

By Dahr Jamail

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[Yesterday](#), Truthout ran the first part of an interview with Dr. Stjepan Mestrovic, a Professor of Sociology at Texas A&M University who has written three books on US misconduct in Iraq: "The Trials of Abu Ghraib: An Expert Witness Account of Shame and Honor," "Rules of Engagement?: Operation Iron Triangle, Iraq" and "The 'Good Soldier' on Trial: A Sociological Study of Misconduct by the US Military Pertaining to Operation Iron Triangle, Iraq." He has three degrees from Harvard University, including a Master's degree in clinical psychology, and has been an expert witness in psychology and sociology at several Article 32 hearings, courts-martial and clemency hearings involving US soldiers accused of committing crimes of war in Iraq, including the trials of prison guards involved in the Abu Ghraib scandal.

Dr. Mestrovic's books meticulously document how the US Army, as an institution, has become dysfunctional, and how illegal rules of engagement (ROE) are issued by officers and politicians at the top of the Army's hierarchy, but only low-ranking soldiers are punished for carrying out those same rules and orders. As an example, in one of the several hearings Dr. Mestrovic has attended as an expert witness, US soldiers openly admitted they had shot a 75-year-old man who had emerged unarmed from his house, but because the soldiers were following the rule to shoot all "military aged males," neither they nor their officers were charged for that death.

In the second part of his interview with Truthout, Dr. Mestrovic examines the fallacious nature of the rules of engagement, Operation Iron Triangle in Iraq, the rampant nature of atrocities in the US military today, and the possibility of a solution. In [Operation Iron Triangle](#), Iraqi detainees were murdered by US soldiers under the command of a legendary American colonel, Michael Steele. On May 9, 2006, American soldiers executed three unarmed men they had captured in an operation in the so-called Sunni Triangle in Iraq. Several of these soldiers were court-martialed and imprisoned, but some within the military say that responsibility ultimately lies with Colonel Steele.)

Truthout: What are your thoughts about the "Rules of Engagement?" How are these brought into being? Are they truly expected to work in the field? Given that they are clearly not working, why is that?

Dr. Mestrovic: There is insufficient information to answer the first question at the present time. The creation and actual wording of the written ROE are shrouded in secrecy. At the courts-martial of the accused soldiers in the Operation Iron Triangle killings, the government forbade the introduction of the actual, written ROE into testimony. It only allowed verbal testimony as to what the soldiers heard as to the ROE. The soldiers testified that the order was "to kill every military-aged male." The brigade commander who apparently issued the order, Col. Michael D. Steele, refused and still refuses to testify and to be cross-examined, so that the question you are asking may never be answered. Presumably, he would know how the ROE are and were brought into being.

Are these ROE expected to work in the field? Again, there does not exist sufficient public information as to what commanders and Pentagon officials believe with regard to this and similar ROE in theory. But I can give you an answer that is concrete and specific to this case. On November 5, 2009, Col. Nathaniel Johnson testified at William Hunsaker's clemency hearing in Alexandria, Virginia. Hunsaker is one of the convicted soldiers from the Operation Iron Triangle case. Colonel Johnson was one of Colonel Steele's battalion commanders, and was the "convening authority" who sets the courts-martial into motion. I was an eyewitness to Colonel Johnson's mesmerizing testimony. He testified that Colonel Steele had created a "toxic command climate" by constantly threatening to remove any of his subordinates, from battalion commanders to first sergeants, who disagreed or questioned his orders. Johnson gave the example that when Steele told the soldiers, "We do not give warning shots," he would tell his men, "We do give warning shots." These simmering discrepancies and discontent among the commanders clearly confused the soldiers.

Obviously, in the field, the soldiers encounter many problems in carrying out this ROE. What if the alleged target is holding a child or hiding behind women? In fact, such tactics are so common among the targets that the Army refers to them as a "tactical training point," namely, that insurgents use human shields to avoid being killed. What should a soldier do in that situation? Do they give warning shots? Do they shoot to wound? Do they take prisoners? Do they carry out the order regardless of consequences? Common sense suggests that the soldier cannot be expected to act as a legal scholar in the heat of battle and debate or discuss what he should do. It is an open question how often situations like this arise in combat. But what I do know is that Colonel Johnson testified that the soldiers were confused, and he recommended that Hunsaker's sentence be reduced to time served and upgraded to a general discharge so that he could use VA benefits to get treated for PTSD. The clemency board ignored his recommendation and offered no clemency or explanation.

These ROE do not work for the straightforward reason that the "targets" are not abstractions but

are human beings who associate with women, children and civilians who are not targets. Therefore, one can rarely "take out the target" without also "taking out" innocent civilians. Moreover, the targets are pre-designated based upon "intelligence." But in all the cases on which I have worked, I have found that the so-called intelligence was grossly inaccurate. In the Abu Ghraib cases, the government now admits that 90 percent of the detainees were not terrorists or insurgents and were not a threat to Americans. In the Operation Iron Triangle case, the government never determined whether the "targets" were real "bad guys" or just innocent farmers. Who are these secret "sources" that have the power to pre-designate targets for execution? Next to nothing is known about them or the process of using such "intelligence." What is clear is that the local populations in Iraq and Afghanistan come to hate Americans when innocents are killed by mistake on missions of this sort.

But again, the Army is not a democratic society, so I do not foresee seminars, discussions or public airing of these important issues. These issues are covered up for the most part, and emerge - only partially - through the window into Army society that is offered through the court-martial process. On the other hand, the US is a democratic society and the public has a right to know the ROE that are being carried out in its name.

Truthout: What did you find in your research about Operation Iron Triangle that led to that atrocity?

Dr. Mestrovic: Well, that's the problem: the killings were apparently routine and were not regarded as an atrocity. Soldiers told me that they were routinely sent out on missions to kill designated "targets." Their graphic descriptions included finding a shopkeeper and killing him in front of his wife and children. The court transcripts also refer to testimony of "kill-kill" orders, which apparently mean that the target does not have the option to surrender (which would be a "kill-capture" order). In effect, a lot of the missions seem to amount to the "execution squads" that Vice President Cheney mentioned while he was in office. So, in the eyes of the Army, government and soldiers, missions of this sort were not considered "atrocities."

What made this one episode of Operation Iron Triangle different does not seem to lie in the acts that were committed. As court documents show, at the same time that these particular soldiers who went to prison were carrying out their mission, a different platoon was carrying out a similar mission on another part of the island. The platoon leader, Lieutenant Horne, is quoted as ordering his soldiers, "Kill them all." Nobody was prosecuted for any of these other killings on the mission.

So the question becomes, why were Hunsaker, Clagett and Girouard prosecuted and sent to prison? Part of the answer lies in the prosecutor's opening and closing statements. Apparently, the Army wants to send a "message" to the world that it is better than the enemy. And it seems that one way it does this is to periodically send some of its soldiers to prison as a way of making the statement that it does not tolerate war crimes, even though the routine kill-kill orders may be construed as being war crimes. In other words, this particular case, and some related murder cases, appear to be politically motivated, and the soldiers who are picked for prosecution appear to be random, and are definitely treated as expendable by the Army.

In a similar case of killings that CNN dubbed the "Baghdad Canal Killings," (hyperlink "Baghdad Canal Killings" with HYPERLINK

"<http://www.cnn.com/2009/US/11/17/army.tapes.canal.killings/index.html>"

<http://www.cnn.com/2009/US/11/17/army.tapes.canal.killings/index.html>) it is well-known that the entire platoon participated in the killings, although only three were prosecuted. One of the soldiers, Joshua Hartson, admitted to CNN that he thinks he should have been sent to prison as well, but instead, the government granted immunity from prosecution to him and some of his comrades to testify against the soldiers who were chosen for prosecution.

It is important to note that in all these cases, scores of "atrocities" are included in the court records but were never prosecuted. The real atrocities at Abu Ghraib occurred in the interrogation rooms at the hands of intelligence personnel, and some detainees were murdered, but the government went out of its way to exclude these events from the courts-martial. In every case I have studied, sworn statements report scores of atrocities similar to the ones prosecuted, but again, all references to these other events are excluded from evidence. There appears to be a definite, politically motivated, "social construction" of reality to issues pertaining to how acts are defined, prosecuted or ignored as "atrocities" and war crimes.

Truthout: How rampant do you believe instances like this are, in both Iraq and Afghanistan?

Dr. Mestrovic: Even though no one has access to the secret ROE or the secret ways in which they are devised, it is clear that ROE similar to the ones used at Operation Iron Triangle are still being used, including in Afghanistan. Numerous news stories report that the government is currently using drones to kill pre-designated human targets in Afghanistan and Pakistan based upon "intelligence." These news stories also routinely report that women, children, and civilians are often killed in the process. The mechanical drones are used exactly the same way as human soldiers are used: to carry out the same ROE that applied to Operation Iron Triangle. Incidentally, news stories suggest that the drone operators who execute these missions while sitting in remote control areas in the US are developing PTSD rates faster than the soldiers who

actually engage in battle.

It seems to be the case that we are supposed to be mesmerized by the "postmodern" technology that leads to the use of "simulacra" soldiers and missions. The "target" becomes an image on a screen. But real human beings are carrying out the same ROE, whether in face-to-face confrontations or "simulacra" remote control engagements. And the human toll on both the soldiers and the civilian populations is not "simulacra," but is very real.

Truthout: What would need to happen in the Army in order for soldiers to behave more along the lines of international law whilst abroad?

Dr. Mestrovic: The most important thing would be for the government to decide to adhere to international law, and the soldiers would follow orders. In any case, the low-ranking soldiers always follow orders. It really comes down to following the letter as well as the spirit of the Nuremberg Principles. In his opening remarks at the Nuremberg Trials, chief US prosecutor Robert Jackson said: "The common sense of mankind demands that law shall not stop with the punishment of petty crimes by little people. It must reach men who possess themselves of great power and make deliberate and concerted use of it to set in motion evils which leave no home in the world untouched." I put emphasis on Jackson's phrase, "common sense." Even though he was a lawyer, he did not refer to the law, which often uses law-speak to justify such crimes. He referred to "common sense," which resonates with usages of this term by pragmatist philosophers (William James, John Dewey, George Herbert Mead). In other words, everyone knows that it is wrong to kill people who do not show an active hostile intent, no matter how one justifies such acts legally. The "little people" to whom Jackson refers are, in this case, the low-ranking soldiers who were sent to Fort Leavenworth for carrying out the orders of many civilian and military commanders above them in the chain of command. It is a fact that not a single commissioned officer has ever been prosecuted for all the war crimes in the current war, from Abu Ghraib to Operation Iron Triangle. In a complete reversal of Nuremberg Principles, the government prosecutes and imprisons only the "little people" or low-ranking soldiers.

Jackson also specifically referred to the "men of station and rank who do not soil their own hands with blood" as the ones who should be prosecuted for war crimes. I do not foresee a day when the US will prosecute its colonels, generals or high-ranking civilian officials for establishing the policies and ROE that result in atrocities. There is simply no precedent for such a move in the US in the past century. The last time the US prosecuted a high-ranking officer for atrocities committed by his soldiers was in 1860, when it hung the commander of the infamous Andersonville Prison, in which Union soldiers were systematically exterminated by Confederate soldiers. But in other similar historical incidents, the government went out of its way to protect its

"men of station and rank." For example, the Biscari Massacre of 1943 was most likely the result of Gen. George Patton's speech in which he told his soldiers to take no prisoners and to show no mercy. (In fact, General Patton's and Colonel Steele's speeches to their troops are very similar.) But Patton was not indicted, while a Sergeant West was given a life sentence and a Captain Compton was acquitted on the grounds that he was following Patton's orders. Similarly, many historians believe that Lieutenant Calley was made to be a scapegoat for the "search and destroy" policies that led to My Lai.

In general, and despite its democratic base, the US does not resort to the established doctrine of command responsibility to prosecute "men of station and rank" whose orders result in atrocities. Again, this is not merely a military or legal issue, but a wider, cultural issue. In the recent Wall Street meltdown, the "robber barons" (as Thorstein Veblen called them) who caused the current economic crisis have escaped responsibility, and are rewarding themselves with bonuses. Meanwhile, many average Americans are losing homes, businesses and futures due to the errors in judgment made by the robber barons. The government bailed out the Wall Street firms, but not the average American in economic trouble. A similar principle seems to operate in today's Army. Colonel Steele, whose ROE resulted in the Operation Iron Triangle tragedy, will no doubt retire with all his benefits intact. Meanwhile, the low-ranking soldiers who carried out his orders are languishing in prison. This American, cultural discrepancy between elitism and democracy has already been explored by sociologists such as C. Wright Mills in "The Power Elite and White Collar." But without some great cultural awakening, it does not seem that this strange feature of American culture will change anytime soon.