

Lesson 13

Just War

On the morning of September 11, 2001, the world watched in horror the televised terrorist attacks on the World Trade Center in New York. Approximately 3,000 people died in the attacks on the World Trade Center, 184 in the attack on the Pentagon, and 40 passengers and crew members in the hijacked plane that went down in Shanksville, Pennsylvania. In addition, nineteen hijackers were killed in the four plane crashes. Following the attacks, President George W. Bush declared war on terrorism and launched a military campaign against Afghanistan's Taliban government and the Afghan-based terrorist organization al-Qaeda, which was held responsible for the attacks on the World Trade Center. In 2003, President Bush launched a preemptive strike on Iraq, which he argued not only possessed weapons of mass destruction but was harboring terrorist groups bent on destroying America.

Background

The September 11th attack and our response to it raise several moral issues. Is terrorism ever morally justified? What is the morally proper response to terrorism? Are preemptive wars or wars of aggression ever morally acceptable? What means should a government use to protect its citizens from attack or threats of attack?

War involves armed violence between nations or competing political factions to achieve a political purpose. Although some societies, such as the Eskimos, have no term for war and have never engaged in warfare, war has been a fact of life in most organized states (including tribal

states). Indeed, some philosophers, such as Thomas Hobbes and Elizabeth Anscombe, argue that war is necessary for the survival of a civil society.

The advent of the modern nation-state and the rise of nationalism increased the scale of war. The nineteenth century saw efforts to end war through international peace movements and plans to organize nations to ensure peace. After World War I, abolitionists sought to control war by forming the League of Nations. Despite some initial hope for international peace and cooperation, the wars of the twentieth century dwarfed all previous wars in destructiveness. In the twentieth century, 191 million people were killed either directly or indirectly by war. Half of these people were civilians. The United Nations (UN) was established in 1945 after World War II to promote world peace and justice. However, it did not achieve this objective, possibly because the UN lacks judicial and enforcement power. Since the end of World War II, there have been more than four hundred wars. Worldwide, wars now kill about 1.6 million people a year. In addition, many millions more die of starvation and other war-related causes or are maimed or forced to relocate.

Motives for war include self-defense against aggression or threat of aggression, the desire to expand one's territory either directly or indirectly through control of markets and resources, and ideological/religious motives. The concept of a holy war emerged in the Christian tradition during the Crusades and is found today among certain radical Islamic groups. Most wars have mixed motives. For example, the current war on terrorism is a response to the threat of aggression and has ideological/religious undertones in that both sides portray it as a war of good against evil, and each side claims to be doing God's will.

The Islamic term jihad, often defined as a holy war, is more broadly defined as an "effort." This effort includes, first, the struggle against one's own internal problems or inner evil, and second,

the struggle against injustice in society or the world. Some Muslims understand jihad as peaceful and nonviolent, whereas others interpret it as permitting, and perhaps even requiring, war against external enemies.

Terrorism involves the use of politically motivated violence to target noncombatants and create intimidation. Terrorism is most often used by groups that lack the power to engage in conventional warfare. It is usually indirect and avoids direct confrontation with enemy military forces. Terrorism can be sponsored by non-state groups, as in the September 11 attacks and the 2008 attacks in Mumbai, India, which killed 179 people. The line between war and terrorism is imprecise. Terrorism can be used as a strategy in the context of a war, such as when the United States dropped nuclear bombs on Hiroshima and Nagasaki during World War II. Terrorism can also be domestic, as was the case in the 1995 bombing of the Federal Building in Oklahoma City.

In this lesson, we discuss three alternative approaches to the justification of violence. One maintains that violence is always wrong—this is pacifism. Another approach, often called realism, maintains that there are no moral limits on violence in warfare, even though there may be pragmatic or strategic reasons to limit violence. In the middle between these two extremes is an idea known as just war theory, which holds that violence can be justified when it is employed in limited and focused ways. The just war theory is grounded on a fundamental claim about the justification of violence in self-defense, and it extends this to a consideration of violence used in defense of others. While the just war theory is not directly applicable to the issue of domestic law enforcement, there are clear parallels between the idea that war can be justified and the idea that violence can be employed by armed guards to defend people against domestic criminals and terrorists. If we have a right to use violence to defend ourselves against those who would do

violence to us, then we can also delegate defense to others—the police or the army. Furthermore, we might claim that while we are entitled to defend ourselves against violence, we are also entitled (or even obliged) to defend innocent and defenseless others from those who would do them harm. Realists will claim that in such circumstances, anything goes. We are entitled to pursue our own interests and defense in whatever way works. Pacifists have a difficult choice to make about the right to use violence in self-defense. However, they tend to maintain that nonviolent alternatives should be developed and employed in a sustained and deliberate fashion. Central to the discussion of the justification of violence is the question of what violence is. Violence is generally thought of as the use of physical force to cause injury to another. Physical assaults, shootings, and bombings are examples. However, we would not say that someone who pushed another out of the way of an oncoming car had been violent or acted violently. This is because violence also implies infringement of another in some way as well as the intent to harm. It also suggests something intense or extreme. A small injury to another may not be considered an act of violence. Whether some sports—for example, football—can be considered violent games is worth considering. But we would certainly want to say that the destruction and harm of war is violent. The three moral approaches to thinking about the justification of violence—realism, pacifism, and just war theory—primarily focus on the morality of war, which may be defined as sustained and organized political violence. But the arguments presented here can be expanded and applied to the justification of other sorts of violence. To better understand these implications, let's turn to a more detailed exposition of realism, pacifism, and just war theory.

Philosophers on War and Terrorism

Christian natural law theory has had a major impact on thinking about the morality of war. In his *Summa Theologica*, Thomas Aquinas (1225-1274) lists three conditions that must be met for a

war to be just: The war must be waged by a legitimate authority, the cause should be, and the belligerents should have the right intentions. The just-war tradition is discussed in more detail in the following section.

Thomas Aquinas, *Summa Theologica*, Part II, Question 40¹

Of War... First Article

Whether It Is Always Sinful To Wage War

For a war to be just, three things are necessary. First, the authority of the sovereign by whose command the war is to be waged. For it is not the business of a private individual to declare war, because he can seek for redress of his rights from the tribunal of his superior. [...] And as the care of the common weal is committed to those who are in authority, it is their business to watch over the common weal of the city, kingdom or province subject to them. And just as it is lawful for them to have recourse to the sword in defending that common weal against internal disturbances, when they punish evil-doers, according to the words of the Apostle (Romans 13:4): *“He beareth not the sword in vain: for he is God’s minister, an avenger to execute wrath upon him that doth evil”*; so too, it is their business to have recourse to the sword of war in defending the common weal against external enemies. Hence it is said to those who are in authority (Psalm 81:4): *“Rescue the poor: and deliver the needy out of the hand of the sinner”*; and for this reason Augustine says (Contra Faust. xxii, 75): *“The natural order conducive to peace among mortals demands that the power to declare and counsel war should be in the hands of those who hold the supreme authority.”*

¹ Excerpt taken from Summa Theologica by Thomas Aquinas, <https://www.sacred-texts.com/chr/aquinas/summa/index.htm>

Secondly, a just cause is required, namely that those who are attacked should be attacked because they deserve it for some fault. Wherefore Augustine says (QQ. in Hept., qu. x, super Jos.): *“A just war is wont to be described as one that avenges wrongs, when a nation or state has to be punished, for refusing to make amends for the wrongs inflicted by its subjects, or to restore what it has seized unjustly.”*

Thirdly, the belligerents must have a rightful intention, so that they intend the advancement of good, or the avoidance of evil. Hence Augustine says (De Verb. Dom. [The words quoted are to be found not in St. Augustine’s works, but Can. Apud. Caus. xxii, qu. 1): *“True religion looks upon as peaceful those wars that are waged not for motives of aggrandizement, or cruelty, but with the object of securing peace, of punishing evil-doers, and of uplifting the good.”* For it may happen that the war is declared by the legitimate authority, and for a just cause, and yet be rendered unlawful through a wicked intention. Hence Augustine says (Contra Faust. xxii, 74): *“The passion for inflicting harm, the cruel thirst for vengeance and unpacific and relentless spirit, the fever of revolt, the lust of power, and such like things, all these are rightly condemned in war.”*

Italian Renaissance thinker Niccolò Machiavelli (1469-1527) maintained that a powerful military was essential for political independence. In *The Prince*, Machiavelli counsels rulers to disregard whether their actions will be considered virtuous or vicious and instead do whatever is necessary

to achieve success in battle quickly and efficiently. Machiavelli was part of the public debate on war up until World War II, when the rise of tyrants like Hitler and the advent of nuclear weapons made his by-any-means-necessary ideas too dangerous as guidelines for war.

Like Aquinas, Dutch statesman and philosopher Hugo Grotius (1583-1645) believed war should have limits. War should only be fought to enforce rights, and it should be fought within the limits of law and good faith. Grotius's belief that war should be fought only in the cause of international interests, such as human rights and the maintenance of peace, is reflected in the Charter of the United Nations.

The English philosopher Thomas Hobbes (1588-1679) was convinced that fear of death and the need for security are the psychological underpinnings of civilization. Hobbes also believed that humans are naturally selfish. In a state of nature, violence would be the norm and life would be "mean, brutish, and short." The answer to this unpleasant situation is the formation of a civil society. In civil society, the authority to use violence is transferred to the sovereign, whose power is absolute. "The Sovereign," writes Hobbes in *The Leviathan*, "[has] the Right of making Warre and Peace with other Nations, and Commonwealths; that is to say, of Judging when it is for the public good."

Although Hobbes argued for absolute sovereigns as a hedge against war, in fact, nations with totalitarian governments seem more susceptible to civil war than democratic governments. Furthermore, even though the formation of governments resolves the problem of constant violence within societies, without an international government, nations still exist in a state of nature. Indeed, Hobbes himself believed that nothing short of a world government with a monopoly of power over all nations would be sufficient to ensure peace.

Arab historian and philosopher Ibn Khaldun (1332-1406) likewise believed that war is a universal and inevitable part of human existence. This view is found in the Qur'an and the Sunna (the practice of Muhammad), both of which hold a prominent place in Muslim ethical/legal discussions about war. According to the Qur'an, man's nature is to live in harmony and peace with other living beings. Peace is not just the absence of war, but surrendering to Allah's will and living in accord with his laws. The Prophet Muhammad (c. 570-632) taught that the use of force should be avoided except as a last resort. However, given human capacity for choice, we are all capable of being tempted by evil and disobeying Allah's will. Consequently, the Qur'an permits Muslims to fight against a wrongful aggressor.

In his essay "Perpetual Peace," Immanuel Kant (1724-1804) writes that although "every nation desires to establish an enduring peace [nature] uses two means to prevent people from intermingling and to separate them: differences in languages and differences in religion, which do indeed dispose men to mutual hatred and to pretexts for war." He proposed creating a European confederation of states. He also believed that maintaining peace requires establishing constitutional government rather than autocracy.

Unlike Kant, Friedrich Nietzsche (1844-1900) glorified war. "A good war hallows every cause," wrote Nietzsche in *Thus Spoke Zarathustra*. War, he believed, is a natural activity for the *Übermensch* or "superman." Nietzsche despised Christian morality that makes a virtue out of submissiveness and turning the other cheek. Some Nazi intellectuals adopted Nietzsche's philosophy to justify Adolph Hitler's war on the Jews.

Utilitarians such as Jeremy Bentham and John Stuart Mill provided much of the philosophical background for the nineteenth-century peace movement. War is immoral because it causes pain

and diminishes happiness. Because of this, another means must be found for resolving international conflicts.

Pacifism And Conscription

There are different types of pacifism. Absolute pacifists believe that all violence is wrong, even for self-defense. This position has been criticized for being contradictory because it assumes a right not to be attacked, but not the right of self-defense to defend that right.' Critics argue that it is immoral and irresponsible not to allow countries to defend their citizens against aggression.

Some pacifists get around these objections by maintaining that while they have a duty not to meet force with force, this is a supererogatory duty (morality that goes beyond what is normally required) and not one that is binding on all people. Other pacifists oppose violence except for self-defense and may even participate, though not as combatants, in a war of self-defense.

Pacifists actively seek peaceful alternatives to war. Indian political activist Mohan-das "Mahatma" Gandhi (1869-1948) opposed all war and advocated nonviolent resistance (satyagraha) as a response to violence and oppression. Satyagraha is not passive.

"non-violence," but a method of unconditional love (ahimsa) in action. Peace is not simply the absence of war but the presence of justice and the practice of ahimsa. Some philosophers reject pacifism as a morally untenable position and argue that the Bible permits and even requires war in some instances.

Conscription, or mandatory military service, raises issues of justice as well as freedom of conscience. The first national draft in the United States was during the Civil War. However, a proviso allowed a person drafted to buy a substitute for \$300 (about a year's wages). The draft was reinstated in World War I. Sixteen million young American men were conscripted between 1917 and the end of the Vietnam War in 1973.

The military defines conscientious objection (CO) as "opposition to war, in any form, based on a moral, religious, or ethical code." There were an estimated 37,000 conscientious objectors in World War II and 200,000 in the Vietnam War. In addition to proving they are sincere in their opposition to all wars (no easy task), a conscientious objector still must go through boot camp, although not weapons training, and then be assigned to some civilian duty after the training. Only a small percentage of people who apply for CO status receive it.

Some objectors choose to engage in civil disobedience and go to prison. Henry David Thoreau, in his essay "Civil Disobedience (1849), writes that when breaking an unjust law and engaging in civil disobedience, one should do so in a manner that is consistent with moral principles; in keeping with this, civil dissidents must:

1. Use only moral and nonviolent means to achieve their goal.
2. First make an effort to bring about change through legal means.
3. Be open and public about their actions.
4. Be willing to accept the consequences of their actions.

Other conscientious objectors choose to leave the country or go into the military but refuse to fire on the enemy. Sometimes people become conscientious objectors after joining the military and experiencing war. According to a survey conducted by the U.S. military at the end of World War II, up to 75 percent of soldiers in some of the units refused to fire on the enemy or fired their weapons into the air.

Although the Selective Service System still exists and young men are required to register with it within a month of their eighteenth birthday, conscription was abolished in the United States after the Vietnam War. In 2003, Congress introduced the Universal National Service Act in response to the strain the war in Iraq placed on the professional military. The act was rewritten and

reintroduced in 2005 and again in 2006 and 2007. If it ever passes, it would reinstate conscription, making it "the obligation of every citizen [male and female of the United States, and every other person residing in the United States, who is between the ages of 18 and 42 to perform a period of [two years) of national service." Deferments would be granted to full-time high school students under the age of 20 and exemptions given for extreme hardship or physical or mental disability as well as for those who have "served honorably in the military for at least six months." Conscientious objectors would be assigned to either noncombat or national civilian service.

Americans have a long history of ambivalence about military conscription. The primary moral argument against conscription is based on autonomy. Conscription, which puts the draftee at risk for death or permanent disability, is a violation of a person's liberty rights and lowers the quality and motivation of the military. Senator Ron Paul disagrees. He argues that conscription discriminates against poorer Americans and constitutes forced servitude. The voluntary army is made up disproportionately of poorer people. One of the complaints of the current voluntary system is that military recruiters tend to target poor youth in urban centers—the so-called "poverty draft." During the economic recession that began in 2008, military recruitment figures rose sharply, and all branches exceeded their recruitment goals as laid-off Americans sought stable employment.

Arguments for the draft focus on social justice and equality. Some support conscription on the grounds of equality. They argue that a draft would promote unity and a common vision.

Opponents of the draft note that equality was not promoted when the draft existed.

They claim that a universal draft will accomplish only the indoctrination of draftees into nationalistic and militaristic attitudes. On the other hand, research suggests that democracies that

have conscripted armies are more cautious about going to war because people are more personally affected.

Weapons of Mass Destruction

Unlike conventional weapons, weapons of mass destruction (WMD), such as nuclear, chemical, and biological weapons, indiscriminately target both combatants and non-combatants. In the years following World War II, nuclear weapons were used as a deterrent by the United States and the Soviet Union. The reasoning behind deterrence is that the consequences of retaliation would be so catastrophic that neither side would risk a first strike with nuclear weapons.

With the end of the Cold War, instead of disarmament, the threat of global nuclear war between the two superpowers was replaced by the proliferation of nuclear weapons throughout the world and concerns about the use of nuclear weapons by terrorist groups. In 2002, former President Bush rejected the long-standing commitment of the United States not to use nuclear weapons in a first strike or against nonnuclear nations.

Worldwide, there are about 30,000 nuclear weapons, more than 1,500 of which are ready to launch at a moment's notice. The United States alone has about 10,000 nuclear weapons positioned at sites in the United States and Europe. Russia, Britain, France, China, Israel, India, Pakistan, and North Korea also possess nuclear weapons. Arab nations are particularly concerned about Israel's arsenal of nuclear weapons. In contrast, Israel is concerned about the possibility that Iran and other Arab nations may be producing nuclear weapons and other WMDs.' Jonathan Granoff, in "Nuclear Weapons, Ethics, Morals and Law," questions the legitimacy of using nuclear weapons, even for deterrence, and urges that all countries work toward the elimination of nuclear weapons. President Obama has endorsed this as a long-term goal.

Chemical and biological weapons have been around much longer than nuclear weapons. During the French and Indian War, the British gave smallpox-infected blankets to the Delaware Indians. Anthrax and mustard gas were both used by the Germans in World War I. The use, though not the production and possession, of chemical and biological weapons was prohibited by the 1925 Geneva Convention. Despite the prohibition, thousands of people died as a result of Soviet chemical and biological weapons that were used in Afghanistan, Laos, and Cambodia. Saddam Hussein also used chemical weapons against the Kurds in Northern Iraq.

Today many countries have biological weapons programs. Unlike the production of nuclear weapons, which requires expensive facilities and highly enriched uranium, biological and chemical weapons are sometimes called "the poor man's atomic bomb" because their construction is much cheaper and their effects can be just as devastating. In addition, recent developments in biotechnology and genetic engineering have made it possible to produce biological agents that are more resistant to detection and treatment. According to the U.S. Department of Transportation, more than 120 million people fly into the United States from foreign countries every year. It takes up to two weeks for the symptoms of a contagious disease contracted in another country or on a plane to appear, which gives potential terrorists ample time to go into hiding.

Just War Theory

Intermediate between pacifism and realism is the idea that the use of force, including military force, is justified in limited and specific circumstances. Just war theory attempts to clarify when it is justifiable to resort to lethal force. The just war approach is more or less the mainstream theory of the American military and political system. While some critics may argue that American military strategy includes a realist element—that the United States is engaged in

asserting force and displaying strength around the globe—the rhetoric used to explain American military power is generally grounded in just war language. President Barack Obama defended this idea when he delivered his Nobel Peace Prize acceptance speech. According to Obama, philosophers and theologians developed the just war idea over time as they attempted to find moral language to criticize and limit the destructive power of war. “The concept of a ‘just war’ emerged, suggesting that war is justified only when certain conditions were met: if it is waged as a last resort or in self-defense; if the force used is proportional; and if, whenever possible, civilians are spared from violence.”

As Obama noted, the just war theory is not new. Indeed, the just war theory has a long history. Its origins can be traced to the writings of Augustine, one of the ancient fathers of the Catholic Church. Augustine wanted to reconcile traditional Christian views about the immorality of violence with the necessity of defending the Roman Empire from invading forces.

He asked what one should do if one sees an individual attacking an innocent, defenseless victim. His response was that one should intervene and do whatever is necessary (but only so much as was necessary) to protect the victim, even up to the point of killing the aggressor. Further developments of the theory were provided by Thomas Aquinas, who provides a natural law justification of the violence used in self-defense. Medieval codes of chivalry also have something in common with just war ideas. But the theory gets its most systematic exposition in the work of early modern theologians and jurists such as Francisco de Vitoria, Francisco Suarez, and Hugo Grotius. In more recent times, just war ideas have been instituted in international law, which asserts the right of a nation to defend itself against aggression, while also calling for protections for civilians and prisoners of war. These ideas appear in international conventions, as well as in the Charter of the United Nations and other treaties signed by world powers.

There is general agreement that just war theory includes two basic areas: principles that must be satisfied for a nation to be justified in using military force or initiating a war, and principles governing the conduct of the military action or war itself. These have been given the Latin names of *jus ad bellum* (the justness of going to war) and *jus in bello* (justness in war).

While this reading provides some information, more will be covered in class.

Jus ad Bellum

Just Cause

To use force against another nation, there must be a serious reason to justify it. Defense of one's territory against an invader is a prime example of a just cause for war. Nations have the right to defend themselves against aggression. But war is not justified to right a minor wrong or to respond to an insult. A newly developing concept of just cause includes intervening to prevent another nation from harming its own population. This idea is known as humanitarian intervention—using limited military force for humanitarian purposes. The United Nations has expanded this idea recently under the idea of a “responsibility to protect” (sometimes called “R2P”). The R2P idea holds that the international community has a responsibility to intervene to protect people from their own governments and to prevent war crimes and crimes against humanity (which we discuss in more detail later in this chapter).

Other causes for war have been proposed. Could war be employed to prevent the spread of communism, to rid another country of a despotic leader, to prevent a nation from obtaining nuclear weapons, or to protect the world's oil supply? These may be viewed as cases of self-defense, using a broad definition of what is in a nation's vital interest. But just war theory, in general, attempts to limit the causes of war.

One contentious issue related to just cause is the justification of preventive and preemptive strikes. If a neighboring nation is about to invade one's territory, preemptive defense against threatened aggression would seem to be a just response. A nation need not wait to be attacked when it knows an invasion is impending. The principle of "only if attacked first" may be too strict. Traditionally, preemptive attacks were thought to be justified if an attack was imminent. However, in the age of terrorists with weapons of mass destruction, some have argued that to wait until an attack is imminent is to wait too long. This logic has been employed to justify a variety of attacks. For example, Israel has attacked weapons sites in Iraq (in 1981) and in Syria in more recent years in an effort to prevent its enemies from developing deadly weapons. The 2003 U.S. invasion of Iraq was justified as an attempt to prevent Iraq from using, developing, and disseminating weapons of mass destruction. While some just war theorists supported this invasion, others argued that preventive war was an immoral use of war. The danger of preventive war is that it can escalate violence, as each side may feel justified in attacking first.

Legitimate Authority

If we assume we can agree on what counts as a just cause for war, another concern is who has the authority to declare war. Traditionally, it was thought that the sovereign power had the right to declare war. In the era of kings and princes, the monarch declared war. In democracies, however, we presume that the power to declare war rests with the duly elected government. In the United States, there has been some concern about where the power to declare war resides: in Congress or in the president. The Constitution (Article I, Section 8, Clause 11) stipulates that the power to declare war rests with Congress. However, in recent decades, the president has sent military forces into battle without explicit declarations of war. Leaving aside this constitutional question, we might wonder whether it makes sense for the civilian leadership to declare war. Wouldn't it

be wiser to let the military decide when and where to fight? After all, soldiers are the experts in war. However, civilian control of the military is central to democratic nations, which believe that the people must approve warfare through duly elected representatives. This can create difficulty, however, as military priorities may conflict with civilian leadership's concerns.

The issue of legitimate authority points toward other problems. Who has a claim to legitimate authority in a civil war or a revolution? That's a difficult question to answer. Another problem concerns the development of international institutions such as the United Nations. Should the United States defer to the judgments of the United Nations Security Council about wars and interventions? Or do the United States and other nations have the right to "go it alone" when it comes to war? In 2004, the secretary-general of the United Nations, Kofi Annan, declared that the United States had violated the United Nations Charter by going to war against Iraq and that the war was illegal. But the United States maintained that it had a moral right to go to war without United Nations approval. The issue of legitimate authority remains an important concern for thinking about the justification of war.

Proportionality

Not only must the cause be, according to the theory, but also the probable good to be produced by the intervention must outweigh the likely evil that the war will cause. Before engaging in warfare, we should consider the probable costs and benefits and compare them with the probable costs and benefits of doing something else or of doing nothing. Involved in this utilitarian calculation are two elements: one assesses the likely costs and benefits, and the other weighs their relative value. The first requires historical and empirical information, whereas the second involves ethical evaluations. In making such evaluations, we might compare lives likely to be saved with lives lost, for example. But how do we compare the value of freedom and self-

determination, or a way of life, with the value of a life itself? How do we factor in the long-term impacts of war, including the possibility of post-traumatic stress for soldiers and civilians?

Moreover, assessing costs and benefits is difficult in a complex and chaotic activity such as war.

Last Resort

The just war theory holds that war should be a last resort. Military interventions are extremely costly in terms of suffering, loss of life, and other destruction, so other means must be considered first. They need not all be tried first, for some will be judged useless beforehand. However, nonviolent means should be attempted, at least those that are judged to have a chance of achieving the goal specified by the just cause. Negotiations, threats, and boycotts are examples of such means. When is enough finally enough? When have these measures been given sufficient trial? There is always something more that could be tried. This is a matter of prudential judgment and therefore always uncertain.

Right Intention

Military action should be directed to the goal set by the cause and to the eventual goal of peace. Thus, wars fought to satisfy hatred and bloodlust or to obtain wealth are unjustified. The focus on intentions is a deontological element in the *jus ad bellum* consideration. Recall that Kant's deontological theory focused on the intention behind an act (what Kant called the "good will" and the nature of the maxims of action). When considering going to war, this principle reminds us that we ought to intend good things even as we employ violent means. The right intention principle seems to imply that there should be no gratuitous cruelty such as would follow from malicious intentions. Just Cause and Right Intentions are connected.

This moves us into a discussion of the conduct of a war, the second area covered by the principles of just war theory.

The Geneva Conventions

The principles of just war theory are not merely philosophical ideas. Over time, many of these principles became part of international law. One of the most important examples is the Geneva Conventions. The modern Geneva Conventions were adopted in 1949 following the destruction and enormous loss of civilian and military life during World War II. Their purpose is not to determine whether a nation is justified in going to war. Instead, they establish rules concerning how people must be treated once an armed conflict has begun. In this sense, the Geneva Conventions are closely connected to the principles of *jus in bello*, or justice in war.

Four Geneva Conventions were adopted in 1949. The First Geneva Convention protects wounded and sick members of armed forces fighting on land. Soldiers who are wounded and no longer able to fight are to be collected and cared for, regardless of which side they fought for. Medical personnel, hospitals, and other medical services are also protected.

The Second Geneva Convention provides similar protections for wounded, sick, and shipwrecked members of armed forces at sea. An enemy soldier who is wounded or shipwrecked does not lose his or her basic human dignity simply because that person fought for the opposing side.

The Third Geneva Convention deals with prisoners of war. Prisoners must be treated humanely and protected against torture, violence, intimidation, and degrading treatment. The Convention also sets standards for food, shelter, medical care, communication, judicial proceedings, and eventual release and repatriation. The ethical principle behind these protections is that surrendering or capturing an enemy does not give the victorious side unlimited power over that person.

The Fourth Geneva Convention focuses primarily on protecting civilians during war and military occupation. Civilians are protected against such actions as murder, torture, hostage-taking, collective punishment, and unlawful deportation. This Convention reflects a central principle of just war theory: people who are not participating in the fighting should not be intentionally targeted simply because they live in an enemy nation or territory.

One particularly important provision found in all four Geneva Conventions is known as Common Article 3. It establishes minimum standards of humane treatment during certain armed conflicts that occur within a country rather than between countries. People who are not actively participating in the fighting, including those who have surrendered or have been incapacitated by wounds or illness, must be treated humanely. This principle means that even during a civil war or other internal armed conflict, moral and legal limits apply to how people may be treated.

Additional Protocols

Three Additional Protocols expanded the Geneva Conventions. Additional Protocol I, adopted in 1977, concerns international armed conflicts and strengthens protections for civilians. It emphasizes the principle of distinction, requiring military forces to distinguish between civilians and combatants and between civilian objects and military objectives. It also prohibits indiscriminate attacks and requires precautions to reduce civilian harm.

Additional Protocol I also strengthens the principle of proportionality. Even when attacking a legitimate military objective, an attack is prohibited when the expected incidental harm to civilians would be excessive in relation to the concrete and direct military advantage anticipated. This does not mean that every civilian death during war automatically constitutes a violation. Rather, military commanders must consider the expected civilian consequences of an attack.

Additional Protocol II, also adopted in 1977, expands humanitarian protections during certain non-international armed conflicts, such as civil wars. Among other things, it prohibits attacks against civilians, collective punishments, acts of terrorism against civilians, rape, slavery, and pillage.

Additional Protocol III, adopted in 2005, established the Red Crystal as an additional protective emblem alongside the Red Cross and Red Crescent. These symbols identify protected medical and humanitarian personnel, facilities, and services.

The Ethical Importance of the Geneva Conventions

The Geneva Conventions raise an important philosophical question: Does going to war remove the ordinary moral rules governing human behavior? A realist might argue that survival and victory are the primary concerns during war and that moral restrictions can interfere with achieving those goals. The Geneva Conventions reject this position. They assume that even during war, some actions should not be permitted.

The Conventions also demonstrate an important distinction between *jus ad bellum* and *jus in bello*. A nation may believe it has a just cause for going to war, but that does not mean everything it does during that war is morally justified. Likewise, soldiers and civilians on the opposing side do not lose all moral or legal protection simply because their government may have acted unjustly.

The Geneva Conventions therefore attempt to balance military necessity with human dignity. War sometimes involves killing and destruction, but military necessity does not provide unlimited justification for violence. Wounded soldiers must be cared for, prisoners must be treated humanely, and civilians must be protected from deliberate attack.

This leads to one of the central ethical questions of *jus in bello*: Even when a war itself is justified, what moral limits should exist on the actions taken to win it?

Jus in Bello

Even if a war were fought for a just cause and by a legitimate authority, with the prospect of achieving more good than harm, as a last resort only, and with the proper intention, it still would not be fully just if it were not conducted justly or in accordance with certain principles or moral guidelines. The *jus in bello* part of the just war theory consists of several principles.

Proportionality

The principle of proportionality stipulates that in the conduct of the conflict, violence should be focused on limited objectives. No more force than necessary should be used. The force or means used should be proportionate to the importance of the particular objective for the cause as a whole. This principle is obviously similar to the principle of proportionality discussed previously in thinking about *jus ad bellum*; however, within the *jus in bello* consideration of proportionality, the cost-benefit analysis is focused on limited war aims and not on the question of the war itself.

Discrimination

Just warriors should not intentionally attack noncombatants and nonmilitary targets. While this principle sounds straightforward, complex issues remain about what counts as a nonmilitary target and who counts as a non-combatant. Are roads, bridges, and hospitals that are used in the war effort military targets? The consensus is that roads and bridges are targets if they contribute directly and significantly to the military effort, but hospitals are not legitimate targets. The principle to be used in making this distinction is the same for the people as for the things. Those people who contribute directly are combatants, and those who do not are not combatants. There

is some vagueness here. Is a soldier at home on leave a legitimate target? One writer suggests that persons who are engaged in doing what they do ordinarily as persons are noncombatants, while those who perform their functions specifically for the war effort are combatants.

Thus, those who grow and provide food would be noncombatants, whereas those who make or transport the military equipment would be combatants. Note, too, that although we also hear the term innocent civilians in such discussions, it is noncombatants who are supposed to be out of the fight and not people who are judged on some grounds to be “innocent” in a deeper moral sense. Soldiers fighting unwillingly might be thought to be innocent but are nevertheless combatants. Those behind the lines spending time verbally supporting the cause are not totally innocent, yet they are noncombatants. The danger of using the term innocents in place of noncombatants is that it also allows some to say that no one living in a certain country is immune because they are all supporters of their country and so not innocent. However, this contradicts the traditional understanding of the principle of discrimination.

One way to describe the principle of discrimination is to say that noncombatants should have immunity from harm. The idea of noncombatant immunity says that noncombatants should not be intentionally harmed. Combatants are not immune because they are a threat. Thus, when someone is not or is no longer a threat, as when they have surrendered or are incapacitated by injury, then they are not to be regarded as legitimate targets. The discrimination principle does not require that no noncombatants be injured or killed, but only that they not be the direct targets of attack. Although directly targeting and killing civilians may have a positive effect on a desired outcome, this would not be justified. The principle of discrimination is a deontological principle that stipulates a duty not to target noncombatants deliberately.

Nonetheless, some noncombatants are harmed in modern warfare—as bombs go astray and battles rage within cities. Noncombatant harms can be permitted by application of the principle of double effect. Noncombatant harms can be permitted if they are the foreseen but unintended and accidental result of a legitimate war aim. Not only must the noncombatants not be directly targeted, but also the number of them likely to be injured when a target is attacked must not be disproportionately great compared to the significance of the target. Thus, if a bomb goes astray and kills some children, this could be permitted by the principle of double effect if the intended target was a legitimate one, if the numbers harmed were minimal, and if the death of the children was not directly intended. In such a case, these children would be described as collateral damage, that is, as harms that are accidental and unintended.

Intrinsically Evil Means

A final concern of *jus in bello* is a strictly deontological prohibition on the use of means that are viewed as being evil in themselves (or *mala in se*, as this is expressed in Latin). One obvious inherently evil act is rape. Rape has long been a weapon of war, employed by conquering armies as a way of degrading and terrorizing a conquered people. But just warriors ought not engage in rape. We should also prohibit slavery as a means of warfare—for example, forcing captured enemies to engage in hard labor or using them as human shields. We might also think that the use of poisons—including poison gas—is intrinsically wrong. And most just war accounts maintain that torture is intrinsically wrong. However (as we shall see), in recent years there has been an open debate about the morality of torture in American war-making. To say these things are wrong in themselves creates a deontological prohibition on such weapons and actions: just warriors may not use them even if they might produce good outcomes.

According to just war theory, then, for a war or military intervention to be justified, certain conditions for going to war must be satisfied, and the conduct in the war must follow certain principles or moral guidelines. We could say that if any of the principles are violated, that war is unjust, or we could say that it was unjust in this regard but not in some other aspects. Just war ideas have become part of national and international law, including the U.S. Army Rules for Land Warfare and the UN Charter. Its principles appeal to common human reason and both consequentialist and non-consequentialist concerns.

Realists will maintain that the moral limits imposed by the just war theory can get in the way of victory and the goal of establishing power and supremacy. Pacifists will maintain that the just war theory is too permissive. Pacifists might reject, for example, the way that the doctrine of double effect allows noncombatants to be harmed. To evaluate realism, pacifism, and the just war theory, you must think about how you evaluate the various consequentialist and deontological principles and ideas appealed to by each approach.

The Moral Issues

Respect for Persons

Pacifists argue that war is incompatible with the moral imperative to treat persons as ends in themselves. War, by dividing people into the enemy and us, dehumanizes the so-called enemy and creates an us-versus-them/good-versus-evil mentality. In a 2007 Gallup poll, 70 percent of Americans stated that they had an unfavorable view toward Muslim countries; only 7 percent had a favorable view. Despite our claim that civilians in enemy countries are innocent, their deaths as "collateral damage" are not given the moral weight of the deaths of American combatants.

Some argue that war violates the principle of reciprocity or the Golden Rule, which is based on respect for persons. On the other hand, those who support the just-war theory, such as Aquinas,

point out that for a government to stand by and not defend its citizens against an aggressive attack involves not taking the personhood and security of its citizens seriously.

Rights

In the military, autonomy is restricted for the sake of the greater good. This is particularly evident in conscription, in which the duty of fidelity to one's country is seen as overriding one's liberty rights. War also raises the rights of political communities. Hobbes regarded the right to security and freedom from violence as one of the most basic rights and the primary purpose of the social contract. This entails a state's right to defend itself against attack. The right to a preemptive strike is generally regarded as an extension of the right to self-defense. However, how great and how imminent does the threat need to be to justify a preemptive strike? Was the invasion of Iraq morally justified on the grounds of self-defense?

The Universal Declaration of Human Rights and subsequent international human rights laws protect the rights of all people. Noncombatants have a right to life and a basic standard of living. In addition, prisoners of war are protected under the **Third Geneva Convention**, which requires that they be treated humanely and establishes standards for their treatment while in captivity. However, many nations continue to violate these basic human rights.

The United States has refused to adopt international human rights law, arguing that U.S. law adequately protects human rights. The rights of 171 "enemy combatants" being held, as of May 2011, by the United States government at Guantanamo Bay in Cuba raised questions about the adequacy of this policy—the U.S.

Supreme Court in 2006 ruled that former President Bush had overstepped his power in ordering war-crimes trials for detainees. President Obama issued an executive order to close down the prison at Guantanamo Bay and end torture and harsh interrogation techniques. However, in 2011

he reversed his position, signing the Defense Authorization Bill which prevents the transfer of prisoners from Guantanamo Bay to mainland United States or to other foreign countries.

The USA Patriot Act, which was passed soon after September 11th, and the targeting of more than 5,000 Arabs and Muslims for detention and questioning also have serious implications for the protection of human rights. The U.S. government justifies these policies on the grounds of national security, arguing that the positive right of U.S. citizens to security outweighs the liberty rights of potential terrorists. It can be argued by some that the war on terrorism may be seriously eroding international human rights. Justice was also an issue in the ban against permitting those who are openly homosexual to serve in the U.S. military. The ban was overturned in 2011.

Consequentialism and Nonmaleficence

The restriction on rights and the harms associated with war are generally justified as a means of preserving the greater good of society. However, is war the most utilitarian means to preserve beneficial ends such as our freedom, culture, and standard of living? Was World War II, for example, the best means, from a utilitarian point of view, of defeating Hitler? What about the war in Iraq? While most people agree that Iraqis better off without Saddam Hussein's regime, many disagree that an American invasion of Iraq was the best means of achieving this end. The question of consequences has come up again with Iran. What is the best means—war, negotiation, embargos— of reducing these countries' threat to us and other nations?

Utilitarians such as Bentham and Mill, although not pacifists, were opposed to war because of the grievous harms associated with it. According to the World Health Organization, war is one of the leading public health issues of our time." In the four decades following World War II, more than 100 million people were killed during wars, with millions more dying of starvation and disease related to war." Millions of people have lost their homes and sometimes even their

homeland as a result of war. More than 6 million people were displaced in Sudan and Sierra Leone alone as a result of civil wars.

Principle of Double Effect

The principle of double effect is found in Catholic just-war theory. According to this principle, if a course of action, such as bombing a town, is likely to have two quite different effects, one legitimate and the other not, the action may still be permissible if the legitimate effect was intended (e.g., the disabling of a military installation or the bringing of war to an end) and the illicit effect (e.g., the killing of civilians) unintended. The principle of double effect was used to justify the unintended killing of civilians in Hiroshima and Nagasaki.

One of the problems with this principle is that unintentional harms are still harms. Killing civilians unintentionally with another end in mind does not justify knowingly killing them, especially if the unintended harms of the action outweigh the intended benefits. The principle of double effect also reduces people being unintentionally harmed to a means only, and thus violates Kant's categorical imperative.

Justice

The condition of proportionality in the just war tradition is based on the principle of justice. This principle states that the violence used must be in proportion to the injury being redressed. Justice is also a concern surrounding conscription and in treatment of citizens in an occupied or conquered country.

Some maintain that justice requires that we share the burden of military service through conscription. It is not fair that the burden of protecting our country is borne primarily by those who come from less privileged parts of society, as tends to be the case with a voluntary military. Some also argue that allowing some nations to possess nuclear weapons while forbidding others

to do so violates the principle of equality. Justice is also an issue in the treatment of prisoners of war and civilians in occupied countries.

Self-Determination

The United Nations recognizes the right of people to "self-determination, freedom and independence." The efforts of a victorious country to impose its form of government, its concept of freedom, and its cultural and economic values on another country have been criticized as a violation of a people's right to self-determination.

John Stuart Mill argued that self-determination and political freedom are not the same. A state has the right to self-determination even if its citizens are struggling for political freedom. Self-help, not occupation, and liberation by another country, is the best way for citizens to develop the virtues necessary for self-governance.

One of the arguments for withdrawing American troops from Iraq was that Iraqis should be allowed to determine the future course of their country, even if this means civil war. On the other hand, assisting people in their struggle for freedom does not always violate their right to self-determination. For example, the French assisted the American colonists in the American Revolution. Knowing where to draw the line between interference and assistance in a people's struggle for self-determination has always been difficult.

Duty of Fidelity

In 2002 U.S. citizen John Walker Lindh was sentenced to twenty years in federal prison for his association with al-Qaeda. Treason is considered worse than betrayal by a noncitizen because treason violates the duty of fidelity. Living in a country of one's own volition and benefiting from its protection and advantages creates a prima facie duty of fidelity or loyalty to that country. However, what does this duty entail? Does the duty of fidelity justify conscription, or

does it merely prohibit treason and terrorist acts against one's own government? What about instances in which one's own government is unjust?

Soldiers and others involved in a war effort also have a duty of fidelity to their commanders. However, this duty must be weighed against other moral duties. The argument by Nazi war criminals that they were just obeying the orders of their superiors was found unacceptable in international courts. People need to take personal responsibility for their choices. The duty of fidelity to serve the country can also come into conflict with the duty of fidelity to one's children. This raises the question of whether parents) of young children should be made to serve on active duty.

Personal Responsibility

Soldiers are not merely passive instruments of war. In the My Lai massacre in Vietnam, while most of the soldiers followed orders to "waste" the villagers, others refused to obey; one junior officer even stood between the soldiers and the villagers in an attempt to stop the slaughter. Conscientious objection in the face of conscription also entails taking personal responsibility for one's decision. During the Vietnam War, many conscientious objectors chose to leave the United States and take up residence in another country. Others engaged in civil disobedience and willingly accepted the punishment for their actions as a means of raising public awareness. The people who design and produce weapons also must accept responsibility for their actions. Because much of the technology used in the production and delivery of weapons of mass destruction can have both peacetime and military applications, researchers need to be aware of how the technology they are developing might be used.

Conclusion

Internationally, the world exists in a state of nature or anarchy. Weapons of mass destruction, globalization, and the development of new technologies make war and terrorism a greater threat than ever before. What is the solution? If the formation of a state under a social contract is the best means for controlling violence between individuals, is international government the answer for controlling violence between nations?

Or is war just a natural part of life and is the solution to develop and enforce ethics for war, such as the just-war tradition? In the end, the responsibility lies with each of us as individuals to critically examine the justifications given for war and to work toward making the world more peaceful, whether that means taking up arms or becoming a conscientious objector.