
Some Observations on Gabriella Blum's 'Fog of Victory'

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Abstract

Gabriella Blum's brilliant article wrestles with the central question of modern conflict: what does victory look like, and whatever it looks like, what does it mean – or, perhaps more accurately, what should it mean? This brief article seeks to address her work through the lens of the author's military experience. That perspective would define victory in Clausewitzian terms, that is, the point at which a belligerent is compelled to submit his will to his opponent. As Blum points out, that seeming clarity is obscured in many modern conflicts involving non-traditional actors and warfighting methodologies. While the Just War doctrine resonates in the armed forces, the decision to go to war is largely considered a political matter beyond the military's purview. Jus in bello, however, does lie in the military's realm as much depends on the perception of rightness in contemporary conflicts if 'victory' is to be obtained. Yet Professor Blum's central thesis about the importance of clear goals in contemporary conflicts remains undisturbed. Her further observation that 'the problem of the fog of victory extends not only to international relations but also to domestic civil-military relations' has obvious and enduring relevance.

Gabriella Blum's brilliant article wrestles with the central question of modern conflict: what does victory look like and, whatever it looks like, what does it mean – or, perhaps more accurately, what *should* it mean?¹ Her article's richness invites many analyses of myriad issues; indeed, the implications of the question(s) are manifold. This brief commentary seeks to address her work from a particular perspective: through the lens of this writer's military experience – an effort admittedly of narrow dimensions.

In that regard, a Pakistani officer recently took soldiers to task for their intemperate use of language. He says that of 'all the mauled words, "Victory" is one example that appears foremost'.² He harshly judges the effect of the term:

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¹ Blum, 'The Fog of Victory', in this issue, 391.

² Kahn, 'War and Words: The Menace of Meaning', *Small Wars Journal*, 9 May 2012, available at: <http://smallwarsjournal.com/jrnl/art/war-and-words-the-menace-of-meaning> (last visited 9 May 2012).

[Victory] imposes upon itself the need to find an enemy, say nasty things about him, and antagonize all elements that have, present or prospective, influence with the “enemy.” What a pitiable arraying of forces where none is needed! And then, one must *win* and, more importantly, *be seen* as winning.³

Clearly, Professor Blum’s concern about the meaning of victory resonates in the military context. In fact, the validity of her contentions about the ambiguity concerning the meaning of victory in the 21st century was amply demonstrated when the question was posed to Chairman of the Joint Chiefs of Staff Martin Dempsey.

Asked about his definition of victory, as well as his explanation as to why a powerful nation like the US had not yet defeated the Taliban in Afghanistan, Dempsey began by answering the second question first. He allowed that the delay was occasioned by the fact that, as he put it, ‘we’re trying to do it right’.⁴ He noted that, militarily, ‘we could have started at one end of Afghanistan and fundamentally overrun it, destroyed it, created a situation where we would make it a near certainty that the Taliban couldn’t come back.’ He then said:

[W]hen I say ‘do it right,’ it’s about *building a nation* that has institutions to support it over time and that can provide for its own security. If you’re asking me for my definition of victory in Afghanistan, that’s the definition.⁵

So to the senior American officer in uniform victory requires ‘building a nation’. Putting aside the difficulty of determining the degree to which the ‘institutions’ he refers to must be able to ‘support’ the nation, as well as what metric would demonstrate a nation’s ability ‘to provide for its own security’, there is the seeming disconnect with the more limited expectations of his boss, the Commander-in Chief.

The day after Dempsey’s speech in May of 2012, the President expressed his view, though not precisely on the definition of victory. President Obama, speaking from Afghanistan, declared – dissimilarly to Dempsey’s assertion – that the ‘goal is *not* to build a country in America’s image, or to eradicate every vestige of the Taliban’.⁶ Why? ‘These objectives’, the President says, ‘would require many more years, many more dollars, and many more American lives.’ He expressed his goal (albeit not employing ‘victory’ terminology) as being ‘to destroy al-Qaida’, adding ‘we are on a path to do exactly that’.⁷ Thus, Obama seems to be keenly attuned to Blum’s argument that winning modern war can be ‘more costly for the victors’.

The vision of what we might call ‘victory’ in Afghanistan that the two men expressed is not exactly coextensive, and that fact alone is illustrative of the dilemma about

³ *Ibid.*

⁴ ‘A Conversation with General Martin Dempsey’, Carnegie Endowment for International Peace, 1 May 2012, Washington, DC (transcript), available at: http://carnegieendowment.org/files/050112_transcript_dempsey.pdf (last visited 5 May 2012).

⁵ *Ibid.* (emphasis added).

⁶ Transcript of President Barack Obama’s speech from Bagram Air Base, 2 May, MSNBC.com, 2 May 2012, available at: http://worldnews.msnbc.msn.com/_news/2012/05/01/11492424-transcript-of-president-barack-obamas-speech-from-bagram-air-base-may-2?lite (last visited 2 May 2012) (emphasis added).

⁷ *Ibid.*

which Blum writes. Dempsey sees a self-sustaining, secure Afghanistan as defining victory; Obama seems to be satisfied with a somewhat less ambitious outcome, that is the destruction of al-Qaeda as the goal, and one that permits, or at least recognizes, that 'vestiges' of the Taliban will persist.

As a further illustration of the complexities Blum discourses about consider the stated mission of International Security Assistance Force (ISAF) Afghanistan in relation to Dempsey's and Obama's remarks. Although Obama has endorsed ISAF – which is largely composed of North Atlantic Treaty Organization (NATO) forces – his statement is not exactly conterminous with that of ISAF which sees its purpose somewhat differently. That objective tracks closer to Dempsey's thinking when it says that ISAF intends to 'facilitate improvements in governance and socio-economic development in order to provide a secure environment for sustainable stability that is observable to the population'.⁸

There is no doubt that Obama's more modest concept of what might be called 'victory' is influenced by US election-year politics. In a nation still struggling to pull itself out of economic recession, it is not surprising that 66 per cent of Americans have concluded that the war in Afghanistan has not been 'worth fighting',⁹ and an even greater majority – 78 per cent¹⁰ – favours withdrawing troops. Accordingly, 'victory' – from a purely partisan *political* perspective – may merely mean a condition which no longer engages the public consciousness in a way that is adverse to those holding (or seeking) elective office.

While those in the armed forces are as ready as anyone – or *more* ready – to celebrate a declaration of victory however defined by its leadership, there is no evidence that veterans of George W. Bush's woefully premature 'mission accomplished' speech suffer any illusions about an assertion of 'victory' by any authority. While a declaration of 'victory' or 'end of hostilities' or some other rhetoric that is supposed to signal an end – for the moment – of the fighting is surely welcomed, few military people would assume, as the preamble to the United Nations Charter so optimistically aspires to do (and Blum refers to with scepticism), that somehow 'succeeding generations' will be saved 'from the scourge of war'.¹¹

The military assessment is much more aligned with that which is often attributed to Santayana, that is, that 'only the dead have seen the end of war'. Of the thousands of years of human history, experts believe only a few hundred may have been free from organized human conflict. For the American military, formal declarations of either the initiation or end of hostilities are, in any event, more the exception than the rule.

⁸ International Security Assistance Force, 'Mission', available at: www.isaf.nato.int/mission.html (last visited 5 May 2012).

⁹ ABC News/*Washington Post* Poll, 5–8 Apr. 2012, PollingReport.com, available at: www.pollingreport.com/afghan.htm (last visited 8 May 2012).

¹⁰ Fox News Poll (conducted by Anderson Robbins Research (D) and Shaw & Company Research, 22–24 Apr. 2012), PollingReport.com, available at: www.pollingreport.com/afghan.htm (last visited 8 May 2012).

¹¹ UN, *Charter of the United Nations*, 24 Oct. 1945, 1 UNTS XVI, preamble, available at: www.unhcr.org/refworld/docid/3ae6b3930.html (last visited 6 May 2012).

For example, although the US has formally declared war only five times, there have been hundreds of instances where the US military has been used abroad.¹²

Realities, not formalities, are the coin of the realm for those in the armed forces. Still, under US law, designations of ‘periods of war’ and their termination have legal effects, to include triggering a variety of US wartime legislative authorities,¹³ as well as creating entitlements to various veterans’ benefits.¹⁴ Similarly, in terms of international law, the requirement to release persons detained as belligerents ‘after the cessation of active hostilities’ is one example of the impact of proclamations of victory or the like.¹⁵

Apart from such legal declarations, what would the military consider, *de facto*, as ‘victory’? Professor Blum wisely undergirds her arguments with references to Clausewitz, who continues to reign as the patriarch of American military theorists. While she cites his discussion of success and makes the critical point that it may not require the outright defeat of the enemy, another reference which might better reflect a military perspective on the issue of victory would be his description of war as being ‘an act of violence intended to compel our opponent to fulfill our will’.¹⁶ So construed victory would be the point at which the opponent submitted.

How then would submission be determined? It would be, as Professor Blum puts it in her definition of victory, the ‘attainment of one’s goals as they are set at the beginning of a military campaign or as they are refined and redefined throughout it’.¹⁷ This is where the soldier wants the politician to describe with real specificity what goals, in fact, will ‘fulfill [the politicians’] will’. Colin Powell made this a central element of his famous doctrine on the use of force when he argued that the armed forces needed ‘clear and unambiguous objectives’ that are ‘firmly linked with the political objectives’.¹⁸ Once such objectives are achieved, the military mission is complete, and to those in uniform that can suffice as ‘victory’.

Yet so often – as Blum indicates – such objectives, if they existed at all, become muddled to the point of near incoherence, especially as a conflict becomes extended. Recently, Anthony Cordesman argued that the ‘inability to define specific goals, milestones, and resources’ serves to frustrate American efforts

¹² Grimmert, ‘Instances of Use of United States Armed Forces Abroad, 1798–2010’, Congressional Research Service, 10 Mar. 2011, at 43, available at: www.fas.org/sgp/crs/natsec/R41677.pdf (last visited 7 May 2012).

¹³ Elsea and Grimmert, ‘Declarations of War and Authorizations for the Use of Military Force: Historical Background and Legal Implications’, Congressional Research Service, 17 Mar. 2011, at 43, available at: www.fas.org/sgp/crs/natsec/RL31133.pdf (last visited 7 May 2012).

¹⁴ See generally Torreón, ‘U.S. Periods of War’, Congressional Research Service, 7 Jan. 2010, available at: <http://fpc.state.gov/documents/organization/135889.pdf> (last visited 7 May 2010).

¹⁵ International Committee of the Red Cross (ICRC), Geneva Convention Relative to the Treatment of Prisoners of War (Third Geneva Convention), 12 Aug. 1949, 75 UNTS 135, Art. 118, available at: www.unhcr.org/refworld/docid/3ae6b36c.html (last visited 8 May 2012).

¹⁶ C. von Clausewitz, *On War* (1908 edn), bk 1, chap. 1, available at: http://books.google.com/books/about/On_War.html?id=lqt1CgPoNwgC.

¹⁷ Blum, *supra* note 1, at 396.

¹⁸ Powell, ‘U.S. Forces: Challenges Ahead’, 72 *Foreign Affairs* (Winter 1992–1993), available at: www.cfr.org/world/us-forces-challenges-ahead/p7508 (last visited 6 May 2012).

in Afghanistan.¹⁹ In recommending various steps to achieve what he terms as a 'good enough' solution to Afghanistan, Cordesman concedes that even if his advice is followed, 'success will be uncertain and limited'.²⁰

This would seem to be a view with which Blum could agree. She clearly recognizes the many difficulties in applying traditional notions of victory to irregular warfare against a variety of non-state insurgents and terrorists. A complicator in this regards is something military experience of the last decade reveals: the often sketchy (or non-existent) relationship among and between various adversaries. The imposition of one's will, so to speak, on a group of *Sunni* insurgents in Iraq, for example, might have little impact on the inclination of *Shia* insurgents to submit, notwithstanding that both entities are operating in the same theatre of war, and may even share broadly construed war aims.

What is more is that the 21st century is seeing the emergence of a uniquely motivated security threat in the form of what are being called 'criminal insurgencies'. These are highly-organized and frequently well-equipped groups resisting the authority of the state, but not for the purpose of imposing a new political or ideological regime. Rather, these entities merely seek to blunt the coercive power of the state so as to be free to pursue their criminal activities unimpeded. To be sure, criminal enterprises have long existed, but the 21st century version – epitomized by the super-empowered Mexican drug cartels – have resources that rival those of the state, and are indifferent – almost by definition – to any law or, for that matter, Just War doctrine.²¹

Professor Blum rightly raises the Just War tradition in her discussion of the concept of victory. To the extent that Just War theory permeates military thinking, it finds expression in the law of war. This should not be as troubling as it might appear initially. After all, historian Geoffrey Best said, '[I]t must never be forgotten that the law of war, wherever it began at all, began mainly as a matter of religion and ethics . . . It began in ethics and it has kept one foot in ethics ever since.'²²

One might argue that in the era of the UN Charter, the propriety of the use of force has a distinctly legal personality, and one that is limited to those situations authorized by the UN as per Chapter VII of the Charter, or as an act in accordance with the 'inherent right' to self-defence, normally occasioned in response to an 'armed attack' as indicated in Article 51 of the Charter.²³ Professor Blum aligns this legal mandate with Just War doctrine by arguing that the UN Charter 'revived' the Just War tradition 'that justified war only if it promoted peace'.²⁴

Nevertheless, to the extent that Just War theory addresses what would be understood in the law as *jus ad bellum* principles, it is of only limited interest to military

¹⁹ Cordesman, "Time to Focus on "Afghan Good Enough"", Center for Strategic and International Studies, 1 May 2012, available at: <http://csis.org/publication/time-focus-afghan-good-enough> (last visited 7 May 2012).

²⁰ *Ibid.*

²¹ See, e.g., I. Grillo, *El Narco: Inside Mexico's Criminal Insurgency* (2011).

²² G. Best, *War & Law Since 1945* (1994), at 289.

²³ UN Charter, *supra* note 11.

²⁴ Blum, *supra* note 1, at 399.

personnel of democratic nations, even when expressed in international agreements like the UN Charter. Decisions as to the use of force – the proverbial ‘act of war’ debate – are ultimately the province of politicians, and not for the apolitical military to make. In fact, US military jurisprudence finds the lawfulness of a *jus ad bellum* decision by elected authorities to be essentially a non-justiciable political question.²⁵

For American military personnel the limits of military discretion beyond the law should be acknowledged, notwithstanding Just War principles or other coda not incorporated into law. For example, the US *Manual for Courts-Martial* provides that ‘the dictates of a person’s conscience, religion, or personal philosophy cannot justify or excuse the disobedience of an otherwise lawful order’.²⁶ Nor can individual military personnel necessarily define – or even interpret – the political purposes of the conflict. In *US v. Rockwood*, a US army officer deployed during the 1994 Haiti intervention sought to justify his unauthorized departure from his assigned compound to, he says, inspect Haitian prisons as being warranted by ‘international law and in furtherance of President Clinton’s intent’.²⁷ The appeals court dismissed such claims out of hand, finding no such ‘duty’ under international law for a military officer, and no evidence of Presidential direction.²⁸

The control of military personnel in armed conflict is a central feature of *jus in bello* as well as Just War tradition. Blum argues that ‘international law and international morality have made war, in aspiration if not in practice, more difficult to wage’.²⁹ In doing so she rightly undertakes to illuminate the difficulties in applying Just War criteria and, indeed, the law of armed conflict in situations where the legal status of adversaries is hard to ascertain.

In particular, non-state actors, may – or may not – be sufficiently organized and engaged in continuous combat operations to be considered belligerents subject to direct attack under the law of war.³⁰ Alternatively, they may merely be criminals subject to international human rights law (IHRL) which can entitle them to forms of due process not typically accorded to battlefield opponents. Professor Blum suggests that in today’s hybrid conflicts human rights norms are infused into the laws of war.³¹ This may be at odds with the US view that has not accepted IHRL as applying in wartime (a position which may be undergoing some modification³²). In any event, for the US

²⁵ *US v. Huet-Vaughn*, 43 MJ 105 (CAAF, 1995).

²⁶ *Manual for Courts-Martial, United States* (2012 edn), Pt IV, ¶14c(2)(a)(iv), available at: www.loc.gov/rr/frd/Military_Law/pdf/MCM-2012.pdf (last visited 6 May 2012).

²⁷ *US v. Rockwood*, 52 MJ 98 (CAAF, 1999).

²⁸ *Ibid.*

²⁹ Blum, *supra* note 1, at 393.

³⁰ According to the International Committee of the Red Cross, ‘[M]embers of organized armed groups belonging to a party to the conflict lose protection against direct attack for the duration of their membership (i.e., for as long as they assume a continuous combat function): ‘ICRC, Direct Participation in Hostilities: Questions & Answers’, 2 June 2009, available at: www.icrc.org/eng/resources/documents/faq/direct-participation-ihl-faq-020609.htm (last visited 8 May 2012).

³¹ Blum, *supra* note 1, at 393.

³² Van Schaack, ‘U.S. adjusts view on human rights law in wartime’, *IntLawGrrls.com*, 23 Jan. 2012, available at: www.intlawgrrls.com/2012/01/us-adjusts-view-on-human-rights-law-in.html (last visited 8 May 2012).

armed forces, the policy is unambiguous, and is to 'comply with the law of war during all armed conflicts, however such conflicts are characterized, and in all other military operations'.³³

Professor Blum also provides an extensive discussion of the difficulties of applying the law of war in today's context where the adversary is a non-state actor who hides among non-combatants, engages in terror tactics, and is – seemingly – indifferent to the legal and moral restraints that otherwise limit the militaries of democracies. Even in situations where the winning of 'hearts and minds' among the locals is said to be important, it appears that only Western forces are held accountable by indigenous populations even when civilians suffer. For example, in Afghanistan the Taliban were responsible for 77 per cent of the civilian deaths in 2011,³⁴ but there is little indication that their cause has suffered for it.³⁵

Nevertheless, in practice compliance with the law of war and, it might be said, Just War principles by US forces is not especially burdensome, even as it is recognized that deviations – even by a very few soldiers – have seriously damaged the US military effort since 9/11, and continue to do so. General David Petraeus has said, 'Abu Ghraib and other situations like that are non-biodegradable. They don't go away. The enemy continues to beat you with them like a stick.'³⁶

Moreover, recent incidents of indiscipline among US troops in Afghanistan obliged Secretary of Defense Leon Panetta to tell the troops that these episodes 'impact the mission we're engaged in, they can put your fellow service members at risk, they can hurt morale, and they can damage our standing in the world'.³⁷ Even more directly he said the incidents 'concern us because our enemies will seek to turn them in their favor, at the very moment when they are losing the wider war'.³⁸

As harmful as those events have been, it may be a mistake to make too much of them in terms of the long-term outcome. Evidence is mounting that President Obama's aim – the destruction of al-Qaeda – is proceeding unimpeded. Perhaps even more significantly, it is not necessarily because of what Professor Blum (and, it seems, General Dempsey) might attribute to nation-building or other *post bellum* efforts, but rather to a constellation of hard power activities energized by high-technology capabilities largely the province of the nation state.

³³ US Dep't of Defense Directive 2311.01E, 'DoD Law of War Program', 9 May 2006 (incorporating Change 1, 15 Nov. 2010; certified current as of 22 Feb. 2011), at para. 4.1, available at: www.dtic.mil/whs/directives/corres/pdf/231101e.pdf (last visited 8 May 2012).

³⁴ UN Assistance Mission, *Annual Report on the Protection of Civilians in Armed Conflict in Afghanistan for 2011*, Feb. 2012, at 1, available at: http://unama.unmissions.org/Portals/UNAMA/Documents/UNAMA%20POC%202011%20Report_Final_Feb%202012.pdf (last visited 19 Mar. 2012).

³⁵ Arnoldy, 'History Sides with Taliban, for Now', *Christian Science Monitor*, 10 May 2010, at 9.

³⁶ Berger, 'US Commander Describes Battle of Marj as First Salvo in Campaign', *NY Times*, 21 Feb. 2010 (quoting General David H. Petraeus), available at: www.nytimes.com/2010/02/22/world/asia/22petraeus.html (last visited 20 Mar. 2012).

³⁷ Bennett, 'Defense chief Leon Panetta implores U.S. troops to avoid misconduct', *Los Angeles Times*, 4 May 2012, available at: www.latimes.com/news/nation/nationnow/la-na-nn-panetta-military-discipline-20120504.0.1539371.story (last visited 6 May 2012).

³⁸ *Ibid.*

Ironically, both Obama and Dempsey seem to reject out of hand a purely military solution to achieve if not ‘victory’ *per se*, then at least a satisfactory conclusion in irregular war – and Professor Blum would seem to agree. Yet the most significant victory in recent times over an irregular foe – Sri Lanka’s defeat of the Liberation Tigers of Tamil Eelam that Professor Blum mentions – was largely accomplished by traditional military means, albeit violently and even brutally executed.³⁹ Although some of the techniques employed by the Sri Lankan military may not be acceptable to US or other Western forces, the success the Sri Lankan military enjoyed does stand in stark contrast to the assumption that conventional victory against irregular forces is impossible in the 21st century.

What is more, it suggests that what may be truly important is not so much what a putative ‘victor’ may conceive of as victory, but rather how the supposedly conquered views defeat. Much of this may not have to do with the restraint Professor Blum believes limits today’s warfighters but by the determination with which available force is used. Writing in 2004 at the height of disorder in Iraq, historian Norman Friedman questioned whether modern war had got ‘too precise’, and pointed out that the highly destructive aerial bombardment of Germany during World War II did ‘not change necessarily the hearts and minds’ of the German people, ‘but it did help preclude any post-surrender violence like what is now being seen in Iraq’.⁴⁰

In fact, the fundamentals of contemporary counterinsurgency (COIN) strategy are being challenged by a growing number of researchers who are concluding that force counts more than finesse. In an essay entitled *Soft War + Smart War? Think Again*, Professor Anna Simons of the Naval Postgraduate School makes that very point. She argues:

Not only does COIN’s own history reflect the need for a stunning amount of brutality, but the fact that in campaign after campaign commanders have found themselves desperate to be able to apply decisive force reveals what every generation ends up (re)discovering the hard way: soft approaches don’t impel enough people to change their ways fast enough.⁴¹

Similarly, Jill Hazelton of Harvard’s Belfer Center argues that the ‘conventional wisdom’ of COIN, that is that ‘the development of healthy, participatory, well-governed states will defeat insurgency’, is not what works.⁴² She maintains that force has an indispensable utility:

Generally, states that succeed in COIN rely on the use of force, offensive and defensive, to destroy the insurgent military threat by military means, and they also provide limited, targeted

³⁹ Smith, ‘Sri Lanka’s disconcerting COIN strategy for defeating the LTTE’, *Small Wars J*, 27 Aug. 2009, available at: <http://smallwarsjournal.com/blog/sri-lankas-disconcerting-coin-strategy-for-defeating-the-ltte> (last visited 6 May 2012).

⁴⁰ Friedman, ‘Is Modern War Too Precise?’, *US Naval Ins’t Proceedings*, Dec. 2004, at 4.

⁴¹ Simons, ‘Soft War + Smart War? Think Again’, *E-Notes*, Foreign Policy Research Institute, Apr. 2012, available at: www.fpri.org/enotes/2012/201204.simons.soft-war-smart-war.html (last visited 8 May 2012).

⁴² See also Costigan, ‘Interview with Jacqueline (Jill) Hazelton: Does Counterinsurgency as State-building Work?’, Belfer Center, 3 Dec. 2010, available at: http://belfercenter.ksg.harvard.edu/publication/20860/interview_with_jacqueline_jill_hazelton.html?breadcrumb=%2Fexperts%2F2085%2Fjacqueline_j_hazelton (last visited 8 May 2012).

political accommodations to gain the cooperation of useful political actors within the populace and insurgency.

Further, she counters the premise upon which General Dempsey seems to rely in his definition of victory:

Success in COIN does not require the protection of the populace, good governance, economic development, or winning the allegiance or the loyalty of the great majority of the population. *It does not require building up all of the institutions of the state.* These goals may be important to meeting popular grievances in a particular case, or important to the counterinsurgent for a variety of reasons, as with the United States in Iraq and Afghanistan, but the empirical evidence does not show that they are necessary for success.⁴³

She even questions popular beliefs about the impact civilian casualties have on the prospects of success by asserting that her research shows that '[s]uccessful COIN cases include less sensitivity to civilian casualties than the conventional wisdom prescribes'.⁴⁴ And in a message that may be unwelcome in many quarters, Bing West, the former assistant Secretary of Defense for International Security Affairs and best-selling author, insists that although '[o]ur senior leaders say the war cannot be won by killing', he believes that 'it will surely be lost if we don't kill more Islamist terrorists and hard-core Taliban'.⁴⁵

Of course, this is not to suggest that force must be used in an illicit way or contrary to Just War doctrine in order to achieve victory (or, as Blum would put it, the attainment of one's goals) against non-traditional foes. As the reports about the evidence found in Bin Laden's lair after his death indicate, the relentless attacks by drones were of paramount concern to the terrorists,⁴⁶ as opposed to the nation-building style of contemporary COIN theory. The utility of force, so recently seen as passé and even counterproductive in contemporary conflicts,⁴⁷ may be making something of a comeback.

But force is not the only means of waging modern war. Indeed, nation states are learning to bring to bear a variety of fully lawful and ethical methodologies apart from force *qua* force, which make it vastly more difficult for terrorists to operate. For example, nations have developed 'much greater computing power and more sophisticated analytical tools' for intelligence-gathering than non-state actors can conceive of, let alone replicate. These capabilities have led (and will continue to lead at a probably increasing pace) to the identification and capture of non-state adversaries, or – in some cases – the neutralization of the threat posed by them.⁴⁸ Indeed, this may mean

⁴³ Hazelton, 'The Hearts-and-Minds Approach Versus The High-Force Low Accommodation Approach', in J. L. Hazelton, *Compellence and Accommodation in Counterinsurgency Warfare*, Sept. 2010 (unpublished manuscript on file with author) (emphasis added).

⁴⁴ *Ibid.*

⁴⁵ Few, 'The Wrong War: An Interview with Bing West', *Small Wars J*, 21 Feb 2011, available at: <http://smallwarsjournal.com/blog/journal/docs-temp/679-few3.pdf> (emphasis added) (last visited 8 May 2012).

⁴⁶ Benson, 'Bin Laden Documents: Fear of Drones', CNN.com, 3 May 2012, available at: <http://security.blogs.cnn.com/2012/05/03/bin-laden-documents-fear-of-drones/> (last visited 8 May 2012).

⁴⁷ See, e.g., R. Smith, *The Utility of Force: The Art of War in the Modern World* (2007).

⁴⁸ Apps, 'Tech, tactics ramp up pressure on militant groups', Reuters, 8 May 2012, available at: www.reuters.com/article/2012/05/08/us-security-attacks-idUSBRE8470BT20120508 (last visited 8 May 2012).

Professor Blum's prediction about individuals 'rather than distinct collectives' being the 'target' in conflict may become technologically feasible sooner rather than later.⁴⁹

Although certain of Professor Blum's conceptions of contemporary conflicts may be challenged by some of these developments, her basic contentions about contemporary conflicts blurring 'the traditional lines between war and peace' and that a variety of factors 'has meant an articulation of victory in vaguer, broader, and more malleable terms that challenge contemporary Just War doctrine' remain unassailable.⁵⁰

More contentious is her theory that existing Just War doctrine, with its focus on the 'military components and collective features of armed conflicts, may be inadequate to encompass the full panoply and increasingly intertwined ethical, legal, and strategic aspects of contemporary conflicts'.⁵¹ One could reasonably maintain that basic concepts of Just War theory such as the requirement for a proper motive, the requirement that force be used only as a last resort and then only under circumstances yielding a reasonable chance of success, and the demand that any use of force avert evils that are worse than the evil sought to be avoided by conflict, are all principles worthy of continued application even in the complex circumstances of today's conflicts.

Yet Professor Blum's central thesis about the importance of clear goals in contemporary conflicts remains undisturbed. Nor can there be much dispute about her claims that the failure adequately to articulate the goals in Iraq and Afghanistan 'left the military floundering, designing strategy under great uncertainty and with tools that it may not be best equipped to handle'.⁵² Her further observation that 'the problem of the fog of victory extends not only to international relations but also to domestic civil-military relations' has obvious and enduring relevance.⁵³

How then might a military perspective inform the discussion? Perhaps by allowing expectations and the definition of goals to be tempered by hard, front-line experience. Douglas Ollivant, a former Army officer who served two tours in Iraq and who also served as Director for Iraq at the National Security Council (and is now a Senior National Security Studies Fellow at the New America Foundation), wrote a melancholy but ultimately insightful piece about the departure of US forces from Iraq:

The departure of U.S. military forces will give space for Iraq politics – both domestic and international – to normalize, it will permit the development of a more normal bilateral relationship between the United States and Iraq, and it sends an important signal that the United States is not attempting to impose a series of 'satrapies' in the Middle East and around the world. Above all, Iraqi politics need to achieve its own equilibrium.⁵⁴

Iraq, he contends, 'remains a cautionary tale that even victory in these types of "small wars" remains a rather ambiguous outcome'.⁵⁵ That may be an assessment with which Professor Blum and others with military experience can find much agreement.

⁴⁹ Blum, *supra* note 1, at 420.

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

⁵² *Ibid.*, at 421.

⁵³ *Ibid.*

⁵⁴ Ollivant, 'Iraq Is a Mess. But Leaving Was the Right Call', *The New Republic*, 23 Dec. 2011, available at: www.tnr.com/article/world/98863/iraq-withdrawal-maliki-stability-violence (last visited 8 May 2012).

⁵⁵ *Ibid.*