

Kill Anything That Moves¹

Reviewed by Major Jeniffer G. H. Cox*

*There are more civilians killed here per day than [Viet Cong (VC)] either by accident or on purpose and that's just plain murder. I'm not surprised that there are more VC. We make more VC than we kill by the way these people are treated. I won't go into detail but some of the things that take place would make you ashamed of good old America.*²

I. Introduction

Kill Everything That Moves: The Real American War in Vietnam is a compelling and discomfiting account of American atrocities against Vietnamese civilians during the Vietnam War.³ The author, Nick Turse, convincingly argues that the mass carnage against civilians was not the result of many poor or immoral small unit and individual choices, but rather the consequence of deliberate decision making at the strategic level by America's leadership. Supported by graphic stories of murder, rape, and pillage, Turse portrays a disturbing systematic dehumanization of the Vietnamese people and a portrait of American political and military leaders who either refused to take the necessary action to stop war crimes or actively encouraged their commission.⁴ Turse further attempts to re-humanize and memorialize those who suffered from American atrocities, including Soldiers who tried and failed to raise concerns over the conduct of their fellow Soldiers.⁵

Combining first person accounts with primary source materials, Turse uses a journalistic background to present a sobering account of America's decisions in Washington, actions in Vietnam, and the disturbing results. The stories in this book provide judge advocates historical context for advising commanders engaged in combat operations, and

highlight how focusing on specific mission metrics at the expense of ethical considerations could lead to war crimes. Judge advocates have an opportunity to use the stories in this book to provide context for commanders, to recognize situations where metric focus could lead to war crimes, and to give advice to prevent the same.⁶

II. Means and Methods

Turse initially came upon inspiration for this book by accident: an archivist at the National Archives handed Turse the records of the Vietnam War Crimes Working Group while he was researching another topic for his graduate program.⁷ Turse instantly recognized that the files "[d]ocumented a nightmare war that is essentially missing from our understanding of the Vietnam conflict."⁸ He spent the next twelve years performing further research and wrote this book to fill the gap.

Turse weaves together his exhaustive research to form a comprehensive and well integrated analysis of American atrocities.⁹ Personal accounts from survivors and Soldiers on both sides of the conflict, criminal investigations, government records, and news media accounts are knit together to support his argument that decision-making at the highest levels devolved into merciless killing in rural villages. Turse particularly explores the United States' use of statistical methodologies for war-time decision making.¹⁰

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¹ NICK TURSE, *KILL ANYTHING THAT MOVES* (2013).

² Turse, *supra* note 1, at 120 (footnote omitted).

³ *Id.*

⁴ For example, the author names Major General Julian Ewell and Colonel John Donaldson, among others, as leaders who encouraged brutality to raise body counts, who were never punished for their actions. *Id.* at 200–04 and 207–12. Major General Ewell was awarded and promoted to Lieutenant General at the end of his tour. *Id.* at 214.

⁵ See *id.* at 214–20, where a "Concerned Veteran"—a whistleblower—contacted American military leadership with specific allegations of war crimes describing a "My Lay [sic] each month for over a year," and naming specific leaders who encouraged the crimes. He sent several follow-up letters, which were forwarded to the Army General Counsel, who instituted a special investigation, which was summarily scuttled by General Westmoreland on the advice of an Army undersecretary because the complaints were anonymous. *Id.*

⁶ Focus on the specific role of judge advocates in Vietnam is beyond the scope of this book. For more information on that topic, see FREDERIC L. BORCH III, *JUDGE ADVOCATES IN VIETNAM: ARMY LAWYERS IN SOUTH EAST ASIA 1959–1975* (1989).

⁷ Turse, *supra* note 1, at 14.

⁸ *Id.* at 14. "Today, histories of the Vietnam War regularly discuss war crimes in the context of a single incident: the My Lai massacre . . . all the other atrocities perpetrated by U.S. soldiers have essentially vanished from popular memory." *Id.* at 2.

⁹ Turse's approach lends credibility to his arguments and earned him numerous reporting awards and honors, including a Ridenhour Prize for Reportorial Distinction, a Guggenheim Fellowship, and a fellowship at Harvard University's Radcliffe Institute for Advanced Study. *Id.* (author's biography, unpaginated).

¹⁰ For example, the author tellingly notes that "[w]hile the U.S. military attempted to quantify almost every other aspect of the conflict—from the number of helicopter sorties flown to the number of propaganda leaflets dispersed, it quite deliberately never conducted a comprehensive study of

The means and method used to evaluate American actions in Vietnam starkly contrast with the statistical “indicator of success” that he believes led to the atrocities.¹¹ Turse places the blame for the Department of Defense’s statistics-driven culture squarely on the shoulders of Secretary of Defense Robert McNamara: “He relied on numbers to convey reality and like a machine, processed whatever information he was given with exceptional speed, making instant choices and not worrying that such rapid fire decision-making might lead to grave mistakes. There was to be no ‘fog of war’ for his Pentagon.”¹² Pentagon officials espoused and operated under a philosophy that if Americans reached a point where they were killing more enemy troops than there were troops to replace them, then the enemy would surrender and the conflict would be concluded.¹³ This philosophy focused on America’s superior firepower and the rationality of the enemy.¹⁴

Turse succinctly describes the Pentagon’s clear misunderstanding of the enemy¹⁵ and how as a result, “body count” became the only “measure of success” in battle.¹⁶ Turse is mainly concerned with the sheer number of civilians slaughtered as a consequence of the Pentagon’s failure to adjust course in the face of an enemy that failed to comply with rational principles, and not the mere existence of the body count as a statistical measure.¹⁷ He describes the entire strategy as absurd: “[d]ay after day, patrol after patrol, U.S.

Vietnamese noncombatant casualties.” *Id.* at 12 (footnote omitted). There is no official count of the number of noncombatant casualties, but recent statistical analysis places the number of deaths close to 2 million and the number of injuries at 5.3 million. *Id.* at 13. The author identifies multiple studies attempting to quantify the total number of casualties, civilian casualties, wounded, and dead. He uses the studies as a baseline for the overarching thesis recognizing that even the “most sophisticated” analysis likely underestimates the number of casualties. *Id.* at 12–13.

¹¹ *Id.* at 42 (footnote omitted).

¹² *Id.* (footnote omitted).

¹³ *Id.* (“The statistically minded war managers focused, above all, on the notion of achieving a ‘crossover point’: the moment when American soldiers would be killing more enemies than their Vietnamese opponents could replace.”).

¹⁴ *Id.* at 42 (footnote omitted); 78 (“Pentagon’s war managers never gave up their conviction that American technological prowess would ensure victory.”).

¹⁵ *Id.* at 42 (footnote omitted) (“What McNamara and the Pentagon Brass failed to grasp was that Vietnamese nationalists . . . might not view warfare as a straightforward exercise in benefit maximization to be pursued in a ‘rational manner’ and abandoned when the ledger sheet showed more debits than credits.”).

¹⁶ *Id.* at 43 (footnote omitted); see also Donald Fisher Harrison, *Computers, Electronic Data, and the Vietnam War*, 26 ARCHIVARIA 18, 22 (Summer 1988) (discussing statistical reporting systems and how units were judged using body count and kill ratios).

¹⁷ Turse, *supra* note 1, at 42–43 (“The war managers, of course, gave little thought to what this strategy—basing the entire American military effort on such an indicator as Vietnamese corpses—might mean for Vietnamese civilians.”). As an illustration, for the 9th Infantry Division during a particularly brutal campaign, the kill ratio increased to 134:1, but the number of enemy troops did not decline. *Id.* at 209 (footnote omitted).

troops wandered around the countryside spoiling for a fight—trying to goad a lightly armed enemy to abandon all sense and stand toe-to-toe in open battle with the best armed military in the world.”¹⁸

The Commander of American forces in Vietnam, General Westmoreland, embraced the strategy despite some commanders and career officers balking at a strategy determined largely by statistics.¹⁹ General Westmoreland’s enthusiastic support of this new method of warfare translated into “killing quotas,” “incentivizing of death,” and purposeful inclusion of civilian casualties to increase the body count.²⁰ In the end, “[t]he practice of counting all dead Vietnamese as enemy kills became so pervasive that one of the most common phrases of the war was: ‘If it’s dead and Vietnamese, it’s VC.’”²¹

Turse lays out how the means to achieve the body count blatantly ignored the principles of the law of war in place to protect civilians.²²

A sound from the tree line? Hose it down with machine-gun fire. A sniper shot from the ville? Hit the hamlet with napalm. A hunch that an area might have enemy fighters in it? Plaster it with artillery fire. A Saigon-appointed Vietnamese official identifies a village as an enemy stronghold? Bomb it back to the stone age.²³

It was not unusual for commanders to order Soldiers to “kill anything that moves,” including non-combatants, live stock, and crops.²⁴

Turse spends the majority of the book presenting, in gruesome detail, American atrocities committed by individual Soldiers, patrols, platoons, and on to brigade size

¹⁸ *Id.* at 51 (footnote omitted).

¹⁹ Harrison, *supra* note 14, at 22–23 (describing the close personal relationship between McNamara and Westmoreland and the integration of statistical analysis into the war planning effort).

²⁰ Turse, *supra* note 1, at 44–48 (footnotes omitted).

²¹ *Id.* at 47 (footnote omitted).

²² Geneva Convention Relative to the Protection of Civilian Persons in Time of War, arts. 27–34, Aug. 12, 1949, 6 U.S.T. 3516, 75 U.N.T.S. 287 (providing for the respect and humane treatment for all civilians in an international armed conflict and specifically protecting against acts of violence including rape, murder, torture, corporal punishment, punishment from offenses committed by others, and pillage).

²³ Turse, *supra* note 1, at 78–79.

²⁴ *Id.* at 53 (describing search and destroy as code for shoot anything that moves), 89 (footnote omitted) (“anything that moves dies”), 94–96 (detailing use of herbicides to destroy crops and fire to burn entire hamlets), 111–12 (referring to orders to level entire villages if receiving any fire). These examples are representative of a theme presented throughout the book. See also, BORCH *supra* note 6, at 28 (citation omitted) (categorizing all U.S. operations in Vietnam as search and destroy missions, clearing operations, or securing operations).

elements. In fact, an entire chapter, entitled “A Litany of Atrocities,” recounts numerous horrors committed in two geographically separated provinces.²⁵ Turse argues that atrocities were widespread and undertaken with tacit, if not overt, support of the higher chain of command, following a common, established metric.²⁶ Descriptions of similar events, throughout the book, separated by time and geography and conducted by different units, under different command personalities, support Turse’s argument.²⁷ Turse recounts stories of troops murdering prisoners on order of their commander in 1968, and murdering children and reporting them as enemy troops by order of the commander in 1969. He describes General Westmoreland’s declaration, in 1967, that intensification of U.S. operations would “make it impossible” for a civilian to “stay put and follow his natural instinct to stay close to the land, living beside the grave of his ancestors.”²⁸

III. Dehumanization and Dissociation

Turse manages to present these stories without demonizing individual Soldiers. He depicts how the systematic dehumanization of the Vietnamese people, and concurrent dissociation of American Soldiers from their actions, began in basic training, continued when called to the battlefield, and ultimately led to the atrocities committed by U.S. Forces.²⁹

“Recruits were indoctrinated into a culture of violence and brutality, which emphasized above all a readiness to kill without compunction.”³⁰ This was a readiness to achieve the body count immediately upon arrival in Vietnam, no

²⁵ Turse, *supra* note 1, at 108–43.

²⁶ *Id.* at 97 (performance of raids with “full knowledge, consent and participation” of Troop Commander); 142–43.

While we have only fragmentary evidence about the full extent of civilian suffering in South Vietnam, enough similar accounts exist so that roughly the same story could have been told in a chapter about Binh Dinh Province in the mid-1960s, Kien Hoa Province in the late 1960s, or Quang Tri Province in the early 1970s, among others. The incidents in this chapter were unbearably commonplace throughout the conflict and are unusual only in that they were reported in some form or recounted by witnesses instead of vanishing entirely from the historical record.

Id. (footnote omitted).

²⁷ *Id.*

²⁸ *Id.* at 46, 49, 65 (footnotes omitted).

²⁹ *Id.* at 26–27 (describing how boot camp created a tabula rasa of recruits allowing the military to indoctrinate recruits with racist ideas and manipulate their psyches to reduce reluctance to kill).

³⁰ *Id.* at 27 (footnote omitted).

questions asked.³¹ Racism was rampant, pervasive, and specifically targeted to prevent Soldiers from visualizing the enemy as human beings.³² Leaders and Soldiers alike described Vietnam and its people as “a piddling piss ant country,” a “backward nation,” and “the garbage dump of civilization.”³³

Commanders ordered “search and destroy” missions and used the “amorphous” Rules of Engagement (ROE) to justify attacks on unarmed villagers.³⁴ Turse elaborates on how commanders often sought approval from South Vietnamese counterparts before strafing villages, and he describes commanders who gave copies of the ROE without providing any training on the contents.³⁵ These types of actions were designed to achieve “plausible deniability” for their actions, while still increasing the overall body count.³⁶

Soldiers received brief training on the Law of War and Rules of Engagement from the chaplain upon arriving in country,³⁷ but it “was soon apparent to many young officers that few at headquarters knew or cared much about the details in the field—beyond the stats, that is.”³⁸ Murder, rape, pillage, torture, and destruction without remorse were the norm. Technological advances allowed Soldiers to fire from a distance without necessarily observing the carnage and to do so just for the “thrill of it.”³⁹

Turse reports that atrocities were an everyday occurrence, but little resulted from reporting the incidents.⁴⁰

³¹ *Id.* at 30 (explaining the lack of detailed instruction about the law of war).

³² *Id.* at 50. “The notion that Vietnam’s inhabitants were something less than human was often spoken of as the ‘mere gook rule’ This held that all Vietnamese—northern and southern, adults and children, armed enemy and innocent civilians—were little more than animals, who could be abused at will.” *Id.*

³³ *Id.* at 49 (footnotes omitted).

³⁴ *Id.* at 56–58.

³⁵ *Id.* at 54–55.

³⁶ *Id.*

³⁷ *Id.* at 30. Responsibility for promulgating law of war training has shifted to The Judge Advocate General. Soldiers must receive training on the law of war annually and before deployment by a judge advocate or paralegal noncommissioned officer. U.S. DEP’T OF ARMY, REG. 350-1, ARMY TRAINING AND LEADER DEVELOPMENT para. 2-16, app. G-21 (4 Aug. 2011).

³⁸ Turse, *supra* note 1, at 57.

³⁹ *Id.* at 158–59 (firing for the thrill of it), 160 (treating the Vietnamese as subhuman), 166–167 (linking male sexuality to violence resulting in sexual assault as a standard operating procedure to obtain information about the enemy).

⁴⁰ *Id.* at 184–87 (describing Commanders’ reluctance to prosecute and Army practice not to prosecute Soldiers once they left Active Duty), 192 (“culture of defensiveness”); *see also* BORCH, *supra* note 6, at 35.

Some individuals who spoke out against these actions were ostracized and threatened by their fellow Soldiers; many of the allegations were never investigated, or, if they were, the investigations were buried.⁴¹ Turse argues that the lack of consequences for their actions only increased Soldiers' dissociation from the carnage: all that mattered was the appearance of "battlefield success"—the body count.⁴² Ultimately, Turse navigates past the body count to provide the reader with an insight into the daily horrors of the Vietnam War and the systems that perpetuated the cycle of humanitarian abuses.

IV. Memorials and Conclusions

The dedication of the book is "[f]or all those who shared their stories—and for those with stories yet to be told."⁴³ Nick Turse's motivation to give faces and names back to the individual victims of American atrocities is evident throughout the book. He names the victims, describes small local memorials, and includes photographs.⁴⁴ There is no Vietnam Veterans Memorial (VVM) for the millions of Vietnamese civilians who lost their lives, livelihoods, and families.⁴⁵ Just as family members leave sentimental items

At the same time, American soldiers also committed war crimes, and from 1965–1973 there were 241 cases (besides My Lai) alleging war crimes committed by Americans. After investigation, 160 of these were found to be unsubstantiated. Thirty-six war crimes incidents, however, resulted in trials by courts-martial on charges ranging from premeditated murder, rape, and assault with intent to commit murder or rape to involuntary manslaughter, negligent homicide, and the mutilation of enemy dead. Sixteen trials involving thirty men resulted in findings of not guilty or dismissal after arraignment. Twenty cases involving thirty-one soldiers resulted in conviction. Punishments varied. . . . In at least one court case, a soldier convicted of manslaughter received only an admonishment.

Id.

⁴¹ Turse, *supra* note 1, at 41 (command level failure to take action), 193 (dubbing whistleblowers as malcontents), 196 (successful use of good Soldier defense), 199–200 (detailing the results of several courts-martial and describing witness tampering), 218 (whistleblower complaint forwarded to general counsel, no investigation launched), 219–21 (whistleblower complaints ignored), 241 (strategically drawing out investigations and tampering with witnesses to impede courts-martial).

⁴² *Id.* at 229–30. After the My Lai incident came to light, the Pentagon instituted a deliberate strategy of suppression and withholding of information and developed the War Crimes working group to warn of and deal with allegations of war crimes as individual incidents causing an image problem. *Id.* at 229–33.

⁴³ *Id.* (dedication).

⁴⁴ *Id.* at 20 (describing multiple local memorials to the victims of massacres).

⁴⁵ The Vietnam Veterans Memorial currently contains 58,272 names of Americans who served in Vietnam. It does not include "[c]ancer victims of Agent Orange, and post traumatic suicides" because they do "not fit the criteria for inclusion," and "some have calculated that it would take another

at the VVM, Turse has been inundated by letters, calls, and other tangible tokens from survivors, family members, and veterans.⁴⁶ Turse recognizes that even his comprehensive review could not possibly cover every person or story and concludes, "[i]n the end, these blank spots in the history books will tell the story. They will be the final testament, the lasting legacy of the real American war in Vietnam."⁴⁷

Judge advocates have an opportunity to use the stories and legacy presented in this book to advise commanders and teach Soldiers to recognize how laser focus on particular metrics can lead to erroneous decisions. Current Army leadership recognizes that all Soldiers, not just judge advocates, must incorporate "ethical reasoning" into operational decision-making.⁴⁸ As judge advocates, we have the opportunity and responsibility to recognize the second and third order effects that political pressures or outside influences may have on the decision-making process, and must articulate concerns in a constructive manner to help commanders achieve mission success. We must also recognize when the metrics of mission success may become a forcing function that leads to war crimes, and we should provide commanders with alternative, practical courses of action.

Judge advocates should integrate themselves into the military decision-making process and operational planning by building trust with other staff members. As General Odierno said, "The foundation of our profession is centered on trust. . . . [I]t will take every measure of competence and commitment to forge ahead and above all it will take character."⁴⁹ Turse successfully presents a critique of the overall U.S. policy in Vietnam and manages to craft a compelling recognition of the cost—measured in human suffering, not body count. This book should be required cautionary reading for judge advocates endeavoring to become trusted legal advisors, at every level of command, in the age of asymmetric warfare.

two or more entire Walls to include all the names in those two categories alone." *The Wall-USA, VIETNAM VETERANS MEMORIAL*, <http://thewall-usa.com/information.asp> (last visited May 28, 2015). Unfortunately, coverage of these tragic deaths was also outside the scope of this book.

⁴⁶ Turse, *supra* note 1, at 263.

⁴⁷ *Id.* at 268.

⁴⁸ CENTER FOR THE ARMY PROFESSION AND ETHIC, *THE ARMY ETHIC WHITE PAPER 7* (2011).

⁴⁹ General Ray Odierno, Chief of Staff of the Army, Address at the U.S. Military Academy Graduation Banquet (May 27, 2014).