

Justice and Enduring Freedom

Just war theory offers principles that provide a moral framework for war. The basic distinction is between the rules that justify going to war (*jus ad bellum*) and those that govern just conduct in war (*jus in bello*). These rules are no less valid in relation to the War Against Terrorism than they are in relation to other wars.

The act of going to war (*jus ad bellum*) is justified by: having just cause, proper authority, right intention, a reasonable chance of success, and proportional goals, the first being the most important. By any rational standard, the attack on September 11 against the United States was a 'just cause' for going to war. Over five thousand human beings, most of them American citizens, were incinerated. A nation or society that is attacked in this way has just cause to defend itself. Only those who would allow violence to rule the earth and victimize its people can argue otherwise.

Given such cause, a nation is justified in going to war if its purpose is to pursue and punish an aggressor, and to pre-empt further anticipated attacks. This purpose conforms to 'right intention': it is not carried out for revenge, but in self-defense and to bring those responsible to retributive justice.

The paradox of the War Against Terrorism is that the enemy is not a sovereign state, but a conglomeration of terrorist militiamen who have unauthorized supporters. However, if a sovereign state provides them support and protection, the terrorists may be regarded as a military arm of that state. Thus, insofar as Afganistan or Iraq or other states provide such support for the Al-Qaeda, the United States is justified in waging war against them, to protect itself against their military representatives.

The other aspect of the ethics of war concerns how it is fought. The principle of discrimination concerns legitimate targets, proportionality concerns how much force is morally appropriate.

It is difficult to determine where the line should be drawn between combatants and non-combatants in modern warfare, insofar as the military is supported by, e.g. telecommunications, fuel supplies, etc. It is evident, however, that there is a line: military forces on one side, children, hospital workers, the aged, etc., on the other. All terrorists, in whatever circumstances, are legitimate military targets; by joining a terrorist militia network, they forsake the rights of non-combatants or even those of ordinary criminals.

Terrorists' supporters often argue that revolutionaries fighting against superior forces or colonial governments must use terror, to achieve national liberation (as celebrated in *The Battle of Algiers*). But except where national survival is literally at stake, violence against non-combatants offends moral justice. Would terrorists slaughter or infect babies to spread terror? If the answer is yes, it implies they have lost all sense of human decency. If the answer is no, what is their criterion for discriminating combatants from non-combatants?

Targeting a military establishments often means civilian casualties will occur, though they are not the aim, but an accidental effect of the attack. Basically, just war theory

requires that serious efforts be taken to limit such casualties. Obviously, it also requires that governments not make their own people hostages, by locating military targets in civilian neighborhoods. (As Saddam Hussein did during the Gulf War.)

The second principle of just conduct in war is proportionality, which requires tempering the extent and violence of warfare to minimize human destruction and casualties. This was an argument for the premature end of the Gulf War, when it seemed Iraq was defeated and Hussein would be overthrown from within. President Bush's offer to the Taliban government of Afghanistan, both before the war began and again after one week of bombing, that we would end the war, if the terrorists were turned over to the United States for trial and punishment, was also consistent with proportionality.

Finally, justice requires that the agents of war be held responsible for their actions. Soldiers killing other soldiers is part of the nature of warfare, but when men initiate unjust wars and cause the death of thousands (or even millions, as in WWII), and when soldiers turn their weapons on non-combatants, they are committing acts of murder and mass murder. The principle of responsibility links with the concept of human rights, and the concept of war crimes with that of crimes against humanity, to demand that those who cause unjust wars and those who carry out war indiscriminately be brought to justice—or that justice be brought to them.

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