Chapter 16

Legitimacy of Military Deployments Especially in Asymmetric Conflicts

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Under the title *Legitimacy of Military Deployments* I will address the following four topics:

- The background and origin of global modernization as well as asymmetry and human rights ethics
- The long way to an international legal order (international law or law of nations)
- The ethics of law sustaining force in international and non-international armed conflicts
- Ethics in combat as the core issue of professional military ethics

Global Modernization and the Ethics of Humankind

To understand the global asymmetry between a set of stable and prosperous states and numerous unstable and even failing states we have to understand the socio-historical process of global modernization. Global modernization is derived from two ancient origins. One is the occidental ancient philosophy; the other is the oriental monotheistic religion. Both merge in the amalgamation of western Hellenism and eastern monotheism in the roman empire in the wake of the constantinian shift. This extraordinary encounter of two strong and independent cultures and their dynamic and conflict-ridden fusion over centuries laid the basis for the European expansion since the 15th century and Europe's unique role as the watershed in the global modernization processes.

What is the essential *philosophical* and what is the essential *monotheistic* impulse to modernity? Aristotle, who invented the word “ethics”, advises his audience of young intellectual Greek noblemen to each make his individual choice out of a broad variety of empirically given ways of life. He himself proposes what he calls the *bios theoreticos* as being supreme: a spirit and attitude of prudent deliberation in every possible sense, including scientific – although not yet experimental – research. But let us note carefully who is excluded: women, children, slaves and all non-Greek cultures. By analogy he discusses
more than 50 empirical constitutions governing Greek cities and settlements in an attempt to find out which constitution is the most successful. What I essentially want to point out is the method of his thinking, rather than the content: the method is “scientific” in the sense that he starts with empirical data, considering both the perspectives of the individual as well as political life. The historical influence of this empirical approach and the distinction made between individual and political ethics on the occidental path towards modernity cannot easily be overestimated. Nevertheless it took centuries to overcome the much more influential monistic neo-platonic heritage. It was Albertus Magnus in the 12th century who realized the potential of the Aristotelian method, after it had been rediscovered by Arab scholars like Al-Kindi, Al-Farabi, Ibn-Sina (Avicenna) and above all Ibn-Ruschd (Averroes).

This, however, is only one half of the entire story. The other ancient source of modernity is the evolution of the monotheistic religion within the ancient orient. The cultural heritage of two small kingdoms on the Syrian/ Phoenician isthmus – that of northern “Israel” and that of southern “Juda” – only survived first the Assyrian invasion and later the Babylonian one, and the following deportation, because they were able to incorporate the documents and visions from the times of their relative independence into the “holy scriptures” of a religious association without land, without a capital city, without a temple, and without a royal dynasty, but with a resulting even stronger literal and spiritual dedication to the “eternal law of God” as a constant alternative to the changing laws of human kings and princes, who came and went: we are talking of Judaism, later complemented by Christianity and Islam! Witnessing the rise and decline of the kingdoms and empires of Aram, Assur, Babel, Persia, Hellas and Rome the Jewish scholars in their settlements in Palestine, Mesopotamia and Northern Africa, came to the conclusion that there must be a power behind the powers, a kingdom behind the kingdoms, one God behind the Gods of the Nations (e.g. Psalm 82).

This tradition transcended the ethnic borders of Judaism, when the teachings, and even more, the passion of Jesus of Nazareth became the founding narrative of a “new people of God”, which then included anybody from any ethnic, cultural or social background. Thus the essential contribution of the monotheistic tradition to modernity is the “universalization” of the cultural, historical and moral conscience. The classical document is the word of the Apostle Paul – please remark the difference to Aristotle: “There is neither Jew nor Greek, slave nor free, male nor female, for you are all one in Christ Jesus” (Gal 3, 28).

Due to the so called “dark age” of the barbarian migration towards the Mediterranean basin in the 4th and 5th century there was only one branch of