

Institution: University of Oxford
Unit of Assessment: UOA 21
Title of case study: Individualizing Responsibility in War: Shaping Military Ethics in Western Militaries (21-02)
<p>1. Summary of the impact</p> <p>In the last decade, the traditional view of military ethics among practitioners and scholars has been challenged by revisionist approaches to <i>Just War Theory</i>. David Rodin's work has played a significant part in the development of the revisionist school and in its subsequent impacts on Western militaries. His research on individual responsibility in war, the limitations of traditional justifications of war, and <i>jus terminatio</i> (the ethical norms applicable to the termination of war) has - as part of the revisionist school - opened up new approaches to military ethics and the way militaries understand their rights and responsibilities and those of others in war. Rodin's research has had significant impact in re-shaping training on ethics for military personnel and senior civil servants in the US, UK and beyond, and is informing changes in the doctrine and practice of Western militaries.</p>
<p>2. Underpinning research</p> <p>Rodin's award-winning work on '<i>War and Self-Defense</i>' [Section 3: R1] and subsequent research has contributed to a revolution in thinking on the ethics of war over the last decade and to the development of modern, revisionist <i>Just War Theory</i>. The revisionist school, and Rodin's work specifically, has challenged the traditional state-centric view of military ethics, and placed the 'individual' at the centre of the ethics of war. Three research insights are central to the impacts described below:</p> <p>(a) Individual responsibility and human rights in war: A fundamental argument of Rodin's work is that individuals (rather than states) are the basic unit of moral analysis in war. This renders human rights the foundational moral framework for the ethics of war [R1, R4]. It follows that particular attention must be paid to problems of self-defence and forfeiture of rights along with concepts of liability, moral agency, excuse and justification [R1, R2, R3, R4, R6].</p> <p>The research also argues that combatants are not morally equal, and those fighting in an unjust war do not possess the same rights as combatants in a just war [R1, R4]. It makes the case for <i>restrictive asymmetry</i>, a principle which establishes that combatants bear personal responsibility merely for participating in an unjust war. It also argues that there is no justification for the claim that combatants fighting in a just war are sometimes permitted to intentionally target unjust non-combatants. [R4].</p> <p>(b) Limitations of traditional justifications of war: Rodin's research shows that traditional accounts of military ethics are overly permissive and have consistently granted states and military actors more latitude for inflicting harm than can be morally justified. The work highlights problems with the justification of war in terms of self-defence: since war is not analogous to personal self-defence and is not a collective enterprise reducible to individual acts of self-defence, it cannot be justified as a form of self-defence [R1]. Equally problematic is the justification of war in response to <i>bloodless invasion</i>: attacks on the sovereignty or territorial integrity of states are not necessarily sufficient just cause for war since these can occur without threatening life or vital interests of any individual persons [R1].</p> <p>(c) Jus terminatio – the moral and legal considerations that govern the termination of war: Rodin (in parallel with Darrel Moellendorf at San Diego State University), developed the sub-field of <i>jus terminatio</i> within <i>Just War Theory</i>. <i>Jus terminatio</i> refers to the moral and legal considerations that govern the termination of a war and the transition to a state of peace. Rodin's research shows that the issues arising during the termination of war are distinct from the three traditional pillars of</p>

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Just War Theory - *jus ad bellum* (the morality of resort to war), *jus in bello* (the morality of action in war) and *jus post bellum* (the morality of action after war ends). The work describes the ethical costs and benefits that emerge during war and its termination and develops an account of the way these affect assessments of proportionality of action [R5, R6].

Rodin's contributions to revisionist *Just War Theory* arise from research carried out at the University of Oxford since 2000 as a Junior Research Fellow (2000-02), Senior Research Fellow (2003-08) at the Oxford Institute for Ethics, Law and Armed Conflict, and then its Co-Director (2008-present).

3. References to the research

- R1. David Rodin, *War and Self-Defense*, (Oxford: Oxford University Press, 2002). (Google Scholar: **230 citations**.)
- R2. David Rodin, *Terrorism Without Intention*, *Ethics*, (2004), Vol. 114, 752-771. (Reprinted in *The Morality of War: A Reader*, David Kinsella and Craig L. Carr (eds.), Lynne Reiner, Boulder, Colorado, 2007. (Google Scholar: **49 citations**.)
- R3. David Rodin, *The Problem with Prevention*, in David Rodin and Henry Shue (eds.), *Preemption: Military Action and Moral Justification*, (Oxford: Oxford University Press, 2007) pp.143-170.
- R4. David Rodin, *The Moral Inequality of Soldiers: Why In Bello Asymmetry is Half Right*, in David Rodin and Henry Shue (eds.), *Just and Unjust Warriors: The Legal and Moral Status of Soldiers*, (Oxford: Oxford University Press, 2008) pp.44-68.
- R5. David Rodin, *Two Emerging Issues of Jus Post Bellum: War Termination and the Liability of Soldiers for Crimes of Aggression* in Jann Kleffner and Carsten Stahn (eds.) *Jus Post Bellum: Towards a law of transition from conflict to peace*, (Cambridge: TMC Asser Press/Cambridge University Press, 2008.) pp.53-75
- R6. David Rodin, 'Justifying Harm' Symposium on Jeff McMahan's Killing in War (2011), *Ethics*, (2012), Vol. 112, No. 1 pp.74-110

The quality and importance of Rodin's work is demonstrated by:

- (i) the award of the American Philosophical Association Sharp Prize for the research on *War and Self-Defense* [R1],
- (ii) a large number of citations particularly of *War and Self-Defence* and *Terrorism Without Intention*,
- (iii) major, competitively awarded research grants for the research on the ethics of war, included: £1.1m grant from the Leverhulme Trust for 'The Changing Character of War' programme awarded to Roberts, Strachan, Goodwin-Gill, and Rodin (2004-9); Rodin was also co-applicant with Welsh for the peer reviewed internally awarded grants from the Oxford Martin School for the Oxford Institute for Ethics, Law and Armed Conflict (2008-2012).

4. Details of the impact

Western military training on ethics has over recent years been influenced by the revisionist school. As part of that school, Rodin's research and his direct involvement in military teaching and policy consultation have affected the training of military officers and senior civil servants across the US, UK and beyond and begun to inform changes in military doctrine.

(1) Changing military thinking and training regarding the ethics of war

Rodin's contributions to revisionist *Just War Theory* have been incorporated into the teaching of military ethics at military academies throughout the world. '*War and Self-Defense*' [R1], and other works by Rodin are being used in military ethics courses at West Point (the United States Military Academy), the US Naval Postgraduate School, the UK Defence Academy, and the Australian Defence Academy. Students at these academies range from cadets to elite officers and future military leaders. For example:

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(a) **United States:** Military Academy staff at West Point report that their thinking about military ethics has shifted substantially and attribute significant credit for this shift to Rodin's research as part of the revisionist school [R1, R2, R4]. West Point now places greater importance on human rights as the foundation for both the theory and the legitimization of the use of force in military operations. West Point staff confirm the influence of Rodin's research on faculty, the curriculum and courses in ethics and *Just War Theory* [C1]. At West Point alone, the training of 6,000 American Army Officers over the last five years has included Rodin's ideas and reconceptualization of *Just War Theory*, changing fundamentally the teaching on the morality of killing in war [C1]. Rodin's research has had similar impact on military ethics courses taught by the US Naval Postgraduate School to officers across all branches of the US military – Army, Navy, Air Force and Marines - as well as officers from militaries the world over. [R1, R4, R5, C2].

(b) **United Kingdom:** As a result of his work on the ethics of war, Rodin was invited by the Ministry of Defence (MOD) to contribute to the teaching of ethics at the UK Defence Academy. Since 2002, Rodin has taught on the ethics component of broader courses at the Academy, introducing insights from his research into each. The element on ethics is considered vital to the broader learning and understanding needed by operational commanders. He has taught on the:

- *Advanced Command Staff Course*, which serves an international cohort of approximately 300 mid-career officers a year (2002-present);
- *Higher Command and Staff Course*, a selective course aimed at Colonels and attended by around 25 (2-3%) of officers each year (2004-2006, since 2006 the HCSC cohort are included within the Defence Strategic Leadership Programme ethics component) [C3].
- *Defence Strategic Leadership Programme* (DSLSP), which is mandatory for all military officers promoted to 1 star rank (Brigadier) (2004-present);
- *Collaborative Strategic Leadership Programme* (CSLP) - similar to the DSLSP for equivalent rank personnel from the Foreign Office, MOD and other government departments, serving around 85 officers and civil servants a year (2010 and 2011).

Rodin's research on the ethics of war has informed his design and teaching of ethics modules [C3]. His work [R1, R4 and other publications] is included in Defence Academy (Joint Services Command & Staff College) reading lists for Military Ethics and Just War. Between 2008 and 2013 Rodin's research has made a contribution to the way some 2,000 senior military officers and civil servants understand moral choices in war.

(2) **Contributing to changes in military doctrine and practice**

Rodin's research has also contributed to changes in military doctrine and practice:

(a) **United States:** As a result of his work on morality in war, Rodin participated in the inaugural conference for a major review of the US Army's Professional Military Ethic, and was invited in 2009 to act as a consultant to General Dempsey the then Commanding General for the US Army's Training and Doctrine Command to assist in the preparation of a US Army White Paper. Rodin facilitated a meeting for the core West Point drafting team at the Oxford Institute for Ethics Law and Armed Conflict (Summer 2010) at which a number of invited UK academics examined the emerging text in detail. Rodin's research and influence are described as "decisive" [C4] in including an explicit statement in the White Paper that the ethic of the US Army must derive from human rights and that the US Army's actions and policies are subject to this moral construct. This statement represents a significant change in the US Army's approach to ethics [C4]. The resulting White Paper, *The Profession of Arms*, was published by General Dempsey (by then promoted to 37th Chief of Staff) in December 2010. The Paper cites Rodin's article *Justifying Harm* [R6] in the section on the principles that govern the use of force (p.14) [C5].

The White Paper is described as the key document in the process that led to a new Army Doctrine Publication (ADP 1), the capstone mandatory training manual in the US doctrinal system [C4]. The White Paper also served as a foundational document for a year-long US Army initiative on *The Profession of Arms* in 2012, which included a series of workshops with

senior staff specifically on the impact of a Human Rights based ethic on US Army operations, including one with a Brigade Combat Team recently returned from Afghanistan [C4].

(b) United Kingdom: Rodin's contributions to revisionist *Just War Theory* have also shaped the approach of the British Armed Forces. In 2010 and 2011, the Oxford Institute for Ethics, Law and Armed Conflict (under the joint leadership of Rodin and others) partnered with the Ministry of Defence (MOD) and the International Law Department of the British Red Cross to host two conferences on Military Ethics for the UK defence community. The purpose of these meetings was to bring together senior leaders in the MOD and other government departments with academics to raise awareness of the challenges of ethically-aware decision-making at operational and strategic levels, and to establish the need for new or revised military doctrine. Reports from the event acknowledge the growing importance of the ethical dimension of military operations, the risks associated with ethical failure, and the opportunities to learn from the US Army's White Paper on the Professional Military Ethic [C6].

The impacts of Rodin's work have considerable reach and significance. Over the last decade, the work has contributed to a substantial shift of the training in military ethics reaching thousands of military personnel, in the US, UK and elsewhere, significantly shifting the understanding of ethical choices, rights and responsibilities in combat and war.

Military practice has seen changes consistent with these research insights. While armed forces never comment on their rules of engagement, press reports suggest that UK Rules of Engagement now permit the use of lethal force against enemy combatants only if they are posing an imminent threat to another person [C7]. This represents a course of action that is neither required by international law, nor by the previous consensus; it is consistent with the insight that liability for the use of force must be based on individual responsibility for unjust harm and that enemy combatant status of itself is not sufficient to justify the use of lethal force.

In sum, Rodin's work has made a contribution to the way stakeholders in the US and UK - ranging from strategic leaders to those participating in combat operations - weigh their own responsibilities and rights and those of others in killing and war.

5. Sources to corroborate the impact

- C1.** Lieutenant Colonel, Academy Professor, United States Military Academy, West Point, New York, USA, confirms the influence of Rodin's research on the faculty, the curriculum and courses on ethics at West Point and the numbers of personnel who have taken them.
- C2.** Assistant Professor of Philosophy Department of Defense Analysis, US Naval Postgraduate School, corroborates the use of Rodin's research insights and outputs in courses on military ethics.
- C3.** Head of the Centre for Defence Leadership and Management, Defence Academy of the United Kingdom, corroborates Rodin's contribution to courses and numbers of personnel attending HCSC, DSLP and CSLP courses.
- C4.** Major, US Army confirms Rodin's participation in the inaugural White Paper conference, the working group to draft the White Paper, the inclusion of explicit statement on human rights and use of the White Paper in the process that led to a new Army Doctrine Publication (ADP 1).
- C5.** The Profession of Arms, An Army White Paper, December 2011 (<http://endeavortopersevere.files.wordpress.com/2013/01/profession-of-arms-white-paper-8-dec-10.pdf>) See page 14 and Reference 31: Rodin's paper *Justifying Harm, Ethics*, (2011) Vol. 122 no. 1, 2011, 74-110.
- C6.** Workshop report from the Defence Academy Ethics Seminar (3 November 2011 to 'consider the ethical component of military capability'. Report produced January 2012. (Document held on file.)
- C7.** For example, 27 August 2012. Press report on the changes in the UK Rules of Engagement (which are not made public) <http://www.independent.co.uk/news/uk/home-news/british-soldiers-resort-to-baiting-taliban-to-beat-rules-of-engagement-8082165.html>