



# Ethics and Terror

Proceedings of a NESAs Washington Seminar

December 19, 2002

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NATIONAL DEFENSE UNIVERSITY





# NEAR EAST SOUTH ASIA CENTER FOR STRATEGIC STUDIES

NATIONAL DEFENSE UNIVERSITY  
WASHINGTON, DC

The mission of the NESACenter is to enhance stability in the Near East and in South Asia by providing an academic environment where strategic issues can be addressed, understanding deepened, partnerships fostered, defense-related decision-making improved, and cooperation strengthened among military and civilian leaders from the region and the United States.

Launched in October 2000, the Center builds on the strong bilateral relationships between the United States and countries in the NESACenter region by focusing on a multilateral approach to addressing regional security concerns and issues. It is designed to meet the knowledge needs of national security professionals by providing a forum for rigorous examination of the challenges that shape the security environment of the region. The Center provides a focal point where national decision makers can gather to exchange ideas and explore tools for cooperative problem solving.

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Participation is open to military and official civilian representatives from all countries in the NESACenter region with which the U.S. government maintains formal diplomatic relations, non-NESACenter countries that have strategic interests in the region, and U.S. military and federal government officials. Participants are nominated by their governments. The twenty-two nations participating from the region include: Afghanistan, Algeria, Bahrain, Bangladesh, Egypt, India, Israel, Jordan, Kuwait, Lebanon, Maldives, Mauritania, Morocco, Nepal, Oman, Pakistan, Qatar, Saudi Arabia, Sri Lanka, Syria, Tunisia, the United Arab Emirates, and Yemen.

Funded by the Department of Defense, the NESACenter, comprised of approximately 20 faculty and staff, is under the management of the National Defense University in Washington, DC.

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**Near East South Asia Center for Strategic Studies  
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Washington, DC**

NESA Center Workshop/Washington Seminar

## **Ethics And Terror**

**December 19, 2002**

**2100 Second Street, SW  
Suite 4308  
Washington, DC 20593**

The workshop “Ethics and Terror” was hosted by the Near East-South Asia Center for Strategic Studies at the National Defense University on December 19, 2002, and attended by thirty invited experts in philosophy, politics, law, policymaking, and policy implementation. The focus was on the ethical and legal challenges posed by U.S. engagement in the war on terror, with particular emphasis on the Near Eastern and South Asian (NESA) region. The participants were asked to consider whether the particular circumstances of this war necessitated a reexamination of traditional military ethical doctrine with regard, for example, to rules of engagement, the doctrine of just war, and the ethical basis of preemptive strikes among other issues. Since the major focus of the war had been and was likely to continue to be within the NESA region, how was the United States to deal with clashing ethical perceptions, which could hamper our anti-terrorist efforts?

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## **Introduction**

The attacks of September 11, 2001, changed the United States and altered international relations forever. For the United States, perhaps the greatest impact has been psychological: a realization of U.S. vulnerability in a globalized world. The United States had sought for two hundred years to exploit its geographic advantage as a country protected by two oceans and two benign neighbors to keep hostilities away as far as possible from its borders. While military forces of most countries were designed and deployed to secure national boundaries, by the second half of the twentieth century the forces of the United States were designed to confront threats at faraway locations around the globe, not on America's own frontiers. Much of the ethical and political background to U.S. attitudes toward the use of force was based on the success of this strategy and the apparent invulnerability to direct attack that it implied.

The comfort of the splendid security taken for granted was shattered unexpectedly on September 11. The country's unmatched armed forces could not stop a series of attacks on U.S. soil. A few civilians armed with nothing more lethal than box-cutters had exploited advanced Western technology and the access provided by a globalized transportation and communication system to harm the United States. They transformed the historic assumption of security into an angry vulnerability.

In seeking to meet this threat, the United States has reexamined long held assumptions about what is ethically permissible and impermissible in the use of force. Since World War II, the United States had accepted voluntary limitations on its own unilateral use of power in order to create and then strengthen a system of multilateral alliances, which seemed to promise a stronger collective defense and a more stable and predictable international environment. As a system to organize some nation-states against the threat posed by other nation-states, this collective security system served the United States well.

But the combination of voluntary restraint, alliance-building and military deterrence was a more questionable strategy against the alliance of rogue states and extremist religious-based terrorist organizations that had emerged by the end of the century. The centers of terror could now be separated from nation-states, could shift from place to place, and could strike anywhere at any time. Since they had few fixed assets to protect and sought millennialist goals, these groups were not subject to deterrence as previously conceived. And while their target was the existing international order, they could avail themselves of the rules laid down by that order, using the sovereign immunity of states like Syria, Iran, and Afghanistan to find needed sanctuaries against U.S. counterstrikes. The emergence of this threat therefore forced the United States to reevaluate the ethical and political assumptions underlying that international order. The results of this reevaluation are contained in the U.S. National Security Strategy published by the Bush Administration in September 2002.

The purpose of the Near East-South Asia Center's workshop on Ethics and Terror was to examine the ethical implications of the resulting international strategy, particularly with regard to questions like sovereignty and preemption. We hope that this symposium will lay the groundwork for those who are charged with crafting operational recommendations rooted in our ethical traditions supported by our legal standards. The NESAC Center welcomes the challenge to contribute to such deliberations to enhance the counterterrorism effort among U.S. friends and allies in the Near Eastern and South Asian region.

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October 2003

## **Acknowledgements**

Few undertakings are solo performances. Hosting the workshop “Ethics and Terror” required inspiration, interest, enthusiasm, individual and institutional support, cooperation, collaboration and coordination. I am indebted to a great many, from the participants who took time away from their busy professions, to the interns who saw to it that coffee and refreshments remained available throughout the day.

I would like to thank Alina Romanowski, then-Director of the Near East-South Asia Center for Strategic Studies, for her vision and Ambassador Roger Harrison, then-Academic Chairman of the NESAC Center, for his conviction in supporting the concept. He was a source of encouragement with interest in the possibility of a follow-up conference to inform the international discussion on terrorism and the ethical means to face it. I would also like to thank my faculty colleagues, particularly Rear Admiral (Ret.) John Sigler, Distinguished Professor, for lending their intellectual support to the project.

Minor details if overlooked often deflate grand designs. The staff of the NESAC Center, who dealt with a mountain of accommodations, has my most sincere gratitude. Among the staff, Yolanda Glover, Fiona Burdick, Joseph Cipriani, Dan Rosen and Craig Zugschwerdt were particularly helpful. Finally, Max Gleischman, a student intern, proved himself to be an outstandingly mature, interested and thoughtful gentleman. I am grateful to them all. Without their collective efforts, the workshop and especially these proceedings could not have been possible.

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March 2003

**Remarks by Alina Romanowski  
Director, Near East South Asia Center for Strategic Studies**

On behalf of NESACenter, I welcome you to this important and necessary workshop. NESACenter was established in December 2000 as the fifth Department of Defense Regional Center, with a geographical focus extending from Marrakech to Bangladesh. NESACenter's core focus has been to bring mid to senior level leaders from the region to Washington to attend seminars several times a year, to enhance stability in the Near East and South Asia region by providing an academic environment where strategic issues can be addressed, understanding deepened, partnership fostered, defense-related decision-making improved, and cooperation strengthened among military and civilian leaders from the region and the United States. In addition to our Senior Executive Seminars (SES), Executive Seminars (SE) and conferences that we may co-sponsor in the region, we host a series of Washington Seminars to explore topical issues of interest. Since September 11, 2001, we have had seminars on building and sustaining coalitions against terrorism. Following Somalia, Afghanistan, Yugoslavia, and Bosnia there is a sense that there is large component of asymmetric warfare in which we will engage, and in doing so find our lawyers, policymakers, and soldiers a little further away from one-another than has been the case in the past. Perhaps geography and distance can be overcome, but if making decisions gravitates towards local commanders in the field, focusing on ethics and terror will be an important part of successfully confronting our challenges. Looking at laws and rules of engagement one observes that they go only so far, and not everyone is a lawyer either. This workshop is an opportunity to bring about clarity, to inform the debate, and to help policymakers and senior military officers in drafting their Rules of Engagement (ROE).

We have seen in Afghanistan, Yemen and elsewhere that we are operating in very different cultural contexts and, the need to keep the population informed of what we are doing and why we are engaged.

Again, I like to welcome you all to the NESACenter and to this workshop. I invite you to determine whether there are other issues that we might want to explore further in other seminars, or in a larger context.

## Synopsis

Dr. Paul Christopher in presenting his paper “Understanding Terrorism” argued that those willing to sacrifice their lives on behalf of a cause must be sincere in their commitment to that cause. It is too easy to condemn, he asserted, “if we do not take the time to provide an objective moral grounding for our condemnation.” Understanding the single-minded behavior of the terrorist is crucial “if we hope to change the moral landscape.”

To facilitate that understanding, Christopher formulated a “working definition” for terrorism as “Any act that involves illegal and intentional use or threat of violence against innocent people for the purpose of instilling fear in others in order to bring about some political agenda.” He emphasized that a direct correlation between the victims and the purpose of a terrorist attack was missing.

Christopher proposed the assumption that “terrorists believe sincerely their cause to be just.” From that assumption he tried to determine when it was morally permissible to attack people at random to coerce others into accepting a political dictate. He organized the arguments terrorists have used into the *Consequentialist*, *Divine Command*, *Culture Induced*, and *Self-Interest* arguments and subjected each to a rigorous analysis.

Dr. Bradley Watson in his paper “Ethics, Religion and Terror” argued that Western philosophical as well as theological traditions accepted that war was inevitable and indeed ethically good in certain circumstances. He warned that unless we are clear about our ethics, we can’t defend ourselves with the conviction and the energy that the task deserves. Dangerous times, he said, demanded clear and confident thinking about our moral purpose. “We should be lovers of justice,” he argued, and acknowledge that armed conflict is one of the necessary means by which justice might be secured.

He proposed that just war theory recognized the reality that in facing terrorism, prudence dictated taking action on the mere possibility that an attack might take place and that the use of weapons of mass destruction by the terrorists –if acquired, would be certain. Furthermore, a just war may be in retaliation for an injury suffered, but injury ought to be defined to include harming the general good of mankind.

The American position on the ethics of war, Watson argued, had been forged by the Western traditions of philosophy and theology. When natural law and people’s natural rights were violated by a tyrant, war could be justified by human reason as well as God’s will. Prudence and just war, he reasoned, were not necessarily inconsistent with preemptive and preventive measures.

## **Presentations**

The workshop's discussions and deliberations were organized around two formal presentations. The first was by Dr. Paul Christopher titled "Understanding Terrorism," and the second by Dr. Bradley Watson, "Ethics, Religion, and Terror: The American Understanding."

In presenting his paper, Dr. Christopher argued that those willing to sacrifice their lives on behalf of a cause must be sincere in their commitment to that cause. It is too easy to condemn, he asserted, "if we do not take the time to provide an objective moral grounding for our condemnation." Understanding the single-minded behavior of the terrorist is crucial "if we hope to change the moral landscape." To facilitate that understanding, Christopher formulated a "working definition" for terrorism as "any act that involves illegal and intentional use or threat of violence against innocent people for the purpose of instilling fear in others in order to bring about some political agenda." He emphasized that a direct correlation between the victims and the purpose of a terrorist attack was missing.

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The full texts of Christopher's and Watson's papers are at Annexes A and B.

## Discussion

The discussion at the workshop reflected a kaleidoscope of perceived ethical implications concerning potential policies for countering terrorism. The participants linked the philosophical and the intellectual aspects of warfare to those of the legal and the operational, by considering *justice of war* as well as *justice in war*. One argued that defining terrorism as illegal did not lead anywhere, nor did classifications of guilty versus innocent. Rather than treating symptoms, the focus had to shift to causes and to prevention. What was it that made the terrorist? What determined the kinds of attacks terrorists considered? What were the essences of terrorism and the terrorist? One participant proposed that to know terrorists, one had to view them through their own eyes and know them through their own minds. "Terrorists do not see us as innocent in moral terms."

Was terrorism in its essence a legal or a political problem? "Does not the act of terrorism reinforce a standard of legality as expected behavior in the impacted society? In an international community in which a uniform system of law and order is not perceived as existing, is terrorism not a deviation from the desired norm?" one asked. The anger in response to the tragedy of September 11, 2001, was understandable but not helpful. The emotional response was not enough; an intellectual response was necessary. There was a need to define "the war on terror" as it meant different things to different people.

"Does a terrorist leader's mind allow any limits to the infliction of harm?" one participant asked. If all perceived enemies were infidels, the potential targets of terrorism were guilty by definition. Furthermore, an argument with a terrorist would be of little utility, as the common moral basis necessary for a meaningful discussion would be lacking. "Terrorists were after power and murder was their way." Another participant responded that although moral arguments would not convert the "Osamas of the world," they remained important, for they could affect the populations that the likes of Osama bin Laden tried to influence. In presenting the argument against terrorists, serious attention to religious convictions and anti-colonial sentiments was essential. Those who painted al-Qaeda as directed against the principles of freedom and justice that defined America misunderstood the basic goals of al-Qaeda, which had been to protect the holy lands of Islam and the *umma*, the Islamic community of believers. Al-Qaeda saw the presence of non-Muslims, personified by the purported U.S. military presence in the Hijaz region of Saudi Arabia, as an attack upon the freedom of the Muslims. Al-Qaeda thus attacked the United States and its allies to liberate the holy lands of Islam. Al-Qaeda's aim, if seen from its own perspective, could be seen as totally congruent with the principles of freedom and justice that define the United States.

"The point is that we cannot afford to be pacifist when faced with terror. Interpretations of the words of God through second or third-rate clerics with political ambitions is demonstrably suspect," one participant said. We must think more about what Christopher had labeled the Divine Command argument, going all the way back to Abraham. But inflicting harm through third or fourth parties, others noted, did not seem to fit the Divine Command argument. Alert sensitivity to the perceived historical

impositions of former colonial powers, was also important in countering terrorists' campaign for support. "If Muslims, Arab or otherwise, view our campaign against terrorism as immoral or illegitimate, the task of confronting terrorism will have been undermined. Conversely, if our approach is accepted as moral and legitimate, it will have positive practical and operational implications for changing the minds of potential terrorists," one argued.

*Domestic Ethical Concerns [second order subhead]*

References were made to problems faced by the United States during the Vietnam War. "We ought to remember the loss of political credibility and public support when some tactics used by the U.S. forces were considered outside of the American ethical tradition, or disproportional to the stated political goals," one participant pointed out. The cost of losing the political high ground and the ethical debate was the loss of political support for the Vietnam War. From an operational perspective, having domestic support was essential, as U.S. forces could not fight with energy and conviction without it. A participant questioned the need to have ethical arguments to convince the Russians, Turks, Germans, or French, but all agreed that such an argument, clearly and authoritatively stated, was needed for the United States own citizens and troops.

The discussants agreed that the United States had faced serious challenges before and had the flexibility to adapt itself to face new ones. "Dealing with terrorism now is not substantially different from confronting the so called wars of national liberation of the Cold War era. What we ought to consider is a *just anticipatory self-defense, espionage and covert activity theory*," some suggested.

"War is a thin slice of the overall strategy" against terrorism, a participant argued. "It is in our interest, therefore, to see violence within a larger context that includes important moral and educational aspects of our campaign against terrorism." The United States might never manage to eradicate terrorism completely. At best, it might limit terrorism, and education was the most important long-term solution. Liberal arts education was particularly important in reinforcing ethical values. "Let us not forget that many terrorist leaders have had advanced degrees, although their education has often been of the black and white type of learning."

The discussion gravitated towards the possibility of attacking a sovereign state that harbored terrorists. "The Barbary pirates were sovereign and we attacked them.<sup>1</sup> Attacking sovereigns who mistreat their own peoples, under traditional just war theory is permissible as well. There is also the Genocide Convention." Another participant offered the clarification that there was nothing in the Genocide Convention to obligate states to take action, but there was an expectation that they would. Genocide was defined based on intent and the ability to commit the act, not on the basis of the numbers of victims involved. Thus reliance on the United Nations alone would not necessarily lead to action, although several participants emphasized the need for allies for practical reasons.

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<sup>11</sup> The Barbary states were Tripolitania, Tunis, Algiers, and Morocco. The United States conducted wars against several of these states from 1800-1815 in response to their attacks on American shipping in the Mediterranean.

### *Convincing Others* [second order subhead]

Four distinct audiences were to be targets of the U.S. message, a participant proposed. “We have to have the right message for each: the domestic audience, the Western Allies, the Islamic world, and the non-Muslim non-Western world.” We must articulate the right message, but what is correct in our way of thinking may not be so in other societies.” If there were different sets of values involved, how could one communicate, considering that the message that works for the domestic audience may not work for others?

Fine-tuning the U.S. message to suit different audiences generated considerable debate. The need for public diplomacy was great. The United States had invented all means of modern communication, yet was not utilizing any of those assets and skills in public diplomacy. The information capabilities of the United States and allies had to be fully utilized to illustrate the moral and ethical dimensions of the war on terrorism. A consistent moral message, tailored to various audiences from the person on the street to the intellectual and the clerical leadership, had to be delivered through all means: the internet, broadcast and print media, and other delivery means not yet developed. Furthermore, information policy had to be coordinated with foreign policy. It mattered, some argued, to justify the U.S. position. It was important to convince allies, and essential to persuade the Muslim world. Can the United States justify its position in a manner that resonated with their thinking? Was it clear if it ever could do so? Whether it could or not, America had to justify its behavior and criticize its opponents with equal sincerity. It was imperative to articulate the moral and ethical grounds for American actions, as coalitions and allies were indispensable to the United States and U.S. policies. To facilitate effective communication tailored for specific audiences, one participant suggested further disaggregating of audiences. “Among Muslim states alone we have democracies, moderate dictatorships and others.”

“But disaggregated messages may sound duplicitous,” others observed. Factual issues could be clarified and legal matters explained. Then there were the moral issues that we had to communicate convincingly. Finally, there was the issue of national self-interest. “We might have the moral right to do something but choose not to do so because the cost would be too high. It is important to be clear that there is no moral obligation to do good. There is moral obligation not to do harm, but to do good is voluntary,” one emphasized.

### *Losing While Winning* [second order sub-head]

“What the French Army did in Algeria—a reaction to what it experienced—is now condemned by the French government. For the French, violence was a two-edged sword. The French won the battle, but the use of torture delegitimized their position. Thus they lost the war after they had wiped out the National Liberation Front (FLN),” one participant observed. Another added that countering terrorism was not an exclusively American fight. Fighting terror was everybody’s fight and somehow all nations had to be persuaded to join in the global effort. “Had the Eiffel Tower rather than the World Trade Center been attacked, the European reaction would have been different.”

The global nature of the threat posed by terrorism had to be stressed with clarity and consistency.

One argued that a legitimate state of war with al-Qaeda existed. What was needed was a morally admissible standard for “unconventional warfare.” The ethical case had to be made publicly, as there were good political reasons for doing so. President George W. Bush used the term “war against terrorism with global reach.” The terrorists had defined themselves by attacking the United States. It was only appropriate to see and to pursue the war on terror from an ethical viewpoint. “The United States can and must respond to terror without ambiguity. Secretary of Defense Donald Rumsfeld stands out as a moral exemplar in that respect. In a world of ambiguity and wishy-washy talk, his response is clear,” one argued. Ambiguities made American actions appear hypocritical, costing the United States its credibility. “We need not be apologetic if there are moral and ethical reasons to act. There is no reason to be morally ambivalent. Clarity might not be acceptable in political terms, but is acceptable in ethical terms.”

The participants seemed to share this sentiment. “The man in the global street everywhere expects us to state our position, act as we have articulated, and justify what we have done. They always expect us to simplify and to be consistent,” one said. Another argued that the United States, as a large and diverse nation, could not speak with a single voice. “We have a free media that reflects different views and interpretations. This workshop illustrates that learned minds with shared interests sitting in a single room cannot agree on specific points. Presenting a singular consistent picture on behalf of the entire United States will be impossible,” the participant said. Commentators often misused terms and butchered the law and even lawyers were guilty of this. A fine lawyer with little knowledge of military justice may create confusion by not making distinctions between terrorists and uniformed soldiers, or between laws of war and battlefield rules of engagement, the participant added.

“But law does not have to be confusing,” another argued. Natural law was understandable to military and civilians, as well as to Christians, Jews, Muslims, and Buddhists. Natural law was based on human reason—a matter of reasoning about the nature of things. Thomas Aquinas was right on this. To stage a sneak attack on a civilian population did not seem in accord with natural law. We might claim that we all started from a Judeo-Christian-Islamic basis and that Western philosophy had a common trend to be recognized as the morally proper path. A counterpoint stressed that radical schools of thought within the Islamic world had attacked those who had tried to show the philosophy of the West to be compatible with Islam. Mainstream Islamic jurists in every Muslim country had rejected the notion put forth by terrorists in interpretations of the Koran and jihad. But these mainstream theologians had been dismissed by the extremists for that very reason as lackeys of the ruling elites. The elites in turn were themselves accused of having sold out to Western imperialists. “The notion that all people could see through reason the right and wrong of every issue, is therefore empirically proven wrong.”

*Prudence & Justice*[second order subhead]

The discussion turned to considerations of justice and just conduct. Responding to an attack on our city in just order was consistent with the just war theory and tradition, which did not require anything other than bounded prudence. Judgments in regards to when and how one should go to war were to be within the boundaries of prudence. Reasonable preemption was not inconsistent with prudence, and prudence and the importance of ends were not divorced from the tradition of just war. The distinction between justice of war “jus ad bellum” and justice in war “jus in bello” –justification for going to war versus justification for the manner the war is executed, were often not recognized when stating cases. The result was passionate but confused arguments. Awareness of what is just—the just approach—was an ethical consciousness that involved legal, social, economic, and political issues. Seeking and following a just approach was not only the right path but the prudent one because it facilitated reconciliation after the war and fair treatment of our own people during the war. The change in the public’s tolerance for collateral damage had given new urgency to the just approach as well.

Technology had improved precision and precision had elevated expectations to a new threshold of the acceptable. At the beginning of WWII our pilots told us that they could hit any city if big enough. Television footage of precision bombings in Iraq and Kosovo had illustrated the change in warfare. But precision weapons tempted civilians to interfere in the conduct of war. Furthermore, such weapons were not force multipliers; rather, they were force dividers for the only U.S. ally capable of using them was the United Kingdom. That factor alone made opposing U.S. military campaigns very tempting to the allies whose forces had lagged behind the U.S. and the U.K. in military innovations and advancements.

#### *Next Steps* [second order subhead]

Workshop participants concluded the discussion by seeking further discussions with a narrower focus. “We are trying to do too much. Our discussion has included topics of interest from theology to war on terrorism with global reach, potential war with Iraq, and war on ignorance. We should be clear that in some cases we are talking about a law-enforcement campaign with a *no end state*,” a participant concluded. The consensus of the participants at the conclusion of the day-long workshop was that a new development in international law regarding *the law of unconventional war, covert operations and espionage* should be explored.

## Conclusion

The workshop struggled with the challenges of understanding terrorism, determining ways of countering it, and crafting policy recommendations. To be useful, the recommendations must be both politically wise and operationally sensible. That was a tall order for a single day's deliberation, but participants pressed ahead with enthusiasm, aware of the nobility of their task. The recommendations that emerged at the end of the workshop are not the final policy suggestions desired, but a roadmap to achieve them. The comments and discussions are illustrative of intellectual clarifications on the one hand, and the recognition of a few areas of expertise that the workshop seemed to lack, such as theology. The participants covered considerable ground, developed an ever sharper focus, and proposed a follow-up conference to develop a new "**law of unconventional war, covert operations and espionage**" comprehensive enough to cover the war against terrorism with global reach.

Developing such a body of law would be a monumental task, although a two-day conference could serve as the initial step. Such a conference would require specialized experts, multiple sessions, simultaneous deliberations, and a relatively large number of contributing participants. Building on the results of this workshop on "Ethics and Terror," the Near East-South Asia Center will consider the feasibility and desirability of convening such a conference. We welcome any suggestions and offers of assistance to that end. If interested, please communicate with us and help us to create a suitable mailing list, by contacting Mrs. Svatka Preston <[PrestonS@ndu.edu](mailto:PrestonS@ndu.edu)> or Dr. Fariborz (Fred) Mokhtari <[MokhtariF@ndu.edu](mailto:MokhtariF@ndu.edu)>.

## UNDERSTANDING TERRORISM

Paul Christopher\*

Terrorism is an inflammatory term used pejoratively to label certain acts of violence as morally reprehensible. Defining what, precisely, counts as a terrorist act is difficult, even though there has been no shortage of efforts by scholars, political leaders and committees of experts.

Terrorists dress themselves in a variety of cultural, political and religious garbs. Examples of violence directed against innocent people in domestic societies, such as chemical agents released in public transportation facilities; bombs delivered through the mail to those involved in technological advances; the spread of biological agents in government mailrooms and offices; attacks against medical research facilities by animal liberation groups; and violence perpetrated against abortion clinics, physicians, their staffs and their clients are all examples of what most would consider as terrorism.

In international society, examples of terrorism include attacks against Olympic athletes; the murder and mutilation of those of different religions or tribes; bombs detonated to kill soldiers, sailors, police officers and government leaders in their homes or off-duty; bombs exploded in crowded stores, malls and other gathering places; destruction of airplanes, trains and busses (some of them carrying school children); and hundreds of other examples too varied to enumerate.

One might respond with the old adage, “I may not be able to define terrorism, but I know it when I see it.” But surely this is inadequate. The problem is that not all those involved in terrorist activities are mentally challenged. Many—perhaps most—believe deeply and sincerely that the cause they are pursuing is just and the methods they are using are justified. Some are well-educated people with strong moral convictions. Those who commit and support terrorist acts are more likely to refer to themselves as “freedom fighters” or “warriors for justice,” than as terrorists. Even the most blatant and seemingly uncontroversial instance of terrorism, the September 11<sup>th</sup> attack on the World Trade Center, is not universally condemned as morally reprehensible. In fact, many groups and individuals have praised this as an act of courage against an evil society.

Our challenge is both to understand the reasoning that forms the basis for such widely divergent moral judgments and to evaluate the moral arguments objectively. Condemning those who attack our neighbors and allies is all too easy if we don’t take the time to provide an objective moral grounding for our condemnation—one that acknowledges the position of those with whom we disagree and addresses the basis for their beliefs as well as the basis for our condemnation. We must acknowledge that not all

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who support or commit terrorist acts are intellectually unstable. Certainly those who are willing to sacrifice their lives on behalf of a cause must be single-mindedly sincere in their commitment to that cause. Understanding the rationality for this type of behavior is crucial if we hope ever to change the moral landscape.<sup>1</sup> History informs us that sheer power will seldom suffice; in order to change belief systems we must appeal to reason as well.<sup>2</sup>

A second objective will be to examine terrorism in terms of the Just War Tradition. We will want to determine whether there are allowances in this tradition for terrorist acts under special circumstances.

### **Defining Terrorism**

Having stated that developing a conceptual definition for terrorism that will satisfy all is close to impossible, we must nevertheless begin by agreeing on a definition to guide us in our investigation. I propose that we proceed with a working definition that is comprehensive enough to facilitate our discussion, while making no claims to fulfill all requirements of a conceptual theory. If during our exegesis, we encounter difficulties that stem from inadequacies in our working definition, we will attempt refinements at that time.

Terrorism: Any act that involves the illegal and intentional threat or use of random violence against innocent people for the purposes of instilling fear in others to realize a political agenda.

This definition is admittedly vague, but it does capture at least some of the necessary conditions for an act to be considered an example of terrorism.<sup>3</sup>

Notice that according to this definition, the violence unleashed against the victims is not the purpose of the attacks, but serves only as a means to the terrorist's goal. These victims are merely used or, as one commentator puts it, "used up" for propaganda purposes.<sup>4</sup> In sum, there is no direct correlation between the victims of a terrorist attack and the purpose for which the attack is carried out other than their membership in a group

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<sup>1</sup> I recognize that some who spread terror are simply moral imbeciles motivated by a variety of psychological infirmities. Rather than concern ourselves with these individuals, our discussion will focus on political movements that employ terrorist tactics. Examples extend from the PLO and al Qaeda in the international arena, to certain pro-life and environmental groups in domestic society, many of which have numerous affluent financial supporters who themselves seem oblivious to their role in underwriting terrorism.

<sup>2</sup> Changing belief systems is a slow process, often taking place over generations. Emphasis on the importance of this long-term strategy should in no way minimize the importance of a short term objective of seeking out, punishing and deterring those who plan, support or carryout terrorists acts.

<sup>3</sup> One problem with this working definition is that by including illegality as a necessary condition for an act to be considered terrorist, we exclude government sanctioned violence; e.g., the government sanctioned genocide carried out by leaders such as Pol Pot, Stalin and Hitler. A second problem is the stipulation that victims be "innocent." Some terrorists argue that those they attack are not innocent simply because they represent or support social values that differ from those of the terrorist.

<sup>4</sup> Nick Fotion, "The Burdens of Terrorism," in *Value in Conflict*, ed. by B. Leiser (New York: MacMillan, 1981), pp. 563-72.

that is somehow related to the terrorist's political agenda. The fact that the victims are arbitrarily chosen by the terrorist is what serves to instill terror in others because they recognize that anyone identified with a particular group could become a victim regardless of what that person may or may not have done. Indeed, the more innocent the victims and arbitrary their selection, the greater the impact of the terrorist attack.

The arbitrariness of the victims forms the basis for the most commonly voiced criticism of terrorism. Many pass judgment on terrorist activities by distinguishing between force and violence. According to this view, in domestic society force is a legitimate means of maintaining the social order in accordance with the law; violence is hostile, harmful behavior that is outside the law. In the international society of states, force is a legitimate means of addressing grievances between sovereign groups provided it is employed in accordance with the United Nations Charter and the Just War Tradition. Because both domestic and international terrorists operate outside the boundaries of both positive and natural law, their violent methods are always criminal in nature and illicit legitimate use of force in response.

Unfortunately, even though this line of reasoning may seem persuasive from the victim's standpoint, it does not address the terrorist's perspective. As we noted previously, most terrorists consider their actions to be a legitimate means of ending what they perceive as intolerable injustices in the existing social order. International terrorists might invoke military necessity or reprisals as an excuse for their methods. Both reprisals and military necessity provide a long-standing excuse for setting aside the Just War Tradition based on the exigencies of particular circumstances. (We will return to this argument momentarily.)

In domestic society, terrorists might claim (in the tradition of St. Augustine and Martin Luther King) that unjust laws are not laws at all and ought to be disobeyed. As one commentator puts it:

Terrorism is always a response to institutional terror. It is an evasion to label some acts as terrorism, while ignoring the institutional terror which underlies this form of protest.... The amount of terror inflicted by "terrorists," no matter how dreadful, is a thimbleful compared to official, legally-sanctioned terror.<sup>5</sup>

Rather than debate the views of commentators such as this one, or attempt to evaluate various political agendas, I propose that we assume that terrorists sincerely believe their cause to be just, and that given a belief in a just cause, we must determine when, if ever, it is morally permissible to attack innocent people intentionally in order to generate terror as a means of coercing others into accepting a political agenda.

Notice also that the political agenda of the terrorist distinguishes her from those who commit violence merely because they are deranged, the social malcontents, the

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<sup>5</sup> Martin Oppenheimer, "Defining Terrorism," in *The Nonviolent Activist* (May-June 1985), reprinted in *Terrorism: Opposing Viewpoints*, ed. by David L. Bender (St. Paul, Minnesota: Greenhaven Press, 1986), p. 87.

profiteering criminals, or other nefarious sorts who do not pretend to be motivated by a just cause. These individuals do not concern us here. While some of these agents of evil may seem like terrorists, and are often referred to as such in the media, they differ in that they are not acting on behalf of what they believe to be a just cause, even though their methods and the outcomes of their actions might be similar to those of the terrorists.

### **Making Moral Judgments**

Moral judgments regarding those who harbor different—but sincere—beliefs can be devilishly slippery because there is no single universally accepted ethical theory on which to base such judgments. Some condemn terrorist acts because they cause harm to innocent people. These critics subscribe to the principle that “it is always wrong to intentionally harm innocent people,” but such universal judgments are problematic because under other circumstances societies engage in acts whereby the innocent are harmed—such as the bombing of inhabited areas during war and the storming of non-military buildings in law enforcement.<sup>6</sup>

If terrorist practices were so easily disparaged, it is unlikely that they would have survived and proliferated for so long. Our analysis must examine the arguments that the terrorist uses in his own reasoning to justify his actions. For example, some might claim that the inadvertent deaths of innocents is insignificant in light of the larger long-term good that eventually may result as a consequence of policy changes that come about because of the “freedom fighters” violence. These proponents of terrorist practices believe that while intentionally harming innocent people is *generally wrong*, this principle may be overridden when the beneficial consequences warrant such actions. We will call this the *Consequentialist Argument*.

Those who believe themselves to be carrying out the will of God, consider their acts to be morally justified regardless of what they do at “God’s command.” Similarly, those who are believed to be acting on God’s behalf are sometimes regarded by their social peers as heroes and martyrs, irrespective of any incidental suffering their actions might cause others. We will refer to these views respectively as the *Divine Command Argument* and the *Culture Induced Argument*.

Similarly, some terrorists believe that carrying out God’s desires will garner them significant rewards in the “after-life.” We will call this the *Self-Interest Argument*.

A thorough examination of each of these viewpoints will aid us in our efforts to articulate *objective and persuasive* moral judgments about which acts of violence constitute terrorism and are, therefore, always morally wrong.

### **The Consequentialist Argument.**

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<sup>6</sup> The botched raid by the Federal Bureau of Investigation against David Koresh and his community in Waco, Texas, is one example where numerous innocent people were killed “legally” for a questionable objective.

Consequentialists believe that the correct moral alternative in any set of circumstances is the one that will produce the best consequences for all involved. Recall the type of terrorist movement we are examining is limited to those whose members believe they are helping justice to prevail. They believe in justice, but they don't believe that the current state of affairs is just. It is not that they want injustice, but that they want to redefine justice according to their own values. Given this agenda, they conclude that the ends they seek are worthy enough to justify the means they employ. Their argument might be formulated this way. The current state of affairs is unjust, and those actions that help bring an end to the current unjust state of affairs are morally permissible.

While this type of consequentialist reasoning has some intuitive appeal, close analysis exposes several difficulties. The claim that *any* action that helps to bring an end to a perceived unjust state of affairs is permissible seems highly questionable. The terrorist's criticism of the state of affairs that he wishes to change is based on a particular notion of justice, and there is always a limit to the extent of harm (in the form of intentionally killing or injuring innocent people) that one can reasonably carry out *for the sake of justice*. The terrorist violates the very consequentialist principle that he invokes to support his actions when the harm he inflicts outweighs the good that his actions might achieve. The premise that *any* action might be permissible for the sake of bringing about "justice" is not tenable from a consequentialist perspective.

Another difficulty for proponents of the consequentialist argument derives from a moral judgment concerning the need to change the present conditions. A judgment that ranks one socio-political climate as superior to another not only involves a value judgment, but also implies that anyone making the assessment ought to be free to determine their appropriate social contract. While terrorists might be able to justify the desire for certain changes within their societies, actions aimed at changing conditions in other societies are not permissible given this line of reasoning. In short, proponents of this view demand a principle of freedom for themselves that they deny to others. A failure to acknowledge reciprocity in what should be valued cannot reasonably justify actions aimed at imposing one's own values on others. In other words, if we claim to value freedom for ourselves, we can't justify violating another society's freedom to choose.<sup>7</sup>

Finally, even if the above difficulties could be overcome, the consequentialist argument would only make sense if the "desired" consequences could be assured. In those cases where terrorist actions result in widespread suffering with little or no likelihood of achieving the terrorist's goals, any claimed justification for terror evaporates.

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<sup>7</sup> Plato (Socrates) makes an analogous argument in *The Republic*. In addressing the parable of the Ring of Gyges, Socrates notes that it is inconsistent to will that all members of a social order conform to a particular standard of behavior and at the same time to make oneself an exception to that universal standard. As Immanuel Kant has put it in his own grounding for morality, "we must act always so that we could will the maxim of our action to be a universal law."

## The Divine Command Argument

The Divine Command Argument is the view that any action becomes morally right when it is commanded by God. This view has its origins in the biblical story of Abraham and Isaac as found in the *Book of Genesis* 22. According to the Judeo-Christian-Islamic Tradition, God commands Abraham to sacrifice his son as a test of his faith and loyalty.<sup>8</sup> At the last instance, just as Abraham prepares to kill Isaac, God intervenes, the boy is saved, and a ram is offered in sacrifice instead. Following, we get this account.

By myself I have sworn, says the Lord, because you have done this, and have not withheld your son, I will indeed bless you, and I will multiply your descendants as the stars of heaven and as the sand which is on the seashore. And your descendents shall possess the gate of their enemies, and by your descendents shall all the nations of the earth bless themselves, because you have obeyed my voice. (*Genesis* 22, 15-18)

Notice that it is not relevant that Abraham does not actually carry out the execution of his son. The point seems to be that the faithful should be willing to perform without question even what is, at least from our temporal perspective, one of the most heinous acts imaginable precisely because God commands it. If so, then even the most abominable act of terrorism would, similarly, be obligatory at God's command.

In the Abraham example, we are told that God was testing the faith of Abraham. One problem with extending this Biblical example to other instances of violence is the difficulty of accurately comprehending God's purpose. The terrorist must act under the presumption that the political agenda of his organization is also God's agenda. This is problematic, however, because terrorist acts are seldom successful in achieving a long-term political solution, and if such acts were milestones along the road to fulfilling God's wishes, surely the outcome eventually would be achieved. In retrospect, it seems more likely that those who sponsor terrorism invoke God's will only to lend credibility to their own agenda.<sup>9</sup>

The terrorist might respond, however, that it is not our place to question God's purpose. Consider the plight of Job who endured terrible suffering at the hands of God without even the hint of a reason. When Job questions God's actions, his countryman responds: "The Almighty! we cannot discover him, pre-eminent in power and judgment; his great justice owes no one an accounting" (*Book of Job*, 37: 23). And God Himself addresses Job out of a swirling maelstrom: "Who is this that obscures divine plans with words of ignorance?" (*Book of Job*, 38: 2). Thus the terrorist might respond that we must

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<sup>8</sup> The Judeo-Christian account is that God commands Abraham to sacrifice Isaac. The Islamic account is that Allah commands Abraham to sacrifice Ishmael. Isaac is the offspring of Abraham and Sara; Ishmael is the offspring of Abraham and Hagar. Sara tricks Abraham into naming Isaac as his heir, and Hagar and Ishmael are banished, later becoming the wellspring for the Arab nation.

<sup>9</sup> All societies steeped in a single religious tradition have invoked their deity on behalf of their political agendas vis-à-vis their neighbors, and approximately 50% of the time their predication has been validated.

always carry out God's will without demanding any knowledge concerning a rationale for His desires.

Again, however, such an interpretation is troubling because there is a vast difference between suffering harm and perpetrating harm on others. Job endured great calamity, but he did not himself inflict pain and suffering on others. While one might argue that enduring harm at the behest of God without question is the mark of a martyr, inflicting harm on other innocent people requires a higher standard, especially when the command for such action comes through an envoy or other intermediary. Surely those who perpetrate great suffering on innocent people under the umbrella of divine command must recognize the possible corruptibility or self-interest of those who convey such messages to them. In sum, were God to want His faithful to carry out what amounts to the most ignoble actions imaginable under our social order—the intentional harming of innocent people—it seems that He would not make controversial political leaders the conduits of His decrees. Would anyone have expected Abraham to sacrifice his son based on a second or third hand command from heaven relayed to him by a political actor? Of course not. Terrorists, however, who invoke divine command as the basis for their actions are doing just that.

Even in those cases where one believes harming innocent people intentionally is a manifestation of God's will, the standard of certainty for acting on such a belief must be impossibly high. While it may be praiseworthy to endure personal suffering based on a belief regarding the will of God, inflicting harm on others on that basis seems irresponsible. All lucid persons acknowledge the occasional fallibility of our judgments. Given an intellectual awareness of the possibility of false beliefs, of mental lapses and illnesses, of mistaken communications and a myriad of other factors that contribute to the enormous uncertainty of our belief structures, how can anyone ever be certain that intentionally harming innocent people at random is really the will of God? It seems to me that even an omnipotent and omni-beneficent being would find terrorist actions based on sincere but weakly substantiated beliefs concerning His desires, to be morally reprehensible.

In sum, we must conclude that while one may reasonably *suffer harm* based on a belief that such suffering is the will of God, one cannot *inflict harm* on innocent people without direct, indubitable, first-hand knowledge that doing so is, indeed, a divine decree.

### **The Self-Interest Argument**

Sometimes referred to as *egoism*, this is the view that people always act to maximize their own long-term well-being. Terrorist documents and diaries discovered in the aftermath of the 2001 World Trade Center attack referred to the promise of a plethora of rewards as a result of martyrdom, to include a variety of material comforts and the “possession” of numerous female virgins, in the after-life. These documents and diary entries became a source of considerable ridicule as they revealed motivations for suicidal attacks. Nevertheless, for devout believers, the promise of eternal reward can be persuasive.

In the Judeo-Christian-Islamic Tradition, the faithful are rewarded by God for their good deeds, either in this life with wives, children and material possessions (as is done in the *Old Testament*), or in “the afterlife,” as promised by the *New Testament* and the *Koran*. The *Koran* specifically teaches that those who die in battle will be rewarded by Allah:

And those who are slain in the way of Allah, He rendereth not their actions in vain, He will guide them and improve their state, and bring them in unto the Garden which He hath made known to them. . . . [In the Garden] there are rivers of water unpolluted, and rivers of milk whereof the flavor changeth not, and rivers of wine delicious to the drinkers, and rivers of clear-run honey: therein for them is every kind of fruit with pardon from their Lord. (Sûrah XLVII 3-6 & 15)

Fundamental teaching in the Judeo-Christian-Islamic Tradition, however, does not support this as a justification for behavior independent of an agent’s motives. Good deeds done for *selfless* reasons, i.e., done from love of others or of God, merit great rewards. Good deeds done for the purpose of garnering a personal reward, are selfish acts, not deserving of commendation. Indeed, selfish actions always are considered sinful, rather than praiseworthy. Thus, those who attempt to gain for themselves personal rewards by attacking innocent people in an effort to earn favors from God are behaving selfishly, and have negated any claims for compensation. There is no divine reward for selfish acts, no matter how objectively good they might be. In the Judeo-Christian-Islamic Tradition, an agent’s intentions are as much or more important in evaluating his or her actions as are the consequences of the actions. God is not one with whom to bargain for favors.

In short, actions done for the purpose of claiming a divine reward are motivated by self-love (*cupiditas*), not the love of God, and selfishness is never morally praiseworthy. This also applies to those who are motivated by a desire for status within their community or social group either for themselves or for their families.

We must conclude that no sacrifice—no matter how great, that is motivated by a selfish expectation of reward, for self or for family either in this life or the next, can ever be considered praiseworthy. Those who commit such acts are merely using others—taking their lives—for selfish reasons and are deserving of condemnation. Even worse, they sin hiding behind the cloak of God to sanctify despicable selfish deeds.

### **Cultural Induced Actions**

While moral judgments vary widely among cultures, most ethicists agree that ethical principles are universal. Even though most ethical principles are universally recognized as *prima facie* good, there is often disagreement as how to adjudicate between various of these principles when they come in conflict, as they invariably do in our complex social world. A well known story recounted by Herodotus in his *History*, illustrates this well.

According to Herodotus, the King of Persia (Darius), brought the representatives of two cultures before him and had each explain how they treated the bodies of their deceased fathers. The Callatians noted that it was customary to eat their bodies, while the Greeks spoke of cremation. Each was horrified at the other's account. Herodotus concludes that judgments about what is right and wrong are relative to a given society.<sup>10</sup>

For those who adhere to a virtue-based model of ethics, differences can seem even more disparate. We know from experience that what counts as a virtue can differ widely from culture to culture. Cultures reinforce and prioritize their own particular virtues by giving special status to those who manifest them. A terrorist group's ability to recruit adherents to their cause, especially when it involves great sacrifice or even death, is strong evidence that group members receive special status as heroes among their peers. As long as the perception of terrorists as heroes perpetuates in a given society—as long as it is considered virtuous to carry out terrorist acts—there will not be a shortage of new willing recruits. Our goal in this section is to understand why those who commit terrorist acts are revered by their peers and whether such reverence is ever warranted.

We will begin with a discussion of the classical view that the end of a moral education is to develop virtues, and examine how such thinking can contribute erroneously to celebrating terrorists as heroes. It will be helpful to start with a common understanding of what counts as a virtue and why this might vary from culture to culture.

Plato defines a virtue as a quality *in virtue of which* a function is performed well. Consider, for example, a knife used to prune grapevines. Sharpness is a virtue in a pruning knife because sharpness is a quality *in virtue of which* a pruning knife performs its function well. This is a technical virtue.

Human virtues are of two kinds: technical and moral. Technical virtues have to do with performance of functions; moral virtues have to do with one's character. For example, physical strength and agility are virtues in a wrestler; objectivity and fairness are virtues in a judge. Physical strength is a technical virtue; fairness is a moral virtue. Moral virtues relate to how a person treats others.

We find that not only are virtues particular to various social roles, but because the status of social roles—judge, warrior, statesman, professor, seamstress, artist, hockey player, priest—differs in different cultures, these cultures are likely to celebrate different behaviors as virtuous. How, then, are we to make any sense of virtue as a means of making ethical judgments? The problem is that moral virtues, just as technical virtues, are not in themselves praiseworthy but take their moral qualities from the ends at which they aim. Perhaps another example will be helpful.

Sharpness is a virtue in an ax; sharpness is a vice in a splitting maul. Both tools are similar in shape and composition and function, but the particular use to which they are put—cutting logs rather than splitting them—causes the desired characteristics to be dissimilar. Analogously, moral qualities in human virtues can only be assessed in terms

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<sup>10</sup> An ethicist might respond that both cultures ascribed to the principle that it is obligatory for children to honor their deceased fathers, even though the methods for doing so were quite different.

of the ends they serve. Let us take a quality that is unanimously regarded as a virtue—courage—and use this as a means of illustration.

A person can be said to behave courageously when he or she attempts to achieve a particular goal that entails the threat of a counter-goal that he or she wishes to avoid. When the agent endeavors to bring about the desired goal despite the risk of the dreaded counter-goal, he or she has acted courageously.

Notice that our conceptual theory for courage makes no claim about the moral quality of the goal or the counter-goal. This is because courageous actions are not themselves praiseworthy independent of the purposes toward which the courage aims.

A teenager might take foolish risks in order to impress his peers with his courage, but his actions would have no moral significance. Likewise, a burglar might risk her life to steal something of value, but it would be a misnomer to consider her act an exemplar of moral virtue. Indeed, any daring act done from selfish motives (as we noted in a previous discussion) is not considered praiseworthy according to most religious traditions, and should not be considered virtuous.

Thus it is an aberration to praise a terrorist for his courage independent of the purpose for which he manifests this courage. As Emmanuel Kant tells us in this *Groundwork of the Metaphysics of Morals*: “Intelligence, wit, judgment, and the other talents of the mind, however they may be named, or courage, resoluteness, and perseverance as qualities of the temperament, are doubtless in many respects good and desirable. But they can become extremely bad and harmful if the will, which is to make use of these gifts and which in its special constitution is called character, is not good.”<sup>11</sup> Societies or cultures that celebrate acts of courage independent of the purpose for these acts, have badly misunderstood moral virtues and how they relate to character.

A second important distinction for us is the difference between a courageous act and a courageous person. Anyone might perform a single courageous act under certain circumstances or for a particular motive. A courageous person, however, is one who is willing to behave courageously under the right circumstances for the right reasons. Even a pusillanimous person might give the appearance of having courage by a single daring act; a truly courageous person is the one who can be counted on to act courageously under any circumstances. Given these two accounts, we must find it is unlikely that many terrorists can be said to have the virtue of courage as a component of their character. Furthermore, even if one is successful in behaving courageously in a particular instance, the moral quality of that action is assessed by its consequences, not by the risk or the pain endured by the agent.

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<sup>11</sup> Immanuel Kant, *Foundations of the Metaphysics of Morals*, tr. by Lewis White Beck, (Indianapolis: The Bobbs-Merrill Company, 1981) p. 9.

**September 11, 2001**

Because this single event has had such enormous impact on this nation and around the world, I want to discuss briefly what happened on September 11, 2001, and how the United States responded to it. This catastrophic event will provide a platform for our discussion of terrorist and Just War Theory.

We noted that terrorism differs from various other types of nefarious, criminal violence because it is done for the purpose of achieving certain political objectives. In response to the September 11<sup>th</sup> attacks against the Pentagon and the World Trade Center, many may reasonably ask “why?” Why would a group of people from the other side of the world want to murder thousands of innocent people in America.

The object of the attack was not to destroy the innocent people who worked in these buildings, but rather to make a political statement against the principles that define America. The terrorists did not care about the hundreds of innocent people who died, or about the thousands of relatives who mourned their losses whom they did not even know. The lives and tranquility of these men and women were simply sacrificed as a means of symbolically attacking America’s core values—for we proudly admit to be the ultimate masters of our government and its policies. Let me explain why I believe the way that America and her allies chose to respond to these acts of terrorism was appropriate.

The most important decision that a democratic country ever makes is whether or not to go to war. Following the attack on the World Trade Center, the US went to war against those who planned and/or participated in this attack. As citizens, each of us must make a moral judgment about whether the use of armed force to achieve political objectives is right or not. We are, after all, especially in a democracy, at some level responsible for the actions of our government.

We recognize that whenever a nation resorts to the use of military force to achieve political objectives, it is highly likely that innocent people will be killed. If so, then how is what the United States and its allies did in Afghanistan different from what the terrorists did—namely, engaging in actions that they knew would result in the deaths of innocent people? Understanding the answer to this question is of great importance to citizens in a democratic nation.

Let us begin by extending our discussion of freedom and justice as the two fundamental American values and see how these apply in international society. Understanding the values that govern political discourse among civilized nations in the international society of states may help us to understand the world’s outrage and response to these terrorist acts.

The two values that form the foundation of the United Nations Charter are territorial integrity and political sovereignty. Territorial integrity means that nations should always be free from the threat of attack. In domestic society, any individual who is attacked always has the right to defend himself or herself and, analogously, nations have the same right. Just as the security and safety of my person is sacrosanct to me, so

is the security and safety of a state sacrosanct to its citizens. We might think of this international value as corresponding to our nation's core value of justice for all, only the *all* in this case is the international society of states.

The second value, political sovereignty, means that each nation's people are free to choose for themselves how they are to be governed. In domestic society people are free to do as they choose as long as their actions do not interfere with the freedom or well-being of others. Political sovereignty means that people can choose democracy, monarchy, communism, oligarchy, or whatever they want, as long as their mode of government does not interfere with the freedom or security of other nations. How a populace collectively chooses to be governed is no one's business outside the community of that populace, because they are the only ones subject to that government. When the 9/11 terrorists attacked America they also attacked the fundamental international values of political sovereignty and territorial integrity.

Members of those terrorist organizations that were behind the attacks in New York and Washington, D.C. believed that governments that permit freedom beyond the parameters the terrorists prescribe, are decadent and should be overthrown, and that attacks against the people or property of such governments are justified. They attacked the United States and the values it embodies, and they attacked the safety and tranquility of the homes and firesides of America's citizens.

In domestic societies, when a person has had his or her freedom or safety attacked, the police and magistrates intervene on behalf of the state to see that justice is done. In the international society of states, there is no analogous common authority to enforce justice as there is in domestic society. The United Nations has no armed forces at its disposal and little or no influence on the actions of sovereign states. Each state or alliance of states must itself fill the role of police officer, bailiff and judge when it has been wronged. Just as the use of force is sometimes necessary in dealing with criminals in domestic society, sometimes the only way to bring about justice in international society is through the use of force.

With this background as a justification for the use of force under some conditions, we are now ready to examine how war differs from terrorism.

### **Terrorism and the Just War Tradition**

In some ways war and terrorism may seem similar. Both are political acts that seek to achieve their objectives through the use of force. Because they both aim at political objectives, they differ qualitatively from the violence employed for personal gain by robbers, drug dealers, or thrill seekers. But that is where the similarity ends.

War differs from terrorism in that it is a legal remedy to a dispute, always as the last resort. Since antiquity, civilized peoples the world over have recognized the necessity of using force in the name of justice, and have delineated concise rules and limits on how and when force may legitimately be used. Let me give just a couple of examples:

The Chinese philosopher Laotse, in the *Book of Tao*, written in the 6<sup>th</sup> century BC, notes the following about the legitimate objectives of war:

A good general effects his purpose and stops. . . .  
 Effects his purpose but does not take pride in it.  
 Effects his purpose as a regrettable necessity.  
 Effects his purpose but does not love violence.

The Hindu *Book of Manu*, written in the 4<sup>th</sup> century BC, states the following about who can legitimately be attacked in war:

When the king fights with his foes in battle, . . . let him not strike one who joins the palms of his hands in supplication, nor one who flees, nor one who sits down, nor one who says “I am thine,” nor one who sleeps, nor one who is disarmed, nor one who looks on without taking part in the fight, nor one who has been wounded, but in all cases let him remember the duty of honorable warriors.

Plato, in his *Republic*, provides the following limitations on the use of violence when fighting in cities other than one’s own:

They will not ravage Greek territory nor burn habitations, and they will not admit that in any city all the population are enemies, men women and children, but will say that only a few at any time are their foes, namely, those who are to blame for the quarrel. And on all these considerations they will not be willing to lay waste to the countryside, since the majority of the inhabitants are their friends, nor to destroy the houses, but will carry the conflict only to the point of compelling the guilty to justice. . . .

One more quotation, taken from Marcus Tullius Cicero, a famous Roman politician and philosopher, writing about just causes for resorting to use of force during the first century BC:

A war is never undertaken by an ideal state, except in defense of its honor or its safety. . .

Those wars what are unjust are undertaken without provocation. For only a war waged for retaliation or defense can actually be just.

No war is considered just unless it has been proclaimed openly and unless reparation has first been demanded.

In fact, every civilized society for which we have written records, whether from Europe, Asia, Africa, the Middle East, or North and South America, has recognized some restrictions on when to use force and how it should be used. Collectively, the principles that underline these restrictions are called the Just War Tradition.

Concerning when it is lawful to go to war, The Just War Tradition says that war can only be declared by a lawful government; that it must be declared publicly to give the other side a chance to meet demands in order to avoid violence; that there must be a just cause for going to war that cannot be resolved any other way—in other words, war is always a last resort. Regarding how a war should be fought, the Just War Tradition states that only military targets can intentionally be attacked.

Terrorism rejects the entire legal framework of war. Terrorists don't conform to Just War Tradition, nor do they narrowly aim at military targets. In fact, terrorists hide behind the just war tradition for their own safety. They purposely attack innocent people and then depend on the moral acumen of their victims to keep themselves safe.

In other words, terrorists intentionally murder innocent people, then locate themselves in places where it is almost impossible to attack them without endangering innocent people. Terrorists thus shield themselves knowing that government forces wishing to fight back must violate the same moral principles that are the cause of going after the terrorists in the first place.

To counter a terrorist attack is to face a seemingly impossible dilemma: if the society does not respond in force, the terrorist organizations will continue to murder innocent citizens; if it does respond, it will inadvertently cause innocent people to suffer. Either way, innocent people are harmed, although they may be innocents citizens of different states.

Fortunately, the Just War Tradition recognizes this very difficulty and has adopted a method for addressing it. (The reasoning is first discussed by Aristotle in the *Nicomachean Ethics* and later by Aquinas in *Summa Theologica*.) The basis for solving the dilemma lies in the acknowledgement that one action can sometimes have two effects: an intended good effect and an unintended bad effect (also known as the Doctrine of Double Effect). This doctrine states that one can perform an action with both a good and a bad effect as long as certain conditions are met. First, the bad effect must be unintended; second, it must be proportional to the good effect; and third, those performing the action must try to minimize the bad effect *even if it means increased risk to their own soldiers lives*.

Indeed, this is precisely what is happened in Afghanistan. Rather than massive air strikes against the population, the attacks were aimed narrowly at military targets. Rather than an extended air and artillery campaign designed to attack the will of the Afghans, the US and its allies limited their attacks and conducted ground operations to unseat the terrorist regime. There is substantially more risk to US soldiers in a ground operation compared to dropping bombs from 15,000 feet or firing cruise missiles from hundreds of miles away. Avoiding the risk by putting innocent noncombatants in harm's way, however, is certainly not legitimate.

Did innocent Afghan civilians die as the result of our military actions? Certainly. But civilian casualties were unintended side effects of our actions aimed at legitimate

military targets; the number always to be kept to a minimum by carefully attacking only military targets.

Given the two choices, not strike back against terrorism or strike back while adhering to the tenets of the just war tradition, the US chose the course of action designed to result in less harm to all innocent noncombatants.

### **Conclusion**

Although terrorists may attempt to justify their deeds either through a variety of arguments or an appeal to the Just War Tradition, neither is sufficient to excuse them from the harm that they cause. Even those who sincerely believe in their cause are misguided agents of evil. Those who celebrate terrorists acts against individuals or groups for causes with which they agree, are guilty of fostering the spread of evil.



## ETHICS, RELIGION, AND TERROR: THE AMERICAN UNDERSTANDING

Bradley C. S. Watson\*

### Abstract

In the context of the war with Iraq, and the war on terror more generally, U.S. Catholic and Episcopal Bishops have been critical of what they characterize as the new strategic doctrine of “preemptive strike.” This paper first argues that the Bishops’ positions, framed in “just war” terms, reveal insufficient attention to the importance of prudence, or the proper discretion of the statesman, in matters of war and peace. Further, that they do not sufficiently recognize the need for humans to deal with human sinfulness, or the flexibility that “just war” doctrine must and does allow in dealing with this sinfulness in its contemporary manifestations. Second, the paper argues that the Bishops do not necessarily reflect the “Western” ethical mainstream. The paper develops this position by arguing that classical Western philosophic rationalism was willing to accept war not only as inevitable, but as an ethical good in certain circumstances, and that the greatest Christian theologians, including Augustine and Aquinas, support the conclusions of the classical, pre-Christian thinkers. Third, the paper argues that the American Founders and their contemporaries adopted a synthesis of Catholic natural law teaching and natural rights-based philosophic doctrines as to the nature of just government, which led them too to consider armed conflict to be an ethical good in certain circumstances. Current theological interpretations are therefore in some degree of tension with the Founders’ understanding. In sum, the paper argues that the classical and Christian thinkers were more realistic and closer to the truth in their assessment of human sinfulness and its implications, than many contemporary theologians. The paper concludes with thoughts on how we ought to understand our moral, political and military missions in light of the Western ethical and theological traditions.

### I. Just War and Terror: Contemporary Controversies

What is the moral response to terrorism, or the moral response to rogue states that support, or might support, terrorism? According to certain religious leaders and ethicists, the moral ambiguities associated with these questions are so grave as to preclude what they characterize as “preemptive” military action against Iraq in particular.<sup>1</sup>

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In this paper, I want to place America's most pressing foreign policy concern—the confrontation with Iraq—into an overall ethical framework which, I suggest, will help us—as military and defense professionals, and as a society—to articulate clearly, and in morally appropriate terms, our aims and our justifications for going to war. Such an ethical framework is important not only for this conflict, but for any and all future conflicts related to the war on terror. If we are not clear about our ethics, about our moral bearings, we as a democratic society are not likely to pursue the war with the vigor that it deserves. Ideas ultimately rule the world. Action—including military action—follows ideas as surely as the sun rises in the east and sets in the west. If our ideas are muddled, so will be our actions. In the present case, if we have *unjustified* ethical doubts about ourselves, our pursuit of the war on terror will be unnecessarily tentative, and possibly incomplete and incoherent.

We can usefully turn our attention to several clearly articulated ethical statements on Iraq from mainstream Catholic and Protestant theologians. These include the September 2002 Letter to President Bush on Iraq, from Wilton D. Gregory, President of the United States Conference of Catholic Bishops (“the Letter”) and follow-up statements from November 2002 and February 2003.<sup>2</sup> The November follow-up statement explicitly makes Bishop Gregory's concerns the concerns of the Conference as a whole, and the February statement from Bishop Gregory reaffirms and again raises what it deems the “serious ethical questions and concerns our Conference has expressed” in the earlier communiqués. (I summarize the main thrust of the Bishops' position below. All letters and statements are reprinted in their entirety as appendices to this paper, along with certain Episcopal and Anglican Church statements.)

It is worth noting that mainline Protestant churches have also issued statements on the moral implications of war with Iraq. The Church of England—British Prime Minister Tony Blair's church—and its U.S. branch, the Episcopal Church, have raised concerns similar to those of the Catholic Bishops, although they are not as specifically grounded in traditional just war criteria.<sup>3</sup> Together, the statements make a case similar to the Catholic Bishops' case against war with Iraq (as the reader can judge for him or herself by consulting the appendices). It is a case made largely by raising questions, doubts, and concerns as to the justification for, conduct of, and outcome of, the war.

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<sup>1</sup> Events are transpiring very rapidly. The original version of this paper was initially delivered in December 2002 at National Defense University. The current, written version was completed on March 14, 2003—just ahead of the outbreak of full-scale hostilities between the United States and its allies, and Iraq. Some of the language in the paper might therefore seem anachronistic, but its philosophical and ethical import should not, nor should its relevance to future hostilities in the “war on terror.”

<sup>2</sup>“Letter to President Bush on Iraq,” September 13, 2002, from Bishop Wilton D. Gregory, for the Office of Social Development and World Peace, U.S. Conference of Catholic Bishops. See also the follow up statements on Iraq, dated November 13, 2002, and February 26, 2003. The full texts of the Letter and follow up statements are attached to this paper as Appendices I, II, and III.

<sup>3</sup> See, for example, “A Letter from the House of Bishops of the Episcopal Church to Congress,” October 2, 2002, and the Archbishop of Canterbury/Cardinal of Westminster Joint Statement on Iraq, February 20, 2003. The full texts of the letter and joint statement appear as Appendices IV and V respectively.

My argument is that proper ethical reasoning can be less equivocal, and more unequivocally supportive of military engagement in these and similar circumstances, than these religious leaders suggest. As I have said, dangerous times demand that we think clearly and confidently about our moral purposes. It is certainly important that we as a society not become lovers of war, but it is equally important that we not become despisers of war. We need, in all cases, to become lovers of *justice*, and understand armed conflict as one of the necessary means by which justice might be pursued.

Military professionals tend to understand this, although they are not in all cases familiar with the Western ethical tradition's pronouncements on the subject—which pronouncements might help them better articulate their role. Our society as a whole too might or might not understand this and is prone to be misled. *If* the society is bombarded with misinterpretations of our ethical tradition as concerns just war, it is prone not to offer military leaders and statesmen the political support that justice demands. So for these reasons, a solid intellectual foundation is critical to the war on terror.

For purposes of clarity and brevity, I will concentrate in this section on the September Letter, which I claim exemplifies the thinking of many leaders in Christian churches (including especially the Catholic and Episcopal churches), and indeed the thinking of many religious and ethical opinion leaders outside these denominations. I want first to deal with the Letter on its own terms, before comparing its theological and philosophic dispositions and tendencies to those embedded in the Western and American traditions as a whole.

The Letter (Appendix I) lists several just war criteria, and then proceeds to ask questions and, to a lesser extent, put forth certain postulates. These questions and postulates certainly *imply*—without, generally, coming out and saying—that a military strike on Iraq in the circumstances existing from the September 2002 Letter up to and including the February 2003 statement, would violate all or most traditional just war criteria of the Western tradition in general, and of the Catholic Church in particular.<sup>4</sup> The just war criteria articulated in the Letter include just cause, legitimate authority, probability of success, proportionality, and noncombatant immunity.

First, with respect to “just cause,” the Letter makes the case that “preemptive, unilateral” use of force against Iraq is unjustified unless Iraq can be clearly shown to have been involved in the September 11, 2001, attacks on the United States, or that Iraq is about to engage in an “imminent attack of a grave nature.” The Letter implies there is no “just cause” in the absence of such a nexus. Second, with respect to “legitimate authority,” the Letter claims—in opposition to “unilateralism”—that “some form of international sanction, preferably by the U.N. Security Council” is required for a war to be supported by the requisite “legitimate authority.” Third, with respect to “probability of success and proportionality,” the

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<sup>4</sup> A full discussion of the development and extent of Christian and secular just war criteria—both *jus ad bellum* and *jus in bello*—is beyond the scope of this paper, but can be found in Paul Christopher's excellent book, *The Ethics of War and Peace: An Introduction to Legal and Moral Issues*, 2<sup>nd</sup> ed. (Upper Saddle River, NJ: Prentice Hall, 1999), esp. chs. 1--6.

Letter questions whether there will be either, because of the inherent unpredictability of war. Fourth, with respect to “norms governing the conduct of war” (or *jus in bello*), the Letter suggests that the “incalculable” consequences for the civilian population are a moral barrier to war.

Let us examine each of these criteria in turn.

As to just cause, the letter in various ways suggests its absence because an attack on the U.S. by Iraq has not occurred and there is no “clear and adequate” evidence that such an attack will occur. While the Letter does not ask for apodictic proof, it appears to come close. But as Aristotle warns us in the *Nicomachean Ethics*, the same level of precision cannot be expected in the treatment of all subjects alike, and the problems of politics—of what is noble and just—are particularly tough nuts to crack. The well-educated man, according to Aristotle, seeks the level of precision that is appropriate to the field of inquiry.<sup>5</sup> In the case of Iraq, President Bush has clearly indicated that there is evidence of Iraq’s complicity in terrorism directed at the United States, and furthermore that the possibility of such complicity is always, in decisive respects, “imminent.” One might disagree with the administration’s arguments, but they cannot be overcome simply by raising a question as what is clear or adequate.

Is just war theory flexible enough to allow changes in strategic doctrine as new circumstances arise? The just war tradition’s emphasis—if it be an emphasis—on responding to an attack or proof of the imminence of an attack arose out of a time and place in which weapons of mass destruction (and terrorists willing to use them) were unknown. Such weapons are capable of obliterating not just kings or armies, but entire civilizations. In the face of such weapons—particularly in the hands of a *dictator who has already used them*—prudence would dictate that the standards of proof be relaxed in the direction of showing a mere “predilection” for using them. It is worth noting too that this is a dictator who has publicly declared his intention to create a pan-Arab nation led from Baghdad, has invaded his neighbors in an effort to begin bringing this about, and has supported what can only be described as an attempted terrorist assassination of a former U.S. President. An actual “fresh” attack or proof of imminence of such an attack can hardly be the relevant just war criteria in such a case.

Likewise, in the case of non-state terrorists, prudence would dictate that action be taken on the mere possibility (in the present case, a near certainty) that they would use such weapons should they obtain them. Could a prudent statesman ever wait to the point that he could prove an attack to be grave and “certain” in the face of this new technology? Non-state terrorists with essentially undetectable weapons of mass destruction (indeed, even state actors concealing rather than signaling the origins of WMDs) present a new kind of

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<sup>5</sup> Aristotle, *Nicomachean Ethics*, tr. Martin Ostwald (New York: Macmillan Publishing Company, Library of the Liberal Arts, 1962), 1094b.

threat—a form of “asymmetrical warfare”—that unquestionably requires new modes of defense, and new strategic doctrines on the part of the civilized world. Terrorists operate entirely in the shadows, answer to no public authority, and strike catastrophically without warning. Once having struck, they are either dead, or again hidden in the shadows. They present no national face which can bear the brunt of a defensive or retaliatory maneuver on the part of the aggrieved state or, indeed, civilization. Perhaps traces of cooperation between the terrorists and a state sponsor could, *ex post facto*, be established. In any event, it might by then be too late in the most important sense.

Theory will always give way to necessity, but my claim is that just war theory—rooted as it is in the rich Christian (and especially Catholic) religious and philosophical traditions—implicitly recognizes this reality *ab initio*. As I will argue below, Aquinas reminds us that the intention of the lawgiver is paramount when attempting to understand the nature and limits of the natural law. Rules designed to further justice and God’s purpose cannot be used to encourage injustice and frustration of God’s purpose. If one draws conclusions from the primary or secondary precepts of natural law that are at odds with God’s desire to further justice in this world, one’s reasoning—rather than the natural law itself—must be suspect. Just war theory cannot be understood to shackle legitimate public authorities in their pursuit of the common good, or to give a marked and certain advantage to those who would pursue evil.

Further, in the present circumstances, it is certainly arguable that a war with Iraq would not constitute a “preemptive” or “preventive” war at all. It seems rather more plausible to suggest that this war is merely the lawful conclusion to the (undoubtedly lawful) 1991 Gulf War, whose terms Iraq accepted unconditionally.<sup>6</sup> Among those terms, of course, was disarmament in accordance with UN mandates, particularly under Resolution 687 (1991), which mandates were only reiterated recently with UN Resolution 1441—itsself passed under the UN Charter’s Article VII (military) enforcement provisions. Resolution 1441 was understood by the Council to be Iraq’s final opportunity to comply with cease-fire obligations to which it had agreed well more than a decade earlier. Resolution 1441 also deplored Iraqi conduct on a number of other fronts, including gross humanitarian abuses at home. It is not as if 1441 merely lays the groundwork for future UN action if the Security Council approves such action. 1441 asks Iraq to do what it had been legally required to do since 1991 (since which time many interim resolutions had also required Iraqi disarmament).

The question of preemption is relevant too to the suffering of the Iraqi people as a *casus belli*. As Hugo Grotius reminds us, war is just after an injury has been received, but there is more than one reasonable definition of injury.<sup>7</sup>

<sup>6</sup> This is a point made recently by Michael Novak in his February 8, 2003 speech at the U.S. Embassy to the Vatican.

<sup>7</sup> Hugo Grotius, *The Law of War and Peace* (New York: Bobbs Merrill, 1962), esp. Bk. II, ch. 1, XVI; ch. 20, IX, and ch. 25, VII.

The definition must include the general good of mankind and grossly inhumane treatment of people by a sovereign not amenable to reason. One could readily make the case that a war against Iraq is just on the basis that it would further the general good of mankind, and protect the innocent by improving the lot of a population subject to routine oppression, and occasional gruesome murder. Christian duty would appear—if not to *require* action in the face of such evil—then at least to give it moral sanction if and when the statesman deems action prudent. If protection of the innocent is not to be a *casus belli* under just war theory, the Bishops could surely strengthen their talking points by telling us why that is the case.

The question of legitimate authority can be dealt with rather more briefly. The Bishops link satisfaction of this requirement to multilateralism, and UN approval. But neither is intrinsic to just war theory. As Aquinas tells us, this requirement is directed at maintaining public authority and control over war, including the authority of what would now be the nation-state. It is designed to prevent merry bands of warriors from striking out on their own, rather than referring their complaint to the supreme political authority under whom they live:

In order for war to be just...the authority of the ruler [is required] by whose command the war is to be waged; it is not the business of a private individual to declare war, because he can seek redress of his rights from the tribunal of his superior. Similarly, it is not the business of a private individual to summon together the people....But since 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....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: ‘He bears not the sword without cause, for he is God’s minister, an avenger to execute wrath upon him that does 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: ‘Rescue the poor and deliver the needy out of the hand of the sinner,’ and for this reason Augustine says, ‘The natural order conducive to peace among mortals demands that power to declare and counsel war should be in the hand of those who hold the supreme authority.’<sup>8</sup>

This line of reasoning does not leave open the question of just who “are in authority.” They are in authority to whom the care of the common weal is committed, and who have executive power in the common weal. In today’s circumstances, it is clear enough—however much wishful thinking certain internationalists might wish to engage in—that the care of the common weal of all countries still resides with rulers of those countries. Further, that effective executive power also resides only at the national level. The United Nations as an institution has repeatedly proved itself incapable of effective intervention in a host of conflicts too numerous to list, and its executive power resides not in a unitary executive—as is the case with respect to American executive power, for example—but in the multilateral, 15 member Security Council. Executive

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<sup>8</sup> Thomas Aquinas, *Summa Theologica*, II—II, Q. 40, Art. I. See also Augustine, *Contra Faustum*, XXII.

action requires multilateral consensus—and indeed unanimity among five permanent members with clashing interests, ideologies, and moral standards.<sup>9</sup> To expect decent regimes to be bound by such external consensus is simply contrary to the dictates of prudence and therefore *unreasonable*, in Aristotle’s true sense. As Augustine says, “the natural order which seeks the peace of mankind, ordains that a monarch should have the power of undertaking war if he thinks it advisable, and that the soldiers should perform their military duties in behalf of the peace and safety of the community.”<sup>10</sup>

Any such divided executive power (as the American Founders, among others, were aware) is destined to be ineffective at best, and nugatory at worst. In short, there is nothing about the mere existence of the United Nations that would cause reasonable people to believe Aquinas’s just war requirement would dictate that the legitimacy of war hinges on UN approval. For similar reasons, just war does not depend on multilateral action—although in the case of Iraq, the United States has indeed enjoyed multilateral cooperation, and sought to promote further multilateralism in spirit and fact by repeated entreaties to the Security Council. The Council (or, more properly, key members of it) repeatedly ignored or brushed aside such entreaties despite having long cataloged the Hussein regime’s illegal activities, and demanded that they cease. President Bush claimed to be taking the UN at its word, and thereby to be attempting to buttress its credibility and relevance. There is no self-evident or *prima facie* reason to doubt him.

With respect to “probability of success and proportionality,” the Bishops argument comes down to asking questions whose answers by their nature will be contestable, but which are most likely to be answered correctly by a prudent statesman.

By putting an argument in the form of a series of questions which the Letter does not itself attempt to answer, the Bishops generally *imply* opposition to war without themselves giving concrete reasons for their opposition. But if merely raising the types of questions that the Bishops raise amounted to serious argument, almost *any* war under almost any circumstances could be ruled out. Let us give but two examples.

First, the Letter asks, “how many more innocent people would suffer and die?” The question is clearly loaded by the use of the modifier “more,” but the more significant problem with the question (insofar as it is intended as an argument against war) is of course that it is impossible to answer. In war, it is simply the case that no one ever knows how many innocents will die. (Although, given U.S. technological capabilities and meticulous planning, one could plausibly argue that fewer civilians would die at the hands of U.S. forces in an Iraqi campaign than in any comparably sized campaign in human history.)

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<sup>9</sup> Even so, it still seems clear—as President Bush indeed argued—that Resolution 1441, following on the heels of other resolutions over 12 years, amounts in itself to UN authorization.

<sup>10</sup> Augustine, *Contra Faustum*, XXII, 75, in St. Augustine, *The Political Writings*, ed. Henry Paolucci (Washington, DC: Regnery Gateway, 1962), 163-164.

A question as to the number of innocents to suffer and die could not have been answered in the context of the Normandy invasion. To borrow a technique from the Letter, we are compelled to ask: Would the Bishops' argument, such as it is, have led them to oppose the second front in World War II, or indeed the allies' overall efforts in the Second World War? If the existence of unanswerable questions—or at least questions whose answers are well outside the purview of religious leaders—is dispositive on the morality of war, we might plausibly assume that the answer to the question we just raised is “yes.”

In another example, the Bishops ask, “Would war with Iraq detract from our responsibility to help build a just and stable order in Afghanistan and undermine the broader coalition against terrorism?” Again, the question is loaded insofar as the word “responsibility” is used instead of “interest” or “desire.” But more fundamentally, this question too is almost impossible to answer conclusively before the fact, and any answer one might give would be one over which reasonable people might disagree. Further, even to begin to answer this question implies an intimate knowledge of the highest matters of state, clearly outside the purview of just war theory or moral theorizing in general.

Asking open-ended questions does not amount to morally serious activity. It is, rather, what it is—a raising of questions. But a raising of such questions can deem no conclusion, and simply does not amount to a genuine effort to *apply* just war criteria to the Iraqi situation.

In pointing to the fact that regime change in Iraq “could have incalculable consequences for a civilian population,” the Bishops state the obvious, but do not appear to recognize that those consequences could quite possibly, even probably, be desirable. Again, merely raising such an open-ended question cannot be considered a genuine effort to apply just war criteria. I do not by this mean to say that they undertook their effort in bad faith, only that it is not as true to the requirements of the situation as the situation demands. No one on the allied side of the war effort—least of all the U.S. administration—believes *jus in bello* criteria to be unimportant. President Bush has indicated on numerous occasions concern for the Iraqi people both during hostilities, and in a postwar Iraq to be constructed along more humanitarian, democratic lines.

Finally, it should not escape our attention that the Letter also notes, somewhat paradoxically, that the Iraqi government “must cease internal repression, end its threats to its neighbors, stop any support for terrorism, abandon its weapons of mass destruction, and comply with UN resolutions.” The end of compliance is sought, but the means are not willed. As Publius argues throughout *The Federalist*, but particularly in numbers 6 and 23, men must be far gone in “Utopian speculations” to will political and moral ends without the means to achieve them. As to means, the blunt fact remains that the U.S. position and actions on Iraq are precisely what led to UN Resolution 1441, and what led to the limited compliance with that resolution prior to the actual outbreak of hostilities.

This is further evidence that the Bishops' questions and implied arguments against war—while undoubtedly sincere—are severely lacking. And they invite us to ask further questions of our own. Is repeated and seemingly endless questioning of the morality of war—a questioning that we have no reason to doubt has already been undertaken up to the highest levels of state—morally serious? At some point, mustn't he who puts himself in the position of ethical interlocutor, have *answers* to his questions in order to argue against the morality of war—the highest concern of state? Is knowledge of the particulars of political situations not requisite to moral/political judgment? To what extent do the Bishops have this knowledge? To what extent are the Bishops implying that God Himself would approve only of the non-military option at this time?

Had the Bishops more carefully confined themselves to highlighting the morally important questions, without implying that the questions themselves dictate a certain course of action or amount to an application of just war theory, we could perhaps be more forgiving in our assessment—which is indeed that they lack an appropriate level of moral seriousness.

## II. Western Rationalism, Religion, and War

I have already suggested that Western philosophic rationalism, as refracted through theologians such as Augustine and Aquinas, recognizes the necessity of war, and is willing to lend its blessing to the warrior and his duties. This has been true of thinkers both inside and outside the Christian tradition, and I want to give a fuller account of this rationalism here, although I will do so only briefly. I have developed this argument at length elsewhere, outside the particular context of the war with Iraq.<sup>11</sup> My intention here is to lay the groundwork for developing, in the following section, what I call the “American” position on the ethics of war. This position amounts to a melding of the Western theological and philosophic traditions, and it too, I will argue, is more open to the possibility of war as a necessary response to human sinfulness than the contemporary theologians seem to allow.

Let us begin with Plato. In his famous tripartite division of the human soul—into the reasoning, the spirited, and the passionate or appetitive parts—he argues that all political orders have an ineluctable need for a warrior class blessed with the virtue of spiritedness. Warriors, relying on the friend/foe distinction, must defend what is theirs, even in the most perfect imaginable city—the one adumbrated in *The Republic*. As I have remarked elsewhere, Plato, even in his writing that most fully contemplates the possibilities and limitations of utopianism, never wished simply to give peace a chance.<sup>12</sup>

Likewise, Plato's most famous student, Aristotle, emphasizes the nobility of a politics that can provide the conditions for the properly ordered flourishing of citizens. But in the course of doing this, he also emphasizes virtues like courage and

<sup>11</sup> For a fuller account, see Bradley C. S. Watson, “The Western Ethical Tradition and the Morality of the Warrior,” *Armed Forces and Society* 26, no. 1 (1999): 55-72.

<sup>12</sup> See Watson, “The Western Ethical Tradition,” 57.

magnanimity—the comprehensive virtue of the statesman—which assume the need when circumstances demand it, to engage in war. What we might today think of as hard-edged “military” or “political” virtues at odds with “Christian” virtue are for Aristotle simply human virtues, good at all times and in all places. Both Aristotle and Plato remind us not only of the necessity, but the nobility, of the warrior class and those human virtues needed to sustain such a class. For Aristotle, when the prudent statesman undertakes war, it is a moral good insofar as it is better than the available alternatives.

In light of the Christian thinkers I have already discussed, it should be apparent that our Judeo-Christian heritage and concern for just war principles, properly understood, do not raise a bar to prudent military activity any more than they denigrate the military virtues. As Augustine writes, Christian teaching requires us to turn the other cheek in the sense of our inward dispositions, but our actions in the world have to be governed by the dictates of prudence—a political virtue—if good is to triumph. Put another way, war might not only be permissible but demanded:

At the same time, many things must be done in correcting with a certain benevolent severity, even against their own wishes, men whose welfare rather than their wishes it is our duty to consult; and the Christian Scriptures have most unambiguously commended this virtue in a magistrate.

[E]ven wars might be waged by the good, in order that, by bringing under the yoke the unbridled lusts of men, those vices might be abolished which ought, under a just government, to be either extirpated or suppressed.<sup>13</sup>

Eight hundred years later, Saint Thomas Aquinas dealt with war in the *Summa Theologica*. As Aquinas notes, Christianity offers virtues that seem to be different from those of Aristotle, e.g., humility, patience, turning the other cheek. But, anticipating Machiavelli’s and Nietzsche’s critiques of Christianity, Aquinas reminds us that decent politics depends on the willingness of people to be strong—even to *kill* enemies rather than love them (or perhaps to love them while killing them).<sup>14</sup> For Aquinas, the first principle of the natural law is to pursue good and avoid evil—and the preservation of life is a primary good. This leads him to a restatement of earlier just war theory, and to further support Augustine’s view of just wars. First, as we have seen, the authority of the ruler is needed. Second, just cause (defined as “some fault”) is required. Third, rightful intention must be maintained: “Hence as Augustine says, ‘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.’”<sup>15</sup>

<sup>13</sup> Augustine, Letters of St. Augustine, CXXXVIII, in St. Augustine, *The Political Writings*, 178-80.

<sup>14</sup> Thomas Aquinas, “Of War,” *Summa Theologica*, II—II, Q. 40, Art. I; “Of Killing,” *ST* II-II, Arts. VI-VIII.

<sup>15</sup> Aquinas, “Of War,” in Saint Thomas Aquinas, *On Law, Morality, and Politics*, ed. William P. Baumgarth and Richard J. Regan, S.J. (Indianapolis: Hackett Publishing Company), 221.

Even with respect to killing outside of war, Aquinas maintains his concentration on the nature and reason of things rather than on any simple interpretation of fixed rules. For example, it is not wrong for a private individual to kill if his intention is self-defense, rather than the death of the person killed.<sup>16</sup> Throughout, one gleans from Saint Thomas the view that God gives us reason and a basic sense of good and evil, and that it must therefore be right for us to think and follow our reason—no less when we interpret God’s meaning as revealed in the Bible than in day to day life. Any apparent “softness” of the New Testament and Christian doctrine in general grows out of a misinterpretation. Moral law is natural law. If we are enjoined, for example, to turn the other cheek, this cannot be interpreted as a generalized prohibition on action in the face of great evil. Aquinas’s attempt to reconcile Christian revelation with classical political rationalism—particularly that of Aristotle—would have us reinterpret theological text and doctrine whenever the conclusions we draw from it conflict with reason by leading to a transgression of the natural law.

We must conclude that the positions of the U.S. Conference of Catholic Bishops and other mainline churches seem to stem neither from classical rationalism nor Christian rationalism of the Augustinian or Thomistic sort. Rather, they seem to owe more to the rationalism of that philosopher *par excellence* of the Enlightenment—Immanuel Kant. According to Kant, the only good in the world is the good will. In practice, this means that we should will such that the maxim (or principle implied) by our will can become a universal law. Kant’s morality is absolutist and can take no account of consequences. The test of moral purity is found in what we will. So, from a certain point of view, in order to maintain rightful intent, we must *will* peace, regardless of the consequences. This, at least, seems to be the Bishops’ position.

Overlaying Kantianism on just war theory, the Bishops find solace in moral absolutism expressed as pacifism. Rules largely overtake the consideration of particulars, and therefore serve to encumber the prudence of the statesman. But this Kantian, principled pacifism ignores yet another body of thought: that of the American Founders themselves.

### **III. The American Founders and War: The Unity of Rationalism and Revelation**

In America, Protestant theology became open—from the very earliest days—to the pursuit of war as a means to the end of justice. Going back to the Puritans, we see a community dedicated to God and Christ, but one that wished initially to be radically independent of human authority. As Thomas G. West has recently shown, there were four key developments in the Puritan understanding that led to the theology of the American Founding:

First, reason was restored as a legitimate Christian supplement to the authority of scripture. Second, man’s imperfect or fallen nature was acknowledged to be unchanged by divine grace. Therefore limited government and the rule of law were indispensable. Third, the Puritans

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<sup>16</sup> Aquinas, “Of Killing,” *ST II-II*, Qu. 64, in Baumgarth, 226-27.

embraced warlike manliness and wily prudence on behalf of liberty as fundamental Christian virtues. Finally, the Puritans adopted, *as part of their theology*, European social compact theory as taught by Locke and others—the theory that became the principled ground of the American Revolution.<sup>17</sup>

The Puritans came to believe in independence, but not the authority of scripture or faith *alone* for governance of human affairs. They developed a “rational theology” based on social compact theory imported from Europe, which held that government must be consented to in order to be legitimate. And their moral philosophy became Thomistic insofar as they shared Aquinas’s sense that as human beings we are able partially to read and understand the mind of God on rational grounds, independent of specific revelation. In light of King Philip’s War and the slaughter of settlers in New England by Indians, the Puritans came to the view that turning the other cheek—or merely morally reforming *oneself*—were not adequate responses to the murder of civilians and the wholesale destruction of villages.

America’s “Thomistic” Protestant theology, handed down from and refracted through Puritan understandings, came to inform America’s founding moment and to support, plainly and unambiguously, the principles of the American Revolution. The Founding is based on the rational, and theological assertion that the laws of nature and nature’s God ordain that all men are created equal. The notion of inherent human equality and what follows from this—that government must be consensual—was articulated most forcefully by the philosopher John Locke. Furthermore, the Founders believed that once one understood these principles of nature and nature’s God, one had a duty as Christian to *fight* for them if they were denied. To the founders, it was a violation of this duty to frustrate divine intention by hiding behind scriptural passages that seem to—but only *seem* to—counsel weakness and submission. From their point of view, it is not hard to be a good Christian *and* a good citizen and a good soldier.

This is clear throughout the writings—and particularly the sermons—of the founding era. In this spirit, here is how Simeon Howard, a Congregationalist, handled the problem in a 1773 sermon in Boston:

In a state of nature, or where men are under no civil government, God has given to everyone liberty to pursue his own happiness in whatever way, and by whatever means he pleases, without asking the consent or consulting the inclination of any other man, provided he keeps within the bounds of the law of nature. Within these bounds, he may govern his actions, and dispose of his property and person, as he thinks proper (see Locke on government). Nor has any man, or any number of men, a right to restrain him in the exercise of his liberty, or punish, or call him to account for using it. This however is not a state of licentiousness, for the law of nature which bounds this liberty, forbids

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<sup>17</sup> Thomas G. West, “The Transformation of Protestant Theology as a Condition of the American Revolution,” unpublished essay, draft of November 26, 2002.

all injustice and wickedness, allows no man to injure another in his person or property, or to destroy his own life.<sup>18</sup>

When our Saviour forbids us to resist evil, he seems to have had in view only small injuries, for such are those he mentions in the following words, as an illustration of the precept; smiting on the cheek, taking away one's coat, or compelling him to go a mile. And to such injuries it is oftentimes a point of prudence, as well as duty, to submit, rather than contend. But it does not follow, that because we are forbidden to resist such slight attacks, we may not defend ourselves when the assault is of a capital kind. . . . And as we have as good a right to limit the precept which forbids our resisting evil, by the nature and reason of things, as we have to limit these other indefinite expressions.<sup>19</sup>

Should a person, for instance, whose ability and circumstances enable him to do good in the world, to relieve his distressed brethren, and be an example of charity and other virtues, tamely yield up all his interest and become an absolute slave to some unjust and wicked oppressor, when he might by a manly resistance have secured his liberty, would he not be guilty of great unfaithfulness to God, and justly liable to his condemnation?<sup>20</sup>

Howard gives a Lockean theory of natural liberty, and a Biblical theory justifying resistance and revolution in defense of this liberty—a perfect melding of two dominant strains of thought at the time of the American Revolution.

Likewise, Samuel West in a 1776 sermon brings together all the strands of reason and revelation that operated on the minds of the Founders. Offering fire and brimstone of a rational sort, he claims, in quick succession, the following:<sup>21</sup>

- Men are political by nature, with the ability to discern right from wrong
- Men need government because of their fall from grace. In the “state of nature” (as Locke would put it) we are fallen
- Despisers of government are self-willed sinners; we must by the nature of things submit to civil magistrates
- Natural law is a transcript from God, which we have the ability to read
- There is no freedom in violating natural law, but rather slavery to passions

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<sup>18</sup> Simeon Howard, “A Sermon Preached to the Ancient and Honorable Artillery Company in Boston” (1773), in Charles S. Hyneman and Donald S. Lutz, eds., *American Political Writing during the Founding Era*, vol. 1 (Indianapolis: Liberty Fund, 1983), 187.

<sup>19</sup> Simeon Howard, “A Sermon,” in Hyneman and Lutz, *American Political Writing*, 193-94.

<sup>20</sup> Simeon Howard, “A Sermon,” in Hyneman and Lutz, *American Political Writing*, 201.

<sup>21</sup> See Samuel West, “On the Right to Rebel Against Governors,” in Hyneman and Lutz, *American Political Writing*, esp. 410-16; 421; 423-28; 430-35; 441.

- After the Fall, government aims at preventing the worst of sins, including attacks on public safety; arbitrariness would be inconsistent with the purposes of government
- Right reason leads us to conclude that there are not an infinite number of individual interpretations of the Bible. Its teachings support just government, and only just government—it cannot be interpreted absurdly
- Resistance to tyranny is a dictate of right reason about government and also a dictate of the principle of non-contradiction—the injunction to pursue good means we cannot acquiesce in the “persecution” of virtue
- A reasonable civil magistracy is in all cases an ordinance of God
- Reason and revelation are in perfect harmony and religion needs to be promoted by civil society for this reason—so that civil society might support itself (which is not to say particular forms of worship can be prescribed—such law would create hypocrites and skeptics)
- There is no moral basis for what we today would call “conscientious objection” to military service in support of free government; otherwise, we would be claiming that God requires us to contradict “the law of nature.”

Nathaniel Whittaker, a Presbyterian of Salem, Massachusetts, preached the following in this 1777 sermon:

Every soldier should . . . pray for those he endeavors to destroy, and wish them their best, their eternal good. These are no more inconsistent in a soldier, engaging in battle and doing his best to kill his enemies, than they are in a judge and executioner, who take away a murderer from the earth. . . . How absurd then is the pretense that the gospel of Jesus Christ forbids us to take up arms to defend ourselves! . . . It may with as much reason be said, that to punish a murderer or robber is forbidden by the gospel; which is in effect to say, that the gospel of peace forbids the exercise of love and benevolence in acts absolutely necessary, in this sinful world, for the peace and happiness of society and individuals.<sup>22</sup>

Samuel Davies, a leading Presbyterian preacher of colonial Virginia claimed in 1758 that,

When [our enemies] would enslave the freeborn mind and compel us meanly to cringe to usurpation and arbitrary power . . . what is then the will of God? Must peace then be maintained? Maintained at the expense of property, liberty, life, and everything dear and valuable? . . . No; in such a time even the

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<sup>22</sup> Nathaniel Whitaker, “Antidote Against Toryism,” in Frank Moore, ed., *Patriot Preachers of the American Revolution* (New York: Charles T. Evans, 1862), 226-7. I am grateful to Thomas G. West’s essay, cited above, for bringing this sermon, and the following one by Samuel Davies, to my attention.

God of Peace proclaims by His providence, “To arms!” Then the sword is, as it were, consecrated to God; and the art of war becomes a part of our religion. . . . Blessed is the brave soldier; blessed is the defender of his country and the destroyer of his enemies. . . . But, on the other hand, “Cursed is he that doth the work of the Lord deceitfully; and cursed is he that keepeth back his sword from blood.” . . . This denunciation, like the artillery of heaven, is leveled against the mean, sneaking coward who, when God, in the course of His providence, calls him to arms, refuses to obey and consults his own ease and safety more than his duty to God and his country.<sup>23</sup>

In short, the Protestant theology of the American Founding is rooted in the tradition of natural law and natural rights spanning the thought of Thomas Aquinas and John Locke. Throughout, in dealing with the circumstances of the American Revolution, it seeks a resolution of the tension pointed to by the twentieth century’s greatest statesman—Winston Churchill:

The Sermon on the Mount is the last word in Christian ethics. Everyone respects the Quakers. Still, it is not on these terms that Ministers assume their responsibilities of guiding states. Their duty is first so to deal with other nations as to avoid strife and war and to eschew aggression in all its forms, whether for nationalistic or ideological objects. But the safety of the State, the lives and freedom of their own fellow countrymen, to whom they owe their position, make it right and imperative in the last resort, or when a final and definite conviction has been reached, that the use of force should not be excluded. If the circumstances are such as to warrant it, force may be used. And if this be so, it should be used under the conditions which are the most favorable. There is no merit in putting off a war for a year if, when it comes, it is a far worse war or one much harder to win.<sup>24</sup>

Churchill himself had no difficulty, practically speaking, in resolving this perceived tension. As he exhorted on the BBC in the days after the Nazi invasion of Holland and Belgium in the spring of 1940: “Arm yourselves and be ye men of valour, and be in readiness for the conflict; for it is better for us to perish in battle than to look upon the outrage of our nation and our altar. As the Will of God is in Heaven, even so let it be.”

#### 4. Conclusions

We should take stock. I have attempted to show the consonance—on the question of the morality of war—between classical philosophy and Catholic theology, and between these understandings and the Protestant, rationalistic, social compact philosophy of the American Founding. Each sees that war can be a dictate of both reason and God’s will when natural law and peoples’ natural rights are being violated by a tyrannical enemy.

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<sup>23</sup> Samuel Davies, *The Curse of Cowardice*, in *The Annals of America* (Chicago: Encyclopedia Britannica, 1968), 2:23-24.

<sup>24</sup> Winston S. Churchill, *The Gathering Storm* (Boston: Houghton Mifflin, 1948), 320.

There does not appear to be the same consonance between these views and the views of America's leading, mainline theologians today, who argue that war with Iraq cannot be justified under present circumstances, and suggest that new doctrines—such as preemptive strike—cannot be justified under *any* circumstances.

I have suggested that, beyond general principles—shared by philosophers, theologians and the American Founders alike—the question of *when* one should go to war and *how* one should pursue it is a matter of *bounded prudence* (although the very adjective “bounded” is perhaps redundant when it modifies “prudence”). In particular, all can agree that in facing the conflict with Iraq, we are talking about prudence bounded by just war criteria—both as to the justification for war—*jus ad bellum*—and as to the conduct of war, *jus in bello*. Only prudence—not a high level of theological or ethical principle abstracted from the facts of the situation—can tell us what is appropriate in such circumstances. And such prudence might well lead us not only to particular actions, but to reliance on new strategic and tactical doctrines which are indeed consonant with just war standards. To suggest otherwise is not to defend, but to be *outside* the Western and American ethical and theological traditions.

The key to any proper ethical articulation on war and peace is an understanding of the nature and roots of this bounded prudence, or flexible application of principles. In the face of mighty opposition to the war with Iraq, it is important, for both the *policy maker* and the *warrior*, to understand the ethical roots and limits of their policy positions and their craft, respectively. In short, they should be aware of what the Western ethical and theological tradition does and does *not* require. If they are, and if they effectively articulate their policy positions and their nature and function in a free society, then they are most likely to garner the long-term respect and support of the American people, and therefore be freed to pursue their most necessary of war aims.

**Appendices**

**Appendix I:** U.S. Conference of Catholic Bishops Letter to President Bush on Iraq (September 2002) Available at: <http://www.usccb.org/sdwp/international/bush902.htm>.

**Appendix II:** U.S. Conference of Catholic Bishops Statement on Iraq (November 2002) Available at: <http://www.usccb.org/bishops/iraq.htm>.

**Appendix III:** U.S. Conference of Catholic Bishops Statement on Iraq (February 2003) Available at: <http://www.usccb.org/sdwp/international/iraqstatement0203.htm>.

**Appendix IV:** U.S. Episcopal House of Bishops Letter to Congress on Iraq (October 2002) Available at: [http://www.episcopalchurch.org/peace-justice/article\\_68.asp](http://www.episcopalchurch.org/peace-justice/article_68.asp).

**Appendix V:** Archbishop of Canterbury/Cardinal of Westminster Joint Statement on Iraq (February 2003) Available at: <http://www.anglicancommunion.org/acns/articles/33/00/acns3314.html>.

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