

Justice and the American Way of War

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Paper presented at the International Conference

'The Strongest is Most Powerful Alone'

The USA as a World Power

June 4-6, 2004

Evangelische Akademie Loccum

Co-Sponsored by AICGS

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Introduction

America is the world's preponderant military power and disposes of a greater capacity to exercise coercive military might than any previous great power. Its imposing military capabilities stem from the fact that, following the increase in the 2003 defence budget, the USA is poised to spend more on defence than the next fifteen-twenty countries put together (Brooks and Wohlforth 2002: 28). A significant slice of US defence expenditure is devoted to research and development, thus giving the USA the ability to retain a commanding lead in military technology and remain at the forefront of what is termed the 'Revolution in Military Affairs'. US military strategy aspires to achieve 'full spectrum dominance': in other words, the US strives to military pre-eminence in all categories of armed conflict, from strategic nuclear deterrence and large-scale mechanised warfare, to what Rudyard Kipling termed the 'savage wars of peace' involving low-intensity conflicts and asymmetric conflicts with terrorists and non-state actors (Boot 2002). Since the end of the cold war, and particularly since September 11th, the US has strengthened its global military profile. Having acquired new bases in Eastern Europe, Central Asia, the Horn of Africa and the Middle East, the US military is now based in or close to all geostrategically significant areas of the world, giving the US the capability to project power to almost any corner of the globe. US special forces now operate either openly or discretely in 125 countries (Priest 2003: 17). The USA also disposes of the largest and most powerful navy in the world, which, with its twelve carrier battle groups, dominates the world's oceans. Last but not least, the USA leads in the emerging arena of cyber warfare. US military power is thus felt in all corners of the globe and reaches from the depths of the oceans to the outer reaches of space.

How America deploys and disposes of this preponderant military power is a question of vital concern for the international community, and one that raises difficult political and moral issues for academics. Does America use its military might for just causes based on the principles of *jus ad bellum*, or on its own terms for its own narrowly conceived national interests? When US military forces engage in combat operations, do they act in accordance with the principles of *jus in bello*, or do they wield their instruments of destruction with the viciousness and disregard for proportionality and non-combatant immunity exhibited by many previous imperial and hegemonic powers? The Just War

tradition provides a set of ethical reflections on the justifiable use of force that provide a template for judging the theory and practice of America's exercise of military power. It consists of two main elements: *jus ad bellum* and *jus in bello*. More recently, a third element of Just War theory has emerged: *Jus post bellum*, which refers to justice during the ending of wars and the transition from war back to peace. This emphasises the need to ensure that punitive measures are focused on the elites responsible for transgressions and that the civilian population is treated in a way that facilitates the emergence of a more just post-war order (Orend 1998 and 1999).

This chapter examines how, when and why the USA has used military force as an instrument of statecraft since the Vietnam War in the light of Just War theory. Rather than simply examining US discourse on Just War doctrine, the analysis presented here focuses on the praxis of American military power in the light of Just War doctrine. This is because, as Wittgenstein once said, 'If you want to know whether a man is religious, don't ask him, observe him'. This adage is particularly apposite in the case of the USA given America's self-identity as an exceptional nation with a distinctive mission to play in global affairs. The chapter begins by examining the impact on American attitudes to the use of force of the two key determinants of its foreign and security policy: domestic factors and the external international environment. These two factors, it is argued, exert conflicting pressures on America's use of force and generate moral and political dilemmas for US leaders. The chapter then considers the broad evolution of US attitudes to force since Vietnam, from the Gulf War of 1991 to the new security challenges that preoccupied the Clinton Administration throughout the 1990s. In the concluding section, it applies Just War theory to the evolution of US national security strategy under the Bush Administration, focusing in particular on America's response to the September 11th 2001 terrorist attacks and the wars in Afghanistan and Iraq.

The American Republic and the International System

When it comes to using military force, the USA faces the 'paradox of unrealised power' (Baldwin 1979: 163). America has the ability to wield considerable military force, but is often unable to translate this raw military power into political influence, or to use force effectively to shape the international system. In part this is because military force is a blunt and unwieldy instrument whose political efficacy is often limited. Yet it is also because the US faces self-imposed political, moral and ethical constraints on its use of force. These constraints have, for example, limited the choice of targets in strategic bombing campaigns from Vietnam to Iraq, and meant that, where possible, the US has sought

to use discriminate force that avoids non-combatant casualties and collateral damage. The paradox of unrealised power is thus in no small part due to the democratic character of the American republic, and its concomitant sense of moral and political righteousness.

The sense of righteousness and noble political purpose that pervades US foreign and security policy is evident from the names chosen for US military operations. Thus the attack on Panama to oust the dictator General Noriega from power in 1989-90 was called *Operation Just Cause*. The intervention in Somalia in 1992-93 was called *Operation Restore Hope*. The airlift of supplies to Kurds and other minorities after the 1991 Gulf War was termed *Operation Provide Comfort* (1991-96), whilst the intervention in Haiti (1994) was called *Operation Uphold Democracy*. The bombing and invasion of Afghanistan in 2001-2002 was initially called *Operation Infinite Justice* until Muslim religious leaders complained that only God could provide infinite justice, when it was renamed *Operation Enduring Freedom*. Most recently, the invasion of Iraq in 2003 was called *Operation Iraqi Freedom*.

The choice of names for these and other US military operations is illustrative of the dominant American self-perception as a country that uses force in ways different from, and morally superior to, other great powers in the past and non-democracies in the world today. This sense of mission and of moral purpose gives the US army a belief in the justness of its wars and legitimacy of its actions. During *Operation Iraqi Freedom*, for example, the chief of chaplains of the US 3rd Division's 1st Brigade, Major Mark Nordstrom, spoke to the brigade's military commanders as they sat beneath a tent awning on the afternoon before the final push on Baghdad. 'This land has witnessed the march of many armies', he argued, citing Nebuchadnezzar, Alexander the Great and the Persians. 'But this land has never seen an army march to liberate its people' (*International Herald Tribune* 14 April 2003). Such language is indicative of the sense of moral righteousness which pervades the US military, and which creates a normative framework within which judgements about the use of force are made.

US Attitudes Towards the Use of Force

Although the democratic character of the United States creates a set of normative values that have important implications for US attitudes towards the use of force, it is important to note that domestic political considerations are not the only – nor always the primary – factor in determining how and why America uses force. In addition to domestic factors, US attitudes towards the use of military power are determined by the foreign policy role of the USA as the principle architect and guardian of the post-1945 liberal international order. These two factors, the internal and the external – corresponding to the

second and third 'images' of International Relations (Waltz 1959) – give rise to an uneasy tension at the heart of US foreign and security policy. On the one hand, the democratic values and institutions of the American republic generate expectations that the US will use force for just causes and in accordance with the principles of *jus in bellum* and *jus ad bello*; on the other, the geopolitical imperatives arising from its role as the guardian of the global liberal order mean that the USA all too often finds itself using military force in a politically complex and morally ambiguous context. In this situation, *Realpolitik* sometimes conflicts with the normative values cherished by liberal democracies that aspire to use force in a just and discriminate manner.

The conflicting pressures on US policy-makers from the domestic and international spheres gives rise to two tendencies in US foreign policy. On the one hand, an emphasis on the need for a pragmatic – if not amoral – realism, exemplified in the foreign policy of Richard Nixon and Henry Kissinger, and given theoretical exposition in the classical realism of Hans Morgenthau. This emphasises the need for limited commitments based on clear national interests. On the other hand, a missionary zeal grounded in a Manichean moral vision. This crusading spirit has both its left-wing and its right-wing variants: on the left, it is reflected in Wilsonian liberalism, Carter's emphasis on human rights and Clinton's 'assertive multilateralism'. On the right, it is reflected in Reagan's 'evil empire' speech and, more recently, in the neo-conservative agenda of many in President George W. Bush's administration.

Democracy and the Use of Force

There is growing literature on how democratic forms of government generate distinctive patterns of foreign policy behaviour. Much of this has focused on 'democratic peace theory', the idea that democracies do not fight other democracies (see for example Weart 1998; Brown et al 1999; and Huth and Allee 2002). In addition, however, there are suggestions that democracies use force in different ways from other states (Everts 2002; Schultz 2002). In particular, although they are not always moral and just in their use of force, there are powerful pressures on them to legitimate their use of military coercion in accordance with the principles the Just War theory.

Two primary explanations have been advanced as to why democracies use force differently from non-democracies: one set of arguments focus on the structural features of democratic government, another on the normative values of democratic societies. Structurally, democratic governments are characterised by a relatively open and transparent decision-making process, and operate in a competitive political environment. Democratic governments have to cope with opposition parties, legislative scrutiny, pressure groups, business interests and a free press. They are also subject to the

political pressures of the electoral cycle. In the case of the USA, foreign policy is the primary responsibility of the President and the executive branch, but Congress also has an influence on policy, not least through the 1973 War Powers Resolution. The US political system is characterised by the separation of powers and a highly pluralistic decision-making process, which can lead to an ad hoc and incremental approach to the use of force (Sarkesian et al 2002: 198-99).

Normatively, democracies are grounded on the principles of compromise, consensus-building, negotiation and the peaceful resolution of disputes. Democracies also tend to place greater value on the sanctity of individual life and property than non-democracies. Whilst these normative values apply to the domestic political sphere of the polity in question, they also spill over into foreign policy behaviour. These structural and normative factors reinforce each other, and shape attitudes to the use of force in five main ways. First: force can only be used effectively if it enjoys significant public support. This was one of the main lessons of Vietnam and its continuing relevance has been underscored by experience since then. Second: democratic governments are constrained in their use of coercive diplomacy, i.e., the threat of the use of force to back up diplomatic initiatives. Democracies find it hard to make bluffs or issue coercive threats if there is significant domestic opposition because such threats lack credibility. On the other hand, when democratic governments enjoy domestic political support, their coercive threats are more credible and therefore likely to be more effective (Schultz 2002). Third: democracies tend to use military force only as an instrument of last resort, given the problems of generating domestic political support for the potential sacrifices involved in war and coercion. Fourth: democracies are vulnerable to the 'body-bag syndrome'. Public opinion is very sensitive to casualties arising from military action, which places a significant constraint on the use of force (Everts 2002). Finally, domestic political support for military action can be weakened by evidence of 'collateral damage', as was evident in the 1991 Gulf War and Kosovo. Democracies thus seek to limit collateral damage, although not at the expense of increasing the risk of taking casualties. Consequently the desire to avoid collateral damage exists in an uneasy tension with the 'body-bag syndrome'. This was evident from the Kosovo war, when the concern to limit casualties to allied aircrew meant that bombing was conducted from 15,000 feet, thereby making collateral damage more likely (Bacevich and Cohen 2001: 14-15).

As a democracy, the USA therefore finds itself constrained in how and why it uses force. The structural and normative features of American democracy provide fertile soil for the discourse of Just War to take root. Yet, US attitudes towards the use of force are not simply determined by America's democratic institutions and values. As noted above, such 'second image' pressures compete with those

generated by the 'third image', notably America's perceived primary post-World War Two foreign policy role as the bastion and defender of the global liberal order. This role conception can lead to an 'us and them' approach to foreign policy based on notions of 'evil empires', 'rogue states' and 'axes of evil'. In this context, the normative values of American democracy can be muted by a belief that lethal force is necessary to deal with threats to the USA and the 'free world', even if it exceeds Just War teachings on non-combatant immunity and proportionality. The My Lai massacre during the Vietnam War is one example of this pattern of thinking, the atomic bombing of Hiroshima and Nagasaki another.

This brings us to an issue raised by Michael Walzer in the conclusion of his book, *Just and Unjust Wars* (1992). He argues that there are situations in war when absolutist principles about human rights and the value of individual life give way to more utilitarian calculations by leaders who 'must opt for collective survival and override those rights that have suddenly loomed as obstacles to survival'. For political leaders and soldiers raised in a democratic political culture, there are strong normative pressures to use force justly and discriminately. Yet the 'reality of war' means that there are times when it is not possible to use force in accordance with 'the requirements of justice', particularly in 'supreme emergencies' when singular and clear cut moral judgements are not possible. In such situations, 'the dualist character of the theory of war and the deeper complexity of our moral realism' is exposed: 'we say yes *and* no, right *and* wrong'. He goes on to describe the moral dilemmas that face a democratic country like the United States operating in an uncertain, and at times threatening, international environment. The dualism he describes, he argues, 'makes us uneasy; the world of war is not a fully comprehensible, let alone a morally satisfying place'; An yet it cannot be escaped, short of a universal order in which the existence of nations and peoples could never be threatened. There is every reason to work for such an order. The difficulty is that we sometimes have no choice but to fight for it (Walzer 1992: 324-36).

Post-Vietnam US Security Strategy

US Strategic Culture after Vietnam

The tension between the 'reality of war' and the 'requirements of justice' identified by Michael Walzer is evident in the evolution of US strategic thinking after the Vietnam War. The belief that force might sometimes be necessary to create a benign international environment for US interests continued to sit uneasily alongside the normative values embodied in America's democratic political culture. In this

section, we shall consider how US strategic culture has evolved over recent decades, and how it squares with Just War theory.

Contemporary US attitudes to the use of force cannot be understood without reference to the experience of the Vietnam War, which was a seminal moment in post-war US foreign policy. Faced with a severe crisis of confidence and morale after Vietnam, the US Army embarked on a long-term strategy to rebuild its capabilities, leadership and doctrine. The ending of the draft in 1973 and the introduction of the Volunteer Army (AVF) led to an emphasis on training and leadership, institutionalised in the establishment of a new Training and Doctrine Command (TRADOC). This led to a focus on the professionalisation of the Army, understood primarily in terms of developing military-technical expertise in traditional Clausewitzian war-fighting techniques. The army thus developed a self-image as specialists in violence, ready for combat.

In order to avoid the social isolation of the army that occurred during the Vietnam war, the US military developed the concept of 'Total Force'. This meant that reservists were integrated into the professional armed forces so completely that they would have to be called up very early on in a campaign in order to provide logistical back up. The idea behind this was to avoid the social isolation of the army as in Vietnam, and to ensure that the Administration enjoyed public support for its use of force, but it was also a response to the shrinking size of the US armed forces. Reservists were widely used in support roles in the 1991 Gulf war and the 2002 Iraq war, and in humanitarian missions to Somalia, Haiti and Bosnia.

Rebuilding the Army's identity as a professional organisation for war-fighting was facilitated by the subsequent military build-up of the Reagan years. This provided additional resources not only for technological development, but also for pay, retention and the quality of military life. More significantly perhaps was the change in the doctrine governing the use of force. In 1984 during the Reagan Administration, Secretary of Defence Caspar Weinberger, in cooperation with his top military aide Colin Powell, outlined a new doctrine governing the employment of US combat troops. This was subsequently to be known as the 'Weinberger/Powell doctrine', and consisted of six main elements:

1. US combat troops were only to be committed to overseas operations if a vital national interest, or that of America's allies, was at stake.
2. Once troops were committed, there should be total support to complete the mission.
3. US forces must have clearly defined political and military objectives, and sufficient resources to meet them.

4. There must be constant assessment of the commitment and the capabilities of US forces, which must be adjusted if necessary.
5. US military operations must enjoy public support and Congressional support.
6. The commitment of US forces must be the last resort.

The Weinberger/Powell doctrine was a response to the debacle of Vietnam, and reflected the military's traditional preference for high-intensity wars against a clearly defined enemy rather than small wars involving limited force in complex political environments. The ideal war was to be fought with overwhelming force, involve few casualties and be followed by a swift withdrawal. It was an all-or-nothing approach to the use of force that was incompatible with coercive strategies involving limited force or what became known as 'Military Operations Other Than War' (MOOTW). At the time it was criticized by Secretary of State George Schultz, who argued that diplomacy needed to be backed by credible threats of the use of force, and that 'power and diplomacy always go together' (Craig and George 1995: 266). This meant that military options could not be limited to major high-intensity wars, but needed to be developed for a spectrum of operations including, at the lower end, peace-enforcement and coercive diplomacy. Nonetheless, the Weinberger/Powell doctrine was to become the conventional wisdom in the armed forces and in influential political circles, and was subsequently endorsed by George W. Bush during his election campaign in 2000. 'A generation shaped by Vietnam', he argued, 'must remember the lessons of Vietnam. When America uses force in the world, the cause must be just, the goal must be clear, and the victory must be overwhelming' (quoted in Boot 2002: 319).

The apparent vindication of the Weinberger doctrine, and of the Army's post-Vietnam professionalism, came – many argued – from the 1991 Gulf War. This war, it was suggested, illustrated the success of the new American way of war generated by the Weinberger/Powell doctrine and of the Army's emphasis on professionalism and doctrine-based training. In terms of Just War theory, however, the Gulf War raised some new issues in the US debate.

Operation Desert Storm (1991) – A Just War?

The 1991 war to expel Iraqi forces from Kuwait (sometimes called the 'second Gulf War', the first being the Iran-Iraq war of 1980-88) was, for most Americans, a clear case of a just war fought to reverse an act of aggression by a brutal tyrant. It was fought by a US-led international coalition and sanctioned by the UN Security Council, and thus met the principle of just cause and legitimate authority. The war also enjoyed support from a broad international coalition, including a number of

Arab and Muslim states. Some critics argued that the war did not meet the criterion of 'last resort' because the deadline of January 15th 1991 did not give enough time for diplomacy to take effect, and that economic sanctions should have been tried first. However, the brutal treatment of Kuwaitis by Iraqi invaders was seen by many as justifying a war of liberation, whilst the effectiveness and probability of success of sanctions was, at best, questionable (as the subsequent experience of the 1990s demonstrated).

In terms of the conduct of the war and the principles of *jus in bellum*, most Americans accepted that the war was fought justly. The bombing campaign itself, which lasted four weeks, primarily targeted Iraqi frontline troops, whilst the use of precision-guided munitions gave the Allied coalition the ability to strike military and political targets in Baghdad and other cities whilst minimising collateral damage, thus respecting the principle of non-combatant immunity (Bacevich and Inbar 2003). Although tragic errors were made, the campaign itself demonstrated the growing technical capability of the US to use force discriminately against military and political targets.

Nonetheless, the very asymmetry of the war raised qualms about its proportionality and therefore its morality. It is estimated that something like 100,000 Iraqis died in the four weeks of bombing and during the 100 hour long ground campaign, whereas coalition deaths were only 240 – many of these from so-called 'friendly fire' (Freedman and Karsh 1993: 408, and Friedman 1991: 235). As Michael Walzer noted, 'When the world divides radically into those who bomb and those who are bombed, it becomes morally problematic, even if the bombing in this or that instance is justifiable' (Waltzer 1992: xxi). The issue here is not whether the allies were justified in using their military superiority, 'but whether they took advantage of their early superiority in the air to inflict wanton destruction on a defenceless adversary' (Coates 1997: 223). This is clearly difficult to evaluate, particularly when it comes to the strategic bombing campaign that targeted dual-purpose infrastructure like power plants or the electricity grid. Nonetheless, the available evidence does suggest the Coalition bombing campaign was carefully constrained: B52 bombers did employ area-bombing techniques against frontline combat troops, but smart bombs were used to destroy military-political targets in civilian populated areas. At the same time, all targets were carefully vetted to ensure that collateral damage was minimised.

In terms of Just War theory, therefore, the Gulf war meets the criterion of proportionality, as well as just cause and international legitimacy (Friedman 1991: 255-58). Indeed, American moral qualms about waging war were perceived as a sign of weakness by Saddam Hussein, who, on eve of war, told US Ambassador April Glaspie that, 'Yours is a society which cannot accept 10,000 in one battle' (Freedman and Karsh 1993: 52). Saddam was correct in this assessment, but mistaken in his estimation

of US military capabilities. The US prefaced the ground campaign with a prolonged and intensive bombing campaign explicitly in order to limit coalition casualties, thereby avoiding the high rates of attrition experienced in Vietnam.

The Moral Dilemmas of ‘Virtual Wars’

For the American public, the Iraq War was, above all, a ‘virtual war’. Most US citizens experienced the war only indirectly and at one remove, via television and the media, in the comfort of their own sitting rooms. Unlike the Vietnam War, the Iraq War entailed little sacrifice for the average American, either in economic or human terms. It was, therefore, the epitome of what has been termed ‘spectator-sport wars’. This term has been coined to describe the contemporary Western way of warfare, which primarily involves the use of expeditionary forces composed of a relatively small number of professional soldiers equipped with advanced technology and massive firepower. Contemporary Western wars no longer involve mass participation by citizens and total economic mobilisation, but are limited in scope and impact. In these spectator-wars, Colin McInnes argues,

Society no longer participates; it spectates from a distance. Like sports spectators, Westerners demonstrate different levels of engagement, from those who watch unmoved and soon forget to those who follow events, personalities, tactics, and strategies closely and empathize strongly with what is happening. But their experience is removed. They sympathize but do not suffer; they empathize but do not experience (McInnes 2002: 2).

Such spectator-sport wars raise new and distinctive moral questions. Because societies spectate and sympathize, but do not suffer or experience, it has been argued, something is missing from the ethical equation. ‘Unfortunately’, Christopher Coker argues, ‘as war becomes more technological it is distancing public opinion and the warrior from its consequences’. Referring to Adorno, he argues that ‘although real war kills, and brutalises and numbs the mind, reality was becoming increasingly mediated. It is represented and in the course of representation desensitised’. In the Gulf War, cameras were mounted on the bombs themselves, and at the point of impact, the screen went dead. ‘The moment of impact and its effects cannot be captured on film’. This ‘mediation of reality divorces society from war’. When societies can target their enemies while being immune from any threat to themselves, war ‘ceases to be an inter-subjective (and therefore ethical) experience’. War can only be humane, he argues, ‘not only when it appears to take place on a television screen in one’s home but when it enlists societies in humane ways’. Modern wars are short and relatively cheap, and therefore governments no

longer have to conscript their citizens or even raise taxes. His conclusion is a sombre one: because modern wars like the Gulf War are relatively cost and risk-free for Western societies, he warns, 'we may slip down the slope and find ourselves using violence with impunity, having lost our capacity for critical judgement. We may no longer be inclined to pay attention to the details of the ethical questions which all wars (even the most ethical) raise' (Coker 2001:149-50).

The New Security Challenges of the 1990s

The Weinberger/Powell doctrine of overwhelming force was seemingly vindicated by the Gulf War. It appeared that the lessons of Vietnam had been learnt and a new 'American way of war' had emerged, based on the use of 'decisive force'. As the 1990s unfolded, however, it soon became apparent that the Gulf war had been exceptional. It certainly provided little guidance for the military missions that would face the USA in the 1990s. For as Clausewitz argued, war is a chameleon, constantly changing its form and appearance. As new security risks and challenges emerged in the post-cold war world, it was increasingly evident that the US armed forces were facing new and testing demands in which the experience of high-intensity mechanised warfare was of limited relevance (Halberstam 2002).

The problem for the US military, imbued as it was with the ethos of the Weinberger/Powell doctrine, was that the security challenges of the 1990s rarely involved such clear-cut issues as territorial aggression or inter-state war. Rather, the post-cold war security agenda was dominated by new concerns such as proliferation, immigration, failed and failing states, and 'new wars' fought over identity and scarce resources within states (Kaldor 1999). Such conflicts were not amenable to high-intensity military combat operations involving overwhelming force, but called for humanitarian military intervention using a complex mix of diplomacy and coercion, carrots and sticks (Byman and Waxman 2002). Throughout the 1990s, therefore, the US military was under pressure to adapt to the changed requirements of the post-Cold War security agenda. This was reflected in debates on MOOTW ('Military Operations Other Than War') and SASO ('Sustainment and Stability Operations'). The Army, however, was concerned that such operations would erode its 'warrior ethos' by degrading its capacity to engage in combat missions. Examples of the new tasks given to the military were the army's construction of a ten-foot high steel panel fence along the Mexican border in 1991, and the use of the US Navy and coast guard to intercept illegal immigrants from Haiti (Moskos et al 2000: 17).

In the 1990s, the US military found itself facing growing pressure to transform itself into a 'postmodern military' more attuned to the demands of the post-cold war era (Moskos et al 2000: 27).

This pressure came not simply from the changed post-cold war security agenda, but also from the growing saliency in American society of identity politics based on ethnicity, gender and sexual orientation. For the US army, this meant that its post-Vietnam emphasis on military professionalism to prepare for traditional war-fighting was threatened by intensifying political demands from the Clinton Administration that the military – in addition to dealing with traditional threats to international order – should be prepared to serve as an instrument for an ethical foreign policy embracing humanitarian intervention, complex emergencies and peace enforcement.

Somalia: Operation Restore Hope

The first major example of the new missions facing the US military was Somalia. In the face of a looming humanitarian disaster, the US intervened in Somalia in December 1992 to establish a secure environment for the distribution of food. The US intervention, which was given a Chapter VII enforcement mandate by the UN Security Council and which thus constitutes the ‘first genuine case of UN authorized humanitarian intervention’ (Wheeler 2000: 173), was initially successful, but by the following June, US forces found themselves in a virtual state of war with the Aidid faction. This culminated in the loss of eighteen rangers and the shooting down of two Blackhawk helicopters in October 1993, and ultimately to the withdrawal of US forces from Somalia.

Operation Restore Hope in Somalia was the first major test of humanitarian intervention for the USA. As such, it raised distinctive moral and political dilemmas associated with this use of force. Prior to this, much of the US debate on just war had focused on the morality of strategic nuclear deterrence and America’s limited wars, epitomised by Vietnam. Humanitarian intervention, however, raised new questions (Johnson 1999: 71). On the face of it, intervening to prevent humanitarian suffering seemed a classic case of ‘just cause’. However, the Somalia operation demonstrated both America’s unwillingness to engage in the long-term tasks of nation-building, which this sort of intervention necessitated, and its lack of resolve to accept casualties in what was deemed to be a noble cause. It also suggested that the military doctrine underpinning the intervention – rooted in the Weinberger/Powell doctrine of decisive force – was inappropriate to complex emergencies, and resulted in a virtual state of war with the Aidid fraction in which the principles of *jus in bellum* were hard to uphold. More fundamentally, Operation Restore Hope raised the troubling question of whether ‘the threat or use of force can ever promote conflict resolution in situations where societies are plunged into lawlessness as a consequence of civil war and the disintegration of state structures’ (Wheeler 2000: 206).

Whilst Somalia demonstrated the limitations of the Weinberger/Powell doctrine and the concept of 'decisive force' in complex emergencies, its short-term result was to reinforce the emphasis on casualty avoidance and limiting US involvement in nation-building. This severely limited the type of mission that could be undertaken and coloured attitudes to the handling of risks to US forces during operations. The view of the US military was that it should not be used as an abstract 'instrument' of power for political objectives. General Powell, Chairman of the Joint Chiefs of Staff, restated his view – forged in the trauma of Vietnam – that 'American GIs were not toy soldiers to be moved around on some sort of global board game' (Powell 1995: 576). This approach was institutionalised in PDD 25 (Presidential Decision Directive 25), a document that reflected a compromise between the White House and Congress. It revived key tenets of the Weinberger Doctrine which stressed the importance of clear objectives and endpoints; the need for domestic and Congressional support; the commitment of sufficient forces to achieve the objectives defined and clear command and control arrangements; a plan of implementation; and a commitment to reassess and, if necessary, adjust the size, composition and disposition of forces deployed. The principle of decision force was subsequently reiterated in the 1995 *National Military Strategy* (NMS) released under General John Shalikashvili, and again in the 1997 NMS.

The effects of this military strategy were to remove the option of humanitarian intervention and peace support operations from the Clinton Administration, thereby undermining its policy of 'assertive multilateralism'. In effect, the strict guidelines of the Weinberger/Powell doctrine, which the NMS reiterated, were a recipe for inaction. This was clearly demonstrated by Rwanda – which was the first major humanitarian tragedy considered in the light of the PDD 25 rubric. Given its understanding of 'professionalism', therefore, the Army was badly equipped to address the broader security issues of the 1990s (Lock-Pullan 2002). The Army's concept of professionalism limited its awareness of the social and political aspects of strategy and security. Unprepared doctrinally to undertake humanitarian intervention and MOOTW, its utility as an instrument of an 'ethical foreign policy' was severely constrained. This left it ready to fight conventional 'just wars', which were few and far between in a post-Cold War world dominated by 'complex emergencies' and humanitarian crises. This also meant that US intervention and coercive diplomacy increasingly relied on airpower and cruise missiles, without the commitment of ground troops, which in turn made collateral damage more likely, despite the advances in precision-guided munitions.

For much of the 1990s, therefore, the US military proved doctrinally hide-bound and inflexible, and consequently unable to adapt to the security challenges and new strategic environment of the post-Cold

War world. In particular, it seemed ill-prepared for highly-political military operations involving humanitarian intervention and the limited use of coercive force. In this sense, the 1990s exposed a tension between the logic of war and the politics of war, which arose because the Weinberger/Powell doctrine seemed to suggest that political considerations were confined to the level of national strategic policy-making, rather than integral to the tactical level. Consequently the army was poorly equipped to cope with the political dimension of MOOTW.

Kosovo

The Kosovo war represented the uneasy melding together of the new demands of a transformed security environment with the 'professional' culture of the US military. For the Clinton Administration, the use of force to prevent ethnic cleansing and gross violations of human rights in Kosovo both accorded with its liberal interventionist sentiments, and was necessary to demonstrate the resolve and credibility of NATO. For the US military, the crisis was precisely the kind that risked a blurred mandate, with no clear exit strategy and a risk of 'mission creep'. The thankless task of mediating between these conflicting political and military perspectives fell to the NATO SACEUR, General Wesley Clark. Throughout the spring of 1999, he strove tirelessly to develop a viable military strategy in the teeth both of a lack of clear political support and resistance from influential sections of the US military.

The 1999 Kosovo campaign certainly seemed to contradict the precepts of the Weinberger-Powell doctrine of overwhelming force. The war involved a seventy-eight day air campaign without the use – or even the threatened use – of ground troops to back it up. The Kosovo Liberation Army, it was argued, provided a proxy ground force, but its military impact was marginal.

In terms of Just War theory, the Kosovo war was ambiguous. On the one hand, it was a war fought, not for vital national interests or control of territory and resources, but to prevent clear human rights violations. In this it was clearly a prime example of a 'Just War'. Yet US and allied motives were not entirely altruistic. The credibility of the NATO alliance was at stake, as was the reputation of the USA. The Kosovo war also lacked a clear mandate under international law from the UN Security Council, given the threat of a Russian veto. Nonetheless, the United States and NATO argued that previous UNSC resolutions provided a legal basis for intervention, as did international law on genocide. In terms of *jus in bello*, the war was fought discriminately and with considerable concern for avoiding civilian casualties. The moral status of attacks on Yugoslav infrastructure was disputed, but NATO

undoubtedly strove hard to avoid collateral damage to people and property. The central question remains unresolved: namely, whether humanitarian military intervention should now be regarded as a necessary and legitimate development of international law, or whether the principle of state sovereignty remains sacrosanct.

America After September 11th 2001

The War on Terror

US debates on the justice or otherwise of humanitarian intervention were suddenly rendered marginal by the shocking events of September 11th, 2001. The terrorist attacks on the Twin Towers in New York and the Pentagon in Washington had a profound and far-reaching impact on US attitudes towards the use of force. '911' might not have changed the world, but it certainly changed American perceptions of the international system, and given the USA's preponderant global power, this had far-reaching implications for the conduct and substance of international relations and security strategy. Most importantly, the terrorist attacks demonstrated that in an age of globalisation, no country, however powerful or geographically apart, could insulate itself from developments elsewhere in the international system, with its pockets of desperate poverty and fanatical hatred. For the USA, the events of September 11 exposed the vulnerability of their open and tolerant liberal society, and raised acute anxieties about 'homeland security'.

The Bush Administration's response to the September 11 events was swift and wide-ranging. As the role of Osama bin Laden and his Al Qaeda terrorist network became apparent, a full-scale campaign was launched, using all elements of national and international power, to eradicate terrorist threats to the United States and the wider international community. The first phase of this 'war on terror' involved a major diplomatic offensive to rally international support and to mobilise the international law enforcement and intelligence agencies to shut down Al Qaeda cells and uproot their financial networks. The military phase of the war on terror, 'Operation Enduring Freedom', was launched on October 7th 2001 against the Taliban regime in Afghanistan, which had harboured Al Qaeda since 1996. A total of 136 countries offered a range of military assistance to the US, including overflight and landing rights and new military bases (Lee and Perl 2002). Despite a slow start, and against expectations created by the experience of the British and Soviets in Afghanistan, the military campaign was ultimately successful in bringing down the Taliban regime, destroying known terrorist training camps and

capturing many Taliban and Al Qaeda leaders. Meanwhile, an agreement to establish an interim government in Afghanistan composed of non-Taliban elements was reached in Bonn on December 5, 2001. A subsequent military action, Operation Anaconda, launched in March 2002 by US forces with the support of five other nations, enjoyed mixed results. Pockets of Taliban and Al Qaeda resistance remain, and key figures such as Osama bin Laden and Mullah Mohammed Omar, remain unaccounted for.

The Afghanistan campaign, and the wider 'war on terror', was seen by the Bush Administration as marking a new approach to the use of military force by the USA. Leading administration officials had been scathing in their critique of the Clinton Administration's approach to the employment of American military power, given its perceived reliance on airpower and stand-off weapons. Bush was insistent that this war would be different, in particular, because the US would put 'boots on the ground' (Woodward 2002: 80). In the event, however, the military campaign in Afghanistan did not represent such a radical departure in US strategy (Biddle 2002). The US military commitment remained focused on intensive bombing and the extensive use of stand-off weapons in support of local US allies on the ground, in particular, the North Alliance. What was new was the extensive use of special forces to liaise with local allies and direct the aerial bombardment. Even when US ground forces were used in Operation Anaconda, much of the close-quarters fighting was left to the North Alliance and other anti-Taliban groups.

In terms of Just War theory, there was little dissent in mainstream American society that the Afghan war was a just war (see for example Elshain 2003). Its causes lay in the unprovoked and savage attacks by terrorists on US civilians, and the US response enjoyed broad domestic and international support. The war was conducted with the latest generation of PGMs (precision-guided munitions), which were designed to minimise civilian casualties, and the result of the war was a regime change that improved the lives of many ordinary Afghans.

Yet critics of the war raised a number of doubts about the justness of the war and its conduct. Some questioned US claims about the pinpoint accuracy of its bombing campaign and drew attention to the number of civilian casualties (Wheeler 2002). Others pointed to Secretary of Defence Rumsfeld's suggestion that he would prefer to see Taliban and Al Qaeda combatants dead rather than in prison. Widespread concerns were raised about the treatment of Al Qaeda detainees at Camp X-Ray in Guantanamo Bay in Cuba, particularly after pictures were released showing chained and blindfolded prisoners kneeling in a compound of barbed wire. The legal status of these detainees also generated controversy: the US administration termed them *unlawful combatants* rather than prisoners of war in

order to deprive them of legal rights under the Geneva Convention (Crockatt 2003: 153). All in all, therefore, the Afghan war and the wider war on terror gave rise to a new debate about the relevance of Just War theory to counter-terrorist operations. While mainstream opinion accepted that 'Operation Enduring Freedom' met the criteria of *jus ad bellum* and *jus in bello*, 'Operation Iraqi Freedom' was to prove much more divisive and controversial.

Operation Iraqi Freedom

Even before military operations in Afghanistan had ended, it was clear that influential voices in the Bush Administration were seeking to broaden the scope and aims of the 'war on terror' in order to address other perceived threats on the international agenda. In his oft-quoted 'axis of evil' speech on January 29, 2002, President Bush indicated his concern that terrorists could acquire weapons of mass destruction from 'rogue states'. In particular, he spoke of an 'axis of evil' constituted by Iraq, North Korea and Iran and indicated America's new resolve to tackle these potential threats before they risked threatening the USA and its allies. By the following summer, it was evident that the administration had hardened its position and that military options against Iraq were being seriously considered. The consequence of this was that the broad international coalition that had rallied behind America after 9/11 began to fragment, as more and more countries voiced concern that an increasingly unilateralist minded US administration was preparing to embark on a war of aggression against Iraq. These fears were fuelled by the publication of the US *National Security Strategy* in September 2002, which prescribed pre-emptive and preventive military action in a limited range of circumstances.

Operation Iraqi Freedom, the 2003 war against the regime of Saddam Hussein, illustrated both the strengths and weaknesses of the contemporary American way of war from the perspective of Just War theory. In terms of *jus ad bellum*, the justness or otherwise of the war stirred a major debate. Critics of the war argued that it lacked just cause and right intention because no link between Saddam's regime and international terrorists was proven, and the 'threat' from weapons of mass destruction was exaggerated. 'Right intention' was lacking, some argued, because the US administration was primarily concerned with gaining control of Iraqi oil. They also allege that the lack of a second UN Security Council resolution explicitly authorising war violated the requirement of proper authority, whilst the failure to give more time to UN weapons inspectors breached 'last resort'. On the other hand, proponents of military action against Iraq argued that there was just cause because Saddam was a brutal dictator and a threat to regional security, and had failed to comply with countless UN Security Council

resolutions since 1991. Some argued that resolution 1441 gave the US proper authority, whilst neo-conservatives insisted more radically that the UN itself lacked legitimacy, and that the only proper authority that mattered was the leadership of the United States. In this respect, they argue, the war was waged by a proper authority – the US President – and enjoyed Congressional and public support (Eichenberg 2003).

In terms of *jus in bello*, there is little doubt that the US military demonstrated their capacity to wage a mobile and high-intensity campaign in which collateral damage was limited, and lethal force applied in a discriminate and targeted manner. One of the distinctive features of contemporary US war-fighting is that military campaigns are no longer designed to achieve victory by physically destroying the mass of the enemy's armed forces. Rather, the aim is to destroy their will to resist by using coercive strategies rather than what Thomas Schelling termed 'brute force' (Schelling 1966: 2-3). The much-trumpeted notion of 'shock and awe' was designed to undermine the morale of the Iraqi military and weaken their will to resist, whilst military strikes focused on command and control centres and the regime's elite Republican Guard units. Despite claims by some anti-war protestors that the war would entail the 'carpet-bombing' of down-town Baghdad and fierce urban battles in which civilian casualties would be extensive, the widespread use of precision-guided munitions limited collateral damage and ensured that two of the central principles of *jus in bello* – non-combatant immunity and proportionality – were respected (Knights 2003).

Yet although the Iraq war was fought with due regard to *jus in bello*, there are good grounds for arguing that it falls short of *jus post bellum*. Given America's preponderant military power, and the political resolve of the Bush Administration to effect regime change in Iraq, there was little doubt that coalition forces could win the military campaign. Where doubts existed is in the Bush Administration's resolve to make the peace work. The US plan of operations called for a relatively small combat force backed up by overwhelming fire-power to overwhelm and defeat Iraqi forces. This it was able to do relatively easily. However, the use of minimal ground forces meant that when the war-fighting stopped, coalition forces found themselves over-stretched and unable to effectively occupy the main urban areas and establish law and order. The result was a wave of looting and lawlessness that threatened to undermine any goodwill the coalition gained from overthrowing a hated dictator.

The seventeenth century English poet John Milton once wrote that 'Peace hath her victories no less renowned than war'. Recent experience suggests, however, that the Bush Administration has proven more successful at achieving victories in war than in peace. This indicates the limitations of much contemporary US military and political thinking: the failure to prepare for the tasks of effective peace-

keeping and an unwillingness to undertake sustained state and nation-building. This weakness – what Michael Ignatieff calls empire-building ‘lite’ (Ignatieff 2003) – was first evident in Somalia, and was repeated in Afghanistan and Iraq. The Bush Administration was initially very reticent about getting involved in nation-building, which it felt was an inappropriate task for the US military. However, it is increasingly apparent that winning the peace is as important – if not more so – than winning combat operations, and that it is also much more complex and involved than war-fighting.

The US has now carried out regime change in Afghanistan and Iraq, and the responsibility for post-war rehabilitation and nation-building is now theirs. If, as many Americans believe, the Afghan and Iraq wars can be justified on the grounds of *jus ad bellum* and were fought in accordance with the principles of *jus in bello*, then it is equally important that the US administration accepts its responsibility for *jus post bellum* and devotes the necessary resources and political energy to ensure that the peoples of both countries enjoy a better life after the wars than they did beforehand. Particularly in Iraq – where the use of force was more controversial than any previous intervention in the post-cold war period – the real test of the justice of the war will be whether or not Iraqi citizens enjoy a more representative and responsible government that facilitates greater prosperity and social justice than under the Ba’athist regime. In Washington there is a statue of General Sherman that bears the inscription, ‘the legitimate object of war is a more perfect peace’. Commenting on this, the British military historian and strategic thinker, Basil Liddel Hart, concluded that ‘a more perfect peace is the only *rational* object of war’ (Quoted in Gat 1998:149). In the end, the justice or otherwise of the Iraq war – as with all wars – depends on whether it succeeds in creating a more perfect peace. This remains the acid test of Just War theory.

Conclusion

There is no doubt that, as the Twenty-First Century unfolds, the USA enjoys a position of unrivalled primacy in the international system, underpinned in the last analysis by its military potency (Posen 2003). How will America use this military power? Does it exercise it in accordance with the principal tenets of Just War Theory? These are questions of vital importance for the wider international community.

In seeking an answer to these questions, the empirical evidence is mixed. In terms of *jus in bello* – how force is used in combat – the USA has a reasonable record since Vietnam. US military doctrine has encouraged the more discriminate use of lethal force, whilst the advent of precision-guided

munitions has significantly reduced the incident of collateral damage. On the other hand, the desire to avoid US casualties increases the risk of non-combatant casualties, and encourages the use of overwhelming force when military options short of all-out war might be more appropriate.

As regards the reasons for resorting to force, America's record is more ambiguous. Its history of intervening to prevent genocide is, at best, patchy (Power 2003), and the theory of pre-emption that underpinned the Iraq war is difficult to square with the teachings of *jus ad bellum*. More often than not, the US has intervened in order to safeguard regional security or protect its perceived vital interests. The legitimacy or otherwise of this use of military force is often debated in terms of Just War theory. At the end of the day, however, judgements about the justness or otherwise of US actions in Grenada, Panama, Somalia, Bosnia, Kosovo, Afghanistan and Iraq depend, not simply on Just War theory, but on one's view of the USA as a foreign policy actor. Those who see the US as a liberal power struggling with the dilemmas of preserving international security in a violent and unpredictable world will be inclined to a more benign interpretation of US actions. Those who see the US as a hegemonic power bent on establishing a new American empire will tend towards a more narrow and stringent interpretation of Just War theory. This points to an important conclusion concerning the utility of Just War theory as an instrument of political analysis. On its own, Just War theory cannot provide a set of neutral or discrete criteria for evaluating the actions of foreign policy actors. Rather, Just War theory is always embedded in wider theories and assumptions of international politics, not least because Just War theory itself provides little guidance as to precisely what constitutes a 'legitimate' source of authority or a 'proportionate' use of force.

The views expressed in this article are those of the author(s) alone. They do not necessarily reflect the views of the American Institute for Contemporary German Studies.

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This essay appeared in the July 1, 2004 [AICGS Advisor](#).

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