

Ladies and Gentlemen

In order to enable your subsequent discussions and thinking, Rob has asked me to give you a practitioners perspective on the British militaries philosophy of War. And at this stage it is probably worth stating that most young men and women in the UK forces (officers and non-commissioned ranks alike) would look at you in a rather baffled manner if you asked them to outline their or the UKs armed force philosophy on war fighting. However if you asked them to explain the rules of armed conflict both **in** war, or **of** war I would hope they should be able to give you a meaningful answer. Not least because the UK is a signatory to a whole raft of conventions and protocols on the subjects that explicitly state that the content is to be disseminated among the army forces and as widely as possible within the broader civilian population.

So why me, will by way of establishing at least some limited credibility for me to be taking up **your time** I will briefly outline my military career. I am currently a Cdr in the Royal Navy Reserve have previously served for nearly 25 years in the RN and subsequently 5 years in the reserve, prior to that I was also briefly an officer in the regular army and then in what was then called the TA. Despite the colour of my uniform most of my operational experience is land based in Bosnia, Kosovo, Iraq and fleetingly Afghanistan, working for 3 Cdo Brigade Royal Marines in various guises. Much of the later part of my career has been focussed around educating and developing the cognitive skills of our officer corps. Linked to what is referred to as the Moral Component of Fighting Power (more of which later). I should also caveat that these are my own views and opinions and are not necessarily the authorised or endorsed view of the RN.

Clearly international law and philosophy are not the same thing, however recognizing Clauswitz's well known axiom that War is merely the continuation of policy by other means and that government policy (at least in a democracy) is shaped by the ideas, culture and approach of the peoples it is fair to suppose that the Laws our government has chosen to enforce (**and ignore on occasions**) in some way reflect the broader philosophical approach of the population to the issue. ie what is accepted and unacceptable in when, and how are soldiers sailors and airman are used.

Looking first at **ad bellum** (of war) – ie when is it legal and legitimate to go to war. For most service personnel this is encapsulated within the rules and regulations of the UN charter which builds upon the Charter of the League of Nations and the Kellogg Briand Pact of 1928 in outlawing the use of force within International Relations. **Article 2(4)** stating that “**All member states shall refrain in their International relations from the threat or the use of force against the territorial integrity or political independence of any state**”. However I would argue that the inclusion of the “threat of the use of force” in this clear moratorium only goes to illustrate the hypocrisy that sits right at the heart of the world order which has maintained a shadowy and inconsistent peace, at least for the West, for the last nearly 80 years by the use of the Nuclear Deterrent – perhaps the biggest threat it is possible to imagine.

If Article 2(4) is to be taken at its word and States are to be trusted to abide by it then the military would be a rather pointless profession, however as with all laws there are a number of exceptions written into the charter. These allow the use of force in self defence both individually and collectively if a State is attacked. Additionally the Security Council retains the right to use force to address any transgressions or breaches of International Peace (stress on the International Peace). The Charter does not give the UN the authority to intervene in the domestic affairs of State -a concept of state sovereignty hanging over from the Westphalian system. My own operational experience would belie the application of this rule, in Kosovo and Iraq we, in partnership with the US and others, have intervened in the internal affairs of another state without even the pretext of a UNSC resolution. Pointing to the willingness and acceptance of the British people (and hence the military) to use force, even if technically illegal, to achieve a perceived good.

It is interesting talking to young officers undertraining many of who have an enthusiasm and desire to serve on operations not only for the adventure and kudos but more creditably for what **they believe is the “moral good”**. It is only as they become more senior and gain families etc that this becomes more tempered and self centred on what is beneficial for the UK.

From most service personnel's perspective Jus Ad Bello is really the preserve of politicians, it is they, in our democratic system that give the orders **when** to fight, the military's role is to focus on the **how**. Whilst clearly the “I was just following orders” defence is not valid, it is brave and committed individual who refuses to “soldier” claiming they have been given an illegal order. Not least because international law is a complex and multi faceted beast. However it is of note that a hand full of service personnel refused to deploy to Iraq (and were subsequently court marshalled both in the British and US forces). In addition, Admiral Lord Boyce (who has recently died), the Chief of the Defence Staff when we first deployed to Iraq challenged the legal case for the war and requested written confirmation from the attorney general that war would be legal.

The question **of legality often gets blurred with concept of legitimacy**, which again reflects the national philosophy towards the use of military force. International law (both ad bello and in Bello) comes from several sources treaty law (ie the UN charter) being but one, much of our understanding of the legal right to wage war is also rooted in the law of precedent, ie what has come to be commonly accepted and is here that costume and practice plays a part. For western societies and militaries this is often vested in a Christian tradition and reflects the thoughts of St Thomas Aquinas writing in the 13th century. Under his concept of **Just War Theory** war came only be legitimately waged if it meets three criteria,

1. It must be waged upon the command of a rightful sovereign (noting that he would have believed that sovereigns were appointed by god).
2. It must be waged for a just cause – to correct a wrong.
3. Warriors must have the right intent – to promote good and avoid evil.

And it perhaps here many service personnel turn to assuage any feelings of doubt they may have when directed to act by the UK government without a clear UN Security Council Mandate.

Turning now to **in bello** ie the laws **in** war, or how we are allowed to fight. This is defined by a range of protocols, agreements and treaties that in the popular lexicon are referred to as the Geneva Conventions. These have evolved over a protracted period, drawing on concepts and ideas that are rooted in customary law and practices that reach back into history. Recognising that many of these agreements were written by Western countries they often reflect a Christian concept of ethics but also a humanitarian response to the many bloody and savage wars that have played out across Europe (or at least involved Europeans) over the last two centuries. It is not without reason that many of the conventions were agreed post the 1st and 2nd world wars when humanity as a whole was still in a state of shock to the level of barbarity it had recently descended.

It is on **In Bello** on which for practical reasons that most service personnel will focus when considering the Law of Armed Conflict (or LOAC as it is often referred to). For it is in the realities of how we fight that they have a direct and very personal stake. This takes several forms:

Firstly – recognizing that the ultimate task of the British forces is to bring violence to bear on the Kings enemies, then the people who are doing this on behalf of the citizenry of the UK need to feel that what they are doing is **legal and legitimate**. They need to be able to go home to their families and friends and be able to look them in the eye and say what I did was justified. It is only this week that I was discussing our deployment to Afghanistan with a class of Army and Royal Marine officers when one of the them was struggling to internally accept the consequences of the actions he had been required to take on operations. There is a very interest book call **On Killing** by an ex US Marine Corps Lt Col David Grossman which makes the claim that the vast majority of servicemen (and his research was conducted at a time when it would have been men), even when under heavy attack do not shoot to kill. Despite hours of training and drill most will take un-aimed shoots, it is a very unusual soldier (or sailor or airman) who can look down the sights of a rifle at another human being and deliberately pull the trigger. Whilst we are now in the days of stand off weapons (and the Navy & RAF have been for a long time) this requirement to be able to justify not only why but how a war is fought is a very personal and visceral reality for those involved.

Secondly – the LOAC give service personal at least some hope that if all goes badly wrong they will be treated in a civilised manner. If they are wounded and are “hos de Combat”, taken Prison etc then the Geneva Conventions and the associated International Law gives at least some comfort that they will not be unduly harmed.

Thirdly – that they will not be hauled in front of a court of Law or of public opinion, post the event and held to account for their **actions**, often by a population who have no real idea of the pressures and reality of war. This is compounded by a number of

high profile cases including Sgt Blackman RM in Afghanistan and Lee Clegg of the Parachute Regt in Northern Ireland. Whilst here is not the place to argue the rights and wrongs of these individual cases it is of note that in both cases these were men acting under considerable physical and mental pressure, making decisions on the ground that in the cold light of day they regret. However it is the approach and philosophy towards war of the society they represent that puts them in this difficult position.

And **Fourthly** there are operational and tactical benefits to fighting in a “humanitarian/ legal/legitimate way”. In short if an enemy knows they will be treated fairly if they surrender they are less likely to fight on to the bitter end once all hope of victory is lost. This is borne out by even a cursory reading of the history of 2nd World War, where the fighting on the Eastern front was considerably more savage than in the West. The consequences of the subsequent “fight to the death culture” are still being played out today in the Ukraine.

Whilst we do not have the time to take an in depth look at the various conventions, etc, it is perhaps useful to draw out some of the key principles upon which they are based. Perhaps the most important of which is to reduce human suffering to the bare minimum in line with achieving legitimate military objectives ie the consequences of any action need to be proportionate to the military advantage that will potentially be gained. Again this is not just based on a humanitarian instinct but also in cold reality of “real Politics” as illustrated by the policy of **Courageous Restraint** practiced in Afghanistan. Once it became apparent that the use of mass fire power to protect US & British soldiers when they came under fire from insurgents was being counter productive, killing innocent by standards and hence act as a recruiting sergeant for the Taliban.

This demonstrates a fundamental dilemma for commanders and individual soldiers alike – how do they value their lives against the lives and livelihoods of the general population. This is illustrated by a tragic incident during the 1999 NATO bombing campaign in Kosovo, **Operation Allied Force**, when a convoy of refugees was mistaken for a military column and bombed. The aircraft were operating at considerable altitude in order to reduce the risk from Serbian anti aircraft weapons, however this effected their ability to identify targets. Put dramatically, commanders have to decide how many civilian lives they are willing to risk to preserve the lives of their own soldiers.

The conventions also try to define who is a legitimate target and who can legitimately take military action. Whilst in simplistic terms both of these might easily be defined as the members of the armed forces on either side of a conflict. However this becomes considerably more complicated when fighting an insurgency (or resistance fighters depending on your view) who do not wear uniform. Or when you consider the civilians who work in the armaments factories that supply weapons to their armed forces. A review of the British Bombing campaign in World War 2 ably

demonstrates this dilemma. With early raids restricted to simply dropping leaflets but ending up with the fire bombing of whole cities, potentially illustrating a philosophical change within the UK as to how the war should be fought and **who is it legitimate to kill to bring it to an end** thereby saving British lives.

The issue of who can legitimately fight and hence kill as a soldier and so be exempted from prosecution as **opposed to a common criminal** is also important. Consider the current deployment of the Wagner Group by the Russians in Ukraine and North Africa, the suggestion being that many of which are simply common criminals and should be treated accordingly by civil courts rather than as legitimate combatants. However where do UK citizens who have gone to fight for Ukraine sit in this. Again the answer to this is very personal to UK military personnel if they are going to have kill on behalf of the British people.

These types of dilemma that are faced by military personnel of increasingly junior rank (and experience) on operations, and impact directly on their will to fight, are addressed at least in doctrinal terms by the Moral Component of Fighting Power. The moral component of fighting power is expressed in, and depends on, three essential and interdependent elements: purpose, integrity and morale.

All three of these elements are to some degree related to the broader philosophy of War, put simply is our cause legal and/or legitimate, are we fighting in a reasonable and legitimate manner (can I look my self in the mirror and justify my actions), do I have the support of the UK populace (or at least most of it).

In closing I would like to stress the point that I started with – most British Military personnel would not think in terms of a Philosophy of War, rather they just enact and reflect the attitudes, culture and approaches to War of the broader population. Which at least for democratic counties like the UK are codified in the International Laws are government choices to abide by or disregard as the context dictates.

