



Reuters/Chris Wattle/RTR2GJOS

Captain Robert Semrau during his trial.

IS BATTLEFIELD MERCY KILLING MORALLY JUSTIFIABLE?

by Peter Bradley

Introduction

On 19 July 2010, Captain Robert Semrau was convicted of ‘disgraceful conduct’ by a military court martial for shooting a wounded Taliban fighter in Afghanistan on 19 October 2008, in what the media characterized as a ‘battlefield mercy killing.’ In addition to bringing this obscure topic into the spotlight, media reports revealed that Canadians held a range of views on the ethics of this issue, indicating just how important ethics education is for the military. The Canadian Forces (CF) provides ethics training to its personnel in various forms, from unit-level training for junior members to university classes in ethics for officers and noncommissioned members. During these classes, military personnel learn how to analyze ethically charged problems like mercy killing. This article will draw on the three major decision-making frameworks covered in this training to argue that battlefield mercy killing is not morally justifiable.

The Incident

According to testimony heard during the court martial of Captain Semrau, the Taliban fighter had been severely wounded and was near death after ambushing an Afghan patrol. Captain Semrau was with the patrol at the time, in

command of a small team of Canadian mentors (i.e., advisors) to the Afghan army. The patrol was about to leave the casualty and move on when Captain Semrau fired two shots into the gravely injured fighter.¹

Captain Semrau did not testify during his court martial, so there are a number of things that we do not know about this incident. We do not know why he did what he did (although putting the wounded man out of his misery may have been the motivation).² We do not know what discussions took place between Captain Semrau and the patrol commander, an Afghan captain, on the subject of medical treatment for the wounded Taliban fighter. Did Captain Semrau, for example, try to mentor the Afghan captain on the proper treatment of wounded enemy? We do not know if either the patrol commander or Captain Semrau requested helicopter evacuation for the wounded fighter. We do not know what medical resources the patrol members had with them, and we do not know what medical assistance they provided the casualty. However, the video footage viewed during the court martial showing Afghan

Lieutenant-Colonel (ret'd) Peter Bradley, CD, PhD, teaches courses in psychology and ethics at the Royal Military College of Canada. He retired from the Canadian Forces in 2004 after 33 years of service in the infantry and personnel selection branches.

soldiers kicking dirt on the wounded man and spitting on him might be indicative. Finally, we do not know why the patrol did not remain *in situ* to care for the wounded fighter.

Conflicting Points of View

Media coverage before and during the court martial carried both support and condemnation of Captain Semrau's actions. Peter Worthington, columnist for the *Toronto Sun* and author of *Scapegoat: How the Army betrayed Kyle Brown*, a book about the misbehaviour of Canadian soldiers in Somalia in 1993, described Semrau as "behaving honourably, humanely, decently,"³ and Major-General (ret'd) Lewis MacKenzie, an experienced Canadian commander with many operational tours under his belt, was quoted in the press as declaring Semrau's actions "appropriate."⁴ In addition, over 8000 individuals had joined the Support the Freedom of Captain Robert Semrau Internet site as of 19 July 2010.

Further ambiguity was introduced when the court acquitted Captain Semrau on charges of second-degree murder, attempted murder, and negligent performance of a military duty, while convicting him of disgraceful conduct. This led some observers to wonder what disgraceful conduct was involved, if he had not committed murder, attempted murder, or negligent performance. Christie Blatchford, a reporter with *The Globe and Mail*, suggested that the court's decision may have been an example of jury nullification, a situation which occurs when a jury believes that the penalty facing the defendant is too severe for the crime. In such cases, the jury 'nullifies' the legal instructions before it and acquits the defendant, or convicts on lesser charges. In Blatchford's opinion, the jurors "... found a disconnect either between the severity of the punishment and crime [the penalty for second degree murder is 'life' with no chance of parole for 10 years] or between the law and morality, or perhaps both."⁵

Not everyone accepted Captain Semrau's actions. Michael Byers, international law expert and author of *War Law: Understanding International Law and Armed Conflict*, termed the jury's conviction appropriate, stating that "Captain Semrau disregarded the rules of international humanitarian law ... and chose instead to follow his own moral code."⁶ In a similar vein, Brigadier-General Dennis Thompson, speaking on behalf of CF leadership during the sentencing phase of the court martial, described Captain Semrau's actions as "... completely unacceptable," and recommended that he be discharged from the CF.⁷

Analysis of a Hypothetical Case of Mercy Killing

The Geneva conventions⁸ and the CF's code of conduct⁹ are clear on mercy killing – it is wrong. Mercy killing is also prohibited by the *Criminal Code of Canada*, and CF personnel are subject to Canadian laws while serving overseas.¹⁰ But, with credible voices for and against Semrau's actions, and questions about the thinking behind the

jury's decision, the ethical aspects of this incident may appear murky to some, and beg the question as to what Canadian soldiers should do when they encounter a severely wounded enemy on the battlefield. One way to delve into the ethics of this issue is to develop a hypothetical case of mercy killing (similar to the Semrau case) and then evaluate the case with decision-making models currently taught in CF ethics courses. Let us imagine that we are members of a CF patrol that encounters a severely wounded enemy fighter. The wounded man appears to be dying and the members of our patrol do not have the necessary medical resources to treat the casualty's wounds properly and we are unable to evacuate him to a medical facility. We are not in direct contact with enemy forces at present and there does not appear to be any immediate threat to our force. Setting aside the legal aspects of this case, which are better addressed by legal experts, I will now conduct an 'ethical analysis' of this case.

The analysis will revolve around four elements, each of which will be described in detail later, but can be summed up in four basic questions:

1. What stakeholders will be affected by the actions we choose to take?
2. What options do we have open to us and what positive and negative consequences can be reasonably expected from each option?
3. What principles should guide our actions in this situation and what obligations do we have to the stakeholders?
4. What are the values, virtues, and motives behind the actions that we are considering?



DND photo AF2010-0223-41 by Sergeant Daren Kraus

Stakeholders

No matter what action one takes in an ethical dilemma, someone will be affected; consequently, for our behaviour to be ethical, the interests of these stakeholders must be

taken into account. So, who will be impacted by the choices we might make in our present case? For starters, the wounded enemy fighter, as his life is in the balance. The other soldiers in our patrol and our military superiors who have sent us on the patrol may also be affected by what we ultimately do. We can also say that some Canadian political and military leaders, as well as the Canadian public, may be affected to some extent. Because some of the choices open to us may affect our future standing in the military, we could also say that any family members who depend on us for financial security could be considered stakeholders. Clearly, the actions we may take in this case have the potential to impact a number of people.

Three Approaches to Solving Ethical Problems

The flagship of the CF's program of professional ethics education is a course in 'leadership and ethics' which junior officers are required to pass and many noncommissioned members also take for professional development. An equivalent course is part of the core (required) curriculum for cadets at the Royal Military College of Canada [RMC]. In both courses, students study three approaches to ethical decision making. One of these approaches examines the likely consequences of options under consideration, another looks at the moral principles and obligations involved, and the third considers relevant values, virtues and motives.¹¹ In the remainder of this article, each of these models will be used to answer the question: What should a Canadian patrol do upon encountering a wounded enemy fighter on the battlefield when there are insufficient medical resources available to provide adequate treatment or to evacuate the casualty, and there is no one else in the area who can provide assistance?

Consequences

Often referred to as the utilitarian approach, this method of ethical problem solving draws on the moral philosophy of John Stuart Mill,¹² Jeremy Bentham,¹³ and others. The decision-maker examines the outcomes that he or she could reasonably expect from each of the options open and chooses the option that will likely lead to the greatest good, or, if no good is likely, the least amount of harm. A common mistake with this approach is to evaluate options in terms of what is best for one's self (or comrades and unit), rather than what is best for the greatest number of stakeholders.

With respect to our hypothetical case, let us consider four options: (a) Option 1: provide medical care to the wounded enemy to the extent we can, and continue to provide care and comfort until he expires or evacuation to a medical facility is possible, either by air or vehicle; (b) Option 2: provide medical care to the wounded enemy to the extent possible, and then take him with us (perhaps to move the casualty to a safer location or to enable our patrol to continue with its original mission); (c), Option 3: provide medical care to the wounded enemy to the extent we can and then leave him to fend for himself; and (d) Option 4: kill the casualty to expedite his death. There may be other options worth considering, such as turning the casualty over to any civilians who may be in the area, or leaving a small group of our patrol to tend the casualty, but the four options outlined above are sufficient for

illustrating how the decision-making process works and will allow us to examine the morality of mercy killing, the primary focus of this article.

Of the four options, which one is most likely to result in the greatest good or least harm? With the utilitarian approach, we determine this by considering the negative and positive consequences that we could reasonably expect from each option. As we will see, some consequences will benefit some stakeholders over others, so the challenge is to find the option that provides the most positive (or least negative) outcomes for all.

Option 1. The most likely negative consequences with this option are that the casualty would soon die because of the severity of his wounds and the patrol will be delayed or even precluded from completing its original mission. On the positive side, the friendly forces (i.e., the CF and the Afghan National Army) would be able to say that their troops did everything they could to fulfill their obligations under international law. Soldiers in the CF and the Afghan army would have a professional example in this case of what is expected of them if they are ever in similar circumstances. Depending upon how well this incident becomes known outside the Canadian military community, the CF and coalition forces in the Afghanistan theatre would be seen as having behaved in accordance with international law and relevant moral conventions.

Option 2. The negative consequences most likely with this option are that the mission of our patrol will be delayed or possibly cancelled, because we will be slowed down by having to care for and carry the casualty, and we will be at greater risk to enemy attack than if we were not burdened with the casualty. In addition, the casualty's wounds will likely worsen as a result of being jostled around while carried. On the positive side, we would be fulfilling our obligations under international law if we are moving the casualty to ensure his safety.

Option 3. By pursuing Option 3, the casualty will certainly die, but by leaving him alone, he will likely suffer further, from the effects of weather or any animals in the area. If we follow this option, our patrol and the CF would be vulnerable to criticism for not fulfilling its obligations under international law and this criticism will be particularly strong in the Muslim community, where there is already an impression that Western soldiers place less value on Muslim lives. This option also provides Canadian and Afghan soldiers with an improper example of how to treat a wounded enemy. Furthermore, leaving the casualty to fend for himself without proper medical attention would invite mistreatment of our wounded by the enemy if the situation was reversed. (There have been cases in previous wars of soldiers committing atrocities against wounded enemy and prisoners in response to enemy action of the same kind. Hall¹⁴ describes instances of Australian soldiers committing revenge killings of this sort in Vietnam.) On the positive side, Option 3 permits the patrol to carry on with its original mission.

Option 4. The negative consequences of following Option 4 are similar to those associated with Option 3, except that the

violations of international law and moral norms with Option 4 are much more egregious. The CF would be vulnerable to severe criticism at home and abroad for unprofessional conduct and war crimes, and the patrol members involved would be subject to criminal prosecution. Potential suffering would likely be in store as well for any soldiers involved in the killing (future stress, posttraumatic disorder, etc.) and for their families. On the positive side, the patrol would be able to continue with its original mission without delay. In addition, this option results in the least amount of suffering for the casualty.

From this assessment of the likely consequences associated with the four options, Option 1 appears to have the most positive and fewest negative outcomes for most of the stakeholders. Option 2 is also morally justifiable if we are moving the casualty in order to provide him greater protection. More on this later. Option 4 seems to provide the least amount suffering for the wounded fighter, but level of suffering is difficult to assess because the patrol members are likely not qualified to recognize degrees of suffering. Again, more on this later. Even if we accept that Option 4 provides the least amount of suffering for the casualty, it leads to other, more widespread harms as outlined above. Whether the interests of our military and political leaders are satisfied depends, to some extent, on the original purpose of our patrol. For example, if the original mission of our patrol was to rescue several hostages in imminent danger of losing their lives, one could say that completing the patrol is more worthy, from a utilitarian perspective, than caring for one wounded fighter. Not knowing the aim of the original mission, we are left to assume that our military and political leaders would likely be satisfied in this instance with the positive effects gained by us following the legal and moral norms for handling enemy casualties.

Principles and Obligations

The principle-based approach to ethical problem solving comes from the domain of deontological ethics and is largely influenced by the work of Immanuel Kant.¹⁵ Like the utilitarian perspective, this system involves an examination of each of the options open, but focuses upon the nature of the actions under consideration, not the likely consequences. With this approach, we evaluate each possible option with two tests. The first is called the test of ends in Kantian terms. This test requires that stakeholders be treated as ends and not means, so that no one's dignity will be violated with the action being considered. One might ask: how do we treat a wounded enemy with dignity and respect? First, we provide him with the medical care that is required by international law and moral norms; in other words, give him the care we would provide a wounded Canadian soldier. Second, to the extent possible, we should

involve him in decisions that will affect his life. The second test, called the test of 'universalizability,' determines whether everyone in a similar situation would be morally justified in undertaking the action under contemplation. If the action we are considering can be universalized with this test, it becomes a moral obligation.

Option 1. The action under consideration in this option is to provide medical care to the wounded enemy to the extent we can until he expires or evacuation to a medical facility becomes possible. This option passes the test of ends, because by providing the wounded enemy with all the medical treatment we have available, we are treating him with dignity and respect, like we would treat a wounded Canadian soldier. In applying the second test, we need to determine if Option 1 can be universalized so that anyone in a similar situation would be morally justified to take the same action. We do this by reframing the option as a principle, which in this case could be stated: Whenever a team in combat encounters an enemy who is mortally wounded and there are insufficient medical resources available to treat the casualty, the soldiers should provide the wounded enemy with medical care to the extent possible until he expires or evacuation is possible. Could we establish this principle as a universal law for all combat soldiers to follow? Yes, we could, because this principle is consistent with relevant legal and moral conventions like the Geneva Conventions and the CF's code of conduct. Common Article 3 of the Geneva Conventions, which governs the behaviour of soldiers in such incidents, states that all "... wounded and sick shall be collected and cared for."¹⁶ Similarly, Rule 7 of the CF's code of conduct requires military personnel "... to provide the wounded and sick with the treatment required by their condition, whether friend or foe."¹⁷ Option 1 passes both the test of ends and the test of universalizability.



Afghan National Army (ANA) forces hold a suspected Taliban member while on patrol in the Zhari District of Afghanistan.

Option 2. Providing medical care to the wounded enemy to the extent we can and then taking him with us if we cannot evacuate him may pass the test of ends, or not, depending

DND photo IS2007-0666 by Master Corporal Robert Bottrill

upon why we are taking him with us. The question here is: Are we using the wounded enemy as a means to achieving some end? Taking the casualty with us would pass the test of ends if we were moving him to a safer location to provide further care until he expires or is evacuated. But, if we are taking him with us only so we can continue on with our original mission, this action fails the test of ends, because we are using the casualty to complete our mission. Our reasoning behind taking the casualty with us also influences the test of universalizability. The principle under consideration here is: Whenever a team in combat encounters an enemy who is mortally wounded and there are insufficient medical resources available to treat the casualty, the soldiers should provide the wounded enemy with medical care to the extent possible, and then bring the casualty with them if staying on site is not tenable. Moving the casualty would pass this test if it was too dangerous to keep him on site, but would fail if we were simply moving him so that we could carry on with other tasks.

Option 3. Providing medical care to the wounded enemy to the extent possible, and then leaving him to fend for himself does not pass the test of ends. Although providing medical care to the wounded man is consistent with the principle of ends, which requires us to treat everyone with dignity and respect, leaving him to fend for himself does not. Who knows what will happen to him if he is left alone? And what will happen to his body when he dies? By leaving the casualty to die alone without medical care, we are not treating him with dignity and respect, so this action does not pass the test of ends. In applying the test of universalizability, the principle underlying Option 3 could be stated as: Whenever a soldier in combat encounters an enemy who is mortally wounded and there are no medical resources available to treat or evacuate the casualty, the soldier should provide medical care to the wounded enemy to the extent possible and then leave the casualty to fend for himself. Could we establish this principle as a universal law for all combat soldiers to follow? No, because this principle violates the legal and moral conventions (mentioned earlier) guiding the actions of soldiers in combat. Another obstacle to universalizing this action is that abandoning the wounded enemy in this way will leave him vulnerable to potential threats like weather or predatory animals, so we could not rule that everyone in a similar situation should follow this option. Option 3 fails both the test of ends and the test of universalizability.

Option 4. Option 4 involves killing the wounded enemy to hasten his death. It is difficult to see how this could be considered treating the casualty with dignity and respect, particularly if we do not know the casualty's wishes in this regard. One might suggest that this action puts the man out of his misery, given that he is suffering and will likely die soon anyway, but there are definitional problems with terms like 'suffering' and 'die soon.' Who knows how much the casualty is suffering? The wounded fighter may be

in shock or unconscious and therefore not suffering as much as we might think. Can the average patrol member determine when someone is suffering unbearably? How do we define 'unbearably'? There are also problems with the notion that the wounded enemy is going to die soon. Who knows who is going to die and when? If he is going to die soon anyway, why not wait until he dies of his wounds? Medical evacuation might not be available now, but if we care for the casualty and extend his life for a few hours, perhaps evacuation might be available later. Given all these questions, there are too many problems with this option to let it pass the test of ends. Turning to the test of universalizability, our principle could be stated as: Whenever a soldier in combat encounters an enemy who is mortally wounded and there are no medical resources available to treat or evacuate the casualty, the soldier should kill the wounded enemy. This principle violates the Third Geneva Convention on the treatment of prisoners of war, the CF code of conduct Rule 7 on the treatment of the wounded, and the *Criminal Code of Canada*, so it cannot be accepted as a universal law for all combat soldiers to follow. The action under consideration in Option 4 fails both tests.

After examining all the options with the principle-based perspective, Option 1 emerges as morally justifiable because it passes both tests. Option 2 passes both tests and would be morally justifiable as long as we are moving the casualty for his security, but is not justifiable if we are moving him so that we can carry on with other duties. Moving him so that we can do other things may be an efficient option, but it is not morally justifiable. Options 3 and 4 fail to treat the wounded party with dignity and respect, so neither of these options can be accepted as moral obligations for everyone to follow in this situation.



Sergeant Dave Gratto, a Canadian Forces Military Police Officer, teaches members of the Afghan Uniformed Police proper techniques for searches, as well as arrest procedures.

Virtues

The virtue-based model, derived from the writings of Aristotle,¹⁸ is possibly the most difficult of the three approaches to use in solving ethical dilemmas. This perspective revolves around values, virtues and motives, and invokes

DND photo IS2008-9153 by Corporal David Cribb

emotions and feelings, so it may appear less rational than the other two models. It is an excellent system for guiding moral development and training programs, but for solving moral problems, it is best used in concert with the utilitarian and principle-based models. There are three ways of solving ethical problems with the virtue-based process. The most common method is to consider someone we admire because of their virtues and then ask ourselves: what option would they select in this situation? There are several problems with this method, not the least of which is identifying someone who is sufficiently virtuous. An alternative is to imagine a virtuous person, assign to this 'virtual' individual the values, virtues and motives we believe a virtuous person should have and then ask the same question: what option would such a person select in this situation? Yet another possibility is to assess each of the options open to us in terms of relevant values, virtues and motives.

It is difficult to distinguish between values and virtues, but virtues are essentially values with moral implications. Canadian military personnel can find the virtues associated with professional military behaviour in documents such as the CF's doctrinal manual, *Duty with Honour* (duty, loyalty, integrity, and courage),¹⁹ the officer's commission scroll (loyalty, courage, integrity, duty, and obedience), and the *Statement of Defence Ethics* (integrity, loyalty, courage, honesty, fairness, and responsibility).²⁰ Soldiers in the army can also consult *Canada's Army* (duty, integrity, discipline, and honour)²¹ and *Duty with Discernment*.²²

Motives may be even more difficult to work with than virtues. Because motives reflect internal drives that are not always apparent to observers, it is difficult to evaluate the motives of others. We can evaluate our own motives, but only to the extent that we are honest with ourselves, and there is (unfortunately) an extensive body of research showing that we often misjudge our own motives.²³ For these reasons, we must be very cautious when evaluating our own motives, and those of others.

Option 1. The actions involved in Option 1, to provide medical care to the wounded enemy to the extent possible, and to provide care and comfort until he expires or evacuation is possible, appear to be consistent with the military virtues listed above. By following this option, we would display loyalty to the military ideals contained in Canadian professional military doctrine and the international law of war, moral courage, professional duty, and obedience to relevant laws and moral codes. Our motives may be more difficult to judge. We might want to follow Option 1 because we feel it is simply the right thing to do, a motive that is consistent with the military virtues of loyalty, duty, and obedience. What if we actually prefer another, less justifiable option, but do not want to get in trouble for doing the wrong thing, so we opt for Option 1 instead? Both motivations lead to the right actions, but one is more virtuous than the other. In the first instance, our motivation to do the right thing is morally inspired, and, therefore, more virtuous than in the second instance, in which we are

acting out of self-interest to avoid punishment. To some extent, this is largely an academic matter, as both motivations can lead to the moral outcomes, but it indicates how difficult it is to assess motivations, and it reinforces the earlier recommendation that the virtue approach is best employed in concert with the utilitarian and principle-based approaches.

Option 2. Depending upon our motives, the option of providing medical care to the wounded enemy and then taking him with us may be morally justifiable. For example, if we are taking this action because it is best for the casualty, our motives are consistent with the military virtues of loyalty, duty, and obedience, and therefore moral. On the other hand, if we decide to take him with us because it is more convenient, our motives do not reflect these military aspirations and are therefore not virtuous. However, if we are taking him with us to satisfy another obligation of equal or greater moral value than taking care of the casualty, our actions are virtuous.

Option 3. Providing medical care to the wounded enemy and then leaving him to fend for himself is not virtuous behaviour. In fact, we must forsake the military virtues of loyalty (to the professional code), duty, and obedience in order to choose this course of action. What motives could possibly lead soldiers to accept this option? Perhaps the patrol members wish to leave the casualty so that they could proceed with their original mission, believing that the most virtuous course of action would be to contribute to the larger battle plan by following the orders they had received earlier. This might be the case (as mentioned earlier) if the original mission has greater moral value than caring for the wounded fighter, but if the mission does not possess this greater value, the soldiers in the patrol are disregarding the military virtues which demand proper treatment for enemy casualties.

Option 4. The mercy killing option violates the military virtues of loyalty to the professional code, duty, and obedience, and it is difficult to imagine any motives that would render this option virtuous. Let us consider five possible motives for mercy killing in this case: (1) to ease the casualty's suffering, (2) to ease the psychological or moral distress of other patrol members who are observing the dying man's ordeal, (3) to avoid the difficulties that may arise later if someone else finds the wounded fighter and accuses us of not treating the casualty properly, (4) to complete the current task without further delay, so our patrol can move on to other matters, or (5) to exact revenge for earlier actions perpetrated by enemy forces. Which of these motives could be considered virtuous?

At a cursory glance, Motive 1, easing the suffering of the casualty, might appear to be virtuous, but it raises important and difficult questions. Who knows how much the casualty is actually suffering? Who is qualified to make such decisions? Who has the authority to make such decisions? The media coverage of the Semrau trial raised the idea of a soldier's pact, an implicit agreement among warriors that calls for soldiers to put another mortally wounded, suffering soldier out of his (or

It is difficult to distinguish between values and virtues, but virtues are essentially values with moral implications.

her) misery.²⁴ In fact, there are a number of problems with such a pact, if indeed one exists. First, how widespread is the agreement among soldiers that one can rely on another soldier to kill them if they are suffering too much from their wounds? Michael Friscolanti, a reporter with *Maclean's Magazine*, asked two Canadian veterans who had been wounded in the Afghanistan conflict what they thought of such a pact – one rejected the idea, the other supported it.²⁵ Second, how would one know that the wounded fighter before us is a soldier who had subscribed to the pact? And does he still subscribe to the pact? In the absence of the wounded soldier's consent, mercy killing is simply murder.

Motives 2, 3, 4, and 5 are aimed at satisfying the needs of the patrol members and not the wounded fighter. For this reason, they are not virtuous motives.

After examining the four options through the lens of virtue ethics, Option 1 emerges as morally justifiable, along with Option 2, provided that our motivation is aimed at the casualty's security and not self-interest. Options 3 and 4 are not consistent with Canadian military virtues.

All three of the ethical decision-making models illustrated in this article lead us to reject the mercy killing option.

It may also be useful to consider what moral philosophers have to say on this issue. Mercy killing is a topic that has attracted the attention of ethics scholars, although their interest in mercy killing has been with disabled patients in health care settings, not wounded soldiers on the battlefield. For patients who are disabled or in a coma, there is often some doubt as to how long they will survive, so the typical argument in support of mercy killings in this context is that the victims "... are not fully alive as human beings ... they are existing as mere organisms."²⁶ The usual arguments against mercy killing are brief and specific – the victim has not given his/her consent and such killing is premeditated murder.

Returning to our hypothetical battlefield mercy killing case, the most ethical response to emerge from this analysis is Option 1, provide medical care to the wounded enemy to the extent possible, and provide care and comfort until he expires or evacuation to a medical facility is possible. This option produced the most benefit (or least harm) to stakeholders when we applied the utilitarian approach; it passed both the test of ends and universalizability in our principle-based analysis, and it was more consistent with Canadian military virtues than the other options. Option 2 could also be justified depending on our motives, but Options 3 and 4 are not morally acceptable, given the nature of our hypothetical case. But what if the situation was a little different?

There are circumstances in which leaving a casualty (Option 3) would be morally justifiable. A case in point is the Dieppe Raid on 19 August 1942, when soldiers and sailors left wounded Canadian soldiers on the beaches of Dieppe because they did not have enough boats to extract all the casualties, and persisting with the evacuation under withering fire from the German defenders would have resulted in more casualties.²⁷ A

utilitarian analysis of the evacuation at Dieppe would have determined that less harm could be achieved by leaving the casualties on the beach, and the morality of this action would have been further supported by the knowledge that the wounded Canadians would likely receive medical treatment from their German captors and Canadian medical personnel also left on the beach. With our hypothetical mercy killing case, a utilitarian analysis would also reveal that leaving the casualty would be acceptable if our patrol was drawn away to complete a task of greater moral value, such as saving a greater number of people. A utilitarian analysis would also support leaving the casualty if our patrol was attacked by enemy forces in such strength that we could not hold our



DND photo AR2008-T125-106

Mercy Killing is not Morally Justifiable

All three of the ethical decision-making models illustrated in this article lead us to reject the mercy killing option. With the utilitarian approach, we saw that mercy killing leads to many negative outcomes for many stakeholders, although it did provide immediate relief to the wounded fighter. The principle-based perspective showed that we could not establish a moral rule that all soldiers should kill severely wounded combatants if they were in a similar situation. Finally, the virtue-based approach indicated that none of the possible motives for mercy killing were consistent with Canadian military virtues.

ground without incurring casualties, because leaving the casualty would result in less harm.

What if our patrol is ordered by higher headquarters to leave the casualty in order to carry on with other tasks? In such a case, the patrol commander would have to decide between the professional obligation of tending to the casualty, and the professional obligation of obeying orders. The moral answer to this dilemma could be determined by evaluating the options open to the patrol commander, using the analytical process we employed on our mercy killing case in this article.

One might also ask if there are any circumstances in which killing a casualty would be morally justifiable? From an ethical perspective, mercy killing could be deemed justifiable if the victim asked to be killed, but (and here is where it gets difficult), the victim would have to be competent and rational,²⁸ and regardless of the ethical merits of the mercy killing, it would still be illegal.

Conclusion

This article has attempted to illustrate that battlefield mercy killing is not morally justifiable when assessed with the decision-making frameworks taught in the CF's ethics curriculum. The analysis also showed how understanding key ethics concepts (that have been in use for several centuries) can help us better under-

stand the logic behind the legal and moral conventions that regulate soldiers in combat. Ethical problems are certainly complex and made even more difficult by the emotions they release; however, the decision-making process employed in this essay demonstrates that ethical decision making does not have to be too complicated. The process revolves around four obvious questions (Who will be affected by my actions? What are the likely consequences of my choices? What are my professional obligations? What are my motives?). With practice and experience, this system can be learned by military personnel to the point it becomes an automatic response, like so many other military procedures.



DND photo IS2007-0709 by Master Corporal Robert Bottrill

NOTES

1. Michael Friscolanti, "A soldier's choice," in *Maclean's Magazine*, 24 May 2010, pp. 20-25; Michael Friscolanti and John Geddes, "A stern message about battlefield ethics and the 'soldier's pact,'" in *Maclean's Magazine*, 2 August 2010, pp. 28-30.
2. Friscolanti, p. 20.
3. Peter Worthington, "Semrau breaks silence," in *The Toronto Sun*, 21 July 2010, at <http://www.torontosun.com/comment/columnists/peter_worthington/2010/07/21/1478443>.
4. Bryn Weese, "Mercy killings on battlefield 'rare,' but do happen," in *The Kingston Whig Standard*, 20 July 2010, p. 9.
5. Christie Blatchford, "For jury in Semrau case, penalty didn't fit crime," in *The Globe and Mail*, 20 July 2010.
6. Richard J. Brennan and Bruce Campion-Smith, "Capt. Robert Semrau found not guilty of murder," in *The Star.com*, 19 July 2010, at <<http://www.thestar.com/news/canada/afghanmission/article/837505--capt-robert-semrau-found-not-guilty-of-murder>>.
7. Andrew Duffy, "Semrau should be kicked out of Forces; General," in *The National Post*, 26 July 2010, at <<http://www.nationalpost.com/news/Semrau+should+kicked+Forces+General/3323857/story.html>>.
8. Article 3, (2) of Convention (III) relative to the Treatment of Prisoners of War. Geneva, 12 August 1949, online at <<http://www.icrc.org/web/eng/siteeng0.nsf/html/genevaconventions>>.
9. Canada, Department of National Defence (no date), *Code of Conduct for CF Personnel*, at <<http://www.forces.gc.ca/jag/publications/Training-formation/CFCC-CCFC-eng.pdf>>.
10. *National Defence Act*, Sections 130 and 132, at <<http://www.canlii.org/en/ca/laws/stat/rsc-1985-c-n-5/latest/rsc-1985-c-n-5.html>>.
11. These three models are described in the course text by Louis Pojman and James Fieser, *Ethics: Discovering Right and Wrong*, 6th Edition (Belmont, CA: Wadsworth, Cengage Learning, 2009).
12. John Stuart Mill, *Utilitarianism* (1861). [Numerous sources].
13. Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation* (1789). [Numerous sources].
14. Robert A. Hall, *Combat Battalion: The Eighth Battalion in Vietnam* (Sydney, Australia: Allen & Unwin, 2000) pp. 200-202.
15. Immanuel Kant, *Foundations of the Metaphysics of Morals* (1785). [Numerous sources].
16. Article 3 of Geneva Convention (III).
17. *Code of Conduct for CF Personnel*.
18. Aristotle, *Nicomachean Ethics*, [trans.] Martin Ostwald (Indianapolis, IN: Bobbs-Merrill, 1962).
19. Canada, Department of National Defence, *Duty with Honour: The Profession of Arms in Canada* (2004), pp. 30-31, at <http://www.cda.forces.gc.ca/cfli/engraph/poa/doc/DutyWithHonourLongVers_e.df>.
20. Statement of Defence Ethics, at <<http://www.dep-ped.forces.gc.ca/dep-ped/about-ausujet/stmt-enc-eng.aspx>>.
21. Canada, Department of National Defence, *Canada's Army: We Stand on Guard for Thee* (no date), pp. 34-35.
22. Canada, Department of National Defence, *Duty with Discernment: Chief of Land Staff Guidance on Ethics in Operations*, at <<http://www.army.forces.gc.ca/land-terr/aep-peat/duty-servir/introduction/index-eng.asp>>.
23. Carol Tavis and Elliot Aronson, *Mistakes Were Made (but not by me): Why We Justify Foolish Beliefs, Bad Decisions, and Hurtful Acts* (Orlando, FL: Harcourt Books, 2007).
24. Friscolanti and Geddes, p. 30.
25. Friscolanti, p. 23.
26. Jacques P. Thiroux and Keith W. Krasemann, *Ethics: Theory and Practice* 9th Edition (Upper Saddle River, NJ: Pearson Prentice Hall, 2007), p. 248.
27. Terrence Robertson, *The Shame and the Glory: Dieppe* (Toronto: McClelland and Stewart, 1962), p. 379.
28. Lewis Vaughan, *Doing Ethics: Moral Reasoning and Contemporary Issues* 2nd Edition (New York: W.W. Norton & Company, 2010), pp. 232-238.