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Research Essay

Rules of Engagement

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## INTRODUCTION

In war, it is expected that military personnel will face multidirectional and multifaceted threats. This is self-evident. In the current security environment however, this complexity has been increased due to the tendency for warfare to be conducted within the realm of peace and conflict rather than war.<sup>1</sup> In this respect, the complex and dynamic field of Rules of Engagement (ROE) has become paramount in the effective application of the use of force. The clarity of ROE and in particular, its two fundamental concepts of hostile act and hostile intent, have become a necessary prerequisite for the successful application of the use of force. Indeed the comments of Captain Ashley Roach, United States Navy, that "there is a very real need for greater knowledge of ROE on the part of strategy and policy personnel, tacticians and operators," clearly support this conviction.<sup>2</sup>

Over the past few years, the success and failure of the execution of ROE in peace, conflict and war has been the focal point for discussion and study among our Allies. Canada is not immune to this reality. In fact, Canada has been pursuing this fundamental aspect of the military art here at home. Moreover, Canada has been actively working with its NATO Allies to develop common ROE. Recent events have given rise to the development of the *Use of Force in CF Operations* manual. Clearly, this manual will assist our sailors, soldiers and air personnel to accomplish their operational tasks. Nevertheless, the principles and concepts fundamental to the execution of ROE, hostile act and hostile intent, must be well understood if military force is to be effectively applied across the spectrum of operations.

This paper will explore the area of ROE. Through an examination of the theoretical background of ROE in relation to a number of historical examples, this paper will demonstrate that military forces require a complete understanding of the meaning and implication of hostile act and hostile intent to be able to successfully implement and execute ROE. The paper will first examine definitions of ROE and the two key concepts of hostile act and hostile intent. The paper will then review historical examples related to ROE. This will be followed by an examination of the considerations for the formulation of ROE in peace and war. The paper will conclude with an analysis of the current education and training approach within the Canadian Forces.

## DISCUSSION

### **Nature and Definition of ROE and The Two Key Concepts**

ROE afford the means by which the National (should add "and International") Command Authority and operational commanders endeavour to exercise control over the use of force in a crisis or to manage conflict.<sup>3</sup> For the men and women engaged in operations, ROE are a framework that guide personnel in the use of force. In simple terms, ROE are control mechanism that allows force to be used across the spectrum of conflict.<sup>4</sup>

The United States Department of Defence provides the following definition of ROE:

"directives that a government may establish to delineate the circumstances and limitations under which its own ground, naval, and air forces will initiate and /or continue combat engagement with enemy forces."<sup>5</sup>

In the Australian context, ROE are defined as those directives to operational and tactical level commanders, which delineate the circumstances, and limitation within which armed force may be applied to achieve military objectives.<sup>6</sup>

The Somalia Commission of Inquiry defines ROE as "the directions guiding the application of armed force by soldiers within a theatre of operations".<sup>7</sup> The *Use of Force in CF Operations* manual, a result of the lessons learned from the Gulf War, the Adriatic and Haiti operations and others, was developed as a joint document in 1994 and defines ROE as being: "directions and orders regarding the use of force by Canadian Forces in domestic and international operations in peacetime, periods of tension and armed conflict...they constitute *lawful commands* and are designed to remove any legal or semantic ambiguity that could lead a commander to violate national policy by inadvertently under reacting or over reacting to an action by foreign forces."<sup>8</sup> As has been shown, there is a common understanding in the definition of ROE however, there are a number of subtle differences.

As can be seen, the American view of ROE is the most aggressive. It allows for the "initiation" and "continuation" of combat engagement.<sup>9</sup> Meanwhile the Australian approach seems to leave a doubt and only encompasses military objectives.<sup>10</sup> On the other hand, the Canadian definition lacks simplicity and clarity. In this respect it is suggested that the Canadian definition needs to be simplified for clarity and applicability at all levels of command. ROE within the Canadian context should read: "the directives to the operational and tactical level commander for the employment of armed force in the achievement of mission objectives at the strategic, operational and tactical levels under

national and/or international law." This proposed definition would broaden the scope at all levels of command and pave the way for their use in joint operation.

Finally as has been noted, hostile act and intent are fundamental in the application of ROE. Roach defines these concepts as "the actual use of armed force" and " the threat of the imminent use of force."<sup>11</sup> In the Canadian context, hostile act is defined as "an attack or other use of force against Canada, its forces, citizens, shipping, commercial aircraft, territory or propriety, where there is reasonable apprehension that death, grievous bodily harm or destruction would be the likely result...in international operations it could include protection of allies, non-military personal, objects, sites, platform and/or material."<sup>12</sup> Hostile intent is "the threat of imminent use of force against Canada, citizens...or property, where there is reasonable apprehension that death...would be the likely result..."<sup>13</sup>

### **Historical background**

In 1975, while HMCS Algonquin was returning alongside, the Commanding Officer received a tasking to proceed to sea to intercept and escort back to Halifax a Cuban fishing factory vessel that had been operating inside our territorial waters. ROE were not part of the tasking. The vessel's subsequent refusal to obey caused a great deal of excitement and apprehension among the crew. Communication was immediately established with the Maritime Commander, who eventually authorised the use of force in the form of warning shots across the bow of the ship and the use of an armed boarding party to take control of the vessel. In the end, both actions were not required and verbal threats to use force and negotiation proved enough to convince the master of the vessel to

follow instructions. A success story indeed, but certainly not one based on proper planning and training. Rather, the success of this operation was due to the leadership of the ship's captain and the Maritime Commander.

The ensuing years saw more attention being paid, within the international naval community, to the Law of the Sea and the Rules of Engagement, particularly with regards to fisheries patrols and fisheries inspections. In the late 1970s, the Canadian Navy adopted the NATO Maritime Rules of Engagement system. Moreover the Air Force the NORAD ROE.<sup>14</sup> Unquestionably, progress was made but education and training were still inadequate in achieving the appropriate level of understanding and expertise required to professionally accomplish given operational missions. The Gulf War provided the opportunity for Canada's forces to operate under a set of ROE, which were provided by the coalition commander and amplified by the national authority. As noted by Colonel Mathews, the then commander of the Canadian air component, hostile act and hostile intent were not clearly defined prior to the start of the Gulf War. Furthermore during the war different engagement criteria were used depending on the area of operation.<sup>15</sup> Unfortunately, the experience that Canada gained with respect to ROE during the Gulf War was not always put to practice. Moreover, the CF failed to provide adequate education on the subject of ROE. Clearly, although training has continued at sea both nationally and internationally, the full comprehension of the importance of ROE and hostile act and intent had not improved. This created an environment of constant revision and uncertainty.

1993 saw the beginning of Operation Sharp Guard in the Adriatic where Canada was commanding the Standing Naval Force Atlantic and Operation Forward Action off Haiti where, again we played an occasional but important role as Officer in Tactical Command. Both of these missions required an enormous amount of last minute ROE planning by the Officer in Tactical Command and his staff. These missions generated incidents that emphasised a lack of understanding and training in ROE. During Operation "Sharp Guard" two incidents, worth notice, were the over flight of a Task Force helicopter above Dubrovnik and the firing of small arms (by a non-Canadian) onboard a merchant vessel during a boarding operation. The first incident was a result of a total disregard of the ROE while the second was a misinterpretation of hostile intent. Both occurrences could have resulted in serious casualties and placed the mission in peril. The experience gained in "Sharp Guard" and "Forward Action" has contributed immensely in subsequent naval operational planning and tactical training and execution. The lessons learned and the wealth of experience gained from these two operations proved essential in the successful resolution of the "Turbot Dispute" with Spain.<sup>16</sup> Through seminars, training, and constant exercise of ROE at sea the Navy at large had reached a state of conversance that rapidly evolved to a thorough understanding of the importance and necessity of ROE.

Operation Deliverance, in Somalia, again taught a lesson we should have learned. It demonstrated a scantiness of clarity surrounding the mission, inadequate time to prepare, lack of clarity in the communication of ROE to the soldiers, deficiency in training and a lack of discipline in observing the ROE.<sup>17</sup> The Army, although it had

employed ROE on a variety of missions dating back to the 1960's, was doing so on an adhoc basis.<sup>18</sup>

Canada, collectively, did not develop nor own a joint set of ROE. The Report of the Commission of Inquiry into the Deployment of Canadian Forces to Somalia also noted the lack of important tools that would have been helpful to the drafters of ROE. That apart from the United Nation's Security Council Resolution, the foundations in international law were ambiguous. It also points out that a Canadian Forces doctrine to guide the drafting of ROE was non-existent nor did the drafters have a detailed definition of the mission's mandate, a written statement of Canada's political objectives, an evaluation of the risks and the force commander's concept of operation.<sup>19</sup>

These examples of success, failure and potential failure illustrate the need for a complete awareness of the factors influencing the development of ROE as well as the development of a systematic and dynamic approach in their formulation and application. A thorough understanding of the mechanism is therefore extremely important for those entrusted with the use of force, at all levels, and in all environments: ashore, afloat and in the air.<sup>20</sup>

In his opening address to the Law of Armed Conflict course in Halifax, Vice-Admiral Maddison made the following remark:

"The Law of Armed Conflict has developed into an area of increasing importance and it impacts on all of us as professionals within the service of arms. Within a democracy such as Canada, there is an expectation that our conduct even in the most arduous circumstances will be appropriate, measured in the application of armed force and, responsive to the political

will of the country. Our political leaders, on behalf of their citizens of Canada, are ultimately responsible for the conduct of the Canadian Forces. They rely on us to train and educate our personnel in the correct application of force and to be intimately aware of the legal responsibilities that govern our conduct in all potential naval and military operation."<sup>21</sup>

### **Considerations in formulating ROE**

ROE are based on a multitude of considerations. Military factors affecting ROE include allowing maximum freedom of action possible for the greatest chance of mission success. Political factors include regional, national and international considerations. Legal factors affecting the use of force include national and international laws as well as the law of Armed Conflict. Domestically the application of force is governed principally by the Criminal Code of Canada. International operations however come under the umbrella of international laws, alliances and coalition agreements and United Nations resolutions and mandates as well as our criminal code.<sup>22</sup> Internationally, for military purposes, the application of the UN Charter has evolved so that it can be conceptualised as a continuum of operations spanning the traditional role of peacekeeping through to peace enforcement involving high intensity armed conflicts. It is therefore fundamentally important that the mandate authorising a given mission include a set of broad directives so that the ROE that flow from the mandate, will represent the political considerations and be interwoven with the operational considerations under the legal structure.<sup>23</sup>

## Peacetime and Wartime Rules of Engagement

During peacetime operations, Rules of Engagement are primarily aimed at unit protection and preventing an unprovoked use of force that could initiate an escalation.<sup>24</sup> They generally limit military actions, including the use of force, to defensive responses to hostile acts or demonstration of hostile intent. They are premised on the right of self-defence.<sup>25</sup> It is the Law of Armed Conflict and the provisions of the UN Charter that allow a nation to use force in self-defence and regulates the use of force during war.

There should be fewer rules in wartime because there will be fewer constraints and thresholds for the use of force should not require the triggers once identification of legitimate targets has been made. However, the Law of Armed Conflict and the provisions of the UN Charter regulate the use of force during armed conflict. Maximum force may be used to accomplish the mission, provided of course the use of force adheres to the principles of: *distinction, non-discrimination, and proportionality*.<sup>26</sup> *Distinction* between legitimate military objectives and civilian populations and material when selecting targets, *non-discrimination* in the distinction founded on race, colour, religion or any similar criteria, and the labelling of one side as an unlawful aggressor does not entitle the other to break the law, and *proportionality* by establishing the link between the concepts of military necessity and humanity. ROE during armed conflict do not limit military responses to defensive actions alone but do place limits that are consistent with national objectives, strategy and the law.<sup>27</sup> They are aimed at effectively exercising force within the bounds of the law. To say that ROE would disappear once at war may be a false impression. Clausewitz's "clash of forces freely operating and obeying no law but their own" is, as he emphasised, a fiction.

When hostilities break out, the use of force should not be limited to defensive action. An operational commander must be able to seek out, engage and destroy the enemy in accordance with the principles of war, the law of armed conflict and the assigned mission. The government may impose specific restraints on the commander for political reasons.<sup>28</sup> Obviously, these limitations need to be timely. Captain Swinerton of the Australian Navy has a valid argument when he says that there should be no difference between systems of rules for either peacetime, or conflicts, or transitions between peace and conflict. His statement does not support the suggestion in "*Rules of Engagement: A Primer*", that a mechanism for the transition from peace to war is necessary.

ROE should cover all occasions of the use of force. On many occasions experienced has shown (albeit in a training environment, nevertheless very complex with a multitude of assets over time and space) that the transition to a more robust set of ROE allowing for directed and/or open hostilities, as well as the return to a controlled use of force posture, is done quite easily. The Gulf War is an example where the so-called "peacetime" ROE were considered adequate by the operational commander.<sup>29</sup> This transition simply needs pre-planning and the adherence to engagement orders. "Different circumstances just need different rules, not different systems of rules".<sup>30</sup>

### **Control Mechanism for Use of Force**

Apart from ROE, the other control mechanism regulating the employment of force is "self-defence". Commanders have always enjoyed the right of self-defence. In fact, ROE are derived from that right and not vice versa.<sup>31</sup> Self-defence is an action, recognised by national or international laws, allowing the use of force, up to and

including deadly force, to protect others or oneself. Its application will vary and depend on various legal regimes. An international context may provide wider latitude of actions than allowed under Canadian domestic law.<sup>32</sup> For example, the United States definition allows for "retaliation" and in some case action bordering on "retribution".<sup>33</sup>

The use or threatened use of force is illegal according to the UN Charter unless, it is used in self-defence (immediate, in situ) or in pursuit of collectively agreed objectives. The Charter does not provide for what is now an accepted part of the customary international law principle of self-defence, that is: "anticipatory self-defence". A soldier does not have to be fired upon before he can use force. He is allowed to use force when he expects or perceives that he is about to be attacked. But several conditions are attached to anticipatory self-defence: the threat must be imminent, and the use of force must be immediate, proportionate, and necessary.<sup>34</sup> This other aspect of self-defence does little to simplify the problem for the man or woman on the spot who must decide when a potential adversary has embarked on an irreversible path to an attack, and has shown hostile intent.<sup>35</sup>

On anticipatory self-defence, *Use of Force in CF Operations* manual states: "Canadian forces are not required by international or domestic laws to receive an attack before they are authorised to respond with deadly force. Under certain circumstances, force up to and including deadly force may be used pre-emptively to protect Canadian forces or other designated personal under CF protection, against an imminent threat. There must be a reasonable belief by the on scene commander that the use of force by an opponent is imminent and the requirement by CF personnel to use force is instant and overwhelming with no other recourse available."<sup>36</sup>

One could argue that anticipatory self-defence gives the operational and tactical commander more latitude, or at least a more comfortable position. It could also be seen as a morale booster. The great difficulty however, is in the recognition of some of the concepts linked to and allowing the use of self and/or anticipatory self-defence.

### **Key Concepts in the Use of Force**

The *Use of force in CF Operation* manual identifies a number of fundamental principles applicable to all operations conducted under the law of peace. I will not discuss them here, but instead concentrate on two of the key concepts: hostile act and hostile intent. They also dictate when force can be used. They are common to the use of force in domestic and international operations and are fundamental to the application of ROE at home and abroad.<sup>37</sup>

During the operational tour of HMCS ALGONQUIN to the Adriatic, the patrols took place off the Montenegrin coast. It was not unusual to detect up to twenty MIG aircraft conducting training and probe missions from one of their bases approximately seventy miles inland. On occasion, a pair of aircraft would come towards the ships but would turn away ten miles from the coastline. One night we picked up an unidentified air track closing from forty miles, no electronic emission, no IFF, at 250 knots and descending from nine thousand feet. As the contact crossed the coast, it was locked on with fire control radar and within two seconds it was engageable, range seventeen miles. The air controller was ordered to establish radio contact; we did not have proper warning procedures then, to help identify him. He turned out to be a small commercial aircraft, a DASH 7 smuggling in and out of Montenegro. Neither the ROE nor the Tasking Orders

were clear on the criteria for a hostile track and the definition of hostile intent. We had developed our own and certainly, this track did not fit all the parameters. But, what if the incident had happened under different circumstances; perhaps in conjunction with a patrol boat reconnaissance, which were not frequent but still occurred. What if it would have happened in a period of more intense tension like the USS Vincennes found herself in the Persian Gulf; shooting down a passenger aircraft believing it was an Iranian fighter.

In order to prevent being surprised and inadvertently initiate an engagement and more importantly to protect oneself, it is paramount that hostile act and hostile intent be defined as accurately as possible and to be recognised properly in a timely manner. This has not always been the case. Somalia is an example where the two terms were not distinctive enough and the interpretation was left to personal definition.<sup>38</sup> The soldier who had assumed that anyone pointing a weapon was demonstrating hostile intent and therefore he had a reasonable belief that a threat existed warranting the use of deadly force is a prime example.<sup>39</sup> The same difficulty arose with the Australian forces. For Operation Restore Hope, U.S. troops were given examples of hostile intent.<sup>40</sup> They could not be reviewed since they are still classified SECRET/NOFORN so judgement on their clarity is impossible. However, the well published incident of the U.S. Marine shooting a Somali who had stolen his sunglasses begs the question of whether the definition was clear enough or the soldier's perception of the rule was erroneous. In any case, the Marine was convicted of assault. In an other case, where a Somali boy who was approaching a vehicle with a box that could have looked like a bomb, the Marine who shot him was vindicated. It was determined that one was acting in self-defence the other was not.<sup>41</sup>

The borderline between innocent acts and acts displaying hostile intent is the most difficult area to define in any defensive or limited conflict ROE, and the area requiring greatest guidance.<sup>42</sup> Their definition needs to account not only for the threat but also for the cultural and human behaviour as well as religious beliefs and customs of the opposition. For example, some civilisations will see matters differently; approach issues with a different view on life, others with their flamboyance, rites, and taboos provide a different challenge. A totally uncontrolled state will act differently than a country with some restraint or discipline. Knowing your enemy must be part of the equation in formulating and utilising ROE.

Of the two, hostile act is easier to define and recognise even if recognition of the threshold with modern weapon systems may be too late to allow actions to be taken in self-defence.<sup>43</sup> The premise that in a more technically oriented environment the machines are the basis of the fighting and the threat will be exhibited by a radar or other electronic indication along with a particular behaviour while on land only behaviour demonstrate intent is in my opinion a narrow minded view.<sup>44</sup> It is true that machines and weapons systems may be robotic but will always, to a degree, be controlled by humans. In the end, someone always pulls a trigger or will pull a switch. The reality of maritime operations could be more problematic. The picture can be every bit as confused as in any other environment. For example, USS Vincennes shooting an Airbus and the attack by an Iranian aircraft on USS Stark in the Persian Gulf demonstrates how difficult it can be, in the stress of battle, to make fundamental decisions about identities and intent. In fact, a high degree of sophistication in warfare equipment will reduce the occasions of human

intervention and pattern of behaviour resulting in a reduced ability of adequately assessing behavioural conduct and hostile intent.

The use of force against hostile intent is more complex. In defining hostile intent and hostile act, we must strive to be clear so that we will be able to more rapidly, accurately and effectively judge the antagonist's action. The definition will be different with each mission and will most certainly evolve within a given mission due to time, intensity, and changing objectives. Furthermore, if strategically, operationally, and tactically acceptable, why not inform the opposition of our definitions so that both parties will know the rules? In the case of the unknown air contact in the Adriatic, he knew better two days later when he reappeared again, this time requesting permission before crossing the coast. If it is known, for example, that we define firing in one's direction or over the head as a hostile intent or act and if we appraise the other side of the consequences of such an action, it may prevent escalation and help accomplish the mission. After the Stark attack, the United States reviewed their ROE and did go public on their new intentions thereby forewarning the belligerents.<sup>45</sup>

Perception is often at the heart of conflict. Why not try to make matters clear? After all it is too often a game that is played, a game with fatal consequences. In this way, forces can be encouraged to avoid actions that lie within the grey area, which may be misunderstood as conveying hostile intent.<sup>46</sup> Ultimately it is the man pulling the trigger who decides when force is to be applied; the order/directive being given to him must be clear, simple, and executable if his acts are to support policy effectively.<sup>47</sup>

Mere speculation does not constitute reasonable belief. One of the fundamental principles of the use of force in peacetime is that such use must be based on the individual determination that the force is authorised in the circumstances (easy to do), the use of force is necessary (more difficult to determine) and the use of force is based on a tangible threat (the difficult part).<sup>48</sup> In his paper, Moxley states that the soldier does not fully understand the principle of "reasonable belief" and he has not, or is unwilling to distinguish one situation from another.<sup>49</sup> It is argued that the unwilling soldier is the rare exception. However, a clearer and more complete definition of hostile intent and hostile act would certainly help the decision making process. Otherwise an individual cannot properly employ the ROE and more importantly exercise their right to self-defence.

### **Education and Training**

CF members needed to be trained on the ROE before deploying to Somalia if the ROE were to be properly employed...training was imperative to reflect not only the changed area of operations but also the elevated level of danger entailed in a peace enforcement mission...although training could help give...clear and practical directions on the use of force, by not providing for detailed, mission specific training on ROE our military leaders failed their soldiers.<sup>50</sup> We have made progress in the understanding and application of ROE since the Gulf War and Somalia, but it could be argued that some of our subordinates and maybe some of us still feel uncomfortable with this essential doctrine for peace, conflict and war. As in the case of introducing a new, sophisticated piece of equipment with all of the operating instructions and the required training, we

need to better educate and train every person, military and civilian, in the management and application of ROE.

At the strategic level we have developed a sound comprehension of ROE. Our politicians understand the process, requirement and mechanism. A dialogue exists to ensure that ROE support the political and military objectives, the mission, and are representative of the applicable law. There is a good link with NATO and the UN. But there is a need for more jointness at the NDHQ level.<sup>51</sup> Also ROE play is now an integral part of every major maritime exercise, both National and NATO. They certainly provide opportunities for examining the process of formulation, promulgation, and alteration, but these exercises do not in reality control force.

Training for specific occupations and missions is provided. For example, naval operational and tactical staff are briefed on the Law of Armed Conflict and trained in ROE. The Army and Air Force have pre-deployment training packages at the tactical level. However, each of the Land Force Areas have their own unique ROE training programme. Land Force Atlantic and Land Force Western Area prefer to incorporate ROE into exercises and pre-deployment training which is mission specific. Land Force Central Area on the other hand has adopted a set of training ROE, which is used for both exercise and pre-deployment training. Secteur du Québec provides basic theory training prior to realistic situational training conducted during exercise and pre-deployment training.<sup>52</sup> The United State Marine Corps is struggling with the same training issues. Their training is also fragmented and incomplete.<sup>53</sup>

But since force is not used, it is difficult in a training environment to measure behaviour and to account for the human factor. People will behave differently at all levels, from the Prime Minister to the infantry soldier, when real bullets are fired at real people.<sup>54</sup> What appears to be clear on paper may not be clear when put to the test in the heat of battle. Present methods of preparing soldiers in the application of force rely too heavily on legal instruction, and issuing rules of engagement for controlling behaviour.<sup>55</sup> We need to develop a more formalised, comprehensive and joint approach to ROE education and training at all levels. This programme would have to include skills such as stress management, conflict de-escalation and mediation techniques as well as consideration of the human dimension. Some of the procedures and equipment used by police forces and law enforcement agencies may also be applicable in this case. Indeed from a U.S. point of view, the similarity between the ROE for Operation Restore Hope in Somalia and those for police forces indicate that it may be useful to study how police organisations train their personnel.<sup>56</sup> It would also have to start at the basic recruit training and be continuous throughout the career of the individual, including during operations.

## CONCLUSION

In the final analysis it is argued that to understand the meaning and the implication of the two key concepts of hostile intent and hostile act and to properly implement use of force doctrine, we must adopt a training model that not only teaches the rules but also trains individuals to make judgements in the application of force. Our current training method assumes that soldiers can make judgements concerning use of

force before rules have been identified, memorised, understood, related to new situations, distinguished from other situations, or combined with other tasks.<sup>57</sup> ROE is a very complex domain with principles such as self-defence and anticipatory self-defence and concepts such as hostile intent and hostile act, crucial to its execution. It is vital that we choose the right teaching method and suitable techniques. We may also need to re-evaluate the educational requirement for our men and women; we have just done so for the officer corps and concluded that improvement was required. The U.S. Navy believes that the emphasis on high quality recruitment was a contributor to the ability of the Marines to handle ambiguous situations in Somalia.<sup>58</sup>

Over the last year or so, we have continued the development of ROE at a frantic pace. The design and the approach for the formulation of ROE in the Canadian Forces at the strategic and operational levels takes into account the relationship between policy, military operational requirements, legal constraints, public opinion, and the mission.<sup>59</sup> It has evolved over a number of years and has been based, for the most part, on maritime and land forces experiences. The mechanism for their promulgation is also well detailed.

The utilisation of the ROE is however, probably the most challenging task in applying force in domestic operations and in international peace support operation missions of ever increasing complexity as well as war. It can be the key to success or the basis of military disasters. It is therefore imperative that we provide all the tools, including education and formalised training to our staffs and especially our operators who will execute and accomplish these missions. ROE are such a complex and dynamic domain that a clear definition and understanding of the two most important concepts,

hostile act and hostile intent, is the key to achieving a more complete understanding of the successful use of force.

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NOTES

<sup>1</sup> Martin van Creveld, The Transformation of War (New York: The Free Press, 1991) 192-223.

<sup>2</sup> Capt (N) J. Ashley Roach, JAGC, US Navy, "Rules of Engagements," Naval War College Review 1983: 46.

<sup>3</sup> Roach 47.

<sup>4</sup> Bradd C. Hayes, "Naval Rules of Engagement: Management Tools for Crisis." RAND/UCLA Santa Monica, USA, July 1989, iii.

<sup>5</sup> Lt Col. Stephen Randolph, "Rules of Engagement, Policy, and Military Effectiveness: The ties that bind," Maxwell AFB, Alabama, USA, April 1993, 2.

<sup>6</sup> Capt (N) Russ Swinnerton RAN, "Rules of engagement in Maritime Operations," Canberra, Australia, 1994, 2.

<sup>7</sup> Canada, Commission of Inquiry into the Deployment of Canadian Forces to Somalia, Dishonoured Legacy, (Ottawa: Minister of Public Works and Government Services Canada) Vol., 2, 653.

<sup>8</sup> Canada, B-GG-005-004 AF 005 Use of Force in CF Operations (Ottawa: Minister of Public Works and Government Services Canada) 1997, 2-2.

<sup>9</sup> Randolph 2.

<sup>10</sup> Swinnerton 2.

<sup>11</sup> Roach 50.

<sup>12</sup> Use of Force in CF Operations Chap 1, section 1, part II, 1.

<sup>13</sup> Use of Force in CF Operations Chap 1, section 1, part II, 1.

<sup>14</sup> James M. Simpson, "Law Applicable to Canadian Forces in Somalia 1992/93," Study, Ottawa: Minister of Public Works and Government Services Canada, 1995, 38.

<sup>15</sup> Col. Don Mathews, "Rules of Engagement," Advance Military Studies Course Lecture, CFC Toronto, Sep 98.

<sup>16</sup> Capt (N) Smith. NDHQ/DMFE, telephone interview 16 Sep 1998.

<sup>17</sup> Commission of Inquiry Somalia Vol., 2, 654.

<sup>18</sup> Simpson 38.

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- <sup>19</sup> Commission of Inquiry Somalia Vol., 2, 655.
- <sup>20</sup> Swinnerton 1.
- <sup>21</sup> Adm. G. Maddison, CMS, "Law of Armed Conflict Course," Halifax 14 Sep 98.
- <sup>22</sup> Use of Force in CF Operations Chap 1 Section 1 part II, 2.
- <sup>23</sup> H. MacDougall, The legal basis for Chapter VI and Chapter VII UN Sanctioned Operations, (Ottawa: Minister of Public Works and Government Services Canada), 13 June 1995.
- <sup>24</sup> Hayes 6.
- <sup>25</sup> Roach 49.
- <sup>26</sup> Use of Force in CF Operations\_Chap1 section 2, 1.
- <sup>27</sup> Roach 49.
- <sup>28</sup> Use of Force in CF Operations 2-2.
- <sup>29</sup> LCol., Bert Herfst, "The Legal Aspects of Rules of Engagement," Directorate of Law/Operations  
Ottawa, 8 Oct 1998, 7.
- <sup>30</sup> Swinnerton 12.
- <sup>31</sup> Hayes 5.
- <sup>32</sup> Use of Force in CF Operations 2-1.
- <sup>33</sup> Swinnerton 9.
- <sup>34</sup> Jonathan T. Dworken, "Rules of Engagement (ROE) for Humanitarian Intervention and Low-Intensity Conflict: Lessons from Restore Hope," Center for Naval Analyses, Alexandria, USA 1993, 7.
- <sup>35</sup> Swinnerton 7.
- <sup>36</sup> Use of Force in CF Operations 2-2.
- <sup>37</sup> Use of Force in CF Operations 1-1.
- <sup>38</sup> Commission of Inquiry Somalia Vol., 2, 658.
- <sup>39</sup> W.T. Moxley, "Shoot-don't shoot: a soldier's dilemma," CFC, 1995-1996, 13.
- <sup>40</sup> Dworken 31.
- <sup>41</sup> Dworken 15.
- <sup>42</sup> Swinnerton 8.

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- <sup>43</sup> Swinnerton 8, Also Use of Force in CF Operations Chap 1, section 1, part II, 1.
- <sup>44</sup> LCdr. Guy R. Phillips, "Rules of Engagements: A Primer," CFC, Jul 1993, 19.
- <sup>45</sup> Swinnerton 8, also Hayes 42.
- <sup>46</sup> Swinnerton 8.
- <sup>47</sup> Randolph 24.
- <sup>48</sup> Use of Force in CF Operations 1-2.
- <sup>49</sup> Moxley 14.
- <sup>50</sup> Commission of Inquiry Somalia Vol., 1, 655-656.
- <sup>51</sup> Capt (N) Smith. NDHQ/DMFE, telephone interview 16 Sep. 1998.
- <sup>52</sup> M.J.P. Beaudette, "The requirement for Rules of Engagement training programme for the Land Force," CFC Toronto, May 1997, 12.
- <sup>53</sup> Col. Frederick M. Lorenz, "Rules of engagement training," Marine Corps Gazette Sept 1996, 77.
- <sup>54</sup> Swinnerton 12.
- <sup>55</sup> Moxley Abstract.
- <sup>56</sup> Dworken 3.
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