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Military Law, Justice, and Culture in the British Army

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Abstract:

This article examines the interaction of formal legal rules and requirements with wider, informal, processes in the British Army in the late twentieth century. It uses an ersatz case study constructed from real events observed or reported between 1990 and 2000 during long term anthropological fieldwork from inside that institution. Through analysis of the various stages in this incident a description is developed of how seemingly firm and Law-based rules could be managed to conform to culturally-centred ideas of 'justice'. It is reasoned in conclusion that this process is unlikely to be confined to the British Army, or to the chosen time period.

Keywords:

British Army; Rules; Organisational Culture; Justice.

1. Introduction

As members of a disciplined force, British soldiers¹ of all ranks live under rules. Formal published rules abound in their daily experience, and they are expected to comply with and obey them. For example, at the organisational level of the unit (the regiment or battalion²), Daily Routine Orders are published which give details of 'reveille' (the time to wake up), where soldiers are to be, when, what they are to wear, and the timing of meals, amongst other things. At an intermediate level there are rules that cover soldierly duties and procedures, and set limits to options for what soldiers may do. Examples of such rules are Formation³ Standing Orders, Standing Instructions, and Standing Operating Procedures, all of which apply at unit level and above, depending on what level they are published at. Globally, within the institution of the British Army, there are orders and instructions from Military Commands and the Ministry of Defence level, and at the highest level of all there is the Army Act 1955, an Act of Parliament⁴. This and associated domestic and international law is published or referenced in the Manual of Military Law (MOD, 1972) with further explanations and guidance to avoid ambiguities. Soldiers are required to know and obey all these orders and instructions and can be subject to sanction if they do not. The law also requires soldiers to obey all lawful orders given to them by a superior officer. An order is only unlawful if it would cause the soldier to violate either national or international law. It follows that the giving and taking of orders is a regular and constant feature of life in the Army.

The formal apparatus of orders of all kinds is played out through the rank structure which places each individual at a particular level in the military organisation (see, for example, Hockey, 1986: 3; von Zugbach, 1988: 15). However, this apparently highly structured system is tempered to some extent by the existence of 'chains of command' which limit the business of making and taking orders to those in the same segments of the organisational system. Chains of command thus establish for each individual their own set of seniors and juniors for the business of normal organisational life. Thus whilst a visiting senior officer might be legally entitled to give an order to a private soldier from another unit s/he would not expect, or be expected, to do so as they would not be in the same organisational segment (the unit).

An outsider may therefore be forgiven for deducing that life in the British Army is dominated by rules with the force of law which severely constrain soldiers' freedom of action, but this is not the case. Room for manoeuvre is created in the processes of daily life not only in the formal definition of chains of command but also by common practices embedded in the Army's organisational culture. This article explores the existence of regimes of practice which lie between the exercise of the law and culturally founded concepts, especially those of justice and fair play, as lived in the context of the British Army's organisational culture within a particular time slot (1990 to 2000). It does so by taking an incident and exploring the formal and informal options as it proceeds through the legal process.

2. The Research Base

The research for this article was founded in the author's extensive experience in the British Army as a serving officer of thirty-six years, and was carried out during long periods of insider anthropology. The term 'insider anthropology' is not well defined in the literature, but in the context of this article it means that the researcher shares, at the start of the project, at least some aspects of the culture of the group being studied. Different studies show different degrees of 'insiderness'. For instance, in some cases the researcher is a full participating member of the group being studied, as in the case of Young's (1991) study of the Northumbria Police Force and Collins' of Quakers (1998, 2002). On the other hand, in other cases, the researcher is already familiar with the culture in question at the start of their research but is not actually a full member of the group. Examples of this latter case are Forsythe's work on employees in artificial intelligence laboratories (2001), a field in which her parents were deeply immersed but to which she did not belong, and Irwin's research on a Canadian infantry company carried out when she was a reservist from a different part of the Canadian Armed Forces (2002). In the case of the events described in this article, the researcher was somewhere in between these two types, in that these events took place in a culture which he knew well as a long-term member, but he was not at the time a full participating member of the particular military group(s) involved.

The advantages and limitations that were experienced in carrying out this insider study were much in line with those described by Labaree (2002). These included useful interpretive insights arising from shared experience of, and practice within, the organisational culture being studied and easy access to a deeper understanding of the nuances in the social dynamics of the group. On the other hand, there were difficulties in maintaining objectivity and accuracy and in the preservation of sharpness of observation in

what to the researcher was a mundane environment. These were accounted for in the research as far as possible by careful recording of events combined with persistent self-reflection, self-questioning and discussion with others.

The author's research on the organisational culture of the British Army took place in a number of phases. Initially, he served for a year and a half as a junior officer in the Royal Artillery before taking a degree in Archaeology and Anthropology at Cambridge University, graduating in 1974. During the time at Cambridge he reflected on his experiences with soldiers and came to the conclusion that their organisational culture was distinctive, of great potential anthropological interest, and never previously studied using social anthropological techniques. He set himself the task of applying what he had learned to this field, deciding to carry out participant observation and to make fieldnotes whenever possible. The research was thus not only 'insider' but was self-organised and carried on over a period of several years in parallel with a military career. The longest continuous period of immersion in the field⁵ was thirteen years, during which the majority of the time was spent in units of the Royal Artillery.

Twenty years after this research began, he returned to Cambridge for an intensive, full time, one-year period of research from the Department of Social Anthropology. This research centred on interview-based studies (supported by observation) with a number of different units representing a cross-section of the British Army, in combination with reflection and further analysis of the fieldnotes. The same pattern was followed, if less intensively, for the next ten years as the opportunities arose, providing a rich and varied body of data.

One of the strands that emerged throughout the research was the variety of ways in which soldiers of all ranks behaved in different contexts. One moment they were stiff and formal, at another they were relaxed and informal, at other times they showed a fixed concentration on the task in hand as the top priority, and so on. Consistency in this apparently chaotic behaviour only became apparent when it was analysed against the assemblage of contexts in which they took place, each of which appeared to have its unique pattern of norms, expectations, and assumptions. Thus, action and practice that were perfectly appropriate in one set of circumstances were inappropriate in another. Conversely, different contexts were associated with different practices. British Army culture at unit level, therefore, appeared to have within it a variety of structured, or at least patterned, ways of behaving, none of which necessarily predominated, and none of which provided an overarching 'right' way to behave at all times. Such conditions provide what might be called 'wriggle room' in the face of what might otherwise appear to be a tight and inflexible, legally embedded, rule system.

The rest of this article presents an illustrative case study which explores how these conditions were worked out in practice. The events described and analysed are set in a time frame some time between 1990 and 2000, during the intensive part of the research. This deliberately vague setting is recent enough for the cultural elements still to be of research interest, but not so recent as to imply that the details described are common practice at the time of writing. These events do not represent a true history in the form it is described here, and neither are the protagonists real individuals. Rather it is an amalgamation of various *bona fide* incidents and enacted processes encountered during the research. An actual incident cannot be described for legal and ethical reasons: for example, this incident involves the commitment of a military offence by one of the principal *dramatis personae*, but such an offence does not attract a criminal record and remains a private internal disciplinary matter for the MOD. It would therefore be invidious for the person to be identifiable. However, it is possible, as here, to assemble an ersatz incident from actual reported or observed events that are consistent and coherent with the organisational culture in which it is set. The result is a case study which is sufficiently close to reality for the purpose of this article and demonstrates significant general principles and the practices which flowed from them, but avoids the complex legal and ethical difficulties involved in reporting the actions of real individuals in real circumstances.

Although the author has had a long association with the British Army, all views expressed in this article are his own, and do not necessarily reflect official opinion or thought.

3. The Incident, Part One, Private Bodkin's Black Eye

Private Bodkin was not a good soldier, which was unfortunate for him because he had joined a proud and experienced infantry battalion⁶ stationed in Germany. A strong theme in the battalion's ethos was

soldierly excellence. They saw themselves as ‘the best’ in terms of marksmanship, endurance, hard living in the field and hard playing in barracks, in none of which Bodkin excelled. It was particularly unfortunate for him that he found himself in C Company, who prided themselves on being ‘the best of the best’ in the battalion at soldierly skills, and in the infantry section commanded by Corporal Johnson, a military hard man *par excellence*.

From the first, Private Bodkin and Corporal Johnson failed to see eye to eye. Bodkin was irredeemably scruffy in appearance, slow on the uptake, poor at musketry⁷, and was consistently slow on military exercises and marches. To make matters worse, he appeared not to embrace the values of the battalion. He would make jokes about their situation which his colleagues thought feeble or in bad taste, spent his spare time in solitary pursuits, never went out boozing with the lads, avoided team games whenever he could, and only turned up to support the battalion and company sports teams if compelled to do so.

Matters came to a head on a night exercise in January. The weather was hostile – cold wet and windy – the training was physically demanding, and Corporal Johnson’s section had been without sleep for two days. These were just the sort of conditions that tested the ‘hard’ self-image of the battalion, and for the most part the soldiers were consoling themselves by this restatement of their prowess. Private Bodkin, however, was not enjoying himself and had chosen to take advantage of the darkness by snatching some unauthorised sleep behind a bush. It was not long before Corporal Johnson found him, and when he did so he dragged him to his feet and administered a severe tongue-lashing for sleeping on duty with as much volume as the tactical situation allowed. He then administered a punch in Bodkin’s face, causing him to develop a black eye over the following few hours.

Private Bodkin’s condition was noticed at dawn the following day by the platoon sergeant, who took Corporal Johnson to one side and asked him how it had come about. Corporal Johnson explained the circumstances and the sergeant went away satisfied, passing the explanation up to the platoon commander, who in due course mentioned it to the Officer Commanding (OC)⁸ C Company as he was bound to notice that something had happened. Nothing more was said.

3.1. Analysis of the Incident Part One

There is no doubt that what Corporal Johnson had done to Private Bodkin was against the formal rules, a particular concern for a disciplined organisation. He had applied a personal and unauthorised punishment to an individual instead of using the lawful medium of the Army Act 1955 to put him on a disciplinary charge, or taking less severe administrative measures. And yet, at no stage so far in the history of the incident, had anybody behaved as if this was the case. What was going on?

This section examines the incident as described so far. It sets out some key elements in the organisational cultural background to the actions of Private Bodkin, Corporal Johnson, and those in their chain of command (the platoon sergeant, the platoon commander, and the OC C Company).

3.1.1. Unit Culture in the British Army

There is not enough space in this article for a detailed account of British Army unit culture, so what follows is an outline to provide sufficient background to add value to the analysis of the incident. It is based on a model produced by the author which seeks to provide a means to describe, analyse, explain (and in certain circumstances predict) British soldiers’ behaviour in the unit context. A fuller account appears in Kirke (2002), with useful summaries in, for example, Kirke (2000 and 2004). At the top level of the model, soldiers’ behaviour is depicted as consisting in four identifiably separate modes, linked to a family of four types of context: formal command, informal, functional (connected with practical soldierly activity) and loyalty/identity (connected with all ideas of ‘belonging’ in the unit context). The different modes consist in sets of analytically separable attitudes, expectations and assumptions which are expressed in ideas, rules, and conventions of behaviour. In the model’s terms, each mode comprises a ‘social structure’ (hence, ‘formal command structure’, ‘informal structure’ and so on). Only one social structure is dominant at any one moment, defined by, and contributing to the definition of, the context of that moment, which is always subject to change with changing circumstances. This can be illustrated with an every-day incident of the sort in which the author participated regularly:

A commissioned officer leaves his office and starts to walk across a vehicle park, intending to walk past a small group of private soldiers and a lance corporal who have been working on a vehicle but are now relaxing during a short break. They are smoking and chatting, taking care that they are more than

twenty-five metres from any vehicle, which the safety rules (published in Unit Standing Orders) require. As he walks closer to the group, the lance corporal calls the others to attention, transfers his cigarette to his left hand and salutes with his right, calling out 'Good morning Sir!'. The others remain still, hands by their sides in a position of 'attention' as defined in the Drill Manual (MOD, 1990). This behaviour follows the formal requirement for individuals to pay military compliments to commissioned officers senior to them. The officer returns the salute and tells them to 'Carry on please!', and continues to walk by. The lance corporal tells the group to 'Stand easy' and they continue to talk. The interruption has lasted less than ten seconds. A few moments later they put out their cigarettes and return to their vehicle. A new mood appears to come over them. They are more business-like, as they concentrate on their task.

At the start of this vignette, the soldiers are behaving according to the conventions of the informal structure, though they have placed themselves far enough away from any vehicle to satisfy the requirements of the formal rules. In a moment, they transit to the conventions of the formal command structure as the officer approaches them, and he returns them to the informal structure as he tells them to 'Carry on please!'. A short time later they adopt the business-like conventions of the functional structure as they return to the soldierly business of working on their vehicle. Throughout, nobody feels self-conscious or awkward at the sudden changes: like all cultural elements, they seem natural to them and part of the 'givens' of life. Culture is both massive – in that it affects everyday life to a significant degree – and insidious – in that it is felt as so 'natural' that individuals and groups are largely unaware of its influence.

This model was built during the intensive part of the research, combining observation and interview material with reflection on the author's previous immersed experience and analysis of the associated field notes. It owed nothing to previous social science in military institutions but was grounded in the emerging data, reflecting the empirical approach advocated by Glaser and Strauss (1968). In contrast to Hockey's analysis in *Squaddies* (1986), for instance, which is based on a strong dialectic expressed in private soldiers' constructs of 'us' (privates) and 'them' (all authority figures) and in his analytical categories of 'official' and 'unofficial' processes and action, this four-part model allows a richer analysis, closer to the complex lived experience encountered during the research. 'Us' and 'them' can be constructed in a number of ways by British soldiers, not necessarily as those having no rank against those who have any rank, and a solid binary opposition is too crude an epistemological tool. Warm and cooperative bonds cross ranks, and group formation and expression vary between contexts. The dialectic between 'official' and 'unofficial' can be seen superficially in the contrast between 'formal' and 'informal' structures but a culturally sensitive analysis must take into account functional and identity issues as well.

Returning to the incident of Private Bodkin's black eye, the model can be used to examine the key agents' behaviour as follows.

The battalion deeply privileges the aspects modelled in the functional structure, reflexively measuring their prowess in terms of their soldierly abilities. This theme is enhanced in C Company who see themselves as the most soldierly organisation within the unit. This means that Corporal Johnson's pride in being a hard man *par excellence* is entirely in tune with his organisational culture, and would make him a respected and valued member of his platoon and his company. Unfortunately, by the same token Private Bodkin is a socially impoverished member of the company, and of Corporal Johnson's section in particular. He is not soldierly, he does not meet the expected standards of toughness and endurance, and he behaves in an entirely un-soldierly manner by absenting himself from his team and his task by sneaking away to sleep under a bush.

To make matters worse for Private Bodkin, he has not seemingly embraced the *mores* modelled in two of the other three social structures either. By not going out boozing with his colleagues and in seeking solitary pursuits he has cut himself off from them and forfeited the support which would have come from social solidarity with them. By irritating them with feeble and objectionable jokes he has put up an informal barrier between them and him. By absenting himself from team games whenever possible and by not turning up to support his company and battalion sports teams he has demonstrated only partial identity with the groups they represent. So, as far as his behaviour is concerned, he has failed to embrace the informal and loyalty/identity structures in addition to his poor showing in the functional structure. Furthermore, by being consistently scruffy he has been showing himself unwilling to embrace at least some of the elements of the formal command structure, which, *inter alia*, includes conventions on 'smart turnout'.

In the eyes of his peers and his chain of command, therefore, Private Bodkin was riding for a fall.

3.1.2. 'Secondary Adjustments'

To understand this incident better, we need to appreciate a further important element in the Army's organisational culture connected to attitudes assumptions and expectations about formal rules. In essence, there is a parallel, informal, unofficial, framework through which rules are viewed that is widely understood within the Army but is seldom, if ever, articulated in a formalised way. This framework has many features in common with what Goffman called 'primary' and 'secondary adjustments' in his work on the organisational culture of a mental hospital in the United States in the nineteen fifties, which formed part of his study of 'total institutions' (1968). Goffman produced a framework for understanding patient/staff behaviour in which he contrasted 'primary adjustments' (strict adherence to the staff's rules by patients) and 'secondary adjustments' (a bending or breaking of the rules by patients to improve their comfort, their status within the patient community, or to 'get one over' the establishments in which they were confined) (1968: 171-175). He further divided 'secondary adjustments' into the categories of 'disruptive' and 'contained', the first, being overt counter-establishment acts, leading to sanctions and punishment from the staff and the second of such low impact that they remained undiscovered or were unofficially tolerated.

This model fits the Army's situation very well. When an individual is adhering strictly to the formal command structure by following the published rules and regulations, s/he is carrying out primary adjustments. Their behaviour cannot be questioned: they are, in soldiers' terms, 'bombproof' or 'fireproof'. The same goes for when they are obeying the formally-articulated rules modelled in the other social structures (carrying out correct weapon drills, for example, in the functional structure, and enjoying permitted social activity in the informal structure). However, this is not to say that formal rule-observance is considered mandatory under all circumstances. There are other, unofficial, options which fit the description of secondary adjustments. For example, those in charge of stores may keep surplus or 'buckshee' items up their sleeve to trade unofficially with their colleagues in other stores to replace lost items, corners might be cut in the tedious business of carrying out minor bureaucratic tasks, variations in dress might be tried and tolerated (either for comfort or to follow an unofficial fashion), or a thousand other small rule-violations might take place in the business of daily life.

A basis of Goffman's model is the existence of a strict duality of 'staff' and 'patients' in the mental hospital, two easily distinguished categories with the staff having the responsibility to monitor, control and contain patient behaviour. The division between 'Them' and 'Us' was stark and easy to see. This is not the case in the Army, because the various chains of command run in a large number of fine steps between the ultimate authorities and those at the bottom of the organisational hierarchy. In the same way as Corporal Johnson had authority over Private Bodkin as his section commander, so did the platoon sergeant over Corporal Johnson, the platoon commander over the platoon sergeant, the company commander over the platoon commander, and so on. Although any part of the organisational hierarchy may put pressure on a lower part, as perhaps a company commander might seek closely to control a platoon that was underperforming, by the same token pressure from outside the company would unite it (including the company commander) in resisting that pressure. 'Them' and 'Us' are thus highly variable categories in units of the British Army. The picture is further confused by the respect given to senior non-commissioned officers and warrant officers⁹ for their experience and knowledge of military life, to the extent that a warrant officer may be 'junior' to an inexperienced commissioned officer but in fact wields more authority in the unit through what might be called his possession of the 'military capital' contained in his experience. Thus there is no sharp division between those whose role is to command and control and those whose business it is to be controlled. There is not so much a fixed power dialectic, as Hockey has attempted to show, but rather a flexible system of power and authority that has a different structure and appearance in different contexts, and potentially puts everyone in the category of 'subject to the rules' irrespective of their rank. Therefore, as everyone is subject to the rules, secondary adjustments are open to anybody at any level, be they the most junior soldier or the Commanding Officer himself. This aspect is reflected in the organisational culture, in the way that individuals expect and are expected to deal with rules, and it may be addressed with an expansion of Goffman's model.

So, is it enough to describe Corporal Johnson's striking of Private Bodkin as a secondary adjustment – a breaking of the rules? This in itself might help us to understand how an apparently well-integrated individual in a disciplined environment considered it appropriate to break a rule, but it does not explain the subsequent action of his chain of command (the platoon sergeant, the platoon commander and the company commander) in taking no formal action when a formal rule had been broken. A further level of analysis is needed.

Because primary adjustments consist in strict obedience to formally-articulated rules, there is no need to expand that category, but this is not the case with secondary adjustments. We have already seen how widespread are the opportunities to exercise secondary adjustments, and this amounts to a cultural understanding within the British Army that not all rules need to be, or indeed can be, strictly adhered to all the time. This means that, in practice, secondary adjustments become a normal part of life. It does not mean, however, that they are uncontrolled. Soldiers, learning through the experience of every day social interactions and the sort of collective practices described by Anthony King in general terms in his article in the *Philosophy of the Social Sciences* (2006a) and specifically in the context of British infantry in *Armed Forces and Society* (2006b), make a distinction between rule breaking that is 'OK' and will go un-censured, and rule breaking that is 'not OK' and will attract hostile attention from the chain of command. These categories of secondary adjustment may be called 'legitimate' and 'illegitimate' secondary adjustments to expand Goffman's model to a further stage. In the use of these words, it must be stressed that 'legitimacy' or otherwise is defined from the individual actor's point of view as 'OK' or 'not OK' and does not of course imply any hard link with formal rules. Indeed, it is the essence of secondary adjustments that they entail bending or breaking of such rules. So a 'legitimate secondary adjustment' is one where the individual actor feels at the time that s/he will not get into trouble in carrying it out, and an 'illegitimate secondary adjustment' similarly is felt likely to attract punishment or censure by the chain of command.

Conceptually, primary and secondary adjustments are simple to distinguish: the one entails strict obedience to formally-articulated rules and the other does not. However, the distinction between legitimate and illegitimate secondary adjustments is more complex, involving interplay between organisational culture, context, and the action of those in the authority structure. In essence, each context has an appropriate agent of authority who has the responsibility *inter alia* of defining what is and is not 'legitimate' behaviour. This authority agent has a number of resources upon which to draw in deciding on the legitimacy or otherwise of secondary adjustments, including their past experiences, the cultural milieu in which they are immersed, their own character, and their perception of the flow of events and the immediate and longer term organisational context. Such is the influence of organisational culture, however, that there is a notable consistency across a unit between agreed definitions of what is legitimate and what is illegitimate behaviour.

Context plays an important part, not only in the definition of the chain of command for a particular incident, but also in the status of a secondary adjustment as 'legitimate' or 'illegitimate'. This has been explored in some detail elsewhere (Kirke, 2007), but suffice it to say here that each context defines an appropriate agent of authority, who has the responsibility, *inter alia*, of defining what is and is not 'OK' in terms of secondary adjustments.

Following the striking of Private Bodkin, as we have seen, neither the platoon sergeant, nor the platoon commander nor the company commander have taken disciplinary measures against Corporal Johnson. They have therefore, by default, declared his action in punching Private Bodkin, against the formal rules as it was, to be a legitimate secondary adjustment. They were silently declaring that Bodkin had deserved it, and Corporal Johnson had acted in a justified, if rule-breaking, manner. It was in their eyes 'OK', confirming Corporal Johnson's initial assessment.

4. The Incident, Part Two, the Brigadier Takes an Interest

A few days after the battalion returned from exercise to resume normal barrack life, the Commanding Officer received a shock. He was telephoned by his superior headquarters and asked what he knew about an alleged incident of 'bullying'¹⁰ in his unit. Apparently a local newspaper in the battalion's recruiting area had printed a feature showing a distressed Mrs Bodkin crying out against the persecution of her son by a 'brutal and vicious Army unit', recounting a tearful telephone call she had had recently from her boy. It emerged that he had been assaulted by an 'officer' in his battalion and nothing was being done

about it. Bullying was a high profile subject in the press at that time and an explanation was needed quickly. The Brigade Commander was taking a personal interest.

When confronted with the news that Private Bodkin's black eye had reached the public domain, the Commanding Officer felt that he had no choice but to make a formal investigation, particularly as his commander was taking a personal interest and the media were pursuing cases of 'bullying'. He therefore held an immediate conference within his battalion involving Bodkin's company commander, his company sergeant-major, the Regimental Sergeant-Major (RSM) and the Adjutant, representing Bodkin's chain of command and those who were responsible for the structure of discipline within the unit. Although they would all much rather have dealt with the matter informally by having a 'talk' with Corporal Johnson, in the end it was decided that a formal investigation was needed and the Royal Military Police (RMP) would be asked to carry it out.

The Commanding Officer also decided, on the recommendation of the Company Sergeant-Major, to remove Private Bodkin from C Company as quickly as possible. Rumours had already started, and Corporal Johnson was popular and much respected within the company. It was feared that Bodkin's colleagues might take matters into their own hands. It turned out that this measure was already too late, as while the Commanding Officer's conference was still going on a shocked Bodkin was discovering that his locker had been ransacked, some of his belongings broken and the rest scattered. He was posted to another part of the battalion that night and sent away on a residential course some miles away as soon as the RMP inquiry had been completed. Subsequent investigation failed to identify those who had taken direct action against him.

4.1. Analysis of Part 2

The following analysis is concentrated on important cultural elements that influenced the decision making process and the actions of Bodkin's peers.

4.1.1. Expertise and Rank

The Commanding Officer calls in his experts on the unit and on the disciplinary regime so that he can make his decision in the light of the best advice he can get. This reflects an attitude in the functional structure that expertise should be respected and given attention. However, conversely, the fact that it is the Commanding Officer who makes all the decisions reflects the attitude and the assumption that responsibility goes with rank and the chain of command below a particular point (specific to the context) is expected to provide support rather than to carry responsibility. Along with this convention, comes the assumption that a decision which is made by the senior individual is to be treated as the correct one. Any possible disagreement between the Commanding Officer and the OC C Company, for example, would result in the Commanding Officer being considered to be 'right', reflecting a cultural element articulated by Richard Holmes (1995) that the value of the opinion expressed in the British Army is directly related to the rank of the person expressing it. This observation chimes well with the military proverb that 'tactics is always the opinion of the senior officer present', and is entirely confirmed by this author's experience and research.

4.1.2. Options and Decisions

Essentially, the Commanding Officer has three options, all of which involve a preliminary investigation to establish the facts in the case. First, he can let the incident go unrecorded but let it be seen that some action has been taken by instructing the company commander and the Company Sergeant-Major to take Corporal Johnson aside and 'read him his future' or 'give him the gypsy's warning'¹¹ – phrases full of menace threatening more formal action if he behaved that way again. Second, he can do the same thing but in a more formal way, making a record of the warning and applying one of a range of administrative sanctions to Corporal Johnson¹². Third, he can formally charge Corporal Johnson with a disciplinary offence under the Army Act 1955 which, if Corporal Johnson were found guilty, would lead to punishment and a permanent mark on his service record. His decision is affected by his team's knowledge that the case is now a matter of public interest, so he decides to treat it as formally as possible by asking for an investigation by an agency that is outside his chain of command. Key factors informing this decision would have been pressure from the brigade commander, and the sensitive nature of the subject of 'bullying' at the time. All those present at the meeting would have known that appearing to ignore the incident or to treat it lightly without a full investigation would only lead to more trouble later.

Any suspicion of a 'cover up' would not go down well with the Brigade Commander and would induce more unwelcome media attention.

The decision to separate Private Bodkin from his peers arises from knowledge of the soldiers' culture and thus the likely outcome of the present situation, of which the expert at the table is the Company Sergeant-Major. It seems obvious to him that Bodkin's colleagues would want to take direct action against him for getting an admired non-commissioned officer into trouble. It turns out that he is right, and the informal power of rumour pre-empts their intended protective action. Nevertheless, Bodkin is successfully removed from danger before he is physically assaulted.

4.1.3. The Concept of 'Justice'

The action of the unknown soldiers against Bodkin's possessions is clearly a secondary adjustment that the chain of command was never going to endorse, and thus would need to be concealed from all figures of authority, as it successfully was. Punishment would certainly have followed the identification of the guilty parties. It therefore falls into the category of an illegitimate secondary adjustment.

But what motivated the unknown destroyers and scatterers of Bodkin's things? We will never know for certain because they were never identified. However, there was a strong feeling among the private soldiers and non-commissioned officers of C Company that Bodkin had received no less than he deserved. From their point of view he had let the company down by sleeping on duty in the first place and then getting himself and his complaint into the press by whining to his mother about the consequences. Given Bodkin's reputation and the evidence of his earlier performance in the field, nobody felt that there was any question of 'bullying' when he was hit: rather that Corporal Johnson had exercised firm leadership and administered apposite and quick justice. This is not a concept of 'justice' which is defined in law, but is rather an ill-defined cultural concept held in common between members of the group concerned, and is more to do with an abstract sense of fair play than with established rules. This sense of justice is deeply embedded in British soldiers' culture, possibly as a manifestation of a wider British societal feature. Phrases such as 'that's a fair one', or 'X didn't even have the common courtesy to ...', are common currency in soldiers' speech, along with ideas of the 'right and proper' and 'getting what one deserves', all of which serve to articulate and occasionally enforce behaviour that conforms to a standard that promotes the solidarity of the group and a degree of trust within it.

In essence, therefore, the attack on Bodkin's possessions was an illegitimate secondary adjustment arising from, and restating, unofficially articulated military moral standards.

5. The Incident, Part 5, the Formal Proceedings

The RMP investigation unearthed sufficient evidence to show that a blow had been inflicted by Corporal Johnson on Private Bodkin, but that this was the first and only such blow and that Corporal Johnson had behaved correctly towards him up to that point. The evidence from Bodkin's chain of command and peers showed that Bodkin had not been a model soldier and had been in need of constant attention and rebuke to keep his standards above the minimum.

The Commanding Officer's analysis of the report, as advised by the Adjutant and the RSM, was that, although Private Bodkin had tried Corporal Johnson's patience, there were no special circumstances exonerating Corporal Johnson, and that formal proceedings should be taken. This decision was made all the easier for him because the Brigade Staff had continued to pay close attention to the case, and had received (as a matter of routine) a copy of the RMP report.

The only decision left, therefore, was what to charge Corporal Johnson with. The Adjutant told him that there were three realistic options. The most serious one was to charge him with the relevant civil offence. The Army Act 1955, Section 70, made it a military offence to break domestic English law, as explained in the Manual of Military Law, Part One, Chapter VII 'Civil Offences' (MOD, 1972). He could therefore be charged, for instance, with Battery under Section 39 of the Criminal Justice Act 1988, even though the striking of Bodkin took place in Germany. The next option would be to charge him under Section 65 of the Army Act 1955, 'Ill-Treatment of Officers or Men of Inferior Rank'. The final one was to charge Corporal Johnson under Section 69 of the Army Act 1955, 'Conduct to the Prejudice of Good Order and Military Discipline', a section treated for many years in the Army as a convenient avenue for charging soldiers – there are an enormous variety of activities or actions that might be considered prejudicial to

good order and military discipline. By the same token, Section 69 was unofficially viewed, according to the battalion's organisational culture, as a sort of 'miscellaneous offences' category which, though serious enough, did not carry the same sort of moral stigma as what were seen as more specific sections.

The Commanding Officer eventually decided that Corporal Johnson should be charged under Section 69. He argued with himself that a charge would still be made, that formal action would be taken, but that the potential effect on Corporal Johnson would be more in proportion to the context and nature of the alleged incident than a charge of 'Battery' or 'Ill-Treatment of a Soldier of Inferior Rank'. He was also concerned that the application of a very serious sanction (such as a charge under Section 70) would compromise the morale of his battalion if it was, as seemed likely, to appear unjust. The Adjutant and the RSM agreed, though the Brigade Staff were less enthusiastic. They accepted that the Commanding Officer's judgement was probably correct, however, when he insisted.

Initially, Corporal Johnson was charged and appeared in front of his company commander¹³. However, as the accused was a non-commissioned officer, his company commander could not award any punishment: that was reserved for the Commanding Officer. The company commander did have the authority to dismiss the charge after he had investigated it, but in the light of the RMP report he could hardly do so. Accordingly, the case was remanded for the Commanding Officer, and later that day Corporal Johnson appeared before him.

The Commanding Officer gave Corporal Johnson the opportunity to choose trial by Court Martial, which Corporal Johnson declined. The Commanding Officer then heard the evidence based on the RMP report. He found the Corporal guilty as charged. At this point he had to decide whether to award a punishment himself. He could, for example, fine him, reprimand him or severely reprimand him.

All these punishments would result in a note being made on Corporal Johnson's disciplinary record sheet, which up to then had been clear. Another alternative was 'admonition'. Under admonition, no other punishment would be awarded, but the charge sheet would be attached to the soldier's disciplinary record and only taken into account if he or she were found guilty of another offence within three months (MOD, 1972: Section 76C, Endnote 12). To assist him in his decision, he formally called on Corporal Johnson's company commander to describe his character and military performance and received the highly positive summary that he was expecting. In the light of this character evidence, and in the light of his knowledge of the individuals involved, the Commanding Officer chose to award the punishment of admonition. When subsequently challenged by his superior headquarters, he told them that Corporal Johnson had had an exemplary record hitherto, was, in his opinion, severely provoked by the behaviour of Private Bodkin, and deserved a chance to clear his record. And, after all, should Corporal Johnson commit a similar offence in the near future he would pay a very heavy price. Privately, in an off-the-record conversation with his Adjutant, he said that he resented the pressure from above, respected Corporal Johnson as one of the best soldiers in his battalion, and found it hard to have any sympathy with Bodkin who was apparently a very poor one. Any further punishment of Corporal Johnson would have been grossly unfair, which made him unwilling to 'hang him out to dry'.¹⁴ He only hoped that what happened would satisfy the press.

As far as Bodkin's local press were concerned, little further attention was paid to the incident because other more locally compelling stories took precedence, and those involved apparently thought that the fact that Corporal Johnson had been formally charged and punished was enough.

5.1. Analysis of the Formal Proceedings

Under the conventions of the formal command structure, the Commanding Officer has no option but to charge Corporal Johnson. The RMP investigation and pressure from his superior chain of command exclude any other possibility. Accordingly, he sets the formal disciplinary system in motion and Corporal Johnson is duly charged. However, the Commanding Officer allows himself room for manoeuvre by deciding that the charge should be made under Section 69 rather than Sections 70 or 65 of the Army Act 1955. This reflects his initial assessment of the seriousness and significance of the offence without closing off the possibility of a Court Martial and subsequent career-stalling punishment for Corporal Johnson in the event that more damaging evidence came to light. This decision is probably influenced by his personal knowledge of the individuals in the case. This knowledge would have been gleaned at first hand through previous direct informal contact with Corporal Johnson and with his superiors in the chain of command, and what he had heard about him and Private Bodkin from third

parties. Most of this information would have flowed through the network of informal relationships in the battalion that typically would have provided an unofficial communications network. Thus the formal decision of which part of the Law to apply was tempered by informal considerations.

The Commanding Officer's private and off-the-record conversation with the Adjutant also reveals an important influence on his decisions both to select Section 69 and to award a potentially non-damaging punishment. He has concluded that Private Bodkin's soldierly standards are so low as to attract little respect and to give him but very low status in the battalion (in the terms of the model he had not achieved any status in the functional structure). This is complemented by the Commanding Officer's dislike of interference in his battalion's business by the press and by his higher headquarters, which has inflamed his feelings of identity with his battalion and his loyalty to its members, aspects modelled in the loyalty/identity structure. Finally, his feelings of fairness and justice are challenged by an apparent desire from above to put pressure on him to 'hang Corporal Johnson out to dry'.

6. Discussion

This case study illustrates the potential for interaction between the formal rules and the organisational culture in the British Army as played out in a particular way within the time frame considered. It is a mistake to consider the Army as an organisation where rules are considered predominant and inescapable. Whereas in some cases the protagonists in a set of circumstances have little option but to follow the rules, in different contexts there are opportunities to select which rules to obey, which to bend, and which to break, all of which is managed by individuals whose behaviour is informed by the Army's organisational culture. For instance, in the case we have considered, Private Bodkin's chain of command (three, progressively senior, individuals) initially chose to treat Corporal Johnson's blow as a legitimate secondary adjustment – against the rules but unofficially permissible. However, as soon as a higher chain of command became involved and wished to see formal action taken they had no choice but to set such formal action in motion. But again, the Commanding Officer had options as to how draconian such formal action should be, and chose a way that had the appearance of firm disciplinary proceedings but actually allowed Corporal Johnson the opportunity to pass through the events unscathed provided that he did not re-offend in the following months.

The choice of behaviour in any particular circumstances in the Army during the research period seldom followed an uncritical consultation of the rules and their strict application. Commonly, there were choices, and soldiers' behaviour was influenced by their perception, attitudes, assumptions and expectations, all of which were closely informed by their organisational culture. Behaviour towards the formal rules was underpinned by unarticulated (or in some cases semi-articulated) but deeply felt cultural norms, one of which, for instance, was the sense of 'justice' which we have explored above. This shared perception of what was 'right and proper' and what was 'wrong' may or may not have reflected the formal rules as applicable to any particular situation. Thus, for instance, Corporal Johnson's punching of Private Bodkin was formally wrong, but appeared to all involved, except probably Bodkin, to be justified as a soldierly response to a difficult individual in an awkward situation. And, if we take a long-term view of the incident and what followed, we can see that the culturally-inspired sense of 'justice' won out in the end.

But is this situation unique to the British Army at that time? It seems unlikely. Indeed, a similar tension between rules and culturally-inspired behaviour has been well described in Malcolm Young's book on the Northumbria Police Force. To take a single example from a book rich in the contrast between the formal and the informal,

[Of unofficial police action taken in the face of drunken domestic disputes (a notoriously difficult area)] 'Subsequently, I learned the traditional practice of taking the husband in the van to some other distant part of the city (or better still across the river and into Gateshead Borough area) and then abandoning him to walk home and sober up. Only a small percentage of the really argumentative or disorderly domestic cases would be arrested for drunkenness, and many late night pedestrians then were the result of police vans dropping off the remnants of the domestic violence some miles from home. Of course the actual percentages of 'domestics' resolved at the house, temporarily resolved by creating a late night pedestrian, or turned into an arrest statistic for drunkenness can never really be known, for this practical mastery fulfils an alternative agenda to that suitable to the statistician.' (1991: 316).

Similarly, it was not new in the British Army. Take for example, the way that this early nineteenth century case was dealt with. A soldier was found guilty of a capital offence (desertion) when he had in fact been carrying out a different (but still illegal) practice, exchanging goods with the enemy. At that time and place, the local chain of command had habitually turned a blind eye to this practice, thus giving it the status of a legitimate secondary adjustment, but the man was unlucky enough to be caught:

[N]otwithstanding the express inhibition of the Articles of War then in force, a number of soldiers attempted to traffic with the enemy's sentries. ... In hazarding an enterprise of this kind, one of our men was detected in attempting to cross the river, and was supposed to be about to desert, brought back, tried by a general court-martial and sentenced to death (Anton, 1991: 87).

Things looked very bleak for this man, who had done nothing more than many of his colleagues had done. His life was saved, however, even after sentence had already been passed, by the regimental surgeon who suddenly produced new evidence:

and this sentence would have been carried into effect, had not the testimony of the surgeon gone to prove that the man was subject to fits of mental aberration, in consequence of a wound received in action. (Anton, 1991, 87-88).

The fact that the evidence was produced at so late a stage suggests strongly that it was spurious and intended solely to save the life of a man who had been unjustly treated. If so, it worked as he was spared from execution.

This is no isolated incident but reflects a running theme of the tempering of Military Law by culturally-framed 'justice' to be found in first hand accounts of life in the British Army over most of its history.

But what of the present time? Do the principles and activities reflected in the behaviour of the individuals in the case of Private Bodkin's Black Eye still pertain today? Without further research it is impossible to say. However, two counter-balancing issues are probably relevant. On the one hand, organisational culture changes very slowly, and so it may be assumed *prima facie* that the attitudes, expectations, and assumptions that are apparent in the culture in which the case of Bodkin's Black Eye is embedded are still, largely if not completely, present in today's Army. Similarly, it is likely that the use of the four social structure model remains a useful tool with which to describe and analyse soldiers' behaviour, as are the concepts of 'legitimate' and 'illegitimate' secondary adjustments and the idea of 'justice'. However, that is not to say that the details of British soldiers' behaviour have remained unchanged. Particularly, the Army's activity at an institutional level to try to manage the informal vision of 'right and proper behaviour' and 'justice' through the introduction of a policy promoting clearly defined 'Values and Standards' may well have led to changes in practice. The current position is set out in two documents published on the Internet concerning 'Values and Standards in the British Army' (MOD, 2008a; MOD 2008b), both of which update previous documents produced over the past few years and are developed from sections in the Army Doctrine Publication 'Soldiering: the Military Covenant' (MOD, 2000). Under this policy each soldier is exposed to formal training on the principles of what is, and what is not, acceptable behaviour aimed to promote a developed ethical sense (Deakin: 2006). We cannot therefore tell if Bodkin would have received the same black eye under the same circumstances in 2008.

There is an important further point to make. This article has taken an incident in which there was a culturally-inspired feeling that 'justice' was on the apparent offender's side, but this is not to say that this was, or is, always the case. Had Corporal Johnson injured Private Bodkin more seriously, or had he a history of violence towards his men, then there is no reason to suppose that his activities would have been tolerated by his chain of command. Events seen as serious would have attracted serious disciplinary responses. There is no suggestion in this article that, for example, crimes of violence would have been routinely tolerated or that endemic abuse of power would have gone unchecked. One of the responsibilities of the chain of command, fully integrated into the Army's culture, was to know what was going on in all parts of the unit, and key players in the acquisition and passing on of this knowledge were the senior NCOs and the warrant officers. It was the company sergeant major, it is to be remembered,

who predicted what was likely to happen to Bodkin if he was not moved, and recommended preventive action.

7. Conclusion

This article has described the interaction of British Army organisational culture with the way in which Military Law was interpreted processed and carried out, in the comparatively recent past from the point of view of a military anthropologist with long-term military service. It has sought to show how the carrying out of seemingly precise and firmly established legal rules was informed by the Army's organisational culture and, in the light of that culture, was therefore in practice more flexible than consideration of the formal rules alone might have implied. An important influence on this process was the sense of what was fair and just in the environment of that culture, framed in this article as a military sense of 'justice'. This flexible interaction between the Law and practice probably has resonances in many other disciplined organisations (we have seen an example from the Northumbrian Police and another, 200-year old, example from the British Army), and should not surprise social scientists who are familiar with the tension between the 'official' and 'unofficial' in structured organisations.

Furthermore, the case of Private Bodkin's Black Eye should have resonance well beyond a particular period in a particular type of organisation. It is an example where the carrying out of formal rules was tempered by culturally-inspired considerations, many of them informal and barely articulated. It seems likely, given the fact that one of the fundamental aspects of humanity is the possession of culture, that this is not an isolated case in a particular social space, but an example of a widespread human activity.

Endnotes:

¹ Throughout this article, 'soldier' refers to any member of the British Army, of any rank. Thus, for our purposes, the Chief of the General Staff is as much a 'soldier' as a newly-arrived private.

² The British Army's use of the terms 'regiment' and 'battalion' can be confusing. They both refer to a military unit commanded by a lieutenant colonel consisting of somewhere between four hundred and a thousand soldiers (depending on role). Such a unit has a self-contained command and administrative structure and can operate as a single entity on operations. The infantry and the Royal Electrical and Mechanical Engineers have 'battalions', whilst the rest of the Army (with the exception of the Royal Army Medical Corps) have 'regiments'. Battalions and regiments are often grouped together to form brigades under a brigade headquarters and commanded by a brigadier. The brigadier has, among other duties, the responsibility for monitoring their operational and administrative standards and taking action to improve them if necessary.

³ 'Formations' are organisational groupings that encompass a number of units. Examples are brigades, which contain a number of units, and divisions, which contain a number of brigades.

⁴ The Army Act 1955 is about to be replaced (largely) by the Armed Forces Act 2006, which introduces a Tri-Service discipline structure. However, the Army Act 1955 is the body of law against which the incident described in this article took place.

⁵ As the 'field' for this research is the British Army at unit level, 'immersion in the field' means serving as a member of a military unit – or 'at regimental duty' in official military terms.

⁶ An infantry battalion is an organisation of several hundred soldiers, commanded by a Lieutenant Colonel and divided into several companies of a hundred or so soldiers each. These are subdivided into platoons, which consist of sections. A section (depending on the role of the battalion) is between seven and ten men strong, commanded by a corporal.

⁷ 'Musketry' is a term for handling and shooting a small arm such as a rifle.

⁸ Referred to variously in the text as 'the OC', 'OC C Company', and 'the company commander'.

⁹ In the infantry, the non-commissioned officers ('NCO's) comprise lance corporals, corporals, sergeants, and colour sergeants. The only warrant officer in an infantry company is the Company Sergeant-Major, a powerful individual who in many ways 'runs' the day to day life of the company, and is responsible to the company commander for its discipline, military standards, and personnel deployment within the organisation. He will normally have an almost encyclopaedic knowledge of the private soldiers and NCOs' characters, personal history, and likes and dislikes, acquired through long experience with the battalion.

¹⁰ The word 'bullying' appears in inverted commas throughout this article because the term is often used as if it were a precise one, but in fact it is not. In some cases the classification of a 'bullying' incident is obviously constructed according to the point of view of the people involved, with no agreement by all parties on what does or does not constitute 'bullying'. In this article, we are following the original newspaper article's construction with no further analysis.

¹¹ A traditional Army phrase invoking a cultural construction that Gypsies have special insight into the future. No connection is implied or intended to real Gypsy or Romany people.'

¹² This process has comparatively recently been formalised in the Adjutant General's Administrative Instruction 67 (MOD, undated).

¹³ The disciplinary procedures described here are an amalgam of procedures over the time slot within which this case study is located and are used to illustrate particular points rather than for legal accuracy.

¹⁴ Soldiers' slang for leaving an individual unprotected in the face of unfair disciplinary action.

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