

## Address by General Jean-René Bachelet

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When I was invited to introduce this subject, my initial fear was that you were taking a risk in giving the floor to someone who has spent 42 years in uniform and in the infantry at that. This is a meeting of experts and I am obviously no expert on international law, let alone on the sanctions which are intended to reinforce it. However, my impression that, in asking me to speak, you had picked the wrong person was dispelled when, having read your documentation, I realized that the backdrop for the subject was in fact wartime behaviour, a topic with which I am not exactly unfamiliar.

The least I can do is to start by setting the scene. It is important and even crucial to appreciate the atmosphere surrounding wartime events if one wishes to understand what prompts people's behaviour. That is why it is useful for your examination of humanitarian law in wartime to start by painting a picture of wartime confrontations, exceptional situations which sometimes involve unbridled violence and in which standard references go by the board. In different ways, it will help us to capture the atmosphere.

I would like to make it clear that I will be presenting the point of view of a former member of an institutional army, the French army, rather than that of a "bearer of weapons", a term used that I find strange. Those who exercise what I will call the "profession of arms" are obviously subject to law – national law – which is hopefully not unrelated to international law.

## The need for the adoption of a moral code

However, as soon as reference is made to behaviour – and hence action – what kind of law would it be if the protagonists did not approve of the moral code on which it is inevitably based? It is very likely to be useless, just as within a nation, a state governed by the rule of law, it is easy to imagine that when its people cease to be guided by the awareness that their lives are based on common values, civilian peace is at risk. At a deeper level and probably more powerfully than by law – although it is not an alternative – behaviour is therefore guided by the moral code that has been internalized.

After describing the highly charged setting of armed confrontations, and to provide a context for your subject, I would therefore like to focus on a number of basic principles inherent in a moral code for the profession of arms which is intended to guide behaviour in such situations. Let us start, then, by plunging into the heart of the inferno. In doing so, I am not going to refer to historical events from a distant past, but to a relatively recent event which is, in any case, set in the context of present-day conflicts.

## The context of conflicts

We are in Sarajevo in May 1995. As you will know, for three long years the international community has been looking on, powerless, as the former Yugoslavia imploded. After Croatia, it was the turn of Bosnia; those who were familiar with the country and its history knew that the fighting was going to be merciless, which it was.

## The military-political environment

I do not recall exactly how many UN resolutions were flouted as soon as they were passed. Blue helmet troops were sent in – more and more of them, without any apparent effect. At that time, for the Sarajevo sector alone, there was an Egyptian battalion, a Russian battalion, a Ukrainian battalion, three French battalions and a French air force detachment at the airport, all under the command of a French general who was in charge of the sector and had a multinational contingent.

Historians will probably find it interesting, and perhaps perplexing, to study those three long years during which it hardly seems credible, in our so intelligent world, for so many errors to have been committed, particularly with regard to the confusion over rules of diplomacy and rules which apply when it has been decided to use force. The fact remains that since diplomatic negotiations had led to our troops being placed in the position of potential hostages, the moment had come for real hostages to be taken. After the bombing of the outskirts of the Bosnian Serb capital of Pale by NATO aircraft – with no advance warning having been given to the commander of the Sarajevo sector – the Bosnian Serbs responded by taking dozens of blue helmets hostage.

The blue helmets belonged to groups which had been stationed throughout the entire Serbian area since the previous winter, when, following the Markale market massacre, the Serbs had found themselves obliged to regroup their guns at various points. The presence of so many UNPROFOR detachments at each of the sites was intended to discourage use of that heavy artillery. In disregard of elementary tactical rules, those detachments were thus placed in a totally vulnerable position, a matter which was decried by all military leaders in the field without obtaining the slightest response until that day in May when the Serbian reaction to the bombing of Pale was to trigger a major crisis.

### The atmosphere of military action

That is the setting for the action that I would like to describe in order to convey the atmosphere of military action at its most brutal. The scene of the action is one of the checkpoints around the periphery of Sarajevo. It is located between the heart of the town in the north and the Serbian suburb of Grbavica in the south, the two areas being separated by the Miljaka river, which is spanned at that point by the Verbanja bridge, after which the checkpoint was named.

Although it started out as a checkpoint, it had become a veritable bunker, because the soldiers manning it had to shield themselves against the shooting from both sides. However, although the bunker provided a minimum of protection, in terms of defence tactics it defied every rule in the book. Entrenched in the Serbian area on the far side of the Miljaka river, it was overlooked by Serbian buildings on the one side and by Bosnian buildings on the other. To reach it, one had to cross the bridge and then negotiate a glacia around 50 metres long which led to the slopes of the mountain opposite; it was surrounded by barbed wire, and inside were a dozen men belonging to a French UNPROFOR battalion on a weekly roster. At that specific point in time, the mission, which was originally to monitor one of the rare crossing points occasionally open between the two areas, had been suspended and it was a matter of sitting tight and waiting.

One night in May 1995, in the middle of the “hostage crisis”, the commander of the company which is responsible for that checkpoint and others is unable to establish radio contact. He gets into his jeep and rushes to the checkpoint. On arrival he crosses the barbed wire but immediately realizes that something is amiss, despite the figure of a blue helmet at the door. Realizing that it is not one of his men, he and the men accompanying him manage to get clear. He understands that the Serbs had taken the checkpoint by surprise.

It is still dark. The decision is immediately taken to storm the checkpoint and recapture it. That decision marks a spectacular – and salutary – change of attitude compared with everything that has been done previously. Therefore the only attack of the war – in the brutal and bloody meaning conferred on it by military vocabulary – by the forces of the “international community” was to be launched by blue helmets, whereas a few months later the reputedly robust NATO forces were only doing “peacekeeping” – but that is another story. For the moment, I would like to invite you to experience that attack.

You need to picture the scene in the early hours of the morning. The captain's company moves down the slopes towards the checkpoint. To do that, they have to cross the lines of the Bosnians, who watch in disbelief. Armoured vehicles have been positioned discreetly between the Bosnian buildings so that they can use their guns to provide cover for the advancing men at the appropriate moment. So far, all is quiet.

The men are all set to go, facing the glaxis and, beyond it, some 50 metres away, the barbed wire enclosure. They are between 18 and 22 years old. Their commanding officer is a lieutenant who is scarcely older than they are. The captain is also there; he is no more than 30 years old. It is his responsibility to give the order to attack.

The "marines" (the name given to the marine infantry in the French army which comprised that company) leap forward. One of them is killed at the line of departure. The assault group get as far as the barbed wire. One of the attackers is hit and falls onto the barbed wire. His comrades use his body as a "bridge" over the wire. They reach the entrance to the checkpoint. Not one of them is without injury. Every one of them is wounded. The lieutenant is covered in blood from a head wound.

But let us recapitulate. The extreme tension of the departure, a knot of fear in the stomach and then a fierce rush of adrenalin – it all happens against a background of crackling gunfire, exploding grenades, the roar of cannon fire, the smell of gunpowder and then of blood.

The young men enter the checkpoint in a state of intoxication. The captain is there, hard on the heels of the first wave. He has a thousand worries. First, about his men who had been in charge of the checkpoint, not knowing what has become of them; they might still be inside as prisoners. He has to manoeuvre his back-up forces, that is, to redirect the tank fire. He follows his men into the checkpoint.

The Serbs have pulled back to the other part of the checkpoint, which is long and narrow and divided into two sections by a narrow corridor. They have left behind two of their wounded, who see their attackers bearing down on them in the physical and psychological state that I have already described.

### The important role of the commander

We need to understand that, at that moment, the life of those wounded men hangs by a thread. Descending on them are young men of 20 covered in blood, in the murderous frame of mind which takes hold of men in such situations, and everything happens very quickly. Is law going to protect the two wounded Serbs? I leave you to answer that question.

The captain, who has since risen to the rank of colonel, then comes on to the scene. He immediately takes the situation in hand. He picks out the most severely wounded of the attackers – his men – and puts them on guard over the Serbian prisoners with the explicit instruction to watch over them. Then he relaunches the action in the direction of the second part of the checkpoint.

I am going to stop there. I merely wanted to depict the type of situation in which there is an exceptionally narrow dividing line between soldierly behaviour, as dictated by our cultural heritage and international law, and barbaric behaviour. In those circumstances, what is the deciding factor? Do you think that the behaviour will be decided by existing international law? National law? A sanction which, moreover, might be imposed in a situation like that? Of course not. What is going to decide matters is instinctive reaction. Now, in situations like that, the natural instinct is barbaric. That is where the commander plays an essential, determinative role: provided that he has the support of his men, that he is acknowledged, that he is more than the leader, the big brother who holds sway by his strength of character, his authority and his skills, but also his inner qualities, he is the only person capable of controlling combat hysteria, which otherwise leads to barbaric behaviour. That is the weight of his responsibility.

So much for the setting. Taking those real-life situations as the basis, I would like to recall the fundamental aspects of military action and go on from there to derive the principles which may be able to inspire a moral code for the profession of arms.

## Principles of a moral code

After each of the major conflicts in the twentieth century, the intense longing for peace which has influenced humankind since time immemorial has repeatedly led to a misunderstanding regarding the nature of armies and military action. By virtue of their existence, armies are held responsible for war – hence leading to the pacifist wave which swept through the West during the entire cold war. Following the fall of the Berlin wall, however, when certain noble minds thought that they would see the emergence of an era of perpetual peace, the opposite has been observed: once the lid imposed by the bipolar world had been lifted, free rein was given to long-suppressed violence.

We thus rediscovered what we had already known in the 1930s: man's capacity, as an individual and collectively, to commit the worst injustices against his fellow men in circumstances in which, to put an end to them, there is no other solution than to respond with force since all other courses of action, especially diplomatic or economic ones, turn out to be pointless if not counterproductive.

## The prevalence of force over unrestricted violence

What do we mean by force? A capacity for coercion which enables ascendancy to be gained over violence. Yes, but is that all? In fact, avoiding all euphemisms, it is a capacity to inflict destruction and death if there is no other way of dealing with unbridled violence.

That is therefore the capacity that needs to be retained. In terms of the values of our civilization, it is doubtless excessive but it is nonetheless absolutely vital – the alternative being the law of the survival of the fittest, or rather of the

most violent, and hence the automatic betrayal of the values which we are called upon to defend: human universality, the value of life, integrity and human dignity.

Does that mean that we will respond to unbridled violence with violence? That would be to betray those very values – this time by overdoing it. Thus force should be able to prevail over violence, but it will nonetheless not allow itself to resort to every available method. That implies a strong moral requirement, to which we will return.

In practical terms, armies are institutions which are duty-bound, if necessary, to use force defined in this way. They derive their legitimacy from the nations whose agents, in a sense, they are. Those are the basic premises, in the West, of the “profession of arms”.

Now let us return to situations in the field, to the picture that I have painted. In those exceptional circumstances, first, why do we go? In other words, what exceptionally powerful motivation causes a young man in his twenties to rush forward in response to an order with total disregard for suffering and death? Only those who know nothing of military matters or hardened anti-militarists may think that soldiers are turned into robots, that we are dealing with some kind of fierce discipline which instils greater fear of the commander than of the bullets.

### The primary role of solidarity or brotherhoods of arms

It does not work like that. So, do we go in response to the call of the flag, in response to values, in the name of freedom, and so on? No. A historical constant comes into play. “We go” because a network of extremely strong solidarities has taken shape within a well-functioning troop. On the one hand, the solidarity is “horizontal”. It is the spirit of comradeship, a specific feature of military units. Soldiers have absolute trust in the comrades to their left, to their right and behind them. A genuine brotherhood has built up over days and nights, on good and bad days, through the joys and trials that they have shared. Historically, all testimonies are in agreement about that.

That “horizontal” solidarity goes hand in hand with a “vertical” solidarity. To exercise authority is not, as I have said, to impose fierce discipline. A subtle alchemy takes place in the relationship of absolute trust which exists between the commander and his subordinates. It is based, of course, on the leader’s skills and authority, but also on the caring attention that he shows for each of his men and has a very strong emotional component. It is what we call – in what may possibly seem exaggerated terms – the “brotherhood of arms”. That is why we “go”. It is because of trust in our fellow soldiers, in our leader and at the same time in ourselves because we cannot let people down. That is the soldier’s real operational motivation in the moment of truth.

One might object that all that is terribly ambivalent. It is for better or for worse. One might think that the Waffen SS also cultivated the brotherhood of arms. That is why a common, essentially ethical, source of inspiration is also needed, one that is derived from our civilization values, to which I have referred.

It is the extent to which that inspiration drives the esprit de corps and the brotherhood of arms that determines the degree of internalization of the moral code. Indeed, that code must be internalized before it can have any influence on behaviour in situations of extreme violence such as the one which I have described as an example.

### Efficiency and humanity

Our soldiers therefore have to obey two – partly contradictory – principles. First, a principle of efficiency: ascendancy must be gained over the enemy, the upper hand must be gained over the forces of violence, the soldiers need to be the strongest. In the name of our civilization values, however, that is not done anyhow or at any price; the principle of humanity is no less essential. Force could thus not be unbridled violence; it is inevitably under control.

I would like to remind those who are tempted to see that as a modern concept – some of them in order to take pride in it as evidence of progress being made by moral conscience, others to be ironical about what is “politically correct” at the time – that this is the legacy of many centuries of civilization. It started in the fifth century AD, in the decaying Roman empire. In the wake of the Vandal invasion of north Africa, with its trail of devastation and atrocities and the collapse of the politico-administrative structures, the nascent church was more or less the only source of a solution. In the city of Hippo, which was called Bône at the time when Algeria belonged to France and is Annaba today, the bishop was a certain Augustine. His flock turned to him and asked, “Are we to allow our wives and children to be killed?” And Augustine answered, “No.”

### *Jus ad bellum and jus in bello*

That gave birth to the concept – a concept that was doubtless ambivalent, but isn’t that always the case in human matters? – of “just war”, the vast aim, often compromised, but never denied, of implementing, if necessary, a force which is not equated with violence. That was translated into legal terms in the Middle Ages, as you will know – I am not going to explain to jurists what *jus in bello* and *jus ad bellum* are. Isn’t the “law of armed conflict” today the contemporary translation of *jus in bello*?

Similarly, when the former French Minister of Foreign Affairs, Dominique de Villepin, gave a vehement speech at the United Nations in 2003, his aim being to dissuade the United States from embarking on the disastrous war in Iraq, it can be seen that his line of argument follows the articles of medieval *jus ad bellum* practically point by point. The speaker probably did not do so consciously. But it goes to show that those principles are firmly anchored in our culture. Far from the outworking of a fashion, the concept of controlled force is therefore intrinsically linked to our civilizational values – and has been for centuries.

## Internalisation and instinctive behaviour

Yet, as we have seen, the principles need to be internalized. That is where training comes in, particularly the training of leaders. When I was still in active service, one day I had to speak on that kind of subject at our officers' training schools at Saint Cyr-Coëtquidan. In particular, I called on a witness – a commander – whom I knew had been a lieutenant in Sarajevo during the hostage crisis to which I referred earlier and who had demonstrated exemplary behaviour in a particularly difficult situation. One of the students in the audience asked, "Why did you react like that?" His spontaneous reply was, "I didn't think." That was the best response that he could have given, because it was tantamount to saying that in paroxysmal situations of violence and absolute urgency, the reaction is virtually instinctive. Orders received, "conduct to be observed", "rules of engagement", *a fortiori* the law, are pointless; the only thing that counts is the person's "basic capital". If that "basic capital" has absorbed the principles to which we are referring here, we will have the only defence against barbaric behaviour worth having.

## War without hatred

Before concluding, I would like to refer back to the profoundly cultural character of the concepts and principles mentioned and particularly to the matter of respect for the enemy. It is provided for in the third article of the "Code of the French Soldier": "Mastering his own strength, he [the soldier] respects his opponent and is careful to spare civilians." In the Foreign Legion, the "Legionary Code", which predates the Code of the French Soldier, states, "You will not hate your enemy." This is well and truly in keeping with the many centuries of the legacy of the medieval *jus in bello*.

However, we are aware that there are military cultures – by no means minor ones – which make hatred of the enemy an aspect of the behaviour to be instilled during military training. It seems clear that at the same time as needing to deal with improving international law, it is doubtless appropriate to call into question military cultures which make hatred of the enemy one of the basic tenets of military training.

I do not wish to embark here on an exercise – although it would not be without interest – which would entail showing you that, faced with the humanistic aim of many centuries which I have described, most deteriorations may be interpreted as the outcome of demonizing the enemy. However, history has shown us that regarding the aims of war as sacred and its corollary, demonizing the enemy – in the name of God, the nation, race, or for any other reason – opens the door to barbarism.

Today, let us ask whether a sanctification of human rights might not help to produce the opposite effect to the one that we are trying to achieve. The same thing can be said of the idea of obviously demonizing "terrorism". Demonizing the enemy is to invite regression and to condemn oneself to barbarism. In this case, it is also to nurture the very terrorism that we are trying to suppress.



No one can deny, of course, that random attacks on people of all ages and conditions are absolutely reprehensible. However, there is a terrorist rationale. That rationale is evident at the level of the protagonists. It is an indirect strategy involving a deviation from the weak to the strong. The enemy is so strong that people think that they have no other solution than to divert their strength to hit out where it hurts. And where does it hurt in Western societies? Among people and opinions. That is the protagonists' rationale. It makes use of men or women who have clearly been "fanaticized" but whose real motivations are obviously humiliation and despair.

The more crushing the force, the more it therefore encourages "deviations" and hence the terrorism that it is trying to suppress. The more entire populations are driven to despair, with humiliation being an added feature, the more this creates a breeding ground for terrorism.

When I hear people say that war has been declared on terrorism, I do not know if I should laugh or cry. Terrorism is a weapon. It is rather as if the Renaissance sovereigns in Europe had declared war on the harquebus. It does not make sense.

## To conclude

That is why the "new forms" of contemporary conflicts in no way invalidate the high humanistic aim of our civilization's legacy. As much as, if not more than, anyone else, a soldier carries that legacy forward, although the tragedy of the situations which he faces condemns him, at best, to the lesser evil. To conclude is both to sum up and to open up new avenues of thought. To do that, I would like to give two short quotations. The first is from the moralist Vauvenargues, who wrote with rare concision: "Vice foments war, while virtue does the fighting". Yes, violence is vice and force is virtue.

However, that quotation could lead to some unfortunate interpretations if it were not complemented by a statement made a number of centuries before by the great Augustine to whom I have already referred: "Worse than vice is pride in virtue." Obviously, Augustine should be recommended reading on training courses for today's political and military leaders.