

David L. Perry

Partly Cloudy: Ethics in War, Espionage, Covert Action, and Interrogation.

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This book is the first volume in the recently initiated Scarecrow Professional Intelligence Education Series to ‘address ethical issues in intelligence in great depth’ (ix). As such, it is a welcome addition to a series that has heretofore been concerned largely with the nuts and bolts of data gathering, analysis, protection, and dissemination; and author David Perry, currently director of the Vann Center for Ethics at Davidson College in North Carolina, is eminently qualified to discuss the sort of ethical problems that can (and often do) arise in the conduct of war and intelligence operations. To begin with, he is trained in both philosophy and theology, and has previously taught both (including professional ethics) at Seattle University and Santa Clara University. From 2003 to 2009, moreover, he was professor of ethics at the U. S. Army War College in Carlisle, Pennsylvania. This background, combined with Perry’s years of research in open-source material on the work of military and intelligence personnel, his conversations with members of those professions that has yielded both frightening and heart-rending testimony from soldiers and intelligence operatives, and his careful and always balanced ethical analyses, make for a uniquely rich and discerning narrative. He also writes in an accessible and engaging style, which makes his book a delight to read.

The meteorological metaphor in the title reflects Perry’s view of ethical situations—in general and in the more specific fields of war and intelligence operations. Some people would like their moral lives to be perfectly clear, with transparent differences between light and dark throughout. No clouds. Other people see ethics as completely gray, ‘like a relentlessly overcast winter’. All clouds, never any clarity. Perry thinks that both groups are mistaken: Some ethical situations are opaque, even when subjected to the most diligent ethical scrutiny. But other ethical choices are (or should be) uncontroversial, and still others can be clarified and resolved by conscientious moral agents trying to do what is right. In sum, even with regard to the complexity and ambiguity often encountered in military operations, espionage, covert action, and interrogation, our moral choices are, on the whole, ‘only partly cloudy’ (xi-xii).

The ten chapters of *Partly Cloudy* are more or less independent of one another, and so need not be read in the order Perry has arranged them; but it is best to begin with Chapter 1, ‘An Introduction to Ethical Reasoning’. There Perry briefly describes various approaches to ethics (consequentialist, deontological, and virtue-based), and helpfully indicates how they are relevant to the ethical issues that arise in war and intelligence operations (6-9). He also proposes a list of objective ethical principles to guide decision

making (13), and defends a theory of *prima facie* rights and duties (17-19). These come into play later in Perry's assessment of different activities in the conduct of war, espionage, covert action, and interrogation.

Chapter 2 is a fine brief discussion of the various (often ambiguous) attitudes toward violence and war expressed in writings of the major world religions: Hinduism, Buddhism, Judaism, Christianity, and Islam. Perry ends it by proposing, as in the first chapter, a series of ethical principles regarding war that he thinks conscientious members of all these faith traditions (or of no religious belief) can and should affirm (46). Chapter 3, which Perry calls a 'literary interlude' (xii), is a fascinating interpretation of Shakespeare's *Henry V* in terms of the just-war criteria of just cause, legitimate authority, proportionality, and noncombatant immunity. Whoever thought that the Stratford bard would have something to say about these matters! The following chapter uses the gruesome and gut-wrenching story of the My Lai massacre to explain why atrocities can be committed in war and ends with some sage advice to military commanders for anticipating and preventing them (83-6).

Chapter 5, 'The CIA's Initial "Social Contract"', marks a shift in Perry's focus from military to intelligence operations. He explains how and why the CIA first developed its covert action mission in response to the Soviet Union, and explores a just-war analogy to defend some instances of covert action and espionage. Specifically, he seeks a working synthesis, similar to what one finds in the just-war tradition, of the strengths of both consequentialist and deontological principles, in a manner that can enhance public debate on foreign intelligence operations. Such actions, Perry argues, may be justified under certain conditions resembling *jus ad bellum* criteria for just war, but are subject to ethical constraints on their means analogous to those of *jus in bello* (94-6). In Chapter 6, Perry argues that the Bolshevik government was from the beginning illegitimate and unjust, and that the activities of various Soviet political and police agencies against Soviet citizens and foreign countries warranted the creation of intelligence agencies such as the CIA to counteract them (114-15, 120, 122, 153).

Chapter 7, on espionage, analyzes a broad range of ethical issues in the recruitment and handling of foreign agents, including those who are 'witting' or voluntary, others who are deceived about the role they are playing, and still others who are blatantly coerced. Here Perry argues that there are ethical ways of handling operatives, even knowing and willing ones, that conscientious moral agents should adhere to; and he again has sage advice, both prudential and moral, that should motivate the behavior of people in the intelligence field. Perry's analyses and recommendations are (as always) subtle and nuanced (see 152-4, 242-3). He doesn't rule out espionage, but he does reject the attitude 'Spy first, ask about its legitimacy (or try to rationalize it) later'. The same approach is evident in Perry's discussion of covert action, which is the subject of Chapter 8. Here Perry addresses several questions: In the planning of covert operations, is sufficient consideration given to the rights and well-being of the citizens of the target country? Are

the objectives of the covert action just or are they corrupted by narrow interests? In cases where the objectives are just, are covert means really necessary to achieve them or would other methods that are less ethically problematic suffice? (163-5, 169) Answers to these questions are especially important in considering the moral permissibility of coups d'état (174-5) and assassinations (189).

The last chapter, which is devoted to interrogation, focuses on the morality of torture. The discussion is conducted in the context of questions such as the following: Do ruthless enemies warrant (justify, merit, deserve) ruthless countermeasures? Should we uphold high ethical standards even against unlawful 'combatants' (e.g., terrorists) who don't deserve them? Or, to preserve what we value most, are we morally justified in using tactics that strain or even contradict those values (199-200)? The morality of torture is a matter that Perry seems to regard as sometimes opaque, not just cloudy, even if he generally condemns it in accordance with the principles and *prima facie* rights and duties sketched in Chapter 1. Do people have an absolute right not to be tortured, regardless of what they have done or plan to do? No, says Perry (209-12). Do they nevertheless have a *prima facie* right not to be tortured, which can be forfeited under extraordinary circumstances? Yes, says Perry (212-14). Torture in interrogation is not necessarily or always immoral (211), but it should always be the minimum required (217) and be undertaken only as a last resort (213). There are, Perry thinks, overriding reasons not to legalize torture (243), but he does have some sympathy for extraordinary pleas of necessity (221), even though he is aware that these can be abused through, e.g., slippery-slope expansion to include clearly innocent people (e.g., the relatives of terrorists [219-20]). Should torture be done openly? No, says Perry, since that would further weaken what little remains of the US's credibility in the international community on human rights (221). Should it then be done in secret? No again. This is a 'Machiavellian Temptation': to publicly denounce torture, but practice it secretly (224-7), a temptation to which the Bush administration succumbed in its treatment of the Abu Ghraib detainees. So how, then, should it be practiced? Perry has evidently given a lot of thought to this question, but doesn't provide any very clear answer (211). And while I agree with him that torture, like war, is sometimes morally permissible, I won't attempt to either.

There is much to admire in *Partly Cloudy*. The main strength of the book is its detailed, engaging, and discerning treatment of case studies, of which there are a great many and to which no brief review can begin to do justice. I warmly recommend this book to military officers, intelligence personnel, and anyone who wants to understand better the often difficult moral issues that arise in connection with the activities Perry describes.

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