

JUST WAR

The Just War Tradition:
Ethics in Modern Warfare

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THE STRUCTURE OF THE TRADITION

The structure of the tradition starts from recognition that killing or injuring other people is *prima facie* gravely wrong, and that war is therefore in itself a great evil. As the United States General Bernard Rogers, NATO's Supreme Allied Commander in Europe in the 1980s, said in a debate in Oxford, 'Anyone who has ever been in combat knows that war is a bad and a stupid way of doing business.' But the tradition recognises also that, while war can never be positively good, it is not always the worst thing; there may sometimes be duties and responsibilities so necessary to fulfil, happenings so important to end or prevent, such as aggression against us or innocent third parties, that a general presumption against killing cannot be absolute for all times and circumstances. The tradition then sets out a range of tests – criteria – that must be satisfied if war is to be morally justified. These criteria fall into two groups: 'the right to fight', and 'how to fight right'. The first group, often referred to collectively under the Latin phrase *jus ad bellum*, concerns the morality of going to war at all. The second group, referred to as *jus in bello*, concerns the morality of what is done within war – how it is to be waged.

There are six criteria under *jus ad bellum* (and it is important to note that they all have to be satisfied; four out of six, for example, does not amount to an overall pass mark):

Just Cause We must have a proper reason for going to war, such as protecting the innocent, restoring rights wrongfully denied, or re-establishing just order. Revenge, punishment for its own sake, or upholding a ruler's prestige will not do.

Proportionate Cause Besides being just, our cause must be weighty enough to warrant the massive step of engaging in war, with all its certain or likely evils. For example, it will not be justifiable to go to war simply because we believe, however validly, that another state has unfairly confiscated the property of one of our citizens, or insulted our flag or head of state. We must have a reasonable expectation that the outcome will entail enough good (over and above what might be achieved in any other way) to outweigh the inevitable pain and destruction of war.

Right Intention Our aim must be to create a better, more just and more lasting subsequent peace than there would have been had we not gone to

war. The extermination of a hated adversary nation, for instance, cannot qualify.

Right Authority The decision to go to war must be made by someone with proper authority to undertake so grave a step. Historically, this has usually meant the ruler or government of a sovereign state, as opposed to an internal warlord or faction. (There are separate and difficult issues, which we do not seek to tackle here, about whether, when and in what ways oppressed peoples may legitimately resort to arms in internal uprisings against gravely unjust governments.) In the modern world new and complex questions arise about how far and in what circumstances international authority may be required.

Reasonable Prospect of Success We must see a reasonable chance of succeeding in our just aim. War does not come with certainties, but we must not take up arms and sacrifice lives if, on honest appraisal, the likely result is simply death and suffering without making things materially better than they would otherwise have been.

Last Resort We must not take up arms unless we have tried, or have good grounds for ruling out as likely to be ineffective, every other way of adequately securing our just aim.

There are two criteria under *jus in bello*:

Discrimination This means that in our conduct of the war we must not deliberately attack the innocent. In this formulation 'innocent' means (in line with the Latin from which the word is derived) 'not involved in harming us, or helping to harm us'. It does not refer to personal moral culpability, though it still leaves open difficult judgements about exactly who is to be regarded as not involved, as non-combatant. By 'deliberate attack' is meant attack in which the harm to the innocent is the direct aim of the attack, or essential to achieving its purpose.

Proportionality This means that we must not take action in which the incidental harm done is an unreasonably heavy price to incur for the likely military benefit. The harm needs to be weighed particularly in relation to the lives and well-being of innocent people, but it is not confined to them. The lives of our own military personnel need to be brought into account, and sometimes even those of our adversary. The principle of not using more force than is necessary always applies.

All this continues to be a highly apt and robust frame of ethical reference. It is the best checklist there is of the

aspects that ought to be weighed. The circumstances in which the criteria have to be applied nowadays are often very unlike those of the tradition's early years, yet they have evolved considerably over the centuries and, as the rest of this book illustrates, there are no grounds for abandoning any of them as having become obsolete or irrelevant.

The essence of the doctrine, however, is disciplined pragmatism, and judgement does have to be used in the application of the criteria to specific situations; they are not tick-box tests that can be used simply or mechanically. Changes in conditions and settings stand to affect how they can be brought to bear. Today's world is different in important respects – political, social, technological – from that of even a century ago, let alone further back, and the criteria have to be pertinent and usable in situations that may not be neatly classifiable as wars in the standard historical sense. The following sections seek to explore the meanings and workings of the criteria a little further, and to suggest some of the ways in which it may be necessary to think afresh, or more clearly and precisely, about applying them to diverse sorts of armed conflict in the twenty-first century.