

Militær profesjonsetikk

*Theirs not to make comply;
Theirs not to reason why;
Theirs but to do and die*

Ovenstående linjer er hentet fra Alfred Tennysons dikt *Charge of the Light Brigade* – i sin tid motto for det amerikanske militærakademiet West Point. Det profesjonsidealet som kommer til uttrykk her, er særdeles tydelig. Det er lydighet – ja mange vil si kadaverdisiplin. Tradisjonelt sett er det dette som har vært inngangsverdien når det tales om offisersprofesjonen. Militærmaktens mål skal ifølge Clausewitz blott være *Ein Fortsetzung der Politik mit anderen Mittlen*. Utøverene av denne makten skal altså bare eksekvere det politikerne har bestemt. Utviklingen i vårt århundre, og spesielt etter 2. verdenskrig, bekreftet disse inngangsverdiene. Den kalde krigens bipolære og statiske virkelighetsforståelse gjorde tilsynelatende frontene enkle og klare: en klar definert oppgave, en klar definert fiende, et klart definert territorium å forsvare.

Den kalde krigens slutt med påfølgende dramatiske endringer både i de sikkerhetspolitiske og de økonomiske rammebetingelser for Forsvaret, medfører med nødvendighet også at en må spørre om dette påvirker forståelsen av den militære profesjon. Hva betyr det for den militære profesjon at Forsvaret ikke lenger entydig kan betraktes som et vernepliktsbasert territorielt invasjonforsvar, men i stadig større grad er tenkt anvendt innenfor en internasjonal kontekst, og da i form av styrker som først og fremst ikke er tenkt anvendt innenfor et tradisjonelt krigsscenario, men mer innenfor krisehåndtering. I USA taler man nå om «The Diplomat Warrior» – en ganske annerledes innfallsvinkel enn det gamle mottoet fra West Point.

I tillegg til endringer i det grunnleggende rasjonalet kommer så også konseptuelle endringer. Den nye vekten på manøverkrigføring og oppdragstaktikk, krever en militærprofesjon som ikke bare er i stand til å motta og gi ordre, men også er kapable til å forstå og tolke det grunnleggende rasjonalet for ordren. Disse endringene krever et fornyet fokus på militær profesjonsetikk. Hva vil det si å være offiser? Hva vil det si å utøve statens ytterste maktmiddel i en endret verden?

I norsk sammenheng har det naturlig nok vært krigsskolene – de institusjoner som utdanner Forsvarets offiserer med «ferdigheter, kunnskaper og holdninger» – som har satt dette på dagsorden. I fjor arrangerte Krigsskolen en verdidag hvor bl a *Forsvarets verdigrunnlag* ble satt i fokus. I november i fjor arrangerte Luftkrigsskolen sammen med den amerikanske organisasjonen *Association for Christian*

Conferences, Teaching and Service (ACCTS) et internasjonalt symposium i militæretikk som ett av to faglige bidrag i forbindelse med skolens 50-årsjubileum. Hovedtemaet for symposiet var hvilke faktorer som former og påvirker en militær profesjonsetikk.

Temaet tok utgangspunkt i den modellen den amerikanske obersten Anthony E. Hartle lanserer i sin bok *Moral Issues in Military Decision Making*. Hans tese er at militær profesjonsetikk baserer seg på tre faktorer: den samfunnsmessige/kulturelle konteksten eller ideologien, den folkerettslige som definerer de juridiske rammene for yrkesutøvelsen og til sist profesjonens eget rasjonale, dvs det som kjennetegner det å være offiser i forhold til andre profesjoner.

Det er utvalgte bidrag fra dette militæretikksymposiet som utgjør hovedbolken av dette nummer av *Pacem*. General Fredrik Bull–Hansen belyser i sin artikkel de profesjonsmessige aspektene ved temaet. Dr Don Snider (USA) tar for seg de samfunnsmessige aspektene, mens Generaladvokat Arne Willy Dahl presenterer de folkerettslige aspektene. Videre er det tre artikler som tar for seg den dominerende moralfilosofiske tradisjonen som har preget forståelsen av militær profesjonsetikk i vår del av verden: rettferdig krig tradisjonen. Orlogskaptein/Sjøkrigsskoleprest Leif Tore Michelsen fokuserer på de historiske aspektene, den britiske generalmajoren Ian Durie tar for seg tradisjonen ut fra et mer aktuelt perspektiv, mens den amerikanske majoren Charles A. Pfaff fokuserer på forholdet mellom denne tradisjonsstrømmen og et bestemt aktuelt perspektiv, nemlig internasjonale fredsoperasjoner. Den siste artikkelen i denne bolken er en artikkel fra major Palle Ydstebø som fokuserer på interaksjonen mellom to av de grunnleggende perspektivene ved den militære profesjonsetikken: forholdet mellom egen etikk og folkerettslige rammebetingelser.

I tillegg følger andre del av oberstløytnant/stabsprest (R) Vidar Viks artikkel om Feltprestkorpsets historie, den første ble publisert i forrige nummer av *Pacem*; en artikkel av major/stasjonsprest Jan Ivar Vorren om etisk rådgivning, samt to bokanmeldelser.

Nils Terje Lunde

International Military Ethics Symposium

*Opening Address**

POLITICAL ADVISER TRINE RADMANN

Honoured guests – ladies and gentlemen.

It is a great pleasure for me to be present here today on this International Military Ethics Symposium and give this opening address to such a distinguished audience at the Royal Norwegian Air Force Academy. But first of all, I would take the opportunity to greet you all from the Minister of Defence in Norway and wish you good luck with the Symposium.

The issues to be discussed here today are at the very top on our agenda. And I therefore look forward to participating in today's session. The opening of formerly closed borders have led to a shift in the world and cleared the way to a constructive dialogue, increased mutual trust and expanding co-operation. It is therefore a great pleasure for me to welcome our foreign guests. Military ethics at the crossroads on the threshold of a new century, is an issue of common interests.

The program for this symposium is extensive, offering a variety of concurrent session topics addressing some of the largest challenges facing the military ethics program of the new century. Perhaps includes the program also some thought-provoking speakers. These topics includes teaching the fundamentals and historical distinctives of the military ethics, the development of the ethical theories of war, character development and views from the cultural, professional and international law imperatives on the military ethics. Most importantly, you will have ample time for networking and informal discussions of issues important to each of you.

With the advent of the year 1999 we are approaching a marked divide in our reckoning of time. It gives us cause to reflect on the great triumphs – and tragedies

* Opening Address at the International Military Ethics Symposium at the Royal Norwegian Air Force Academy 25th November 1999.

– that have taken place over the century, and the millennium, on which we shall be able to look back in barely a month's time.

The society at the end of the second millennium is characterised by post-modernism, secularisation and increasing complexity. It has been said that the future is a country for which we have no map. Irrespective of which way we choose, we march forward through changing surroundings. In order to be effective, organise life, and deal with upcoming problems, we have to adapt the new surroundings – to demonstrate the ability to evolve and develop. The new surroundings also include the ongoing changes of values.

The study of ethics is the conscious philosophical reflection on moral beliefs and practices. Because all of human conduct essentially takes place in relationship to other human beings, ethical standards generally reflect the value ascribed to human life by the prevailing ways of life. In Europe, which is profoundly influenced by Christian and Humanitarian moral teachings, the overriding ethical imperative is that human life has infinite value and inherent dignity.

Growing up with a certain background is resulting in a system of values and norms that we have in mind. There is an immense offer of competing values, and the most attractive wins.

The legitimate purpose of the military forces of a nation is to defend the fundamental values of society and, above all, the life, freedom and security of each individual. The study of military ethics must consider not only the conduct of individual military members in a variety of circumstances, but also address the larger issue of the morality of using military force to achieve national objectives.

The inability of the international community to reconcile compelling interests in the case of Kosovo can be viewed only as a tragedy. It has cast in stark relief the dilemma of so-called «humanitarian intervention». The respect for human dignity prevails even over the use of instruments of force.

For us, the military is a political instrument; which means that the military core values are firmly anchored in the historical and cultural fundamental values embodied in the Christian and humanitarian traditions, the character of the United Nations, the UN Declaration of Human Rights, and international law. In this context, the international agreements have their roots in a general system of values. It is important that the military accepts these values, because the acceptance of these values determines the behaviour of the soldiers, facing the toughest ethical dilemma in conflict situation.

Human behaviour is the root of the interactions between people. The military lifestyle is framed by very particular interactions. All together, the composite effects bears directly on how a military person approaches his profession.

Professionalism is the product of the combined knowledge, skills and mindset of the individual unit.

Military personnel have an obligation to accomplish legally assigned missions. The foundation of military ethics is the conviction that, whatever conducts supports, the accomplishment of that purpose is «right» – provided that it is consistent with the value and dignity of human life. Whatever conducts detracts from that purpose, or violates the value and dignity of human life, is «wrong».

Ethical education of military personnel must be aimed at developing sincere character. Especially important is the ethical education of military leaders. They influence their subordinates and are often the only guidance they have.

Military behaviour itself promotes traditional values like discipline, loyalty and integrity.

The practice of these itself, becomes a fertile ground for the demonstration of the vitality of the moral framework that points it out.

The importance of these values seems diminishing in the civilian society. The military is directly affected by the changes of values going on within the society. This means that the military constantly is forced to examine its understanding of values.

The last 10 years we have seen an increased emphasis in the area of military ethics in military academies. We face numerous and diversified ethical challenges. We therefore welcome involvement in the wide set of co-operative efforts aimed at meeting the challenges we are addressing here today.

Vaclav Havel once said: «Democracy must renew its respects for the immaterial dimension that exists not only above us but within us and between us. This is the only possible and reliable source of self-respect, respect for others and respect for the order of nature and humanity».

With these words I wish you all the best for the symposium and, particularly since we are in my hometown, hope that your stay here in Trondheim will be as pleasant as you all deserve.

Thank you for your attention.

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Ethical Challenges For The Military Profession

BY GENERAL FREDRIK BULL–HANSEN

Fashionable, but more than Fashion

Ethics, values, morale are «in». No institute is without its seminars, theologians have found new engagements as industrial advisers, industries are producing their checklists, and religious groups and churches feverishly strive to adjust inherited interpretations to the contemporary world. Being fashionable, ethics are often presented and sold as fashion, an injection for short–time satisfaction over the fact that the question is raised and covered in the business strategy. Fashionably enough, the subject has even got its many abbreviations with which experts may signal their expertise; the American military version is PME (Professional Military Ethics).

But much of the contemporary focusing on immaterial values, clearly go beyond the fact that the subject is «in». In whatever culture, individuals who are intellectually and emotionally awake see more in life than material goals and achievements only. Fully consciously or not, also existential questions – from what, to what and why – are in the minds of the many. And then, there is a general acceptance of the fact that in any endeavour involving people in co–operation for a common purpose, an understanding of man in his entirety is a prerequisite for success.

A Common Heritage

We say to share a common cultural heritage. Common, yes, but whatever inherited message – religious or political – took colours of when and where the seeds were sown. The Christian ideas got on Russian territory their distinct Russian flavour,

in the Spanish lands they became Spanish. Not to forget, the German–invented pietism found its most receptive congregations on the American and Norwegian «bible belts». The message of Marx and Engels, in every way the fruits of our culture got the colours from red to pink and from blood to ink, pending whom picked it up. In moral and ethical terms our culture has fostered its saints as well as its Machiavelli's and its Dr. Strangelove's. The latter most opportunistically also using the banner of the cross. Very recently prelates in black carrying the cross on their roomy stomachs blessed the performers of ethnical cleansing and systematic murder in what used to be part of «Classical Europe».

But in spite of dramatic setbacks throughout history, in spite of the fact that banners of black as well as red are still being hailed by severely misguided cultures and sub–cultures around, we seem to have come to some rather common ideas as to what is basically right or wrong. A combination of a religious heritage and continuous practical experience teaching us what best furthers our worldly well being, the two elements not always easy to keep apart, have led us along. The term ethics, «ethos» also stands for custom, for habit. The often in frustration reference to a so–called «norm–less society» is only possible when there is an acceptably common perception of «norms».

The seeds sown by the 30–year old Jew and his assistants and chronicle–writers are still very much with us. Not many, in contemporary terminology «leaders of excellence», may hope to see their strategic ideas surviving two millenniums and being translated into 758 languages. In every sense applying great leadership, he furthered the already then inherited notion that man is unique and hence the commandment: *You shall not kill*. But he was fully aware that his world was not the one upon which he hung on the cross.

May be more than ever, the inherited purely religious thoughts are in our time being questioned by many. The result is a secularisation, but also a search for the essence of the message, rather than the only too often man–made dogma, constructions not seldom being of questionable historical as well as ethical quality. In any case, the inherited humanistic ideas have survived time and found their contemporary expressions in many fields of life, such as in the Geneva Conventions and the United Nation and the European Declarations of Human Rights, which even aim at being universal. International courts and tribunals are attempting to follow up. If these ideas and rules are not being hailed by all, may be even not by a majority on this globe, at least they illustrate the efforts to further the ideal of a humanistic, civil society. For some this implies a Christian society.

A Challenge and a Dilemma

We may all agree that within the contemporary interpretation of a «western» and of some related cultures, a fundamental feature is the respect for the human being and for human life. With such values imbedded, few people are confronted with greater ethical and moral challenges than those who on behalf of the society are expected to use lethal force against man. Soldiers, sailors and airmen are in battle, not during theorising exercises at seminars, not behind desks, not behind the computer of the R&D scientist, demanded to combine respect for human life with the use of lethal force. They are on the battlefield challenged with the demanding task to draw the line between when to kill and when the law of war or the individual conscience makes this legally unacceptable or morally unbearable. The strain may most directly be felt by the infantryman in close combat, often as a reaction thereafter, although the weaponry delivered from a less directly committing distance may indeed be more indiscriminate than the bayonet.

Under any circumstance, the ethical dilemmas, which may confront the soldier in the field, may affect the very foundation of the military discipline and obedience, which is so very necessary in any force in action. There is no easy way out of this dilemma. The Nuremberg process and later international courts and tribunals have confirmed that no «rule of engagement», no regulation or code of action is freeing the individual behind the weapon from such very difficult personal evaluations and decisions. These are challenges, which must be considered and digested in quiet and in advance. The battlefield is not the environment for quiet contemplation. Not the least should the leader destined for military action in the field aim at being prepared.

Beyond the Dilemmas of the Battlefield

Of course, ethics for the military profession encompass more than the dilemmas, which I have so far discussed. To a considerable extent, however, the challenges as well as the answers to them in other fields of military life do not decisively differ from those needed to be met within any complicated and demanding endeavour, military or civilian. Even the need for the immediate obedience once a decision has been taken may be shared with at least some other undertakings, such as with the surgical team and the firemen in action. The fundamental difference between the military and any other endeavour lays in the seriousness of the military mission and tasks and, indeed, in the seriousness of the consequences of success or failure.

The Weapons at Hand – The Ethical Implication

The ethical challenges related to the use of lethal force against man is enhanced by the ever more destructive power at hand. In spite of the continuous refinement in precision of delivery, some of the most advanced weapons may have indiscriminate effects beyond control. In the forefront stand the mass–destruction weapons – the chemical, the biological and the nuclear – their invention being irreversible. The contemporary proliferation of such weapons to some very unstable hands constitutes a most disturbing part of the picture. As we well know, the international agreements aiming at controlling such developments are far from watertight. Weapons of mass–destruction are morally beyond apprehension. But this does not free us from considering which counter–measures and counter–threats are available, and which may also in ethical terms defend their role. Not an easy task.

Choosing Pacifism

Religious conviction, or the danger of a man–made Armageddon, may for some lead to the conclusion that under no circumstance is military force a means of furthering political aims, not even in self–defence, pacifism being the conclusion and the personal choice. Naturally, the implication of a right to refuse military service is in practical terms most directly felt where a system of compulsory service has been applied. The ethical validity of pacifism versus taking on the normal military service is here a subject for engaging debate. Those who select pacifism usually claim that the only weapon against military aggression is to demonstrate a superior ethical standard and the good deeds, preferably in the form of pre–emptive measures. The aim is to convince the potential aggressor that he is wrong. This notion is also extended to a situation after a possible defeat and during an occupation. Unfortunately, a precondition for the success of such policies is that the opponent, the aggressor, is himself reasonably civilised and that he is fascinated by the thoughts of the pacifist confronting him. This has proved to be a rather rare eventuality.

A pacifism rooted in religious or humanistic conviction is, however, generally accepted in all western societies. The condition being that the conviction is real, not the result of fashion or of seeing the alternatives to be more lucrative or comfortable. A further condition may be that the individual in question takes on other tasks on behalf of the society as are being given to him. Only the person in question will in his heart know whether the conviction behind his choice of pacifism is valid and honest. Those who select to refuse military service have, of

course, freed themselves of the ethical dilemma, which may confront their comrades, the soldier in the field. So has the «Rambo», with no other comparison between the two, although he might be in the field. Admittedly, those who accept their obligatory service may not always come to their conclusion through in depth considerations.

The Soldier and the Society

The geographic position, historical experiences and other factors may have led to some differences in the perception of the role of the military and differences in the setting of standards. Has defence of the own territory only, been the rule, or is there for some reason a tradition of extending power onto other theatres. We may within our cultural family observe that members of some of the larger societies may tend to believe that potency is in itself a guarantee for the quality of the seeds, a questionable assumption in whatever connection, I suggest. Naturally, some smaller countries may feel no less sure about the unsurpassed quality of their ideas, but their more limited physical potency may force them to operate with greater caution. There may be differences between the technologically most advanced who might be tempted to believe that technology is the answer to most questions, and those who are more likely to consider psychological reactions on the part of the opponent to the one and other initiative. There may be differences in the approach to leadership between those who live in a society were egalitarianism is nurtured, and those who are brought up within a more pyramidal social structure. Societies who draw their soldiers from a system of compulsory service may have challenges and priorities varying a bit from those who rely on professional forces only. Some, usually the majority, within our societies will share the opinion that fighting with weapons in hand to counter military aggression and to save the fundamental values of the society, or indeed its very survival, is an obligation. In countries practising compulsory service it is usually simultaneously emphasised that this is also a burden that should fall upon the shoulders of every able-bodied man.

Under any circumstance, the soldier and the military establishment are part of the society to which they belong. Within any civilised country – within any decent democracy – the soldier is a citizen in uniform. A citizen in uniform does, however, not imply an, in the German language, *Uniformsträger*. Neither the soldier, nor the army, can be a sheer copy of their society. To an audience like this, this is obvious. But it must also be brought across to the society at large and to

those politically responsible. What is required before soldiers are sent into the unparalleled physical, technical and emotional challenge of battle? The duty, and indeed the right, to provide such information rests not the least on the shoulders of those who understand what such engagements imply, namely the military leaders.

To the responsible politician, seeking such information and acting upon it is not only a practical obligation, but also indeed an ethical and moral obligation.

Fighting Terrorism – Interventions across the Borders of Sovereign States

I pointed to the disastrous effects of mass-destruction weapons and to the proliferation of such weaponry to unstable hands. There are the most eager salesmen around, and the production of chemical and biological agents may be the business of anybody willing. Should the financing create a problem, production and sale of narcotics is a way out. And narcotics are also weapons in their own right. This has given international terror a new dimension. Conducted by governments or not, international terror must have a supportive base from which to operate. Consequently, countering international terror might imply the need to cross state borders. I referred to some developments in international law. A further notion is that terror is seen as a crime wherever it is put to practice. «Sovereignty» should not be interpreted to allow any country to harbour international terror. No despotic ruler should be allowed to terrorise his people as he pleases. The extreme version, genocide, is in a UN Convention of 1948 described as a crime against humanity. Furthermore, a perception that internal terror and ethnic cleansing is acceptable may also spread and thus constitute a more direct threat to the internal balance of other societies. But if these are threats, which must be countered, who shall eventually intervene, on the basis of what, under whose auspices and with which means? Should it be only with the blessing of the Security Council, or could it be seen as a regional challenge such as is the opinion of Moscow when confronted with trouble in the Russian so called «near abroad» in the Caucasus beyond Russian borders, or such as foreseen by NATO in the new Strategic Concept of April this year for handling crises in Europe and in Europe's «near abroad». Could it, to go a step further, be a question of interventions by a state or a group of states appointing themselves to be a world police-force, a force which eventually might act without the consensus of anybody but those very states. Could they then in the process also call to life a perception among many that this is just a new form of imperialism. Naturally, those states who might fear an intervention from outside in their own affairs would attempt to veto or otherwise

block such actions of border crossing. The latest demonstration of an intervention from outside is the UN and later NATO actions in former Yugoslavia. These operations have indeed also revealed the many limitations to such an endeavour.

Some might argue that these are political issues only. Military forces and military personnel are the lieutenants who with absolute loyalty and without questions shall carry out whatever task they may be given. But again, this is a simplification. It is a task of the military responsible to advise those politically responsible in every context involving military forces, indeed including the ethical aspects.

Two Specific Ethical Dilemmas

Confronted with the possibility of interventions in internal conflicts in geographically as well as culturally far away theatres it may well be that neither the causes of the local schisms, nor their solving might be clear to anyone – the politician or the soldier – It may be situations where it is hard to distinguish between the aggressor and the defender, between the doer and the innocent, a distinction that also in this case the pilot may find even more difficult than the soldier on the ground. He or she on the ground might on their side, in order not themselves to be killed, have to shoot children who have been forced to carry weapons and to use them. It would be strange, indeed, if this did not lead to further ethical considerations among many.

Another most appropriate question is of course whether it is right to sacrifice the life of young men and women of the own society in order to save far away people from with dedication committing mutual suicide, not seldom in the form of historical repetitions. Such questions may be reinforced by the observation that only too often an intervention fails to leave behind something very much better. Others may, however, strongly feel the moral consequences of just observing atrocities such as ethnic cleansing, terror and genocide wherever it takes place. They may interpret solidarity to encompass more than concerns only for peoples in their immediate environment. They may feel that if only the resources are available, there is no alternative to the engagement in the form deemed most appropriate in order to calm the acute crises in question and in order to support a selection of courses towards a more civilised way of conflict resolution. Within democracies, these various considerations are those of people at large. In our time when media bring the realities in the field into the homes of everyone, live and in real time, the concerns and conclusions of people at the home front count more than ever. This may serve the cause of moral and ethics, but not always. The

message from home may also be: Act as you deem necessary as long as you save the lives of our own.

Co-operation Across Cultural Borders

In environments where political and military co-operation between various national contingents is required, such as in the peace-keeping or peace-enforcement operations as we now see them, there is a particular need to observe and understand the possible differences in thinking and in behaviour from the one participating nationality and contingent to the other. Such variations will often also have their impact on the content and the style of leadership and management. In operations of the nature mentioned the line of command may not always be precise. This adds to the likelihood that ethical and disciplinary conflicts may occur. Some examples from the Balkan theatre are illustrative, the case of the Pristine airport, just to mention one.

Crossing the more Distinct Cultural Borders

Operations may be conducted in theatres where the local culture may significantly differ from ones own. This raises some further demands. There is on the part of the political authorities deciding on such operations, as well as on the part of the military being dispatched to the theatre, no substitute to an understanding of the local culture, why people think and act as they do where they live. What are the historically inherited values of the societies in question, what is the political and the social structure, the level of education? Which are the predominant ethical-moral perceptions? Without such insight, the potential blunders on the part of what might be seen as a foreign intruder are unlimited. Somalia might serve as an illustrative case. Let us here limit ourselves to the observation that while much might differ from our own values, those found in such very other cultures may not always and in every way be of a lesser quality. This does not, however, imply that the troops sent in to help, should not bring with them the basic values of their own, values that might indeed be the very reason for their being there. It is also on the part of the local societies expected that those coming in themselves stand for something. It is a question of honour. And honour is a quality, which in some cultures of the nature in question is highly cherished.

The Selection and Training of the Military Leader and other Ranks

We have all the way discussed matters, which indeed must influence the selection as well as the training of soldiers, sailors and airmen. To an audience like this, some consequences of our reflections so far are self-evident. Let us nevertheless remind ourselves of a few points. As we have already touched upon, some of the qualities that we search for in a military leader are to a great extent the same as those being required within any complicated and challenging undertaking: Respect for the uniqueness of the individual, openness, trustworthiness – being the foundation of the building of a mutual confidence –, a desire and a wish to strive for the freeing of the latent energies in every individual and for a mutual exchange of energies. These qualities are well known in theory and to some even in practice. We may sum it up to «professionalism», a professionalism including, but also going well beyond the practical techniques and technicalities of the branch involved, a professionalism which encompass the dealing with man. Additional to all this are, for the soldier, the very special moral and ethical challenges – in cases the dilemmas – which may confront him in battle. As we all here know, for the military leader these challenges are enhanced by the fact that he, or she, is not only taking the lives of the opponent and risking losing the own life, but is ordering others to take lives and to risk their lives, sometimes with very meagre chances of survival. In the selection of candidates for military leadership some will stress, not necessarily wrongly, the significance of the basic and inherited qualities of the candidate, the qualities of the so-called born leader. Others put the weight on what might be developed by the means of an appropriate education and training. Easy this evaluation is not. Psychology is no exact science, thanks God. Of course it is important that the officer candidates possess an acceptable IQ, some common sense, an ability to quickly sort what is important in a specific situation from the less important, for then to act applying strong will and dedication. If the candidate may further demonstrate coolness and balance under stress, and may be even a charisma in its better interpretation, the chances that he, or she, might develop into a good leader should be good. But it is worthwhile to note as a warning that an IQ is not synonymous with common sense and not synonymous with an ethical standard. There is reason to stress that the toughest in language and in style, the «Rambo», also the one who might camouflage much under an acceptable IQ and a polished appearance, nor in advance, neither in battle, may see ethics as a potential dilemma. He may lack the necessary sensitivity and the wish as well as the ability genuinely to care for his soldiers and to inspire soldiers to serve under severe stress for something they hold to be worth it. To avoid any misunderstanding, the

sensitivity that we search for does not imply softness; the necessary coolness under stress is not the same as coldness. Sensitivity should neither for any military leader imply that he under stress allows himself to be one among other possible clients for experimenting psychologists. It is indeed under severe stress that the leader should lead. The search is for the sound candidate for leadership not, as some seem to think, for the flawless candidate. The absolute flawless individual is seldom holding much imagination. He or she might lack the ability to understand those who are not perfect, and very few are, and also lack the imagination required for the crossing of cultural borders. To illustrate from one field of life only, one might risk a system implicitly saying that you may hate as many as you like as long as you never have loved more than one.

Let me mention one aspect of training that by the first look may seem impressive, but which may not produce the best results when put to the ultimate test. The observation applies whether the question is training of candidates for leadership or for soldiering in general. The attempts in some quarters to break the will and the dignity of a young man or women in the belief that this is a necessary first step toward making a good soldier, is in practical as well as in ethical sense a highly questionable procedure. The process, not always conducted by intellectual or psychological brilliance, is more likely to produce just the «Rambos» who I have already referred to, not the self reliant soldier acting on the basis of what Field-Marshal Montgomery termed «an intelligent discipline». And the rebuilding of someone broken is a task that hardly can be trusted to just any regimental NCO.

Soldiering for “Sold”

Some might state, «a soldier is a soldier», and that’s it. «My country, right or wrong» is the next step before «Right or wrong, I am a soldier» becomes the slogan. Then one is a mercenary, doing whatever, wherever for whomever provided that the pay is good, operating solidly outside the ethical and moral principles which we wish to defend. Although the word «soldier» actually means the one who is paid, soldiering in whatever capacity or rank cannot, and should not, plainly be seen as a «job» paid by the hour, a job to be picked among other jobs if only the pay and other physical conditions are competitive. It is not just a job to kill if need be. This message is not for export only. In this matter we are in this country balancing on a rather slack rope. Soldiering is neither a form of a he-man sport.

Dealing with the «Absolute Evil»

Let me conclude with again stressing the uniqueness of the ethical and moral challenge of military men and women of our societies: To combine *You shall not kill* with doing just that. We know, however, that the application of lethal force may be unavoidable. The alternative may be unbearable. Only too often the «absolute Evil», in the form of an individual or a system, may appear in a position destructive to man. The absolute Evil is seldom reparable, but the absolute Evil may be neutralised or destroyed. The means will often have to be of a kind, which causes decisive pain. It is a demanding task to define when such means should be applied.

But it is not an alternative to withdraw from that task.

Ethical Responsibility rests with the Individual

The ethical challenges, which we have discussed, are confronting the individual as well as the collective. They may both be praised or blamed for their performance. The final responsibility, however, rests with the individual. Ethical responsibility can seldom be collectivised. The collective consists of individuals.

General Fredrik Bull–Hansen. Kongleveien 17, 0875 Oslo. F. 1927. Pt engasjert i frittstående virksomhet i forhold til næringsliv, akademiske og forskningsfora, ideelle organisasjoner og media. Forsvarssjef 1984–87 Se for øvrig omtale i Pacem 1/1998

Army Professionalism, the Military Ethic, and Officership in the 21st Century

BY PROFESSOR DON SNIDER, MAJOR JOHN NAGL,
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Introduction: Army Professionalism and Conflict within the Professional Military Ethos

On 25 Jan 1999, a tall, ramrod–straight young combat–arms officer serving in Bosnia with the 1st Armored Division told the about–to–graduate cadets at West Point, *I tell my men every day there is nothing there worth one of them dying for*. It was a startling admission to the cadets who were in the midst of a series of classes on the professional military ethic; the Lieutenant’s admission was utterly contradictory to what they had been studying. Their studies had led them to believe that minimizing casualties was an inherent part of every combat mission but not a mission in and of itself, particularly one which might impede or even preclude success in the unit’s mission¹ – in this case peace operations within the American sector of Bosnia. Queried by a cadet in the audience as to why he communicated this to his men, the Lieutenant responded, «Because minimizing, really prohibiting, casualties is the top–priority mission I have been given by my battalion commander.»

¹ For the traditional understanding, see Michael Walzer, «Two Kinds of Military Responsibility» in Lloyd Matthews and Dale Brown (eds.): *The Parameters of Military Ethics* (Pergaman–Brassy’s, 1989): 67–72.

To us, this example from the many communicated each week within the media and among the e-mail of the Army officer corps demonstrate that the Army's norms of professional behavior are being corroded by political guidance on force protection. Yet one does not hear senior military leaders defending the military ethic, informing the profession and the American public it serves of its utter necessity for military effectiveness. Neither does one read in military journals significant dialogues on the personal conflicts this is causing for individual officers.

Placed in the larger context and stated simply, changes in the international system since the end of the Cold-War, the new nature of conflict (which we will refer to simply as *operations other than war, (OOTW)*) and secular changes within American society are strongly influencing the American military ethic in directions unknown.

This is an issue of military professionalism, rightly understood; and as such in an era of already declining Army professionalism, is of vital concern to both professionals and the society they serve. The decline in army professionalism that we are experiencing today has been the case historically in America after every major war. Thus the Army is now deeply involved in a necessary and vital transition from a Cold War Army focused on the «Big war» in Europe to an Army of a different character to be used for a different set of missions under different priorities. Thus this essay will analyze two issues within the profession now impeding healthy adaptations – (1) *the officer corps' intellectual muddle over the purpose of the Army* and (2) *their ethical muddle over the role of self-sacrifice in the profession's ethos*. We believe these two unresolved contradictions have contributed in very significant ways to the Army's inability thus far to deal effectively with vexing issues such as force protection. Lastly, we will present a *principled approach* for a renewed self-concept and motivation of the Army officer corps, a self-concept that, if it existed now, would lend a very different perspective to such issues as force protection.

Resolving the Intellectual Muddle

After roughly five decades of almost continuous focus on land warfare in Europe, and now almost one decade of «peace», the Army's officer corps is, candidly speaking, in the midst of an intellectual muddle. That is, institutionally it is thinking and acting in a confused manner, one that belies its fundamental purpose and foundational relationships with the American society it serves. Given the enormous revolutions, through which American society has passed in the last

decade, it should not surprise us to find that the Army is showing signs of strain. Armies are such intimate reflections of their parent societies that *a revolution in the one [is] bound to cause a revolution in the other*.² Not all of the causes of this muddle are of the Army's own making or within its control. There are, however, several important causes of the confusion that are within the institution's control, and, as we shall explain, it is there that the Army must start to redefine its purpose and organizational essence.

Preparing to Fight the Wrong War?

While there is much debate over whether true military innovation springs from inside organizations, from external sources, or from a combination of the two,³ there is a growing recognition that cultural factors to a great extent determine whether changes accord with the organizational essence of an Army.⁴ Clearly, during periods of significant external change, it is axiomatic that public organizations simply cannot proceed with the learning and adaptation that is necessary for effectiveness in their task without a very clear vision of organizational essence and purpose. This is the function of senior leadership, to determine and articulate persuasively a coherent vision for the organization's future. This axiom is even more applicable to military organizations where the histories of successful innovation disclose the absolute necessity of an engaged, well-informed officer corps conceptualizing, leading, and otherwise facilitating the innovations and adaptations necessary for change. Such innovation in periods of transition is, after all, cultural in its essence rather than technological. Such clarity of vision, particularly at the strategic level, is cited by prominent theorists and historians as the essential first step of successful military innovation and adaptation – what is the new strategic task of the military institution, what is the

² Michael Howard: *War in European History* (Oxford: Oxford University Press, 1976), p 75

³ See Barry R. Posen: *The Sources of Military Doctrine: France, Britain, and Germany between the World Wars* (Ithaca, NY: Cornell University Press, 1984); Stephen P. Rosen: *Winning the Next War: Innovation and the Modern Military* (Ithaca, NY: Cornell University Press, 1991); and Kimberly Martin Zisk: *Engaging the Enemy: Organization Theory and Soviet Military Innovation, 1955–1991* (Princeton: Princeton University Press, 1993), and Williamson Murray and Allan R. Millett, (eds.): *Military Effectiveness I–III* (Boston: Unwin Hyman, 1990); see also Allan R. Millett: Williamson Murray, and Kenneth H. Watman, «The Effectiveness of Military Organizations» in *International Security 11/1* (Summer 1988).

⁴ John A. Nagl, «Learning to Eat Soup with a Knife: British and American Army Counterinsurgency Learning during the Malayan Emergency and the Vietnam War» in *World Affairs 161/4* (Spring 1999); Alastair Ian Johnston, «Thinking About Strategic Culture» in *International Security 19/4* (Spring 1995); Carl H. Builder: *The Masks of War: American Military Styles in Strategy and Analysis* (Baltimore: Johns Hopkins, 1989).

new theory of victory for future war?⁵ Admiral William A. Moffett had a clear vision when naval aviation was born in the 1930s, and there was no doubt in the minds of Generals Gavin and Howze after the Korean War about the new need for air mobility of Army forces. *But such clarity of vision – realistic in its premises, coherent in its components of forces, mission and resources, and thus believable to the officer corps – we believe, has not been provided since the end of the Gulf War and the initiation of the post–cold war build down of military capabilities.*

The two most prominent causes of the officer corps' muddle are not hard to identify. Political guidance to the Army still requires conventional capabilities to execute nearly simultaneously two major regional conflicts, hence the retention by many within the officer corps of the «big Army, big war» vision and essence, and also the retention of the bulk of the Army's Cold War force structure and infrastructure. In stark contrast, the Clinton administration has since 1993 repeatedly received the approval of the American people for the conduct of OOTW. Given the reality of a desirable «can do» attitude among the middle and lower ranks of the officer corps, it is not surprising a significant majority of those officers now accept OOTW missions as the purpose and essence of the Army, indeed, as the vision for the future.⁶ They have experienced nothing else and have been presented with no other vision of the future that is credible to them.⁷

The major positions contributing to the muddle are shown in Figure 1 below:

Fighting and Winning the Nation's Wars or Operations Other Than War?		
	Big Army, Big War	OOTW
Political leaders	Yes	Yes
Military leaders	Yes	No...Perhaps Yes (1997)
Mid-, Lower–officer corps	No, not credible	Yes

Figure 1

⁵ See Rosen; and Williamson Murray and Allen R. Millett (eds.): *Military Innovation in the Inter-War Period* (London: Cambridge University Press, 1996).

⁶ Deborah Avant, «Officer Attitudes and Change in the post–Cold War US Armed Services» in Theo Farrell and Terry Tarriff, (eds.), *The Sources of Military Change: Military Organisations and Their Changing Environments in the Modern Era* (Forthcoming).

⁷ Given the paucity of resources used to exploit its unknown potential, the vision of high-technology, major–power warfare as portrayed in *Joint Vision 2010* and *Army Vision 2010* has, we believe, proved thus far to be incredible to the majority of the Army officer corps.

As the diagram shows, America's political leaders are telling the Army its essence is to do both big wars and OOTW; and senior Army leaders are in turn telling the institution the same thing. But at the lower level, where the bulk of the officer corps accepts OOTW as the way of the present and the future, it is a quite different story due to at least four other causal factors:

1. The resources, both financial and human, requisite to placing both missions within the core purpose of the Army have not been forthcoming. Whether that is a failure of responsibility of political leadership or of senior military leaders is now largely irrelevant. To the majority of the serving officer corps it is simply inconceivable, given a modernization «holiday» of almost a decade and steadily declining funds for collective training over the same period that senior leaders, whether uniformed or not, can expect «more with less.» In fact this issue is one of the most frequently mentioned as cause of the unprecedented, and growing, gap in trust and confidence between the lower echelons of the Army officer corps and its senior leadership.⁸
2. The Army's operational tempo, caused by a 37% reduction in force structure since the Gulf War coupled with repeated OOTW, is up roughly 300% over Cold War levels. Army-wide, soldiers are deployed an average of over 140 days per year away from families and home post; the average is well over 200 days per year for those soldiers and families assigned within Europe. Understandably, this unsustainable rate has increasingly demoralized soldiers and their families contributing heavily to the exodus of junior officers and likely, to the current recruiting crisis for the volunteer force;
3. The Army officer corps, until the onslaught of OOTW in the mid-1990s, generally held the self-concept, and thus the motivation, of leader-trainers. This was the successful result of the TRADOC-led training revolution in the 1970s and 1980s.⁹ To be an officer was to be a leader and trainer of

⁸ In addition to the TISS study discussed in footnote 35, a second, multi-year study of the U.S. military will be completed in late 1999. Conducted independently by the Center for Strategic and International Studies (CSIS) in Washington DC, but with the cooperation of the separate services it examines empirically by field research the organizational climate within the armed forces today and recommends policies and adaptations to maintain service cultures most supportive of future military effectiveness. For a discussion of the growing «perceptions gap» between senior Army leaders in Washington and the junior grade officers in the field, see *American Military Culture in the 21st Century*, Executive Summary and chapter 6 (Center for Strategic and International Studies, Washington DC (forthcoming)).

⁹ For the training revolution see, Robert K Griffith: *Today's Army Wants to Join You: The US Army's Transition from the Draft to an All-volunteer Force* (Washington DC: Center for Military History, 1995) and Anne W. Chapman: *The Army's Training Revolution, 1973-1990* (Ft Monroe, VA: Training and Doctrine Command, 1990). For recent research into the importance of self-concept in

soldiers, practically regardless of the officers' branch. This self-concept correctly placed great emphasis on achieving positive results from rigorous training in individual, and particularly, collective skills. Unfortunately, given the multiplicity of missions and paucity of training resources currently confronting the Army, those same officers, several now in or selected for battalion and brigade command, are leaving the service in almost unprecedented numbers.¹⁰ They echo the refrain, «It isn't fun any more». More regrettably yet, their junior officers are also leaving, stating that «I've seen what my commander has had to deal with the past two years, and I don't want to do that.» *It is a sure sign of a military profession in trouble that junior officers do not aspire to serve in their commanders' position.*

4. All soldiers, regardless of rank, have watched for the past seven years the amazing success of the American economy, but have not participated in its benefits at a commensurable rate. More importantly, sociologically this is not the Army of the 1970s or even the 1980s; roughly 60% of the soldiers are now married with 85% of spouses working outside of the home. Thus, the impact of the excessive operation tempo on the current «married with working spouse» force has no precedent in Army history. Although some redress is on the way in FY 2000 in the form of across-the board and focused pay increases, the failure of the Army to provide adequately for quality of life issues is cited by enlisted soldiers as the main reason – far above any other – for the lowest state of soldier morale in the 1990s.¹¹

These facts about the current organizational climate within the Army, particularly within the operational force structure, document the consequences of an amazingly large mismatch between resources and missions. To be sure, there have been quantitative analyses aplenty describing the degree to which the Army lacks funding for modernization alone, and offering comparable explanations of why the Air Force is now flying the oldest fleet of aircraft in their service's young

motivation and leadership, see Robert G. Lord, Douglas J. Brown and Steven J. Friedberg, «Understanding the Dynamics of Leadership: The Role of Follower Self-Conceptions in the Leader/Follower Relationship» in *Organizational Behavior and Human Decision Processes*, 78, 3 (June 1999).

¹⁰ For an analysis of the impact of the reduction in officer numbers on the officer corps, see David McCormick, *The Downsized Warrior: America's Army in Transition* (New York: New York University Press, 1998).

¹¹ For an analysis of the impact of the reduction in officer numbers on the officer corps, see David McCormick: *The Downsized Warrior: America's Army in Transition* (New York: New York University Press, 1998).

history.¹² Yet until 1999, with the appearance of a systemic failure of recruiting for the volunteer force and the unremitting exodus from the Army officer corps, the magnitude of the overall danger to military professionalism was not so clear. *It is now evident, however, that the option of continuing to «muddle through» this transition is no longer an option.*

One Solution: Fight the Wars American Society Approves

Since this essay is focused on problem identification and analysis rather than solutions, which are the purview of current uniformed leaders, we offer here only brief insights as to how this intellectual muddle over organizational purpose and essence might be resolved – one way among many, we are sure.

In a democracy, an Army does not get to choose the missions it accepts – at least, no professional army does. The hesitancy of the US Army to accept wholeheartedly the missions it is currently being given strikes the authors of this paper as cause for concern in the context of military professionalism. *We believe that means defining the Army's organizational purpose, its essence, simply as serving the American society, and fighting the conflicts they approve, when they approve them.* Any other essence or purpose statement places the institution in the illegitimate and unprofessional position of declaring its intellectual independence from the society it was formed to serve. And as we have deduced from the evidence presented, if the Army continues to resist organizing, training, and equipping itself to fight and win the «wars» it is currently being asked to fight, it may no longer have a sufficiently professional officer corps when the next big war occurs.

The Army can create a vision and an organizational climate that accepts the importance of OOTW while maintaining much of its desired focus on training/adapting for future regional wars. But for that to occur, Army leaders must resolve the resources–missions gap in ways that are credible. This must be done very quickly. There are many options, from gaining relief/change in the two–MRC' guidance, to obtaining increased resources, to reducing unneeded structure and infrastructure, to specializing roles within the total Army. None are easy nor without costs. But it is equally clear that radical action to close the gap is well past due; the cost in declining professionalism is already too great.

In light of these facts, it is encouraging that Army Chief of Staff, General Erik K. Shinseki, recently addressed many of the problems with which we have expressed concern in this essay. He explicitly articulated a vision to «adjust the

¹² Michael O'Hanlon: «The Pentagon's Unrealistic Procurement Plans.» Available at www.brookings.edu/view/articles/ohanlon/1998af.atm (accessed on–line).

condition of the Army to better meet the requirements of the next century». ¹³ That vision is clear about the need to dramatically change the Army; a vision of «Soldiers on point for the Nation *transforming* this, the most respected Army in the world, into a *strategically responsive force* that is dominant *across the full spectrum of operations*.» ¹⁴

To accomplish this transformation, General Shinseki has promised that by the end of FY 2000, the Army's divisions and armored cavalry regiments will be manned at one hundred percent of authorization. Thus removing some of the strain on units, as soldiers no longer have to do the job of two or three. Even more importantly, General Shinseki established a vision of a lighter, more strategically deployable Army. This «allow us to put a combat capable brigade anywhere in the world in 96 hours once we have received 'execute liftoff', a division on the ground in 120 hours, and five divisions in 30 days.»

The missions to which these lighter-weight units will respond – and which their presence and capability should help to deter – are the very peacekeeping and stability operations which have confounded the Army's force structure and manning system since the end of the Cold War. General Shinseki intends to begin procuring weapons systems to man two new «middle-weight» brigades immediately. Changing the institutional culture, which still looks askance at peacekeeping missions, however, will take longer, but the need for change has been recognized, and the process has begun. It will take time to see whether this vision will prove credible and motivating to the bulk of the officer corps. As we have noted earlier in this essay, such a credible vision has been missing, contributing to low morale and diminishing trust between officers serving in the field and their leaders in Washington. *In our view, solving the gap between missions and resources remains the unsecured, critical link to turning this new vision into more than simply another declaratory policy.*

The comfortable myth of a «Casualty Averse» American public

Despite the promise of substantial change in the structure and organization of the Army to meet the needs of the new world order in which we find ourselves, there is a second, equally disturbing trend of incipient decline within another component of military professionalism; the ethical component. That is the trend for senior

¹³ All citations are from a text of the AUSA speech disseminated throughout the Army over email on October 13th, see footnote 36. The speech was covered by the media on the same day, drawing generally favorable reviews; see Steven Lee Myers: «Army is Restructuring With Brigades for Rapid Response» in *The New York Times*, October 13, 1999, A16.

¹⁴ Emphasis added.

military leaders to accept, as political leaders have accepted since the early 1990s, the myth that the American society is «casualty averse».

As we noted earlier, the issue of force protection draws some of its salience from the accepted conventional wisdom that the modern American public is very averse to accepting US casualties in operations abroad. This «wisdom» is most often cited in reference to the participation of US armed forces in humanitarian and peace operations. On other occasions it is presented as a broadly accepted wisdom applicable to all military operations abroad, regardless of purpose. It is a wisdom held by, and almost always voiced by, influential elites in the nation's foreign policy community, opinion makers such as elected politicians, members of the press, columnists, and the ubiquitous chattering classes of Washington talk shows. As we shall see, not all scholars agree with this myth, particularly serious academics and serious polltakers.

The origins of such wisdom are varied, but one most often cited is the incident in Mogadishu in October of 1993. Eighteen US Army Rangers were killed in that action. Live television coverage in the United States subsequently showed the body of an American soldier being dragged through the streets surrounded by jubilant Somalis.¹⁵ Four days later President Clinton announced the end of US involvement in the operation, ostensibly because of the public's adverse reaction to the casualties. He also announced a rapid timetable for withdrawal of all US forces. The incident ultimately led to the sacking of Clinton's Secretary of Defense, Les Aspin, further heightening the understanding within the policy community that because of the public's sensitivities, casualties could not be tolerated.¹⁶ At about the same time a sociological explanation for the American public's aversion to military casualties was offered by an American scholar on the pages of one of the most prestigious journals, *Foreign Affairs*.¹⁷ Thus the myth grew – the public's intolerance of casualties results in quick reversals of public support for military operations abroad. Political leaders therefore need to factor into their foreign policy decisions the risk of such reversal, and the political costs

¹⁵ For a thorough treatment of this incident, see Mark Bowden: *Blackhawk Down: A Story of Modern War* (New York: Atlantic Monthly Press, 1999).

¹⁶ For the relief of Secretary Aspin, Elizabeth Drew: *On the Edge: The Clinton Presidency* (New York: Simon & Schuster, 1995) chapter 24.

¹⁷ In fact, Edward Luttwak's theory as presented in *Foreign Affairs* was largely an assertion without empirics to support it, and has subsequently been clearly refuted. For his theory, see Edward Luttwak, «Where are the Great Powers?» in *Foreign Affairs* 73 (July/August 1994): pp 23–28; «Toward Post-Heroic Warfare» in *Foreign Affairs* 74 (May/June 1995) pp 109–122; and «A Post-Heroic Military Policy», in *Foreign Affairs* 75 (July/August 1996) pp 33–44. For a devastating critique of Luttwak, see James Burk: «Public Support for Peacekeeping in Lebanon and Somalia: Assessing the Casualties Hypothesis» in *Political Science Quarterly*, Vol. 114, No. 1 (1999) pp 53–78.

potentially to be incurred. Subsequent political guidance to US military leaders has not ceased to emphasize the urgency and importance of absolutely minimizing US casualties, and by extension any collateral damage to civilian populations.

The most recent example – Kosovo, a war without a ground campaign and with US pilots flying at fifteen thousand feet – is a clear manifestation of such political guidance. The point here is that the conventional wisdom is a myth. In fact, the American public is quite willing to accept casualties, and doubtless, political leaders are aware of this. Recent scholarly research demonstrates, once again convincingly, that there are two conditions that must be apparent in order for the US public to accept casualties:¹⁸ they must be convinced there is a consensus among political leaders that the operation is in the nation's interests; and that this same consensus among political leaders is sufficient to see the venture through to a successful conclusion (Lincoln's, «that these dead here shall not have died in vain...»¹⁹). The elite consensus was obviously missing, and thus in the public's mind so also the willingness to see it through successfully, both in the case of Somalia in 1993 and in Kosovo in 1999.²⁰ It has been the unwillingness, or inability, of the Clinton administration to create an elite consensus that leaves their policy «hostage» to the public's recoiling from the loss of American soldiers' lives. But this is not the doing of the public. Research has repeatedly demonstrated that there is room for political leaders to shape public opinion and create a forum for deliberation and debate of intervention decisions. To be sure, in that debate the public will consider in a rational calculus the risks to American lives as well as other costs and benefits of the intervention, but it is not a debate that is foreclosed because they are «casualty averse».

Therefore, if it is understood that such behavior by political leaders who as a class, and forthrightly so, are more concerned with reelection than with

¹⁸ The recent research is: Steven Kull: «Americans on Kosovo» The Program on International Policy Attitudes (University of Maryland, May 27, 1999). This research into American public opinion on Kosovo specified a successful outcome for US goals, and in turn a substantial majority of Americans responded they would continue to support the effort, notwithstanding 250 US military casualties. The two conditions cited in the text have been well known for years by public opinion scholars, most of whom also hold that the relationships between public and elite opinion are extraordinarily complex. See, for example, Benjamin I. Page and Robert Y. Shapiro: *The Rational Public* (Chicago: University of Chicago Press, 1992) and Bruce Russett: *Controlling the Sword* (Cambridge, MA: Harvard University Press, 1990).

¹⁹ See Eric V. Larson: *Casualties and Consensus* (Santa Monica, CA: Rand, 1996).

²⁰ In contrast, Americans supported the Gulf War in 1991 fully aware of predictions of a significant number of casualties. But even then, the Bush administration barely created the elite consensus the public sought; the Senate voted to support the intervention passed only 52–48.

accomplishment of any military mission²¹, it becomes even more imperative to ask why senior military officers are signing operational orders with the identical guidance. As we discussed in the introduction, such is the case today with Army division commanders in Bosnia, and by implication of more senior commanders also. Is it possible that senior Army officers have adopted the policy attitudes of political leaders or, more of concern, their behavioral norms? Clearly that is the impression the junior officers have, and as well one held by those of the public interested in the issue. Even more perplexing than occasionally bowing to political pressure is senior officers' intellectual acceptance of such a myth. It is true that political leaders are going to behave as though the myth was real, it is often in their individual self-interest to do so. Thus for practical purposes senior military leaders must accept the myth as a real influence. It is influential irrespective of its validity. But precisely because it is a myth, senior military leaders must be articulate and persuasive in advice to civilian leaders that the public is, in fact, not so casualty averse. Only then can they fulfill their profession's responsibility for candid and forthright advice to political leaders as well as their responsibility for preservation of the profession's ethic.

The gap between top military leaders and junior officers and the public at large is instructive here. Most mid-career officers and the American public believe that, while casualties should obviously be minimized, they remain an inevitable part of any deployment. They also believe that the accomplishments of OOTW missions are, under certain circumstances as noted above, worth the risk of loss of American lives. This perspective is demonstrated in Figure 2

An Analysis of Casualty Aversion		
	Is the U.S. Public Casualty Averse?	Why?
Political Leaders	Yes	Intervention is High Risk
Military Leaders	Echo	High Risk; Less Preferred Form of War
Junior Military Officers	No	Willing to Sacrifice
American Public	No	Will Accept, Under Two Conditions

Figure 2

²¹ The «Mayhew hypothesis», which suggests that the first concern of any political leader is his or her reelection, was first presented in David Mayhew: *Congress: The Electoral Connection* (New Haven: Yale University Press, 1974).

Again, the solution appears straightforward. Senior Army leaders should replace all service guidance and doctrine that treats the prevention of US casualties as anything other than an inherent component of any operational mission.²² *The trust in operational commanders' ability to accomplish missions prudently and competently, irrespective of the number of American casualties, must be restored, and immediately so.*²³ *Without that, few officers aware of the profession's need to maintain its own unique ethic will seek command. Ultimately there will be no profession, only an obedient military bureaucracy with no autonomy, one which responds in an unthinking and uncritical manner to the requests and directives of civilian leaders. We doubt the military effectiveness of such a bureaucracy.*

Resolving the Ethical Muddle

*Both history and present research confirm that it is during times of uncertainty and change in mission requirements that a firm foundation of shared understanding of professionalism is most needed to sustain the military organization.*²⁴ We therefore offer several ideas on how to refocus individual officers, and thus the officer corps itself, on the ethical foundations of professionalism.

We turn first to the concept of self-sacrifice, specifically addressing the issue of risk as an inherent part of an officer's concept of duty. In other words, if an officer is morally obligated to lead her unit to successful mission accomplishment (the moral claim of the mission) is the obligation of, and thus the risk of, self-sacrifice inherent within that duty? And if so, what happens to the officer's moral obligation, and thus to the profession's ethic, if political leaders proscribe such risk as part of a policy of «radical force protection»? In the paragraphs that follow we address the first question by a review of the origins of the American military

²² This issue of «radical force protection» eroding service ethics may point to a serious flaw in the Goldwater-Nichols legislation of 1986. This may be a case of political guidance and military orders flowing through joint channels of communication/command which are at serious ethical odds with the service's Title 10 responsibilities to «man, equip and train» forces which embody an ethical culture supportive of effective warfighting. See findings and recommendations of CSIS Study.

²³ It should not be lost on senior Army leaders, as it has not been lost on the Army officer corps in general, that this was one of the principled reasons for the resignation of Air Force Chief of Staff, General Ronald Fogelman.

²⁴ Andrew Gordon: «The Doctrine Debate: Having the Last Word», in Michael Duffy, Theo Farrell and Geoffrey Sloan (eds.): *Doctrine and Military Effectiveness* (Exeter, UK: The Strategic Policy Studies Group, 1997) p 47.

ethic, and subsequently answer the second by using examples of the recent NATO operation in Kosovo and Serbia.

The Inherence of Self-sacrificial Risk: Sacrifice is not always above and beyond the call of duty.

While sacrificing may sometimes be above and beyond the call of duty, it is not always the case. We often apply words like «saint» and «hero» in a variety of situations, all of which involves sacrifice, but not all of which involve circumstances that are above and beyond the call of duty. We do call heroes people who do their duty even when considerations of self-interest or self-preservation would cause most others to fail. For example, consider the terrified doctor who remains with his patient in a plague stricken city. Clearly he is heroic, but it is still his duty to tend to his patient. The presence or absence of the plague does not alter the fact that a doctor's duty is to remain with his patient.²⁵ It only affects how we judge the character of the doctor who does so.

Nevertheless, it is not sufficient to simply assert that there are conditions when sacrifice can be obligatory; we must spell out what those conditions are. Just as with actions in war, we must not think our concept of sacrifice must either permit everything, or allow nothing. It is hard to argue, for example, that the soldier who falls on a grenade to save his fellow soldiers was merely doing his duty. Such an action seems to be beyond the call of duty. If it is not, then it is not clear that any action ever could be. Nevertheless, it seems equally clear that soldiers, and especially the officers who lead them, are obligated to risk their lives to accomplish legitimate missions. What remains is to give a principled account of this distinction.

In giving such an account, it is important to resist the temptation to justify such obligations by virtue of the fact that one agreed to take the job. A trucker, for example, may contract to deliver specified goods to a certain destination by a certain time.²⁶ However, he cannot be morally obligated to drive at high speeds over a dangerous shortcut, even if that means he may not be able to fulfill the provisions of the contract. The trucker, while he may have certain contractual obligations, cannot be morally obligated to put his and others' lives at risk to fulfill them. He will simply have to live with the penalty and the customer will simply have to live without the goods. The officer, however, cannot simply live without the victory that he or she may have otherwise achieved. For this reason,

²⁵ J.O. Urmson «Saints and Heroes,» in A.I. Melden (ed.), *Essays in Moral Philosophy* (1958), pp 199–202.

²⁶ The authors are grateful to Colonel Anthony Hartle for assistance in developing this example.

especially given the kinds of sacrifices that the officer is required to make, it is important that the obligation run much deeper than a mere «contract».

In fact, the obligation does run more deeply. It is rooted ultimately in the fact that the service the officer corps provides is essential if human beings are to thrive and flourish. When officers play their roles well by effectively defending a defenseless society, they are contributing to the well being of fellow citizens. If it were otherwise, we would not be able to justify their obligation to make the sizable sacrifices officers are often called upon to make.

But these sacrifices are justified. Human beings are, among other things, social creatures. If they are to thrive they must form the kind of societies and structures of governance that permit, if not promote, the good life for all of its members. In any socio-political setting, a tension arises between the needs of the community and the needs of the individual. That tension is resolved in the American constitutional system by recognizing that individuals have certain rights, namely the right to life and the right to liberty. A socio-political setting that recognizes such rights, even if it sometimes resolves specific issues imperfectly, would be one worth defending, as is the American Republic.

But rights entail obligations. If someone has a right to something, someone else has an obligation to provide for it. If a person has a right to life, the obligation falls onto someone to safeguard that life. If someone has a right to liberty, then it falls onto someone to safeguard that liberty. This is why states have an obligation to raise and maintain armies.²⁷ Armies then perform a morally necessary function: safeguarding the rights to which the members of that society are entitled viz a viz external threat to their security, individually and collectively.

Since it is a tragic, but no less true, fact that some human societies feel a need to destroy other human societies, it must then be a necessary feature (at least as long as this fact is true) of a good society that it be able to defend itself. This also means that it will be a good thing, though perhaps under some conditions not morally obligated, to use force to stop or prevent violent conflict, since the cessation of violent conflict is a necessary condition for a good society.

Since the authority to decide when the use of force is appropriately in the hands of the civilian authorities, professional soldiers have a prima facie obligation to accomplish the missions civilian authorities assign them. Since it can be morally permissible, if not obligatory, to use force outside national boundaries to stop or prevent violent conflict, professional soldiers are then obligated to

²⁷ See Porter: *War and the Rise of the State*, particularly chapter 7; and Samuel Huntington: *The Soldier and the State*, particularly chapters 1 and 2.

perform such missions, as long as they are not blatantly immoral. As we have argued in section II, humanitarian interventions are not blatantly immoral.

Furthermore, this issue goes to the deeper issue of the ongoing redefinition in America of what it means to be a good citizen. While some may reject the idea that citizens owe any service to their country, our argument suggests otherwise. If America is a good society in the relevant sense, then some citizens all of the time, or all citizens some of the time must either support the defense through the payment of taxes or offer themselves for service in the case of a national emergency.

And those who answer the call for service incur special moral obligations. As we have shown, what justifies these obligations is that they are necessary if the state is to be properly defended. Since a successful defense depends on successful accomplishment of certain missions, the accomplishment of those missions has moral force. This means those who undertake such missions, unlike the tardy truck driver cited earlier, are morally obligated to see them through to success—even if that means putting themselves and their soldiers at risk to do so. The only thing that could negate this is some weightier moral claim.

This obligation to sacrifice is not limited to times of conflict. Many if not most, missions undertaken in the defense of a state engender some risk. Even in peacetime, training missions often have the potential to result in injury or death of those who participate. Thus by extension, self sacrifice on the part of the officer corps to make possible realistic training which ultimately contributes to mission accomplishment is also morally obligated.

All of this is not to say that officers can ever be indifferent to friendly casualties. Rather, it is an officer's duty to consider the risk of casualties, as well as several other factors when planning how best to accomplish assigned missions. The point is that the considerations of casualties, as well as other relevant factors, are inherent to the moral duty to defend a defenseless society.

Hence, a coherent view of the officer's duty is presented in Figure 3.

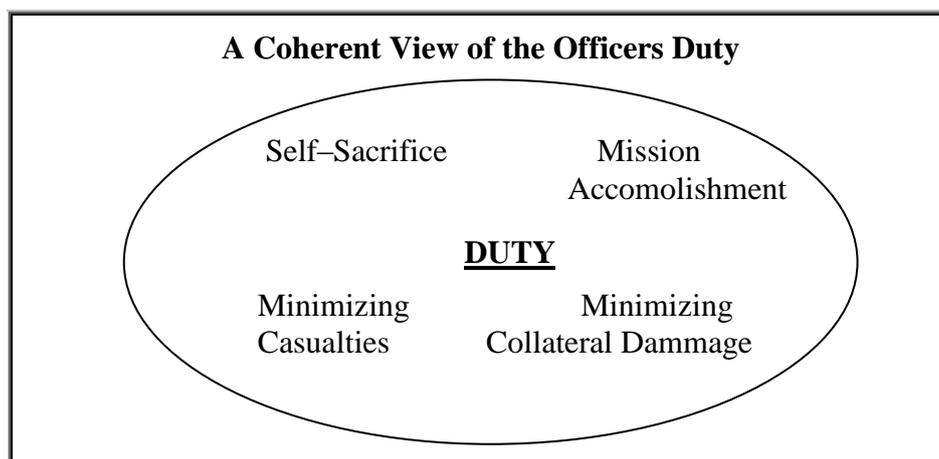


Figure 3

As stated before, the moral claim of the mission can only be superseded by a weightier moral claim. Self-interest, and even sometimes self-preservation, cannot serve as weightier moral claims. If they could, the possibility of defending society would be undermined. And, as indicated earlier, that is not morally permissible. But, that there can be such claims must be understood before we have a complete conception of sacrifice for the military professional.

The Just War Tradition (JWT), upon which the Laws of Land Warfare are founded, embodies one such set of obligations. JWT recognizes that everyone has the right to life and liberty, regardless of the nation to which they belong. This right can be mitigated, even negated, but only under a certain set of conditions. One of the fundamental principles that underlies the Just War Tradition is that soldiers are obligated to take risks to preserve the lives of non-combatants. By gaining the right to kill (which is necessary if they are to properly serve and defend the state), soldiers have given up the right not to be killed. Noncombatants have not gained the right to kill, and as such, still retain their right not to be killed. While this can be mitigated somewhat by the application of the doctrine of double effect,²⁸ that doctrine requires, among other things, that soldiers take extra risks to preserve civilian lives.²⁹

This may seem counterintuitive to many military leaders. We often hear officers claim that their soldiers' lives are more valuable, and thus more worthy of protection, than the lives of noncombatants.³⁰ But those who make such claims clearly misunderstand the extent of a soldier's moral obligations. A soldier exists

²⁸ Originating with Catholic theologians in the Middle Ages, the principle of double effect is the view that there is a difference between the consequences of our actions that we intend and those we do not intend, but still foresee (Walzer, Michael: *Just and Unjust Wars* 2d (Basic Books, 1992) p 152. While it has a variety of applications, when applied to military situations, it explains when a military force may act in such a way as to bring about the deaths of noncombatants. The principle has four conditions: 1) the bad effect is unintended, 2) the bad effect is proportional to the desired military objective 3) the bad effect is not a direct means to the good effect and 4) actions are taken to minimize the foreseeable bad effects, even if it means accepting an increased risk to combatants.

²⁹ By extra risks, we mean those risks not minimally necessary to accomplish the mission.

³⁰ This, in fact, was LT Calley's defense during his trial for atrocities he and his platoon committed at My Lai. He claimed, «If there is one thing I am guilty of, it is valuing my soldiers' lives over that of the enemy.» Since by enemy he meant more than 400 women and children, most of whom posed no threat to his unit, we can see that in fact he is claiming that no noncombatant's life that was worth that of a soldiers'. We can also see by this example, the absurdity of such a claim. While he may have killed, with minimal risk, some people who would later kill some of his soldiers, such an action is not morally defensible. See Frontline Episode, «Remember My Lai» March 5, 1989.

to defend on behalf of the state the individual rights of its citizens. It makes no sense to say that soldiers, who have given up their right not to be harmed, may enjoy additional protection at the expense of the lives of civilians, who do have a right not to be harmed. Still, it is not the case that to preserve civilians' lives soldiers are obligated to take any and all risks. Their risk is limited by the following conditions: by taking this risk, (1) one cannot accomplish the mission, or (2) one will not be able to carry on future missions.

To illustrate this point, consider the following example. In WW II, French pilots flying for the Allies (over France) had the problem that if they bombed high, they could destroy their target with little risk to themselves, but at a high cost in civilian casualties. If they bombed low, they could destroy their target and their bombing would be accurate enough to minimize civilian casualties, but their casualty rate would be very high. The casualty rate would be so high, in fact, that they might be able to carry out one or two «suicide» missions, but would not long be able to sustain the effort and the Germans would have emerged victorious. To resolve this tension, the French pilots bombed low enough to reduce civilian casualties but high enough that their casualty rates would allow for not only mission accomplishment, but also for sustained operations against the Nazis. Since all non-combatants – regardless of their nationality – retain their right to life, soldiers (or airmen in this case) are obligated to accept these extra risks as inherent within their duty.³¹

This illustrates well the problem a policy of radical force protection poses for the professional military ethic. Consider the recent bombing of Kosovo and Serbia, where Allied air forces bombed high enough to be out of range of Serbian anti-aircraft weapons and Allied ground forces would not even mount a ground campaign for fear of casualties.

To our understanding these tactics, driven by Alliance and domestic political considerations, were more designed to preserve soldiers' and aviators' lives than to rapidly and effectively accomplish the mission, thus allowing more civilian casualties than would have otherwise been the case.³²

By not using Apache helicopters, A-10's or NATO ground troops to destroy Serbian military capacity, NATO forces failed to take risks they *should* have taken. Certainly these forces were more vulnerable than high altitude bombers, but

³¹ Walzer, p. 157.

³² See, «Foreign Policy: The ABC Club» in *Economist*, May 22, 1999, pp 30–31; and Michael Debbs: «Post-Mortem on NATO's Bombing Campaign» in *The Washington Post National Weekly Edition*, July 19–26, 1999 p 23. For more detail, see Paul Kahn: «War and Sacrifice in Kosovo» in *Philosophy and Public Policy*, 19:43 (University of Maryland, Institute for Philosophy and Public Policy, Spring/Summer 1999) pp 1–6.

by keeping them out of harm's way, soldiers and aviators placed risks they could have taken onto civilians. But soldiers and aviators, as we have discussed before, are obligated to take risks, at least up to the point of certain failure that civilians are not. If it was the case that NATO could have accepted the additional risk without dooming the mission, then NATO was obligated to do so.

By not taking the risks necessary to destroy Serb tanks and other military and paramilitary forces, NATO forces did not diminish the Serb capability to carry out their brutal policies. By aiming at Serbian infrastructure and military bases (resorting to the WWII strategy of attrition), NATO forces failed to stop the continued slaughter of innocent civilians, and, as some have argued, might have accelerated it. If this is the case, that by adopting tactics with more risk for allied soldiers they could have degraded more rapidly Serb military capacity and thereby saved innocent lives, then NATO air forces were obligated to take those extra risks. This last point is important. Under the rules of land warfare, NATO forces had at least a *prima facie* obligation to take risks to preserve innocents' lives, and they did not do so.

These tactics may have been justified if the political consequences of increased NATO military casualties would have precluded intervening on behalf of the Albanians at all. If political pressure in Germany or Italy, for example, would render NATO incapable of conducting operations against Serbian efforts to ethnically cleanse Kosovo, *AND* if failing to intervene would still result in a Kosovo cleansed of ethnic Albanians (though the cleansing would undoubtedly have proceeded at a much slower pace) then NATO's course of action, at least with respect to preserving soldiers' and airmen's' lives at the expense of rapid accomplishment of the mission, would be morally permissible. We suggest, however, that this was not the case. It is quite clear that the operation could have continued as a «coalition of the willing» from within NATO, much as did the initial phases of the Bosnian campaign.

The problem for the PME should now be obvious. Servicemen and women are not only morally required to take those risks necessary to accomplish the mission, they are morally required to take some additional risks to preserve the lives of noncombatants. Even if one wants to argue that the priority mission was, in fact, force protection, the claims to the rights of life and liberty on the part of the non-combatants supersede in this case the moral claims of force protection as a mission. Thus, under the imposition of a policy of radical force protection we have a situation where while serving the interests of the state, which officers are obligated to do, the state places the officer corps in a position from which it cannot fulfill its other moral obligations. This creates a contradiction that renders

the professional ethic incoherent and ineffective at its most basic purpose: to provide moral guidance for behavior to both the institution and individual members.

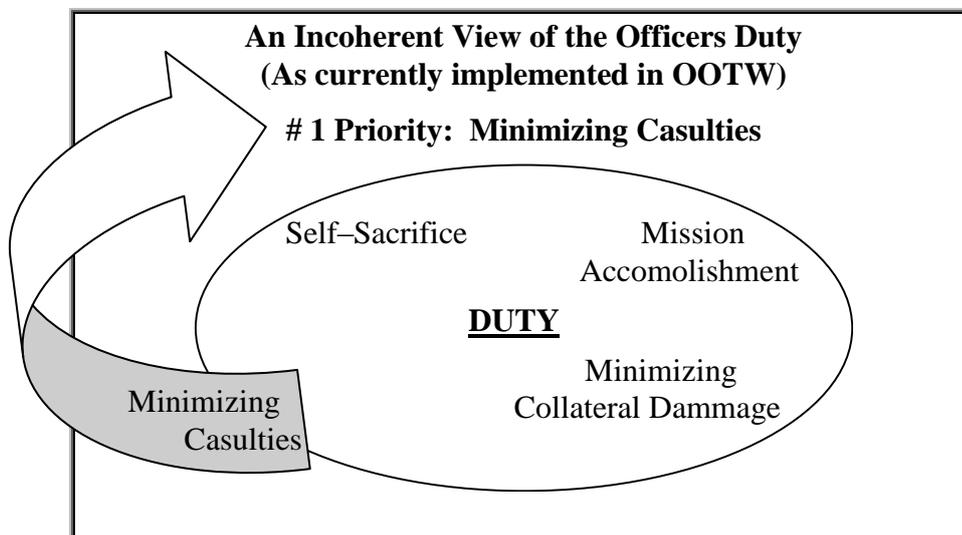


Figure 4

This incoherent view of duty as currently implemented is shown in Figure 4 above; note the cracks in the duty concept caused by the extraction of casualty minimization and the placing of it as a supererogatory mission.

Reconceiving the Officer as Self-sacrificing Servant of Society

It should now be clear that what is needed is a principled approach to officership. We recommend principles as a foundation from which consensus can be built, education can proceed and officers can apply moral reasoning to the issues and problems they face in the course of their daily duties. We do not presume that the set of principles below is the very best one. We have given it considerable thought, but doubtless this set can be improved. Our point, however, is that there is insufficient intellectual consensus within the Army today as to what it means to be an officer. Creating that consensus is the responsibility of the officer corps. We therefore encourage readers to develop a better set of principles and to enter a dialogue in the professional literature with a view toward creating consensus within the officer corps.

Adopting a principled approach to officership will, we believe, assist in the necessary recasting of the institutional role and the self-concept of the officer, and thus of the officer corps itself. We believe this is needed at every level, from the pre-commissioning cadet to the Chief of Staff and his colleagues as they guide the

institution through this transition. Our basic reasons for believing that this is a necessary corrective, regardless of where the Army eventually exits the transition, are drawn from our study and understanding of the Army as a fighting organization with a very unique culture.

As such, we understand that the process of resolving the issues outlined in this essay is essentially political and organizational. It is political in that the institution is reacting at its borders with external environments of intense and rapid change imposed through political processes. It is organizational, and thus cultural and ethical, because the organization retains in its internal environment extensive autonomy to remake itself, to adapt to the necessities of its new missions and priorities. *Leading the institution and effecting change within it via political and organizational processes are the raison d'être of the officer corps!* By their public trust, they are responsible at all times for both the current state of the Army and its professionalism; they lead every single soldier in the Army, every day, in every installation around the globe, maintaining the most effective organizational climates possible. They are also responsible for those plans and policies that adapt the institution to changing realities.³³ To be sure they are assisted and supported by legions of very professional Army civilians and by the most professional non-commissioned officer corps in the world, without which they could not fulfill their responsibilities. *But the fact remains that commissioned officers, motivated by a correct self-concept of who they are and what they are to do on behalf of American society, are the dominant force in military organizational change, intellectually and ethically.*

Thus we offer the following set of principles from which all officers, and particularly those at pre-commissioning levels, should draw both their vision and their motivation:

*A Principled Approach to Officership*³⁴

- 1) *The officer's duty is to serve society as a whole, to provide that which they cannot provide for themselves – security. Thus a moral obligation exists between the officer and the society he or she serves, a moral obligation embodied in the officer's «commission». Officers act as agents of society, both*

³³ See Don M. Snider: «An Uninformed Debate on Military Culture» in Orbis and John A. Nagl: *Learning to Eat Soup with a Knife: British and American Army Counterinsurgency Learning During the Malayan Emergency and the Vietnam War* (Oxford: Unpublished Doctoral Dissertation, 1997).

³⁴ This list was compiled by Dr. Snider in 1996 from multiple sources within the literature of civil-military relations, military ethics and military professionalism. It has been improved by comments from several senior officers and refined in class discussions and research projects during two academic years, during which time it reached its present form.

- individually accountable to them and, as well, serving to strengthen the claim of the service on the affections of the American people.
- 2) *Professional officers always do their duty, subordinating their personal interests to the requirements of the professional function. They serve with unlimited liability, including life itself. When assigned a mission or task and particularly in combat, its successful execution is first priority, above all else, with officers accepting full responsibility for their actions and orders in accomplishing it.*
 - 3) *Officers, based on their military expertise, determine the standards of the profession, e.g., for tactical competence, for equipment specifications, for standards of conduct for all soldiers. Within a professional self-policing role, officers set/change the profession's standards, personally adhere to the standards, make the standards known to all soldiers, and enforce the standards.*
 - 4) *The officer's motivations are noble and intrinsic, a love for his or her craft – the technical and human aspects of providing the nation's security – and the sense of moral obligation to use this craft for the benefit of society. These motivations lead to the officer's attainment and maintenance of the highest possible level of professional skill and knowledge.*
 - 5) *Called to their profession and motivated by their pursuit of its expertise, officers are committed to a career of continuous study and learning.*
 - 6) *Because of both the moral obligation accepted and the mortal means employed to carry out his or her duty, the officer emphasizes the importance of the group over that of the individual. Success in war requires the subordination of the will of the individual to the task of the group – the military ethic is cooperative and cohesive in spirit, meritocratic, and fundamentally anti-individualistic and anti-careerist.*
 - 7) *Officers strictly observe the principle that the military is subject to civilian authority and do not involve themselves or their subordinates in domestic politics or policy beyond the exercise of the basic rights of citizenship. Senior military officers render candid and forthright professional judgments when representing the profession and advising civilian authorities (there is no public or political advocacy role).*
 - 8) *The officer's honor is of paramount importance, derived through history from demonstrated courage in combat – the professional soldier always fights when called on – it includes the virtues of honesty and integrity. In peace, the officer's honor is reflected in consistent acts of moral courage.*
 - 9) *The officer's loyalty is legally and professionally to an office, rather than individual incumbents, and in every case is subordinate to their allegiance to the ideals codified in the Constitution.*
 - 10) *The officer's loyalty also extends downward to those soldiers entrusted to their command and to their welfare, as persons as well as soldiers, and that of their families during both peace and war.*

- 11) *Officers are gentlemen and –women* – persons of character, courtesy and cultivation, possessing the qualities requisite for military leadership.
- 12) *Officers lead by example*, always maintaining the personal attributes of spiritual, physical and mental fitness requisite to the demands of their chosen profession. Through leadership, *officers invest in their subordinates, both as soldiers and as persons* – and particularly in the vital non–commissioned officer corps – to the end that they grow in character, maturity and skill.

Further, we believe that the vocation of officership should be understood and executed, indeed lived, in a consistent and principled manner. Given the importance of the ethical component of American military professionalism, the connection between the Army's Professional Military Ethic (PME) and the principles of officership is very relevant. If a principle cannot logically be derived from elements of the PME, then it should not be part of the self–concept as an officer! Conversely, however, if the principles of officership are correctly consistent with the PME and supportive of it, then all officers regardless of rank should reflect seriously on how many of these principles they have inculcated – are these principles imbedded in their own self–concept?

Those commissioned by society must remember that only to the extent that an officer corps is, each one, loyal to its PME, can it be considered professional. True character is more accurately seen in adversity than in success. The application of these principles can then, perhaps, be most readily understood in the context of recent issues within or close to the profession of arms – Iran–Contra, Tailhook, Khobar Towers, Aberdeen, and the Commander–in–Chief's impeachment. In these particular cases, three applications of the principles come immediately to mind: the profession's concept of selfless service, the relevance to the profession of the difference between morality and legality, and last, and most important, the officer's valuation of truth.

The concept of service is central to a principled understanding of officership. It holds that the profession serves the American people by providing a socially useful and necessary function: defending Americans and their interests by being schooled in war and hence able to apply effectively protective violence at their request. As noted in this essay, this meeting of a societal need creates the moral dimension of the Army's professionalism as well as the noble character of the individual officer's service to his fellow citizens. Embodied explicitly in the commission and implicitly in the unwritten contract with society, this moral obligation requires of the officer unlimited liability, including life, as well as the moral commitment always to put service before self. Therefore, if involved in the type of crisis noted above, there should never be in the officer's mind the need to preserve self nor to take any actions at all in that direction. To the officer, self is

always to be abnegated to the higher calling through the disciplined application of moral or physical courage. *A self-abnegating officer has no legacy save the character and quality of his or her service, and to attempt to create or maintain such a legacy would violate the basic concept of service inherent to the profession and to a principled understanding of officership.*

Secondly, just as the officer's commitment to service is grounded morally in his or her obligation to society, under our form of government it is also grounded in law, both in the Constitution and in subsequent statutes. But just because the commitment has two overlapping foundations does not mean that both are to be valued equally by the officer, nor equally available to the officer dealing with crisis. Particularly within an increasingly legalistic society, the officer's reaction to crisis must always be to place fulfillment of the moral obligation over that of the legal obligation, even at personal or professional expense. His or her role must be to do the right thing, to pursue the right outcome on behalf of those served, American society. It is clear that any issue of intense divisiveness, pushed far enough by hyper-legalism and equivocation, becomes a political issue resolvable only by political means – reasoned discourse and compromise aimed, rightly, at the resolution of principled disagreements. But for the officer to pursue such resolutions is to politicize the profession, exactly the opposite of what is needed for professionalism to survive. *A principled understanding of officership requires instead that officers strive to attain the highest of moral standards, regardless of the minimum that the law might allow.*

Third, and last, is the issue of truth. Not only must commissioned officers always revere the truth; they must also never be in fear of it. The crises being discussed here do not involve truth on which there might be understandable disagreement because of epistemological concerns. The issues in political-military crises are much more mundane, but no less important – what happened, when, where, what were the causes, who responded and how? Since the truth, as well as the absence of fear about it, cements the bond of trust between officer and society, it is always to be pursued and displayed with exceptional vigor. Utter transparency is the desired, indeed obligated, state between the accountable officer and the American people. That means as a matter of highest principle that the officer speaks «the truth, the whole truth, and nothing but the truth» at all times because he or she is perpetually under moral oath, upon accepting the commission. *Given this attitude and behavior, coupled with the concept of selfless service noted above, fear of the truth holds no power whatsoever over the officer. It is, in fact, his or her very best companion during the long journey of service.*

Thus, application of the principles yields attitudes and behavior often at odds with those within the society the officer has chosen to serve. Does this then mean that the officer is in any manner better than those in American society? We do not believe so. It means only that the officer is different, and has unreservedly chosen to be so. Triumphalism and self-righteousness do not become the serving officer nor the profession any more than self-serving actions, appeal to legalisms, and disdain for the power of the truth. It is better, we believe, for the officers, operating in camaraderie under the imperatives of their commission, to tend in a principled manner to each other, to their profession and to its ethos.

Conclusion

We trust this essay demonstrates that we are deeply concerned by the cracks in the edifice of professionalism in the United States Army. We remain confident that a refocus on the framework of professionalism as presented here will help to correct what we see as serious corrosion, even violation, of the professional military ethic. And we are encouraged by the recent creation of a Center for the Professional Military Ethic (CPME) at the United States Military Academy, West Point. Hence we offer through that Center this essay as a starting point for the officer corps' review, reflection and dialogue on their, and the Army's, purpose and ethic. We believe such to be essential to help the Army refocus on its key role as the willing and effective servant of the American

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The International Law Imperatives on the Military Ethics

BY MAJOR GENERAL ARNE WILLY DAHL

1. Introduction

Generals, ladies and gentlemen, I have been asked to speak at this symposium on «The International Law Imperatives on the Military ethic», which I shall do. But it is not as simple as that. The picture will be incomplete unless we include other aspects of the relation between these entities, asking ourselves questions such as whether there might be rules in International Law, which in certain circumstances should be considered unethical?

I shall also allow myself to take into consideration new factors influencing on Military Ethic, factors not strictly legal but referring to the way existing Law operates in circumstances new for the military, such as peacekeeping operations.

2. The relation between Law and Ethics

Without immersing ourselves deeply into legal philosophy, it can be said that Law is partly a practical and partly an ethical matter. In some countries you are obliged under Law to drive your car on the left-hand side of the road, in other countries the rule is the opposite. The rules concerning commerce, legal procedure, military justice and many other matters may differ between countries, and we do not perceive any significant ethical element in these differences.

Other rules, such as those protecting life and physical integrity, property and honour, family and privacy, justice and democracy, are heavily influenced by

ethical considerations, more or less drawn from the biblical Ten Commandments or comparable ethical imperatives, and rooted in deep feelings of men.

Such rules, when enacted and enforced as Law, will in turn exert influence in the opposite direction, giving the unwritten ethical rule enhanced authority and clarity. It is this influence that is the theme of this presentation.

3. What is military ethic?

Military ethic is a theme to write books and organise symposiums about. In this connection I shall restrict myself to indicate in shorthand some typical ethical attitudes among officers, relating to their profession:

Fulfil your mission. Obey orders, do not give up, overcome resistance.

Take care of your men. The commander is the father of his soldiers. Minimise losses as far as it is compatible with fulfilling the mission.

Be loyal. Do not betray your superiors, subordinates or fellow officers in word or deed.

Be brave. Your personal safety is subordinate to your duty to fulfil your mission and take care of your men.

Keep in mind that military operations are not private acts, but on behalf of your country – in Norway symbolised as the King, our supreme commander in war.

4. International Law – a short overview

General

International Law regulates generally speaking rights and duties between states, and covers a broad field of matters. In our context, we shall look into the part of International Law of Armed Conflict – or International Law of War. The term «International Humanitarian Law» is also used, denoting basically the same body of Law, but indicating that the purpose of most of the rules is to avoid or mitigate human suffering. As opposed to International Law in general, the law of Armed Conflict lays down duties on the individual, as head of state, officer, soldier or civilian.

International Law accepts that under certain conditions, states are entitled to resort to the use of physical force, ordering their armed forces to commit acts which in peacetime would be considered as grave crimes, also accepting that the persons committing these acts are not criminally or otherwise legally responsible for acts being «lawful acts of war».

International Law, however, does not give the armed forces a free rein. To be a lawful act of war, the use of armed force must be within certain limits.

Protection

For many officers, «International Law» and «The Geneva Conventions» are perceived as synonymous. The Geneva Conventions of 1949 protect the wounded and sick, medical and spiritual personnel, shipwrecked, prisoners of war and civilians in the hands of the enemy. These categories of persons do not pose any military threat to the enemy, and are mostly in a vulnerable position. Violence against and mistreatment of such protected persons serves no valid military purpose, and is universally considered as deeply unethical.

But the Geneva Conventions do not stand alone. The 1954 Hague convention confers a similar protection to important religious and cultural property that is not used for military purposes.

What about civilian property and civilian persons in general? A long-standing customary rule is that civilians are not to be attacked and civilian property should not be attacked unless military necessity so demands. How this somewhat vague rule should be implemented in new circumstances, were put to test during World War II.

Lawful objects of attack

In the Casablanca declaration of January 1943 it was said that aerial bombing would be aimed at «the progressive destruction and dislocation of the German military, industrial and economic system, and the undermining of the German people to a point where their capacity for armed resistance is fatally weakened.»

At the outbreak of war in Europe, Roosevelt had dispatched messages to all belligerents urging them to refrain from the «inhuman barbarism» of bombing civilians. Even after Pearl Harbour, leaders of American air power emphasised daylight precision bombing, aimed at the destruction of selected military targets. To accomplish this, one had to have air superiority, which was not achieved over Germany before late 1944. For the British, who relied on night bombing, practical difficulties in finding targets much smaller than a city in darkness, and a gradual development of attitudes led to large-scale attacks on cities of highly dubious military significance. Towards the end of the war, both British and Americans had more or less made a target of the general population of German and Japanese cities, leaving a moral scar on the very powers that had announced that they were fighting for democracy and human values.

This moral scar made it impossible to include rules protecting the general civilian population in the four Geneva Conventions of 1949, leaving the matter to the Additional Protocols of 1977. The Additional Protocols demand that attacks shall be limited strictly to military objectives, ruling out general habitation areas as lawful targets.

Illegal weapons

The right of belligerents to adopt means of injuring the enemy is not unlimited. This statement is taken from the 1907 Hague regulations respecting the laws and customs of war on land. The more exact limits are found in various conventions, with new developments of the Law taking place as technology gives potential for new weapons, or political or military developments makes old weapons stand in a new light.

The basic underlying rules are, however, simple. The first rule is that one should avoid the employment of arms which uselessly aggravate the sufferings of disabled men, or render their death inevitable (1864 St. Petersburg Declaration); the second is that it is prohibited to use indiscriminate weapons, which are means of combat which cannot be directed at a specific military objective.

Among the traditionally banned weapons are dumdum or expanding bullets, and since 1925 poison gas, the definition of which has been expanded in the 1993 chemical weapons convention to include riot control agents.

5. Respect and protect

From what I have said so far, one can get the impression that International Law of War consists of a number of «thou shalt not's». But this is not the whole truth. In the Geneva Conventions it says that the persons under the protection of the conventions shall be respected and protected. This means activity, more specifically described for instance in article 15 of the first Geneva Convention which reads:

At all times, and particularly after an engagement, Parties to the conflict shall, without delay, take all possible measures to search for and collect the wounded and sick, to protect them against pillage and ill-treatment, to ensure their adequate care, and to search for the dead and prevent their being despoiled.

This duty of activity must be balanced by the principle of military necessity, which shines through in the next sentence of the same article:

Whenever circumstances permit, an armistice or a suspension of fire shall be arranged, or local arrangements made, to permit the removal, exchange and transport of the wounded left on the battlefield.

The balancing of the imperative of rescuing humans in peril with military necessity, is a matter of Law and a matter of military ethic. A well-known example is the fate of the survivors of the sinking of the German battleship Bismarck in 1941. A great number of men were lying in the water when the big ship had gone down, and two British warships were picking up survivors. Suddenly the ships started to move, leaving behind several hundreds of men to drown. The reason? A submarine had been reported in the vicinity. The British commander decided that he could not risk his vessels by staying as a sitting duck among the shipwrecked sailors.

6. The enemy is also a human being

The perception of military necessity depends on the concept of war. Our understanding of what war is all about determines our understanding of what is necessary – since the necessity must be related to something that is to be achieved, and to the likely countermoves by the enemy, which in turn is influenced of what the enemy thinks the war is all about.

A war of extermination has its own logic that is incompatible with legal restraints. In such kind of war, military necessity will reign supreme, without any counterbalance. Although we have seen in recent times wars being more or less wars of extermination, such situations do not merit legal or ethical consideration.

The world has also seen societies considering wars almost like tournaments between kings or nobles, being much a matter of glory and honour. In such wars there is not much room for military necessity – in the extreme case it could be said that a victory which is not won playing by the rules, is no real victory, since it will not bring the glory intended.

How about us – what do we think war is all about? The military philosopher Carl Von Clausewitz considers war as a tool for coercion, a tool that should be used with restraint in order to avoid that the means defeat the end – which should be a settlement of the dispute and peaceful co-existence with the former enemy.

The soft aspect of this interpretation of clausewitzian thinking is that the enemy should be offered a way out of the conflict with minimal loss of material and moral resources, like the African tribes which according to tradition never encircled the enemy completely but always left open a possibility for retreat (or flight).

The hard aspect would be to focus on coercion, assuming that the enemy should be deprived of as much of his resources as quickly as possible, leaving no room for orderly retreat for troops that might reappear fresh on the battlefield on a

later day, giving the enemy death or submission as the only alternatives. This means that also the fleeing enemy is a lawful target.

The Law as it is today, conforms to the hard aspect of clausewitzian thinking. The soft aspect is a matter of expediency, and can be pursued if it is found to be in our own long-term interest. In the hearts of men, there is, however, reluctance against firing at persons fleeing from you. There is also reluctance against wasting human life, if the battle could be won by less bloodshed.

Under present Law, the military commander is not under any obligation to minimise the loss of life among the enemy soldiers, on the contrary, it will in many situations be his duty to maximise the enemy's losses, at least by putting as many of his soldiers as possible hors de combat not necessarily killing them.

But if the commander has a real choice between alternatives, one being less life consuming than the other, both leading to a successful outcome of a decisive engagement, should he not seek the less bloody? I think most people today would say: Yes, he should. Enemy soldiers are also human beings, and should be spared when the mission permits. And I would not be surprised if some military tribunal some day declares this to be the Law.

7. Force protection at any cost?

Under present Law, the military commander is not under any obligation to minimise the loss of life among the enemy soldiers, but he is under the obligation to minimise civilian losses. In addition to directing his attacks against military objectives avoiding civilian persons and objects, the Law also requires him to do everything feasible to verify that the objectives to be attacked are neither civilians nor civilian objects and to take all feasible precautions in the choice of means and methods of attack with a view to avoiding, and in any event to minimising, incidental loss of civilian life, injury to civilians and damage to civilian objects.

On the other hand, the commander is required to take care of his men and not put their life at risk unless the mission so demands. The Law is silent on whether considerations of force protection are valid when choosing between alternative means and methods, or whether he is obliged to put his men at risk by ordering them to close in on a suspicious object in order to verify whether it includes an enemy position or is the home of a harmless peasant.

In other words: Are force protection considerations a kind of military necessity considerations, which are valid elements in the interpretation of the duty to minimise civilian losses?

My answer would be: Yes – force protection is a valid consideration – but not at any cost. We are not allowed to level everything within sight because that is safest for our own troops. Our concern for our own boys must be reasonable, not forgetting that we are under an obligation to spare civilians.

How do I arrive at this conclusion? Not by studying legal texts alone. My conclusion is basically ethical, weighing conflicting legal obligations on ethical scales, which is how I expect a court would do. This leads to the conclusion that in certain situations the ethical (and legal) obligation to take care of ones men to some extent will have to yield to our obligations under modern International Law.

8. Minimum or overwhelming force?

According to Donald Duck, the general wins that arrives first with the most. Maybe he was citing some authority – anyway it is common military knowledge, that the sooner you defeat the enemy, the less time he has to inflict losses on you. It is therefore advisable to meet the enemy with superior force locally, and there is no room in modern war for any chivalrous doctrine of taking on the adversary with even means, by for instance restricting your choice of weapons to those the adversary also possesses.

Today, a growing proportion of military operations are is not aimed at defeating some adversary, but are some variety of peace-keeping or peace enforcement. In these operations, the doctrine of overwhelming force still applies if there is a situation when some armed faction has to be defeated, or someone is to be pacified by the threat of armed force. In this sense, overwhelming force, or potential overwhelming force, is good force protection.

But when it comes to actual use of force in peacekeeping or peace enforcement operations, there will be many situations where the opposite doctrine will be most appropriate. When dealing with civilians, the proper doctrine is the police doctrine of minimum force. This is because peacekeeping to a certain extent is police operations performed by military personnel.

The mission will be different from the traditional mission of defeating the enemy. In the traditional military mission the soldier can relieve himself from his fear by doing something about the situations, by using his weapons. In a peacekeeping mission this will not always be possible. The soldier will have to wait and see, not shooting just to be sure, relying more on talking and negotiating skills than on his weapons. The obligation to be brave has got a different meaning.

But there are also other problems. In police operations there are other situations and considerations than in combat operations. What about the use of riot

control agents? In situations when peacekeeping troops are facing a hostile mob, riot control agents can be appropriate, according to the minimum force rule, even if they are outlawed as weapons on the battlefield. A similar problem can arise when there are individuals in a mob, threatening our personnel. Can these be “taken out” by snipers on our side using dum-dum bullets, which will be far less dangerous to more or less innocent bystanders or women and children in the mob, than conventional military ammunition which will pass right through the person which is to be stopped from shooting at our men.

9. The Martens Clause

In cases not covered by international agreements, civilians and combatants remain under the protection and authority of the principles of international law derived from established custom, from the principles of humanity and from the dictates of public conscience.

This is the so-called Martens Clause, dating back to the Hague Conventions of 1907, named after the Russian plenipotentiary professor Martens from Lithuania. The clause means that not everything that is not prohibited is allowed. The line is to be drawn ultimately by ethical, not strictly legal considerations.

10. The Nuremberg Principle

The fact that the Defendant acted pursuant to order of his Government or of a superior shall not free him from responsibility, but may be considered in mitigation of punishment if the Tribunal determines that justice so requires. (Nuremberg tribunal statute, article 8)

The fact that a crime within the jurisdiction of the Court has been committed by a person pursuant to an order of a Government or of a superior, whether military or civilian, shall not relieve that person of criminal responsibility unless:

- a) The person was under a legal obligation to obey orders of the Government or the superior in question;
- b) The person did not know that the order was unlawful; and
- c) The order was not manifestly unlawful.

For the purposes of this article, orders to commit genocide or crimes against humanity are manifestly unlawful. (International Criminal Court statute art.33)

This so-called Nuremberg principle, which was well known in German military Law before the second world war, means that officers and soldiers have a

duty to know the difference between right and wrong, and a duty to disobey unlawful orders. The obligations of loyalty and obedience to your superiors must yield to obligations of loyalty and obedience to principles, demanding moral courage to stand up against those who order you to commit criminal acts.

11. The justification for bearing arms

In the European Middle Ages, the knight had the right to bear arms and use armed force in order to promote justice and protect the defenceless.

In modern times, the soldier bears arms and uses them in order to protect his country.

What is the justification for using armed force in Bosnia or Kosovo today? Are we returning to the middle ages, positively speaking?

12. Summary

- 1) International Law of armed conflict is heavily influenced by ethical considerations and has also a heavy influence on Military Ethic.
- 2) Since World War II, developments in both ethical and legal thinking have revitalised the customary rule of restricting attacks to military objectives.
- 3) The balance between the duty to rescue fellow humans in peril, and military necessity, is an ethical dilemma, maybe even more than a legal.
- 4) The military commander has an ethical obligation to minimise losses among enemy soldiers if the mission permits.
- 5) The military commander's ethical obligation to minimise losses among his own men must be balanced against his obligation to minimise losses among enemy civilians.
- 6) Peacekeeping operations require using police doctrine rather than conventional military doctrine.
- 7) The Martens Clause means that the ultimate line between the legal and the illegal is to be drawn by ethical considerations.
- 8) The Nuremberg principle demands loyalty to superior principles, not to superior persons.
- 9) The justification for bearing arms is the defence of superior principles, not of territory or of national interest.

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The Historical Distinctives of the Military Ethics

BY COMMANDER LEIF TORE MICHELSEN

Moral ideals are not, in the first place, the products of reflective thought, the verbal expressions of unrealized ideas, which are then translated [] into human behavior; they are the products of human behavior, of human practical activity, to which reflective thought gives subsequent, partial and abstract expression in Words.

This view of the matter does not[and must not]deprive moral ideals of their power as critics of human habits

M Oakeshott: *Rationalism in Politics* (1962)

Introduction

Speaking of war and warfare, since ancient times man seems to be dependent on moral language. The categories we draw upon are in their core moral categories. We use the terms *right* or *wrong*, *good* or *evil*. Though, more often than not, our concern has been the acts of others, those of the enemy, and rarely, if ever, an expression of pacifism proper, our language more than indicates that there are limits as to what can be accepted even as acts of war. And acts beyond those limits are considered either morally or legally impermissible. We don't have to go farther back than to the war in Kosovo some moths ago, or even more resent, in Chechnya today, to have it confirmed.

And yet, some insists that war is beyond moral and legal judgment. The pacifist notion, on the one hand, is that war, in one way or another, is the consummate evil and therefor should be rejected under any circumstance. The realist acknowledging the pacifist starting point – the evil nature of war – concludes otherwise. War is a world apart constituted by the resort to force and weapons. Here life itself is threatened; war is literally a question of life and death and consequently self–interest and necessity constitutes the order of the day. And

in this *world apart* neither law nor morality has any place. *Inter arma silent leges*. In times of war the law is silent. So anything goes. There is no room for critique or blame, nor for accept. Any moral or legal utterance is meaningless. There is simply nothing to say.

And yet, confronted with the acts of war, we are rarely silent. And the language we use is loaded with moral judgment and meaning. Just think for a moment – besides those already mentioned: good, evil, right, wrong – aggression, atrocities, cruelty, ruthlessness, massacres, genocide, self–defense, appeasement, peace, justice. This is the language of morality.

Those defending the silent laws – legal or moral – claim to have discovered some fundamental and awful human characteristics. War reveals our inner core and let us stand there deprived of any civilized adornments. And the Realist describes that that nakedness for us. And the description fits more often than not. And, as some kind of paradox, the description often takes the form of an apology: *Yes, our soldiers committed atrocities in the heat of the battle. But that's what war is like. That's what war does to people. All is fair in love and war*. And, as Michael Walzer has noted, one invokes the proverb in defense for what seems to be the opposite, unfair. And one urges silence on the law when engaged in activities that would otherwise be considered unlawful.

Writing in the 17th century, Hugo Grotius, introducing his work *De Jure belli ac Pacis* (*The Law of War and Peace*) to Louis XIII, observed:

For both extremes [pacifism and realism] a remedy must be found, that men may not believe either that nothing is allowable, or that everything is

His major contribution in the search for such a remedy is transforming the moral principles of Just War Tradition into positive law.

Just War Tradition

Historically, the *Just War Tradition* with its centuries long history of development addressing problems related to the questions concerning when and how to wage war, offers an alternative to both the pacifist and the realist approach to war. The roots of the Just War Tradition are to be found in the customs, attitudes and practices of the very societies that contributed to it; namely the Hebraic world, the classical Greek and Roman world, and later on, the societies of Northern Europe. Today tenets of this tradition are reflected in both national laws of individual states and in the codified international laws of war.

Two remarks:

First: Christian theologians often claim the just war tradition as their own property. It is considered a child of the church that both came in to being as well as reached its full development within the church walls. This is simply not true. Or at least the truth is far more complex than that. Not to underestimate the importance of major theologians like Augustine, Thomas Aquinas, Francis de Vitoria and Martin Luther, but as already indicated the fact still remains that beside these and other great theologians others played an important part. «International lawyers», military professionals, statesmen and philosophers contributed through history to the growth and development of a tradition in which certain reasons for war are accepted, while others are not; a tradition in which even in the heat of the battle certain limits of conduct are set and observed.

Before St Thomas and long after St Augustine the *Cannon Law Tradition* represent the first attempt to formulate a consistent and comprehensive Just War doctrine. Besides this tradition and the *theological tradition* two secular streams of thought and practice contributed to the growth and development of Just War Tradition:

The Civil Law Source provided input of Roman imperial political and military theory through legal formulations based on concepts and legislation of Roman law and contemporary customs.

The Chivalric Code reflected contemporary religious and cultural ideals and drew heavily on Germanic traditions on warfare, manliness and the ideal of a soldier. This source's contribution to the development of the notion of *non-combatant immunity* can hardly be underestimated.

These four different sources intermingled through the medieval period. Alone none of them provided a complete and well-developed doctrine on just limits to war. It is the confluence of the distinct four different streams of thought and practice that in the end formed the classical just war doctrine.

Second: The Just War Tradition is a historical tradition. Hence it reflects the values important to and identified with specific historical communities in their effort to regulate violence. But at the same time – as a tradition – it reflects the continuity through time of those very values and those very communities. This implies that moral life – among other things – means to keep faith with such traditions as the Just war Tradition. But it also indicates – more fundamentally – that moral decision making is basically a historical project, an attempt to continuity between the present and the past. And may be less an ahistorical, rational activity.

Just War Criteria

1. Right Authority

The Just War Traditions first criterion is in many ways to be understood as a precondition for all the other criteria. The issue is: Whose responsibility it is to decide whether or not the demands of the other criteria are met. In other words the other criteria will not be operative before the question, *Who will do the judging?* is answered.

Just Cause

When is it justified to resort to war and warfare? Traditionally the answer has been *in defense* of self or others, to *restore loss* or *punish evil*

Last Resort

War must be necessary. Are there any other possibilities to be tried before resort to war?

Formal/Open Declaration

Formal declaration is the last measures of persuasion short of force itself. Or in the words of Dr Francis Lieber: [] *decent regard for mankind and public good faith require that a government explain and justify its departure from peace*

Reasonable Hope of Success

War for the sake of war is can never be a moral project. Any war's ultimate end is peace. On the other hand victory is not exclusively the object. What about self respect? How do you calculate? Life against values? What about WW II? The Criteria serves to rule out the consummate meaningless project.

Proportionality

The war should do more good than harm. But then again: How to calculate.

Right Intention

The war serves a purpose. The intention is ultimately peace and justice. Criteria should rule out hidden agendas, or prestige, power and profit.

The classical just war criteria might be formulated as three major principles regarding *the outbreak of war, the conduct of war* and *the ends of war*:

- *War can only be initiated by legitimate authorities and only if based on just cause.* That is, it has to be defensive, not aggressive; it must always be seen as last resort; it is to be an expression in favor of justice and punishes transgression.
- *The means of war must be restricted.* That is, they must be discriminating in the sense that they give immunity and protection to non-combatants; they must be proportional in the sense that the harm military actions inflicts must be reasonable in relation to the injustice the war is aiming to restrict.
- *The ends of war must be predictable.* The just war is aiming at re-establishing peace and justice. There must be reasonable grounds for believing that this cause can be achieved and reasonable hope to establish a state of peace better than the situation leading up to the decision to wage war.

Hence Just War criteria can be said to have three different scopes: They serve to be (1) *preventive* in as much as they establish certain limits with regard to whether it is proper to resort to war; (2) *limitable* in the sense that they define guidelines concerning the conduct of war; and (3) *restrictive* due to the strong expression that only when ultimately serving the peace, war be can regarded just.

Just War Purpose

First of all Just War Tradition comes forth as a *Guide to Statecraft*. The political as well as the moral responsibility to decide when to resort to war is theirs.

Secondly Just War Tradition is a *Guide to Commanders* underlining the importance of the moral quality of military leadership. In my view this moral quality rest on three preconditions: a particular kind of virtue, an effort to understand the importance of the protection of human rights and a recognition of the limits of the means of war.

Thirdly, the Just War Tradition is a *Guide to the consciousness of the individual*.

Leif Tore Michelsen (F. 1955). Krigsskoleprest. Adr: Sjøkrigsskolen, Pb 25 Ytre Laksevåg, 5848 Bergen. Cand theol (MF) 1982^I. Practicum (MF) 1983^{II}. Feltprest v/Infanteriets øvingsavdeling nr 1 1983–84; feltprest UNIFIL/NMC XIV 1984–85; vikarprest Bjørgvin bispedømme 1985–86; sjøforsvarsprest v/Vestlandet sjøforsvarsdistrikt 1986–1996; skipsprest KV Andenes (Operation Desert Shield/ Den persiske Gulf) 1990; skipsprest KNM Trondheim (Operation Sharp Guard/ Adriaterhavet) 1993; krigsskoleprest v/Sjøkrigsskolen 19996–. Arbeider med en avhandling om forholdet mellom juss og etikk innen krigens folkerett (War and

War Crimes. The Relationship between Moral and Legal Aspects within the International Law of War. A Comparative Study of the Charter of the International Military Tribunal at Nuremburg and the Statute of the International Criminal Tribunal for the former Yugoslavia)

Just War in an Unjust World

*How far can the Theory of the Just War be extended
to Opposing Unjust regimes*

BY MAJOR GENERAL (R) THE REVEREND IAN G C DURIE

Introduction

This paper takes as its starting point the developed principles of the Christian theory of the Just War as they stand today.

Where these now stand, however, owes much to the fact that in the Cold War era of super–power armed confrontation, much attention of Christian ethics studies was focused on issues surrounding nuclear weapons and their use. And the severity of the test to which these ethics have been put by such questions have left the Just War principles sidelined to some extent, although nothing more suitable have replaced them. Ignorance of these principles, and failure to develop them has left us, in the meantime, in a fragmenting world, in a situation where the only ethic seems to be an unhealthy «might is right» pragmatism dependent on the wisdom and semi–enlightened self–interest of the USA and her principle allies to dictate when and where force is used by more developed nations to protect the innocent and to promote peace and justice throughout the world, while the rest can «go hang».

In contrast, the principles of criteria for the Just War, dependent as they are on the absolute truth Christianity claims for itself, have an abiding and universal application, which is hard for any ethical system to refute (other than from a wholly pacifist position – and we shall briefly examine the case of Christian pacifism). The application of these principles do need constantly to be re–examined unashamedly from a Christian perspective so that their universal relevance can be applied to the realities of contemporary situations. This is the burden of the argument here.

One current issue on which there has been little useful guidance available is how communities and the international community should react when faced with call to support or resist what may appear to be unjust governments – unjust towards those over whom they have power. The traditional Just War approach, depending as it does on the proper authority etc, for resorting to the use of force in inter–state conflict, seems to fail at the first hurdle. Yet the question facing governments and military leaders, typically in Africa, and the unstable populations in some parts of post–Communist eastern Europe, is more often the ethical dilemma of how they should approach internal struggles within their own borders, rather than considering solely the ethics of external wars. The 1968 uprising in Czechoslovakia; the turmoil of the break up of Yugoslavia, with the secession of Slovenia and Croatia in 1992; and the continuing chaos in Bosnia and Kosovo highlight the problem. In Africa, the recent desperate story of Rwanda and Burundi; the continuing struggle of the Sudanese People's Liberation Army to establish the «New Sudan» – at least in the south of that country – in the face of what they see as a fundamental hostile Islamic government in Khartoum shows the importance of this question in that region also.

Further afield, the East Timorese situation and the potential for further break–up of Indonesia, are current issues, as are claims for self–determination of the Kurdish people of eastern Turkey and northern Iraq. The same question is posed nearer to home in the confrontations of the Basques in northern Spain, and of the republican/nationalist movement in Northern Ireland.

Approaching Christian Ethics

In order to develop some guidelines for Christians facing the perplexing question of how to approach these issues, a brief word on the approach to ethics used here is necessary. This is close to that of Dietrich Bonhoeffer who defines his understanding of the Christian ethic as not asking either, «How can I be good?» or, «How can I do good?» but, «What is the will of God?»¹ Bonhoeffer insists that the essential starting point requires the Christian ethicist to know Jesus Christ as both God and man, and he must always hold together the three elements of Jesus as the incarnate, crucified and risen God and man.²

In the area of war and peace, Bonhoeffer famously describes the traditional approaches of the pacifists as «rusty swords», powerless against the evils of

¹ Bonhoeffer pp 55–56.

² Burtress p 33; Bonhoeffer pp 130–131.

Nazism, to be replaced by the «sharp swords» of wisdom and simplicity rather than ethical principles.³ This approach also considers the teaching of Jesus, as recognising the permissive understanding by God of the human condition, over against the perfect will of God. In other words, Jesus' teaching on the kingdom of heaven, which he himself ushered in, is expounded in the «Sermon on the Mount» (Matthew Chs 5–8) «does not,» as Reinhold Niebuhr expresses it, «deal with immediate human problems. It is directed solely to our relationship with God. It is therefore absolutist [] and impossible to practice now.»⁴

In summary, then, the purpose of Christian ethics in this as in most contexts is to enable the Christian to seek individually and collectively, by the work of the Holy Spirit, to know the mind of Christ. Christian ethics is not what Jesus would do – Jesus is neither tax collector, nor a housewife; nor a lorry driver, nor prime minister, and neither is he soldier – but for Christians in these roles, born again with Christ, Christian ethics seeks to know how Jesus wants each person to behave in the situations they face.

The Development Of Christian Thinking About Non–Resistance And Resistance From The Patristic Era To The Nuclear Age

Because the application of ethics must relate to the questions of the day, it is important to rehearse, even in a most cursory way, the development over time of Christian arguments for pacifism and for the use of force, focusing on those themes that resonate with or chime against the questions around violent resistance today.

The arguments do not change much, but the emphasis reflects the world into which ethics have to speak. Although the early church was distinctly pacifist, Origen did admit to some wars having righteous cause. Tertullian agreed that war was commanded in the Old Testament; but he declared in relation to Matthew 26:52: «The Lord, in subsequently disarming Peter, disarmed the soldier.»⁵

After the conversion of the Roman Emperor Constantine, when Christianity became the religion of the state, a new standard was set, and Ambrose and Augustine «[] justified the full participation of Christians in war, and sought to distinguish between 'just' and 'unjust' wars.» Augustine reasoned that Matthew 5:39 was about inward disposition of individual Christians, and asked, «What is

³ Bonhoeffer pp 130–131. For comment see also Kelly pp 28–29 and Burtness p 89.

⁴ Jones p 96.

⁵ Tertullian: *Treatise on Idolatry* – See Helgeland p 23.

the evil in war?» answering, not death, but that the evil lies in «[] love of violence, revengeful cruelty, []» and the like.⁶ This reversal of interpretation of a particular text typifies the whole war–peace debate.

Thomas Aquinas formalised Augustine's criteria for war, setting 3 principles for a Just War, the debate continued – through the so-called «holy wars» of the crusades and into the Reformation. The principles began to get lost, however, with the rise of the European powers and the spread of colonialism, much of which was driven by economic greed, sometimes justified by the desire to evangelise godless peoples, in spite of protestations from the likes of the Spanish Theologian Francisco de Vitoria (an ethical struggle epitomised in the film «The Mission»). Then, at the beginning of «the Enlightenment», the voice of Christian ethics seemed to be drowned by moral philosophers as Locke.

Little more was heard of the Just War debate until after the First World War. There the horrible scale of the slaughter, in an age when mass communication could bring it to worldwide attention, resulted in an upsurge in pacifism. For many Christians, GCH Macgregor, in his influential 1937 book, «The New Testament Basis of Pacifism», brought the Christian argument full circle. This was countered at the same time as the rise of Nazi Germany heightened the awareness of the need for «good men to do something» (Contra Socrates: «All that is required for evil to prosper is for good men to do nothing») The Just War principles realised a new lease of life, for a while, and even an inherent pacifist like Dietrich Bonhoeffer was converted to the cause of actively supporting the use of force against Hitler.

After World War 2, with the advent of nuclear weapons, the debate raged once more. The pacifist arguments of Macgregor received fresh impetus, but were countered by the memories of the awfulness of Nazism. On balance the Just Warriors seem to have an edge at present over the Pacifists. The Gulf War (although fiercely opposed by the pacifists) was justified quite strongly on the principles of the Just War as we shall see, and attracted widespread support. This, it seems, represents more or less the status quo. The focus of the resent peace/war debate among Christians has been on the nuclear issue, on wars of intervention (Vietnam), and to some extent on liberation theology with its emphasis on justice for the poor. A few have tried to widen the debate to consider the ethics of rebellion in the context of unjust rule. But, amid the noise of the nuclear pacifism debate, there has not been much opportunity for these voices to be heard. It is time to try again.

⁶ Gill p 273.

It is necessary, then, in the new conditions being explored here, revisit the arguments for non–violence resistance. But since the Just War criteria will be used as the starting point for considering «Justified Resistance» later, the current understanding of the Just War principles are set out here. (The list below is based on that in the 1995 IVP New Dictionary of Christian Ethics and Pastoral Theology)⁷

The Just War Today

1. *Just Cause.* The only just cause for war is defence against violent (and unjustified) aggression against the state, or a neighbour state unable to defend itself. Pre–emptive defence may be possible, subject to other conditions set out below. Injustice (e.g. going to war in response to unjust economic sanctions for example) would not generally be sufficient cause unless the survival of the people or the state were so threatened as to warrant the injustice being classed as violent aggression.⁸
2. *Just Intention.* The only just intention is to restore peace to friend and foe alike. There must be no motive of revenge or retribution. Just intention demands also proper conduct, avoiding any tendency to hatred or brutality.
3. *Last Resort.* The use of military force must be a last resort after every other effort to resolve the situation including international negotiations has been exhausted, and has failed.
4. *Proper Authority.* The decision to go to war must be made by the highest lawful government or supra–government authority, and should be marked by an official declaration of war.
5. *Limited Ends.* A war must be waged for limited ends only – sufficient to repel aggression and to redress its justice.
6. *Proportionality.* The means used to wage the war must be proportional to the offence and necessary to achieve the end intended. The evils of the war, in its conduct and in its aftermath (e.g. long–term environmental damage), must not exceed the evils of the cause.
7. *Protection of Non–Combatants.* Violence must only be directed against enemy combatants. Non–combatants must be protected from direct or intentional attack.
8. *Reasonable Chance of Success.* Because, if a just peace cannot be achieved, the additional suffering caused by the war would serve no purpose, war must

⁷ Not in bibliography. See also Atkinson pp 55–56 and Barclay pp 224–225; Davies p 166; Gill pp 328–331.

⁸ See Barth pp 461–462 for support of this principle.

only be undertaken where there is reasonable chance of success, and must be discontinued if that chance fades.⁹

In application, one can briefly cite the Gulf War, and the allies' approach to Operation Desert Storm, which answered the criteria for conventional war between states thus:

1. Just Cause: The unjustified Iraqi invasion and occupation of Kuwait in August 1990 gave just cause.
2. Just Intention: The intention of the United Nations forces under American leadership to free Kuwait and to deter Iraq from similar adventures was also just.
3. Last Resort: Yes, as the prolonged and genuine search for a diplomatic solution was exhausted.
4. Proper Authority: Yes, on the sanction of the United Nations resolutions.
5. Limited Ends: The freeing of Kuwait was achieved. There was no retributive follow up of the fleeing Iraqi republican Guard through Basra, nor was there any 'march to Baghdad'.
6. Proportionality: The scale of Operation Desert Storm, including the air attacks against the Iraqi infrastructure, were proportionate to the original aggression, and necessary for the successful outcome of the operation.
7. Protection of Non-Combatants: Yes, as far as possible within the limits of weapon capabilities and by selection of suitable military targets.
8. Reasonable Chance of Success: Yes.

It is sad to relate that Operation Desert Fox, begun at the end of 1998 in response to Iraqi resistance to the UN weapons inspection regime, palpably fails the same test.

From this short summary of Just War in relation to conventional war, therefore, it should be clear that war must never be undertaken lightly. Those, like Bonhoeffer, who were driven away from a pacifist position by the evil nature and practices of the Nazi regime, emphasised that war is always embarked on at the limiting condition (*Grenzfall*) of Christian ethics. And, although there are those, besides pacifists, who reject the Just War criteria as inadequate for today,¹⁰ there is no real alternative. As criteria for conventional war they have a universal application, and, when strictly applied, they do at least give proper recognition of

⁹ Whereas the first 7 criteria are recognised, perhaps grudgingly, as having some biblical basis, this one has been criticised as not sustainable by scriptural principle. The contrary argument is that the law of righteousness can never require the pointless sacrifice of others.

¹⁰ See for instance Peter Coleman's leading article in *Theology* Mar/Apr 91, pp 83–85 at the time of the Gulf War.

the evils of war. They must also inhibit states from lightly committing themselves to such a course.

The Central Dilemma for the Christian – Whether to Fight?

There is no space here for the full debate over how to interpret the meaning of 'the Kingdom of God'; nor can we explore the relationship between the Christian, the state and the military service. The central dilemma to be addressed is non-resistance or resistance. In relation to Matthew 5:38–40, as we have already seen, the key question is whether this represents a kingdom ethic for all people at all times, or whether it is a limitation on *lex talionis*, and a prohibition on individual retaliation or resistance, allowing the state to dispense due justice and to provide necessary proper defence of its people, using the force required. The British theologian David Atkinson, with Karl Barth,¹¹ is clear that the latter condition obtains. Conversely, the pacifist position is that the law of love overrules,¹² and that the example of Jesus, even in the face of the unjust Roman occupation and rule of Palestine, actively discouraged any notion of violent resistance.¹³ Macgregor maintains that Jesus in fact, having resisted the ways of Satan, during his temptation, now sets a new standard of non-resistance to his followers. Macgregor states that you cannot love your enemy and strike him at the same time.¹⁴ He does not however properly answer the ambiguity over Jesus' own evident use of force as he cleared the traders from the Temple.¹⁵ So, as so often, one meets the ambivalence of scripture, and the tendency to interpret it from a predetermined point of view.

To draw some guiding principles at this stage, first, most can agree that the Christian is called to live the kingdom life as far as he/she is able, in his/her individual case – there is to be no personal seeking of revenge etc, and the law of love must predominate in all personal attitudes and actions. The case of collective responsibility is different, and this is where the disagreement lies. Through each of these areas, the tension is evident between the 'perfectionist', who seeks to live

¹¹ Atkinson pp 102–103; Barth pp 434–435

¹² Macgregor Chapter II *passim*

¹³ Macgregor Chapter IV *passim*. We must however question this analysis of the Roman state – although they had no particular right to the occupation of Judea, and there were clearly individual excesses, on the whole the rule was by law, and in any case there were no possibility in Jesus immediate context of any sort of successful uprising.

¹⁴ Macgregor pp 62.63.

¹⁵ John 2:15; See Atkinson p 30.

the corporate life of Jesus' new kingdom in every detail now, however impractical, and the 'realist' who looks at the world as it is, and concludes that the kingdom is only a theoretical possibility; it lies in the eternal future, and what matters is living life now. As often is the case the answer may lie between the extremes, and so some reconciliation is possible.

The problem for the 'perfectionist' is that there is a critical need to balance the scriptural guidance on the law of love with the scriptural implications of the fullness of God's kingdom, held in the same category as his righteousness and justice (Matthew 6:33 «But strive first for the kingdom of God *and his righteousness* []» and Romans 14:17: «For the kingdom of God is [] *righteousness and peace and joy in the Holy Spirit.*») ¹⁶ Equally, as many point out, that although killing must always be partial denial of love, when God reconciled the world to himself on the cross, the violence of Christ's death was effective in bringing justice to humankind, and indeed characterises the righteousness of the kingdom of God ¹⁷ demonstrating what Jürgen Moltmann calls 'divine power in weakness'. Further, Jürgen Moltmann urges that love sometimes *requires* the use of force as 'the responsible action of love'. ¹⁸ Although those like Jacques Ellul may say, '[] the means of freedom are means that rule out violence, hatred and lying', ¹⁹ many others conclude (often reluctantly) that the highest moral values may at times best be served by force or the threat of force. Although the use of violence will always test the law of love, and must surely be a last resort, it is difficult to see that the peace and justice of God's kingdom for which Christians pray daily in the Lord's Prayer can always be obtained without being prepared to use violence. ²⁰ Niebuhr summed it up thus: 'It is up to the pacifists to demonstrate that the evil of war is greater than the evil it seeks to destroy.' ²¹

The question of state use of force may be answered for many by the foregoing, but the challenge today so often comes in different forms.

¹⁶ See for instance Mayhew p xi where he points out the denial of the law of love by the injustice of the 1938 Munich Agreement, where by appeasing Hitler, Czechoslovakia was surrendered to Hitler, whose subsequent aggressions were fuelled.

¹⁷ Davies pp 158 & 160.

¹⁸ See Atkinson å 161.

¹⁹ Ellul (1976) å 405.

²⁰ The argument here is not for bringing in the kingdom of violence (i.e for Holy War) but that the justice of the kingdom may require violence.

²¹ Harries p 107.

Identifying the New Instabilities of today's World

The argument is now at a turning point – what has gone before has not begun to address properly the most common and increasing (in number and intensity) outbreaks of violence at the close of the millennium. The turbulence of the present post colonial, post–communist, post cold war age owes much to the legacies of those eras. The ethnic divisions within artificial borders, the pressures of living room and natural resources, the increasing awareness of populations and sections of populations (through better communications and education) of corrupt and oppressive regimes are the seeds of potential conflict. There are demands for minority factions to be taken account of, for liberation from oppression, and often secession. It is hard enough for true democracies to take proper account for such demands, as the Spanish and United Kingdom governments know to their cost, but when the regime is corrupt as well as perceived to be unrepresentative and oppressive; when the state fails a large section (or even a powerless minority) of their community, how does the Christian react?²²

The liberation theology emerged in South America proclaimed the cause of the oppressed, with differing views as to how that cause should be championed; but elsewhere, with the exception of the anti–apartheid stand of the majority of churches in the world against the government of South Africa, the attitude of the Christian on these matters has been little voiced and less heard. Where there have been coups, uprising and revolts there has often been a wringing of hands by the world at large, and an extreme reluctance to get involved, until the scale of the violence and bloodshed reaches a stage when ' something must be done' (particularly if the violence impinges too closely on the sensitivities of powerful nations – but there is often a sense of it being a little conflict far away). When action is judged necessary, the United Nations or one of the regional organisations for promoting peace and security may become involved. Otherwise, there is a tendency to deplore the far–off act of rebellion (or its suppression), but, if the rebellion succeeds, then the international community will give proper recognition to the new regime in due course – e post facto recognition – as in Bangladesh, Uganda and Croatia, for example. If it fails, as in Biafra in 1969, the status quo is upheld. The cynic and the desperate could be excused for concluding that the only ethic that prevails is 'might is right'.

²² There is no room here to address the question of the perceived injustice of the republican minority in Northern Ireland, and the IRA justification for their campaign, but the same questions that focused on below continue to obtain. A forceful justification for the republicans right to resort to violence appears in Mayhew Chapter 4. He singularly fails however to address the consequence of an IRA «victory» – the inevitable creation of a new oppressed minority.

For the Christian and the Church facing potential civil conflict within their own land, or caught in the midst of such conflict, they are forced to confront the questions about what the will of God is, what to do, and how to act. As things stand they may find so little to comfort them or to guide them that the only solution is either to avoid the questions perhaps by keeping their head down until the situation is resolved, or by running away from the struggle, or by going with the flow (on either side, depending on the accidents of cause, faction or geography). None of the courses, without justification, will bring glory to God or further the establishment of his kingdom. The Christian must take a positive stand either by non-resistance or by resistance, so that the voice of God may be heard.

The Options in Internal Struggles – Non-Resistance or Resistance

It has already been shown that the Christian response to the question of whether to or how to resist injustice depends very often on the tradition of the interpreter. The pragmatism of their approach to Christian ethics determines their decision. In the case of unjust threat or action by one state against another the inference is already apparent that it is proper to use force, and Christians have a duty to play their part, both strictly in accordance with the Just War criteria. For some the part they play may be that of Christian pacifism. But this new scenario, for Christians having to make decisions over how to act, for themselves and others who are living under an unjust regime, is so different that the options for resistance must be set out again in context. The options are: (1) non-resistance; (2) non-violent resistance; or (3) resistance with some degree of violence.

1. *Non-Resistance.* The attractions of Christian non-resistance are strong. The proponents act out in a prophetic manner the way of the kingdom which God is already ushering in, and which will be hereafter; and it is a course to which some may be called. But it is also potentially selfish and irresponsible, perhaps even fatal for society as a whole. Failure to resist an evil done to others certainly denies the justice of God's kingdom. For society or a section of society to practise non-resistance implies total withdrawal from the rest of the world, which does not seem to most Christians to be what the Lord intended. Although one acknowledges that some Christians may be called to total non-resistance, this option will not be considered further here.
2. *Non-violent resistance.* The way of non-violent resistance is more appealing to many Christians. It too embraces the way of love and peace,

but also understands the need for justice. It acknowledges a duty to resist evil, but seeks to do this without resorting to violence in order to achieve change. This is examined more fully below as the whole of the pacifist position is reconsidered in this context.

3. *Violent resistance.* This third option is the one that the world most commonly resorts to when seeking to redress gross perceived injustice if the means can be found. It is this course which often poses the greatest problem for the Christian seeking guiding principles as there is little help available. It is one thing for Moltmann to urge 'that love sometimes *requires* the use of force as the responsible action of love',²³ but the fear is that resorting to violence may be wrong because evil begets evil, and that it can never achieve an ultimate just and peaceful end.²⁴ But if, with Moltmann, the Christian believes force may be required, in what circumstances, and in what way may it be effected are the key questions, which also necessitate a full re-examination of the Just war criteria.

Pacifism Re-Visited in Non-Violent Resistance

Since violence is such an extreme reaction even to the most unjust government, and may indeed lead to even greater excesses of that regime, the way of pacifist non-violent resistance must be fully explored. Recent examples do not present clear lessons:

Recent Examples

The difficulty, of course, as former President Kenneth Kaunda, among others, has pointed out, is that non-violent resistance only has any chance of success if practised against a tolerant regime, such as was the case for Gandhi protesting against British rule in India,²⁵ or the black Civil Rights campaign in the United States, led by Martin Luther King. The idea of Hitler or Stalin either worrying about Gandhi starving himself to death, or giving him the opportunity to publicise his reasons is absurd. A further problem is that non-violence resistance rarely achieves its primary goals, or at least not on its own: only King's campaign in the USA can really be cited as a victory for non-violent protest on any scale; in India,

²³ From Atkinson p 161

²⁴ See for example Ellul (1970) «the law of violence» pp 93–103

²⁵ Kaunda p 61. See also Jones p 97 and Ellul (1970) p 15. Mayhew (p 27) notes that Martin Luther King, in a sermon on 30 Apr 67, «made it clear that he did not believe that non-violent resistance would have been the right answer to the evil of Hitler.»

the scale of the accompanying violence, alongside Gandhi's non-violent struggle, was appalling. At the same time, if the principle of non-violence is that no one should be hurt, particularly the innocent bystander, this is rarely practical.²⁶

Questions for the Christian Pacifist

Thus the two principle questions that arise for the Christian pacifist are: First, to what extent can Christians who believe in non-violence become involved in a campaign in which others are prepared to pursue violent means for the same end? Second, as has already been noted, non-violent resistance rarely works, but does that matter? Is it not up to Christians to behave in the way they believe that God demands, and trust in God to see justice prevail?

Neither question produces a clear answer in pacifist writing. But on the question of whether it matters that non-violent resistance does not generally work, the constant refrain is that non-violent resistance witnesses to the kingdom of God, and that anyway in this sort of situation violent resistance does not work either. Ellul, although not a complete pacifist, for example, claims with some justification that states founded by violence can only maintain themselves in power through violence.²⁷ He also highlights the sorry history of successful revolutions which subsequently 'have all brought a strengthening of authority'.²⁸ The arguments are inconclusive. The relevant lesson, however, for all Christians is that violent resistance at the very least carries significant dangers, and is itself no guarantee of a peaceful and just successor to the defeated oppressor state.

How does Just War Theory Fit Today's Questions?

If, then violent resistance might have to confront the evil tyranny, in its most extreme form, the question arises what are the principles that might allow or require the use of force to resist such tyranny? Since Just war criteria outlined above, developed for state wars have more or less stood the test of time, it is appropriate to see how they might give some initial guidance for this case. There are enormous difficulties, as the outline below demonstrates. (The criteria have been slightly adapted to meet the case, and will be further altered by the argument that follows.)

²⁶ Gandhi's boycott of British cotton goods in 1942 caused starvation to the children of cotton workers in Lancashire.

²⁷ Ellul (1970) pp 84–85.

²⁸ Ellul (1976) p 416: e.g Cromwell's protectorate and the French Revolution.

1. *Just Cause.* *The only just cause for war is defence against violent (and unjustified) aggression.* This condition has to include extreme injustice, when such injustice may be classified as violent aggression.²⁹ Even so, the difficulty of defining unjust violent aggression, as it applies to sections of a population oppressed by a partisan, corrupt or tyrannical government, is extremely hard to define. The difficulty will always be one of perception – what one section of the population may regard as a violent and oppressive restriction of their fundamental human rights, may, in the eyes of the government, and of other sections of the same population be seen as in the interests of justice for the greater good of the population as a whole. Partially and sectional interests may distort the judgement of those most closely involved. There is, therefore, a clear requirement to ratify the justness of the cause by appeal to international bodies³⁰ (such as the United Nations or the World Council of Churches), as a basis for negotiation, and to seek a mandate for the use of force if negotiations fail. The difficulties of such a course should not be underestimated. Governments of all nations, whose representatives make up the UN and similar supra-governmental authorities, are extremely wary of sanctioning any sort of insurrection in other states,³¹ as the dangers are that the judgement which condones insurrection may conceivably in other circumstances be used against themselves to undermine their own internal legitimacy. As for the World Council of Churches, although they may not have any real authority, they can fulfil the church's role of proclaiming the justice of the law of God against perverted government.³²
2. *Just/Right Intention.* *The only just intention is to restore peace to friend and foe alike.* It is important to note the dilemma (highlighted by Paul Ramsey in to the context of intervention) as to 'whether justice warrants disordering action or order warrants the tragic permission of some injustice.'³³ There are other considerable potential difficulties. Insurrection

²⁹ Mayhew p 7. See also Jones p 107 referring to the 1967 Papal encyclical *Populorum Progressio* acknowledges (§§ 30–31) that in the most extreme circumstances only is it right to revolt.

³⁰ The US Catholic bishops 1983 pastoral letter on war and peace. *The Challenge of Peace: God's Promise and Our Response* recognises the case for «just revolution», but has great difficulty in identifying the competent authority to legitimise such action.

³¹ Even if they were allowed to do so. In fact the UN Charter does not technically allow such judgements, although in practice their statements can give a degree of authority to freedom struggles (as in the case of SWAPO in Namibia).

³² Bonhoeffer p 278.

³³ Ramsey p 29.

arising from oppression of minorities can mean that tribalism or factionalism may play a significant part in the cause of violence. Clearly any solution to the conflict that creates new oppressions is out of the question. One of the impressive factors in Yoweri Museveni's resistance to the abhorrent regime of Idi Amin in Uganda was the abiding intent to create a just society once Amin was overthrown.³⁴

3. *Last Resort. The use of military force must be a last resort after every other effort to resolve the situation has been exhausted, and has failed.* Acknowledging the evil of war, and that it can only be resorted to a lesser evil, when all else has failed, this principle must surely hold. Furthermore, until what may be a self-sacrificial campaign of non-violent resistance as a first move, has been crushed, or otherwise exhausted, without achieving progress in addressing the injustice, then resort to violence cannot be said to be a step of last resort. A further obstacle, however, is that a resistance movement may experience considerable difficulty in establishing a negotiating position with the government. Consideration of the secret negotiations between Sinn Fein/IRA and the British government before the 1994 cease-fire, and between the Palestinians and Israel before the Oslo accord, show that it can be done – but the risks are considerable (on both sides). It is possible to conceive that refusal of the government to meet, and to treat fairly, the representatives of a resistance movement before they resort to insurrection, could itself, if honest and strenuous moves have been made to open and maintain negotiations, constitute the *exhaustion of other means of resolution*.
4. *Competent Authority/Official Declaration of Hostilities. The decision to use force must be made by the highest representative authority or supra-government authority, and should be marked by an official declaration of hostilities.* The difficulty of defining lawful authority for rebellion has already been identified, and, off all Just War conditions this is the one that appears least applicable to Christian involvement in revolution.³⁵ But without legitimate features violent resistance cannot be contemplated. The first principle is that the injustice should be widely recognised as genuinely intolerable, not just in the eyes of the victims, but in broad coalition of the

³⁴ See Hansen pp 31–32 on the aims of the liberation struggle, and the enactment of the aims of justice in the framing of the new Ugandan constitution. Admiration for Museveni's principles in this context must be tempered by questioning his decision, after Amin fled, to oppose Obote when he came back to power, and to continue the struggle to form an impartial government of his own.

³⁵ Davies p 168.

international community, and especially of Christians seeking to know the will of God. Second, without diminishing the difficulties inherent in gaining such recognition, those intending to conduct violent resistance need themselves be recognised in some way by those they are seeking to free from oppression as properly representing them, and their interests, and must be capable of showing that they represent the best interests of the people as a whole. If negotiations fail, it is clear that there must be an official declaration of hostilities, stating the goals of the campaign and denoting proper channels of communication if negotiations are to be re-opened. One commentator rightly insists that actions must be clandestine,³⁶ and further recommends the formation of an alternative, 'legitimate' government in exile (offering an alternative to the allegiance owed to the state).³⁷

5. *Limited Ends. Hostilities must be waged for limited ends only – sufficient to repel aggression and to redress its injustice.* There is little to add to this deceptively simple clause, other than acknowledging the difficulty of putting it into practice. The Ugandan struggle was model of how this can be done.
6. *Proportionality. The means used to conduct hostilities must be proportional to the offence and necessary to achieve the end intended.* The problem of all war, revolutionary or conventional, as discussed already is what Ellul calls 'the law of violence'.³⁸ Violence, on both sides tends to be escalatory, and the danger is that the proponents of a campaign of violent resistance cannot fully foresee, or may tend to underestimate the full horrors of the campaign as it develops. The British Army's principle of 'minimum necessary force' legitimately applied must be the first and absolute limiting principle. While not normally the case in unconventional wars, clearly there ought to be strictly articulated rules of war, at least as stringent as those that govern international conflict, closely controlled by properly authorised rules of engagement.
7. *Protection of Non-Combatants. Violence must only be directed against enemy combatants. Non-combatants must be protected from direct or*

³⁶ Mott p 163.

³⁷ Mott p 189. As John Yoder (1983), «So from Calvin to the American revolution it is government that rebels against government. You can't have revolution from that base. You can't have 'the people' rising.»

³⁸ See above footnote 24, See also Davies p 158 where he points out that the use of violence tends always to dehumanise those who use violence.

intentional attack. As in conventional war, the difficulty of distinguishing combatants from non-combatants is evident. The 'law of violence' tends to degrade people's judgements in this area, and 'freedom fighters' can only too easily deserve to be labelled 'terrorists' as they become less discriminate in their targeting of violence, and as they broaden the definition of their enemies. This weakness of rebel/resistance forces will always make the 'soft target' (uncommitted civilians and their property) an easier option than legitimate targets. Again the conduct of Museveni's campaign in Uganda is a model of right attitudes; and this conduct had a significant effect on the subsequent legitimisation of the new regime across the country.

8. *Probability of Success.* *Because, if a peace cannot be achieved, the additional suffering caused by violence would serve no purpose, hostilities must only be undertaken where there is a reasonable chance of success, and must be discontinued if that chance fades.* This is a condition which poses the most severe test for those proposing revolutionary violence. By its very nature, the uprising of an oppressed minority, driven by the perception of extreme and unbearable injustice, can see little initial probability of success – only hope! It raises all manners of questions, and it is probably therefore important to have a campaign plan, which recognises the importance of not making things worse, and has options for de-escalating to non-violent resistance. A long self-sacrificial struggle that fails, with minimum non-combatant casualties is one thing; one which brings increased misery etc to others without a near certainty of ultimate success it has no validity.

As the previous analysis demonstrates there are clearly a great number of difficulties of interpretation, so before trying to draw some conclusions, it is worth looking briefly at one example of insurrection – Dietrich Bonhoeffer's part in the conspiracy to kill Hitler. We shall also touch briefly on aspects of Latin American liberation theology and the involvement of Christians in the struggle for justice and democracy in South Africa.

Bonhoeffer and the plot to kill Hitler

In Nazi Germany Dietrich Bonhoeffer, a remarkable and Godly young pastor with a keen insight into the kingdom of God, dragged from a pacifist position³⁹ to reluctant, but convinced, participation in the unsuccessful plot to kill Hitler, when confronted with the stark evils of Nazism in Hitler's Germany. He asks in his

³⁹ See Rasmussen pp 103–104; also Chapters 12–13 of Bonhoeffer's *The Cost of Discipleship*.

second draft Catechism (1936), *How should a Christian conduct himself in war?' and he answers, 'Here there is no clear command of God. The Christian can never bless war and weapon. The Christian must never take part in an unjust war. If the Christian is called to take up the sword he will daily call to God for forgiveness of the sin and for peace.'⁴⁰

Bonhoeffer justified his resistance and his active participation in the tyrannicide because of Hitler's 'gross misrule'. This was his 'just cause'. His intention was equally just: along with his co-conspirators it was to end the Nazi rule. But, lacking vociferous passive resistance, it cannot be truly said to have been a last resort unless they regarded such resistance as pointless. Neither did they really open proper channels of communication, nor did they have the competent authority. There was no 'legitimate' government in exile. Furthermore, such was the emphasis on minimum force, the level of force proposed was probably inadequate to end the war and Nazi rule, even if Hitler had been assassinated. The ambivalence of Bonhoeffer's commitment to the plot was demonstrated in the reported conversation between himself and one co-conspirator who asked (because of his place on Hitler's staff) if he might shoot Hitler. Bonhoeffer replied that he might, but the right question (which he did not ask, and which Bonhoeffer did not answer) was whether he should.⁴¹

Bonhoeffer and nearly all his courageous fellow conspirators paid for their treachery with their lives, and nothing was changed. It is easy with hindsight to criticise, but this case shows the weakness of the pacifist turned conspirator who failed to embrace the logic of violence.⁴²

*Radical Liberation Theology*⁴³

Because liberation theology has been so much in the van of radical reform in Latin America it is worth considering what it might have to say in the context of violent resistance as a whole. Radical liberation theology is focused on setting 'the poor' free from oppression and 'institutional violence'.⁴⁴ It is closely linked with Marxist ideology, and takes a view that theology starts not from God, but from the human situation, where commitment to liberation from oppression is the first step.

⁴⁰ Rasmussen p 107.

⁴¹ Rasmussen pp 140–141.

⁴² It must also be noted that Bonhoeffer played his conspiratorial role from a somewhat dubious position in the *Abwehr* – Hitler's secret service.

⁴³ The term «radical» coined here denotes the liberation theology stance of the 1970s/1980s before the collapse of communism and more recent developments in liberation theology.

⁴⁴ See Gutierrez pp 108–109 (and also from institutionalised churches – p 265).

Also, while not calling explicitly for violent revolution, the imperatives of liberation make violence implicit where non-violent means fail to achieve radical reform. But it should be noted that the proponents of liberation theology rule out the existence of universal propositions to guide ethical action. For them Just War criteria therefore do not and can not give liberation theology any grounds for 'just revolution' nor can Just War provide a 'theology of revolution'.⁴⁵ There is no room here to explore the full argument, but it is safe for those seeking to apply Just War arguments to insurrection to put aside the lessons from liberation theology for the present.

Even so John de Gruchy in the foreword to the Kairos Document talks of the South African theology for freedom as identified 'clearly with liberation theology's methodology and commitment'.⁴⁶

South Africa

The success of the opposition and resistance to the injustice and tyranny of the white South African regime and its policy of apartheid resulting in the establishment of democratic rule in 1995 without the blood bath many feared is a truly remarkable story, from which many lessons may be learned. The unlawful nature of the regime (in spite of that regime's appeals to Romans 13 for legitimacy⁴⁷) was widely but belatedly recognised by the churches within that country and outside. The African national Conference (ANC), which had for some time been protesting against the regime, formed a military wing to provide direction to and restriction on frustrated militants,⁴⁸ but with little effect other than increasing the repressive measures taken by the regime.⁴⁹

By the 1980s the South African Council of Churches (SACC) turned to action – first, with a call to prayer; second, with a call to non-violent action. The call to prayer by a conference of the SACC on the 17th June 1985, the 9th anniversary of the Soweto massacre, for 'a new and just order in this land' caused a storm.⁵⁰ There were accusations from the Government and in the media that the call was a prayer for the violent overthrow of the regime. The second step, in September 1985, with

⁴⁵ Rapoport p 103.

⁴⁶ Kairos p 8.

⁴⁷ See archbishop Desmond Tutu in Villa–Vicencio p 77. See also p 88.

⁴⁸ See Villa–Vicencio p 58 quoting Nelson Mandela at his trial in 1964.

⁴⁹ See Kairos p 30 where the non-violent emphasis of the church's direction is blamed as a contributory factor in the escalating scale of state violence.

⁵⁰ The whole story is told by Allan Boesak and Charles Villa–Vicencio in *A Call to an End to Unjust Rule*.

the publishing of the Kairos Document by a number of South African theologians and black pastors, called on the churches to be the mediators between the oppressor and the oppressed⁵¹ and to 'participate in the struggle for liberation and a just society'.⁵² This called for civilian disobedience rather than for violent resistance. In the end, the call to prayer, the involvement of the Church (working to contain violence, but warning that it cannot be contained while apartheid exists), and international pressure, alongside the ANC as government in exile worked to bring democracy to that land in a relatively peaceful way.

Towards Justifiable Resistance

Christian attitudes to the use of force has been debated over two millennia, always with a divergence between those who seek to proclaim the path of peace at all costs confronting those who agree reluctantly that war between states is sometimes necessary, and who therefore try to prescribe it very tightly under the conditions of the theory of Just War. This is little use, as it stands, in addressing the situation in many countries in the world today, where justice and other internal instabilities and the power of mass communication making for a greater awareness of denied human rights, combined with the availability of powerful weapons, together make the possibility of armed resistance greater than ever. This situation confronts many Christians across the world, and there is little to guide them in their response. The classic Christian dilemma over the meaning of the kingdom of God, ushered in by Christ, either as a complete ethic for peaceful living under the law of love on the one hand, or about coming to terms with the reality of seeking to promote God's peace and justice in love in a violent world on the other still obtain. This paper aligns with the ethical approach of Barth, Bonhoeffer and Niebuhr that the Christian ethic depends not on a set of absolute rules, but on seeking to know the will of God in any situation.

As Christians seek to know more of the character of God, they note the tension in scripture over the interpretation of the kingdom of God – between the now and the not yet, and they may conclude that, desirable though the kingdom life may be in all its fullness, it lies beyond the attainable in certain areas, particularly where Christians are confronted with real evil, when physical action beyond spiritual warfare may be required. One must admit always that the pure pacifist, and those who follow the path of non-violent resistance are not necessarily wrong, and one

⁵¹ Kairos p 9.

⁵² Kairos p 52.

should be grateful that they will always act as a restraint on those who more readily turn to violence. One must also, however, judge that in some circumstances forceful resistance may indeed be the will of God, even if some are called to pacifism. At the same time, it should be emphasised, if resort to force between states under Just War criteria always lies on the ethical borderline, to use force in resistance to an unjust regime lies even more narrowly on that borderline; the principles, therefore, which guide the Just war must be even more closely scrutinised if they are applied here – principles developed as a first line of defence both against hasty action or an excuse for supine inaction.

A new debate is required – one which is strong and vigorous. Perhaps this paper may help in this, and that the voice of Christian ethics may clearly be heard in this area, setting out again down the path of proclaiming the truth in action. The question how a Christian should act who finds him/herself in a position of power or authority (however humble – a soldier with a gun is in that position) within an unjust regime, have not been addressed; nor has the debate started over the whole question of just cause in secessionist struggles; but the guidelines below form a starting point in all these cases too, and for those who might espouse the revolution of radical liberation theology. All Christian action is the responsibility of the individual to do what is right for him/her under God. But we must take corporate responsibility also, seeking clarification through the prayers and guidance of others, to proclaim the hard truths in each situation, and being prepared to act accordingly. Bear in mind, however, the principle: 'In all probability the use of force is wrong, unless it is more wrong not to use force.'⁵³

Guidelines for «Justified Violent Resistance»

We have already debated the development of the Just war criteria for internal conflict, so perhaps these guidelines can now be refined simply in the form below, and one may propose these criteria, but only when all are taken together, and when all are met, as the basic rules governing the resort to and the use of violent resistance in any struggle.

1. **Just Cause.** *The only just cause for violent resistance is defence against violent injustice, including unjustified violent aggression.* The cause must be recognised as just by independent external authorities, both Christian and secular.

⁵³ Ellul p 406: «Apart from the influence of the Holy Spirit, the use of violence is always *a priori* contrary to the will of God.»

2. **Just/Right Intention.** *The only just intention is to restore (or achieve) peace and justice for the whole community. In the outcome, no section of society must be favoured above others, and no new oppressions or injustices be created.*
3. **Last Resort.** *Recourse to violent resistance must be a last resort after every other effort to resolve the situation has been exhausted, and has failed. At the very least negotiations and non-violent resistance should have been seriously attempted (and have been seen to have been attempted), even when the outcome might be predictable failure, and perhaps very costly.*
4. **Competent Authority/Official declaration of Hostilities.** *The decision to resort to violent resistance must be made by the highest proper representatives of those oppressed (recognised by international authorities), and should be marked by an official declaration of hostilities. This most difficult of conditions certainly needs external validation to ensure that those leading a rebellion do properly represent those for whom justice is denied, and that they will remain accountable for restoring peace and justice for all at the conclusion of the struggle. The legitimisation of their authority may require the formation of a government in exile. It is also essential that there is a formal statement of the opening of hostilities. The injustice, and the remedies for righting it, against which they are fighting, should already have been made clear in the negotiating and non-violent opposition phases of the confrontation. Furthermore a clear channel for future negotiations must be established and notified.*
5. **Limited Ends.** *Violent resistance must be conducted for limited ends only – sufficient to redress the actual injustice and to achieve justice and peace for all.*
6. **Proportionality.** *The means used to conduct violent resistance must be proportional to the offence and necessary to achieve the end intended. The rule of «minimum necessary force» must apply, and rules of engagement and the restrictions on violence both have to be spelled out clearly, communicated to all those fighting, then monitored and enforced in practice.*
7. **Protection of Innocent Parties.** *Violence must only be directed against the forces of injustice and oppression. Innocent parties should be protected from direct or intentional attack. Besides the armed force of the oppressive regime which is being resisted, there will have to be very careful consideration as to whether the leaders and officials of the regime can*

justifiably be identified as forces of injustice and oppression. Those engaging in violent resistance must make it quite clear to their adversaries, as well as to their own forces, who and what constitute legitimate targets for their violence. Every effort must be made to avoid any additional innocent casualties.

8. **Probability of success.** *Because, if a just peace cannot be achieved, the additional suffering caused by the insurrection would serve no purpose, violent resistance must only be undertaken where there is a reasonable chance of success, and must be discontinued if that chance fades.* Those proposing to undertake violent resistance must, beyond blind hope, have good reason to believe in the eventual likelihood of the success of their campaign, within the limits of proportionality and the protection of non-combatants outlined above. The assessment should use historical data and other comparable models. The campaign plan must be realistic, and should allow for the campaign to revert to non-violent resistance if violence ceases to offer success.

These guidelines are not a complete answer, but they should provide a starting point for those who find themselves confronted by some of these most difficult challenges.

The cases of east Timor, South Sudan and Kosovo test the proposition. The conclusion is the vital need for the Christian Church and for all democracies to be active in taking a lead in international efforts to seek and insistence on pursuing the way of justice, equality and reconciliation world-wide. This must include energetic diplomatic activity and properly authorised sanctions, including the use of force in support of. Or in opposition to armed insurrection in accordance with these criteria. Equally it is vital that the world (particularly organisations such as the United Nations, NATO, The European Union, the Organisation for the African Unity, the World Council of Churches etc) faces up to the reality of evil, oppressive regimes, and takes appropriate action – not just in the case where their own interests are threatened.

As the 17th century English poet, John Donne, puts it:

No man is an island entire of itself; everyman is a piece of the Continent, a part of the main; if a clod be washed away by the sea, Europe is the less []

Any man's death diminishes me, because I am involved in mankind; and therefore do not send to know for whom the bell tolls; it tolls for thee.

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Peacekeeping and the Just War Tradition

BY MAJOR CHARLES A. PFAFF

Introduction

When soldiers consider how to accomplish their ends, they are legally, morally, and pragmatically obligated to consider how much force to use. However, when deciding how much force to use, soldiers initially concern themselves not with how much force should they use, but rather how much can they. The more indirect and long range direct fire one can put on an objective before one must put soldiers on it saves soldiers' lives. The more powerful weapons those soldiers have when they are on the objective also preserves their lives. Thus, the more force soldiers apply, the less risk they have to take in order to accomplish their missions. Viewed this way, the amount of force necessary then consists in that which reduces risks to soldiers the most. Sometimes, however, the application of this force endangers civilian lives and property. Because of this, soldiers must also ask how much force should they apply.¹

In order to limit the misery caused by war, the law and morality of war attempt to answer the question of «how much» by putting additional limits on the amount of force soldiers may apply. To determine how much force they should place on an objective, soldiers must temper their judgments not only with the pragmatic concern of how much is available, but also with the moral and legal concern of protecting civilian lives and property. A commander may be able, with a high degree of accuracy, to place a single bomb in a specific building, but he cannot always be sure how many civilian lives will be lost if he does so. And though there

¹ The use of the word «force» throughout this paper is synonymous with «deadly force». For the sake of simplicity, I am not considering uses of force that do not have the potential to kill or seriously injure someone.

is nothing in the law or morality of war that absolutely prohibits him from doing so, he is morally and legally required to take the due care he owes civilians into account when deciding how much and what kind of force he will use. Taking this into account, though, means lowering the amount of force soldiers may want to apply in order to minimize risk. This means, then, that there is a tension between the amount of due care commanders owe civilians and the amount of due risk they and their soldiers are expected to take in order to accomplish military missions. Given the logic of warfare, it is always in the commander's interest to place as much force as is morally and legally permissible on any particular objective in order to preserve soldiers' lives. This means when commanders and their soldiers determine what is necessary, they are always asking themselves how much force is allowable, not how little is possible. This is because what is necessary when resolving the tension between due care and due risk is minimizing risk, not force. The most force then becomes the necessary force since it is what is necessary to preserve soldiers' lives without violating the law or morality of war. What I wish to argue in this paper is that sometimes and in some situations, soldiers are morally obligated to consider the least force possible – given that this force is sufficient to accomplish the mission – when deciding how much force is necessary to apply. If this last view is true, then it is the case that the law and morality of war do not extend well into certain kinds of missions. What I wish to do in this paper is to show that this is in fact the case, and then offer some considerations for filling in this ethical gap.²

To fully demonstrate this point, I will do three distinct but related things. First, I must show that the moral and legal considerations soldiers must take into account really do obligate them only to consider the maximum force permissible, rather than the minimum force possible. Second, I will offer an example of the application of military force that will meet the criteria of both the law and morality of war, but which will not conform to a broader understanding of morality. To do this in a non-question begging way, I will finally attempt to argue by analogy that this discrepancy is a result of a misconception about how the roles soldiers play alter their moral obligations.³

² James M. Dubik, «Human Rights, Command Responsibility, and Walzer's Just War Theory,» *Philosophy and Public Affairs* 11, no. 4 (1982): 355.

³ Adam Roberts and Richard Guelff, (Eds): *Documents on the Laws of War*, (Oxford: Clarendon Press, 1989) p 11.

Legal Obligations

Soldiers do have a legal obligation to take into account the damage that will be done to civilian life and property when they apply force. When the duly appointed representatives of a nation agree to ratify a treaty, the nation, including the individuals subject to its laws, become subject to the provisions of that treaty. For this reason, soldiers belonging to nations that have signed international treaties regarding proper conduct in war are legally obligated to consider those provisions when applying force. The provision that most directly applies to the application of force is that provision that deals with proportionality. According to the Law of War, soldiers are obligated to ensure loss of life and damage to property incidental to attacks must not be excessive in relation to the concrete and direct military advantage expected to be gained. Those who plan or decide upon an attack, therefore, must take all reasonable steps to ensure not only that the objectives are identified as military objectives or defended places, but also that these objectives may be attacked without probable losses in lives and damage to property disproportionate to the military advantage anticipated. While this does require soldiers to limit force by the constraint of how much military advantage is to be gained, it does not require them to minimize it. Furthermore, proportionality does not preclude some actions that many would still find objectionable. For example, it would not preclude killing some civilians in order to achieve any military objective, as long as the harm done was proportional to the advantage gained.⁴ Take for example the situation at No Gun Ri, where American soldiers are accused of intentionally killing hundreds of civilians in the beginning moments of the Korean War.⁵ Some of the arguments advanced to justify their actions have been that killing the civilians was necessary to prevent the greater harm of allowing enemy agents and soldiers through friendly lines. Moral Obligations: Although the letter of the law may not prohibit all acts we would like to call immoral, the spirit of the law does, and that spirit is found in the Just War Tradition. The Just War Tradition is that body of thought that represents man's struggle with the tension between winning and fighting well. Since it has a long and deep history, it is difficult to make general comments regarding its content. To illustrate my point;

⁴ Department of the Army Field Manual 27–10, *The Law of Land Warfare* (U.S. Government Printing Office, 1956), Change No. 1, 15 July 1976, para 41, p. 5.

⁵ James Webb, «The Bridge at No Gun Ri,» *Wall Street Journal*, 6 October 1999, Letters to the Editor.

however, I have chosen one of the more recent, and most restrictive versions of the ancient doctrine of double effect.⁶

The doctrine of double effect is a Christian doctrine first formulated by St. Thomas Aquinas as a response to St. Augustine's moral prohibition against self-defense.⁷ This doctrine results from the recognition that there is a moral difference between the consequences of our actions that we intend and those we do not intend, but still foresee. Thus, according to this doctrine, it is permissible to perform a good act that has bad consequences, if certain other conditions hold. Those conditions are: 1) the bad effect is unintended, 2) the bad effect is proportional to the desired military objective 3) the bad effect is not a direct means to the good effect and 4) actions are taken to minimize the foreseeable bad effects, even if it means accepting an increased risk to soldiers. Double effect would further lower how much force is permissible, and would preclude the soldiers' actions at No Gun Ri. However, it does not require soldiers to understand necessity in terms of the least amount of force one can use and still accomplish the desired end. What I would like to discuss now is why that can be a problem in certain kinds of military operations.

Case Study

Now that I have made the case that the law and morality of war only obligate soldiers to consider the most force permissible, rather than least possible, I now need to show that this causes a problem for extending these doctrines into the peacekeeping environments. It is not the case that I am arguing that soldiers are always obligated to consider the least amount of necessary. Sometimes, certainly in conflicts we would normally call wars, it is appropriate for commanders to consider the most amount of force that is legally and morally permissible so that they may better preserve soldiers' lives.⁸ This approach, however, makes it difficult to extend current legal and moral doctrine to the peacekeeping environment. To understand why, consider the following example: On 21 January 1996, an AK-47 let loose near a US dismounted patrol in the Zone of Separation [between Bosnian Serbs and Bosnian Muslims]. As rounds ripped through the

⁶ Paul Christopher, *The Ethics of War and Peace: An Introduction to Legal and Moral Issues* 2nd ed. (New Jersey: Prentice Hall, 1999) p 52.

⁷ Augustine held that self-defense was inherently selfish and that acts motivated by selfishness were not morally justifiable since selfishness is not morally justifiable. *Ibid.* p 93.

⁸ David Fastabend, «The Categorization of Conflict,» *Parameters*, Summer (1997): p 75. <http://carlisle-www.army.mil/usawc/Parameters/97summer/fastaben.htm>

troop formation of D Company, 3d Battalion, 5th Cavalry, the soldiers realized that this fire was not celebratory and instinctively sought cover. Tumbling behind the protection of their overwatching M2 Bradley Fighting Vehicle, the patrol chambered rounds and brought their weapons off safe. From this point, the soldiers had at least three possible courses of action:⁹

- 1) Use the Bradley 25 mm main gun and fire in the direction of the gunman. This would cause the most damage and most likely result in the death of gunman as well as some others (if there were any) in the building. This would pose the least amount of risk to the soldiers.
- 2) Leave cover and, using squad fire and maneuver techniques, assault the gunman's position. As long as they only fired at the gunman, this course of action posed the greatest risk to the soldiers, but would likely result in the least amount of civilian casualties.
- 3) Remain behind cover until a local authority of some sort took care of the gunman. In this course of action they accept no risk, but do no harm.

Legal Considerations

According to the legally binding consideration of proportionality, the soldiers would be morally permitted to pursue any of those courses of action. If the harm is simply the death of the gunman and the destruction of some property and the military gain is that peace is maintained, a belligerent is eliminated, and soldiers lives are protected, it would be hard to argue that the first course of action, though it is the most destructive, would not be permitted.¹⁰

Furthermore, even if it was likely that there were some civilians in the building, it is not clear at all that the soldiers would not be permitted to risk injuring or killing them. Unless the building was clearly marked «Hospital» or was obviously occupied by a number of civilians, any civilians inside would not enjoy any protection from the Law of War. Given that several soldiers' lives could potentially be saved and given the added gain of eliminating the belligerent, the balance would tip in favor of permitting course of action one.

The choice is further complicated by the fact that the mission (maintaining the peace) depended to a large degree on how the people regarded the peacekeeping force. They could not appear too reluctant to use force, but neither could they

⁹ I do not wish to suggest that there may not have been other options. However, whatever other options there may have been, they would have fallen along the same spectrum created by the tension between due care and due risk.

¹⁰ Richard Holbrooke, *To End a War* (New York: The Modern Library, 1999) p 69 & 72. Michael Walzer: *Just and Unjust Wars* (HarperCollins, 1992) p 157.

afford to apply force too strongly – that would alienate subgroups and make their job more difficult and dangerous. In fact, it was the failure to properly balance this tension that led to the failure of the UN mission in Bosnia, which precipitated NATO's involvement. This, of course, made the application of proportionality particularly problematic because it allowed for a wide range of actions that could be justified because it is difficult to know, especially in wartime, what the actual consequences of any action could be. Moral Considerations: However, as I have argued before, legal considerations are not the only things that the soldiers must consider. They must also take into account moral considerations, which in this case are more restrictive. In addition to the condition of proportionality I have already discussed, double effect also holds that the bad effect must be unintended. In this case, the soldiers may plausibly argue they only wanted to eliminate the threat the gunman posed to them and to the peace. That others might be harmed would certainly be unintended, especially since the soldiers did not intend to be shot at.¹¹

Double effect also holds that the bad effect must not be a direct means to the good effect. In this case, even with course of action one, the soldiers are not destroying the building to stop the gunman nor are they putting civilians at risk as a means to stop the gunman. Thus, this condition would also hold.

Finally, soldiers must act to minimize the foreseeable bad effects, even if it means accepting an increased risk to themselves. This is the most restrictive element of this doctrine and may make it hard to justify course of action one. But even this condition has limits. Soldiers are not required to take risks that may lead to them not being able to accomplish the mission at hand or make it likely they will not retain enough fighting capacity to continue to accomplish additional missions. One way of course to resolve the tension of due care and due risk is to adopt a course of action where one assumes no risk and does no harm. Soldiers could always refuse to apply force when the possibility of civilian casualties exists and when any other course of action would place additional risk on the soldiers themselves. This would often be, however, at the expense of mission accomplishment. Thus such a refusal would be tantamount to refusing to accomplish a mission, and this is a course of action seldom available to the soldier. It is a legitimate question in the context of this scenario whether accepting

¹¹ The distinctions I am making do not map neatly onto US Army doctrine. This doctrine divides peace operations into three kinds: diplomacy, peacekeeping, and peace enforcing. Each of these kinds of operations may be conducted in the absence or presence of peace, though peacekeeping operations are always conducted in the presence of some general agreement by the belligerent parties to cease hostilities. The debate in this case centered around whether or not this was doctrinally a peace enforcing or peacekeeping mission. Cfr Fastabend, p 75.

no risk and doing no harm was, in fact, the best means to accomplish the mission. Perhaps this is in fact the case. Nonetheless, this would only be a permissible option if this were the case. What is the case is that soldiers are not permitted to resolve the tension by walking away from it. Soldiers have a *prima facie* obligation to accomplish properly assigned missions, and thus can only be obligated, under double effect, to consider the maximum permissible force, not the minimum possible force.

Thus in this situation, the maximum amount of force permissible would balance the additional risk inherent in course of action two with considerations of mission accomplishment. Again, the fog of war makes such judgments problematic. What the soldiers could not know was if there were other gunmen or what other weapons the gunman had. It was certainly conceivable that he could have been equipped with anti-tank weapons that could have damaged the Bradley. Also, it is not clear from the example how risky an assault from their current position was. If there were inadequate cover and concealment or if they would have had to remain exposed for long periods in order to get to the gunman, it is likely that this condition would also hold.

If any one of these considerations were true—and there would be no way for the soldiers at the time to know otherwise—then choosing course of action two over course of action one would no longer be morally obligatory. So again, the application of the Just War Tradition would not preclude choosing the most damaging and lethal of the possible courses of action. Thus, the law of war and the morality of war would permit the soldiers to eliminate the gunman, even if it meant killing civilians.

Extending the Just War Tradition

Though named the Just War Tradition, the purpose of the morality of war and the laws derived from it can be more generally considered as a guide for soldiers' judgments regarding the application of force across national boundaries. As such, it is appropriate to extend it to any situation, outside national borders, in which soldiers are involved. It takes the form that it does because it is based on the presumption that such force is applied in the absence of peace and that since there is no higher authority to which belligerent parties can appeal, is necessary to create peace. However, increasingly this decade the United Nations and NATO have applied force across national boundaries, not with the purpose of establishing the peace, but with the purpose of maintaining it. Thus, it makes sense to consider what it means to apply force across national boundaries in order to maintain, rather

than create peace if we are to extend the Just War Tradition to such operations. In the example cited, the soldiers chose course of action three, the one that involved the least risk to themselves, the least harm to others, and, which some later argued, the most risk to mission accomplishment. In fact, in the aftermath of the incident, the soldiers were both criticized and praised for the decision they made. Most of the debate revolved around determining the kind of operation they were engaged in.¹²

Some argued that their purpose was to establish peace where there was none. By failing to send a clear and decisive signal to all the factions that NATO forces would impose peace, even at a cost to civilian lives if necessary, the soldiers had sent a clear signal that it was now «open season on IFOR.» Others argued that this was to maintain the peace established by the Dayton Accords. They further pointed out that killing everyone who posed a threat, no matter how minimal that threat might be, would only serve to polarize the factions against IFOR and make maintaining the peace even more difficult. Certainly, when settling the issue of «should» there is a practical dimension to this situation that soldiers should consider. What the soldiers should do in this case does depend on what will most likely facilitate mission accomplishment. A problem does arise for our soldiers, however, in that it is not clear which course of action would do this because there was no agreement on what the mission really was. It is interesting to note, however, that pragmatically speaking, right or wrong depended on an accurate understanding of what purpose the soldiers in fact served. I would like to suggest that there is a moral analog to this practical conundrum.¹³

While such ambiguity does make it difficult for soldiers to make certain practical decisions, these are not the only considerations soldiers must make. Further, just as the judging the best course of action depends on settling the issue of ends, I also want to argue that as the ends change, so do to some degree the ethical requirements of the application of force.

If we look at this situation from the analogous position of the police officer, much of the moral ambiguity is cleared up. If a sniper were firing from a building that contained civilians, we would not likely claim that the police were morally permitted to use the maximum force allowable under the principles of proportionality or doctrine of double effect. Even if a sniper were likely to kill several

¹² Ibid., p 77.

¹³ Ibid. Richard Holbrooke's analysis suggests the latter interpretation is the more appropriate and that NATO troops were there to maintain, rather than impose, peace. Holbrooke points out that «[i]n any case, we would not employ American or other NATO troops absent ironclad guarantees from all three parties concerning their safety, access, and authority... There is no peace without American involvement, but [] there is no American involvement without peace.» p 218.

people if he were allowed to remain in the building, it would still not be permissible to destroy the building, especially if by doing so innocent people were killed. Even in extreme cases, police would be obligated to try every possible course of action that precluded civilian casualties before they would be morally permitted to engage in a course of action that could potentially lead to civilian casualties. From the standpoint of the law and morality of war, this just is not the case.

This is not to say that police are prohibited from taking some risks that might place civilian lives in danger. For example, police are permitted to engage in high-speed pursuits even though such pursuits can and have resulted in accidents in which innocent bystanders have been killed. The difference is police are not permitted to engage in such pursuits, or any other activity in which they know civilians will be killed or seriously injured. But, as I have discussed above, there are many conditions under which that would be permissible for soldiers. Of course, it remains to be shown that the analogy is, in fact, appropriate. Soldiers, after all, protect the nation from external threats, while police protect it from internal ones. Soldiers traditionally fight wars; police traditionally protect the peace. It would seem unfair then to claim that moral truths from one professional ethic should then inform the other. Nonetheless, as soldiers find themselves more and more in situations where there is a peace, even though it may be a tenuous one, they would do well to reconsider some of the principles upon which they base their legal and moral judgments.¹⁴

When it is the case that there is no peace and that it must be established, it only makes sense to think of applying as much force as is permissible given the law and morality of war. This facilitates the defeat of the enemy, and defeat of the enemy facilitates the reestablishment of peace—the appropriate end of all wars. However, in peacekeeping situations the peace exists. It may be tenuous, and as the above discussion indicates, not always recognized, but it exists nonetheless.

When peace exists, people who break the peace are more like criminals than soldiers in that they destroy the security the rest of the society enjoys as a result of this state of peace. However, because those who break the peace are more like criminals, they enjoy roughly the same kinds of rights and protections that criminals generally enjoy—namely, a presumption of innocence.

To underscore this point, as well as underscore the gap between how police and military consider the application of force, consider the following example that occurred during the riots in Los Angeles in 1992:

¹⁴ John Kleinig: *The Ethics of Policing*, (Cambridge University Press, 1996) pp 118–122.

«Police officers responded to a domestic dispute, accompanied by marines. They had just gone up to the door when two shotgun birdshot rounds were fired through the door, hitting the officers. One yelled 'cover me!' to the marines, who then laid down a heavy base of fire. [] The police officer had not meant 'shoot' when he yelled 'cover me' to the marines. [He] meant [] point your weapons and be prepared to respond if necessary. However, the marines responded instantly in the precise way they had been trained, where 'cover me' means provide me with cover using firepower. Over two hundred bullets [were] fired into that house.»

¹⁵The good news is that no one was hurt. What is interesting about this example is that even if the face of mass rioting, where peace and civil authority were tenuous and not always recognized, it was still inappropriate, at least from the police point of view, for the Marines to respond the way they did. At one level, such a response was probably imprudent. At another, it was certainly immoral.¹⁶ If the morally appropriate end of the use of force is to maintain the peace, it does not make sense, especially moral sense, to breach the peace in order to preserve it. Though there was a riot in progress, the civilians in question were not directly partaking in it. Though the peace was being disrupted elsewhere, it was not being abandoned everywhere. Thus, the Marines responded to a potential breach of the peace with an actual breach of the peace. This would make them morally culpable for any further breaches of the peace their actions engendered. While rioting may represent a massive disruption of the peace, it is not the same as the destruction of the peace. This of course begs the question regarding what to do in the face of large angry mobs, who are obviously bent on disrupting, if not destroying, the peace. Can it ever be the case that police could be morally permitted to resort to deadly force first, setting aside the presumed innocence of any suspect as well as the right of innocent civilians not to be killed or severely injured? For it to be moral for police to do this, it would have to be the case that where conditions of

¹⁵ James D. Delk, *Fires & Furies: The L.A. Riots* (Palm Springs, Calif.: ETC Publications, 1995). Quoted in Christopher M. Schnaubelt «Lessons in Command and Control from the Los Angeles Riots», *Parameters*, Summer, (1997) p 1.

¹⁶ I wish to emphasize that the judgment of immorality is against the act, and not the Marines in question. They were acting in good faith in accordance with their training and their understanding of the situation. Since what I am arguing is not generally accepted at this point, it would be unreasonable to hold any particular individual responsible for not acting in accordance with it. Kleinig points out that, «the use of force represents a nonrational and nonloving response to a situation involving conflict between rational beings, it does nothing to defuse, but only serves to perpetuate, and may even magnify the violence» (p 98). This suggests that resorting to violence to preserve the peace will only serve to escalate the violence until one side has run out of the capacity to continue acting violently. Peace may eventually be restored, but only at a cost. This underscores why police should never resort to deadly force before they have attempted all other possible courses of action. It also suggests they are partially responsible for any further violence if they do. Kleinig pp116–117.

peace do not exist or are tenuous at best, it would be appropriate for police officers to adopt the law and morality of war to guide their actions. I would like to suggest, however, that this is never the case. Soldiers, when acting as soldiers fight enemies; police, when acting as police protect citizens. They may have to harm citizens in order to do so, but this can never be a first resort. Now we might think of crime as an enemy, but it is a different and probably dangerous thing for police forces to consider as enemies any members of the community they are sworn to protect. To understand the importance of this claim, it is important to understand the significance of the enemy distinction. The political philosopher Carl Schmitt labeled the enemy distinction «the utmost degree of intensity of separation.»¹⁷ Enemies represent the most intense threat there can be to the security of a community. The presence of an enemy represents the absence of peace. As such, the enemy becomes the class of persons it is permissible to kill since failure to defeat or at least contain them would mean the loss of the community, and thus the loss of peace. Since citizens, even ones suspected of committing a crime, enjoy a presumption of innocence, they do not represent the same threat that enemies do and thus do not belong to the class of persons it is permissible to kill. Only when a citizen presents him or herself as a threat to other citizens may police be permitted to use deadly force, and then only after they have tried other means to apprehend the citizen peacefully. It is certainly the case that there is room for judgment in both police and military applications of force. It may seem as though police are merely further lowering the most amount of force permissible, rather than applying the least necessary, so that they may afford protection to a larger group of people than soldiers must. However, this is not the case. There is a fundamental gap between the ranges of force permitted to soldiers acting as soldiers and police acting as police, which results from a difference in orientation regarding its application.¹⁸

The gap exists because for soldiers the application of force is oriented toward the upper limit allowable. This makes sense since soldiers, when fighting enemies, are preventing the existential negation of the community. Soldiers are permitted to kill as a first resort and are permitted to engage in courses of actions that will result in the certain death of civilians (as long as the provisions of the doctrine of double effect hold) because if they do not, the peace and security the community

¹⁷ Carl Schmitt: *The Concept of the Political* trans. George Schwab (Chicago: The University of Chicago Press, 1996) p 26.

¹⁸ Kleinig, p 116.

enjoys may be lost. The problem arises when soldiers import an ethic designed to deal with enemies into an environment where there are none.¹⁹

For police the application of force is oriented toward the least amount necessary. When police apply force against a suspected perpetrator they are not permitted to use deadly force as a first resort and never if it is the case that the perpetrator is not likely to harm anyone, even if he or she is likely to evade capture otherwise. Furthermore, as stated before, police are never permitted to engage in any action that, if by doing so, will certainly or even very likely result in the death or serious injury of a civilian.²⁰

Now it is the case that the rules of engagement for the mission in Bosnia included the provision, «to use only the minimum force necessary to defend yourself.»²¹ These rules also included additional provisions that restricted soldiers' authority to return deadly fire. «You may open fire against an individual who fires or aims his weapon at you, friendly forces, or persons with designated special status under your protection.» But while this certainly reduced the amount of force permissible, it did require the minimum amount of force necessary. While such rules are welcome, rules of engagement do not supersede laws of war, but only clarify them. Thus, if someone violated this rule, they may be guilty of violating an order, but they are not guilty of a war crime, or of transgressing the morality of war. Furthermore, such rules do not require soldiers to change the way they think about the application of force. They may lower the bar further, but they do not require soldiers to minimize it. There is nothing in these rules of engagement that make it immoral for soldiers, when opening fire on individuals who fire or aim their weapons at them or at others, from them engaging in a course of action that would cause harm to innocent civilians.

Therefore, though these provisions in the rules of engagement are a welcome addition, by themselves they are not enough. In order to extend the law of war and by extension the morality of war on which it is founded, we must understand that in military operations where the goal is to maintain peace, applying the least amount of force necessary must be understood as morally obligatory.

So for the military, where conditions of peace exist, soldiers, like police, must consider what is the least amount of force necessary, rather than what is the most amount of force permissible. This is because where there is no enemy, there is to some degree at least, peace. If there is a peace, it makes no sense to preserve it by

¹⁹ Fastabend, p 77.

²⁰ Mark Osiel: *Obeying Orders: Atrocity, Military Discipline, and the Law of War*, (New Brunswick: Transaction Publishers, 1999) p 100.

²¹ Department of the Army: *FM 100-5 Operations*, (US Government Printing Office), 2-1.

engaging in courses of action that breach it. Where there is peace, there may be criminals who breach it, but they do not, by themselves, destroy it. It may be true that police may harm criminals who will likely harm others, but it makes no sense to harm those others in order to prevent the criminal from doing so. To minimize the potential for harm to those others, those with the authority to use force must use the least amount possible, rather than the most amount permissible. It is not enough just to lower the bar; those with the authority to use force must, in fact, stand under it and resist any efforts to reach it.

Conclusion

It is true that in many cases it is difficult for commanders and soldiers to know if they are in a peace maintaining or peace establishing operation. The discussion regarding the actions of 3–5 CAV was not merely academic. Though labeled a peace maintaining operation, there were times and places during the initial phases of the operation where it had all the characteristics of a peace establishing operation. It is also interesting to note that operations in Somalia fell under the doctrinal distinction of «peacetime» which the Army defines as those operations that are routine actions between nations. This clearly would fall under the category of peace maintaining, though to those involved there were significant parts of the operation that were clearly peace establishing. I would agree that such epistemic difficulties make it difficult to apply the moral distinction I am recommending. However, this does not invalidate it, nor does it render it useless. Political leaders and senior commanders may label military operations in certain ways because of political concerns or limitations in the doctrinal vocabulary. But political and doctrinal distinctions do not map onto moral ones. As the nature of an operation changes on the ground, commanders can understand their moral obligations more clearly by understanding how the condition of the state of peace in the area under their control should affect their moral decision making.

Many questions and issues remain. As I have pointed out, I have not settled the epistemic issue of how a commander can know if a state of peace exists. While I think it is entirely possible to settle this issue, until it is done, it will be difficult to know if an operation is peace maintaining or peace establishing. When this distinction is uncertain, it will be difficult for soldiers to discern their moral obligations regarding civilians and their property. But what I have suggested is that answering this question will have moral as well as political significance.

Furthermore, in war soldiers are asked to risk death or serious injury, because the end to be attained is so important that justice calls for it. But one implication

of this argument is that the risk of such sacrifice may be higher in peacekeeping missions than in war fighting. This of course, raises the question: is the end to be attained in peacekeeping operations, which are by nature ambiguous, so important that it justifies an even higher risk of sacrifice than in war?

In addition, as the police–Marine incident suggests, the actions that soldiers are trained to take in war–fighting missions may be inappropriate in peacekeeping missions. They have to do the right thing very quickly, without much time for moral–philosophical reflection. This means that training soldiers to do the right thing becomes more difficult. Should we train to fight wars, to keep peace, or both? Is it realistic to think that we can teach soldiers to do both? Do we increase the risk that they will be injured or killed in either type of mission by training them for both? Should we have special military units for peacekeeping missions, or would that be wasteful duplication? It is beyond the scope of this paper to attempt an answer to these questions, though the argument does suggest that it is important to do so.

What I have suggested is that as a region transitions from a state of nature to a state of peace, what it means to apply force morally also changes. This means when such a distinction can be made, soldiers are afforded a powerful conceptual tool for resolving the inherent conflict between the due care they owe civilians and the due risk they are obligated to take to achieve their objectives. By understanding the limits on necessity as applying the least amount of force possible rather than the most permissible under the principal of proportionality and the doctrine of double effect, soldiers avoid the contradictory and self–defeating practice of destroying the peace in order to preserve it.

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Thoughts on Individual ethics and Rules of Engagement

BY MAJOR PALLE YDSTEBØ

This essay is to look upon the connection between the personal ethics of the individual soldiers, and how soldiers are expected to behave in a «hostile environment», be it combat or peace–support operations. The background for this approach is the obvious gap between the ethics that was prominent in society where the formal conventions known as «the laws of war» was written, and today’s fragmented, relativistic and post–modern world.

In the Easter issue of the Norwegian newspaper «Dagens Næringsliv» a few years ago, the editor had an article discussing Norwegian policy on refugees. He then referred to an episode during the final days of the Third Reich. A young SS–officer tried to explain to an elderly Wehrmacht general that whatever he’d done, he was just obeying orders. Then General Freiherr von Puttkammer replied by quoting the Prussian king Frederick the Great: «The King of Prussia has first and foremost made you an officer, because you shall know the necessity of not obeying an order!»

Background

Formal International laws regarding war came to existence in modern Europe during the 30–years war. There had always been some kind of rules, spoken or not, written or just a code of conduct, that was regulating how to wage war. There had also been violations on these rules, and there was a gradual development of them. The Dutch lawyer Hugo Grotius’ «Law of War and Peace», published in 1625 is the predecessor of today’s conventions and thinking regarding this subject. In this writings, Grotius draws upon ancient thinking and the Roman principle of «natural law», in addition to the Christian thinking of the time. Grotius puts the individual state as an actor with legal responsibilities, it’s no longer just individuals that are to be guided by formal laws, the state is also required to respond to these

agreed upon laws. Grotius recognize war as a «legitimate» state of affairs between states, but bring forward a distinction between just and unjust wars, between warring parties and neutral states and also regarding civilians on the battlefield.

The Geneva-conventions and the International Committee of the Red Cross (ICRC) came as results of the limited modern wars in Europe in the mid 18-hundreds. As warfare developed, new agreements have arrived, regulating or prohibiting ways of waging wars. The ban on biological and chemical weapons being one example. Agreements recognizing guerrilla-soldiers, as being legal combatants, is another.

The ideas behind the coming of these regulations on warfare are found in the Christian teaching on love for neighbours and enemies, as well in secular ethics, which are teaching very much the same standards, but with different base arguments. With the general rise in literacy and welfare among ordinary people during the first half of the 19.th century, there was a growing sense among ordinary people that these ethics must have also apply to society, not just the individual. This was also a parallel to the rise of liberal democracy in Western Europe, nationalism as the basis for society and states etc. Different kinds of thinking on organising nations and government in order to produce justice and social welfare surfaced. In general, that ordinary man found ways to take part in the shaping of society. As for Christians; that the Lord's teaching must have consequences outside the established Church.

Christian lay movements on foreign missions, social work, politics etc., were among the outlets of these concerns. So were movements as the ICRC and other efforts to minimise suffering in war. A direct consequence after the Crimean war and later, the Battle of Solferino was the establishment of a medical corps within a nation's army, to take care of wounded soldiers. To understand the basis and premises for the agreements and laws regulating warfare, one have to see these in the Christian context, based upon a clear understanding of Christian teaching on right and wrong. The Ten Commandments and the new testaments teaching (Jesus' and the Apostles) were seen as the foundation for the individual and societies ethical thinking and moral behaviour. These values were not to be changed by man.

The Christian teaching was already challenged in the late 19.th century, and had been so for centuries, BUT among common man, there were (still) a sense of understanding that the Bible's teaching regarding right and wrong was right and valid. I'll argue that also among non-Christians, there was a consensus that the «Christian and humanist based» ethics and moral rules guiding individuals and society was valid and not to be. The humanist base for these rules and values is of

course different from the Christian's, but the outcome is very similar. As stated in the PME–folder for the Norwegian armed forces; «the Christian and humanistic values».

The ideological basis for the 20th century dictatorships was laid in the late 18–hundreds. Not necessary the specific ideology, but when Nietzsche took the logical consequence of the ideological development, and proclaimed that God was dead, man was free to erect new gods as his fundament for right and wrong. And if man didn't erected substitutes for God, they stood up themselves. The dictators of the 20.th century couldn't have existed if there had been a «fixed point in the universe». The European «Führers», no matter what colour their banners had, needed a universe free from any absolute standard. That was the main premise for them to set their own standards. When man gave up the Biblical ethical teaching as his «fixed point in the universe», Hitler, Stalin and their followers was the logical consequence. Because the only replacement for a fixed point had to be made from man himself. Unfortunately, among other things, modern man is not fixed, neither in the universe nor in any other place.

The rest of the western world kept the «old values», while moving away from their base. People do after all have a feeling or conscience of what's right or wrong. The classical Christian and secular moral teaching gave the conscience a solid foundation to rest upon. When this foundation today is eroded and the base for the «old values» is condemned as old fashion morality; man has nothing but his conscience to guide him. The result is moral confusion, and ethics and moral solutions are sold on the global marketplace like soap and shampoo. The competing product might be just as good as the old one, and to a better price.

Varying Rules of Engagement through the centuries

In the Roman Empire terror was normally used as a weapon and everyone not suited as slaves was often killed. Operations, known today as "ethnic cleansing" were used extensively, whole people was killed or deported, Cartage and Jerusalem are classical examples. During the first crusades («Age of Chivalry»), Constantinople and Jerusalem was sacked (the people in Constantinople was Christians all right, but a deal with Venice was more profitable). In the wars in the late Middle Ages POW's were taken when they could be exchanged for money (ransom). You would then kill and plunder the rest left on the battlefield. European wars after Napoleon, up to WW I was limited in time and objectives. They were mere industrialised cabinet–wars and no one wanted any new «Napoleonic era». The Franco–Prussian war of 1870–71 was on the other side

coming out of control when the French population refused to follow their government and continued resistance. The Prussian Chief of the General Staff, von Moltke was preparing to wage war against the French civilian population in a similar way Sherman did in Georgia and the Carolinas. The Prussian chancellor, von Bismark prevented that course by a speedy negotiated peace. To him a normalisation of the international relations in Europe was more important than the military's urge for an unconditional surrender.

US Grant became known as «Unconditional Surrender» Grant after his victories at Fort Henry and Fort Donelson the winter 1861–62. After 3 years of bloody war, the conditions given to R E Lee and the Confederate Army of Virginia were very generous, so were Sherman's to Johnston a short time later. The main reason for this is found in Lincoln's ends for the war to save the Union. Therefore the terms given were to promote reconciliation, not hatred. It's also interesting to see the attitude of Gen Lee, expressed in his farewell-address to his army. «You have been good soldiers, go home and be equal good citizens» (roughly quoted).

During WW II the conduct of the western allies was very much according to international law. Among questions that are being discussed even today are the bombing of civilian population in Germany and Japan, the use of nuclear weapons and allowing the Luftwaffe to bomb Coventry in order not to compromise the allied knowledge of the German code (ULTRA). In Soviet-Union Stalin made «the Great Patriotic War» a war of survival for the Soviet-Union – and of course his own rule. The fighting on the eastern front was very severe and ruthless. The Red Army treated combatants as well as non-combatants harsh. Much of this is found in the communist ideology «preached» by political commissars, the Nazi-German attitude as well as 20 years of severe suppression of both the church and the Russian people. People and army were ruled by sheer terror.

When we look upon Nazi-Germany, we see that the fighting in Western Europe and Africa was very much according to international law. Even though commanders had to defy direct orders from Hitler, for example orders to kill Commandos taken prisoners. Violations were exceptions, mainly done by SS or other units closely related to the Nazi party.

On the eastern front and in the Balkans the picture was different. The ideological side of the war was much more visible, and not only the SS, but ordinary Wehrmacht units committed severe atrocities, both against combatants and non-combatants.

Then there was the Holocaust. Ordinary Wehrmacht units took part in this crime by providing the necessary military force needed by Hitler for his conquests, and by taking part in operations directly related to the «Endlösung». Rules of

Engagement are very much a function of how society in general want's their armed forces to conduct operations. In that case ROE are a mirror image of society's standards regarding the use of violence. The restrictions on the air-campaign during the Kosovo-war this spring, shows that the NATO countries do accept limitation of the effectiveness of military operations, in order to minimize civilian casualties and collateral damage.

The problem

The conditions under which the ordinary soldier will have to obey the agreed laws of war are very severe. It will be in the midst of battle. The soldier and the unit is fighting to achieve their objective and for they're very survival in doing so.

What kind of behaviour and actions are expected in combat? It's actions based upon reflexes, the result of a long and realistic training. These actions are drills that are almost automatic responses to a specific challenge. The drill-perspective range from the individual soldier to at least battalion task-group, for instance in a breaching-operation against heavy enemy defences.

Then, in a combat environment, what will determine a soldiers action when the Laws of war is challenged, for instance to take enemy soldiers that are willing to surrender, prisoner and not open fire? Is it the military training how to handle POW's? Is it the professional ethics taught at the academy or by the chaplain? OR, is it our backbone-reflex to the commandment «You shall not murder» that in prevents us from pulling the trigger?

I'll argue that also regarding ethical and moral dilemmas in combat, it's what's drilled that will work. Using the word «drill» relates in this context to the deep understanding of right and wrong we'll get as a child from family, Sunday school, elementary school and your society as such. This understanding becomes a reflex and will guide our actions when we are not able or have the time to think and reflect. As it is in combat. The military training in understanding and acting according to the laws of war is the last layer of the sandwich the soldiers ethic and moral behaviour is based upon. The military training on these issues is not addressed to a blank sheet of paper. Most of the human understanding of right and wrong, and the ethics guiding our actions are well in place when we join the armed forces. This deep and fundamental understanding of right end wrong and the actions will surface when situations arise, more or less influenced by military training.

Next: In his book «Moral issues in military decision making» Col. Anthony E Hartle set up tree factors that shape a country's professional military ethics (PME):

- 1) Society
- 2) Requirements of the military profession
- 3) International law

When it comes to the actual conduct of the individual soldier in battle or in any «operation other than war», it is still the backbone–reflex that will guide our actions.

What then, if a soldier comes from a part of society where he hasn't been «drilled» in the Christian–humanist ethics which are the ethics that are the foundation for international laws? According to orders he is expected to behave according to International law and the PME. But will military orders or training be able to overrule man's moral backbone–reflex when he is challenged in the heat of battle? Even highly trained SS–personnel had to be relieved from the death–squadrons because of moral scruples, and one of the reasons for the industrialisation of Holocaust, was that even some of the killers with the «Totenkopf» on their collar, felt pity for their victims.

Societies influence on the PME is two–fold; firstly by the formal influence by stated standards to the military. Secondly there are informal ways society makes it's influence upon the military, by the values that the individual brings with them when joining the armed forces. These values will also be influenced by society during the rest of our time in the service. One might then discuss which of these two ways of influence is the most important. I think the formal one, is the most important in setting formal and written standards. The other one is the most important for the values of the individual soldier and small groups. When the gap between societies formal values (in the military stated as PME and ROE) and the individual values and ethics are widening, people tend to get confused and there will be conflict. This conflict may not surface in garrison and during training, but may become visible as violations on the formal code of conduct in stressed situations, be it combat or a peace–support operation.

The great challenge today is that there is hardly anything in our society that is generally accepted as «right» or «wrong» by everyone. The fragmentation of culture during the last decades has made its impact on society. One of the results is that everyone is «free» to define they're own understanding of right and wrong. And should anyone be stupid enough to openly choose a fixed point, the wolves are still hungry. This means that even though most of the 20.th century dictatorships today are history, still there is no secular solution to what made them possible; the use of relativism as the assumed «fixed point» for man to navigate.

Society's solution is more and more detailed laws, accompanied by more and more law enforcement. We are trying to compensate the lack ethical basis for an acceptable moral behaviour, with detailed rules guiding us. Then the obvious

question comes to light: What is the fundament of these rules? Soon we're back to where we started.

Conclution

I guess no one that have followed me this far are in any doubt regarding my own views upon these matters. The question I'm trying to address is how to cope with fixed rules (the formal agreed upon Laws of War) when society and individuals denounce any «fixed points» that will reduce attempted liberty. Still the same society and individuals are expecting their soldiers to obey a different set of fixed rules (Laws of War, ROE); while by word, picture and actions society's telling us that everything is relative! Unfortunately I don't have any answer not including Christianity as the fixed point. But I do still think that it's still a valid question.

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Feltpresttjenesten i historisk lys*

Del II**

AV OBERSTLØYTNANT (R) VIDAR VIK

1. Hva er feltpresttjeneste?

Hvem er presten?

Dokumentet ”Innstilling om feltpresttjenesten”¹ er ikke i utgangspunktet negativ til feltpresttjenesten². Når det er grunn til visse bemerkninger, så kommer det av at de mener at feltpresttjeneste er noe man kan velge bort dersom Kirken ikke finner den tjenlig. Innstillingens konklusjon, ble også brukt av Sivertsen–kommisjonens

* Den 29. juli 1999 holdt jeg et foredrag om feltpresttjenesten i forbindelse med Kirkens dag under 700-årsjubileet på Akershus festning,. Det var særlig knyttet til Akershus festning og Annen verdenskrig. Dette foredraget danner utgangspunktet for denne artikkelen. Under arbeidet med dette kåseriet ble jeg klar over hvor mangelfullt det historiske materialet om feltpresttjenesten er. Frode Lagset, i «*For Gud og fedrelandet, en undersøkelse av enkelte forhold rundt organiseringen av norsk feltpresttjeneste 1945 – 1955*», *Spesialoppgave i kirkehistorie, Teologisk fakultet, Universitetet i Oslo 1997*, viser til to samleforestillinger: «*Innstilling om feltpresttjenesten, fra en komité nedsatt av Kirkerådets utvalg for forskning og utredning, til vurdering av feltpresttjenesten*», Oslo 1975, og Pål Erling Torkildsen: «*Norsk Feltpresttjeneste*», *Spesialavhandling, Menighetsfakultetet 1981 I*. Begge har åpenbare mangler. Jeg vil i det følgende i hovedsak forholde meg til den første (i det følgende kalt: ”Innstillingen”), da den er best kjent, og i mange sammenhenger er blitt betraktet som Kirkens syn på feltpresttjenesten. På denne bakgrunn er det er to viktige tillegg til kåseriet:

Det ene er en vesentlig utvidelse av hovedavsnittet om Konge og kirke.

Det andre er en kommentar til komitéens “Vurdering av enkelte sider ved Feltprestkorpsets virksomhet”, Innstillingen s 22 ff.

** Del I av artikkelen stod i Pacem 1–2000

¹ Se note *, heretter «Innstillingen»

² Innstillingen s. 45f

utredning om forholdet mellom stat og kirke, som underlag for forslaget om å nedlegge feltpresttjenesten³. Det er også betegnende at feltpresttjenesten så sterkt oppfattes som en del av statskirkeordningen, noe jeg kommer tilbake til nedenfor. Historien viser naturligvis en rekke overtramp, teologisk og politisk, fra feltpresttjenestens side, det er jo ikke fordi det er en feltpresttjeneste. Historien har jo alt for mange eksempler på geistlige overtramp.

I forbindelse med Kosovo-krigen er fra 70-tallets debatt igjen dukket opp. Presten er koblet til systemet, og med sin tilstedeværelse regnes han som medansvarlig, også for operasjonene. Argumentene faller egentlig på sin egen urimelighet. Jeg finner det derfor på sin plass med en kort analyse av de vurderinger som gjøres i Innstillingen⁴. Jeg mener at det er en rekke forhold, som er belyst i den historiske skisse ovenfor, som gir et annet bilde av hva feltpresttjeneste er, enn det som gis i Innstillingen.

Kristen Skjeseth er en god illustrasjon på hvorfor vi trenger en feltpresttjeneste. Han var en samfunnsengasjert prest, med sine meningers mot, og en overbevist pasifist. Da landet kom i krig, meldte han seg til tjeneste ved 6. divisjon i Harstad. For ham ble det umulig å sitte trygt på sin prestegård i Vågan, mens hans soknebarn sammen med andre, gikk i krig mot fienden. Det kostet ham ikke lite, da hans pasifistiske grunnholdning var vel kjent, og han var meget klar over at mange fulgte ham med argusøyne. Han kunne meget vel ha unndratt seg, uten å bli stemplet som landssviker. Han følte det allikevel umulig å ikke melde seg som frivillig, ganske enkelt fordi han visste at de trengte prester blant de norske soldatene. Hans pasifistiske holdning ble endret under veis.

Jeg er meget klar over at forholdene var annerledes under kirken i Kosovo. Dette var en angrepshandling i NATOs regi. Jeg vet at mange av de fagmilitære, på forskjellige nivåer hadde store betenkeligheter i forhold til hovedstrategien og enkelthandlinger i krigen. Dette skulle gi en større grunn for presten til å være med. Presten er jo prest, ikke for samfunnsordninger eller militære strategier, men for mennesker.

Feltpresttjenesten og enhetskulturen

Innstillingen bruker mange ord på å påvise at Feltprestkorpsets i sin daværende form var avhengig av enhetskulturen, i den forstand at et kirkesamfunn er det dominerende. Det har skjedd mye siden den gang, særlig i forhold til Feltprestkorpsets struktur. Andelen yrkestilsatte prester er dramatisk øket. Dermed er man

³ Forslaget ble ikke fremmet for Stortinget, på grunn av fungerende feltprost Torstein Brynes direkte appell overfor forsvarsminister Rolf Hansen.

⁴ Innstillingen s. 22ff

på vei mot et langt mer profesjonelt korps. Forholdet til Den norske kirke er ikke endret vesentlig.

Det nærmeste forbildet for norsk feltpresttjeneste er utvilsomt den britiske formen, formidlet av Ingebrigt Dahle. Storbritannia regner at den moderne feltpresttjeneste ble startet vel 200 år til bakte. Jeg synes det er rimelig å bruke noen ord på å beskrive hvordan de har organisert seg i forhold til kirkesamfunnene. Jeg bruker organiseringen av feltpresttjenesten i Hæren som eksempel, fordi det er den jeg kjenner best. I Hæren må alltid Feltprosten⁵ eller hans nestkommanderende være anglikansk prest. Vedkommende vil automatisk være archdeakon direkte under Erkebiskopen av Canteburry⁶. I tillegg er det alltid en assisterende feltprost som er romersk katolikk. Tilknytningen til Church of England er på denne måten alltid sikret. Administrativt hører feltpresten under Feltprosten, eventuelt gjennom sin divisjonsprest. Feltprosten har også ansvaret for utvelgelse og tilsetning av alle feltprester. Under tjeneste i hjemlandet står den enkelte feltprest under tilsyn av nærmeste biskop/tilsynsmann i sitt eget trossamfunn. Under oversjøisk tjeneste vil kontakten til kirkelig foresatte bli formidlet av Feltprostens administrasjon. Erfaring har vist at dette behovet er lite. Kirkeparader foregår etter en liturgi som er innenfor de samme rammer som er akseptert i Church of England.

I Tyskland er den evangeliske og den romersk katolske feltpresttjeneste organisert helt separat. I Nederland er det tradisjonelt en romersk katolsk, og en protestantisk feltprest på de fleste nivåer. I det nederlandske forsvar har man i de senere år fått såkalte "humanitæroffiserer"⁷ som i flere sammenhenger erstatter feltpresten. Dette er en ordning som ikke vurderes som udelte vellykket.

USA har en helt annen organisasjon. Feltpresttjenesten står meget sterkt. Feltpresten er alltid under tilsyn fra sitt eget kirkesamfunn. Organisasjonen er primært administrativ. De har i mange år hatt rabbinere i sin tjeneste. Nå er også muslimer, buddhister og hinduer på vei inn i feltpresttjenesten. Dette er naturligvis en konsekvens av det pluralistiske samfunn. Samtidig mister også feltpresttjenesten konturene som kirkelig organisasjon. Å yte service etter anmeldt behov blir en grunntanke.

En foreløpig konklusjon av de nevnte eksempler, må være at en sterk feltpresttjeneste ikke er avhengig av enhetskulturen. I neste omgang må man ta stilling til om hvordan denne organisasjon skal være. Det er min bestemte opp-

⁵ Chaplain General British Army

⁶ For tiden er Feltprosten presbyterianer, og hans deputy er derfor *archdeakon*.

⁷ Offiserer som skal betjene avdelingene på et humanetisk grunnlag.

fatning at Forsvaret ikke ønsker en konturløs serviceorganisasjon, og jeg tror heller ikke at Kirken er tjent med det.

Kirkeparaden

Innstillingen bruker et par sider på å vurdere bønn og kirkeparade⁸. Det er særlig fire forhold som bekymrer komitéens flertall:

- 1 Det er faren for at det ikke skal foregå på kirkens premisser. Det er selvsagt et faremoment i enhver gudstjenestesammenheng. Mine 16 år som feltprest, sammenliknet med mine 18 år som menighetsprest, sier meg at fristelsen til å være servicekirke, som gir folk det de ber om, den er langt større i en sivil sammenheng enn den er i Forsvaret.
- 2 Det er også bruk av “militære faner” i kirkerommet. Det er farlig “fordi en slik praksis bidrar til å forkludre gudstjenestens kirkelige karakter og gir inntrykk av at det dreier seg om en politisk gudstjeneste”. Jeg minner om at dette er 70-tallet og spør bare: Hva med norske flagg i kirken?
- 3 Kongeønsket som avslutning på linjeandakt eller kirkeparade synes også være et problem.
- 4 Det store problem synes imidlertid å være en for liten frivillighet. Jeg skal ikke blåse opp denne debatten, men bare bemerke at av delingsfølelse er viktig i Forsvaret. Tilhørighet er viktig i et samfunn som vårt, også i høytidssammenheng. Jeg opplevde flere ganger på 60-tallet at soldater takket meg for kirkeparaden de hadde vært med på. De innrømmet at de ikke hadde hatt mot til å gå til gudstjeneste frivillig. Frykten for å bli mobbet av kameratene på kaserna var for stor. Det går press begge veier.

Når jeg tar opp spørsmålet om kirkeparader, så er det fordi jeg finner en linje bakover til den første kristne tid i Norge. Biskop Grimkjell reiste rundt Gulating og senere til de andre lagtingene og fikk vedtatt endring av den offentlige gudstjeneste. Den skulle ikke være båret av hat og blot, men de skulle bøye seg mot øst “og be til den hellige Krist om godt år og fred”. Den personlige overbevisning skortet det nok på i fylkeskirkene, og privat blot rundt omkring på gårdene foregikk helt sikkert. Det ble ikke gjort mye for å hindre det. Ved å endre den offentlige gudstjeneste satte man imidlertid i gang en prosess som bar frukter. Tanken om frivillighet for enhver pris, kan bli en parodi som stenger for en positiv utvikling. Det er ofte den svake, men spirende tro, som blir taperen.

Hva er prestens time?

Da Lord Nelson ba om prester til sine styrker, for vel 200 år siden⁹, var det to behov som sto sentralt. Det var behovet for et gudstjenesteliv, og behovet for noen

⁸ Innstillingen s. 34f

å snakke med, personlig og i grupper. Dette behovet gjaldt både sjefen og mannskapene. Feltpresttjenesten var allerede den gang økumenisk, og kanskje fordi Lord Nelson seilte mye i spanske farvann, ble presten titulert som “padre”. Allerede tidlig på 1800-tallet ble gruppesamtalene institusjonalisert under navnet “padres hour”. Disse timene var i utgangspunktet tenkt som en hjelp til å mestre kriser i en krigssituasjon. I tillegg er det kommet et sterkt innslag, særlig i rekruttperioden, av personlig utvikling i forhold til tjenesten i forsvaret. Det er i de senere år utarbeidet etikkopplegg med mye hjelpestoff. Det er i hovedsak caseorientert. Det viktigste i denne sammenheng er at “padres hour” alltid har tatt sikte på å bevisstgjøre om sin personlige i forhold til de etiske utfordringer de møter. Timene er obligatoriske for alt personell, og man er meget bevisst på at det ikke skal være hverken forkynnelse eller politisk indoktrinering.

Det var lite av prestens time i den Norske Brigade i Skottland. Det er allikevel liten tvil om hvor Ingebrigt Dahle hadde idéen fra, da han foreslo prestens time i den norske feltpresttjenesten. Prestens time ble for alvor praktisert fra 1954. Da ble planene satt i verk var Erling Ulltveit blitt feltprost. Hans ideal lå nok i retning av folkehøgskoletanken, uten at det fikk de store utslag ute ved avdelingene. Manuskriptene som analyseres av komitéen¹⁰, og alle manuskriptene for den saks skyld, er et svar på ropet fra alle de vernepliktige feltprester om hjelpestoff til timene. Feltprestkorpset sentralt, samlet inn manuskripter fra mer erfarne feltprester, og distribuerte dem. Selv holdt jeg de to timene som er analysert i Innstillingen, og flere andre timer, ca 150 ganger, på slutten av 60-tallet. Prestens time var et gjennomgangstema på flere av våre konferanser, og jeg hørte aldri noen antyde på den tiden, at manuskriptene var normative.

Epilog

To episoder

I 1991 ble våpeninspektørene i Hæren flyttet ut fra Huseby, og ble avdelingssjefer i tillegg til sin inspektørfunksjon. Ut på sommeren fikk jeg oppringning fra en av dem. “Hvorfor har jeg ikke noen prest i min stab?” – lød spørsmålet, litt bryskt. Vår samtale endte med at jeg kom opp til hans avdeling noen uker senere. Inspektøren tok sin stabssjef og meg inn på sitt kontor. Han holder et innlegg på ca 20 minutter som han avsluttet med å legge hånden på den velbrukte Bibelen på

⁹ Det er dette som regnes for starten på den moderne feltpresttjeneste i Storbritannia.

¹⁰ Innstillingen s. 37ff

skrivepulten, og si: “Det viktigste av alt er forkynnelse fra den gode boken. Er forkynnelsen rett, faller sosialsaker og alt det andre, på plass, som modne frukter!”

På ettervinteren 1995, deltok jeg som foredragsholder, på et seminar i Slovakia¹¹, med temaet: “Etikk i militært lederskap.” Ca 50 avdelingssjefer fra hele republikken var beordret til seminaret. Det var en høflig, men ikke helt god stemning gjennom hele seminaret. I den avsluttende spørreunden kom det frem, da en oberstløytnant spurte: “Er det dere kommer med så mye bedre enn det vi hadde før?” Etter noen minutters diskusjon falt det i min lodd å konkludere: “Jeg har ett fast punkt: Gud ble menneske i Jesus Kristus, det er Ham vi er satt til å presentere, ikke en ny ideologi.” Etter en kort pause, reiste sjefen for militærakademiet seg: “Jeg er oppdratt som katolikk, og utdannet som ateist. For meg er det tid til å tenke på nytt.”

En linje

Tittelen på denne artikkelen er pretensiøs. Det er to forhold som jeg vil trekke frem avslutningsvis. Feltpresttjenestens historie er blitt marginalisert. Man er klar over at feltpresten dukker opp i forskjellige sammenhenger i historien. Man har ikke bekymret seg så mye om i hvilken sammenheng de sto, derfor kunne man på 70-tallet åpne muligheten for å velge den bort. Det er ikke mulig. Feltpresttjenesten er, fordi Kirken er.

Det andre er Grimkjell, Olav Haraldssons hirdbiskop. Han hadde en metode som skapte et nytt samfunn, ikke umiddelbart, men over tid ble det ganske dramatisk. Han begynte med å endre den offentlige gudstjeneste, dernest la han grunnen for et sedskifte, basert på det vi i dag kaller menneskeverdet.

Det går en linje fra den første kristne tid i vårt land, til i dag. Det gjenstår en del arbeid for å synliggjøre denne linjen.

English Summary

“Norwegian Military Chaplaincy – Its Historical Background”.

The article identifies some historical roots of Norwegian military chaplaincy going back to the first years of the Church in Norway and exploring the relations between church and sovereignty through different periods of history in Norway. Special consideration is given to the period of WW II. Part I of the article was printed in PACEM vol 3 no 1

¹¹ Seminaret ble arrangert av ACCTS, de internasjonale kristne befalssamfunns organisasjon for studium og konferanser.

Vidar Vik, f 1937. Stabsprest (R) Adr: Skausnaret 9a, 1262 Oslo. Cand. theol 1964, Practicum 1965. Brigadeprest Brig N 1967. Res kap i Stokke 1970, Res kap i Bøler 1974. Res kap i Nordstarand 1978. Bataljonprest UNIFIL 1985–86 og 1991-92. Stabsprest FPK/Stab 1988. Garnisonsprest for Østlandet/Stabsprest i Hæren 1990 – 1997.

Etikk etter «John Wayne–prinsippet»

AV MAJOR JAN IVAR VORREN

– «Gjør rett – frykt intet». Når kan dere feltprester sette foten ned, trekke konklusjon og gi dette rådet til oss som skal lede og føre krigen?

Spørsmålet kom ganske direkte fra en oberst som har det meste av sin tjenestetid innen luftvernartilleriet en gang i høst etter at et trettitalls feltprester og andre hadde sittet sammen og diskutert krigsetikk og i særdeleshet debattert våre militærmakters virksomhet på Balkan våren og sommeren –99.

Spørsmålet var betimelig. Særlig ettersom vi som prester og etikere ofte får et prinsipielt og følgelig distansert forhold til etiske problemstillinger og våre fagmilitære kolleger samtidig etterspør en konkret og handlingsfremmende konklusjon. Mitt svar var relativt umiddelbart:–Vi kommer alltid til å diskutere hva som er rett og galt! Hvis vi ikke gjør det er vi blitt stenstøtter uten liv!! Konklusjonen min mht bruk av krigsmakt på Balkan er at det var galt å bombe men det var verre å la være. Rett i streng forstand blir det aldri. Det må vi leve med. Noen ganger kan vi ikke velge det gode – bare det minste ondet. Derfor: «Gjør rett – frykt intet»

Motivasjonen for denne artikkelen er i første instans å svare mer inngående på oberstens spørsmål. Dernest også å diskutere hvordan jeg som feltprest kan være konkret i min etiske veiledning. Hvordan vi feltprester som etikere i større grad kan tydeliggjøre våre faglige råd som våre militære sjefers rådgivere i etiske og religiøse anliggender. Og dermed drøfte en etisk handlingsmodell etter det jeg vil kalle «John Wayne–metoden» hvor man svarer etter den umiddelbare intuisjon og hvor refleksjon om rett og galt kommer i ettertid. Så vil jeg også stille spørsmål om refleksjonen bare kommer dersom rådet skulle vise seg å ha uheldige konsekvenser, eller om etisk drøfting og refleksjon er en selvfølgelig del av det totale etterarbeid etter krigshandlinger.

Jeg kjenner en betydelig motstand mot å gi raske og hastige svar når jeg får en etisk problemstilling i fanget. For etikk er jeg ikke opplært til å avgjøre raskt og

hastig. Det er tvert imot noe av metoden å bruke tid på refleksjonen for å sikre at resonnementet er gyldig. Det mer gjennomtenkte svaret på oberstens spørsmål har derfor hengt i lufta en stund. Jeg har likevel kommet til at det er nødvendig med raske og til dels hastige svar. Ganske enkelt fordi et etisk råd som kommer for sent til en viktig avgjørelse er helt verdiløst eller i beste fall etterpåkløkt. Første svar på utfordringen om å være konkret i etisk veiledning er derfor å kunne svare raskt nok.

Oberstens sitat – «gjør rett – frykt intet» – er hentet fra artilleristenes heraldikk. Et motto eller valgspråk som artilleristen bevisstgjør seg på før han går til en vanskelig handling eller skal ta en viktig beslutning. Bakgrunnen for mottoet er for undertegnede ukjent, men det forteller noe om en tradisjon for en viss etisk bevisstgjøring på hvordan man er i ferd å handle og behovet for å være sikker på å gjøre det riktige og rette (i moralsk forstand). Kanskje var det en artillerist som hadde sett konsekvensen av hva hans våpen kunne utrette som første gangen tok ordene i sin munn etter selv å ha måttet vurdere det moralske aspektet i sine krigshandlinger?

«Gjør rett – frykt intet» handler om mer enn at man ikke har noe å frykte på slagmarken dersom man bare gjør tingene riktig. Sett i et etisk perspektiv handler dette om tryggheten for at den handling man gjør ikke får unødige konsekvenser for en selv og/eller andre i et livslangt perspektiv. Men for den etiske rådgiveren (feltpresten) kommer også evighetsdimensjonen inn.

Sett fra det trosverdimeessige ståsted må enhver handling også veies ikke bare i en konsekvens-/formålsetisk perspektiv, men må også sees i forhold til den allmektige Skapers vilje. For slik å få problemet med innenfor rammen av den absolutte helhet vår tilværelse består av. Rådet rådgiveren gir blir dermed ikke den siste vurdering i forhold til handlingen men rådgiveren er selv den som blir veiet om han blir funnet for lett ...

På hvilket grunnlag fattes så de etiske resonnement?

Den grunnleggende opplæring som alt vårt militære personell gjennomgår tidlig i sin opplæringstid inneholder noen etiske grunnsetninger som all militær etikk bygger på, nemlig tanken om å velge det minste av to onder. Denne formen for konsekvensetikk gjennomsyrrer hele vår vestlige militære kultur hvor tanken om forsvar av seg selv eller den svake part er avgjørende.

Det grunnleggende spørsmål som enhver uniformskledd militærperson fra tid til annen må tenke gjennom er: Er dette som jeg nå er med på riktig? Er min(e) beslutning(er) innenfor den moralske verdirammen jeg og min samvittighet og mitt samfunn og min kultur bygger på?

Under planlegging og oppbygging av en aksjon eller krigshandling hører denne form for spørsmål med. Og herunder også det etiske resonnement med sitt tidkrevende skjema: Bestemmelse av problem, plassering av problemet innenfor sin helhetlige ramme, innsamling av relevant fakta, identifikasjon av egne normer og plassering av problemet innenfor disse normene, anvendelse av egne normer gjerne sett fra flere synsvinkler og kanskje ulike tilnæringsmåter, før man til sist kommer til en oppsummering som kanskje inneholder en konklusjon hvor man i tillegg kontrollerer ens eget gjennomførte resonnement.

I den virkelighet krigshandlinger forekommer er svært sjelden tidsfaktoren til stede for en slik kvalitetssikring av et resonnement.

Planen *skal* være etisk forsvarlig. Det vil si at man i planleggingsfasen er nødt til å ta den tid som er nødvendig for å kvalitetssikre etikken. Det understreker viktigheten av at etikeren blir brukt i staben for den militære sjef. Er planen god inneholder den en forutgående fase med etisk refleksjon hvor de faglige rådene konkretiseres i tydelige faglige råd, synliggjort i den handling den militære sjef pålegger sine undergitte å følge. Og følges plan og handling ad kan man være rimelig sikker på at man «gjør rett» og derfor har «intet å frykte».

Men erfaringer fra mang en slagmark både i historien og i vår egen tid viser at om man har lagt gode planer for hvordan man skal møte fienden og bekjempe ham på den mest adekvate måten, så endrer ethvert møte med fienden disse planene. Logisk nok fordi man ikke har styring med denne fiende men er overlatt til å gjøre kvalifiserte gjetninger om hans handlinger. Det betyr derfor at en krigsmanns viktigste egenskap i så måte er evne til å improvisere. Dette gjelder også for det etiske resonnement i en improvisert handling. Og dette stiller store krav til den som i slike situasjoner skal gi råd om hva som er riktig handling.

Kravene til kjennskap om alle forhold rundt krigshandlingen er derfor enda større i slike situasjoner enn hva som er nødvendig når man har god tid til å gjennomføre det etiske resonnementet.

Vi kommer aldri utenom den verdimeslige forankring vi har i vår kultur. Disse grunnleggende verdikildene som nedarves gjennom oppdragelse, trosmessig forankring, livssyn, skolegang osv. Vi sier gjerne at vår kulturs grunnverdier bygger på den kristne humanistiske kulturtradisjon, men vi finner like ofte at vi legger svært forskjellige valører på verdiene i denne kulturtradisjonen. Det vil være til dels stor forskjell fra individ til individ selv om vi alle stort sett kan underskrive på at grunnormene i våre liv finnes i de ti bud, det kristne nestekjærlighetsbud og humanismens plassering av mennesket i sentrum.

Men like fullt er det disse verdinormene som gjør seg gjeldende når «John Wayne-prinsippet» skal anvendes på det etiske resonnementet: Vi henter ikke de

etiske premissene fra hjernens store lager av veloverveide meninger, men fra ryggmargens øyeblikkskonklusjon om at denne handlingen er riktig nå ut fra alt jeg har lært og erfart i hele mitt liv. Og handlingen følger umiddelbart!!

Hovedspørsmålet er om dette er holdbart? Kan vi gå ut fra at våre handlinger under slike betingelser er trygge, at vi faktisk har «intet å frykte»? Jeg tror ikke at vi kan forvente det i alle situasjoner. All livserfaring bekrefter at noen ganger er handlinger gale. Og er handlingene krigshandlinger, er konsekvensene alltid fatale. Likevel er det i nettopp slike situasjoner man er tvunget til å stole på at man «gjør rett». Fordi valgmuligheten ikke er tilstede er man kun overlatt til den etiske intuisjon. Man kan si at man står overfor en valgsituasjon uten valgmuligheter fordi valgets alternativer er handling eller ikke-handling og hvor ikke-handling ikke er noen valgmulighet!! Og der intuisjonen sier «gjør» – og så gjør man det. Og det man gjør skal være «rett»! Krigshandlingers krav til riktig moralsk avgjørelse synes slik sett nærmest umulige.

Likevel: Om handlingen skulle vise seg å være gal vil den likevel ha sin verdi fordi den vil være gjenstand for evaluering og i verste fall oppgjør, og vil således gjøre nytte ved at den inngår som en del av livserfaringen.

Utfordringen er her å systematisere slik erfaring. Å gjøre etisk etterrefleksjon til en naturlig (for ikke å si obligatorisk) del av debriefingen av en krigshandling. Jeg tror dette skjer, men ikke i stort nok format og ikke systematisk.

Hovedresonnementet blir derfor at den intuitive etiske reaksjon er bestemmende for om handlingen skal gjøres eller ikke. Resonnementet følger i etterkant. Er den rett bekrefter den reaksjonens legitimitet. Er den gal inngår den som en del av premissene for neste situasjon hvor den intuitive etiske reaksjon aktiveres (les: John Wayne skyter fra hofta (og han har gjort det så mange ganger at han vet han treffer!)).

Og hovedbudskapet:

Å gjennomgå de etiske resonnement for de handlingene vi utfører i militær sammenheng er nødvendig. Det er ikke likegyldig om resonnementet kommer før eller i etterkant av handlingen. Idealet er før, men om det må skje som evaluering i etterkant så er det bedre enn ingen vurdering. Nettopp fordi verdien av erfaringen gir en bedre sjanse for at man handler riktig i neste situasjon hvor handling følger før tanke.

Slik sett kan avstanden mellom rådgiveren og brukeren av rådet bli kortet ned. Brukeren av rådet er den som skal utføre handlingen og er derfor den som til syvende og sist tar avgjørelse. Ved å kjenne fremgangsmåten for det etiske resonnement og ved å ha størst mulig kjennskap til de erfaringer andre etiske evalueringer gir, skapes en trygghet på egen avgjørelse hvor heroldens (den etiske

rådgiverens) utrop «gjør rett – frykt intet» klinger som et naturlig ekko når John Wayne i sin norske feltuniform skyter fra hofta med et ønske om at krigens onde konsekvenser skal bli minst mulig!

English Summary

«Ethics by the 'John Wayne Principle'»

Is it possible for you chaplains to simply give the advise of the old artillery motto – «Do right – fear nothing» – when when we intend to use military force? The question was raised by an airforce colonel during an ethical discussion on the Kosovo actions last year.

This article is my answer the colonel.

The question is: How can we as chaplains give crisp and clean ethical advises to our military leaders when it comes to warfare? What is the chaplain's part in the military staff? Is he the ethical adviser he should be? And secondly: How does the ethical reasoning really work when it comes to reality in war? My point is that ethical reasoning follows a method I will call the «John Wayne method». You act (shoot) first and do the reasoning (ask questions) after. Often this method works, but also often it does not! And then the consequences are fatal. Still the experience we do in life gives us mental ballast and makes us able to «do right» and «fear nothing» even if we never had the time to make a qualified ethical reasoning.

We always have to be aware of the basis we make our ethic on, both as individuals and as culture. It is not unconcerned whether the reasoning comes before or after the act. It should come first. But more important is it that there actually *is* reasoning.

If we take all this into a system of evaluation where ethical views are a natural part, I think our ethical knowledge will grow and we can be more sure to make the right decisions when we have to «shoot» ethical reasoning in the style of John Wayne.

Jan Ivar Vorren, (F 1969) Stasjonsprest Bodø hovedflystasjon. Adr: Bodø hovedflystasjon, 8002 Bodø. Cand theol (MF) 1994. Practicum (MF) 1995. Har i tidsrommet 1996–1998 tjenestegjort både som regimentsprest v/Sambandsregiment og garnisonskapelan v/Skjold garnison. Stasjonsprest v/Bodø hovedflystasjon 1999–.

Bokanmeldelser

A. J. Coates: *The Ethics of War*. Manchester University Press, Manchester/New York 1997. 314 sider.

I løpet av de siste årene har det kommet flere betydelige bøker som tar for seg den såkalte ”rettferdig krigstradisjonen”, både fra et historisk–analytisk og et mer aktuelt perspektiv. Den kalde krigens slutt har på mange måter åpnet opp for en mer nyansert diskurs omkring krigens mål og midler – en nyorientering som igjen har åpnet opp for denne tradisjonens perspektiv. Fra en situasjon hvor vekten i den etiske diskurs var knyttet ensidig opp mot terrorbalanse basert på atomvåpen, en situasjon hvor mange så for seg et valg mellom enten pasifisme eller rendyrket realpolitikk, er det igjen mulig å drøfte de vanskelige spørsmålene i hele sin bredde – en diskusjon som nå ikke bare dreier seg om hvilke stridsmidler (les atomvåpen) og militær strategi som lar seg forsvare etisk, men nå også om militærmaktens totale rasjonale og hvilke betingelser som må være tilstede for en etisk godtgjøring av et slikt rasjonale.

Det er denne nye situasjonen som er utgangspunktet for Coates bok. Den forutsetter at krig også i moderne forstand lar seg klassifisere etisk. Slikt sett står han i tradisjonen fra Michael Walzer, hvis hovedtese er at også moderne krig kan og skal la seg underkaste en etisk diskurs. Det er altså et samtidig og dermed også pluralistisk perspektiv som danner forutsetningen for prosjektet. Dette er også førende for bokens disposisjon. Coates presenterer fire tenkelige moral-filosofiske/moralpolitiske paradigmer som så drøftes i forhold til hverandre. Dette betegner det komparative aspekt ved boken.

Enda viktigere er Coates' neste steg. Han stanser ikke ved det komparative og analytiske, men søker å vise at èn av de moralfilosofiske paradigmene han har behandlet er den beste og mest adekvate innfallsvinkelen til spørsmålet om etisk diskurs når det gjelder krig og fred. I dette henseende står han også i tradisjonen til Walzer, som fremhever at tenkningen omkring disse spørsmålene ikke står i et vakuum, men er avhengige av den historiske, kulturelle og ideologiske kontekst i samfunnet. Denne konteksten finner Coates i rettferdig krigstradisjonen.

Det er denne historiske diskurs som danner det kritiske element i behandlingen av de andre tenkelige tilnærmingene til spørsmålet. På det analytiske/strukturelle plan kan det tenkes flere moralfilosofiske/moralpolitiske modeller som grunnlag for en komparativ analyse. En av de mest kjente er den modellen Martin Ceadel

utvikler i boken "Thinking about War and Morality" (1987), basert på undersøkelse av holdninger i Storbritannia i mellomkrigstiden. Denne modellen tar utgangspunkt i en linje mellom absolutt pasifisme på den ene siden og militarisme på den andre siden. I midtsegmentet mener Ceadel å kunne påvise flere posisjoner, fra det han kaller "Pacifisism" til høyre for pasifismen, via "Defencism" til "Crusading". Coates' klassifiseringer er basert på Ceadels, hvilket han også eksplisitt sier, men han omformer og reviderer dem til han står igjen med fire hovedposisjoner: pasifisme, realisme, militarisme og rettferdig krigstradisjon. I motsetning til Ceadel blir ikke disse posisjonene plassert på en entydig rett linje mellom ytterpunkter, men behandlet dels analytisk ut fra posisjonens egne premisser, dels normativt med rettferdig krigstradisjonen som paradigme.

Dette perspektivet er interessant, men er selvfølgelig også problematisk. Det deskriptive inngår som en del av det preskriptive, på en slik måte at det ikke alltid er tydelig hva som er hva. Hovedhensikten er å påvise at rettferdig krigstradisjonen både kan fungere som kritisk redskap i forståelsen av andre tenkelige posisjoner, samtidig som tradisjonens kriterier anvendes ut fra et systematisk perspektiv til å bedømme de overordnede spørsmålene om krig og fred i den moderne verden. Her kommer min andre hovedinnvending. Det systematiske og komparative utgangspunktet svekker ikke bare den analytiske behandlingen av de tre andre posisjonene, men også behandlingen av rettferdig krigstradisjonen. Denne tradisjonen forstås ikke primært ut fra en historisk og kulturell kontekst, men i et systemperspektiv. Det er rettferdig krig *teorien* – eller rettere sagt: en rettferdig krig teori – mer en rettferdig krig *tradisjonen* som er det styrende perspektiv. Det presenteres en kriterieliste som selv om historiske eksempler trekkes inn i drøftingen, først og fremst presenteres leseren som gitt. Dette er en forenkling av tradisjonens faktiske karakter som bred historisk og kulturell kontekst, mer enn som en ferdig utformet teori.

Coates pretenderer ikke å drøfte rettferdig krigstradisjonen ut fra et historisk perspektiv men fra dens komparative perspektiv. Med de begrensninger som ligger i dette utgangspunkt har han absolutt nådd sitt mål. Boken er leseverdige og meget systematisk lagt opp. Den er en meget bra innføring i disse perspektivene ved denne brede tradisjonen, og gir et godt innblikk i forholdet mellom en rettferdig krig tilnærming til spørsmålene i forhold til andre normative posisjoner. Den som er opptatt av en mer historisk–analytisk tilnærming både til rettferdig krigstradisjonen og de andre posisjonene som behandles må søke annetsteds.

Nils Terje Lunde

Robert L. Holmes: *On War and Morality Studies in Moral, Political and Legal Philosophy*. Princeton University Press Princeton New Jersey 1989. 310 sider.

Som deltager på forelesningsserien ”Krig og moral” på filosofisk institutt, NTNU i vår måtte jeg lese Robert L. Holmes’: ”On War and Morality.” Denne boken var sammen med Walzers: ”Just and Unjust Wars” hovedpensum. Med bange anelser (eller fordommer?) begynte jeg lesningen, vel vitende om det faktum at Holmes er en overbevist pasifist. Fordommene ble imidlertid raskt gjort til skamme. Sjelden har jeg lest en slik analytisk og samtidig engasjert fremstilling av det vanskelige problemkomplekset knyttet til krig og fred.

Holmes legger ikke skjul på sitt ståsted, men begynner et helt annet sted enn i deduksjon basert på pasifistiske aksiomer. Dette gjør han helt bevisst, idet han mener et slik dogmatisk utgangspunkt lett vil hindre en fruktbar diskurs omkring problemkomplekset. I stedet tar han utgangspunkt definisjoner av makt og voldsanvendelse – dvs et språkanalytisk utgangspunkt. Etter hans mening er det ikke definisjoner av termen ”makt” som er det mest adekvate innsteg for å forstå militærmakt, men termen ”vold” og voldsanvendelse. Holmes definerer så militærmakt som en ”institusjonalisert voldsanvendelse”. Selv om Holmes på dette stadium avholder seg fra eksplisitte normative definisjoner, vil mange oppfatte bruken av termen ”vold” eller ”violence” som en entydig negativ term, en term også med normative implikasjoner. Nettopp denne ”naturlige” avstandtagen til denne termen i vår kultur til denne termen bruker så Holmes som et argument for at anvendelse av vold, og enda mer institusjonalisert vold gjennom militærmakt på et rent språkanalytisk og direkte plan kan forstås som i beste fall en *prima facie* norm – dvs en handling som bedømmes som ond dersom ingen andre tilsvarende normer mer enn oppveier denne handling – i verste fall en handling som er *malum per se* – dvs ond i seg selv.

Hovedtesen er at denne institusjonaliserte voldsanvendelse inngår som en integrert del av samfunnets ideologi, men ikke som en naturgitt nødvendighet. Etter Holmes’ mening bidrar denne institusjonaliseringen til en iboende voldsdynamikk med destruktive følger. Etter denne plassering av spørsmålet går Holmes så til ulike konseptuelle uttrykk for denne tenkegangen.

Det første uttrykket han behandler er den politiske realisme som etter hans mening tar utgangspunkt i en etisk dualisme mellom det enkelte individ og kollektivet, hvor kollektivet blir forstått som maktbasert. Spesielt interessant i denne sammenhengen er hans analyse av den amerikanske teologen Reinholdt Niebuhrs kristne realisme. Hos Niebuhr blir kollektivets uttrykk forstått som en direkte følge av syndefallet – en form for teologisk interpretasjon av Hobbes’ *bellum omnium contra omnes* – alles krig mot alle, og hvor gjensidig balansert politisk og militær maktanvendelse blir forstått som det eneste adekvate middel mot kaos og gjensidig utslettelse.

Det andre konseptuelle uttrykket for den institusjonaliserte voldsanvendelse han behandler er rettferdig krig tradisjonen. I lys av etterkrigstidens terrorbalanse er denne ofte blitt angrepet for å ikke komme i rette med den moderne krigs uttrykk, konkretisert gjennom terrorbalansen og bruk av atomvåpen. Det sies at denne tradisjonen nok kunne oppfattes som relevant i tidligere tider, men er utdatert fordi det ikke lenger lar seg gjøre å forstå krig i avgrensede former. Denne kritikken deler ikke Holmes. Han mener tradisjonens hovedproblem ikke er knyttet til utviklingen av moderne krigføring, men snarere i selve utgangspunktet: voldsanvendelse. Tradisjonen tar etter hans mening for gitt at voldsanvendelse lar seg rettferdiggjøre gitt visse kriterier, og selve grunnspørsmålet: voldsanvendelse, blir ikke besvart av denne tradisjonen. I sin drøfting av tradisjonen har Holmes hovedfokus på Michael Walzers interpretasjon. Walzers bidrag er betydelig, men samtidig bare en av flere ulike moderne interpretasjoner av denne tradisjonen. En bredere behandling av tradisjonen i hele dens bredde ville etter min mening bidra til en mer nyansert kritikk av tradisjonen enn det Holmes gjør seg til talsmann for.

Det tredje konseptuelle uttrykket han behandler er den mer utilitaristiske begrunnelsen for en terrorbalanse basert på atomvåpen. Holmes bok er utgitt i 1989, og reflekterer dermed ikke de store sceneforandringer som er skjedd etter murens fall. Slikt sett oppleves Holmes drøftelse av terrorbalansens indre logikk og dens konsekvenser, noe på siden av hva som oppleves relevant og tvingende i dagens situasjon.

Hovedinntrykket en sitter igjen med etter lesning av boken er at den fremstår som et grundig og vederheftig innspill for en pasifistisk innstilling i møte med en kultur som baserer seg på institusjonalisert voldsanvendelse. Samtidig kan en ikke fri seg fra å den klassiske innvendingen mot pasifismen, en innvending som også rammer dette bidraget. Holmes tror på det gode i mennesket. Det onde, konkretisert i forståelsen av vold, plasserer han i strukturene: institusjonalisert voldsanvendelse. Holmes peker absolutt på viktige problemstillinger knyttet til vårt samfunn og vår kultur, men det svaret han gir: nedrustning kombinert med en dynamisk fredspedagogikk, synes ikke å komme i rette med de kompliserte årsaksforhold som ligger bak de utallige og forskjellige uttrykk for voldsanvendelse og maktmisbruk i vår verden.

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