

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

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Erik Jens

In *Partly Cloudy*, David L. Perry greatly expands on the themes of his 2006 essay<sup>1</sup> by focusing on a far-ranging examination of ethical theory and its practical applications to U.S. intelligence policy and practice, the law of war, and the history both of the CIA and its longtime foil, the late KGB. He unites these and other disparate topics into a persuasively argued approach to determining both individuals' and governments' ethical guidelines under the often extreme pressures of war and intelligence work.

*Partly Cloudy* is aimed primarily, but not exclusively, at military and intelligence professionals who already possess, or at least aspire to, Perry's "ethical toolkit." Drawing on the Bible, Augustine, and Machiavelli as well as contemporary ethical philosophers such as James Rachels and Sissela Bok, Perry begins with a lucid introduction to basic elements and terms of moral philosophy, progressing to their real-world implications and potential for creating seemingly insoluble dilemmas. From the outset, and in contrast with a range of legal, medical, business, and other professional ethicists, Perry warns against attempting to reduce ethical theory to a single "checklist or model."<sup>2</sup> He argues that at the nexus of intelligence work and ethical reasoning, the latter requires "a rich range of moral emotions, including empathy, . . . a sense of fairness and outrage against injustice, . . . mindfulness and self-awareness [to examine one's own subsurface biases], . . . and hard intellectual work [to] convert ethical reasoning to action."<sup>3</sup>

Perry examines the ethical "gray zones" facing intelligence officers and their superiors. He illustrates the difficulties in proposing even

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*Editor's note:* The following two book reviews on the same book are intended to provide alternative viewpoints on this highly pertinent publication. Both authors have extensive backgrounds in human intelligence (HUMINT).

a basic list of “objective” ethical imperatives such as compassion, fairness, and honesty, given these terms’ wide-ranging definitions, and the importance of context and culture in settling on any one meaning. On the other hand, as a former ethics and warfare professor at the U.S. Army War College, Perry grounds every argument in a historical example, from the Crusades to the current conflicts in Iraq and Afghanistan. He keeps his discussion relevant to everyday intelligence work, connecting ethical theories such as deontology (absolute moral imperatives) and consequentialism (which considers the ends when licensing the means) to the realities faced by all intelligence professionals, be they interrogators, clandestine officers, or analysts. Perry transforms a potentially dry slog through basic moral theory into a provocative and engaging introduction to the moral and ethical issues that drive the rest of his book.

In an intriguing literary “tangent,” Perry discusses Shakespeare’s *Henry V*, a play replete with themes (honor, bravery, and conflicts between friendship and duty) and speeches (“Once more into the breach,” “We few, we happy few, we band of brothers”) familiar to many military professionals. Perry focuses on Shakespeare’s version of history rather than historical sources; the Bard alone provides plenty of grist for *Partly Cloudy*’s expansion of ethical and religious themes, already introduced in previous discussions of early world religions and the nascent *jus ad bellum* (followed, then as now, far more in the breach than the observance). For example, in contrasting Henry’s apocalyptic threats of mass slaughter to coerce surrender of a besieged French town with his subsequent order to his captains to “use mercy to them all,” Perry finds a parallel with modern nations’ possession of—and thus implied threat to use—nuclear weapons.<sup>4</sup> Henry’s incognito meeting with his soldiers on the eve of battle produces a timeless debate over a general’s complicity in his soldiers’ misdeeds, and the king’s order to “kill all the prisoners” at Agincourt provides Perry a springboard to debate the ethics not only of killing unarmed prisoners, but of requiring soldiers to safeguard them in the midst of chaotic battle, even at the risk of their own lives.<sup>5</sup>

In a sweeping discussion of wartime atrocities, Perry cites Michael Walzer’s claim that even General William Tecumseh Sherman, on his march to Atlanta, attempted to constrain his soldiers (how successfully remains a matter of vigorous debate) from looting or violence against civilians or military prisoners; Sherman did not apply his own dictum that “war is cruelty and you cannot refine it” to license more death and destruction than what he thought militarily essential

for victory.<sup>6</sup> Moving on to analyze the origins and implications of the My Lai Massacre, Perry, without excusing or mitigating the actions of the U.S. platoon who shot unarmed Vietnamese civilians on their lieutenant's orders, discusses the ethical (not to say existential) challenges faced by these particular soldiers, as well as many of their comrades throughout Vietnam. These included constant casualties inflicted by a seemingly unfathomable, invisible enemy, set to an insistent drumbeat from "higher" to the effect that the enemy was subhuman, and that it was far more dangerous to disobey one's own commanders than simply to go along with a clearly illegal or immoral order. Having noted a parallel to the notorious 1961 Milgram electric-shock experiments demonstrating human malleability in the face of "authority," Perry examines the perennial tension between the necessary hardness drilled into soldiers, and the need to ensure they retain their humanity and sense of right and wrong. He argues for effective ethical training to ensure that all soldiers, as an army colonel puts it, "know what the right thing to do feels like."<sup>7</sup>

A chapter devoted to the late KGB highlights "intelligence capabilities and operations that the United States developed . . . in large measure to oppose the [KGB] and its 'proxies.'"<sup>8</sup> Though consigned to "the ashbin of history," the KGB remains relevant for its ruthless but often effective personnel and operations, many of which clearly inform its successor organizations in post-Soviet Russia. In addition, as the CIA's primary adversary and foil for four decades, the KGB informed the United States' intelligence policy and methods, including its determination to keep the high moral ground—but also, on occasion, to adopt a "repugnant philosophy" in the service of what often seemed like an existential conflict between the two superpowers.

Examining the particular dilemma of penetrating terrorist groups, Perry argues that a "cold utilitarian calculus" insufficiently addresses the rights of innocent third parties when recruiting (as may sometimes be essential) terrorists or other criminals as intelligence assets, and that the execution of such an operation bears a "strong burden of moral justification."<sup>9</sup> (Granting that legal restrictions obviously come into play in such situations, Perry chooses to focus mainly on the ethical aspects.) The author notes that offering would-be or actual murderers "refuge" as intelligence assets is difficult to justify under any circumstances; he cites the U.S. intelligence community's use of Nazi war criminals against the Soviet Union, and those assets' subsequent threats to expose U.S. operations unless offered assistance in disappearing after the war.<sup>10</sup>

In his discussion of the ethical implications of covert actions, Perry distinguishes the various types of such actions, such as political operations, coups d'état, and assassinations. As an example, he cites a map fabricated for President Franklin D. Roosevelt's consumption by British intelligence in 1941, showing Adolf Hitler's purported plan for reorganizing South America and seizing the Panama Canal.<sup>11</sup> This disinformation, containing as it did the truth (if not the facts) of the transatlantic threat posed by the Third Reich, helped spur America's critical pre-Pearl Harbor aid to England, well before the United States' actual entry into the European war.<sup>12</sup>

In the course of a far-ranging discussion of interrogation techniques and policies, particularly the use of torture and other coercive methods, Perry highlights the lack of consensus among most "experts" as to whether such methods actually work. He then proposes a scenario wherein a terrorist, caught in the course of his plot to kill thousands of innocent people, claims his "absolute right" not to be tortured for information required to thwart the attack or catch his coconspirators. Noting the "great difficulty accepting the plausibility of . . . absolute moral claims made by those who hold in contempt those same rights when claimed by their victims," Perry appears to part ways with ethicists such as David Luban, who argue against any allowance whatsoever for legalized torture, even in the oft-cited "ticking-bomb scenario."<sup>13</sup> Rather, he seems to side with ethical and legal experts such as Fritz Allhoff, Michael Skerker, Alan Dershowitz, and others who propose to justify, legally and/or morally, torture in rare, carefully circumscribed cases, usually involving a "ticking-bomb scenario."<sup>14</sup> Perry proposes that, in place of an "absolute" right not to be tortured, every person has a "prima facie" right to humane treatment, which, however, "may be trumped by other moral considerations under certain circumstances."<sup>15</sup>

Perry cites with dismay a 2005 Pew survey reporting that a majority of U.S. civilians and almost half of military personnel would favor torture in some cases.<sup>16</sup> However, he does not mention a more optimistic datum: a 2005 survey of trained army interrogators who indicated their overwhelming contempt for coercive interrogation on personal as well as professional grounds.<sup>17</sup> In addition, Perry disputes the common argument that abuse suffered in military SERE training somehow justifies those same abuses against terrorism suspects; he goes on to cite "potential moral corruption" of students and instructors resulting from such training programs.<sup>18</sup> Yet this reviewer's informal but extensive talks with graduates of military

SERE programs seem to contradict the latter point: Most of them, however much they hated the training, felt in retrospect that it had helped them to understand, and in some cases to extend, their own ethical and moral limits of endurance.

With *Partly Cloudy*, David Perry has made a substantial and timely contribution to current thinking on ethical issues surrounding both intelligence work, and war in general. His book highly deserves the close attention and discussion it is likely to generate among military and other ethicists and professionals.

## Notes

1. Jan Goldman, *Ethics of Spying: A Reader for the Intelligence Professional* (Lanham, MD: Scarecrow Press, 2006).

2. *Ibid.*, 21.

3. *Ibid.*

4. *Ibid.*, 66.

5. *Ibid.*, 68.

6. *Ibid.*, 72.

7. *Ibid.*, 85.

8. *Ibid.*, 126.

9. *Ibid.*, 151–52.

10. *Ibid.*

11. *Ibid.*, 166

12. Proving the absence of anything new under the sun, just before the 1990 Gulf War the United States was similarly deceived by a Kuwaiti teenager's congressional testimony about the Iraqi occupiers' murder of hundreds of Kuwaiti babies. Actual Iraqi war crimes notwithstanding, the girl proved—to remarkably little protest—to be the daughter of the Kuwaiti ambassador to the United States, who had fabricated and coached his daughter's widely televised and influential testimony with the help of a U.S. public relations firm.

13. Goldman, *Ethics of Spying*, 212; David Luban, "Unthinking the Ticking Bomb," Georgetown Law Faculty Working Papers, Georgetown University Law Center, 2008.

14. Fritz Allhoff, "An Ethical Defense of Torture in Interrogation," in *Ethics of Spying: A Reader for the Intelligence Professional*, ed. Jan Goldman (Lanham, MD: Scarecrow Press, 2006), 126–40; Michael Skerker, "Interrogation Ethics in the Context of Intelligence Collection," in *Ethics of Spying: A Reader for the Intelligence Professional*, ed. Jan Goldman (Lanham, MD: Scarecrow Press, 2006), 141–70; Alan Dershowitz, "Want to Torture? Get a Warrant," *San Francisco Chronicle*, January 22, 2002.

15. David L. Perry, *Partly Cloudy: Ethics in War, Espionage, Covert Action, and Interrogation* (Lanham, MD: Scarecrow Press, 2009), 212.
16. Ibid., 201.
17. Rebecca Bolton, "U.S. Army Intelligence Collectors' Survey on Ethics," *Defense Intelligence Journal* 16 (2007): 141–55.
18. Perry, *Partly Cloudy*, 213–14.

**Erik Jens** is a faculty member at the National Defense Intelligence College, specializing in intelligence collection, ethics, and law. Trained as a lawyer at the University of Michigan, he served for many years as a Russian and Persian Farsi linguist, U.S. Army NCO, commissioned officer, and civilian intelligence officer, with multiple deployments to Iraq and Afghanistan.