

INTERNATIONAL



United Nations Human Rights Council



Agenda: Legality of Psychological Warfare





A WORD FROM THE EXECUTIVE BOARD

It is an honour to preside over the Human Rights Council at International Utopia Model United Nations 2019. This letter shall serve as a concept note for the committee by outlining our expectations as to how the committee is to function.

MUNs as a concept are designed to be a simulation rather than a conference. This difference is inherent and obvious in each country's representation through their delegation.

The head of this delegation is usually a diplomat whose primary objective is the representation of the government and its goals. The head delegate is hence tasked with the responsibility of aligning the policies and objectives of other countries with their own goals and using diplomacy effectively to achieve the aforementioned goals.

Thus, the outcome of the simulation is different for each diplomat and it is the means to this end that shall define the equality of the simulation. It is also important to remember the inherent limitations of every student in terms of using or applying international law.

This implies that it is not necessary to indulge in highly technical discussions that do not ensure any learning to the delegate.

Rather, it is imperative that all discussions be integrated with logic that has been graciously gifted to mankind through our collective wisdom.



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It is thus expected that this concept note also serve as a very important starting point to the simulation and that the delegates are able to infer a lot more than what is shown at the face value.

The agenda has multiple facets and can take a national or an international viewpoint. For the benefit of the delegates and the quality of the simulation, the background guide shall give small introductions to serve as a starting point for your research.

It is important to remember that this is only a starting point to which serves as a quick start to your research; the end, however, awaits you all.

Godspeed

All the Best Everyone!

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INTRODUCTION

Psychological warfare is the concept which uses actions intended to reduce an opponent's morale or mental well being. The aim is to use manipulative tactics to intimidate or persuade a person or people.

This process is usually employed through propaganda. Propaganda is ideas or statements that are false or exaggerated and is deliberately spread to influence the masses.

The goal of psychological warfare is to intentionally use propaganda to manipulate another and break down their will without using physical force. Various techniques are used, and are aimed at influencing a target audience's value systems, belief systems, emotions, motives, reasoning, or behaviour. It is used to induce confessions or reinforce attitudes and behaviours favourable to the originator's objectives, and are sometimes combined with black operations or false flag tactics.

It is also used to destroy the morale of enemies through tactics that aim to depress troops' psychological states.

Target audiences can be governments, organizations, groups, and individuals, and is not just limited to soldiers. Civilians of foreign territories can also be targeted by technology and media so as to cause an effect in the government of their country.

To achieve their objectives, the planners of psychological warfare campaigns first attempt to gain total knowledge of the beliefs, likes, dislikes, strengths, weaknesses, and vulnerabilities of the target population.

PROBLEMS ASSOCIATED WITH PSYCHOLOGICAL WARFARE

Prisoners of war (POWs) are soldiers, sailors, aircrew, and marines who are captured in wartime. They are often subjected to extreme physical and psychosocial stressors. Psychiatric and mental-health effects are most typically seen in POWs. For individuals with severe captivity experiences, apathy, dependence, seclusiveness, and irritability and anxiety have usually been reported on return home. Results of large-scale studies of US WWII and Korean POWs showed increased mortality from accidents and tuberculosis in Pacific WWII POWs, whereas results of subsequent studies showed greater psychological symptoms in POWs than in controls. In 1992, extensive follow-up, including comprehensive medical examination and structured clinical interview, identified amplified rates of post-traumatic stress disorder, depressive disorder, and generalised anxiety in POWs, which were generally greater in Pacific WWII and Korean POWs than in European WWII POWs.

At 40-year follow-up, rates of depressive symptoms were three to five times higher than those of the general population, and were greatest in young POWs and those who underwent the most harsh treatment. Across studies of POWs of different wars, rates of lifetime post-traumatic stress disorder and depression are about 35–50% and 50–80% higher, respectively, in POWs than in controls. Of repatriated US Gulf War POWs, 10% were diagnosed with a captivity-related psychiatric illness on their return home, and about a third had psychiatric symptoms or disorders needing follow-up. The severity of captivity has consistently been associated with increased psychiatric morbidity in all wars. US Air Force POWs captured in Vietnam before 1969 underwent much greater maltreatment and deprivation than did those captured after 1969 (in 1969, bombing was stopped), and had greater psychiatric disturbance and more abnormal psychological test scales on the Minnesota multi-phasic personality inventory. An intriguing single case design of six former Vietnam era US airforce POWs, who had coincidentally been seen psychiatrically years before their captivity, also showed that individuals previously selected for mental health and excellent stress coping can develop psychiatric illness after POW experiences. Studies of protective factors have suggested various coping strategies as effective in protecting from negative psychiatric outcomes; however, none are well established.

Increased death rates arise in the early years after severe POW captivity experiences, from accidents and infection. Furthermore, POWs are at increased risk of somatic complaints, musculoskeletal disorders, gastrointestinal disorders, and peripheral neuropathies compared with their combat counterparts. Psychiatric illness including post-traumatic stress disorder, depression, and generalised anxiety can present early and persist for decades after captivity. Although remarkable resiliency to terrifying and physically disabling stressors is normal for those surviving POW captivity, their medical and psychiatric illness and disability can require care and support for years.

HISTORY

In the 525 B.C. Battle of Peluseum, Persian forces held cats as hostages in order to gain a psychological advantage over the Egyptians, who due to their religious beliefs, refused to harm cats. To make the number of his troops seem larger than they actually were, 13th century A.D. leader of the Mongolian Empire Genghis Khan ordered each soldier to carry three lit torches at night. The Mighty Khan also designed arrows notched to whistle as they flew through the air, terrifying his enemies.

And in perhaps the most extreme shock and awe tactic, Mongol armies would catapult severed human heads over the walls of enemy villages to frighten the residents. During the American Revolution, British troops wore brightly colored uniforms in an attempt to intimidate the more plainly dressed troops of George Washington's Continental Army. This, however, proved to be a fatal mistake as the bright red uniforms made easy targets for Washington's even more demoralizing American snipers.

World War I

At the start of the war, the belligerents, especially the British and Germans, began distributing propaganda, both domestically and on the Western front. The British had several advantages that allowed them to succeed in the battle for world opinion; they had one of the world's most reputable news systems, with much experience in international and cross-cultural communication, and they controlled much of the undersea cable system then in operation.

These capabilities were easily transitioned to the task of warfare. The British also had a diplomatic service that kept up good relations with many nations around the world, in contrast to the reputation of the German services. While German attempts to foment revolution in parts of the British Empire, such as Ireland and India, were ineffective, extensive experience in the Middle East allowed the British to successfully induce the Arabs to revolt against the Ottoman Empire. In August 1914, David Lloyd George appointed Charles Masterman MP, to head a Propaganda Agency at Wellington House.

A distinguished body of literary talent was enlisted for the task, with its members including Arthur Conan Doyle, Ford Madox Ford, G. K. Chesterton, Thomas Hardy, Rudyard Kipling and H. G. Wells.

HISTORY

Over 1,160 pamphlets were published during the war and distributed to neutral countries, and eventually, to Germany. One of the first significant publications, the Report on Alleged German Outrages of 1915, had a great effect on general opinion across the world.

The pamphlet documented atrocities, both actual and alleged, committed by the German army against Belgian civilians.

A Dutch illustrator, Louis Raemaekers, provided the highly emotional drawings which appeared in the pamphlet. At the start of the war, the French government took control of the media to suppress negative coverage.

Only in 1916, with the establishment of the Maison de la Presse, did they begin to use similar tactics for the purpose of psychological warfare.

One of its sections was the "Service de la Propagande aérienne" (Aerial Propaganda Service), headed by Professor Tonnelat and Jean-Jacques Waltz, an Alsatian artist code-named "Hansi".

The French tended to distribute leaflets of images only, although the full publication of US President Woodrow Wilson's Fourteen Points, which had been heavily edited in the German newspapers, was distributed via airborne leaflets by the French. The Central Powers were slow to use these techniques; however, at the start of the war the Germans succeeded in inducing the Sultan of the Ottoman Empire to declare 'holy war', or Jihad, against the Western infidels.

They also attempted to foment rebellion against the British Empire in places as far afield as Ireland, Afghanistan, and India.

The Germans' greatest success was in giving the Russian revolutionary, Lenin, free transit on a sealed train from Switzerland to Finland after the overthrow of the Tsar. This soon paid off when the Bolshevik Revolution took Russia out of the war.

CASE STUDIES

World War II

Adolf Hitler was greatly influenced by the psychological tactics of warfare the British had employed during WWI, and attributed the defeat of Germany to the effects this propaganda had on the soldiers.

He became committed to the use of mass propaganda to influence the minds of the German population in the decades to come. By calling his movement The Third Reich, he was able to convince many civilians that his cause was not just a fad, but the way of their future.

Germany's Fall Grün plan of invasion of Czechoslovakia had a large part dealing with psychological warfare aimed both at the Czechoslovak civilians and government as well as, crucially, at Czechoslovak allies.

It became successful to the point that Germany gained support of UK and France through appeasement to occupy Czechoslovakia without having to fight an all-out war, sustaining only minimum losses in covert war before the Munich Agreement.

At the start of the Second World War, the British set up the Political Warfare Executive to produce and distribute propaganda. Through the use of powerful transmitters, broadcasts could be made across Europe.

During World War II, the British made extensive use of deception – developing many new techniques and theories. The main protagonists at this time were 'A' Force, set up in 1940 under Dudley Clarke, and the London Controlling Section, chartered in 1942 under the control of John Bevan.

Clarke pioneered many of the strategies of military deception. His ideas for combining fictional orders of battle, visual deception and double agents helped define Allied deception strategy during the war, for which he has been referred to as "the greatest British deceiver of WW2".

During the lead up to the Allied invasion of Normandy, many new tactics in psychological warfare were devised. The plan for Operation Bodyguard set out a general strategy to mislead German high command as to the exact date and location of the invasion. Planning began in 1943 under the auspices of the London Controlling Section (LCS).

A draft strategy, referred to as Plan Jael, was presented to Allied high command at the Tehran Conference. Operation Fortitude was intended to convince the Germans of a greater Allied military strength than existed, through fictional field armies, faked operations to prepare the ground for invasion and leaked information about the Allied order of battle and war plans.

CASE STUDIES

Elaborate naval deceptions (Operations Glimmer, Taxable and Big Drum) were undertaken in the English Channel. Small ships and aircraft simulated invasion fleets lying off Pas de Calais, Cap d'Antifer and the western flank of the real invasion force.

At the same time Operation Titanic involved the RAF dropping fake paratroopers to the east and west of the Normandy landings. The deceptions were implemented with the use of double agents, radio traffic and visual deception.

The British "Double Cross" anti-espionage operation had proven very successful from the outset of the war, and the LCS was able to use double agents to send back misleading information about Allied invasion plans. The use of visual deception, including mock tanks and other military hardware had been developed during the North Africa campaign.

Mock hardware was created for Bodyguard; in particular, dummy landing craft were stockpiled to give the impression that the invasion would take place near Calais.

The Operation was a strategic success and the Normandy landings caught German defences unaware. Subsequent deception led Hitler into delaying reinforcement from the Calais region for nearly seven weeks.

Vietnam War

The United States ran an extensive program of psychological warfare during the Vietnam War. The Phoenix Program had the dual aim of assassinating National Liberation Front of South Vietnam (NLF or Viet Cong) personnel and terrorizing any potential sympathizers or passive supporters. Chieu Hoi program of the South Vietnam government promoted NLF defections.

When members of the PRG were assassinated, CIA and Special Forces operatives placed playing cards in the mouth of the deceased as a calling card. During the Phoenix Program, over 19,000 NLF supporters were killed.

The United States also used tapes of distorted human sounds and played them during the night making the Vietnamese soldiers think that the dead were back for revenge.

CASE STUDIES

The CIA made extensive use of Contra soldiers to destabilize the Sandinista government in Nicaragua. The CIA used psychological warfare techniques against the Panamanians by delivering unlicensed TV broadcasts.

The United States government has used propaganda broadcasts against the Cuban government through TV Marti, based in Miami, Florida. However, the Cuban government has been successful at jamming the signal of TV Marti.

In the Iraq War, the United States used the shock and awe campaign to psychologically maim and break the will of the Iraqi Army to fight.

In cyberspace, social media has enabled the use of disinformation on a wide scale. Analysts have found evidence of doctored or misleading photographs spread by social media in the Syrian Civil War and 2014 Russian military intervention in Ukraine, possibly with state involvement.

Military and governments have engaged in psychological operations (PSYOPS) and informational warfare on social networking platforms to regulate foreign propaganda, which includes countries like the US, Russia, and China.

Guantanamo Bay

"Enhanced interrogation techniques" or "enhanced interrogation" is a euphemism for the U.S. government's program of systematic torture of detainees by the Central Intelligence Agency (CIA), the Defense Intelligence Agency (DIA), and various components of the U.S. Armed Forces at black sites around the world, including Bagram, Guantanamo Bay, and Abu Ghraib, authorized by officials of the George W. Bush administration.

Methods used included beating, binding in contorted stress positions, hooding, subjection to deafening noise, sleep disruption, sleep deprivation to the point of hallucination, deprivation of food, drink, and withholding medical care for wounds, as well as waterboarding, walling, sexual humiliation, subjection to extreme heat or extreme cold, and confinement in small coffin-like boxes. Some of these techniques fall under the category known as "white torture."

Several detainees endured medically unnecessary "rectal rehydration", "rectal fluid resuscitation", and "rectal feeding". In addition to brutalizing detainees, there were threats to their families such as threats to harm children, and threats to sexually abuse or to cut the throat of detainees' mothers. The number of detainees subjected to these methods has never been authoritatively established, nor how many died as a result of the interrogation regime, though this number is believed to be at least 100.

CASE STUDIES

The authorized "enhanced interrogation" was based on work done by James Elmer Mitchell and Bruce Jessen in the Air Force's Survival Evasion Resistance Escape (SERE) program. The CIA contracted with the two psychologists to develop alternative, harsh interrogation techniques.

The SERE program, which Mitchell and Jessen would reverse engineer, was used to train pilots and other soldiers on how to resist "brainwashing" techniques assumed to have been employed by the Chinese to extract false confessions from captured Americans during the Korean War.

The program subjected trainees to "waterboarding, sleep deprivation, isolation, exposure to extreme temperatures, enclosure in tiny spaces, bombardment with agonizing sounds at extremely damaging decibel levels, and religious and sexual humiliation," including enemas and anal assault.

Under CIA supervision, Miller and Jessen adapted SERE into an offensive program designed to train CIA agents on how to use the harsh interrogation techniques to gather information from terrorist detainees. The psychologists relied heavily on experiments done by American psychologist Martin Seligman in the 1970s on learned helplessness.

In these experiments caged dogs were exposed to severe electric shocks in a random way in order to completely break their will to resist. Mitchell and Jessen applied this idea to the interrogation of Abu Zubaydah.

Many of the interrogation techniques used in the SERE program, including waterboarding, cold cell, long-time standing, and sleep deprivation were previously considered illegal under U.S. and international law and treaties at the time of Abu Zubaydah's capture. In fact, the United States had prosecuted Japanese military officials after World War II and American soldiers after the Vietnam War for waterboarding and as recently as 1983.

Since 1930, the United States had defined sleep deprivation as an illegal form of torture. Many other techniques developed by the CIA constitute inhuman and degrading treatment and torture under the United Nations Convention against Torture and Article 3 of the European Convention on Human Rights.

MODERN ASPECTS

Psychological warfare has become dispersed and democratized. And the target audience for psychological warfare has expanded globally. People everywhere might be motivated or affected by what they see, read or hear—to support one side or the other in a given conflict, pressure their government to do so, or even join in directly, as was seen in the flood of foreign fighters into Syria's civil war.

Social media is the linchpin of this seismic change in the character of conflict. As journalist David Patrikarakos notes, platforms like YouTube, Twitter and Facebook allow individuals to “resonate globally, with a power and reach once reserved for large media institutions or governments.” Social media, according to security experts P.W. Singer and Emerson Brooking, has “become a battlefield where information itself is weaponized.”

This makes the psychological dimension of conflict exceptionally complex and fast-changing. Crafting and transmitting carefully coordinated messages no longer works. To fight and win on the battlefield of social media, the military must have the ability to affect perceptions both in a military area of operations and to a global audience, rapidly shifting themes and messages for maximum effectiveness.

LEGALITY OF PSYCHOLOGICAL WARFARE

There is no comprehensive regulation under IHL on the use of communication to affect peoples' attitudes and behaviour during armed conflict.

Although there are some references under IHL to 'propaganda'—for example in Article 51 (1) of The Fourth Geneva Convention (GC IV)—they are both scarce and fragmented.

Therefore, in order to determine whether or not a specific act of influence is proscribed, prohibited, restricted or in any other way regulated by IHL, a two-step process is recommended.

The first step consists of breaking apart the operation into its elements, by posing questions such as:

What is the content of the message?

How is the message communicated?

Who are the intended recipients of the message?

What are the foreseeable consequences of the message?

Only after having identified the elements of the influence operation can one continue with the second step, an analysis of the law applicable to each element. A case study may help explaining this approach further.

INTERNATIONAL FRAMEWORKS

Hague Regulations (1899)

Article 24 of the 1899 Hague Regulations provides:

Ruses of war and the employment of methods necessary to obtain information about the enemy and the country are considered permissible.

Hague Regulations (1907)

Article 24 of the 1907 Hague Regulations provides:

Ruses of war and the employment of methods necessary for obtaining information about the enemy and the country are considered permissible.

Additional Protocol I

Article 37(2) of the 1977 Additional Protocol I states:

Ruses of war are not prohibited. Such ruses are acts which are intended to mislead an adversary or to induce him to act recklessly but which infringe no Rule of international law applicable in armed conflict and which are not perfidious because they do not invite the confidence of an adversary with respect to protection under that law. The following are examples of such ruses: the use of camouflage, decoys, mock operations and misinformation.

Additional Protocol II Article 21(2) of the draft Additional Protocol II submitted by the ICRC to the CDDH provided:

Ruses of war, that is to say, those acts which, without inviting the confidence of the adversary, are intended to mislead him or to induce him to act recklessly, such as camouflage, traps, mock operations and misinformation, are not perfidious acts.

FORESEEABLE CONSEQUENCES

One foreseeable consequence of an influence operation is that the recipients actually do what they have been encouraged to do—in this case to provide intelligence to a party to the conflict.

A civilian providing tactical intelligence about one party to the conflict to the other party risks being considered a person directly participating in hostilities.

The civilian could then lose the protection otherwise afforded to him or her for such time as he or she is directly participating in hostilities, Article 51 (3) AP I, Article 13 (3) AP II and ICRC Customary Law Study Rule 6.

Second point is also connected to the foreseeable consequences of the influence operation. Article 51 (1) AP I and Article 13(1) AP II place an obligation on parties to armed conflicts to protect the civilian population, as well as individual civilians, against the dangers arising from military operations.

It is a far-reaching obligation in that it does not only call for the abstention of acts that endanger civilians, but also calls for active measures to protect civilians. Paragraph 1923 of the Pictet Commentary to AP I holds that Article 51 ‘explicitly confirms the customary rule that innocent civilians must be kept outside hostilities as far as possible’ (emphasis here). This general principle is furthermore reflected in the rules in Article 57 (1) AP I and Article 58 (c) AP I about precautionary measures that should be taken, both by attacking and defending parties, in the conduct of military operations.

The central question here is how to interpret the scope of this ‘as far as possible’ obligation.

Third point pertains to the intended recipients of the influence operation. Arguably, a specific factor to consider in the above scenario is that the ‘game app’ may be particularly appealing to children. Both Article 77 (2) AP I and Article 4 (3)(c) AP II oblige parties to armed conflicts to take measures to prevent children from taking part in hostilities, although they have slightly different formulations and reach.

This is also considered to be a duty that is binding as a matter of customary international law, see ICRC Customary Law Study Rule 137.

QUESTIONS TO PONDER UPON

- 1) What are the acceptable forms of psychological warfare?
- 2) What are the problems associated with the use of psychological warfare?
- 3) What are extreme forms and measures of psychological warfare and how can we counter them?
- 4) What is the applicability of the existing legal frameworks to reduce exploitation in the form of psychological warfare?