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RULES OF ENGAGEMENT IN GROUND OPERATIONS: A LEGAL OR TRAINING PROBLEM?

By/par

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RULES OF ENGAGEMENT IN GROUND OPERATIONS: A LEGAL OR TRAINING PROBLEM?

By Colonel Robert Maynard

The Commission concludes that the... ROE contributed to a mind-set that detracted from the readiness of the US contingent of the Multinational Force to respond to the terrorist threat that materialised on 23 October 1983.

The Department of Defense Commission on the Beirut International Airport terrorist act that killed 241 marines and sailors.¹

Furthermore, this court-martial strongly recommends to the convening authority... that rules of engagement, in general, were not clearly stated to the soldiers.

The United States Army court-martial panel upon sentencing Specialist James A. Mowris for negligent homicide of a Somali civilian.²

INTRODUCTION

Whether deployed as peacekeepers, counterinsurgents, peace enforcers, or conventional warriors, military personnel will sometimes make poor decisions about whether to fire their weapons. The problem arises when, having been placed in a situation where the use of deadly force may be necessary, they encounter a potential problem and fail to assess correctly whether it is a threat. Then, someone who posed no such threat is shot or some tactical advantage is surrendered to an opponent. This lost advantage may even permit a hostile element to kill allied military personnel and comrades. A classic example of this deadly dilemma was the hesitant response of the marine sentry near the Beirut Airport on October 23, 1983.³

Military personnel face hard choices about what, when, and where they can shoot. To mitigate the difficulty of these choices, the concept of Rules of Engagement (ROE) was developed to provide the necessary guidance and direction in the use of force. Unfortunately, as the two epigraphs suggest, the ROE often provide little help. Over the past three decades, commanders and military legal staff have searched for an effective method of imparting ROE to subordinate commanders as well as to individual sailors, soldiers and airmen. The stakes are

¹ US Department of Defense, Report of the Commission on Beirut International Airport Terrorist Act, 23 October 1983, (20 December 1983): 135.

² US Department of Defense, United States vs Mowris, Fort Carson, (1 July 1993): 1.

high in this search and without an effective solution, our personnel can potentially be placed in an unacceptably risky position.⁴ There are two main issues that must be addressed.

The first issue is that ROE are normally issued as part of operations orders, and as such they are considered as tools to be used in the accomplishment of the mission within the scope of our society's acceptable behaviour pattern. Originally, even though they needed to satisfy the various bodies of law, ROE were certainly operations-based. However, the growing occurrence of military operations other than war (MOOTW), and more specifically peacekeeping operations, has increased the emphasis on ensuring that they satisfy all aspects of domestic and international law. It has now become more difficult to translate these legal requirements into orders that will satisfy the operational requirement. The ROE are operational orders that must be legally correct, but too often they are developed as legal documents that are applied to operations. Generally speaking, military lawyers are an advisory resource rather than a substitute for sound grounding in military law among operational level officers, on whose shoulders the responsibility for interpretation of ROE will fall.⁵

The second issue is that between the legal language of the law and the clarification of case law, it is unlikely that any military personnel can operate comfortably on operations without specific training in this area. To operate effectively, there are several important questions that a soldier should be able to answer. For example, what is hostile intent? What are reasonable grounds? What is a manifestly unlawful order?⁶ This would suggest that training in the rules governing the use of force is certainly required.⁷

The essay purposely limits the discussion to the ground environment, because this is where most ROE related difficulties have occurred. By virtue of the nature of their operations and a lack of communications technology, naval commanders historically have had more independence from superiors' directions over their actions. In those conditions, ROE provided an excellent means by which to exercise control over the use of force in a crisis.⁸ To a certain extent, this also applies to the Air Force. In addition, in naval and air operations, the possible

³ Major Mark S. Martins, "Rules of Engagement for Land Forces: A Matter of Training, not Lawyering," Military Law Review, 143 (Winter 1994): 10.

⁴ Martins 4.

⁵ Chris Madsen, Another Kind of Justice, (Vancouver: UBC Press, 1999) 159-160.

⁶ Captain Ken Watkin, "Legal Aspects of Internal Security: A Soldier's Protections and Obligations Part I", Canadian Forces JAG Journal, 1 (1986): 56.

⁷ Watkin 56.

⁸ Lieutenant-Commander Guy R. Philips, "Rules of Engagement: A Primer." The Army Lawyer, (July 1993): 5.

situations requiring use of force are perhaps more quantifiable. The decisions are left to a few individuals based on distinct sensors' readings of the situation, although there are certainly exceptions such as boarding parties on ships. It is not intended to deny the complexity and the importance of ROE in any environment, but it was felt that currently, the ground forces are more lacking in the area of ROE. The special considerations of MOOTW are certainly responsible for the ground forces' realisation of the importance of specific direction in the use of force.

This essay maintains that ROE must be designed as clear, concise and practical documents under the responsibility of commanders and their staffs, with military lawyers providing assistance and advice. From these ROE, an effective training program must be developed for soldiers at every level of the chain of command.⁹

To set the context of the discussion, the paper will describe the purpose and historical origin of ROE and their relationship to the law. It will then describe some of the problems that we encounter in developing ROE and preparing our ground forces personnel in their use. Finally, the paper will examine how a properly designed training plan can alleviate many of those problems.

It should be noted that although there is a large body of writings on ROE in the US, there is a severe lack of such writings in Canada. This is considered very unfortunate, as the vast Canadian exposure to peacekeeping operations has generated an invaluable expertise in the development and use of ROE in MOOTW. Although this paper mostly uses US sources, it concentrates on drawing from lessons and statements that are generally applicable to all nations, including Canada. Specific applications to the Canadian situation are then deduced from these generic statements, complemented by the existing Canadian sources.

PURPOSE OF ROE

The Canadian Forces (CF) define ROE as "directions and orders regarding the use of force 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

⁹ Note that from this point, the term soldier will be used to represent all personnel, from front line troops to operational commanders and including their staff. When specific mention of one of these groups is made, then the latter terms will be used.

ambiguity that could lead a commander to violate national policy by inadvertently under-reacting or over-reacting to an action by foreign forces."¹⁰

ROE provide the means by which operational commanders endeavour to exercise control over the use of force in a crisis, as mandated by national or international authorities.¹¹ In simple terms, ROE are a control mechanism that allows force to be used across the spectrum of conflict.¹²

To understand fully the complexity of developing ROE, it is necessary to look at their purpose. For instance, the present method of imparting ROE sorts rules into three groups: policy, legal, and military.¹³ The OKA provides an example of ROE that serve a policy purpose with the decision that CF personnel would not fire the first bullet, but rather accept that one of its soldiers would be the first casualty. An example of a rule that serves a military purpose is the common requirement in ground operations that the artillery tubes organic to a unit will not fire beyond a designated fire support co-ordination line. This restriction ensures an efficient division of labour between fires controlled at one level and those controlled by higher levels of command. An example of ROE drafted for a legal purpose is the prohibition that hospitals, churches, shrines, schools, museums, and any other historical or cultural sites will not be engaged except in self-defence. These purposes often overlap, and the ROE must implement strategic policy decisions, while simultaneously serving an operational or tactical military goal, all within compliance of domestic and international law.¹⁴

As a result, troops in the field may not appreciate the reasons why a leader fashioned a particular rule. Indeed, troops may not discern purposes even if the clear military disadvantage of the rule and its restrictive nature compared to a prior rule would make its policy origins apparent to an outside observer. It is unlikely that the sweaty private in Somalia during October 1993 understood or cared to understand the delicate policy aims of his superiors.¹⁵ Ensuring that this soldier's actions still supported those policy aims is the delicate problem that we face in training our troops.

¹⁰ Canada, Department of National Defence, B-GG-005-004 AF 005 Use of Force in CF Operations Vol 1 (Ottawa, Canada, 1997) 2-2.

¹¹ Captain (N) Ashley Roach, "Rules of Engagement," Naval War College Review (January-February 1983): 46.

¹² Captain(N) P. Guindon, Rules of Engagement, (Canadian Forces College, Toronto, 1998) 1.

¹³ Martins 24.

¹⁴ Martins 25.

¹⁵ Martins 25-26.

HISTORICAL BACKGROUND

If ROE create such a dilemma, what are their origins and how did the present method of imparting ROE to ground forces come about? A quick look at the historical origins can place us in the proper context. The classic predecessor of modern ROE in tactical orders given on battlefields is the example of the Battle of Bunker Hill, on 17 June 1775, where William Prescott issued his now famous order: “Don’t one of you fire until you see the whites of their eyes.”¹⁶ That order would qualify today as a rule of engagement because it specified the circumstances under which friendly forces could initiate combat with other forces.

One also might search for the origins of ROE in seminal writings on military strategy. The proposition of Clausewitz that war is but a means of achieving political objectives is an obvious ancestor to the modern notion that ROE function as devices to help bring military operations in line with political purposes.¹⁷ Strategy sets fundamental conditions for conflict, establishes goals in theatres of operations, assigns forces, and provides assets, whereas ROE set specific concrete limits on weapons and targets to serve these strategic aims. Consequently, the link between strategy and ROE is both strong and conspicuous.¹⁸

Although legendary battlefield orders and early writings on strategy are plausible precursors, the present method finds its most important roots no further back in history than the Korean War. In the period since that conflict three factors have converged, forcing governments and senior military leaders to issue ROE to more completely harness military action to political ends. First, weapons of mass destruction have been available to competing sovereign states, creating the spectre of nuclear holocaust and the incentive to prevent minor incidents and conflicts from escalating. Second, technological advances in communications and information processing have vastly increased a central authority’s ability to direct the actions of subordinates, even though these same advances have not achieved the sort of perfect, real-time information that conceivably would make ROE unnecessary. Third, an aggressive and sceptical news media has emerged, willing to question the use of military force, capable of projecting the consequences of this force into millions of living rooms, and prepared to focus the wrath of the population on a political leader who appears to have lost control.¹⁹

¹⁶ John Bartlett, *Familiar Quotations*, (Emily M. Beck, 1980) 368.

¹⁷ Karl von Clausewitz, *On War*, (Princeton University Press, 1976) 87.

¹⁸ Martins 34.

¹⁹ Martins 34-35.

In the case of the Canadian ground forces, it is only in the 1990s' that ROE have become a consideration in planning for an operation. Specifically, although ROE existed in the Somalia deployment, it is due to the problems encountered there that the CF now devoted much effort and time on ROE. A board of inquiry established in 1993 by the chief of the defence staff delivered a number of specific recommendations on rules of engagement, among others.²⁰

RELATIONSHIP TO THE LAW

ROE are based on a multitude of considerations. Capt(N) Guindon describes very well the variety of influences that affect the ROE. Political factors include regional, national and international considerations. Legal factors include national and international laws as well as the Law of Armed Conflict (LOAC). Here in Canada, the application of force is governed principally by the Criminal Code of Canada. International operations, however, come under the umbrella of international laws, alliances, coalition agreements, United Nations resolutions and mandates as well as our criminal code.²¹ All this, while still allowing maximum freedom of action possible to soldiers for the greatest chance of mission success.

The Commission of Inquiry on Somalia received this outline of the provisions of the UN Charter. For military purposes, the UN Charter has evolved so that it can be applied to the full spectrum of operations: from simple peacekeeping to high intensity armed conflicts, include peace enforcement and all intermediate types of operations. It is, therefore, fundamentally important that the mandate authorising a given mission include a set of broad directives so that the resulting ROE will represent operational, political and legal considerations.²²

ROE must be premised under the principles of national and international law. Foremost among these principles are the restraints on the use of force under international law to which a commander must adhere. Retorsion, reprisal, and intervention are three of the four measures of self-help under the system of legal regulation of the use of force. The fourth, self-defence, is probably the most applicable in peacekeeping operations. However, it is not an absolute right to

²⁰ Madsen 144.

²¹ Guindon 4.

²² Holly MacDougall, The Legal Basis for Chapter VI and Chapter VII UN Sanctioned Operations, (Ottawa, 13 June 1995).

justify self-preservation, but must be motivated by a hostile act or intent.²³ Roach defines these concepts as “the actual use of armed force” and “the threat of the imminent use of force.”²⁴

In Canada, the Criminal Code and the National Defence Act regulate the use of force. Members of the CF acting in domestic operations can be given the status of constables and, therefore, are peace officers under the provisions of the Criminal Code. They hereby obtain the legal justifications and defences accorded to peace officers in performing their duties.²⁵

DEVELOPMENT OF GROUND FORCES ROE

How can ROE best help ground troops avoid over-tentativeness, at one extreme, and undisciplined fire, at the other? The problem is to determine how ROE can best contribute to minimising inappropriate omissions and acts.²⁶ To this end, an important question that has not been satisfactorily resolved is whether the lawyer or the soldier draft ROE. Common sense would suggest that both must be involved, but very little has been written on the methodology and responsibility for drafting ROE.²⁷ LCol Warren, from the US Army Judge Advocate General Corps, laments the fact that military doctrine does not assign clear responsibility in the development of ROE.²⁸ In Canada, doctrine also does not assign this responsibility and each operation is treated differently, depending on the personalities involved.²⁹ As a result, it is difficult to replicate successes and to apply lessons learned from previous experiences.

LCol Warren describes several strong reasons for having military lawyers involved in the development of ROE: as interpreters of the law, they can provide advice concerning the meaning, effect and enforceability of ROE; they can assist operations staff in drafting ROE for an operation, or in “distilling” complex ROE from higher HQ into simplified extracts or pocket cards; and they can assist in validating some of the training on ROE and more specifically the LOAC.³⁰

But do these arguments do not suggest assigning the responsibility for ROE to lawyers. In fact, LCol Warren also maintains that ROE planning for any operation should be done

²³ Philips 9-10.

²⁴ Roach 50

²⁵ Philips 14.

²⁶ Martins 21.

²⁷ Philips 25.

²⁸ Warren 53-54.

²⁹ Lieutenant-Colonel Ken Watkin, personal interview, 1 December 1999.

³⁰ Warren 53.

concurrently with the actual planning for the mission and that ROE at the operational and tactical level should remain operational, not legal, documents.³¹ Commanders must ensure that ROE are not prepared in isolation from operational planning.³² The case for operations staffs to lead the ROE development process is made very strongly in lessons learned from the NATO experience in Kosovo, where the responsibility for ROE planning defaulted to legal advisors. As a result, the ROE focused on what would be legally acceptable rather than on what guidance the ground forces needed and so were not appropriate for the operation.³³

The vagueness in assigning responsibility for ROE has allowed commanders and operations staffs to sometimes delegate the drafting of ROE to judge advocates who possess little knowledge of the combat arms or land force weapons systems. As a result, although ROE exist to set limits and to protect front line soldiers from prosecution, they may be regarded by the latter as “ivory tower” nonsense or as handcuffs that impede combat operations and increase risk.³⁴ From the above, it is suggested that the primary staff responsibility must remain with the operations staff, with support from the military legal staff.³⁵ But members of the staff they can only handle this responsibility if they have been properly trained to do so. This extends the need for training to cover not only ROE implementation for front line troops, but also LOAC and ROE development training for operational level commanders and operations staffs. As will be discussed later, it should be noted that in Canada, this level of training does not exist at this time.³⁶

Major Martins describes the method of imparting ROE to land forces as the legislative model. He also maintains that this model is ineffective because leaders and judge advocates, although undoubtedly motivated by noble intentions, unrealistically assume that they can create, interpret, and enforce ROE the same way governments create, interpret, and enforce laws. The model also neglects the stressful environment in which soldiers must decide whether to use force. Yet, current US land force doctrine and training on ROE implicitly rely on this model.³⁷

³¹ Lieutenant-Colonel Marc L. Warren, “Operational Law – A Concept Matures,” Military Law Review, 156 (1996): 54.

³² Lieutenant-Colonel James C. Duncan, “The Commander’s Role in Developing Rules of Engagement,” Naval War College Review (Summer 1999): 77.

³³ Commander Dan Fitzgerald, “MC 362 – NATO Rules of Engagement”, SACLANT HQ Briefing to AMSC, (17 November 1999): 29.

³⁴ Martins 20.

³⁵ Warren 54.

³⁶ Watkin, “interview”.

³⁷ Martins 21.

Rather than helping matters, the ROE simply add frustration or confusion to the already adverse circumstances under which soldiers must decide whether to fire. A cartoon posted on a bulletin board by marines in Beirut after the 1983 bombing undoubtedly captures the view some soldiers have of ROE. A marine rifleman is in a prone firing position behind a barricade in Lebanon. The President of the United States is whispering in his ear: “Before you fire, I want you to consider the nuances of the War Powers Act.”³⁸ Although Canadian doctrine does not directly ascribe to this model, it can be argued that a good understanding of the problem areas described by Martins is important, as they constitute possible pitfalls that await the Canadian ROE planner.

The first problem area is in the initial creation of the rules. Leaders generally share an inclination to control individual conduct by creating rules or laws. This is a reasonable method of providing direction and reaffirming important group values, especially in complex situations. Unfortunately, there are two problems that are usually not recognised by leaders. The first problem is that the making of rules does not change the primary, private conduct of individuals. The adage “you can’t legislate morality” applies fully to ROE. Connections to individuals’ behaviour must occur through wilful obedience or enforcement. The second problem is that there is little incentive to eliminate superseded rules. The result is a plethora of contradictory and redundant rules that only serve to confuse the individuals who must follow them.³⁹ The “Use of Force in CF Operations” publication provides a good step towards simplifying the creation of ROE.⁴⁰

The second problem is in the interpretation of the rules. The legislative model assumes that individuals will assimilate and understand the rules prior to acting and

The third problem is in the enforcement of the rules. Under the legislative model, violations of ROE must be interpreted as criminal violations. But it must be understood that even though the conduct it proscribes may constitute a crime, the ROE itself is not an enforceable criminal law.⁴² The ROE are certainly orders, and in fact in Canada they are defined as such. But orders that expect an interpretation or a judgement call by the individual affected have been found by military courts in the US to be unacceptably vague. As such, a misjudgement by Canadian soldiers in applying ROE could be punishable as an infraction under the National Defence Act, but not as a crime under the Criminal Code. Poor dissemination of facts surrounding a prosecution for excessive use of force is also a problem, as it will lead to the perception that prosecution will follow every decision to use force. The result is a soldier that is hesitant to demonstrate initiative and will not take necessary action in the fear of retribution.⁴³ This may not be a problem in Canada at this time, as there have been very few cases of charges for infraction to ROE.⁴⁴ However, there is certainly a need to prevent misinformation by disseminating timely and factual information to all soldiers.

Finally, there is the issue of doctrine and how it leads to training. The current treatment of ROE in US Army doctrine is inadequate, as it mostly reinforces the legislative model and does not lead to the proper training of soldiers on the controlled use of force. There is no training for domestic operations, but rather a reliance on the belief that high-intensity combat training will satisfy all eventualities.⁴⁵ Canadian doctrine and training for tactical troops have evolved much in the last few years, but there are still issues to be resolved. For example, ROE training for peacekeeping operations is performed on an as required basis prior to deployment, rather than as a conscious effort to prepare soldiers as part of their normal training.⁴⁶ In effect, the Canadian Army conducts mission-specific training rather than general-purpose training.

Both Warren and Martins contend that an alternative model exists. It is based on the precept that soldiers can learn to defend themselves and their units with initiative and to apply deadly force only when necessary. This learning process must begin with a set of clear and

⁴² Martins 55-75.

⁴³ Martins 55-75.

⁴⁴ Watkin, "interview".

⁴⁵ Martins 55-75.

⁴⁶ Colonel T.J. Grant, Training on Rules of Engagement in Domestic Operations, (Canadian Forces College, Toronto, 1998) 7.

simple rules on the use of force.⁴⁷ Simple and memorable “default rules” can serve as the basis for repetitive, generalised training and will set the stage for additional training on specific rules in an operation.⁴⁸ Once assimilated into a soldier’s judgement, these rules can provide a basis of understanding on which a larger system of contingent ROE may rest. Ground force trainers, a term comprising judge advocates as well as commanders, can anticipate scenarios, design rehearsals, promote role-playing, and demand brief-backs. Consequently, trainers can condition soldiers to respond better and use force more appropriately across the entire spectrum of potential armed conflict.⁴⁹

The Canadian Army has learned this lesson and conducts very practical pre-deployment training aimed at front-line troops. For initial deployments into a new operation, the training is oriented towards a generic set of ROE developed locally, until the actual operation ROE are made available.

TRAINING OF GROUND FORCES ON ROE

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.⁵⁰

There has been much progress in the understanding, development and application of ROE at the strategic level since the commission made that statement. But, at the operational and tactical levels, we still struggle to better educate and train every person, military and civilian, in the management and application of ROE.⁵¹

The Canadian Army has left ROE training to its Area Headquarters and so they have individually developed their own unique training programmes at the tactical level. These programmes mostly consist in pre-deployment training packages adapted to the current approved or draft version of ROE.⁵² The US Army and Marines are also struggling with training

⁴⁷ Martins 20.

⁴⁸ Warren 55.

⁴⁹ Martins 20-21.

⁵⁰ Canada, Commission of Inquiry into the Deployment of Canadian Forces to Somalia, Dishonoured Legacy: The Lessons of the Somalia Affair, (Ottawa, Canada, 1997) 655-656.

⁵¹ Guindon 7.

⁵² Guindon 7.

programmes that are fragmented and incomplete.⁵³ These examples demonstrate that ROE training is reactive rather than institutionalised in doctrine and training plans.

At the operational level, there is little training provided to commanders and their staffs. What training there is, consists mostly of legal instruction, and issuing rules of engagement for controlling behaviour. There is no ownership of ROE training and no existing course on ROE development and interpretation of the law.⁵⁴ We need to develop a more formalised and comprehensive 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. It would also have to start at the basic training and be continuous throughout the career of the individual, including during operations.⁵⁵ 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.⁵⁶

The alternative model described by Martins is based on comprehensive training on a standard and simple set of ROE. The aim is to produce soldiers that are better prepared to make the decisions that are required of them. The elements of the training model correspond to the problems of the legislative model listed above.

The first element concerns the development of ROE. Rules must be developed soon enough for soldiers to train with them. As much as possible, the texts of the rules should not vary either vertically between units in a particular operational chain or horizontally across similarly manned and equipped units. A standard set of ROE that apply to individual soldiers in a wide range of circumstances should form the basis for the training. Commanders should need to refrain from tailoring 2 T need

spectrum of operations, including domestic operations, which makes its development difficult. But it is possible to consider a set of ROE that is used for general-purpose training, supplemented by some mission-specific ROE for the most frequent types of missions. Some sample sets of ROE already exist in some Canadian Land Force Area Headquarters and are used for training of troops when actual operation ROE are not available.⁵⁸

The second element is the rejection of the assumption that soldiers, short on time and interpretative guidance, can follow ROE in the same way a business executive follows the tax code. The training would be aimed towards helping soldiers to acquire the judgement necessary to apply the default principles across a wide variety of situations. This could be achieved by simulating those situations and evaluating soldier responses against pre-established standards.⁵⁹ This is an area where the Canadian Army now excels. The tactical level training provided to front line troops is excellent. However, it is still left to local development, implementation and validation. There is still a need to formalise this process.

A third element is to use instances in which soldiers break the rules as learning tools through case studies and wide dissemination of all the facts relating to the incident, whether or not criminal prosecution has ensued. Of course, a small fraction of soldiers inevitably will commit crimes that go beyond good faith technical infractions and the military justice system must hold this small fraction accountable for their actions.⁶⁰ There have been very few cases of CF personnel being prosecuted for breaches of ROE. Regardless of whether these prosecutions were appropriate or not, the problem is that very little information on those cases has reached the CF population. This can only engender misunderstandings and false perceptions.

CONCLUSION

ROE are the linchpin in military operations, especially in operations designed to restore and maintain peace. Without exception, every plan and action is shaped and adapted to conform to the constraints and restraints imposed by these regulations. They provide the framework that supports the legitimate imposition of power abandoned by a non-functioning government. Without them, the rules where a peacekeeping force's predominant role is restoring and keeping

⁵⁸ Colonel Daniel Benjamin, personal interview, 27 November 1999.

⁵⁹ Martins 82-85.

⁶⁰ Martins 82-85.

the peace are doomed to become impromptu and arbitrary.⁶¹

ROE exist in a very complex domain with abstract principles such as self-defence and anticipatory self-defence and concepts such as hostile intent and hostile act. To understand the meaning and the implication of those two concepts 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 instantaneous judgements in the application of force. It is vital that we choose the right teaching method and suitable techniques.⁶²

Over the last few years, 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 must take into account the relationship between policy, military operational requirements, legal constraints, public opinion, and the mission. The actual utilisation of the ROE by the soldiers is, however, probably the most challenging task in applying force in domestic and in peace support operation. The purpose of training soldiers in the use of force is to avoid the extremes of either causing unnecessary casualties or not reacting at all, thereby permitting harm to themselves or to others.⁶³ It is, therefore, imperative that we provide all the tools, including education and formalised training to our soldiers who will execute and accomplish these missions.⁶⁴

In Canada, the large experience in peacekeeping and domestic operations has created a generation of soldiers who are well versed in the use of force. All front line troops are put through a rigorous training programme that prepares them well to interpret potential threats. However, there is no formal training of commanders and staff officers in the initial development of ROE, nor how to implement them, nor how to react after a problem has occurred in which force was used. Training soldiers in the use of force is more than simply training shortly prior to deployment. It must be institutionalised in our doctrine and in our training plans at every level of command and throughout the career of our commanders, staffs and soldiers at every level. The training must be continually reinforced to ensure that they are able to apply the rules for the use of force and be capable of resolving the legal and moral dilemmas that they may encounter when

⁶¹ Coulsdon, "Rules of Engagement: The Touchstone of Peacekeeping Operations," Jane's International Defense Review (September 1997): 78.

⁶² Guindon 8.

⁶³ Major W.T. Moxley, Shoot – Don't Shoot, a Soldier's Dilemma, Training Soldiers in the Use of Force, (Canadian Forces College, Toronto, 1995) 28.

⁶⁴ Guindon 8-9.

confronted with a decision to use force.⁶⁵

Tough choices will continue to confront our soldiers in future operations but use of force training can help transform confused and frightened reactions into rational decisions. The lives of our soldiers demand it and the success of the mission may depend on it.⁶⁶

⁶⁵ Moxley 28.

⁶⁶ Moxley 30.

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