Scientia Militaria
2026, VOL. 54, NO. 2, 75-96
DOI 10.5787/54-2-1506

Dirty Hands and Formations of Principal–Proxy Relationships

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Abstract

The study on which this article is based, primarily built upon the writings of Michael Walzer and Anthony Pfaff by analysing the concept of dirty hands, which means violating absolute prohibitions when choosing the lesser of two evils, to the formation of principal–proxy relationships. In this article, I argue that forming a principal–proxy relationship is below the threshold of excusing a resort to dirty hands. Yet, there are times when intervention has been justified, which could logically make a limited intervention justified. When a principal may thus be justified in supporting a proxy, which rules should be in place? Should the dirty hands concept remain, it threatens to routinise accepting absolute prohibitions, which should only be made in the most extreme conditions. Yet, should states seek to remain with clean hands, they may not intervene when otherwise justified – thus allowing unjust activity to go without repercussion. The current article identifies that the traditional rules on governing a resort to force, *jus ad bellum*, ought to remain as the moral framework when deciding to support a proxy.

Keywords: Dirty Hands; Proxy Warfare; Just War; Jus ad Bellum; Supreme Emergency.

Introduction

At least two major events rocked 1973. First, Pink Floyd released *The Dark Side of the Moon* featuring the hit song, "Us and Them". In it, David Gilmour and Richard Wright sang, 'Us, and them. And after all, we're only ordinary men. Me, and you. God only knows it's not what we would choose to do'.[1] The second major event that rocked 1973 occurred when Michael Walzer created quite a controversy with his article 'Political Action: The Problem of Dirty Hands'.[2] In it, Walzer sought to revitalise the argument of violating absolute prohibitions to save a mass group of people. He argues that one may override the prohibition against torture when it saves a large group of civilians. This is not strictly a utilitarian logic as he acknowledges the prohibition exists despite the greater utility. The rule still applies, but political leaders choose not to follow it.

The "dirty hands" concept traces back to Machiavelli, who asserted that the prince must 'know how to prefer what is bad'.[3] Walzer encapsulated the idea by stating, 'some things that are right to do are also, at the same time, wrong to do'.[4] The idea of dirty hands is that there are extreme circumstances where some moral obligations, such as protecting a

population, require government officials to set aside other moral obligations, such as (most specific in terms of this article) strict adherence to *jus in bello* (just conduct in war) in order to achieve a better moral outcome. Walzer clarified, 'dirty hands aren't permissible (or necessary) when anything less than the ongoingness of the community is at stake, or when the danger that we face is anything less than communal death'.[5]

As a quick aside, there are two important concepts detailed further below, but necessitating a conceptual introduction. *Jus ad bellum* (just resort to war) provides the normative framework for when a state may justly resort to war. *Jus in bello*, however, regulates combatant conduct within war. These two concepts exist in both legal and moral theory. For example, Article 51 of the United Nations (UN) Charter prevents resorting to force except in self-defence, and international humanitarian law (IHL) regulates combatant conduct in war. While significant overlaps between moral and legal theory exist, there are some differences. The intent here is not to dive into all these differences, but rather to acknowledge the foundations of these concepts.

Anthony Pfaff, however, takes the idea of dirty hands, and applies it to the concept of proxy warfare and maintaining proxy relationships. Proxy relationships generally involve at least two parties – a principal and a proxy. The principal may be a relatively powerful actor that provides support, such as material assistance, training, intelligence, and personnel.[6] The proxy may be a state or non-state actor, who does the fighting.[7] The formation of the principal–agent, or principal–proxy, relationship has a hierarchy to a local actor.[8] Proxy warfare is appealing to politicians because they may compliment or substitute direct use of force by a state.[9] This offers proxy war as a form of 'sub-type inclusion' of intervention.[10] Pfaff claims, 'when the stakes are high, concerns about possible implications can feel more like a luxury than a limitation'.[11] In other words, Pfaff takes a dirty hands approach to the formation of principal–proxy relationships. Whilst traditionally, *jus ad bellum* provides the normative framework for when a state decides to enter war, Pfaff holds that these considerations may feel more like luxury than like limitation in deciding to support a proxy. This moves the concept of dirty hands from *jus in bello* to *jus ad bellum*. Pfaff adds that the moral harm is something to be managed to maintain a principal–proxy relationship – even with a general prohibition against the implication of dirty hands.[12]

In this article, I argue that proxy warfare complicates the idea of dirty hands by lessening the severity of the application of a supreme emergency. I ask and attempt to answer two questions:

- How does the use of a proxy force in modern warfare complicate the application of dirty hands?
- Which implications does this have for the moral evaluation of forming a principal–proxy relationship?

The use of a proxy force creates moral distancing between the actions and the consequence, which lessens the investment by the principal despite principals still seeking the potential

benefits the dirtying may provide. The principal should only intervene by supporting a proxy in limited circumstances, and such principal may bear responsibility should the proxy regularly violate *jus in bello*. I argue, however, that the just war principles work better than the concept of dirty hands, as this weakens resorting to dirtying one's hands.

This is not just a philosophical problem, as it has real world application. Military theorists have recognised the benefits of proxies. Italian diplomat, author, philosopher, and historian, Niccolo Machiavelli, stated, 'once the populace has taken up arms, there will always be a foreign power eager to come to its aid'.[13] Prussian general and military theorist, Carl von Clausewitz, stated, '[l]eading a war through local surrogates rising up against an established order could be an effective means for the enemy to undermine the integrity of the state.'[14] Chinese theorist, Sun Tzu, argues, 'he will win who knows how to handle both superior and inferior forces […] [is considered as a] valuable insight to understanding surrogate warfare'.[15] British colonel and writer, Thomas E Lawrence, stated, '[d]o not try to do too much with your own hands. Better the Arabs do it tolerably than that you do it perfectly. It is their war, and you are to help them, not to win it for them.'[16] While many have researched the security implications for intervention via proxy, the ethical implications of forming a principal–proxy relationship have generally been under-researched.[17]

This article proceeds in five parts. In the first section, I provide an overview of the history of the dirty hands concept. In the second section, an overview and analysis of Anthony Pfaff's application of the dirty hands doctrine to proxy warfare is provided. In the third section, I apply Pfaff's application to proxy warfare interpretations of the ticking time bomb scenario and how that concept applies in analogous proxy wars. The fourth section comprises a discussion of the implications of applying dirty hands to proxy warfare. Concluding remarks follow in the fifth section. The current study used analysis of existing literature, proxy interpretations on popular thought experiments, and case studies to analyse and make the argument.

Overview of Dirty Hands

"Dirty hands" is a moral–political concept where a moral agent (usually a political leader or public official) decides to commit or authorise a wrongful act to enable a significantly better outcome or prevent a morally worse outcome. In the context of this article, the traditional rules are either *jus ad bellum* or *jus in bello*. Typically, *jus ad bellum* governs when a sovereign may resort to force, and *jus in bello* regulates combatant conduct in war. Walzer largely applies resorting to dirty hands in war to a "supreme emergency", which refers to a situation where a military commander overrides 'the rules of war and kills innocent people'.[18] Walzer's paradigm positive example of a supreme emergency is from Winston Churchill and the Allied bombing of German cities to degrade support for Nazism during the Second World War (WWII).[19] This is the one example Walzer repeatedly uses to excuse dirty hands and the supreme emergencies specific to war. In essence, "dirty hands" involves violating absolute prohibitions so that the lesser of two evils may prevail for strategic purposes. Resorting to dirty hands should thus remain

exceedingly limited. Walzer's contention is that extreme threats may necessitate drastic measures.[20] Yet, these are to remain at the extreme. Ultimately, the recognition of dirty hands is that, on rare occasions, good people must sometimes do dreadful things to prevent further bad things from happening.

Walzer identifies two questions when resorting to dirty hands.

- First, are the immoral acts necessary for success when success is vital?
- Second, what goes on in the head of a good person when deciding whether to get his or her hands dirty?[21]

The first question above recognises that there should not be a rush to accept dirty hands. Per Walzer, 'the dirty hands claim isn't about every moment; it is about some moments, critical moments, when political actors face hard choices'.[22] Dirtying one's hands should only be considered and forgiven – not permissible in advance – at the margins.[23] Walzer frames the questions deliberately to keep resorting to dirty hands at the extremes, as people may be quick to claim, 'the heavens are falling'.[24] The second question above recognises the role of individual intent in justifying the decision. Right intent is usually seen as a criterion when resorting to war per the just war tradition of *jus ad bellum* (just resort to war). The *jus ad bellum* criteria are:

- Just cause, such as defence against aggression;
- Just authority, such as a head of state;
- Public declaration to give the opposing side a chance to rectify the wrong;
- Proportionality, meaning that the good the war seeks to achieve outweighs the harm that is likely to occur;
- Necessity, which implies exhausting all peaceful alternatives;
- Right intent, implying that the just cause is not a ruse for ulterior motives; and
- The war has a reasonable chance of success so that it is not fought in vain.[25]

This means:

- The war was declared in response to aggression or for narrowly defined self-determination or humanitarian reasons;
- The war was declared by a competent authority, which is presumed to be a head of state;
- The good the war seeks to address outweigh the negatives that war entails;
- Other avenues short of war have been attempted and failed or have been found to be unable to rectify the issue;
- Right intention means that the just cause is not a disguise for other reasons; and
- Lastly, the war must have a reasonable chance of correcting the wrongs.

In *jus ad bellum*, though, Walzer claims that pure right intent is 'a political illusion'.[26] Walzer however adds right intention as a consideration when dirtying one's hands to ensure that one ignores the rules of war (*jus in bello*) for the right reasons. When an actor is deciding to dirty his or her hands or when the public is judging one with dirty hands, the above questions thus act as a guide. The concept of dirty hands is paradoxical, and Walzer's logic towards the concept is inconsistent, as it cannot be right to do wrong.[27] I believe that is likely the point, though. "Dirty hands" is a prudential permission – not a moral one.[28] Any calls for dirty hands should be met with scepticism. Whilst the logic for dirty hands is unclear and it is not a moral permission, just war thinking needs to guide actual wars – not imaginary ones where hard choices never need to be made. These hard choices however need to remain hard, and that is why they should only be found in the most extreme cases.

There are several criticisms related to "dirty hands". First, there is the challenge of how to deal with actions that are impermissible but necessary. While making hard decisions can make one a hero, the dirtying of hands could mean that the person is a tragic hero.[29] Dirty hands comprises not strict consequentialist reasoning where the ends justify the means, however, as the one with dirty hands recognises the violation of a moral prohibition.[30] Machiavelli would justify dirty hands as a necessary part of government. Walzer would agree that "dirty hands" is a necessary part of governing but, while necessary, dirty hands remain unjustified and thus subject to sanction. Absolutists would reject the reasoning in dirty hands.[31] There is disagreement amongst philosophers (e.g. Nigel Biggar and Brian Orend) as to whether 'it can be right to do wrong' or whether it may be understandable and excusable.[32] I believe that while it may never be right to do wrong, it may be justifiable in very rare circumstances. This is why "dirty hands" is limited to the most extreme cases, such as a supreme emergency.

A second point of criticism is that the concept of dirty hands does not work at individual level. An individual person would not have a right to take the life of another person as the lesser of two evils. Walzer addresses this criticism, '[f]rom the standpoint of the soldier, war is a rapid succession of supreme emergencies: his life is constantly at risk.'[33] Walzer addresses this argument by claiming that individuals should only be allowed to accept risks for themselves, not others, because individuals are only allowed to represent themselves. A third consideration of dirty hands is that it values the role of the community over the role of the individual. The idea of a supreme emergency is a "community doctrine" but does not lessen the moral importance of the individual. The fourth argument against dirty hands is that it fixates on the political community. Walzer counters this criticism by stating that a supreme emergency is either the elimination of a people or the coercive transformation of their lives – both of which are morally unacceptable.[34] Again, this limits dirty hands to being only permitted in the most extreme cases. A challenge here is, however, that the losing side may see setting aside *jus in bello* as the only way to give it a fighting chance. If the losing side is also the unjust aggressor, the concept of dirty hands may give the unjust aggressor reason to behave more unjustly.

Despite the criticism, one is still left with the claim that the leader that makes challenging decisions is referred to as a hero – even if it is a tragic hero. Most people would not claim one was a hero – tragic or otherwise – or that one acted heroically, if the person did so for selfish reasons or flippantly disregarded the rights of others.[35] There seems therefore to be an acceptance that any dirtying of hands must only be for extreme cases that can be prudentially permissible – not a morally justified one.

Pfaff's Application of Dirty Hands in Proxy Warfare and Analysis

Pfaff provides his application of dirty hands to proxy warfare in a 2017 essay "Proxy War Ethics" and a similarly titled 2024 book.[36] Proxy warfare is –

> [An] indirect engagement in a conflict by third parties wishing to influence its strategic outcome though the provision or training of manpower such as co-opted militias or other irregular combatants, the provision of material or money or the sharing or dissemination of information.[37]

Prominent examples of modern principal–proxy relationships may include:

- Iranian support for the Palestinian Islamic Jihad (1981 – present); Hezbollah (1982 – present); Hamas (1990 – present) and the Houthis (1990s, then 2009 – present;
- United States (US) support for the Syrian Democratic Forces (SDF) (2015–2026);
- US support for mujahideen fighters during the Russian occupation of Afghanistan (1979–1989);
- numerous other Cold War era proxy battles between the United States and the Soviet Union, such as –
  - the Angolan Civil War (1975–2002); and
  - the Ogaden Plateau War (1977), and others.

Most relevant to this article is how the principal may dirty its hands when deciding to support a proxy.

This is a claim analogous to Walzer's dirty hands, but specific in Pfaff's writing on proxy warfare. Pfaff's point is to recognise that there can be considerable, even moral, pressure on decision-makers that may make it difficult to adhere to what may seem to be abstract moral principles. Pfaff uses the example of US support to the Iraqi Counter-Terrorism Service (CTS) battling the (2003 – present).[38] Pfaff's claim is that permitting the Islamic State of Iraq and Syria (ISIS) to continue atrocities is morally worse than supporting a proxy that does not adhere to *jus in bello*. The baseline position is that a principal should not support a proxy that fails to meet *jus ad bellum* or is unwilling or unable to adhere to *jus in bello*, which is the position enshrined in laws regulating foreign assistance for both

the United States and the United Kingdom.[39] Pfaff provides three conditions for when a principal may support a proxy that regularly violates *jus in bello*:

- A greater injustice will occur if the proxy loses;
- Proxy leadership intended to abide by *jus in bello* and will hold those that violated its rules accountable; and
- The sponsor takes additional measures to reduce *jus in bello* violations.

Whilst traditionally dirty hands and supreme emergencies would be about setting aside *jus in bello*, this expands the application to the formation and continuance of a principal–proxy relationship.

The idea that a principal may have dirty hands for the *jus in bello* infractions of a proxy is a claim that the principal bears some responsibility. As Pfaff recognises, the high bar of 'effective control' from *Nicaragua v. United States of America* creates perverse incentives for principals, such as limiting oversight in certain areas to avoid bearing legal responsibility.[40] Effective control is the test for determining whether a state is responsible for the actions of a non-state, established by the International Court of Justice (ICJ) in *Nicaragua.* In this case, the ICJ held that the United States violated international law by supporting the Contras (short for *contrarrevolucionarios*, anti-communist right-wing rebels), rebellion against the Sandinistas, who ruled Nicaragua from 1979 to 1990. In this case, effective control required that the principal would have had to direct or enforce perpetrations of acts that violated international human rights law (IHRL) or IHL.[41] According to Pfaff, this does not mean that the principal can or should be absolved of moral responsibility, although. Pfaff notes that the causal nature of proxy relationships implicates the principal in the *jus in bello* infractions of the proxy. Whereas Walzer viewed responsibility for dirty hands as the direct action of a politician, Pfaff considers an indirect nature of responsibilities when supporting proxies.

The indirect nature of responsibility has also been recognised by Deane-Peter Baker, David Whetham, and Roger Herbert. In their book, *The Ethics of Special Ops*, they recognise that responsibility should be a cross-cutting consideration for *jus in bello*.[42] Whereas Pfaff is taking the idea of dirty hands to the formation of a principal–proxy relationship, Baker *et al.* recognise this as a claim of moral responsibility. Baker *et al.* provide that special operations forces (SOF) should train the proxy in IHL to help lessen *jus in bello* infractions and mitigate some principal responsibility for infractions. While training is critical, principals should also be willing to condition support on adherence. Whereas Walzer's dirty hands application is about 'some moments, critical moments' for political leaders who make hard choices, Pfaff's dirty hands application seems to be a bridge between principal responsibility for *jus in bello* and decisions to support a proxy in *jus ad bellum*.[43] Pfaff thus claims that a principal may have dirty hands when the proxy regularly commits *jus in bello* infractions. This implicates both political and strategic leaders in deciding which proxies to support (via *jus ad bellum*) as individual soldiers and their leaders when supported proxies violate *jus in bello*. As recognised by

Helen Frowe, *jus ad bellum* is not a one-off consideration – but 'ongoing evaluation of the war's justness'.[44] Applied to maintaining a principal–proxy relationship, this thus necessitates a continued assessment of the justness of the formation of the relationship.

James Pattison discusses the support for a proxy that is fighting for an unjust cause. Pattison believes it may be morally permissible to support a proxy that does not meet *jus ad bellum* – but only in extreme cases that may create a better humanitarian situation.[45] He argues, for instance, that it may be permissible to arm rebels defending a refugee camp even if the rebels' larger war is unjust. This is arguing very narrow set of circumstances and there is recognition of some moral responsibility. Pattison, however, is not considering the threshold for a supreme emergency. For sure, there had been humanitarian crises, as described by Walzer when he originally wrote about dirty hands or when he revisited the topic later. These crises however failed to provide another positive example that would justify setting aside the rules of *j in bello* for a party directly involved – much less one indirectly involved. I therefore argue that applying dirty hands and supreme emergencies to proxy warfare has the potential to make the slippery slope too slippery. Equating the decision to support a proxy with the bombing of Germany cities to defeat Nazism, risks normalising a resort to dirty hands.

I see two additional points of clarification to Pfaff's application. First, I think classifying the relationship between the United States and the Iraqi CTS as "proxy" may not be the best description for two reasons:

- The United States had a status of forces agreement with Iraq (2008–2011) and later operated at the invitation of the Iraqi government (2014 – present).[46] This allows the United States to deploy military personnel to Iraq at the invitation of the government of Iraq; and
- The United States and Iraq are among 87 countries that formed a partnership in the Global Coalition to Defeat ISIS.[47]

The Iraqi CTS and the United States have a shared objective and work collaboratively to this objective. In his book, *Proxy War Ethics*, Pfaff differentiates proxy relationships from alliances and partnerships. There are several factors that characterise the classification of the relationship – symmetry, interest alignment, benefit, and control.[48] The benefit from a proxy may be indirect whereas the benefit in a partnership is directly transactional. Further, interests in a proxy relationship may be conditional; however, in a partnership, the interests may align temporarily or provisionally. In the fight against ISIS, I believe the interests of the United States and Iraq align, and I think the benefit is transactional. The United States provides financial support and training, and the CTS does most of the fighting. While there may be overlap in these classifications, which may create proxy aspects in terms of the US–CTS relationship, I believe that this relationship best fits Pfaff's own definition of a partnership rather than a proxy. Pfaff recognises that proxy relationships are neither 'all-or-nothing' nor static.[49] The first point of criticism thus merely seeks to recognise that, while there may be similarities of proxy warfare in the United States and the Iraqi CTS the overall US–Iraq CTS relationship is one of a partnership rather than that of a proxy.

Second, I want to clarify that Pfaff does not present a false choice where the only options are supporting a proxy or not participating in dirty hands in proxy warfare. Nothing makes a principal support a proxy. Pfaff does not exclude principals from intervening or developing other classifications of relationships (e.g. partnership or alliance). Yet, one could infer that the sole focus on proxies presents the choice of either partnering with a proxy that perhaps cannot or will not meet *jus in bello*, or doing nothing. I do not believe this is accurate, nor do I believe this was intended by Pfaff. The principal could also involve its own security forces if it meets *jus ad bellum* or seek authorisation through the United Nations Security Council akin to a responsibility to protect. Principals could then intervene directly and uphold *jus in bello*. If dirty hands are about the hard choices when the state must do something when doing nothing is not possible, ignoring other options may not fully capture all the choices. Applying the idea of dirty hands to proxy warfare may thus weaken the resistance to dirtying hands elsewhere.

Despite my modest clarifications, Pfaff's work still stands as arguably the most comprehensive work on the ethics of proxy warfare to date. I therefore continue to apply the idea of dirty hands to a proxy warfare scenario to show the ethical complexities of this application.

Application in Thought Experiments and Actual Proxy Wars

The ticking time bomb scenario developed by Jeremy Bentham is a hypothetical situation used in ethical debates, most commonly regarding the permissibility of torture as Walzer did in his article 'Political Action: The Problem of Dirty Hands'.[50] In the scenario, a terrorist plants a bomb that would kill hundreds of civilians at any moment. The only way to stop the bomb is to gather information on the location of the bomb from the captured terrorist. The scenario asks people to argue the absolute prohibition against torture versus the utilitarian argument, meaning the one that creates the best outcome for most people, of saving hundreds by torturing one. Analogous to discussions on dirty hands, the ticking time bomb scenario asks when it is morally permissible to violate absolute prohibitions.

Applying a proxy warfare interpretation of the ticking time bomb scenario offers insights to analyse the application of dirty hands to proxy warfare. The following scenario differs from the ticking time bomb scenario as the principal and proxy may have dirty hands but for different reasons. The principal's dirty hands come from supporting a proxy that does not adhere to the rules, and stem from potentially torturing an enemy combatant. I therefore propose the scenario as described below.

Blurred Lines Bomb Case: A regional power (Principal A) supports a militant group (Proxy A) in a conflict against a rival state (Principal B). Proxy A requires logistical and financial support from Principal A. To counter Proxy A, Principal B has its own proxy force, Proxy B. Proxy B captured a Proxy A fighter, who has information about an imminent attack that would cause 100 civilian casualties in the area of Principal B. Proxy B tried all legal and moral interrogation means available without success. Principal B watches from a distance, recognising an opportunity. If Proxy B tortures a fighter from

Proxy A and extracts information on the attack, it would save 100 civilian casualties, thus discrediting both claims by both Proxy A and Principal A of protecting civilians. Principal B consequently does not intervene, and allows Proxy B to do the dirty work while maintaining deniability.

Proxy B now faces a dilemma. It can adhere to legal and ethical norms by avoiding torture. This may fail to prevent the attack from happening, resulting in 100 civilian casualties. Proxy B can use coercive measures, such as torture, against the Proxy A fighter, even though Proxy B knows that Principal A controls full operational details. This may prevent the civilian casualties if the fighter helped plan the imminent attack; however, it would violate the prohibition against torture and degrade the standing of Proxy B in the international community. Lastly, Proxy B can escalate the conflict and retaliate against Principal A by targeting supply lines or critical infrastructure. This, however, would be unlikely to stop the attack.

This scenario highlights several other ethical issues. First, there is the matter of moral distancing by both principals. Principal A may claim no direct involvement in the actions by Proxy A, even though Principal A provides logistical and financial support. While Principal A may not exert "effective control" over Proxy A, Principal A should bear moral responsibility for the actions it enables. Additionally, Principal B may use Proxy B to do things that Principal B cannot officially sanction, such as torture. Yet, Principal B seeks to benefit from the possible information that Proxy B may attain. Second, there is an attempt to delegate ethical responsibility. Principal B leaves Proxy B to grapple with the decisions on whether to allow civilian casualties, torture the captive, or escalate the conflict. Even as Principal A leaves Proxy A to conduct mostly independent operations, Principal A benefits from Proxy A's actions, which it enables. Third, there is the issue of escalation and deniability. If Proxy B tortures the captured Proxy A fighter or escalates the conflict, Principal A can use this to discredit the support given by Principal B to Proxy B. Principal B can also threaten to withhold support if Proxy B does not take measures to uncover the information or retaliate against Principal A. Fourth, there is the issue of reliability of information. Principal A probably fragments information given to Proxy A, so the captured fighter may not have accurate or complete information. This decreases the likelihood of torture helping achieve the objective of providing information and, thus, it increases the ethical implications of resorting to dirty hands. Lastly, there is the issue of civilian harm and ethical trade-offs. If Proxy B prioritises civilian lives over absolute prohibitions, then it could cross ethical boundaries. The immediate actors (Proxies A and B) lack real control, and the actual authorities (Principals A and B) remain distanced from the consequences. While these issues were outside the scope of the current study, they highlight that the use of a proxy may create moral challenges and complications to what is traditionally a relatively straightforward thought experiment.

It would be challenging, if not impossible, to find a situation of an actual proxy war that directly mirrors the blurred lines bomb case. This is because "ticking time bomb" situations are rare, and information about proxy wars may be concealed to avoid scrutiny. There are however plenty of proxy wars and situations that share some characteristics, such as an immediate threat, moral distancing, and challenges of accountability.

In the Soviet–Afghan War (1979–1989), the Soviet Union (Principal A) supported a communist Afghan government (Proxy A). The United States (Principal B) supported the Afghan mujahideen[i] (Proxy B) with weapons, funding, and training.[51] The United States intended to limit the spread of communism via the mujahideen. 'Typical *mujahideen* military operations were focused on hit-and-run tactics and ambushes, including shelling government targets, sabotage of infrastructure, assassinations, and rocket attacks on both civilian and military targets.'[52] The Soviets distanced themselves from atrocities committed by their Afghan government partners, such as airstrikes on civilians, placing landmines in rural areas, and conducting raids in suspected pro-mujahideen villages – even though the Soviets invaded and occupied territory in Afghanistan.[53] Both the United States and the Soviet Union portrayed this as a local conflict, but they manipulated their proxies to achieve Cold War objectives, such as the spreading or countering of political ideology. For the Soviet Union, this meant spreading communism and installing a regime favourable to its ideology and interests. The Soviets claimed this was pursuant to Article 4 of the Soviet–Democratic Republic of Afghanistan (DRA) Treaty of 1978, which helped repel outside intervention; however, many scholars reject this claim, as there was neither a request nor a credible threat of invasion.[54] The Soviet–DRA Treaty of 1978 was a twenty-year pact between Moscow and the newly founded DRA, which bound the nations together through security cooperation and economic assistance, and set the groundwork for Soviet invasion. Article 4 provided that the two would help 'safeguard the security, independence and territorial integrity' of the two countries.[55] The complexity of layered proxies, analogous to the blurred lines bomb case, highlights the issues of moral distancing and accountability for *jus in bello* violations.

Under moral distancing, the United States and the Soviet Union let the mujahideen and communist Afghan government do a lot of the dirty work, whilst the United States and Soviet Union were able to maintain some distancing. The United States did not maintain effective control over the mujahideen, even as they provided weapons, funding, and training. The United States and the Soviet Union shielded themselves from direct responsibility. Ultimately, the Soviet Union withdrew, and eventually collapsed. The United States withdrew support for a post-conflict Afghanistan. Afghanistan faced several years of civil war before the Taliban captured most of the country. While this situation was complex, modern proxy wars have even more levels of complexity.

The Syrian Civil War (2011 – present) became a multi-faceted proxy war involving regional and global powers, such as Iran, Türkiye, Russia, the United States, Gulf countries, and others.[56] Iran, Russia, and Lebanese Hezbollah (Principals A) supported

[i] The Afghan mujahideen were Islamic rebels who rebelled against the Soviet occupiers.

the Assad regime (Proxy A). The United States and its allies (Principal B) supported various opposition groups, such as the SDF (Proxy B). Türkiye (Principal C) supported the Free Syrian Army (FSA) (Proxy C). Other Gulf countries (Principal D), including Saudi Arabia, Qatar, Oman, Bahrain, Kuwait, and the United Arab Emirates, as well as the United States (Principal A) also supported the FSA (Proxy C). Additionally, Iran (Principal A_1) supported Kata'ib Hezbollah and other militias (Proxy D), and Russia (Principal A_2) supported Wagner (Proxy E). There was thus a tangled web of friends and enemies.

Essentially, all principals and proxies fought against ISIS to some extent. In this situation, ISIS may be considered the "ticking time bomb" given their capability to conduct external operations, meaning operations that can target citizens or interests of Principals A–D. Beyond that, though, it gets more complicated as to who fought whom. The SDF (Proxy B) and FSA (Proxy C) fought against the Assad regime (Proxy A); however, Proxy B and Proxy C also fought against one another. Türkiye (Principal C) also fought against the SDF (Proxy B). The Assad regime (Proxy A) committed mass atrocities, such as torturing prisoners and using chemical weapons against Syrian civilians.[57] Iran and Russia (Principal A) denied complicity despite providing critical support. The SDF (Proxy B) and FSA (Proxy C) also committed human rights abuses, from which the United States and allies, Türkiye, and Gulf countries (Principals B, C, and D) were able to distance themselves despite providing funding, training, and resources. Iran (Principal A_1) also used Kata'ib Hezbollah, Fatemiyoun Brigade, and Zaynabiyoun Brigade (Proxies D), and Russia (Principal A_2) used Wagner (Proxy E) to conduct attacks against the United States and allies (Principal B), SDF (Proxy B), and others.

There was a wide mix of moral distancing, attempts to delegate ethical responsibilities to proxies, and opportunities for escalation. For moral distancing, the principals had a web of using one proxy to attack a global or regional adversary, who may be another proxy or principal. For example, whilst Türkiye and the United States are NATO allies, Türkiye considers the SDF a terrorist organisation because it derives mostly from the Kurdish Workers Party (PKK). Türkiye would thus use the FSA and other Turkish supported opposition forces to conduct attacks against the SDF. For ethical delegating, principals would often rely on the proxy to do things that it was unwilling to sanction, such as actions that risked significant civilian harm.[58] For escalation, the conflict would occasionally intensify to where the principals would exchange direct, limited attacks against one another.[59] The United States and Iran would occasionally exchange indirect fire against one another. Every so often Israel, another US ally, would attack Iran or the Assad regime, thus threatening to escalate the conflict further.[60]

The previous example analysed the ticking time bomb scenario against the prohibition on torture, but the case studies, while presenting serious considerations, did not live up to the time bomb. This example rather takes a humanitarian approach on the use of proxies, and has the proxy acting at the behest of the home state.

Humanitarian Time Bomb Case: State C was recently hit by a severe drought, and a humanitarian catastrophe looms. Rebel Group D controls a region of State C, and is hoarding food and water for its fighters, which prevents locals from accessing food and water. This is expected to lead to the death of 100 citizens of State C. State C discovers where Rebel Group D hides caches of food and water. The only way to prevent the deaths of the 100 people is to seize control of these caches and to distribute it to the civilians affected by the drought; however, State C is hesitant to intervene directly because, given its weak military, it does not want to be drawn into a conflict with Rebel Group D. State C decides to hire a private military and security company (PMSC) as a proxy consisting of former military members to seize control and distribute the food and water. The PMSC is known to have a mixed record of human rights compliance, and there is a risk that the PMSC may commit abuses against fighters and supporters of Rebel Group D. State C believes that using the proxy will prevent the 100 people from dying, and it believes that the moral imperative to act outweighs the uncertainties.

In the humanitarian time bomb case, the "ticking time bomb" is the looming humanitarian catastrophe. The decision on whether to dirty the hands is in supporting a PMSC that has a known history of human rights abuses. State C has an obligation to provide for the people within its borders; however, its weak military prevents it from directly engaging Rebel Group D. If State C does nothing, then 100 people will die. State C should bear some responsibility for any abuses committed by the PMSC; however, State C would also benefit by providing the security assistance to enable the 100 people that would have died to have access to food and water.

In this case, it seems that State C may be morally justified in dirtying its hands by supporting the proxy. First, State C hired a proxy to operate within its own borders to repel a rebel group, which the military from State C has been unable to eradicate. State C is not using the proxy to create moral distance between itself and the problem, as it is already in the conflict and has fulfilled the *jus ad bellum* criteria. State C has a just cause to provide security for its citizens; however, it currently lacks the military capability to manage the immediate security threat and provide for its people. It is the legitimate government, and it must do something for its people despite lacking the capability without outside assistance. Repelling the rebel group is proportional to providing security. Using the rebel group gives it a reasonable chance of success. Lastly, State C can match intent via contract. While the scenario does not provide what has gone on in the head of the State C leaders, it seems that the decision to use the PMSC was the best viable option.

Would it have made a difference if State C had used a different rebel group rather than PMSC? If the facts were changed so that, instead of using a PMSC, State C used Rebel Group E, who occupied territory in State F and has been in a local conflict with the State F military to secure the food and water, then State C may not be morally justified. In this instance, State C would be supporting an armed group waging war against another sovereign country. It may also be a pretext for expanding the front Rebel Group E must fight, but this would violate the sovereignty of State F. State C may thus not be morally

justified in the same dirtying of the hands when using a rebel group from another country. Further, states still have an obligation to hold PMSCs accountable for abuses, and take steps to mitigate abuse.

In 1991, the Revolutionary United Front (RUF), backed by Liberian dictator, Charles Taylor, and supported with Liberian special operations, attempted to overthrow the government in Sierra Leone (1991–2002).[61] This commenced an eleven-year civil war that resulted in over 50 thousand dead and displacing approximately 2,5 million people. Foday Sankoh, a Sierra Leonean, founded RUF to topple the government. The RUF was initially popular in Sierra Leone, as many people were upset by government excesses despite the poverty of the population. The Front was notorious for human rights abuses, which included but were not limited to amputations, rapes, and forced conscription of child soldiers. The Sierra Leonean Armed Forces were failing to stop RUF, and Valentine Strasser, president of Sierra Leone from 1992–1996, decided to seek outside help. In 1995, Sierra Leone hired South African-based PMSC Executive Outcomes to help fight RUF. Executive Outcomes primarily consisted of former apartheid-era South African Defence Forces (SADF) soldiers. Executive Outcomes primarily provided military training and combat support to the Sierra Leonean government forces, but they also helped secure key infrastructure, such as diamond mines, and helped protect civilians from RUF attacks. Executive Outcomes helped stop RUF military advances and enabled the parties to sign the Abidjan Peace Accord in November 1996, as Sierra Leone terminated the contract with Executive Outcome. Fighting recommenced until January 2002, when President Kabbah declared the civil war over.

The Sierra Leonean case provides an example somewhat analogous to the humanitarian time bomb case. The government of Sierra Leone faced a strong rebel force backed by a neighbouring state. This probably created an existential threat to Sierra Leone, potentially amounting to a supreme emergency. Unable to stop the fighting, Sierra Leone dirtied its hands by hiring Executive Outcomes to assist its military, even as the group had a history of human rights abuses in Angola (1993–1996).[62] If Sierra Leone did not hire the PMSC, though, it would probably have fallen to the rebel forces, who were committing significant human rights abuses. The government of Sierra Leone thus faced a decision to violate one moral prohibition – enabling *jus in bello* violations by a PMSC – at the expense of another moral prohibition – complete overthrow of the government to an actor that sought to kill significant portions of the population.

There are a few facts in this example differentiating it from the other two case studies. First, the government of Sierra Leone contracted Executive Outcomes to operate within the territorial borders of Sierra Leone. Sierra Leone was not seeking to expand its borders or create havoc elsewhere. This is not to argue that contracting with a PMSC or partnering with a proxy within one's territorial borders will always be just; however, in this case, it seemed that the situation could have justified Sierra Leone resorting to dirty hands. Second, Sierra Leone had already fulfilled the *jus ad bellum* criteria in its war against RUF. The country was thus seeking assistance from Executive Outcomes in furtherance of the Sierra Leonean objectives.[63]

These thought experiments and case studies identified that dirty hands may not be the best method when evaluating the decision on whether to use a proxy. While the principal may bear responsibility when a proxy fails to meet *jus ad bellum* or regularly violates *jus in bello*, the dirty hands concept is about critical moments. The thought experiments presented a controlled environment to test the hypothesis that the dirty hands concept may not be the best fit for a decision to form a principal–proxy relationship, and the case studies provided real-world examples to analyse whether the dirty hands concept works best.

Implications and Analysis

The previous section used thought experiments to illustrate how principals create moral distancing between themselves and the action. It also provided practical examples to show that the complexity of actual proxy wars allows principals to create moral distancing between actions and consequences. The complexity in proxy warfare provides principals with the plausible deniability on how dirty their hands are by seeking to delegate ethical responsibilities to proxies. This seeks to lessen the dirtying of hands. By assigning the task to a proxy, the principal is not directly involved; however, a principal cannot delegate moral responsibility entirely.

This analysis shows that the idea of dirty hands and supreme emergencies may not be the best model for analysing the formation of a principal–proxy relationship, since it risks normalising a resort to dirty hands. While dirty hands may have worked in the humanitarian time bomb thought experiment and the Sierra Leonean case study, these are extremely limited, and the principals already fulfilled the *jus ad bellum* criteria. The decision to form a principal–proxy relationship probably does not rise to a supreme emergency.[64] Whilst Walzer's paradigm example of a supreme emergency is Churchill's indiscriminate bombing of German cities to degrade morale and ultimately defeat Hitler, Walzer, after all, justified humanitarian intervention in the Hungarian Revolution of 1848, Cuba in 1898, and Bangladesh in 1971 as these instances 'shocked the moral consciousness of mankind'.[65] States could have met *jus ad bellum* using humanitarian intervention as a just cause without having to resort to dirty hands. Further, there is a logical connection: if direct intervention was permitted, then a limited form of intervention, such as supporting a proxy, would probably have been justified. Communism in Afghanistan and elsewhere in the world probably did not create an existential threat to the United States. The Islamic State of Iraq and Syria, a serious security threat and an organisation that commits mass human rights abuses, probably did not rise to the level of an existential threat to most principals as the Nazis did during the Second World War (WWII) – except to the Yazidi community against whom ISIS attempted to commit genocide in 2014.[66] This is not to say that principals were not justified in responding to ISIS, which could have included supporting proxies in the fight against ISIS. This claims that supporting a proxy against ISIS may not rise to a supreme emergency or fit the idea of dirty hands. The dirty hands concept may therefore not be the best fit when a state decides to support a proxy. Instead, the standard *jus ad bellum* criteria provide a better normative framework for determining whether states could have been justified in defence of another – through either direct or indirect intervention.

I believe that, while the principals in the aforementioned proxy wars may bear responsibility, thinking in terms of dirty hands and ticking time bombs specific to proxy wars probably risks routinising the resort to a supreme emergency. After all, as mentioned earlier in this article, people often consider the one with dirty hands as a tragic hero. I cannot think of one case where someone was considered a hero – tragic or otherwise – for a decision to support a proxy. While dirty hands and time bombs may be too extreme, I believe that principals cannot – and should not – be left without moral responsibility. While the use of proxies creates a distancing between the action and the principal's involvement, not having a normative theory to account for the principal's responsibility would be irresponsible.

One is thus left to apply *jus ad bellum* in proxy wars. Pfaff identified three situations on ethical fulfilment in the formation of principal–proxy relationships using *jus ad bellum*:

- The proxy meets all the *jus ad bellum* criteria and engages in conflict independent of the principal;
- The proxy meets all *jus ad bellum* criteria but will not fight without principal support; and
- The proxy cannot meet *jus ad bellum* without principal support.[67]

In the formation of a principal–proxy relationship, using *jus ad bellum* offers a better ethical framework than relying on the concept of dirty hands. The messiness created by using a proxy, as explained earlier in this article, necessitates clarity on the standard *ad bellum* criteria when forming a principal–proxy relationship.

To show how *jus ad bellum* clarity may provide a suitable normative framing for forming a principal–proxy relationship, I review the criteria briefly. For legitimate authority, one could clarify what makes the proxy representative of a group of people. For just cause, there needs to be clarity about when a principal is justified in violating the sovereignty of another country by supporting a proxy force. For proportionality, there needs to be clarity on how a principal's support may affect the overall situation. Necessity probably differs for principal and proxy, as the principal may just walk away from the fighting. If the proxy is engaged in a just cause however, then waiting for a principal to exhaust peaceful alternatives may permit additional harm by inactivity. There thus needs to be clarity on the peaceful alternatives the principal must exhaust before deciding to support a proxy. For right intention, the proxy's just cause should not be a ruse for a principal to intervene with false intentions. For a reasonable chance of success, the principal and proxy need to understand what success is. The standard *jus ad bellum* criteria thus answer the question of when a principal may be justified in supporting a proxy better than the concept of dirty hands.

Conclusion

The idea of dirty hands requires that, to fulfil a moral obligation, the prince (to borrow from Machiavelli) must do what is wrong to do what is right. This paradox is meant to be challenging because it asks that a leader be forgiven for violating a moral prohibition for a utilitarian reason. Dirty hands is meant to apply when the leader must do something because doing nothing is morally worse, and the dirty hands concept asks to forgive or excuse behaviour – not to justify and permit wrongdoing beforehand.

As shown in this article, applying the concept "dirty hands" and a supreme emergency to the formation of a principal–proxy relationship has two objections. First, it risks normalising the resort to dirty hands by lowering the threshold. Whilst the concept may have worked in the case of Sierra Leone, the decision to dirty one's hands in proxy warfare creates the impression of a false choice in the thought experiments and scenarios. The principal can intervene directly, assuming it meets the *jus ad bellum* criteria, then uphold the laws of war. Principals could also create a partnership or alliance. Ignoring these options and claiming that the principal can support a proxy that does not meet *jus ad bellum* or fails to meet *jus in bello* thus creates the impression of a false choice. This would make resorting to dirty hands too easy. Dirty hands are supposed to be hard; hence, the reason why it is a paradox in its current understanding. Second, a strict dirty hands adherence may not permit principals to support a proxy where the principal may otherwise be justified. In the case of the Syrian Civil War, certain principals may have been just in backing groups that were fighting against the Assad regime after significant human rights abuses by Assad, and some of the groups may have been justified in supporting the fight against ISIS. The latter organisation had, after all, supported terrorist activities in many countries, and it committed grave abuses against the Yazidi community. States could have been justified in fighting against ISIS. If dirty hands are truly about the hard choices, these choices may therefore not rise to the occasion. The dirty hands concept may thus not be best suited for justifying when a principal may support a proxy.

As an alternative solution, this article suggests that clarifying the standard *jus ad bellum* criteria in terms of proxy warfare may provide comprehensive clarity about when a principal can support a proxy rather than the concept of dirty hands As identified in the Syrian Civil War and the Sierra Leonean Civil War, the principal may be just in supporting a proxy, but the concept of dirty hands may be too restrictive when a principal could otherwise be a just actor. Proxy warfare however creates such complexity and moral distancing that it challenges just war principles. There consequently needs to be clarity on these principles to analyse just proxy warfare better.

The use of a proxy creates distance between the action and the intent. This distancing does not relieve principals of their moral responsibilities, though. It does mean that there needs to be clarity on the ethical application of proxy wars to account for the complexity. As verse three of "Us and Them" provides, 'Down and out. It can't be helped, but there's a lot of it about. With, without, and who'll deny it's what the fighting's all about?'[68]

Endnotes

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