

# Responsibility in Complex Conflicts – an Afghan Case

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## Abstract

This paper discusses soldiers' moral responsibility in today's complex conflicts. The point of departure is the increased focus on soldiers as moral decision-makers in war, illustrated by the introduction of core values in the Norwegian Armed Forces. Responsibility is one of these core values, but it is not clear exactly how we should understand responsibility. I use a case where a group of Norwegian soldiers in the International Security Assistance Force (ISAF) sought the cooperation of a group of mujahedeen to solve the military mission of establishing security. As confidence between the parties grew, the soldiers became horrified witnesses to a practice of *bacha bazi*, where a young boy is dressed up for entertainment and sexual abuse. This situation gives reason to question the limits of role responsibility, the status of soldiers' legitimacy, and the challenges of making morally sound judgments in a multicultural context. The discussion demonstrates that even if there are restrictions on the soldiers' freedom to act, a responsibility reaching beyond or extending their role should be recognized as part of the moral reality of modern soldiers.

## Key words

Afghanistan, ISAF, military ethics, moral relativism, respect, theories of responsibility

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### **Soldiers' responsibility – introductory case**

*This situation involved a task group of ISAF soldiers and lower rank officers in Afghanistan at the very beginning of the ISAF mission. Their mission was to cover an information gap along a route where ISAF forces were to make important movements with personnel and equipment into new territory. A group of 20–30 mujahedeen soldiers dominated the route. There were heavily armed and controlled checkpoints where these soldiers collected taxes from locals and civilian transport companies. There were reports of kidnappings, but otherwise little was known about the group's loyalty, intentions, activity and conduct at the checkpoints. Their attitude towards ISAF was not known, and it was uncertain whether ISAF could expect cooperation on security or whether the group itself represented a security threat to the ISAF mission. The ISAF soldiers had to focus their efforts on building confidence between themselves and the mujahedeen group.*

*The ISAF group succeeded in getting an invitation to meet the leaders of the group. The meeting was a success. The ISAF soldiers had brought halal meat, which was shared; the mujahedeen men were positively inquisitive about the soldiers, the atmosphere was good, and the ISAF soldiers spent the night there. At this first meeting, the ISAF group noticed a boy aged about 10 or 12, who served them tea and food. They thought he might be an orphan of some relatives and that the mujahedeen group was taking care of him, which was not unusual.*

*Over time the ISAF soldiers and the mujahedeen leaders got to know each other well—so well that they were able to make jokes about sexuality and women. The boy appeared every time, and several times he was now dressed up in women's clothes and make-up. He danced for the men; the rest of the time he sat in a corner rocking back and forth. The mujahedeen men dropped hints about “the little lady”. At one point, after yet another dinner meeting, the mujahedeen men asked the ISAF soldiers whether they would like “to spend some time alone with the boy”. There was no hint of humor in their offer; instead it was more a vote of confidence. The ISAF soldiers managed to get out of the situation without offending the men, but from that point on it was clear to them that the boy was more than a servant of the house. The ISAF soldiers perceived the boy's stuttering, catatonic rocking, lack of eye contact, and introversion as clear signs of psychological problems. Observing the dressing up, the way the boy performed and the way the mujahedeen men treated and referred to him, the soldiers concluded that the boy was probably being raped on a regular basis by one or more of these men.*

*When the ISAF soldiers became aware of the boy's situation, they started to weigh his future against the trust they had gained from the mujahedeen, and thereby the whole mission. The soldiers were seriously worried about the boy and at the same time very conscious about the importance of the relationship to the mujahedeen group, a relationship that would be important for the security of the ISAF in the area.*

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This case is my point of departure for a discussion of the moral responsibility of soldiers in today's complex conflicts (FSS 2008).<sup>1</sup> Responsibility is one of three core values in the Norwegian Armed Forces: *respect, responsibility and courage* (RAM). The core values are to be integrated in all conduct and activity as part of a policy to increase ethical awareness in the Armed Forces. However, it is still not clear how we should think about and conceptualize responsibility in today's reality. The case above shows a part of the overall Afghan context, in which Norwegian soldiers have served. The practice of *bacha bazi* – literally “boys for play”, is illegal but common in Afghanistan, dating back centuries (Brandvold 2012). Young boys, orphans or from poor families, are hired out or sold to powerful men to dance or entertain and are sexually abused by these men. Having a dancing boy brings status in certain circles. The authorities have proved unable to do anything about the abuse of these boys, who are often held as slaves or prostitutes. Moreover, official representatives such as the police are allegedly involved in the practice themselves (Quarishi 2010).<sup>2</sup>

This article addresses one of the central issues concerning *jus in bello* in recent times, namely, special duties incumbent upon military personnel in complex peace operations. The objective is to clarify what kind of problems the question of responsibility constitutes in the case above. The core problem lies in tensions created by the multicultural context. That context challenges what I will call the soldiers' “role responsibility”, more specifically of establishing security, and raises questions about how to manage competing perspectives on – or forms of – responsibility, including role-related responsibilities versus a more general or fundamental responsibility towards other human beings, regardless of one's role. Since no system of rules can cover every moral challenge posed by an extremely complex context,

soldiers have to be *capable moral decision-makers*, and this includes analysis and awareness of one's responsibilities.

In this specific context, there are at least three types of responsibility (understood as obligations) to attend to: first, the soldiers' role responsibility, which can be understood as broad or narrow. The narrow understanding sees the responsibility of the soldiers in relation to their specific military task of establishing security in the area. A key to success is keeping on good terms with the mujahedeen. In other words, legitimacy in the eyes of the mujahedeen is important. A broader understanding of role responsibility involves the overall security mission of "protecting the Afghan people" (Regjeringen 2012), which touches upon a broader and arguably more genuine responsibility for people. This is similar to what Michael Walzer calls a *military outward responsibility* for people who are affected by military activity (Walzer 2004). A broad role definition, however, also includes standards and virtues *linked to the military profession*. It deals with the complete role of the soldier and not least its complexity.

Second, the responsibility of the soldiers as human beings is at stake: seeing another human being suffer evokes a genuine responsibility to help – whether or not helping the boy is seen as part of the *role*. Responsibility understood as something relational and fundamental can be applied to explain this. It is, in my view, necessary to acknowledge this kind of responsibility as well as the soldiers' role responsibility if we want to be serious about moral decision-making in war. The question is whether a relational and fundamental responsibility can override role responsibility.

Third and not least we have the responsibility of the soldiers understood as an obligation to respect differences in culture and moral views. This is severely challenged as the soldiers observe a practice totally unacceptable to their own moral standards. The multicultural context forces us to ask questions about multiculturalism and moral relativism on the one hand and absolute duties overriding other moral standards on the other. In the midst of this, the soldiers need to protect and take care of their *legitimacy* and their *mission*. One way to approach the issue of legitimacy is to take into account the difference between multiculturalism and relativism. In addition, it is possible to show that there is something in the soldier's role, which makes caring about protecting the boy a legitimate military action

I will address all of these quandaries in the following, starting with the role, the mission and the context. I aim to show that reference to role responsibility alone, at least to a

narrow understanding of it, is not enough to explain responsibility in this multicultural context. It is too easy to conclude that worrying about the boy simply is not part of the soldiers' job, especially since they have to prioritize between different tasks. There are moral reasons to interfere, but it means risking one's legitimacy in the eyes of the mujahedeen, which in turn might spoil the mission.

Interfering with the practices of other cultures generally raises questions about multiculturalism and cultural imperialism. I will argue that multiculturalism can be defended to some extent, while some culturally sanctioned practices cannot be accepted as relative to culture, and that these really are issues independent of culture. I will come back to the relation between multiculturalism and relativism. I will also apply some "priority rules" outlined by Birnbacher (2001), seeing them as supplementary to an analysis that draws on a just war perspective.

### **Role, mission, context**

The Armed Forces' official description of responsibility reads: "The Army's personnel shall take responsibility for themselves and others, for the Army and the Armed Forces, for missions and duties, for resources and results, for humans and the environment" (Forsvaret 2006). The core values are meant to help soldiers meet moral challenges. How does this rather general description of responsibility connect with the role of the soldier?

In this given context, it is hard to see how far role responsibility extends because the soldiers' role is ambiguous: It is possible to argue that responsibility for the boy in this case is included in role responsibility. According to this line of argument, we can talk about a broad role definition. Responsibility can also be defined more narrowly, namely, as being strictly linked to the specific task of *information gathering* as part of the overall security mission.

The nature of the security mission explains this ambiguity, and makes the situation complex. Establishing security is only partly about displaying traditional military skills, as when soldiers are engaged in counterinsurgency operations. More importantly, it is about the strategy of winning hearts and minds, and creating dialogue and confidence. The military contribution in Afghanistan has a soft and a hard side to it and is meant to be only part of a more comprehensive approach to the situation as a whole. The mujahedeen are not a conventional military counterpart, but *de facto* cooperation partners. Besides, they are

members of the Afghan population, the “customers” of ISAF. At the same time, they are possible adversaries, as well as criminals under Afghan law because of child exploitation (Quarishi 2010). As the soldiers weigh their obligations, they also need to ensure they have legitimacy in the eyes of the mujahedeen, in order to solve their military task. Legitimacy thus attains an instrumental value. Still, it would obviously be wrong of the soldiers to engage in certain actions, no matter how important the goodwill of the mujahedeen. Accepting the offer to “share” the boy would clearly not be justified by the need for legitimacy or for any other reason. The soldiers must also pay attention to legitimacy as defined by their social task, and must take care of their moral integrity, their own conscience and professional identity.

There is one important aspect of the role responsibility of soldiers which may constitute an argument for taking care of the boy: If the soldiers’ task more generally is closely related to incidents and situations involving human suffering, they will arguably be morally obliged to reduce that human suffering. In an important way, their mission in this case involves the presence of human suffering, even if the suffering is not causally connected to the specific task of getting information. As the overall focus of the mission is “protecting the Afghan people” (Regjeringen 2012), it could be argued that the Norwegian soldiers should “take responsibility for human beings” (Forsvaret 2011), in line with the Armed Forces’ understanding of responsibility. Thus, they should (as they do) at least *consider* the boy’s situation and the effect that their choice of action or their inaction will have on his circumstances.

On the other hand, the soldiers would probably not be blamed if they were to define their responsibility according to the limited scope of their specific task, thereby excluding the boy from their scope of responsibility. They could argue that it was not their job in the overall context or their professional priority. Indeed, they could argue that they are not in a position to prioritize the boy, professionally or with regard to the risk involved. In some ways, this would be understandable and defensible.

Still, as the soldiers are confronted with the boy and his suffering, they become a party to his situation. They are directly confronted with the question of spending time alone with him. It is difficult to imagine simply holding on to some predefined role obligations in such a situation. This would mean ignoring important aspects of human responsibility. Such a “genuine” responsibility should not be ignored, even if it is not explicitly included in their role responsibility.

The view that role responsibility includes an assessment of attitudes or character traits (Ingierd 2011, 83) complicates the picture further. What are the right attitudes and character traits in this case? According to the Officer's Code of the Norwegian Army, an officer should strive to be courageous, efficient, competent, considerate and loyal (HLG 2004).<sup>3</sup> In essence, soldiers must be honorable and act with integrity. The role identity described by the Officer's Code requires soldiers to have a holistic approach in a morally challenging situation. This includes mustering or, one might say, "mobilizing" the full competence that the role demands. In combat, drill (i.e., automated responses based on thorough training) is a requirement for the job. In this case, however, the soldiers cannot rely on any drill; they have time to reflect and they must rely on their ability to make judgments compatible with desired attitudes and character traits – and with their hierarchically defined duties. The soldiers' challenge is indeed multi-faceted, but then again, as Walzer puts it, "given the suffering it [soldiering] often produces, it cannot be the purpose of moral philosophy to make it easier" (Walzer 2004, 32).

The question of taking responsibility for the boy is linked to the soldiers' willingness to take risks at the expense of their legitimacy and security. This would be the consequence if they were to act according to non-hierarchical responsibilities (Walzer 2004), i.e., responsibilities to those outside of one's own hierarchy. What risk level is acceptable? Let us say that in a different situation, the same soldiers confronted with the same problem would be faced with much less of a risk (to the mission, to the military cooperation, etc.), and they would thus find themselves in a, morally speaking, easier position. We could then say that they would be "in a causal and epistemic position" to help, and therefore would have had a general obligation to do so (Ingierd and Syse 2011, 170). This responsibility is based on capacity – let us call it "capacity responsibility" – which is evoked independently of personal choice. But because the role is defined first by the mission, which is about security, which again is about priorities relative to risk assessments, responsibility for the boy becomes relative to risk. This fact seems to obstruct capacity responsibility here.

Nevertheless, it is important to ask whether reference to a narrow definition of role responsibility can prevent us from taking what we might call our *genuine* responsibility seriously, and whether it indicates an acceptance of relativism that is downright dangerous. Weighing their duties against each other, the soldiers must think through whether role responsibility works as "a convenient, yet morally insufficient smoke-screen" (Ingierd and Syse 2011, 172). We should at least look at moral reasons for interfering with certain cultural practices that are genuinely wrong. I argue that any fear of moral imperialism is groundless in

this case. To explain this point, I will spend some time on the relationship between relativism and multiculturalism, which is central to the situation we are discussing. After that, we can move to an analysis of the limits of role responsibility.

### **Multiculturalism, relativism, tolerance**

Multiculturalism, understood as a normative stance, is concerned with appreciating and respecting different views of a good life in society, as well as the differences *between* different groups or societies. Will Kymlicka explains it as a need to pay more attention to cultural pluralism and different groups' rights in the discussion of common rights (i.e., rights we all have) in society (Kymlicka 2002). In his renowned essay about multiculturalism as a politics of recognition, Charles Taylor argues that to recognize other cultures, we need to acknowledge their worth, which actually requires that we engage in a process of judgment. This is because what the meeting with other cultures requires is not mere tolerance, but *recognition*, an affirmation that they are worthy of respect. According to Taylor, our identity is formed through a dialogical process with our surroundings, and thus mere tolerance of a culture is not enough to recognize it (Taylor 1994). Letting a culture alone means not taking any stance on its standards, and not engaging in dialogue. This can, furthermore, also threaten one's own cultural identity.

In contrast to multiculturalism and Taylor's emphasis on the need to judge in order to respect, relativism does *not* judge. Moral relativism is the view that moral systems may diverge, and that we sometimes have to say that what is wrong within one culture is not wrong for the members of another culture. It typically holds that moral statements can be true or false only relative to some human standard – such as culture. Moral relativism thus strives to take seriously differences in cultures and backgrounds as grounds for moral disagreement.

The problem is, in short, that moral relativism fails in providing a clear grounding for moral judgments and this, arguably, poses problems for the concept of responsibility. If moral relativism is true, we cannot take impartial moral stands either towards practices in other places or indeed here at home, because there exists no universal or independent standard.

As Neil Levy emphasizes in his discussion of relativism, when it comes to some aspects of morality, most would say that it is *not* true that anything goes. On the contrary, we often feel that we can justifiably condemn practices of other people that are sanctioned by

their culture (Levy 2002). The situation in Afghanistan illustrates well the argument that multiculturalism is defensible to an extent, while pure relativism is not, if we are to give a proper moral judgment of the actions involved.

In some places in Afghanistan, a man can beat a woman on the street because it is accepted within parts of that culture. If a Norwegian man wants to beat a woman, he would have to do it in the domestic sphere, where nobody sees it, because it is not widely accepted in our culture to treat a woman in that way – or anybody else for that matter. (And it would also not be legally right!) Apparently, there are cultural differences in the tolerance level as concerns violence. In this case, moral relativism would seem to face a problem if one holds that beating people in Afghanistan is not right. However, neither would we be justified in condemning Afghan culture(s) as a whole based on this observation. There are many sides to what we can broadly call Afghan culture (which is, of course, itself multi-faceted) that are indeed admirable, such as the famous Afghan hospitality.

Suppose our Norwegian soldiers observed a group of US or Finnish or German soldiers abusing a child. These soldiers supposedly have a moral worldview similar to the moral worldview of the Norwegian soldiers. The Norwegians could then report their observations up the military hierarchy of command. They could expect that the case would be met with serious disapproval and ultimately result in a reaction and a meting out of justice. With the group of mujahedeen, they cannot proceed in the same way. The mujahedeen are not a military unit, and they do not think that what they do is wrong; the practice of *bacha bazi* is widely accepted as an "open secret". In a BBC report, one man engaging in this practice simply called it a hobby: "Some people like dog fighting, some practice cockfighting. Everyone has their hobby, for me, it's bachabaze" (Qobil 2010). But as already pointed out, most would be very reluctant to tolerating the practice in the name of cultural relativism. Most would say that it is simply wrong thus to abuse children. In short, we are dealing with a cultural practice that shows a gross disrespect for fundamental human rights. In such a case, a narrow role responsibility makes the soldiers appear tolerant of the mujahedeen's moral standards, which allow exploitation and abuse of the boy. As it is, the soldiers' concern for the boy shows that they do *not* actually tolerate the practice of the mujahedeen, yet their role responsibility puts restraints on their ability to interfere. Role responsibility thus enables relativism through the relativist solution of not admitting intolerance, which can be seen as equivalent to not taking responsibility. As the case is, the soldiers cooperate in order to solve a military task, not because they wholeheartedly accept the practice of the mujahedeen.<sup>4</sup> My

claim is that we should not too easily accept total non-interference by the soldiers just by referring to their role responsibility.

Tolerating the practice of the mujahedeen could moreover make the soldiers parties to or complicit in the misdeeds, giving them the status of accomplices. Complicity, treated as a subset of causal responsibility, may be divided into participation in intention or participation in action (Ingierd and Syse 2011). We can assume that there is here no direct participation in intention. But is the participation in action? In the case of participation in action, agents make the unethical acts possible by their own acts – or because of their obvious power to prevent them. This would, as mentioned above, be a responsibility based on capacity, a subset of role responsibility. The problem is that there is, in the case we are analyzing, genuine doubt as to the soldiers' power to prevent the abuse of the boy. Still, the soldiers could be said to have a negative duty not to harm and a positive duty to help if they can. Following Ingierd and Syse, even if the soldiers have contractual obligations as soldiers, it can be argued that even a freely chosen position gives rise to obligations that are *not* freely chosen, yet cannot be neglected (Ingierd and Syse 2011, 170).

### **Contractual and non-contractual role responsibility**

The Norwegian Armed Forces' core values are defining for the role of Norwegian soldiers, as they form a basis for the Armed Forces' professional ethics. Indeed, the Chief of Defense has stated that the core values should become "part of our identity and professional culture" (Sunde 2011). Responsibility is, however, also described and defined in terms of agency. It is worthwhile reflecting on the role of *action* or *commission* on the one hand versus *omission* on the other. There are two dominant and conflicting approaches to (substantive) moral responsibility in contemporary moral philosophy: the view that Ingierd loosely calls the "common-sense approach", and the consequentialist view (Ingierd 2011, 19). In the common-sense approach, one has a special responsibility for what one does, in contrast to what one fails to prevent; hence, actions are more important than omissions. In addition, the common-sense view recognizes special obligations as a moral category. This means we have special obligations towards some people, for instance, family and friends. Special obligations can in turn be viewed in two different ways: either "special obligations arise as a result of our voluntary acts only", or they are "special obligations beyond those specified by promises or contracts" (Ingierd and Syse 2011, 169). Special obligations based on voluntary acts can be

called *contractual*, while those arising beyond promises or contracts can be called *non-contractual*. Soldiers' role responsibility has traditionally been understood within a *contractual* framework. In the present case, the soldiers have special obligations primarily towards their fellow soldiers and their own military hierarchy, and the mission of which they are part, which is what they have "signed up to" in becoming soldiers. According to a common-sense view, then, the soldiers should act according to these contractual, special obligations.

When it comes to complex peace operations, Ingierd has shown that the common-sense view, with its emphasis on actions, is too narrow. She thinks that the principles of responsibility that follow from the common-sense view are too restrictive and fail to account for many strong intuitions about moral responsibility (Ingierd 2011, 19). Following Ingierd, the soldiers in our case would be just as worthy of blame if they had failed to act, as they would be worthy of praise if they had acted. A broader, consequentialist view allows for a wider scope of moral responsibilities, since outcomes from actions and omissions become equally important. At the same time, the consequentialist view may broaden the scope of responsibility so much that responsibility in principle becomes limitless and thus practically meaningless. The extreme version of such a view would require a responsibility "for everything", which is simply not manageable.

The Armed Forces' description of responsibility as a core value is indeed open to interpretation in practical situations (Forsvaret 2006). Maybe this is simply too comprehensive to handle, even within some delimiting frame, such as that of one's "role"? In short: What concrete ethical guidance can professional soldiers really be given by being told about one's responsibilities? It often boils down, I believe, to prioritizing a few special obligations linked to one's role. One reason for delimiting responsibility in this way comes from the fact that professional ethics is based on the political legitimacy of the profession's social task (Molander and Terum 2008, 156). Indeed, General Sunde states that the "value base" builds on respect for human value and life, and the Armed Forces' legitimacy in society. He specifies the core values in the following way: respect for each other and for others, responsibility for the best possible task-solving, while taking care of each other, and courage to tackle tasks and missions, as well as courage to speak out about blameworthy situations (Sunde 2011). As one can expect, the General defines responsibility in terms of the military task and of loyalty to brothers in arms. He also links the importance of a clear value base in the Armed Forces to the need to act rightly and have the strength to carry the heavy

burdens that military service can involve. General Sunde's definition of responsibility is in line with Michael Walzer's understanding of military responsibility as partly, but not wholly, defined by the military hierarchical structure, which I will now turn to.

### **Hierarchical and non-hierarchical responsibility**

Discussions about proportional use of force and discrimination, the two major *jus in bello* principles within the just war tradition, are not easily applicable to situations where the main issue is not about military use of force, as in the present case. Instead, Walzer's concept of military responsibility may be useful (Walzer 2004). For an officer, *hierarchical responsibility* is constituted by responsibility upward to the officer's superiors and eventually, through the commander-in-chief, to the sovereign state one serves and its citizens, and downward to one's subordinates: to each and every one of the soldiers that the officer commands (Walzer 2004, 3-24). Additional to the hierarchical responsibility, however, there is also a non-hierarchical responsibility, which is directed *outwards* towards civilians who are affected by the activity of the soldiers and officers. The general idea is that as a moral agent, I am also responsible *outwards* – to all those people whose lives my activities affect. This concept is useful when we allow for outward responsibility to include people who are indirectly affected together with those who are directly affected. The boy can be subject to the soldiers' positive or negative duties because they happen to be in a kind of relationship to him, even if the relationship is not directly linked to their military activity.

Walzer points out that what we ought to do when we look outwards is determined by other laws, rights, and calculations than what is required by one's hierarchical, internal responsibilities, in short because everyone's interest (i.e., the interests of everyone affected) must be counted (Walzer 2004, 25). This is a view compatible with the understanding of the situation of the soldiers in our case. It means that what the soldiers ought to do is not necessarily determined by the duties that are linked directly to their military activity.

So far, we have seen that the role of soldiers is primarily linked to concepts of responsibility as hierarchically or contractually qualified. These two concepts – the hierarchical and the contractual – are related to one another through an understanding that soldiers have special obligations within their hierarchical structure, which in turn can be viewed as a result of a contractual relationship with the Armed Forces. The Armed Forces' description of responsibility is developed further in the Value Base (these quotes are all from

Forsvaret 2011): "Responsibility means taking responsibility for oneself, for each other and for the work of the Armed Forces in general. Responsibility is expressed through a will to take initiatives and to show vigor and steadfastness ". Inner discipline is described as necessary. The Value Base also says: "We abandon neither the mission nor each other", with a clear reference to the value of loyalty in the military culture. In the military profession, responsibility is expressed "in the way you execute orders and carry out missions, in the way you conduct yourself, and in how you assess the consequences of the use of force".

Interpreted in this way, responsibility is defined by duties linked to role, but also by human qualities or virtues, meaning that role responsibility also includes an assessment of attitudes or character traits (Ingierd 2011, 83). This reflects the complexity of duties, qualities, and capabilities with which the identity of the soldier should be associated. *The way* soldiers carry out their service and *the way* they conduct themselves are important, because it says something about both the quality and the identity of the soldier. Still, however, we are talking about role responsibility, which does not quite seem to cover unexpected dilemmas such as the one in question here. The overall point is that even if there may be disagreement as to how role obligations arise, and about the exact content of such obligations, they can conflict with soldiers' more general duties as human beings.

In the case we are discussing, the soldiers' role is clearly defined by their security mission, implying protection of their own forces and protection of the Afghan people as an overall mission. There is arguably a priority implied, namely, their own forces before others. They are, however, unexpectedly confronted with one of "the others" – the boy, which brings up an outward responsibility. It is true that the definition of responsibility in the Armed Forces Value Base includes the phrase "taking responsibility for human beings" (Forsvaret 2006), but the question is one of priority: towards whom should this responsibility primarily be directed? Towards the boy or one's own troops?

Walzer's answer to this situation is to institutionalize non-hierarchical responsibilities. He points out that this might be easier to do in an era of political (not only self-defense) wars, and suggests that responsibilities outward and upward will often coincide "or at least overlap more extensively than in a time of conventional warfare" (Walzer 2004, 31).

In order to for us to delineate the non-hierarchical, outward responsibility, the soldier's role needs to be expanded beyond the duties linked to the military hierarchical system (Walzer 2004, 29-31). Following Walzer, I argue that in our case, outward responsibility

indeed seems to conflict with hierarchical responsibility.<sup>5</sup> Arguably, my argument differs from Walzer's due to the difference in the choice of case. Walzer argues for a military responsibility vis-à-vis civilians during combat; the same kind of responsibility appears in my case where we are not dealing with a combat situation. From the military-hierarchy point of view, the question becomes: to whom can the soldiers turn in their hierarchy to determine who is responsible for the boy?

Walzer uses the example of My Lai,<sup>6</sup> a situation where the moral expectation is for the soldiers to refuse the illegal or immoral orders of their immediate superior. This is different from our case, since refusing orders would not in itself reduce the suffering of the boy. In line with Walzer, a refusal still takes place within the conventions of hierarchical responsibility. However, there is no military purpose linked to the boy's suffering in this case that could help explain to whom in the hierarchical structure responsibility could be attributed. Security for one's own forces can also be said to take precedence over outward responsibility because of the soldiers' position in the hierarchical structure and the bond that exists between commander and subordinates, and between the soldiers in the group. Our boy is not subject to the soldiers' agency due to their hierarchical responsibility, nor is he subject to their command and left to their care and protection on such grounds. In order to *see* the responsibility for the boy the soldiers must look away from their hierarchical responsibility, and impose added risks on themselves and the ISAF mission in an attempt to protect the boy<sup>7</sup>. This is the real conflict of the case, a conflict requiring that the soldiers have a strong capability of making moral judgments – and themselves be the ones to make them.

### **Soldiers as moral decision-makers**

Because it is a real conflict, Walzer argues, the non-hierarchical responsibilities of officers need to be institutionalized, but they will not get any institutional form until we "include them systematically in our understanding of what military office requires" (Walzer 2004:31). The Norwegian Armed Forces' introduction of responsibility as a core value can be viewed as a step in such a direction. At the same time, this emphasis on responsibility as a core value also highlights a requirement for soldiers to have the character of moral decision-makers in war (Ingierd and Syse 2005, 95).<sup>8</sup>

Assigning non-hierarchical responsibility to soldiers as moral decision-makers is to consider them capable of moral judgment. Ingierd and Syse point out that soldiers and officers

at lower levels often have substantial influence on events within their limited and current assignment, which in turn is part of the more overall aim of the mission (Ingierd and Syse 2005, 95-96). This is compatible with the Norwegian military philosophy of leadership: the soldier's role is not to follow orders blindly, but to follow the intentions of the commander (Forsvaret 2012). Trusting soldiers as decision-makers is implicit in this philosophy of leadership. According to one officer I interviewed, keeping up the individual ethical awareness is indeed important: "I am absolutely certain that the inner morale is decisive. The Code of Conduct establishes some room for agency (...), but if we had relied on it, we would have killed incredibly many innocent people. And we could go free by referring to working rules" (Vikan 2009, 30).

In other words, even if behavior is significantly shaped by the role, soldiers are asked to take individual responsibility as moral agents and decision-makers in war. This leads us to the virtue-centered perspective held in the tradition going back to Augustine (Ingierd and Syse 2005, 86-89, and Begby et al. 2012). This is an outlook that emphasizes the right attitudes and moral outlook of the soldiers in combination with rules, rights and restrictions (Ingierd and Syse 2005, 94-95). In the case we are discussing here, there are several aspects of responsibility that must exceed a narrow understanding of the soldiers' role: the outward look, the capability to be moral decision-makers, and the question of blameworthiness in the case of knowing yet not interfering to help the boy.

Military personnel in modern conflicts must shift between role definitions. *The Chief of Defense's Fundamental Principle of Military Leadership* states that leadership has to be fit and be attuned to "a complex reality, which is difficult to predict and understand" (Forsvaret 2012, 5). A consequence of this is accordingly that "military leaders have to switch between different roles as combatants and peace supporters" (Forsvaret 2012, 5). We should ask who and what define the soldier's role at different times, and also: do institutional roles such as combatant or peace supporter prevent us from taking wider moral responsibilities seriously? There is a danger that this might happen if we look at the role in a contractual perspective, or as hierarchical responsibilities. These models stand in danger of not taking into account obligations acknowledged by common-sense morality (Ingierd and Syse 2011, 169-170), and again, they highlight a need for general or natural duties that can accommodate responsibility beyond role definitions.

### **Responsibility as relational and fundamental**

Some scholars have described responsibility as something relational happening between people (Kallen 1942; Strawson 1974). Relations occur whenever people interact, and thus relational responsibility is essentially inescapable. It is possible that the soldiers in our case simply recognize a relational responsibility as a result of meeting the boy the way they do. Emmanuel Levinas explains this kind of responsibility as a fundamental responsibility "inscribed in the face of The Other" (Levinas 1987, in Aarnes 2004, 227).<sup>9</sup> According to Levinas, our responsibility for others is limitless. It is cut free from thoughts about balance in the relationship, desert (that someone deserves our responsibility), or thoughts about gain for oneself. This way of reasoning about responsibility constitutes an inclusive moral universe (Vetlesen 1995). It may also seem an overwhelming, even impossible, responsibility to bear for anyone, including the ISAF soldiers in Afghanistan. The present case, however, shows that the soldiers already have a sense of responsibility beyond role responsibility as hierarchically or contractually qualified. The proof lies in the soldiers' effort to work out possible ways to take care of the boy. It is a challenging exercise, trying to take a fundamental responsibility seriously, while holding back because of a priority given to role responsibility. However, there are possible reasons other than role to consider in a process of prioritizing. It is possible to give priority to self-imposed responsibilities over responsibilities imposed by others, or to place emphasis on responsibilities to people with whom one has an *emotional* relationship.

### **Priority rules for the future**

In every situation of moral choice, the challenge is indeed to choose, to give priority to one important thing over another equally, or seemingly equally, important matter. There is also a future perspective to the soldiers' concerns. The moral or legal obligation to act in the interest of someone or something is defined by Dieter Birnbacher as *ex ante responsibility* (Birnbacher 2001). *Ex ante* responsibility in our case concerns the soldiers' worries about the future consequences of their actions (or omissions), and is opposed to *ex post responsibility*, meaning answerability or responsibility to someone for some activity in the past. For the discussion of priority between moral obligations, I will focus on the *ex ante* responsibility in the case we are analyzing.

Two out of four priority rules, which are widely recognized in both social morality and law, are especially relevant for our case. The four priority rules are described by Birnbacher as

1. the priority of self-imposed responsibilities over responsibilities imposed by others,
2. the priority of responsibility for creatures of one's own making over responsibilities for beings which owe their existence to other factors,
3. the priority of the responsibility to compensate for harms that have been deliberately or negligently inflicted by oneself over the responsibility to compensate for harms inflicted by others,
4. the priority of responsibilities to those to whom one is related by emotional bonds over responsibilities to emotional strangers (Birnbacher 2001:18).

I will draw closer attention to the first two of these rules, but first it should be pointed out that the soldiers do possess the capacities that Birnbacher holds to be generally necessary for moral (or legal) agency, namely, intelligence, information, freedom and mental health (ibid., 14). Another fundamental requirement is that "the desirable states of affairs, which are the objectives of ascriptions of ex ante responsibility", are "worth the trouble" (ibid.). Part of the soldiers' discussion in this case will have to include worries about whether their efforts are worth the trouble. I presume that the soldiers already have taken a stand concerning a desirable state of affairs, and their choice of action will presumably be delimited by attention to the costs of their efforts against the desirable state of affairs.

Concerning priority rule number one, our case is ambiguous: it can be argued that responsibilities linked to the soldiers' role are self-imposed, under the condition that their military service is chosen voluntarily. In that respect, all duties associated with the role of these soldiers are self-imposed. Self-imposed responsibility can, however, lead to obligations that are not self-imposed. Responsibility for the boy is not self-imposed in the sense that it directly follows from the soldiers' choice of profession, but following Birnbacher, it can be justified by the necessity of preventing an undisputable harm (Birnbacher 2001, 18). Either way, there will be a problem of priority. The priority may be resolved by referring to the soldiers' limited task, namely, to provide security for the ISAF, thereby establishing the ISAF's ability to operate in the area, in the end to the best of the Afghan people. In this case, however, this limited task leads the soldiers into a situation where the *overall* mission to

protect the Afghan people, including the civilian population, is brought up front, forcing the soldiers to address it, in the guise of this particular boy.

It may also be that meeting the boy evokes a feeling of responsibility as self-imposed, due to the soldiers' conscience. According to Birnbacher, moral responsibility is always individual, because it is linked to consciousness and self-consciousness, both of which are possessed only by individuals (Birnbacher 2001:12). Helping the boy may therefore turn out to be a self-imposed responsibility, both as a result of choosing the role of a soldier and because this is rooted in the soldiers' conscience. But the responsibility the soldiers have towards each other can *also* be said to be self-imposed, which thus far leaves us with no conclusion as to prioritizing when the two come into conflict.

I will also look at priority rule number four, which can be directly linked to the moral obligation expressed in the Armed Forces' value base: "We abandon neither the mission nor each other" (Forsvaret 2011, 11). The loyalty to brothers in arms is strong. An interesting aspect of the case, then, is the empathy these soldiers apparently have for the boy, who is "an emotional stranger" in the beginning. While observing the boy over time, the soldiers develop a kind of emotionally based relationship to him. Naturally, these feelings differ in intensity among the soldiers depending on each individual's life experience. Soldiers who have children of their own will possibly respond more strongly to the boy's situation than soldiers who do not. No matter what differences there are in the soldiers' feelings concerning the boy, their judgment has to be put into a framework of collective agency. But is their "collective empathy" strong enough to prioritize outward responsibility?

The fact that the soldiers in my case find themselves in a kind of emotional relationship to the boy can in itself be said to create obligations that are real, even if the relationship is non-contractual or non-hierarchical. These obligations can be divided into positive and negative duties (Ingierd and Syse 2011, 173). It is normally possible to avoid performing negative acts (and thus to live up to negative duties), but not always practically possible to perform positive acts.

Positive duties are often linked to institutional roles and obligations (Ingierd and Syse 2011, 173). In our case there is a general positive duty to help, but it might not be linked to the military institution. In this respect, helping the boy would rather be the institutionalized duty of the police, since the boy is a victim of crime. Thus, even if the soldiers can be said to have a positive duty to help, it is strictly speaking not their *institutionalized* obligation.

If the soldiers give priority to their self-imposed and conscience-based obligations to take care of security, the question is still *why* their role responsibility should be given priority over the non-hierarchical responsibility towards the boy. One reason can be that some obligations are special because they are "especially binding" (Ingierd and Syse 2011, 172). So, the soldiers' role responsibility is especially binding because it is self-imposed in the sense of being a freely chosen contractual relationship with the Norwegian Armed Forces. It is also especially binding because of the security challenge. In order to manage responsibility, it may therefore be reasonable to define responsibility *according to one's task and competence*, thereby excluding certain moral considerations outside the limits of one's legitimate activity (Ingierd and Syse 2011).

The arguments for and against risking one's own security for an outward responsibility raises the question whether there exists a responsibility that exceeds all other responsibilities, and which *in certain situations* should be given priority.

What judgment did the soldiers in our case actually make? They decided to avoid taking up the situation while they were in the area. They ended up judging the security situation as more important in the short term. Before the ISAF soldiers left Afghanistan, they did, however, write a report to a non-governmental organization in the area. Afterwards there has been no news about the boy, and the soldier who conveyed this story still wonders about his destiny.

## **Conclusion**

The introduction of responsibility as a core value for the Norwegian Armed Forces highlights the need for soldiers to be capable moral decision-makers in contemporary complex conflicts, such as in Afghanistan. This case shows how different obligations that comprise responsibility can get into deep conflict and become a challenge to the soldiers' role.

It is difficult to see how far role responsibility extends, as it is often reduced to prioritizing hierarchical over non-hierarchical responsibility. Such a reductive role responsibility is manageable, yet implies a risk of relativism and a risk of not taking what we could call our genuine, broader responsibilities seriously. These worries need more attention: a more thorough analysis is needed in order to establish how to judge moral issues in a multicultural context, with sharp attention to avoiding what I see as unacceptable implications of relativism on the one hand and moral imperialism on the other.

The legitimacy of soldiers and their activities is especially at stake in such contexts. As their role responsibility – the security task – requires of the soldiers that they interact with the population, the legitimacy they have in the population is of great importance. This adds to the substantial legitimacy of the soldiers constituted by their social task and contract. Yet, it should be clear that some extreme situations do call upon a recognition of absolute duties, such as the responsibility to help a suffering child, and this may even override the concern for the soldiers' legitimacy in the population. The complex context in which soldiers serve today may thus require that a more general responsibility, similar to the outward responsibility described by Walzer, becomes part of soldiers' role responsibility. At least we need to recognize it as part of soldiers' moral reality.

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## Notes

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<sup>1</sup> The term *complex conflict* is used to describe an ever more relevant context for the use of military force after the Cold War, and especially after September 11 2001. Complex conflicts constitute different kinds of critical situations, low-intensity conflicts and other kinds of conflict, where use of international military force may be part of a comprehensive approach to the solution of the conflict (My thanks to Olof Kronvall for this summary.) In this respect, the conflict in Afghanistan can be regarded as complex. The ISAF operation can be categorized as a "complex peace operation", which covers military operations that combine traditional peacekeeping principles and warfare (Ingierd 2011:17).

<sup>2</sup> Information on the practice of *bacha bazi* and child trafficking in Afghanistan from the time of the incidents of this article is available from sources such as *BBC World Service* <http://www.bbc.co.uk/news/world-south-asia-11217772> (Quobil 2010); *Frontline* <http://www.pbs.org/wgbh/pages/frontline/dancingboys/etc/synopsis.html> (Quarishi 2010); *The Washington Post* [http://articles.washingtonpost.com/2012-04-04/world/35451705\\_1\\_bacha-bazi-afghans-pashtun](http://articles.washingtonpost.com/2012-04-04/world/35451705_1_bacha-bazi-afghans-pashtun) (Londoño 2012); and *UN Office on Drugs and Crime* [http://www.unodc.org/documents/human-trafficking/Global\\_Report\\_on\\_TIP.pdf](http://www.unodc.org/documents/human-trafficking/Global_Report_on_TIP.pdf) (UNODC 2009), all accessed 20 December 2017.

<sup>3</sup> The attitudes and character traits described in The Officer's Code presumably apply to soldiers, too.

<sup>4</sup> For instance, see Adeno (1997) on the limits of toleration.

<sup>5</sup> The concept pair of special obligations versus general duties (Ingierd and Syse 2011) is similar to Walzer's hierarchical versus non-hierarchical responsibility.

<sup>6</sup> My Lai is known as one example of the atrocities of the Vietnam War. On March 16, 1968, US soldiers from Charlie Company massacred around 500 civilians – men, women, children and babies – in the village of My Lai. Only the company's commanding officer, Lt Calley, was convicted.

<sup>7</sup> The argument is borrowed from Walzer (2004) and adjusted to my case. Walzer uses a mid-level officer's responsibility up and down the hierarchy when facing an outwards responsibility to civilians, whose lives are at stake, to illustrate the same point.

<sup>8</sup> In their discussion of war crimes against the background of ideas from the just war tradition, Ingierd and Syse (2005) highlight three sorts of responsibility that are relevant: an individual, causal responsibility of each

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soldier; a command responsibility; and a shared causal responsibility of those who command illegal actions and those who execute them. An important distinction is drawn between *responsibility* and *culpability*: it is not unusual to have to take responsibility for an action with negative consequences in the sense of answering for it and explaining it, but this does not necessarily mean that one has done something morally blameworthy. In addition, one may be morally culpable without being *legally* so. Following this line of thought, the ISAF soldiers may not be legally or morally culpable in neglecting the boy's situation, but that does not mean they cannot be responsible.

<sup>9</sup> Such aspects of responsibility can be seen as based on respect for human rights, which in turn reflect the Kantian perspective of humanity as always treating human beings as ends in themselves (Korsgaard:1996).