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## RULES OF ENGAGEMENT AND GOVERNANCE OF AGRAMANTE'S CAMP

### **Abstract**

*Rules of Engagement (ROEs) are orders released to military units which define the circumstances, conditions, degree and manner in which a combatant is allowed to use force. ROEs create the “space of conflict and battle” also known as “Agramante’s Camp”, which is operational, physical, mental, legal and ethical in nature. We have focused on an analysis of some of these aspects in order to better comprehend their nature, thus developing a political science research in several areas. Firstly, we have looked into their formal structure, presenting an approach to their cybernetic and algorithmic feature, as well as how they function as a language. We conceive see them as “political machines”, a specific postmodern concept, in line with the famous dictum “the map is not the territory”. ROEs have not been accepted without opposition, a phenomenon we have dubbed the “Z effect”. The article concludes with an overview of the relationship between ROEs and collateral damage and the construction of reality through discourse.*

### **KeyWords**

*Rules of Engagement, Agramante’s Camp, conflict, use of force.*

## RULES OF ENGAGEMENT AND GOVERNANCE OF AGRAMANTE'S CAMP

### DEFINITION: THE "AGRAMANTE'S CAMP"

Rules of Engagement ("Rules of Engagement, ROEs") are orders that determine how force is used in an operation, fixing its intensity and its control.<sup>1</sup> They belong within the field of command, as an operational, planning, training and legal factor.<sup>2</sup> By specifying the form and conditions of applying force,<sup>3</sup> they delineate the so-called "Agramante's Camp". Here we are referring to the area of conflict within which the soldiers on a campaign move, in the midst of the chaos, the fog and the heat of battle. The "Agramante's Camp" is physical, psychological, legal and ethical in nature,<sup>4</sup> these being its regions of knowledge and activity. It recalls Fauconnier's mental spaces,<sup>5</sup> the "behind the scenes" cognitive domains, the "world of possible representation"<sup>6</sup> created by our senses, prior knowledge and particular ideology.

The "Agramante's Camp" is related to two other concepts that serve as explanatory images: the Biosphere and the possible worlds. The first, according to Suess and Vernadsky, is the unique ecological system that encompasses life on Earth.<sup>7</sup> The "Agramante's Camp" would be that unique ecological system, the combination of

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1 MARTINS, Mark S., Rules of Engagement for Land Forces: A Matter of Training, Not Lawyering, *Military Law Review*, vol. n° 143 (Winter 1994); and CENTER FOR LAW AND MILITARY OPERATIONS & JOINT FORCE JUDGE ADVOCATE, *Operational Law Handbook 2002*. Charlottesville: The Judge Advocate General's Legal Center & School (US. Army), 2002.

2 HOEGE, H. H., ROE... also a Matter of Doctrine, *The Army Lawyer, Department of the Army Pamphlet 27-50-353* (June, 2002).

3 MARTINS, Mark S., op. cit.

4 Functions like a multiverse (the totality of space and time, of all forms of matter, energy and impulse, the physical laws and constants that govern them, applied to the military realm) separated in complex and complete planes (universes), at times hidden. We recall Antoine de Saint- Exupéry: "what is essential is invisible to the eye".

5 FAUCONNIER, G. *Mental spaces: Aspects of Meaning Construction in Natural Language*. Cambridge: Cambridge University Press, 1985.

6 GALLARDO PAÚLS, B. *Conocimiento y Lenguaje*. Valencia: Universidad de Valencia, 2005, p. 311.

7 GRINEVALD, J. *La Biosphère: un concept holistique fondamental*, en BASSAND, M., GALLAND, B., and JOYE, D., *Transformations techniques et Sociétés*, Berna: 1992.

elements that enter into communication and collision in battle; from scenarios to actors and behaviour; a global military ecosystem, made up of a diversity of organisms and species (the military, civilians, states, international organisations, NGOs, all in permanent interaction).

When we speak of possible worlds, we refer to the imaginary or real areas-forms-spaces-moments in which one can enter into combat. Wittgenstein begins his “Tractatus logico-philosophicus” by affirming: “the world is all that is the case” (“Die Welt ist alles, was der Fall ist”). The world is all that happens, the facts in a logical space, inferring that it is action, a verb.

Taking these ideas as our reference, ROEs are orders that a commander can dictate to regulate actions (the “military biosphere”, “the military verb”); alluding “to the events in their entirety”, referring to the combat. They are relevant for two reasons: they refer to the use of arms and the responsibility of whoever is handling them;<sup>8</sup> and they point to a political will, through mandates and prohibitions.

Created by the US Chief of Staff in 1954,<sup>9</sup> the concept was accepted in the West from the nineties onwards. Literature quotes distant antecedents from the Middle Ages and the Conquest of America,<sup>10</sup> with their later incorporation into the military field. In Spain the concept comes into existence following participation in operations in the former Yugoslavia, translated from the English. “Engagement” implies confrontation, combat, the rules that we must carry out. On the other hand, it alludes

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8 Military Career Law 39/2007, 19 November, and the Organic Law 9/2011, 27 July, on rights and duties of the members of the Armed Forces. Both regulate the behaviour of the military: “in the legitimate use of force, a gradual and proportionate use shall be made of same, in accordance with the rules of battle established for the operations in which it is participating”. They are mentioned in the Royal Ordinances for the Armed Forces (Royal Decree 96/2009, 6 February (articles 42, 84 and 94. Cf. GRANET, Marie-Béatrice and others. *L'environnement juridique des forces terrestres dans les opérations extérieures*. Paris: Ministère de la Défense, 2004, p. 85; CENTER FOR LAW AND MILITARY OPERATIONS & JOINT FORCE JUDGE ADVOCATE, *Rule of Law Handbook*, op. cit., p. 59.

9 SOLIS, Gary D. *The law of armed conflict: international humanitarian law in war*. New York: Cambridge University Press, 2010, p. 492.

10 LORENZO PONCE DE LEON, Rodrigo. The rules of Engagement (ROE) as paradigm of the State of Law in military operations. Madrid: Ministry of Defence, 2012, in [www.portalcultura.mde.es/Galerias/actividades/fichero/2012\\_PreDefQuerolyLombardero\\_Las\\_ROExs.pdf](http://www.portalcultura.mde.es/Galerias/actividades/fichero/2012_PreDefQuerolyLombardero_Las_ROExs.pdf); PHILLIPS, Guy R. Rules of Engagement: A Primer, *The Army Lawyer, Department of the Army Pamphlet 27-50-248* (July 1993), in [www.loc.gov/rr/frd/Military\\_Law/pdf/o7-1993.pdf](http://www.loc.gov/rr/frd/Military_Law/pdf/o7-1993.pdf); PIERINI, Jean Paul, Rules of Engagement, Status of the agreements and Criminal Law: different approaches as to the legal base of the use of force in military operations and conflicts of jurisdiction in respect of foreign friendly fire. XVème Congrès International de Défense Sociale (Toledo, September 2007). *Le Droit Pénal entre la guerre et la paix: Justice et coopération pénale dans les interventions militaires internationales*, in [www.defensesociale.org/xvcongreso/informacion\\_fr.php](http://www.defensesociale.org/xvcongreso/informacion_fr.php).

to the commitment of political authorities and military commanders to use force only in prescribed cases.

Its study has three perspectives: operational, legal and political science. The operational perspective brings us back to the procedures of military staff and is limited. If adopted today, it will be obsolete tomorrow. The legal perspective is limited to their normative base and derived responsibilities. The political science perspective allows them to be considered as a tool of governance and an awareness of what is real, reality as the narrative of what is real,<sup>11</sup> and its management by means of violence.

## THE “PORPHYRIAN TREE”, PRIOR CONCEPTS AND MANDATES

The ROEs establish the mapping of violence. Outside the map they draw there is nothing, the number  $i, \sqrt{-1}$ , the impossible, the illegitimate and the criminal. The environment-space in question emerges thanks to certain documents or catalogues (called “Standing ROEs” or SROEs), drawn up by the Joint Chiefs of Staff, of more or less restricted access, which forecast situations and replies to cases of violence.<sup>12</sup> In planning an operation, with such catalogues as references, certain concrete ROEs are proposed; these are included in the corresponding annexes of the Plan and Order of Operations (OPLAN and OPORD), and are applied during delivery.<sup>13</sup> This is a mandate, following an imperative discourse: “the use of lethal force in the case of hostile acts”, which determines the application of force according to the prescribed circumstances, or in other words: “whenever there is a hostile act”.

They are arranged in a hierarchical system classified by categories, according to the model of the “Porphyrian Tree”. This is the Aristotelian knowledge archetype, based on the proposals of Porphyry of Tyre, who in his “Introductio in Praedicamenta” classified the qualities of a being by means of a hierarchical relation of genus/species, illustrated by a tree: an idea that was to gather momentum and expand thanks to

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<sup>11</sup> Reality is what is really related; between the world surrounding us and ourselves exists a vacuum that we try to bridge with language and narrative.

<sup>12</sup> Document MC 362/1 NATO Rules of Engagement, 30 June 2003; for the European Union, the documents EUMC Mtg Doc 67/1/05 REV1, 20 February 2006; and also EU Concept for the Use of Force in EU-led Military Operations OPS 13569/1/08 REV 1, 10 October 2008; for the United Nations, the UN document MD/FGS/0220.0001 (2000) UNDPKO, Guidelines for the Development of Rules of Engagement for Peace Keeping Operations, May 2002. In Spain, Defence Chief of Staff (2013), recent, reserved catalogue.

<sup>13</sup> BENNETT, D. A., and MACDONALD, A. F., Coalition Rules of Engagement, *Joint Forces Quarterly* (summer, 1995); and WOMACK, S., Rules of Engagement in Multinational Operations, *Marine Corps Gazette* (February, 1996).

Christian theology. The SROEs respond to this structural, nominalist and categorical framework, with their “groups” and “series”. In a group devoted to “targeting”, we could find a series of ROEs related to the identification and designation of dual-use targets; or in a group called “mission accomplishment”, a series devoted to freedom of movement, indirect fire, etc.

We return now to their content: these are written orders, with prohibitions and permissions with regard to possible actions.<sup>14</sup> They are written up in accordance with “previous concepts” and “mandates”. The former define the instances that activate each ROE, underlined as follows:

1. Attack: aggression carried out against the units concerned, its components and persons under special protection, or its allies.
2. Hostile attempt: preparatory act that implies an immediate threat of use of force or violence.

When the military operator verifies that he is in a situation defined in one of the previous concepts, he can choose which response to give, whether prohibition, mandate or authorisation, according to the circumstances.<sup>15</sup> A possible ROE could have the following literal wording: “the use of force, including lethal force, against persons who attempt to impede the development of land operations in the area of coordinates XX-XX”. From the latter we can infer that the ROEs, just like language, have the capacity to perform, given that they create and define the enemy in a concrete place, with concrete frontiers, by means of enunciation and verbalisation.

## ALGORITHMS AND CYBERNETICS

The ROEs are a tool for governing a system, formed by all possibilities that a unit has of insisting on an action of force; ranging from minimum violence to combat, as well as the various interactions of all such possibilities.<sup>16</sup> They are an algorithm, a prescribed set of instructions or rules, ordained and finite, whose aim is to carry out an activity, by means of successive steps.

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<sup>14</sup> : Document MC 362/1 “NATO Rules of Engagement”, 30 June 2003, Part V, “Structure of the ROE and Procedures”, point 15.

<sup>15</sup> : MILLER, E.S. Interoperability of Rules of Engagement in Multinational Maritime Operations. Alexandria: Center for Naval Analysis, 2003, p. 9.

<sup>16</sup> : SAGEN, Scott D. Rules of Engagement, *Security Studies*, vol. 1, n° 1 (autumn 1991), p. 80.

This is also true because the cybernetics governing regulatory systems and rational efficiency is the science of decision, control, communication, feedback and self-correction. It relates the study of ROEs to the “dynamics of systems”, the construction of complex simulation models. The system that we could refer to as “the use of force in operations”, devised by means of ROEs, is a prospective simulation, a frame of reference that ought to be learnt and internalised by the various military elements employed in operations, which will be resorted to when entering combat or applying force. It would be made up of a set of definitions that identify the various model elements (actors, “prior concepts” and “mandates”) outlining a map of possible scenarios, together with a series of relations specifying the various interactions; in other words, the various possibilities of employing force, according to the ROEs.

Its application is simple: in the face of situation  $A_0$ , adopt a response  $R$  and study the immediate effect of the measure, via a feedback process. If the situation has returned to  $A_0$ , stop the action. If it has reached a different but similar situation, then we call on  $A_1$ , adopt a response  $R_1$  and repeat the process. When  $A_0$  tends towards  $AC$ , where  $C$  is open combat with use of lethal force,  $R_1, 2, 3 \dots n$ , which is the ROE applied, will be more violent.

## LANGUAGE AND ENUNCIATION

ROEs are a set of signifiers and meanings that transmit information. They come into being at political level, when the commencement of an operation is decided; from among the provisions adopted, the nature of the violence to be applied is determined. Thus, the holder of power becomes the subject of the enunciation of the violence, an action whereby the ROEs become scriptural devices, placing a huge political burden onto one specific action. They are the language with which the elements (strategic, operational and tactical) engage in dialogue on violence. They are an autonomous language within another higher one: war or conflict. Through war, the historic individualities (peoples, cultures) and people (consciences) communicate; words possess an important political atomic mass.

Sartre affirmed words to be “loaded pistols”,<sup>17</sup> used for colliding, commanding or dominating. ROEs define the nature of combat, the hostile act, the threat, the force itself, the enemy. In a nutshell, language and politics go hand in hand,<sup>18</sup> Aristotle defined man as a political being who possesses speech, with a “logos” based on word.

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17 SARTRE, Jean Paul. ¿Qué es la literatura? Buenos Aires: Losada, 1957, p. 47.

18 ESPOSITO, R. Confines de lo político. Nueve pensamientos sobre política. Madrid: Trotta, 1996, p. 21.

Language is the raw material of politics;<sup>19</sup> it constructs chains of ideas, narrations that articulate justification and legitimisation,<sup>20</sup> like the ROEs.

They can have three interpretations: a lexicon, the use of certain signs and a combination of procedures. In the first case, they denote the control of singular knowledge techniques. In the second, a linguistic use determined by attitudes, ideologies and values, with the specific special weight of words; the language of ROEs is not the same in the United States, Spain or Russia. The third case refers to language in the creative discourses of reality. As a language, they have an identifying power of “us” and “them”, like the IFF system. They function as codes to build empirical orders whereby the military can mutually recognise and relate to one another; by means of, through and for violence. The system is built on binomials of the type *we/they*, *we/allies*, *military/civilians*, and the most important: *friend/enemy*, according to other previous pairings: *attack/non attack*, *hostile act /threat of hostile act*, etc.

Another example is the scale of force. The application of ROEs requires a sequence of actions, initiated with measures ranging from non-lethal force to combat, implying a modulation of violence, in accordance with anticipated threats. Their application follows an ascending line: in the face of a hostile presence ROE 1 is applied, which allows for warning signals; if the situation persists, we apply ROE 2, which permits a communication of dialogue; if this does not resolve the issue, ROE 3 launches imperative warnings. If it fails, we can use non-lethal force (ROE 4), make a demonstration of lethal force (ROE 5) and, finally, use lethal force (ROE 6).

The scale of force has two aims: to control the intensity and proportionality of violence. It is dealt with in the Additional Protocol I to the Geneva Conventions,<sup>21</sup> which prohibits indiscriminate attacks<sup>22</sup> and in the Statute of Rome of the International Penal Court,<sup>23</sup> which provides for certain obligations on states and combatants, as part of the post-modern military superego, paraphrasing Freud's proposals in “The Uneasiness in Culture”, the mega-ethos of the present-day combatant. In correlation

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19 GLUCKSMANN, André. *El discurso de la guerra*. Barcelona: Editorial Anagrama, 1969, p. 79.

20 AZNAR FERNANDEZ-MONTESINOS, Federico. *Entender la Guerra en el Siglo XXI*. Madrid: Editorial Complutense and Ministry of Defence, 2011, p. 47.

21 Additional Protocol I to the Geneva Conventions; 12 August 1949, relative to the Protection of the Victims of Armed International Conflicts, 8 June 1977.

22 Article 51.5: these are considered as : “b) l an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.”

23 Article 8,2, b, IV): “intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the non-human environment, which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated”.

to the scale of force and the limitations on the means of combat is the corresponding punishment for excesses in such crimes.

The ROEs as a language evolve and are prone to shifts<sup>24</sup> in meaning. They are changing entities insofar as each shift creates new verbalisations of what is real, transforming it into reality. Each mutation is an alteration of the genotype of a living being. The ROEs, through contact with mutagenic agents which alter the genetic information, tend to be environmental.<sup>25</sup> This change in turn generates new characteristics. The list of the ROEs' possible mutagenic factors is endless. One must underline that these are entities in perpetual change, and according as facts and the course of operations are modified, so too is their "battle rhythm". In their structure, they obey the essentially postmodern "body without organs" concept.

Antonin Artaud's idea of the "body without organs", contained in the *Pico della Mirandola* on human nature is an individual construction which depends on the free will of the subject, and is not ontological.<sup>26</sup> He alludes to the mutability of all concepts, to the fluidity that postmodernism imposes, as put forward by Lyotard,<sup>27</sup> with his critique of reason and modernism.<sup>28</sup> During this cultural period, the absurd was put forward as the touchstone of existence (Camus and his Sisyphus); the disappearance of truth and of great narratives (Lyotard); the liquefaction of values, concepts and ideas (Bauman); permanent shift or change (Derrida, Lacan); simulacra and simulation (Baudrillard); the death of the past and the impossibility of constructing anything on the basis of any reality (Deleuze and Guattari); and finally, domination by control as technology of power (Foucault).

If we combine these ideas with military operations, we shall see how the ROEs are postmodern in nature. They emerge when the new paradigm presents itself (60s and 70s); and they are founded on the futility of what is inherited, the end of certainties and the principles that turned the "Agramante's Camp" into a familiar environment, until the Second World War at least. Zama or Rocroi were more akin to Waterloo and the events that occurred there than to a Gettysburg, or any Vietnam episode or the "Global War on Terror". Nothing of what has been done up to now is entirely

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24 In the sense given by Lacan and Derrida, change of meaning, axis and perspective.

25 CENTER FOR LAW AND MILITARY OPERATIONS & JOINT FORCE JUDGE ADVOCATE. *Forged in the Fire - Legal Lessons Learned During Military Operations, 1994-2006*. Charlottesville: The Judge Advocate General's Legal Center & School (US Army), 2006, p. 140.

26 Pico della Mirandola believed that man was his own architect, justifying the change, overcoming his nature and its negation as a norm without appeal. DELLA MIRANDOLA, Pico. *On the dignity of Man*. Madrid, Editora Nacional, 1884, p. 105.

27 LYOTARD, J. F. *La condición postmoderna*. Madrid, Ediciones Cátedra, 1987.

28 KASON, Nancy M. *Borges y la posmodernidad*. Méjico: UNAM-El Ensayo Iberoamericano, 1994.

valid, but neither is it absolutely useless: the deconstruction and the cannibalisation<sup>29</sup> of classical warfare and its referents are necessary. Its traditional concept has faded and been replaced by crisis and conflict; a new construct created out of the ashes of the wars of our fathers. “After the hot war (the violence of conflict), after the cold war (the balance of terror), here comes the dead war- the unfrozen cold war - which leaves us to grapple with the corpse of war and the necessity of dealing with this decomposing corpse”, said Baudrillard in 1991.<sup>30</sup> The “time of the dead war” was a “highly toxic period, which can cause powerless stupor”.<sup>31</sup>

The classic form of engaging in battle does not serve us either; we cannot totally destroy the enemy, soldier or civilian; nor do we even know for sure if such a traditional form exists. Now we have legal and illegal combatants, terrorists, insurgents, pirates, delinquents, civilian populations, narcoguerrillas, hackers, security contractors... We cannot bomb London, Berlin, Bremen or Nagasaki again, above all after the millions of casualties in the Second World War. We cannot choose a sector of society and gas it; we cannot enslave prisoners in Siberia nor massively prostitute women prisoners in military brothels in Asia; we cannot experiment therapies on prisoners and then apply them to our injured soldiers... Nor can we even think of execution following a summary court-martial for traitors, cowards or deserters; in Spain we have banished the death sentence, even in times of war.

Everything is becoming reduced. The horizon of violence, formerly so distant, is now very near. The *bio-political* techniques that establish who must live and who must die, and the ways of making them die, are not unlimited issues, not mere questions of internal order or of state sovereignty, the ultimate manifestation of the power of the shepherd king, who selects the sacrificed lamb. Those who enunciate, the rulers, have created their written versions of reality, like humanitarian discourses, more out of necessity, environmental usefulness and survival than for ethical reasons, they manage the “Agramante's Camp” as if it were a stadium, under the control of the UN and the International Red Cross -which is to war what FIFA is to football, a referee establishing norms and controls.

We have evoked this comparison, because modern-day conflict is rather like a bloody sport, as if we were entering into a competition, with its rules and its “fair play” (the right of armed conflicts), especially after the chaos of the Second World War. This is how Baudrillard described it, after studying the political space that emerged at the end of the 20<sup>th</sup> Century, after the Second Gulf War (1991), with television, computer

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29 Using the pieces of the team that are in good shape to build something new. This is not a Spanish term.

30 BAUDRILLARD, Jean. *La Guerra del Golfo no ha tenido lugar*. Barcelona: Anagrama, 1991, p. 9.

31 *Ibid.*, p.10.

science, information technology, computers and hyper-reality like new interacting machinery. Conflict, war or violence were a show; the monstrous drama of Karl Kraus.

## DIALOGUE

The ROEs dialogue on two levels:

- First: the enemies dialogue with one another when they use force. The best image is that of a game of cards, in which each player turns up a card (ROE) obliging the other player to do the same (his ROE), until one of them wins in the final stakes. “I make war, then I am the one who speaks, and I speak to you, my adversary; in the struggle is the word”.<sup>32</sup>
- Second: From a hierarchical point of view, the actors in charge of the operation at a tactical level communicate with those at operational level, who in turn communicate with those at strategic level. The assignation of powers to manage the ROEs depends on the military structure concerned, and is applied according to levels of authority: the head of a brigade has ROEs that differ to those of a company captain or squadron leader; each rank that applies a ROE assigned to a level must request permission.

Let us now differentiate the organic military command<sup>33</sup> from the operational,<sup>34</sup> the former being centred on administrating resources and instructing and the second in executing and engaging in combat. This can refer to controlling the objective, providing freedom for everything else, or covering the specific aspects of how to achieve this. The important thing is its application in multinational operations and structures; we find ourselves with “*task forces*” formed by units from several countries: A US general, with a multinational Chief of Staff, can command a French division with two brigades, Italian and Spanish. Generally, this command will mark objectives and each national component will coordinate and apply its own procedures for achieving them. There are so many possible ways of managing ROEs as structures, which are devised prior to deployment by means of Statutes of Force Agreement (SOFA) as well as Plans and Operations Orders.

While conducting operations, a brigade can find itself in a situation that requires the application of a particular ROE, whose mandate is reserved to the head of the

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32 GLUCKSMANN, André, *op. cit.*, p. 113.

33 EJÉRCITO DE TIERRA. *Doctrina de empleo de las fuerzas terrestres (PDI-001)*. Madrid: Ejército de Tierra, 2012, p. 5.5.

34 *Ibíd.*

division he reports to; the general of a brigade cannot apply a ROE if he lacks the powers to do so, and therefore must convince his superior of the need to apply it, in order to receive the appropriate authorisation. This dialogue is called the “ROEs game”, a set of procedures established in order to implement them. The regulatory conduct or chain of command, the hierarchical line of dependency of each element of the structure with superiors and subordinates, requires definition. It also imposes a limitation in terms of vertical communication: only in this way can each military unit engage in dialogue or communicate. The “ROEs game” uses standardised formulas that follow an ascending and descending order, bearing the required information. They are known as “ROE messages” and are three in all: “Request” (ROEREQ); “Authorisation or Denial” (ROEAUTH); and “Implementation or Cancellation” (ROEIMPL).

If the ROEs are a language, we shall see how cursed words also exist: zones of silence, empty spaces; the unmentionable that cannot be remedied with mere discourse. We have seen how the modalities of command allow for units to serve under leaders of different nationality. In line with national policy on force, unilateral restrictions can be placed on the ROEs, known as “caveats”. A particular unit would be authorised to act differently to another, according to its nationality and flag. They can be addressed formally or informally depending on various factors:<sup>35</sup> political interests, (where there is a greater preponderance of civil power, more “caveats”);<sup>36</sup> risks and threats; capacities of the units concerned and their content, how and when. These restrictions generally refer to the rejection of the specific use of force,<sup>37</sup> but the possible types are wide-ranging: the interpretation of previous concepts, the means employed, limitations in terms of timetables, geography or logistics<sup>38</sup>... accordingly, not operating in certain localities, non-engagement in fire unless one is placed under direct fire; non-participation in certain operations, not holding prisoners or detainees more than X horas, not flying in certain time slots, not engaging in night-time combat or after a snowstorm, not

35 ALVA VILLAMÓN, Silvio Javier. The political control of a low-level conflict via the Rules of Engagement of the legally constituted political authority: case study of the border between Peru and Colombia. Thesis for Master's Degree in Defence and Hemispheric Security. University of El Salvador, Buenos Aires (Argentina) and Inter American College of Defence, Washington DC, United States of America, 16 May 2005, in [http://www2.congreso.gob.pe/sicr/cendocbib/con2\\_uibd.nsf/6E36866A85AE67FE052577B5007FEE7F/\\$FILE/tuco.pdf](http://www2.congreso.gob.pe/sicr/cendocbib/con2_uibd.nsf/6E36866A85AE67FE052577B5007FEE7F/$FILE/tuco.pdf); and BROADSTONE, Herman C. Rules of Engagement in Military Operations Other Than War, From Beirut to Bosnia. MMS Thesis. Quantico: Marine Corps Command and Staff College (April 1996).

36 AUERSWALD, David P.; and SAIDEMAN, Stephen M. NATO at War: Understanding the Challenges of Caveats in Afghanistan, 2009, in [www.aco.nato.int](http://www.aco.nato.int).

37 NATO Document AAP-6 (2007): “Caveat: In NATO operations, any limitation, restriction or constraint by a nation on its military forces or civilian elements under NATO command and control or otherwise available to NATO, that does not permit NATO commanders to deploy and employ these assets fully in line with the approved operation plan.”

38 VV.AA. NATO Legal Deskbook. Bruselas: NATO, 2010, p. 261.

transporting local staff in helicopters... As one might expect, these have been rejected, because operations are designed *à la carte* even under a common umbrella; and no leading player would consent to its power being limited, or to the inertia arising from its exercise. It is claimed that its implementation would lead to a lack of coordination, powers, increased risk, etc., all of which imperils the principle of unity of effort.<sup>39</sup>

## POLITICAL MACHINERY

ROEs are also a public policy managing violence.<sup>40</sup> Establishing a response to a problematic situation<sup>41</sup> are activities of government, aimed at influencing the behaviour and life of other people. This entails various elements: a collective intentional action; a measure of control and determination of the course that, effectively, it should run; and finally, the result of decisions and previous interactions. They emerge as an instrument for managing war, isolating a conflict or warning of the scale of force in a scenario, leading us to the management of military risks. Risk is the possibility of damaging events, the realisation of a danger or a threat with an impact on operations.<sup>42</sup> All ROEs depend on the objectives being pursued, the type of threats and risk and the ideology of the government. A concrete ideological stance can influence the technical aspects of an operation through its ROEs. ROEs are not the same in Afghanistan or in Mali.

Indeed, the ROEs are rather like machinery, in the sense given to the word by Deleuze and Guattari, which goes beyond their mere technological aspects.<sup>43</sup> A machine is a singular power of enunciation<sup>44</sup>, an entity with the capacity to define reality and act on it; the result of assembling heterogeneous, social, technological, energy, moral, corporal and military components. The idea of ROEs as a mechanism

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39 PORTERO, Florentino, Presente and futuro de la OTAN. Grupo de Estudios Estratégicos (GEES), Lecture. Instituto Gutiérrez Mellado (30 November 2006), in [www.gees.org/articulo/3350/](http://www.gees.org/articulo/3350/); and MICHAELS, Jim, "Nations limit use of NATO forces", USA Today, 28 September 2006, in [www.usatoday.com/news/world/2006-09-28-afghanistan-nato-caveats\\_x.htm](http://www.usatoday.com/news/world/2006-09-28-afghanistan-nato-caveats_x.htm)

40 DROR, Yehezkel, and GARSON, David. El estudio de las políticas públicas. México: Editorial Miguel Angel Porrúa, 2000; and MORAN, Michael; REIN, Martin; and GOODIN, Robert E. The Oxford Handbook of Public Policy. Oxford: Oxford University Press, 2006.

41 SALAZAR VARGAS, Carlos, La definición de política pública, Bien Común, nº 209, p. 47 and sis, in [www.fundacionpreciado.org.mx/biencomun/bc209/C\\_Salazar.pdf](http://www.fundacionpreciado.org.mx/biencomun/bc209/C_Salazar.pdf).

42 NATO RTO TR-IST-049, Improving Common Security Risk Analysis, September 2008, p. 2-2, in [http://ftp.rta.nato.int/public//PubFullText/RTO/TR/RTO-TR-IST-049//\\$\\$TR-IST-049-ALL.pdf](http://ftp.rta.nato.int/public//PubFullText/RTO/TR/RTO-TR-IST-049//$$TR-IST-049-ALL.pdf).

43 GUATTARI, Félix. Caosmosis. Buenos Aires: Ed. Manantial, 1996, p. 48.

44 Ibid.

and dialogue creates metaphors: not only are they machines; they are also combinations of elements whose relationship or machinery enables one to harness, direct, regulate or transform the necessary energy for a given task, with a given purpose: political will resulting in a violent act, that given task being the military operation. According to the proposals contained in Deleuze and Guattari's "The anti-Oedipus: capitalism and schizophrenia", there are three types of machines: "social" (groups), "desiring" (individuals) and "technical" or functional, that connect the other two. The ROEs belong to the latter.

Societies, according to the prevailing machine, allow for a triple taxonomy. We recognise "societies of sovereignty", based on princely power, which used to handle simple machines, crossbows, levers, watches, sailing boats, the first armies dominated by the infantry. Later on the "disciplinary societies" appeared, based on psycho-physical dominance, with schools, barracks, hospitals and prisons as strongholds of education, socialisation and culture. Finally the "societies of control" arrived on the scene, dominating information, speed, aviation and dromology.<sup>45</sup> Marinetti, in his futurist manifestos, hailed speed as the emblem of modernism and virility and spoke of how futurists became linked with war, violence, aviation and the militarism of the 20th Century. Information management was key to the change of model. "Disciplinary" procedures were to become the "society of control", based on the omnicomprehension and the omni-intervention of information, verification, inspection, super-rapid technology and "InfoTech". This brought with it computers, satellites, cybernetics, GPS, command and control systems, drones, digital technology, the Internet, algocracy.<sup>46</sup> ROEs are another part of this macro-system.

The so-called "disciplinary society" expert in psycho-physical dominance, caused world wars, mutating into a "genocidal society" when precisely such psycho-physical dominance, that desire for power, became a eugenic issue, a tool of social engineering to eliminate human groups through political decisions (the great genocides of the 20th Century), or through almost universal wars. It then became necessary to dominate violence in order to modify tendencies, domesticating fate<sup>47</sup> and the use of statistics as a political tool. Thus it was that "the mathematics of decision-making" came into being, the Operational Military Research that seeks to apprehend reality by enumerating and cross-referencing data, adopting measures and dictating orders for their future course. Statistics would be the mathematised control and vigilance expressed in numbers and schemes; the science of silent persecution by means of "data-on-the-man", the raw material which the bureaucracies of our century feed off. Born and expanded

45 Study of the economic politics of speed. Paul Virilio's contributions stand out.

46 Del inglés "algocracy", gobierno basado in the uso de algoritmos and ordenadores in la toma de decisiones. ANEESH, A., Global Labor: Algocratic Modes of Organization, *Sociological Theory*, nº 27 (vol. 4), 2009.

47 HACKING, Ian. La domesticación del azar. Madrid: Gedisa Editorial, 2012.

for two centuries, they included among their machinations the armies of the masses that adopted decision-making processes based on statistics in recruitment, logistics or combat; even the “laws of Lanchester” were an attempt to mathematise.<sup>48</sup> Vigilance was the political tool of panoptic dominance and the ROEs one of its devices.

## MAP AND TERRITORY

ROEs are topological machines, equipped with a technology that close off the space where force is applied, the “Agramante’s Camp”; they are endowed with a cartographic nature. One only has to read those dictated during the First World War to isolate Great Britain by sea; or those employed with the same aim in the Falklands War with the British; or the closure of air space in the former Yugoslavia, Iraq or Libya, creating specific combat zones where violence was permitted and free entry was prohibited under threat of being sunk or shot down.

They are a disciplinary system, whose physical base (land, sea, air, and cyberspace) provides the support for military action, the framework for its development and also constituted the scene of combat, representations and spectacles. The public, the audiences that know of such combats via the media and the Internet, are transformed into tools of influence; they consume images, discourses and legitimations. They draw a specific map, an “Antonine Itinerary” or a “Peutinger’s Tabula” that situates the legions facing the barbarians and what they can do to detain them.

The ROEs are a map, but not a territory. In order to understand this, let us begin with Alfred Korzybski’s proposals in his “General Semantics”. It contains the famous quotation “the map is not the territory”, known as “Korzybski’s dictum”. It is said to stem from an anecdote while the author was doing his military service. On a walk one night he fell into a ditch that shouldn’t have been there, as it did not figure on paper; it had been neither announced nor verbalised; a ditch that “did not exist” because “it wasn’t mentioned”. The dictum signifies that reality (the relation of what is real) and what is real are not equal entities. Here, the ROEs appear as the language and map of violence, not as violence *per se*. They do not substitute the act of shooting, nor do they serve to divine the future. The real does not have to accommodate itself to their forecasts. We must remember that they are scriptural mechanisms which, with illustrative and political weight close off the “Agramante’s Camp”, the modality of the Heideggerian possible, what is legally and politically feasible, in the full lack of definition and fog of combat. Von Moltke affirmed that no Operations Plan would survive the first collision

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<sup>48</sup> LANCHESTER, Frederick William. *Aircraft in Warfare: the Dawn of the Fourth Arm*. London: Constable and Company Limited, 1916, in <https://archive.org/details/aircraftinwarfaroolancrich>.

with the enemy,<sup>49</sup> the operating environment of a unit in peace is predictable, but not so in war.<sup>50</sup> In this, all is supposition, confusion, divination, Wellington confessed to having spent his life trying to figure out what was on the other side of the hill.<sup>51</sup>

The ROEs are a map, the tale of an event that we expect will come about (and that would determine the application of one ROE or another) that cannot replace the event *per se*, or failure would be inevitable. If the ROEs provide for reactions with regard to unreal acts, if they contradict reality, the actor will then confuse map with territory, the ROE language will be inexact and the operation will fail. Examples are the ROEs dictated for the “Multinational Force” in Lebanon in the eighties, or UNPROFOR in the nineties, with the events of Srebrenica as a result. In these circumstances, they may even be detrimental for the units concerned.

## MACHINE-LIKE ASSEMBLIES AND “Z EFFECT”

We already have the machines, with society producing the constructs of their expansion: connection, global reality, machine-like assembly. Any such union is an enunciative issue, given that the issue (enunciation) of orders is one of the principal activities assigned to specific machines which we shall describe as “decision-making” (in the case of armies, these would be: senior command, commanders, those politically responsible, aided by other machines lending support to the decision, the Chiefs of Staff). They are included in the knowledge/power strategies of the many technologies relating to the body, in the writings of Foucault. They explain his theory of control and domination: combat, the use of force, the scale of force; they discipline the spaces; arms, bodies, pain, courage, honour, death and responsibility.

How are these machine-like devices born? There is a military machine that governs and directs others, rather like the nervous system of a living being. We have just mentioned the strategies of knowledge/power; this is the area in which we operate in order to find the Command and Control” or C2system. The ROEs form part of this; they are one of the driving forces of the powers of enunciation and transformation with which the subordinate units in an operation are directed and coordinated.<sup>52</sup> They act on

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49 FM 6-0, Command and Control, Final Draft, August 2000, p. 1-14, in [http://content.dcmsnet.org/Courses\\_ARMY/CAS3/Fd114-1/Lesson/fm6-0.pdf](http://content.dcmsnet.org/Courses_ARMY/CAS3/Fd114-1/Lesson/fm6-0.pdf).

50 RELLY, Michael S. *The Rules of Engagement in the Conduct of Special Operations* (Thesis). Monterey: Naval Postgraduate School, 1995, p. 35.

51 HART, Liddell. *Strategy*. New York: Praeger, 1968, p. 21.

52 EJÉRCITO DE TIERRA. *Empleo de la Fuerza Terrestre* (DOI-001). Madrid: Army Technical Services Directorate, 1996; and ALBERTS, David S.; and HAYES, Richard E. *Understanding*

the essence of armies, on their molar mass; and are made up of personnel, equipment, communications media, installations and procedures (ROEs). If the leadership has the capacity to dictate orders, the authority to fulfil them and the responsibility to execute them:<sup>53</sup> control is the task of verification; directing (determination of objectives and margins for manoeuvre), more than dominating actions.<sup>54</sup> If commanding is dominating, then controlling is limiting, an undertaking which the machine-ROE pursues, coadjutant to the calculation of needs, the use of means, the integration of efforts and the correction of deviations observed.

The C2, a neurological system similar to the nervous system of a complex living being, whose function is to capture and process signs/signals, coordinating organs in order to achieve an efficient interface with its environment is a thinking, acting machine, that demands a system of communications so that the leader is aware of what is happening on the battle field; a sensorial system that captures standardised information and procedures affecting all decision-making.

This includes ROEs. Within the C2, there is another machine, the ISTAR system. In this environment, the ROEs arrived to stay. As Petraeus underlined, it is not their validity that is up for debate, but how “to implement directives that deliver all our support to soldiers in real circumstances of risk”, doing “everything possible so that the civilian population is not prejudiced”.<sup>55</sup>

Using the image of a transistor or circuit to explain how the ROEs function, we speak of the “Z effect”, or impedance. It is the measurement of the resistance of a circuit to a current when voltage is applied, an idea that we shall use in a metaphorical sense. It alludes to the resistance that the institution offers to the ROEs. The examples of leaders who reject them abound, because allegedly the restrictions they impose may constrain the most “efficient”, violent and radical methods of fighting.<sup>56</sup>

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Command and Control, Command and Control Research Program, 2006, p. 32, in [www.dodccrp.org](http://www.dodccrp.org).

<sup>53</sup> QUERO, Fernando, Command and Leadership, Revista Atenea, 25 July 2013, in [www.ateneadigital.es/revistaatenea/revista/articulos/GestionNoticias\\_14175\\_ESP.asp](http://www.ateneadigital.es/revistaatenea/revista/articulos/GestionNoticias_14175_ESP.asp).

<sup>54</sup> ALLI TURRILLAS, Juan-Cruz. La profesión militar: análisis jurídico tras la Ley 7/1999, 18 May, regulador del personal de las Fuerzas Armadas., Madrid: INAP, 2000, p. 546.

<sup>55</sup> MARCHANT ROA, Gastón. Reglas de Enfrentamiento en Operaciones de Paz, Centro Conjunto para Operaciones de Paz de Chile (8 July 2013), in <http://cecopac.cl/rules-de-enfrentamiento-in-operaciones-de-paz/>.

<sup>56</sup> SHAW P. M. Collateral Damage and the United States Air Force. Thesis, School of Advanced Aerospace Studies, Air University, 1997, p 51, in <http://handle.dtic.mil/100.2/ADA391809>.

The US Army carried out a study on mental health and the psychological impact of warfare. Its conclusions contain opinions that do not favour ROEs, which are seen to impede the development of missions and to endanger the combatants.<sup>57</sup>

Without adequate ROEs, units face two dangers: a weak response to attacks, with avoidable damages or a failure to dominate aggressiveness which could bring about collateral damage that is difficult to take on board.<sup>58</sup> One of the current military obsessions seems to be to reduce them to acceptable percentages, at political level and in terms of public opinion,<sup>59</sup> without fully knowing what the levels of acceptability are. Collateral damage is another postmodern concept, an illustration of the politically correct, in relation to ROEs.

## COLLATERAL DAMAGE AND THE NEW POSTMODERN LEXICON

When ROEs are not applied in the way they should be, when they have been poorly designed, when map and territory become confused, people are damaged who should not be, in places where we do not want this to occur. According to the level of damage control or degree of efficacy in the realm of military action, one may refer to direct or collateral damages. The former are inherent to the action; the latter involuntary; they cannot be avoided or prevented. Here we are confronted with admissible margins of error that bring about a new shift from the perspective<sup>60</sup> of significant “damage” towards meanings that are less aggressive for those responsible, moving away from poorly functioning ROEs and casualties or damages to people who were not targeted, although accepted as irremediable, towards another new perspective in which cruelty and death have disappeared. This last refers to a new stochastic specification for risk, death and its consequences.

The binomial ROEs/collateral damages forms a common structure of violence management, like different variables of an equation that, on being resolved, would produce victory or defeat, the acceptance of the action and the ethical judgement

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57 OFFICE OF THE SURGEON, MULTINATIONAL FORCE-IRAQ, OFFICE OF THE SURGEON GENERAL, UNITED STATES ARMY MEDICAL COMMAND. Mental Health Advisory Team (MHAT) IV, Final Report (17 November 2006), in <http://i.a.cnn.net/cnn/2007/images/05/04/mhat.iv.report.pdf>.

58 Ibid.

59 Articles 51 and 57 of the Additional Protocol declare illegal any attack planned and executed against a military objective when the available information, in the planning and delivery phase, forecasts that it will cause damage to the civilian population and goods, deemed excessive in terms of the military advantage expected to be obtained from the attack.

60 MILLER, Jacques Allan. *El hueso de un análisis*, Buenos Aires: Tres Haches, 1998, p. 55 and 56.

that public opinion would make of the operation. Since Vietnam, the perception of the legitimacy of an operation (its success or failure) varies according to the public consideration of whether or not measures were adopted to reach the desired objectives speedily, efficaciously and efficiently, with a reduced number of victims. The humanitarianism of contemporary military actions is based not only on a prior ethical question –which undoubtedly exists–, but on a new discourse and an arithmetic of costs and results, which calculates acceptability in terms of damages and loss of lives and material goods.<sup>61</sup> A reduced ratio is proof of efficiency in planning and delivery, and of the possession of a military technology and adequate knowledge. “Proportional violence”, “intelligent weaponry”, “military humanism” and “cutting-edge systems” are expressions that allude to this new discourse on conflict, in which panoptic technology should ensure success associated with a reduced number of victims and damages. The fewer we kill, the more civilised we are. The new postmodern discourse is verbally nuanced with other very creative ideological/linguistic findings, such as “humanitarian bombing”<sup>62</sup> and “surgical weaponry”. Their aim is to represent structures, thoughts and values that remain hidden from their idiomatic realisation, of utmost importance because they are designed to influence public opinion and the media. The underlying values/thinking refers the brutality of war to a new ethical, complex and paradoxical reality.

Collateral damage is a dual-use concept: an internal tool to control military efficacy and efficiency, based on “weaponizing”<sup>63</sup> and “Collateral Damage Estimation” (CDE),<sup>64</sup> an essentially statistical technique that allows for choice of target according

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61 BROWN, John, Teoría del bombardeo humanitario (ensayo sobre algunos aspectos de la dominación neoliberal), Revista Internacional de Filosofía Política, nº 21 (July 2003).

62 BROWN, John, op. cit. The expression appears to come from an article by Vaclav Havel, published in “*Le Monde*” 29 April 1999.

63 Demanded under the Additional Protocol I (Article 57, 2, a, ii.) whereby the attacking forces must take all possible precautions with their activities to avoid civilian casualties and damages. “Weaponizing” is not just a question of choosing a particular weapon or arms system; it involves a more complex activity; it is the process of estimating the “quantity of weaponry” required to reach the level of damage desired in the selected target, bearing in mind its vulnerability, nature, effects produced, errors, availability of arms, deadliness and reliability. In terms of effectiveness, thanks to the experiences of campaigns in Iraq and Afghanistan, western Armed Forces have redefined the bases for calculating damages produced in direct and indirect attacks, with the resulting ramifications. The most widely followed initiative is the “Collateral Damage Estimation”. The US Armed Forces have published a document that updates its doctrines since 9/11 incorporating technical progress and conclusions reached from lessons learnt in Libya and Afghanistan. All Chiefs of Staff must reduce their expectations of forecasting with exactitude what damages any action is going to produce, minimising collateral damages. The document is titled “CJCSI 3160.01<sup>a</sup>, 12 October 2012, No-Strike and the Collateral Damage Estimation Methodology”, available in <http://info.publicintelligence.net/CJCS-CollateralDamage.pdf>.

64 It combines damages forecast, probable casualties and legal restrictions resulting in 5 possible

to the effects of the attack. Secondly, it becomes another political sub-machine, subordinate to the ROEs-machine. In any case, it is conceived of as a limitation of fighting: although it's mere possibility restricts the scope of what is feasible in operations. It occurs,<sup>65</sup> especially as fratricide,<sup>66</sup> because the struggle is not a mathematical issue. "Precision combat"<sup>67</sup> (another postmodern conceptual map/concept) that theoretically must limit these events, does not eliminate human error or the smog of war.

Collateral damage, understood as a political sub-group, nuances the effects that the knowledge of casualties could bring about in public opinion, with repercussions on government support, decision-making and future military actions. It is a tool used by the authorities in order to divulge their discourse on ROEs, violence, damages inflicted and suffered; excesses produced, violations of norms regarding targets, etc. The extra-limitations would not be crimes of war, but unintentional, incontrollable errors, acceptable statistics in accordance with data and mathematical models of quality and confidence in what was planned. It is sufficient to bear in mind the decisions of the Tribunal of the Former Yugoslavia on the 200 Metre Standard in the case of general Gotovina.<sup>68</sup> This brings us back to organisational engineering processes, to production

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categories of targets. It provides a summary in the form of several questions that should be raised before the attack: has the target been identified as the legal objective according to the rights of armed conflicts and the ROEs of the operation? Are there any civilians, non-fighters, civil objectives or environmental considerations in existence in the area of the attack that could be affected by the range of arms employed to take out the target? Can the damages be reduced or mitigated, in the case of striking the target with the weaponry and ROEs selected or can another be employed with less aggressive ROEs, without prejudice to the operation?.

65 MALDONADO GARCÍA, E. Buscando la interoperabilidad: la identificación in combate in operaciones multinacionales. Escuela Superior de las FAS, Madrid, Monografía del Curso de Estado Mayor 2003-2004 (19 April 2004), p. 6.

66 REYNOLDS, J. D., Collateral damage on the 21st century battlefield: enemy exploitation of the law of armed conflict, and the struggle for a moral high ground, *Air Force Law Review* (winter 2005), in [http://findarticles.com/p/articles/mi\\_m6007/is\\_56/ai\\_n14700122](http://findarticles.com/p/articles/mi_m6007/is_56/ai_n14700122).

67 The capacity for locating objectives, acting with the appropriate systems, achieving the effects demanded by operations and evaluating the results. Cf. *Joint Vision 2020*, Washington: US Government Printing Office, 2000, p. 20.

68 Paragraph 1898 of the sentence handed down by the International Penal Tribunal for the Former Yugoslavia, April 2011. Margin of error (applied in the bombings of Knin, Benkovac and Obrovac, Operation "Storm" in Croatia); if projectiles fall within a radius of 200 metres of designated targets, then the attack is considered to be lawful; while if they fall outside that radius they are considered to be illegal, being looked upon as indiscriminate against persons and goods. . This "200 Metre Standard" did not last for long, it is not contained in any norms on rights in armed conflict nor artillery treaty, nor have magistrates justified the reasons for determining the legality of such a measure: Why 200 metros and not 175, or 250? The tribunal did not clarify the matter. Cf. UNITED NATIONS, "International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991,

chains and the success of productivity in accordance with the number of elements manufactured without defects. Collateral damage is more an issue for engineers than for philosophers or moralists: in the face of productivity, considerations of ethics or culpability dissipate, because this form of activity does not obey ethical order but follows efficacy controls, more in keeping with a factory. It is rather like replacing Aristotle with Henry Ford. If the errors and collateral damage are scarce, we can assume them. We respond in a similar way to traffic accident statistics. Here too there is a margin of admissibility or tolerance; if that is exceeded, we can demand concrete measures from the government for the repair, maintenance or redesign of roads.

The basis for coping with collateral damage, which is statistics, transforms the ethical with the acceptable, inferred from a mathematical formula created ad hoc, founded on the analysis and interpretation of data, which intentionally explains regular conditions for random phenomena. There is no scope for ethics here. All non-voluntary acts of free will cannot be imputed to the actor. Neither can those which, although rare, constitute a deviation of the course of events. If out of every million engines manufactured by Ford one functions badly, it is accepted without any great outcry; if out of every hundred bombs launched one does not impact where it should and kills someone, death is accepted, because it is an “accident” that reduces errors to a 1% (a figure) attributable to what is imponderable.

In order to render ethical judgement impossible, it is sufficient to demonstrate that the actor was working subject to external, uncontrollable and unpredictable conditions, a sort of mathematised “force of destiny”. Thus we eliminate any judgement, ethical or penal; hence the liberating attempt which is the mathematical justification of acts; statistics (its acceptability) kills ethics. Reflect for a moment on the “ethical challenges” of all statistics, raised by Seltzer.<sup>69</sup> Justification by means of a display of figures versus the “other” or versus political audiences creates a virtual image; a hyper-reality that frees governments and actors concerned from judgement, rebuke or punishment. Proof of this is the acceptance of collateral damage according to the principle “good intentions, bad results”. Truman affirmed that the nuclear attack on Japan was because

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Case No. IT-06-90-A, Date: 16 November 2012, Prosecutor v. Ante Gotovina, Mladen Markač”, in [www.icty.org/x/cases/gotovina/acjug/in/121116\\_judgement.pdf](http://www.icty.org/x/cases/gotovina/acjug/in/121116_judgement.pdf). According to section 58: “the Appeals Chamber observes that the Trial Chamber did not explain the specific basis on which it arrived at a 200 metre margin of error as a reasonable interpretation of evidence on record. The Trial Judgement contains no indication that any evidence considered by the Trial Chamber suggested a 200 metre margin of error”.

69 SELTZER, W. US Federal Statistics and Statistical Ethics: The role of the American Statistical Associations. Ethical Guidelines for Statistical Practice. Revised and extended version presented at the Seminar organised by the Methodology Section, Washington Statistical Society, New York (2001, February).

of Japanese cowardice and the humanitarian need to put an end to the war;<sup>70</sup> when NATO spokesmen recognised incidents of this type in Kosovo (1999), they lamented the consequences of their actions, but they underlined the good intentions of the operation and the use of the most advanced techniques, in the service of peace on behalf of the Alliance.<sup>71</sup> In explaining the causes of an error that had caused collateral damage in an air attack, the good faith of the pilot was highlighted, his performance having been subjected to the ROEs dictated to that effect and the impossibility of totally eliminating the risk of these “accidents”.<sup>72</sup> The allusion to the event as an “accident” is ideologically and ethically significant.

The relationship between statistics, language and ideology is palpable. Words lacking ambiguity- “war”, “combat”, “death” - are eliminated from the postmodern lexicon, to be replaced by terms like “conflict”, which can occur within a company, a community of neighbours, between districts, delinquent groups or between nations. The introduction of the term “TIC”.<sup>73</sup> In military language, it is impossible to find the word “death” in almost every manual; even the procedures established for the repatriation of “the deceased” in operation zones is also disappearing. On the other hand, the more external and superficial aesthetics of the hero-fighter are being copied and usurped by other social sectors, like sports stars in commercials. Quite a curious example is that of footballers who appear on television like Roman gladiators, Templar Crusaders or the 300 Spartans. Meanwhile, the real soldier, the one who fights and dies on the battlefield of Afghanistan or Ukraine, disappears in the fog of postmodernism without honours or recognition.

He is a professional who receives a wage like any other worker, who if he falls in combat does not deserve any special attention from us. After all, he has chosen his profession voluntarily; nobody has forced him to die; he is not deserving of special recognition. The era of statues or commemorative stones, of names on streets and glorious monuments is a thing of the past. Raising sportspeople to the category of heroes has downplayed classic military heroism, which either disappears or becomes an abnormal quality, almost pathological, impossible or ridiculous. Redeker makes this point in his work “Le soldat impossible”.<sup>74</sup> He studied the demise of the classical soldier and

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70 POZO MARÍN, Alejandro. *Las Guerras Globales. A critical view of the alleged novelty of contemporary wars and a revision of the global factors of armed conflicts*. Doctoral thesis, University Jaime I, UNESCO Chair of Philosophy for peace, Department of Philosophy and Sociology, 2010, p. 363.

71 LARSON, Eric V.; and SAVYCH, Bogdan. *Misfortunes of War. Press and Public Reactions to Civilian Deaths in Wartime*. Santa Mónica: RAND Corporation, 2006, in [www.rand.org](http://www.rand.org), p. 94.

72 *Ibid.*, p. 96.

73 “Troops in contact”, combat against Afghan insurgents.

74 REDEKER, Robert, *Le soldat impossible*. Paris, Roux, 2014.

his replacement with an armed, uniformed civil servant, bearer of employment rights (holidays, social welfare, child-care, family conciliation, dole in the case of dismissal), supported by unions and associations. This is inscribed in another wider phenomenon and postmodernist backbone: the rejection of inheritance. Postmodernism proposes and imposes on soldiers the fight for human rights, democracy, humanitarianism, the decimal system, the United Nations Charter; it converts him into a militant of a new global emancipation, whose reality is blue berets and “peacekeeping”, while war is declared criminal. “Le soldat impossible” addresses the demystification of the military, its trivialisation. The former French Chief of Defence Staff, general Georgelin, gave a lecture (2009) to the students of the General Staff Course at the Paris Joint Service Defence College. He highlighted the fact that “the most serious threat for our Armies is to trivialise our military condition”.<sup>75</sup>

The relationship between statistics, language and ideology leads us to the question of “political correctness”, which creates its own vision of what is real. The ROE/collateral damage binomial deconstructs previous history and references, establishing a new conceptual model. It inaugurates a military paradigm based on the control of violence over action and its narrative. Besides operational transformations, it implies a change in arms ethics. Among others, it uses the “magic of expressions” and the “power of the word”. Nobody will find in any present-day military manual the word “kill”, the logical end for which practically all our weapons are designed. By employing terms

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75 Conscious or unconscious rejection of the classic military ethic, which involves the potential surrender of life in the initial commitment given. Associated with the triumph of a pacifist culture, force appears as an unnecessary, immoral, criminal resource. We find an egocentric society, hardly associative, not selfless, in which “clean”, wars “happen”, associated with technological change. Military capabilities are seen as an instrument of precision; the military is granted a new, more academic and technical profile, with blurred warlike features and other engineered novelties. The military command has to act like an architect or engineer, responding for its acts which are assessed by “lex artis” or accepted good practice, similar to the medical profession. If there are casualties, the officer has to appear before the judge just like an architect, dentist or aesthetic surgeon who has not done his work well, through carelessness, lack of preparation, interest or negligence. “On 18 August 2008 ten French soldiers died and another similar number were injured in an ambush in Ouzbin, Afghanistan. A year later, their families denounced the officers in charge for «deliberately endangering the lives of others». They were furious over the official silence with regard to their complaints about judgement errors or over-confidence. The accusation goes even further, affirming that «there was no previous air reconnaissance with helicopters or drones, despite it being known that the terrain was in the hands of the Taliban». The complaint therefore is not against the Taliban group as responsible for the death of the soldiers, but the officers in command. The official reply from the Defence Chiefs of Staff is very clear: such a claim is unacceptable in that it questions the very principle of war and the legitimacy of military actions. One does not engage in war without accepting that there will be deaths”. Cf. ARRAZOLA MARTÍNEZ, A. La banalización de la naturaleza militar de las Fuerzas Armadas, Escuela Superior de las FAS, Madrid, Monografía del Curso de Estado Mayor 2013-2014 (30 de abril de 2014); and DE BLAS POMBO, A. De la banalización de la condición militar. ¿Somos los militares realmente distintos?, Revista Ejército, nº 828 (2010).

with a placebo effect, conceptual simplification and anaesthetic words,<sup>76</sup> we are creating a new reality. We could add the abuse of acronyms and of “officialese”, technical-administrative jargon bursting with acronyms and English expressions pronounced according to Spanish phonetic patterns and invented by writers who write lectures and declarations for rulers, politicians and bureaucrats.<sup>77</sup>

Thus we find expressions that make one believe in the existence of things (“intelligent weaponry”) installed by propaganda and its influence, captured in the minds of audiences; because words create reality. If we extract collateral damage from the technical-military context, we shall see that not only is it an error, or the fruit of a poor calculation that brings about death and damages, a statistical figure or a percentage, a deviation on a diagram; it is something more than that. It is one of the keys for the “creation of acceptability”- audiences accept a fact when it is repeated by the media.

As regards the value of the “anaesthetic expressions”, let us list the names of recent military operations: the invasion of Panama (1989) called “Causa Justa”; the operation in Somalia (1992), “Restoring Hope”; Haiti (1994), “Operation Uphold Democracy” and, last but not least, operation “Lasting Freedom” following 9/11. No collateral damage perpetrated on a mission with such a name could be more than an acceptable error. We think of labels like “Desert Shield”, “Enduring Freedom”, “Valiant Guardians”, Sea Angel”. These names embodied the justice of the cause: how could those who acted as “angels” be guilty? What could one say about “Valiant Guardians” to prosecute them?

The name is part of a discourse which provides a narrative to the action and replaces it. Here it includes the “binomial machine” ROE/collateral damage. In the United States, a relationship has been shown to exist between the dissemination of news of such damages by the media in relation to campaigns in Kosovo, Iraq or Afghanistan, and an increase of anti-war demonstrations (against government policy) which are, after all, symptoms of a decline in their support and legitimation.<sup>78</sup> Words are preferred, as “generally speaking, taking action is frowned upon: it would correspond to a brutal uprising of inhibition, and therefore a psychotic process”.<sup>79</sup> The psychosis is the loss of contact with reality; with the narrative that power produces over what is real. This cannot be condoned, because individuals would have to face communities, establishment versus the people. It would amount to the abdication of policy for the

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76 COLLINS, John, and GLOVER, Ross. *Lenguaje colateral. Claves para justificar una guerra*. Madrid: Páginas de Espuma, 2003.

77 BIOY CASARES, Adolfo. *Breve diccionario del argentino exquisito*, in *Obras Completas*. Buenos Aires, Grupo Editorial Norma, 1999, p. 176.

78 LARSON, Eric V.; and SAVYCH, Bogdan, *op. cit.*, p. 20.

79 BAUDRILLARD, Jean, *op. cit.*, p. 16.

“I”, the neutralisation of “us” and its discourse friend/enemy; seized from the engine of power exercised through conflict. The victory of the “I alone” of Gálvez, the radical individualism of one of the apostles of our time, the almost heretic and forgotten Ayn Rand.

## CONCLUSIONS

ROEs are orders that determine the use of force in an operation, and the instrument for its exercise and control. They demarcate the “Agramante’s Camp”, a metaphor alluding to the area of conflict within which the military moves on campaign, amidst the chaos, the fog and the sway of battle; a space or environment whose nature is physical, psychological, legal and ethical; a sort of global military ecosystem.

- The ROEs, arranged in a hierarchical system according to the “Porphyrian Tree”, follow a structured, nominalist and categorical pattern, divided into “groups” and “series”. The ROE-system is made up of a set of definitions and effects, the actors, the “prior concepts” and the “mandates” that outline a map of possible scenarios, and a series of relations that specify the diverse possibilities of using force according to concrete situations. They are a tool for governing a system, whose nature is algorithmic and cybernetic. The ROEs are a language, defining what is combat, the hostile act, the threat, the force itself, the enemy. They are also a dialogue that takes place on two levels; enemies dialogue with one another by means of force via ROEs. From the point of view of the various hierarchical echelons in which each strategic, operational and tactical contestant is situated, the actors communicate with one another through the “ROEs game”, a set of procedures established within each organisation to implement the ROEs. Standardised formulas are used, that flow in ascending and descending mode: “ROE Request” (ROEREQ); “ROE Authorisation or Denial” (ROEAUTH); and “ROE Implementation or Cancellation” (ROEIMPL). ROEs are cartographic machines; they are map, but not territory, in line with “Korzybski’s dictum”. They are the language and map of violence, but unlike violence per se, they do not forecast the future nor ordain its course.
- The binomial ROE/collateral damage forms a political violence management structure. Collateral damage is a dual-use concept, transcending an internal control of military efficacy and efficiency, nuancing the effects that the knowledge of casualties could bring about in public opinion and acting on government support, its decisions and future military actions. It is the key that opens “political correctness”, creating its vision of what is real, its own totem and taboo. Such a binomial deconstructs previous history and references and establishes a new conceptual model. It inaugurates a military paradigm based on the control of violence and on the narrative of the action. In addition to operational transformations, this represents a change in the ethics of weaponry, constructed out of the “magic of expression” and the “power of the word”.

**BIBLIOGRAPHY**

- ALBERTS, David S.; and HAYES, Richard E. Understanding Command and Control, Command and Control Research Program, 2006, in [www.dodccrp.org](http://www.dodccrp.org).
- ALLI TURRILLAS, Juan-Cruz. The military profession: legal analysis after Law 7/1999, 18 May, regulating Armed Forces Personnel, Madrid: INAP, 2000.
- ALVA VILLAMÓN, Silvio Javier. The political control of a low-intensity conflict via the Rules of Engagement of the legally constituted political authority: border case of Peru with Colombia. Thesis for Master's Degree in Defence and Hemispheric Security. Universidad del Salvador, Buenos Aires (Argentina) and Inter-American Defense College, Washington DC, United States of America, 16 May 2005, in [http://www2.congreso.gob.pe/sicr/cendocbib/con2\\_uibd.nsf/6E36866A85AE67FEE052577B5007FEE7F/\\$FILE/tuco.pdf](http://www2.congreso.gob.pe/sicr/cendocbib/con2_uibd.nsf/6E36866A85AE67FEE052577B5007FEE7F/$FILE/tuco.pdf).
- ANEESH, A., Global Labor: Algoratic Modes of Organization, Sociological Theory, nº 27 (vol. 4), 2009.
- ARRAZOLA MARTÍNEZ, A., The trivialisation of the military nature of the Armed Forces, Escuela Superior de las FAS, Madrid, Monograph of the Chief of Staff Course 2013-2014 (30 April 2014).
- AUERSWALD, David P.; and SAIDEMAN, Stephen M. NATO at War: Understanding the Challenges of Caveats in Afghanistan, 2009, in [www.aco.nato.int](http://www.aco.nato.int).
- AZNAR FERNANDEZ-MONTESINOS, Federico. Entender la Guerra en el Siglo XXI. Madrid: Editorial Complutense and Ministry of Defence, 2011.
- BAUDRILLARD, Jean. La Guerra del Golfo no ha tenido lugar. Barcelona: Anagrama, 1991.
- BENNETT, D. A., and MACDONALD, A. F., Coalition Rules of Engagement, Joint Forces Quarterly (summer, 1995).
- BIOY CASARES, Adolfo. Breve diccionario del argentino exquisito, in Obras Completas. Buenos Aires, Grupo Editorial Norma, 1999.
- BROADSTONE, Herman C. Rules of Engagement in Military Operations Other Than War, From Beirut to Bosnia. MMS Thesis. Quantico: Marine Corps Command and Staff College (April 1996).
- BROWN, John, Teoría del bombardeo humanitario (ensayo sobre algunos aspectos de la dominación neoliberal), Revista Internacional de Filosofía Política, nº 21 (July 2003).

- CENTER FOR LAW AND MILITARY OPERATIONS & JOINT FORCE JUDGE ADVOCATE, Operational Law Handbook 2002. Charlottesville: The Judge Advocate General's Legal Center & School (US. Army) 2002.
- CENTER FOR LAW AND MILITARY OPERATIONS & JOINT FORCE JUDGE ADVOCATE. Forged in the Fire - Legal Lessons Learned During Military Operations, 1994-2006. Charlottesville: The Judge Advocate General's Legal Center & School (US Army), 2006.
- COLLINS, John, y GLOVER, Ross. Lenguaje colateral. Claves para justificar una guerra. Madrid: Páginas de Espuma, 2003.
- DE BLAS POMBO, A. De la banalización de la condición militar. ¿Somos los militares realmente distintos?, Revista Ejército, nº 828 (2010).
- DELLA MIRANDOLA, Pico. De la dignidad del hombre. Madrid, Editora Nacional, 1884.
- DROR, Yehezkel, y GARSON, David. El estudio de las políticas públicas. México: Editorial Miguel Angel Porrúa, 2000.
- EJÉRCITO DE TIERRA. Doctrina de empleo de las fuerzas terrestres (PD1-001). Madrid: Ejército de Tierra, 2012.
- EJÉRCITO DE TIERRA. Empleo de la Fuerza Terrestre (DO1-001). Madrid: Dirección de Servicios Técnicos del Ejército, 1996.
- ESPOSITO, R. Confines de lo político. Nueve pensamientos sobre política. Madrid: Trotta, 1996.
- FAUCONNIER, G. Mental spaces: Aspects of Meaning Construction in Natural Languages. Cambridge: Cambridge University Press, 1985.
- GALLARDO PAÚLS, B. Conocimiento y Lenguaje. Valencia: Universidad de Valencia, 2005.
- GLUCKSMANN, André. El discurso de la guerra, Barcelona: Editorial Anagrama, 1969.
- GUATTARI, Félix. Caosmosis. Buenos Aires: Ed. Manantial, 1996.
- HACKING, Ian. La domesticación del azar. Madrid: Gedisa Editorial, 2012.
- HART, Liddell. Strategy. Nueva York: Praeger, 1968.
- HOEGE, H. H., ROE... also a Matter of Doctrine, The Army Lawyer, Department of the Army Pamphlet, 27-50-353 (June, 2002).
- JOINT VISION 2020, Washington: US Government Printing Office, 2000.

- KASON, Nancy M. *Borges y la posmodernidad*. Méjico: UNAM-El Ensayo Iberoamericano, 1994.
- LANCHESTER, Frederick William. *Aircraft in Warfare: the Dawn of the Fourth Arm*. London: Constable and Company Limited, 1916, in <https://archive.org/details/aircraftinwarfaroolancrich>.
- LARSON, Eric V.; y SAVYCH, Bogdan. *Misfortunes of War. Press and Public Reactions to Civilian Deaths in Wartime*. Santa Monica: RAND Corporation, 2006, in [www.rand.org](http://www.rand.org).
- LORENZO PONCE DE LEON, Rodrigo. *Las reglas de Enfrentamiento (ROE) como paradigma del Estado de Derecho en operaciones militares*. Madrid: Ministerio de Defensa, 2012, in [www.portalcultura.mde.es/Galerias/actividades/fichero/2012\\_PreDefQuerolyLombardero\\_Las\\_ROExs.pdf](http://www.portalcultura.mde.es/Galerias/actividades/fichero/2012_PreDefQuerolyLombardero_Las_ROExs.pdf).
- LYOTARD, J. F. *La condición postmoderna*. Madrid, Ediciones Cátedra, 1987.
- MALDONADO GARCÍA, E. *Buscando la interoperabilidad: la identificación en combate en operaciones multinacionales*. Escuela Superior de las FAS, Madrid, Chiefs of Staff Monograph 2003-2004 (19 April 2004).
- MARCHANT ROA, Gastón. *Reglas de Enfrentamiento en Operaciones de Paz*, Centro Conjunto para Operaciones de Paz de Chile (8 July 2013), in <http://cecopac.cl/reglas-de-enfrentamiento-en-operaciones-de-paz/>.
- MARTINS, Mark S., *Rules of Engagement for Land Forces: A Matter of Training, Not Lawyering*, *Military Law Review*, vol. nº 143 (Winter 1994).
- MICHAELS, Jim, *Nations limit use of NATO forces*, *USA Today*, 28 September 2006, in [www.usatoday.com/news/world/2006-09-28-afghanistan-nato-caveats\\_x.htm](http://www.usatoday.com/news/world/2006-09-28-afghanistan-nato-caveats_x.htm).
- MILLER, E.S. *Interoperability of Rules of Engagement in Multinational Maritime Operations*. Alexandria: Center for Naval Analysis, 2003.
- MILLER, Jacques Allan. *El Hueso de un análisis*, Buenos Aires: Tres Haches, 1998.
- MORAN, Michael; REIN, Martin; y GOODIN, Robert E. *The Oxford Handbook of Public Policy*. Oxford: Oxford University Press, 2006.
- OFFICE OF THE SURGEON, MULTINATIONAL FORCE-IRAQ, OFFICE OF THE SURGEON GENERAL, UNITED STATES ARMY MEDICAL COMMAND. *Mental Health Advisory Team (MHAT) IV, Final Report* (17 November 2006), in <http://i.a.cnn.net/cnn/2007/images/05/04/mhat.iv.report.pdf>.

- PHILLIPS, Guy R. Rules of Engagement: A Primer, The Army Lawyer, Department of the Army Pamphlet 27-50-248 (July 1993), in [www.loc.gov/rr/frd/MilitaryLaw/pdf/07-1993.pdf](http://www.loc.gov/rr/frd/MilitaryLaw/pdf/07-1993.pdf).
- PIERINI, Jean Paul, Rules of Engagement, Status of forces agreements and Criminal Law: different approaches as to the legal base of the use of force in military operations and conflicts of jurisdiction in respect of foreign friendly fire. XVème Congrès International de Défense Sociale (Toledo, September 2007). Le Droit Pénal entre la guerre et la paix: Justice et coopération pénale dans les interventions militaires internationales, in [www.defensesociale.org/xvcongreso/informacion\\_fr.php](http://www.defensesociale.org/xvcongreso/informacion_fr.php).
- PORTERO, Florentino, Presente y futuro de la OTAN. Grupo de Estudios Estratégicos (GEES), Conferencia impartida en el Instituto Gutiérrez Mellado (30 November 2006), in [www.gees.org/articulo/3350/](http://www.gees.org/articulo/3350/).
- POZO MARÍN, Alejandro. Las Guerras Globales. Un enfoque crítico a la supuesta novedad de las guerras contemporáneas y una revisión de los factores globales de los conflictos armados. Tesis doctoral, Universidad Jaime I, Cátedra UNESCO de Filosofía para la Paz, Departamento de Filosofía y Sociología, 2010.
- QUERO, Fernando, Mando y liderazgo, Revista Atenea, 25 July 2013, in [www.ateneadigital.es/revistaatenea/revista/articulos/GestionNoticias\\_14175\\_ESP.asp](http://www.ateneadigital.es/revistaatenea/revista/articulos/GestionNoticias_14175_ESP.asp).
- REDEKER, Robert. Le soldat impossible. Paris, Roux, 2014.
- RELLY, Michael S. The Rules of Engagement in the Conduct of Special Operations (Thesis). Monterey: Naval Postgraduate School, 1995.
- REYNOLDS, J. D., Collateral damage on the 21st century battlefield: enemy exploitation of the law of armed conflict, and the struggle for a moral high ground, Air Force Law Review (winter, 2005), in [http://findarticles.com/p/articles/mi\\_m6007/is\\_56/ai\\_n14700122](http://findarticles.com/p/articles/mi_m6007/is_56/ai_n14700122).
- SAGEN, Scott D, Rules of Engagement, Security Studies, vol. 1, n° 1 (Autumn 1991).
- SALAZAR VARGAS, Carlos, La definición de política pública, Bien Común, n° 209, in [www.fundacionpreciado.org.mx/biencomun/bc209/C\\_Salazar.pdf](http://www.fundacionpreciado.org.mx/biencomun/bc209/C_Salazar.pdf).
- SARTRE, Jean Paul. ¿Qué es la literatura? Buenos Aires: Losada, 1957.
- SELTZER, W. US Federal Statistics and Statistical Ethics: The role of the American Statistical Associations. Ethical Guidelines for Statistical Practice. Revised and extended version presented at the Seminar organised by the Methodology Section, Washington Statistical Society, New York (2001, February).

SHAW P. M. Collateral Damage and the United States Air Force. Thesis, School of Advanced Aerospace Studies, Air University, 1997, in <http://handle.dtic.mil/100.2/ADA391809>.

SOLIS, Gary D. The law of armed conflict: international humanitarian law in war. New York: Cambridge University Press, 2010.

VV.AA. Direitos Humanos e Globalização. Porto Alegre: EDIPUCRS-Pontificia Universidade Católica de Río Grande do Sur, 2010.

VV.AA. NATO Legal Deskbook. Brussels: NATO, 2010.

WOMACK, S., Rules of Engagement in Multinational Operations, Marine Corps Gazette (February, 1996).

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*- Submitted: 27 november 2014.*

*- Accepted: 16 april 2015.*

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