

# TWO KINDS OF MILITARY RESPONSIBILITY

by

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**I**n writing about military responsibility, I shall try to avoid all reference to questions of free will, intentionality, and the theory of action. I will address instead what I take to be a very difficult, practical problem in our understanding of military responsibility and in our enforcement of it.

It is one of the purposes of any institutional hierarchy, and most especially of the bureaucratic or military chain of command, to resolve questions of responsibility. Who is responsible to whom, and for what? That is what the organizational chart is supposed to show. Once an official or a soldier locates himself on the chart, or in the chain of command, he ought to know exactly who his superiors are and who his subordinates are and what they rightly can expect of him.

Let us consider now the hierarchical position of a middle-level officer in time of war, a field commander responsible for making tactical decisions. He has a twofold responsibility that can be described in simple directional terms. First, he is responsible *upward*—to his military commanders and then through the highest of them, the commander-in-chief, to the sovereign people, whose “officer” he properly is and to whose collective safety and protection he is pledged. His obligation is to win the battles that he fights or, rather, to do his best to win, obeying the legal orders of his immediate superiors, fitting his own decisions into the larger strategic plan, accepting onerous but necessary tasks, seeking collective success rather than individual glory. He is responsible for assignments unperformed or badly

performed and for all avoidable defeats. And he is responsible up the chain to each of his superiors in turn and ultimately to the ordinary citizens of his country who are likely to suffer for his failures.

But there are other people likely to suffer for his failures and, often enough, for his successes too—namely, the soldiers that he commands. And so he is also responsible *downward*—to each and every one of them. His soldiers are in one sense the instruments with which he is supposed to win victories, but they are also men and women whose lives, because they are his to use, are also in his care. He is bound to minimize the risks his soldiers must face, to fight carefully and prudently, and to avoid wasting their lives, that is, to not persist in battles that cannot be won, to not seek victories whose costs overwhelm their military value, and so on. And his soldiers have every right to expect all this of him and to blame him for every sort of omission, evasion, carelessness, and recklessness that endangers their lives.

**N**ow these two sets of responsibilities, up and down the chain of command, together constitute what I shall call the hierarchical responsibilities of the officer. I assume that there can be tensions between the two, and that these tensions are commonly experienced in the field. They have to do with the regret that officers must feel that the primary instruments with which they fight are human beings, to whom they are morally connected. But I don't think that there can be direct conflicts and contradictions between

upward and downward responsibility. For there is only one hierarchy; a single chain of command; in principle, at least, a singular conception of victory; and finally a commitment up and down the chain to win that victory. It cannot be the case, then, that a commander who sacrifices his soldiers, so long as he does the best he can to minimize the extent of the sacrifice, does anything that he does not have a right to do. Whenever I read about trench warfare in World War I, I can hardly avoid the sense that the officers who sent so many soldiers to their deaths for so little gain in one attack after another were literally mad. But if that is so, the madness was reiterated at every level of the hierarchy—up to the level where political leaders stubbornly refused every compromise that might have ended the war. And so officers further down, at least those who carefully prepared for each successive attack and called off the attacks when it was clear that they had failed, did not act unjustly, while officers who were neither careful in advance nor willing later on to admit failure can readily be condemned for violating their hierarchical responsibilities. And all this is true even if the war as a whole, or the continuation of the war, was unjustified, and even if this way of fighting it was insane. I do not think it can ever be impermissible for an officer to send his soldiers into battle: that is what he is for and that is what they are for.

But the case is very different, I think, when we come to consider the officer's responsibilities for the civilian casualties of the battles he fights. As a moral agent, he is also responsible *outward*—to all those people whose lives his activities affect. This is a responsibility that we all have, since we are all moral agents, and it is, at least in the first instance, non-hierarchical in character. No organizational chart can possibly determine our duties or obligations to other people generally. What we ought to do when we face outward is determined by divine or natural law, or by a conception of human rights, or by a utilitarian calculation in which everyone's interest, and not only those up and down the hierarchy, must be counted. However that determination works out in

particular cases, it is clear that the duties or obligations of moral agents may well conflict with the demands of the organizations they serve. In the case of a state or army at war, the conflict is often dramatic and painful. The civilians whose lives are put at risk are commonly neither superiors nor subordinates; they have no place in the hierarchy. The injuries done to them can be and often are wrongful, and, what is most important, they can be wrongful (so I want to argue) even if they are done in the course of military operations carried out in strict accordance with the precepts of hierarchical responsibility.

The distinction that I have drawn between the two kinds of military responsibility—the hierarchical and non-hierarchical—is, of course, too sharp and neat. There has been an effort of long-standing to incorporate the second of these into the first, that is, to make soldiers answerable to their officers for crimes committed against the civilian population and to make officers answerable to their superiors (and even to their enemies) for the crimes committed by their soldiers. This is a commendable effort, and I don't want to underestimate its value. But I think it is fair to say that it has not been very successful. It works best with regard to those crimes

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against civilians that are, so to speak, superfluous to the war effort as a whole—and best of all when the superfluousness is a matter of indiscipline. The ordinary desire of a commander to retain command of his soldiers will lead him to repress indiscipline as best he can and to hold his soldiers to a high and consistent standard of conduct. At least, it should do that: for the best soldiers, the best fighting men, do not loot and rape. Similarly, the best soldiers do not wantonly kill civilians. Massacres of the My Lai sort are most often the result of fear and rage, and neither of these emotions makes for the maximum efficiency of the “war machine” that soldiers sometimes ought to be. Like looting and rape, massacre is militarily as well as morally reprehensible, for it represents a loss of control as well as a criminal act, and so it is more or less easily dealt with in hierarchical terms.

I say “more or less easily” because even superfluous injury often takes place within a context of command and obedience: My Lai is again an example. What we require of soldiers in that situation is that they refuse the orders—the illegal or immoral orders—of their immediate superior. That refusal does not constitute a denial of or a rebellion against the military hierarchy. It is best understood as an appeal up the chain of command over a superior officer to the superiors of that superior officer. Given the structure of the chain and its purposes, any such appeal is problematic and difficult, a matter of considerable strain for the individual who undertakes it. He is still operating, however, within the conventions of hierarchical responsibility.

But when the killing of civilians is plausibly connected to some military purpose, those conventions seem to provide no recourse at all. Neither in the case of direct and intended killing, as in siege warfare or terror bombing, nor in the case of incidental and unintended killing, as in the bombardment of a military target that results in a disproportionate number of civilian deaths, is there any effective responsibility up or down the hierarchy. I don’t mean that individuals are not responsible for such killings, only that

there is no hierarchical way of holding them responsible or at least no *effective* hierarchical way of so holding them. Nor is there any way of pointing to the organizational chart and explaining to whom responsibility can be attributed. For in these cases, the hierarchy seems to be working very much as it was meant to work. Here are victories, let’s assume, victories won at a wonderfully low cost to the soldiers who win them. Their commanding officer can look up and down the hierarchy and feel good about what he is doing.

**I** should make that last point more strongly: the officer can look up and down the hierarchy and feel that he is doing what he ought to be doing. He is pursuing victory with all the means at his disposal, which is what his superiors want him to do, and what we, as members of the sovereign people, want him to do. And he is pursuing victory at the least possible cost to his own soldiers, which is no doubt what they want him to do. And so he meets the moral requirements of his hierarchical position. It is worth noticing that these are exactly the moral requirements that President Truman claimed to be meeting when he approved the use of the atomic bomb on Hiroshima. He made his decision, so he told us in his radio broadcast of 9 August 1945, in order to end the war and to save American lives. Those two purposes, he seemed to assume, exhausted his responsibilities. And that is not an implausible assumption if we think of him only as the commander-in-chief of a nation and an army at war.

We can say, I think, that Truman’s argument does address the full range of his hierarchical, but not the full range of his moral, responsibilities. But he might have gone on to argue—though it is important to say that he did not go on to argue—that he knew himself to be responsible as a human being and a moral agent for all the civilian deaths caused by his decision. But, he might still have said, his responsibility to the American people as a whole and to individual American soldiers took precedence over his responsibility for Japanese civilians because

of his hierarchical position. And any officer further down the hierarchy could make the same argument: that his oath of office and his immediate bond to his soldiers determine what he ought to do, whatever other considerations he might acknowledge.

Now, if this argument encompassed the whole truth, then the killing of civilians, so long as it was connected to some military purpose, could no more conflict with hierarchical responsibilities than the different sorts of hierarchical responsibilities could conflict with one another. Civilians would be subordinated, exactly as soldiers are, to military purposiveness, and then further subordinated to the safety and preservation of our own soldiers (and the other side would subordinate civilians in exactly the same way). In effect, they would be incorporated into the hierarchy at its lowest point and recognized within the system of hierarchical responsibility only when they were needlessly and superfluously attacked. But this incorporation is nothing more than an act of conquest and tyranny. For the civilians whose lives are at stake are citizens of other countries who have no place in *this* hierarchy. The middle-level officer that I am considering is not their agent; no legal or bureaucratic procedures make him answerable to them. Nor are they his agents, subject to his command, submitted to his care and protection. Indeed, he sees them only when he looks outward, away from his hierarchical responsibilities. And if he is to recognize them, to attend to their interests and rights, he may well have to turn away from his hierarchical responsibilities and diminish the care and protection he affords to his own soldiers—that is, he may have to impose added risks on the soldiers for the sake of the civilians. The conflict, then, is a real one.

**B**ecause the conflict is real, it is vitally important that it be mediated in some institutional form. But I don't know of any easy or obvious way of specifying, let alone of establishing, the appropriate form. Ideally, an army ought to be watched and checked by something like a civilian board of review. But if we think of the place that such

boards occupy alongside police departments in some of our major cities, we can immediately see the problems that would arise in the case of an army. For while the board of review represents civilians as potential victims of police neglect or brutality, those same civilians are also the ultimate employers of the police. They elect the mayor who appoints the police chief, and so on. They have a place in the urban chain of command, perhaps a double place, at the top and bottom of the chain. But citizens of other countries have, as I have just argued, no place at all in the chain and no power over the political leaders who appoint army generals. They are potential victims, and that is all they are, and we cannot imagine them effectively represented by any civilian board of review.

They might be represented internationally, by a court like the Nuremberg tribunal after World War II. But it is an interesting feature of the decisions made at Nuremberg and by the associated courts that they did not go very far toward enforcing the non-hierarchical responsibilities of soldiers. Mostly, they worked at the margins of the moral space that I have meant to mark out with that term, condemning individual officers for the killing of hostages, of sailors helpless in the water, and of prisoners of war. But they convicted no one for siege warfare or terror bombing or any form of disregard for civilian lives. In part, this was because these kinds of warfare were by no means peculiar to the Germans. In part, it was because the legal status of these kinds of warfare is at best uncertain. Traditionally, in the laws of war, hierarchical responsibilities have dominated non-hierarchical responsibilities. Recent revisions of the law, at Geneva in 1949 and again in 1978, have not produced any radical challenge to that domination.

**I** must conclude, therefore, that the non-hierarchical responsibilities of officers have, at this moment, no satisfactory institutional form. Nor are they likely to have until we include them systematically in our understanding of what military office requires. Conceivably, this might be easier to

do in an era when so many wars are political wars, fought as much for the loyalty of the civilian population as for control of land and resources. In such a time, one would think, responsibilities outward and upward will often coincide or at least overlap more extensively than in a time of conventional warfare. And then purposive crimes as well as crimes of indiscipline might come under hierarchical scrutiny. But in all times, and in conventional as well as political wars, we ought to require of officers that they attend to the value of civilian lives, and we should refuse to honor officers who fail to do that, even if they win great victories thereby.

“The soldier,” wrote General Douglas MacArthur at the time of the Yamashita trial, “. . . is charged with the protection of the weak and unarmed. It is the very essence and reason of his being . . . [a] sacred trust.” Now, I suppose that is overstated. The “reason” of soldiering is victory, and the “reason” of victory is the protection of one’s own people, not of other people. But the others are there—the ordinary citizens of enemy and of neutral states—and we are not

superior beings who can reduce our risks by slaughtering them: certainly soldiers cannot do that. The lives of the others may or may not be a sacred trust, but they are an ordinary responsibility whenever we act in ways that endanger them. And we must make a place for that responsibility within the more specialized and more easily institutionalized “reasons” of war. Since the most immediate and problematic moral tension is the conflict between outward and downward responsibilities, between responsibilities for enemy civilians and one’s own soldiers, this means first of all that we have to insist upon the risks that soldiers must accept and that their officers must require. I cannot detail these risks here with any hope of precision. What is necessary is a certain sensitivity that the chain of command does not ordinarily elicit or impose. No doubt, that sensitivity would make soldiering even harder than it is, and it is already a hard calling. But given the suffering it often produces, it cannot be the purpose of moral philosophy to make it easier.

