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Defining the battlefield in contemporary conflict and counterterrorism : understanding the parameters of the zone of combat / Laurie R. Blank

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Abstract:	<p>The nature of today's conflicts has led many practitioners and scholars to suggest that the traditional battlefield – once populated by tank battles and infantry – has been replaced by a more complex environment – sometimes called the zone of combat. When many argue that the United States is engaged in a global war against Al Qaeda and other terrorist groups, one natural question is where is the battlefield, or zone of combat, in this global struggle against terrorist groups and how do we identify it. This article will focus on two hitherto ignored aspects in the discussions about the modern battlefield or zone of combat – when and for how long is an area part of the zone of combat and how far does this designation extend geographically. These questions are critical for understanding how to apply the law to questions of targeting, detention, interrogation, direct participation in hostilities, and trials, among others. Because the applicability of the law of armed conflict is naturally limited by – and triggered by – the existence of an armed conflict, it therefore provides a paradigm for understanding the temporal and geographic parameters of the zone of combat that other generally applicable legal frameworks cannot necessarily offer. This article demonstrates that traditional conceptions of belligerency and neutrality are not designed to address the complex spatial and temporal nature of terrorist attacks and states responses. Nor can human rights law or domestic criminal law, which are both legal regimes of general applicability, offer a useful means for defining where a state can conduct military operations against terrorist groups. LOAC, in contrast, provides a framework not only for when it applies, but where and for how long. By using this framework and analogizing relevant factors and considerations to the conflict with al Qaeda, we can identify factors that can help define the zone of combat, including the nature of the hostilities, the government response to the threat and the territorial connections of the terrorist or non-state armed group.</p>
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