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978-1-107-10934-6 -Borderless Wars: Civil Military Disorder and Legal Uncertainty

Antonia Chayes

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## Borderless Wars

In 2011, Nasser al-Awlaki, a terrorist on the U.S. “kill list” in Yemen, was targeted by the CIA. One week later, a military strike killed his son. The following year, the U.S. Ambassador to Pakistan resigned, concluding he was undermined by CIA-conducted drone strikes of which he had no knowledge or control. The demands of the new, borderless “gray area” conflict have cast civilians and military into unaccustomed roles with inadequate legal underpinning. As the civilian Department of Homeland Security defends the United States against increasing cyber threats and armies of civilian contractors work in paramilitary roles in conflict areas, appropriate roles in wartime and legal boundaries of war demand clarification.

In this book, former Under Secretary of the U.S. Air Force Antonia Chayes examines gray areas in counterinsurgency, counterterrorism, and cyber warfare. Her innovative solutions for role definition and transparency offer new approaches to a rapidly evolving civil-military-legal environment.

Antonia Chayes, former Under Secretary of the U.S. Air Force, is Professor of Practice of International Politics and Law at the Tufts University Fletcher School of Law and Diplomacy. The author of numerous articles and coauthor of *The New Sovereignty*, Chayes has served on several government commissions and on the board of United Technologies Corporation. Wife of the late Abram Chayes, she is the mother of Eve, Sarah, Angelica, Abigail, and Lincoln, and she has nine grandchildren and one great-grandchild.

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## *Civil Military Disorder and Legal Uncertainty*

ANTONIA CHAYES

*Fletcher School of Law and Diplomacy,  
Tufts University*



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*To the memory of Abram Chayes, whose path I still follow,  
and to our five children: Eve, Sarah, Angelica, Abigail, and  
Lincoln. The mutual support they have shown makes the  
“too hard” possible.*

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## Foreword

As the Commander of all NATO global operations from 2009 to 2013, I was often asked what kept me awake at night. The answer is a single word: cyber. In this brilliant new book, renowned lawyer, scholar, security practitioner, and professor Antonia Chayes provides some very real ideas to deal with the looming tower of cyber security.

But this book does not stop with cyber issues. It is distinctive for its originality in making connections that others have not made. It is distinctive in its clarity in explaining to an audience concerned with current and emerging security issues that their focus must be not just on who is winning or losing but on how, in the long run, civilians and military must work together to deal with the irregularity of warfare, and the legality of all the actions taken to combat it. This is an ambitious, creative, and incredibly timely examination of three critical areas of national security policy that exist in “the gray” between war and peace. Ultimately, it is a primer on the profound national security challenges and responsibilities the United States faces in the twenty-first century. Despite its strength, the world’s most powerful state still wrestles with a very real set of formidable and complex threats. Modern threats combine rigid ideology, agile technology, and global discontent in ways that have not only disturbed and destabilized bureaucracies and militaries but also call into question the validity and adequacy of legal frameworks, domestic and international. Chayes has chosen to explore a particular kaleidoscope of campaigns – counterinsurgency, counterterrorism,

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*Foreword*

and cyber warfare – that the American government has undertaken to do battle in this murky terrain that is modern-day war making.

Chayes blends a rich review of the existing scholarship with an incisive examination of the current doctrine, law, and policy to give the reader a clear, detailed sense of what is working, what is not, and which questions must still be asked and answered. She weaves deftly between domestic legal and political concerns and questions of international jurisprudence and geopolitics. Uninhibited by standard siloed thinking on matters of war, peace, and politics, Chayes moves seamlessly from the heights of grand strategy and guiding principles to the arenas occupied by policy makers and lawyers and right down into the field where soldiers, NGOs, firms, and militants operate. Her expertise as a legal scholar with high-level experiences in the public and private sectors affords her the ability to speak to all levels of concern with authority and ease. This particular vantage point further allows her to frame and reframe insurgency, terrorism, and cyber warfare as civil, military, criminal, public, and private in turn. Scholars, policy makers, military officers, journalists, and the like must grapple with each paradigm in earnest in order to understand these threats in their entirety.

Chayes does not stop with critical analysis but goes further, offering a number of recommendations that reflect an exhaustive understanding of the “state of the art” but remain digestible and actionable at the same time. Her critiques and suggestions reflect an urgent, well-learned set of beliefs: first, after a decade of war and loss, this is a moment for real reflection about why the most powerful military in the world still struggles on the battlefield against unconventional warriors. It is a moment when the law must catch up to events on the ground if the United States is to maintain the legitimate respect of its peers and those populations whose hearts and minds it seeks to win. And it is a moment when imagination and collaboration must be harnessed in order to conceive of and respond to threats that heretofore did not exist in their present forms.

This is a book that deserves the widest distribution and attention in the hands of global leaders. It will make an enormous positive difference in our approach.

Admiral James Stavridis USN  
Dean, The Fletcher School, Tufts University;  
Supreme Allied Commander of NATO, 2009–2013

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