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CONTENTS

MILITARY LEADERSHIP AND LEADERS[1]

Jörg Keller

> "Military leadership is an art, a creative activity based on character, ability, and mental power".

1. Introduction

In his book "Narren, Nulpen, Niedermacher" (original title: "Military Blunders"), which describes the mishaps of incompetent military commanders, Geoffrey Regan (1998: 7)[2] writes:

> "There are just as many incompetent physicians, dentists, accountants, lawyers, teachers and engineers as there are incapable military commanders. For its potential impact on society, however, military failure often has much more serious consequences. In civil aviation, a pilot might cause the death of several hundreds of people, while the decision of a general might kill tens of thousands of people."

Given that the actions taken by military commanders are highly significant, one would expect that a great deal of research would have already been done on this topic. Surprisingly, though, in Germany this is only true to a limited extent. German history papers, particularly those published by the Military History Research Institute of the Bundeswehr, deal with military commanders and (war-time) events from a purely historical perspective. There are, however, sociological[3] and psychological papers that focus on this phenomenon.

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[1] This article was originally published in the German language (Führung und Führer im Militär), published in the volume "Militärsoziologie – Eine Einführung" (2. Aufl., Wiesbaden: VS Verlag für Sozialwissenschaften, pp. 475–493, 2012), editors **Nina Leonhard** and **Ines-Jacqueline Werkner**.

[2] At the request of the author the in-text referencing style is used.

[3] In this connection, attention should be drawn to the papers published by the "Wehrsoziologische Forschungsgruppe" (Military Sociological Research Group), which, even though they are not very recent, can be considered fundamental in many respects and are also taken into account in this paper. See **Roghmann, Sodeur** 1968 and **König** 1977 on this topic.

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In contrast, the Anglo-Saxon countries offer numerous empirical papers and extensive discussions on this subject. In addition, as far as the German-speaking countries are concerned, the papers published by the ETH in Zurich, where one part of Swiss officer training is conducted[4], should not go unmentioned, either. Leadership, however, is heavily influenced by the relevant country's general and military culture, which is why these foreign research papers, unfortunately, can hardly be transposed to the German environment.

Persons looking for German texts containing the keywords "Führung" – which in the context of this article will be translated as "leadership" which can also mean "command and control" – and "Bundeswehr", will first encounter articles about the most recent scandals, in addition to various reports issued by the Parliamentary Commissioner of the Armed Forces. They will, however, subsequently encounter information associated with the concept of "Innere Führung" (Internal Leadership and Civic Education). This term describes a reform concept that was developed by a small group of officers around Wolf Graf von Baudissin in the 1950s, when the Bundeswehr was established.[5] The objective of this concept was to integrate the armed forces into the young democracy of the Federal Republic of Germany, wherein the civic rights of the force's personnel were to remain as unaffected as possible during military service. Later, the concept became more formalized and was published in the form of Joint Service Regulation ZDV 10/1 "Innere Führung", and then further developed into multiple new versions. Although the buzzword "Innere Führung" is associated with a large amount of both oral and written information about leadership and command and control, and although "Innere Führung" is frequently even referred to as the Bundeswehr's leadership concept, it should rather be considered the Bundeswehr's organisational philosophy. "Innere Führung" thus describes the Bundeswehr's (corporate) principles but does not deal with the immediate practical challenges that are faced by military leadership. Instead, it is centred on general leadership norms, and makes no mention of military skills at all.

Someone who further wishes to widen their search for publications on leadership and Bundeswehr on this subject will find a kind of advice booklet on military leadership, small editions of which are available at specific

[4] See particularly the studies published by the military academy at the ETH in Zurich, e.g. **Steiger** 2009.

[5] See, among other sources, **Schlaffer** 2007, **Dörfler-Dierken** 2006 and the article "Zivil-militärische Beziehungen" by **vom Hagen**, also contained in this book (**Leonhard, Werkner** 2012).

publishers (e.g. Oestmann 2006). Empirical research findings on Bundeswehr leadership, however, are very rare[6] and mostly obsolete, and theoretical, scientifically justified papers on this topic have not been published at all.

Nevertheless, in order to shed some light on the field of leadership and the military, and the German Bundeswehr in particular, this text will begin with a general description of the phenomenon of leadership (Chapter 2), beginning with a basic outline of leadership from an organisational point of view (Chapter 2.1). Then subsequently, some basic problems related to the analysis of leadership will be revealed (Chapter 2.2) before the structural particularities of military leadership are illustrated (Chapter 2.3). The second section of this paper (Chapter 3) will deal with leadership in the Bundeswehr. As the Bundeswehr is a governmental entity of the Federal Republic of Germany, it is also subject to legal provisions. Therefore, the legal standards that apply to leadership in Germany will need to be highlighted (Chapter 3.1), while the chapter that follows will examine how leadership is regarded within the Bundeswehr itself (Chapter 3.2). Finally, this paper will conclude with a presentation of some theoretical approaches that appear to be particularly promising insofar as an analysis of military leadership is concerned (Chapter 4).

2. Military Leadership from a Theoretical Point of View

2.1. What is Leadership from an Organisational Point of View?

It is widely accepted that armed forces, such as the Bundeswehr, are organisations. In this anthology, different aspects of the organisational character of armed forces are described very thoroughly by Elbe and Richter in the chapter "Militär: Institution and Organisation". As far as the analysis posited by this article is concerned, however, we consider the definition of Kaiser and Walgenbach (2003) to be an adequate starting point. They describe organisations as "*social entities that*

- *permanently pursue a specific goal,*
- *have a formal structure which helps to focus the activities of the members on the goal pursued"* [italics in the original, JK] (*loc. cit*. p. 6).

[6] In this connection, attention shall be drawn to some older research reports / working papers published by the Bundeswehr Institute of Social Sciences, each of which addresses specific aspects of leadership (**Kuhlmann** 1979, 1986, 1988).

Analysing the German term Führung at a general linguistic level reveals that it means a "general controlling and directing action". It becomes immediately clear that Führung (in the following translated as "leadership", see above) and organisation are directly intertwined with each other, due to the fact that the activities of any member of an organization can only be focused towards an organisation's goal through the control and direction of their action. With this in mind, Staehle (1999: 328) defines leading as follows:

> "exerting influence on the attitudes and behaviour of individual persons, and on the interactions within and between groups, in order to achieve certain goals. Leadership as a function is a role that is performed by different group members to a different extent."

Thus, Staehle defines leadership only as the direct, personal exertion of influence (*ibid.*), which merely represents one part of the directing and controlling action utilized by organisations and is mostly justified by the introduction of a hierarchy. In a broader sense, leadership in organisations can be interpreted as configuration and co-ordination (Kieser, Walgenbach 2003: 101–145). In this case, the term comprises both the organisation's set-up based on its different components (configuration) and the interaction (coordination) of these components. When interpreted in this way, leadership includes the process of designing a formal structure on the one hand, and the process of designing and controlling the relationships between the various elements and people on the other. This wider concept of leadership in organisations is also taken up by Rosenstiel (2002: 207–209), who explains the different aspects of leadership.

- *Corporate leadership* (also: management): this term is defined as including the selection of the legal form, the strategy, the markets to be tapped into, the alliances to be formed, the mission statements, and the written and unwritten laws etc.
- *Leadership substitutes*: based on the concept of a bureaucratic organisation developed by Weber (2009 [1922]), leadership substitutes are rules and regulations that have replaced the concrete personal will to lead. Leadership substitutes can be job descriptions, standardized process flows, incentive systems, or technical conditions like the speed of conveyor belts or the timing of robots, all of which direct the behaviour of the organisation's members without the superior interfering directly.
- *Personal exertion of influence*: "At a higher management level and within the context of existing or developing leadership substitutes, certain persons of an organisation use means of communication to deliberately and specifically influence other persons of the same organisation. In contrast,

> leadership is usually considered the process of a hierarchic superior deliberately and specifically exerting influence on a person subordinate to him/her." (*ibid.*: 208)

This concept of leadership is based on an instrumental-rational, rather than a mechanistic idea, which assumes that human beings are able to perceive and form their environment in a rational manner. This notion is questioned by other scientific perspectives. The behavioural scientific decision theory, which was particularly promoted by Simon *et al.* (cf. Kieser, Walgenbach 2003: 40–43), for instance, assumes the limited rationality of the individual, whose information processing capacity is not sufficient to allow him/her to realise the complexity of the environment.

Constructivist theories even assume that, through communication and interaction, human beings create a social reality that appears as an objective reality to them or their descendants (cf. *ibid.*: 59). The form of leadership described above thus can only be conceived within a certain theoretical context, which assumes that human beings are able to think and act rationally and by extension, autonomously shape their environment.

2.2. Basic Problems of Leadership

In addition to the problem of rationality as outlined in the previous paragraph, leadership is influenced by another fundamental and problematic aspect, i.e. the measurement of the effectiveness of leadership. If leadership means influencing an organisation and its members to reach a specific objective, it must be possible to measure leadership in terms of the degree to which an objective has been achieved. Even though this sounds simple and plausible at first, on closer examination this process turns out to be extremely difficult. Initially, we have described organisations as "social structures". However, the use of the term "social", automatically characterises them as complex structures, as well. Complexity, however, means that the acting factors are no longer related to the human mind. "In most cases, success (of leadership) is reflected by indicators that can be determined based on the leader's personality, the behaviour or attitudes of the persons led by him/her, or the results of the organisational processes" (Rosenstiel 2002: 223). That means that, for one thing, it is difficult to actually determine the success of leadership and, for another thing, a certain effect can never be definitely attributed to one specific form of leadership. The hierarchic superior issues an order to his/her subordinates and notices a certain effect. It is, however, not clear whether

this effect is in fact a consequence of the order given or whether it can be attributed to other factors.

The attribution theory of leadership (Schettgen 1991) examines these phenomena in greater detail. In most cases, the success or failure of an organisation or an organisational element is attributed to the leader (failures are more frequently attributed to the persons being led). These attributions, which appear to be evident if considered in a pre-scientific manner, were further developed to form personality theories of leadership. The studies associated with these theories involved the search for personality traits of leaders (trait approach) that correlate with successful leadership – in whatever way the success was actually measured. These examinations resulted in the Great Man Theories, which enumerated the most diverse personality traits that make a leader a Great Man. An examination conducted over twelve editions of the journal "Personnel Psychology" in the early 1970s saw Lent *et al.* (1971: 519–533) find a total of 1500 personality traits that were supposed to be related to successful leadership. At an earlier point in time, Hofstätter (1957: 141) had already made the following resigning statement concerning this topic:

> "Sometimes the leader is older than his subordinates; sometimes he is younger. Some leaders are particularly robust and healthy, boasting something which is mysteriously called vital energy, while other accepted leaders are frail, epileptics, cripples or morphine addicts. The same can be said for the leader's intelligence and level of knowledge. Not even eloquence is required, as many celebrities suffer from speech defects [Italics in the original, J. K]."

Despite the heavy doubts that these findings cast on the personality theories, they continue to be commonly used in organisations. In the selection of personnel and the evaluation of leaders, in particular, they have played an important role until the present day – even in the Bundeswehr. This is also shown by the relevant practice-oriented advice literature addressing the topic of leader development.

A fundamentally different approach to the phenomenon of leadership is taken by Malik (1996). In contrast to the above-presented mechanistic concept of organisation (which he calls "constructivist"[7]), his concept is based on the notion that organisations and their environment correlate in a complex

[7] Unlike the social-constructivist theories cited above, Malik uses the term "constructivist" with a rather *technical-mechanical* meaning.

manner. Against this backdrop, he has developed a "systemic-evolutionary" approach:

> "The premises of the constructivist type of the management theory almost inevitably lead to the notion that systems are principally and largely controllable. The premises of the systemic-evolutionary approach destroy these hopes. They define that only one form of control, which can be called "soft" or "fuzzy" control, may be expected" (*ibid*.: 70).

In his opinion, this results in a distinct reduction and more modest appraisal of a leader's contribution. In fact, even those persons who base their actions as superiors on mechanistic assumptions concerning the importance of leadership, but pay attention to their environment and are perceptive, are bound to notice how small the direct impact of their actions actually is during the daily routine of their organisation.

2.3. What are the Structural Particularities of Leadership in the Military?

2.3.1. Hierarchy and Levels of Command

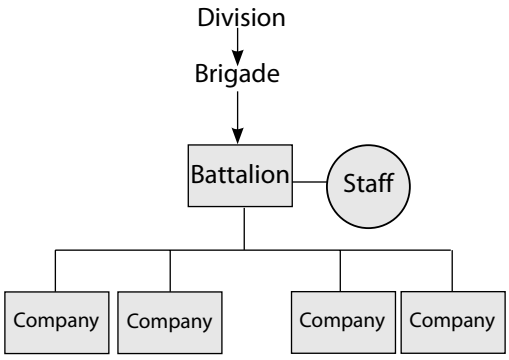

Figure 1. Single-Line Staff System

Persons approaching the phenomenon of military leadership[8] first have to analyse where military leadership differs from leadership in other organisations:

[8] In this connection, it must be noted that the following presentation of military leadership will be ideal type, model type and thus shortened. Some military organisational elements, particularly the elements of the Air Force and the Navy or major authorities, can strongly differ from the elements outlined here.

> "The specific characteristic of the military, i.e. the threat and organised use of force to achieve political goals, distinguishes it from all other organisations, even though a large number of factors increase its similarity to major civilian organisations." (Ziegler 1968: 14)

The intention of a threat or the use of force is to hold or gain the upper hand over an opponent. As a prerequisite, the forces which can be deployed by a military organisation have to be focused in such a manner (in terms of space and time) that they will render the organisation superior. Consequently, it is imperative that the organization be capable of directing, or threatening to direct, the maximum force possible at a vital point at the right time. This requirement has led to the development of a configuration which is highly typical of the military – the single-line system, which most strongly reflects the principle of the unity of ordering (Kieser, Walgenbach 2003: 137–141). Each organisational element has only one superior element entitled to issue orders. This is the reason for the distinct hierarchy, which is considered a typical feature of all military organisations.[9] The advantage of the unity of ordering offered by this type of organisation, though, is offset by the high information processing load placed on the superior. In the diagram shown above (Figure 1), all information passes the battalion commander, who, consequently, in a way becomes the information flow bottleneck. By providing a staff, the military tries to decrease this load and, as a result, to increase the information capacity at battalion command level.

The hierarchic order of the elements displayed is also called the "level of command". In our diagram, the battalion level is the central level, with the company level below it. Even further below, but not shown in the diagram, are the platoon, squad and team levels. Above the battalion, there is the brigade, division, etc., up to the supreme commander. In times of peace, the Bundeswehr supreme commander is the Minister of Defence, but while in a state of defence this role is performed by the Federal Chancellor. Military levels of command are also distinguished in terms of other aspects, i.e. strategic, which include the operational and the tactical levels of command. The former designates the interface between politics and the military, where political decisions are concretely translated into militarily feasible options. The operational level, which is the middle level, refers to that area in which military actions form one overall context – the military operation. The tactical level, being the lowest level, is where the actual, individual, or "hot" combat

[9] Also see this book's (**Leonhard, Werkner** 2012) article "Militärische Kultur", written by **vom Hagen** & **Tomforde**.

action takes place. At each level, leadership is logically based on other conditions and becomes ever more bureaucratic and impersonal from the bottom to the top.

Roghmann and Sodeur (1968: 222) point out another difference from civilian organisations:

> "The duty of the military superior is characterized by issuing orders and leading people, not by administrating or supervising. The latter may include the former but at the same time goes beyond it. In the single-line system, military superiors have clearly more far-reaching powers and authorities than their counterparts in civilian organisations. Non-compliance with an order, for instance, is considered disobedience and will at least result in a disciplinary action being taken (if it has serious consequences, it will even be considered a military offence and legal measures will be taken). The integration into a strict hierarchy, the superior's extensive authority, which reaches as far as the subordinate's leisure time and personal life, and the high degree of control make the military resemble what Erving Goffman (1957) referred to as a "total institution".[10]

2.3.2. War and Peace

Another particularity of military leadership shall be shown by returning to the simple mechanistic model of organisation and choosing a definition from this conceptual realm – although with a slightly different point of view. Hill *et al*. (1981: 17) states that organisation is "the sum of all measures that are taken to achieve purposes and objectives […] and serve to

- structure a social system, and
- order the activities of the people that are part of this system, the employment of means and the processing of information."

The term "system" is the key to providing the essential difference to previous definitions, as this term integrates the definition into the thought structure of the system theory. Within this structure, (open) systems are embedded in a system environment and interact with it. Consequently, the environment has an impact on the system. As the military operates in two entirely different system environments – peace and war –, this theory is of great importance to understanding it. In times of peace, the military environment is a relatively stable, reliable value, which provides that the military's organisational objective is the "systematic training of a large number of people for their

[10] See the article "Military Socialisation", written by **Apelt** in **Leonhard, Werkner** 2012.

assignment in a contingency situation" (König 1968b: 11). In this scenario, the armed forces act as a major training organisation that closely resembles the bureaucracy model developed by Weber (2009 [1922]; also cf. Kieser, Ebers 2006: 63–92). It functions in accordance with a particular standardized order, i.e. laws, rules and regulations; legal domination (Weber 2009 [1922]: 126) is the prevailing type of leadership. Legal domination allows for leadership to be largely replaced by the leadership substitutes described above; personal leadership in a stricter sense is primarily limited to the lowest organisational elements. A situation of contingency, i.e. operations involving the use of armed force, sees a totally different model of leadership. Depending on the conflict's intensity, the organisation's environment can become increasingly chaotic, and leadership complies less and less with the pre-defined bureaucracy model. This, however, does not apply to all parts of the organisation to the same extent, as the environment that is actually chaotic only has an impact on the organisation's lowest elements, which is where the fight with the enemy using armed force takes place. The further the organisational elements are from this side of the conflict, the more stable remains their organisational environment – despite all crises and difficulties that have to be overcome at these levels. The chaotic environment itself sees the personal style of leadership with ad-hoc decisions prevailing. This context, it appears, requires a different type of leader, who is more likely to fulfil the requirements of charismatic domination developed by Weber (2009 [1922]: 140–148). Roghmann and Sodeur (1968: 224) have already pointed out that the domination exercised by military leaders "can be based on such different aspects like the tradition, the charisma or the rational bureaucracy in the particular social situation of the total institution".

2.3.3. Controlling Chaos

The organisational purpose of the military is the co-ordinated use of, or threat of force, as dictated by politics, which takes place in a potentially chaotic environment i.e. the theatre of war. This results in a challenge for leaders, which does not exist during peace-time operations but does apply to the battlefield, where the military has to ensure that the organisation is coordinated even under chaotic conditions and the actions of the organisational members continue to be focused on gaining superiority. The first and most important measure taken for this objective to be reached is the establishment of a strong hierarchic structure, which serves to "co-ordinate the individual elements with regard to the common objective" (Roghmann, Ziegler

1977). This coordination is based on a chain of intermeshing decisions made at the strategic, operational and tactical levels. Subordinate levels must always accord with the decisions made at the superior level. Consequently, the decision and, thus, the will of the superior level of command directly determines the actions taken by subordinate elements. This phenomenon explains both the strict and categorical necessity of obedience and the strong degree of military supervision and control, which can involve disciplinary action if required. All over the world, the significance of hierarchically structured decision situations is well reflected by the training of military leaders. Exercises are the most basic form of a training situation. A simple decision situation can take the form of a small map-based indoor-exercise; or it can also encompass highly complex simulations involving large forces and major equipment, also called large-scale exercises involving full-strength units. The main purpose of these exercises, though, is always to train decision processes, during which the leaders are supported by their staffs. The will of the superordinate command is to be implemented with a high degree of effectiveness at the subordinate military level of action. As described by Roghmann and Sodeur (1968: 222), the above-mentioned difference between civilian and military leadership – the duty of the military superior primarily consists of ordering and leading, and reaches beyond administrating or supervising – also refers to this process. In both the Bundeswehr and other armed forces, these decision processes are governed by written regulations, the command and control regulations[11], which will be addressed again further below.

Due to its complexity, the chaos of the battlefield does not allow for any prediction or pre-calculation as to what will happen and how the will of the superior command can actually be implemented. Furthermore, the introduction of ever more complicated weapon systems has led to combat situations becoming increasingly complex (Roghmann, Ziegler 1977: 161). With this in mind, the military has developed two entirely different strategies of action. One strategy is to organise and concentrate large masses that – not unlike steamrollers – will overrun the opponent in waves. The other strategy consists in permitting the subordinate elements some latitude in their decisions and actions in order to enable them to adapt to the situation as it unfolds amid the chaos and, thus, to respond appropriately. The first strategy sees the superior command issuing orders to develop a detailed "script", which has to be meticulously followed by the subordinate elements. This method

[11] In the Bundeswehr, a large number of this type of regulations has been made available to the Army in the form of the Army Regulations of the 100/– Series.

is usually called order-type tactics and was the basic action pattern of the Warsaw Pact[12]. The second, more flexible procedure, which involves "setting subordinate elements a specific objective, while giving them a free hand in selecting the means", is called mission-type tactics (see Oetting 1993 and Leistenschneider for more detailed descriptions). While the German military claims to have developed this type of leadership in the 19th century and the Bundeswehr considers mission-type tactics to be one of its trademarks, there are doubts on whether this "liberal" strategy could actually prevail in a hierarchic organisation.

3. Leadership in the Bundeswehr

3.1. What Legal Standards Apply to Leadership and Obedience?

Previous sections of this article have compared the military to a total organisation as defined by Goffman. Therefore, now the question arises as to whether the Bundeswehr in the constitutional Federal Republic of Germany is based on these totalitarian principles and whether the superiors' claim to leadership and domination over their subordinates is really that extensive. As can be assumed by the reference to the constitutional character of the Federal Republic of Germany, issuing and obeying orders in the Bundeswehr is subject to legal standards, with exactly defined limits set to the process involved. The Soldatengesetz (Military Personnel Act), for example, states the following:

> "Superiors are those personnel who are authorized to issue orders to other military personnel. They are appointed by a statutory regulation on the basis of their position, rank, a special directive, or their own declaration."

Thus, a statutory regulation, the Vorgesetztenverordnung (ministerial directive governing superior-subordinate relations) clearly and precisely defines who is a superior and, as a result, who is authorized to issue orders (BMVg 1956). This directive defines a total of six different types of superiors with varying, precisely delineated grades of authority that are closely geared to meeting the actual service requirements. Direct superiors have the most far-reaching powers and authorities:

[12] See, amongst other things, the USSR Field Service Regulation, which can be accessed in relevant Bundeswehr libraries such as those of the Military History Research Institute and the Führungsakademie in Hamburg.

> "Personnel who command a military unit, from regiment/battalion level down to lower than company level, or head a military agency have the general authority to give orders to any personnel subordinate to him/her both on and off duty." (BMVg 1956: I, Art. I)

The authority defined by this legal rule seems to be unrestricted at first. Two sections of the Military Personnel Act, however, define appropriate limits. Section 10, which specifies a superior's duties, states that superiors may only "issue orders that serve an official purpose and comply with international law, national law and service regulations." The second limit, which is more specifically applicable to subordinate personnel, is defined by Section 11, which governs the duty of obedience:

> "Soldiers must obey their superiors. They must make every possible effort to follow their orders fully, conscientiously and promptly. lt is not deemed disobedience to ignore an order which violates human dignity or is not given for service-related purposes."

The Act further states: "An order must be ignored if following it would constitute a criminal offence." Despite these clear guidelines, the fact remains that the authority and influence of superiors in the military, particularly direct superiors, are considerably more far-reaching than the powers of those of superiors in civilian organisations.

3.2. How is Leadership and Obedience Viewed in the Bundeswehr Itself?

Like all organisations, the armed forces have an array of oral and written statements, which not only have a concrete and evident meaning, but also possess a programmatic dimension focused on self-understanding. As a consequence, every organisation "develops ideologies and cultural discourses that indicate the values any action should be based on as well as the objectives that have to be achieved." (Bonazzi, Tacke 2008: 321) In the military, these ideologies and discourses can be found in regulations, specialist literature, and, outside Germany, in military magazines, where leadership and military leaders are very highly regarded. In the following, some examples will be given to show how leadership and leaders are characterised in the command regulations of the German Army and how they are described as they should ideally be (for more details, see Keller 2000).

According to these regulations, military command is first and foremost: "an art, a creative activity based on character, ability, and mental power. Its tenets cannot be described exhaustively. It is neither compatible with formulas nor with rigid regulations, but every military leader has to be guided by clear principles." (BMVg 2007: No. 1003) The regulations, thus, declare the leader to be an artist of character. Interestingly, a similar passage was presented much more soberly in the Reichswehr regulation of 1933/1934, which states: "Warfare is an art, a scientifically based, free and creative activity. It places the most enormous demands on the personality." (Der Chef der Heeresleitung 1933: No. 1) The Bundeswehr has replaced the scientific foundation of leadership with the personality of the leader to accord with the above presented trait approach, which seeks to identify the Great Man and successful leader on the basis of personality traits. An entire chapter of the current regulation, entitled "Soldatisches Führen" (Military Leadership), also follows this logic as it describes the leader's personality by means of an extensive catalogue of virtues:

> "The personality of military leaders, combined with the espirit de corps, is critical for success. Their exemplary attitudes, abilities and performance shape the units subordinate to them." (BMVg 2007: No. 3013)

The regulation continues by saying that

> "military missions, especially combat missions, push people to the limits of mental and physical endurance. That is why during actual missions character traits are often more relevant than intellectual capabilities; many persons, who had previously been in the back seat, step to the fore during military missions." (*ibid*.: No. 3001)

Later the regulation says:

> "Trust is gained by leading with heart and mind. Trust between leaders and the personnel they lead is the prerequisite for any success and the basis for cohesion in danger and distress. Leaders gain the loyalty of the personnel entrusted to them by being both dominant and moderate, just and patient, by taking care of their subordinates and placing their trust in them, and by always staying authentic and faithful to themselves." *(ibid*.: No. 3018)

And: "Military personnel want to see, hear and feel the presence of their leaders – particularly their direct superiors." (*ibid*.: No. 3020)

The general points made about military leaders in this regulation primarily seem to refer to the battlefield, where personal leadership is a critical aspect

of the commanders of the lowest hierarchic levels. However, when taking a closer look at the regulation's statements on provisions and procedures, it quickly makes one realize that they were written with other, higher levels of command in mind – those levels at which leadership tends to be determined by leadership substitutes, process flows and incentive systems. As a consequence, these descriptions of military leaders have no regulatory substance anymore; they have become nothing more than autodescriptions and autoreassurances, and the superiors become characterized in that way over their subordinates only by default and by virtue of their position.

In addition, the regulation clearly mirrors the above-described focus on the will of the superior commanders and the strict hierarchy. For example, it says that "during missions, there can only be one leader" (*ibid*.: No. 2012). This notion is presented even more clearly in the paragraph before:

> "Full responsibility is expressed by the leader's personal responsibility for accomplishing the mission assigned to him/her. Only so will both the uniformity of all measures be guaranteed and will it be ensured that the leaders' will rapidly reach any subordinate personnel." (*ibid*.: No. 2011)

At the same time, a relatively long passage deals with mission-type leadership. It becomes clear that the purpose of these mission-type tactics is to precisely ensure that the flexibility required for taking action in a chaotic environment will be maintained within the hierarchy:

> "Military leaders grant subordinate leaders more freedom in conducting their mission. This freedom is required for quick and determined action and serves to increase the subordinates' own responsibility. Subordinate leaders are thus enabled to act on their own in accordance with common interests to immediately respond to situational developments and to seize a favourable moment for their action." (*ibid*.: No. 2006)

To prevent this freedom from becoming a destabilizing factor, unified thinking and action is required for mission-type leadership and success (cf. *ibid*.: No. 2014).

This brief insight into a small part of the military reality within the Bundeswehr was intended to illustrate that this aspect of the military, which in Germany has thus far been the object of little scientific research, offers exciting fields of analysis, which – as rudimentarily shown in this article – are well-suited to being investigated by organisational-sociological theories and methods. Furthermore, it might also be possible to utilize other sociological approaches to the phenomenon of leadership in the German military. It

must, however, be mentioned that the Bundeswehr – just like forces of other countries – cannot be researched freely. Every empirical study that is to be conducted within this organisation needs approval from the Federal Ministry of Defence. This is an obstacle that might explain the scarcity of scientific findings on a topic that is so important for an understanding of the military.

4. Conclusion and Outlook

As outlined above, military leadership is, to a great extent, similar to leadership in civilian bureaucratic organisations and can be described using the same theoretical approaches. Its special character is particularly manifest when force is applied in direct combat with an enemy. The subsequently developing chaotic environment requires special control methods, such as the "steamroller strategy" or "mission-type tactics". Such contingencies also impact the armed forces' organisation culture, which is reflected by the description of a military leader in the regulations of the German Army. These regulations suggest that the principles of combat at the lowest level of command are equivalent to the doctrine of higher commands. Because its design principles, however, also result in the military resembling a total institution as developed by Goffman, the civilian and political side attaches great importance to controlling the power of the military command. The legal regulations governing the processes of issuing and obeying orders have been described to show how this control is ensured even at the Bundeswehr's lowest level of command.

Military leadership is an extremely exciting field of research that, even though largely ignored in Germany, directly shows how the military thinks and works. From an organisational-sociological perspective, all relevant theoretical approaches generally appear to be suitable for anyone wishing to remedy the lack of research on the phenomenon of military leadership. As the military has a clear structure, it might, however, be expedient to use the classical system theory, which, for instance, was developed in the works of Talcott Pearsons (1964). As shown by the cited definition from Hill *et al.* (1981), this theory allows the researcher to identify and describe functions and roles of organisational elements and leaders. Niklas Luhmann's theory of social systems (2010) seems to be another suitable approach, as it allows for actions in complex environments to be described by means of the concepts of "decision" and "contingency" (cf. also Luhmann 2006). Michel Crozier's (1979) game theory in a bureaucratic system provides a wonderful context

for describing the behaviour of actors in organisations, particularly when it involves the struggle for power and the influence over staff members. In addition, leadership and command decisions lend themselves to interesting examinations by utilizing the phenomenon of bounded rationality, as developed by Simon, March and Cyert in the behavioural-scientific decision theory field (Simon 1979). The concept of neo-institutionalism (Meyer, Rowan 1977), in turn, provides concise answers to questions as to why organisations and their leaders take specific decisions that might prompt outside observers to shake their heads in disbelief.[13] Pierre Bourdieu's (2010) habitus concept is well-suited to describe and classify leaders of an organisation and to compare them to other groups within and outside the organisation. Last but not least, one should mention the different concepts of organisation culture, which serve to precisely comprehend the particularities of leaders and leadership in a military organisation.[14]

This list of sources is nowhere exhaustive. It is rather intended to provide guidance on how to approach the phenomenon of Bundeswehr leaders and leadership from a sociological perspective. Even though the military is not always open to scientific research, addressing issues of military leadership more extensively in the future is not only desirable and promising, but also a necessity if one is to obtain both scientific findings and to increase the reflexivity of the military organisation.

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[13] Also see the articles by **Elbe** & **Richter** in **Leonhard, Werkner** 2012.

[14] Also see the article "Militärische Kultur" by **vom Hagen** & **Tomforde** in **Leonhard, Werkner** 2012.

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CRITICAL AND CREATIVE THINKING: ARE INNOVATION AND INITIATIVE WELCOME IN THE MILITARY?

Toomas Möls

Introduction

The purpose of this paper is to discuss the direction in which the command philosophy of the Western militaries is moving. We live in a time of rapid change. The developed world has been living in an information society for some time now, the nature of post-Cold War conflicts seems to be different from previous conflicts, and since 11 September 2001, we have been facing a new and very serious enemy – international terrorism on a truly devastating scale. All of these factors influence the development of the military and pose new requirements for the command structures and arrangements.

This paper attempts to provide some insight into the factors influencing the development of modern armed forces. It begins with an outline of the nature of war, especially its unchanging features followed by a description of different command philosophies. The study then turns to the question of how the different aspects of modern warfare and the present armed forces influence the command philosophy used. An insight is provided through looking at the nature of joint planning, personnel policies, evolving leadership styles and the influence of modern technological developments. The article concludes with a summary and conclusions.

The Phenomenon of War

Human history, the evolution of societies and their technological development have been closely interrelated and influenced by the need to achieve success and survive in armed conflict. So far it seems to be the permanent tragedy of human history and man seems to be unable to free himself from the menace of war[1].

Nowadays, centuries later, the nature of war is still as described by Clausewitz in his famous book "On War". It is the realm of ultimate uncertainty.

[1] **Hooker, R. D**. 2005. Beyond Vom Kriege: The Character and Conduct of Modern War. – Parameters, US Army War College Quarterly, June 22, 2005, p. 4.

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Almost three quarters of the factors on which action in warfare is based are wrapped in a fog of greater or lesser uncertainty[2]. It is highly ironic that of all human activities war most closely resembles a game of cards[3]. Battle is chaos on a grand scale, with chance playing an important role continually[4]. Chance makes everything more uncertain and interferes with the whole course of events[5]. After 2001 the enemy has also been changed, gone is the reassurance and safety of a well-known, predictable and easily-contemplated enemy. The conclusion is that, the individuals, units and formations have to be agile flexible and capable of responding to the unforeseen and unexpected[6].

Presently, the conduct of war in the Western world seems to be changing. Modern democratic states employ extremely advanced means of waging armed conflict. Technology has increased the distance at which the targets may be effectively engaged, it has enhanced the precision and lethality of weapons used, and reduced the time needed to train for war. For developed and wealthy states, cutting-edge technology supports trend towards maintaining smaller, more professional, and more expensive militaries equipped with precision weaponry and networked sensors. However, there are other factors that are as crucial as technology to the outcome of armed combat[7].

In addition, modern democratic states seem to have different war aims than they used to have in the past. Strategist Colin Cray asks with reasonable justification: "What defines success? Is it displacing Osama Bin Laden?" But anyway, all the solutions have to be politically and morally tolerable, he concludes[8]. This means that for commanders in the XXI century the options of using force are always restricted. Traditionally, an attack has been expected to lead to dominance over an opposing force, and the desired end-state of war has been the comprehensive defeat of the enemy. Yet even Clausewitz pointed out that the conquest of the whole territory of an opponent is not always necessary, and on the other hand – total occupation of his territory may not be enough[9]. The lack of desire to occupy the territory of an opponent is very visible in modern conflicts. It underlines the growing

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2 **Clausewitz, Carl von** 1976. On War. Ed. and trans. Michael Howard and Peter Paret. Princeton, N. J.: Princeton University Press, p. 101.

3 **Clausewitz** 1976, p. 86.

4 **Clancy, Tom; Franks, Frederick M.** 1997. Into the Storm: A Study in Command. Kirkwood, N.Y.: Putnam Publishing Group, p. 129.

5 **Clausewitz** 1976, p. 101.

6 **Horn, Bernd** 2003. Complexity squared: Operating in the Future Battlespace. – Command and Control, Autumn 2003, p. 8.

7 **Hooker** 2005, p. 11.

8 **Gray, Colin** 2002. Thinking Asymmetrically in Times of Terror. – Parameters, US Army War College Quarterly, Spring 2002, p. 9.

9 **Clausewitz** 1976, p. 595.

importance of political settlement as the desired end-state of conflict. Militaries should, then, plan carefully and act flexibly to achieve such an elusive goal.

The Human Resource Management theorists state that our future strength, and often survival, will depend less on physical or financial assets and increasingly on our adaptation and lifelong learning[10] and because of the rapid technological advances the "chaos" of battle and "fog of war" can be presently managed only by very qualified personnel. The level of experience of personnel involved in conducting armed combat operations is crucial. It seems to be the reality of life that if one is not personally experienced in war, it is hard to understand what the actual difficulties associated with war are, and why a commander must have intellectual brilliance and exceptional ability to lead[11].

The Command Principles

How does the commander fulfill his duties then? How can he lead and direct his forces under the conditions of utter uncertainty? To introduce the topic, I would like to make a brief review of command and control methods.

Using the typology suggested by Czerwinski, we can reduce the command philosophies to three basic options – command by direction, command by plan and command by influence[12].

Command-by-direction is claimed to be the oldest method of leading forces. It is neither centralized nor decentralized, but highly commander-dependant. This method is the so-called "play with one card" approach, which means that if the commander is a genius we win, otherwise we lose.

Command-by-plan was implemented by Frederick the Great. He tried to plan every move in advance, relying on highly trained troops and strict discipline to carry out the (battle) scheme as ordered[13]. The most important legacy of that time for modern militaries is the tendency to do everything by the plan and to have highly centralized decision-making. 'If we have a plan, the plan can go wrong, if we do not have any plan, everything will go wrong', is the slogan reflecting the importance of a plan.

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[10] **Glass, Neill** 1998. Management Master Class. London: Nicholas Brealey Publishing, pp. 11–12.

[11] **Clausewitz** 1976, p. 119.

[12] **Czerwinsky, Thomas** 1996. Command and Control at the Crossroads. – Parameters, US Army War College Quarterly, Autumn 1996, pp. 121–132.

[13] **Creveld, Martin van** 1985. Command in War. Cambridge, Mass.: Harvard University Press, p. 53.

Command-by-influence is the use of mission type orders (or *Auftragstaktik* – the control-free method of command used by Germans in World War II). This method provides the commander's intent in broad terms and the command is decentralized. Uncertainty is devolved to the lowest level possible by encouraging a subordinates' initiative to use the opportunities provided by local situational awareness. The units must be self-contained, joint or combined-arms, and semi-autonomous.

Modern Warfare and Militaries: Stimulating Innovation and Initiative?

Joint Operations

The fundamental goal of the joint planning process is to tailor in the best possible way the capabilities available for a given operation, and at the same time to minimize the risk of fratricide among participating forces. In terms of the command philosophies outlined earlier, the joint doctrine tends to fall into the category of commanding-by-plan[14]. The reason for such a categorization is the approach adopted in joint planning that presumes the existence of linear and tightly coupled systems. The 'linear'[15] aspect corresponds to the mechanistic approach used largely in engineering and the sphere of technology[16]. It means that inputs are proportional to outputs, everything is carefully pre-planned and the success depends on a detailed monitoring and control. The pre-planning is done using simplified reductionist processes. The reductionist analysis consists of taking large, complex problems, and reducing them to manageable chunks[17].

How has commanding-by-plan weathered modern conflicts? During Gulf War I – one of the most successful wars fought after the end of the Cold War – General Schwarzkopf intuitively rejected the battle-by-formula approach taught at the US Army schools and practiced by US forces in NATO. His decision was based on the poor performance of the Army in Grenada while trying to conduct operations by checklist[18].

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[14] **Czerwinsky** 1996, pp. 121–132.

[15] "Linear interactions are those in expected and familiar production or maintenance sequences, and those that are quite visible even if unplanned. Complex interactions are those of unfamiliar sequences or unplanned and unexpected sequences, and either not visible or immediately comprehensible." Cf. **Perrow, Charles** 1984. Normal Accidents: Living with High Risk Technologies. New York: Basic Books, p. 78.

[16] **Perrow** 1984, p. 78.

[17] **Czerwinsky** 1996, pp. 121–132.

[18] **Trainor, Bernard E**. 1994. Schwarzkopf the General. – U. S. Naval Institute Proceedings, May 1994, pp. 110.

Clearly, joint planning is an invaluable tool for establishing inter-service synergy. However, considering joint planning, one should remember that there is always the possibility to choose at which level one wants to see more certainty. If we locate it at the top to achieve superior control, it is possible to have it only at the expense of bigger uncertainty in the actual battlefield[19] in other words in the place where men will meet the enemy. Hence, continual innovation should be encouraged in order to develop the ability of personnel at all levels to react quickly to unexpected developments.

Personnel Policies after the Cold War

The end of the Cold War brought along downsizing of armed forces in the developed world. The lack of a major threat made it impossible to justify the need for large forces and obtain the necessary political support for their funding.

The process of downsizing has only increased the tension that exists because of the pyramidal shape of the career path. Downsizing compels personnel to develop a perfect career record and to comply with the rules. Such an emphasis on service could actually transform preparing units for combat into a secondary task.

This danger is not new. Almost 30 years ago, during the Cold War, Gabriel and Savage pointed out that "up or out" (or the "zero defect culture")[20] might come as a serious drawback to an army's ability to be critical and innovative. This means that personnel are afraid to give their opinion and defend it, they do not dare to take the initiative as complying with rules and being an obedient subordinate opens up a safe road to the top. Thus there are reasonable grounds to argue that the military culture today, because of the downsizing, is diametrically opposite to the risk taking[21] and command-by-influence philosophy.

However, if a country does not belong to a "superpower" category and cannot project overwhelming military might against its foes, it needs capable and innovative leaders, because the uncertain and chaotic nature of

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[19] **Creveld** 1985, p. 274.

[20] **Gabriel, Richard; Savage, Paul** 1978. Crisis in Command: Mismanagement in the Army. New York: Hill and Wang, pp. 86–88.

[21] Israeli army slogan "Risk, Risk, Risk" – to gain initiative on the battlefield against superior enemy. Cf. **Yale, Wesley W.; White, Isaac D. and Manteuffel, Hasso E. von** 1970. Alternative to Armageddon: The Peace Potential to Lightning War. New Brunswick, N. J.: Rudgers University Press, pp. 149–150.

war described by Clausewitz[22] has not changed. The commander on the battlefield still faces the two most fundamental choices: risk immediate action into the unknown or wait for information that might never come, while in the meantime the opportunity to win the battle has been missed[23].

Despite the need to be innovative, we seem to live in times where militaries tend to return to command-by-plan or command-by-directive philosophies. It is facilitated by the "zero defect" culture that has made fear of failure widespread[24] among service personnel[25]. The situation is made even more difficult to reverse because of the modern tendency to over-rely on technology.

The straw of hope can be found in the words of British strategist Liddell Hart who has claimed that force can always crush force, given sufficient superiority in strength or skill, but it cannot crush ideas[26]. Hence, as long as the idea of need for innovation in armies is discussed and developed, the potential of armed forces to cope with the modern unpredictable security environment can be increased dramatically.

Leadership: Toxic Leaders

Recent research has shown that the term 'toxic' is becoming increasingly omnipresent in discussions focusing on modern organizations. It has been connected with a particular style of management. Flynn has provided one description of a 'toxic manager'[27]: such a manager bullies, threatens, yells and his mood dictates the climate in an office – the 'toxic manager' is a backbiting and belittling boss from hell. The definition of a 'toxic leader'

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22 "The war is the realm of uncertainty; three quarters of the factors on which action in war is based are wrapped in a fog of greater or lesser uncertainty (**Clausewitz** 1976, p. 101) at the same time, many intelligence reports in war are contradictory; even more are false, and most are uncertain." Cf. **Clausewitz 1976**, p. 117.

23 **Yale, White, von Manteuffel** 1970, pp. 149–150.

24 Research of the 12,500 Army personnel. Cf. **Ulmer, Walter, F**. 2000. American Military Culture in Twenty-First Century: A Report of the CSIS International Security Program. Washington, D.C.: CSIS Press.

25 **Ulmer** 2000, pp. xxi–ii; xv; 36–37.

26 **Liddell Hart, Henry Basil** 1991. Strategy: The Indirect Approach. New York: Penguin Group, p. 220.

27 **Flynn, Gillian** 1999. Stop Toxic Managers Before They Stop You. – Workforce, August 1999, pp. 44–46. Cited in: **Reed, George E**. 2004. Toxic Leadership. – Military Review, July–August 2004, p. 67. See on-line at:
<http://www.au.af.mil/au/awc/awcgate/milreview/reed.pdf>, accessed 20 October 2009.

more related to the military is a bit different[28]: a destructive leader who is focusing on a visible, short-term mission accomplishment.

Such a leader provides his superiors with impressive, articulate presentations and enthusiastic responses to missions. He does not care about troop morale, being arrogant, self-serving, inflexible and petty. These leaders are sometimes called "career-orientated persons" in the most negative sense. Thus one could connect the "zero defect culture" and "toxic leadership" as the latter could be seen as a response to the need to have a perfect service record and the support of superiors to stay in service or advance on one's own career path.

In both cases – be it in civilian organization or the military – toxic leaders are focused on serving their self-interest in the short-term and could actually be detrimental to the accomplishment of the wider mission of the organization. This circumstance has a particular importance to the military.

It is a historical fact that armies that promoted flexibility, creativity and innovation, and did not try to control everything from the top have been most successful on the battlefield[29]. Confidence and trust between the commanders and subordinates is crucial to the application of command-by-direction philosophy. Toxic leaders are in this sense counter-productive: they undermine trust, create stress, and promote negative values and hopelessness[30] among subordinates. Such toxicity between people can lead to tragedies even in peacetime. Major Kern has noted the importance of positive leadership and command climate in the cases of plane crashes[31].

Leadership: Managers

The reclusion of the military and some other large organizations (e.g. business corporations and public administration) is a well-known fact. The traditional understanding of military affairs by the people from outside military structures is simplistic – in the military everything looks simple, the knowledge required from service personnel does not look remarkable, the strategic options seem to be so very obvious to everybody that in comparison

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28 **Bullis, Graig; Reed, George** 2003. Assessing Leaders to Establish and Maintain Positive Command Climate. Report to the Secretary of the Army, February 2003, p. 2. Cited in: **Reed** 2004, p. 67.

29 **Creveld** 1985, p. 270.

30 **Reed** 2004, p. 68.

31 **Kern, Anthony** 1995. Darker Shades of Blue: A Case Study of Failed Leadership. See online at: <http://www.crm-devel.org/resources/paper/darkblue/ darkblue.htm>; accessed 20 October 2009; **Reed** 2004, p. 70.

with the simplest problem of higher mathematics gives the latter an impressive scientific dignity[32].

Therefore, the military leadership has always struggled to convey the detailed aspects of military affairs to civilians and get the necessary resources. While during the Cold War, the existence of an overwhelming threat helped to secure political support, the situation after the Cold War has changed considerably. It has become more difficult to justify defense appropriations and gain the support of politicians.

Such a situation – the scarcity of resources combined with the "zero defect" mentality – has given rise to a new type of military leaders. These are the managers, who are skilled in getting such needed resources for the military. Bland has said that "winning resources" has become an important criterion for promoting senior officers nowadays[33]. Bercuson has added that this attitude is supported by organizations. The managerial and political skills and covering of the back have become keys to getting promotion[34].

The Impact of Technology

The latest decades have shown a tremendous development in the military-technological sphere and it seems to be continuing[35]. One outcome of the technological development has been the tremendous increase in the ability to collect, analyze, display and share huge amounts of data. The quantity of processed information has increased so much that the person has become the weakest link in the decision-making system[36]. It has brought along the growing over-reliance on communication technologies – we are already addicted to them. This could be the evolving "Achilles' heel" of Western militaries.[37]

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[32] **Clausewitz** 1976, p. 119.

[33] **Bland, Douglas L**. 1999. Canada's Officer Corps: New Times, New Ideas. – The Profession of Arms in Canada: Past, Present and Future (Conference of Defence Associations Institute XVth Annual Seminar), Ottawa, 29 January 1999. See on-line at: <http://www.cda-sdai.ca/english-frame.htm>, accessed 15 March 2008.

[34] **Bercuson, David** 1996. Significant Incident: Canada's Army, the Airborne, and the Murder in Somalia. Toronto: McClelland and Stewart, pp. 103–105, 112, 114.

[35] **Starry M.; Arneson, W** 1996. FM 100-6, Information Operations. – Military Review, November–December 1996, p. 5; **Ryan, Michael** 2000. Battlefield Command Systems. Trowbridge, Wiltshire: Redwood Books, p. 12.

[36] **Thomas, Timothy L**. 2000. Kosovo and Current Myth of Information Supe-riority. – Parameters, US Army War College Quarterly, 10 March 2000, p. 13+. See online at: <http://ics.leeds.ac.uk/papers/vp01.cfm?outfit=pmt&folder=4&paper=471>; accessed 10 October 2009.

[37] **Starry, Arneson** 1996, p. 6; **Toveri, Pekka; Välivehmas, Heikki** 2000. Future Operational-Tactical Level Warfare. – Finnish Defence Studies, 13. Helsinki: National Defence College, p. 14.

What are the implications of such an extensive reliance upon information systems? The most general implication seems to be that by allowing technological developments to dictate the structure and functions of command, we will subjugate the people in charge to technical systems and that could actually narrow the overall understanding of what the command is for![38]

It is not only the advanced technology that leads to victory and fulfilling the mission. Whereas it is an important aspect of warfare, one must grasp its limitations and have contingency plans for the case of technical breakdowns.

Therefore, it seems imperative to increase the creativity of personnel in peacetime[39]. The staff need to practice not so much what they have to do in war, but how to learn quickly what to do when the time comes[40] or when something unexpected happens. We live in times when many paradigms are sent to the dustbin and militaries have to adapt to a new environment and missions. It takes a considerable effort and constant analysis along the road. Liddell Hart has said that the most difficult thing with a military mind is not getting a new idea in, but getting an old idea out[41]. This is an important statement, especially in times when quick improvisation and innovation may be decisive in tackling successfully emerging asymmetrical threats.

Summary and Conclusions

In this short paper I have outlined some very basic aspects of war and command philosophy and compared them with the development of modern warfare. Whereas the nature of armed conflict has changed a little – there is still a huge amount of uncertainty and chaos – the post-Cold War militaries seem to move in the direction that little supports the most flexible and creative of command philosophies, command-by-influence. Joint planning, technological developments, personnel policies and evolving leadership styles in response to shrinking budgets and downsizing seem to push the military towards a much stricter and centralized command structure.

Is this a valid path considering the increasingly unpredictable security environment? It is difficult to say with absolute certainty on the basis of what I have presented. On the one hand – creativity, innovation and

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38 **Creveld** 1985, p. 275.

39 Friction is the only concept that more or less corresponds to the factors that distinguish real war from war on paper (**Clausewitz** 1976, p. 119).

40 **Mandeles, Mark D; Hone, Thomas C.; Sanford, Terry S**. 1996. Managing "Command and Control" in Persian Gulf War. Westport, Connecticut; London: Praeger, p. 6.

41 As quoted in: **Clancy, Franks** 1997, p. 129.

freedom of action are the keys to deal with sudden changes of situation or exploit resources to the maximum. On the other hand – some military activities may require the authorization of the higher leadership of the country to be carried out.

Where is the reasonable balance? It is not clear yet, but one thing has always been clear, that it has always taken creative, innovative and daring commanders and leaders to win the battles and solve the security problems of their nations.

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WHAT ABOUT CULTURE? THE IMPORTANCE OF CULTURE IN THE STRATEGIC-POLITICAL AND THE TACTICAL-OPERATIONAL LEVELS IN BUNDESWEHR OPERATIONS ABROAD

Maren Tomforde

In the past, the cultural dimension of operations abroad either went largely unnoticed or was examined with regard to specific topical aspects. The central issues of analyses were, for instance, intercultural training at domestic military bases, interaction with the local population in the theater, or the coincidence of quite diverse military cultures in multinational units.[1] Based on an evaluation of pertinent literature and my own field research,[2] this article seeks to take another look at the correlation between culture and operations abroad. Using the operation in Afghanistan as an example, it analyzes the claim that a profound reflection on the role of the local culture in the field is necessary and should be of central importance to individual soldiers and to commanders, and *should also be recognized* at the politico-strategic level at home. At the local level, the significance of culture has already been recognized, however, at the macrolevel local cultures have played a subordinate role so far. Without a mandate that takes into account these cultures and the particularities of the local population during the initial stages of planning and organization, the sustainability of any stabilization measures becomes seriously jeopardized. This has already been evidenced by a multitude of

[1] Cf. **Bil** 2003; **Berns; Wöhrle-Chon** 2004, 2006; **Haußer** 2006; **Soeters *et al***. 2006; **Tomforde** 2008b.

[2] My own statements on topical aspects concerning the subject of 'Intercultural competence and the Bundeswehr' are based on ethnographic field research conducted between the years 2003 and 2007 in the Bundeswehr theaters of the Balkans and Afghanistan, as well as at local bases in Germany; cf. **Tomforde** 2008a, 2009). I also subsequently conducted several interviews with career officers, the results of which are to some extent taken into account in this paper.

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examples of cooperative development over the last few decades.[3] In the long run, conflict management, building and development can only be achieved when pursued *in harmony* with the people of an area, and not by working against them or ignoring their needs. If the local population is not taken into consideration from the very beginning and considered an equal partner at the strategic-political level, then it doesn't matter how interculturally competent the individual deployed soldier may otherwise be – he[4] will most likely be perceived as a member of an occupying force, or something along those lines, due to the underlying circumstances of the military operation. This negative perception clearly jeopardizes the soldiers' safety (as well as the safety of the civilian personnel of international organizations working in the field), as can be currently observed in Afghanistan. The question arises then as to whether politicians and the military leadership are basically willing to engage with the local cultures in Afghanistan, to integrate them into their plans, and whether they will have – figuratively speaking – the openness, the patience, and the time for "three cups of tea[5]" in the course of their commitment to Afghanistan. Here, we are assuming that German politicians really want to pursue post conflict measures and peacekeeping operations within the scope of International Security Assistance Force for Afghanistan (ISAF) and are genuinely interested in the stabilization and reconstruction of the country, above and beyond the various national interests.[6] If this is the case, then in the long run, the Federal Government and the military leadership will have no other choice than to take the Afghan cultures and local circumstances into account in their concepts.

At a symposium on "Culture in Conflict" at the Military command and Staff College in Shrivenham (United Kingdom) in June 2008, Major General James Shaw of the UK Armed Forces summed up his deployment term in Iraq as follows: "To operate without cultural understanding is to operate blind and deaf."[7] This quote suggests two things: first, that culture plays a central role for operations in culturally unfamiliar regions and that this necessity has

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3 See **Bliss, Merten, Schmidt** 2007.

4 For the purpose of simplification, the generic masculine is used in this text; however, it equally refers to women. Currently eight per cent of the deployed personnel of the Bundeswehr are women; cf. **Kümmel** 2008.

5 In Afghanistan (as well as in Pakistan, India and other Asian countries), it is a common tradition to establish trust and confidence, good relations and co-operation through seemingly endless tea sessions. Cf. **Mortenso, Relin** 2007, p. 150.

6 See **Rühle** 2009, p. 4.

7 **DCDC** 2009, p. 1.

also now been acknowledged by the highest military leadership echelon, too. Second, that operational aims cannot be achieved with purely technical military means alone, neither at the tactical-operational, nor at the strategic level.

Up to now, at the strategic-political level, culture has attracted attention only to the extent deemed necessary for the success of international missions under the umbrella of the United Nations (UN), the North Atlantic Treaty Organisation (NATO) or the European Union (EU),[8] due to the fact that it has become clear that the actions of individuals may also be strategically relevant and may contribute to deciding the success or failure of an entire operation.[9] This was illustrated, for instance, by an incident in Iraq, when armed British soldiers assaulted a mosque in pursuit of insurgents. The action was unsuccessful, but relations with the local population were severely affected and the reputation of the British troops was ruined for some time.[10] Events at the microlevel (see also, for instance, the 'skull pictures' taken by German soldiers) may directly influence the macrolevel, especially in the cultural domain. If soldiers in the field show a lack of cultural sensitivity, this may jeopardize an entire operation as well as the safety of the troops: "Culture is important to peacekeeping at the lower levels of organization where individuals and corporate elements of the mission interact with local populations. At the same time, culture is important at the higher levels of the interaction among organizations that play a role in the mission."[11]

While more and more intercultural competence is required from the individual deployed soldier, the strategic-political macrolevel, which defines the level of ambition and the contents of the mandate, and determines the way in which a mission is accomplished, has largely done without the 'cultural view' at both the international and the German level.[12] Missions have generally been planned by strategists and technocrats, and as a result information about local practices and political systems play only a subordinate role, if any at all.[13]

There have been several scientific studies proving the central importance that regard for cultural circumstances may have on the success of operations.[14]

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8 See, for instance, **Ben-Ari, Elron** 2001, p. 276.

9 Cf. **Rubinstein** 2008, p. 102; **Liddy** 2005, p. 140.

10 **DCDC** 2009, p. 1–3.

11 **Rubinstein** 2008, p. 39.

12 Cf. **Hohe** 2002a, 2002b.

13 Cf. **Myint-U, Sellwood** 2000, pp. 33.

14 **Heiberg** 1990.

Since the failure in Somalia, as well as due to the operations in Kosovo and in East Timor, which were also characterized by a lack of understanding of local structures and their cultural contextualization, interest in the subject 'Operations Abroad and Culture' has gradually been on the increase. Substantive works have emerged in this topic, which urgently call for the inclusion of local structures and cultures into international interventions and missions rather than ignoring them during the course of democratization and nation-building processes that follow Western models.[15] Because of this ignorance, Amitav Gosh[16] referred to peacekeeping operations that follow Western models as a "neo-imperialist canard" as early as 1994 after a profound appraisal of the UN mission in Cambodia, thereby challenging the element of inherent cultural imperialism in the UN concept at a very early stage.

This paper is structured as follows: based on a review of the operation in Somalia, it is evident that there has been a lack of attention towards culture in UN operations so far, and it will be further explained why this desideratum, to some extent also results in the perception of these operations as being 'neo-Imperialist' endeavors. In the second step, we will also take a look at the ISAF operation in Afghanistan, which is ending soon, and determine whether and to what extent there has been a change of paradigms, keeping in mind the greater design of integrating the Afghan population (and, accordingly, culture) into the stabilization and build-up measures. Then, using the "culture" pocket cards as an example, we will explore the problems of ensuring that *all* deployed soldiers get a quick and concise insight into the cultures of the theater. Finally, the fourth chapter deals with the direct contact between Bundeswehr soldiers and the local population in Afghanistan and illustrates the complex challenges of these intercultural encounters. It is evident that military personnel are in an 'intercultural dilemma, or hybrid situation' since this is the very kind of intercultural competence they need in the field for their own safety, which is hardly taken into consideration, let alone promoted, at the politico-strategic level. However, intercultural competence 'with reservations' cannot work and in the long run will result in problems arising when dealing with the Afghan population.

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[15] **Lanik** (in print); **Rubinstein** 2008; **Kammhuber** 2007; **Hohe** 2003, 2002a, 2002b; **Duffey** 2000; **Chopra** 2000.

[16] **Gosh** 1994.

1. Flashback: The Failed Operation in Somalia and the (Lack of) Reflection on Culture in UN Operations

In the past, the role of culture has often been examined retrospectively in connection with operations, merely in order to figure out why a mission failed (entirely or partially).[17] Operations abroad bring together many diverse groups: military personnel from a vast variety of countries, representatives of other international organizations (IOs), representatives of non-governmental organizations, and – last but not least – the population in the country of deployment. All of them are variously informed by their personal experiences and qualities, as well as, most importantly by their national and/or regional, or even local and institutional cultures. With such an array of cultural diversity, conflicts and tensions easily arise, which must be recognized and addressed right away during the planning and execution stages and not just after the fact.[18] This applies in particular to the UN as well as to NATO and the EU, which make a point of bringing together players from the most diverse organizations and nations in the course of their civil-military missions in order to promote stability and peace in the conflict region by using the symbolic power of the multiculturalism as one of their tools.

The precursor of these current missions, the multinational 'classical peacekeeping operations,' where the "blue helmets" were only allowed to use weapons for self-defense purposes, has become an important touchstone – and presumably the most important symbol of the United Nations (UN). The UN represents a normative-moral, global force, which is effective only insofar as it involves as many nations as possible.[19] However, the image of the United Nations as a peacemaking, multicultural world organization was seriously damaged by the UNOSOM operation in Somalia in the early 1990s. In particular after a sixteen-year old boy was tortured to death by Canadian peacekeepers in March of 1993,[20] the failure of the mission was partially attributed to latent racism on the part of the peacekeeping forces, which ultimately resulted in the inhumane treatment of the Somalis. "The most shocking turn of the day for those in the West came in the form of reports and videos of jubilant Somalis dragging American corpses through the streets. These images were perhaps especially shocking for those in the

17 Cf. **Hohe** 2002a, **Duffey** 2002.

18 Cf. **Rubinstein** 2003.

19 **Rubinstein** 2008, p. 3.

20 **Bercuson** 1996.

West, because they could not understand how Somalis could act so violently against people who were 'only trying to help them'."[21]

It is evident that during the Somalia operation – just as in other operations abroad – the image that the deployment forces have of themselves, in some cases, may differ considerably from how they are perceived by the local population.[22] Whereas soldiers and representatives of civilian organizations define themselves as "helpers"[23] and an important stabilizing force, they may rather be perceived by large sections of the local population as occupants and imperialist intruders.[24] These missions are often perceived as continuations of old, hated (colonial, imperialist) political patterns: "there is a deep sentiment that the UN and INGOs [international nongovernmental organizations] form a secondary occupying force," as the ethnologist Robert Rubinstein notes.[25] David Last[26] also sees that the boundary between imperial colonial policy and peace policy can become quickly blurred by international organizations, and that the latter may quite often contain beginnings of the former.

The potential gap between self-image and perception by others should not only be familiar to the forces in the field but should also be recognized during the initial planning stage of operations. By taking cultural aspects into account at the strategic-political *and* at the tactical-operational levels, as well as by making the civilian population an equal partner to the greatest extent possible, the 'potential for tensions arising from cultural issues' can be minimized as much as possible.[27]

2. Change of Paradigm in Afghanistan?

While the aspect of culture was largely ignored in the missions abroad of the 1990s, and was 'merely' the pretext for some scientific analyses, the situation in the first decade of this century is somewhat improved. The interventions in Iraq and Afghanistan have illustrated once more that stability and peace cannot be made sustainable without taking into account the cultures

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21 **Rubinstein** 2008, p. 7.

22 Cf. **Thomas, Kammhuber, Layes** 1997.

23 Cf. **Tomforde** 2005.

24 Cf. **Zürcher, Koehler** 2007.

25 **Rubinstein** 2008, p. 135.

26 **Last** 2006, pp. 63.

27 **Weiss** 1999; **Slim** 1996, for experience from development cooperation see **Bliss, Merten, Schmidt** 2007.

encountered in the theater. In his speech at the Munich Security Conference on 8 February 2009, General David Petraeus, the US commander in charge of the Middle East, pointed out that: "This requires listening …. and it also requires cups of tea."[28] He was alluding to the wide-spread tradition in Afghanistan of establishing trust and relations through tea-drinking sessions, putting deliberate emphasis on a cultural particularity of the country. Moreover, he also emphasized: "First and foremost, our forces have to strive to secure and *serve* the population; serving and securing the people requires that our forces be good neighbors." The quote, however, contains an inherent contradiction, since 'serving' describes a power relationship and a neighborhood is based on the principle of equality. The question arises whether Afghans really consider foreign troops to be equal 'neighbors' and whether they also feel that they are treated as equal partners by the military. What is interesting about Petraeus' approach, despite the contradiction, is the fact that the Afghan population is to be involved more extensively in the stabilization of the country. It is at last to be treated as an equal partner[29], which is just what President Hamid Karsai called for, and what was necessary too, in light of the increasing number of civilian victims at that time.[30] Petraeus' concept of service requires the soldiers to subordinate themselves to the local population or rather to their needs and to make these their priority. In order to be able to fulfil this premise, the military forces deployed in Afghanistan needed be aware of the local cultures. Moreover, the entire ISAF operation was structured in such a way as to ensure that the will and the needs of the Afghan 'neighbor' were taken into account. Instead, the boundaries between anti-terror operations under the mandate of operation "Enduring Freedom (OEF)" and the ISAF became more and more blurred. Consequently, the foreign soldiers were not perceived as 'serving neighbors' but rather as a reckless occupying force, whose personnel strength was actually being massively reinforced.[31] "This resulted in the readiness to use violence and a breeding ground for armed groups."[32]

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[28] Quoted in **Süddeutsche Zeitung** 2009, p. 6.

[29] Cf. **Lanik** (in print), p. 133.

[30] Quoted in **Süddeutsche Zeitung** 2009, p. 6.

[31] In mid-2008, 65,000 foreign soldiers were serving in Afghanistan – four times as many as in 2004. And yet the force strength was still below the level that was considered necessary for military purposes. US President Barack Obama is seeking to massively increase the forces at the Hindukush. Cf. **Rühle** 2009, p. 3; **Hippler** 2008.

[32] **Lieser, Runge** 2009, p. 34.

Despite (or even due to?) increasing troop strengths, the security situation for the civil population began deteriorating rapidly,[33] to such an extent that a fundamental change of paradigm [34] was required in Afghanistan, as was indirectly alluded to at the NATO summit in Bucharest in April 2008.[35] It was becoming evident that Afghanistan would not become a central state in the classical European sense in the foreseeable future. What was, and still is, required instead is patience and time, as well as the true involvement of the Afghan population, a consideration of cultural particularities and a dialog with neighboring states to ensure *sustainable* stability and security in the country. In the light of the imminent failure [36] of the ISAF operation, the focus is shifting more and more to geopolitical realities and local circumstances. The "act of Western arrogance"[37] in pursuing a "nation-building" project in Afghanistan following a Western model without taking Afghan tribal traditions and loyalty structures or the complex historical background of Afghanistan and its neighbors into account is being questioned to an increasing extent.

3. What is the Value of Pocket Cards on Culture?

The difficulties that are still inherent to Afghanistan (and Iraq) have also been attributed, to a considerable extent, to a lack of cultural knowledge. In order to prevent another failure like Somalia, Western armed forces are working more and more on concepts to increase intercultural competence among soldiers and to better integrate local cultural potential into stabilization

[33] According to **ACBAR** 2008, the umbrella organization of the relief organizations operating actively in Afghanistan, 1,000 civilians died as a result of combat action in the first seven months of 2008 alone.

[34] Cf. **Münkler** 2009, p. 11.

[35] The "Strategic Vision", is a treatise comprised of four core elements: 1. a long-term commitment in Afghanistan, 2. the increasing assumption of responsibility by the Afghans themselves, 3. the comprehensive civil-military approach, and 4. the stronger involvement of Afghanistan's neighbors. It was presented at the NATO summit, and is the first attempt to create a holistic NATO concept for the country. See **ISAF's Strategic Vision,** 3.4.2008, http://www.nato.int/docu/pr/2008/p08-052e.html.

[36] Michael Rühle notes that the "international community has the authority of definition of the success or failure of its commitment" and that it always has the option "to declare the Afghanistan project a success and to justify a withdrawal referring to the urgently required Afghanization of the further development." **Rühle** 2009, p. 5. See also **Lanik (**in print), p. 131.

[37] **Rühle** 2009, p. 2.

measures.[38] Already since 2006, there have been debates about which concept of culture the armed forces should utilize, as well as how to best familiarize soldiers with an open, broad-based cultural concept, which does not define culture as a static, clearly confinable 'matter' that can be collected by means of a questionnaire.[39] It is, however, part of military culture and logic to call for clear delineations and instructions, especially in foreign and potentially dangerous environs; hence, ethnological references to intracultural differences, ethnic diversity and the adaptability of local cultures often meet with a lack of understanding.[40] Soldiers rather tend to ask for curricular contents that can be quickly grasped, such as in the form of information pocket cards. The "Iraq Culture Smart Card" of the United States Marine Corps[41] is a good example of a "pocket card on culture," which is designed to provide the soldier with the essentials of Iraqi culture and a basic Arab vocabulary, all in the space of two A4 pages.[42] Such pocket cards are highly controversial among scientists, and time and time again have been the catalyst for heated debates at expert conferences. On the one side, there are those who advocate

[38] In the United States, in particular, all the service branches have been urgently searching, since 2006, for ethnologists who would not only conduct intercultural competence training at Air Force, Navy and Army schools but also provide soldiers with a general understanding of culture.

[39] In March 2009, the British 'Development, Concepts and Doctrine Centre (*DCDC*)' published a new doctrine (JDN 1/09) entitled "The Significance of Culture to the Military." The goals of the doctrine are as follows: 1. To ensure coherence with regard to intercultural competence concepts, political guidelines and training measures, 2. to provide military personnel with an understanding of the significance of culture, and 3. to provide guidance for the operational level (p. V). Cf. also the text of the U.S. Strategic Studies Institute on the subject "On the Uses of Cultural Knowledge" by **Jager** 2007. While in the new Joint Service Regulation ZDv 10/1 of the Bundeswehr governing "Leadership Development and Civic Education" or "Innere Führung" intercultural competence is referred to, this is done only in two small sections, see **BMVg** 2008. There is no directive on intercultural competence that would be comparable with the British doctrine.

[40] Cf. **Lanik** (in print), p. 135.

[41] Can be downloaded at:
<http//:www.fas.org/blog/secrecy/2006/07/a_new_iraq_culture_smart_card.html>.

[42] So far the Bundeswehr has not published any pocket cards. There are only the "Ten Golden Rules for Soldiers Deployed Abroad," which contain general cultural behavioral guidance and can be consulted on the Bundeswehr Intranet (source: **Intranet Bw**, **Dienstvorschriften-Online**, <http//:dv-online.bundeswehr.org/heeresamt/antra_ausbildung-shilfsmittel/pdf/0001_96000_01_ausbhilfe_auftreten_und_verhalten_do_donts.pdf>, slides 9–12). The Military History Research Institute publishes continuously updated "history guides" to the individual countries of deployment; for Afghanistan see **Chiari** 2009, which in addition to historical data also include information about local structures and lifeworlds. Superiors can obtain these instructive books free of charge for all members of their unit.

for such concise information. They hold the view that it would be better to hand out such a pocket card to soldiers for a mission in order to provide *all* of them with a certain basic knowledge on which the specialists can base additional training. On the other side there are critics, who consider the static, stereotypical cultural concept, on which the pocket cards are based, to be highly questionable. They rather define culture as an internalized, dynamic, sociomorphous orientation system, which influences but does not determine our existence, our thinking, believing, feeling, interaction and action.[43] This open cultural concept, which is also the basis of this paper, can also be used to explain considerable *intra*cultural differences.[44] Critics of the concise form of cultural information conveyance even consider the two pages of cultural and language instruction to be dangerous, maintaining that they provide (false) confidence of action – as the pocket cards are based on an essentialist cultural concept, which may result in simplifications and ignorance vis-à-vis inter- and intracultural diversity. In this respect, Robert Rubinstein[45] notes: "These are stereotyped instructions that focus on the surface elements of culture, most often on those surface aspects that are different or exotic from the perspective of the person giving the instruction."

The "Iraq Culture Smart Card," for instance, contains stereotypical instructions on culturally acceptable and unacceptable behavior (the "dos and don'ts"). However, interpretations of the common gestures that are shown on the pocket card can differ considerably in the various regions of Iraq. For example, in one region of Iraq, the extended right hand with the fingers pointing upwards and touching each other may mean that one should be patient or drive more slowly, whereas in a different region it may be a major insult and a disparaging sign that should be avoided at all costs.[46]

In the future it will also be necessary to discuss whether all deployed soldiers should be provided with a grasp of such a broad concept of culture in general, and with differentiated views of local cultures in particular or whether learning to deal with culture is a long-term endeavor which the

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[43] Cf. **Ingold** 2002, p. XX; **Bourdieu** 1990; **d'Andrade** 1984, p. 116.

[44] Cf. **Barth** 2002.

[45] **Rubinstein** 2008, p. 12.

[46] Ethnologists of the international "Mil_Ant_Net-Yahoo group" referred to this fact in 2008 in the course of lively discussions about cultural diversity in Iraq. The Yahoo group on the subject area of "Military and Ethnology" was founded in 2005 by the Canadian military sociologist Brian Selmeski and has more than 500 members now – with an upward tendency (personal conversation with Selmeski in June 2008).

military must pursue at several levels.[47] Moreover, the question arises as to whether better access to the local culture can be achieved at all, especially in cases of more robust operations that also involve combat action.[48] Because of the negative experience the US military has had in the last few years in Afghanistan (and in Iraq) – on the cultural front as well –, General Petraeus established the "Human Terrain System" (HTS) in 2006. It utilizes uniformed social and cultural scientists, many of whom are ethnologists, to accompany and advise the forces as 'embedded scientists' during their visits to villages. The concept is highly controversial, not only among ethnologists but also among other social scientists.[49] Due to serious ethical concerns, the "Network of Concerned Anthropologists" (NCA) was founded in the United States. The network has tasked itself with informing ethnologists about the HTS in the areas of operations of Iraq and Afghanistan occupied by US forces and establishing a counterweight to the new policy of the Pentagon.[50] As far as dealing with local cultures in Afghanistan is concerned, the Bundeswehr is currently opting for the 'middle ground' between an essentialist pocket card on culture and the elaborate "Human Terrain Teams," as the following section will show.

4. Local Problems: "You've got the clock, we've got the time"

"You have to know the local area well to be able to help." This was the slogan of a Caritas International advertisement poster displayed in German train stations and other locations in the winter of 2008/2009, showing a large-sized bird's-eye view of a labyrinth of clay roofs reminiscent of the city of Sana'a in Yemen. As directives and training phases at the individual military colleges prove, the focus is shifting more and more to knowing the local area well – not only in geographical but also in cultural terms.[51] In the field, Bundeswehr soldiers, too, continue to be faced with the question of how to apply what they have learned in theory and toward culturally significant interactions with the civilian population. Dealing with the unfamiliar remains a challenge – all the more so if it is not clear who is friend and who is foe and

47 Cf. **Tomforde** 2008b.

48 Cf. **Hajjar** 2006; **Varhola, Varhola** 2006.

49 See **González** 2008, **Rohde** 2007.

50 See **Gusterson** 2008, <http://www.concerned.anthropologists.googlepages.com/home>.

51 See, for instance, **DCDC** 2009; **Jager** 2007*;* **BCG** 2007; **Kammhuber** 2007.

what the threat level is.[52] Soldiers often do not have the time for three cups of tea during their mission. They come into a village, speak with the locals and at the same time must ensure the safety of their comrades (drivers etc.). In addition, deployed soldiers must continue to maintain a culturally open outlook despite being faced with economic and technological development differences, the low value of human life and the partially criminal and corrupt structures of a society deeply affected by decades of war. What makes things even more difficult are unfamiliar conversation patterns (indirect, paraphrasing, informal), which Germans with their direct, straightforward, but at the same time formal communication forms often find difficult to comprehend when in contact with the local population. The following section will analyze which intercultural challenges Bundeswehr soldiers are faced with during their deployment to Afghanistan and which strategies they develop to cope with them.

4.1. The Continuum: Between Rejection and Absolute Adaptation

There are many ways that a person may deal with a culture in a country of deployment. These may range from extreme rejection and stereotyping of Afghan culture to extraordinary adaptation and renunciation of one's own cultural identity and ways of life. Of the multinationally oriented peace missions, Bundeswehr soldiers are the ones considered the most capable of winning the 'minds and hearts' of the local people.[53] Nevertheless, some of them do not understand why intercultural competence is necessary at all and, why they are expected to make 'advance concessions' to the Afghan population. According to their understanding, they are sacrificing their (life) time and energy to a country characterized by war, corruption and medieval traditions. They do not understand why, in addition to the assistance they provide, they should show cultural sensitivity if the opposite side tends to ignore them and their values. For other soldiers, intercultural competence means, as an interviewed major underscored, "signalizing to the counterpart that you respect him, even if this is not the case." To other soldiers, intercultural competence means the ability to integrate as much as possible into a new environment for the sake of one's own safety. Some military personnel even undergo a process of adaptation: these men grow full beards and learn Pashtu or Dari. They prefer spending time sitting in a hut or on the desert

[52] Cf. **Tomforde** 2008b, p. 146.

[53] Cf. **Zürcher, Koehler** 2007.

sand palavering with Afghan dignitaries to being far away from 'operation reality,' at a desk for instance, in an air-conditioned HQ building in the camp in Mazar-e-Sharif. They adapt so well to the Afghan way of life that more often than not they initially find it difficult to return to 'organized life' at home in Germany and may even experience a 'returnee's cultural shock.'

The fact that Bundeswehr soldiers are held in high regard among the local population despite the wide range of attitudes adopted towards intercultural competence (IC) is due not only to the relevant pre-mission training, which definitely could be optimized and extended in many respects.[54] There are at least three other factors that account for this. First of all, the soldiers' 'sensitive' behavior can be explained by their fear "of doing something wrong in the field and, consequently, facing problems in Germany," as one colonel underscored in an interview. Secondly, the burden of 'historical guilt,' which still continues to shape the action of many soldiers abroad, contributes to making them want to appear, as "helpers"[55] rather than as an occupying force. Thirdly, maintaining helpful, constructive contact with the local population enables soldiers to make sense of their mission in the field despite the deteriorating security situation in Afghanistan.[56]

Thus, it can be noted that military personnel are worried about missteps that might have legal consequences. The following aspects also determined their behavior: (unconscious) 'historical guilt,' the search for a sense of meaning in the mission, and a political-military approach that puts the emphasis on stabilization and reconstruction. Together with IC training, this combination of individual factors contributes to the culturally sensitive behavior of many soldiers.[57] To some extent, however, the Bundeswehr soldiers display a 'hypersensitivity vis-à-vis the unfamiliar' that may also be detrimental to the development of a good intercultural understanding. An example of this is the fact that the place of worship built in Camp Feyzabad was not initially called

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[54] Basic Training (BT), as well as Conflict Prevention and Crisis Management Training (CPCM training) comprise the core of IC teaching, and in some cases does not go beyond a two-hour presentation which often runs late in the evening. Cf. **BGS** 2007.

[55] **Tomforde** 2005, pp. 580.

[56] The aspect of assistance was already at the forefront during the Bundeswehr mission in Somalia. This was the first deployment of German soldiers outside Germany since 1945, and was characterized by mishaps and failures in both the military and political spheres. In order to still give the mission a purpose, the Bundeswehr soldiers acted as development aid workers and helped to build streets, bridges and schools and thus stepped into a role that has been quite acceptable to the German population. Cf. **Kühne** 2007 and the papers of **Mohrmann** and **Biehl, Keller** in this volume.

[57] Cf. **Tomforde** 2008b, pp. 145.

a church, but a "House of Silence." The Bundeswehr personnel in charge of naming the house worried that building a church in a predonminantly Islamic environment might entail problems. However, it is the very fact of not having a faith that is met with incomprehension among Muslims, and not an openly, and clearly declared belief in a different religion. In the meantime, the "House of Silence" is now called a "church" and has been dedicated to the Patron-Saint Michael (conqueror of the devil and evil).[58]

It is evident that the Bundeswehr and its soldiers in the field not only need intensive intercultural counselling but that the mission also raises many fundamental questions that a soldier may ask himself, such as: how open do I have to be towards the unfamiliar? Do I really need to initiate contact with the Afghanis and develop intercultural competence, even though I am constantly shot at and cheated by local residents? How can I be involved with a foreign culture, if I have taken the oath as a Bundeswehr soldier to 'defend the law and the freedom of the German people'? What are we doing in such a culturally unfamiliar and complex country as Afghanistan, and what can we actually achieve there? Do we as Christians actually have a real chance to enter into a genuine dialogue with Muslims? These questions and many more are brought up time and time again by the interviewed soldiers.

What Bundeswehr soldiers also consider problematic is the fact that they are expected to further improve their intercultural competence, yet are unable to fully apply it in the same way as members of relief organizations, who are in constant contact with the local population. On patrols through vast areas, soldiers often lack the opportunity and time to establish trust and confidence and to identify the 'right' people and cultivate contact persons. To some extent, establishing trust and confidence even proves to be difficult when it comes to the selection of local residents employed in the camp as local wage rate employees or as linguists. It cannot always be clearly determined whether in an emergency an individual may be obliged for moral-social reasons to act against his/her employer, the 'Bundeswehr', in the interests of a network of relatives. It goes without saying that it contributes to a soldier's despair and demotivation if (once again) a local worker has to be dismissed because things have been stolen from the camp, a booby trap has been detonated, or sensitive information has been smuggled out. It is hard for the Bundeswehr personnel to come to terms with the fact that they are exploited and deceived in this way when the local wage rate employees are paid good wages, the

[58] Cf. **Boczek** 2008, p. 18.

employees receive assistance in many – including immaterial – respects,[59] and the Bundesweher seeks to make a contribution toward building up the country by their presence, even though this obviously is not appreciated by all local residents.

4.2. The Dilemma of Intercultural Competence

German soldiers take an oath "to defend the law and the freedom of the German people,"[60] and, as they understand it (and if politically desired), are compelled to do so in the Hindukush, or in Mali, too, if need be. This basic assumption initially makes it difficult for some soldiers to deal with the culture of the country they are deployed to. According to their reasoning, they do not go to Afghanistan to understand the local culture and to facilitate progress that is tailored to that culture, but rather they go to Afghanistan because they want to transport the Western-style democracy model and human rights to the country in order to enhance Germany's own security. At the same time, international operations are a symbol of a type of political space and social responsibility.[61] According to this ideological concept, local cultures play a subordinate role. Nevertheless, the hearts and minds of the people in the area must be won at least in order to ensure that good contact with the population is established and the security of the troops is ensured to the greatest extent possible through broad-based support. Accordingly, many soldiers face an intercultural dilemma: at the level of the highest military command, and at the political level, intercultural considerations are only taken into consideration when a fatal mishap has occurred (see below). And yet soldiers are expected to have a sufficient level of intercultural competence when dealing with the local population in order to avoid putting themselves or innocent people at risk. Any adaptation beyond that scope and any integration into Afghan culture, as can be observed among many representatives of civilian organizations in Afghanistan, is neither politically-militarily desirable nor possible. Marianne Heiberg writes on this dilemma: "Stated in a nutshell: a relationship to local civilians built on communication and confidence is a

[59] See, for instance, the "Lachen helfen e.V.," association which emerged out of a private initiative, in which German soldiers and policemen independently organize humanitarian aid for children in war and crisis zones (http://www.lachen-helfen.de).

[60] Article 7 of the Legal Status of Military Personnel Act reads: "I swear to loyally serve the Federal Republic of Germany and to bravely defend the law and the freedom of the German people."

[61] **Rubinstein** 2008, p. 72.

necessary factor for success; a relationship characterized by mounting hostility, suspicion and lack of communication is a sufficient cause for failure."[62]

Even though they or their leaders do not actually like it, soldiers must have a certain basic knowledge of intercultural competence and an understanding of the culture of the country they are deployed to, otherwise they run the risk of ignoring cultural particularities, which as a result can seriously jeopardize their security. Basic cultural knowledge also prevents the emergence of prejudices and stereotypes: "From an ethnological perspective, an understanding of the significance of symbolic capital in Afghan society is more helpful in an everyday context than an interpretation of cultural symbols, for instance physiognomy or clothes, which results in misleading attributions."[63]

Moreover, it is necessary to know that in Afghanistan it takes a good deal of time and at least three cups of tea to establish trust and confidence. With our Western monochronous concept of time we hit a brick wall in societies such as Afghanistan's whenever we try to arrange appointments quickly and expect 'absolute punctuality.' In polychronous societies, time does not proceed in a linear fashion, but instead curves and arcs.[64] Planning remains flexible and is adjusted to the needs and circumstances of the moment; distractions and 'delays' are possible and are not perceived as disturbances, because there is an 'endless' amount of time available. Soldiers who are not familiar with this polychronous concept of time but consider time a valuable commodity, and who want to avoid any disturbances in (long-term) scheduling at all costs and are governed by their appointment book, may be frustrated and lack understanding when dealing with polychronous societies such as the Afghanistan's. Cultural ignorance may have a deleterious effect on the motivation and the basic attitude of the deployed soldiers. Robert Rubinstein remarked on this phenomenon in other conflict contexts: "In the Gaza and Wanwaylen incidents, peacekeepers' efforts were frustrated because they did not understand the local cultures and thus could not interpret correctly or respond properly to the actions of the people they were sent to assist. Without knowing local cultural patterns of behaviour and interpretation, peacekeepers too easily react in inappropriate ways, even when they mean well. These examples […] are but two of literally thousands of examples of intercultural misunderstandings that lead to conflict between peacekeepers and local populations."[65]

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62 **Heiberg** 1990, p. 148.

63 **Lanik** (in print), p. 137.

64 See **Levine** 1999.

65 **Rubinstein** 2008, p. 36.

The US forces had a similar experience when they took Baghdad in April 2003 and tore Saddam Hussein's statue from its socle in a 'spontaneous' action. In the course of this act, an officer covered the head of the statue with the flag of the United States – an act that later was considered to be one of the reasons why the Americans came to be perceived as an occupying army marching triumphantly in, and they were referred to as 'Yankee Murderers' by large groups of the population.[66]

So far the Bundeswehr in Afghanistan has not committed such grave intercultural missteps. The pictures of German soldiers posing with skulls, which went through the press in November 2006, did not cause any reactions in Afghanistan, since the bones were obviously Russian. One does not dare to imagine what would have happened if these skulls had actually been those of deceased Afghanis. When in November 2008 a German soldier shot and killed a woman and her two children at a checkpoint, the Bundeswehr was able to avert severe consequences by paying reparations in the amount of 20,000 US dollars to the bereaved family. This was done to prevent the recourse to blood vengeance. However, the Bundeswehr failed to offer an apology to the relatives and so the incident nevertheless resulted in negative perception of the Bundeswehr among the population. In the field, the Bundeswehr commanders are advised by Cultural Advisers (CULADs) and instructed on cultural particularities, which is precisely the kind of support many deployed soldiers interacting with the local population every day would also find beneficial. For this reason, the local linguists, who accompany the military personnel outside the camp, are also often used in an informal way as cultural mediators. Even if many soldiers are not fully convinced that intercultural competence is now a "key qualification"[67] for operational soldiers, many of them have now realized that culturally insensitive behavior may have serious consequences both in Afghanistan and in Germany. The question arises as to whether 'respect' can be 'simulated,' as the aforementioned major suggested, or whether a real change of strategy at all levels is actually required – a change of strategy that already takes Afghani structures and cultural particularities into account at the politico-strategic level and really integrates the local population as equal 'neighbors' into planning and implementing the reconstruction and stabilization efforts. Such a change of paradigm would also terminate the 'intercultural hybrid situation' of the soldiers in the field. It would replace the signals from the political-strategic

66 Cf. **Sengupta** 2003.

67 Cf. **Haußer** 2006, p. 441, **Berns, Wöhrle-Chon** (2004), p. 323, **Bil** 2003, p. 58.

side to the effect that they only need IC only for their own safety with the messages that only serious respect and taking local cultural circumstance into account can ensure the sustainability of the stabilization measures. It is necessary to incorporate culture as a dynamic significance/orientation system into the planning and implementation of future operations and to achieve continuity between the politico-strategic level and the microlevel of the individual deployed soldier: "This means that in thinking about peacekeeping, culture is not a peripheral subject; it should be a core policy consideration."[68] The future will show whether the politicians, the military leadership and deployed soldiers are really prepared for this change of paradigm and the 'three cups of tea.'

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AMBIGUITY TOLERANCE AND THE CONCEPT OF *„INNERE FÜHRUNG"*

Angelika Dörfler-Dierken[1]

1. Introduction

Some time ago, a serviceman told me a story from his tour in Afghanistan: He was manning the vehicle's machine gun, and keeping an eye on things behind him. The patrol had to slow down because they were passing a village. Suddenly a little boy ran up to the vehicle, holding something round and grey and raised his hand. The soldier's comrades were yelling: "Open fire! What are you waiting for?" The soldier did not shoot. Later, the soldier realized that the little Afghan boy only wanted to offer him an orange – it was gray from the dust which is everywhere. Later on, the serviceman at the machine gun could not explain why he did not shoot. He said that it was possible that he suddenly started thinking of his own two little daughters back home.

In the situation described here, the soldier made the correct decision. We do not know how a German serviceman would have reacted to such an intense situation. Would his comrades have even had to have shouted 'Shoot'? Perhaps, the soldier at the machine gun would have opened fire before the others would even have seen the boy.

This example illustrates that in war, soldiers must be able to evaluate dangers correctly and react accordingly. They know that their decisions can affect their own lives as well as the lives of their fellow soldiers. They can even affect the overall success of a mission.

It is a very important responsibility that the German Armed Forces (*Bundeswehr*) have assigned to its mostly young men and women in uniform. To act appropriately, they must identify with their military mission on all levels. It is imperative that they learn complicated details about tribal structures, power politics, and relationship networks (Chiari 2009; Seiffert *et al*. 2012).

[1] The views and opinions expressed in this article are those of the author only and do not necessarily reflect those of the Federal Department of Defense.

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And within these networks of antagonisms, the soldiers must act – or even kill other people, if necessary.

The crux of my thesis is that, to act appropriately, they need – so I would argue – to develop ambiguity tolerance. Ambiguity tolerance is not a classical expression from military literature or out of the German Field Manual 10/1 "*Innere Führung*"[2] (German Department of Defense 2008), but a psychological term which has been in use since the middle of the 20th century. This term is experiencing a certain boom not only in psychology, but also in economics in conjunction with leadership dilemmas. Therefore, I would like to explain first how the concept of ambiguity tolerance emerged and what it means. Secondly, I will present the evidence which indicates that ambiguity tolerance of servicemen and women should be enhanced by the military. Thirdly, I will analyze the relationship between the concepts of *Innere Führung* and ambiguity tolerance. Finally, recommendations will be developed for the education and training of soldiers.

2. Ambiguity Tolerance – What is it?

At the end of the 1940s, Theodor W. Adorno and some of his colleagues studied the authoritarian character in the U.S. with the aim of finding out if authoritarian individuals show peculiar personality patterns (Adorno *et al*. 1950). The hypothesis they posited was that the anti-democratic human is not a particular German phenomenon that was indoctrinated by Nazi propaganda, but rather can be found the world over.

Else Frenkel-Brunswik, a psychologist and psychoanalyst, participated in these studies. She discovered that some of the test persons thought only in simple, black-and-white terms and were not able to recognize the coexistence of positive and negative features within the same object. From these observations, Frenkel-Brunswik developed the psychological concept of ambiguity tolerance in 1949. She defined it as the capability of an individual to realize ambiguities and contradictions, and also name them. She also found that personalities who were intolerant of ambiguities could not stand contradictions. They constructed a dualistic structure of reality in order to draw clear-cut black-and-white distinctions. Therefore, people who are ambiguity intolerant dramatize and illustrate their experiences in a quite simple fashion. They perceive contradictions as threatening. Ambiguity intolerant people feel psychologically and physically uncomfortable with those contradictions. For

[2] "*Innere Führung*" is officially translated as „Leadership Development and Civic Education".

this reason, their minds are closed to ambiguous aspects of reality, they reject new ventures aggressively, and they seek to oversimplify complex, insoluble situations (Frenkel-Brunswik 1950).

On the other hand, people with high ambiguity tolerance are able to adapt to new, unstructured situations which are hard to control. They allow discrepancies from their expectations, are not averse to surprises and reactions by others and do not judge them to be a threat. Instead, they accept those uncertainties as challenges. Ambiguity tolerant people cannot solve contradictions better than others – if that were the case, ambiguity tolerance would not be needed. But individuals with the ability to understand complex realities and the ambiguity of their feelings are better able to keep control in emotional and cognitively demanding situations. Therefore, they are more capable of acting than others.

Psychologists differentiate between five dimensions of ambiguity tolerance: (1) the image of the parents, (2) the handling of social conflicts, (3) role stereotypes, (4) new experiences, new contexts and foreign cultures, and (5) unresolved problems, ambivalent information and opposing expectations.

Ambiguity tolerance may be trained. One can learn to understand ambiguities, and how not to avoid them. They can be seized as an opportunity to progress individually. If soldiers are disposed towards a high degree of ambiguity tolerance, they might be able to act even if the situation is very chaotic. Soldiers need to enhance this ability to remain open to new experiences, even if these experiences may be terrifying and make them feel fundamentally insecure.

Ambiguity intolerance may lead to confusion and grave problems, in particular when encountering foreign cultures, e.g. military operations overseas. There, servicemen and women must often deal with complex, contradictory, uncertain, and unstructured situations. And although soldiers are often interested in foreign cultures, those cultures often remain strange.

It is therefore necessary to train ambiguity tolerance. A soldier's ability to analyze his own perceptions and experiences in the face of extraordinary, conflicting challenges of the chosen profession should also be strengthened. This enables soldiers to perceive the existence of a double standard in conflicts, to be aware of stereotypes regarding the social roles, and to accept new experiences and unresolved problems as organizational tasks. Servicemen and women must recognize, name, and intellectually wrestle with contradictions in order to remain capable of acting and reacting appropriately while on duty.

One may argue that German soldiers seem to be disposed towards a high degree of ambiguity tolerance because they fulfil their duties abroad although

they know the dangers. Additionally, they feel demoralized by discussions about their inadequate equipment and lack of social recognition at home. It appears, however, that most of them have fulfilled their difficult duties quite well due to the fact that there have been no military scandals abroad. But this is not ambiguity tolerance in a proper sense. Most of the time, discussions of warfare, soldiers killed in action, and social recognition do not revolve around complex contradictions, but around explicit clarifications. Therefore, I would like to also name some indicators which necessitate the promotion of ambiguity tolerance within the German Armed Forces.

3. Indicators that Illustrate the Necessity to Promote Ambiguity Tolerance Within the Bundeswehr

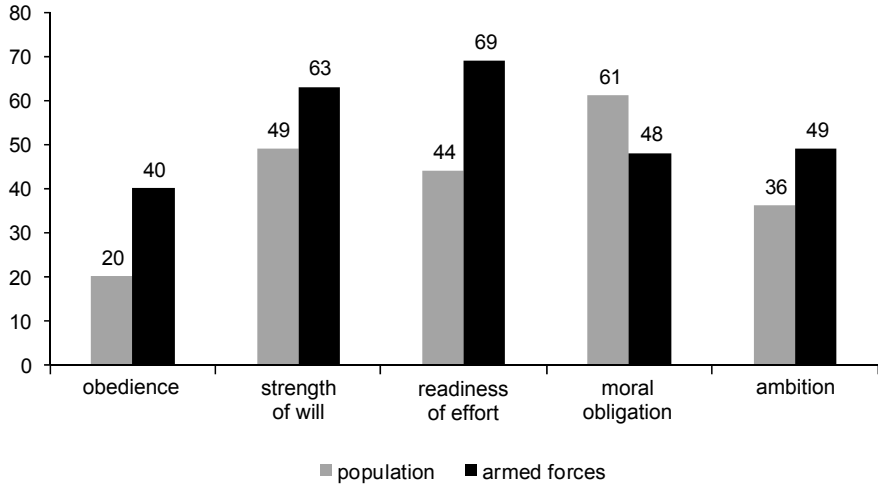
Soldiers are recognized by the uniforms. Uniformity is at the heart of a military organization. Orders, common rituals, a special military language, and – last, but not least – uniforms result in externally undifferentiated individuals. These also promote the development of an analogous mindset of servicemen and women. The strength of a military organization lies in its fulfilment of tasks by virtue of mental homogeneity – at the same time, this is also its weakness. An obligation to uniformity enforces not only the external homogeneity of soldiers, but too often also an internal homogeneity. Such internal uniformity could be prevented by ambiguity tolerance. The *Bundeswehr* Institute of Social Sciences (SOWI) has collected data which provide empirical evidence on this. They show that servicemen and women are more fixated on authority and feel pressured towards conformity than those who have been educated in ambiguity tolerance.

3.1. The Soldier's Fixation on Authorities

Order and obedience are the foundation of every military organization. In regards to obedience, there is a huge difference between the 'citizen in uniform' and the civil population in Germany:

If you ask "How important for you personally are the following characteristics?", soldiers name obedience as "very important" twice as often as civilians. Data on this item was last collected six years ago. But there are no indicators suggesting that these attitudes have changed since. When the perception of obedience between young soldiers and young civilians up to

Figure 1. Question: "How important for you personally are the following characteristics?" (in percentages).



Source: Bevölkerungs- und Streitkräfteumfrage 2004.

the age of 25 are compared, the same tendency is evident. One could argue that military socialization is the basis for these answers. But obedience can also reduce ambiguity, that is as long as obedience is not dictated by one's conscience, as suggested by Field Manual 10/1 "*Innere Führung*". (Dörfler-Dierken 2005: 120–130) Obedience towards the authority of military regulations is illustrated by the story of Private First Class (PFC) Schneider which is often used in group discussions of servicemen and women.

"PFC Schneider is mounting guard at a depot of the *Bundeswehr* where arms are stored. He is carrying a loaded gun as required. At night he observes a person leaving the depot towards its fence with some objects under his arm. Schneider calls three times 'Stop. Stand still.' The unknown person begins to climb over the fence. Schneider fires a warning shot in the air. As the other still does not react, Schneider targets the legs and opens fire. The person falls down, shot in his hip and lies on the ground. It turned out that the unknown person was PFC Conrad who wanted to steal objects from the depot." (Hegner et al. 1983: 77)

In 1983, this story was used for the first time in an inquiry for a SOWI survey. The ability to form an independent ethical judgement is measured by the degree of consent with the reasons which justified PFC Schneider discharging his firearm.

Figure 2. Question: "41. In your mind which of the following arguments best justifies the condemnation of the behavior of Schneider?"

		This argument justifies the condemnation of the behavior of Schneider				
	You can argue that ...	*a lot*	*quite well*	*good*	*less well*	*not at all*
1	... he should not have fired because now he has to anticipate that he will be beaten by his comrades.	0	0	1	4	24
2	... he would had fewer problems if he would not have shot.	2	2	2	1	22
3	... it would have been more comradely not to shoot.	0	0	1	8	20
4	... in any case, he acted against the unwritten law not to shoot a comrade.	0	1	0	5	23
5	... his targeted shot corresponded to the rules of engagement while on guard but he nevertheless should have asked himself if the shooting would be justified in this particular case.	5	1	7	10	6
6	... in any case it would be wrong to endanger the life of a human even if this means an important order of the German army would have been disregarded.	1	1	2	11	14

I have led a discussion about PFC Schneider's dilemma with my students at the Armed Forces University in Hamburg. All young officers but one justified the reaction of the PRC on guard although everybody already knew the end of the story – that the soldier shot a comrade.

Figure 3. Question: "42. Please tell us what you think about the situation?"

	more right	*more wrong*
In your mind: Was the behavior of Schneider more right or more wrong? Please try to decide on one option!	28	1

Obviously, the military students justified Schneider because he had acted according to his orders. The result of the discussion seems to indicate that in general, servicemen and women are inclined towards solving unclear situations by supposedly acting decisively and in conformity with orders. In reality, those situations are quite rare. Often, a 'framing' is necessary to

determine how to bring regulations and contradicting 'real' experiences into harmony (Neitzel/Welzer 2011: 16–82).

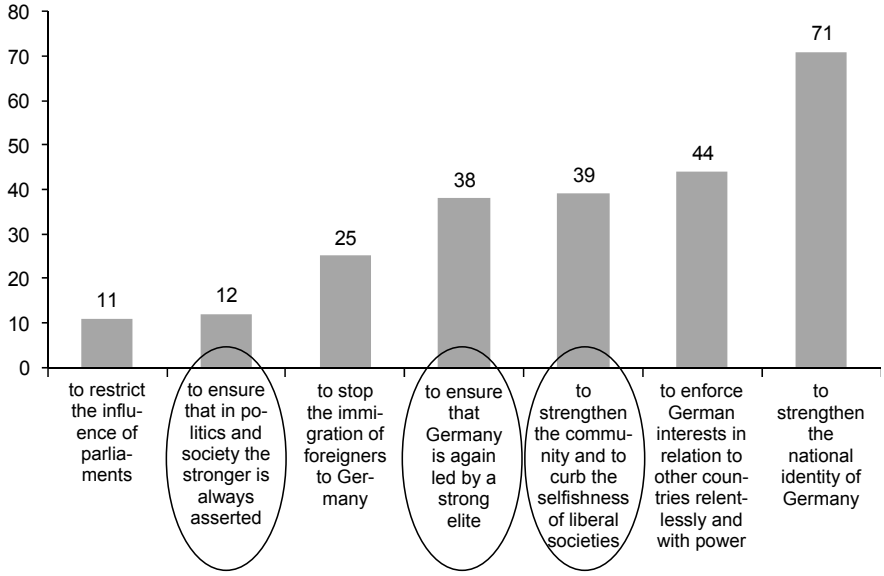
Soldiers are inclined to use forceful means to solve ambiguous, contradicting and unclear situations out of service as well, i.e. in other circumstances. What they have learned for their professional role will also be reflected in their private lives. Servicemen and women tend to solve conflicts by force in public as well as in private, vis-à-vis their comrades. Survey results for American and Canadian armed forces can be summarized as follows: "Violence in families of soldiers maybe supported by a culture of machismo, a hierarchical-authoritarian character of the military as an institution, by the principle of order and obedience, the training in the use of force, the social and geographical isolation because of frequent relocations and operations abroad which disturb the balance of a family system every time, and the potentially life-threatening job of the soldier, all these stresses may play a role in support of violence at home." (Klein/Kümmel 2002; Näser-Lather 2011) Acts of violence seem to occur less frequently among German than American servicemen and women. But here, too, there is a danger of military methods being transferred to civil contexts when solving conflicts.

Among soldiers, there are more indicators of an inclination to reduce ambiguity by relying on authorities. See figure 4.

A high percentage of young German officers believes that in society "the stronger should always prevail", that Germany should be "led by a strong elite", that the migration of foreign nationals should be stopped, that community should take precedence over individuality, and that the power of parliaments should be restricted. I think that the emphasis on self-denial is also very important – besides the fixation on force, prevalence, and elite (see Bulmahn 2007: 117–132).

I interpret the concurrence with each of the following items as an example of intolerance of ambiguity: young officers are against pluralism, against the simultaneousness of brightness and darkness, against democracy, and instead, they strive for a clear-cut distinction between black and white, up and down, in and out. In the discussion of these figures, it should be emphasized that among student officers, concurrence with these items is lower than among youngsters and young German adults of the age between 15 and 32. If we compare young male high-school students with these officers, who at one time were also high-school students, the concurrence level of the latter is even lower. This is a real problem because all these officers should exercise the state monopoly of force on behalf of the government and parliament and therefore identify themselves in an important way with decision-making in a democracy which is – admittedly – polyphonic but capable of transforming conflicts.

Figure 4. Concurrence with political goals. Question: "In politics one can pursue very different goals.



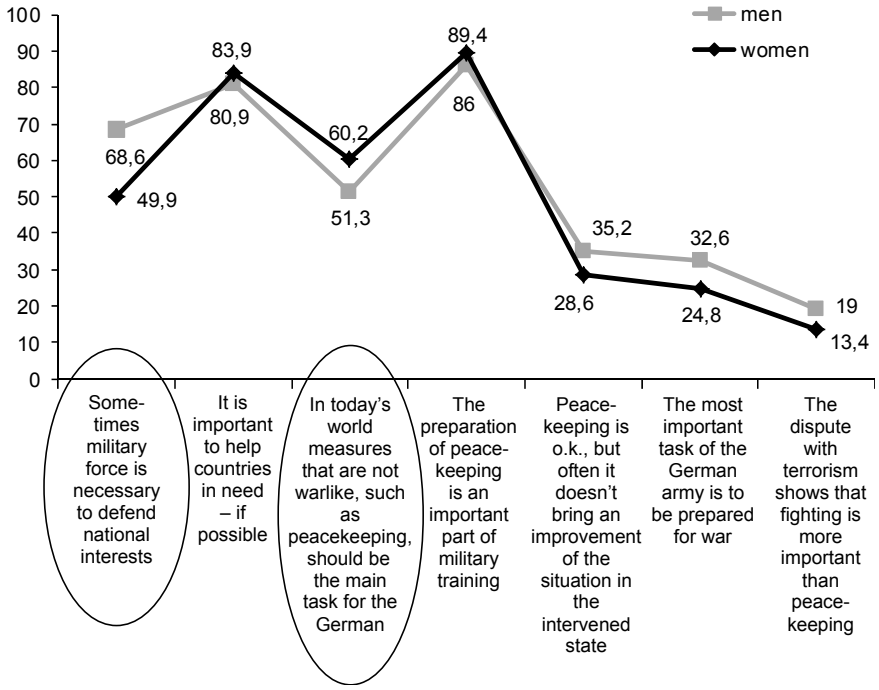
Which of the following goals do you concur with, which do you reject?" (in percentages)

Source: Bulmahn: Studentenbefragung 2010.

3.2. Pressure to conform within the armed forces

A second indicator of the often quite low ambiguity tolerance of German servicemen and women that I have collected evidence for is connected to the pressure towards conformity. Military life is based on conformity. Everybody looks the same and does the same. So everybody is annoyed by somebody who looks differently and who thinks differently as compared to the soldiers as a whole. Most young people want to live in fellowship within the *Bundeswehr*. Therefore they are inclined to integrate themselves into the military group to the point of self-denial, and perhaps, tolerate even humiliating experiences. The largest dissenting group within the German armed forces are women who actually still comprise less than 10 percent of all service-personnel, and only 6.9 percent of all officers. There is a great deal of distrust towards women which can be observed among the male service-personnel. Obviously, women are a source of irritation for the *Bundeswehr* – not only because of their sex. Women also bring new ideas to the military organization: They agree less often to the item that "sometimes military force is necessary to protect national interests" than their male comrades, and they more often see "peacekeeping as a central task for the *Bundeswehr*".

Figure 5. The military's mission: whether to defend, help, rescue, keep peace, or engage in violence and fighting (in percentages)

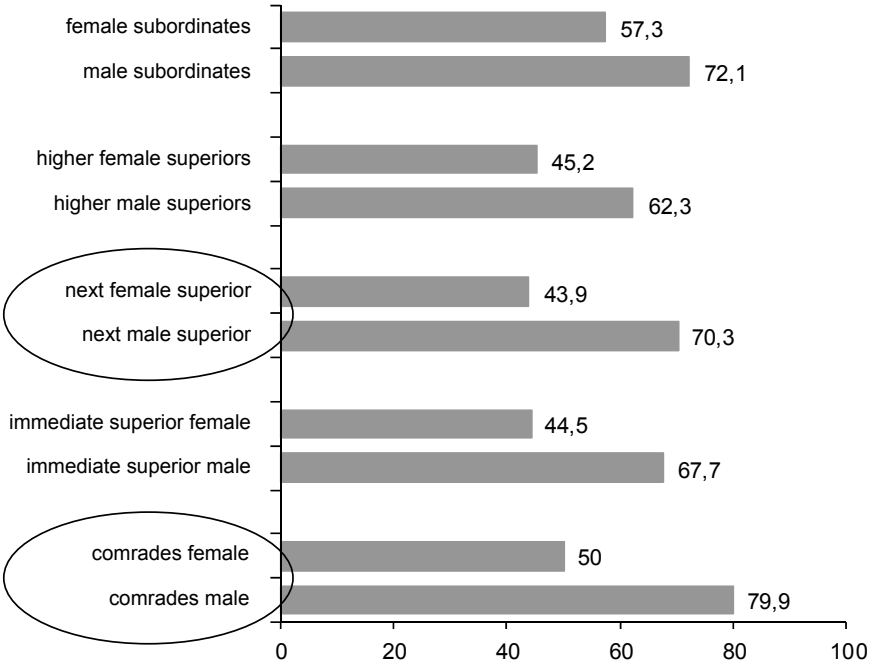


Source: Kümmel: Truppenbild mit Dame 2008.

As servicemen see professional soldiers to a large extent as being a typical male profession, women are not accepted as superiors or as comrades as much as might be desired.

One can suppose that a pre-modern gender orientation of soldiers becomes particularly developed when they are mentally preparing for war. Servicemen believe that servicewomen are only suited for deescalating operations. Men often act against the letter and spirit of the code of gender equivalence: Many female soldiers have stated that they have experienced sexism as members of the armed forces (Kümmel 2008: 76–83). This is of special significance because of the soldier's basic obligation to be obedient. The change of the job profile by admitting women seems to touch a sensitive nerve, perhaps even the self-perception of being a man in general.

Figure 6. Confidence of male soldiers in female soldiers (in percentages)



Source: Kümmel: Truppenbild mit Dame 2008.

Now it should be asked whether the concept of *Innere Führung* which determines the self-image of the servicemen and women and the organizational culture of the military as a whole strengthens or weakens ambiguity tolerance.

4. Does *'Innere Führung'* Promote Ambiguity Tolerance?

This question must be answered by the two new Field Manuals "*Innere Führung*: Self-Image and Leadership Culture of the *Bundeswehr*" (FM 10/1), and "Living Responsibly – Assuming Responsibility for Others" (FM 10/4). Neither manual mentions 'ambiguity tolerance'. Nevertheless one can observe that both regulation manuals seem to promote this ability rather than dampen it. Looking through these manuals for authority fixation and conformity pressure, one finds that neither handbook promotes them but rather explicitly rejects these two characteristics. Thus FM 10/1 "*Innere Führung*" puts 'task' in front of 'order' (point 316) and also avoids listing 'order' as a keyword in the index (only 'authority to issue orders' is mentioned), but it names the keyword 'task' eleven times: "Point 612. Leadership must

permit room for action, participation, and for joint responsibility. Therefore, superiors must use the overriding principle of 'leading by mission'. In doing so, they may have to accept solutions by somebody else if necessary. If possible, superiors shall share important decisions with the soldiers concerned. This enhances motivation and is therefore an important factor in professional satisfaction and for operational readiness."

The keyword 'obedience' and 'obligation to obedience' respectively is only mentioned three times according to the index of this handbook. In each case, it concerns the limits of military authority. Thus, the professional image of the soldier that this manual promotes is to be rather critical of authorities.

A disposition towards authoritarian social or political orientations cannot be found in this manual either. What it emphasizes is the importance of democracy, discussion and even pluralism (point 301, 312f.). The reference to justice illustrates disapproval of the law of the jungle. The pluralism of Germany's society is not only accepted as a reality of life, but is something that should be promoted in the *Bundeswehr* (point 314). Instead of showing an elite orientation, the manual praises participation and advice. The international integration of Germany rather than national identity is favored.

FM 10/4 is based on the same principles. It does not contain 'order' or 'obedience' in the index, but presupposes a soldier who possesses a fully developed power of moral judgement and who knows and follows the "moral foundations of a behaviour based on ethics" (German Department of Defense 2009). Such educated servicemen and women follow the values of the German Constitution and are "self-determined". The FM 10/4 states very clearly: "Point 107. From the soldiers' point of view, the *Lebenskundlicher Unterricht* (ethical education) contributes to the affirmation of common values within a liberal-democratic society in light of cultural and social diversity. Thereby soldiers are enabled to deal with the convictions, ideologies, and cultures – their own and those of others – through debate as well as open a dialogue and develop cultural awareness."

These two manuals seek to encourage the willingness of servicemen and women to take responsibility for themselves and for other people, and to bind them to the value system of the German Constitution: The dignity of all men, liberty, peace, justice, equality, solidarity, and democracy.

A look at one of the last reports of the *Wehrbeauftragter* (Parliamentary Commissioner for the Armed Forces) shows, however, that problems with the implementation of these Field Manuals still remain, especially with those who are in authority and conformity-oriented community, i. e. the military leaders. They lack,– as quoted by the last Parliamentary Commissioner – "more and more a 'moral coordinate system'". "Many of them (superiors

on all levels) already lack respect for the rights and the personalities of their subordinates." (Report for 2009, publi shed 2010: 24)

5. Recommendations

In classes on the *Innere Führung*, problems should be perceived and explained possibly in a broad and multi-dimensional manner. The tendency to solve problems in an oversimplified way should be reduced. A broad spectrum of options becomes available through intense discussions and especially by watching one's dark side which ultimately enhances the certitude to act in an appropriate manner. This ensures that soldiers will not only be educated in pre-modern military traditions, but also in the values of democratic societies: individuality, personal responsibility, pluralism, and compromise.

In order to perceive the contradictions, ambivalences, and ambiguities of the external reality one must perceive the 'different souls in one's chest'. The Hamburg psychologist Friedemann Schulz von Thun (2004) describes the sense of self-perception and self-explanation as a conversation between the 'inner team'. He believes that in every human being there are different 'spokesmen' working for different interests, feelings, and thoughts. Schulz von Thun suggests imagining these 'spokesmen' as a team in which each 'player' has a voice of its own. Each player in this 'inner team' is allowed to voice his own views. In this way, subliminal conflicts surface which hamper the personality. Identifying spokesmen for different interests, hearing the single voices, and allowing a dialogue between those single voices and their reconciliation, is part of the development of the 'inner team'. Thus a reflective person can develop his own integrated statements. (Schulz von Thun 2004: 155) A person can become the leader of his 'inner team' and be capable of acting authentically if he accepts and arranges his inner contradictions. Schulz von Thun states that in the case of professional role conflicts, especially when those roles are changing, it is important to obtain strength from the different and perhaps even contradicting perspectives. He believes that there are typical professional positions of the 'inner team' and that there are specific professional dilemmas. Of course, Schulz von Thun does not believe that these dilemmas will always be solved by the persons concerned. He claims instead that his method of developing such a personality will allow an individual to resolve reflectively specific professional dilemmas, and that it will enhance professionalism. For soldiers, the manuals mentioned above would be one of the inner voices which advise the observance of normative requirements.

An education which is problem-oriented and self-reflexive could help soldiers to realize the irreversibility of the use of force and to deal with the challenges emanating from the responsibility of killing people.[3]

Courses on the *Innere Führung* on the basis of FM 10/1 or FM 10/4 are primarily proactive. They should foster the formation of the soldiers' conscience because in a conflict situation everybody stands "in front of his conscience" (Baudissin 1959) – as the 'spiritual father' of the *Innere Führung*, Wolf Graf von Baudissin, put it in his unmatched expression – and nobody else, and no order can release him from his conscience. Only a person who has learned to recognize ambiguities and to endure them – and who has made a decision after measuring all the options and their consequences in the best possible way – can live with his conscience. Therefore, seminars on the *Innere Führung* should train a sensibility towards oneself, and the ability to recognize obstacles – with the goal of enhancing the ambiguity tolerance of soldiers in this way. Such courses can help one to cope with the ambiguity inherent in reality in which servicemen and women must act. Learning to accept ambiguities does not mean that doing nothing is best. Rather the recognition of the ambiguity of the soldier's profession is a realisation of what servicemen and women must do to themselves if they use force against somebody else.

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[3] With regard to policemen it has been well documented what effect the use of guns has on the shooter. Approximately 40 percent of them are able to digest the event with family and friends. Another 40 percent develop a post-shooting trauma, a special case of the post-traumatic stress disorder, which can be cured by professional help. The last 20 percent of the policemen who have made use of their gun and killed somebody develop a permanent post-shooting trauma. This can also be a so called the "Siegfried syndrome": they provoke further shootings to experience if they are really invulnerable. These 20 percent are the cause of real danger for themselves as well as for others.

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IS GAME THEORY COMPATIBLE WITH CLAUSEWITZ'S STRATEGIC THINKING?

Detlev-Holger Müller

Although game theory is a rather young area of science, it is already well established in the field of mathematically oriented decision-making techniques. Initially its findings were mainly aimed at describing and explaining economic processes, later however these concepts of thinking were also applied to political and military-strategic problems. The development and implementation of the flexible response nuclear strategy was based on game theoretical calculi, but it has also been applied to arms control, as well as confidence and security-building measures.

In Clausewitz's broad array of works, including his opus magnum, the book "On War," one can find a great deal about strategy. For a basic understanding of his arguments, it is important to keep in mind the fact that he has certainly not written a doctrine, but strives rather to give a guide on how to think: "Given the nature of the subject, we must remind ourselves that it is simply not possible to construct a model for the art of war that can serve as a scaffolding on which the commander can rely for support at any time."[1] Clausewitz's main concern, therefore is to train the strategic spirit, and not to try to press a commander into a tight corset of rules. To do so he describes the basic, permanently changing nature of war and he shows the instruments of analysis, which should be taken into consideration in a concrete strategic situation.

Using this as a point of departure, the subsequent contribution[2] tries to deal with the question of whether a strategic calculation, based on game theory, can be derived from Clausewitz's (philosophical) concept. If this should prove to be the case, then game theory must certainly become a further element in the toolbox of Clausewitz's instruments of analysis.

The origin of a systematic development of game theory is connected with the names John von Neumann and Oskar Morgenstern. In 1928 Neumann

[1] **Clausewitz, Carl von** 1989. On War. Translated by Michael Howard and Peter Paret. Princeton University Press, p. 140.

[2] The following is based on the author's thesis "Clausewitz' Verständnis von Strategie im Spiegel der Spieltheorie" (Berlin 2012).

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published an article "Zur Theorie der Gesellschaftsspiele"[3] and formulated the basic thoughts to such game situations in which the outcome of the action of one player is directly dependent on the intentions of the other protagonists. Together with Morgenstern he wrote a book titled "Theory of Games and Economic Behavior" (first edition in 1944), which is considered to be the very starting point of this area of science.

The overall purpose of game theory is the description, analysis, and resolution of such decision-making situations where the individual options and alternatives of several participants (players) clash, and the consequences of each of these courses of action are in an interdependent relationship. Between the choices, there exists a system of dependencies combined with mutual interference[4]. The emphasis of the research is therefore placed on decisions made in social situations where the participants have conflicting interests, or at least a mixture of common and conflicting intentions.

To demonstrate its principal way of thinking, let us take a look at a classic example of game theory, the so-called prisoners' dilemma, which shall illustrate its procedures. This example is based on the following story:

Two suspects are apprehended and separately interrogated. If neither confess to the major crime they were apprehended for, both will be charged with minor crimes, and then convicted. If both confess, both will be convicted of the major crime with a recommendation of leniency. If one confesses while the other does not, the squealer will receive a suspended sentence; the other will be convicted and receive a full sentence. In detail the offer of the prosecutor is as follows:

- if both confess, the official imprisonment of nine years will be reduced to six years;
- if only one confesses, while the other does not, the first will get one year, while the other will receive nine years;
- if neither one confesses, a prison sentence of three years for each of them will be the consequence.

Following this discussion there is no possibility for the two offenders to get into contact with one another and to coordinate their behaviour (solitary confinement).

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[3] **Neumann, John von** 1928. Zur Theorie der Gesellschaftsspiele. – Mathematische Annalen, Band 100. Berlin, S. 295–320.

[4] The essential difference between this and classical decision-making techniques ("Operations Research") is that these are focused on only "one" decision-maker, who will optimize his objective function in a given set of conditions.

In the light of the foregoing, a matrix can be generated (Figure 1a), which is to read in the following way:

- if each of the four fields is fixed, what would happen to both offenders, based on their combined behaviour?
- the left figure always represents the time of imprisonment for $a^{(1)}$, the right figure is consequently the result for $a^{(2)}$;
- a negative algebraic sign indicates that imprisonment means the loss of freedom, so in this case –1 is better than –9.

		OFFENDER $a^{(2)}$	
		does not confess	confesses
OFFENDER $a^{(1)}$	does not confess	–3; –3	–9; –1
	confesses	–1; –9	–6; –6

Figure 1a. Prisoners' Dilemma

In order to avoid the use of negative figures this matrix will be transferred to another one (Figure 1b), in which the figures reflect, for both offenders, the gain of freedom they can achieve with regard to the maximum of punishment of nine years.

		OFFENDER $a^{(2)}$	
		does not confess	confesses
OFFENDER $a^{(1)}$	does not confess	6; 6	0; 8
	confesses	8; 0	3; 3

Figure 1b. Prisoners' Dilemma

(By means of this linear transformation we have again attained the normal cardinality without having changed the basic structure of the problem[5].)

Keeping in mind the offer of the prosecutor, the two offenders can now consider the following strategies:

- for $a^{(1)}$ the strategy to confess is better than to not confess, because whatever $a^{(2)}$ decides, in any case $8 > 6$ respectively $3 > 0$[6] will be the result for $a^{(1)}$;
- for $a^{(2)}$ to confess is also more favourable than to not confess, because whatever $a^{(1)}$ decides, it follows that, in any case $8 > 6$ respectively $3 > 0$ will be the result for $a^{(2)}$;
- so, from the rational point of view of both of the offenders, the strategy to <confess> is the only reasonable solution since the result of this strategy is that for both, three years will be suspended from the maximum of punishment of nine years[7].

This combination of confess/confess is self-stabilising because neither of the players benefits from unilateral deviations in their decision making[8]. This state of affairs is called a Nash equilibrium, named, in honour of John Nash, who discovered this principle of mutual best response in 1950[9].

This solution concept, the Nash equilibrium has found a wide range of applications as it is also applicable to situations with more than just two players, and also for situations where there are more than just two options. However, there are some difficulties. It is perfectly possible, for example, that there can be more than only one Nash equilibrium in a game; this will cause a selection or coordination problem. Moreover, the prisoners' dilemma is a good illustration of how the Nash equilibrium is not necessarily the best solution. For instance if both suspects agree to not confess, they could gain six years of freedom each (instead of three years in the equilibrium). However, as this combination offers a deferred incentive to deviate, it cannot be stable. This means that the Nash equilibrium and the Pareto efficiency are not necessarily identical.

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5 For a mathematical point of view a value of nine has been added to each number; according to the rules of addition of matrices, this does not change their structure.

6 In the nomenclature of game theory this is called a dominant strategy.

7 This solution, by the way, would not be different, even if both would have had the opportunity to communicate before their decisions!

8 For $a^{(1)}$ this would mean a deterioration of $3 \rightarrow 0$; for $a^{(2)}$ the same would apply.

9 In 1994 he was awarded the (Nobel) Price in Economic Sciences for his pioneering analysis of equilibria in the theory of non-cooperative games.

Descriptions of decision-making situations with a matrix are obviously limited to those cases, where all the players have only one action to choose from, simultaneously[10]. If the situation requires a sequence of actions which are variable in time and in substance[11], then the depiction needs to be different. With reference to the well-known "decision tree" (Operations Research) game theory uses a similar model called "game tree". Without connecting it to a concrete example, the following *Figure 02* shall demonstrate the basic principle (the term "z" stands for a possible option, the upper term "$^{(1)}$" or "$^{(2)}$" indicates player $a^{(1)}$ respectively $a^{(2)}$, and, finally, the lower term "$^{(1)}$" or "$^{(2)}$" counts the total number of actions of the respective player; the "○" symbolises a decision knot which indicates a selection situation between several alternatives):

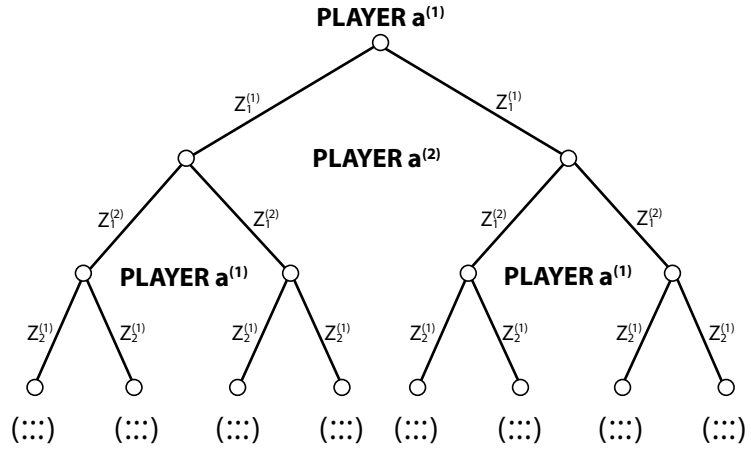

Figure 2. Game tree

(Thus, it is quite apparent that in this manner more than two players and a multitude of sequences of actions can be captured.)

In order to find the best, or most stable (!), solution using these parameters backward reasoning as well as the Subgame perfect equilibrium from Selten can be applied.[12]

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[10] An example of this is the well-known rock-paper-scissors-game (sometimes also called the Janken Game).

[11] Just think of chess.

[12] The details of these procedures are beyond the scope of this article; they can be found in any textbook about game theory.

The possibilities of game theory to deal also with military problems was recognized rather early – mainly in the USA. In the 1950s[13] fighter-fighter situations and anti-missile defence systems were already being analysed on the basis of game theory, as were submarine manoeuvres. Colonel Haywood (US) was the first to try to apply game theoretical thinking to the military decision-making process[14]. Working from the assumption that "Likewise battle between two opposing military forces is a two-person game"[15] he analysed a valid "Estimate of the Situation" at that time by using the structure of a zero-sum game, and found that: "The identity of the doctrine of the "Estimate of the Situation" with the minorant game of the von Neumann theory is significant. The minorant game is the most conservative possible play of the game."[16] In his view a decision rule, which is only oriented to the enemy's capabilities and not to his intentions, does not carefully weigh the opportunities and risks. Therefore he insists: "Game theory may well serve in this role as a stimulus and tool for the development of doctrines of decision."[17]

Four years later the same Haywood published an informative study about two major World War II operations, which he analyses with the instruments of game theory[18]. One of these is the Avranches-Gap Situation which occurred in 1944 as part of the landings in Normandy (D-Day) when the US troops under General Bradley and German forces under the command of Field Marshal von Kluge faced one another. The second subject of investigation happened in the Pacific War and is called the Rabaul-Lae Convoy Situation (also: Battle of the Bismarck Sea) in 1943; it deals with the employment of US air forces against the movement of Japanese fleet in that area.

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[13] The Nobel laureate Aumann states: "The 1950s were a period of excitement in game theory. … The major applications at the beginning of the decade were to tactical military problems: defense from missiles, Colonel Blotto, fighter-fighter duels, etc. Later the emphasis shifted to deterrence and cold war strategy, with contributions by political scientists like Kahn, Kissinger, and Schelling." See **Aumann, Robert J**. 1987. Game theory. – Eatwell, John; Milgate, Murray; Newman, Peter (eds). The New Palgrave – A Dictionary of Economics, Volume 2. London/New York/Tokyo, p. 467.

[14] See **Haywood, Oliver G**. 1950. Military Decision and the Mathematical Theory of Games. – Air University Quarterly Review, 1950 (1), pp. 17–30.

[15] *Ibid*., p. 20.

[16] **Haywood** 1950, p. 28.

[17] *Ibid*., p. 30.

[18] See **Haywood, Oliver G**. 1954. Military Decision and Game theory. – Journal of the Operations Research Society of America. 1954 (4), pp. 365–385.

In the US, theorists such as Herman Kahn also used game theoretic methods, and the Nobel laureate Harsany as well outlines: "In the period 1965–69, the U.S. Arms Control and Disarmament Agency employed a group of about ten young game theorists as consultants. It was as a member of this group that I developed the simpler approach, already mentioned, to the analysis of I-games. I realized that a major problem in arms control negotiations is the fact that each side is relatively *well informed* about *its own position* … but may be *rather poorly informed* about the *other side's* position in terms of such variables."[19]

The economist, and 2005 Nobel laureate, Thomas Schelling has intensively researched scenarios of the Cold War, such as nuclear deterrence, and the arms race from the perspective of game theory. The core element of his theory is the conclusion that in most cases, conflict situations (to be understood as a two-person game) can be regarded as a mixture of pure confrontation on the one hand, and common interests on the other. It is because of this twin character that Schelling sees the difficulty of assigning this type of game to either the cooperative or to the non-cooperative game. He therefore created a new terminology, calling them mixed-motive games. According to Schelling, military-strategic considerations clearly belong to this class of games.

On the basis of this mixed motive model Schelling concentrates on "the exploitation of potential force", i.e. he does not place the focus on the real deployment of forces. On the contrary, he lays emphasis on the threat of force as a means of avoiding war, but without neglecting the enforcement of one's own interests. This pre-war orientation needs to be seen in the context of nuclear weapons, their strategic effect and potential for escalation, but regardless of this Schelling's argumentation is determined by his concern that under the umbrella of the Cold War each (regional) conflict, although it may be of a limited and conventional nature in the beginning, can develop into a larger armed conflict between the bloc powers. Conflicts are generally decision situations in which the options to act on one side will depend on the intentions of the other party (Schelling: "theory of interdependent decision"); this fact, in combination with the existence of partially parallel interests, provides the opportunity to coordinate actions in mutually beneficial synergy.

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[19] **Harsanyi, John C**. 1994. Games with Incomplete Information. Nobel Lecture, December 9, 1994, p. 138; complete text of the lecture under: <http://nobelprize.org/nobel_prizes/economics/laureates/1994/harsanyi-lecture.pdf>, (27.02.2009).

To achieve such a level of cooperation, Schelling proposes the method of bargaining, either in explicit or tacit form ("Trading with the enemy"[20]).

Altogether, this limited selection of examples of game theoretical thinking in military affairs can only indicate to what extent this area of science has meanwhile developed as an instrument of analysis of strategic problems and as a supporting tool for decision-making. Two fundamental directions can be differentiated: (1) Models of game theory are capable of providing, within the framework of a lessons learned-process, explanatory approaches to military operations already completed. (2) Game theoretical patterns of thoughts can be useful in the decision-making process, if the rules of the game can still be influenced; Schelling, makes this very clear with his considerations about commitment and threats in connection with the advantages and respective disadvantages of a first or second move[21].

Clausewitz has dealt in many ways with the subject of strategy. Worth particular mention, are the document "Strategie" of 1804 (with amendments of 1808 and 1809[22]), the paper "Die wichtigsten Grundsätze des Kriegführens zur Ergänzung meines Unterrichts bei Sr. Königlichen Hoheit dem Kronprinzen"[23], and, of course, his masterpiece "On War" [24] which he himself understands to be a book about strategy ("The theory of major operations (strategy, as it is called) … ." [70]).

The starting point of his edifice of ideas is the basic premise that "According to our classification, then, tactics *teaches the use of armed forces in the engagement*; strategy, *the use of engagements for the object of the war*." [128] When Clausewitz uses the term "teaches" in connection with strategy, this does not mean at all that he is presenting a set of regulations ("A positive doctrine is unattainable" [140]; he rather intends to give us guidance for thinking: "Theory should be study, not doctrine" [141]. Therefore, his understanding of a theory reads as follows: "It is an analytical investigation leading to a close *acquaintance* with the subject; applied to experience – in our case,

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[20] See **Schelling, Thomas** 1975. A Framework for the Evaluation of Arms-Control Proposals. – Dædalus. 1975 (3), p. 189; **Schelling, Thomas** 1984. Choice and Consequence. Cambridge (Mass.)/London, p. 249.

[21] See **Schelling, Thomas** 1960. The Strategy of Conflict. Cambridge (Mass.)., p. 124.

[22] This document was first published about 100 years later: see **Kessel, Eberhard (Hrsg.)** 1937. Carl von Clausewitz – Strategie aus dem Jahr 1804 mit Zusätzen von 1808 und 1809. Hamburg.

[23] **Clausewitz, Carl von** 1980. Vom Kriege. Troisdorf, S. 1047 *et seq*.

[24] The now following quotations from this book do all refer with its {page numbers} to the translated edition by Howard, Michael and Paret, Peter from 1989.

to military history – it leads to thorough *familiarity* with it." [141] In view of the above, in the following it shall be examined whether game theory can be suitably integrated into Clausewitz's set of instruments for analysis.

The basic structure of Game theory as a method of decision-making in interactive situations is found relatively easily in Clausewitz's universe of ideas. Under the headline "War is an Act of Human Intercourse" (Book Two, Chapter Three) Clausewitz states that war "is part of man's social existence", and describes it as "a clash between major interests." [149] In view of his multiple remarks about the interdependence of the opponents (see e.g. [80] [136] [586]) it becomes quite clear that for Clausewitz all military operations have a social dimension and an interactive character. In that regard one can find a remarkable congruency between the basic model of game theory and Clausewitz's understanding of the nature of war and its inherent military-strategic thinking.

Another relevant element of game theoretic reasoning is information and its availability for all parties concerned. For Clausewitz this factor is also of importance (although he does not use the word "information" but rather makes use of other terms with the same sense, which were common to the language of his time). In a letter to Major Röder in 1827 he wrote that strategic design must, by necessity, be created due to the war efforts of both parties, while also adding some considerations about the necessary situational information[25]. In "On War" some parts of the text underpin this requirement, inter alia the following statement: "…, we must first examine our own political aim and that of the enemy. We must gauge the strength and situation of the opposing state. We must gauge the character and abilities of its government and people and do the same in regard to our own. Finally, we must evaluate the political sympathies of other states and the effect the war may have on them." [586] From this it can be deduced that Clausewitz's military-strategic considerations are based – similarly to the approach of game theory – on a look at the situation from two perspectives, namely from one's own and from the hostile one, and in a weighing of the mutually existing action potentials, take into account their interrelationships.[26]

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[25] See **Rothfels, Hans** 1923. Zwei strategische Briefe von Clausewitz. – Wissen und Wehr, 1923 (3), S. 166.

[26] Under the headline "On the Theory of War" (Book Two, Chapter Two) Clausewitz rejects the dominant practice of his time, to look only at the own capabilities and skills. This perception finds its expression by saying e.g. "They consider only unilateral action, whereas war consists of a continuous interaction of opposites." [136]

Very often Clausewitz uses the term "probability", and does so in a two-fold sense: on the one hand he is focused on the likelihood of success, and he points out some factors which may have a positive impact on this aim ("In war, of course, one is always looking to have a chance of succeeding, either by physical or moral advantages."[27]); on the other hand, he combines this with some assessments of the enemy ("From the enemy's character, from his institutions, the state of his affairs and his general situation, each side, using the laws of probability, forms an estimate of its opponent's likely course and acts accordingly." [80]) The first of these two aspects rather illuminates the later act of executing a strategic decision, following his maxim "to make the best use of the available resources"[28]. The second aspect, however, is clearly of game theoretic character, because it is used by Clausewitz to describe the development of a military strategy as a process of mutual conjectures with feedback effects. And this is precisely the basic model of game theory.

In its origin game theory is based on a fictitious character *homo oeconomicus* (a fictional being situated in the economic sciences), i.e. and assumes that all stakeholders involved act completely rationally, and are focused on the maximisation of their benefit. Based on that are inter alia the principles of the dominant strategies, the Nash equilibrium, and the Subgame perfect equilibrium. Clausewitz himself implies that the commander-in-chief will also follow a rational principle, and consequently one will find in his work some references to economic principles. In a fundamental way he points out: "In the utilization of a theatre of war, as in everything else, strategy calls for economy of strength. The less one can manage with, the better; but manage one must, and here, as in commerce, there is more to it than mere stinginess." [500] Admiring the King's strategy in the Seven Years' War he praises Frederick the Great of Prussia "But for seven years he skilfully husbanded his strength …" [94]. The comparison of war with trade [149] is also an indication of his cost-benefit thinking, as are his considerations about the expenditure of force in relation to the purpose envisaged [81] [92] [322]. With the statement "Each unnecessary time exposure, each unnecessary detour is a waste of strength and therefore an abomination for strategic plans"[29] it

[27] See **Clausewitz** 1980, p. 1048 (translation of this quotation by the author).

[28] See **Clausewitz, Carl von** 1805/1956. Bemerkungen über die reine und angewandte Strategie des Herrn von Bülow. Neue Bellona, Neunter Band, S. 252–287. – Nachdruck in Wehrwissenschaftliche Rundschau. Nohn, Ernst A. 1956. Der unzeitgemäße Clausewitz. Beiheft 5, S. 12.

[29] See **Clausewitz** 1980, p. 1020 (translation of this quotation by the author).

becomes obvious that the gap between revenue and use of resources should be as large as possible. Thus the fundamental premise of game theory is echoed in Clausewitz's understanding of the strategic outturn account.

Three fundamental directions of methodological approach can be found in his main opus "On War": (1) primarily a philosophically-dialectically oriented thinking and reasoning; (2) furthermore a rationale, which is based on comprehensive studies of historical battles and wars; (3) finally, a critical assessment of the strategic theories of his time, as well as an analysis and evaluation of real conflicts of that time (campaigns of Napoleon, Wars of Liberation). The philosophical orientation in his work – influenced by the teachings of Kant and Kiesewetter – is manifested by his effort to recognise the phenomenon of war in its real substance, inner logic, and timeless character[30]; his dialectical approach aims to examine each subject-matter via its antipoles. The main purpose for Clausewitz is to bring theory and practice into harmony. His appreciation of military-historical events is expressed in his formulation of the power of historical evidence and is reflected in numerous studies of battles and campaigns (the fourth to the tenth volume of his *Hinterlassene Werke* is a testament to this). In view of the Napoleonic wars of conquest and the resulting tendencies in the manifestation of armed conflicts he says: "Since Bonaparte, then, war, first among the French and subsequently among their enemies, again became the concern of the people as a whole, took an entirely different character, or rather approached its true character, its absolute perfection. There seemed no end to the resources mobilized; all limits disappeared in the vigour and enthusiasm shown by governments and their subjects. Various factors powerfully increased that vigour: the vastness of available resources, the ample field of opportunity, and the depth of feeling generally aroused. The sole aim of war was to overthrow the opponent. Not until he was prostrate was it considered possible to pause and try to reconcile the opposing interests." [592] He combined these thoughts with a massive critique of the military literature which then prevailed.

Clausewitz expresses more than once his poor opinion of the theories of war of his time. The study "Bemerkungen über die reine und angewandte Strategie des Herrn von Bülow"[31] as well as "Ueber den Zustand der Theorie

[30] "We should like to add that this chapter, more than any other of our work, shows that our aim is not to provide new principles and methods of conducting war; rather, we are concerned with examining the essential tenets of what has long existed, and to trace it back to its basic elements." [389]

[31] **Clausewitz** 1805/1956.

der Kriegskunst"[32] bear witness to this attitude. Also in "On War", of course, Clausewitz addresses this aspect, e.g. in the section "On the Theory of War" (Book Two, Chapter Two). Thus from these multiple sources it can be deduced that his general creed is to not force strategy into the straitjacket of a positive doctrine with fixed rules. It becomes rather clear that his basic idea is to impart a profound basis of insight, as well as suitable foundations for assessment, and a basis for making decisions. Accordingly, his main effort is concentrated on the training of the mind ("In our reflections on the theory of the conduct of war, we said that it ought to train a commander's mind, or rather, guide his education; theory is not meant to provide him with positive doctrines and systems to be used as intellectual tools." [168]). The instrument for this training is what he calls "critical research", i.e. a deep analysis of the subject, the result of which must then be juxtaposed with the theory.

Clausewitz states that "so-called mathematical factors never find a firm basis in military calculations" [86], and he completely disagrees with the attempts to reduce the conduct of war down to measurable dimensions and geometric forms[33]. This attitude does not seem to harmonize with mathematically oriented decision-making techniques. However, one must understand this massive rejection as a renewed denial of any attempt to construct a model, with normed instructions, to manage real war situations/strategic decisions. Another nuance of his thinking becomes obvious when he answers to the question "Should a commander-in-chief know much about mathematics?" with the statement "if he has studied it for to train his mind, then it might be good for him, …"[34]; so, as a training of the intellect, Clausewitz considers mathematics to be a pursuit which makes very good sense. Let us now combine this last statement with the aforementioned tool of critical research as a method of analysing the subject. If historical examples are this subject, then game theory can be considered as an analytical tool in the sense that Clausewitz intended, in that it is appropriate for an ex post oriented evaluation. It is in this capacity that it can help the process of "analytical investigation leading to a close *acquaintance* with the subject applied to experience – in our case military history – it leads to thorough *familiarity* with it. The closer it comes to this goal, the more it proceeds from the objective form of a science

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[32] This essay is a preliminary work to "On War"; see **Clausewitz, Carl von** 1990. Schriften – Aufsätze – Studien – Briefe. Zweiter Band (1. Teilband). Hrsg. von Werner Hahlweg. Göttingen, p. 23 *et seq*.

[33] Cf. the section "On the Theory of War" (Book Two, Chapter Two).

[34] **Clausewitz, Carl von** 1937. Strategie. Hrsg. von Eberhard Kessel. Hamburg, S. 39.

to the subjective form of a skill, …" [141]. The character of game theory gains even greater importance, for as Clausewitz states: "Military activity is never directed against material force alone; it is always aimed simultaneously at the moral forces which give it life, …" [137]; i.e. it is not enough to only assess the material capabilities of the enemy, but also to take into consideration his intentions.

Finally, another reference to a passage in "On War" shall demonstrate, how much Clausewitz's understanding of causes, effects, links and their assessments resembles the thinking of game theory. In the section about "Critical Analysis" (Book Two, Chapter Five) he points out that war is a coherent whole, in which each subtransaction has an influence on the final result. For him the cause-and-effect relationship, to be considered over several steps ("One can go on tracing the effects that a cause produces so long as it seems worth while." [158]) is an important assessment criterion. In the same manner he sees the importance of means and ends, and he underlines especially that a means on one level becomes an end at the next higher level, possibly with a different value ("Every stage in this progression obviously implies a new basis for judgment. That which seems correct when looked at from one level may, when viewed from a higher one, appear objectionable." [159]). For both, the cause-and-effect relationship and the link between means and ends, Clausewitz demands "The pursuit of this chain, upward and downward, …" [159] in order to clearly identify the interrelation with the desired end-state as well as to measure the contribution of a single action in view of the big picture.

Following these reflections about the cause-and-effect relationship and the link between means and ends, Clausewitz analyses Napoleon's campaign in Italy in 1797[35], thus concretising a theoretical discussion with a real-life example. First, he analyses the decision-making situation at the level of Napoleon, then considers the 'higher' viewpoint of the French Directory, and in a further step he turns to the Austrian side with Archduke Charles and considers the existing options for action and intentions. As a consequence of these considerations he assesses all courses of action, coming to the conclusion that Napoleon did well when he agreed "to sign the peace of Campo Formio, on conditions that imposed on the Austrians no greater sacrifices …" [160].

The entire passage, in fact, makes use of the game theoretic model game tree. And when he says "In a critical analysis of the action, the search for the

[35] See *ibid*., S. 159 *et seq*.

causes of phenomena and then testing of means in relation to ends always go hand in hand, for only the search for a cause will reveal the questions that need to be studied." [159] this is clearly the method of backward reasoning Subgame perfect equilibrium! Finally, at the end of this passage he additionally states "Critical analysis is not just an evaluation of the means actually employed, but of all *possible means* – which first have to be formulated, that is, invented" [161], and this statement precisely applies to the definition of "strategy" in the sense of game theory.

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As a conclusion it can be said that it is not only a theoretical construct, to link elements of game theory with Clausewitz's strategic thinking; on the contrary, his philosophical considerations of war in all its facets find its equivalent in the basic models of game theory. So, in response to the initial question, it can be assumed, that Clausewitz, if he had had knowledge of this area of science, would have been open to game theoretical methods. Of course, he would always have insisted on not deducing doctrinal formulas and rules from the models, but he would have accepted game theory as a tool to train the mind and to improve the intuitive judgment. He views such permanent training as essential, and therefore states: "No activity of the human mind is possible without a certain stock of ideas; for the most part these are not innate but acquired, and constitute a man's knowledge." [145]

In his work, these are Clausewitz's fundamental concerns: to offer an approach to the complexity of the phenomena of war; to identify the acting factors therein; to record the interdependent relationship between cause and effect; it is these facets that must be combined and focused to create a basis for the formation of an independent opinion ("Knowledge must become Capability"; Book Two, Chapter 2). In the pursuit of this goal Clausewitz uses the scientific findings of his time. For obvious reasons he did not have access to the results of contemporary research such as sociology, psychology, political science, nor game theory. However, it has been shown that game theoretic models are not only formally included in Clausewitz's understanding of strategy, and that game theory is also a useful part of a well-rounded education. If Clausewitz and his works are still to be considered relevant (and his main book is not to be used as only a popular quarry for quotations!), then an officer's training and education should also take into account Game theory as an important tool of thinking.

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SUPERIOR RESPONSIBILITY

René Värk

1. Introduction

International law imposes individual criminal liability upon those who commit international crimes. Such liability is normally direct, i.e. focused on the personal conduct of the actual perpetrators.[1] An individual is prosecuted for the active and direct commission of a crime (i.e. principal perpetrator) or for a crime committed by others if he instigated, ordered, planned or assisted the commission of that crime (i.e. aider or abettor). International crimes, however, are often committed during armed conflicts or other unstable situations being a component of large scale atrocities that involve many different perpetrators on various levels. As a result, it is often very complicated to determine the personal criminal liability of each individual who contributed to the commission of specific international crimes. Herein lies the paradox: although international criminal law is essentially individual-oriented, it usually must be concerned with collective criminal phenomena as well. For these reasons, international criminal law has developed some additional forms of liability, namely joint criminal enterprise and superior responsibility.

Superior responsibility is a form of indirect liability as the superior is not held criminally liable for the criminal acts in which he participated (e.g. planned, gave orders, assisted), but in connection with the criminal acts committed by his subordinates.[2] Nevertheless, it is wrong to assume that a superior is simply liable for the criminal acts of his subordinates – his liability derives from his failure to prevent and punish such acts, and to exercise proper supervision and control over his subordinates. This is because international crimes are often committed in the framework of hierarchical organisations, e.g. armed forces or rebel movements, where some individuals physically perpetrate the crimes (subordinates) and certain individuals are

[1] See Statute of the International Criminal Tribunal for the former Yugoslavia [hereinafter the ICTY Statute], Article 7(1); Statute of the International Criminal Tribunal for Rwanda [hereinafter the ICTR Statute], Article 6(1); Rome Statute of the International Criminal Court [hereinafter the Rome Statute], Article 25.

[2] ICTY Statute, Article 7(3); ICTR Statute, Article 6(3); Rome Statute, Article 28.

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not usually directly involved, but indirectly enable the commission of such crimes or create favourable conditions by inactivity (superiors). Such "facilitation" may have a decisive role in the commission of international crimes and therefore it is necessary to hold superiors liable in order to prevent atrocities and to ensure that the duty of exercising proper supervision and control over their subordinates is fulfilled.

Although superior responsibility has been recognised as a part of customary international law for quite some time already, its precise content is still controversial and open to debate. This paper first examines briefly the historical background and codification of a superior's duties and responsibility and then analyses the required elements of superior responsibility. Before venturing any further, a comment on terminology is necessary. Traditionally, the notion "command responsibility" has been used because it is associated foremost with *military* commanders, but it is preferable (more accurate) to use the notion "superior responsibility" that clearly covers both *military* and *civilian* leaders.

2. Historical Background

The earliest origins of superior responsibility trace back to the fifteenth century,[3] but the modern doctrine did not develop until the Second World War. The post-war trials of Japanese and German commanders and leaders established the fundamental principles (although the beginning was controversial), but the elements of responsibility were first elaborated by the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). In the end, the practice and theory were codified in the Rome Statute.

The International Military Tribunal in Nuremberg did not deal with superior responsibility. The Tribunal of Tokyo applied the concept in a way (very broadly) that it effectively became a joint criminal enterprise in the modern sense.[4] It is the *Yamashita* case which was before the United States Military Commission that brought prominence to the principle of superior responsibility in the aftermath of the Second World War.[5] The case itself was

[3] See, for example, **W. H. Parks** 1973. Command Responsibility for War Crimes. – Military Law Review, Vol. 62, pp. 4–5.

[4] **N. Boister & R. Cryer** 2008. The Tokyo International Military Tribunal: A Reappraisal. Oxford: Oxford University Press, pp. 205–236.

[5] See **Parks** 1973, pp. 22–38 for detailed discussion.

controversial and deserves a more detailed discussion.[6] General Tomoyuki Yamashita took command of the Japanese army in the Philippines on 9 October 1944. His headquarters were moved to the mountains, 125 miles north of Manila in December. The United States forces reached Manila on 4 February 1945 and the entire Japanese naval forces defending the capital were destroyed by 3 March. While defending the city, the Japanese forces tortured and killed thousands of civilians.[7] Yamashita was at his headquarters during the operation and supposedly knew nothing of what was happening in the city as communications were cut off. He had given the order to evacuate Manila, but his order was resisted by the Japanese army and navy (only 1,600 left and about 20,000 remained). In September, Yamashita was detained and charged with "unlawfully disregarding and failing to discharge his duty as a commander to control the acts of members of his command by permitting them to commit brutal atrocities and other high crimes against the people of the United States and of its allies and dependencies, particularly the Philippines".[8] He was sentenced to death and was hanged on 23 February 1946.

The military commission found that there had been widespread atrocities and Yamashita failed to effectively control his troops as was required by the circumstances, but drew no express conclusion regarding his knowledge of these crimes. After being found guilty, he appealed to the United States Supreme Court, but the petition was rejected. The trial has been criticised widely for not showing any culpability on the side of Yamashita.[9] Supreme Court Justices Murphy and Rutledge disagreed with the majority. The former wrote an especially critical dissenting opinion:

> He was not charged with personally participating in the acts of atrocity or with ordering or condoning their commission. Not even knowledge of these crimes was attributed to him. It was simply alleged that he unlawfully disregarded and failed to discharge his duty as commander to control the operations of the members of his command, permitting them to commit the acts

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[6] The overview is mostly based on **K. Ambos** 2002. Superior Responsibility. – A. Cassese et al. (eds). The Rome Statute for an International Criminal Court: A Commentary. Oxford: Oxford University Press, pp. 825–828.

[7] Figures differ considerably. Over 8,000 killed and over 7,000 wounded in **Parks** 1973, p. 25, but nearly 100,000 in **A. M. Prévost** 1992. Race and War Crimes: The 1945 War Crimes Trial of General Tomoyuki Yamashita. – Human Rights Quarterly, Vol. 14, p. 314.

[8] *In re Yamashita*, 327 US 1 (1945), pp. 13–14.

[9] For example, **Prévost** 1992, p. 337.

> of atrocity. The recorded annals of warfare and the established principles of international law afford not the slightest precedent for such a charge.[10]

Still, it seems that Yamashita was not convicted under strict liability, i.e. simply because he was the superior of the Japanese forces in Manila. There are two potential explanations for the outcome – the commission did not believe the plea of ignorance given the extensiveness of the atrocities and it was not sure whether the requirement of knowledge should be applied. But it is still impossible to say whether the commission believed that Yamashita knew or should have known about the atrocities. Nevertheless, such a broad interpretation of superior responsibility was not applied in the subsequent cases.

Superior responsibility was used in several cases after the Second World War. These cases (e.g. *Pohl*, *Brandt*, *Hostage*, *High Command*) referred to the case of *Yamashita* in order to prove the existence of the concept of superior responsibility, but did not apply the case as a precedent. Indeed, they partially rejected the low standard of *Yamashita* and adopted approaches more similar to contemporary superior responsibility.

3. Codification of Duties and Responsibility

The first international instrument to expressly address a superior's duties and responsibility was Additional Protocol I to the Geneva Conventions (1977).[11] Its provisions serve as a basis for further codifications (foremost ICTY, ICTR and the Rome Statutes) and their interpretations. The Protocol confirms the general obligation of States to repress grave breaches of the four Geneva Conventions (1949) and the Protocol in question, "which result from a failure to act when under a duty to do so".[12] This provision indicates that a superior can only be held responsible if two conditions are met, namely subordinates have committed such breaches and the superior had a duty to act in regard of these breaches. Next, the Protocol explains the nature and conditions of a superior's responsibility (parallel to subordinates):

> The fact that a breach of the [Geneva] Conventions or of [Additional Protocol I] was *committed by a subordinate* does not absolve his superiors from

[10] Cited in **M. C. Bassiouni** 2011. Crimes against Humanity: Historical Evolution and Contemporary Application. Cambridge: Cambridge University Press, p. 535.

[11] Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 1125 UNTS 3.

[12] *Ibid.,* Article 86(1).

> penal or disciplinary *responsibility*, as the case may be, if they *knew*, or *had information which should have enabled them to conclude* in the circumstances at the time, that he was committing or was going to commit such a breach and if they did not take *all feasible measures within their power* to *prevent* or *repress* the breach.[13]

Then, the Protocol describes what is expected from a superior.[14] *First*, military commanders must (with respect to members of the armed forces under their command and other persons under their control) prevent and suppress the above-mentioned breaches as well as report them to competent authorities. *Second*, in order to prevent and suppress these breaches, commanders must ensure that members of the armed forces under their command are aware of their obligations under the Geneva Conventions and Additional Protocol I. *Third*, any commander, who is aware that subordinates or other persons under his control are going to commit or have committed these breaches, is required to take such steps as are necessary to prevent such breaches and, where appropriate, to initiate disciplinary or penal action against the perpetrators.

The ICTY Statute contains a provision that is similar to Additional Protocol I:

> The fact that [crimes were] committed by a subordinate does not relieve his superior of criminal responsibility if he knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.[15]

The corresponding provision in the ICTR Statute is essentially the same.[16] The provisions in the Protocol and the statutes have different temporal references regarding a superior's duty of intervention – the Protocol covers situations where a subordinate "was committing or was going to commit" a crime, but the phrasing of the statues is "was about to commit [a crime] or had done so". Additionally, when referring to taking measures to prevent crimes, the statutes omit the clarifying condition of "within [a superior's] power" and therefore potentially extending responsibility.

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[13] *Ibid.,* Article 86(2) (emphasis added).

[14] *Ibid.,* Article 87 (to be precise, the article imposes upon States an obligation to ensure that superiors carry out these duties; it is also vital for the clarification of a superior's duties).

[15] ICTY Statute, Article 7(3).

[16] ICTR Statute, Article 6(3).

The Rome Statute provides a much more elaborate formulation (reflecting essentially both the statutes and case law of the ICTY and ICTR). After extensive negotiations,[17] it was agreed that there should be separate conditions for military commanders and other (civilian) superiors:

(a) A military commander or person effectively acting as a military commander shall be criminally responsible for crimes within the jurisdiction of the Court committed by forces under his or her effective command and control, or effective authority and control as the case may be, as a result of his or her failure to exercise control properly over such forces, where:
    (i) That military commander or person either knew or, owing to the circumstances at the time, should have known that the forces were committing or about to commit such crimes; and
    (ii) That military commander or person failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.
(b) With respect to superior and subordinate relationships not described in paragraph (a), a superior shall be criminally responsible for crimes within the jurisdiction of the Court committed by subordinates under his or her effective authority and control, as a result of his or her failure to exercise control properly over such subordinates, where:
    (i) The superior either knew, or consciously disregarded information which clearly indicated, that the subordinates were committing or about to commit such crimes;
    (ii) The crimes concerned activities that were within the effective responsibility and control of the superior; and
    (iii) The superior failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.[18]

4. Nature of Responsibility

Superior responsibility is an original creation of the international criminal justice system, although the idea has been adopted afterwards by numerous domestic systems. Although superior responsibility is generally considered

[17] **P. Saland** 1999. International Criminal Law Principles. – R. S. Lee (ed.). The International Criminal Court: The Making of the Rome Statute. The Hague: Kluwer Law International, pp. 202–204.

[18] Rome Statute, Article 28.

to be a part of customary international law,[19] its precise legal nature is still open to debate. Foremost, for what exactly is the superior responsible? Is it responsibility for complicity?[20] Is it a separate crime for dereliction of a superior's duty to control, prevent or punish?[21] Is it a special mode of liability for the crimes committed by subordinates?[22]

It should be the latter. The superior is not directly responsible for the crimes committed by his subordinates, but for his omission, failure to properly discharge his duty. Even though the superior is considered responsible in connection with the same crimes committed by the subordinates (i.e. if they have committed war crimes, the superior is also charged with war crimes), it does not mean that the superior becomes an accomplice and actually committed these crimes. It was correctly stated already in the *Yamashita* trial that "it is absurd … to consider a commander a murderer or rapist because one of his soldiers commits a murder or a rape".[23] How could the superior physically deport thousands of civilians in a day? So, when it is claimed that the superior is responsible for the crimes committed by subordinates, it does not mean that the superior personally committed these crimes, but that the punishment for his failure to exercise proper authority is measured in the light of the crimes committed by subordinates. But this does not transfer the actual criminal conduct from the subordinates to the superior.

True, there is some resemblance to complicity and joint criminal enterprise.[24] However, unlike aiding and abetting, there is no requirement that the superior actually knew what the subordinates were doing (level of awareness is discussed below). Unlike a joint criminal enterprise, there is no requirement of a plan or common purpose. This may leave a misleading impression that it is easy to obtain a conviction under superior responsibility, but in fact, the elements of responsibility (discussed below) usually render it

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[19] See, for example, **L. C. Green** 1995. Command Responsibility in International Humanitarian Law. – Transnational Law and Contemporary Problems, Vol. 5, p. 350; **A. Cassese** 2008. International Criminal Law. 2nd edn, Oxford: Oxford University Press, p. 241; *Zejnil Delalić and Others*, Case No IT-96-21-T, ICTY, Judgement of the Trial Chamber, 16 November 1998, paras 333, 343.

[20] For example, United Kingdom's International Criminal Court Act (2001), Section 65.

[21] **Ambos** 2002, p. 851.

[22] *Enver Hadžihasanović and Amir Kubura*, Case No IT-01-47-T, ICTY, Judgement of the Trial Chamber, 15 March 2006, para. 75.

[23] Cited in **Bassiouni** 2011, p. 535.

[24] **W. A. Schabas** 2006. The UN International Criminal Tribunals: The former Yugoslavia, Rwanda and Sierra Leone. Cambridge: Cambridge University Press, p. 315.

quite difficult. Practice has shown that superior responsibility has not turned into a "silver bullet" – delivering convictions where traditional grounds of responsibility are inadequate – as once was predicted.[25]

The ICTY has experimented with different ideas on superior responsibility, but has settled (so it seems) upon a similar interpretation, i.e. superior responsibility is the responsibility for omission in connection with the crimes committed by subordinates. It was well explained in the case of *Halilović*:

> [C]ommand responsibility is responsibility for an omission. The commander is responsible for the failure to perform an act required by international law. This omission is culpable because international law imposes an affirmative duty on superiors to prevent and punish crimes committed by their subordinates. Thus "for the acts of his subordinates" as generally referred to in the jurisprudence of the Tribunal does not mean that the commander shares the same responsibility as the subordinates who committed the crimes, but rather that because of the crimes committed by his subordinates, the commander should bear responsibility for his failure to act. The imposition of responsibility upon a commander for breach of his duty is to be weighed against the crimes of his subordinates; a commander is responsible not as though he had committed the crime himself, but his responsibility is considered in proportion to the gravity of the offences committed.[26]

This position has been confirmed by other chambers[27] and this paragraph has been frequently cited as an authoritative statement. In the case of *Blaškić*, it was emphasised that direct and superior responsibility are distinct grounds of criminal responsibility and it is not appropriate to convict under both grounds for the same count. In such a case, the accused should be convicted for direct responsibility and his superior position should be considered as an aggravating factor in sentencing.[28] Full enquiry into superior responsibility

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[25] **W. A. Schabas** 2011. An Introduction to the International Criminal Court. 4th edn, Cambridge: Cambridge University Press, p. 234.

[26] *Sefer Halilović*, Case No IT-01-48-T, ICTY, Judgement of the Trial Chamber, 16 November 2005, para. 54.

[27] For example, *Zlatko Aleksovski*, Case No IT-95-14/1-T, ICTY, Judgement of the Trial Chamber, 25 June 1999, para. 67; *Milorad Krnojelac*, Case No IT-97-25-A, ICTY, Judgement of the Appeals Chamber, 17 November 2003, para. 171; *Enver Hadžihasanović and Amir Kubura*, Case No IT-01-47-A, ICTY, Judgement of the Appeals Chamber, 22 April 2008, para. 39.

[28] *Tihomir Blaškić*, Case No IT-95-14-A, ICTY, Judgement of the Appeals Chamber, 29 July 2004, para. 91.

would be "a waste of judicial resources"[29] if the liability of a person is already convicted as a principal perpetrator or accomplice.

Under the Rome Statute, the nature of superior responsibility is slightly different – it is treated more like a form of liability for underlying crimes. Article 28 provides that "military commander shall be criminally *responsible for crimes* … committed by forces under his or her effective command and control … as a result of his or her failure to exercise control properly over such forces".[30] This implies that the crimes of subordinates are imputable to the superior, which is more similar to complicity (e.g. aiding, abetting) than to the form of liability discussed above. In other words, the superior is responsible and should be punished for the principal crime committed by his subordinates. However, it is necessary to avoid the risk of holding someone guilty for an offence committed by others in violation of the principle of individual and culpable criminal responsibility.[31]

The ICTY clarified that superior responsibility applies equally to non-international armed conflicts although Additional Protocol I (establishing superior responsibility) concerns only international armed conflicts.[32] This rational position was reaffirmed by the inclusion of superior responsibility in the ICTR Statute (concerning a non-international armed conflict) and the Rome Statute (applicable to both international and non-international armed conflicts).

5. Elements of Responsibility

Fortunately, the ICTY has elaborated on the conditions of superior responsibility. The commission of crimes by subordinates is evidently a necessary prerequisite of superior responsibility. But additionally, three essential elements were identified:

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[29] *Milomir Stakić*, Case No IT-94-24-T, ICTY, Judgement of the Trial Chamber, 31 July 2003, para. 466.

[30] Emphasis added. See also *Jean-Pierre Bemba Gombo*, Case No ICC-01/05-01/08, ICC, Decision on the Confirmation of Charges, 15 June 2009, para. 405.

[31] **C. Meloni** 2007. Command Responsibility: Mode of Liability for the Crimes of Subordinates or Separate Offence of the Superior. – Journal of International Criminal Justice, Vol. 5, p. 633.

[32] *Enver Hadžihasanović, Mehmed Alagic and Amir Kubura*, Case No IT-01-47-AR72, ICTY, Decision on Interlocutory Appeal Challenging Jurisdiction in Relation to Command Responsibility, 16 July 2003.

1. The existence of a superior-subordinate relationship;
2. The superior knew or had reason to know that crimes were about to be or had been committed;
3. The superior failed to take the necessary and reasonable measures to prevent these crimes or punish their perpetrators.[33]

5.1. Superior-Subordinate Relationship

Establishing a superior-subordinate relationship has proved to be a major obstacle in the practice of the ICTY and ICTR. If there is a clear and formal chain of command (typical regular armed forces), it should not be difficult to determine who the superior is, who the subordinates are and whether the former is responsible for the crimes of the latter. But the reality is often much more difficult, for example, in modern conflicts like those in the former Yugoslavia and Rwanda "where previously existing formal structures have broken down and where, during an interim period, the new, possibly improvised, control and command structures, may be ambiguous and ill-defined".[34] So, who is a genuine superior? It is a crucial question because "only those superiors, either *de jure* or *de facto*, military or civilian, who are clearly part of a chain of command, either directly or indirectly, with the actual power to control or punish the acts of subordinates may incur criminal responsibility".[35] This sentence holds several key aspects to the understanding of the superior-subordinate relationship.

The ICTY adopted a concept of "effective control over a subordinate" referring to a "material ability to prevent or punish criminal conduct, however that control is exercised".[36] This was taken over by the ICTR which emphasised that general influence is not sufficient to establish a superior-subordinate relationship.[37] At the same time it is not necessary to show direct or formal subordination, but "the accused has to be, by virtue of his position, senior in some sort of formal or informal hierarchy to the perpetrator".[38]

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[33] *Zejnil Delalić and Others* (Trial), para. 344.

[34] *Ibid.,* para. 354.

[35] *Dario Kordić and Mario Čerkez*, Case No IT-95-14/2-T, ICTY, Judgement of the Trial Chamber, 26 February 2001, para. 416.

[36] *Zejnil Delalić and Others*, Case No IT-96-21-A, ICTY, Judgement of the Appeals Chamber, 20 February 2001, para. 256.

[37] *Laurent Semanza*, Case No ICTR-97-20-T, ICTR, Judgement of the Trial Chamber, 15 March 2003, para. 415.

[38] *Sefer Halilović*, Case No IT-01-48-A, ICTY, Judgement of the Appeals Chamber, 16 October 2007, para, 59.

Therefore both the ICTY and ICTR have underlined that an official position is not determinative for superior responsibility because it is the actual possession or non-possession of powers to control subordinates that may lead to conviction or acquittal.[39]

In the case of *Orić*, the ICTY stressed that the possession of *de jure* authority does not result in a presumption of effective control, because otherwise the prosecution would be exempted from its burden to prove effective control beyond a reasonable doubt.[40] Such a possession provides merely some evidence of effective control.[41] For example, Milan Milutinović was the President of the Republic of Serbia (1997–2002) of the Federal Republic of Yugoslavia. According to the Serbian Constitution (1990),[42] the president commands the armed forces in peacetime and in war. The ICTY found that this function was actually a reserve competency to be triggered in the event that Serbia became an independent state. Accordingly, in 1998 and 1999, Milutinović was not given any commanding authority over the Yugoslav army (confirmed by the questioned senior military and political figures). Instead, Slobodan Milošević was the actual commander-in-chief.[43]

These standpoints were basically endorsed by a Pre-Trial Chamber of the ICC,[44] which provided a compilation of factors that may indicate the existence of a position of authority and effective control (taken from the case law of the ICTY).[45] These include a person's official position, the power to issue or give orders, the capacity to ensure compliance with the issued orders, the capacity to order units under his command to engage in hostilities, the capacity to re-subordinate units or to make changes to command structure and the power to promote, replace, remove or discipline any member of the forces. Several elements refer, directly or implicitly, to the authority to issue orders. Giving orders may indeed be good evidence of being a superior, but if they are not obeyed, it seems to prove the opposite.[46]

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[39] *Zejnil Delalić and Others* (Appeals), paras 186–198.

[40] *Naser Orić*, Case No IT-03-68-A, ICTY, Judgement of the Appeals Chamber, 3 July 2008, para, 91.

[41] *Ibid.,* para. 92.

[42] Article 83(5).

[43] *Milan Milutinović and Others*, Case No IT-05-87-T, ICTY, Judgement of the Trial Chamber, 26 February 2009, paras 106–107, but also 108–143.

[44] *Jean-Pierre Bemba Gombo*, paras 414–416.

[45] *Ibid.,* para. 417.

[46] *Tihomir Blaškić* (Appeals), paras 69, 399.

Command is not necessarily permanent, but may well be temporary, for example, a soldier taking command in the battlefield.[47] Additionally, analogous to this example, the effective commander might not outrank his subordinates. In more complicated situations, a person may come under the concurrent command of several superiors, which may extend command responsibility to multiple individuals.[48]

The superior-subordinate relationship applies also to civilian superiors.[49] While the tribunals reached this conclusion in their findings, the Rome Statute explicitly states that superior responsibility covers both military commanders and civilian superiors (although the rules are not identical as discussed below).[50]

In sum, a superior (whether military or civilian) is thus the one who possesses the power or authority in either a *de jure* or *de facto* form to prevent a subordinate's crime or to punish the perpetrators of the crime after the crime is committed.

5.2. A Superior's Knowledge of Criminal Conduct

If the superior is not responsible directly for the principal crime committed by subordinates, but rather assumes liability through omission in connection with that crime, it is then necessary to demonstrate that the superior has a certain degree of knowledge (actual or constructive knowledge) of that crime. The mental element (*mens rea*) has been the most controversial element of superior responsibility, mainly because knowledge was not proven beyond reasonable doubt or the judges imposed an unrealistic duty to know on the superior. A superior's knowledge is often presumed either from the official position in the state hierarchy or from the notorious and widespread character of the crimes committed by subordinates.[51] Although these assumptions

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[47] *Dragoljub Kunarac*, Case Nos IT-96-23-T & IT-96-23/1-T, ICTY, Judgement of the Trial Chamber, 22 February 2001, para. 399.

[48] *Zlatko Aleksovski*, para. 106.

[49] *Clément Kayishema*, Case No ICTR-95-1-T, ICTR, Judgement of the Trial Chamber, 21 May 1999, paras 213-215; *Zejnil Delalić and Others* (Trial), paras 355–363; *Ignace Bagilishema*, Case No ICTR-95-1A-A, ICTR, Judgement of the Appeals Chamber, 3 July 2002, para. 52.

[50] Respectively, Article 28(a) for military commanders and Article 28(b) for civilian superiors.

[51] **B. I. Bonafé** 2007. Finding a Proper Role for Command Responsibility. – Journal of International Criminal Justice, Vol. 5, p. 606.

are not completely unreasonable (e.g. a true superior should make sure that he is adequately informed of what his subordinates are doing, as it is not plausible that a superior can remain unaware of widespread and long-lasting horrific crimes committed by his subordinates), this is not a proper approach for judicial institutions.

There are usually few difficulties if the superior had actual knowledge ("knew") of the crimes committed by subordinates. The problems arise when the superior has, at most, constructive knowledge ("had reason to know" in the ICTY and ICTR Statutes and "should have known" or "consciously disregarded information which clearly indicated" in the Rome Statute) of those crimes. So, what amounts to constructive knowledge?

The ICTY has frequently explained that superior responsibility is not a form of strict liability (the ICTR has concurred), i.e. a person is responsible simply because he is the superior.[52] In the leading case of *Zejnil Delalić and Others*, the ICTY (both the trial and appeals chamber) found that a superior

> may possess the *mens rea* for command responsibility where: (1) he had actual knowledge, established through direct or circumstantial evidence, that his subordinates were committing or about to commit crimes … or (2) where he had in his possession information of a nature, which at the least, would put him on notice of the risk of such offences by indicating the need for additional investigation in order to ascertain whether such crimes were committed or were about to be committed by his subordinates.[53]

Accordingly, the superior has no "duty to know" (as in the case of *Yamashita*).[54] The mental element is "determined only by reference to the information in fact available to the superior".[55] However, it is not necessary to prove that the superior had specific information about the crimes – even general information in his possession, which would put him on notice of possible unlawful acts by his subordinates, is sufficient to prove that he "had reason to know".[56] Additional Protocol I puts an emphasis on the information actually available to a superior which should have enabled him to conclude in the circumstances at the time that crimes were committed by subordinates.[57]

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[52] *Zejnil Delalić and Others* (Appeals), paras 226, 239.

[53] *Zejnil Delalić and Others* (Trial), para. 383.

[54] *Zejnil Delalić and Others* (Appeals), paras 228–239.

[55] *Pavle Strugar*, Case No IT-01-42-T, ICTY, Judgement of the Trial Chamber, 31 January 2005, para. 369.

[56] *Zejnil Delalić and Others* (Appeals), para. 238.

[57] Article 86(2).

Therefore, constructive knowledge should not be evaluated retrospectively in the light of information that became available afterwards. The ICTR has underscored the need to make the distinction between information about the general situation prevailing in a certain area at the time and general information which should put the superior on notice that his subordinates might commit crimes.[58] But neither is the awareness of a general form of criminality enough,[59] although such information can be relevant for proof that the superior had reason to know.[60] Regarding the form of information, it may be written or oral and does not need to have the form of specific reports submitted pursuant to official procedures.

In the case of *Blaškić*, the Trial Chamber suggested a broader approach for interpreting "had reason to know" condition. The latter was satisfied

> if a commander has exercised due diligence in the fulfilment of his duties yet lacks knowledge that crimes are about to be or have been committed, such lack of knowledge cannot be held against him. However, taking into account his particular position of command and the circumstances prevailing at the time, such ignorance cannot be a defence where the absence of knowledge is the result of negligence in the discharge of his duties.[61]

Although this argument sounds reasonable and has found considerable academic support, it has not prevailed and was rejected by the Appeals Chambers.[62] Hence, the statement in the case of *Zejnil Delalić and Others* remains authoritative.

The Rome Statute approaches the mental element a little bit differently. *First*, it has separate rules for military commanders and civilian superiors. In case of military commanders, the prosecution must show that they "knew or, owing to the circumstances at the time, should have known".[63] The standard is higher for civilian superiors because the prosecution must demonstrate that they "knew, or consciously disregarded information which clearly indicated, that the subordinates were committing or about to commit such crimes".[64]

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[58] *Ignace Bagilishema*, para. 42.

[59] *Krnojelac*, para. 155.

[60] *Pavle Strugar*, Case No IT-01-42-A, ICTY, Judgement of the Appeals Chamber, 17 July 2008, para. 301.

[61] *Tihomir Blaškić*, Case No IT-95-14-T, ICTY, Judgement of the Trial Chamber, 3 March 2000, para. 332.

[62] *Tihomir Blaškić* (Appeals), para. 63; *Ignace Bagilishema*, paras 34–35.

[63] Article 28(a)(i).

[64] Article 28(b)(i).

This is probably a progressive development, not the codification of existing customary international law.[65] *Second*, the standard for military commanders is higher than in the ICTY and ICTR Statutes. While the ICTY and ICTR have stressed that the mental element is not about negligence ("had reason to know"), the ICC Statute introduces negligence ("should have known"), i.e. failure to look for information may lead to criminal liability.[66] In the case of *Jean-Pierre Bemba Gombo*, the Pre-Trial Chamber confirmed explicitly that the "had reason to know" and "should have known" standard are different, but the interpreting criteria developed by the tribunals may still be useful when applying the "should have known" standard.[67]

5.3. Failure to Prevent and Punish

The superior must take "necessary and reasonable measures" to prevent or punish the crimes. There are two distinct obligations, i.e. duty to prevent and duty to punish, and disregard of both may lead to criminal liability.[68] These obligations do not present a choice, e.g. if the superior knowingly does not prevent the crimes, then the subsequent punishment of the perpetrators does not release the superior from responsibility.[69] In other words, "a superior's failure to prevent the commission of the crime by a subordinate, where he had the ability to do so, cannot simply be remedied by subsequently punishing the subordinate for the crime".[70] However, if the superior really did not know or have reason to know that crimes were committed, but learns about these crimes later, he must punish the perpetrators. Otherwise, the failure to punish may be considered an implicit acceptance of the crimes.[71]

The ICTY has, on several occasions, explained which measures are necessary and reasonable. In the case of *Blaškić*, the Appeals Chamber expected

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[65] **G. Vetter** 2000. Command Responsibility of Non-Military Superiors in the International Criminal Court (ICC). – Yale Journal of International Law, Vol. 25, pp. 89–143. The ICTR has rejected the idea that military commanders and civilian superiors have different standard for the mental element. *Ignace Bagilishema*, paras 26–37.

[66] *Jean-Pierre Bemba Gombo*, paras 432–433.

[67] *Ibid.,* para. 34.

[68] *Tihomir Blaškić* (Appeals), paras 78–85; *Sefer Halilović* (Trial), para. 94; *Naser Orić*, Case No IT-03-68-T, ICTY, Judgement of the Trial Chamber, 30 June 2006, paras 325–326.

[69] *Tihomir Blaškić* (Trial), para. 336; *Pavle Strugar* (Appeals), para. 373; *Jean-Pierre Bemba Gombo*, para. 436.

[70] *Naser Orić* (Trial), para. 326.

[71] *Sefer Halilović* (Trial), para. 95.

the superior to take, generally, measures that "can be taken within the competence of a commander as evidenced by the degree of effective control he wielded over his subordinates" and noted that "what constitutes such measures is not a matter of substantive law but of evidence".[72] Hence, the assessment is inherently subjective, taking into consideration the situation and actual control exercised by the superior. In the case of *Orić*, the Trial Chamber elaborated on the criteria for failure to prevent, e.g. the measures depend on the degree of effective control over the conduct of subordinates at the time a superior is expected to act; measures must be taken to prevent subordinates from planning, preparing or executing the prospective crimes; the more grievous and/or imminent the potential crimes of subordinates appear to be, the more attentive and quicker the superior is expected to react; although the superior is not obliged to do the impossible.[73] Regarding the last criterion, the superior's obligation to take necessary and reasonable measures is a due diligence obligation, not an absolute obligation to achieve results no matter what.

The Rome Statute includes an explanation of what is expected from the superior. He is responsible if he "failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission, or to submit the matter to the competent authorities for investigation and prosecution".[74] These include measures

> (i) to ensure that superior's forces are adequately trained in international humanitarian law; (ii) to secure reports that military actions were carried out in accordance with international law; (iii) to issue orders aiming at bringing the relevant practices into accord with the rules of war; (iv) to take disciplinary measures to prevent the commission of atrocities by the troops under the superior's command.[75]

The ICTY has clarified that "the duty to punish commences only if, and when, the commission of a crime by a subordinate can be reasonably suspected" (indeed, the superior is acting before the perpetrator is convicted in the court of law).[76] It does not mean that the superior must conduct the investigation or dispense the punishment in person, but that he has initiated the

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[72] *Tihomir Blaškić* (Appeals), para. 72.

[73] *Naser Orić* (Trial), para. 329.

[74] Article 28(a)(ii).

[75] *Jean-Pierre Bemba Gombo*, para. 438.

[76] *Naser Orić* (Trial), para. 336.

investigation, submitted the case to a higher level, taken extra precautionary measures to prevent future crimes, etc.

Additional Protocol I provides that the superior may initiate disciplinary or penal action against violators.[77] In the cases of international crimes, disciplinary action is unlikely due to the gravity of crimes, which means that the duty to punish is primarily the duty to take the necessary and reasonable measures to trigger the action of another body, ideally an independent judiciary.[78]

6. Conclusion

Superior responsibility is a mode of liability which may help in situations where it is difficult or impossible to demonstrate that the superior participated in the commission of crimes, but where it is clear that he played an indirect role in enabling their commission or creating favourable conditions by inactivity. Despite the fact that superior responsibility is a generally recognised principle of international criminal law, its precise content and criteria of application are still open to debate.

The superior is not directly responsible for the crimes committed by his subordinates, but for his omission, failure to properly discharge his duty, i.e. to prevent the crimes or punish the perpetrators. This is not a form of vicarious responsibility, where one may assume that superior is certainly responsible for his subordinates no matter what. To be held criminally liable, it must be shown that the superior had actual or constructive knowledge of the crimes in question and failed to take "necessary and reasonable measures", within his power, to prevent or punish. Case law emphasises that the possession of actual authority over subordinates is decisive (*de facto* superiors), while an official position does not equal effective control (*de jure* superiors) and may be some evidence of such control.

Although superior responsibility was once seen as a "silver bullet" for the prosecution, it has proved to have limited practical impact. There have been few convictions based purely on superior responsibility due to the fact that most persons charged under such responsibility are found guilty for direct participation in the crime, in one form or another. But this does not diminish the importance of superior responsibility in international criminal proceedings.

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[77] Aricle 87(3).

[78] *Naser Orić* (Appeals), para. 12.

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CHIVALRY WITHOUT A HORSE: MILITARY HONOUR AND THE MODERN LAW OF ARMED CONFLICT

Rain Liivoja

1. Introduction

Chivalry conjures up an image of a medieval warrior in shining armour, riding into battle on a noble steed, to rescue a sleeping princess from a three-headed dragon. Dragons aside, this popular image is fairly accurate. Chivalry in the broadest sense comprises the ethos of the knight – the mounted combatant that dominated the battlefields of Europe in the Middle Ages – and covers everything from battlefield conduct to courtly love.[1] This association between the mounted warrior and chivalry goes as deep as etymology – in many languages the very word for "knight" is derived from the word for "horse": thus, in French, *chevalier* comes from *cheval*, in Italian *cavaliere* from *cavallo* and in Spanish *caballero* from *caballo.* The German *Ritter* (or better yet, *Reitter* in Middle High German) comes from *reiten*, "to ride". Thus, at first blush, chivalry appears to be a distinctly medieval notion, associated as it is with a specific kind of man-at-arms and a peculiar form of warfare – mounted shock combat. Perhaps then, as Noël Denholm-Young famously quipped, "[i]t is impossible to be chivalrous without a horse."[2]

But if we strip chivalry of its romantic overtones and literary hyperbole, we find a code of conduct that held currency among the military élite of the era. At the core of this code was an ideal that was certainly not characteristic of the Middle Ages alone: according to Malcolm Vale, "[c]hivalry was often no more, and no less, than the sentiment of honour in its medieval guise".[3] Thus, to speak of chivalry is to speak of a military code of honour, which

[1] The classic general account is **Maurice Keen** 1984. Chivalry. New Haven, CT: Yale University Press.

[2] **Noël Denholm-Young** 1969. The Tournament in the Thirteenth Century. – R. W. Hunt, W. A. Pantin and R. W. Southern, eds. Studies in Medieval History, Presented to Frederick Maurice Powicke. Oxford: Clarendon, p. 240.

[3] **Malcolm Vale** 1981. War and Chivalry: Warfare and Aristoratic Culture in England, France and Burgundy at the End of the Middle Ages. London: Duckworth, p. 1.

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already sounds far less archaic. Honour, moreover, has played a key role in military thinking over millennia,[4] so it does not seem out of place to talk about it with reference to modern warfare.

Moreover, there is a concrete link between chivalry and the contemporary law of armed conflict. Geoffrey Best, among others, has pointed out that "[a] large part of the modern law of war has developed simply as a codification and universalization of the customs and conventions of the vocational/professional soldiery."[5] The law of war that might be called "modern" came into being in the second half of the 19th century with the adoption of a number of important documents – the Lieber Code in 1861,[6] the Brussels Declaration in 1874,[7] the Oxford Manual in 1880,[8] and the Hague Regulations in 1899 (revised in 1907).[9] While this new-found enthusiasm for the legal regulation of warfare was certainly quite remarkable, the innovation of these documents lay rather in their form than in their substance. Their drafting was to a very significant extent an exercise in reducing to writing – in a distinctly legal language, although not always in a strictly legally binding form – customs already existing, or behaviour aspired to, within the military community. This even holds true with respect to the 1864 Geneva Convention,[10] the brainchild of Henry Dunant, which has been hailed as the cornerstone of the modern law of armed conflict. While the explicit language and the multilateral scope of this document were certainly innovative and as such had monumental significance in the development of the law of armed conflict, it revived an old idea. Namely, it aimed to keep out of harm's way non-combatants, in this particular instance, those coming to the aid of wounded soldiers on the battlefield. Of course, as with any other codification process,

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[4] See generally **Paul Robinson** 2006. Military Honour and the Conduct of War: From Ancient Greece to Iraq. London: Routledge.

[5] **Geoffrey Best** 1980. Humanity in Warfare. New York: Columbia University Press, p. 60.

[6] General Orders No. 100 – Instructions for the Government of Armies of the United States in the Field (US, 1863).

[7] Project of an International Declaration concerning the Laws and Customs of War, text adopted at Brussels, 27 August 1874, did not enter into force.

[8] **Institute of International Law** 1880. The Laws of War on Land. 9 September.

[9] Regulations concerning the Laws and Customs of War on Land, annexed to the Convention (II) with Respect to the Laws and Customs of War on Land, The Hague, 29 July 1899, in force 4 September 1900, 205 CTS 277; Regulation respecting the Laws and Customs of War on Land, annexed to the Hague Convention (IV) Respecting the Laws and Customs of War on Land, The Hague, 18 October 1907, in force 26 January 1910, 205 CTS 277.

[10] Convention for the Amelioration of the Condition of the Wounded in Armies in the Field, Geneva, 22 August 1864, in force 22 June 1865, 129 CTS 361.

the work done in the 19th century on the laws of war seized the opportunity to clarify existing practices and to introduce new elements. But the basic rules of armed conflict were not invented in the late 19th century as one of their most significant sources was the medieval code of chivalry.[11]

This paper considers the imprint that chivalry has left on the modern law of armed conflict. Limitations of space and a regard for the reader's patience do not allow for a discussion of every nook and cranny of international humanitarian law. Therefore, rather than attempt to systematically cover the entire field, I will try to show by way of a few characteristic examples how the notion of honour (especially in its medieval guise) still influences modern law. I also wish to call into question the popular idea that the entire law of armed conflict reflects a delicate balance between the fundamentally conflicting notions of military necessity and humanity. For example, one leading scholar, Yoram Dinstein, claims that the law of armed conflict "in its entirety is predicated on a subtle equilibrium between two diametrically opposite impulses: military necessity and humanitarian considerations."[12] With due respect, there are two problems with this view. First, military necessity and humanity need not be opposing forces – when considered in the long term, they may actually be mutually supporting. The strategic need to win the "hearts and minds" of the adversary's civilian population often goes hand in hand with limitations of a humanitarian nature. Already Shakespeare's King Henry V knew that "when lenity and cruelty play for a kingdom, the gentler gamester is the soonest winner".[13] Second – and this is what I wish to point out in this paper – the entire gamut of rules that comprise the law of armed conflict cannot be adequately explained with reference to military necessity and humanity alone. The law of armed conflict can only be made sense of if one bears in mind the most rudimentary considerations of military honour.

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[11] **G. I. A. D. Draper** 1965. The Interaction of Christianity and Chivalry in the Historical Development of the Law of War. – International Review of the Red Cross, Vol. 5, No. 46, p. 7; **Best** 1980, p. 60; **Hubert M. Mader** 2002. "Ritterlichkeit": Eine Basis des humanitären Volkerrechts und ein Weg zu seiner Durchsetzung. – Truppendienst, Vol., No. 2, pp. 122–126.

[12] **Yoram Dinstein** 2004. The Conduct of Hostilities under the Law of Armed Conflict. Cambridge: Cambridge University Press, p. 16.

[13] **William Shakespeare** c. 1599. Henry V, Act 3, Scene VI; cited in **Theodor Meron** 1992. Shakespeare's Henry the Fifth and the Law of War. – American Journal of International Law, Vol. 86, pp. 2–3.

2. Prisoners of War

The occasional discussion of honour in the context of the modern law of armed conflict tends to focus on the means and methods of warfare (more on which in due course). Yet arguably the most significant portion of the law that owes an intellectual debt to chivalry is the one dealing with prisoners of war.

This is altogether unsurprising, since the dignified treatment of prisoners was an essential, if not the central, part of the medieval code of military conduct. In battle, knights did not generally attempt to kill each other. Rather, their main goal was the disablement and capture of the noble adversaries. Coming from the upper echelons of society, a knight was presumably wealthy and thus quite literally worth more alive than dead.[14] A knight could be taken prisoner and allowed to purchase his freedom – to ransom himself. To allow a captured knight to raise the necessary money, he was often released upon promise not to raise arms against his captor until having made due payment.[15]

Such a system of "parole" was possible precisely because honour stood at the centre of the warrior's code. The promise not to take up arms against one's captor was a knight's word of honour. And "a knight trusted the word and promise of another knight, even an enemy knight".[16] The financial gain obtained from paroling and ransoming, as well as the reciprocal insurance against mistreatment that the system provided,[17] chimed together nicely with the more noble ideals of the knightly class. Obviously, the purpose of conflict nowadays is not, or at least ought not to be, the enrichment of individual combatants. Thus, while the basis of prisoner-of-war status has changed somewhat, it has not completely detached itself from its historical origins.

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[14] **Robert C. Stacey** 1994. The Age of Chivalry. – Michael Howard, George J. Andreopoulos and Mark R. Shulman, eds. The Laws of War: Constraints on Warfare in the Western World. New Haven, CT: Yale University Press, p. 36.

[15] **Robert P. Ward** 1795. An Enquiry into the Foundation and History of the Law of Nations in Europe, from the Time of the Greeks and Romans, to the Age of Grotius. London: Butterworths, p. 179. But there was also a specific breed of warfare, called *guerre mortelle*, wherein adversaries "fought by the rules which in antiquity had applied in the wars of the Roman people. There was no privilege of ransom; the conquered could be slain or enslaved.' **Maurice Keen** 1965. The Laws of War in the Late Middle Ages. London: Routledge & Kegan Paul, p. 104.

[16] **Draper** 1965, p. 20.

[17] **John Gillingham** 1999. An Age of Expansion, c. 1020–1204. – Maurice Keen, ed. Medieval Warfare. Oxford: Oxford University Press, p. 83.

An illuminating episode in military history in this respect was the disagreement in Nazi Germany over the treatment of prisoners of war. On 8 September 1941, Lieutenant General Hermann Reinecke, head of the prisoner of war department of the German High Command, issued the following orders:

> The Bolshevist soldier has … lost all claim to treatment as an honorable opponent, in accordance with the Geneva Convention. … The order for ruthless and energetic action must be given at the slightest indication of insubordination, especially in the case of Bolshevist fanatics. Insubordination, active or passive resistance, must be broken immediately by force of arms (bayonets, butts, and firearms). … Anyone carrying out [this] order who does not use his weapons, or does so with insufficient energy, is punishable. … Prisoners of war attempting escape are to be fired on without previous challenge. No warning shot must ever be fired. … The use of arms against prisoners of war is as a rule legal.[18]

This call for more enthusiastic use of violence against prisoners of war flew in the face of centuries of settled military practice and drew objections from the braver parts of the German officer corps. Particularly vocal was Admiral Wilhelm Canaris, a naval officer of the old school and the head of the *Abwehr*, the German military intelligence.[19] He directed one of his legal advisers, Helmuth James von Moltke, who himself came from family with a long history of military service, to draw up a memorandum on the international law aspects of the treatment of prisoners of war. This document competently explained that even though the 1929 Geneva Prisoner of War Convention[20] might be technically inapplicable to the Soviet prisoners of war since the USSR was not a party to the treaty, the treatment of captured Soviet soldiers was nonetheless governed by principles of customary international law.[21] In particular, the memo underlined that

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[18] Cited in *US et al. v. Göring et al.*, 1 TMWC 171 (International Military Tribunal at Nuremberg, 1946), p. 229.

[19] Canaris, who later suffered death for his role in the attempt to assassinate Hitler, was perhaps one of the most interesting – some might say enigmatic – military personalities of the era. For a biography, see **Michael Mueller** 2007. Canaris: The Life and Death of Hitler's Spymaster. London: Chatham. The incident addressed in this paper is mentioned *ibid*. at 205.

[20] Convention relative to the Treatment of Prisoners of War, Geneva, 27 July 1929, in force 19 June 1931, 343 LNTS 343.

[21] For parallels with the treatment of persons detained in the so-called war on terror, see **Scott Horton** 2007. Military Necessity, Torture, and the Criminality of Lawyers. – Wolfgang Kaleck *et al.*, eds. International Prosecution of Human Rights Crimes. Berlin: Springer, pp. 169–183.

> war captivity is neither revenge nor punishment, but solely protective custody, the only purpose of which is to prevent the prisoners of war from further participation in the war. This principle was developed in accordance with the view held by all armies that it is contrary to military tradition to kill or injure helpless people ….[22]

These objections were dismissed by Field Marshal Wilhelm Keitel who retorted that they "arise from the military concept of chivalrous warfare. This [war] is the destruction of an ideology."[23] One cannot but note a perverse contradiction: Reinecke had relied on some perceived lack of honour on the part of the Soviets in order to deny them protection in the first place, whereas Keitel argued that honour no longer played a role in the conduct of hostilities.

Be that as it may, *Graf* von Moltke's arguments merit attention because they go beyond the specific rules of customary law and provide a glimpse of what underpins them. First, von Moltke mentions "military tradition", which is clearly a synonym for the tradition of honourable conduct in a military context. Second, he invokes humanity – a regard for "helpless people". Third, he makes implicit reference to military necessity: if the object of war is, in the language of the St Petersburg Declaration, to "weaken the military forces of the enemy",[24] then as far as an individual enemy combatant is concerned, that objective is attained through capture and detention. "Further participation in the war" being thereby prevented, it is unnecessary to molest the soldier any further. This three-pronged argument shows rather vividly how the general rationale of prisoner-of-war protection incorporated the "late Enlightenment consensus" of the 18th century about limited warfare as well as the broad sentiments of humanity that came to the fore in the late 19th century,[25] although without entirely shedding the chivalrous overtones.

The notion of parole has also survived beyond the medieval period. The element of ransom has disappeared and the revised conception of parole simply entails an undertaking by the captured combatant, in exchange for his liberty, not to take up arms against the capturing power in the ongoing conflict.[26] Thus, the 1949 Geneva Convention III stipulates that "[p]risoners of

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[22] Cited in *US et al. v. Göring et al.*, p. 232.

[23] Cited *ibid*.

[24] Declaration Renouncing the Use, in Time of War, of Explosive Projectiles Under 400 Grammes Weight, St. Petersburg, 29 November/11 December 1868, 138 CTS 297, Preamble.

[25] **Best** 1980, pp. 31–74 and 128–215.

[26] See generally **Gary D. Brown** 1997. Prisoner of War Parole: Ancient Concept, Modern Utility. – Military Law Review, Vol. 156, pp. 200–223.

war may be partially or wholly released on parole or promise, in so far as is allowed by the laws of the Power on which they depend".[27]

Though this language may be rather bland and generic, there is little doubt that the provision implicitly invokes military honour. To be released on parole means to be released on one's word of honour. The 1907 Hague Regulations – on some issues a clear predecessor to the 1949 Geneva Conventions – were quite explicit on this point, stating that prisoners of war released on parole were "bound, *on their personal honour*, scrupulously to fulfil, both towards their own Government and the Government by whom they were made prisoners, the engagements they have contracted".[28] While the drafters of the 1949 Geneva Conventions deemed it wise to leave a direct reference to honour out of the text, the authoritative commentary to the Conventions still notes that "[a] person who gives his parole gives a personal undertaking *on his honour* for which he is in the first place responsible to himself."[29]

Another interesting point arises from the consequences of breaking one's word of honour. It is well recognised that parolees who are recaptured while bearing arms against the government to whom they gave their word of honour can be punished. Under the express terms of the Hague Regulations, persons violating their parole would "forfeit their right to be treated as prisoners of war, and can be brought before the courts".[30] But what is more illuminating is how the parolees' own states reacted to violations. The British, for example, used to punish their own officers for violations of parole by stripping them of their commissions.[31] In similar circumstances, the French apparently sent their own service members back to the enemy for reimprisonment.[32] One reason for this austerity may have been that, as the Lieber Code put it, "[t]he pledge of the parole is always an individual, but not a private act."[33] It implicates the state concerned, because, if properly made, the parole becomes

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[27] Geneva Convention (III) relative to the Treatment of Prisoners of War, Geneva, 12 August 1949, in force 21 October 1950, 75 UNTS 135, Article 21.

[28] Hague Regulations, Article 10(1) (emphasis added).

[29] **Jean S. Pictet**, ed. 1960. Commentary on the Geneva Conventions of 12 August 1949. Geneva: ICRC, p. 180 (emphasis added).

[30] Hague Regulations, Article 12. The loss of prisoner-of-war status appears to have been a cryptic admission of the possibility of a death sentence. Under the 1949 Geneva Convention III the consequences do not appear to be so grave, though some punishment is certainly possible. See **Pictet** 1960, p. 181.

[31] **Brown** 1997, p. 211.

[32] **Best** 1980, p. 81.

[33] General Orders No. 100, Article 121.

binding on the state that the soldier serves.[34] Paroles are, thus, "sacred obligations, and the national faith is pledged for their fulfillment",[35] suggesting that violations of parole would be disgraceful to the state (though, for practical purposes, perfectly beneficial). But, perhaps above all else, a violation of parole goes beyond a simple a breach of the positive rules of law and amounts to the failure of the combatant as a man (or woman) of honour.

Admittedly, paroling prisoners of war has largely become a theoretical affair. Parole has not been used on a major scale since the American Civil War, though sporadic instances occurred during the World Wars. Nonetheless, commentators have pointed out the continued potential of the institution.[36] Moreover, the decline of the parole system is not necessarily the result of states being against the release of the prisoners they have caught, but rather stems from their opposition to their own soldiers giving parole to the enemy. For example, US military personnel are precluded from being paroled, because their own code of conduct provides that service members "will accept neither parole nor special favors from the enemy".[37]

The rules of parole aside, there are some other elements of the protection granted to prisoners of war which cannot be easily explained in the framework of balancing humanity against military necessity. One of the more "anachronistic remnants"[38] is the systemic distinction that Geneva Convention III makes between officers and soldiers. Thus, for example, officers must be accommodated separately from enlisted men[39] and "may in no circumstances be compelled to work".[40] This reflects the elevated social status of the officer and is in some respects reminiscent of the different treatment accorded in medieval warfare to knights and foot soldiers.

More generally, however, the law reflects a basic premise that a captured enemy combatant – be it officer or enlisted man – is an honourable

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[34] **Pictet** 1960, p. 181: "In the first place, the promise given by a prisoner of war is, of course, binding upon him; but, provided this promise was made consistently with the relevant laws and regulations, it is also binding on the Power on which he depends.'

[35] **Herbert C. Fooks** 1924. Prisoners of War. Federalsburg, MD: Stowell, p. 299.

[36] **Brown** 1997.

[37] Code of Conduct for Members of the Armed Forces, Exec. Order No. 10,631, 20 Fed. Reg. 6057, 3 C.F.R. 1954, 58 Comp. 266 (1955), as amended (US, 1955), Article III, 3rd sentence.

[38] **Thomas C. Wingfield** 2001. Chivalry in the Use of Force. – University of Toledo Law Review, Vol. 32, p. 113.

[39] Geneva Convention III, Article 97(3).

[40] Geneva Convention III, Article 49(3).

professional and deserves appropriate respect. This becomes obvious in Article 14 of Geneva Convention III which states that "[p]risoners of war are entitled in all circumstances to respect for their persons and their honour." Thus, in response to the World War II era German attempts to elicit Nazi salutes from the prisoners of war, Geneva Convention III makes it explicit that "[p]risoners of war, with the exception of officers, must salute and show to all officers of the Detaining Power the external marks of respect provided for by the regulations applying *in their own forces*."[41] Also, "[t]he wearing [by a prisoner of war] of badges of rank and nationality, as well as of decorations, shall be permitted."[42] Accordingly, General Manuel Noriega, who was arrested by the US forces during the invasion of Panama and later convicted in US courts for drug related-offences, was allowed to wear his uniform during the trial and while residing in a Florida prison.[43] Orange jumpsuits appear incompatible with military honour.

3. Means and Methods of Warfare

I now come to the part of the law of armed conflict that is perhaps the easiest to associate with chivalry, namely the limitations placed on the use of particular means and methods of warfare. Here, the Oxford Manual, an influential though non-binding codification of the law of armed conflict completed in 1880 under the auspices of the *Institut de Droit international*,[44] provides a convenient starting point.

Article 4 of the Manual lays down the fundamental principle that the choice of means and methods of warfare is not unlimited and that the belligerents "are to abstain especially from all needless severity, as well as from all perfidious, unjust, or tyrannical acts". This rather general stipulation is elaborated on by two articles. Article 9 gives flesh to the idea that "needless severity should be avoided" by explicitly proscribing the use of means of warfare calculated to cause superfluous suffering, as well as attacks on surrendered or disabled enemies. Articles 8, which is relevant for the present discussion, deals with the principle that "the struggle must be honourable". To that end it declares forbidden:

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[41] Geneva Convention III, Article 39(2) (emphasis added).

[42] Geneva Convention III, Article 40.

[43] See *US v. Noriega*, 808 FSupp 791 (US District Court, Southern District of Florida, 1992), finding that Noriega was entitled to full benefits under Geneva Convention III.

[44] See note 8 above.

(a) To make use of poison, in any form whatever;
(b) To make treacherous attempts upon the life of an enemy; as, for example, by keeping assassins in pay or by feigning to surrender;
(c) To attack an enemy while concealing the distinctive signs of an armed force;
(d) To make improper use of the national flag, military insignia or uniform of the enemy, of the flag of truce and of the protective signs prescribed by the Geneva Convention [i.e. the red cross] ….

These prohibitions may be conveniently dealt with under two headings as section (a) addresses a particular means of warfare (essentially, a type of a weapon), whereas sections (b) through (d) deal with methods of combat.

3.1. Prohibited Weapons

The absolute prohibition of poison features prominently not only in the Oxford Manual but also in other instruments of the same period, including the Lieber Code and the Hague Regulations;[45] at present it constitutes one of the most firmly entrenched customary rules of the law of armed conflict.[46]

The rule can, in many instances, be explained without invoking the notion of honour, to which it is clearly tied to in the Oxford Manual. For example, poisoning the water supply of the enemy would affect both combatants and civilians. In modern parlance, that would amount to an indiscriminate attack and would be prohibited as such.[47] Furthermore, poison, even when used in a sufficiently discriminating manner against combatants, may violate the prohibition against superfluous injury and unnecessary suffering.[48] This would be the case if the particular type of poison used would render the death of the targeted combatant inevitable or would have particularly gruesome effects on him or her. However, these considerations hardly justify an absolute prohibition. One could point to types of poison, or come up with scenarios for using poison, that would not be ruled out by the principle of discrimination or by the principle against superfluous injury.

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[45] See General Orders No. 100, Article 70; Hague Regulations, Article 23(a).

[46] See **ICRC** updated 2011. Customary IHL Database. <www.icrc.org/customary-ihl> (accessed 1 December 2011), Rule 27 and the authorities cited in the commentary; Rome Statute of the International Criminal Court, Rome, 17 July 1998, in force 1 July 2000, 2187 UNTS 90, Article 8(2)(b)(xvii).

[47] See Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts, Geneva, 8 June 1977, in force 12 July 1978, 1125 UNTS 3, Article 51.

[48] See Additional Protocol I, Article 35(2).

The explanation for the complete ban lies in the fact that the knightly class had found poison despicable for a different reason: knights disdained poison because it could be used to kill an opponent without personal risk.[49] Poisoning was cowardly and therefore dishonourable.[50] Similar logic applied to early projectile weapons. Since "diabolical machines"[51] such as long- and crossbows could be used to kill another man without putting oneself in harm's way, the archer, if he fell into the hands of the knight, "suffer[ed] death at once because he [was] without honour".[52]

Interestingly, the special contempt for poisoning was not limited to the battlefield but also surfaced in ordinary criminal law. In mid-16th century England, poisoners were boiled to death. This gruesome means of execution is significant in that poisoning was the only other instance beside high treason and heresy where the death penalty was carried out by means of torture.[53] French criminal law to this day has a separate provision dealing with *empoisonnement*,[54] showing, at least initially, "the detestation which the crime inspires".[55]

The prohibition of poison in warfare, especially in light of the special treatment of poisoning under the ordinary criminal law, not only reflects a moral outrage, but also shows a degree of pragmatism. The ban of poison, according to Hugo Grotius, "originated with kings, whose lives are better defended by arms than those of other men, but are less safe from poison".[56] In other words, poison was something by which a lowly commoner could become positively dangerous to a nobleman. That, of course, could not be tolerated.

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[49] **Draper** 1965, p. 18.

[50] See also **Alberico Gentili** 1598/1933. De iure belli libri tres [Carnegie edn]. Oxford: Clarendon, p. 157; **Larry May** 2007. War Crimes and Just War. Cambridge: Cambridge University Press, p. 124ff.

[51] This is how Anna Comnena, the daughter of the Byzantine emperor Alexius Comnenus, described the crossbow. Cited in **Kelly DeVries** 1992. Medieval Military Technology. Lewinston, NY: Broadview, pp. 40–41.

[52] **Draper** 1965, p. 19.

[53] **Sir James Fitzjames Stephen** 1883. A History of the Criminal Law of England. London: Macmillan, Vol. i, p. 476, and Vol. iii, pp. 44–45.

[54] Code Pénal (Nouveau) [(New) Penal Code] (France, 1992), Article 221–5.

[55] **Stephen** 1883, Vol. iii, p. 95.

[56] **Hugo Grotius** 1925 [1625]. De Jure Belli ac Pacis Libri Tres. Oxford: Clarendon, Vol. iii, p. 652.

Rather similarly, the ban of bows by the Second Lateran Council in 1139 can be seen as "man's first attempt at arms control" and an "effort to enforce weapons symmetry".[57] Warfare was intended to be carried out by knights and use expensive, "knightly" weapons, it was not meant for peasants wielding cheap bows.

Admittedly, this approach was an ideal view of warfare and quite detached from reality. Even at the height of the era of chivalry, the peasantry participated in wars as foot soldiers and in fairly large numbers.[58] That said, what is quite clear is that the ban on poison and bows had little, if anything, to do with humanitarian sentiments. The only principled objection that was made against them had to do with honourable conduct in warfare, with a healthy dose of expediency helping to solidify the rule.

The vast majority of innovations in warfare, which have progressively made combat more of a long-distance affair, have attracted criticism similar to that which was made against poison and bows:

> The history of warfare has been repeatedly punctuated by allegations that certain new weapons are "unlawful", because in some way "unfair" by the prevailing criteria of honour, fairness and so on, or because nastier in their action than they need be.[59]

As far as modern law is concerned, the crucial difference is that a weapon that is "nastier" than it needs to be is automatically outlawed. The law generally proscribes the use of any instruments of war that are of a nature to cause unnecessary suffering,[60] that is to say, are of a nature to cause "a harm greater than that unavoidable to achieve legitimate military objectives".[61] Yet, under the contemporary law of armed conflict, the "dishonourable" character of a weapon is insufficient, without more, to impact its legality.

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[57] **Robert L. O'Connell** 1989. Of Arms and Men: A History of War, Weapons, and Aggression. Oxford: Oxford University Press.

[58] See, e.g., **Stephen Morillo** 1999. The "Age of Cavalry" Revisited. – Donald J. Kagay and L. J. Andrew Villalon, eds. The Circle of War in the Middle Ages: Essays on Medieval Military and Naval History. Woodbridge: Boydell, pp. 45–58.

[59] **Best** 1980, p. 62.

[60] See Hague Regulations, Article 23(e).

[61] *Legality of the Threat or Use of Nuclear Weapons (Advisory Opinion)*, ICJ Reports (1996) 226, at para. 78.

3.2. Treachery and Perfidy

Behind the historic bans of certain weapons on the grounds of their unchivalrous nature lurks a more general prohibition of dishonourable means and methods of warfare. At stake here is the distinction between permissible and impermissible deception in warfare. Many of the ways of surprising or misleading the adversary are legitimate. For example, the use of ambushes, camouflage, decoys, mock operations and misinformation is considered perfectly permissible.[62] Some forms of deception are, however, prohibited as a matter of law. This proscription of treacherous and perfidious acts, which obtained a clear form in the era of knightly warfare, is widely seen as the clearest manifestation of a principle of chivalry in modern law.[63]

Additional Protocol I contains a number of provisions dealing with impermissible deception. Article 38 prohibits the "improper use" of emblems reserved for the identification of the medical services (the Red Cross and equivalent emblems) and the emblem of the United Nations. Article 39 proscribes the use of flags or military emblems, insignia or uniforms of neutral states or other states not parties to the conflict, and also prohibits the use of such identifying devices of the adversary "while engaging in attacks or in order to shield, favour, protect or impede military operations". In other words, it is prohibited at all times to feign to be part of a (protected) medical service or of an armed force not engaged in the hostilities, and one can feign to be an adversary under very limited circumstances (for example, to facilitate escape from a prisoner-of-war camp).

The most far-reaching provision is, however, Article 37(1) which declares that "it is prohibited to kill, injure or capture an adversary by resort to perfidy".[64] Perfidy is defined as "[a]cts inviting the confidence of an adversary to lead him to believe that he is entitled to, or is obliged to accord, protection under the rules of international law applicable in armed conflict, with intent to betray that confidence".[65] The critical part of this definition is the characterisation of the deception as an attempt to invoke a "legal

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[62] See **ICRC** updated 2011, Rule 57 and the authorities cited in the commentary.

[63] **Keith E. Puls**, ed. 2005. Law of War Handbook. Charlottesville, VA: Judge Advocate General's Legal Center and School, p. 190; **Stefan Oeter** 2008. Methods and Means of Combat. – Dieter Fleck, ed. The Handbook of International Humanitarian Law. 2nd edn. Oxford: Oxford University Press, p. 228; **Wingfield** 2001, p. 113.

[64] Additional Protocol I, Article 37(1),

[65] *Ibid*.

entitlement … to immunity from attack".[66] Consequently, "perfidy is the deliberate claim to legal protection for hostile purposes".[67]

The list of examples supplied by Additional Protocol I well illustrates the scope of the rule. The following forms of deception – when used to kill, injure or capture – are expressly mentioned as constituting perfidy:

> (a) The feigning of an intent to negotiate under a flag of truce or of a surrender;
> (b) The feigning of an incapacitation by wounds or sickness;
> (c) The feigning of civilian, non-combatant status; and
> (d) The feigning of protected status by the use of signs, emblems or uniforms of the United Nations or of neutral or other States not Parties to the conflict.

These four examples refer to the protection offered by the law of armed conflict to (a) *parlementaires* carrying the flag of truce[68] and persons surrendering,[69] (b) persons incapacitated by wounds or sickness,[70] (c) civilians,[71] and (d) UN personnel.[72]

Interestingly, this conception of "perfidy" under Additional Protocol I is narrower than its intellectual ascendant, "treachery". Article 8(b) of the Oxford Manual, cited earlier, gives two examples of prohibited treachery, namely "keeping assassins in pay" and "feigning to surrender". A lengthier list can be found in academic writings. For instance, in the 8th edition of *Oppenheim's International Law*, the editor, Hersch Lauterpacht, regarded the prohibition of treachery as demanding that:

> no assassin must be hired, and no assassination of combatants be committed; a price may not be put on the head of an enemy individual; proscription

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[66] **Dinstein** 2004, p. 201.

[67] **Jean de Preux** 1987. Article 37 – Prohibition of Perfidy. – Yves Sandoz, Christophe Swinarski and Bruno Zimmermann, eds. Commentary on the Additional Protocols to the Geneva Conventions. Geneva: ICRC & Martinus Nijhoff, § 1500.

[68] Hague Regulations, Article 32.

[69] Additional Protocol I, Article 41(1) and (2)(b).

[70] Additional Protocol I, Article 41(1) and (2)(c).

[71] Additional Protocol I, Article 51(2).

[72] Convention on the Safety of United Nations and Associated Personnel, GA Res. 49/59 (9 December 1994), in force 15 January 1999, 2051 UNTS 363, Article 7(1). Members of the armed forces of a State not party to the conflict are protected as civilians.

> and outlawing are prohibited; no treacherous request for quarter must be made; no treacherous simulation of sickness or wounds is permitted.[73]

These examples clearly cover the modern concept of perfidy – the simulation of wounds, sickness or surrender for hostile ends – but also include assassinations and outlawry. Support for the inclusion of these types of acts within the prohibition of treachery can also be drawn from other early instruments, for example the Lieber Code, which stipulated that:

> The law of war does not allow proclaiming either an individual belonging to the hostile army, or a citizen, or a subject of the hostile government an outlaw, who may be slain without trial by any captor, any more than the modern law of peace allows such international outlawry; on the contrary, it abhors such outrage. ...[74]

In contrast, Article 23(b) of the Hague Regulations states rather laconically that "it is especially forbidden … to kill or wound treacherously individuals belonging to the hostile nation or army". Yet the provision must be interpreted as covering outlawry and assassination. The consecutive editions of the US Field Manual on the Law of Land Warfare state that Article 23(b) of the Hague Regulations should be "construed as prohibiting assassination, proscription, or outlawry of an enemy, or putting a price upon an enemy's head, as well as offering a reward for an enemy 'dead or alive'".[75] Similarly, but in some more detail, the 1958 UK Military Manual stated in conjunction with the provision of the Hague Regulations that

> [a]ssassination, the killing or wounding of a selected individual behind the lines of battle by enemy agents or partisans, and the killing or wounding by treachery individuals belonging to the opposing nation or army, are not lawful acts of war. … In view of the prohibition of assassination, the proscription or outlawing or the putting of a price on the head of an enemy individual or any offer for an enemy "dead or alive" is forbidden.[76]

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[73] **Lassa Oppenheim** 1952. International Law: A Treatise. 7th edn. London: Longmans, p. 341 (§ 110).

[74] General Orders No. 100, Article 148.

[75] **US Department of the Army** 1956. Law of Land Warfare. § 31. See also **Michael N. Schmitt** 1992. State-Sponsored Assassination in International and Domestic Law. – Yale Journal of International Law, Vol. 17, p. 630.

[76] **UK War Office** 1958. The Law of War on Land – being Part III of the Manual of Military Law. London: HM Stationery Office, § 115.

In sum, Article 23(b) of the Hague Regulations appears to be broader in scope than Article 37 of Additional Protocol I: perfidy under the latter is shorthand for hostile acts that constitute the abuse of the protective veil of the law of armed conflict, whereas treachery under the former includes perfidy but also covers some other dishonourable ways of harming the enemy.[77]

The continued significance of this broader prohibition under the Hague Regulations is illustrated by an interesting passage from the current British Manual of the Law of Armed Conflict:

> Examples of treachery includes calling out "Do not fire, we are friends" and then firing at enemy troops who had lowered their guard, especially if coupled with wearing enemy uniforms or civilian clothing; or shamming disablement or death and then using arms.[78]

The wearing of enemy uniforms in such circumstances would certainly be covered by Article 39 of Additional Protocol I on the misuse of uniforms, and the use of civilian clothing or the simulation of disablement or death would amount to perfidy under Article 37. However, yelling "Do no fire, we are friends" does not seem to be caught in the net of Additional Protocol I. The only way of explaining its prohibition under the law of armed conflict would be to invoke the prohibition of treachery.

That black-letter law leaves treachery substantially undefined leads to a situation where the law reflects developments in military customs and doctrine by relying on extra-legal concepts for what is proper and honourable in warfare at a particular point in time. For example, as concerns the prohibition of assassinations, the US and British military manuals published in the 1950s contain a rather narrow reading of the rule. The 1956 edition of the US manual explicitly stated that the prohibition of assassinations, as deriving from the general rule against treachery, "does not … preclude attacks on individual soldiers or officers of the enemy whether in the zone of hostilities, occupied territory, or elsewhere."[79] The 1958 British manual similarly mentioned that "[i]t is not forbidden to send a detachment or individual members of the armed forces to kill, by sudden attack, members or a member of

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[77] Cf. **Schmitt** 1992, p. 617: "Treachery, as construed by early scholars, is … broader than the concept of perfidy'.

[78] **UK Ministry of Defence** 2004. The Manual of the Law of Armed Conflict. Oxford: Oxford University Press, p. 59, § 5.9, fn. 35.

[79] **US Department of the Army** 1956, § 31.

the enemy armed forces."[80] Accordingly it may well be the case that in its modern iteration, the prohibition of assassinations as a form of treachery is limited to the situations where the death of an enemy commander is procured by turning the adversary's soldiers against him or her.

The prohibition of putting a price on the enemy's head continues to be valid law. The question is not merely of historical and academic interest. On 17 September 2001, US president George W. Bush publicly declared that Osama bin Laden was "wanted, dead or alive." A member of the CIA's 2001 Afghanistan Task Force concedes in a law review article that this

> strays dangerously close to those prohibited means of killing. Were the statement more than a figure of speech, it would constitute outlawry, rendering any resulting deaths as assassination under international law.[81]

I will defer to the reader as to whether or not this was merely a figure of speech. In any event, it may be worth recalling that the Lieber code, proclaimed by a more glorious American president, added to the prohibition of outlawry the admonition that

> [t]he sternest retaliation should follow the murder committed in consequence of such proclamation, made by whatever authority. Civilized nations look with horror upon offers of rewards for the assassination of enemies as relapses into barbarism.[82]

The prohibition of perfidy, and treachery more broadly, is easy to dismiss as a remnant of a bygone era. But, as Thomas Wingfield argues, in the context of modern "information operations", where various attempts are made to affect the thinking of the opposing commander, the distinction between ruses of war and perfidy may become "the principal legal question of operational military lawyers".[83]

Be that as it may, the significance of the condemnation of treachery is fundamental to the law of armed conflict. Geoffrey Best notes with some

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[80] **UK War Office** 1958, commentary to article 115.

[81] **Nathan Canestaro** 2003. American Law and Policy on Assassinations of Foreign Leaders: The Practicality of Maintaining the Status Quo. – Boston College International & Comparative Law Review, Vol. 26, p. 30

[82] General Orders No. 100, Article 148. The 25-million-dollar reward offered by the US in 2003 for information leading to the capture of Saddam Hussein or confirming his death raises similar concerns, but probably falls short of outlawry for it does not directly incite violence.

[83] **Wingfield** 2001, p. 113.

justification that treacherous conduct "points a dagger at the heart of the entire IHL enterprise".[84] Treachery is particularly troubling because it "destroys men's last ties with one another when almost all other ties have already been destroyed by their inability to live at peace together" and thereby "spits in the face of the law's rock-bottom assumption of universal kinship".[85] Greenspan also notes that:

> Good faith between belligerents is essential as a rule of conduct in warfare. In civilized warfare, a belligerent is entitled to rely on certain basic rules of behavior in relation to the enemy. … Otherwise the restraint of law will inevitably be withdrawn from the conflict, which will then degenerate into excesses and savagery, because in no case would either party be able to place the slightest credence in the word of the other. It is, therefore, an axiom in warfare that no ruse of war may impinge on the good faith which one belligerent owes another, or violate any agreement, expressed or understood, which has been arrived at between them.[86]

Moreover, violations of the rules of the law of armed conflict generally need not be malicious: inhumane behaviour in war is not necessarily aforethought, it can simply be careless or inconsiderate. Treacherous acts are, however, always premeditated and consciously malicious.

There are also very specific practical concerns. Perfidy and treachery create an atmosphere of paranoia, which makes peace negotiations more precarious than they would otherwise be.[87] In terms of an even more immediate impact, perfidy can have a detrimental effect on humanitarian access. As concerns the latter, one only needs to consider an incident that occurred in 2008 in Columbia. A humanitarian NGO offered its assistance to FARC (*Fuerzas Armadas Revolucionarias de Colombia* – Revolutionary Armed Forces of Colombia) in relocating certain civilian hostages so that negotiations concerning their release could start with the government. On the agreed date, two white helicopters arrived. Once the hostages were aboard, the crewmembers, actually from of the Columbian armed forces, overpowered

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[84] **Geoffrey Best** 1994. War and Law since 1945. Oxford: Clarendon, p. 289.

[85] **Best** 1994, pp. 292–293. Cf. **de Preux** 1987, § 1500, noting that a resort to perfidy "destroys the faith that the combatants are entitled to have in the rules of armed conflict, shows a lack of the minimum respect which even enemies should have for one another, and damages the dignity of those who bear arms".

[86] **Morris Greenspan** 1959. The Modern Law of Land Warfare. Berkeley, CA: University of California Press, p. 319.

[87] **de Preux** 1987, § 1485, fn. 2.

and captured the rebels,[88] and the hostages were released to the great fanfare of the media. But what are the chances of humanitarian NGOs getting access to civilians detained by FARC in the immediate future? In a word, slim.

4. Concluding Remarks

The impact of chivalry on the law of armed conflict seems to be at least threefold. First of all, the law of armed conflict has clearly retained some of the chivalric customs of warfare as discrete rules. Some of the more specific details of the protection of prisoners of war and some of the rules prohibiting particular means and methods of warfare are the best examples. To be sure, in many instances these rules can be reinterpreted so that they are based not so much on the personal honour of a warrior but rather grounded in respect for the humanness of the opposing party. In other words, chivalry as a principle has become subsidiary to considerations of military necessity and humanity.[89] But I think it is an exaggeration to claim that "we have witnessed over the centuries … the gradual *elimination* of the ideal of chivalry".[90] While chivalry has certainly taken a back seat, its impact is still noticeable, especially considering the specific prohibitions mentioned earlier.[91]

Second, the most pervasive, but also the most intangible, impact of chivalry on modern law is that it has set its tone, or given it an ideology. At the core of that ideology is the idea of limited warfare and of combat as an essentially rule-governed activity. Jean Pictet, one of the most influential experts on the law of armed conflict of the 21st century and the editor of the

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[88] For an analysis, see **John C. Dehn** 2008. Permissible Perfidy? Analysing the Colombian Hostage Rescue, the Capture of Rebel Leaders and the World's Reaction. – Journal of International Criminal Justice, Vol. 6, pp. 627–653.

[89] Cf. **Myres S. McDougal and Florentino P. Feliciano** 1994. The International Law of War: Transnational Coercion and World Public Order. Dordrecht: Martinus Nijhoff, p. 522.

[90] **G. I. A. D. Draper** 1989. Humanitarianism in the Modern Law of Armed Conflict. – Michael A. Meyer, ed. Armed Conflict and the New Law: Aspects of the 1977 Geneva Protocols and the 1981 Weapons Convention. London: British Institute of International and Comparative Law, p. 6 (emphasis added). For a substantially similar observation, see **Julius Stone** 1959. Legal Controls of International Conflicts: A Treatise on the Dynamics of Disputes- and War-Law. 2nd edn. New York, NY: Rinehart, p. 337.

[91] See **Peter Rowe** 1990. Review of *Armed Conflict and the New Law: Aspects of the 1977 Geneva Protocols and the 1981 Weapons Convention*, edited by Michael A. Meyer. – International & Comparative Law Quarterly, Vol. 39, p. 710; **Canadian Forces – Office of the Judge Advocate General** 2001. Law of Armed Conflict at the Operational and Tactical Levels, § 202(7).

authoritative commentary of the 1949 Geneva Conventions, noted that the institution of chivalry "brought with it the recognition that in war as in the game of chess there should be rules and that one does not win by overturning the board".[92] While a direct comparison between chess and warfare may well be somewhat removed from reality, the underlying presumption that organised violence amounts to warfare only when it conforms to certain prescriptions is a fundamental one.

Moreover, the idea of chivalry as a facilitator of effective legal rules may even give support to the claim that international law as we know it today owes a debt to chivalry. Johan Huizinga had argued that while the origins of the law of nations

> lay in antiquity and in canon law, … chivalry was the ferment that made possible the development of the laws of war. The notion of a law of nations was preceded and prepared for by the chivalric ideal of a good life of honor and loyalty.[93]

Thirdly, and in some sense most interestingly, the law of armed conflict continues to rely on the notion of honourable conduct in warfare for determining what conduct is lawful and what conduct is unlawful. When it comes to distinguishing lawful ruses of war from unlawful treacherous acts, regard must be had to conceptions of proper military conduct that seem to lie beyond the strict confines of black-letter law.

But the question remains as to whether anything practical can be gained from a clearer recognition of the chivalric origins of the modern law of armed conflict and the interplay between law and honour. I believe the answer to be yes. For one, an appreciation of chivalry is key to understanding that the law of armed conflict did not emerge as a body of rules imposed upon the military from the outside by starry-eyed humanitarians or overzealous politicians. Rather, such rules emerged from within the military profession. These rules did not come about as some sort of an unavoidable nuisance; rather, they were concomitant with the idea of a soldier as an honourable professional. Given that, as Michael Waltzer puts it, "some sense of military honour is still the creed of the professional soldier, the sociological if not the delineal

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[92] **Jean S. Pictet** 1985. Development and Principles of International Humanitarian Law. Dordrecht: Martinus Nijhoff, p. 15.

[93] **Johan Huizinga** 1959 [1921]. The Political and Military Significance of Chivalric Ideas in the Late Middle Ages. – Men and Ideas: History, the Middle Ages, the Renaissance. London: Eyre & Spottiswoode, p. 203.

descendant of the feudal knight",[94] emphasising the intimate link between honour and rules of warfare may be very important in cultivating a respect for the rules which now have become rules of law. From a pedagogical point of view, I believe Mark Osiel to be quite right in observing that the professional identity of an officer "is imparted not by instruction in international law but by stories about the great deeds of honorable soldiers".[95]

To be sure, it is nowadays ideologically more kosher to appeal to humanity as the reason why the law of armed conflict must be respected. But that entails difficulties. It is all too easy to dehumanise the adversary. Just how thin the veneer of humanity really is can be clearly seen from Stanley Milgram's research into the susceptibility of individuals to superior authority[96] and Philip Zimbardo's infamous Stanford prison experiment.[97] Against this background it is quite troubling that many US soldiers were told during the recent war in Iraq that the enemy "is called Satan. He lives in Falluja. And we're going to destroy him." This sort of an attitude is hardly helpful from the perspective of upholding the humanitarian constraints that the law prescribes.[98] What might perhaps help a little is that the notion of honour detaches the propriety of a soldier's behaviour from the qualities (real or apparent) of the adversary. Senator John McCain succinctly captured this point when he argued against the torture of detainees held by the US: "It's not about them, it's about us."[99]

Of course, the notion of honour is not immune from manipulation. Leaders have often sought to appeal to honour when justifying dubious behaviour. The most prominent recent example is perhaps the motto of the Joint Task Force Guantánamo (JTF-GTMO), the US military unit that

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[94] **Michael Walzer** 2000. Just and Unjust Wars: A Moral Argument with Historical Illustrations. 3rd edn. New York: Basic Books, p. 34.

[95] **Mark J. Osiel** 2002. Obeying Orders: Atrocity, Military Discipline and the Law of War. New Brunswick: Transaction Publishers, p. 21.

[96] See **Stanley Milgram** 1974. Obedience to Authority: An Experimental View. New York, NY: Harper & Row.

[97] For an up-to-date discussion, see **Philip Zimbardo** 2007. The Lucifer Effect: Understanding How Good People Turn Evil. New York, NY: Random House.

[98] Yet, a certain amount of dehumanisations of the adversary seems to be unavoidable for soldiers to be able to engage in combat at all. For evidence suggesting that soldiers are reluctant to kill, and for a discussion of the methods used in overcoming this reluctance, see **Dave Grossman** 2009. On Killing: The Psychological Cost of Learning to Kill in War and Society. Rev'd edn. Boston, MA: Little, Brown & Co.

[99] **Jane Mayer** 2008. The Dark Side: The Inside Story of How the War on Terror Turned into a War on American Ideals. New York, NY: Doubleday, p. 329.

operates the detention units at Guantánamo Bay, Cuba – "Honor Bound to Defend Freedom". Not only has this phrase been emblazoned on the gates of the various camps, it has been incorporated into the salute. A junior soldier is supposed to salute and say "Honor bound"; the senior must respond by saying "To defend freedom". A lawyer working for the detainees has noted that when he first witnessed this he thought that it was a Monty Python sketch put on for his benefit.[100] Yet it is not difficult to see what purpose this serves: the idea is to instil into the personnel the idea that the dubious practices at the camps are quite compatible with, and even required by, their honour as soldiers. The notion of honour must therefore be approached with due care.

In the end, one may still ask whether there is any room for chivalry or honour in modern conflicts. Is it not the primary concern of an officer to bring his men out of a battle *alive*?[101] This is not how all see it. At least one young marine officer has noted that

> getting my men home alive … set the bar too low. I had to get them home physically and psychologically intact. They had to know that, whether or not they supported the larger war, they had fought their little piece of it with honour and had retained their humanity.[102]

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[100] See **Reprieve** 2006. Honor Bound to Defend Press Freedom. 29 September. <www.reprieve.org.uk/articles/05_10_29_NUJ_alHajj> (accessed 1 December 2011).

[101] For the argument that a state has a greater duty to prevent harm to its soldiers than to enemy civilians while attacking an enemy-controlled territory, see **Asa Kasher and Amos Yadlin** 2005. Military Ethics of Fighting Terror: An Israeli Perspective. – Journal of Military Ethics, Vol. 4, pp. 3–32. A serious debate (fuelled by Avishai Margalit and Michael Walzer) ensued in the *New York Review of Books*: see 14 May, 11 June, 13 August, 24 September and 8 October 2009 issues. See also **Robinson** 2006, p. 178–179.

[102] **Nathaniel Fick** 2005. One Bullet Away: The Making of a Marine Officer. Boston, MA: Houghton Mifflin, p. 241.

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Convention for the Amelioration of the Condition of the Wounded in Armies in the Field, Geneva, 22 August 1864, in force 22 June 1865, 129 CTS 361.
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Convention relative to the Treatment of Prisoners of War, Geneva, 27 July 1929, in force 19 June 1931, 343 LNTS 343.
Declaration Renouncing the Use, in Time of War, of Explosive Projectiles Under 400 Grammes Weight, St. Petersburg, 29 November/11 December 1868, 138 CTS 297.
Geneva Convention (III) relative to the Treatment of Prisoners of War, Geneva, 12 August 1949, in force 21 October 1950, 75 UNTS 135.
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THE CULTURE OF FEAR IN INTERNATIONAL POLITICS – A WESTERN-DOMINATED INTERNATIONAL SYSTEM AND ITS EXTREMIST CHALLENGES

Holger Mölder

ABSTRACT. A culture of fear is precipitated by an emotional responce to uncertainty, instability and anxiety in social discourses and relationships. It is a powerful tool in the hands of ideologies stressing on conflict between Us and Others, notable of mention are nationalism, Marxism and religious fundamentalism. Fear can be an attractive political instrument for hiding motives, evoking irrational emotions and mobilizing people under the flag of populist gains. In international politics, the culture of fear is closely related to the Hobbesian political culture, which emphasizes a permanent state of war between international actors. Deviant actors may use the culture of fear in their resistance to the international system.

Key words*: culture of fear, cultural theory of international relations, political cultures, deviant states, international terrorism, international system, neo-conservatism.*

Introduction

A culture of fear is a term used in social sciences in order to describe the emotional response produced by actors using fear as a political incentive, which is often related to extremism. Extremism can be referred to as radical actions against prevailing social norms and rules recognized by the vast majority of actors in a certain environment. To realize their goals, the followers of extremist ideologies can turn to illegitimate tools. The culture of fear increases the role of instability and anxiety in social discourses and relationships and makes distinctions between friendly Us and hostile Others. These emotions may be deliberately used for political gains (e.g. in starting wars, in tensioning relations with other countries, but also in building a kind of national solidarity). Although in recent discourses the culture of fear is frequently connected to the rise of radical Islamic fundamentalism and the Global War on Terrorism (GWoT), which was evoked after the

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terrorist attacks in New York and Washington on September 11, 2001, its roots descend from ancient times. The Ancient Greek historian Thucydides already regarded Sparta's fear of maintaining its way of life threatened by the growth of Athens as a main catalyst for the Peloponnesian War in the 5th century B.C.[1]

A high-level Nazi leader Hermann Göring has said in his interview to G. M. Gilbert during the Nuremberg Trial:

> **Göring:** … Naturally, the common people don't want war; neither in Russia, nor in England, nor in America, nor for that matter in Germany. That is understood. But, after all, it is the *leaders* of the country who determine the policy and it is always a simple matter to drag the people along, whether it is a democracy, or a fascist dictatorship, or a parliament, or a communist dictatorship.
>
> **Gilbert:** There is one difference. In a democracy the people have some say in the matter through their elected representatives, and in the United States only Congress can declare wars.
>
> **Göring:** Oh, that is all well and good, but, voice or no voice, the people can always be brought to the bidding of the leaders. That is easy. All you have to do is tell them they are being attacked, and denounce the pacifists for lack of patriotism and exposing the country to danger. It works the same way in any country.[2]

Hermann Göring was quite outspoken in his descriptions of why emotional motives might be beneficial for political elites. Fear is a powerful incentive in the hands of populist politicians for shaping public opinion. Zbigniew Brzezinski has noted that a culture of fear "obscures reason, intensifies emotions and makes it easier for demagogic politicians to mobilize the public on behalf of the policies they want to pursue"[3]. Sometimes democratic politicians may also use popular emotional motives for achieving their political goals. In 2003, the US senator Robert C. Byrd introduced the excerpt from the Nuremberg Diaries in his speech of October 17, 2003, addressed to the

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1 **Richard Ned Lebow** 2001. Thucydides the Constructivist. – The American Political Science Review, p. 556.

2 **Gustave Gilbert** 1947. Nuremberg Diary. New York: Farrar, Straus and Company, pp. 278–79.

3 **Zbigniew Brzezinski** 2007. Terrorized by "War on Terror". – Washington Post, 25.03. Available online at: <http://www.washingtonpost.com/wp-dyn/content/article/2007/03/23/AR2007032301613.html>, (accessed 07.05.2011).

President George W. Bush after the Iraqi invasion of 2003.[4] Senator Byrd accused the President of the continuation of war based on falsehood.

Alexander Wendt[5] has identified three phenomena (ideal types) that have influenced the development of European political culture and created premises for constructing engagement of international actors into the prevailing international system: the Hobbesian war, the Lockean rivalry, and the Kantian collective security/security community.[6] There is a fundamental difference in the nature of Hobbesian/Lockean political culture on the one hand and the Kantian culture on the other hand. Fear is an important incentive, which is capable of precipitating the Hobbesian war of all against all (*bellum omnium contra omnes*). The Kantian culture envisages the idealist tradition of cooperative international relations, introduces comprehensive cooperative tools for consolidating universal peace (e.g. security communities, collective and cooperative security arrangements) and intends to unite the world under common virtues.

There are different drivers, which would shape political cultures accordingly to their specific cultural environments: conflict for the Hobbesian culture, competition for the Lockean culture, and cooperation for the Kantian culture. The culture of fear is closely related to the Hobbesian political culture, emphasizing interstate conflict as a natural paradigm in international politics. The Lockean culture recognizes the state of war between international actors but desires to mitigate its effects. The Kantian culture intends to overcome fear in international relations by increasing mutual interdependence among actors.[7] Ideologies, which emphasize conflict (state of war) between social entities, may promote fear-related motives in their political

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[4] **Robert C. Byrd** 2003. The Emperor Has No Clothes by U.S. Senator Robert C. Byrd, October 17. Available online at: <http://www.wagingpeace.org/articles/2003/10/17_byrd_emperor.htm>, (accessed 30.04.2011).

[5] **Alexander Wendt** 1999. Social Theory in International Politics. Cambridge: Cambridge University Press.

[6] After the English philosophers Thomas Hobbes (1588–1679) and John Locke (1632–1704) and their German colleague Immanuel Kant (1724–1804).

[7] Like the Hobbesian enmity, the Lockean rivalry manifests the Self-Other dichotomy with respect to violence, but they recognize the sovereignty of Others and do not try to conquer or dominate them. **Wendt** 1999, p. 279.

activities and tilt into political extremism.[8] Eventually, the *ideological states*[9] may practice state extremism against the valid international system.

A Hungarian-born British sociologist Frank Furedi has significantly contributed to the research into the origins of the culture of fear.[10] The current work uses the framework of cultural theory of international relations envisaged by Richard Ned Lebow[11] in examining how the culture of fear can impact on international politics, justify the activities of deviant actors and produce enmities and polarizations within the international system.

The Culture of International Systems

Hedley Bull stated that an international system comes into force "when two or more states have sufficient contact between them, and have sufficient impact on one another's decisions to cause them to behave as parts of a whole"[12]. Although since the 1990s the role and importance of other actors (e.g. international institutions, transnational networks, etc.) has notably grown, states have still maintained a status of principal international actors within the international system.

An international system is a governing body that has an ability to arrange relations between different political, social, and cultural entities and operates by using various international regimes for this purpose. It is a self-regulative structure, not a cultural entity, but various political cultures can influence the development of a system. In its turn, the system has an ability to shape its cultural environment. Modern and post-modern international systems have

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[8] Ideologies like Nationalism (stresses conflict between national identities), Marxism (between social classes), Religious Fundamentalism (between religious identities) can be prone to follow extremist lines. Religious Fundamentalism may be also regarded as Religious Nationalism as the organization of the ideology is similar and the only difference is the object of identity.

[9] Countries, which declare that there is an official ideology of the state. Extremist ideologies – Extreme Nationalism, Communism, Religious Fundamentalism, etc. – can often monopolize the state establishment and produce ideological societies.

[10] In his books Culture of Fear: Risk Taking and the Morality of Low Expectation (1997/2002), The Politics of Fear. Beyond Left and Right (2005), Invitation to Terror: The Expanding Empire of the Unknown (2007), all of them published by the Continuum International Publishing Group.

[11] **Richard Ned Lebow** 2008. A Cultural Theory of International Relations. Cambridge: Cambridge University Press.

[12] **Hedley Bull** 1977. The Anarchical Society: A Study of Order in World Politics. New York: Columbia University Press, pp. 9–13.

been predominantly influenced by the Western political cultures, and therefore can be identified as Hobbesian, Lockean and Kantian systems depending on which political culture prevails within the system.[13] The international actors will normally accept mutually recognized norms, which support interactions within the system.

Various social forces may intervene for the transformation of anxious emotions into fear.[14] The extremist actors and ideologies may force the culture of fear facilitating their political gains. The culture of fear is also influenced by the concept of security dilemma, which refers to a situation in which actors provoke an increase of mutual tensions in order to improve their own security.[15] There will emerge a '*moral panic'* – that occurs when a "condition, episode, person or group of persons emerges to become defined as a threat to societal values and interests"[16]. If the culture of fear is empowered by populist politicians from both sides, it may lead to the non-solvable security dilemma transferred into the sphere of emotions and irrational narratives powered by fear. Such dilemmas are most complicated to manage.

The culture of fear, practiced by powerful international actors, can destabilize international systems. Which is important, certain ideologies, particularly Nationalism and Marxism in their extreme representations, tend to play an important role in producing system-related security dilemmas. Eric Hobsbawm called the 20th century the age of extremes with two global wars and the rise and fall of the messianic faith of Communism.[17] The ideological societies, which emerged rapidly after the World War I, promoted the culture of fear not regionally as it happened in the 19th century but already in global terms. The Marxist revolution in Russia set up an ideological alternative to the world society and positioned Russia as a deviant actor, similarly to North Korea or Iran within the current international system, having only a limited access to mainstream international politics. Systemic confrontations between the international system and deviant actors continued through the

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[13] See also **Holger Mölder** 2010. Cooperative Security Dilemma – practicing the Hobbesian security culture in the Kantian security environment. Tartu: Tartu University Press, pp. 94–100.

[14] See also **Frank Furedi** 2005. The Politics of Fear. Beyond Left and Right. Continuum International Publishing Group.

[15] **Ken Booth and Nicholas J. Wheeler** 2008. The Security Dilemma. Fear, Cooperation and Trust in World Politics. New York: Palgrave MacMillan, p. 9.

[16] **Stanley Cohen** 1973. Folk Devils and Moral Panics. St Albans: Paladin, p. 9.

[17] **Eric Hobsbawm** 1994. The Age of Extremes. A History of World, 1914–1991. London: Michael Joseph and Pelham Books.

activities of Fascist Italy from 1922, Nazi Germany from 1933 or Shōwa Nationalist Japan from 1920s-1930s. These three ideologies founded common paradigms in uniting nationalism, socialism and militarism together for creating an alternative subsystem to the post-World War I Versailles system.[18]

The Westphalian concept of national sovereignty is based on two general principles: recognition of territorial integrity of states and recognition of the rule that external actors have no right to interfere into the domestic matters of states.[19] These principles have prevailed throughout modern society, until the last modern international system, the Cold War's bipolarity, ended. The end of the Cold War marks another breakthrough from the overwhelmingly Hobbesian/Lockean modern international systems to the Kantian post-modern one. The transition was accompanied by a cultural clash, which stems from different cultural practices and narratives used by modern and post-modern actors within the system.

Since the 1990s, a liberal democracy has been the main incentive for stimulating cooperative international regimes in the Euro-Atlantic security environment, which is shifting towards a global community of democratic states. The majority of European states started to follow the principles of the Kantian political culture, which helped to end the emergence of violent international conflicts in the most parts of Europe. However, the introduction of the Kantian international system did not exclude the co-existence of the Hobbesian actors and environments with the Kantian trend of the system. The cultural differences between the Hobbesian/Lockean actors and the Kantian actors reflect the ideological clash between the Western liberal democracy and the rest of the world, where the modern ideologies like Nationalism or Marxism retained their influential positions in many countries and regions

The logic of postmodern society recognizes supranational principles (e.g. human rights, liberal democracy), which do not entirely fit with the concept of national sovereignty prevailing in the modern society. The conflict between the logic of modern society and the logic of post-modern society may produce cultural security dilemmas between actors and environments representing different cultures and values. Several powerful countries, first of all China and Russia, prefer to keep alive modern principles of the international system, which complicates the involvement of international society

[18] The Versailles system may be identified as the first Kantian international system, see **Mölder** 2010, pp. 94–100.

[19] See also **Stephen D. Krasner** 1999. Sovereignty: organized hypocrisy. Princeton: Princeton University Press.

in stabilizing the whole system by emphasizing peace, stability, and human rights.

International systems existentially depend on two dependant paradigms: polarity and stability. Polarity implies that there are competing antagonistic subsystems within a system. The Hobbesian and Lockean systems are polarized international systems, while the Kantian system intends to avoid the polarization and if any actor will find itself in opposition with the Kantian system, it may be identified as a deviant actor, outside of the system. The stability within the system may be changed by actions usually taken by major powers. In the long-run, the Soviet invasion to Afghanistan in 1979 caused the crash of the Cold War system. The invasion of the US-led coalition to Iraq in 2003 destabilized the post-modern Kantian system.

Societies stemming from the Hobbesian and Lockean political cultures tend to treat polarity as a natural behavior of the international system. This would indeed describe the 19th century society wherein the ideological differences had a minor influence on the international society and the motives of actors manifested quite similar characteristics. A century later, major powers under the auspices of the Western democracy were forced to find consolidating factors and curb their national interests in standing against the competing extremist ideologies from German National Socialism to Soviet Communism. Lebow explains that, contrary to the realist assumptions, within a non-polar system powerful actors attempt to conform to the rules of the system as the system would help them to use their power capabilities in the most efficient and effective manner.[20] In return, they should limit their national goals to those which others consider as legitimate and the interests of the community as a whole.

Extremism in International Politics

The culture of fear polarizes and destabilizes international systems as it is able to force emotional motives, which are able to avoid rational calculations and lead to a political extremism. In their extreme manifestations,[21] Nationalism, Marxism and certain religion-affiliated ideologies may produce ideological states and ideological societies. Lebow explains fear as one of

[20] **Lebow** 2008, p. 497.

[21] If ideologies are capable of forcing conflict within societies, their behavior can be identified as extremist. For example, Chauvinism is an extreme manifestation of Nationalism and Communism respectively refers to Marxist extremism.

the general motives shaping international relations, which settles security as a primary goal for fear-based societies and uses power as an instrument to achieve more security in eternal competition for increasing security-related capabilities.[22]

Organic ideologies may attribute a certain status of ideal to the community – *we are going the right way*, *and all those who behave differently, are trying to hinder the achievement of the desired ideal*. Consequently, it would be necessary to provide for all those who as renegade deviate from these ideals. In extreme cases, it may lead to the use of violence in order to bring the renegades back to the 'right track'. The ideological societies, which are based on a strong sense of identity with Us and Others contrasted and polarized, would impact their positioning towards the system related to some other cultural environment. "As a general rule, individuals, groups, organizations and political units attempt to create, sustain and affirm identities in their interactions with other actors."[23]

In interstate relations, a fear is an emotion, which demands that security is guaranteed through the direct acquisition of military power and economic well-being is a tool for establishing such a power requirement. Brian Frederking includes interactions that produce mistrust and hostilities between actors (traditional nation-state warfare, Israeli-Palestinian relations, imperialism, and Global War on Terrorism) as manifestations of the Hobbesian security culture,[24] which is traditionally characterized by producing uncertainty and misperceptions between actors. The Lockean culture in its turn intends to create some collective actions in balancing security-related fears (i.e. doctrines increasing state security under the circumstances of international anarchy like power balancing, bandwagoning or neutrality).

The Kantian culture of the post-Cold War international society looked for opportunities to produce a more stable non-polarized environment. In Europe, Kantian principles progressed significantly through the European Union and the transforming of NATO. The post-Communist societies of Eastern Europe could fall under the influence of extremist ideologies, if they did not succeed in the transition to consolidated liberal democracies. State extremism can more easily emerge in illiberal democracies and non-democ-

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[22] **Lebow** 2008, p. 90.

[23] **Lebow** 2008, p. 497.

[24] **Brian Frederking** 2003. Constructing Post-cold War Collective Security. – American Political Science Review, 3, p. 368.

racies than in consolidated democracies.[25] The experience of the former Yugoslavia and the Soviet Union, which in many cases were not able to avoid violent post-dissolution conflicts, confirms this assessment. Therefore, the immediate objective of the European institutions after the Cold War required the engagement of the Central European countries with the rest of Europe.

The Gulf War, the Yugoslavian conflicts, the Afghanistan operation and many others manifest violent interactions between the Kantian and the Hobbesian environments in the post-modern international system. Some environments in the European neighborhood and beyond are mistrustful of the Kantian security culture and hold cultural security dilemmas to be actual. The Greater Middle East, which includes vast areas from Morocco and Mauritania in West Africa to Afghanistan and Pakistan in Central Asia, represents a foremost security concern for the Kantian international system in the near future, as the region is marked by recurrent violence and instability. Despite some progress in the peace processes, the Middle-East remains to be an unstable and polarized region. Besides the Middle-East, Africa poses another serious concern for Europe, as it is still an unstable continent with huge amounts of potential global and regional security risks, including civil wars, ethnic clashes, political, economic and social instability, poverty and famine among others.

The Self-Other binary draws support from Foucault's assertion[26] that order and identity are created and maintained through discourses of deviance (Lebow 2008, 476).[27] If the self-identification of a particular actor contrasts with the culture used by the international system, it may cause the appearance of extremist behavior in the actor-system relationship. There are countries on the world map, which submit challenges to the valid Kantian international system, while practicing the Hobbesian culture towards the system – i.e. North Korea, Iran, Sudan, and Venezuela among others. The extremist stance in international politics may directly or indirectly force deviant countries to support illegitimate actions, international terrorism among others. The Global War on Terrorism has been regarded as a manifestation of the culture of fear in the post-Cold War society,[28] which was able to evoke

[25] This does not refer to other formations of extremism.

[26] Reference is made to **Michel Foucault**'s book: The Archaelogy of Knowledge and the Discourse on Language. New York: Pantheon Books, 1972.

[27] **Richard Ned Lebow** 2008. Identity and International Relations. – International Relations, 4 (a), p. 476.

[28] **Brzezinski** 2007.

challenges to the prevailing Kantian political culture and thus destabilize the whole international system.

Lebow notes that deviant actors "attempt to gain attention and recognition by violating norms of the system"[29]. Countries like North Korea, Cuba, Libya, Sudan, Iran, Syria, Iraq of Saddam Hussein, Yugoslavia of Milosevic, or Afghanistan of the Taliban have taken actions that did not fit with the general principles of the international society. The elaboration of weapons of mass destruction (North Korea, Iraq, Iran), give support to international terrorism (Libya, Iran, Sudan, Afghanistan), violent behavior against minorities or political opponents (Sudan, Yugoslavia, Libya, Iraq) have been condemned by the overwhelming majority of the international society and may cause the international reaction of the Kantian system with their involvement into the "internal matters" of violating countries.

State Extremism at the Threshold of Post-Modern Society and the Axis of Evil

Since many international actors – states, organizations of citizens, armed groups, and individuals – may depart from the universally accepted norms and practices of the international society, extremist status may also be accredited to states, which violate against the norms of the system. The '*pariah*' or '*rogue*' state refers to a country, which has an 'outsider' status within the international system, occupying the lowest ranks in the international hierarchy. According to Lebow, "these are relatively new concepts that made their appearance during the Reagan administration, and were applied to states like Libya or Cuba that the administration chose to ostracize because of their leadership and policies. The Clinton administration introduced the less offensive term 'states of concern'"[30]. The main pretenders to the role of 'pariah' or 'rogue' state were different actors usually representing other civilization than Western.

Already in 1979, during the Cold War, the US Department of State had listed Libya, Iraq, South Yemen and Syria as state sponsors of terrorism. Later Cuba (1982), Iran (1984), Sudan (1993), and North Korea (1988) had been added to the list. Iraq was initially removed from the list in 1982, enabling the US to provide military assistance during the Iran-Iraq War. After the invasion of Kuwait, Iraq returned to the list and was removed again in 2004.

[29] **Lebow** 2008, p. 544.

[30] **Lebow** 2008, p. 488.

Yemen was removed in 1990 with the unification of North Yemen and South Yemen. North Korea, however, was removed from the list in 2008, because of nuclear inspection requirements. Libya was removed in 2006 following Gaddafi's decision to renounce the support of international terrorism and Libya started to change its policy towards the Western world and attempted to normalize relations with the United States and the European Union. The Libyans abandoned their programs concerning weapons of mass destruction and paid compensations to the families of victims of the Pan Am flight 103 as well as the UTA flight 772.

On January 29, 2002, the US President George W. Bush first introduced the term the *Axis of Evil* in describing countries which tend to support international terrorism and seek weapons of mass destruction, namely Iran, Iraq and North Korea.[31] The list of Axis of Evil predominantly coincides with the list of state sponsors of terrorism. The former speechwriter of G. W. Bush, David Frum invented the term *axis of hatred* for Iran and Iraq in making parallels between modern terror states and the Axis Powers from the World War II.[32] However, differently from the Axis Powers of the World War II, the so-called modern terror states do not cooperate in their international goals and do not form coalitions. They may be ideologically and/or culturally diverse entities which would confront each other to the same extent as the international system. Initially, the Axis of Evil included six countries – Iran, Iraq, North Korea, Cuba, Libya, and Syria. Later, after the ousting of Saddam Hussein's regime in Iraq and the democratization process initiated, Iraq was excluded from the list.

A support to international terrorism and/or intentions to develop weapons of mass destruction are main causes that countries would be listed as states of concern, but also violations against human rights have caused international sanctions or other similar reactions against extremist states. Countries like Belarus, Myanmar and Zimbabwe have most often been mentioned among the extremist countries.[33] All these countries can be identified as ideological societies, and as a rule, ideological societies tend to be more favorable to authoritarian or even totalitarian regimes. Ideologically, regimes of the Axis of Evil differ from each other. Iran practices a strongly ideological Shia

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[31] **George W. Bush** 2002. State of the Union Address, 29.01. Available online at: <http://www.whitehouse.gov/news/releases/2002/01/20020129-11.html>, (accessed 29.08.2010).

[32] **David Frum** 2003. The Right Man: The Surprise Presidency of George W. Bush. New York, Toronto: Random House

[33] Former U.S. Secretary of State Condoleezza Rice called these three countries "outposts of tyranny". For futher information see: **At-a-glance: Outposts of tyranny**. Available online at: <http://news.bbc.co.uk/2/hi/americas/4187361.stm>, (accessed 30.04.2011).

fundamentalist theocratic regime. North Korea and Cuba represent vanishing communist ideologies. The regimes of Saddam Hussein in Iraq and Syria refer to secular pan-Arab nationalist and socialist ideologies directed by their ruling Baath parties.[34] Also Gaddafi's Libya practices its particular ideology (the Third International Theory), which is a mixture of pan-Arab nationalism, secular socialism and Islamic culture. The table below describes deviant (extremist) countries in the post-modern system since 1990.

The Iraqi invasion of 2003 made some changes in the classification of evil forces, while Iran, North Korea and to lesser extent Syria have remained core members of the Axis of Evil. After the resignation of their charismatic leader Fidel Castro, Cuba has often been believed to be moving towards liberalization of the Communist regime, although these signs are very modest as yet. Venezuela under the leftist anti-Americanism of President Hugo Chavez, the Mugabe's regime of Zimbabwe, Myanmar having long-time troubles with human rights, and Sudan with her continuing Darfur problem have often been named as countries alternating themselves against the Western-dominated international system.

The division between liberal states and authoritarian others may introduce the ideological confrontation between the so-called the Axis of Evil and the Axis of Good.[35] Especially as the President of Venezuela Hugo Chavez and the President of Iran Mahmoud Ahmadinejad have played an active role in continuous attempts to build up a systemic confrontation that may lead to a Cold War's dichotomy between democratic and authoritarian regimes. Hugo Chavez has used the term Axis of Good in merging partnership between leftist-governed Latin-American countries – Venezuela, Cuba, Bolivia, Ecuador and Nicaragua. Since the end of World War II, anti-Americanism has historically proved itself to be a strong and capable ideological movement in uniting some nations against Western liberal democracy.

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[34] The **Arab Socialist Baath Party**, which means "resurrection" or "renaissance" and bases on Arab Socialism, Arab Nationalism and pan-Arabism. It was founded in 1940, was ruling party in Syria since 1963 and in Iraq 1963–2003.

[35] **Lebow** 2008 (a), p. 476.

Table: the Axis of Evil – extremist countries[36]

Countries	*Ideology*	*Wars vs international community*	*UN sanctions implemented*	*State sponsors of terrorism*	*Weapons of Mass Destruction*
Cuba	Communism			1982–	
Iran	Shia Fundamentalism		2006–	1984–	suspected
Libya	Arab Nationalism/ Socialism		1992–2003 2011–	1979–2006	
North Korea	Communism		2006–	1988–2008	declared 2006
Sudan	Arab Nationalism/ Islamism		1994–	1983–	
Syria	Arab Nationalism/ Socialism			1979–	suspected
Belarus	Post-Communism,[36] Nationalism				
Myanmar	Nationalism		*EU 1990–*		suspected
Zimbabwe	African Nationalism/Socialism		*EU 2002–*		
Afghanistan – until 2001 (Taliban)	Sunni Fundamentalism	2001	1999– (Taliban)		
Iraq – until 2003 (Saddam Hussein)	Arab Nationalism	1991 2003	1990–	1979–1982 1990–2004	suspected
South Yemen – until 1990	Arab Socialism			1979–1990	
Yugoslavia – until 2000 (Milosevic)	Post-Communism, Nationalism	1994–1995 1998–1999		1991–1996 1998–2001	

[36] These countries have or had problems with entering into the international society in the last decades. This list is incomplete. Since 1990, the UN has exposed economic sanctions or arms embargo also against DR Congo, Cote d'Ivoire, Eritrea, Ethiopia, Sierra Leone, Somalia, Liberia, Rwanda, Haiti, Angola for different reasons. Online: available at http://www.un.org/sc/committees/.

[37] Post-Communism refers to some post-ideological societies that emerged in the 1990s after the collapse of Marxist ideology on the basis of former Communist movements, which often practiced an authoritarian regime with mixed elements of Marxism and Nationalism used in building a new ideological formation (source: author's compilation).

Relations with international terrorism have been considered in the emergence of an 'outlaw' status in the discursive recognition of *evil* by the US Government. The reasons empowering the use of a terrorist method include a wide area of reasons. "Terrorism is the deliberate and systemic murder, maiming, and menacing of the innocent to inspire fear for political ends."[38] Terrorist methods are traditionally typical of smaller groups, which may be in difficulties when using traditional political methods through popular support in achieving their goals. This may be one reason why terrorism is frequently practiced by extremist groups, which can hardly pretend to take a leading role within a democratic society.

Similarly, deviant states would turn to international terrorism for achieving political goals that they are not able to achieve without extremist measures. Besides that, they may spread the culture of fear for deterrence. Ideologies that would provoke certain actors to use terrorism for recognition of their political goals include nationalism, anarchism, communism, neofascism, and religious fundamentalism among others. Frank Furedi explains that terrorism, which is traditionally applied as an attempt to influence the population for a specific political end, can be now feared more because of ideological appeals of terrorist actors.[39]

In addition to supporting international terrorism, deviant states may be interested in developing weapons of mass destruction, not necessarily for offensive purposes but for deterring punitive actions from the international society. In 2006 and 2009, North Korea conducted nuclear tests. Some other countries (e.g. Iran, Myanmar, and Syria) are suspected of developing weapons of mass destruction. If some nations fear international involvement or intervention into their domestic affairs, a culture of fear may appear and deviant actors may start to reproduce practical and discursive actions supporting their evolving military capabilities. In the cases of Iraq, Iran, and Korea, the development of their nuclear capabilities or intentions to move in that direction may be used on behalf of a deterrence against possible international intervention. The international society, however, can take their intentions to maintain their ideological regimes as a threat to its peace and stability and a system-related security dilemma is established.

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[38] **Christopher C. Harmon** 2008. Terrorism today. London: Routledge, p.7.

[39] **Frank Furedi** 2007. Invitation to Terror: The Expanding Empire of the Unknown. London: Continuum International Publishing Group.

Asymmetric Axis

The post-Cold War arrangement in international relations favors globalization and an enhanced interdependence between nations. Collective punitive actions against Iraq in 1991 and against Serbia in Bosnia and Kosovo some years later symbolize the cooperative goals of the international society, which corresponded to the principles fixed within the UN Charter, chapters VI and VII. Even while the states have remained as main actors in the international arena, the role and importance of non-governmental entities has rapidly grown. These trends have been accompanied by the increasing importance of asymmetric risks and threats. These are risks and threats with possible international influence, which can emerge at some other level than states, from global risks to domestic risks as well. Asymmetric actors may include international interest groups, non-governmental organizations, transnational companies, individuals – which all may go beyond a particular citizenship.

After 2001, the international societal environment fostered the emergence of a culture of fear, while terrorism, which has never been a 'mainstream political tool', has been promoted to the next level by a small and relatively little-known Islamic fundamentalist group Al-Qaeda. Al-Qaeda succeeded in increasing the amount of uncertainty, which produced instability within the whole international system and caused political risks to be taken by actors.[40] As follows, the international society was confronted "with an increased awareness of risks because more decisions are taken in an atmosphere of uncertainty"[41]. International terrorism has often been mentioned among the most important manifestations of a new asymmetric axis, which involves transnational networks and therefore comes into conflict with the traditional approaches to international systems based on national interests performed by states. Jessica Stern, while analyzing the effectiveness of Al-Qaeda, notes its capability for change, which makes Al-Qaeda more attractive for new recruits and allies.[42] Colin Wight notes that Al-Qaeda followed a structural form without clear lines of hierarchy and channels of control over the cells, which makes it harder to detect and destroy it.[43]

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[40] See **Mary Douglas; Aaron Wildavsky** 1982. Risk and Culture: An essay on the selection of technical and environmental dangers. Berkeley: University of California Press.

[41] **Frank Furedi** 2002. Culture of Fear: Risk Taking and the Morality of Low Expectation. Continuum International Publishing Group, p. 8.

[42] **Jessica Stern** 2003. Al Qaeda: the Protean Enemy. – Foreign Affairs, 4.

[43] **Colin Wight** 2009. Theorising terrorism: The State, Structure, and History. – International Relations 1, p. 105.

A global transnational network corresponds to the timely principles of the post-modern society. It is somehow symbolic as NATO for the first time throughout its history used its article V against the asymmetric threat, terrorism, and on behalf of its major military power, the United States. The attacks organized against international terrorism are justified in that they are not against states but terrorist organizations, the United States fought in Afghanistan against the Taliban and Al-Qaeda, and in 2006 Israel fought against a Lebanese Shia extremist militant group Hezbollah, not Lebanon, which moves asymmetric groups to the level comparable with states.[44] Notably, the United Nations performed sanctions against Al-Qaeda and the Taliban in 1998 and against Hezbollah in 2006.[45]

In 1990s Samuel Huntington invented a descriptive theory that prescribes general trends in international politics while emphasizing a possible cultural conflict between opposing civilizations.[46] The attack of September 11, 2001 led to the Global War on Terrorism with the world divided between 'good' and 'evil' once again and polarity-based policies started gradually to return. The offensive strategy characterizing the counterterrorist policies carried through the western world during the GWoT, which frequently demonized the Muslim faith and the Islamic civilization, fitted more with the Hobbesian security culture practicing enmities between different entities and has evidently promoted the direction towards the clash of civilizations, once predicted by Huntington and damaged hopes for the end of history as described ten years ago by Francis Fukuyama.[47]

Although the defensive actions against international terrorism, including military operations in Afghanistan, have been widely approved by the international society, the Kantian world favoring democratic peace, multiculturalism and international cooperation did not satisfy apologists of power policies. Extremist movements were successful in splitting a still fragile Western unity. The emerging culture of fear could be observed as a counter-ideology to the rising Islamic fundamentalism especially in the United States, where

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[44] **Daren Bowyer** 2009. The moral dimension of asymmetrical warfare: accountability, culpability and military effectiveness. – Baarda, Th. A. van; Verweij, D. E. M. (eds.). The moral dimension of asymmetrical warfare: counter-terrorism, democratic values and military ethics. Leiden: Martinus Njihoff, p. 139.

[45] **UN Security Council Sanctions Committees**. Available online at: <http://www.un.org/sc/committees/>, (accessed 06.05.2011).

[46] **Samuel P. Huntington** 1997. The Clash of Civilizations. Remaking World Order. New York: Touchstone Book.

[47] In his book**: Francis Fukuyama** 1992. The End of History and the Last Man. New York: Free Press.

the neo-conservative ideological movement strengthened with Bush's presidency of the United States.

During the Cold War, the Islamists were often treated as natural allies of the Western bloc because of their fighting against the spread of Communist ideologies. Their opposition to Atheism practiced by the Communist regimes made Islamism a powerful competing ideology especially in the Third World countries. Huntington mentioned that "at one time or another during the Cold War many governments, including those of Algeria, Turkey, Jordan, Egypt, and Israel, encouraged and supported Islamists as a counter to communist and hostile nationalist movements"[48]. Pro-Western countries provided massive funding to the Islamists groups in various parts of the world. The United States often saw Islamists as an opposition to the Soviet influence under the circumstances of the bipolar competition of the Cold War.

At the same time, secular movements in Islamic countries, contrariwise, often flirted with Marxism and thus gained support from the Soviet Union. The Pan-Arabist leaders of Egypt, Syria, Iraq and Algeria shared the anti-American and anti-Imperialist views of the Soviet ideological establishment. From 1979, the situation gradually started to change with the Islamic revolution in Iran and the Soviet occupation of Afghanistan, which strengthened Islamic solidarity instead of socialist and nationalist sentiments. Whilst pan-Arabism followed the structure of Western ideologies and settled it into the specific Nationalist environment with Socialist influences, the contemporary Islamic Fundamentalism is a direct challenge to the Western model of the state and politics, and constitutes a form of political resistance.[49]

In 1980s, the Western governments supported the Sunni resistance in the Afghanistan conflict and only a smaller Shia community of Islam was mostly involved in the anti-Western confrontation. The revolution in Iran established a new regime that was simultaneously anti-Western and anti-Soviet and did not suit with the Cold War's bipolarity. Sunnis remained silent and used Western support in Afghanistan and other conflict areas, whereby they fought for their values and identities. Paradoxically, in the course of the Iraqi-Iran war 1980–1988, the East and the West both supported the leftist Arab nationalist regime of Saddam Hussein against Iran.

The post-Cold War era produced some regrouping between international powers and groups of interests. The Islamic militants started to stand against the spread of western liberal democracy, which did not fit with their ideo-

[48] **Huntington** 1997, p. 115.

[49] **Wight** 2009, p. 104.

logical goals. In the 1990s, the clash between western liberal democracy and Islamic fundamentalism developed rapidly. The Sunni fundamentalist Taliban movement established their control over Afghanistan in 1996. More serious signs of ideological clash emerged in 1998, when Al-Qaeda terrorists attacked the US embassies in East-Africa. With the GWoT, cultural conflicts became indeed more visible. The confrontation between Western liberal democracy and Islamic fundamentalism verified that Huntington was right in predicting a clash of civilizations.

The transnational character of asymmetric actors allows them to introduce non-traditional methods effectively (e.g. international terrorism) as they have no territoriality or sovereignty to defend, which makes it more efficient in balancing the possible sanctions from the valid international system. Legally, there is a difference between asymmetric transnational terrorism and symmetric state terrorism – terrorist organizations have no legitimate right to kill, contrariwise to political communities, though they may apply to some form of revolutionary vanguard the term, "good people" who destroy "bad people".[50] The promotion of a culture of fear would be one of the most important challenges caused by international terrorism. Strategies of terrorist groups aim to produce chaos and political, economic, social and military damage, hoping that the destabilization of existing societies following the terrorist attack may help them to validate their ideological goals.

The Rise of Neo-Conservatism and the Culture of Fear in Western Democracies

The activation of Islamic terrorism was followed by the appropriate reaction from the United States, where a neo-Trotskyite neo-conservative ideology increased its influence on the US foreign policy. The so-called "Bush Doctrine" referred to the following principles: the idea of pre-emptive or preventive military action; the promotion of democracy and regime change, and a diplomacy tending towards unilateralism, a willingness to act without the sanction of international bodies such as the United Nations Security Council or the unanimous approval of its allies, which according to Robert Kagan,

[50] **Carl Ceulemans** 2009. Asymmetric warfare and morality: from moral asymmetry to amoral symmetry? – Baarda, Th. A. van; Verweij, D. E. M. (eds.)**.** The moral dimension of asymmetrical warfare: counter-terrorism, democratic values and military ethics. Leiden: Martinus Njihoff.

however, is a traditional US policy rather than a new concept in American foreign policy.[51]

The emergence of the neo-conservative movement, which fed on destabilizing emotions like fear and uncertainty and intended to implement the Hobbesian political culture on behalf of the ideals of liberal democracy, greatly influenced the ideological stanchions of George W. Bush's administration. Neo-conservatism is a syncretic movement, which uses US patriotism (nationalism), a Marxist methodology and conservative philosophical discourses for the forceful introduction of US hegemony in international affairs. It emerged in 1970s on the basis of former leftists, who turned to the right after the Vietnam War. For its opponents, it is a distinct political movement that emphasizes the blending of military power with Wilsonian idealism.[52]

According to their 'founding father' Irving Kristol, neo-conservative postulates in foreign policy issues are based on five pillars: patriotism as a necessity; world government as a terrible idea; statesmen should have the ability to accurately distinguish friend from foe; protection of national interests both at home and abroad; and the necessity of a strong military.[53] Their ideology borrowed a lot from the ideas of American philosopher Leo Strauss. Strauss described liberalism as a generally Utopian ideology actively defended the prevalence of values in social sciences and he was against the world-state because he feared that this would lead to tyranny.[54] During the Cold War, the neo-conservatives had paid only a little attention to international relations and their main interest has been directed towards the rebirth of the American society based on its traditional values. In the 1990s they started to loudly criticize US foreign policy because of the lack of *moral clarity* and lesser willingness to pursue the US strategic interests.[55] Step by step, the neo-conservative ideology gradually reorganized itself as a particu-

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[51] **Robert Kagan** 2007. End of Dreams, Return of History. – Policy Review, No. 144, July 17. Available online at: <http://www.hoover.org/publications/policy-review/article/6136,> (accessed 20.08.2010), p. 2.

[52] **John J. Mearsheimer** 2005. Hans Morgenthau and the Iraq War: realism versus neo-conservatism. London: Open Democracy. Available online at: <http://www.opendemocracy.net/democracy-americanpower/morgenthau_2522.jsp>, (accessed 30.04.2011).

[53] **Irving Kristol**. The Neoconservative Persuasion. Available online at: <http://www.weeklystandard.com/Utilities/printer_preview.asp?idArticle=3000&R=785F2781>, (accessed 04.09.2007).

[54] **Jim George** 2005. The Contradictions of Empire. Leo Strauss, Neoconservatism and the US Foreign Policy: Esoteric Nihilism and the Bush Doctrine. – International Politics, 2.

[55] **William J. Bennet** 2005. Why We Fight: Moral Clarity and the War on Terrorism. New York: Doubleday.

lar school of International Relations, which is distinctive from Realism as well as from Liberalism.

During the Bush presidency, US unilateralism in world politics started to emphasize modern values of sovereignty and national interests again instead of multinational cooperative regimes. As a result of cultural change in their foreign policy, the United States practically unilaterally opposed the Kyoto Protocol on climate change, complicating global cooperation in environmental issues. Besides that, the Americans fiercely fought against the involvement of the International Criminal Court in US military matters. The liberal democracy remained in the slogan but there were no other gods besides Zeus himself. The rise of patriotism, strong criticism towards the United Nations (standing against world government), identifying enemies and promoting polarity (distinguishing friend from foe), settling the US interests over global interests (protecting national interest), preferring the use of military power in conflict regulation (strong military) – this all characterizes a trend of change in international politics initiated by neo-conservative strategists.

The ideological schism between the United States and some of her European allies was a result of neo-conservative militant unilateralism. Heated discussions about the role of the United States in post-Cold War Europe, especially considering the dependence of European on the American military power shot up more vigorously after 2001. Some experts expressed their fears about the ability of Europe to defend itself after the American forces leave the Europe. The reference of an orthodox neo-conservative theorist, Robert Kagan that Europeans are from Venus and Americans from Mars has gained a noticeable popularity.[56]

> For some, mostly North American writers, disagreements between Western European states over the appropriate institutional configuration for Europe reflects the states' concerns about their relative power. Others saw in the European project a desire to continue the age-old practice of balancing power whilst others caricatured post-Cold War Europe as being led by a 'benign unipolar' hegemon – the United States. [57]

The Iraqi operation of 2003, initiated by neo-conservative strategists and widely criticized by some allies and partners in NATO and the EU, caused a significant divergence in opinions concerning the future global security

[56] **Robert Kagan** 2003. Of Paradise and Power: America and Europe in the New World Order. New York: Knopf.

[57] **Alex J. Bellamy** 2004. Security Communities and their Neighbours. Regional Fortresses or Global Integrators? Basingstoke: Palgrave MacMillan, p. 65.

order. Some analysts predicted the return to the Hobbesian world, characterized by permanent clashes and polarities. The others insistently aimed the gradual change towards the Kantian world, placing a high value on cooperation and tolerance between different civilizations.

Neo-conservatism idealizes the perpetual fight for World revolution even if it could be called a liberal democratic revolution and objects to hegemony in the world order. These appeals are close to Leon Trotsky's conception of permanent revolution. Despite the fact that the neo-conservatives may use different narratives, their methodology remains close to the Marxist one, in which their founding fathers grew up. Discursively, the neo-conservatives may follow the Kantian concepts as their ultimate goals, but rather, these goals are hegemonic international systems, which do not accept competition of values within a system. They do not believe that different civilizations can make peace between each other and prefer to use power in order to establish peaceful settlements under a hegemony.

Theoretically, the neo-conservative approach to international relations is close to a post-Marxist World system approach. Immanuel Wallerstein, a leading post-Marxist theorist, elaborated the World system theory that describes a world system as a social system that is made up of the conflicting forces looking for their advantages.[58] Wallerstein characterizes this system as an organism, which is able to change in some respects but retains its stability in others.[59] While the world-system theory lies in the core and periphery conflict, the neo-conservative hegemony emphasize a perpetual conflict between liberal states and authoritarian others. In this respect, Lebow[60] compared the influence of George Bush's neo-conservatism to the post-World War I international system with the influence of Adolf Hitler's National Socialism.[61] They both succeeded in destabilizing the valid world system – Hitler's ideological movement destabilized the Versailles system and the neo-

[58] **Immanuel Wallerstein** 1974. The Rise and Future Demise of the World Capitalist system: Concepts for Comparative Analysis. – Comparative Studies in Society and History, 4, pp. 387–415.

[59] **Immanuel Wallerstein, Terence K. Hopkins *et al.*** 1982. World-Systems Analysis: Theory and Methodology. Beverly Hills: Sage.

[60] **Lebow** 2008, p. 439–443.

[61] There are of course differences in the two ideologies themselves, and practices those ideologies used and the similarity of two ideological movements first of all concerns their methodological treatment of the world politics, which is culturally deeply Hobbesian in both cases.

conservatism destabilized the post-modern system, both of which are the Kantian systems.

Ideological movements emphasizing powerful ideas of nationalism, religious fundamentalism or Marxism and using a culture of fear as a political instrument for achieving their political goals can destabilize international systems if they are able to enter into the power projection. The manifestation of neo-conservatism with its nationalist and Marxist origins and politicized Islamic fundamentalism added an ideological dimension to the Global War on Terrorism. The neo-conservative policy offered an ideological confrontation between contrasting values accordingly to the Hobbesian cultural approach, while the Kantian approach made it possible to hold the potential conflict of values within a framework of the international system and deviant actors. The neo-conservative influence on world politics was at its height from 2001 to 2008. After the presidential elections of 2008 in the United States, the new Obama administration came to power and ended the neo-conservative influence to the US foreign policy, after that they quickly started to be marginalized.

Conclusions

A culture of fear most effectively supports the logic of the Hobbesian culture, which emphasizes a state of war between international actors. It may provoke extremist challenges against peace and stability and conflicting ideologies compose a powerful agenda for initiating fear-based polarizations. Fear in the hands of ideologies has an enormous capability to provoke irrational decisions and security dilemmas. At first glance, the rise of Islamic fundamentalism and the culture of fear seem to depending on each other. The Hollywood-like scenario of September 11, 2001, by which the charismatic leader of Al-Qaeda Osama Bin Laden recorded himself in the history of the world, caused the worldwide diffusion of fear, which in its turn opened the door for the extremist neo-conservative reaction in the United States. Recent news about the liquidation of the protean enemy hardly makes the world safer.

The post-modern Kantian international system continually includes multiple Hobbesian security environments. The variety of cultural environments makes the whole international system conflict-prone and it is able to produce a culture of fear involving different civilizations, identities or ideologies. Deviant actors often find themselves manipulating the culture of fear in justifying their legitimacy within the international system. The axis-

building policies between good and evil can destabilize the international system by introducing new polarizations. Various factors reproducing a culture of fear (e.g. social problems, ethnic tensions with strengthening national sentiments, nuclear dilemmas) may inflict the emergence of most problematic security dilemmas into the Kantian international system. The successful alternative to fear-based political incentives largely depends on maintaining a non-polarized cooperative framework within the valid international system. A less ideologized world tends to be a safer world.

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