

The Just War Tradition *(Jus ad Bellum)*

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The just war tradition comprises a body of principles—and dialogue about their meaning and application—that flow from two fundamental propositions:

- *The country's fighting forces should not be ordered into combat unless the decision to do so can satisfy a number of stringent criteria as to its legality, morality, and prudence. In other words, the burden of justification must always be borne by those urging the resort to force.*
- *When engaged in combat, the country's fighting forces should not inflict more destruction and*

pain on the enemy than is militarily necessary, and every possible effort should be made to avoid harming people who are not part of the enemy's fighting forces.

The geopolitical changes and military developments of the post-cold war era, now infused with the preoccupation with terrorism, are generating the latest in a series of modern challenges to these propositions and to particular principles derived from them. The challenges point to the fact that the just war tradition is less a set of hard-and-fast rules than it is a framework for continuing discourse. Rather than settling for all time the basic ethical issues concerning the use of force, its main purpose is to insist that the moral dimension, however controversial, be given due weight when military options are under consideration . . .

What, then, do international law and the prevailing tradition of moral discourse on the use of force tell us about when it is appropriate to go to war under contemporary circumstances?

DECIDING TO GO TO WAR: THE *JUS AD BELLUM* PRINCIPLES

The underlying philosophy of the just war tradition is that because war, unlike most other common interactions of peoples, involves the deliberate infliction of extreme and irreversible harm, it requires special justification. The tradition requires that the evils that will ensue if the country abstains from fighting.

The burden of legal and moral justification increases as decision makers move along the spectrum from using military force to protect the country against efforts to fundamentally disrupt the functioning of . . . society to using military force to affect the way another government treats the people in its jurisdiction. Little justification is needed for going to war in response to an armed attack or act of catastrophic terrorism. . . .

This basic wisdom finds expression in each of the *jus ad bellum* (justice of war) principles, from the core moral requirement of “just cause” to the prudent counsel that there must be a likely “prospect of success.”

Just Cause

The cardinal principle in the just war tradition—that war should be fought only for a just cause—has

come to mean that initiating war is impermissible unless its purpose is to resist or reverse a terrible wrong. How strong the presumption against war should be has been an issue of debate within the just war tradition, and the predominant views have changed over time. Some medieval thinkers, most notably St. Thomas Aquinas, were willing to countenance war as a means for improving the condition of the community and spreading Christianity as long as the resort to force also satisfied the other just war criteria. And in the period of the classical balance of power (the late seventeenth century up to the eve of the French Revolution), force was widely regarded—by secular and clerical authorities alike—as a normal instrument of diplomacy. Napoleon Bonaparte carried the process of normalization further with his “wars of liberation,” ostensibly to spread the ideas of the French Revolution, actually to extend France’s hegemonic influence. But the legacy of Napoleon’s imperialism, along with the industrialization of military capability, turned war into a national enterprise of potentially enormous consequences for broad sectors of society. Accordingly, during most of the century following the Napoleonic wars, leaders found it politically difficult to take their countries

into war for goals other than the defense of the nation's vital interests. Because broad public support was necessary to sustain a country's war effort as societies became increasingly democratic and warfare became increasingly industrialized, the enemy and its war aims had to be painted as evil, which in turn made it politically difficult to terminate war through compromise. Finally, the horrendous destructiveness of twentieth-century warfare—a function of its industrialization and democratization—prompted legal authorities and ethicists to further limit the definition of “just cause” to make it clear that it was no longer acceptable for countries to take up arms for purposes other than self-defense or to counter those who would violate the antiwar norm.

Aggression as the Opposite of Just Cause

The stringent view of just cause—that the only acceptable reason for resorting to arms is self-defense or enforcement of the self-defense-only principle—is reflected in the United Nations General Assembly resolution of 1974 that attempted to define aggression. By common understanding as well as international law, aggression is an unjusti-

fiable threat or act of violence by one state against another. In its sweeping definition of what aggression covers, resolution 3314 stipulates that

Aggression is the first use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations.

Resolution 3314 went on to enumerate the kinds of acts that are prohibited:

- (a) The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof;
- (b) Bombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State;
- (c) The blockade of the ports or coasts of a State by the armed forces of another State;
- (d) An attack by the armed forces of a State on the land, sea or air forces, or marine and air fleets of another State;

- (e) The use of armed forces of one State which are within the territory of another State with the agreement of the receiving State, in contravention of the conditions provided for in the agreement or any extension of their presence in such territory beyond the termination of the agreement.
- (f) The action of a State in allowing its territory, which it has placed at the disposal of another State, to be used by that other State for perpetrating an act of aggression against a third State;
- (g) The sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein.

Finally, in an apparent attempt to close off all escape hatches from these prohibitions, the resolution stated that

No consideration of whatever nature, whether political, economic, military or otherwise, may serve as justification for aggression.¹

But the international lawyers who drafted the resolution and the diplomats who approved it were careful to word it so that the acts described in the clauses listed above were prohibited because any state that engaged in them was assumed to do so *in violation of the UN charter* and therefore to engage in aggression. Thus, even the first use of force would not in itself be illegal if it were part of a UN action on behalf of international peace and security or an act of legitimate self-defense by a state or multilateral coalition. . . .

Self-Defense as Just Cause

The charter of the United Nations affirms that all countries have an “inherent right of individual or collective self-defense” if they suffer an armed attack.² In both international law and moral reasoning, except for pacifist thought, a country’s need to defend itself against violent attacks also is generally regarded as a *sufficient* cause for using military force against the attacker. A country or coalition of countries under attack requires no additional justification for responding violently, nor does it require authorization by the larger community to meet force with force.

PREEMPTION. The law is quite murky and moral discourse unsettled, however, on the timing of the defensive use of force and on the kinds of provocation that warrant a military response. What about using force *first* against a hostile country or terrorist group that is only threatening to attack and has not yet begun its lethal action? In his seminal treatise on *The Law of War and Peace*, Hugo Grotius allowed that if the threat were “immediate and certain,” a preemptive resort to arms might be warranted.³ But how clear must the enemy’s intentions be and how immediately impending the attack?

Just as in domestic law and morality, situations can arise in which a potential victim of aggression has reasonable grounds under international law for engaging in preventive violence to disable an attacker before the attacker strikes the first blow. In many modern domestic legal systems, the courts typically apply the “reasonable person” test, which asks whether any emotionally normal person of average intelligence would have believed that using force was necessary to prevent the immediate infliction of greater violence. However, stringent rules of evidence are applied that put the burden of proof on the first user of force. This norm also prevails in the contemporary international arena.

Whereas most governments will not hesitate to order their armed forces into battle immediately if their country suffers a lethal attack, many statespersons will agonize over whether to strike the first blow if an act of major violence is only impending, even when waiting to be struck first is likely to give the enemy significant advantages in the ensuing battle. Why? Because war involves the absolute destruction of people and valued possessions on both sides—losses that are largely irretrievable—and usually engenders hatred, revenge seeking, and the desire to win at all costs, which can easily overwhelm rational efforts to keep military action the servant of legitimate public purposes. Again, Grotius provides counsel, which connects also to the just war principle of “last resort”:

I maintain that he [the enemy seen to be planning an attack] cannot lawfully be killed . . . if the danger can in any other way be avoided. Generally, in fact, the delay that will intervene affords opportunity to apply many remedies, to take advantage of many accidental occurrences; as the proverb runs, “There’s many a slip ’twixt cup and lip.”⁴ . . .

Without a basic and widely shared moral disposition against taking the first step across the threshold between intense conflict and ac-

tual war, domestic and international political barriers against escalation are likely to be seriously weakened. And in the intellectually claustrophobic atmosphere of crisis decision making, the evaluation of alternative strategies will tend to narrow to comparing the immediate consequences of waiting to be hit with the consequences of delivering the first blow. As with the competitive military mobilizations of the European states on the eve of World War I, those who advocate holding back on grounds of uncertainty about whether an enemy is bluffing are quite likely to be trumped by the argument that it is too dangerous to wait. . . .

PREVENTIVE WAR. One step removed from preemption—but even more controversial when it comes to squaring its use with the just war principle of self-defense—is “preventive” war. Again, Israeli actions provide a foreshadowing of this issue, which has grown in importance along with increasing fears about the proliferation of weapons of mass destruction, especially into the hands of “rogue states” or terrorists. In 1981, the government of Israel learned that Iraq was constructing a nuclear reactor that could give Baghdad nuclear weapons capability within five years. Prime Minister Begin was unwilling to wait until the weapons

were actually being produced or until the reactor was too “hot” to destroy without releasing a cloud of radioactive fallout, so he ordered the Israeli air force to knock out the facility. Fearing that the United States would once again feel compelled to invoke the norm against preventive military attack, the Israeli government neither consulted nor informed the Reagan administration in advance of the raid, even though U.S. F-15 and F-16 combat aircraft were employed, in technical violation of U.S. laws prohibiting the offensive use of such transferred arms without the consent of Washington. . . .

In destroying the Iraqi nuclear reactor, the Israelis were responding to a potential adverse change in the regional balance of military power. In so doing, they could claim to be acting in accord with a precedent already set in the Cuban missile crisis by the Kennedy administration’s threat to extract the Soviet IRBMs and MRBMs from Cuba by force if diplomacy did not work. In fact, President Kennedy had been reluctant to use force, but not simply out of fear that it might provoke an overreaction by Khrushchev and propel the superpowers into World War III. He also appears to have been genuinely concerned, as he was at the time of the

Bay of Pigs, that the United States not be the *initiator* of war—that initiating war was somehow against the rules. The Soviets, after all, had only the ability to launch a nuclear attack against the United States from Cuba. . . .

Other temptations to use force first to rectify or prevent a change in the military balance of power could arise in the foreseeable future—plausibly, a major buildup of Chinese ICBMs in a period of dramatically escalating tension over Taiwanese moves toward greater independence or the materialization of the expected deployment of nuclear weapons by Iran under a virulently anti-American government with clear imperialist ambitions in the region. Recognizing that there are likely to be future contingencies in which some U.S. decision makers may press for initiation of hostilities by the United States underscores the value of revisiting the relevant wisdom in the just war tradition. It is difficult to do better than Michael Walzer’s articulation of the moral considerations:

The mere augmentation of power, it seems to me, cannot be a warrant for war or even the beginning of a warrant . . .

When we stipulate threatening acts we are looking not only for indications of intent, but also for rights of response. To characterize certain acts as threats [warranting a military response] is to characterize them in a moral way, and in a way that makes a military response morally comprehensible. The utilitarian arguments for prevention don't do that, not because the wars they generate are too frequent, but because they are too common in another sense: *too ordinary*. . . . They don't recognize the problem that killing and being killed poses. . . . [T]here is a great difference . . . between killing and being killed by soldiers who can plausibly be described as the present instruments of an aggressive intention, and killing and being killed by soldiers who may or may not represent a distant danger to our country. In the first case, we confront an army recognizably hostile, ready for war, fixed on a posture of attack. In the second, the hostility is prospective and imaginary, and it will always be a charge against us that we have made war upon soldiers who were themselves engaged in entirely legitimate . . . activities. Hence the moral necessity of rejecting any attack that is merely preventive in character, that does not wait upon and respond to the willful acts of an adversary.⁵

Note that Walzer is not rejecting any and all first uses of military force. He is rejecting attacks launched only for the purpose of hobbling an adversary's ability to perform well against one's own military in a still hypothetical war. If going to war is morally justified at the time for *other* reasons, there is no overriding moral prohibition against striking the first blow or against striking early if that will improve the chances of success. But these other reasons must be valid, in the sense that they add up to a just war.

COLLECTIVE SELF-DEFENSE. The just war tradition, even in its constricted version of ruling out all but wars of self-defense, would seem to allow allies to honor their commitments to help one another defeat an aggressor. Such mutual defense is given legal warrant in Article 51 of the UN charter:

Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations until the Security Council has taken . . . measures necessary to maintain international peace and security.⁶

Referencing Article 51, the United States claimed that it was operating in accordance with the char-

ter in forming NATO in the late 1940s. The Soviet Union followed suit with the Warsaw Pact in 1955.

But does the extension of the right to attack a state that has committed an act of aggression against one's ally also apply to aggression against one's "client" state or a friendly neutral? . . .

An elastic interpretation of Article 51 would answer yes—that members of the United Nations are not only permitted but enjoined to oppose threats to international peace and security, whether or not the immediate objects of such threats are their allies, and that when the Security Council is unable to act, members can (should?) take it upon themselves to do so. . . .

Humanitarian Intervention as Just Cause

A contemporary challenge to the view that self-defense is the only justifiable cause for war is the doctrine of humanitarian intervention its weak form, the liberal interventionist position holds that members of the international community may intervene in the domestic affairs of other states, with force if necessary, to prevent or rectify gross violations of human rights. In its strong form, as propounded by human rights activists, the doctrine

of humanitarian intervention *obligates* members of the international community to come to the aid of those whose human rights have been repressed or ignored by the government in power. At least in its weak form, the doctrine became official U.S. policy during the 1990s.

This was not a sudden development. The issue of whether the United States has the right, if not also the obligation, to intervene in the affairs of other countries in order to secure “the rights of man” has been debated since the beginning of the republic. In the twentieth century, in order to generate the widest popular support, the U.S. government always justified going to war with what are now called “human rights” or “humanitarian” reasons, in addition to geopolitical reasons. Thus, World War I was fought, in President Wilson’s words, “to make the world safe for democracy.” Similarly, Franklin Roosevelt persuaded a reluctant Winston Churchill to join him in the Atlantic Charter in 1941, committing their countries to fight for “the right of all peoples to choose the form of government under which they will live.” Official definitions of the cold war, from the Truman Doctrine through the Reagan Doctrine (with the exception of the Nixon-Kissinger “realpolitik” in-

terregnum) were never confined to the geopolitical imperatives of countering the rival superpower's imperialist expansion but emphasized as well the moral imperative of saving people from the brutalities of communist repression. President Jimmy Carter foreshadowed the post-cold war globalization of the human rights dimension of U.S. policy in his proclamation that "no member of the United Nations can claim that mistreatment of its citizens is solely its own business."

The U.S. official embrace of human rights notwithstanding, it was not until the Somalia intervention in December 1992 to prevent rival warlords from interfering with international relief efforts that humanitarian objectives were elevated to the status of a *sufficient* cause for the major employment of U.S. forces abroad. Surprisingly, in light of the fact that Bush and most of his foreign policy advisers considered themselves to be geopolitical realists, the reasons that the president presented to the American people for his dispatch of nearly 30,000 troops to Somalia were entirely humanitarian. Cited in chapter 2 (p. 29), they merit quoting again in the present context:

The people of Somalia, especially the children of Somalia, need our help. We're able to ease their suffering. We must help them live. We must give them hope. America must act. . . . When we see Somalia's children starving, all of America hurts.⁷

Aware that in accepting humanitarian issues as sufficient cause for sending forces to Somalia he might well be establishing a precedent for U.S. military intervention wherever local politics creates conditions that cause people to starve, Bush granted that “the United States alone cannot right the world's wrongs.” At the same time, however, he insisted that “some crises in the world cannot be resolved without American involvement” and that “American action is necessary as a catalyst for broader involvement of the community of nations.” Therefore the American troops that were called into action in Somalia were “doing God's work.”⁸

But it was the media coverage of and popular outrage against the genocidal brutalities that the Serbs were inflicting on their ethnic rivals that finally pushed the Clinton administration into committing U.S. forces—albeit under rules of engagement that would keep U.S. casualties close to zero.

This de facto enlargement of the just cause principle to embrace human rights and humanitarian concerns has generated considerable debate among international lawyers, moral philosophers, and scholars of international politics as well as politicians. Supporters cite the ostensible global consensus that produced the United Nation's 1948 convention against genocide, principal human rights covenants, international sanctions against the South African apartheid regime, and international criminal tribunals for Yugoslavia and Rwanda. Opponents argue that the attempt to legitimize humanitarian intervention is opening up a Pandora's box of chaotic consequences by undermining the sovereign-state structure and norms of the international system. "Realists" also argue that the new disposition to use American forces help reestablish law and order in failed states diverts U.S. national security policy and resources from what should be a concentration on geopolitically significant threats. . . .

The Concept of Right Intention

Although sometimes offered as a separate *jus ad bellum* principle, the concept of "right inten-

tion” can be viewed as an extension of the just cause principle. It is meant to remind those who are convinced that they have a just cause for war to refrain from seizing the opportunity to pursue other tempting but unjustifiable objectives at the same time, such as territorial expansion. It is also an admonition, of particular importance in democracies where the popular support needed for war is difficult to sustain without demonizing the enemy, to avoid converting the objective of militarily defeating the enemy into the desire to humiliate and dominate the former enemy’s nation after victory instead of working to reintegrate it into the community of nations.

Just war theory has room for rectifying past aggression (the recent past, not the distant past) and deterring future aggression as part of a nation’s war aims, but the concept of right intention rules out the lust for vengeance. This constraint can easily weaken when an opponent’s aggression violated the *jus in bello* rules prohibiting attacks on civilians—all the more reason, given the increasing vulnerability of industrialized societies to terrorism. . . .

Proper Authority

In international law and the just war tradition, a decision to engage in warfare is legitimate only if made by duly constituted governing authorities. The designation of such “proper” and “competent” authorities has changed over the centuries, from St. Thomas of Aquinas’s insistence that only princes recognized by the Church and not private feuding individuals or clans had the right to wage war; to the insistence in modern republics that war must not be undertaken without the consent of the national parliament or legislature; to the provisions in the UN charter lodging in the Security Council the primary responsibility for determining that a breach of the peace has occurred and for mandating an appropriate “collective security” response.

An appreciation of the value of obtaining broad authorization for employing military power lay behind the Truman administration’s effort to obtain a UN Security Council resolution in the summer of 1950 branding North Korea an aggressor and mandating that member states, under the leadership of the United States, assemble a UN force to repulse the aggressor by force of arms. When the Soviet Union returned to the Security Council and was able to veto additional resolutions authorizing UN forces under the command of General MacArthur to

establish control over the entire Korean peninsula, the United States persuaded a majority of the General Assembly under the Uniting for Peace resolution to authorize the required military operations. President Truman was prepared to order U.S. forces into South Korea and later to cross into North Korea whether or not the appropriate UN resolutions were obtained, claiming the right of individual or collective self-defense as provided for in Article 51 of the UN charter. But his administration worked assiduously to involve the world organization in the belief that its stamp of legitimacy was a major asset. . . .

Once again, in the fall of 2002, as a part of its preparation for bringing down Saddam Hussein's regime by force, the United States, under the second Bush presidency, sought a new UN mandate for members to act in concert or unilaterally—with whatever means were required—to make Iraq adhere to previous Security Council resolutions. "We will work with the UN Security Council for the necessary resolutions," the president told the UN General Assembly. "But the purposes of the United States should not be doubted."⁹ While the United States reserved the right to go it alone, it contin-

ued to regard the UN imprimatur on its actions as valuable.

Even more of a case can be made for seeking the broadest and “highest” possible authorization for unilateral or special-coalition military interventions against the will of a state whose actions, however lamentable, do not really threaten international peace and security, because such interventions themselves constitute a modification of the state-sovereignty system. Article 2 of the UN charter rules against intervening in matters that are essentially within the domestic jurisdiction of a state, and there is elementary wisdom in the insistence that if it is to be bypassed, then the UN itself should conduct or authorize the interventions. . . .

Overall Proportionality

The just war tradition holds that even when the cause for resorting to arms is just and the military campaign is in the hands of legitimate authorities, war should not be waged if it is likely that the overall harm and disruption it will cause will dwarf the losses it is intended to avoid or the gains it is expected achieve. But whose losses and gains? Harm and disruption to whom and what? These

are appropriate questions, and the proportionality principle does not purport to answer them fully; its function is to ensure that they are raised whenever war is planned.

The proportionality principle requires not only a prewar evaluation of whether what the war is supposed to accomplish is worth the number of lives of U.S. military personnel that it is likely to cost, but also whether the diversion of resources and disruption of the everyday lives of U.S. citizens promise to be greater than the interests at stake warrant. Comprehensive prior assessments of such direct and indirect costs are particularly important in a democracy such as ours, for any sizable war of more than a few weeks' duration will require sustained popular support. A major miscalculation of the sacrifices to be made or a lack of candor on the part of the country's leaders about how large those sacrifices will be could prove fatal to military strategies based on protracted combat. . . .

In the Gulf war, fought in accord with Powell's overwhelming force requirement, the aim of ejecting Iraq from Kuwait was achieved in a six-week onslaught. It started with intensive bombing of Iraqi positions in Kuwait and military-related

facilities and supply lines within Iraq and climaxed with a swift (100-hour), massive ground and air assault against Saddam Hussein's troops and armored units in Kuwait. The costs? Approximately 200 American and tens of thousands of Iraqi troops were killed or injured in military combat, but hundreds of thousands of Iraqi civilians may have been killed or injured indirectly, in the bombing of infrastructure targets inside Iraq.¹⁰ Although the Bush administration was able to convince most just war theorists that the war was fought for just causes and satisfied the criterion of competent authority, it encountered strong criticism for its infrastructure bombing strategy. Catholic ethical philosopher J. Bryan Hehir, among others, even while crediting the military with a scrupulous attempt to avoid targeting civilians, was troubled by the strictly utilitarian attitude at the highest levels of the Bush administration toward the magnitude of the indirect suffering inflicted on the general population of Iraq by its bombing of dams, power plants, communications centers, bridges, and highways.¹¹ The administration seemed to feel that if the infrastructure bombing significantly weakened the fighting capacity of Iraq's forces, all to the good, and if it also generated anger in the people at Sad-

dam for bringing on such a war without being able to protect them, better yet. . . .

Avoiding the *jus ad bellum* overall proportionality issue by focusing on *jus in bello* rules of military engagement is facilitated by various innovations associated with the so-called revolution in military affairs—in particular precision-guided weapons and, looking toward the future, increasing reliance on cyberwar capabilities. But as indicated in chapter 4, the assumption that because wars can be fought “cleanly” they *will* be fought cleanly deserves skeptical scrutiny, as does the corollary assumption that the indirect consequences of war are not really an essential part of war and therefore are not the responsibility of war planners.

Last Resort

The principle of last resort states that the use of force is not legitimate unless all peaceful alternatives have been analyzed and found to be less effective and more costly in securing the interests and values at stake. Even finding that the contemplated war passes the overall proportionality test is not by itself sufficient proof that the war will be more “cost-effective” than other available means

to achieve the ends sought. The alternative means also must be evaluated.

A stronger version of the last resort principle requires the prior exhaustion of nonviolent means—in other words, that the alternatives to force have already been tried and found to be ineffective in securing the interests at stake. However, in the age of instant global communications and ICBMs that can deliver payloads of mass destruction from any point on the globe to any other point in less than thirty minutes, the admonition to wait for the results of all diplomatic and other peaceful initiatives, like the prohibition on preemptive strikes, could prove difficult to observe in the heat of a crisis.

The case for delaying while alternatives are tried is likely to meet with particularly strong resistance in conflicts in which the U.S. leadership already is convinced that it has just cause for using military force and that the weapons and strategies it contemplates using will satisfy the basic criterion of proportionality. The burden of proof then is likely to shift to those who still want to “give peace a chance,” requiring them to demonstrate that while the diplomats are negotiating the enemy is not

using the time to improve its chances of victory in any ensuing war . . .

Sometimes the opposition to last resort diplomacy has more to do with the combat readiness of the military forces, particularly when they have been deployed for an impending engagement and waiting can diminish their capability. In the time leading up to the Gulf war, considerations of this sort overcame General Colin Powell's initial preference for giving the economic sanctions on Iraq more time to work. Once the troops were deployed in sufficient numbers in Saudi Arabia, keeping them there beyond January 15, 1991, the UN deadline for Saddam's withdrawal from Kuwait, would reduce their material and psychological readiness for combat. President Bush, convinced early in the fall of 1990 that he had a just cause for war, used the diplomatic interval primarily to mobilize additional political support at home and abroad. He evidently was concerned that an elongated period of last resort diplomatic efforts would play into Saddam's strategy for splitting the coalition and inducing the world to accept his absorption of Kuwait as a *fait accompli*.

Probability of Success

An additional criterion that, according to traditional just war theory, needs to be satisfied before going to war can be justified is that the contemplated actions must have a reasonable chance of achieving the objectives for which the nation is to fight. This prudent counsel merits the status of a just war principle because of the profound character of war—an enterprise in which young people are asked to be willing to sacrifice their very lives and in which they and their leaders are expected, on behalf of the rest of us, to do terrible things. In the normal course of practicing political and economic diplomacy, you win some, you lose some, and it's all part of the game. But for an international fight worthy of the name "war," those who are asking fellow members of the community to participate in the bloodletting are morally obligated to have made a serious prior calculation that the enterprise will not be futile. . . .

When it comes to using force against threats that do not jeopardize the country's very survival or using it on behalf of a wide range of less-than-vital interests, the criterion of probable success might seem easier to satisfy, assuming that the adversaries are inferior to the United States in military power. Such optimism attaches especially

to future scenarios in which the United States is able to employ high-tech weaponry, but it may be shortsighted. For one thing, the tolerance of the body politic for U.S. combat deaths is likely to be much lower if they are incurred in the service of less-than-vital interests, especially altruistic causes, and the criterion of success then may come to require close to casualty-free outcomes. Leaders contemplating the use of force who do not anticipate such low tolerance for casualties may stumble into Vietnam-type situations in which the Congress cuts off additional military resources after the military is bogged down in a quagmire. Another reason for alert skepticism about easy success has to do with the possible false optimism concerning the ability of U.S. forces, with their superior information-warfare capabilities, to control the battlefield. The new “great equalizer”—just a few brilliant computer hackers willing to work for the enemy—could rapidly change the odds. . . .

In determining whether to undertake a military action—say, an attack on enemy headquarters that would kill many innocent civilians—should deep concerns about its moral legitimacy override considerations of military and political utility? Traditional realists would be disposed to answer

no. Some moral philosophers, notably those with a Kantian orientation, would be disposed to answer yes. Most just war theorists would grant that the issue is debatable and that the answer depends on the details of the situation, but they would tend to put the burden on the advocates of the ethically problematic action to demonstrate its military necessity and the absence of reasonable alternatives.

What about a situation in which inaction carries the risk of great danger to the country—for example, one in which a state that the United States may have to fight in the near future is in the process of acquiring weapons of mass destruction? A U.S. attempt to negate the danger by a preventive bombing raid on that state would ignore the just war principle of last resort and violate international law regarding “anticipatory” self-defense and bombing noncombatants. But would the preventive strike necessarily be unwise as a means of guarding the security of the United States and avoiding an even greater loss of life later? Not necessarily. Depending on the circumstances, wisdom may strongly dictate action inconsistent with some of the just war principles. But, as argued further in chapter 6, any such violation of these principles should be done *reluctantly* and with justifications solid enough to gain

the respectful understanding, if not approval, of ethicists who champion these principles. Moreover, if arguments for proceeding with military action are convincing and they deal with circumstances that could well recur, consideration should be given to revising the just war concepts, which after all are supposed to be based on durable assessments of the good and bad that may result from alternative kinds of action. Ultimately, therefore, a military action that its advocates deem to be strategically advisable should also be able to pass the basic tests of legitimacy. And if its advocates cannot make a persuasive case (even if only to themselves) of at least the relative moral worth of the action as opposed to any realistic alternatives, then its strategic advisability also should be doubted and it should probably be rejected.

In short, revisiting these cautionary *jus ad bellum* criteria can help to remind us that war, even of the apparently gentler, nonlethal variety, is a highly unpredictable and potentially dangerous beast that can turn on those who attempt to tame it.

NOTES

1. United Nations General Assembly Resolution 3314 (1974).

2. *Charter of the United Nations*, Article 51.

3. W. Hugo Grotius, *The Law of War and Peace*, vol. 2, trans. Francis W. Kelsey (Oceana Publications, 1964), pp. 173–75.

4. *Ibid.*, p. 175.

5. Michael Walzer, *Just and Unjust Wars* (Basic Books, 1977), pp. 79–80.

6. *Charter of the United Nations*, Article 51.

7. President George Bush, Address to the Nation on the Situation in Somalia, December 4, 1992, Public Papers of the Presidents of the United States: George Bush, Book II (Government Printing Office, 1993), pp. 2174–76.

8. *Ibid.*

9. President George W. Bush, remarks at the United Nations General Assembly, September 12, 2002 (www.whitehouse.gov [December 9, 2002]).

10. H. Jack Geogor, “Bomb Now, Die Later: The Consequences of Infrastructure Destruction for Iraqi Civilians in the Gulf War,” in John O’Loughlin, Tom Mayer, and Edward S. Greenberg, eds., *War and*

Its Consequences: Lessons from the Persian Gulf Conflict (HarperCollins, 1994), pp. 51–58.

11. J. Bryan Hehir, “Intervention: From Theories to Cases,” *Ethics and International Affairs*, vol. 9 (1955), pp. 395–07.