Lawfare: Law as a Weapon of War, by Orde F. Kittrie reviewed by Kevin Rousseau

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organizations they lead. Countless leaders are often too involved in promoting themselves, and see developing subordinates as a sign of weakness. The final chapter, “Afterthoughts—’My Way to Continue the Conversation . . .’,” was initially confusing. It did not flow with the rest of the book; it seemed disjointed; it seemed to be made up of random thoughts about a variety of topics. I eventually realized that it was Dunwoody’s way of discussing and underscoring contemporary issues she believes are important. During my almost thirty-year career in the U.S. Army, I was privileged to serve in the 10th Mountain Division with Ann Dunwoody. Her technical and tactical skills, along with her keen insight and caring attitude, made her a positive role model. It is fitting that she ends every talk with the phrase “In the end, we’re all just soldiers, but that’s the highest thing you could claim to be.” Dunwoody’s legacy in the Army and the larger U.S. military will impact generations of young Americans for years to come. This book showcases her exceptional talents as an army officer and leader. It is a must-read for leaders at all levels, in both the military and other organizations.

THOMAS J. GIBBONS


In Lawfare: Law as a Weapon of War, legal scholar Orde F. Kittrie analyzes the increasing effectiveness of the use of law to achieve objectives that not long ago might have been achievable only using force. In one of the first major works in English on the practice of lawfare, Kittrie has written an important book for lawyers, policy makers, and military strategists. Successful strategic performance requires an appreciation of the role of politics in war, and because law is an intensely political matter it is an integral part of the strategic operating environment. Kittrie’s highly readable Lawfare enhances our understanding of the growing strategic potential of law. This book is at once a history of lawfare, a collection of representative case studies, and a resource for other researchers. The foreword by former CIA director R. James Woolsey Jr. is itself an interesting read, setting up Kittrie’s analysis with a description of the international legal arena as a sheriff-less “Wild West” exploited by various governments and nonstate actors. The author also describes his own foray into lawfare as a professor at Arizona State University, where his analysis of Iran’s dependence on external gasoline suppliers eventually led to the Comprehensive Iran Sanctions Accountability and Divestment Act of 2010. Kittrie’s practical bent is evident throughout Lawfare, and he offers numerous suggestions for incorporating lawfare into U.S. national security strategy.

Among the strengths of Lawfare are the concepts provided in the first chapter that prepare the reader for the case studies that follow. Kittrie begins with a historical overview, tracing lawfare back to the seventeenth century, when Hugo Grotius used legal arguments to bolster Dutch maritime power. Kittrie’s section on the literature of lawfare provides a unique summary of the leading works in the field. Kittrie breaks down the practice of lawfare into two
categories: instrumental lawfare—the use of legal methods to achieve results typically sought from kinetic weapons; and compliance leverage disparity—the seeking of advantages over an opponent more disposed to comply with the law. Kittrie attributes the rise of lawfare to three factors: the increased number and reach of international laws and tribunals, the rise of nongovernmental organizations focused on the law of armed conflict, and the advance of globalization and economic interdependence.

Kittrie follows up his macro-level conceptual analysis with detailed case studies at the micro level that exemplify the prevalent trends in lawfare. His examples move from the battlefields of the Middle East through the courtrooms of New York to the doctrinal manuals of the Chinese military. The range of examples, all linked by the common theme of lawfare’s increasing effectiveness, underscores how widespread and multifaceted the phenomenon has become.

Kittrie devotes four of his eight chapters to the Israeli-Palestinian conflict, which he describes (p. 197) as “the closest thing the world has to a lawfare laboratory.” For example, Israel’s experience with maritime law in 2011 demonstrates how “offensive” lawfare can achieve a military objective without using force. In May 2010, Israeli forces intercepted a flotilla of ships from Turkey attempting to violate a blockade of the Hamas-controlled Gaza Strip, killing nine people. A UN fact-finding mission subsequently criticized Israel for its handling of the incident. Faced with a similar flotilla preparing to leave Greece in June 2011, Israeli lawyers used legal measures to stop the ships from leaving port. Those measures included threatening legal action against companies providing the ships with essential services such as maritime insurance. In letters to these companies, Israeli lawyers referenced the U.S. Supreme Court case of Holder v. Humanitarian Law Project (561 U.S. 1 [2010], 130 S.Ct. 2705) to argue that providing services to the flotilla was illegal because it supported terrorism. The letters proved persuasive. By rendering the ships unable to secure the necessary services to gain permission to leave their Greek ports, Israel succeeded in stopping the 2011 flotilla without firing a shot.

Kittrie devotes a chapter to China’s innovative approach to lawfare. He explains how China systematically wages lawfare across the strategic operating environment, including maritime, aviation, and space lawfare, as well as lawfare in cyberspace. For example, Kittrie analyzes how China is using maritime law to justify denying access to the South China Sea for international navigation. China has developed a concept of lawfare it calls falu zhan, or “legal warfare,” as part of its military doctrine. Kittrie’s case studies show how China incorporates lawfare into its strategy through a comprehensive approach coordinated across the Chinese government.

Unlike China, the United States has no similar comprehensive lawfare strategy. Kittrie describes how parts of the U.S. government nevertheless have employed legal techniques successfully to achieve strategic results, such as the U.S. Treasury’s use of international financial laws against Iran. Some of the most effective U.S. lawfare has been the work of private-sector attorneys rather than U.S. government actions. Kittrie provides several examples of litigation that used the Antiterrorism Act...
of 1990. A significant case was *Boim v. Holy Land Foundation*, in which attorneys working on behalf of the family of a U.S. victim of terrorism secured a judgment against Islamic fund-raising organizations, drying up a significant source of material support to Hamas.

Kittrie concludes with a compelling argument for a more creative and innovative integration of lawfare into U.S. strategy. As he observes (p. 96), the 2015 National Security Strategy identifies security challenges that are decentralized, transcend state borders, involve nonstate actors, and “cannot be neutralized using only deterrence or the United States’ traditional kinetic toolbox.” *Lawfare* underscores why strategists must have a practical understanding of the entire spectrum of factors affecting the strategic operating environment—informational, cultural, political, economic, social, and legal.

Kittrie understands that it is unrealistic to expect strategists and policy makers to be legal experts as well, so his conclusions include an analysis of the sources of “lawfare power” and recommendations for leveraging the skills of the U.S. legal community. To show how private-sector expertise can inform potential military uses of lawfare, Kittrie describes how Special Operations Command Pacific reached out to the University of Pennsylvania’s law school for research on foreign criminal laws that could be used to detain and prosecute foreign fighters supporting the Islamic State. In Kittrie’s assessment (p. 32), if the United States properly leverages its extensive legal expertise to support a national lawfare strategy, the “U.S. advantage in sophisticated legal weapons has the potential to be even greater than its advantage in sophisticated lethal weapons.”

*Lawfare* reminds us that lethal force is only one of many factors affecting outcomes in war. Kittrie points the way toward how legal factors can be used to achieve practical effects. Military officers and policy makers who read this book will be rewarded with a better understanding of the legal dynamics that are exerting an increasingly powerful influence on the legitimate use of violence.

KEVIN ROUSSEAU

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With the Navy’s recent efforts to reinvigorate war gaming, there has been renewed interest in the interwar gaming conducted at the Naval War College in Newport, Rhode Island. In the Naval War College Review, Proceedings, and other maritime journals, war-gaming experts and enthusiasts alike have tried to characterize the nature and value of the Navy’s war games played between 1919 and 1941. John Lillard’s *Playing War: Wargaming and U.S. Navy Preparations for World War II* is the latest contribution to this resurgence. Seeking to provide a comprehensive study of the interwar games conducted at the College, Lillard intends to inform our understanding of the “navy’s transition” during this period. *Playing War* asserts (p. 8) that the Newport games were “transformational” and played a “central role . . . in preparing the navy for war.” For the most part, the author contributes to the history of that era, but does so with a work that would have benefited