



Legitimacy, legality, duty, history has shown that one or the other can be invoked to justify one's action or

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L'Armée de Terre dans la société

Legitimacy...What definition?

"You will recognize for your leader... and you will obey him in everything he commands you for the good of the service, the observance of military regulations, the enforcement of laws, and the success of the arms of France".

Beyond the "liturgical " or ritual character of the formula for the investiture of a military leader, let us observe that, in its very expression, the duality between the positive data, matéThe "good" of the service and the "success of the arms" of France , which are unwritten laws, are the "good" of the service, and the "success of the arms" of France .

The legal framework is relatively easy to understand, as long as within a state, a constituted government is able to legislate, and it is translated into prescriptions, which have the value ofThe legal framework is relatively easy to grasp, since within a State, a constituted government is able to legislate, and results in prescriptions, which have the value of obligations or, on the contrary, prohibitions, defining for the subjects or citizens of this State rights and duties, grouped, if necessary, in specific codes.

On the other hand, we need to define legitimacy, if not in general, at least in the framework that interests us. We will take as legitimate what is founded in law, in justice, what is fair. The legitimacy of a political authority comes from its conformity with the rules of sovereignty and the exercise of power in a given area, as well as with natural law, reason and morality.

It would then be tempting to invoke the subjective nature of legitimacy, by referring to the diversity of cultures, opinions and beliefs in modern societies. The perception that one may have of this is indeed subjective, but the diversity of opinions in no way detracts from the reality of the objective factors on which a society is based, and which have enabled it

to develop, maintain its coherence and survive despite the vagaries of history.

With regard to the European nations and the Western world, their Judaeo-Christian, but also Latin and Hellenic roots are inscribed in their history and are the foundation of their development. They are also based on natural law, which is natural because it is in keeping with human nature, and which, moreover, is found in most cultures: respect for parents and elders, for life, for the good of others, for the family unit, and respect for one's word. This historical and cultural substratum common to the European nations is supplemented by other contributions, sometimes specific to one of them, but most often shared, such as those from the ReProtestant form (in countries with a Germanic culture) or the spirit of the Enlightenment, expressed in the ideals of American Independence and the French Revolution.

Legitimacy in political matters therefore seems to us to be measured against these founding values of our society, and capable of guaranteeing its durability. But if these values are objective, their perception varies according to the time, the situation, the personalities. And it is precisely when there is a conflict of legitimacy (of what legitimacy is recommended) or when there is a gap between legitimacy and legality, that the problems arise. Unlike the mercenary, whose ethical debate is usually limited to the question "who pays me? ».

For us, the question of legitimacy arises at two stages: that of legitimate authority, that which is entitled to order, legislate, command, and that of the missions or orders received, which must respect natural law, justice and equity as formalized by the law of war.

Legitimate authority, legal authority?

Without going back to antiquity, periods of revolutions are generally fertile in conflicts of legitimacy of which civil war is the ultimate consequence.

This is the case in France during the revolutionary period, especially from 1791 onwards, when loyalty to the king and to "legitimacy" - the "legitimacy" of the king's authority - was a major issue. It led a large number of officers of all ranks to emigrate and form "royal" regiments that would fight, within enemy coalitions, the Nation's troops. Did the Convention, not very representative and having "put terror on the agenda", have legitimacy for it? In any case, it held legal power, and the soldiers of Year II, defending national soil and "the Homeland in danger", certainly did their duty.

The period of the Hundred Days divided the country and the army for a long time, many soldiers having perjured themselves in the name of their country. The period of the Hundred Days divided the country and the army for a long time, many soldiers having perjured themselves by swearing successive oaths and hastily rallying to the master of the moment, while the return of the Eagle led to the resumption of hostilities by the Allies. The marshals of France (and previously of the Empire), some of whom had contributed the previous year to Napoleon's abdication, were the first to be killed. On his abdication the previous year, were moreover divided up among those who had rallied to the Emperor, loyal to the King in exile in Ghent, and resolved to play their own game.

Different, but emblematic of a conflict of legitimacy, is the case of the United States of America during the Civil War, known as the Civil War. Was the United States of America a confederation of free states with the latitude to separate in the event of a major

divergence between them (legitimacy "...)? Southern" legitimacy), or on the contrary a federation of states forced to remain in the Union and thus to comply with federal laws ("Northern" legitimacy)? Soldiers engaged in this conflict have generally adopted the party of the state to which they belong, such as Robert LEE, who refuses the command in the Union Army proposed to him by LINCOLN, resigns and puts himself at the service of secessionist Virginia.

LThe legitimacy of the mission received

The choice of a side, considered as legitimate, or its opposite, is something that often escapes the free will of the combatant, and we will remember that the choice of the side is not always easy. the sentence lent to CHURCHILL, "whether he is right or wrong, it is my country". The question of the legitimacy of the mission received is another, ethically delicate one, which is made even more so by the judicialization of conflicts.

In the France of 1793-94, under pressure from the enemy, the military units in charge of repressing the insurrection in the Vendée were given the task of "protecting the people of the Vendée".u the mission of destroying the insurgent region and eliminating its population, rebel or not, without distinction of age or sex, in order to regenerate it. While it might have been legitimate to fight the enemy from within, the exactions committed, covered by a law adopted for the occasion, were clearly not, and more than one soldier, including BONAPARTE, refused, when he had the choice, to serve in the Vendée.

Closer to home is the case of the German Wehrmacht during the Second World War. The National Socialist Party came to power legally, and the question of HITLER's legitimacy to exercise it arose all the less as the first years of the Third Reich were marked by his successes in the war. The question of HITLER's legitimacy to exercise it arose all the more so as the early years of the Third Reich were marked by his diplomatic successes and the recovery, at least apparent, of a stricken economy, while the darkest aspects of the regime were kept silent or ignored by the population, carefully nurtured moreover in the alleged sense of the injustice suffered by Germany since 1918. The action of the Wehrmacht, engaged in the conflict, seems legitimate to us as long as it fulfils its combat mission. Anything else is the responsibility of German soldiers involved in actions in support of criminal activities perpetrated by the Nazis, and the question naturally arises of the ethical responsibility of the soldier in a war context where the line between legitimacy and illegitimacy is often blurred.

The trauma suffered by German society as a result of the Nazi period and the defeat also led to the development, during the rearmament of the Federal Republic in the context of the war, of a new form of warfare, which was to be called the "war on terror". The trauma suffered by German society as a result of the Nazi period and defeat led to the development of the concept of the soldier "citizen in uniform", a new type of soldier trained and educated in the principles of democracy and the rule of law, which he had to assimilate on his own and from within. This is the purpose of Innere Führung, which can be translated as "conduct from within" or "command by conviction", both as a principle of command and as a soldier's ethic.

Which ethical choice for the soldier?

The simple and simplistic answer would be "the choice of his leaders", and it is true that the soldier, in the broadest sense, does not choose the conflicts in which he finds himself involved. by one or more political decisions that escape him, when they do not escape

the political decision-makers themselves, as in the summer of 1914.

This being the case, the general framework conditions of recent conflicts, the legitimacy of the state and the government, respect for international conventions and the laws and customs of war, are all factors that have to be taken into account. In our view, the well-defined rules of engagement known at all levels guarantee, at least in principle, the legitimacy of the operational commitments of our armies.

The fact remains that not everything is written down and that war, "simple art and all execution", is a "simple art and all execution". can hold surprises, especially when it is asymmetrical and the adversary does not feel bound by the same rules as Western soldiers. The moral training, in the sense of ethics, of the soldier, up to and above all at the lowest echelons, those of contact, is then essential. Should we, however, make our soldiers "citizens in uniform"? Without disregarding the positive aspects of our neighbours' pedagogy, it is better not to adopt methods or solutions developed in a different context from that of our armies, since the French soldier in operation has nothing to be ashamed of in terms of his behaviour.

Hélie de SAINT-MARC will conclude on the soldier's ethics and the legitimacy of his action: "We can ask a lot of a soldier, especially to die, that's his job. He cannot be asked to cheat, to deny himself, to contradict himself, to lie, to deny himself, to perjure himself.

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