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## ‘NOT KNOWING IS MOST INTIMATE’: KOAN PRACTICE AND THE FOG OF WAR

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### ABSTRACT

The branch of international humanitarian law (IHL) pertaining to targeting is notoriously challenging for decision makers to apply in practice. The rules of distinction, precautions and proportionality in attack form the bedrock of targeting law, but compliance with these rules requires combatants to correctly understand what is happening in the battlespace. Those who decide upon, plan or execute an attack may not always have access to the right kind or amount of information needed to correctly set up an attack. Furthermore, they may not even know what information they need. Given the ambiguity posed by inadequate intelligence or information overload, how can combatants train themselves to successfully cut through the fog of war? In Japanese Zen (Chinese: *Chan*) Buddhism, adherents typically practice meditation methods featuring elements of open monitoring and focused attention. One style of focused attention, known as *kōan* practice, is often used by those in the Rinzai and (to a lesser extent) Sōtō schools of Zen. *Kōans* are short stories that Zen teachers use to communicate those Buddhist insights that cannot be expressed through direct communication, such as the experience of ‘nonduality’. Although *kōans* are often described as riddles or puzzles, they are not intended to be solved logically. Rather, the practitioner focuses their attention upon the *kōan* and observes what happens when linguistic and logical means of ‘solving’ it fall away. By training the mind to recognise its attachments to particular concepts or habitual ways of problem-solving, those who take up this practice in its proper context may find themselves better prepared to make decisions based on ambiguous information, and to spot errors in their perception or thinking when considering such matters of grave importance.

**KEYWORDS** International Humanitarian Law; conduct of hostilities; targeting; precautions; attention; meditation; Buddhism; *kōan*; fog of war

Attention! Master Jizo asked Hogen, ‘Where have you come from?’ ‘I pilgrimage aimlessly’, replied Hogen. ‘What is the matter of your pilgrimage?’ asked Jizo. ‘I don’t know’, replied Hogen. ‘Not knowing is the most intimate’, remarked Jizo. At that, Hogen experienced great enlightenment. [*The Book of Equanimity*, Case 20] (Wick 2005, 63)

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## Introduction

International humanitarian law (IHL),<sup>1</sup> or the law of armed conflict, requires combatants to make reasonable decisions about who or what may be targeted and who or what must be protected in war. In practice, the good-faith application of this body of law can be difficult even in the best of times. It is even more challenging to apply in targeting situations that seem ambiguous, either because of a lack of information about the battlespace or because of information overload.

It has become commonplace for introductory IHL texts to invoke the universality of the law's principles by stressing that many religions and cultures have independently concluded there should be limits to the use of force, even in war.<sup>2</sup> For example, Zen not only prohibits an 'anything goes' approach to *jus in bello* (if practiced properly), but Zen kōan practice may be particularly useful in helping practitioners navigate the balance between military necessity and humanity required by targeting law.<sup>3</sup> For centuries, Zen practitioners have used kōan introspection, a meditative practice in which adherents focus on an unsolvable problem, to break past logical, discursive thought and achieve an intuitive understanding of enlightenment. This practice also helps one break habitual patterns of thought and hold contradictory viewpoints without becoming emotionally or intellectually invested in one perspective or another.

Even if kōan introspection helps combatants make better decisions in situations of stress or ambiguity, it is important to note that there are limitations to this practice. First, it is not generally a technique that can be learned in a short period of time and applied immediately. Second, progress through the kōan curriculum<sup>4</sup> requires a steady dialogue between teacher and student. Finally, kōan practice by itself, without a good grounding in Buddhist precepts, could result in a person making decisions that run counter to IHL. This is because the practice does not have an independent ethical orientation.

While there is good evidence that kōan introspection can help commanders, military planners and front-line combatants to question their habitual ways of thinking and to resolve ambiguity more easily, I would not necessarily prescribe kōan work (or any other meditative technique) as an instrumentalist way to achieve compliance with IHL in a secular context. Rather, it may prove to be an effective way for those who have already taken up the practice to uphold their commitments under targeting law, when used *alongside the Buddhist precepts*.

## A brief summary of the *jus in bello* rules on targeting in modern IHL

### Distinction

In the International Committee of the Red Cross (ICRC)'s estimation, the crowning achievement of the Diplomatic Conference of 1977 was the adoption of certain protections for the civilian population in the Additional Protocols (APs) (Pilloud 1987, 583). Traditionally, the Geneva Conventions protected the *victims* of hostilities and the Hague Conventions had regulated the *conduct* of hostilities (Boothby 2012, 5), but the ICRC was concerned that Hague law had not been sufficiently updated to reflect lessons learned after the Second World War, particularly with respect to aerial bombardment – which did not yet exist when these laws were written. The ICRC therefore saw the development of the APs as ‘bringing together the two strands’ of IHL into one legal framework: the protection of victims on the one hand and the conduct of hostilities on the other (Boothby 2012, 5). In particular, Additional Protocol I (API) clarified the principle of distinction and the rules of proportionality and precautions in attack. These are codified in Part IV, Section I of API, beginning with the Basic Rule:

Article 48. In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives.

The Basic Rule is the cornerstone of modern IHL and has been recognised as having achieved customary status for both international armed conflict<sup>5</sup> and non-international armed conflict (NIAC).<sup>6</sup>

In theory, the application of this principle would not be difficult in situations where there is a clear difference between the civilian population and military objectives. However, the framers of API recognised that when military objectives are located near civilians and civilian objects, commanders might be tempted to subject the civilian population to an unacceptable level of risk while engaging legitimate military targets. To address these concerns, Article 51 prohibits not only direct attacks against the civilian population but also those operations that amount to indiscriminate attacks. Article 57 then requires attackers to take positive steps to mitigate the effects of their operations on the civilian population.

### *Proportionality in attack*

A key test of whether an attack could be considered indiscriminate is the proportionality rule: given what a commander knows about a target and the likely effects of using a particular weapon (or weapons), will the collateral damage associated with the attack be excessive in relation to the military advantage gained from striking the target? The modern conception of this rule is widely accepted<sup>7</sup> to have been set forth in Article 51 of API:

Article 51(4). Indiscriminate attacks are prohibited ... (5) Among others, the following types of attacks are to be considered as indiscriminate ... (b) an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.

It is important to note that the values a commander or military planner must compare – expected civilian loss and anticipated military advantage – are incommensurable and cannot be calculated numerically.

### *Precautions in attack*

Whereas API Article 51(5)(b) sets forth the negative requirement for combatants to refrain from launching disproportionate attacks, Article 57 establishes concrete, positive measures to which combatants must adhere to ensure their attacks are proportionate:

Article 57(2)(a). [T]hose who plan or decide upon an attack shall: i) do everything feasible to verify that the objectives to be attacked are neither civilians nor civilian objects and are not subject to special protection but are military objectives ...; ii) take all feasible precautions in the choice of means and methods of attack with a view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects; iii) refrain from deciding to launch any attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.

The attack precautions enumerated in API Article 57 include actions that need to be taken before commanders or planners perform the proportionality assessment, such as verifying the target's military nature; but they also include actions to be taken after the assessment in order to further minimise the likelihood of collateral damage, such as issuing warnings to the civilian population.<sup>8</sup>

Before a commander or military planner can accurately perform a proportionality calculation for an attack, they must have enough information about the situation to answer the following questions:

- (1) Is the target a legitimate military objective?<sup>9</sup>
- (2) What is the military advantage that might be gained from attacking the target?<sup>10</sup>
- (3) What is the concentration of civilians or civilian objects nearby?<sup>11</sup>
- (4) What means are available to engage the target?<sup>12</sup> and
- (5) What are the likely effects of employing those means?<sup>13</sup>

The answers to the first, second and fourth questions may be immediately available to the commander or a military planner, but the answers to the third and fifth will likely require additional investigation. If, after employing all feasible measures to ascertain the nature of the proposed target, there is still doubt as to its character, Articles 50(1) and 52(3) state that it should be presumed to be civilian. As a final sense-check, if it becomes apparent during a mission that a strike would cause excessive collateral damage, Article 57(b) requires that the attack be suspended or cancelled.

### *The reasonable military commander test*

While the International Criminal Tribunal of the former Yugoslavia (ICTY) is best known for its decisions on the conduct of civil and military figures from the Balkans, the Office of the Prosecutor was also called upon to examine the legality of the North Atlantic Treaty Organization (NATO)'s use of airpower during the wars. In a report to the Office of the Prosecutor (OTP) in 2000, the Committee Established to Review the NATO Bombing Campaign developed a 'reasonable military commander' standard to gauge whether those involved with the air campaign had complied with their obligation not to launch strikes that were expected to cause excessive collateral damage. The committee reasoned that:

It is unlikely that a human rights lawyer and an experienced combat commander would assign the same relative values to military advantage and to injury to noncombatants. Further, it is unlikely that military commanders with different doctrinal backgrounds and differing degrees of combat experience or national military histories would always agree in close cases. It is suggested that the determination of relative values must be that of the 'reasonable military commander'. Although there will be room for argument in close cases, there will be many cases where reasonable military commanders will agree that the injury to noncombatants or the damage to civilian objects was clearly disproportionate to the military advantage gained. (International Criminal Tribunal for the Former Yugoslavia 2000, para. 50)

With this standard in mind, the committee analysed both the bombing mission as a whole and specific strikes that human rights organisations like Amnesty International and Human Rights Watch had suggested were in contravention of international law. While in some cases the civilian casualties were considered to be high, the committee reasoned there was insufficient evidence to ascertain the reasonableness of the strikes or to open a formal war crimes investigation.

The reasonable military commander standard has since been cited approvingly by other judicial and non-judicial bodies as the appropriate way to ascertain a commander's adherence to the rules of both precautions and proportionality in attack.<sup>14</sup> Moreover, the US Law of War Manual does not seem to view 'feasible precautions' as being different in meaning from 'reasonable precautions' (US Department of Defense 2016, 191–197).<sup>15</sup> Although imperfect, this reasonableness standard represents the best benchmark for determining whether a commander, planner or front-line combatant acted lawfully with regards to the rules governing proportionality and precautions in attack.

Meditative practices within the Buddhist tradition are designed to help a practitioner to cultivate the virtue of equanimity (Sanskrit: *upekṣā*; Pali: *upekkhā*). In translating this Buddhist concept for a medical/scientific audience, Desbordes et al. (2015, 357) defined equanimity as

an even-minded mental state or dispositional tendency toward all experiences or objects, regardless of their affective valence (pleasant, unpleasant or neutral) or source. ... Equanimity also involves a level of impartiality (i.e. being not partial or biased), such that one can experience unpleasant thoughts or emotions without repressing, denying, judging, or having aversion for them.

Although the term may conjure an image of cold aloofness, the Buddhist understanding of equanimity does not denote indifference. Rather, it describes an imperturbable mental state where a person's experiences are fully felt, yet not dwelled upon. Desbordes and her colleagues describe three ways researchers can measure the experience of equanimity: self-report questionnaires, physiological markers (such as the strength of a person's startle reflex) and neural markers (such as patterns of activation in the amygdala, which is responsible for emotional arousal). Using such measures as indicators of an equanimous mental state, their survey of prior research showed that certain types of meditation – both religious and secular – have been shown to promote practitioners' ability to hold an equanimous mental state.

It is important to be clear that the concept of a reasonable military commander does not imply a person who necessarily makes rational or clear-headed decisions. Moreover, the reasonable military commander test is forward-looking and it must not take into account situational factors that could only be known in hindsight. In practice, judges and other judicial actors have applied this test in a manner that gives military commanders a broad margin of appreciation for decisions that appear to have been made in good faith – even if they are incorrect

(Trew 2017, 124–126). Although certainly not required by the law, a person who trains themselves to maintain equanimity in the face of adversity and to overcome their habitual ways of thinking may be better situated to make a reasonable assessment of any given situation – and to make more reasonable decisions based upon that assessment. This could help to improve compliance with the law and prevent the sorts of errors in judgement that lead to IHL violations.

## The reality of targeting in modern warfare

### *The three categories of targeting*

The law of targeting begins with the absolute prohibition against targeting civilians and civilian objects (or other protected persons or objects, such as medical units), i.e. distinction. The rules of proportionality and precautions specify how to operationalise distinction in cases where there is a risk that civilians or civilian objects may be near a military objective. To put these rules into practice, decision makers (i.e. commanders and military planners) must make finely balanced assessments about what is really going on in the battlespace and about what they believe the likely effects of their attacks will be. Many armed forces divide the various targeting processes into roughly three categories: deliberate targeting, dynamic targeting and combat engagement.

In deliberate targeting, commanders and military planners have relatively more time to collect and analyse intelligence about the battlespace and to explore the possible effects of a proposed attack on civilians or civilian objects. The deliberate targeting cycle is highly process-driven and includes input from multiple actors, as one former US Air Force officer recounted:

With targeting, it's so algorithmic, there's not a lot of philosophical moments of deep thinking – It's checklists, and procedures. There're multiple people running through them and there're criteria that are either met or not met ... A lot of what we were doing had a lawyer or legal review included in the strike decks [target lists] and the packages. So, in that sense, you have to ask, 'what went into the creation of those checklists and those criteria and where are they coming from?' I can't speak to that. I think that most people on the ground in a combat zone are past that point .... They are solely implementing [procedures].<sup>16</sup>

Despite these safeguards, in deliberate targeting decision makers are not omniscient or infallible. Even when the decision to execute a particular target is data-driven and dispassionate, biases can still creep in at the level on which the targeting criteria, procedures or rules of engagement (RoE) are drafted. Also, those implementing such procedures still have some margin of discretion for deciding whether the targeting criteria are met. Nevertheless, it is



telling that relatively little collateral damage is caused during deliberate targeting missions compared to dynamic targeting or combat engagements (Human Rights Watch 2008, 29–33).

Dynamic targeting involves engaging targets of opportunity. As such, time pressures may not allow commanders, support staff or front-line troops to collect or analyse as much information as they would during deliberate targeting scenarios. However, they must still reasonably assess the situation as they find it, using the information to which they do have access.

By necessity, combat engagements (e.g. when troops are directly engaged in a firefight with the enemy) are even more ad hoc in nature and are not subject to the same processes as either deliberative or dynamic targeting (NATO 2016, 1:2–1:3).<sup>17</sup> In combat engagements, the unit under fire, with the aid of a few support elements, must collect information about the operating environment and engage targets based on their best understanding of the situation prevailing at the time.

Commanders, military planners and front-line troops will be given tactics, techniques and procedures (TTPs) and RoE that take into consideration the *jus in bello* principle of distinction, and the rules of proportionality and precautions in attack appropriate for each category of targeting. Even so, in all three cases the proverbial ‘fog of war’<sup>18</sup> can introduce ambiguity into targeting analyses, creating opportunities for individuals to bring their own biases into the process, particularly when stressed or pressed for time.

### *The fog of war*

The fog of war arises because in war it is difficult for an individual or even a group of individuals to have access to the right information about the battlespace at the right time. In addition, misinformation intentionally generated by the enemy can further complicate combatants’ efforts to correctly perceive a given situation. In earlier wars it may have been difficult for decision makers to obtain enough information about the battlespace (e.g. access to the right maps, photographs or human intelligence about a target). Although still a potential difficulty in contemporary armed conflicts, now there is the additional problem that commanders and their staff may have access to more information than can be reasonably analysed in a timely manner.

In one highly publicised US attack in 2011, a drone operator seemed to be preoccupied with reports of a possible threat posed by nearby enemy forces and failed to notice reports that a group of vehicles and people in the area were likely civilians and not enemy troops. When pressed to decide whether to target the vehicles the operator cleared a helicopter to fire upon them, believing them to be a Taliban convoy. The cause of the violation, which left 23 Afghan civilians dead, was attributed to information overload:

'Information overload – an accurate description', said one senior military officer, who was briefed on the inquiry [of the airstrike] and spoke on the condition of anonymity because the case might yet result in a court martial. The deaths would have been prevented, he said, '*if we had just slowed things down and thought deliberately*'. (Shanker and Richtel 2011) [my emphasis]

Information overload poses such great challenges for combatants involved with targeting in modern warfare that some military researchers have proposed outfitting troops with multi-sensory interfaces to spread incoming information across a user's different sensory channels (Elliott and Redden 2012). Others have suggested using artificial intelligence to analyse imagery and only alert the human operator when something is out of the ordinary (e.g. as described in Johnson and Wald 2017). Some have even proposed building computers that can respond dynamically to combatants' brain activity, automatically adjusting the amount of information presented based on how mentally taxed the computer believes the human operator to be (Lance and McDowell 2012).

Whether caused by misinformation, lack of information or information overload, the fog of war can foster a sense of ambiguity and uncertainty that makes it difficult for combatants to fully understand the military advantage of a potential target or to be able to reliably predict the effects of a proposed attack on civilians or civilian objects. In such an environment – and particularly when under stress (Yu 2016) – it becomes likely that combatants will fall back on heuristics and cognitive biases to make decisions, given their perceptions of the available information at the time. In cognitive psychology, a heuristic refers to the mind's predisposition to automatic ways of thinking based more on bias and intuition than on effortful reasoning (Kahneman, Slovic and Tversky 1982). Similarly, the concept of *vāsanā* in Yogācāra Buddhist psychology denotes the habitual tendency or disposition for a person to think or act in an automatic manner based on what has been imprinted in their 'storehouse-consciousness' (Keown 2004, 212).

Building upon earlier work on heuristics and IHL by Tomer Broude and Ashley Deeks, a US Navy legal adviser, Luke Whittemore (2016), analysed several ways that heuristics may affect the quality of targeting decisions. For example, the availability heuristic describes the tendency for an individual to act upon information that is easy to access in memory rather than information that is difficult to recall. When affected by this heuristic, a commander or planner may be more likely to consider reports of low collateral damage from recent or more emotionally salient attacks to indicate a low risk of collateral damage for the next strike – even if the overall historical trend of civilian casualties has been steadily increasing. Similarly, the *confirmation bias* describes how a person will tend to seek out and accept information that confirms their understanding of a situation, while discounting evidence that undermines it. Military planners affected by this heuristic may try to look for information which confirms their theory about

the intentions of, say, the behaviour of a group of people depicted in drone footage of an urban battlespace. Information that suggests that the group is directly participating in hostilities may be given greater weight than conflicting evidence that suggests the group is civilian (such as in the 2011 example discussed above).

The ICRC study on the *Roots of Restraint in War* (Terry and McQuinn 2018, 29) claims that immediate pre-deployment briefings present a key opportunity for military leaders to reinforce norms of restraint before troops have to put the somewhat abstract principles of IHL into concrete practice. Similarly, Whittemore's scholarship stresses the effect that commanders' own pre-mission briefings have on their adherence to IHL. Based in part on his personal experience advising commanders on targeting decisions, he suggested that they might be affected by two heuristics in particular: *framing* and the *endowment effect*. Framing describes the tendency for a person to consider different options to be more or less attractive based solely on the way in which information about the options is presented. For instance, a commander may be more willing to authorise an airstrike if the person briefing the attack emphasises the value of the anticipated military advantage. Conversely, they may be less likely to authorise it if the briefer emphasises the severity of the expected collateral damage. In either case, the objective facts of the scenario did not change and in both cases the commander is exposed to the same values for the anticipated military advantage and the expected collateral damage – the only change is the way the briefer emphasised the relative gains or losses of the attack.

Additionally, the endowment effect may cause a commander to deviate from making rational decisions. This effect describes the tendency for people to value an object (or idea) more if they own it. For example, if a pre-mission briefing is prepared in such a way as to give the commander a sense of ownership over the successful completion of the mission, they may find it difficult to call off the strike when it becomes apparent, mid-mission, that the expected collateral damage could be excessive. Whittemore rightly stressed that heuristic thinking is not necessarily wrong in all cases – indeed, these quick decision-making 'shortcuts' may even enhance civilian protection in some situations. Nevertheless, he suggested that subtle changes in the structure of a commander's pre-mission briefing may encourage military planners and decision makers to hew closer to the 'reasonable military commander' standard.

In addition to such practical measures for managing heuristic thinking, meditation and mindfulness practices also hold some promise for helping to improve the quality of targeting decisions – especially those made under stress.

## Cutting through the fog: kōan introspection

### *The benefits of meditation for combatants*

Given the uncertainty posed by both inadequate intelligence and information overload, and the concomitant tendency for military planners and front-line combatants in uncertain circumstances to fall back on heuristics-based reasoning and biases, what can be done to help cut through the fog of war? In addition to the technological and organisational approaches proposed earlier, meditation may offer a way for combatants to develop better awareness and make better decisions. Studies from the fields of psychology and neuroscience have shown that Buddhist meditative practices can have profound effects on the mind and – in the case of experienced individuals – even create structural changes in the brain (Austin 1999).

According to Braboszcz, Hahusseau, and Delorme (2010), mind wandering is generally associated with a reduced ability to process external stimuli, while meditative practices tend to clarify perceptions of external events. While these claims likely would not surprise experienced meditators, what may be of interest is the way certain practices encourage particular developments in cognition or brain structure. For example, those who practise ‘open-monitoring’ styles of meditation (such as vipassanā or zazen) tend to resist habituating to their environment. Instead, they seem better able to continuously perceive the world as if for the first time, and are therefore better at shifting their attention and spotting changes in their surroundings more easily, even when not meditating. By comparison, those who practise ‘focused attention’ styles of meditation (such as kōan introspection) may not perceive changes in the environment as readily, but they appear able to hold conflicting stimuli in mind more easily than those who practise open monitoring. Moreover, experienced meditators who practise focused attention show decreased metabolic activity in areas of the brain associated with sustained attention compared with beginners, suggesting they possess a more automatic and efficient use of attentional resources.

The promise shown by meditation in helping with information overload has not been lost on military researchers. For instance, the US military has trialled a meditation regime called ‘mindfulness-based mind fitness training’ or MMFT (Stanley et al. 2011). Although a secular practice and not explicitly connected with Buddhism, both the technique and its results would be familiar to Buddhists who practise an open-monitoring style of meditation:

‘The whole question we’re asking is whether we can rewire the functioning of the attention system through mindfulness’, said one of the researchers, Elizabeth A. Stanley, an assistant professor of security studies at Georgetown University.

Recently she received financing to bring the training to a Marine base, and preliminary results from a related pilot study she did with Amishi Jha, a neuroscientist at the University of Miami, found that it helped Marines to focus. (Shanker and Richtel 2011)

Although some of the rhetoric around the use of mindfulness training in the military has focused on how it promises to make troops more effective or resilient,<sup>19</sup> those who conduct research on the matter have also highlighted how mindfulness training could help troops to avoid the sort of automatic thinking that leads to targeting errors. As neuroscientist Amishi Jha claims:

Being in a high-stress situation degrades the capacity to be discerning. Under high stress, we just don't see what's going on. We go on autopilot. We react based on stereotypes. So the training helps soldiers base their decisions on what is actually in front of them instead of on assumptions. Being more discerning is what it means to be a better soldier. (Jha in Senauke and Gates 2014)

Research in this area has kept apace, and a recent study by Zanesco et al. (2019) has shown that a specially crafted form of open-awareness meditation improved special operations troops' performance in a sustained attention task in the laboratory. This suggests that the benefits of both open-awareness and focused attention styles of meditation could be blended to help military members better perceive changes in their surroundings, and successfully focus their attention in a way that improves decision-making in armed conflict.

Some Western Buddhists, such as Michael Stone (2014) and Robert Purser (2014), have expressed concern about attempts to introduce secular meditation and mindfulness techniques like MMFT to the military in order to – as Stone puts it – 'optimize organized violence'. One of the core criticisms both Stone and Purser present is that mindfulness and meditation should not be divorced from the religious teachings which gave rise to them – teachings that include strong ethical prohibitions against intentional killing. Purser suggests that even if it were possible to use meditation and mindfulness to help military decision makers to avoid collateral damage, Buddhism's strong ethical injunction against killing of any sort would preclude the use of its teachings in association with *any* military action:

MMFT proponents view it as a form of 'harm reduction', as the training improves working memory capacity that can prevent soldiers from overreacting and overgeneralizing, coupled with higher levels of emotional regulation that can even improve their ethical decision-making. With greater mindfulness, soldiers can purportedly be more 'discriminating' of their targets, thus 'reducing harm'. ... Perhaps in the circumscribed world of 'military ethics', sparing the lives of civilians while taking better aim at the designated enemy is considered exemplary practice. But it is orthogonal to Buddhist practice where ethical decision-making is based on intentions of nonharming, noninjuriousness, and

universal metta and compassion for all sentient beings. It is also far removed from the Hippocratic oath of medical practice of *primum non nocere*, to first do no harm – the very context from which MBSR<sup>20</sup> was rooted. (Purser 2014)

Whilst this argument is consistent with a widely held interpretation of Buddhist ethics, it unfortunately offers little instruction for how a Buddhist combatant should navigate difficult situations in armed conflict skilfully – other than to try to find another occupation.

Indeed, it would be a stretch to say that Buddhist ethics condones the use of violence. However, there is a story in the *Skill-with-Means (Upāya-kauśalya) Sūtra*<sup>21</sup> (Tatz 1994, 73–76), a first-century BCE Mahāyāna text, which evokes the sort of tension between necessity and humanity that underpins IHL in general and targeting law in particular. In the Sutra, the ‘Story of the Compassionate Ship’s Captain’ recounts a previous life of Shakyamuni Buddha when he was the captain, named ‘Great Compassionate’, of a merchant ship. On one voyage, the captain discovered a robber among the passengers who was planning to kill all 500 of those onboard, so that he could steal the ship’s cargo. After exhausting all other options, the captain concluded that the karmic consequences of letting the robber kill 500 people would be dire and that it would be better to kill the robber – skilfully and with compassion – than it would be to let him carry out his plan or to have the other passengers kill the robber with malice. In so doing, the captain saved 500 lives and the robber was spared the aeons in hell that would have awaited him had he been allowed to commit the murders. In the end, Great Compassionate acted with such skill in this instance that he himself was spared most of the karmic consequences of having killed the robber.

In this classic story, the compassionate captain is confronted with a situation where all of his possible responses have negative karmic consequences – either for himself or for others. In weighing the value of each course of action, he ultimately chooses the one that causes the least amount of suffering overall. This is not exactly the sort of balancing act envisaged by the principle of proportionality in IHL, since in the Buddhist view, it is not inherently good, righteous or legitimate to take the life of the robber. Rather, the robber is at the same time considered to be a legitimate target *and* collateral damage. Moreover, it is important to note that the captain *did not expect to escape the consequences of murdering the robber* merely because he intended to protect the lives of 500 others – that is, he was willing to take on the negative karma associated with his action even if that karma did not, except minimally, later materialise in fact. In some situations, all actions (or inactions) may carry wrong or unfortunate consequences, but a person will still require some discernment to determine the course of action that might be necessary to reduce suffering overall.

It is important not to overextend the significance of the Story of the Compassionate Ship's Captain or to read it out of context from the rest of the Sūtra's discourse on skilful means. Nevertheless, the story could act as an ethical touchstone for Mahāyāna Buddhists who find themselves in the position of having to make difficult targeting decisions during armed conflict.

As much as some Buddhists may be concerned that armed forces' use of secular mindfulness training programmes may omit core religious and ethical teachings, some ethicists express the inverse objection: that it is impossible to divorce mindfulness from its religious roots. In this view, secular mindfulness training could pose a challenge to the liberal neutrality of a state's institutions. For example, Andreas Schmidt (2016, 451) posits: 'One set of worries concerns the question as to whether MBIs [mindfulness-based interventions] constitute an illegitimate promotion of a particular worldview or way of life'. Despite this worry, Schmidt reckons that in most instances, the use of purely *secular* mindfulness training by government institutions would be generally compatible with liberal neutrality. For her part, Amishi Jha claimed:

I have had an easier time speaking at the Pentagon and talking to generals than I have convincing some Buddhists that what we're doing is okay. The angriest, flaming responses I've had to my research have come from Buddhists more so than the military. This really surprised me. (Jha in Senauke and Gates 2014)

This would suggest that the main ethical concerns about the use of secular mindfulness training by state institutions seem to come from the Buddhist community, rather than from the state, the military or other secular institutions.

To be clear, in this paper, my aim is not to prescribe the use of scientifically evaluated secular mindfulness practices to non-Buddhists in order to enhance compliance with IHL. I also am not discouraging its use for this purpose. Rather, my point is that – *regardless of the ethics of its use by the armed forces* – the evidence gathered to date on secular mindfulness training in the military strongly suggests that Buddhist meditative practices could indeed help combatants *who are already Buddhist* to better uphold their obligations under IHL, should they find themselves in an armed conflict.

### ***The role of Kōan introspection in Zen***

In Zen Buddhism, adherents typically practise meditation styles featuring elements of both open monitoring and focused attention. One style of focused attention meditation unique to Zen is known as kōan introspection (also known as kōan study or practice). Kōan introspection is specifically used by those in the Rinzai (Chinese: *Linji*), and – to a lesser extent – Sōtō schools of Zen, and is especially popular in the Harada-Yasutani lineage, which heavily influenced the development of Zen as practised in the West. Kōan

introspection developed in China as Mahāyāna Buddhist masters adapted their teaching methods to accommodate the cultural and linguistic milieu in which they found themselves, as my teacher, Roshi Sarah Bender, explains

Those [Pali] scriptures were not coming out of a tradition in which the Chinese were rooted and there were translation issues at first . . . . In each leap – from India to China and from China to Japan and Southeast Asia, the kōans specifically mention translation issues sometimes. One of the reasons the kōan curriculum evolved as it did was because you couldn't rely on the scriptural knowledge of the people you were talking to, and their language was challenging. I think that big batch of kōan teachers from 700CE to 900CE were going directly to people's own experience as expedient means.<sup>22</sup>

The Japanese word '*kōan*' comes from the Chinese word '*gong'an*' meaning 'public case' – as in a court case. In much the same way that prior legal cases set precedents, kōans are a record of 'precedents' set by earlier Zen masters.

Each kōan features a short story that Zen teachers use to guide students to learn certain ineffable Buddhist insights which can lead the student to experience kenshō. Peter Harvey defines kenshō as

a blissful realisation where a person's inner nature, the originally pure, is directly known in a sudden re-ordering of his or her perception of the world. All appears vividly; each thing retaining its individuality, yet empty of separateness, so being unified with all else, including the meditator. There is just an indescribable thusness, beyond the duality of subject and object, a thusness which is dynamic and immanent in the world. (Harvey 2013, 369)

One well-known kōan in Western popular culture is: 'What is the sound of one hand clapping?' Although kōans are often described as riddles or puzzles, they are not intended to be solved logically. Rather, the student is meant to focus their attention upon the kōan and observe what happens when the mind abandons linguistic and logical means of 'solving' it. As Roshi Gerry Wick explains: 'In order to penetrate a kōan, the student must drop away attachments to images, beliefs, and projections'. (2005, 5). While students should be thinking about the kōan – both during meditation and during daily life – insight will not come from analysing it logically.

The complete record of around 1700 classic kōans spans several centuries and covers a range of topics. Many – at least on the surface – seem to be about everyday matters, such as making tea or washing one's bowl. Others may seem more pertinent to armed conflict. One kōan, for example, implores the practitioner to 'stop the fighting across the river'. Often, these stories involve a dialogue between a Zen master and a monk. Such is the case with the first kōan many students encounter, 'Joshu's Mu':

Attention! A monk asked Master Joshu, 'Does a dog have Buddha Nature?' Joshu replied, 'Yes'. And then the monk said, 'Since it has, how did it get into that bag of skin?' Joshu said, 'Because knowingly, he purposefully offends'. On



another occasion a monk asked Joshu, 'Does a dog have Buddha Nature?' Joshu said, 'No!' [in Japanese: 'Mu!'] Then the monk said, 'All beings have Buddha Nature.'<sup>23</sup> Why doesn't the dog have it?' Joshu said, 'It is because of his having karmic consciousness'. [*The Book of Equanimity*, Case 18] (Wick 2005, 57)

Despite the apparent paradox, Joshu told each monk what he needed to hear. While working with this kōan, often teachers will ask the student to concentrate on the *huatou* or 'head' of the kōan, a short phrase which summarises the whole case. In this instance, what is the meaning of Joshu's 'Yes'? What is the meaning of his 'Mu'?

Roshi Bender states,

There are categories of kōans. Some of them are going to focus more on just the fundamental nature of 'what is this?', 'what am I?', 'what's the deal here?'. That's what [Roshi] Bernie Glassman says is the fundamental kōan – they're all just 'what's the deal here?'<sup>24</sup>

But the content of a kōan's story is not necessarily as important as how the student works with it. A skilful teacher will select the kōan that will help their student to most effectively grapple with the mental or conceptual stumbling block to which they seem most attached at that point in their practice.

Roshi James Ford explains that, at least initially, the practice is meant to elicit 'Great Doubt' from the practitioner: 'Turning doubt on ourselves, questioning each thought that arises, we strive to manifest that bumper-sticker truth: "Don't believe everything you think". However, the invitation here is even more radical: "Don't believe anything you think"' (2018, 92). Roshi Bender remarks that kōan practice is

training in holding paradox and not falling on one side or another, learning how to take a position without being married to a position ... One of the fundamental kōan lines that undergirds the whole practice is: 'abiding nowhere, the heart-mind comes forth'.<sup>25</sup>

The ability of those who practise kōan introspection to hold paradoxes in this way has been recognised recently by researchers in the field of clinical psychology, such as Lars Didriksen (2018), who believes that it could potentially have some therapeutic utility. Many psychosocial difficulties are accompanied by unhelpful self-talk, categorising and/or artificially framing a given situation as a dilemma. While seasoned practitioners would caution against viewing Zen or kōan practice itself as a form of psychotherapy, some elements of the practice may indeed disrupt unhelpful modes of thinking; and under the right conditions, kōan introspection may provide therapists with another tool with which to engage their clients.

Although the point of kōan practice is sometimes presented as helping a student to embrace paradox as a path to kenshō, this is not the whole practice. Rather, the student must also be able to integrate that experience

and any insights gleaned along the way during meditation into their everyday life. Roshi Ford states, 'The full value of the kōan is to be found in how it is lived into. I can't emphasise this point too strenuously. It is critical if we want to understand the kōan way' (2018, 117). But can this practice of holding paradox without falling on one side or the other help prepare combatants to make better decisions (particularly targeting decisions) in the face of the fog of war?

### *Kōan introspection in time of armed conflict*

Bushidō (which could be translated literally as 'military-knight-ways') was a warrior code that developed during Japan's feudal period. In his seminal treatise, *Bushido: The Soul of Japan*, Inazo Nitobe (1908) considered Buddhism – and Zen in particular – to be one of its primary sources. Additionally, Seisen Fueoka claimed in his introductory text, *A Zen Primer*, that:

Zen was introduced into Japan at the beginning of the Kamakura period [1185–1333], at a time when Bushido had risen to power. The simple and direct teachings of Zen coincided with the straightforward and resolute spirit of samurai discipline. In particular, the Zen teaching on life and death was strikingly clear and thorough. Because samurai stood on the edge between life and death, this teaching was very appropriate for their training. They very quickly came to revere and have faith in it. (Seisen in Victoria 2006, 99–100)

Given Zen's history and its purported interaction with Bushidō, it is not surprising that it could have a different approach towards war and killing compared with other strands of Buddhism.

However, more recent scholarship on Bushidō by Oleg Benesch (2014) calls into question the strength of the relationship between Zen and Bushidō in Japanese history. Rather than representing an accurate account of the interaction between Zen and Bushidō, Benesch claims that much of what was written on the topic during the late nineteenth and early twentieth centuries was either exaggerated or invented out of whole cloth. The actual evidence linking Zen to Bushidō is tenuous, but from the mid-1800s until the end of the Second World War, Japanese Buddhist leaders – and especially those in the Zen schools – were keen to demonstrate their patriotism by promoting the supposed influence of Zen on Bushidō (and vice versa) during the Kamakura period (Benesch 2014, 135–140). Nevertheless, even if the influence of Zen on Japanese martial culture is somewhat apocryphal, the 'effectiveness' of Zen training as a tool to help soldiers overcome fear of death and to enhance their operational prowess in *modern* warfare is well documented, most notably by Brian Victoria (2006) in his critical examination of the support that the Zen schools provided to the Japanese war effort during the Second World War.

In spite of its ability to become co-opted for unwholesome aims, *when taken up correctly*, Zen practice – including kōan introspection – could also prepare a person to uphold the rules of war. As Roshi Bender put it: ‘They’re really about how to be a human being. Do you want somebody in war to have practised the art of being a human being? Yes!’<sup>26</sup> Koan practice forces Zen students to consider paradoxes in order to confront the limits of ‘either/or’ ways of reasoning, and it invites the student to see what happens when they embrace ‘both/and’ ways of understanding a problem (Didriksen 2018, 403–404). This ability to consider ‘both/and’ ways of thinking seems to give the student space to better hold ambiguity, even when not meditating. While by no means foolproof, Zen practitioners who are presented with ambiguous situations in combat may be able to act with greater discernment in armed conflict compared with those who have not taken up such training.

To help me explore the potential ways kōan practice might help members of the armed forces who are already Zen practitioners to embrace ambiguity and overcome bias or heuristic thinking in times of armed conflict – specifically with the aim of enhancing respect for IHL – I sought the views of a focus group of three former US Air Force officers who have been deployed and who practised Zen meditation before they left. The following is intended to share the experiences of combatants who have undertaken a kōan introspection as a way to show how the theory discussed above has played out as lived experience. It is not intended to represent a scientific account.

All three participants agreed that practising zazen and taking up kōan work *before* their deployments was helpful. Two former officers explained:

As for kōan work ... sitting with an absurd question and trying to find truth within it – that’s war, right? Having gone through the process of sitting with something that doesn’t make sense and trying to sift through it and not find an academic, self-aggrandising answer to the question – maybe, in theory, that could help somebody sit in the ‘kōan’ of war too.<sup>27</sup>

When you get into a conflict zone, you get a lot of ideas. Depending on how much conflict you’re dealing with, those ideas dissipate very quickly ... It gets a hell of a lot less intellectual and academic as you go – well, welcome to kōan work.<sup>28</sup>

Sitting with an impossible question – time and time again – becomes a way to train the mind to handle ambiguity or absurdity, like having a personal wargaming exercise available wherever one happens to be. However, one member of the focus group cautioned against viewing Zen as a tool that can fully prepare one mentally for the realities of serving in a combat zone:

On a very practical, individual level, what's nice about Zen practice is that it tends to be more embedded into routine than in some other spiritual practices, so it's akin to working out – how physically, spiritually and mentally fit are you to walk into extreme stress? However, just as being the fittest person in the world doesn't prepare you for combat or war; being a lama or a roshi doesn't inherently prepare you for war either.<sup>29</sup>

The parallel with physical fitness described above is apt. Kōan introspection is not the sort of practice that a person can learn in a one-day training session; it is a practice that takes a lifetime to master. The more one practises, the more 'fit' one becomes.

The views of the group on whether kōan introspection was helpful to take up while deployed were more mixed. The general view was that, unless one had already started a regular kōan practice before going to war, it would probably be best not to take it up during a deployment.<sup>22</sup> As one former officer put it:

Going into a conflict zone, you need to be confident in your capability and you need to know you can do certain things, so training is paramount. To remove biases, you need to have 'beginner's mind'. Kōan work is about beginner's mind. There's an inherent conflict between confidence ... and beginner's mind. The ideal warrior can probably mix the two – you know, a samurai. However, when you try to do that and you don't have previous experience with it, I don't think that's a good idea.<sup>30</sup>

If one already has a regular kōan practice, it does seem that it could be immensely helpful to further develop one's ability to handle ambiguity; but one should be very careful about which kōan one takes into the combat zone. As one former officer's experience reveals:

In terms of kōan work, the series that you happen to be working on may be important. I was actively working one over there ['Stop the fighting across the river!'] and it was – weird. On the other hand – not necessarily to the benefit of anyone I was working with or fighting against – I don't think I will ever have a clearer experience of any kōan than I will of that one in particular because of what it was and where I was. ... I had some very interesting ideas about it before I went: 'Aha! How nice! I'm stopping the fighting across the river. I'm going to clean up after the fighting across the river'. ... I can certainly see a parallel between certain initial kōans, at least in our tradition, and this notion of dropping all of that crap in your head – letting it fall away – as you're in harm's way and just getting on with doing what you need to do: 'what is the most important thing; who is the most important person; what is the best action in any given moment?' ... What had happened was when I came home, I was just angry and I was angry all the time. ... I remember that I finally broke down and it really wasn't in response to kōan work, but I called Roshi and I said, 'you've got to help me – I just can't stop being angry' and it had been months since we talked. He asked me, 'which kōan are you working on?' and I remember when I told him, there was just this pregnant pause on the other end of the phone. Before he even opened his mouth, I had realised what had gone on. He said, 'First off, you've passed it. Secondly, you need to put it down. You need to

let it go'. . . . That (at least for me) was not the one to be taking to Iraq, because it made the transition back home a hell of a lot more difficult. It was probably just my naivety with kōan work. I got to the point where the kōan was doing me, rather than I was doing it.<sup>31</sup>

The role of the teacher in guiding a student through the kōan curriculum cannot be stressed enough. Because of the distance (especially if there is a time zone change) or long work hours, a deployed Zen student may be tempted to continue practising despite being unable to regularly consult their teacher. But because the strength of the practice depends upon regular dialogue with one's teacher in order to keep from developing unhelpful mental states, this is not advisable. The kōan curriculum was originally developed in a monastic tradition in which teachers lived alongside their students and saw them often in one-to-one sessions. Any meditative practice, including kōan introspection, involves opening oneself fully to an experience and armed conflict may not be the best place for a student to do so, particularly without an adequate support structure to help them process that experience. As another former officer remarked:

Just from a psychological standpoint, you need to compartmentalise in that moment and if you're sitting and letting these things come up and you don't have a container to manage whatever is coming up, I think it would be detrimental, actually. Unless you have a really good sensei [teacher] or a really good roshi, or a really good combat stress clinic, I think that at that point, compartmentalisation *is* your protection – that's what your mind should be doing. But, before and after – that's where [kōan practice] could be helpful. In the moment – I think it could be proper dangerous, actually.<sup>32</sup>

So while kōan introspection can provide some much-needed perspective in difficult or ambiguous situations, the main value of the practice seems to be in helping to *prepare* a person for deployment, rather than necessarily being of benefit in a combat zone. If a student wishes to continue kōan work while deployed, it would seem prudent for them to agree a kōan with their teacher ahead of time which is likely to work for them in that environment, and for the student to regularly consult their teacher throughout the deployment and immediately afterwards.

### *The precepts as a moral anchor*

Without an ethical mooring, it is possible to co-opt the 'spiritual technologies' that Zen has developed, including kōan introspection, and use them to merely inoculate troops against fear of death or to make them better at killing. Such was the case with Imperial-state Zen, in which Zen institutions in Japan adapted themselves and their teachings to support the emperor and the war effort during the Second World War. Rather than using the practice to

encourage soldiers to uphold Buddhist ethics, in many cases Zen teachers and masters promoted fealty to the state as the highest ‘virtue’ to which a soldier could aspire (Victoria 2006, 95–129).

In Zen, many teachings refer to two aspects of reality: the ‘absolute’ (Japanese: *Ri*) and the ‘relative’ (Japanese: *Ji*). These are related to the concepts of ‘emptiness’ and ‘form’, respectively. In her commentary on Master Sekito Kisen’s *The Identity of Relative and Absolute* (Japanese: *Sandokai*), Sōtō Priest Domyo Burk helps to explain the relationship between the absolute and the relative:

[I]t can often feel like the absolute and relative dimensions of our lives are very separate. When we perceive the absolute – unity, non-separation, everything complete just-as-it-is – the relative seems to recede, and when the relative intrudes – individuality, separation, action, worldly success, conflict, suffering – the absolute aspect seems to disappear. In reality, though, everything exists in both the absolute and relative sense simultaneously, and the two aspects don’t interfere with or impede each other at all. One or the other aspect may be more salient in our experience at any given moment, but we should know neither ceases to function when the other is front and center. (Burk 2018)

During Zen training, it is sometimes possible for a student to become ‘stuck’ in the absolute perspective and reject or no longer view the world in relative terms. In the fourth verse of the *Sandokai*, Sekito warns against this, saying, ‘Grasping at things [i.e. seeing reality only from the relative perspective] is surely delusion; according with sameness [i.e. seeing reality only from the absolute perspective] is still not enlightenment’ (Sekito in Burk 2018).

Since kōan introspection can sometimes allow a person to experience (or get stuck in) the absolute aspect of reality in a way that transcends ethical teachings, it is particularly important for a combatant who studies Zen to have a good ethical baseline before and while taking up the practice. As one of my focus group participants warned, it is very important to keep the precepts close when undertaking kōan introspection:

When thinking about kōan work in particular, I think it’s like any other aspect of practice in Zen. If ... you’re attempting to inoculate yourself into some false sense of non-dualism: ‘well, I can’t really hurt anyone because there’s nobody to hurt’, you’re doing it ‘wrong’. One of the things that Roshi would say at length is that one of the most dangerous times for any practitioner is when they have had a really good, hard, deep opening or *kenshō*, because of that sense of ‘it’s all okay’ ... If you’re a samurai or you’re a soldier, I can certainly see a certain degree of stoicism being helpful to get through the day ... [I]f you are not getting stuck in the absolute ... then it affords you a great clarity of vision. It prepares you as an individual to deal with who and what is most important in any given moment with as little of your nonsense getting in the way as possible. So, I don’t necessarily see Zen practice or kōan work having a direct impact on the law of armed conflict, writ large, but as somebody who is going in, trying to accomplish a mission and to do it without causing any more harm than you

have to, ... if you're doing it right, I think Zen can be *immensely* helpful for that. I think that the risk for Zen in particular is, ... there is also an *immense* risk for getting it wrong.<sup>33</sup>

For instance, Zen Master Takuan Soho (1573–1645), who was himself a swordsman, once wrote in his instructions to a samurai:

The uplifted sword has no will of its own, it is all of emptiness. It is a flash of lightning. The man who is about to be struck down is also of emptiness, as is the one who wields the sword ... Do not get your mind stopped with the sword you raise; forget about what you are doing, and strike the enemy. Do not keep your mind on the person before you. They are all of emptiness, but beware of your mind being caught in emptiness. (Takuan in Aitken 1984, 5)

Despite Master Takuan's warning against getting caught in emptiness, this passage could be seen as an example of Zen 'getting it wrong'. As Roshi Robert Aitken explains, Master Takuan is correct that from a perspective seated in emptiness, or the absolute, there is nothing to be called death (and therefore no killing). Nevertheless, he rebukes Takuan, suggesting that practitioners should not take up the perspective of the absolute exclusively since the consequences of killing from the perspective of the everyday world of form are very real:

If there is no sword, no swing of the sword, no decapitation, then what about all the blood? What about the wails of the widow and children? The absolute position, when isolated, omits human details completely. Doctrines, including Buddhism, are meant to be used. Beware of them taking a life of their own, for then they use us. Nirvana, the purity and clarity of the void, is the same name we give to the total peace one experiences in deepest realization. But that is the same sea that we experience rising and falling in samsara, the relative world of coming and going. We cannot abstract depth from surface, nor surface from depth. Killing, even in an exalted state of mind, cannot be separated from suffering. (Aitken 1984, 17–18)

Rather than producing the perfect, fearless soldier who can overcome not only information overload, but also aversion to killing, Roshi Bender explains that it is extremely important for a combatant who practises kōan introspection to be thoroughly inculcated into the precepts:

You want the person to be so deeply *stained* by the precepts – and by the practice of facing impossible questions – that they are able to come forth from a place of deep integrity at an instant. I think kōan practice does do that.<sup>34</sup>

Likewise, I would argue that it is vitally important for any Buddhist meditative practice, including kōan introspection, to be taken up in conjunction with Buddhist precept study. The First Precept becomes especially important for guiding the conduct of combatants who take up such practices during armed conflict. As Roshi Aitken explains:

The First Precept plainly means ‘Don’t kill’, but it also expresses social concern: ‘Let us encourage life’, and it relates to the mind: ‘There is no thought of killing’. There are three elements that the Zen teacher uses in conveying the precepts: the literal, the compassionate, and the essential ...’ (Aitken 1984, 16)

The literal, the compassionate and the essential elements of a precept are often mutually reinforcing. For example, by not killing, one helps to encourage life and to cultivate a mind where there is no thought of killing.

However, what is one to do if the compassionate element (e.g. to encourage life, including one’s own life) conflicts with the literal element (e.g. the prohibition on killing)? In applying this understanding of the First Precept to dilemmas in the real world, a practitioner may consider it necessary to take a life in order to sustain or protect the lives of others. Nevertheless, even if one considers it necessary to take a life, at no point should one – including a soldier in times of armed conflict – ever ‘take a life for granted’ (Roshi George Burch in Emery 2007). Whilst many Buddhists may seek to avoid military service altogether, many have joined and will continue to join the profession of arms – either by volunteering or through conscription. In such cases, a Buddhist combatant must learn how to continuously return to their vow of supporting life and abstaining from killing – in the knowledge that it will be an impossible vow to keep, especially in times of armed conflict. There can be no rationalising or reconciling this contradiction. In a way, the practice of keeping the First Precept in armed conflict can itself become a *kōan*.

## Conclusions

The available evidence on the benefits of meditative practices, including *kōan* introspection, suggests that it could help combatants recognise their cognitive biases and better deal with situations of ambiguity in a way that enables more reasonable decision-making related to targeting. Nevertheless, this article represents only a surface-level foray into the matter, and more research could provide better empirical data to determine whether this particular practice does indeed have a robust effect.

Even if, in principle, *kōan* introspection could reliably enhance combatants’ abilities to make decisions in line with IHL, it may be prudent not to promote *kōan* introspection as a stand-alone compliance measure – even for Buddhists. It is not a practice that can be taught in a short training session and practised for a few hours shortly before deployment, and it would not be wise to take up *kōan* introspection for the first time in a conflict zone. Moreover, a student’s progress through the *kōan* curriculum depends to a great degree on the student having regular dialogue with their teacher, which is difficult to maintain during a deployment. Finally, *kōan* introspection should not be divorced from its ethical and spiritual roots. Without a solid ethical grounding, if a practitioner has



a kenshō – an experiential understanding of the absolute aspect of reality – they might be unable to integrate the experience into a particular ethical orientation that would be compatible with adherence to IHL.

Nevertheless, for those military Zen practitioners who develop their kōan practice before going to war, it could give them helpful insights into their understanding of the battlespace, and it could help them to hold multiple perspectives in mind at the same time before deciding upon a course of action. Such an ability should help them to make more reasonable targeting decisions, even when faced with the fog of war.

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## Notes

1. The views set forth herein are expressed in my personal capacity and do not necessarily reflect those of my institutional affiliation. The British Red Cross is a religiously neutral humanitarian organisation that welcomes supporters, volunteers and beneficiaries of all religions or none.
2. See e.g. Solis (2010, 3–6).
3. In this article, I use the term ‘targeting law’ in the same manner as William Boothby to describe the subset of principles or rules in the IHL branch governing the conduct of hostilities as they relate to targeting.
4. Formal kōan study dates to the tenth century in China (Wick 2005, 1). There are roughly 1700 classic kōans – of which 500–600 continue to be used today (Schumaker and Woerner 1986, 182). Some of these kōans have been compiled into anthologies, such as the *Blue Cliff Record* (compiled in the twelfth century), the *Gateless Gate* (thirteenth century), the *Book of Equanimity* (thirteenth century), the *Transmission of Light* (fourteenth century) and *Entangling Vines* (c. seventeenth century). Of those Chan/Zen lineages which include formal kōan study, different lineages have developed different sequences, or ‘curricula’, for taking up particular kōans or kōan series, and some Zen groups may use more recently developed kōans in addition to the classic anthologies.

5. One would be hard pressed to find a principle in IHL more widely accepted than the Basic Rule. Evidence for its acceptance by states can be found in numerous military manuals and in Rule 7 of the ICRC's Customary International Humanitarian Law (CIHL) Study (Henckaerts and Doswald-Beck 2005, 25–29). The experts who drafted Rule 10 for the HPCR Manual on Air and Missile Warfare likewise regard the Basic Rule to be a fundamental tenet of the law of armed conflict (Harvard Program on Humanitarian Policy and Conflict Research 2010, 83–86).
6. The version of distinction articulated in APII (for NIACs) is not as strong as that stated in the Basic Rule. However, the ICRC CIHL Study puts forth a convincing case for the applicability of the Basic Rule in non-international armed conflict. The authors cite military manuals, the adoption of the rule into amended protocols II and III to the Certain Conventional Weapons Treaty (which is applicable in NIAC) and domestic legislation as evidence of states' acceptance of the rule during NIAC (Henckaerts and Doswald-Beck 2005, 25–28). The HPCR Manual on Air and Missile Warfare (2010, 83) confirms this view.
7. See e.g. Cannizzaro (2014, 335); Kolb and Hyde (2008, 136); Solis (2010, 273); Boothby (2012, 170); Henckaerts and Doswald-Beck (2005, 46).
8. I.e. API Article 57(2)(c).
9. API Articles 48 & 57(2)(a)(i). The HPCR Group of Experts clarify: 'To facilitate verification that a target is a lawful target and does not benefit from specific protection, command echelons must utilize all technical assets (such as intelligence, reconnaissance and surveillance systems) at their disposal, to the extent that these assets are reasonably available, and utilizing them is militarily sound in the context of the overall air campaign' (Harvard Program on Humanitarian Policy and Conflict Research 2010, 126).
10. Again, this is implied by Article 57(2)(a)(iii).
11. This is implied by Article 57(2)(a)(iii).
12. This is implied by Article 57(2)(a)(ii).
13. Article 57(2)(a)(ii). The HPCR Group of Experts clarify: 'For instance, an attacker ought to choose a weapon with greater precision or lesser explosive force if doing so would minimize the likelihood of collateral damage, assuming the selection is militarily feasible ... Similarly, angle of attack is one of the factors that determine where a bomb may land if it falls short of, or beyond, the target. Thus, to spare a building located, e.g. to the west of a target, it may be advisable to attack from the north or the south' (Harvard Program on Humanitarian Policy and Conflict Research 2010, 127).
14. See e.g. *Public Committee against Torture in Israel v. Government of Israel* (2006, 512–513) and German Federal Prosecutor (2010, 69); see also, for a reference to an 'unreasonable' decision to authorise a strike, US Department of Defense (2015, 54); and see, for non-attack related military decisions, *Beit Sourik Village Council v. the Government of Israel* (2004, 27).
15. This understanding of the word 'feasible' would have been controversial at the time of the negotiation of the APs, as the Rapporteur of the Diplomatic Conference Working Group explained: 'Certain words [in draft Article 50 (which later became Article 57 AP I)] created problems, particularly the choice between "feasible" and "reasonable" ... The Rapporteur understands "feasible", which was the term chosen by the Working Group, to mean that which is practicable, or practically possible. "Reasonable" struck many representatives as too subjective a term'.
16. Focus Group with Zen Practitioners from the US Air Force, interview by Noel Trew (06 July 2019).

17. For ease in this instance, I reference NATO targeting doctrine since it covers the processes of a number of (western) countries; however, it is important to keep in mind that other states may operationalise their IHL targeting law obligations in a different manner.
18. Though he never used the phrase 'fog of war', the origin of this metaphor is widely attributed to the nineteenth-century Prussian strategist, Carl von Clausewitz: 'War is the realm of uncertainty; three quarters of the factors on which action in war is based are wrapped in a fog of greater or lesser uncertainty. A sensitive and discriminating judgement is called for; a skilled intelligence to scent out the truth' (1976, 101).
19. See e.g. Carter and Mortlock (2019) and Stanley and Jha (2009).
20. MBSR stands for 'mindfulness-based stress reduction'. It is a secular meditation technique which is used in a clinical setting.
21. For a more in-depth commentary on the story of Captain Great Compassionate and how *Upāya-kauśalya* can be seen in some circumstances as overriding the precepts in Mahāyāna ethics, see Harvey (2000, 134–138).
22. Bender, Sarah. 2019. Interview by Noel Trew. July 07.
23. It is a central tenet of East Asian Mahāyāna Buddhism that 'Buddha nature pervades the whole universe, existing right here now'.
24. Bender, Sarah. 2019. Interview by Noel Trew. July 07.
25. Bender, Sarah. 2019. Interview by Noel Trew. July 07.
26. Bender, Sarah. 2019. Interview by Noel Trew. July 07.
27. Focus Group with Zen Practitioners from the US Air Force, interview by Noel Trew (06 July 2019).
28. Focus Group with Zen Practitioners from the US Air Force, interview by Noel Trew (06 July 2019).
29. Focus Group with Zen Practitioners from the US Air Force, interview by Noel Trew (06 July 2019).
30. Focus Group with Zen Practitioners from the US Air Force, interview by Noel Trew (06 July 2019).
31. Focus Group with Zen Practitioners from the US Air Force, interview by Noel Trew (06 July 2019).
32. Focus Group with Zen Practitioners from the US Air Force, interview by Noel Trew (06 July 2019).
33. Focus Group with Zen Practitioners from the US Air Force, interview by Noel Trew (06 July 2019).
34. Bender, Sarah. 2019. Interview by Noel Trew. July 07.

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