definition excessively or else making it so broad as to deprive it of usefulness.

When the low-intensity conflict symposium out of which this book grew was held in April of 1992, Republican control of U.S. foreign policy was in its twelfth year. One result of this long period of dominance by a single party was that the central assumptions of the foreign policy debate and much of its terminology had come to reflect conservative responses to the challenges of the Cold War. The recent history of the expression "low-intensity conflict" provides an interesting demonstration of this trend. Throughout the seventies and into

the mid-eighties it was often employed as a critical label by those who wished to discourage any but the most obviously defensive use of American power abroad. Even as late as 1988, it was used in this way in a widely read volume of essays edited by Michael Klare and Peter Kornbluh that treated the intentions and capabilities of the United States in low-intensity conflict with grim reserve.<sup>1</sup>

The renewed determination evinced by the Reagan Doctrine to counter the sub-conventional challenges of the Soviet Union gave low-intensity conflict a continuing, if controversial, currency. But it was probably the fact that our low-intensity conflict strategies began to succeed, which became increasingly evident throughout the eighties in places as unlike as Afghanistan and El Salvador, that made possible public discourse in which low-intensity conflict could be treated as a legitimate interest of the United States government. The establishment by the 1986 Goldwater-Nichols Act of the Office of Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict gave the term an official solidity and provided a valuable locus for efforts to develop a comprehensive policy to deal with all the activities it had been used to describe.

Though the respectable use of low-intensity conflict had been long established by 1992, the subsidence of the Soviet threat sharpened nagging concerns about its moral and legal ambiguities and added a worrying new dimension of ontological uncertainty to the whole enterprise. If low-intensity conflict had principally been used to describe the various manifestations of Soviet mischief around the globe, to what would it now refer? If it was to be applied to the ancient kinds of nastiness that seem always to reassert themselves at the collapse of empires, then the efforts of Reagan era low-intensity conflict proponents to adapt traditional modes of moral and legal reasoning to meet the insidious challenges of a "new" kind of conflict might begin to seem retrospectively fishy. But if the Cold War had actually wrought a temporary deformation in the evolution of international law and morality, those new interpretations of such concepts as sovereignty and legitimate self-defense might well have been justified and could even help to secure wider respect for human rights and democratic institutions in the future. It was in this tentative atmosphere, a reflective pause after a prolonged period of enthusiasm and success, that the low-intensity conflict symposium was convened.

There is abundant literature on the subject of low-intensity conflict, most of it dealing, as one would expect, with the practical difficulties of coping with such thorny military challenges as counter- and pro-insurgency. A subset of the literature is concerned with the political ambiguities of the low-intensity arena and the difficulties it holds for policy makers and diplomats. But very little effort has been devoted to analysing why this kind of conflict is so problematic for a democracy such as the United States and even less to anatomising the exact nature of the normative constraints that seem to hem us in from every side when we confront a foreign challenge short of conventional war.

Although the symposium that occasioned this volume is far from the first large meeting convened to discuss low-intensity conflict, the deliberations of previous conferences have tended to revolve around the practical concerns described above. As an example, of the 68 papers presented at the 1990 American Defense Preparedness Association Special Operations/Low-Intensity Conflict Symposium, only a handful dealt with doctrine and policy, and of those few, none addressed the issue of moral and legal constraints on our ability to engage in low-intensity conflict.

For those concerned to ground U.S. policy on principles that go beyond what is pragmatic, the neglect of these fundamental normative and cultural issues became more obvious as the Cold War order crumbled. The comforting notion that our uneasy instability was but the twilight prelude to a fresh dawn in world affairs was made increasingly implausible by the refusal of a new order to emerge. The suck and eddy of this great tidal flux would inevitably tug painfully at many of our interests abroad in unpredictable ways. The death of the Soviet Union simply multiplied the subconventional challenges facing the United States while removing the grand exigency that had justified past low-intensity conflict strategies.

The end of the Cold War naturally required every aspect of American security policy to be examined in the light of changing conditions abroad and heightened international expectations that we serve as an arbiter of order and justice. But the gravamen of the case for rethinking our approach to low-intensity conflict resided more particularly in the need to understand how a democracy could morally countenance a continued or expanded involvement in warlike activities lacking the appealing moral clarity of the two World Wars, uncertain of legislative sanction and prompted by no obvious, general threat to our security such as had been provided by communism. If the most potent limitation on our conduct of "low-intensity" or "unconventional" operations was the generalized discomfort of the American body politic with them, then surely it made sense to understand precisely the nature of the reservations, how far they were immutable or transient, and what latitude they might reasonably be expected to afford future low-intensity conflict policy makers.

The task of elucidating the questions raised by the new focus of the low-intensity conflict policy directorate was clearly beyond the portfolio of any government department. They involved a complex mix of legal, historical and cultural considerations that could only be addressed by an assortment of experts steeped in these various aspects of the low-intensity conflict conundrum. The perception that the intellectual cartography of all those in the U.S. defense and foreign policy establishments would have to be reoriented to an as yet unclear landscape lent the task a feeling of historic moment and imbued it with philosophical, introspective undertones. The time was ripe to bring together an unusual combination of theoreticians and practitioners to consider in depth the

constraints on America's freedom of maneuver in the low-intensity conflict arena.

A few observations on the rationale behind the organization of the resulting symposium should be of use to the reader who approaches this volume with more than casual interest. To impose a productive structure on the rich and promising mix of diplomats, lawyers, scholars, soldiers and sailors, it was thought best to provide three distinct topics for their deliberations. To this end, a series of analytic papers was commissioned from a select group of thinkers to provide the meat for discussions of sovereignty, just war theory, and the domestic legal and political strictures on low-intensity conflict. To lend coherence to the diversity of view that was expected in the discussion, a complementary series of dissenting or critical essays was also commissioned. Those who feel the need to reacquaint themselves with the nature of sovereignty law and the *jus ad bellum* before plunging into the melee of debate, will find in the articles and essays well written, non-technical and incisive explications of these topics that seldom stray from the overarching concern with low-intensity conflict. If, on the other hand, the reader would like to put his finger on the carotid pulse of the low-intensity conflict debate, all he need do is dip into the symposium proceedings.

The brief account of the changing fortunes of the term "low-intensity conflict" offered at the beginning of this introduction stopped short of describing its current status. Now that the Democratic party has regained the Presidency after a prolonged absence, it is natural to expect that the language used to frame our national aspirations in foreign policy would change, and indeed, a casual observer of these affairs might be forgiven for forgetting that low-intensity conflict was ever a widespread concern in our defense and foreign policy establishments. The expression seems to have reacquired some of its former taint, having retained, perhaps unsurprising, unfavorable associations for those last in office in the seventies. Though its existence has not been actively denied, its popularity as a way of approaching the problems of sub-conventional conflict was for a time eclipsed by high hopes for the possibilities of multilateral security operations conducted under the aegis of a newly sensible, more muscular United Nations. There is now a family of activities, grouped under the heading of "peace operations," which are expected to cope with many of the disturbances formerly collected under the rubric of low-intensity conflict. That enthusiasm for this new approach to security challenges has recently begun to pall is probably as much a reaction to the messy realities of the challenges themselves as it is an indication of a realistic reappraisal of the limitations of the United Nations. In one respect, this is reassuring evidence that low-intensity conflict policy makers and theorists have not been engaged in an extended exercise in reification. Whether one calls them small wars, "unconventional warfare", low-intensity conflicts, peace enforcement operations, or "operations other than war", the

phenomena considered by the low-intensity conflict symposium in April of 1992 are real and persistent.

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**Note**

1. KLARE & KORNBLUH, *LOW-INTENSITY WARFARE* (1988).