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The Dark Side of the Band of Brothers: Explaining Unit Participation in War Crimes

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The Dark Side of the Band of Brothers:

Explaining Variance in War Crimes

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On April 28, 2004, the world saw the first shocking images from Abu Ghraib. *60 Minutes* featured an exposé on the treatment of Iraqi detainees, revealing images of American soldiers committing startling abuses of Iraqi detainees. The photos created a firestorm of criticism against the United States. President Bush condemned the soldiers in the photos; in a speech on May 24, 2004, he admitted: "Under the dictator [Saddam Hussein], prisons like Abu Ghraib were symbols of death and torture. That same prison became a symbol of disgraceful conduct by a few American troops who dishonored our country and disregarded our values."[1] Many soldiers in Iraq and Afghanistan found the photos disgraceful and argued that they did their jobs in accordance with international law.[2] Why did the soldiers at Abu Ghraib behave so badly in comparison with other American units? Understanding why some units commit war crimes when others do not goes beyond the debate about blame; preventing war crimes requires that we understand what influences unit behavior. This dissertation seeks answers to the question asked in the aftermath of Abu Ghraib: Why do some military units participate in war crimes when others do not?

To understand variation in unit behavior, I ask three questions: How does the military socialize soldiers to respect the laws of war? Do civilian leaders, through their rhetoric, lead units to disregard the laws of war? Or, do unit subcultures create norms and beliefs that lead units to participate in war crimes? Based on my research, I find that junior leaders' ability to discipline their units and enforce the laws of war may explain why some units participate in war crimes when others do not. The military as an organization frequently fails to effectively communicate international law to its soldiers, and civilian leaders have minimal effects on unit behavior, except that their inattention can create frustration and reduce morale. Neither socialization nor civilian influence can explain why some units commit war crimes when other units do not. When junior leaders cannot or

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[1] "Excerpts from Bush's Speech," *Los Angeles Times* (25 May 2004): A10.
[2] Anahad O'Connor, "Pressure to Go Along with Abuse is Strong, But Some Soldiers Find Strength to Refuse," *The New York Times* (14 May 2004): http://www.lexisnexis.com (Accessed 1 August 2009).

do not enforce the laws of war, units may either disintegrate or countercultural subcultures may displace organizational norms. When junior leaders refuse to enforce the laws of war, they may enable countercultural subcultures and increase the likelihood that units will participate in war crimes. Strategies to prevent war crimes must include junior leadership and target units rather than remaining at a national or organizational level.

In the following sections, I describe the literature on state compliance with international law; these explanations do not offer insight on the question of unit participation in war crimes because they fail to examine how states ensure their militaries comply with international obligations. Next, I introduce my dependent variable: unit participation in war crimes. Then, I offer three alternative explanations of unit participation in war crimes: socialization in the laws of war, civilian influence, and unit subculture. I also outline my research design. Finally, I introduce my three case studies: U.S. intervention in Korea, British re-occupation of Malaya and Canadian peacekeepers in Somalia.

Compliance with the Laws of War

There is little international relations literature that evaluates unit compliance with the laws of war. Most scholars who address this and similar questions focus on the state. Realists, such as Jack Goldsmith and Eric Posner, argue that state compliance with human rights treaties results from coincidence; they argue that international human rights treaties do "not pull states toward compliance contrary to their interests."[3] Incidents such as Abu Ghraib raise the question of whether non-compliance with the laws of war could ever be in a state's interest. Goldsmith and Posner address this argument by minimizing the role of international law in weighing the cost of war crimes: "Atrocities give rise to protests and expressions of concern without close attention being paid to the

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[3] Jack L. Goldsmith and Eric A. Posner, *The Limits of International Law* (Oxford: Oxford University Press, 2005): 13.

state's legal obligations."[4] However, outrage over U.S. actions at Guantanamo Bay and in the CIA's global prison network have led international allies to question U.S. compliance with international law and made them less willing to help the United States achieve its international interests. Realist theorists, focusing only on the state and ignoring or discounting the direct and indirect costs of non-compliance, cannot explain unit variation in war crimes.

Neoliberal theorists, such as Arthur Stein, argue that international institutions coordinate state behavior and provide guidelines for appropriate responses to minimize these costs.[5] The material costs to states for non-compliance with the laws of war, however, are not clear. While the events at Abu Ghraib damaged international credibility, states could not quantify those costs and weigh them in advance against the benefits of increased intelligence or intimidation of potential threats in Iraq.

Theories that focus on compliance through a cost-benefit assessment also assume a robust and consistent response to non-compliance; this consistency rarely exists.[6] During the international debate about the Rwandan genocide, U.S. policymakers worried that if they called the conflict a "genocide," they would have to respond with force. However, the frequent use of the word to describe the state-supported killings in Sudan and the continued inaction on the part of major international powers to stop the genocide suggest that state enforcement of human rights law is not as robust as advocates of international institutions would hope, and thus imposes only sporadic material costs on violators.

Constructivists look beyond material costs and benefits of compliance to the role of normative influences. Martha Finnemore notes that realists and neoliberals ignore the power of norms to shape state behavior. In her work on state compliance with the Geneva Conventions, she

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[4] Goldsmith and Posner 124.
[5] Arthur Stein, "Coordination and collaboration: regimes in an anarchic world," in Stephen Krasner, ed. *International Regimes* (Ithaca, NY: Cornell University Press, 1983): 120.
[6] Oona Hathaway, "Do Human Rights Treaties Make a Difference?" *Yale Law Journal* 111 (June 2002): 1951.

argues that, "The Geneva Conventions did not provide strategic advantages to states to help them win wars. States adopted them, not as means to ends, but as ends in themselves – as affirmations of value about the kind of world people wanted and the kind of behavior that was acceptable."[7] In Finnemore's view, states comply with the laws of war to signal their values. Finnemore's argument, however, cannot address cases in which the outward signals are inconsistent with state practice. President Bush claimed that the United States did not torture, but that did not convince the world that the American military upheld international law. I am interested in understanding how states that claim to comply with international law ensure that their militaries do so.

Current debates about compliance with international law in international relations literature focus on the state and its relationship to international organizations. I am interested in understanding how states internally enforce their international commitments. Legal scholar Harold Hongju Koh offers a transnational model of state compliance to explain how states move from obligating themselves to certain international principles to compliance with them. He argues that states "internalize" laws; rather than complying with an international law that contains no credible enforcement mechanism, states must comply with national law and face more proximal costs for non-compliance.[8] Although this theory goes one step further toward explaining why organizations within the state comply with international law, the internalization process remains underdeveloped; Koh's focus is only on the level of legislation, not enforcement.

To better understand how internalization might operate in the context of the laws of war, I look to literature using organizational variables to understand the relationship between the military and the state. Jeffrey Legro, in his examination of state restraint in the use of different kinds of warfare during World War II, notes that the organizational culture of militaries, and their beliefs about identity, shape state decisions in warfare. Although most scholars consider warfare one of the

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[7] Martha Finnemore, *National Interests in International Society* (Ithaca, NY: Cornell University Press, 1996): 129.
[8] Harold Hongju Koh, "How is International Human Rights Law Enforced?" *Indiana Law Journal* (Fall 1999): 1408.

policy areas where the international system exerts the most influence, Legro concludes: "It is in the midst of conflict that military plans and capabilities are put into action, that soldiers assume an important part in decision making…Civilian leaders often do intervene to alter organizational tendencies, but not infrequently they are thwarted or in the process change their own preferences to conform to that military culture."[9] Legro's analysis suggests that state decisions do not always flow from the top down; organizations within the state can influence state actions. This leaves open the possibility that while states may decide to accept international law, explaining compliance requires looking at organizations within the state.

International relations literature does not offer insights on how organizations within the state "internalize" international legal obligations. Ian Hurd argues that scholars who utilize the concept of internalization often fail to explain the process in any detail.[10] He defines internalization as a process in which the actor accepts external rules to regulate its behavior: "Internalization takes place when the actor's sense of its own interests is partially constituted by a force outside itself, that is, by the standards, laws, rules and norms present in the community, existing at the intersubjective level."[11] He suggests that understanding internalization requires empirical work; one must understand how the actor perceives the rule.[12] This dissertation follows Hurd's call for research regarding acceptance of international norms and legitimacy; I look at the national, organizational and sub-organizational levels to understand how civilian and military leaders communicate to units about the laws of war, and how units decide to accept, or not accept, the laws of war. Current theoretical explanations fail to explain state efforts to enforce their external commitments. To answer questions about state cooperation and compliance with international law and international agreements, we need to look

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[9] Jeffrey Legro, *Cooperation Under Fire: Anglo-German Restraint During World War II* (Ithaca, NY: Cornell University Press, 1995): 233.
[10] Ian Hurd, "Legitimacy and Authority in International Politics," *International Organization* 53 no. 2 (Spring 1999): 380.
[11] Hurd 388.
[12] Hurd 380.

inside the state.

Explaining Variation and Preventing War Crimes

While political scientists have largely ignored the question of variation in unit commission of war crimes, many scholars who address war crimes look at each incident as a discrete event. Literature on war crimes is primarily historical, describing details of abuses without seeking patterns across cases. Scholars who use social science often assign responsibility for war crimes to political leaders, explaining the behavior of lower-level soldiers as obedience to superior orders.[13] Omer Bartov, in his study of the brutal behavior of German soldiers on the eastern front during World War II, argues: "ordinary men can be made into highly professional and determined soldiers, brutalized instruments of a barbarous policy, and devoted believers in a murderous ideology."[14] These arguments emphasize the possibility that ordinary people commit extraordinary crimes, but only under the orders of sadistic and brutal leaders. Daniel Jonah Goldhagen challenges this "obedience hypothesis." He argues: "All 'obedience,' all 'crimes of obedience' (and this refers only to situations in which coercion is not applied or threatened), depend upon the existence of a propitious social and political context, in which the actors deem the authority to issue commands legitimate and the commands themselves not to be a gross transgression of sacred values and the overarching moral order."[15] Goldhagen rejects obedience explanations because he views them as ignoring context. While I do not go as far as Goldhagen to suggest that, in all cases, soldier were willing and eager participants in these war crimes, I do test his argument about the role of the organization in creating an environment that promotes compliance or disregard for the laws of war

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[13] Christopher Browning, *Ordinary Men: Reserve Police Battalion 101 and the final solution in Poland* (New York, NY: Harper Collins, 1992) and John Conroy, *Unspeakable Acts, ordinary people: the dynamics of torture* (New York, NY: Knopf, 2000) are two examples.

[14] Omer Bartov, *Hitler's Army: Soldier's, Nazis and War in the Third Reich* (New York: Oxford University Press, 1991): vii.

[15] Daniel Jonah Goldhagen, *Hitler's Willing Executioners: Ordinary Germans and the Holocaust* (New York: Alfred A Knopf, 1996): 383.

and that environment's influence on unit behavior. Although many historical accounts of war crimes, along with the perpetrators themselves, have cited obedience to superior orders as an explanation, few studies examine the contexts of those events to determine why soldiers accepted these orders to violate the laws of war.

While scholars have focused on issues of obedience and political leadership, governments often blame rogue soldiers. These "bad apple" defenses provide convenient cover for military and civilian leaders: the abuses are anomalies - soldiers with unforeseeable faults committing acts of sadism. Alternatively, the media may portray these soldiers as tragic figures; terrible circumstances excuse their actions and call for forgiveness. The government, in these cases, may bear some responsibility, but generally such events play out as sad accidents and misunderstandings. These explanations focus only on specific events; they do not compare units to determine why one participated in war crimes when another unit in a similar situation did not.[16] Only rarely do war crimes lead policy makers to reflect on the process of mission selection, military preparation, and conflict management; such reflection generally only lasts as long as the political party that initiates it.[17] Many scholars focus on reactive strategies, i.e. international criminal courts and local prosecution of war criminals. These authors, when they do talk about prevention, focus on the deterrent effect of these legal proceedings.[18] Few authors offer ways to reform the military as an organization to prevent war crimes.[19] Examining variation in unit participation in war crimes may allow leaders to develop comprehensive strategies to prevent future tragedies.

The Dependent Variable: Unit Participation in War Crimes

[16] The U.S. military's No Gun Ri report focuses only on the actions of the 7th Cavalry regiment and the allegations of the massacre. The Peers investigation of the My Lai massacre and the investigation of the abuses at Abu Ghraib also only focused on the units implicated in the event.

[17] The Canadian Commission of Inquiry investigating the civilian deaths in Somalia was disbanded when the party in control of parliament changed hands.

[18] Gary Bass, *Stay The Hand of Vengeance* (Princeton, NJ: Princeton University Press, 2001).

[19] Mark Osiel, *Obeying Orders* (New Brunswick, NY: Transaction Publishers, 1999).

I examine the behavior of units, which are groups that the military assigns to perform particular tasks. These units may be of varying size, depending on their tasks and location. In my case studies, I examine the 7th Cavalry Regiment deployed in the initial intervention in Korea, the Scots Guards Regiment deployed during the Malayan Emergency, and the 2 Commando of the Canadian Airborne Regiment that served in Somalia. Within each conflict, I compare these units to other units deployed in the conflicts at the same time and facing the same threat environment. While individuals may commit war crimes, the military, civilians, and their units often create an environment that makes those crimes seem acceptable or appropriate. Examining these organizational influences gives political scientists something they can measure without the benefit of expertise in personal psychology, and gives decision makers information to guide future policy.

In each of my cases, I examine units that have direct contact with civilians. Although there are many cases of militaries using weapons, such as precision-guided munitions, that target the enemy but have devastating consequences for civilians, these cases challenge the ability of international law to keep pace with technological developments.[20] I focus on units that faced situations more clearly anticipated by the existing laws of war. My case studies are: American units' interactions with civilian refugees during the Korean War, British units' interactions with civilian villagers during the Malayan Emergency and Canadian units patrolling civilian areas in Somalia. While some units in these case studies maintained restraint when managing civilians, others used excessive force and, as a result, abused and killed civilians in violation of the laws of war.

Participation in war crimes includes acts prohibited by the laws of war. The laws of war initially existed only as customary international law. Major states at the end of the 19th century and beginning of the 20th attempted to limit the means available in war. The principle underlying the

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[20] Precision guided munitions, while arguably an advance in making warfare more discriminate, are only as accurate as the intelligence that determines their targets. By definition, war crimes statutes require that perpetrators must intentionally, not accidentally, violate the law.

Hague Peace Conference of 1899 was: "The right of belligerents to adopt means of injuring the enemy is not unlimited."[21] While many of these agreements failed to prevent brutal and unnecessary acts of violence during World War I and World War II, states did respect other limits, such as protections for prisoners of war and neutrality for humanitarian workers.[22] In the aftermath of World War II, the Allied powers decided to prosecute the individual leaders of Germany for war crimes rather than impose collective responsibility; the Charter of the International Military Tribunal codified the concept of war crimes.[23] The 1949 Geneva Conventions went further in formalizing the rights of prisoners and civilians. Examples of war crimes include: willful killing of civilians, torture or inhuman treatment, and depriving POWs and protected persons of their rights.[24] In Korea, I examine the 7th Cavalry Regiment that massacred civilian refugees. In Malaya, I focus on a Scots Guard patrol that killed civilian villagers. Finally, in Somalia, I look at 2 Commando of the Canadian Airborne Regiment that tortured a civilian detainee to death.

Explaining Variation in Participation in War Crimes

To explain variation in participation in war crimes, I test three alternative explanations: military socialization, civilian leadership, and unit subcultures. In this section, I present the theory behind each of these explanations, derive hypotheses from each and discuss my research design. I also preview the findings from my case studies.

Socialization

Organizational culture includes the shared beliefs of members of a group that help orient

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[21] Department of State, "Convention With Respect to the Laws and Customs of War on Land (Hague II)," 29 July 1899, TIAS no. 8407, *United States Treaties and Other International Agreements*, vol. 1: Section 11, Art. 22.
[22] Finnemore, "Rules of War", 153
[23] "The Nuremberg Charter," 8 August 1945, *United Nations Treaty Series*, 82, no. 279: Section II, Article 6(b).
[24] Department of State, "Geneva Convention Relative to the Protection of Civilian Persons in Time of War," 12 August 1949, TIAS no. 3365, *United States Treaties and Other International Agreements*: Article 3 and Department of State, "Geneva Convention Relative to the Treatment of Prisoners of War," 12 August 1949, TIAS no. 3364, *United States Treaties and Other International Agreements*: Article 3.

their behavior toward a particular goal. Mats Alvesson, an expert on managerial studies and leadership, defines organizational culture as "a sense of common, taken for granted ideas, beliefs, and meanings [that] are necessary for continuing organized activity."[25] This culture orients individuals within the organization to ensure that they complete tasks efficiently and according to a common method. Militaries develop organizational cultures to transform civilians into soldiers. A. David Mangelsdorff, a highly experienced military psychologist, and Reuven Gal, former chief psychologist for the Israeli Defense Forces, note: "The process of training military recruits has relied on military psychology contributing to the reeducation and training of civilians into military personnel."[26] Elizabeth Kier observes: "Few organizations devote as many resources to the assimilation of their members. The emphasis on ceremony and tradition, and the development of a common language and esprit de corps, testify to the strength of the military's organizational culture."[27] Given the nature of their objectives and the dangers their members face, this organizational culture is crucial to ensure safety and to create an identity that privileges organizational goals.

To socialize members in the laws of war, militaries must train soldiers about the laws of war and then enforce those laws. First, militaries inform soldiers about the specifics of the regulations, test their ability to apply those regulations, and persuade them to internalize those regulations. These socialization efforts represent a proactive attempt to ensure compliance. Mark Osiel, expert on military sociology, notes: "the best prospects for minimizing war crimes…derive from creating a personal identity based upon the virtues of chivalry and martial honor, virtues seen by officers as

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[25] Mats Alvesson, *Understanding Organizational Culture* (London: SAGE Publications, 2002): 2.
[26] A. David Mangelsdorff and Reuven Gal, "Overview of Military Psychology," in Reuven Gal and A. David Mangelsdorff, eds. *Handbook of Military Psychology* (New York, NY: John Wiley & Sons, 1991)
[27] Elizabeth Kier, "Culture and Military Doctrine: France Between the Wars," *International Security* 19 no. 4 (Spring 1995): 69.

constitutive of good soldiering." [28] Additionally, the military must establish monitoring and enforcement mechanisms to demonstrate their commitment to the laws of war. This commitment goes beyond a system of punishment; it communicates that the military values the laws of war. If the military fails in either of these tasks, they leave members ignorant of their obligations or skeptical that their leaders view the laws of war as important limitations on the use of force. In the absence of knowledge of and adherence to these laws, units may act in accordance with expedience, fear, or revenge; this response may lead units to participate in war crimes.

Socialization is difficult to assess, but several theorists have created frameworks that provide some guidance. Theodore Long and Jeffrey Hadden measure socialization through transmission of knowledge, skill, and commitment.[29] Knowledge measures the basic transmission of the rules – has the organization communicated the laws of war to new members? Skill involves the ability to apply these rules – can members identify the appropriate rules and utilize them in real-world scenarios? Finally, commitment is the most difficult to determine – have members internalized these rules as their own value structures?

Training

Measuring the first two elements of Long and Hadden's model involves examination of training regimes militaries use to educate soldiers about the laws of war. During training, the organization communicates both its norms and the regulations that guide behavior. Elizabeth Kier builds her arguments on organizational theorist Ann Swidler, who describes culture as providing a set of tools to address organizational concerns.[30] The military should provide new soldiers with basic military skills, including tactics, weaponry, and inform them of their obligations under the laws of

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[28] Mark Osiel, *Obeying Orders* (New Brunswick, NJ: Transaction Publishers, 1999): 23.

[29] Theodore Long and Jeffrey K. Hadden, "A Reconceptualization of Socialization," *Sociological Theory* 3 no. 1 (Spring 1985): 43.

[30] Elizabeth Kier, *Imagining War: French and British Military Doctrine Between the Wars* (Princeton, NJ: Princeton University Press, 1997): 31.

war. I am interested in whether militaries adequately train their soldiers in these obligations. If units do not receive training in the laws of war, they may not comply with it.

> *Hypothesis One: If the military does not provide training in the laws of war, units are more likely to participate in war crimes.*

To assess training, I looked at military manuals, curriculum materials and situational exercises. Manuals should include information about the country's international and domestic legal obligations, national (military and civilian) laws prohibiting war crimes and suggestions for alternative techniques for situations that might lead to unit participation in war crimes. Training plans should include lectures that focus on these issues, as well as situational drills that test unit members' application of these principles in hypothetical scenarios. To increase the value of training, U.S. military lawyers also encourage units to set aside adequate time for training in the laws of war and schedule training during the teaching of other skills, rather than tacking it on to the end of the curriculum as an afterthought.

In my research, the inadequacy of laws of war training surprised me. In the American, British, and Canadian militaries, the basic training curriculum included only passing mention, if at all, of the laws of war. While each organization produced some promising formal documents, there is little evidence in the soldiers' testimonies that this training influenced their behavior; many could not recall ever learning about the laws of war. In Korea, U.S. forces received military justice training, which included the laws of war among many other topics, but only in the last week of the fourteen-week training program. Once mobilization demands required quicker movement of troops from the United States, the Army Chief of Staff cut the training period in half, and this likely eliminated any training in the laws of war from the curriculum. British regiments, on the long passage to Malaya, planned numerous training activities; none of these included the laws of war or civilian protections, even though their mission was to aid the civilian government. Even after incidents that made the

lack of training obvious, there were no efforts in any of these cases to conduct remedial training in the laws of war. In Somalia, pre-deployment changes led to a rushed training schedule. Officers received general information on the Geneva Conventions, but did not pass it on to their units. After the beating death of Shidane Arone, military justice officers offered to conduct additional training, but unit commanders did not take them up on their offer. The general low level of training, however, could not explain variation in unit participation of war crimes. Indeed, it made the relative lack of war crimes more remarkable; given that soldiers had little familiarity with the laws of war or how to apply them, I expected that more troops would respond to stressful or dangerous situations with excessive force, endangering any civilians caught in the crossfire.

Enforcement

As Long and Hadden argue, organizational leaders must demonstrate commitment to their norms if they expect members to adopt them as their own. While evaluating formal training efforts provides some insight into socialization, there is also a long tradition in the military of making new rules to respond to a crisis. However, leaders rarely enforce these rules. Classic examples of these botched efforts are regulations to eliminate discrimination against women and the failure of the "Don't Ask Don't Tell" policy to protect homosexuals in the U.S. military. One theory on why these reforms fail argues that there is not adequate commitment on behalf of the organization and leadership to enforce them.[31] This leadership failure sends a negative signal to members who must make significant sacrifices to adopt prescribed norms, especially norms related to the laws of war. Edgar Schein argues that leaders, through their behavior, communicate their values: "Though what they pay attention to and reward, through the manner in which they deal with critical incidents, and through the criteria they use for recruitment, selection, promotion, and excommunication, they

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[31] T.S. Nelson, *For Love of Country: Confronting Rape and Sexual Harassment in the U.S. Military* (Binghamton, NY: The Haworth Press, 2002).

communicate both explicitly and implicitly the assumptions they really hold." [32] If individuals believe that the organization or their superiors do not support the laws of war, which they demonstrate when they are unwilling to enforce them or enforce them inconsistently, unit members are less likely to accept them as binding and integrate them into their belief systems.

Hypothesis Two: If military leaders do not signal commitment the laws of war, units are more likely to participate in war crimes.

Measuring enforcement requires examining discipline in the unit and specific efforts to enforce the laws of war. The number of disciplinary incidents suggests whether unit members were committed to organizational norms. A low number may suggest better compliance; it could also suggest a lack of reporting. Unit member testimonies may reveal beliefs about the organization and leaders' efforts to discipline the troops. Junior leaders' abilities to enforce organizational norms and discipline their unit also contribute to units' respect for the organization. Finally, I look at military efforts to investigate, prosecute, and punish those who violate the laws of war.

In each of my cases, the state of discipline within the unit usually signaled whether junior leaders would enforce the laws of war; if junior leaders were unwilling to enforce basic standards of discipline, they were also less likely to enforce the laws of war. In Korea, senior officers sent conflicting signals about the laws of war. MacArthur publicly committed American forces to comply with the Geneva Conventions, but other senior leaders authorized units to shoot civilians refugees. Junior leaders in some units compensated for this confusion and enforced the laws of war. However, many of the junior officers in the 7th Cavalry Regiment left the unit just prior to its deployment. This transfer left the unit without leaders they knew and trained with. Many of these soldiers, without strong leaders, felt no obligations to the military or its regulations, including the laws of war. While all units expressed problems with unit leadership, the 7th Cavalry, which lost the

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[32] Edgar H. Schein, *Organizational Culture and Leadership: A Dynamic View* (San Francisco, CA: Jossey-Bass Publishers, 1990): 242.

most junior officers, experienced the greatest difficulties with discipline and compliance with the laws of war.

In Malaya, senior officers also made few efforts to enforce the laws of war. Sir Henry Guerney, the High Commissioner in Malaya, argued that compliance with the law was incompatible with fighting the insurgent forces. Various colonial officers sent conflicting messages about accountability; while some demanded that soldiers distinguish between enemy and civilian targets during their jungle patrols, others intervened when local law enforcement sought to prosecute units for civilian deaths.

In Somalia, senior officers sought to cover up civilian killings done under their confusing orders; after a patrol shot at two Somalis allegedly stealing from the base camp, the Area Commander ordered a junior officer to investigate the incident. When this officer submitted a report that included nothing but the soldiers' accounts, the Commander deleted any reference to his order and then forwarded it to the Department of National Defense without action against those involved. Given the signals from senior leadership in these cases, I would have expected to find many more instances of war crimes; senior leaders, even when they claimed to support the laws of war, often gave orders that contradicted those claims. In all of these cases, junior leaders' abilities to exert control over their unit differentiated those who complied with the laws of war from those who did not.

Civilian Signaling

Civilian control of the military gives civilian leaders authority over operations and strategy; civilians decide when the military goes to war and limits the means it may use to achieve its objectives. Rarely does this control extend to intervention in management aspects of military affairs; many studies have demonstrated military leaders' ability to avoid reform if it does not coincide with

the organization's beliefs.[33] In the face of this resistance, civilian leaders may appeal directly to units and communicate their desires to shortcut the difficult process of debating new organizational rules or changing internal military culture. Danielle Beu and M. Ronald Buckley note that in the civilian world, "leaders can frame the employees' view of the situation so that the employees believe what they are doing is ethical or that they have no other choice but to obey."[34] If civilian leaders alter how units see conflicts and their enemies, they can change the standards for appropriate behavior and the likelihood of unit participation in war crimes. Beu, using noted psychologist Albert Bandura's work on moral disengagement, categorizes these techniques as those that reframe reprehensible conduct, that distance the individual from their actions, and that dehumanize or blame the victim. Civilian leaders may exaggerate the importance of the conflict; they may argue that the enemy's victory would threaten the nation's survival or way of life. They may also dehumanize the enemy by arguing that their brutal tactics prove their inhumanity; if the enemy is not 'truly' human, then the unit need not worry about the laws of war that help protect human rights. Civilian leaders aiming to encourage moral self-engagement, or questioning of illegal orders, would not seek to reframe the situation, but reinforce the laws of war. However, as Bandura, Beu and Buckley argue, civilian leaders may be able use these strategies to suspend the laws of war.

> *Hypothesis Three: If civilian leaders signal that the laws of war do not apply to the conflict or the enemy,*
> *units are more likely to participate in war crimes.*

Civilian leaders communicate to units in a number of ways. They can talk to them directly through speeches, or through television, radio, or newspaper articles. The content of these messages can emphasize the importance of the conflict to the survival of the nation or essentialization of enemy characteristics and behavior. Messages from civilian leaders stressing the importance of the

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[33] Stephen Rosen, *Winning the Next War: Innovation and the Modern Military* (Ithaca, NY: Cornell University Press, 1994) and Deborah Avant, "Are the Reluctant Warriors Out of Control," *Security Studies* 6 iss. 2 (Winter 1996).
[34] Danielle S. Beu and M. Ronald Buckley, "This is war: How the politically astute achieve crimes of obedience through the use of moral disengagement," *The Leadership Quarterly* 15 (2004): 552.

conflict may suggest that they endorse the use of extraordinary means and accept responsibility for the unit's actions. Finally, civilian leaders may encourage behavior that exceeds existing limitations, e.g. Bush's directive to capture Osama bin Laden "dead or alive." Aside from written and oral communication, civilians can also communicate through other interventions, such as personnel changes outside normal rotation. The assignment of Geoffrey Miller to the Abu Ghraib prison reflected approval of Miller's aggressive interrogation tactics at Guantanamo Bay and a lack of concern for Geneva Convention obligations that the U.S. military acknowledged applied to the conflict in Iraq.

This hypothesis tests whether civilian signals lead unit members to change their perception of the conflict or the enemy. Unit members' testimony may suggest that civilian statements played an important role in justifying or rationalizing their actions. In the same vein, unit members may say that they found civilian rhetoric unpersuasive or that they did not believe that civilian statements could suspend the law. Finally, testimonies may suggest that unit beliefs carried greater influence than civilian statements or actions.

Based on the behavior of the Bush administration and testimony from the soldiers at Abu Ghraib, this explanation seemed intuitively powerful. However, in these three cases, civilian rhetoric did not convince soldiers to disregard the laws of war. In Korea and Malaya, units found efforts to link the conflict to the larger global struggle against communism unpersuasive. Many soldiers viewed national leaders' unwillingness to label the fight a "war" versus a "police action" or an "Emergency" offensive, especially in light of the dangers their units faced. Although many soldiers did use dehumanizing descriptions of the enemy, they either borrowed these from previous conflicts or they were the soldiers' creations based on their experiences.

In contrast to my expectations, I found that civilian "inattention" created more problems than exaggerated civilian rhetoric. Inattention, which soldiers described in their diaries and oral

histories, made them angry that their leaders deployed them on a vague, undefined, or unworthy mission. President Harry Truman's reticence to talk publicly about the Korean War and drum up public support left soldiers wondering why they were fighting in a country that no one in the United States could find on a map. British soldiers in Malaya, angry about Prime Minister Clement Attlee's silence, speculated that they were really in Malaya to defend economic interests. In Somalia, Canadian soldiers could not understand their mission or how long they would stay in the hot, dry, and inhospitable country. This lack of attention made units feel that the government did not respect their sacrifices; these sentiments led them to resent restrictions on their actions and privilege their own survival over adherence to military orders or the laws of war.

In Malaya, I also found that civilian inattention led local military leaders to approach the conflict from a strictly military perspective. General Charles Boucher, in charge of military operations in Malaya at the outset of the Emergency, felt that a demonstration of power would easily intimidate and defeat the insurgents. He also rejected suggestions to implement the small unit tactics successfully used in Burma during World War II; he preferred large unit patrols, despite their failure to capture or kill insurgent fighters. This power-based approach may have created frustration within units, and led them to strike the more easily accessible civilians who provided material support, willingly or unwillingly, to insurgent fighters.

If civilian influence could explain unit participation in war crimes, inattention rather than exaggeration and dehumanization, should have led units in Korea, Malaya, and Somalia to widely violate the laws of war. Although civilian influence cannot explain unit variation, the evidence does suggest that civilians did not help promote compliance with the laws of war through their actions. Although I cannot generalize about the role of inattention given that I found the variable in the process of my case studies, I believe it is an explanation that calls for future research.

Subculture

Organizational culture can break down as individuals divide into groups with different responsibilities and deploy to widespread locations. Randall Rose notes that organizations rarely maintain a unitary culture; multiple factors, such as the transfer of new personnel between departments, new technology, and different responsibilities, leads to the creation of subcultures.[35] These subcultures represent the members' understandings of the informal rules of the organization, along with ideas about the appropriate characteristics and conduct of its members.[36] Joanne Martin and Caren Siehl note that these subcultures can either support the organization's goals (enhancing), or develop in opposition to organizational beliefs (countercultural).[37]

Countercultures "present a direct challenge to the core values of a dominant culture."[38] One of the greatest demonstrations of the negative potential of countercultural subcultures is the 'thin blue line,' or 'beat cop' subcultures. Within police subcultures, lower-level officers resent their leadership, believing that they push papers while cops on the street experience real danger. John Crank, a former soldier and organizational theorist, observes: "Officers recognize instinctively, or from experience if instinct does not provide insight soon enough, that SOP [standard operating procedures] is a tool used punitively, always in retrospect, and by managers who seek to protect themselves from line-level mistakes."[39] Countercultural subcultures emerge from an in-group-out-group dynamic that separates units from higher-level leadership, creates skepticism about rules, and justifies norms that may discount the laws of war.

Hypothesis Four: If the unit has a countercultural subculture, it is more likely to participate in war crimes.

I measure subculture by identifying the dominant norms and examining the relationship

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[35] Randall A. Rose, "Organizations as Multiple Cultures: A Rules Theory Analysis," *Human Relations* 41 no.2 (1988): 142-3.

[36] Rose 148.

[37] Joanne Martin and Caren Siehl, "Organizational Culture and Counterculture: An Uneasy Symbiosis," *Organizational Dynamics* (Autumn 1983).

[38] Martin and Siehl 54.

[39] John P. Crank, *Understanding Police Culture* (Cincinnati, OH: Anderson Publishing Co., 1998): 33.

between those norms and unit behavior. While at first glance this hypothesis may seem tautological, the causal process links anti-authoritarian beliefs with rejection of organizational restrictions on unit behavior. The unit may develop norms that reject external control, particularly control exercised by the chain of command. In the case of laws and war and limits on the use of force, the unit may believe that exceeding these limits is key to exercising their authority. Similarly, members of the subculture may feel that the organization is not providing them the resources that they need and respond by doing the minimal amount of work to achieve their goals. This minimal effort can translate into the escalation of force rather than negotiation or other dispute resolution means.

Subcultures thrive in an in-group-out-group dynamic; those in the subculture feel that the organization is attacking them and they will try to establish boundaries between the subculture and the dominant one. These boundaries may become apparent in the form of solidarity in face of investigations and prosecutions of unit members for war crimes. Discovering these different beliefs or behaviors helps describe the content of the subculture and test its relationship with unit behavior.

Based on my research, I discovered that subcultures require not only a concerted effort on the part of unit members to cultivate, but also consistent group membership. If militaries experience high turnover, the subculture remains shallow and does not exert much influence over unit behavior. In Korea, units changed rapidly due to manpower shortages and battlefield casualties; regardless of the efforts of various unit officers to cultivate subcultural identity, there was not enough time or energy for soldiers to accept that identity and have it guide their behavior.

However, if the subculture emerges from a consistent identity that the members strongly embrace, this situation can lead to the development of countercultural subcultures that flout the organization and encourage participation in war crimes. In Malaya, the Scots Guards' strong devotion to their national identity (versus the "pudding" English) made them refuse to adapt their tactics to the small patrols appropriate to jungle warfare. This refusal led the unit to perform poorly

on patrols; insurgent fighters easily detected their movements and avoided contact. The unit's

frustration with this lack of success, which stemmed from their unwillingness to adopt small unit

tactics based on their unit identity, increased the likelihood that they would strike the more

accessible civilian population.

2 Commando of the Canadian Airborne Regiment held a similarly resistant countercultural

subculture; they prided themselves on being the "roughest, toughest" unit of the Canadian Airborne

Regiment (CAR). This aggressive attitude translated into intolerance for Somali civilians who

penetrated their camp in search of food or other items to sell on the black market. On the day of

Shidane Arone's death, 2 Commando members discussed "abusing" prisoners as a way of deterring

them from entering the camp. That night, many 2 Commando soldiers witnessed the beating in

progress, but none stepped forward to stop the abuse. In the aftermath, few of the 2 Commando

soldiers were willing to talk to investigators for fear from reprisals from others in the unit.

In the Malaya and Somalia case studies, the quality of junior leadership contributed to the

influence of the subculture on unit behavior. In Malaya, junior leaders supported the Scots Guards

subculture that resisted small patrol tactics and fueled unit members' frustrations about their mission

in what they considered a peripheral war. In Somalia, weak junior officers in 2 Commando could not

discipline their unit. Overreliance on punishment strengthened the in-group-out-group dynamic that

fueled the countercultural subculture.

These two cases demonstrate that when units have strong countercultural subcultures,

resistance to authority is great, and this situation increases the possibility of unit participation in war

crimes. Unexpectedly, I also found evidence of "enhancing" subcultures which Martin and Siehl

define as groups "in which adherence to the core values of the dominant culture would be more

fervent than in the rest of the organization."[40] In Malaya, the Suffolk Regiment, in contrast to the

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[40] Martin and Siehl 53-54.

Scots Guards, adapted to the tactics of jungle warfare and performed well; soldiers in numerous

regiments expressed admiration for the Suffolks. They went on patrols facing the same dangers as

the Scots Guards, yet they did not kill civilian villagers. In Somalia, 3 Commando, which soldiers

noted paid more attention to "spit and polish," performed comparably dangerous tasks as 2

Commando, but did not abuse civilians. While I did not set out to find "enhancing" subcultures and

cannot generalize about their role in these cases, they seemed to influence unit behavior, and

provide a new variable I can test in future research.

Research Design

To evaluate the dependent variable, unit participation in war crimes, I looked at task-

oriented military units deployed in the conflicts that required contact with civilians. Participation in

war crimes included unit actions that fell under the categories articulated in the Geneva

Conventions, particularly in regard to detainees and civilians.

The following chart describes the measurement of the variables in the alternative

explanations:

Alternative Explanations	Measurement
Socialization	
Training Units that do not receive training in the laws of war are more likely to participate in war crimes.	Does the military educate units on the existing regulations prohibiting war crimes? Does the military test units on their ability to apply these regulations in conflict situations?
Enforcement If military leaders do not enforce the laws of war, units are more likely to participate in war crimes.	Does the military enforce basic discipline? Do reports of war crimes lead to investigation, prosecution, and punishment? Do junior leaders enforce unit discipline and punish violations of the laws of war?
Civilian Signaling	
If civilian leaders signal that the laws of war do not apply to the conflict or the enemy,	Do civilian leaders characterize the conflict as "existential," threatening national survival or core values? Do civilian leaders dehumanize the enemy?

units are more likely to participate in war crimes.	
Subcultures	
If the unit has a countercultural subculture, it is more likely to participate in war crimes.	How does the subculture view its tasks in the context of its vision of the unit's purpose or goals? Does the unit view limits on the use of force negatively? Does the unit engage in anti-organizational behavior? Do junior leaders support the subculture? Can junior leaders control the influence of the subculture?

Sources

Understanding unit behavior and the organizational environment surrounding it requires looking at a number of sources. I examined secondary sources about the cases, military documents, political texts and decisions, independent investigations, and individual narratives. Secondary sources help set the stage for the unit behavior; it is important to understand the conflict and get a sense of the environment units operate in. This literature provided a foundation for understanding the units involved and the kinds of war crimes they may have committed.

After reviewing secondary material, I visited several archives to better understand unit behavior. At the National Archives in College Park, Maryland, I collected military reports on unit training during the Korean War. I also collected unit histories and various historical reports. To investigate British units deployed to Malaya, I visited the British National Archives (formerly Public Records Office) and collected military and civilian documents about training of military units, enforcement of discipline, and the role of civilian leadership. I also visited the Imperial War Museum in London, where I listened to hours of oral history interviews with soldiers who participated in the Malayan Emergency. Finally, while I was unable to go to Ottawa to explore the Canadian archives for material on the Somalia incident, I examined the Commission of Inquiry's final report and other investigative reports.[41]

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[41] In the initial months after the death of Shidane Arone, the Canadian Forces commissioned a Board of Inquiry to investigate the incident, but this board did not investigate members that faced criminal prosecution in the military courts. Upon this conclusion of this Board's Phase I Report, the Canadian government decided to create a civilian Commission

Method

To examine the relationship between the dependent and independent variables, I use the comparative case study method. I selected cases with variance on the dependent variable, but within critical conflicts. For example, within the Korean conflict, I compare the behavior of the 5th, 7th, and 8th Cavalry Regiments of the 1st Cavalry Division. Each of these units deployed to Korea at relatively the same time and had similar responsibilities. However, the 7th Cavalry participated in a massacre of civilian refugees, while the other two regiments did not. This selection allows me to evaluate variation between units in a single conflict, eliminating potential confusion from comparison across cases. Each of my case studies has this type of variation.

I also sought to control for external variables: existence of international law, conflict type, and civilian-military dynamic. I selected cases from conflicts that occurred after the completion of the Geneva Conventions. Since I am interested in explaining state internalization of international norms, an international norm must exist before states can internalize it. While the laws of war existed prior to the Geneva Conventions, the treaties formalized their principles. The conflicts that I examine all occurred near or after the completion of the Geneva Convention, and the militaries that I examine acknowledged the applicability of those obligations to the conflict. My cases also come from conflicts that feature interaction between forces in ground combat in civilian-populated areas. This criterion ensures that all my cases contain the necessary actors for compliance with or violation of the laws of war. Finally, I focus on cases that involve military forces under civilian control. Given

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of Inquiry with a broader mandate to investigate the Canadian Airborne Regiment. This Commission heard months of testimony from civilian and military leaders, as well as some of the junior officers implicated in the March 4 deaths. The Commission also tasked several scholars to write reports on various aspects of the incident. Unfortunately, the government ordered the Commission to complete its report before it could hear testimony on the March 16 death of Shidane Arone.

that my civilian influence explanation depends on civilian leaders circumventing the chain of command, cases in which civilian and military leadership overlapped would fail to test this hypothesis. My universe of cases included all states that committed to uphold the Geneva Conventions or customs of the laws of war, but whose militaries contained units that did participate in war crimes.

One variable that I did not test for was whether units contained drafted or volunteer soldiers. In Korea, the majority of the enlisted soldiers were draftees. In Malaya, units contained a mix of draftees and reserve soldiers. In Somalia, all of the soldiers volunteered for service and specifically to join the CAR. Given that these different demographic groups existed in all units, there is no evidence that units with draftees or volunteers were more likely to participate in war crimes.

Conflicts

In this section, I describe the three case studies; in each case I compare units that did and did not participate in war crimes. Although these conflicts vary in terms of their classification[42], I rely primarily on within-case comparison to test the alternative explanations. First, I discuss units deployed to Korea at the outset of the conflict who, in addition to fighting North Korean forces, had to manage thousands of fleeing civilian refugees. Second, I look at British units sent to Malaya during the Emergency who were responsible for providing security and hunting down guerrilla forces that used civilian villagers for support. Finally, I examine Canadian units sent to Somalia to protect organizations distributing humanitarian aid from warring militias.

While each of my cases occurs relatively early in the conflict, unit behavior during this period can set an important tone for unit interaction with enemy combatants and civilians. The Korean case, which occurs only one month into the conflict, reflects how prepared, or unprepared, U.S.

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[42] Historians tend to classify the Korean War as a conventional war, the Malayan Emergency as a counterinsurgency, and the Somalia mission as a peacekeeping operation.

soldiers were for close combat. In Malaya, unit treatment of civilians influenced their cooperation with authorities, including providing critical intelligence on insurgent locations and activities. In Canada, given the nature of the peacekeeping mission, humane treatment of civilians was key to local cooperation in distributing humanitarian aid and information gathering on militia strength and plans. While some historians may excuse these war crimes as unavoidable consequences of sending ill-prepared troops on difficult missions, this explanation does not examine why troops were ill prepared or how militaries could prevent such incidents in the future.

The Korean War (1950-1953)

When the United States entered Korea in 1950, civilian and military leaders expected to easily defeat the North Korean army. However, American forces suffered heavy losses and North Korean guerrilla fighters pushed deep into South Korea. The relatively untrained and inexperienced U.S. forces could not compete. In the midst of the early days of fighting, the U.S. had to control both the guerrilla fighters and North and South Korean refugees fleeing the violence. Rumors spread about North Korean soldiers disguising themselves as refugees to infiltrate the American perimeter. Despite these pressures, there is only one account of an infantry unit killing a large group of civilian refugees.

On July 25, 1950, the 7th Cavalry Regiment, after fleeing from alleged enemy movements, shot at a group of civilian refugees near the village of No Gun Ri. Women, children, and elderly men composed the majority of the refugees killed; numbers vary between 100 and 400 civilian deaths. This information did not become public until 1999 when a group of Associated Press (AP) reporters broke the story. Family members of the refugees had long sought compensation for their relatives, but the South Korean government and the American military refused to acknowledge their claims. In the process of investigating the story, the AP reporters spoke with many of the American soldiers

in the unit present who confirmed the details of the massacre. The military agreed with most of these facts in its own investigation released during the Clinton administration. However, it refused to take responsibility for the massacre, stating only that: "an unknown number of Korean civilians were injured or killed…what befell civilians…was a tragic and deeply regrettable accompaniment to a war forced upon unprepared U.S. and ROK forces."[43] This conclusion avoids an important question: why did the 7th Cavalry Regiment resort to killing civilian refugees when other units in similar situations did not?

The Korean conflict provides an important case because it tests initial efforts to comply with international law. Although customary international law already included protections for civilians on the battlefield, the new Geneva Conventions formalized that protection. However, negotiations finished just prior to the conflict, so states had little time to integrate the conventions into their national and military law, and to train their troops in their more specific obligations. Also, as one of the first Cold War conflicts, political rhetoric concerning Korea contained many references to deeply held values and existential threats. If civilian rhetoric could override training, this seems like an ideal case. Also, although military leaders did make significant changes to the units when deploying them to Korea, many of the soldiers served together in Japan, and had an opportunity to cultivate their unit's subculture. Given the units' rapid transition from easy occupation duty to front-line combat, I might expect subcultural norms to emerge that reflect resentment of leadership and Korean civilians.

My research shows that poor junior leadership in the 7th Cavalry Regiment made it more likely to participate in war crimes than the other regiments in the 1st Cavalry Division. Many of the units deployed to Korea in the first months of the war had minimal training in the laws of war; the U.S. basic training curriculum only included a small lecture session on military justice near the end of the fourteen-week program. General MacArthur, on July 4, 1950, declared that all Allied Forces

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[43] Marilyn Young, "An Incident at No Gun Ri," in Omer Bartov, Atina Grossman, and Mary Nolan, eds. *Crimes of War: Guilt and Denial in the Twentieth Century* (New York: The New Press, 2002): 256.

would comply with the recently completed Geneva Conventions, but senior officers never insured that junior officers communicated these obligations to their units. President Truman's efforts to link the Korean conflict to the growing battle with the Soviet Union failed to persuade soldiers that the war posed an existential threat to the American way of life and justified war crimes; many soldiers viewed the enemy, and Korean civilians, with contempt, but these feelings were not universal, and did not translate into wholesale abuse of prisoners or civilians. Despite the 7th Cavalry's background in Indian warfare and the brutal fighting in the Pacific theater during World War II, there is little evidence that the unit had a countercultural subculture that increased the likelihood that the unit would participate in war crimes. Junior leaders in the 7th Cavalry Regiment, many of whom who had minimal leadership experience or relationship with their units, could not control their units in the same way that junior officers in the 5th and 8th Cavalry regiments did; this lack of control made the 7th Cavalry Regiment's participation in war crimes more likely and may explain why they massacred the civilians at No Gun Ri.

The Malayan Emergency (1948-1953)[44]

After World War II, the British, although unprepared both militarily and economically, reoccupied Malaya. Upon the exit of the widely reviled Japanese forces, British officials tasked to disperse guerrilla fighters instead engaged in crimes against civilians, which led to Malayan anger against the colonial administration.[45] Difficulties for the colony continued as officials struggled to reestablish the government and reconstruct the economy. Communist-inspired violence rose to the point that the High Commissioner declared a state of emergency. Military forces entered to help

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[44] While the Emergency technically lasted until 1958, and British forces did not leave until almost 1960, the heaviest fighting occurred in the first five years of the Emergency. My analysis focuses on 1948 and 1949, although I do draw some insights from 1952-1953.

[45] Richard Stubbs, *Hearts and Minds in Guerrilla Warfare: The Malayan Emergency, 1948-1960* (Singapore: Eastern Universities Press, 2004): 13.

protect government and economic resources. While eventually British counterinsurgency efforts defeated the communist resistance, missteps at the outset of the Emergency compromised their ability to gain the trust of Malayan and Chinese civilians who played an important part in providing the intelligence crucial to end the conflict.

On December 12, 1948, a patrol from the Scots Guards entered a village near Batang Kali and killed twenty-five men. Military and civilian officials insisted that the men were communist collaborators who were attempting to escape, but soldiers in the patrol later testified that they shot the villagers in cold blood. Although the Attorney General conducted an informal inquiry at the time, the military did not punish any of the soldiers involved in the massacre. This event provided excellent propaganda for the Malayan Communist Party, which publicized the killings as an example of British atrocities toward the Malayan people.

Reports about the massacre emerged in Britain in 1970. Public outrage and media pressure led the government to turn the case over to the Department of Public Prosecutions. However, after twenty years, missing government documents and an unwillingness to launch a controversial investigation led British officials to dismiss the possibility of prosecuting unit members. Many government officials clung to the account given at the time of the massacre and excused any wrongdoing by highlighting Communist atrocities. In the face of new evidence, however, many observers still wonder why the Scots Guards killed the villagers when other patrols did not?

While Korea represents a conventional conflict, the Malayan Emergency presented Britain with an unpredictable insurgency. This kind of conflict, which has military and political components, presents challenges for leaders who seek to succeed only through using force; in Malaya, through trial and error, British troops learned the importance of winning "hearts and minds." I expected that British military leaders would train soldiers in the laws of war and instill strict discipline, considering that they would be assisting civilian leaders and police defeat forces that often blended in with

civilians. Given the Communist threat, the conflict did fit into Cold War rhetoric, and despite the lack of external material support for the Malayan fighters, civilian leaders did describe them in the same terms as the Soviet Union and China. The British Regimental system, and its efforts to cultivate loyalty to regimental identity, provides an interesting test for the subculture variable: do organizational efforts to create regimental identities succeed, and how do they influence unit participation in war crimes?

Based on examination of numerous British documents and hours of oral histories, I found that junior leadership that supported a countercultural subculture may explain the Scots Guards massacre at Batang Kali. The British military did little to train soldiers in the laws of war; I could find no specific mention of this topic in basic or introductory officer training. While British pamphlets and documents stressed the importance of discipline, and jungle warfare training prepared soldiers to distinguish between enemies and "friendlies" (civilians or fellow soldiers), this training only seemed to influence units that had strong junior leaders who exerted strict discipline and enforced these principles. Although Prime Minister Atlee sought to link the conflict with the global war against communism, British economic interests limited the government's ability to make this argument. The government labeled the conflict an "Emergency" rather than a war to protect the insurance policies of vital British industries (rubber, tin) in the country; this led civilian politicians to play down the threat from the insurgents, which created disinterest in the conflict among both the public and policymakers. General Boucher, emboldened by the lack of direction and oversight, directed units to demonstrate their power through large patrols. The Scots Guards, who saw a high officer turnover rate during their deployment in Malaya, resisted developing small patrol tactics that other units, including the Suffolk regiment, used successfully. Junior officers, frustrated with the unit's poor performance, may have decided to strike against a second-best target, civilians allegedly supporting insurgent fighters. When faced with illegal orders to shoot civilians, members of the

Scots Guards patrol did not know how to object and feared reprisals if they did not participate. These soldiers shot at villagers and then covered-up their crime to avoid punishment promised by their junior leaders. The actions of the Scots Guards' junior leaders, who refused to enforce protection for civilians and endorsed a countercultural subculture, may explain why their unit participated in war crimes when other units did not.

Canada-Somalia

On March 16, 1993, Canadian peacekeepers in Somalia to protect groups distributing humanitarian aid beat to death sixteen-year-old Shidane Arone. While this incident did not come to the attention of the Canadian media until later that month, it was a symptom of abusive behavior within 2 Commando of the Canadian Airborne Regiment (CAR). News of Arone's death led to the discovery of additional civilian deaths earlier that month. In the following years, military and civilian investigations found that units within the CAR engaged in degrading and racist hazing rituals and junior leaders faced major problems in enforcing discipline within the units. Finally, after the release of damaging videos in which members' acts were on display for the public, civilian leaders took the drastic step of disbanding the Regiment.

In the immediate aftermath of Arone's death, a military-led inquiry placed blame firmly at the bottom of the chain of command.[46] Despite the facts that numerous members of 2 Commando witnessed the abuse without intervening to stop it and that the unit had a well-known reputation for disciplinary problems, the Department of National Defense and military justice system focused most of its attention on low-level soldiers. This approach, in light of the emerging evidence about the behavior of Airborne units and absence of leadership, did not satisfy the public. The government appointed a civilian inquiry, but a change in party control cut the Inquiry short. The Defense

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[46] DeFaye Board

Minister intended to end discussion about the CAR when he disbanded it. Although this decision resolved the specific problem of the CAR for policymakers, it did not address one major question: why did the 2 Commando's behavior escalate to such an offensive and dangerous level when other units' behavior did not?

Given Canada's tradition of peacekeeping, I expected units to have substantial training in adherence to the laws of war. The nature of the mission, to help ease the suffering of starving and frightened people, offered little room for civilian leaders to use exaggerated rhetoric about existential threats; I expected greater civilian pressure on units to serve as exemplars of international law to boost the nation's credibility as a strong peacekeeping power. The Canadian Airborne Regiment, an elite unit of paratroopers, presents an ideal case for the development of subcultures; the division of the Regiment into 3 Commandos, each representing one branch of the larger Canadian Forces, provides fertile ground for competition between groups. Studying these commandos provides insight on how subcultures develop and influence unit behavior.

I found that poor junior leadership and a strong countercultural subculture may explain 2 Commando's participation in war crimes. The standard of law of war training in the Canadian military was low. Soldiers received some instruction on the Geneva Conventions during their initial basic training but there was little additional formal instruction and they did not participate in exercises to test their ability to apply the laws of war. Prior to deploying to Somalia, the CAR received no additional training in the laws of war; the military justice adviser provided officers with a general discussion on the Geneva Conventions, but these officers did not communicate the information to their units. Senior leaders in the Canadian military did not feel additional training was necessary; they assumed that soldiers knew the principles of handling prisoners and dealing with civilian detainees. Discipline in the CAR, especially 2 Commando, was very weak; junior commanders could not control the unit, and often experienced reprisals when they tried to impose

discipline. The dysfunctional junior assignment system in 2 Commando, which promoted officers from within the unit, meant that junior leaders had prior peer relationships with their soldiers and limited leadership experience; these junior leaders had difficulty earning the respect of their unit and enforcing organizational rules. Despite the widespread disciplinary problems in 2 Commando, which included the burning of a junior officer's car, the unit deployed with other elements of the CAR to Somalia. In theatre, discipline continued to be a problem, but officers, both junior and senior, did not follow up incidents with investigations. Civilians, who deployed the unit on a rushed schedule and with a changing mandate, did not question military leaders who confirmed the CAR was operationally ready and appropriate for the mission. Military leaders overlooked the dangerous countercultural subculture of 2 Commando; the unit often used the Confederate flag as a symbol of its "rebel" identity and thwarted any investigations of unit members by erecting a wall of silence. On March 16, as members of 2 Commando beat Shidane Arone to death, other unit members walked by, yet none reported the abuse. When Arone's death led to a military police investigation, prompted by some junior officers, implicated members refused to testify out of fear of reprisals. A few cracks in the wall of silence provided insight into these events, but the countercultural subculture constituted many of the members' identities. However, 3 Commando of the CAR, with a strong culture of "quiet professionalism" emerged from the same unit base and the same mission. The dysfunctional junior officer assignment system in 2 Commando meant that junior officers could not effectively discipline the unit or enforce organizational norms. Weak junior leaders could not penetrate the subculture; leaders who attempted to do so strengthened the anti-authoritarian beliefs within the unit. 2 Commando lacked strong discipline and resisted all efforts to restrain their aggressive behavior, which eventually escalated to the killing of Shidane Arone.

This dissertation seeks to understand a disturbing pattern of behavior that international

relations theory has not yet addressed: why do some units participate in war crimes when others do not? In each of these case studies, governments and militaries initially ignored these war crimes, blamed "bad apples" at the bottom of the chain of command, or explained the incidents as an unfortunate but inevitable consequence of conflict. However, these explanations do not explain variation in unit behavior or identify ways that leaders and policy makers can ensure that military units in the future comply with the laws of war. A better understanding of the variables that make participation in war crimes more or less likely could help leaders prevent future war crimes, protect innocent civilians, and avoid the outcry of events such as Abu Ghraib that damage international credibility and threaten national security.

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