

Non-Lethal Weapons:
A Transitory Tool for Peace

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I would like to thank my family and Beast for their love and support.

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Chapter 1: Achieving Peace with Weaponry: Lethal Weapons, Non-Lethal Weapons and Moral Questions Concerning their Use

1.1 Introduction

Immanuel Kant wrote in his essay, “Perpetual Peace”, that in order to achieve peace in the world, standing armies must be abolished (Kant 110). Disarmament is disconcerting, however, because doing so would make countries extremely vulnerable to attack from other states. In order to move closer to peace, countries are in need of some sort of transitory phase where they can disband their militaries, disarm their current weaponry and yet feel secure. Although they have been in existence in some form or another for centuries, Non-Lethal Weapons (NLW) have undergone a resurgence in recent conflicts because they allow for defence and control of violence without killing (Alexander 25). Therefore, NLW are extremely advantageous as more and more conflicts are being waged between asymmetrical forces in battles fought in urban areas where the danger of killing civilians is very high (Fenton 104).

NLW are not without controversy, however. Some argue that these weapons are unreliable and could potentially result in more deaths than traditional weaponry, as well as the likelihood that military personnel will abuse these weapons simply because they will not be given the same respect that lethal weapons naturally possess (Orbons 89). I argue that these concerns are unfounded and NLW offer the possibility of dealing with violent conflict in a way that results in less killing and less physiological damage to soldiers and society. Additionally, NLW could play an essential role in the transformation of conflict: that by causing less damage in war, they cause less

humiliation for the defeated side and offer a stronger chance for healing and reconciliation. This is the first step towards the eradication of war, and NLW represent an excellent alternative to traditional, lethal warfare.

The issue of war always concerns human rights as war and its components are responsible for so many human rights violations (Gutman and Jokic). In order to change this, we must change how we engage in violent conflict (if we must engage in it at all). Alan Gewirth's rationalist communitarian rights philosophy serves as a perfect framework for this issue. While Gewirth's notion of universal human rights can guide us towards peace, in his essay, "Individual Rights and Political – Military Obligations", he argues that conscripting citizens to fight in wars can be morally justified. I argue that this is a clear violation of human rights and Gewirth's essential philosophy. Moreover, respecting human rights is an essential step toward the eradication of war.

Therefore, this thesis argues that NLW offer a new alternative to traditional warfare (in which soldiers are equipped with lethal weapons). NLW can be used to prevent collective humiliation and resentment on the losing side and trauma associated with killing on the winning side; thus better fulfilling Gewirth's moralistic ideal. This alternative to traditional warfare would involve revolutionizing the military into a kind of police force, the difference being that police officers fulfill the role primarily of protecting citizens whereas soldiers are primarily combative (of non-citizens). This is an extremely important point because NLW are still weapons and any weapon can be used for whatever purpose the user intends. In other words, NLW can kill if that is the intention in which they are used.

1.1.1 Overview

Chapter one will introduce some important background information. I will define and provide a short overview of the history of weaponry. I will then examine the development of NLW and present the current arguments for and against their use. I will also include an introduction to the philosophy of Alan Gewirth, how his theory relates to war, and some of the contradictory arguments Gewirth has made that need to be addressed in relation to my project.

The second chapter will provide a detailed analysis of Gewirth's philosophy in relation to the issue of conscripting citizens to fight in wars. I argue that conscription is contradictory to Gewirth's theoretical emphasis on freedom and well-being.

The third chapter will closely examine three important articles that argue against the use of NLW, and will show that these arguments are more-or-less unfounded. In "Do Non-Lethal Capabilities License to 'Silence'?" Sjeff Orbons articulates and argues for a set of standards that a weapon must meet in order to be effective and morally acceptable. Orbons then goes on to argue that NLW do not meet these requirements and, therefore, they are not feasible and potentially dangerous. I will show that these concerns are unfounded because all weapons (non-lethal as well as lethal) can plausibly fail Orbons' conditions.

In "Protecting and Reinforcing Humanitarian Norms: the Way Forward" Peter Herby argues that NLW violate not only the Biological Weapons Convention (BWC) and Chemical Weapons Convention (CWC), but international humanitarian law as well. Herby argues that the BWC and the CWC are essential to protecting humankind from chemical weapons being employed in warfare and should be upheld. He also argues that

NLW may be banned in the future simply because the public disapproves of their use. Additionally, Herby takes issue with the designation of “non-lethal” and argues that NLW will encourage soldiers to use these weapons more readily than lethal weapons. I will argue that the fact that weapons may be banned due to public opinion is not a cause for concern, but rather a reassurance that unethical weapons will not be employed. I will also argue that the manner in which a weapon is used is partly the result of the weapon’s capabilities but mostly the result of the intention and training of the user. The term “Non-Lethal Weapon” denotes how the weapons should be used, its intended results, as well as the fact that it is still a “weapon” that has the potential to be lethal.

The chapter ends with an analysis of Mark Wheelis’ article “Nonconsensual Manipulation of Human Physiology Using Biochemicals”. Wheelis puts forth a terrifying image of the many ways in which he sees the possibility for misuse and abuse of NLW (particularly those of a chemical nature) should their development continue and be put into full practice. I will argue that Wheelis’ fears are extreme and unrealistic. Moreover, if his predictions are right, it is not due to the development of chemical weapons, but to the fact that certain people are determined to cause pain, suffering and destruction at any cost.

The fourth chapter will closely examine three important books and articles that support the use of NLW. These writings show the potential of NLW to assist soldiers in reducing human suffering, and point to important steps and guidelines that should be put in place to ensure that NLW are properly used for this purpose.

In “With Fear and Trembling: an Ethical Framework for Non-Lethal Weapons” Kaurin argues that NLW will result in lessening of moral codes by military members.

Kaurin allows for the use of NLW, but only if certain rules are followed in regards to their use. Although Kaurin's rules are reasonable and intelligent, ultimately, her reasoning for their application is faulty. I will argue that Kaurin's contention places too much moral responsibility onto soldiers when they are simply fulfilling the role that their countries have assigned them.

David A. Koplow's book, Non-Lethal Weapons: The Law and Policy of Revolutionary Technologies for the Military and Law Enforcement, argues that NLW have proved crucial for militaries and police in the past, in order to respond to conflicts in a way that does not sacrifice innocent civilians. Furthermore, he analyzes past conflicts and shows how NLW were, or could have been used to ensure greater safety for all involved. I argue that Koplow's book is extremely valuable for the discussion of NLW because it makes clear the role NLW can play in real conflicts, not simply imagined scenarios. However, Koplow (along with the majority of NLW supporters) fails to see the potential for NLW to replace lethal weapons entirely.

In "Current and Prospective Military and Law Enforcement Use of Chemical Agents for Incapacitation" George P. Fenton argues that NLW adhere to the Laws of Armed Conflict (LOAC) and show such promise that the CWC should be re-examined so that Incapacitating Biochemical Weapons (IBW) are not seen to violate its regulations. I argue that this is an important step, although Fenton's goals for IBW (in their current forms) may be unrealistic, which is cause for concern.

I conclude that NLW could serve the purpose of completely replacing traditional weapons and methods of engaging in war. Instead of viewing NLW as a means to facilitate war, their application could be used to facilitate peace. Although they may not

completely fulfill the requirements of Gewirth's human rights philosophy, they are moving civilization further towards the Gewirthian goal of a caring society, in which we better respect human rights.

1.2 A Brief History of Weaponry

The definition of a weapon is an "instrument or device used primarily in attack or defence in combat, fighting, or war" (O'Connell, Of Arms 13). Although weapons pre-date organized warfare, this section will examine the use of weapons for military purposes. Historians differ as to which period human beings chose to use their weapons for the purposes of organized warfare. Some claim that the definitive moment was the battle of Plataea in 479 BC (Wintringham 6). Others, such as Robert L. O'Connell claim that there is evidence to suggest that it was actually as early as 2500 BC (Of Arms 36). Undoubtedly, by 480 BC, humans in Europe had specialized weapons for warfare (Wintringham 22-3). According to Tom Wintringham, this period represents the first unarmoured period in the history of war. Following this were various armoured and unarmoured periods, which transpired in a cyclical way (6-7). Within each era, new weapons were developed and these weapons altered the modes of engaging with the enemy. While small swords had led to close hand-to-hand combat and heavy armour, the invention of the crossbow made it important to fight at a distance, and heavy armour was no longer effective against this new weapon.

The first armoured period (479 BC - 378) was characterized by the armoured Roman soldier:

Archers and javelin-throwing light troops would disrupt the enemy, but the main battle was invariably fought by the heavy foot soldier: protected

by a large rectangular shield, he fought in close formation to overwhelm the enemy with his short sword (Regan 44).

In response to invasions from “Barbarians” the Romans began carrying longer swords that could be used against men on horseback as opposed to shorter swords that were suitable for hand-to-hand combat (Black 30). This period ends with the battle of Adrianople II in 378, in which the last large Roman army were defeated by the Goths.

The years from 378 - 774 were characterized by light cavalry and can be classified as the second unarmoured period. Many battles were won with missiles, with little close combat occurring (Wintringham 6-7). Weaponry during this era remained relatively stagnant with few innovations, except for the use of stirrups which led to an increase in mounted combatants (Wills 35). The use of armour returned with Charlemagne’s victory at Pavia in 774, and this marked the beginning of the second armoured period (774 - 1346) which featured heavily armoured lance-wielding knights.

Armour became useless during the Hundred Years’ War (1337-1453) due to the use of archery, particularly the Welsh longbow that could puncture chain as well as plate armour (Preston 84). The Welsh longbow was an extremely impressive weapon in its effectiveness (despite the fact that using it properly required years of training) and it became the weapon most associated with the Hundred Years’ War and medieval warfare (Preston 85). One of the most devastating battles for the French was the battle of Agincourt in 1415. Although outnumbered three to one, the English army had 5000 archers (out of 6000 men in total) and the French greatly miscalculated the power this afforded the English:

The French knights dismounted, sent their horses to the rear along with the crossbowmen and, in full panoply, began to plod through the mud rising above their ankles toward the English lines ... The English archers, after easily repelling a minor cavalry assault, directed their fire against the slow-moving mass of French “infantry” More than 4,000 French nobles and knights lost their lives ... the losses of the English have never been estimated at more than a few hundred (Preston 88).

The battle of Agincourt is a perfect example of how important weaponry has been to the outcomes of war: without the longbow, the English surely would have been overpowered by the French. This battle marks the end of the iron warfare of the Middle Ages and leads into the third unarmoured period (1415 - 1917) which was characterized by the development of gunpowder.

Gunpowder was an eastern invention and was first documented in China c.1040 (Regan 58). Its development in Europe in the early stages of this period, however, was remarkably gradual considering that it was reputedly first discovered by Europeans in 1249:

Crude artillery made its appearance in the fourteenth century but, aside from the usual reluctance of soldiers committed to the prevailing weapons to accept a new one, it suffered from many technical defects. There was a distinct element of danger in the career of artillerymen, for the behaviour of early pieces was at best unpredictable. Frequent confusion as to the mixture and handling of gunpowder, a very slow rate of fire, the lack of aiming devices, and the ineffectiveness of early solid shot against stone walls contributed to the minor role which gunpowder played in the wars of the fourteenth century (Preston 93).

By the sixteenth century, however, artillery was being employed and rapidly improved upon on an almost global scale (Regan 98). This time period saw much higher rates of casualties due to increased firepower as well as the rise of larger armies:

That [army] of Charles the Bold of Burgundy had been regarded as large in the 1470s at 15,000, a number dwarfed by Philip II of Spain's 86,000-strong army in the Netherlands a century later (Regan 98)

In addition to artillery, this era also saw the development of the socket bayonet as well as the flintlock musket (Regan 101). Early bayonets had to be plugged into the barrel, which prevented the loading and firing of the musket. The socket bayonet meant that the knife could remain in place and the musket could be used simultaneously. The bayonet was essentially created to protect the infantry while they loaded their guns. Previously, soldiers had been assigned the job of carrying pikes in order to protect the artillerymen. The invention of the bayonet meant that the infantry was more symmetrical and, therefore, more powerful (O'Connell, Soul 160). The flintlock musket was lighter than previous models and had twice the firing rate. Loading a flintlock was simpler as well, which meant that men could be trained more quickly to use it and to use it quickly (O'Connell, Soul 160).

There was a period of major growth and innovation in infantry weaponry in the period before the American Civil War and this led to massive bloodshed. This war introduced:

... aircraft (balloon, used for observation of enemy forces), submarines, armoured ships, breech-loading artillery, and infantry weapons, repeating rifles, and rapid-fire guns ... the Civil War remains both the greatest war fought in the western Hemisphere and America's deadliest conflict, with a combined death toll estimated at 700,000 – more than in all other American wars combined. While disease claimed twice as many men as combat, the high casualty rate owed much to technical advances in weaponry (Wills 138).

The technology was more advanced than the tactics employed during the war. While the commanders were utilizing tactical manoeuvres that had proven very successful in the Napoleonic era, the use of quicker and more accurate guns, for example, meant that the speed of battle no longer allowed for the same military responses that had worked so well in the past (Wills 139).

The third armoured period (1917 - 1945) began with World War I (WWI) and marked the introduction of tanks, flamethrowers, aircraft, machine guns, shelling, and of course, extensive trench warfare (Wills 175). The psychologically damaging effects of war became well known during this period, “as men broke down from hardship, the strain of combat, and particularly, the shattering effects of artillery bombardment” (Wills 187).

The fourth unarmoured period (1945 - present) can be categorized as the nuclear period. On July 16, 1945, after six years of work and over 2 billion dollars spent on the “Manhattan Project” the first atomic bomb was detonated in New Mexico. This period also saw the development of the AK47 assault rifle, a weapon that has been mass produced because of its simplicity and durability. Since 1949, an estimated 50 to 70 million AK47 rifles have been manufactured worldwide (Regan 306). Critics often sight this one weapon as a major factor in the continuation of conflicts in the poorest regions of the world such as sub-Saharan Africa (Wills 216).

Chemical weapons also characterize the modern era of warfare (beginning with WW I) although they have been in existence for centuries, the earliest examples presumably being poison dipped arrows (Wills 215). The first documented case of germ warfare comes from Thucydides in his account of the Peloponnesian War. Thucydides blamed

the Spartans for poisoning wells, although modern research has questioned the validity of this claim (Wills 215). Regardless, these sorts of tactics were definitely employed during this period, with many cases documented from the medieval period:

There are plenty of medieval accounts of attackers using catapults to hurl the dead bodies of diseased humans, horses, or other animals into castles or fortified towns to spread disease. Many historians believe that this tactic introduced the devastating bubonic plague into Europe ... (Wills 215).

In modern times, excrement-smearred spikes were used in the Vietnam War and Saddam Hussein used chemical weapons resulting in the deaths of an unknown number of people including Iraqi citizens (Wills 215). Additionally, chemical weapons were notoriously used during WWI; it is these weapons that mark the beginnings of modern NLW because some chemicals developed during that period were not intended to kill, but to incapacitate (Furmanski 36).

1.3 History of Non-lethal Weaponry in War: The Current State of the Issues Involved Including Chemical Weapons Restrictions

The term “Non-Lethal Weapons” (NLW) is controversial. Using O’Connell’s definition from above, NLW are indeed weapons, but it is the non-lethal designation that has been criticised. Robin M. Coupland, for instance, argues that the lethality of any weapon depends solely on how it is used and upon whom:

No weapon, whatever its design, carries a zero risk of mortality among the victims. The same could be said for “lethal” weapons; no existing weapon, when used in battle and as a function of its design causes 100 percent mortality. Lethality is a function of not only the design of a weapon but also how that weapon is used and the vulnerability of the victims (227).

Regardless of objections, the term “Non-Lethal Weapon” has remained because NLW are weapons used with the intention of altering the behaviour of a targeted individual (or entire group of persons) but without causing death or even permanent injury (Furmanski 35). The same simply cannot be said about lethal weapons. Even if they do not kill, they are built to kill and that differentiates them from NLW.

NLW come in many different forms, everything from rubber bullets to chemicals that alter human body chemistry, most often affecting the central nervous system. Although considered non-lethal, they are still weapons with the purpose of modifying behaviour, usually by inflicting temporary pain. Any weapon, by its inherent nature can be lethal if misused. Rubber bullets can hit vulnerable body parts (such as the head) and may result in death; CS gas (tear gas) has lethal potentiality should a person receive too much of the chemical, or if a person has pre-existing health issues such as asthma.

CS gas may be placed in a unique category of NLW referred to as Incapacitating Biochemical Weapons (IBW) (Pearson, Chevrier, and Wheelis xvi – xviii). This category refers to any chemicals that alter body chemistry. This type of NLW is especially controversial as it has its origins in the chemical warfare of WWI. CS gas (as well as CN and DM gases) were specifically developed prior to WWI for police use as a means of protection against rioting crowds, and in cases of concealed and armed individuals (Furmanski 36). With the start of the war, Britain, France and Germany felt these chemicals offered an advantage in that they could be used to flush out the enemy from entrenchments and strongholds. It was essential, however, that these chemicals were non-toxic so as to comply with The Hague agreements of 1899 and 1907 which had placed a ban on the use of poison in warfare (Furmanski 36). CS gas was both non-

lethal and effective, and production of it greatly increased with the onset of the war. Once fighting began, however, all three countries adopted very different policies in regards to the implementation of these weapons. British officials decided against using chemicals of any kind in warfare in honour of the Hague agreements. France continued to produce and use non-toxic gases on the battlefield; and Germany eventually decided to bypass the Hague agreements and in April 1915 began using toxic as well as non-toxic chemicals (Furmanski 37). Obviously, this was a licentious move on the part of the Germans. Previously made Hague agreements as well as post-WWI agreements (such as the Geneva Protocol of 1925 and the Chemical Weapons Convention of 1993) banning the use of toxic chemical weapons absolutely need to be enforced. This is definitely a contentious issue and opponents to IBW are correct to be very concerned about potential long-term side effects as well as abuses of these powerful chemicals.

One concern of opponents to using NLW in combat situations is the concern that these weapons are not reliable, leaving civilians as well as military personnel vulnerable (Coupland 226). It is essential to remember that NLW are a new technology and any emerging technology will need to be perfected before it is used on the battlefield. If abused, NLW could prove to be very harmful, as with any other weapon. Used properly, NLW have the potential to greatly reduce suffering and death of non-combatants as well as combatants in violent conflicts. Lessening combat trauma for all people caught up in a warzone is a human rights issue because of the extensive psychological as well as physical damage it causes. Just War Theory (JWT) states that non-combatants must never be targets of war (Walzer 151) yet civilians often suffer during wars either from being unintended targets or through simply being within proximity to war. Whether they

are physically injured or killed, or simply witness the destruction of war on their homes and countries, all are negatively affected by the trauma of war (Gutman). Furthermore, there is overwhelming evidence that soldiers suffer immensely from their combat experiences (Grossman). War impacts the rights to life and well-being of all those involved. Alan Gewirth's rights-based philosophy provides an excellent ethical framework for this discussion.

1.4 Alan Gewirth's Rationalist Moral Philosophy as an Ethical Framework for the Use of Non-Lethal Weapons

Alan Gewirth (1912-2004) was a moral and political philosopher who taught for over sixty years in the philosophy department at the University of Chicago. His main work centred upon developing an absolute moral principle within an ethical rationalist framework. Gewirth's Principle of Generic Consistency (PGC) relies on the key presuppositions that human beings are rational and purposive agents. If this is agreed upon, then the PGC is necessary, meaning that it is applicable to all human beings and must be followed imperatively. A rational, goal-directed agent cannot deny the PGC:

Suppose some agent were to deny or refuse to accept the judgement (1) 'I have rights to freedom and well-being.' Because of the equivalence between the generic rights and strict 'oughts,' this denial of (1) would entail the agent's denial of (2) 'all other persons ought at least to refrain from interfering with my freedom and well-being.' By denying (2), the agent would have to accept (3) 'It is not the case that all other persons ought at least to refrain from interfering with my freedom and well-being.' But how can any agent accept (3) and also accept (4) 'My freedom and well-being are necessary goods'? (Reason and Morality 80).

Since human beings desire their own freedom and well-being, the natural conclusion is that they must have rights to freedom and well-being. Additionally, it follows that the

freedom and well-being of other people must be respected as a right. These basic human rights are not only to be respected but, when necessary, brought to fruition in cases where people are disadvantaged or powerless to achieve them independently.

The PGC involves a hierarchy of rights, however. The right to life, for instance, is more important than the right to be told the truth. Gewirth divides rights into three main categories: basic, nonsubtractive and additive. The basic (and most essential) rights are to life and freedom (or well-being) and always take precedence over other rights or potential quantitative benefits:

Basic goods of one individual cannot be outweighed by multiple nonsubtractive or additive goods of many other individuals; in cases of conflict, basic rights must be fulfilled before other rights (Human Rights 12).

Gewirth has been criticised for his assertion that the rights of individuals to freedom and well-being must necessarily come into opposition with other people's rights to be rescued. Rescuing refers to providing financial and social assistance for those who lack these advantages and who, therefore, cannot possibly achieve basic rights (freedom and well-being) (Regis Jr. 167-79).

Gewirth further clarifies, however, that in fact it is the right to life that takes precedent over the right to well-being:

... the right to freedom is not absolute; it may be overridden by other rights such as the rights to life, health, or subsistence, since the objects of the latter rights are more pressing because more necessary for action (Regis Jr. 243).

The PGC states that basic human rights must be upheld; therefore, any approach to conflict as well as the employment of NLW must not violate these rights. Of course

these rights are applicable to all persons upon whom these weapons are used as well as anyone using NLW. Therefore, how should we address conflict while upholding the human rights that the PGC outlines? In relation to something as ingrained into the global human consciousness as war and violence, it seems that the real difficulty in moving from violent conflict, which threatens human rights, to peace is that there does not seem to be any sort of middle ground. If negotiations for peaceful resolutions fail, we are left with no other options but violence and killing. My hypothesis is that the development of NLW offers a new alternative to lethal combat. Furthermore, using NLW instead of lethal weapons satisfies the criteria of the PGC and basic human rights far better than lethal weapons.

1.5 A Gewirthian Approach to War – Concerns

Since Gewirth's philosophy serves as my ethical framework for the eradication of war through the use of NLW, it is essential to address the fact that Gewirth claimed that conscription could be morally justified. This is a total contradiction with Gewirth's human rights centered philosophy. It is not consistent both to claim that there are no rights more important than those of freedom and well-being and argue that it is acceptable to force people against their wills into a situation that will most likely result in either severe injury or death. Furthermore, even when addressing troops who voluntarily join the military, it is not rational to claim that soldiers may abdicate their right to life and freedom. If all rational, goal-directed human beings must accept that they have these essential rights, then surely soldiers are included. This issue is further discussed in chapter two where I will argue that it is a major oversight in Gewirth's philosophy.

Chapter 2: Alan Gewirth's Moral Theory with Respect to Conscription

Alan Gewirth's Principle of Generic Consistency (PGC) establishes that the most fundamental and incontestable rights are the right to life and the right to well-being:

... either they subsume other rights in that the others are specifications of the rights to freedom and well-being, or they take precedence over other rights in that the latter, if they are to be valid, must not violate the rights to freedom and well-being. In these respects, they may be called 'fundamental rights.' They are also constitutive rights in that their objects are the proximate necessary conditions of all agency (Reason 64).

In the essay "Individual Rights and Political-Military Obligations" (Human Rights 234-55), however, Gewirth argues that although not ideal, military conscription is sometimes necessary and under certain restrictions, does not violate the PGC:

...a voluntary system of military service is preferable to conscription unless the evidence is quite clear that such a system cannot serve the nation's military needs, themselves estimated on as realistic a basis as possible (254).

This chapter will demonstrate that Gewirth's contention that conscription can be morally justified within his own ethical framework is fallacious. More precisely, conscription violates the basic and most important human rights and therefore cannot be reconciled with the PGC. I argue that if we are to eradicate war, a transition is required. Gewirth's PGC offers an excellent framework for such a transition. In other words, this transition must place human rights at the forefront. By focusing on human rights, and stressing that all human beings are entitled to freedom and well-being, war and particularly conscription become more and more ethically problematic.

2.1 Illogical Arguments and Ethical Individualism

Early in the essay, Gewirth makes it clear that he first deals with “ethical individualism” (235). This term does not refer to individuals deciding on what is or is not morally correct for themselves, but that it is individuals (and their rights) who are most important within society:

It is the goods and rights of individuals that constitute the primary criterion or end of moral rightness. Thus the state or society itself is to be viewed as valuationally instrumental, not final: it is a means to protect the rights of individuals rather than an end or good itself. Hence, the preservation of the state or of the nation is valuable and worthy only insofar as this is of benefit to its individual members (235).

The state exists for the sole purpose of serving and protecting the rights of individuals. It is not separate or independent from the interests of the individuals who comprise the state itself and must not use its citizens as means to its ends. Therefore, Gewirth writes that the moral framework for society must be deontological in nature as opposed to utilitarian:

...distributive criteria must take priority over aggregative or collective criteria. What is morally right must be assayed primarily by reference to the rights of each several person rather than by reference to the good of the collective whole or the summation or maximization of goods. In this way, the primary moral principle must be a deontological one of distributive justice rather than an aggregative or collectivist principle such as utilitarianism or organicism (235).

Gewirth then lays out arguments that may be used in an attempt to justify conscription and then explains why these justifications are inadequate. The first argument is that conscription is akin to taxation and both are needed to maintain the state

and its operations. Just as a state may impose taxation and confiscate individual's property:

...it may be held that the state can justifiably impose military conscription, even though this removes much liberty and may endanger life, insofar as this is needed to preserve the state and thereby to help it carry on its necessary functions (235).

Gewirth says that this is an unequal comparison because taxation involves relinquishing only a percentage of money or property while conscription involves potentially losing one's life. Additionally, the conscript is subjected to a major loss of freedom in being forced to perform military service as opposed to the taxpayer who maintains his or her freedom (235).

The next argument is that conscription does not remove rights, but merely the objects of the rights. Gewirth likens this to informing someone who is about to be killed that she still has the right to life, despite the fact that she will surely die. Gewirth writes that objects are inherent in rights: "rights, after all, have objects, they are rights to something; and if these objects are removed, then the right, too, is infringed (236)".

Third, there is the argument that if the principle of ethical individualism is upheld, it would make it immoral to infringe on a person's freedom by incarcerating her if she commits a crime. Therefore, ethical individualism is not a viable moral framework. Gewirth says that this is a misguided view because the criminal has violated another's rights, while the conscript has committed no such offence and, therefore, should not be subjected to punishment. The difference is that the state is not violating or infringing on the criminal's rights, but merely, according to Gewirth, redressing an imbalance (236).

Gewirth then addresses the argument that conscription is justifiable provided it can be said to benefit the “common good”. Gewirth is strictly against weighing the rights of individuals against that of the community as a whole in order to serve the “common good” in a collectivist fashion. To place greater importance on the community than individual rights is unacceptable:

...to say that the common good so interpreted may override the basic goods of some individuals is to uphold a collectivist sacrifice of a few to the many of the “whole.” On this view, it would be justified to enslave the few if this would lead to more overall good. There is no adequate basis for thus preferring the whole to the part or even for attributing value to the aggregate or collective whole as against its individual members (236-7).

Additionally, Gewirth writes that “common good” can be interpreted in a distributive sense, but this interpretation fails to make rational sense. If the common good is held equally by all members of a society, then conscription cannot be justified. After all, it is only some of the members of society who will be conscripted. This again sacrifices the rights of some for the rights of others.

Another argument is that because the state provides benefits for individuals, those individuals are indebted to the state, which can request payment in the form of conscription. Gewirth argues that this is problematic for three reasons: first, a person cannot owe for benefits she or he had no choice in receiving. Second, the relationship between the debt and the payment is not self-evident; are the services received from the state truly comparable to the person’s loss of freedom and potentially his or her life? Third, the vast inequality in social standings makes it difficult to decipher what exactly is owed to the state and by whom. Gewirth questions if “those who live impoverished,

degraded lives in squalid ghettos (237)” owe anything at all to the state. With such inequalities found in societies, the question remains of how to determine the boundaries of the obligatory relationship between the state and the individual.

2.1.1 Political and Moral Obligation

At this point, Gewirth begins to outline his view that conscription is morally justified by stating that conscription is ultimately an issue of political obligation, which in turn derives from moral obligation (238). A justified state imposes justified laws and citizens are morally obliged to obey those laws. First, he addresses morality at the most basic level. Gewirth defines morality as follows:

A morality is a set of categorically obligatory requirements for action that are addressed, at least in part, to every actual or prospective agent and that are concerned with furthering the interests, especially the most important interests, of persons or recipients other than, or in addition to, the agent or the speaker (238).

This morality is applicable to all people; it is not based on individual person’s choices or opinions of right and wrong action. Additionally, it takes precedence over all other forms of social obligation, such as legal and political maxims. Essentially, Gewirth is briefly explaining the PGC.

Gewirth then shows how the PGC must be synthesized with ethical individualism so that it does not result in egoism. First, ethical individualism must be universal so that all persons have equal rights. Second, it is essential that rights also entail duties; Gewirth subscribes to positive as well as negative rights:

The generic rights of each purposive agent entail, not only the negative duty of all other agents to refrain from interfering with any agent’s having the necessary goods of action, but also the positive duty to help persons have or maintain these goods when they cannot do so by their

own efforts and they can be helped at no comparable cost to the agent (240).

Gewirth reiterates that the PGC is applicable to individuals (directly) as well as institutions (indirectly). If an institution conforms to the rules of the PGC, then the institution's rules take precedence over the rights of individuals. Gewirth outlines three kinds of states which would be in this category. First is the minimal state, which is concerned with law enforcement and the criminal justice system. In other words, the minimal state fulfills the PGC's basic requirement because it serves to protect the most basic and fundamental rights of people by ensuring that they (and their property) are physically safe (241).

Second is the supportive state, which satisfies the positive rights component of the PGC since it aids its citizens in achieving generic rights:

... the supportive state contributes protection for the right to well-being by providing various public goods that improve persons' capabilities for action and productive work and by supplying basic goods, such as food and housing, to persons who cannot obtain them by their own efforts (242).

Equality of well-being is achieved by providing financial and social help and benefits to people such as education, welfare and productive work programs for the unemployed.

Third is the democratic state, which satisfies the freedom component of the PGC because it allows for the fair and equal consent of its citizens in regard to political process. It also maintains civil liberties.

At this point, Gewirth concludes that since these three varieties of states fulfill the requirements of the PGC that any state must in order to be morally justified, then

these states' citizens are morally obligated to follow the rules and laws set forth by such a state:

... compliance with the PGC, and thus acceptance of the moral obligations it imposes, is categorically obligatory for all actual and prospective agents. Hence, since the kinds of states just delineated are themselves justified by the PGC, the moral obligations that derive from the supreme principle of morality are also owed to such states by persons living within their territory, so that there is a moral obligation to obey and support them. In this way, political obligation emerges as a species of moral obligation (242).

In other words, it is through the state that individuals fulfill their moral obligation to others because the state serves to protect the individual rights of all its members. Laws are not followed simply because they are laws, but because they come from states that follow the regulations of the PGC. In this way, Gewirth makes it clear that political obligations are derived from moral obligations: laws uphold morality because they are instituted by a just state (243).

The minimal, supportive, and democratic states vary considerably in their fulfillments of the PGC, however, and Gewirth addresses these questions:

... it must be recognized that different states may vary in the degrees to which they achieve the protection of rights prescribed by the PGC. If a minimal state does not equally protect all its members from crime, to what extent does it deserve obedience? ... What if a minimal or a supportive state is not democratic, or a democratic state is not also supportive (243)?

These concerns indicate the need for certain priorities for political obligation. In other words, the states (minimal, supportive and democratic) are placed in a hierarchical fashion just as individual rights are according to the PGC. Whichever right is more necessary for action is the right that is to be upheld. Just as the right to life is given

priority over the right to truth, the minimal state is more fundamental to rights than the democratic state:

... one may hold that when the conditions of a minimal state are in conflict with the conditions of a democratic state, the former conditions should take precedence over the latter because a situation where there is unrestricted bloodshed and wanton killing is more deleterious to the necessary conditions of action than is a situation where the civil liberties are restricted (244).

In order to clarify his position, Gewirth offers two contrasting views of political obligation. These doctrines, which he refers to as “affirmative and negative” (244), argue for and against the justifiability of political obligations. The affirmative arguments are based on such notions as fairness, gratitude and consent. Gewirth argues that the PGC is unique to these ideas in that it does not simply focus on the past but the future as well. This is key to his argument for conscription because he argues that the PGC, with its proscriptive slant, makes it clear that the state will need support in the future, not because it deserves it, but because it is necessary so that the state can continue to protect individual rights. This is contrasted with the doctrines of gratitude and fairness because these doctrines are solely concerned with past events. Obedience is owed for protection that the state has offered to the individual in the past or because the state has been fair. Gewirth thinks this is an important distinction:

Such a retrospective criterion ... obscures the fact that there would be no political obligation to obey some law if the law in its *present* or *future* operations did not serve to protect rights. The same contrast obtains if political obligation is held to be justified by the duty of fair play where this is construed as assuming equal burdens for *past* equal benefits accepted (245).

Additionally, with the fair play doctrine, Gewirth says that this theory depends on the argument that persons must assume certain responsibilities and burdens in order to receive benefits from the state. The problem, as Gewirth sees it, is that political obligation is contingent on these individuals desiring benefits. It would follow that if they did not want the benefits offered by the state, then they would not in any way be obliged to follow the rules of the state. Conversely, the PGC's justification for political obligation stems from the moral rights of all people: political obligation is not traded for gain or benefits, but simply to ensure that the generic rights of all people are maintained. Additionally, the PGC is not reliant on consent or voluntary action but on the conditions necessary to ensure the state's ability to protect individual rights:

Since the argument of the PGC establishes that moral obligation is based on practical adherence to and support of the right and freedom and well-being for all prospective purposive agents, the state's being needed to assure such adherence and support provides a sufficient basis for the moral obligation to obey the state and its laws (245-6).

Finally, the PGC is a rational theory as opposed to other theories of political obligation that rely on "intuitions" or "utilitarian calculations" (246). An agent who denies that she or he has rights and is entitled to those rights contradicts her or himself. In other words, the PGC shows that to deny human rights within a certain set of presuppositions is to be irrational.

Gewirth answers similarly to the negative doctrines that claim that political obligation is separate from moral obligation. One such doctrine states that the PGC does not bind individuals to a particular government because many governments may meet

the requirements of the PGC (248). Gewirth replies that individuals are obligated to adhere to the laws set forth by the government of the state in which they reside:

... if some person A lives in state X, which is minimal but not supportive, should he obey the laws of state X or those of state Y, which is supportive as well as minimal? Obviously, as long as he lives in state X, it is to its laws that he is obligated (248).

2.1.2 Conscription as Distributive Consequentialism

Gewirth then returns to the question of morally justifying conscription. He begins by clarifying that he is speaking in terms of a society that qualifies as a minimal, supportive, and democratic state. For Gewirth, the United States satisfies these requirements. He then clarifies that despite the impression that the PGC puts forth, it is not individuals (and individual rights) that take precedent, but the entire “system” that upholds rights:

What the PGC makes primary ... is the whole mutually supportive system of equal rights to freedom and well-being. Sacrifices in the way of military service for the defense of this system are justified if and only if the system cannot be maintained without them (250).

Gewirth once again compares conscription to taxation and writes that, despite his earlier argument against comparing the two, these two burdens are in fact similar in reference to the PGC. Gewirth opposes a cost-benefit analysis of the issue because seen in this way conscription is obviously more costly to individuals than paying taxes. Gewirth’s comparison of the two rests on the contribution to society that both taxes and conscription make. The system protects rights of individuals and the individuals are morally obligated to perform duties to ensure the survival of the system, whether in the form of taxation or conscription.

Gewirth insists that this is not a utilitarian argument, which sacrifices a few for the majority. He offers three important differences. First, the sacrifices entailed in the PGC are equally distributed, as far as possible:

This stands in contrast to an efficiency calculus that looks only to maximizing certain outcomes without regard for their possibly differential impacts on individuals (252).

Instead of sacrificing a few for the many, any sacrifices occurred by society will be the burden of the majority for the sake of the majority.

Second, the PGC is concerned only with sacrifices that aid generic rights. Gewirth argues that utilitarianism allows for sacrifices for general “goods” instead of limiting sacrifice for essential, necessary goods for action. Additionally, utilitarian attempts to prioritize goods have suffered “notorious difficulties” (252).

Third, the PGC is concerned with sacrifices made for the sake of individuals and not utility itself. Gewirth says that this is also why a volunteer military force is favourable to conscription:

Hence, unlike utilitarianism, the PGC cannot justify sacrificing the necessary goods of individuals to the end of maximizing utility. Both the PGC’s means and its ends must embody respect for the equality of generic rights. From this it follows that ... a voluntary armed force is preferable to conscription because of the former’s provision for freedom (252).

In other words, Gewirth opposes a utilitarian framework with respect to the justification of conscription, but not a consequentialist framework. Moral rightness can be judged by the consequences it will produce, not by the goods it will maximize.

Gewirth then concludes that conscription can be morally justified, provided generic rights cannot be protected by other means. There are further conditions, however, to a state having justified authority to conscript its citizens. Gewirth simply says:

Such a law [conscription] would need a further, independent justificatory scrutiny to check whether the military conscription it calls for is indeed indispensable for protecting the state (253).

2.2 Issues and Concerns

I argue that there are numerous problems with Gewirth's reasoning on the issue of conscription. First, the argument that conscription is similar to taxation, in that both serve to help society as a whole, is misguided. Conscription and fighting in a war against your will is much more devastating to the individual than relinquishing a percentage of your earnings or property. Conscription often entails being forced to kill human beings and risk one's life and it always demands the relinquishing of one's freedom. It is, as Robert Holmes writes, servitude:

Conscription represents one of the severest infringements of individual liberty the state has devised. To be forced to yield up one's very person to a government, to be told what to do, what to wear, what to eat, and when to come and go is servitude. And to be compelled to do these things is involuntary servitude – about as clear a case, short of slavery, as there is (46).

It could be argued that involuntary servitude is not equal to conscription since conscription offers benefits to the conscript such as compensation for service and employment afterwards. This is an overgeneralization since it assumes that *all* conscripts will return home and continue on with their lives exactly where they left off. It does not

address the mental and physical injuries sustained by many people who fight in wars, and it completely ignores the fact that conscription, for some, will entail death. Even slaves maintain their lives. Simply because some conscripts will return home and live out the rest of their lives in a “normal” manner, does not in any way justify the unfair sacrifice of those who do not. Despite Gewirth’s attempt to reconcile the PGC with conscription, conscription stands in stark contrast to the PGC’s emphasis of individual freedom and well-being.

In relation to the issue of ethical individualism, to reiterate, Gewirth writes that it is individuals who take precedent over the state:

It is the goods and rights of individuals that constitute the primary criterion or end of moral rightness. Thus the state or society itself is to be viewed as valuationally instrumental, not final: it is a means to protect the rights of individuals rather than an end or good itself. Hence, the preservation of the state or of the nation is valuable and worthy only insofar as this is of benefit to its individual members (235).

Further into the essay, however, he claims that viewed within a PGC framework, it is not really individuals who have priority, but the system as a whole (250). This is justified by Gewirth because the system is comprised of the state as well as the individuals in a system of mutual cooperation and benefit. Therefore, the state can justifiably remove the freedoms and most likely the lives of certain individuals in order to protect the rights of all the individuals. I argue that Gewirth is mistaken in thinking this is not a type of utilitarianism. Gewirth argues that he is not advocating sacrificing the few for the many; instead, he claims to be concerned with making the sacrifices necessary in society as equally distributed as possible. But is Gewirth being realistic? After all, conscription always leads to some members of society being sacrificed for the majority because it is

only a certain segment of the population who are deemed fit to be conscripts. An objection to this argument may be that conscription does not necessarily lead to death or, perhaps, that conscription is merely a temporary suspension of a person's rights: one is conscripted for a short period of time, not one's entire life. But this fails to recognize the devastation that war inflicts on individuals and society. While it is true that conscription does not inevitably lead to death, conscription (for those sent into battle) places individuals in a situation where there is a very high probability of death or injury. Furthermore, if conscription does lead to death, it is obviously absurd to argue that conscription is only temporal. Even for those conscripts who survive, it is difficult to claim that their experience of war will not, in some negative way, remain with them for the rest of their lives and possibly cause trauma for their families as well. Numerous books have been published that chronicle the personal stories of men who returned from such wars as WWI, WWII, and Vietnam. Although many of these men have never admitted to their pain, their families suffered from the trauma that these men had experienced - often with extremely negative consequences for all concerned (Childers & Mathews). Even if it were argued that not all soldiers, conscripted or otherwise, return from war with severe permanent mental injuries, the simple fact remains that many do. It is spurious to argue that conscription in general is not damaging to conscripts because some conscripts are not affected. According to the American National Institute of Mental Health, veterans are twice as likely to commit suicide as civilians (Kaplan et al.). The fact that battle has such a devastating effect on such a large number of the men and women who fight makes it clear that war and conscription are not temporal; they have a profoundly negative effect that remains with veterans for life.

It might be argued that taxation is unfairly distributed as well, in that certain people pay more taxes than others for the benefits of all. Taxes, however, are based on the total income of an individual; the tax that a person is required to pay is always a percentage of her or his total earnings. This contrasts with the role of conscripts who must relinquish their fundamental generic rights: their freedom, well-being, and life. In other words, the conscript must give everything. It is not possible to compare these two burdens.

Moreover, taxes can definitely be used for the betterment of society because they can be put towards many different purposes such as education, city infrastructure and Medicare. The same cannot be said for conscription. When an individual is conscripted, it is not self-evident that the individual truly benefits. Conscription entails being stripped of one's basic rights and forced to fulfill a duty. Gewirth make it clear, however, that rights are *a priori* to duties:

It should be noted that although claim-rights and duties are correlative, this does not mean that they are identical. Instead, they have different normative contents and a different valuational status, in that rights are to duties as benefits are to burdens ... Hence, duties, which are burdens, are for the sake of rights, whose objects are benefits. Rights, then, are prior to duties in the order of justifying purpose or final cause, in that respondents have correlative duties *because* subjects have certain rights (The Community 9).

Since conscription involves the violation of one's generic rights to freedom and well-being, it cannot be said that the conscript still has a duty to the state. Gewirth also makes it clear that if a state does not protect its citizen's basic rights then those particular citizens do not owe the state obedience and most certainly do not have any duties to the

state. He uses the example of a class of oppressed people in a certain state where that state does not offer this particular class of people minimal state protection:

What if a state Y has no criminal law that makes A's action [murder] punishable? Suppose, for example, A has killed B, a member of a severely oppressed class in state Y. In such a case, state Y is not entitled to obedience from the members of this class at least, for it is not even a minimal state in relation to them (249).

In other words, if the state does not protect the lives of these citizens, the citizens are not morally obliged to obey the state's demands. How is this similar to the fate of conscripts? Conscripts, too, are not supported by their state once they have been conscripted. It could be argued that they are supported by their state with training and weapons, but these are not satisfactory answers. To argue that conscripts are given weapons and therefore the state has not ceased to protect these person's basic rights is akin to saying that state Y, in Gewirth's example above, could be considered a minimal state to these citizens if it provided each person with a gun. The conscripts and the citizens of state Y are still embroiled in an atmosphere of violence and death and the state is directly responsible for their suffering.

Furthermore, there are numerous documented cases of states deliberately ill equipping their soldiers in order to save money. Aaron Glantz, for example, has chronicled the shameful way the Bush administration in the United States has denied financial support to soldiers from the wars in Iraq and Afghanistan. Not only were the troops not given the resources they needed during the war (Glantz 32), but the U.S. government did everything in its power to deny these veterans their benefits upon return:

At the root of that fight was its desire to hide the true cost of the war in order to boost public support ... Indeed, as the country prepared for war

the Bush administration was actively involved in scaling back veterans' benefits ... President Bush even moved to eliminate disability payments for veterans who abused drugs and alcohol – despite the fact that substance abuse has long been connected to psychological trauma caused by the death and destruction of combat (119).

This is not an issue of government funding, but an issue of government priorities. The priority of the U.S. government in this example was war and retaliation, not the generic rights of its citizens (soldiers). It is irrelevant that conscription was not employed for these operations; this is an example of how the state will use people as pawns for its purposes, whether they are conscripts or volunteers. Perhaps the argument could be made that this is simply an abuse of conscription and does not really demonstrate that conscription is inherently abusive, but if conscription was abused in this case and has been abused in the past (such as the Vietnam War) then at what point is it possible to argue that conscription is too often abused to be morally legitimate? In other words, how many times does conscription have to be used in an unethical way for it to be deemed problematic for human rights? Gewirth argues that if a war is deemed morally unjustified then any conscientious objectors as well as all citizens have a right to not fight in such a war:

... where the conscientious objector's reasons for claiming exemption from military service are morally right, in that the war he opposes is morally wrong, it is morally justified that he and all other persons be exempted from supporting the war (357).

Theoretically this makes sense, but empirically speaking, conscription becomes law and, therefore, extremely difficult for citizens to not “support” a conscripted war. Gewirth is arguing that it is well within an individual's rights to not support a war that he or she

views as immoral, while at the same time arguing that governments can put in place laws that force individuals to fight. He is also arguing that conscription is only justified when it is deemed absolutely necessary, but how does an individual determine if a war is absolutely necessary? Or immoral? Gewirth is supporting conscription, which forces people to support a war, while also supporting the rights of individuals to question his or her government's motivations. These two practices are fundamentally opposed.

Returning to the issue of duties, aside from making it clear that rights come before duties, Gewirth also holds that a person must fulfill his or her moral obligations to the extent that is possible without causing great harm to her or himself:

The generic rights of each purposive agent entail, not only the negative duty of all other agents to refrain from interfering with any agent's having the necessary goods of action, but also the positive duty to help persons have or maintain these goods when they cannot do so by their own efforts and they can be helped at no comparable cost to the agent (240).

The cost to the agent to help is relative to the misfortune of the other agent. Being forced to kill in war, however, is an extremely great cost to any individual. As Lieutenant Colonel Dave Grossman writes:

...fear of death and injury is not the only, or even the major cause of psychiatric casualties in combat ... it is the need to kill that eventually drives the soldier so deeply into a mire of guilt and horror that he tips over the brink into that region that we call insanity. Indeed, fear may be one of the least important of these factors (53).

It is not possible to imagine a situation in which being forced to relinquish one's freedom, mental health and potentially life would serve as "no comparable cost" to an agent.

Gewirth ends his essay by using the United States as an example of a state that is entitled to use the power to conscript providing it fulfills the requirements of the PGC:

It is because and insofar as the sociopolitical system of the United States meets this test that it is worthy of support, including the drastic kind of support embodied in military service (254).

There have been many wars waged by the United States (sometimes involving conscription) that were not sufficiently justified in Gewirth's sense of needing to protect the states' continual existence. If the U.S. generally does fulfill the PGC then conscription for these wars should not have been allowed. Conscription is a serious violation of rights and is far too serious of an abuse to be considered acceptable.

Gewirth's argument that if a state fulfills the PGC then it is justified in conscripting its citizens is too vague, as a country's PGC status is continually dynamic. The banning of conscription is an important step toward respecting and upholding fundamental human rights and moving toward the eradication of war.

Chapter 3: Non-Lethal Weapons: Concerns and Criticisms

This chapter will present and evaluate three authors' criticisms of NLW and articulate my view as to how NLW should be implemented. The general consensus amongst critics of NLW is that they will introduce or further instability in war and that this is certain to have negative consequences. First, Sjef Orbons argues that NLW are not reliable. Second, Peter Herby contends that NLW are a severe threat to international humanitarian laws and that the term "Non-Lethal Weapon" is misleading. Third, Mark Wheelis argues that NLW represent a frightening and dangerous trend and should be strictly regulated. However, Wheelis argues that with proper restrictions, perhaps NLW could play an acceptable and safe role in police enforcement. I will apply Wheelis' restricted NLW viewpoint of the policing context to the military context. I will conclude this chapter with an examination of how NLW could be used for police enforcement purposes and how the military could be transformed into a police force with the designation of security and defence.

3.1 Sjef Orbons: Evaluating Non-Lethal Weapons within a Defence Technology

Assessment

Sjef Orbons writes that it is essential to analyze the use of NLW within their social context. This involves a defence technology assessment (DTA), which includes three components: the weapons and technology complex; the user complex; and the target complex (Orbons 84). The weapons and technology complex involves the nature of NLW, their short and long term impact on the intended target and their reliability to function as intended. The user complex refers to the state of the soldier using the weapon, which includes his or her mental and physical state, skills, training, education

and understanding of weapons used as well as feelings towards the enemy targeted. Lastly, the target complex refers to the opposing individual (or group) and his or her understanding of the NLW being used as well as his or her physical health and mental state. These three elements work together to provide the environment needed for the effective use of NLW. If one of these components weakens, there is increased risk of permanent injury or death to the target (Orbons 85). To demonstrate his point, Orbons uses three specific NLW which have historically been used, or are being prepared for military use in the near future: the baton round (rubber bullets intended to shock, cause pain, but not kill); CS gas (“tear gas” intended to incapacitate by irritating the mucus membrane tissues); and the Active Denial System (ADS: a laser intended to produce a heat sensation in the target individual).

3.1.1 The Weapons and Technology Complex

Orbons first takes aim at the reliability of proper performance of these three NLW. He writes that the baton round is not effective in close or long range targets and could potentially be fatal if it were to hit vulnerable body parts such as the head. CS gas is dangerous due to difficulties in managing equal dispersion amounts, resulting in some people receiving too much of the gas. Lastly, ADS requires an environment with clear visibility. There are also concerns that when used in confined spaces, there is potential for radiation reflections from these weapons which may result in the radiation being too intense for the targeted individual.

In regards to the use of ADS, the concerns are focused on the environment in which the weapon will be employed, specifically, when used in confined spaces. Again, ADS is a new technology and will need to be continually tested and improved. It has

been used in combat and has proven very efficient and effective (Alexander 24). As with traditional lethal weaponry, troops would presumably have multiple weapons at their disposal and that would apply to NLW as well. ADS could be used in open areas and alternative NLW could be employed if the fighting reached more confined areas. Simply because a weapon is not effective in certain conditions or circumstances does not mean it becomes an unviable option overall.

The baton round by its very design makes it difficult to strike a target with precise accuracy due to the fact that one end is blunt, as opposed to a pointed lethal bullet. This technology is constantly being improved, however, and studies of its use in Northern Ireland show a steady decline in fatalities since the early 1970's due to improved design (Orbons 88).

3.1.2 The User Complex

The effectiveness of the NLW employed is of somewhat less concern for Orbons than what he refers to as the "user complex". He writes:

... in real world circumstances technical imperfection may be a lesser risk than the human factor, i.e. the attitude and performance of the holder and operator of the NLW (89).

Orbons is mainly concerned with the potential for NLW to be misused, resulting in human rights violations. In regards to the baton round, he points to a case of misuse by Israeli soldiers who were videotaped in 2007 firing indiscriminately at a group of Palestinian women. The bullets caused injuries (some severe) due to the fact that the soldiers had embedded "a steel kernel" in the rubber casing (89). This is not a problem with NLW, but the mental state of the user. Altering a weapon can and should be seen as

a clear violation of military codes of conduct. Orbons' critique that NLW specifically allow or even encourage these types of violations is a misplaced criticism. Any weapon has the potential to be misused and it would be counter-intuitive to say that traditional, lethal weapons were less likely than NLW to be used for malicious purposes. In the hands of someone intent on causing pain and suffering, virtually any object could be used as a weapon and cause severe injury to an intended victim. Any concerns about the user complex are not NLW specific, but war and human nature specific. When a soldier or police officer is not following proper procedure, but acting out of fear or hatred, the "matrix" of battle is destroyed and weapons have nothing to do with it. I argue that NLW are less likely to cause harm due to the very fact that they need to be altered because they are not designed to kill or permanently injure. It takes a considerable effort to embed bits of steel within rubber bullets, as opposed to simply shooting a standard gun. Of course, Orbons insinuates that the Israeli soldiers in the example would likely have not used their lethal weapons at all, since that would be a clear violation of military procedure. Instead, the soldiers used the rubber bullets excessively because of their non-lethal appearance, injuring the Palestinian women without any violations of conduct. This is simply conjecture, however, and had these soldiers been equipped with only lethal weapons, they may have very well conducted themselves in a similar fashion and suffered the consequences, or not.

Orbons further claims that employing NLW can be viewed as a means of avoiding peaceful conflict resolution:

There is a growing concern that the increasing availability of NLWs to security forces as a complementary capability to lethal options may give rise to a tendency that operators become more "trigger happy". It is easier

to physically incapacitate an individual or group to control behaviour than accomplishing compliance through negotiation or warnings (92).

It is important to remember that except in cases where the doctrine of double effect (DDE) applies, employing any weapon on peaceful, un-armed civilians is not acceptable and strictly prohibited. The use of NLW should not change this policy. These are weapons, not warning tools. The second principle of Just War Theory (JWT) is: “that noncombatants cannot be attacked at any time. They can never be the objects or the targets of military activity” (Walzer 151).

Furthermore, it appears that the majority of soldiers are not searching for excuses to deliberately maim and kill civilians as, more often than not, this leads to severe psychological trauma:

Being able to identify your victim as a combatant is important to the rationalization that occurs after the kill. If a soldier kills ... anyone who does not represent a potential threat, then ... the rationalization process becomes quite difficult. Even if he kills in self-defense, there is enormous resistance associated with killing an individual who is not normally associated with relevance or a payoff (Grossman 174).

For proponents of NLW, this is one of the most compelling arguments for employing these weapons: to lessen the guilt and trauma of killing (particularly of innocents) for soldiers:

In Somalia, when countering snipers, the fighting was at close range and our troops saw the people, mostly innocent civilians, fall ... Clearly, non-lethal weapons offer a chance for soldiers to avoid facing such dilemmas in the future. The psychological burden of killing innocent, or even tacitly supportive, civilians should not be thrust upon young troops when viable alternatives are available (Alexander 25).

John B. Alexander documents how in certain operations, the use of NLW (specifically lasers) proved very effective during the 1994 conflict in Somalia and that the high civilian casualties incurred in that mission could have been greatly lessened had NLW been more readily available (24).

Orbons' specific concern for the employment of the ADS is that there is the potential for it to be used as a method of torture, and that if that were the case, proving that torture had taken place would be virtually impossible. Again, this is a question of unacceptable behaviour on the part of the perpetrator, not a question of weaponry. The objection that ADS would particularly make it difficult to prosecute the offenders is unfounded. Torture is prosecutable because it is universally prohibited (Pope 400-1). It is because of the strict regulations against torture that those who commit torture are not apt to admit it and often find methods of performing it that leave little physical evidence on the victim such as use of water, electricity, etc. (Pope 400-1). Furthermore, the fact that NLW exist and are known for their effective yet temporary and non-invasive qualities will surely be taken into account with any accusations that these weapons were used to deliberately cause excessive pain and suffering. In other words, there are many forms of torture that do not leave marks on the victim and torture accusations are taken very seriously despite this lack of physical wounds. These are policy and legal concerns and not a justification against the use of NLW.

3.1.3 The Target Complex

Orbons' third essential component in his "defence technology assessment approach" of NLW is the "target complex", which is essentially the physical and mental state of the targeted persons:

The mental state of an individual or crowd, the motives for their resistance or fight and their perception of the forces and their political masters in charge of the security mission potentially have a deep impact on the susceptibility for and response to the employment of violence, including NLWs ... Any wrong outcome of NLW use causing excessive harm, in particular against civilians, will be perceived as disproportionate use of force and judged as morally reprehensible (93-4).

A single baton round bullet may not be sufficient to stop a particularly aggressive individual and CS gas may be ineffective against an angry crowd equipped with gas masks; however, these are not sufficient reasons not to adopt these tactics. This is a question of the ethics of conflict; when anger and violence erupt between two groups, it is essential to consider what the available choices are and which is the more ethical. Those in favour of NLW are not claiming that these weapons should replace negotiations and attempts at peaceful resolutions. These weapons are a last resort if negotiations fail and the individual becomes overly aggressive or the crowd turns violent. As with any weapon, there is a danger of causing excessive harm, but these weapons do offer a lower likelihood of causing excessive harm than lethal weapons. Instead of immediately employing lethal tactics, NLW offer a morally superior method of containing violence, protecting those who are responsible for defense as well as the public at large.

Furthermore, *any* weapon that is used in a conflict that the public views as being a “disproportionate use of force” will be considered unethical and unacceptable. It is hard to imagine that the public would consider shooting protesters with guns as ethically preferable to spraying them with tear gas. Again, we are considering extreme cases and if NLW were to indeed prove to be causing soldiers or police officers to be “trigger

happy,” this would have to be considered a very serious misuse of these weapons and dealt with accordingly.

3.2 Peter Herby: NLW, International Humanitarian Law and the Importance of Language

Peter Herby is specifically concerned with the use of chemical NLW, or Incapacitating Biochemical Weapons (IBW). He writes that the International Humanitarian Law as well as the prohibition on chemical and biological warfare is one of mankind’s greatest achievements and must not be allowed to falter with the development of NLW (285).

Herby addresses the fact that public opinion is extremely powerful and may result in NLW being banned, which is something he sees as being extremely favourable. The “Marten’s Clause,” found in international humanitarian law, states that:

Warfare is governed not only by specific rules but by the ‘principles of humanity’ and the ‘dictates of the public conscience.’ It is just this principle that the International Court of Justice has judged to have been ‘an effective means of addressing the rapid development of military technology.’ Weapons that are abhorrent to the public conscience may be prohibited on this basis alone (287).

This is an important point in relation to the development and use of NLW and IBW, but this clause should provide consolation that these weapons will not survive if they cross over a certain moral line. If IBW prove to be distasteful to the public, then their use will be disallowed. This is not a valid argument for not developing these weapons, merely an assurance that instead of governments moving forward with any and all chemical agents, the public will ultimately dictate what is acceptable.

Herby also takes issue with the term “Non-Lethal Weapon” claiming, as most critics of NLW do, that these weapons could result in a deadlier battlefield and that by naming them “non-lethal,” soldiers will more likely be willing to use them on civilians (287). This is predominantly an issue of training. If soldiers are trained to see NLW as just as powerful and as dangerous as lethal weapons they will not use NLW any differently than they currently use lethal weapons. One of the factors that played into the horror and destruction of the Vietnam War was the fact that the U.S. army had altered its training methods in response to low kill rates in WWII to ensure that soldiers sent to Vietnam would be more willing to kill:

... the army radically changed how it prepared soldiers to kill. Infantry training exercises played down the notion that shooting kills humans. Soldiers were taught to shoot at nonhuman targets – trees, hills, bushes, cars, hovels, huts. The effects were dramatic. According to army estimates, 90 percent of soldiers in the Vietnam War fired at their enemies (Keltner 52).

Once again, any weapon can be dangerous and lethal depending on how it is used, regardless of what it is named, for that matter. As the quote above demonstrates, it was not that the soldiers in Vietnam had more “lethal” guns than the soldiers in WWII, it was a question of how they were trained; and they were trained to view their targets as non-human and paradoxically, they were also trained to see themselves as killers (Grossman 252-4). The weaponry that was used in Vietnam is irrelevant; the majority of soldiers fired their weapons simply because they were trained to do so. This type of training is referred to as “denial defence mechanisms” training and only became thoroughly institutionalized into military initial training during the Vietnam War period:

Basically the soldier has rehearsed the process so many times that when he does kill in combat he is able to, at one level, deny to himself that he is actually killing another human being. This careful rehearsal and realistic mimicry of the act of killing permit the soldier to convince himself that he has only “engaged” another target (Grossman 257).

Herby may be correct in his assertion that the term “non-lethal” will inherently lead to soldiers using these weapons more readily and less discriminately if they are trained to see these weapons as harmless. This may seem like a contradiction: to promote the employment of NLW and yet insist upon soldiers being trained to view them as lethal. Once again, however, this is an issue of training and since NLW have the capabilities to be lethal, then soldiers need to use them in the ways they are intended to be used. In other words, for NLW to be used as a means to a less lethal battlefield requires both the intention of using these weapons to preserve human lives as well as knowledge of their potential dangers. Therefore, the term NLW is very apt and important: “non-lethal” refers to the kind of intent that governs the use of these weapons, whereas “weapon” refers to the fact that they need to be respected and not used without concern. Weapons can kill and soldiers should be equipped with an understanding of their potential lethality.

3.3 Mark Wheelis: The Dangers of Developing Chemical Warfare

Critics such as Mark Wheelis claim that the development and production of chemicals specifically intended to affect human physiology are intrinsically dangerous since these substances could be used by criminals, despots, rapists, terrorists and militaries for the purposes of interrogation and torture (Wheelis 9-11). Furthermore, Wheelis sees a lessening of current regulations (BWC and

CWC) concerning chemical weapons as a move with potentially disastrous

effects:

A partial ban that allows some chemical agents and toxins to be used for hostile purposes while banning others is inconsistent ... is fraught with ambiguity, and interferes with the detection of noncompliance. Indeed, the development of incapacitating biochemical weapons has been identified as one of the major threats to the ban on chemical and biological weapons generally, and there is concern that they could lead to the entire regime crumbling (13).

The issue of using chemicals on human beings needs to be taken very seriously indeed, but Wheelis is extremist in his thinking. First, to make the claim that we should not develop certain types of drugs because they may be stolen by criminals is unreasonable. Wheelis points to the present difficulties encountered by law enforcement officers to eradicate “date rape” drugs (11). These drugs are powerful sedatives that were originally developed as sleeping aids. It would be excessively cautious to stop producing sleeping pills because they could potentially be used for evil purposes. Clearly we need to be careful of what we produce, and why; there is absolutely no need for chemicals whose sole effects are extreme and prolonged pain, something Wheelis worries could be used for torture (9). The goal must be to develop NLW (including IBW) as a means to less suffering, not more. In other words, NLW could be used as a humane alternative to traditional weapons, not a new method of torture. Chemicals may be used to interrogate prisoners, as well as any untold number of devices and it is a sad, unethical action, regardless of what form it takes. It is not, however, an issue of banning NLW; it is an issue of banning torture.

Wheelis ultimately concludes that IBW represent a serious danger to humankind:

Rather than developing incapacitating biochemical weapons, we might serve humanity and our posterity better by working to ban the nonconsensual manipulation of human physiology except for very tightly constrained medical situations where the benefit of the individual requires it, and where that individual is unable to give informed consent (15).

It is morally and logically problematic to reject using NLW because they will alter the body chemistry of those who are subjected to them but to accept the practices of maiming and killing in war. Killing soldiers is more than a manipulation of their physiology; it is destruction of their physiology. Arguably, soldiers do not consent to dying since, according to Gewirth, a human being cannot deny that she or he has the right to life (Reason 77).

Wheelis objects to the further development of Incapacitating Biochemical Weapons (IBW) for military purposes, but feels that with very strict regulations in place, that perhaps these weapons could serve law enforcement objectives (14). What Wheelis is pointing out is that militaries serve the purpose of injuring and killing and not only do their weapons serve this purpose but their weapons will be used in a militaristic fashion. On the other hand, Wheelis will consider the use of NLW for law enforcement due to the fact that the police are subject to a different protocol; one in which injuring and killing truly are a last resort. Wheelis offers a set of criteria for the development of NLW:

... such a program should be open and transparent; should be administered, funded, and conducted by non-military agencies such as departments of justice; should be justified solely on the basis of law enforcement needs; and should involve the development only of munitions and delivery devices that are characteristically used by police forces (14).

This is an interesting comment and one that is related to the majority of the literature covering the ethics of NLW. Authors are generally divided into two camps with one side

(Alexander and Koplow, for instance) claiming the use of NLW in combat is morally ethical and the other (Coupland and Nixdorff, for instance) that it is not.

3.4 NLW for Transforming the Military into a Police Force

What is commonly missing from the discussion is the idea that NLW could replace lethal weapons entirely and completely change the nature of violent conflict. In other words, instead of killing the enemy, the focus would be on subduing the enemy as a defensive measure. Why is it that NLW can be considered suitable for law enforcement, but not military uses? What are the moral consequences of viewing all military operations as law enforcement or better still, as a means of protecting the public from violence? If the military were transformed into a police force with the same obligations to preserve and protect human lives, we would be making an enormous move towards a more ethical approach to violent conflict.

Wheelis is correct in that strict regulations need to be developed and strongly enforced. Again, it is essential that these weapons be used discriminately. Not only because of their potential lethality, but because they represent a serious threat to autonomy if used without vigilance. Policies should be developed that regard NLW as lethal weapons. That is, while recognizing their ability to create a more ethical combat environment, these weapons need to be treated with the same respect given to traditional weapons. The legal consequences of using NLW should be the same. Police officers and soldiers should be held to the same standards and regulations.

NLW represent new options in how we may engage in violent conflict. Instead of needing to resort to lethal force, we are now equipped (and will be better equipped in the future as technologies improve) to deter attacks without killing. The obvious question is:

what is the difference between police officers and soldiers, specifically peacekeepers?

There are two fundamental differences: training and identification.

Training is different for police in that their training emphasizes thinking independently and following the rules as opposed to soldiers whose training emphasizes being a part of a group and relying on the leaders of the group to survive. Military training focuses on following orders and not thinking independently:

... IET (Initial Entry Training) reinforced a rules-based approach to moral decision making or at least did little to facilitate a principle-based or post conventional approach. Soldiers learned new rules but did not necessarily understand or apply the principles that support the rules. Soldiers indicated that IET eliminated the need for personal decision making. They perceived that they were discouraged from thinking for themselves. The strong emphasis on control and reinforcement of the rules tended to restrict moral and character development (Williams 50).

It may be argued that the reason for these differences is that soldiers and police officers function in different environments: police officers work independently (or with one partner) while soldiers are working together in a large group. Police officers do come together in large groups on occasion, however, and their training does not interfere with maintaining a cohesive group when they do. One well documented case is the Ruby Ridge siege in 1992 in which a large group of police officers working together were given modified and illegal rules of engagement by the Justice Department. These new rules allowed the officers to shoot on sight regardless of if theirs or another's life was in imminent danger. While this case is viewed as a tragedy because one of the snipers involved followed the revised orders and shot an innocent civilian, the majority of the police officers completely ignored the new orders claiming in court that the orders were "crazy" and "ridiculous" (May and Headley 63).

My concern is ensuring that the people who are sent to fight in violent conflicts are able to make moral decisions and are equipped with weapons that allow them to defend themselves without killing. The training that police officers receive is superior to military training in that they are trained to think independently and ethically. After all, autonomy and independent thinking are essential to moral decision making. If soldiers are going to be making moral decisions concerning life and death, then we should equip them with at least the independence to make those decisions and training that encourages such autonomy.

The other issue concerning transforming the military into a police force is one of identification. The role and identity of police officers is to protect, not kill. While it could be argued that the same applies to peacekeepers, peacekeepers often suffer from confusion as to their true role. Peacekeepers are trained as soldiers and this makes it difficult to ascertain what proper procedure is in conflicts. The Commission of Inquiry into the Deployment of Canadian Forces to Somalia found that most soldiers suffered from this confusion:

Those interviewed frequently commented on the tension between general-purpose combat training and training for peacekeeping [and] weapons training. General-purpose combat training would train soldiers to aim at the centre of the visible mass for a kill or a first-round hit. For peacekeeping, in keeping with the normal use of minimal force, weapons use would range across a broader range of weapons response, including the use of warning shots (46).

If soldiers were identified as police officers, not only would their actions and weapons change, but the impression they give to others would as well. Peacekeepers are soldiers first and foremost, whereas police officers serve to protect the innocent.

Chapter 4: The Use and Potential of NLW

This chapter will present an important book and two articles that support the use of NLW. I have included Pauline Kaurin as a proponent of NLW; however, Kaurin argues that certain strict rules govern the legitimate use of NLW. Moreover, Kaurin assigns moral responsibility to soldiers and military members that is, I argue, far too demanding. However, Kaurin's discussion raises an essential question in relation to war: how do we morally justify killing in war while morally condemning killing outside of war? The other two authors (David A. Koplow and George P. Fenton) take the view that NLW are ethically viable options for militaries and police forces. Instead of taking the position that NLW will further complicate war, Koplow and Fenton view NLW as invaluable straightforward tools for making war less deadly and traumatic for all involved. Unfortunately, these authors unanimously state that lethal weapons would be an essential requirement as a safeguard should NLW prove insufficient for military and police operations. Although I disagree with the use of NLW alongside lethal weapons, I do agree with these authors that NLW are (or can be) both effective and morally advantageous to lethal weapons.

4.1 Pauline Kaurin: The Ethics of NLW – Guilt, Killing and the Soldier's

Responsibilities

Pauline Kaurin, while recognizing the potential of NLW, insists that an ethical framework is essential for their use to ensure that NLW are not abused and potentially result in making war even more brutal. She imposes three restrictions on the ethical use of NLW. NLW must never be used as:

- (1) A way to circumvent or make irrelevant classical moral distinctions;
- (2) An “easy” technological fix to complex moral and strategic problems;
- (3) A method to make war more palatable and easier to use as both a military and political option (100).

Kaurin’s three restrictions primarily concern the ethical implications of NLW and are excellent guidelines for their implementation. The use of NLW must not violate the rules of Just War Theory (JWT). Kaurin’s arguments for these restrictions are problematic for several reasons. First, she takes issue with John B. Alexander’s claim that NLW would greatly reduce guilt encountered by soldiers. Alexander, a Vietnam War veteran, as well as a former police officer, writes that NLW can greatly decrease deaths of non-combatants and therefore, lessen combatant (as well as non-combatant) trauma. Kaurin holds that soldiers should be morally accountable for their actions in war. She uses the example of a marine stationed at a military checkpoint:

The marine manning a checkpoint in Iraq has to make moral and practical determinations about the intent and potential hostility (or not) of the persons approaching his checkpoint. While certain kinds of weapons might give him more time or options other than lethal force, he still has to make a judgment about whether to treat the approaching individuals as objects of war or objects of protection. In short, he has to make a moral judgment; the weapons involved do not change that basic fact (103-4).

NLW definitely would provide numerous non-lethal options for the marine so that he or she would be able to better discern the intentions of the approaching persons. Kaurin is placing too much responsibility on this marine as well as all soldiers. It is true that soldiers are not allowed to be indiscriminate in their work; for instance, they cannot kill civilians without just cause, but their primary job is not to be moral decision makers.

Major Peter Kilner, a professor of Philosophy at West Point, writes:

Soldiers are conditioned to act without considering the moral repercussions of their actions; they kill without making the conscious decision to do so. Soldiers who kill reflexively in combat will likely one day reconsider their action reflectively. If they are unable to justify to themselves that they killed another human being, they will likely, and understandably, suffer enormous guilt. This guilt manifests itself as post-traumatic stress disorder and it has damaged the lives of thousands of men who performed their duty in combat (Coleman 75).

Militaries train soldiers to follow orders without question and to kill without considering the moral implications involved in taking a life. Although Canadian and American Militaries do offer ethics training, killing is an inherent part of a soldier's job and the difficulties involved in training soldiers to kill and the need for obedience in the face of great stress is well documented (Grossman, Coleman, and Tick). Moral questioning is reserved for after the war and it is often the guilt incurred for making the wrong ethical decision (which entailed fulfilling their proper duties in combat) that leads to post-traumatic stress disorder. Soldiers must follow proper procedure, which sometimes involves killing fellow human beings and Kaurin's assertion that soldiers must contemplate the ethical implications of their every decision to kill in war is too much to ask. I argue that it is very difficult for human beings to kill without being conditioned heavily to do so. Military training stresses the importance of following rules without asserting one's individual will. This is to ensure that troops will be able to function in stressful and terrifying conditions; instead of being frozen with fear, soldiers will be able to carry out their assigned tasks. It is also to ensure that soldiers will not ask moral questions when the task at hand involves killing. I am not, however, arguing that soldiers are transformed into automatons; in fact, this is exactly the moral dilemma. Soldiers

cannot be conditioned out of their humanity, which is why so many suffer from post-traumatic stress disorder (PTSD). In other words, soldiers would not be able to function in the ways that we demand of them if they allowed their moral consciousness to lead their actions on the battlefield. Killing is a deeply ingrained cultural taboo and soldiers suffer enormously for breaking this taboo even when they are trained and expected to.

As Mike Goldstine, a war veteran commented:

We [soldiers] all got there by our own paths, but it appears to me the central thing we have in common was that we were brought up with a set of values and put in a situation which blew the devil out of those values. It's all about choices. Don't teach young men it's wrong to kill and then expect them to kill in war and not be affected. If you want them to fight your wars, teach them it's *right* to kill (Hansen 36).

We must provide our soldiers with NLW so that they are much less likely to be required to kill in order to perform their task of protecting our society.

Returning to Kaurin's example, the marine at the checkpoint has to make a guess, not an ethical decision. That is, the task is to determine if someone approaching is a threat or not. It is not an issue of ethics; it is simply an issue of instincts, or guessing. If the marine assumes that the person approaching is a threat, it is his or her duty to prevent this person approaching regardless of what his or her moral conscious may argue. In addition to fulfilling this objective, the marine is also a human being dealing with the fear of potential immanent injury and death that war produces which may, of course, influence his or her instincts and therefore decisions. Again, this is not an issue of ethics; it is a result of the extremely stressful conditions that are inherent in war. Alexander, a proponent of NLW, asserts that soldiers (such as Kaurin's marine stationed at the

checkpoint) will shoot anything he or she deems potentially dangerous out of fear, not immorality, and if NLW are available, there will be far fewer casualties.

NLW would offer options and techniques to deal with these situations that could plausibly save many lives. Moreover, the fact that NLW allow the marine the option of not killing and thus not incurring later guilt is one of the most compelling reasons (if not *the* most compelling) for rethinking and restructuring war. NLW allow for a new and more ethical approach to violent conflict insofar as they offer a method of addressing conflict that can result in less death and psychological trauma.

Obviously, there are moral consequences for our actions even if we are marines in the theatre of war, and this is exactly why we need to re-evaluate how we deal with conflict. Soldiers do pay an extremely high moral price for their actions, but they are subject to the orders of others and trained to not contemplate the moral consequences of these orders. Kaurin is confusing soldiers with leaders and policy makers. Soldiers do not start wars; they fight in them, sometimes against their wills. As Leslie Armour writes:

... the (military) forces we use are composed of men and women who have signed up to do what their governments decide. They can opt out if they are very sure they have been asked to do something illegal, and a long struggle ... awaits them if they decide they should not do as they are told (2).

Again, this is not the view of the Canadian and American Armed Forces, and yet there is a reason why we have external legal courts whose job it is to prosecute crimes committed in war. Although it is rare that the U.S. and Canada are accused of committing such offenses, in recent years, both countries have been involved in scandals

involving cruel and inhumane treatment performed by their soldiers such as Canadian soldiers in Somalia and American soldiers torturing Afghan and Iraqi prisoners. It has, of course, come to light that the Bush administration was directly responsible for the torture scandal since they specifically ordered it (Priest 159-64). Soldiers are not responsible for killing in war; it is our leaders who make the choice to wage war and we, the public in democratic societies, who assign power to our leaders.

Kaurin argues that war should never be costless (meaning bloodless and free from the guilt of killing) because it would, therefore, be more readily engaged in as well as result in an apathetic public:

... what if you *could* remove permanent suffering and death from war – is that a good idea? ... This desire, even if unrealistic, for an increasingly ‘bloodless’ war may increasingly turn war into a spectator sport, especially for the public who has minimal contact and participation with war, and increasingly numb citizens to the moral and other costs of war. War does and *should* cost. NLW should make war more humane, but never costless. Even if it were possible to make it costless, it would be morally problematic to do so (108).

Again, this is confused and illogical. Yes, war does cost: billions of dollars that could be spent on much healthier options for the world. It also costs an untold amount of human lives, civilians as well as soldiers who carry the moral repercussions of battle. But *should* it cost? No, it should not. In fact, it should not even be engaged in if at all possible. The fact that war kills and psychologically destroys millions of people every year does not result in it being less attractive to leaders who have nothing to lose and much to gain by engaging in this activity. The cost of war has not resulted in fewer wars. Moreover, it is the soldiers and people who are directly engaged in the war who truly pay. The purpose of NLW is to help these people: to save lives and alleviate trauma

from something that, unfortunately, costs too much, psychologically speaking. Of course the obvious question (and Kaurin does pose it) is: is a war without bloodshed still a war? Aside from notions such as a “cold war”, I would argue that a bloodless war can no longer be categorized as a war. There may still be conflict and antagonizing, but if we can be rid of bloodshed that is a vast improvement. It is not the case that the use of NLW will result in bloodless war; NLW will result in less bloodshed, which can foster an environment that allows for less hatred and resentment, leading to less wars. Furthermore, as to the public becoming numb to war and war itself becoming a spectator sport, this is arguably the present reality of many western societies. The public is inundated with images of killing and death, from violent videogames to televised full coverage of wars. Perhaps watching people not being killed with NLW would be a vast improvement. In fact, if NLW were able to set a precedent, making killing no longer acceptable, it could very well serve to awaken the public from numbing violence. Perhaps killing people (even in war) would become unacceptable and the public would begin to respond with horror at the sight of blood and killing.

4.1.1 The Issue of Discrimination

Returning to Kaurin’s ethical evaluation of NLW and the issue of discrimination, she further states:

In order to be ethically justifiable, NLW must be able to be used in ways that make it possible to discriminate between combatants and non-combatants, thus upholding the principle of discrimination ... The principle of discrimination relates not just to killing non-combatants, but to intentionally targeting non-combatants and/or engaging in indiscriminate attacks ... Soldiers are prohibited from treating non-combatants as part of the battleground just because they happen to be in the way (104-5).

While re-iterating that NLW should be used discriminately, it is essential to recognize that the nature of war has changed. Wars are being fought more and more in urban areas creating major difficulties in discriminating between combatant and non-combatant (Fenton 104). This is presumably the main reason for the development of NLW; weapons are needed that can be ethically used in an environment where it is virtually impossible to distinguish between the combatants and the non-combatants.

Unfortunately, civilians are more and more a “part of the battleground” because in the case of asymmetric warfare, they offer the smaller, inferiorly armed side a major advantage: the ability to hide amongst people whom it is *verboden* to attack. “Three block” wars characterize modern warfare:

The “first block” relates to humanitarian relief operations, with soldiers aiding and assisting in the distribution of material goods. The adjacent “second block” relates to peacekeeping operation, with soldiers separating warring factions with an aim to keep the peace and disarm troublemakers. Finally, the “third block” relates to actual combat operations, with soldiers returning fire against an adversary determined to kill. In this urban setting, each of the three blocks is inundated with noncombatants ... Furthermore, the once well-defined interpretations of the conventions that apply to war now have become less certain as the lines amongst the fighters themselves ... have become blurred (Fenton 104).

This new battleground obviously causes great stress on soldiers because it makes it very difficult to wage war and not kill civilians. Soldiers fight in conditions dictated by the enemies they fight. They are lured into highly populated areas and the rules simply cannot be applied in these kinds of environments. Either the rules must change or they will be broken. The doctrine of “Double Effect” within JWT states that civilians can be killed if it is absolutely necessary (Walzer 151). If soldiers are being attacked within

highly civilian populated areas, it is well within their rights to defend themselves. It is, of course, unethical to force civilians to be a part of the battlefield, but it happens in war regardless. The point is that when it happens, when civilians become entangled in the fighting, it would be favourable for soldiers to have NLW available as an alternative to lethal weapons.

Kaurin writes that, as JWT states, civilians can never be the targets of war. She specifically criticizes the actions taken by the Russian military and police forces in response to the Moscow theatre siege:

The prohibition here is not simply on the intentional killing of non-combatants, but on the intentional targeting of them. Therefore, it is not clear that NLW offer any ethical advantage because they, just like conventional weapons, can be targeted just as easily against non-combatants as they can against combatants. This concern can be seen quite clearly in the case of the Moscow theatre hostage situation in 2002 where gas was used to ostensibly incapacitate the hostage takers, but ended up killing both hostage takers and hostages alike. Even had no one been killed, this would have still been problematic as the hostages (non-combatants) were targeted in the same way as the hostage takers (combatants); they were targeted as objects of war in violation of the principle of discrimination (105).

These hostages, I maintain, were not treated as objects of war; the Russian military was trying to save their lives. The particular Non-Lethal Weapon that was used in this instance was one which effected the environment of the hostage takers and the hostages were, of course, also in that environment. It is impossible to predict what might have been, but I would argue that without the use of NLW there could have easily been over eight hundred civilians dead as opposed to roughly one hundred and seventy. This is what NLW have the potential to do: protect civilians and save lives in potentially deadly situations. Obviously, the ideal would be to have no deaths in circumstances such as this,

but the Moscow theatre siege could have resulted in over eight hundred deaths had the hostage takers been successful in their plan. Not all of the hostages died as a result of the gas that had been administered into the building; some of the hostages were shot and it was believed that the hostage takers had possibly begun their promised killing of the hostages when the gas was released into the ventilation system (Koplow 102). There are certain factors, however, that could have lead to a more positive outcome. As Koplow writes, this incident could have resulted in fewer injuries and deaths had the Russian military been forthcoming about exactly what chemicals they were using in this incident (111). Part of the problem in relation to helping the rescued hostages was that medical officials did not know what their patients had been exposed to and, therefore, their attempts to resuscitate were compromised. The point is that these hostages were not, as Kaurin asserts, treated as objects of war. They were viewed as hostages and NLW were employed so that their lives may have been spared. Had the military used traditional methods of attacking and killing the hostage takers, the possibility that non-combatant lives would have been lost would have been much greater.

4.1.2 Rules for the Applicability of NLW

Kaurin writes that NLW are potentially morally superior to lethal weapons if their employment follows four specific rules. She places these rules in strict order of priority. These four rules are:

- (1) to provide the military with more flexible response time and options, allowing them more time and space to carefully make the strategic and ethical judgments necessary in war and to respond with appropriate and proportional force;
- (2) to reduce unnecessary suffering on the part of non-combatants;
- (3) to facilitate the eventual restoration of peace; and

(4) to minimize combatant casualties (100).

Although these rules are excellent guidelines, again, Kaurin's emphasis on the strict order of priority is questionable. If we are to engage in fighting that results in fewer combatant casualties, then that could very well ensure future peace between the fighting parties. Minimizing combatant casualties would surely reduce the suffering of non-combatants as well: not losing your son, father, brother, etc in the war would result in much less suffering of those who were not engaged in the battles. Surely, having your family intact would make forgiveness and the return to peace between the warring sides much more viable. In other words, Kaurin's hierarchy of rules ignores the fact that all of these elements are intertwined and equally important. Combatants should not be placed in the fourth position; they are just as important as responding with appropriate force and the suffering of non-combatants. In order to attempt to eradicate the world of war, there must be acknowledgment of humanity's interconnectedness. In other words, no one is disposable or more important than others. Everyone, including soldiers, has a right to freedom and well-being.

4.2 David A. Koplow: Historical Lessons on the Use and Potential of NLW

David A. Koplow's, Non-Lethal Weapons: The Law and Policy of Revolutionary Technologies for the Military and Law Enforcement, is an excellent empirical investigation into past conflicts in which NLW were, or could have been, employed. Koplow documents the events that led to the conflict, the methods and weapons used by the particular military or police force and the results of the fighting. He then evaluates what could have transpired and the role of NLW in achieving such an outcome.

4.2.1 The U.N. and the Rwandan Genocide

The Rwandan genocide was carried out by Hutus against the minority Tutsis. Hatred between the two groups had been rampant for years with periodic violent clashes between the two. From 1959 to the genocide in 1994, there had been seven massacres (Koplow 68). Although these clashes sometimes resulted in thousands dead, the 1994 genocide was death on an unprecedentedly large scale:

Within the first week, an estimated 20,000 people were killed in the Kigali [the capital city of Rwanda] area alone. In less than three months, approximately 500,000 were slaughtered; two million became refugees; and one million were internally displaced. French historian Gerard Prunier estimates that 80 per cent of the victims were killed during the first six weeks of the genocide, an extermination rate which would prove five times as fast as that of the Nazi death camps (Koplow 71-2)

The catalyst for this murderous rampage was the assassination of the Rwandan president, Juvenal Habyarimana, as well as the Burundian president, Cyprien Ntaryamira when the plane they were travelling in was shot down by a surface-to-air missile. The missile was presumably fired by Hutu extremists. The two presidents were returning to Rwanda after finalizing their agreement on the Arusha Peace Accords endorsed by the UN Security Council which would have integrated the two opposing Hutu and Tutsi armies (Koplow 70-71). Immediately, the Tutsis were blamed for the death of the president and the Hutus began a calculated massacre of Tutsis as well as Hutus suspected of having favoured the reconciliation (Koplow 71). Top government officials and anyone else deemed a threat to the carrying out of the genocide were tortured and

murdered (Koplow 72). The violence spread to the countryside and the entire nation was consumed by hatred and killing:

... neighbor suddenly turned with insane viciousness against neighbor... Hutus who had previously demonstrated no particular hatred of Tutsis or any propensity toward violence – suddenly morphed into killers. There were precious few “innocent bystanders” – those who were not actively participating in the ethnic cleansing were presumed to be Tutsis or accommodationists, and suffered the same fate (Koplow 72).

Despite repeated attempts from the UN forces already stationed in Rwanda, outside forces did virtually nothing to stop the slaughter. In the end, an estimated eight hundred thousand people were killed (Koplow 79).

If other countries had intervened, Koplow believes that NLW could have been extremely useful in preventing or at least lessening the killing. In fact, the Rwandan people did not “suddenly” morph into killers; they had been incited to violence by radio stations that broadcasted hate messages portraying the Tutsis as the enemy (Koplow 73). Early on, the U.S. had been requested to dismantle the radio signals or destroy the broadcasting facilities but the Pentagon claimed that it would be too difficult and expensive (Koplow 76). NLW could have been very effective in accomplishing such a task:

... aircraft known as Commando Solo could reliably jam the transmitters’ frequencies ... Alternately, physical – but nonexplosives and nondestructives – means could be derived to knock the noxious facilities off the air temporarily ... Today, this mission could be accomplished quite quickly and reliably, without necessitating a major on-the-ground presence of troops or a cataclysmic explosion (Koplow 80-1).

Furthermore, Koplow writes that NLW could have provided safe areas for threatened Tutsis by surrounding buildings housing large numbers of people with slippery foam,

multisensory flash-bang devices and acoustic or millimeter wave systems making it very difficult for the attackers to enter the building or even come within a certain distance (81). During the massacre, many Tutsis gathered together in buildings in an attempt to escape, but these buildings were either set on fire or attacked with grenades and other weapons by the Hutus. In the same way, NLW could have been used to block off entire areas:

Just as those militia utilized roadblocks and checkpoints to detain Tutsis and delay their flight to safety, outside militaries could have employed caltrops, rigid foam barriers, entangling nets, and other devices to hem in the attackers and to close off selected routes (81).

Koplow writes that perhaps the best use of NLW would have been in dispersing the angry mobs of Hutus that gathered and were determined to terrorize and murder Tutsis. A malodorant or a vortex ring could have caused the groups to scatter (83).

It could be argued that in this (or a similar) situation, lethal force would be warranted and superiorly effective to NLW, but this is misguided. The Hutus were armed with very primitive weapons. While the military had grenades and machine guns, most of the killings were done by Rwandan peasants armed with machetes and clubs with nails embedded in them. Koplow writes that to attack these people with lethal weapons could easily be viewed as too extreme and, furthermore, with the use of NLW, it would also be unnecessary. What NLW offer is a middle ground: lethal weapons would be “overkill” but not taking action would be equally unacceptable. NLW allow for protection without killing and therefore would protect the endangered people and not further incite the killers. NLW would serve to:

... frustrate or impede the opposing force, providing a temporary interruption in the rapid flow of events, allowing time for ordinary citizens to come to their senses, escape the intoxicating hold of the government's extremist propaganda, and restore order. If a non-lethal force could have deterred aggression or even held it in abeyance for a short time, perhaps that pause in the cycle of killing could have grown (Koplow 83-4).

Finally, using NLW as opposed to lethal weapons would have prevented long held resentments on the side of the Hutus. Historically, much resentment was created between the two sides when colonial powers deemed the Tutsis "superior" to the Hutus and placed them in positions of power (Koplow 69). The use of NLW could prevent the Hutus from thinking that outside countries had once again sided with the Tutsis. Additionally, Koplow writes that in such a horrendous situation it is better for all concerned if intervening armies were to stop the bloodshed instead of adding to it (84).

Unfortunately, Koplow concludes his book by claiming that he has not argued for the use of NLW to be "nicer" to our opponents" or to rid militaries and police of lethal weapons (164). I contend that this is contradictory as his arguments throughout the book can generally be labeled as being "nicer" on the battlefield as a means to not escalating violence. The role of NLW can and should be to avoid killing and, therefore, angering and humiliating the opposing side. There is not much use in employing NLW if lethal bullets will soon be unleashed. The reason, of course, for this argument is that NLW are a new technology (in war) and the unknown factor is frightening. I would argue that NLW can suffice on their own if they are used as a means of policing instead of waging war.

4.3 George P. Fenton: An Argument for Chemical NLW

In “Current and Prospective Military and Law Enforcement Use of Chemical Agents for Incapacitation”, George P. Fenton argues that the Chemical Weapons Convention (CWC) is too severe in its policies. Chemical agents present a paradox: historically these weapons caused extreme cruelty in battle, but certain chemical weapons (all belonging to the same class) have the capacity to be used in ways that would result in fewer casualties and human suffering.

Fenton outlines the specific articles in the CWC that pertain to his discussion. These articles say that all parties will not make or distribute chemical weapons. Chemical weapons are narrowly defined as toxic chemicals:

Any chemical that through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals (105).

The convention allows for two exemptions to this prohibition, however:

- *Military purposes not connected with the use of chemical weapons and not dependent on the use of the toxic properties of chemicals as a method of warfare,*
- *Law enforcement including domestic riot control purposes (106).*

Furthermore, a riot control agent is defined as:

Any chemical not listed in a Schedule, which can produce rapidly in humans sensory irritation or disabling effects which disappear within a short time following termination of exposure (106).

Fenton points out that the CWC is rather vague in relation to law enforcement as opposed to military purposes as there are often situations that militaries face that entail fulfilling a policing or peacekeeping role (106). Additionally, the CWC offers no

definition of “temporary incapacitation” making it difficult to determine the difference between a toxic chemical that temporarily incapacitates (although “temporary” assumes that the agent would *not* cause permanent injury) and acceptable non-toxic riot control agents that would temporarily incapacitate (106).

He writes that there is no official definition within the U.S. Department of Defence for “incapacitation”, but there is one for “incapacitating agent”:

An agent that produces temporary physiological or mental effects, or both, which will render individuals incapable of concerted effort in the performance of their assigned duties (106-7).

According to Fenton, the intended consequences of an incapacitating agent (and all NLW) is not to injure without killing, it is to change the targeted individual(s) motivational behaviour: “the objective is to defuse the offensive nature of the subject and place the subject in a defensive mindset” (107). If you must react to something that is affecting any or many of your five senses, then you cannot continue your intended task. While many NLW can achieve this effect on individuals, Fenton argues that chemical NLW are far superior to other NLW, such as rubber bullets and Tasers, because they can be used on large groups with much more efficiency (108-9).

Fenton also addresses the fact that chemical NLW fulfill the Law of Armed Conflict (LOAC):

Three important LOAC principles govern armed conflict – military necessity, distinction, and proportionality ... an extension of the principle proportionality is the need to minimize unnecessary human suffering (113).

It is obvious that using NLW that do not permanently harm would fulfill the requirements of necessity and proportionality far better than lethal weapons. Critics of NLW (such as Kaurin) argue that NLW cannot fulfill the requirement of distinction, but Fenton writes that the notion of distinction is outdated and is no longer a true reflection of modern warfare:

The central theme of distinction is to be able to engage only lawful military combatants. Such force-on-force engagement is indicative of the world wars of the twentieth century and ages past when conflicting states armies drew battle against one another in pursuit of state political aims. Today's conflict is that of the three-block war ... (114).

In other words, many modern conflicts, such as in Somalia and Iraq, took place in urban settings where it was virtually impossible to distinguish between combatants and civilians. In fact, Fenton writes that the war in Somalia and the United States' involvement led to a renewed interest on the part of the Americans in Incapacitating Biochemical Weapons (IBW):

Then-Lieutenant General Anthony Zinni ... introduced less-lethal capabilities into the 1995 U.S. Concept of Operations for the withdrawal of forces from Somali soil. General Zinni later, in this testimony before the U.S. Congress, underscored the importance of such capabilities as a military need. In 1996, the U.S. Congress mandated that the Department of Defense formally establish a less-lethal weapons program (104).

The U.S. military commanders were adamant that NLW were invaluable for their troops because they offered new alternatives to lethal force. Much of the fighting in Somalia was in urban areas where it was difficult, if not impossible, to distinguish combatant from non-combatant. NLW gave the soldiers ways of dealing with violence without

killing since the result could have easily been civilian deaths had they resorted to lethal force (Fenton 104-5).

Fenton also provides a list of goals for NLW that would correspond to the objectives of the LOAC. These goals are: the ability to make informed and nonreactive decisions, universality and reversibility, the elimination of casualties and, to be environmentally friendly (115). Fenton argues that NLW allow for more informed decision making (such as a marine at a checkpoint trying to decipher the intent of an approaching person) and that this fulfills the LOAC principles of necessity and proportionality. These same principles are met if NLW are effective and reversible without leaving anyone (regardless of gender, age, weight, health, etc.) with permanent injury. The elimination of casualties fulfills the principles of discrimination and the minimizing of unnecessary suffering as does the preservation of the natural environment (115). Fenton concludes that since NLW adhere to the principles laid out by the LOAC, that the CWC should be re-examined in relation to the development of NLW (120).

The only issue with Fenton's argument is that at the moment, IBW, such as "tear" gas, do not fulfill his requirement for having a "universal bio-effect" (115). If this is possible in the future then it would obviously be an amazing scientific discovery, as well as be ethically superior to the IBW that we currently have. It seems quite overconfident to assume that such a chemical will be developed in the near future. To make a drug have the exact same effect on people of both genders may be very possible, but to have that same drug have the exact same effect on children, the elderly, as well as people suffering from physical ailments (such as Asthma) is beyond our current

technological capacities. Fenton himself acknowledges that we have far to go simply to fully understand human physiology:

Aside from simply understanding potential physically disabling effects [of IBW], understanding the science of the neuroendocrine and immune systems alone is sure to be overwhelming (119).

It is because we lack full understanding of the human anatomy and its functions that caution must be exercised when using chemicals in defensive operations.

4.4 Summary and Conclusion

Like Kaurin, the public may insist upon our soldiers upholding strict ethical standards. The problem is that our western society has deemed killing to be immoral outside of war. This obviously causes great emotional stress in soldiers and NLW allow for a more unified ethical framework in that they would greatly decrease the amount of casualties in war. Furthermore, Kaurin's rules of engagement for NLW are too rigid and her reasoning for them is problematic. One step towards a more peaceful and communitarian society must be respect for the universality of rights: to view all persons as equally important, as opposed to creating a hierarchy of importance. The use of NLW could see the upholding of the generic rights of all persons involved in violent conflict: civilian, as well as combatant.

Koplow's evaluation of NLW and their possible uses helps to show how these weapons can be used in a realistic fashion. In writing about the possible role that NLW could have played during the Rwandan genocide, Koplow makes it clear that he is not claiming that NLW would have prevented or stopped the

slaughter necessarily, but his example goes far in demonstrating what could be possible in the future with the employment of NLW.

Lastly, Fenton suffers from an overestimation of the capabilities of NLW. His desire for NLW that will affect all persons, regardless of their physical constitution, equally, without causing excessive harm to some, is highly unrealistic currently. His desire in itself is often cited by critics as dangerous because it could result in war and weapons being more attractive to militaries and remove any prior reflection to becoming involved in such matters (Kaurin and Herby). While I think this claim is extreme, it does show the need to be very cautious with all weapons, including NLW, since there is always the possibility of people being killed when violence erupts.

Fenton's article is important, additionally, because he raises the issue of the present laws and regulations concerning chemical warfare. Fenton is absolutely correct in that the current laws are both too vague, as well as too restrictive. These laws are outdated and must be reviewed and revised in light of NLW and their possibilities to incapacitate without permanent injury or death.

Chapter 5: Summary and Conclusions

5.1 Summary

This thesis argues for the disarmament of traditional lethal weapons along with the transitory use of NLW as a method of defence in order to foster peace.

Alan Gewirth's philosophy provides an excellent human rights based framework for the discussion of war. His argument in favour of conscription, however, is highly problematic. I argue that conscription is contradictory to a Gewirthian philosophy that places the utmost importance on individual's rights to freedom and well-being as well as a supportive and nurturing state.

Sjef Orbons, Peter Herby and Mark Wheelis all argue against the use of NLW claiming that these weapons are either unreliable or too dangerous to be an ethically viable option for warfare. I argue that all of these arguments are extreme and unrealistic in various ways. Any weapon can fail strict moral guidelines pertaining to their use. Additionally, a weapon's effectiveness is primarily determined by the training and intention of the user, not the weapon itself. I also argue that the designation "Non-Lethal Weapon" is important in that it makes clear that these weapons are potentially lethal, while at the same time stating that they are intended to be used in a non-lethal manner.

Alternately, Pauline Kaurin, David A. Koplow and George P. Fenton all argue that NLW are or can be ethically superior weapons to traditional lethal weaponry. It is important, I argue, to view the potential of NLW to completely replace lethal weapons while not overestimating the capabilities of NLW. NLW can and will be lethal depending on the circumstances and the individuals involved.

Ultimately, NLW can serve to alter warfare by providing protection against violent attack by using weapons that can incapacitate without killing. In order to achieve this aim, militaries need to be transformed into policing units with a stronger emphasis on defence, without resorting to lethal tactics. This is an important move towards a more peaceful world in which the upholding of human rights is greater facilitated.

5.2 Future Considerations

An important first step towards the ethical development and use of NLW must be to impose strict regulations on the testing and approval processes of NLW. Should the use of NLW result in permanent physiological damage to anyone concerned, the use of such weapons would obviously be counterproductive. If a war involving NLW were to leave an entire or significant percentage of a certain population with illnesses such as what was seen in the aftermath of the Gulf War, then NLW could be viewed, justifiably, as causing deep resentment in those affected and ultimately leading to further conflicts in the future (Nixdorff and Melling 157-9). Koplow writes:

Nothing is more important for the future health of the concept of NLWs than satisfactory human effects assessment. We have to do more to ensure that the devices do work as advertised, that the long-term and cumulative effects are well characterized, and that the weapons reliably earn the moniker of “non-lethal”; existing informal testing mechanisms too often fail to provide those assurances (159).

Additionally, it is essential to remain vigilant that NLW that do not meet certain safety standards be discarded. An independent governing body would have to be in charge of regulating such matters, as too often militaries operate independently and may be too tempted to use effective, yet morally suspect NLW.

A second step needed for the successful integration of NLW is the need for public awareness of the capabilities of NLW. There is very little mainstream knowledge of NLW and many disagreements surrounding their use (Koplow 150-2). Once the public has a better understanding of NLW, and the misperceptions are dispelled, there is a greater possibility of the development and employment of NLW. Additionally, the concerns of critics of NLW could be addressed instead of ignored as they have been up to this point:

We all want the weapons to work – to be safe, effective, and legal – and to contribute to wise public policy. Constructive dialogue with critics across the spectrum of political and scientific perspectives might yield a surprising degree of common ground (Koplow 151).

Additionally, it is important to make sure that the discussion of NLW is realistic, in that NLW do not offer the promise of wars without death. NLW cannot promise a completely “bloodless” war. While their strength lies in the fact that they can greatly reduce lethal violence, they should not be viewed as a permanent solution to the problem of war and killing. They are obviously dangerous (and lethal) depending on how they are utilized; no weapon is completely safe by its inherent design.

NLW have the potential, and should be viewed, as a means to prevent the deeply felt resentments and shame that result from war and allow for a transition into a more peaceful global existence. In order to foster a supportive community as Gewirth promotes it, we need to become conscious, not only of our violent tendencies, but of the possibility that we can change our responses to violent threats. We can learn to place human rights above our disputes.

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