

How broadly do our soldiers bear rights?



By Dr Ned Dobos *

Enlisting in the armed forces means surrendering your human rights: that is the prevailing view amongst military ethicists and philosophers of war. We all start out with basic moral and legal entitlements to life and liberty, but anyone brave enough to join the warrior class is said to exchange these rights for a different set, what Princeton philosopher Michael Walzer calls “war rights”. The soldier loses his rights to life and physical safety, but thereby gains a right to take the lives of others.

If we accept this, the Chief of Army’s concession in June 2012 that certain cuts to the Defence budget will expose troops to “greater harm” should not trouble us, at least not morally.

The government will save \$250 million by dropping plans to introduce self-propelled artillery, opting for more towed artillery pieces instead. Senator Gary Humphries (Liberal, ACT) went so far as to accuse the government of forcing the Royal Australian Artillery to work with a howitzer that provides gunners with “no protection whatsoever”.

But if soldiers have indeed relinquished their rights, they have no grounds for complaint, no matter how high the probability of death, how weak the prospect of success, or how negligible the military advantage sought. A moral entitlement that has been surrendered cannot possibly be violated. By exchanging their human rights for war rights, military personnel have, in effect, waived their claim to be treated as people. They are mere assets to be used in the pursuit of the state’s objectives, the means to a political end.

Whether we *should* accept this, however, is an open question. In any other occupation, we take it for granted that employees have certain rights against their employers, and importantly we reject the idea that these rights can be voluntarily contracted away. Some employee rights are correctly treated as inalienable: not subject to bargaining and negotiation. The right against racial discrimination in the workplace; the right to join a union; and the right to occupational health and safety come to mind as obvious examples. Consent to forego these rights is necessarily null and void.

For too long we have denied our armed forces personnel the same protections extended to other employees by conceptualising military service as something radically different from a career. Soldiering is seen not as a job, but as a higher calling. Soldiers do not sign a contract of employment; they take a sacred oath to the state. Combatants do not have the same rights as workers because they aren’t workers.

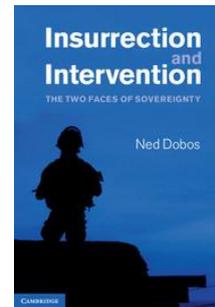
This has had two effects, neither of which should be welcomed. It has deified members of the military profession, putting the actions of the noble digger beyond reproach. But at the same time, it has dehumanised our armed servicemen and servicewomen. A person who takes up any other job remains a person. A person who joins the military forfeits his humanity and becomes an instrument.

Once we abandon this antiquated fiction and acknowledge that soldiering is indeed “another job”, we are forced to question the assumption that soldiers surrender all of their rights by enlisting. If members of every other occupation have a right to the highest measure of workplace safety that is reasonably practicable for their line of work – a right that cannot be waived – do the people fighting our wars not deserve the same?

This gives the latest budget cuts and Lieutenant General Morrison’s admission a new moral complexion. If soldiers are mere instruments of policy without any moral status of their own, endangering their lives raises only questions of proper resource management. But if the members of our armed forces have the same rights that are enjoyed by their civilian counterparts, exposing them to additional risks which can be practicably avoided is a far more serious matter. In some cases, it may amount to culpable negligence.

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