

## A Code of Ethics for Officers

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The debate over an ethical code for officers has two major dimensions. One concerns the issue of whether the military is a profession, and hence whether it should have a professional code at all. The second concerns the content of the code.

The question of whether the military is a profession, however, can be distinguished from whether there should be a code of ethics for officers. Although it is true that the acknowledged professions have ethical codes, they are <sup>not</sup> the only ones who do. Being a profession is not the only reason or motivation for creating and having a code. Many groups that are not professions have ethical codes, as do a number of corporations and other formal organizations. The question to be raised and answered, therefore, is not necessarily whether there should be an ethical code for officers because they form a profession, but whether there should be an ethical code for officers because such a code will serve a useful function. One of the functions it can serve is to spell out for explicit recognition, consideration, and discussion particular aspects of the moral responsibility of the military as a whole and of the officers in it.

In this paper I shall derive and propose a mini Ethical Code for Officers to illustrate how a code might be generated, some of the items it might contain, and the use it might serve.

A code for the military should appropriately be related to its proper function and mission, and hence that is the first item I shall address.

The military is frequently considered an extension of a country's political policy implementation system in the international arena. The traditional view of the military is that its function is to wage war. That is seen as its mission as well.

The traditional view, insofar as it is a descriptive view, may still be accurate. But it is not longer if it ever was morally justifiable. Aggressive wars are now widely admitted to be immoral. The primary task of the military today, I suggest, is defense not aggression. Hence the appropriate primary role of the military is not to wage war but to keep peace and to defend the country's legitimate interests and territorial integrity. These interests extend to the protection of friendly nations and in no way preclude alliances. But keeping the peace rather than waging war is the end.

If one considers the military at the present time, the above thesis seems to be inherent in the very notion of deterrence. The military might of the United States stands ready to be used. But simply by standing ready it deters those who might wish somehow or somewhere to attack it or to attack its vital interests. It serves by standing, and it is preferable from a moral point of view that it be successful by standing rather than by engaging in action. For whenever the military engages in action the danger, if not the actuality, of the loss of life and property, and of damage, injury, and suffering is great.

Now if the proper moral mission of the military is to preserve the peace, then peace should receive emphasis rather than war. Consequently, we can point to one of the virtues that officers of the military should cultivate a virtue that may seem odd and to fit ill with military

officers. That virtue is the virtue of peacefulness. My purpose in starting with this virtue rather than with some of the traditional virtues of loyalty or courage or honor is that the virtue of peacefulness has implications for the military that are usually overlooked. Hence this virtue needs for this reason to be made part of a code that is discussed and interiorized.

What does the virtue of peacefulness mean and how might it lead to a component of an Ethical Code for Officers?

Peacefulness, as a virtue, requires first that one prefer peace to war. It is possibly true that officers have something to gain by engaging in war. In war they are promoted faster than in peacetime; they are active instead of passive; they have the excitement that some of them join the military for. They are trained to fight and in war they can distinguish themselves in a variety of ways by proving their mettle. It is precisely because there may be a tension, if not a conflict of interest, between war as desirable or desired by individual officers and the purpose of the military from a national and moral point of view that peacefulness should be emphasized.

The preference of peace to war has implications for the way one trains, plans, and acts. It does not impede efficiency or the ability to act immediately if appropriate. But it does affect one's view of one's mission and of the proper way to fulfill it. To emphasize this, the first item of an Ethical Code for Officers might read: 1) I shall prefer peace to war, and realize that the military serves most effectively when it deters and so prevents war rather than when it engages in war.

The virtue of peacefulness generates in its turn the need to emphasize the virtue of restraint.

Restraint may seem to some of you at first as a weak in former times one might even have said a feminine virtue. It does not seem to square well with the virtue of courage, typical of the military; nor with the virtue of boldness, which has a ring of the masculine and of strength. Yet such a view misses several essential aspects of restraint. First, restraint is the ability to control oneself and one's action by reason and will. In the approach to virtue taken by Friederich Nietzsche, self restraint was one of the virtues of the master, not of the slave. It takes training and will to exercise restraint. Any weakling can give vent to his emotions, can succumb to the slightest temptation, can yield to the impulse of the moment. Only those of strong will, only those who have mastered themselves in the sense that the stoics and later Nietzsche spoke of self mastery and self control, are capable of restraint. Far from being a weak virtue, restraint is a strong one. Think briefly of a prize fighter. His fists are held legally to be lethal weapons; hence he must exercise special restraint in his use of his fists. While others may respond to an insult by and hitting the insulter, the prize fighter is especially precluded from doing so. The analogy with the prize fighter makes the point of restraint with respect to the military clear.

Society places in the hands of the military a monopoly on the use of the major instruments of force, powerful weapons, access to which it denies to any other individual or portion of society the police included. It is an enormous instance of trust. The condition on which it is reasonable to give this monopoly to the military is that the military will exercise the

greatest restraint in its use. The military, we know, in some countries, uses the force under its control to its own benefit - to topple political regimes, to secure power and governmental control for itself. It is the trust and expectation of the American people and of the system of government in which we live that the force entrusted to the military will be used only as directed by the legitimately elected government. The military is enjoined from using it against the people who give it in the first place. In our society, this means that the military is subservient to the political order, with the President of the United States the Commander in Chief of the armed forces. The trust is enormous, and the corresponding burden on those who assume that trust and have custody of the monopoly of force is likewise enormous.

The obligation of restraint means more than this, however. Not only is the military to exercise restraint in using its might and power only for purposes sanctioned by the people through the political system, but the military is also expected and required to use restraint in carrying out the tasks assigned to it. Restraint is part of the very notion of a just war. There are rules of war, and the exercise of restraint means that one's force must be directed against the enemy, not against civilians or non-combatants. This is part of the general obligation that all persons have not to kill others except in self-defense, and then only when necessary. As professionals, it is expected that whereas others might be tempted to kill indiscriminately or to overkill, the military will use the force required, but only the force required. Where possible it is preferable to take one's enemy prisoner rather than kill him; where surgical strikes are possible, these are preferable to the indiscriminate

use of force. The problem of the moral legitimacy of nuclear war hinges on the proper use of force. And the restraint necessary when one has at one's disposal such weapons is clear and beyond dispute. Lack of restraint on the part of the military in today's world might all too easily lead to the destruction of mankind.

In this regard, the obligation of restraint is greater on the American and also on Soviet military than on others. For both of these groups have access to a store of force that other nations and their military do not have. Nor will the absence of necessary restraint on the part of the military in other countries have the same consequences for mankind as will the lack of restraint on the part of the United States or the Soviet Union.

The greater one's power, the greater is one's obligation of restraint. It is the exercise of this restraint that sometimes makes superpowers look impotent. But we all know better than that.

Although the presence of nuclear weapons increases the need for restraint, it does not change the necessity for restraint on lower and less dramatic levels. Officers owe it to their men to exercise restraint in time of war, exposing them to danger only when and to the degree necessary. If we were to consider restraint as an Aristotelean moral virtue, it would fall between inability to act on the one extreme and rashness on the other. Restraint is not timidity. It is the child born of power and responsibility. It is of less need for the weak, and of the most urgent necessity for the strong. Those who bear the monopoly of force in our society have, I suggest to you, a special demand of restraint placed upon

them, and require the virtue of restraint to a degree not required of others.

Because of the monopoly of the major instruments of force entrusted to the military, restraint in their use is an obligation of the greatest seriousness. Both the military as such has a special moral obligation in this regard and each of its members shares this obligation by belonging actively to the group. Each of the members has the obligation not only to live up to proper standards of the military but also to make sure that other members do so also. Since society gives a monopoly of force to the military, it is the obligation of each of the officers of the military not only to use that force properly, but also to see to it that others within the military do so also. The responsibility for the proper use of force is both the responsibility of each of the officers of the military and the responsibility of the military as a whole.

If an Ethical Code for Officers were established it might well have as a component: 2) I shall use the utmost restraint in the use of force, using only as much as necessary to fulfill my mission.

The restraint mandated of the military, moreover, takes on a special focus when joined with the third virtue required of the military that I shall discuss. This virtue or demand is at once less controversial and more complicated than that of restraint. It is the virtue of obedience, a virtue which for the military officer is doubly complex.

According to Nietzsche, although courage and self-control or restraint were master virtues, obedience was a slave virtue. And since obedience is often considered a virtue proper to children and subordinates, obedience as a virtue of the military officer must be carefully analyzed.

Obedience for the military officer is doubly complex because every military officer is in a dual position of both receiving and giving orders, and because every officer, insofar as he fills a role or position in the military structure or operation, obeys and commands both as someone filling a role and as an individual moral being.

Let me unpack some of the implications of this situation for the officer. But let me remind you of two commonplaces. First, no one is morally permitted to do what is immoral. Second, every officer is not only an officer but also a human being. Since human beings are moral beings, no one ceases to be a moral being by becoming or being a military officer. Officers fill their roles, but they are morally responsible as individuals for what they do in those roles. These truisms have important implications for obedience.

Obedience involves doing what one is commanded to do by another. The notion of command implies a relation of subordinate to superior with respect to the domain in which the action commanded lies. Obedience always has a dual aspect. For in obeying a command, one always does two actions. One action is the action of obeying. The other action is doing whatever it is that one is commanded to do. The first act, that of obeying, consists in doing the second action, namely what one is commanded to do. But it is important to distinguish the two. For although we may say that obedience is a virtue and that one acts morally in obeying one's legitimate superior, human beings are never morally permitted to do what is immoral. Hence, if one's legitimate superior commands one to do what is immoral for instance, to kill innocent people one cannot have the moral obligation to obey that command, and if one does obey, such obedience is not virtuous but vicious.



Hence in considering obedience from a moral point of view we must consider several facets. Actions are not made right or wrong by any individual's fiat or command. They are right or wrong because of the kinds of actions they are or because of their consequences, or for some similar reason. If they are immoral, they cannot be made moral by being commanded by someone. But there are many actions that in themselves are neither morally right nor morally wrong. These may become morally right or wrong if commanded or forbidden by one in authority with respect to a subordinate. It is in this sense that obedience is said to be a moral virtue and that acting as one is told by a superior is morally obligatory. Such actions might be said to be indirectly morally obligatory. They are not obligatory in themselves but only if commanded by legitimate authority for valid reasons.

The obedience expected of children is obedience to the legitimate commands of their parents, in areas where parents have the legitimate authority to guide them, set rules for their welfare, and so on. A comparable claim is true in the military. Legitimate authority is specified in the army's table of organization. The ranks of officers indicate a hierarchy of authority, and certain internal links spell out the area of legitimate command. One's company commander can give orders to his lieutenants that other captains are not authorized to give them, for instance, concerning the running of the company. The President, as Commander in Chief, has the authority to command the highest general a fact that General MacArthur recognized, and a fact that keeps the military by right subservient to the political realm.

Legitimate orders are those that come from legitimate authorities, in areas in which they have authority to make decisions and issue commands, always subject to the restriction that what they command is not immoral. Their commands, if they are to be legitimate, must always respect those whom they command as moral beings and ends in-themselves. One's subordinates are not slaves or machines, but human beings.

In formulating an Ethical Code for Officers one might therefore propose two additional principles: 3) I shall obey all, and only legitimate orders; and 4) I shall always remember that those beneath me are moral beings worthy of respect and I shall never command them to do what is immoral.

Of course, as guidelines, these hinge on an understanding of what is moral and what is not, and presuppose such understanding.

Commands are not always direct orders to do a specific action: turn right, halt, march. Orders, especially to officers, are frequently broad commands: free the hostages, take that hill, secure a beachhead within 24 hours, protect the left flank, and so on. They prescribe an objective and leave the means of securing that objective up to the person commanded, expecting him, as a professional, to use his skill and judgment.

Commands given from the top, therefore, filter down for their execution. At each level they typically get translated into a series of more specific orders. The command to take a town might be given by a general to a regimental commander, who in turn issues implementing orders to his battalion commanders, who in turn issue different implementing orders to their company commanders, and so on down the line. At each stage below the initial one and before the final one each person both gets and

gives commands. At each stage each person is constrained by morality not to obey an immoral command and not to command what is immoral. Unless clearly immoral— for instance an order to kill innocent civilians— most orders are routinely accepted and implemented, and the evaluation is automatic, with moral questions raised only in exceptional circumstances.

In the chain of command, there is a certain amount of discretion in any order that states an end but does not specify a means. As moral beings, however, we are responsible not only for our own actions but also for the chain of actions that we initiate.

The commander who says, "Do this. I don't care how you do it but do it," is morally responsible for how the job he commands gets done. Commanders must from a moral point of view care how a job gets done. The injunction to use only the amount of force required to do a job, for instance, sets limits on what is morally permissible. And clearly there are other limits. Imagine, for instance, the command to win, no matter how—no matter whether innocent civilians are killed, no matter whether one's own men are lost in unreasonable and unnecessary numbers and ways, or no matter whether nuclear weapons are introduced in the last ditch effort to win. Those who issue such commands are responsible for the commands. More stringently still, commanders are morally responsible for the ways in which their orders are carried out, even if they are not issued with any intention of commanding what is immoral. Hence those in authority must consider both whether their orders are justifiable, and whether they can be carried out morally. Moreover, through appropriate SOP or specific guidelines commanders are morally required to make sure that their orders are not immorally carried out.

This principle was affirmed in the case of General Yamasita at the end of World War II.

A code might make this clear by specifying: 5) I am responsible for what I command and for how my orders are carried out.

An officer who does not care how his orders are carried out both acts immorally and does not deserve to be an officer.

But, it might be objected, an officer merely fills a certain position in a hierarchy. He plays a role in a complex organization. He does not determine whom he will fight--that is a political decision. The military as a whole is given a task not of their choosing. They are trained to fulfill it. And an essential part of their success consists in immediate, obedient response to orders from a superior. This is drilled into them. To introduce moral considerations is wrong headed, fails to understand the nature of the military and the importance of orders and obedience, ignores the nature of combat, and is the prejudice of academic theoreticians or philosophers, sitting in the security of their office armchairs.

The objection is a standard one concerning roles and the supposed overriding obligation when in a role to do what the role requires. As an individual, an officer may be kind and care for his men. He does not wish them to die. But as a military commander, having been given an objective, he must obey, and issue appropriate commands even though he knows that as a result some, perhaps many, of his men, and perhaps he himself, may be killed.

In reply, nothing I have said denies the legitimacy of roles and the obligations of those in some roles to do what is required by and for the organization, even if harm comes to some people as a result of the action.

But since one is never morally permitted to do what is immoral, one is not permitted to do so in a role anymore than one is permitted to do so as an individual. Second, the instant obedience expected in battle is compatible with refusal to do what is immoral. Military training may attempt to make obedience automatic; some may even wish to make soldiers into automata or machines. But one cannot. Soldiers remain human beings and moral beings, no matter what their rank, role, or position. Third, not all orders require automatic response. Clearly an order that specifies only ends leaves the means up to those commanded. It is expected they will think about the best and most appropriate way to secure the objective. In such instances automata would be useless. In such a case one depends on the ability of the one given the objective to decide on the basis of the situation at the moment and his training, intelligence, and skill, what needs to be done. The proper response to such a command is a morally responsible one.

Finally, some may balk at the idea that it is immoral to command the impossible. For military legends are made of those who did the seemingly impossible. My reply would be to distinguish those instances in which a commander ordered others to do the impossible from those in which a commander leads his men in an attempt to do what seems impossible. The difference is important. For the willingness to endure extreme hardships with one's men in an attempt to achieve an objective is prima facie evidence that one is not using one's subordinates as a means only, but one

is asking of them only what one is asking of oneself as well. A sixth component of an Ethical Code for Officers suggests itself: 6) I will never order those under me to do what I would not myself be willing to do in a like situation.

Obedience is a virtue. It is not only for children. For adults it is a difficult virtue. When one is on the receiving end of an order, obedience requires putting another's will and priorities over one's own. When one is on the commanding end, it requires the assumption of responsibility, perhaps responsibility for an end, objective, or endeavor about which one has doubts or reservations. When viewed in this way obedience is indeed not a slave virtue, as Nietzsche suggests, but a master-virtue, virial and full of strength.

A moral code for officers in the armed forces is still in the process of being debated and constructed. I have made a few suggestions for some of its components. Taken together they read:

- 1) I shall prefer peace to war, and realize that the military serves most effectively when it deters and so prevents war rather than when it engages in war.
- 2) I shall use the utmost restraint in the use of force, using only as much as necessary to fulfill my mission.
- 3) I shall obey all, and only legitimate orders.
- 4) I shall always remember that those beneath me are moral beings worthy of respect and I shall never command them to do what is immoral.
- 5) I am responsible for what I command and for how my orders are carried out.

6) I will never order those under me to do what I would not myself be willing to do in a like situation.

Obviously these six items do not constitute either a complete or an ideal code. But I hope to have illustrated how the components of such a code might be developed. For my illustrations I have chosen three virtues: peacefulness, restraint, and obedience--because they are frequently ignored and because I believe they are important with respect to the mission of the military. I would hope that any code would not only list items to be memorized but that every officer would be expected to be able to derive and justify each of the items.

If some code from another field were to be proposed as a model, I would suggest the American Bar Association Code of Professional Responsibility. It starts by listing norms, and then derives from those norms ideals on the one hand and disciplinary rules on the other. But most important of all, the Code contains detailed discussion of the meaning and implementation of the items it contains. A code that simply, for example, were to list the components that I generated above, without any indication of how they were developed and of how they might be applied, would not, in my view either be very useful or serve much purpose. I derive the components I suggest from the mission of the military and the virtues appropriate thereto. The list could easily be extended by considering other aspects of the military's mission and other virtues appropriate to it--including perhaps the traditional one's of loyalty, courage, honor, and so on.

Any code will be general and exceptions to it may be necessary. Let me therefore emphasize that despite the importance of a code, no code,

even as it acts as a guide, should be accepted and followed uncritically. For a code, being a set of general commands, has the status of any other command, and is limited by the considerations we have already seen.

Yet there are some advantages to developing and having a military Code for Officers. I think the very exercise of developing one is in itself worthwhile. For the exercise forces a large number of people within the ranks of the military to think through in a fresh way their mission and the important obligations they as a group and as individuals have with respect to society as a whole. I have already suggested that in the context of possible nuclear war the mission of the military has changed significantly. A second use to which such a code could be put would be to generate discussion of it, once adopted, by officers throughout the army. This again, I believe, would be helpful and worthwhile. Third, it could be used to help inculcate into new members of the officer ranks the perspective of responsibility and the importance of developing the virtues appropriate to their positions and roles. Fourth, it could be used as a document to which members of the military and the military as a whole could point when asked to do something that goes against the code. Fifth, it could be used to provide guidelines for reprimand or other appropriate sanctions. And finally, it might be used to reassure the citizens of the country that the military appreciates the trust that has been placed in it and that it has taken appropriate steps to justify that trust. It could also be used by the citizens as a touchstone against which to judge whether the military was living up to its obligations.

All this can be accomplished by developing an Ethical Code for Officers. Such a code, I have suggested, can be developed whether or not



the military is considered a profession. If it were a profession additional claims might be made for the code and it might have additional components. But I have argued that an appropriate and useful code can and should be developed whether or not the military is a profession. For whether or not it is a profession, the military and those who serve as officers within it have serious obligations that are better spelled out and defended than assumed or ignored. Any code will have defects, will be open to misuse, and might be construed as self-serving. But if properly and conscientiously constructed, it will produce more good than harm. And that in itself is sufficient justification for developing an Ethical Code for Officers.