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MILITARY ETHICS IN THE UNITED STATES: CLOSING THE GAP BETWEEN CIVILIAN AND MILITARY

by

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and

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One dimension of professional ethics is frequently overlooked in the search for morally acceptable standards of conduct for the U.S. military profession. That is the need to overcome the separation between the military and civilian sectors of American society that inhibits and impairs public debate about national security policy. The military commander in the field earns his position because he has the mental strength and moral power to enable him to dominate the battlefield. Off the field that responsibility carries civic obligations as well.

The military professional in a democratic society has a significant moral obligation to participate in the debate on public policy in order to sharpen the discussion by adding a perspective of informed opinion and experience. The prevailing assumption, widely shared among military professionals themselves, holds that the U.S. Constitution requires silence from the military on crucial issues of foreign policy.¹ On the contrary, participation in foreign policy debate by the military officer is not only constitutionally acceptable but is morally obligatory. In developing and bringing his views to bear in debate on national security issues, the moral obligation of the officer in a democratic society differs little from that of the diplomat. One concentrates on ends of policy, the other on means; the responsibility for an effective national policy that supports the national ethic within available resources is the responsibility of both.

In order to counteract the dangerous assumption that the military should avoid participation in public discussions of foreign policy, we will examine: (1) the ethical responsibilities of U.S. officers; (2) the historic and constitutional case for military participation in public policy debate; and (3) some practical measures that officers might take—not without some risk to career advancement—to meet the ethical requirements proposed.

Ethics for U.S. Officers. Ethics is a prospective discipline, looking ahead rather than backward. It plans the future rather than laments the past. But it is important to study major political decisions of the past, such as the World War II decision to demand unconditional surrender and, subsequently, to drop the atomic bomb.² These are interesting historic questions and they point to stark failures of moral and political, and even military imagination (foresight) on the part of Allied leaders in planning for the postwar world. If, in fact, conduct of the war were not keyed to a specific vision of a postwar world, one may ask, what was sought by force of arms on the battlefield?

Ethics must begin with remembrance. But it cannot end there. As a

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prospective or planning discipline, it looks forward and asks questions such as, "What should we do if the U.S.S.R. initiates nuclear war?" The answer does not come readily.

Dealing with the future when we deal with ethics nonetheless ties us with the past, specifically with our political past as Americans. For we are discussing here not only a general question about ethics and the military profession but specifically the ethics of the U.S. military profession and ethical standards appropriate for it. We and our military services exist in a historical context that, to some extent, defines the nature of our ethical response. That is, our political responses must conform to the general outlines of the political philosophy prescribed in the U.S. Constitution and in such documents as *The Federalist* papers that further illuminate the political heritage. That heritage, though drawn from Western Europe and exhibiting similarities to political systems in Europe, is no less distinctly American in character. We must act as Americans, therefore, as a people imbued with a specific political heritage.

The Heritage of Military Participation in Public Policy Debate. The ethical guidelines enshrined in the Constitution constitute a system of shared power generally known as checks and balances. Our political heritage is based on the philosophy that power is enhanced and the danger of uncontrolled power mitigated by diffusion among a number of centers of initiative.³ It rests on the need for popular participation in decision-making and it looks forward to the prospect of creative conflict among the competing factions, interests and opinions that are inevitable in society. Ours is a nation that prospers only if there is continuous public argument. Indeed, one observer has defined the free society as "men locked together in argument."⁴

Attention to the political context of ethics is crucial because there remains a

widespread misconception, inherited from predemocratic societies, that military ethics is a matter of obeying (or, for the elites, of issuing) just commands. Unfortunately, most treatments of military professional ethics begin and end there—with an examination of mutual obligations of the various persons within the chain of command.⁵ All of this analysis is very important and has been too widely neglected. Yet such an approach to professional obligations is deficient precisely because it ignores the contemporary political situation of the decisionmaker, namely, his citizenship in a democratic society. It ignores the fact that in this society the military commander is supposed to participate in the determination of what these commands should be. The soldier as citizen must do more than issue commands and oversee their execution. He must involve himself in the arduous process of determining the structure of U.S. strategy. Only on the basis of a sound strategic posture can the commander undertake the more immediate task of command.

Ethical responsibility for the American military commander is much more extensive than it was in the somewhat simpler era of monarchies. In the United States, the soldier as a citizen also is sovereign, that is, he shares the responsibility of determining—on moral as well as political and military grounds—a sound foreign policy. He cannot simply accept the existing foreign policy of his nation and proceed to execute the military dimensions of it; he cannot create a defense structure that is not intimately, actively and creatively related to the goals of foreign policy. Participating in the process of determining the goals of U.S. foreign and military policy is as important as participating in developing the means underlying those goals. There can be no hiatus between political and military planning. The military must become a faction in the sense advocated for all groups of U.S. citizens in *The Federalist* papers.

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Professional military responsibility can be exercised in this fashion only by first overcoming the current separation of civilian and military sectors in our society so as to achieve a new integration of politics and strategy.

The reluctance of the military to participate fully in the process of policymaking finds its inception in what is generally understood by the term "civilian control of the military" and the unique concept of civil-military relations in the United States. Huntington sees the separation of powers between Congress and the Executive as "a perpetual invitation, if not an irresistible force, drawing military leaders into political conflicts."⁶ These conflicts, however, focus on weapons, technology and budget, rarely on policy. The danger is less the domination of policy by military views than deficiencies in policy made in the absence of military views. The essence is a broader conceptual framework within which all participants in the policy process may contribute. Specialists in policy discussions—military, political, economic, or whatever—are advocates. But the military leader, reluctant to exercise a "political" role, limits himself to only the military aspects of a problem as more properly his concern and thereby contributes to strategic difficulties that prevent conceiving force in other than military terms. As General Marshall expressed it, thinking of political problems in military terms soon makes them military problems. War becomes a contest of logistics rather than of politics.

On the civilian side, important political consequences inextricably imbedded in strategically important events are isolated from policy as "purely military matters"; national goals are subordinated to military expediency. Political leaders have rarely understood fully the role—and limitations—of military power in seeking the ends of policy. Military leaders, though dominant in the staffing process, rationalize the lack of full

participation in *policymaking* as legitimate—if misguided—deference to the principle of civilian control of the military. Yet civilian control in itself carries no such connotation of isolation for either the diplomat or the warrior. The result, therefore, is an enigma of policy devoid of military participation yet dominated by military considerations.

In Vietnam, for example, in the critical stage of the war—the Kennedy and early Johnson eras—U.S. policy sought to apply a conventional military solution to an essentially political problem in which insurgency was only one symptom of underlying political causes. Dependence on military power neglected the crucial political dimension that was always the principal determinant of the outcome. Having opted for a major military role, the second error was failure to use sufficient military power in pursuit of objectives. Had civilian leaders shown greater willingness to use the military power at their disposal, U.S. policy would have enjoyed a greater measure of credibility, an increased possibility of suppressing the insurgency, and of resolution of the conflict within the limited aims of U.S. policy.

The first error represented a failure to understand the essentially political nature of the conflict; the second a failure of the civilian leaders to understand the use of military force once committed to a political problem. Better integration of military means with the aims of policy by civilian or military planners would have made success possible, by both would have made success likely. Both errors illustrate the central problem of civil-military relations, the failure to understand the decisive fundamental of statecraft, the integral relationship between foreign policy and military power.⁷

Deference to military advice dominated by "purely military considerations" contributed to overmilitarizing an essentially political problem, to

countering a complicated national revolution with conventional field tactics, and to measuring success in the field in engineering rather than in political terms.

Some may claim that broader participation by the military in the policy process leads to domination of policy by military considerations, even to the point of substantial takeover of the government. Yet the record indicates the contrary. Throughout its history the United States has been uniquely free of any reason to fear a coup by its military. Its uniformed leaders have invariably displayed a proper spirit of subordination to duly established civilian authority. At no time did the officer corps represent a threat of the kind that restored de Gaulle to power in France or that troubles so many countries in Latin America, Asia, and the Middle East. With varying degrees of influence of military counsel, key national security decisions are made by civilian authority: the decision to build a hydrogen bomb, the decision to rearm U.S. and allied forces, the decision to emphasize nuclear power in the 1950s, the decision to invest heavily in early warning defenses but not in bomb shelters, the decision to strengthen conventional and counter guerrilla forces in the 1960s. Civilian leaders called the turn on ABM, the B-1 and called it in Korea, the Formosa Strait, Dien Bien Phu, Suez, Lebanon, the Congo, Cuba, Cambodia, Tonkin Gulf, Hanoi, Luanda and the repeated crises in the Middle East. The rare instances of insubordination have been individual disagreements and not organized conspiracies. The MacArthur-Truman dispute, for example, was a challenge by the commander in the field to the strategic direction of the war, but the challenge was to his military chiefs and the President, not to the political control of the nation.

Civil and military power in the U.S. system was deliberately balanced by the Founders, one against the other, and

fused in the person of the President. The status of the armed forces under "civilian" authority stems from the dual personality of the Chief Executive in the Constitution as both a civil and military official. There is no mandate that specifically places the military subordinate to civil authority; it is a heritage that finds expression only in the multiplicity of offices held by the Chief Executive. The President as a civilian is the Commander in Chief; as an elected official, he is subject to the control of the people. The fundamental principles involve popular power over both the President and the military, balanced or shared power between all the branches of the government, and military effectiveness despite the checks and balances. This is not civilian control over the military as much as it is a balance of civil and military authority with a fulcrum held by the chief of state.

Civilian control over the military, except through the legislature, was explicitly rejected by our Founders. The framers of the Constitution were more afraid of military power in the hands of politicians than they were of political power in the hands of the military. To a man they visualized Gen. George Washington as the first President. They were certainly aware he was a military officer. Their concern was less how he would carry out his civilian duties than how his successors would carry out the military function as Commander in Chief. Charles Pinckney of South Carolina had proposed that "the military shall always be subordinate to the civil power." This was stricken—the Constitution did not, in fact, provide for civilian control. But the remainder of his plan, for control over the military through the purse strings, was adopted in revised form.⁸ In short, the Commander in Chief clause, insofar as operational authority over military forces is concerned, seems to be designed no more to provide than to prevent civilian control over the military.

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Despite participation of both civilian and military officials in most, if not all, phases of the policy process, the military leadership has traditionally isolated itself from its role in the policy process. After the Bay of Pigs crisis, President Kennedy, unimpressed by JCS advice, specifically cautioned the Chiefs against limiting their counsel to "purely military considerations," a directive reiterated by each of his successors. The basic and fundamental isolation of power and policy in the American value system is deeply imbedded, however, especially among older and more senior participants. Integrated staffs have not produced integrated planning. It is at the operational level that a new approach to truly unified politico-military planning is clearly needed, not only as the natural development of the U.S. national security organization, but as the extremely important direction of change for the military in its own interest. Years before attaining the responsibility of public office, Henry Kissinger said,

A separation of strategy and policy can be achieved only to the detriment of both. It causes military power to be identified with the most absolute applications of power and it tempts diplomacy into an overconcern with finesse. Since the difficult problems of national policy are in the area where political, economic, psychological and military factors overlap, we should give up the fiction that there is such a thing as "purely" military advice.⁹

Kissinger visualized the day, as we do herein, where "At every stage of formulation of strategy, doctrine would be considered as a combination of political, economic and military factors replacing the present system which seeks to compromise two incommensurables, 'purely' military and 'purely' political considerations."¹⁰ Lacking such a doctrinal framework, the military

leader becomes a technician and not a strategist, a weaponeer and not a warrior.

Some Practical Measures to Achieve the Reintegration of Civilian and Military Planning and Some Possible Career Consequences. The important aspect of ethics considered here is the obligation imposed on the military professional by his U.S. citizenship to participate in the public debate on public policy, not excluding national security policy. How would a military professional go about fulfilling these obligations? What measures could he adopt to exercise his moral responsibility to sharpen, and so to shape, the public argument on defense policy? Three avenues of participation may be suggested that will in varying degrees and by complementary strategies bring to bear his professional competence and experience on the public argument of defense policy: (1) intra- and interservice advocacy of sound military policies keyed to national goals; (2) military-Congressional dialogue; and (3) writing and speaking in civilian as well as military fora on foreign policy. A few words on each of these strategies may suggest opportunities for influencing the public debate as well as drawing attention to some of the career risks involved in exercising the professional responsibility proposed herein. Dissent, after all, has a unique role in American tradition that outsiders often find difficult to understand.

A nation born in revolution finds dissent a more wholesome emotion than in a society with a different heritage. The signatories of the Declaration of Independence held certain truths to be self-evident. But behind that statement lay an assumption that every American was capable of perceiving these truths for himself; that each bore an individual responsibility to his government. Different individuals have different moral apprehensions, some allowing widely divergent interpretations of the obliga-

tions they share. Widely varying opinions are no less with us today on major issues of policy; indeed no democracy is fully alive without such a debate. The question is the degree to which dissent is taken and the country's need for unity at the time.¹¹

Thomas Jefferson theorized on the virtue of an occasional revolution and the necessity of watering the tree of liberty with the blood of patriots. Jefferson worried over the stern measures taken against the Pennsylvania farmers in the Whiskey Rebellion and the Massachusetts farmers in Shay's rebellion. "To punish these errors too severely," he said, "would be to suppress the only safeguard of the public liberty."

Toleration of opposition to national policy, however, has not ordinarily been extended to its military spokesmen. Legitimate dissent in a military organization gratifies the soul of the dissenter but has few other rewards even when successful. Spirited and energetic support of a position within the command, which is not shared by the commander, has been known to make for a lively but foreshortened career. The necessity for full obedience to a lawful order demands conformity in execution but breeds conformity in planning as well. It is a rare senior who welcomes dissent at all, far less one who can display the placidity of a Thomas Jefferson in welcoming dissent merely to keep the spark of freedom alive.

The military commander reaches his decision not by such democratic principles as majority rule and protection of minority rights. He alone is responsible for the consequences, and he decides accordingly. When he advises the civilian leadership of the nation, however, he is less responsible for the ultimate consequences because no such clear-cut lines of authority exist. Nevertheless, among senior military leaders, the spark of legitimate dissent is still too easily smothered. Not only does the system

impress conformity, but agreement is stressed to a point that substance itself may often be sacrificed to the necessity of reaching agreed language. The written word is "waffled" to accommodate divergent views in deliberate ambiguity.

Both within his service branch, where the officer is often called upon to study alternative policy options and to make recommendations of one or another course of action, and in the senior councils where joint service policies are established, the military professional can exercise a great deal of influence on public debate by informing himself thoroughly of the political, strategic, economic and social consequences of various policy options. Because the only purpose of military power is to serve the ends of policy, in truth he can do no less.

If individual officers are to exercise, at comparatively senior levels, the imagination required to see beyond the bureaucratic interest of their own branch of service, to see the military sector of our society as a whole and to assimilate the perspectives of civilian society and of the leaders of other nations, not only will the policy debate be enhanced but intra- and interservice debates on policy may also become more productive, more politically sensitive and consequently more wise. The instinct to leave the metamilitary matters to officers at a higher level, to the civilian leadership, or to other departments or branches of the government, or even to the pressure of Allies, has frequently proven to be shortsighted or mistaken. One is never sure that one or all of these other actors will in fact consider all the alternatives. While such "think piece" papers may at first be extremely unpopular within a particular branch, or even among representatives of other services, they may provide an indispensable contribution to formulating a wiser policy for the nation. One cannot expect, nor should the structure of decision demand, that civilian

thinkers have a sufficient grasp of military affairs to comprehend the full range of military options available to the executive.

A coequal level of the national security debate occurs at the level of congressional committees. When officers are appointed to serve as witnesses before congressional committees, they are initially obliged to represent official policy. If such a policy were ethically repugnant to the officer he would, of course, be morally obliged to refuse the task of representation and to accept the consequences of refusal. In most cases, however, he will be in agreement, or at least not in substantial moral disagreement, with the policy. If, in the course of representing a policy option that he personally judges to be less wise or efficient, but still morally acceptable, he is asked by a Congressman whether he personally agrees with the proposal, he is morally obliged to discharge his moral obligation and offer his own view, presented as such. The law specifically provides both the means and the obligation. While many professional and personal circumstances would have to be weighed before making such a decision, there are situations in which an officer would be morally obliged to offer a personal view different from the service or joint-service option. In such circumstances his obligation to express his own opinion arises from the legislative need to understand the various policy options available. The cognizant law, though castigated by President Eisenhower as "legalized insubordination," supports testimony derived from military spokesmen as an indispensable aid to the exercise of legislative responsibility.^{1 2} The public debate, in other words, may require an awareness on the part of Congress of a militarily respectable difference of opinion on a critical issue of public policy.

A clarification is appropriate here. Many an officer who wishes to express dissent from public policy may feel

obliged—or may be encouraged—to take off the uniform and pursue his protest from retirement. However noble the sentiment, no such suggestion can be endorsed herein. The record of officers who retired in order to make their dissent public is wholly unencouraging. Gen. Maxwell Taylor is a rare exception.

Finally, there may be a further forum in which the military officer may be allowed or even obliged to express dissent, always excepting that his official position as executor allows no choice but wholehearted support of approved policy. That forum, or more correctly, those fora, would be constituted by the various media of public debate on foreign policy, including professional journals of the various war colleges and institutes, the national magazines and news journals, professional conventions, associations, and the lecture platform. On matters of such great public significance as strategic policy, planning for the defense of Europe, wars of intervention in developing regions of the world, anti-terrorist operations and the like, it would be remarkable if there were no difference of opinion within the military corresponding to the range of views evident in the civilian professional community. If such a diversity of opinion exists in the officer corps, there may be times when it is incumbent on those who hold minority views to express their opinion in the appropriate medium. Once again, the public may be dependent on an awareness of differing but respectable military views in order to make progress in its own responsibility to adopt a wise foreign policy.

Merely to mention the levels of responsible dissent for an officer suggests the risks involved in the conscientious execution of any professional responsibility. The officer, no less than the doctor, lawyer or clergyman, has responsibilities to society at large that may conflict with personal career advancement. His ethics include an

obligation to contribute to public debate on foreign policy by articulating his views both within and outside the military services, as occasion demands. The likelihood that such responsibility may arrest or hazard a promising military career simply underlines the importance and dignity of the military profession itself, an integral factor in national well-being. The civilian leadership depends on and must defend the right of officers to contribute their perspective and advantages of study and experience in the art of warfare, including the limitation and prevention of war. It is precisely because civilian society is so dependent on the military that it rightly holds high expectations of

the integrity of the military professional to declare himself even at the risk of career development.¹³ The Nuremberg International Military Tribunal reached conclusions in large part based on the principle that the professional military defendants should have followed not the orders of Hitler but of their consciences. Those instances, even in the extreme and at direct peril to one's survival, are the occasions when the refusal of a military man to comply is not insubordinate but positively his legal and moral duty. In John F. Kennedy's words, "A man does what he must—in spite of personal consequences, obstacles and pressures—and that is the basis of all human morality."

NOTES

1. This assumption seems to underlie the learned article by Robert S. Poydasheff, "Military Justice: A Reinforcer of Discipline," *Naval War College Review*, Winter 1976, cf. especially pp. 78, 81.
2. Ethical and political perspectives on these decisions can be found in the works of George F. Kennan, e.g., *American Diplomacy, 1900-1950* (Chicago: University of Chicago Press, 1951), pp. 101-103; *Memoirs* (Boston: Little, Brown, 1967), v. I, pp. 309-310; and *Russia and the West Under Lenin and Stalin* (Boston: Little, Brown, 1961), pp. 366-368.
3. Jacob E. Cooke, ed., *The Federalist* (Middletown, Conn.: Wesleyan University Press, 1961), #10, pp. 60, 63, 64; #51, pp. 349-353; and #63, p. 423.
4. John Courtney Murray, S.J., *We Hold These Truths* (New York: Sheed and Ward, 1960), p. 6, citing Thomas Gilby, O.P., *Between Community and Society* (New York: Longmans, Green, 1953).
5. A welcome exception is the thoughtful essay, based on long experience in military life by Kermit Johnson, "Ethical Issues of Military Leadership," *Parameters*, v. IV, no. 2, 1974, pp. 35-39.
6. See Samuel F. Huntington, *The Soldier and the State: The Theory and Politics of Civil-Military Relations* (New York: Vintage Books, 1974), p. 177.
7. See M.A. Pudlo, "The Double Imperative: U.S. Civil-Military Relations and the Vietnam War, 1961-1963," Unpublished manuscript, University of Lancaster.
8. The U.S. Constitution was modeled after the British constitutional arrangements to control the military, but the British Constitution, being unwritten, proved much more flexible. The U.K. Constitution today provides for extremely effective civilian political control and military planning within the Cabinet; the U.S. Constitution is frozen in an 18th-century model.
9. Henry Kissinger, *Nuclear Weapons and Foreign Policy* (New York: Harper & Row, 1957), p. 422.
10. *Ibid.*
11. See Sir Peter Ramsbotham, "Thoughtful Dissent: A Cornerstone of Democracy," Commencement Address, University of Maryland, College Park, 20 June 1976.
12. For complete text see *The New York Times*, 28 May 1958, p. 3. See also *Navy Magazine*, October 1958, p. 46.
13. See Johnson.