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SOLDIERS' CODES OF CONDUCT IN DIFFERENT COUNTRIES AROUND THE WORLD. A COMPARATIVE OUTLOOK

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In all countries around the world, the duties of the soldier are codified in detail, but in very different ways, according to the various histories, and cultural backgrounds of the respective Nations. As this soldier has the right to legally use a powerful lethal force, a lot is required from him, which is normal. He is now most often a professional. He has mainly to master perfectly his weapons, to respect the Law of Armed Conflicts and to apply the principle of humanity. But his leaders have to guide him and his Nation to understand and support him.

Key words: code of conduct, responsibility, ethical behavior, armed forces, civil society.

This study started in 2011 in the framework of a partnership between the French association « Civisme Défense Armée Nation » CiDAN [1], and the foundation Charles Léopold Mayer for the Progress of Mankind [2]. This foundation is very much attached to the dialogue between civilians and military people. A lasting Peace is not possible without talks in confidence between them. This foundation is strongly attached also to the development of responsibility and ethical behaviors, in all professional areas, at all levels. The aim of CiDAN is to promote good relations between armed forces and the civil society. The link between the two organizations is obvious. Armed forces will not be respected by their own populations, media and public opinions, if their behavior is not proper.

The study was pursued in the framework of the International Society for Military Ethics in Europe (EURO-ISME) [3]. The work is not exhaustive, does not judge, but gives a good idea of the current practices and documents.

The author of this article got documentation from around the world including:

- Europe : France, Germany, United Kingdom, Netherlands, Portugal, Finland, Spain, Romania, Italy;
- outside Europe : Colombia, USA, Russia, Kirghizstan, Israel, Japan, Senegal, Canada, China;
- International Organizations : United Nations, Organization for Security and Co-operation in Europe (OSCE) [4], ODIHR (Office for Democratic Institutions and Human Rights [5], Economic Community of West Africa States [6];
- and even the code of the Taliban (reported by the Red Cross), which obviously cannot be taken as a reference [7] since these Muslim “students” apply strict rules, but not in accordance with the human rights.

As the information has been collected during several years, the author may have missed evolutions in the codes.

These codes appear under different forms, from the small plastic coated card, in the pocket of the soldier (France) [8] up to several laws and regulations (Germany) [9]. Many countries

produce specific documents (UK, Romania). Lastly, some countries require from the soldier to pronounce an oath at the end of the initial training (Russian Federation, Italy). The short card can be the last piece of a complete set of documents describing the rights and duties of the soldier (France).

All these documents have many common points, generally stressing the followings duties of the good soldier [10]:

- fulfilment of the mission,
- spirited research of victory and/or refusal of the defeat ,
- service of the Nation, Fatherland, State, People, Party,
- physical bravery and moral courage, up to the sacrifice of its own life,
- sense of honor,
- discipline and respect of the hierarchy,
- comradeship and contribution to the unit cohesion,
- professionalism and exemplary behavior,
- integrity,
- neutrality [11], restraint[12]
- respect of traditions,
- honesty, unselfishness and frankness,
- discretion, no disclosure of secret information,
- lastly an ethical (moral) behavior.

The first observation is that tremendous qualities are required of the soldier, which is normal in a way, when is considered his power to use legal force, by delegation of the State, which can lead to the deaths of friends (including him) and foes. But is it not too ambitious? The soldier remains a human being, who is not perfect. He has indeed duties but also rights, often limited. His commanders have the responsibility to respect him and the Nation to support him. The British have perfectly understood this aspect in creating the covenant (moral agreement), between the soldiers and their Nation, with the reconnaissance that they give more than they receive.

All these common points are normal if we consider that:

- the profession of a soldier is the same in all countries worldwide,
- most of these countries have signed the same treaties and conventions establishing the Law of Armed Conflicts (Geneva and La Haye conventions, bans on anti-personnel mines chemical weapons, etc.).

Specificities come first on the purpose of the codes. In some countries each service (Army, Navy, Air Force, Police) has its own code (Colombia). In others, the code is common for all military people and civilians working for the Ministry of Defence (Romania). In Canada, the code is specific to the levels of command (officers, NCOs and soldiers). Most codes are professional codes which express all the duties of the soldier but some focus more on ethical issues (Canada, Finland). However, the lack of references to an ethical behavior in synthetic codes does not mean that the concerned country does not take care of this aspect. In the ultimate stage, a few codes require from the soldier to report and oppose unlawful acts (Canada, Finland). Lastly, sometimes, the texts specify the penal sanctions in case of unlawful acts.

In all studied cases, the soldier has to fulfill his mission, serving his fatherland, State or Nation, putting his life at risk. The sensitive question of taking the lives of the opponents is very rarely expressed distinctly, but appears as an implicit consequence of the achievement of the mission.

It is not indeed the soldier's first aim to kill an adversary, on delegation of his State, but it is the likely result of his actions, when he uses lethal force, in the last resort, in fulfilling the mission, which can be to take a position, defend it, to protect populations, separate factions, etc.

In the US Army soldier's creed [13], it is written: « I am ready to be deployed, to engage and destroy the enemies of the USA in close combat ».

In the US Marine Corps creed [14], one can read : « This is my rifle. There are many like it, but this one is mine. It is my life. I must master it as I must master my life. Without me, my rifle is useless. Without my rifle, I am useless. I must fire my rifle true. **I must shoot straighter than the enemy who is trying to kill me. I must shoot him before he shoots me** ».

The advantage of this last formulation is to remind the tragic but necessary vocation of the soldier. The inconvenience is that it forgets the notion of moderation. But we should not caricature the US creeds, which seems today outdated by US experts themselves. The US chain of command dedicates a lot of efforts to ethical issues, as we can see in the International Society for Military ethics, grouping most of the teachers of this subject in the military academies in the US. There is a website dedicated to the issue www.cape.army.mil. In addition the Centre for Army Profession and Ethic has published in September 2014 a document named "Living the Army Ethic" (<http://cape.army.mil/aaop/living-the-army-ethic/>) which insists on the respect by the soldier of the Law of Armed Conflicts, and on the requirement to demonstrate moral values.

The British do not have a code on a card, but each service has a publication on values and standards. And they dedicate a full chapter on ethics in the doctrine publication on operations. It is outstanding to recognize the importance of ethics on tactics. We can read : "Soldiers have the privilege of being able to use lawful armed force, potentially **to take life, while minimising suffering and the brutality of war**".

The French synthetic code is a professional one, but insisting on an ethical behavior:

- « **Mastering his force, the soldier respects his adversary and take care to spare the populations** ».
- He obeys to the orders, in the respect of laws and Customs of War, as well as international conventions ».

In the Law on the code of defense, it is clearly written that the soldiers must not obey an order which is obviously not in accordance with the Law of Armed Conflicts. It is important to keep in mind for France this notion of mastering the use of force which is perfectly explained in the document « Fundaments and principles of the profession of arms in the Army » (1999): « the use of force must be efficient. All means and energies are turned towards the success. **That can be opposed to the respect of human lives**. This contradiction must be overtaken by the notion of mastered force, which is based on excellent military skills and on enlightened consciences ». All the complexity and nobleness of the soldier's vocation is summarized in this phrasing. This enlightened conscience is acquired by training and education ».

If some codes refer to the respect of God, the French requires perfect neutrality on the religious, philosophic or political aspects. Lastly, the French soldier must be able to take initiatives and be flexible. We can see there the weight of the history of the countries. In France, the code must be replaced in the framework of the Wars of religions, the revolutions, the independence wars of her former colonies.

Germany, which founds the behavior of its soldiers on the concept of the citizen soldier (Innere führung) has defined on a small card the questions that the soldier has to ask himself in case of an ethical dilemma [15]:

- verification of the legality of the orders,
- « the public eye » : what would be the reaction of the public opinion if this order is carried out,
- the « truthfulness test » ; are the information gathered exact,

- respect of the golden rule : ethic of reciprocity,
- respect of the categorical imperative (according to Kant).

This checklist must obviously be translated and taught in simple terms, in order to be applied in a few seconds, by a soldier who is not a philosopher.

Canada has published a “code of values and ethic” at the level of the Ministry of Defense in 2012, which concerns all civilian and military personnel and all services [16]

More interesting for our purpose, the Canadian Army has gone very far in the ethical considerations in its booklet « Duty with Discernment » [17] defining an « ethical warrior », who must show physical but also moral courage:

- the Army ethos is defined as the identity card of values and as a moral compass; the ethos guides the moral behavior and is what one does when nobody is observing;
- the soldier has to report the offenses to the Law of Armed Conflicts and take the appropriate measures to end them,
- each unit must have an ethical coordinator and has to establish an assessment of the ethical risks,
- there are specific chapters for officers, NCOs and soldiers;
- the document includes an excellent approach of “asymmetrical” warfare, in which the adversaries of the Canadian forces do not respect the Law of Armed Conflicts (in using for example human shields), which leads to difficult ethical challenges;
- it takes into account the risk of collateral damages and the possible dilemma sometimes between the protection of the life of its own soldiers and those of innocent civilians,
- lastly, the zero tolerance must not be taken for zero defect. An error remains always possible in the « fog of war ». It must not be confused/mistaken with a deliberate fault by will or indifference).

It is evident that these documents must not be only statements of good intentions. Their content has to be taught, known, checked, and applied.

The situations are thus very different, regarding the presentations and the contents, according to the countries, based on various histories, cultures, traditions, legal backgrounds.

The small plastic coated card is useful but not sufficient. It must be based on a full spectrum of laws, regulations, doctrines, and detailed rules of engagements for each operation. The soldiers, as well as the NCOs and officers, must receive a strong education and training, theoretical and practical. As a result, the ethical behavior has to become a reflex, printed definitively in their conscience.

Most of the codes ask in fact to the soldier, who is now in most countries a professional, to be firstly a good human being and citizen, applying values such as patriotism, professionalism, honesty, integrity, solidarity.

The soldier is then ready to sacrifice his life but the policeman or fireman also. The soldier and the Policeman (or « Gendarme ») [18] have the right of the use of lethal force, but the policeman generally in self defense only, and in a limited way.

The real specificity is that the soldier has a considerable deadly firepower. He is not responsible for the decision to go to war, which is political (*jus ad bellum*). But he has to control his force and master his weapons, respecting the principles of necessity, humanity, proportionality and discrimination (*jus in bello*). In the present “asymmetrical” conflicts, he often faces opponents who respect no rule, taking for example in hostage innocent civilians (terrorism, human shields, etc.), trying to provoke the wrong reaction of the soldier, to take advantage of the fact that the « ethical warrior » has to respect the Law of Armed Conflicts. This kind of adversary tries to make the most of this apparent weakness on the short term. These situations present tremendous challenges to the

soldier. What is required from him is considerable. It is one among many reasons why the war should remain the last resort. The codes must not be an umbrella, a protection for the hierarchy and politicians (it is only the soldier fault if he does not fulfill his duties). The codes must be a guide and a help. And the soldier must be supported by his nation,

NOTES AND REFERENCES

- [1] CiDAN website : www.cidan.org
- [2] FPH website : www.fph.ch
- [3] EUROISME website : www.euroisme.eu
- [4] code of the military and political aspects of security. This document was adopted during the 91st plenary session of the CSCE special committee for security cooperation, in Budapest, 13 December 1994 (FSC/Journal No 94).DOC.FSC/1/95 3 December 1994
- [5] Handbook on Human Rights and Fundamental Freedoms of Armed Forces Personnel. Published by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) www.osce.org/odihr © OSCE/ODIHR 2008 ISBN 978-83-60190-53-1
- [6] Project of Code of Conduct of the West African Defence and Security Forces. Preliminary version concluded during the meeting of the Security and Defence Committee, 30-31 October 2006, Ouagadougou, Burkina Faso.
- [7] The Layha for the Mujahideen: an analysis of the code of conduct for the Taliban fighters under Islamic law : <http://www.icrc.org/eng/resources/documents/article/review-2011/irrc-881-munir.htm>
- [8] <http://www.defense.gouv.fr/terre/bloc-les-essentiels/code-du-soldat>
- [9] recalled in the joint regulation ZDv 10/1 « Innere Führung » (2008).
- [10] The soldier is there a general term for all the military service men, whatever their rank.
- [11] With rare religious references. In Columbia, article 7 “I accomplish God’s will”.
- [12] No public critics of the Government policy and decisions.
- [13] <http://www.army.mil/values/soldiers.html>
- [14] http://www.usmcpres.com/heritage/marine_corps_rifleman%27s_creed.htm
- [15] defined by the Zentrum Innere Führung der Bundeswehr
- [16] <http://www.forces.gc.ca/fr/a-propos/code-valeurs-ethique.page>
- [17] Strategic edition “Duty with Discernment”, CLS guidance on ethics in operations, Lieutenant-colonel R.J.Walker, CD, Ph.D., Army Ethics Officer. Directorate of Land Concepts and Design, Kingston, Ontario (2009) ISBN 978 1 100 11857 4
- [18] A gendarme, is a specific Military Police Man. In France, the “gendarmes” have a military status but belong now to the Home Minister (Ministry of Interior). In peace time they have traditional civilian police missions. Generally speaking, the police works in towns when the “gendarmerie” is in villages. In operations, the gendarmes have military police missions.

