

# **Grounding British Army Values Upon an Ethical Good**

by

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### *1. Introduction*

The British Army remains one of the finest professional armies in the world. It has retained its reputation as a values-based organisation that takes its responsibilities towards its people and its actions seriously. However, moral lapses by a few soldiers in recent years have highlighted the reality that organisational reputation is not a concept that allows room for complacency. As the Army reconfigures towards 2020 and makes the transition from operations to contingency, this is an opportune moment to examine its *Values and Standards* to determine if they have proved adequate or are in need of being reviewed and their conceptual/ethical basis developed.

This paper will contend that there is a major conceptual flaw in the current explanation of the Army's values. This principally resides in the failure to ground its *Values and Standards* on an ethical good (ethical foundation), or adequately to explain the ethical principles from which those values may be derived, explained and defended. In their current form, the Army's values are both subjective and relative. Not only is this inadequate, this paper will seek to demonstrate that the values of the Army could and should be grounded upon an ethical good. Although philosophical in nature, this paper is not an attempt to create some new approach to ethics that will satisfy the philosophical sceptic or the ethical relativist. Rather, the intention is to provide a concept for consideration that explicitly derives its premise from those fundamental principles that underpin UK society and are consistent with national and international law. The concept explained in this paper is designed to be both intellectually coherent and, just as importantly, to be practical and useful to soldiers.

There are five sections in this paper. Section 2 will briefly set out a context within which the consideration of the Army's *Values and Standards* may be brought under external

and legal scrutiny. Section 3 will examine what the author of this paper considers to be a major conceptual flaw in the way the Army's *Values and Standards* are currently presented. Section 4 will explore how the Army's values could and should be grounded upon an ethical good. Section 5 will discuss the strengths and weaknesses associated with the concept of natural rights.

## 2. Context

Shortly after the start of hostilities in the first Gulf War, President George Bush delivered his famous 'New World Order Speech'<sup>1</sup>. However, far from an anticipated and hugely optimistic 'New World Order', following on from the hoped for peace dividend<sup>2</sup>, the general consensus today is that the trend is towards increasing instability and opportunity for confrontation and conflict<sup>3</sup>. As a consequence, national governments face what scholars refer to as 'wicked problems'<sup>4</sup> that defy simplistic answers or approaches. The reality in many instances, according to Christopher Coker, is that they cannot be solved, only 'managed until someone finally decides to stop managing it, or the managers run out of resources, time or money'<sup>5</sup>. It is against this backdrop of 'wicked problems' and ethically insoluble dilemmas<sup>6</sup> that Benest states 'there is no comparable history of counter-insurgency anywhere in the world to match that of the British record'<sup>7</sup>. However, The Aitken Report<sup>8</sup>, and more importantly the public inquiry chaired by the retired Lord Justice of Appeal Sir William Gage<sup>9</sup>, highlighted that the actions of a small number of soldiers have undermined the reputation of the British Army<sup>10</sup>.

'The public', observes Helen McCartney 'is often prepared to accept that the armed forces can make mistakes, particularly in combat situations where split-second judgements have to be made. What it cannot tolerate are the reports of brutality, humiliating abuse and torture, particularly in situations where the soldiers' own lives are not perceived to be in danger'<sup>11</sup>. One manifestation of this public reaction may be seen in groups like Public Interest

Lawyers<sup>12</sup> and some human rights NGOs<sup>13</sup> who are committed to using the law to test the policies and procedures of governments (and public bodies) in law<sup>14</sup>. This is frequently referred to as ‘lawfare’. For some it has created a sense that the military is ‘under siege’<sup>15</sup>. For others it is seen as a legitimate and ‘serious activity to ensure that the military adheres to the rule of law and democratic values’<sup>16</sup>. What can be maintained with a reasonable degree of certainty is that the actions and conduct of British soldiers, especially on operations, will continue to be examined using the mechanism of the law through national and international courts.

In the epilogue of his book *A Very British Killing*<sup>17</sup>, Andrew Williams, a professor of law at Warwick University, raises a theme that will become significant in any cases brought before the courts that may arise from future military operations. He writes,

However ‘good’ the majority, however small the minority of wrongdoers, it isn’t the condemnation of all for the suffering induced by the acts of the few which is the pressing moral issue ... Instead of recognising the inevitability, the official language is now of ‘values’, ‘order’ and commitment to standards. Instead of addressing the unavoidable, the design is to ignore it and then apologise for it later. Knowledge, act, apology is the institutional framework... [a] deep-set contempt for others that infected military operations...<sup>18</sup>.

However excellent the conduct of the majority of British soldiers, the uncomfortable and historical fact is that during military operations in Malaya, Kenya, Aden, Cyprus, Northern Ireland, Iraq and Afghanistan British soldiers have allegedly beaten, abused and unlawfully killed citizens in those countries<sup>19</sup>. The critique by Williams can only really be examined through the prism of experience, that is, after the conclusion of the next major operational deployment. Undoubtedly, the creation of an Operational Law Branch to inculcate the Law of Armed Conflict even more fully into British Army training, and the development of British Army Policy on Captured Persons, has already enhanced understanding of these issues within the Army and will continue to do so. However, as Williams has highlighted, the pressing issue is a moral one. He is convinced that as an institution the British Army trains soldiers to

be contemptuous of an ‘enemy’ and is therefore cynical of the recourse to the language of values and standards.

Western societies are increasingly sceptical about the use of military force in interventions of choice that have only a tenuous link with national interests. The ethical and legal justification underpinning these operations is vital ground, before and during the operation. When ethical language is used to justify how a calculation for armed intervention is made (*e.g.*, doing the ‘right thing’ by Britain and the people of Afghanistan<sup>20</sup>), morality and ethics become major factors in that conflict. This is not to suggest that they have not been major factors in war up to this point; that would be absurd. However, a paradigm shift has occurred<sup>21</sup>. Ethics and morality have become weapons used by non-state players against states, who are signatories to international humanitarian law but who may well, because of ideological reasons, have repudiated or ignored accepted international conventions<sup>22</sup>. Particularly in Western liberal democracies, the death of non-combatants, regardless of how they were killed, is often sufficient justification to call for an end to an operation<sup>23</sup>. It is essential, therefore, that the ethical basis of the British Army’s values is solid.

### *3. Values and Standards: A Conceptual Weakness*

In 2000 the Army published a booklet entitled *Values and Standards*; it was reissued with some modification in 2008. The 2008 edition maintains that ‘values are the moral principles – the intangible character and spirit – that should guide and develop us into the sort of people we should be’<sup>24</sup>. This booklet currently is the Army’s primary ethical source<sup>25</sup>. The foreword by the Chief of the General Staff states that ‘our Values and Standards are vital to operational effectiveness – they are the lifeblood that sustains the Army. They have to be more than words, we must believe in them and live by them’. ‘They reflect, and are consistent,’ the booklet contends, ‘with the moral virtues and ethical principles that underpin any decent society’<sup>26</sup>. This, however, is the only attempt to ‘ground’ the *Values and*

*Standards* in an external source from which an ethical good may be derived or deduced. This was and continues to be a major conceptual weakness. This approach avoids ‘entering the huge philosophical debates that rage over what the good life is’<sup>27</sup>. The problem, however, is that without any substantive attempt to ground the Army’s *Values and Standards* in an objective ethical good or ethical foundational, they are conceptually and ethically relative.

The word ‘standard’ refers to ‘an object or quality or measure serving as a basis or example or principle to which others should conform or by which the accuracy or quality of others are judged’<sup>28</sup>. It is used to set acceptable levels that are objective (conforming to a known paradigm), observable (often based on international protocols) and measurable (subject to external verification). Therefore use of the word ‘standard’ in regard to objective, observable and measurable aspects of the military profession is entirely appropriate. For example, the standard required of a professional soldier in regard to weapon handling and shooting attainments is a valid use of the term. However, once the word standard is used in relation to human behaviour without regard to an authoritative moral value, claims of objectivity will be difficult to defend. In this instance, standards of behaviour reflect the social norms of a particular group. Different social groups might look at the same thing in different ways. While it is entirely appropriate for an organisation to stipulate what an employee should wear during working hours or the standard of behaviour when at work, this is a social norm and not an ethical norm. In this regard it is relative.

The word ‘value’ means: 1, ‘the worth, desirability, or utility of a thing, or the qualities on which these depend. 2, worth as estimated; valuation. 3, the amount of money or goods for which a thing can be exchanged on the open market’<sup>29</sup>. In philosophy the word ‘value’ is also used in two specific senses: 1, ‘Truth Values’<sup>30</sup> (*i.e.*, primitive abstract objects denoted by sentences in natural and formal languages); and 2, ‘Incommensurable Values’ (*i.e.*, concepts such as liberty and equality, which are sometimes said to be incommensurable,

in the sense that their value cannot be reduced to a common measure)<sup>31</sup>. In the *Values and Standards* booklet the word ‘values’ is employed in the context of ‘moral value’: *i.e.*, that this value has a moral or ethical good. *Values and Standards* insists that its values are not abstract concepts, stating that they are ‘moral virtues and ethical principles that underpin any decent society’. What it makes no attempt to do is articulate what those ‘ethical principles’ are. It assumes that they exist and understood by every soldier in the Army, including the relationship that exists between those ethical principles and the Army’s values, and require no further explanation.

It is clear that some ethical standards must be shared for a culture or a society to exist in the first place and that frequently there are common values that do not vary substantially from culture to culture<sup>32</sup>. Our enemies can have their own version of the values we espouse<sup>33</sup>. For example, the Schutzstaffel or SS had as its official motto ‘Meine Ehre heißt Treue’ or ‘My Honour is Loyalty’. Given the tenacity of their fighting spirit during the Second World War, it is doubtful whether any could question their loyalty as soldiers either to each other or to their cause. In the death camps the SS had a coherent ethic in which some lives were valued and others not<sup>34</sup>. The SS did not value all human life or subscribe to the proposition that all human beings have an inherent worth and dignity. For this reason, few, would associate the SS with an organisation known for its moral conduct. In this regard loyalty, as an abstract concept, is morally relative or subjective. Another extreme version of this argument, it could be argued, is that the grouping calling itself Islamic State could maintain (hypothetically, of course) that it shares a version of the five of the six core values in *Values and Standards*<sup>35</sup>.

In a post-modern age<sup>36</sup> values are often understood as being subjective, and therefore they can mean whatever an individual or group wants them to mean<sup>37</sup>. Postmodernist thinkers maintain that there is no ‘truth’. They reject the belief that there are any absolutes in the

objective realm. Nash observes that postmodernism has at its heart an ‘eminent “lack of trust” in language as a medium for the representation of truth, its unsleeping attention to the fine print of what is said, its rigorous aim to search out inconstancy, inconsistency and contradiction, and its express intent on the dismemberment of foundational authority’<sup>38</sup>. The dismemberment of foundational authority associated with post-modernism has had profound implications. What emerges is a multiplicity of truth or value statements, each of which is of equal value and importance though not necessarily related. These truth or value statements can have no objective relationship with each other because in post-modern thought there are no meta-narratives (grand narratives within which every aspect of life is explained or given meaning through its relationship with the ‘big story’). Post-modern thought has created a world of subjectivity devoid of any external reference points, for there can be none in its thought.

Its ideas are grounded in a linguistic indeterminacy<sup>39</sup>, which is driven by a ‘discourse of suspicion’<sup>40</sup> that is compelled to deconstruct all ‘texts’ or ‘narratives’ to expose the power issues that underlie them. This ‘discourse of suspicion’ may be seen in a persuasive dictum of modern academia, in which some hold that language is a social construct and that all human discourse is conditioned by the socio-political nature of reality<sup>41</sup>. Language therefore is a cultural creation expressing the socio-political nature of a particular community. From this perspective, meaning is ultimately a social construction<sup>42</sup>. Language does not reveal meaning, it constructs meaning. An individual’s use of language reveals how the society constructs its basic meanings and values and the weight given to those meanings and values. The postmodernist’s ‘discourse of suspicion’ drives the requirement to deconstruct the ‘text’ or ‘narrative’ to uncover the connections between knowledge and power<sup>43</sup>. ‘Although artificial linguistic constructions are designed to convey the illusion of truth, they are actually a cover for the power relationships that constitute the culture’<sup>44</sup>. What emerges from this reasoning is

a linguistic indeterminacy: history, truth, meaning, *etc.*, become ‘islands of discourse’<sup>45</sup>, a state of existence where anything goes<sup>46</sup>.

The post-modernist thinker hearing the phrase ‘moral virtues and ethical principles that underpin any decent society’ is likely to ask a wide range of questions. For example, ‘What are these ethical principles? What gives them legitimacy? What makes a society decent? In what way is the UK a decent society as opposed to another, and how can one adopt a position of moral superiority by which to determine decency? Surely the notion of decency is nothing more than a statement of power, which in turn creates the sense of arbitrary and undefined notions that become the source of values?’ Although this may seem an extreme version of a post-modern critique, it is one that nevertheless must be addressed, especially in any battle of ethical narratives against an enemy such as IS.

A major practical problem in not grounding the Values of the British Army in an objective ethical good may be detected in this extract from the Aitken Report:

The evidence from the cases of deliberate abuse with which this report is concerned suggests that there was a failure to live up to those Values and Standards by some of those involved – not just the accused, but also some of the other individuals involved on the periphery of the investigations; and not just the soldiers, but some of their commanders as well. A particular example of this failing was the lack of co-operation experienced by the Service police in conducting investigations, and what the judge in the Baha Mousa case referred to as the ‘wall of silence’ from some of those who gave evidence. This is not a form of behaviour limited only to the Army; but it is perhaps exacerbated in an organisation that trains its people in the virtues of loyalty, and which stresses the importance of cohesion. The challenge is to educate our people to understand that lying to the Service Police, or having ‘selective memory loss’ in court, in order to protect other members of their unit, are not forms of loyalty, but rather a lack of integrity.

Many reading this extract might be inclined to agree with Brigadier Aitken’s assertion that ‘selective memory loss’, which was referred to as the ‘wall of silence’ in court, was not a form of loyalty. The problem is that it was a form of loyalty, at least to the soldiers involved. What it was not was the form of loyalty the senior command of the Army, or a majority of the country, found acceptable. How can this disconnect arise?

If values are subjective, they can mean whatever an individual or group wants them to mean and therefore can become relative to the needs of a particular group. Even when located within a ‘decent society’ the ethical principles alluded to in the *Values and Standards* are not always normative for soldiers. This situation is exacerbated when soldiers find themselves in a situation where the normal social reference points are subjected to overwhelming operational pressures. In his book *humanity: a moral history of the twentieth century* Jonathan Glover discusses the atrocity of My Lai and describes an erosion of moral resources, noting that moral restraints had been eroded by degrees which at first seemed relatively small<sup>47</sup>. There had been an incremental ethical drift in which the perceived abnormality of the lived experience of the soldiers began to give rise to the notion that the normal moral reference points did not apply. For some, many of the normal reference points can begin to fade or appear irrelevant in austere conditions<sup>48</sup>.

The psychologist Philip Zimbardo, who employs a behaviourist approach to psychology, has explored the question of why ‘good’ people turn evil<sup>49</sup>. Zimbardo uses the Jewish story of Lucifer’s metamorphosis into Satan to argue that good people can turn evil due to powerful situational forces. He argues that a process of transformation can occur within a context or setting in which the human agent starts to behave inappropriately because they have been shaped by situational forces over which they have no control. Individuals begin to behave in ways that would have been impossible to predict in advance<sup>50</sup>. Group conformity, peer pressure, latent racism, combined with a potential absence of accepted societal norms, combine to create a situation where the reference points with which we grow up subtly begin to change. In this setting, ‘values’ do not disappear; they become increasingly relative and subjective in a context which may have been shaped by situational forces over which individuals have little control. In this setting ‘loyalty’ to those sharing the same dangers may seem very different.

However unpalatable it may be, the version of loyalty that resulted in the ‘wall of silence’ in the Baha Mousa case was a form of loyalty; it just had acquired a radically different and relative focus.

#### *4. Grounding Values Upon an Ethical Good<sup>51</sup>*

The UK has been shaped by centuries of theological, legal, philosophical, political and social theories. Today, millions live their lives with little knowledge of the intellectual forces that combined to create the setting in which we are immersed, live and breathe. The radical and revolutionary ideas that came to shape and mould the Western world are largely unknown to many. It is, of course, much more complex than this. The Canadian philosopher Charles Taylor describes the setting in which we live as our modern social imaginary, ‘that common understanding that makes possible common practices and a widely shared sense of legitimacy’<sup>52</sup>. It is not simply a set of ideas; rather our social imaginary enables us to make sense of the practices of our society<sup>53</sup>. One of the characteristics of a social imaginary is that it ‘can eventually come to count as the taken-for-granted shape of things too obvious to mention’<sup>54</sup> and ‘seems the only one that makes sense’<sup>55</sup>. It is precisely because of the ‘too obvious to mention’ nature of ideas that shaped the modern world that their radical and revolutionary nature has been largely forgotten by the majority. This section will argue that it is upon these ideas, embedded within our national DNA, that the *Values and Standards* of the British Army should be grounded and expounded.

The arguments in this section are based on the notion of the retrieval<sup>56</sup> of certain ideas in moral philosophy, which according to Nigel Biggar have been enjoying a revival both in philosophical and theological circles<sup>57</sup>. Recent examples are, at least to some extent, Michael Walzer’s *Just and Unjust Wars*<sup>58</sup> and David Rodin’s *War & Self-Defence*<sup>59</sup>. The ideas being retrieved are moral intuitions which are uncommonly deep, powerful and universal<sup>60</sup> and which involve claims about the nature and status of human beings<sup>61</sup>. For Taylor, our deepest

moral instincts involve ‘our ineradicable sense that human life is to be respected’, and this is what Hoban refers to as the life value. This paper will advocate that the values of the British Army should be derived from the proposal that:

**All human persons have a shared moral status, a status based upon fundamental and inalienable natural rights.**

This proposition recognises the ineradicable sense that all human persons possess an inherent dignity and worth, expressed in the recognition that all human persons possess as inalienable natural rights the right to life and liberty. It is worth briefly noting several points before a more careful discussion.

- This proposition expresses fundamental ideas upon which UK society is built.
- This proposition is consistent with UK National Law.
- This proposition is consistent with the United Nations Universal Declaration of Human Rights.
- This proposition is consistent with the International Law of Armed Conflict.
- This proposition is consistent with the European Convention on Human Rights.
- The British Army will never be in a position when it is not subject to UK National Law at home or overseas and will always function under the norms of the International Law of Armed Conflict when deployed on operations.

The Geneva Convention (IV) of 1949 and the International Law of Armed Conflict, which has emerged since the end of the Second World War, may be understood as attempts to codify in law fundamental moral principles. What the proposition advocated in this paper would do, if accepted, is recognise that the legal obligations and the ethical policy of the British Army could be derived from the same set of fundamental principles: inalienable natural rights, possessed by all human persons.

Historically, the intellectual transformation from a Natural Law concept of man<sup>62</sup> to that of man possessing Natural Rights took place in the seventeenth century<sup>63</sup>. The transformation was not merely evidence of an academic shift but underpinned an elemental change in the way society was imagined. It is only ‘since the sixteenth century ... [that]

people in the West have come to understand “society” to mean an association of individuals<sup>64</sup>. A pre-modern social imaginary was based upon a hierarchical structure, in which society was made up of different orders<sup>65</sup>. In the ancient world there was a natural order of things in the cosmos<sup>66</sup>, which was then manifested in a defined and established social order<sup>67</sup>. There was a natural hierarchy, a superior class, who were born to command and others to obey<sup>68</sup>. Taylor refers to this social model as a mode of ‘hierarchical complementarity’<sup>69</sup>. In other words, one’s identity was directly relational to function within the established order; a person’s role in society gave him or her their essential identity<sup>70</sup>. The individual confronted ‘the world as a member of this family, this household, this clan, this tribe, this city, this nation, this kingdom. There is no “I” apart from these’<sup>71</sup>.

The canvas upon which the modern individual is cast has a rich and complex history. An integral weave in this tapestry of history is the developments that emerged in relation to an individual (in the pre-modern sense) and the individual’s relationship to the law. For example, in the twelfth century we can see how ‘the papacy stood out against any claim by secular rulers to be the sole source of law’<sup>72</sup>. The popes and canon jurists sought to establish a legal system based upon the equality of souls in the eyes of God<sup>73</sup>. Canon law began to develop around a new theory of justice that rested upon moral equality<sup>74</sup>. A famous example of this developmental change is Magna Carta signed in 1215, which established the principle that the king’s will in relation to the law could not be arbitrary. From Abelard in the twelfth century to Ockham in the fourteenth, the idea continued to develop, so that individuals rather than social classes ‘became the focus of legal jurisdiction’<sup>75</sup>. It is in this context of jurists, steeped in theological learning, that the life and work of Hugo Grotius<sup>76</sup> must be set.

Hugo Grotius (1583-1645) was a ‘towering figure in philosophy, political theory, law and associated fields during the seventeenth century’<sup>77</sup> and is credited by many with being the father of International Law<sup>78</sup>. The dominant paradigm in ethics and politics up to the

Enlightenment was some version of a natural law theory<sup>79</sup>. Although heavily influenced by Greek philosophy it had received a systematic impetus with the work of Thomas Aquinas in the thirteenth century<sup>80</sup>. What made the approach of Grotius so distinctive is that he did not seek authority for his theory of natural rights through recourse to the supernatural or divine. Part of his intention was to restrain and regulate the religious wars in Europe by demonstrating that natural rights could be articulated without resort to religious authority. Though Grotius was a Christian, he wanted to base his argument on the conceptual notion that natural rights exist even if, for the sake of argument, there is no God: ‘...though we should even grant, what without the greatest Wickedness cannot be granted, that there is no God, or that he takes no Care of human Affairs’<sup>81</sup>. What is foundationally significant in Grotius’ argument is his contention that there are natural rights, which are not merely arbitrary rules (human law) or rules revealed by God (divine law), but rights that are the natural possession of each individual<sup>82</sup>. In other words, regardless of the nature of government or the revelation of divine law, each human being was the possessor of certain natural rights which are ‘the common right of all mankind’<sup>83</sup>. This would be subsequently developed by the English philosopher John Locke.

John Locke (1623-1704) has been described as among the most influential philosophers of the modern period<sup>84</sup>. Two of his best known works are *An Essay Concerning Human Understanding* (1690)<sup>85</sup> and *Two Treatises of Government* (1689)<sup>86</sup>. In *An Essay*, Locke attacks the idea that humans are born with innate ideas<sup>87</sup>. As an empiricist he maintained that knowledge is derived from human senses<sup>88</sup>. For Locke, humans are born with a mind akin to a blank slate (*tabula rasa*) on which, through experience, knowledge is written. Although *An Essay* is an example of early English empiricism, by attacking the idea of innate principles Locke is also attacking authoritarianism<sup>89</sup>. This is an important point when considering Locke’s understanding of social theory and politics. Both *An Essay* and

*Two Treaties* were written when Locke was in exile in Holland until the Glorious Revolution of 1688. For Locke, all men were naturally free and therefore were not subject to pre-existing ideas (innate principles) that directed, or pre-ordained, the form of legitimate political government, for example, the Divine Right of Kings.

In *Two Treaties* Locke articulates ideas that would later influence the like of Thomas Jefferson<sup>90</sup> and many of the Founding Fathers of America<sup>91</sup> and provide the foundational principles that underpin modern Western democracy (the social contract, inalienable rights, and the belief that the authority for government is derived from the sovereignty of the people). The opening sentence of the UK's 2010 *National Security Strategy* states that, 'in a world of startling change, the first duty of the Government remains: the security of our country'<sup>92</sup>. This statement is an articulation of the idea of contract theory or the notion of a social contract between a people and their government. Thomas Hobbes in his work *Leviathan* (1651) was the first to articulate this idea. Both Hobbes and Locke referred to man being in a state of nature, that is, an imagined state of existence prior to any form of social structure or government. For Hobbes this state of nature was marked by 'continual fear, and danger of violent death; and the life of man, solitary, poor, nasty, brutish, and short'<sup>93</sup>.

Hobbes' concept of natural rights underpinned his vision of the state of nature as nasty, brutish and short. In his argument, all men had the right to all things, which created the circumstances for a perpetual 'condition of war'<sup>94</sup>. Chaos as a Hobbesian state of nature would only be avoided if everyone accepted some diminution of their universal right and rationally decided to accept an agreed system of laws and punishment. For Hobbes it was 'the terror of some punishment greater than the benefit they expect by the breach of their covenant' that would constrain men, 'and to make good that propriety which by mutual contract men acquire in recompense of the universal right they abandon'<sup>95</sup>. *Leviathan* was authorised by the consent of 'every man with every man'<sup>96</sup> to use the power granted to him,

to enable him ‘to form the wills of them all, to peace at home, and mutual aid against their enemies abroad’<sup>97</sup>.

Locke presented a radically very different view, in which ‘men living together according to reason without a common superior on earth, with authority to judge between them, is properly the state of Nature’<sup>98</sup>. In this condition, all men are ‘naturally free, equal and independent’<sup>99</sup> and through the use of reason live together without the Hobbesian vision of uninterrupted war. One of the key intellectual ideas that became so influential is that, in a Lockean state of nature, natural rights pre-exist social structures and forms of government. Consequently,

The only way anyone can strip off his natural liberty and clothe himself in the bonds of civil society is for him to agree with other men to unite into a community, so as to live together comfortably, safely, and peaceably, in a secure enjoyment of their properties and a greater security against outsiders... When any number of men have in this way consented to make one community or government...the majority have a right to act on behalf of the rest and to bind them by its decisions<sup>100</sup>.

It is not difficult to see in this extract the intellectual shoots that would later give rise to the idea of democracy as imagined in many Western states. The point that must be carefully noted, however, is that the principle of democracy is underpinned by the idea of natural rights. Man, according to Locke, had a title ‘to perfect freedom and an uncontrolled enjoyment of all the rights and privileges of the law of Nature, equally with any other man, or number of men in the world’ and had ‘by nature a power ... to preserve his property—that is, his life, liberty, and estate’<sup>101</sup>. These were rights that could not be given away and ‘why Locke ... had to introduce the notion of “inalienability”’<sup>102</sup>. The influence of Locke’s political philosophy<sup>103</sup> may be detected 87 years later in one of the most famous sentences of

*The Declaration of Independence:*

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. – That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.

The Founding Fathers in America were acutely aware that the majority could be tyrannical in relation to a minority grouping; ‘indeed, they regarded democratic despotism as more dangerous than monarchical despotism, since a despot can be resisted more easily than a majority. Only a theory of natural rights, which defines the proper limits of government, can morally empower minorities to demand that their rights be respected, whatever the form of a government may be’<sup>104</sup>. The American *Bill of Rights*, therefore, should be seen as a creation to protect American citizens from government, not the government from its citizens. The UK’s *Bill of Rights* (1689) was the forerunner and derived from the same principles.

The revolutionary nature of the consequences contained within the theories of natural rights associated with Grotius and Locke, according to Taylor, would not have been obvious to those who initially embraced them, though they seem obvious to us today<sup>105</sup>. Indeed, ‘modern modes of individualism seemed a luxury, a dangerous indulgence’<sup>106</sup>. However, when viewed from the 21<sup>st</sup> Century, it can be argued that Locke and Jefferson’s understanding of natural rights fell significantly short. For example, Donnelly contends that Locke ‘clearly envisioned them to be held only by propertied white Christian men. Women, “savages”, servants, and wage laborers were never imagined to be holders of natural rights at the end of the seventeenth century’<sup>107</sup>. These criticisms, however, are only valid up to a point. Contained within the logic of the Grotian-Lockean theory of the individual were the intellectual drivers that would set in motion changes in the way that people imagined their relationship to each other within a community<sup>108</sup>. For example, Dr Martin Luther King quoted from the *Declaration* to powerful effect in his magisterial *I Have a Dream* speech in August 1963<sup>109</sup>. For him, the architects of the new republic had signed ‘a promissory note to which every American was to fall heir’. Universal suffrage, full emancipation and equal rights would ultimately be derived from the fundamental principles articulated by Grotius and

Locke. Grotius and Locke were men of their century, but the principles they articulated were foundational in establishing modern Western democracies.

### 5. *Strengths and Weaknesses of Natural Rights Theory*

Natural Rights theory has had its passionate defenders and its vehement assailants down the centuries. Its heyday, though, proved relatively short. Even in America, whose *Constitution* was imbued with Lockean ideas, it had become by the early twentieth century ‘almost a fashion for Americans to sneer at the notion of inalienable rights’<sup>110</sup>. In eighteenth century England it came under sustained attack by both conservative and liberal thinkers. Edmund Burke produced one of the best known attacks on the French Revolution in his work *Reflections on the Revolution in France* (1790). Burke was adamant that ‘Government is not made in virtue of natural rights’<sup>111</sup>. He was a political realist and attacked the metaphysical ideas contained in natural rights: ‘the moment you abate anything from the full rights of men, each to govern himself, and suffer any artificial, positive limitation upon those rights, from that moment the whole organization of government becomes a consideration of convenience’<sup>112</sup>. Burke viewed the idea of political equality between all as ‘that monstrous fiction which [inspired] false ideas and vain expectations into men destined to travel in the obscure walk of laborious life’<sup>113</sup>.

The most famous attack on natural rights theory is that of the English philosopher Jeremy Bentham in his work *Anarchical Fallacies*<sup>114</sup>. Bentham regarded the *Declaration of Rights* issued during the French Revolution on the ‘fundamental principles of government’ as ‘execrable trash’ produced by ‘the choicest talents the French nation have produced’<sup>115</sup>. It would ‘sow the seeds of anarchy broad-cast: in justifying the demolition of existing authorities’<sup>116</sup>. As for the notion of natural rights he was scathing:

*Natural rights* is simple nonsense: natural and imprescriptible rights, rhetorical nonsense,—nonsense upon stilts...And of these rights, whatever they are, there is not, it seems, any one of which any government *can*, upon any occasion whatever, abrogate the smallest particle<sup>117</sup>.

A modern variant of Bentham's 'nonsense upon stilts' is Alasdair MacIntyre's assertion that 'the truth is plain: there are no such rights, and belief in them is one with the belief in witches and in unicorns'<sup>118</sup>. Bentham rejected the Lockean notion that rights were anterior to the establishment of government<sup>119</sup>. Without government, he argued, there can be no laws and therefore no security, no possibility of property, liberty or protection of weak against the strong<sup>120</sup>. It was law, therefore, that provided rights for individuals. Until the end of the Second World War, it may be argued, this had become the dominant position regarding rights. However, the rise and fall of Nazi Germany initiated the idea that certain actions are absolutely wrong, no matter what the circumstances, regardless of whether those actions had been officially authorised by laws and decrees of government<sup>121</sup>. Bentham's argument was horrifically exposed as fundamentally lacking in the policies of Nazi Germany, Stalinist Russia or Maoist China. In contrast, the safeguards explicit and implicit within the *Bill of Rights* (1689) and the American *Constitution* and its subsequent *Bill of Rights* were based upon the natural rights of each individual. It was not the law of government that granted or established rights but the role of government to safeguard the pre-existing rights of individuals that were inalienable regardless of government.

Perhaps the most important question that must be addressed is that of foundational appeal or authority. This has been central to the whole concept of 'natural rights' both negatively and positively. In simple terms, why does X have authority? It is the 'point beyond which there can be no answer to questions of "why"'<sup>122</sup>. The signatories to the *Declaration of Independence* maintained that 'We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights'. Two of the classic appeals to a foundational authority are unmistakably articulated in this defence of natural rights: 1, that such a truth is self-evident; and 2, that these truths have their foundational authority in their relationship to God the Creator. Thomas Jefferson, who

drafted the *Declaration*, was a child of the Enlightenment<sup>123</sup>. As a scholar, he had been persuaded by the argument that ‘natural rights’ were philosophically ‘self-evident’, but as a politician he recognised that religious belief was foundational for the overwhelming majority of those he was seeking to influence. In this regard, the *Declaration* is a statement of early Enlightenment philosophy and/or Christian religious beliefs.

In the Enlightenment period, any appeal to the divine or a supernatural source of authority came under increasing pressure. Truth, at least in the West, had to be tested at the bar of reason. Appeals to God as the final authority became intellectually unpopular. The German philosopher Immanuel Kant, however, ‘abolished God and made man God in His stead. We are still living’ according to Iris Murdoch, ‘in an age of Kantian man, or Kantian man-god’<sup>124</sup>. The irony is, this was not Kant’s objective. Rather than abolish faith, Kant tried to save it<sup>125</sup>. Pasternack and Rossi observe that, in the *Critique of Pure Reason* (1781)—‘Transcendental Dialectic’s Ideal of Reason’—while Kant argues that there is no viable argument for God’s existence, ‘none of this challenges the intelligibility of religious doctrines. So long as they are not self-contradictory, they are thinkable. It is just that their truth or falsehood cannot possibly be known’<sup>126</sup>. This does not result in agnosticism<sup>127</sup>, in Kant’s philosophy, because ‘he identifies faith as our third legitimate mode of holding-to-be-true [*Fürwahrhalten*]. The implications, however, of Kantian rationality were profound.

Writing against the background of the First World war, the German sociologist Max Weber maintained that the modern world had become ‘disenchanted’<sup>128</sup>; this had been part of the legacy of the rationalism and ongoing process of the intellectualisation of life that had marked the rationalism of Enlightenment Period<sup>129</sup>. For Weber disenchantment was ‘the knowledge or belief that ... there are no mysterious incalculable forces that come into play, but rather that one can, in principle, master all things by calculation’<sup>130</sup>. The German Philosopher Friedrich Nietzsche had understood the implications of Kant’s argument for

religion. In his book *Thus Spoke Zarathustra*, Nietzsche depicts Zarathustra coming down from his mountain solitude announcing that ‘God is dead’<sup>131</sup>. His use of the phrase ‘God is dead’ is an indication of his awareness that the logical empiricism of the Enlightenment had killed the need for God and the morality that a divine order gave<sup>132</sup>. Nietzsche understood that this would ultimately lead to nihilism<sup>133</sup>. When Weber spoke of the disenchantment of the world, it was all embrative; no aspect of life held mystery or supernatural; everything could be objectified, classified and exploited—including humanity.

In epistemology (theory of knowledge) a proposition to be may be said to be self-evident, if the truth it asserts contains its own evidence or proof and requires no need of further evidence or demonstration. Historically, advocates of natural rights have maintained that they are self-evident truths. Cognitivists maintain that ethical propositions can be true or false. Noncognitivists, however, reject the notion that ethical statements are true or false but see them as expressions of emotions, attitudes or preferences<sup>134</sup>. For example Mary Macdonald accepted that all or most human beings are intelligent or rational and that what could be known by reason is certainly true<sup>135</sup>. However this, she maintained, says ‘nothing about what *is*’<sup>136</sup> [emphasis original], and those who defend natural law and natural rights ‘constantly confuse reason with right’<sup>137</sup>. For MacDonald ethical statements reveal the stand taken not the truth of the statement. For example, ‘to assert that “Freedom is better than slavery” or “All men are of equal worth” is not to state a fact but to choose a side. It announces *This is where I stand*’<sup>138</sup>. In this regard MacDonald stands in the sentimentalist tradition of the Scottish philosopher David Hume and the logical positivists like AJ Ayer<sup>139</sup>.

Positivists ‘wanted philosophy to follow science, throwing out all that did not conform to empirical criteria of meaning’<sup>140</sup>. In 1929 Ludwig Wittgenstein stated that ‘ethics so far as it springs from the desire to say something about the ultimate meaning of life, the absolute good, the absolutely valuable, can be no science’<sup>141</sup>. The British philosopher AJ

Ayer argued that there is ‘no criterion by which one can test the validity of the judgements in which they occur’<sup>142</sup>. For Ayer, a statement like ‘stealing money is wrong’ has no factual meaning, ‘that is, expresses no proposition which can be either true or false. It is as if I had written ‘Stealing Money!!’<sup>143</sup>. The addition of ‘is wrong’ in the statement about stealing money does not state something that is true or false but expresses my personal feelings or emotion about the action. Logical positivism and noncognitivists reject the proposition that ethics can say anything factual about something being true or false; it was particularly strong at a time in the twentieth century when science was revered. However, in a postmodern age science no longer holds the key to allaying public fear, particularly in an age marked by the pervading nature of risk. Many people in Western societies in the twenty-first century have a suspicion both of science and of some technologies associated with it (for example, animal cloning, GM crops and stem cell research). The certainty that logical positivism associated with science, no longer exists.

Logical positivism forced philosophers to look more closely at the use of language even though it represented a particularly narrow view of language<sup>144</sup>. Take for example Ayer’s use of the sentence ‘stealing money is wrong’, which he maintains says nothing true or false. What happens if the subject of the verb to be is altered in this fashion: ‘the Holocaust was wrong’. In the logic of Ayer’s argument, this statement says nothing that is true or false but only expresses my feelings about the subject. Or as MacDonald might say, the statement ‘the Holocaust was wrong’ does not state a fact only my choice of what side I have taken on the subject of the Holocaust. This is an inadequate ethical response. The Holocaust is not simply a word; it was a real and horrific event that stands as a blight against humanity. The truth or falsehood of the statement cannot simply reside in an individual’s emotional response. Neither can it be reduced to the inadequacies of language to express the truth of propositions. By reducing the truth or falsehood of the statement ‘the Holocaust was wrong’

to the emotional involvement of individuals logically imagines a scenario in which the emotional response might be different, in which case the Holocaust could be either ethically wrong or right.

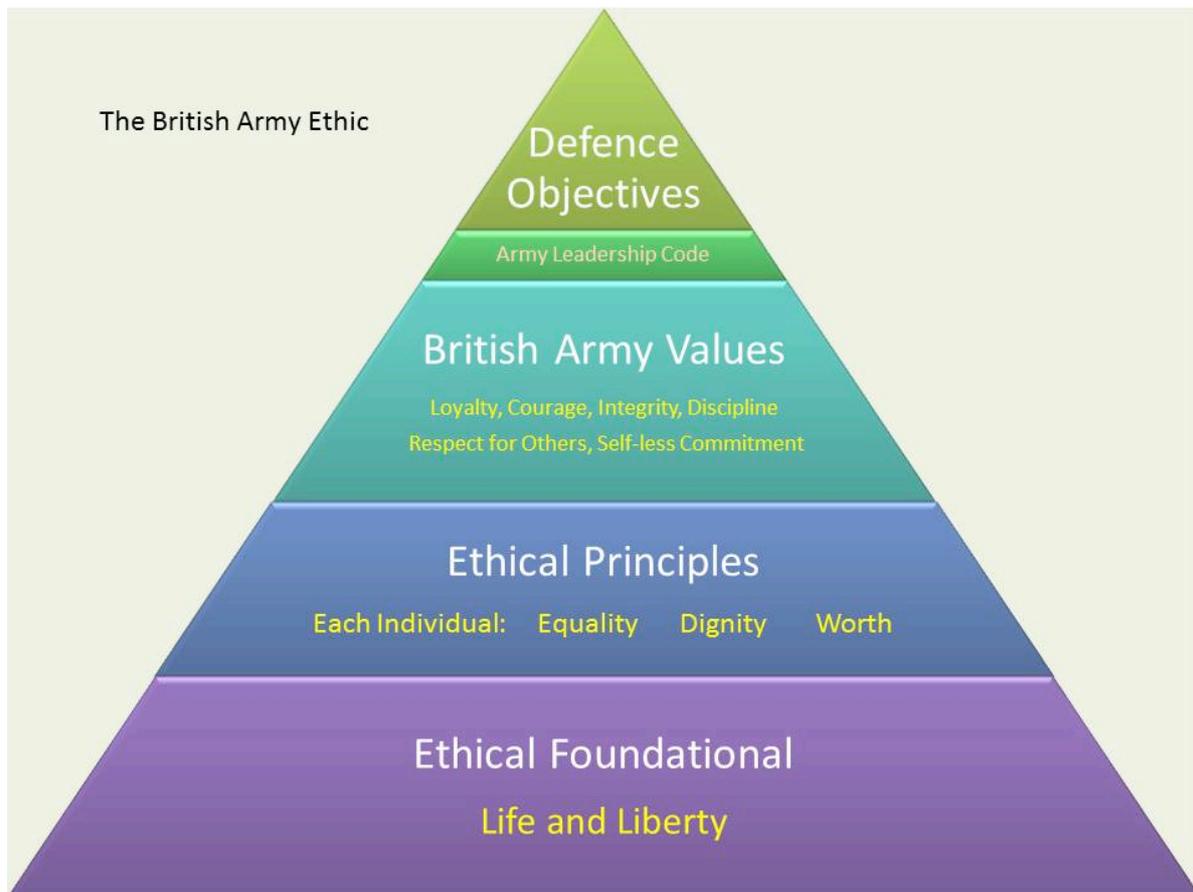
Life is not an emotional response; it is the basis of existence in an existential sense. ‘Life,’ contends Hoban, ‘is an absolute and universal value because it is a fundamental requirement of all human existence’<sup>145</sup>. In this regard life is a binary code, 1 or 0, on or off, living or dead<sup>146</sup>. To contend that the statement ‘life is good’ is ethically meaningless or is nothing more than an emotional response is profoundly inappropriate. Statements such as ‘I like ice-cream’ may indeed reflect both an emotional as well as factual response. In contrast, individual life and personal existence are existentially basic. When faced with an existential threat, life will invariably struggle to survive. For cognitively aware species, this struggle is more than mere animal instinct; invariably it will involve the conscious awareness of the consequences of any impending threat to life. Death is not an emotion, it is fact. Life is not an emotion, it is fact, even though it may evoke a bewildering array of emotions in its journey. Life from this perspective is the basic good; without life nothing is possible for any individual. Deriving an ethic from the primary good is one of the main intellectual positions of this paper.

Taylor makes the observation that ‘the average person needs to do very little thinking about the basis of universal respect, for instance, because just about everyone accepts this as an axiom today’<sup>147</sup>. This of course will not satisfy the philosophic sceptic<sup>148</sup>. Someone who is determined to doubt or question all forms of truth statements will never be satisfied with arguments about foundational theories. This, however, is irrelevant. The purpose of this paper is not to produce a concept that will convince every philosophical sceptic who chooses to challenge the basis of the British Army’s values. Rather the goal is to ground the Army’s values upon an ethical good that can be defended as internally coherent and consistent with

the foundational principles that underpin UK society, its system of government and its responsibilities to international norms and conventions. If the proposition that all knowledge is based upon some aspect of belief is accepted, then it is possible to realise that some beliefs are properly basic and require no additional evidence other than that about which I cannot be mistaken.

The concept of natural rights is derived from the notion that there ‘are moral beliefs which cluster around the sense that human life is to be respected and that the prohibitions and obligations which this imposes on us are among the most weighty and serious in our lives’<sup>149</sup>. Natural rights predate the idea of human rights by some 300 years, and they are intellectually distinct from the modern notion of human rights. Nevertheless, natural rights theory has profound implications for the concept of human rights. For Machan, ‘resting human rights on the ordinary moral discourse or the moral intuitions of one’s community will not provide them with universal significance’<sup>150</sup>. Human rights must not be reduced to the emotivism of personal feelings. Locke imagined humanity possessing inalienable natural rights and a desire to live together in a social setting. Natural rights are the implicit principles required of moral agents and their commitment to life in society<sup>151</sup>. They are also a fundamental support to human rights and the claims contained within the major charters on human rights.

The theory of natural rights is not only internally consistent but affirms the foundational importance of ordinary life<sup>152</sup>, the dignity and inherent worth of each individual and the universal basis upon which the concept of human rights rests. For Defence, a military ethic built upon a natural rights theory, strictly limited to life and liberty, would provide the ethical foundation currently absent from documents like *Values and Standards*. Figure 1 offers a pictorial representation of the relationship between an ethical good (ethical foundation), ethical principles and organisational values<sup>153</sup>.



## 6. Conclusions

The British Army is one of the most highly respected institutions in the United Kingdom, despite incidents such as Baha Mousa. However, it is likely that in future operational deployments it will continue to be placed under intense scrutiny and any alleged breaches of good conduct or behaviour will be tested in law by NGOs or groups like Public Interest Lawyers. Doing nothing or simply doing what was done more efficiently will be examined in either UK or international courts. In addition, the ethical dimension to modern operations will only intensify, especially as potential adversaries increasingly use ethics as a powerful weapon against any political narrative underpinning interventions of choice.

This paper has argued that there is a major conceptual flaw in the failure to ground the Army's *Values and Standards* on an ethical good, from which its ethical principles and organisational values may be derived, explained and defended. In their current form, they are

subjective and relative. Other groups, with which the Army would not wish to be associated morally, could (at least in theory if not in practice), claim that they had the same values—with the exception of ‘Respect for Others’. Because the *Values*, as currently articulated, are subjective in character, cases such as Baha Mousa have demonstrated that values like loyalty can adopt a radically different and relative focus in some situations, causing reputational damage to the Army. The main contention of this paper is that the values of the Army should be derived from the proposition, **all human persons have a shared moral status, a status based upon fundamental and inalienable natural rights**. This would mean that the legal obligations and the ethical policy of the Army would be derived from the set of fundamental principles upon which British society is built. In essence, it would be an articulation of the unexplained ethical principles alluded to in the current *Values and Standards* booklet. The same principles are enshrined in British law, the International Law of Armed Conflict, the United Nations *Universal Declaration of Human Rights* and the European Convention on Human Rights, of which the UK was one of the main architects.

This would be a bold decision, despite resurgence in interest in the concept of natural rights and ethics. Philosophical sceptics would attack the notion of natural rights. However, most people will instinctively understand that the life value is one of the most (if not the most) powerful motivators in our lives. Life is the basic good. ‘The first duty of the Government remains: the security of [the] country’<sup>154</sup>. The Armed Forces of the UK are essential in the defence of the life of the nation and its citizens. If the concept that the Army’s values should be derived from the ethical premise of the defence of life be accepted, not only would that be a powerful statement of intent to the public that the British Army’s ethic is based upon the fundamental principles of British society; it would also demonstrate to its critics that it is prepared to make the kind of bold strategic decisions necessary to prepare its people to deal with the ethical and legal complexity of modern warfare.

<sup>1</sup> For a copy of the full text, see <http://www.historyplace.com/speeches/bush-war.htm> (accessed 12 Apr 13). In it Bush contends that:

This is an historic moment. We have in this past year made great progress in ending the long era of conflict and cold war. We have before us the opportunity to forge for ourselves and for future generations a new world order -- a world where the rule of law, not the law of the jungle, governs the conduct of nations. When we are successful – and we will be – we have a real chance at this new world order, an order in which a credible United Nations can use its peacekeeping role to fulfil the promise and vision of the U.N.'s founders.

<sup>2</sup> See D Braddon, *Exploding the Myth The Peace Dividend, Regions and Market Adjustment* (Bristol: University of the West of England, 2000). Braddon maintains that, with few notable exceptions, the expected peace dividend after the end of the Cold War failed to materialise (p182).

<sup>3</sup> See DCDC, *Future Character of Conflict* (MOD UK, 2010) p4; DCDC, *Global Strategic Trends – Out to 2040* (MOD UK, 2010) p15.

<sup>4</sup> See HWJ Rittel and MM Webber, 'Dilemmas in a General Theory of Planning', in *Policy Science* (1973) Vol 4, p155-169 and C Coker, *War in an age of risk* (Cambridge: Polity, 2009) p128-129.

<sup>5</sup> Coker, *War in an Age of Risk* p156.

<sup>6</sup> See M Schulzke, 'Ethically Insoluble Dilemmas in War', in *Journal of Military Ethics* (2013) Vol 12, No 2, p95-110.

<sup>7</sup> D Benest, 'Atrocities in Britain's Counter-Insurgencies', in *The RUSI Journal* (2001) Vol 156, No 3, p80.

<sup>8</sup> *The Aitken Report: An Investigation into Cases of Deliberate Abuse and Unlawful Killing in Iraq in 2003 and 2004* (25 January 2008).

<sup>9</sup> See <http://www.bahamainquiry.org/index.htm> (accessed 1 Oct 14).

<sup>10</sup> *The Aitken Report*, p5.

<sup>11</sup> H McCartney, 'The military covenant and the civil-military contract in Britain', in *International Affairs* (2010) Vol 86, No 2, p416.

<sup>12</sup> Perhaps the most well known in the UK is Phil Shiner who leads a team of legal experts at Public Interest Lawyers. See [www.publicinterestlawyers.co.uk/people.php](http://www.publicinterestlawyers.co.uk/people.php) (accessed 1 Oct 14).

<sup>13</sup> The REDRESS is one example. On its website it states that 'REDRESS is a human rights organisation that helps torture survivors obtain justice and reparation. See [www.redress.org/about-redress/who-we-are](http://www.redress.org/about-redress/who-we-are) (accessed 1 Oct 14).

<sup>14</sup> This point is made in AT Williams, *A Very British Killing: The Death of Baha Mousa* (London: Vintage, 2013), 'using the law to enforce the law' (p172). This book won the Orwell Prize for Political Writing in 2013.

<sup>15</sup> Admiral Sir Michael Boyce, quoted in 'Lawyers besiege army over Iraq abuse', *The Guardian*, (25 July 05).

<sup>16</sup> See CJ Dunlap, 'Lawfare Today: A perspective', in *Yale Journal of International Affairs* (2008) p146. At the time of writing this article, Dunlap was the Deputy Judge Advocate General of the US Air Force.

<sup>17</sup> This book is a finely detailed and carefully argued review of the investigation into the death of Baha Mousa conducted by the Royal Military Police both in Iraq and the UK, the subsequent Courts Marshall of those prosecuted in relation to this death and the three-year-long public enquiry chaired by Sir William Gage.

<sup>18</sup> Williams, *A Very British Killing*, p291.

<sup>19</sup> See Benest, 'Atrocities in Britain's Counter-Insurgencies', in *The RUSI Journal* (2001) Vol 156, No 3, p80-87; 'A Liberal Democratic State and COIN: The Case of Britain, or Why Atrocities Can Still Happen' in *Civil Wars* (2012) Vol 14, No 1, p29-48.

<sup>20</sup> See G. Brown's speech, <http://news.bbc.co.uk/1/hi/8237207.stm> [accessed: August 2011].

<sup>21</sup> See PJ McCormack, 'You've been silent Padre', in *Military Chaplains in Contention* (Aldershot: Ashgate, 2013).

<sup>22</sup> See M Habeck, *Knowing the Enemy: Jihadist Ideology and the War on Terror* (New Haven & London: Yale University Press, 2006) p74.

<sup>23</sup> See

[http://www.churchofscotland.org.uk/news\\_and\\_events/news/articles/kirk\\_says\\_afghan\\_war\\_cannot\\_be\\_justified](http://www.churchofscotland.org.uk/news_and_events/news/articles/kirk_says_afghan_war_cannot_be_justified) (accessed, Aug 2011). The report *Just War Criteria and the War in Afghanistan* produced under ACTS (which is comprised of representatives of the Roman Catholic Church, Scottish Episcopal Church, Methodist Church, Church of Scotland and the Religious Society of Friends) states:

There is still no UN mandate to support the legitimacy of the OEF offensive action against the Taliban; the ISAF force is having very limited success in stabilising Afghanistan; and unacceptable levels of civilian casualties are continuing. Overall, as long as foreign troops remain, it seems that the situation is being inflamed (para 26).

<sup>24</sup> *Values and Standards of the British Army*.

<sup>25</sup> S Deakin, 'Ethics and the British Army's Values and Standards' in *The British Army Review* (2006) No 140, p39 makes the same point.

<sup>26</sup> *Values and Standards*, para 3, page 2.

<sup>27</sup> Deakin, 'Ethics and the British Army's Values and Standards' p40.

<sup>28</sup> *The Concise Oxford Dictionary* (Oxford: Oxford University Press, 1991).

<sup>29</sup> *The Concise Oxford Dictionary*.

<sup>30</sup> See Shramko, Yaroslav and Wansing, Heinrich, 'Truth Values', *The Stanford Encyclopedia of Philosophy* (Summer 2014 Edition), Edward N. Zalta (ed.), <http://plato.stanford.edu/archives/sum2014/entries/truth-values/>.

<sup>31</sup> Hsieh, Nien-hê, 'Incommensurable Values', *The Stanford Encyclopedia of Philosophy* (Fall 2008 Edition), Edward N. Zalta (ed.), <http://plato.stanford.edu/archives/fall2008/entries/value-incommensurable/>.

<sup>32</sup> D Whetham, 'Ethics, Law and Conflict', in *Ethics, Law and Military Operations*, ed. D Whetham (Basingstoke: Palgrave Macmillan, 2011) p17.

<sup>33</sup> JE Hoban, *The Ethical Warrior: Values, Morals & Ethics* (Spring Lake: RGI, 2012) p60.

<sup>34</sup> PJ Haas, *Morality after Auschwitz: The Radical Challenge of the Nazi Ethic* (Philadelphia: Fortress Press, 1992).

<sup>35</sup> It should be noted that the author is doing this purely as a thought experiment for the purposes of developing this argument.

**Courage.** A force of approximately 800 fighters from Islamic State (IS) attacked an Iraqi force of 30,000 soldiers (trained and equipped by the US)<sup>35</sup>. As for moral courage, fighters from IS have continued to go on the attack despite facing an air campaign by elements from the most sophisticated air forces in the world<sup>35</sup>.

**Discipline.** The fighters of IS have demonstrated that they are a disciplined military force which has achieved operational success against superior numbers<sup>35</sup>. The brutal murder of captured combatants and civilians has been both deliberate and calculated, designed to communicate a very specific and chilling message to their enemies. Although this displayed a wanton disregard for human life, it was a deliberate act.

**Loyalty.** IS fighters have demonstrated their fervent loyalty to their cause.

**Selfless Commitment.** IS fighters are fanatical to the point of death.

**Integrity.** The word integrity refers to both the quality of being honest and having strong moral principles and the state of being whole and undivided. IS has been exceptionally candid and honest regarding their stated aims for the restoration of the Caliphate of early Islam. In this regard, 'it is out to conquer, not merely to annihilate'<sup>35</sup>. Although repulsive to the overwhelmingly vast majority of non IS supporters, Islamic State is being consistent with its religiously motivated principles. IS has a clear strategic goal towards the achievement of which its adherents have shown remarkable integrity.

**Respect for Others.** Of the six core values of the British Army, respect for others is the one specific concept for which IS has no parallel. IS has demonstrated hatred and contempt for others who fail to embrace their extreme ideology. It could be argued, however, that intellectual defenders of IS might maintain that IS values encompass respect for others – but only if the 'others' accept the versions of Islamic law and society espoused by IS.

<sup>36</sup> U Beck, *World Risk Society* (Cambridge: Polity, 1999) prefers to use the term late-modernity rather than post-modern.

<sup>37</sup> Deakin, 'Ethics and the British Army's Values and Standards' p40, makes the same point.

<sup>38</sup> C Nash, *the unravelling of the postmodern mind* (Edinburgh: Edinburgh University Press, 2001) p77.

<sup>39</sup> Nash, *postmodern mind*, p97.

<sup>40</sup> *Ibid.*, p77.

<sup>41</sup> S Pattison, *Pastoral care and Liberation Theology* (London, SPCK, 1997) p34.

<sup>42</sup> GE Veith, *Guide to Contemporary Culture* (Leicester: Crossway, 1994) p51. For a detailed explanation of this, see KJ Gergen, *Realities and Relationships: Soundings in Social Construction* (Cambridge, Massachusetts, and London: Harvard University Press, 1994). Gergen is a constructionist and gives a comprehensive treatment of how meaning is and can be constructed by and within society.

<sup>43</sup> E Graham, *Transforming Practice: Pastoral Theology in an Age of Uncertainty* (London, Mowbray, 1996).

<sup>44</sup> Veith, *Guide*, p54.

<sup>45</sup> P Waugh, *Postmodernism* (London, New York: Edward Arnold, 1992) p6.

<sup>46</sup> Nash, *postmodern mind*, p26-28.

<sup>47</sup> J Glover, *humanity: a moral history of the twentieth century* (London: Pimlico, 2001) p60.

<sup>48</sup> J Frederick, *Black Hearts: One Platoon's Descent into Madness in Iraq's Triangle of Death* (London: Pan, 2011) is a powerful examination of this.

<sup>49</sup> P Zimbardo, *The Lucifer Effect: How Good People Turn Evil* (London: Random House 2007).

<sup>50</sup> *Ibid.*, p212.

<sup>51</sup> This section is indebted to Charles Taylor's philosophical observations contained in *Sources of The Self: The Making of Modern Identity* (Cambridge: Cambridge University Press, 1989) and *Modern Social Imaginaries*

(Durham and London: Duke University Press, 2004) and Jack E Hoban, *The Ethical Warrior: Values, Morals and Ethics* (Spring Lake: RGI, 2012) and ‘Developing the Ethical Marine Warrior, in the *Marine Corps Gazette* (June 2010) p20-25. His articulation of the ‘universal life value’ in combination with the detailed arguments in Taylor’s *Sources of The Self*, offer what this author believes to be an important insight to how values can be grounded in an ethical good.

<sup>52</sup> Taylor, *Modern Social Imaginaries*, p23.

<sup>53</sup> *Ibid.*, p2.

<sup>54</sup> *Ibid.*, p29.

<sup>55</sup> *Ibid.*, p17.

<sup>56</sup> Taylor, *Sources of The Self*, p10 refers to his work as an essay on retrieval.

<sup>57</sup> N Biggar, *In Defence of War* (Oxford: Oxford University Press, 2013) p160.

<sup>58</sup> M Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (New York: Basic, 2006).

<sup>59</sup> D Rodin, *War & Self-Defence* (Oxford: Clarendon, 2002).

<sup>60</sup> Taylor, *Sources of The Self*, p5.

<sup>61</sup> *Ibid.*, p6.

<sup>62</sup> Man is used in its universal sense as a species, rather than to male gender.

<sup>63</sup> Taylor, *Sources of The Self*, p11.

<sup>64</sup> L Siedentop, *Inventing the Individual: The Origins of Western Liberalism* (London: Alan Lane, 2014) p7.

Siedentop was appointed to the first post in intellectual history ever established in Britain. An Oxford academic, he is a Visiting Fellow at the Netherlands Institute for Advanced Study and Visiting Professor at the Complutense University in Madrid.

<sup>65</sup> Taylor, *Social Imaginaries*, p11.

<sup>66</sup> Siedentop, *Inventing the Individual*, p357.

<sup>67</sup> *Ibid.*, p35.

<sup>68</sup> *Ibid.*

<sup>69</sup> C Taylor, *Modern Social Imaginaries* (Durham and London: Duke University Press, 2004) p11.

<sup>70</sup> A MacIntyre, *After Virtue* (London: Duckworth, 1981).

<sup>71</sup> *Ibid.*, p160-161.

<sup>72</sup> Siedentop, *Inventing the Individual*, p16.

<sup>73</sup> *Ibid.*, p213.

<sup>74</sup> *Ibid.*, p216.

<sup>75</sup> *Ibid.*, p219.

<sup>76</sup> For an introduction into the life and work of Grotius see Miller, Jon, ‘Hugo Grotius’, *The Stanford Encyclopedia of Philosophy* (Spring 2014 Edition), Edward N. Zalta (ed.), <http://plato.stanford.edu/archives/spr2014/entries/grotius/> (accessed 3 Oct 14).

<sup>77</sup> *Ibid.*, p1.

<sup>78</sup> See CA Stumpf, *The Gortian Theology of International Law: Hugo Grotius and the Moral Foundation of International Relations* (Berlin and New York: Walter de Gruyter, 2006).

<sup>79</sup> See Murphy, Mark, ‘The Natural Law Tradition in Ethics’, *The Stanford Encyclopedia of Philosophy* (Winter 2011 Edition), Edward N. Zalta (ed.), <http://plato.stanford.edu/archives/win2011/entries/natural-law-ethics/> (accessed 8 May 14).

<sup>80</sup> See McInerny, Ralph and O’Callaghan, John, ‘Saint Thomas Aquinas’, *The Stanford Encyclopedia of Philosophy* (Summer 2014 Edition), Edward N. Zalta (ed.), <http://plato.stanford.edu/archives/sum2014/entries/aquinas/> (accessed 6 May 14).

<sup>81</sup> H Grotius, *On The Law of War and Peace*, ‘Prolegomena’ (XI) (1625) translated from the original Latin *De Jure Belli ac Pacis*, ed. AC Campbell.

<sup>82</sup> Grotius, *On The Law of War and Peace*, ‘Prolegomena’ (X).

<sup>83</sup> See chapter 2 of *On The Law of War and Peace*.

<sup>84</sup> See Tuckness, Alex, ‘Locke’s Political Philosophy’, *The Stanford Encyclopedia of Philosophy* (Winter 2012 Edition), Edward N. Zalta (ed.), <http://plato.stanford.edu/archives/win2012/entries/locke-political/> (accessed 2 May 14).

<sup>85</sup> This available from <http://www2.hn.psu.edu/faculty/jmanis/locke/humanund.pdf>.

<sup>86</sup> This is available from <http://www.earlymoderntexts.com/pdfs/locke1689a.pdf>.

<sup>87</sup> See Book 1, Chapter 1 ‘No Innate Speculative Principles’ and Book 1, Chapter 2, ‘No Innate Practical Principles’.

<sup>88</sup> See *An Essay on Human Understanding*, Book 2, chapters 1-5.

<sup>89</sup> See Uzgalis, William, “John Locke”, *The Stanford Encyclopedia of Philosophy* (Spring 2014 Edition), Edward N. Zalta (ed.), <http://plato.stanford.edu/archives/spr2014/entries/locke/> section 2.1 (accessed 4 May 14).

- <sup>90</sup> See J Ferling, *Jefferson and Hamilton: The Rivalry That Forged a Nation* (New York & London: Bloomsbury, 2013).
- <sup>91</sup> The *Declaration of Independence*, for example, is a classic articulation of Lockean political theory.
- <sup>92</sup> *A Strong Britain in an Age of Uncertainty: The National Security Strategy* (Oct 2010), available from [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/61936/national-security-strategy.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/61936/national-security-strategy.pdf) (accessed 8 Apr 13). In the *2009 Update* the opening sentence states that ‘providing security for the nation, safeguarding our citizens and our way of life, remains, the most important responsibility of government’. See *The National Security Strategy of the United Kingdom: Update 2009*, available from [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/229001/7590.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/229001/7590.pdf) (accessed 8 Apr 13).
- <sup>93</sup> T Hobbes, *Leviathan* (1651) p78. The book is available from <http://socserv2.socsci.mcmaster.ca/econ/ugcm/3ll3/hobbes/Leviathan.pdf> (accessed 9 Oct 14).
- <sup>94</sup> Hobbes, *Leviathan*, p88.
- <sup>95</sup> Ibid.
- <sup>96</sup> Ibid., p106
- <sup>97</sup> Ibid.
- <sup>98</sup> Locke, *Two Treaties*, chapter 3 ‘On the State of War’ para 19.
- <sup>99</sup> Ibid., chapter 8 ‘The beginning of political societies’ para 95.
- <sup>100</sup> Ibid.
- <sup>101</sup> Ibid., chapter 7 ‘Of Political or Civil Society’ para 87.
- <sup>102</sup> Taylor, *Sources of the Self*, p11. Inalienable means, cannot be sold, transferred or removed.
- <sup>103</sup> See DT Rodgers, ‘The Career of Republicanism’ in *The Journal of American History* (1992) Vol 79, No 1, p11-38. In this article Rodgers discusses the claim that ‘Locke dominates political thought, as no thinker dominates the political thought of a nation’ (p13).
- <sup>104</sup> GH Smith, ‘Jeremy Bentham’s Attack on Natural Rights’, downloaded from <http://www.libertarianism.org/publications/essays/excursions/jeremy-benthams-attack-natural-rights> (accessed 10 Oct 14).
- <sup>105</sup> Taylor, *Modern Social Imaginaries*, p16.
- <sup>106</sup> Ibid., p17.
- <sup>107</sup> J Donnelly, *Universal Human Rights: In Theory and Practice* (Ithaca & London: Cornell University Press, 2013) p91.
- <sup>108</sup> Taylor, *Modern Social Imaginaries*, p12.
- <sup>109</sup> For reference see <http://www.americanrhetoric.com/speeches/mlkihaveadream.htm> (accessed 9 July 14).
- <sup>110</sup> EV Abbott, ‘Inalienable Rights and the Eighteenth Amendment’ in the *Columbia Law Review*, (1920) Vol 20, No 2, p183-195.
- <sup>111</sup> E Burke, *Reflections on the Revolution in France* (1790) p51. This text is available from <http://socserv2.mcmaster.ca/~econ/ugcm/3ll3/burke/revfrance.pdf> (accessed 9 July 14).
- <sup>112</sup> Ibid.
- <sup>113</sup> Ibid., p31.
- <sup>114</sup> The full title of this work is *Anarchical Fallacies; being an examination of the Declaration of Rights issued during the French Revolution*. It is thought that it was originally written in 1796 but remained unpublished until 1816 when it was published in French, in Geneva. It only became available in English two years after Bentham’s death in 1834. For details, see HA Bedau, ‘“Anarchical Fallacies”: Bentham’s Attack on Human Rights’, in *Human Rights Quarterly* (2000) Vol 22, No 1, p261-279.
- <sup>115</sup> Bentham, *Anarchical Fallacies*, p540.
- <sup>116</sup> Ibid., p30.
- <sup>117</sup> Ibid, p199-200.
- <sup>118</sup> A MacIntyre, *After Virtue: a study in moral theory* (London: Duckworth, 2007) p 69.
- <sup>119</sup> Bentham, *Anarchical Fallacies*, p170.
- <sup>120</sup> Ibid., p180.
- <sup>121</sup> See ‘Human Rights’, available from <http://www.britannica.com/EBchecked/topic/275840/human-rights/219322/Nonsense-upon-stilts-the-critics-of-natural-rights> (accessed 3 Oct 14).
- <sup>122</sup> Donnelly, *Universal Human Rights*, p19.
- <sup>123</sup> Ferling, *Jefferson and Hamilton*, p45-46.
- <sup>124</sup> I Murdoch, *The Sovereignty of Good* (New York and London: Routledge, 1970) p78.
- <sup>125</sup> See Pasternack, Lawrence and Rossi, Philip, ‘Kant’s Philosophy of Religion’, *The Stanford Encyclopedia of Philosophy* (Fall 2014 Edition), Edward N. Zalta (ed.), <http://plato.stanford.edu/archives/fall2014/entries/kant-religion/> (accessed 15 Oct 14).
- <sup>126</sup> Ibid., section 3.3.

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- <sup>127</sup> Agnosticism is the view that the truth values of certain claims—especially claims about the existence or non-existence of God, as well as other religious and metaphysical claims—are unknown or unknowable.
- <sup>128</sup> ‘The fate of our times is characterized by rationalization and intellectualization, and, above all, by the “disenchantment of the world”. Precisely the ultimate and most sublime values have retreated from public life either into the transcendental realm of mystic life or into the brotherliness of direct and personal human relations’ Max Weber, ‘Science as a Vocation’ (1918-1919) taken *From Max Weber: Essays in Sociology*, translated and ed. By HH Gerth and C Wright Mills (New York: Oxford University Press, 1946) p155.
- <sup>129</sup> MH MacKinnon, ‘Max Weber’s Disenchantment: Lineages of Kant and Channing’, in *JCS*, Vol.1, no 3 (2001) p329-351, argues that Weber’s concept of disenchantment was as a result of his view that Kant’s reason had failed to deliver the ‘progress’ or rational-ascetic that Kant predicted.
- <sup>130</sup> Weber, ‘Science as a Vocation’, p139.
- <sup>131</sup> Nietzsche first articulates this idea in *The Gay Science*, book 3 section 108 before expounding it in *Thus Spoke Zarathustra*, book 1.
- <sup>132</sup> For a biting critique of Kantian rationalism see F Nietzsche, *Beyond Good and Evil*, trans RJ Hollingdale (London: Penguin, 1973) section 16 p45-46.
- <sup>133</sup> For a useful and succinct introduction into Nietzsche’s understanding of nihilism, see KA Pearson, *Nietzsche* (London: Granta, 2005) chapter 9 ‘Nihilism and the Will to Nothingness’ p94-104.
- <sup>134</sup> This resides under the rubric of metaethics. For an introduction in the subject, see Sayre-McCord, Geoff, “Metaethics”, *The Stanford Encyclopedia of Philosophy* (Summer 2014 Edition), Edward N. Zalta (ed.), <http://plato.stanford.edu/archives/sum2014/entries/metaethics/>.
- <sup>135</sup> M MacDonald, ‘Natural Rights’ in *Proceedings of the Aristotelian Society*, (1946-1947) Vol 47, p231.
- <sup>136</sup> Ibid.
- <sup>137</sup> Ibid.
- <sup>138</sup> Ibid., p244.
- <sup>139</sup> For a general introduction to this subject, see Creath, Richard, “Logical Empiricism”, *The Stanford Encyclopedia of Philosophy* (Spring 2014 Edition), Edward N. Zalta (ed.), <http://plato.stanford.edu/archives/spr2014/entries/logical-empiricism/> (accessed 17 Oct 14).
- <sup>140</sup> M Thompson, *Philosophy* (London: Hodder, 1995) p229.
- <sup>141</sup> L Wittgenstein, ‘Lecture on Ethics’ in *Ethics*, ed. P Singer (Oxford: Oxford University Press, 1994), p147.
- <sup>142</sup> AJ Ayer, ‘Ethics for Logical Positivists’, in *Ethics*, ed. P Singer (Oxford: Oxford University Press, 1994), p147.
- <sup>143</sup> Ibid.
- <sup>144</sup> Thompson, *Philosophy*, p71.
- <sup>145</sup> Hoban, *The Ethical Warrior*, p50.
- <sup>146</sup> Ibid.
- <sup>147</sup> Taylor, *Sources of the Self*, p9.
- <sup>148</sup> Donnelly, *Universal Human Rights*, p19.
- <sup>149</sup> Taylor, *Sources of the Self*, p15.
- <sup>150</sup> TR Machan, ‘A Reconsideration of Natural Rights Theory’, in the *American Philosophical Quarterly*, (1982) Vol19, No 1, p61.
- <sup>151</sup> Ibid., p69.
- <sup>152</sup> Taylor, *Sources of the Self*, p23.
- <sup>153</sup> Figure 1 is the author’s own creation.
- <sup>154</sup> *A Strong Britain in an Age of Uncertainty: The National Security Strategy* (Oct 2010), available from [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/61936/national-security-strategy.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/61936/national-security-strategy.pdf) (accessed 8 Apr 13).

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Dr McCormack describes himself as one of life's perpetual students and enjoys trying to stretch his mind. During his pastoral and theological training he also concurrently undertook his initial academic training at the Queen's University of Belfast (QUB), graduating with a four years honours degree: his honours year specialising in New Testament, Philosophy of Religion and Advanced Ethics. In 2001 he completed his first PhD through QUB, after six years part-time research (The Nature of Judgment in the Book of the Revelation). In 2006 he successfully completed an MTh, with distinction, at Cardiff University, during which he developed a new model of chaplaincy. The title of his second PhD (sponsored by the MOD) successfully completed 2014 through Cranfield University, is The Nature of the British Soldier, Warrior or Weapons Platform: a Philosophical Framework. This thesis proposes that Achilles and the battlefield technician may be envisaged as existing at either end of a spectrum or continuum. It offers a philosophical framework to examine the issues involved in understanding how the generic British soldier is understood in the modern UK social imaginary. He was a visiting fellow of Harris Manchester, Oxford University and member of the Summer Research Institute held at the college in 2014.