

The Just War

I want today to talk about Just War, what the traditions of the Just War are and the ethics in modern warfare. With recent conflicts, some of which, we the British, have been involved in, and current fighting in Libya and Syria on going, it is certainly a topical and controversial subject.

Ten years ago I wrote a book with Sir Michael Quinlan, who was a noted scholar, a staunch Catholic and had been a colleague of mine in the Ministry of Defence. We didn't write the book just because at the time we wrote it the Iraq War was raging but because we felt the tradition needed re-visiting. Had it stood the test of time? And was the world now so different that it was no longer relevant?

What is the definition of a war? I think the meaning has in some ways changed over the years. Today, especially in America, there is a war against poverty, a war against drugs, against cancer, against aids, against crime. None of these wars have been won so far. The term war is used fairly loosely but I don't intend to be pedantic and refer to war as it used to be, when it meant wars between nation states. Wars which were declared, which had truces and peace treaties, when soldiers wore uniforms, nations surrendered and it was easier to detect who the victors and the vanquished were.

When the Cold War came to an end many people felt a new time had come; conflict would be rare and with the threat of World War III disappearing, the traditions should be questioned. Were they still relevant?

In armed conflict some of the normal ethical rules have to be over-ridden, rules such as not killing other people. War is a very bad way of resolving disagreement. War is ghastly and it is inevitable that in war terrible things happen; things which in any other context would be utterly intolerable. But this cannot mean that anything goes. From the earliest time almost every society has had to face up to the reality of war and at the same time has had some accompanying notion, however incomplete or crude it may seem, to modern eyes, of the moral limitations applying to war. In the ancient world in Greece for instance, there was a recognition that even in the fiercest struggles there were some things that absolutely ought not to be done, such as poisoning water supplies, cutting down the other side's olive trees (because they would take so long to grow again), and executing those who had had nothing whatsoever to do with the fighting, women and children. Medieval warfare had some rules but many of them were about chivalry and matters purely concerned with fighting. For instance there was a tradition which certainly could not be called ethical, that in a siege if those who were being besieged continued to fight when they had the opportunity to surrender the population women and children would be

slaughtered once the attacking force seized the castle or town they were besieging. Although terrible things did still happen from time to time they were recognised as being wrong by most people for most of the time.

All the great religions and rationalist humanists have contributed to setting limits. Thinking has been developed over hundreds of years on moral values, rules and understanding to govern and restrain the use of military force. But I think it is really Christian thinkers who have written most about the Just War tradition, even though the historical record of Christians and observing it faithfully is far from un-blemished.

Islamic thinking about the ethics in public affairs in some ways are markedly different from those of Christianity and its teaching about war cannot be tidily compared with the Just War tradition. Many of the concepts in the Islamic tradition can be found in the sacred texts of Islam – the Koran itself and other holy books and texts.

In Islam there is a central emphasis on the primacy of peace, especially peace within the world-wide Muslim community. The key concept of Jihad means “effort” or “striving”. It does not necessarily mean taking up arms, though it does not exclude that as a duty in the right circumstances. War is in itself an

evil but divine law regulates it rather than forbids it. It can be justified to prevent the triumph of greater evil.

There have been occasional voices in the Islamic world, particularly in modern times, whose claims about what justifies the use of violence and what methods are legitimate, for example relating to the death of non-combatants, are sharply at variance with the Just War tradition. Yet these voices are far from being the majority of the accepted norm within Islam.

The Jewish pattern of thinking about contemporary war has historically been less fully developed than either the Christian or the Islamic traditions. This, I suspect, largely reflects the fact that for nearly 2000 years Jews had no sovereign state of their own and therefore no direct occasion to form a practical operational, ethical war.

Elements of the Just War tradition underlie much of the international laws of war accepted by all the member states of the United Nations.

Many historians believe that early Christians, a minority in the Roman Empire, were predominantly pacifists, but when the Emperor Constantine came to power in the 4th century, adopting Christianity himself, Christians had to face up to and work out the tough awkward, practical responsibilities of running and serving a

state and protecting its citizens. Christians who had been outsiders in the Roman Empire were now part of it.

Many famous figures – St Augustine of Hippo in the 5th century, Thomas Aquinas in the 13th, gave their mind to these problems. What should be done in face of armed aggression and oppression in human affairs? What should be done about the barbarian hordes, Attila and his Huns invading Europe from the East in the 5th century? Or the Moors spreading Islam from North Africa by the sword across the Mediterranean and up across Spain into France in the 7th and 8th centuries. The very idea that Attila, the enemy, was approaching your gate was a fact. He was there. His record was well known. Everybody would die who was in his path. Christians had to decide what to do about him and the Just War theorists believed that it simply could not be right to lay down as an absolute moral rule that armed resistance to Attila or his like was forbidden. How could any sensible person advocate pacifism if lives could be saved and genocide avoided?

Just War is not a doctrine decreed from on high or law. It is a tradition. It recognises that while war can never be positively good it is not always the worst thing. Ethnic cleansing, genocide and wholesale slaughter is almost certainly worse.

The tradition sets out a range of tests and must be satisfied if war is to be morally justified. The criteria fall into two groups. The right to fight, in Latin Jus ad Bellum, which concerns the morality of going to war at all. The second group Jus in Bellum concerns the morality of what is done in a war – how is it to be waged. There are six criteria in the first group Jus ad Bellum and I think we should ask ourselves whether these criteria are satisfied and taken account of, before embarking on armed conflict.

Firstly, you have to have a Just Cause – a proper reason to go to war. It could be;

(a) to protect the innocent to stop genocide -this could be said to have applied to our activities in Sierra Leone, or to Kosovo,

(b) to restore rights wrongfully denied,

(c) to re-establish just order and of course

(d) self-defence and self-preservation – such reasons as revenge and the desire to punish or to eliminate your enemy are not just causes. We could have a discussion about Syria and Libya. Could it be regime change? This seems a topical and controversial subject. Saddam Hussein was a bad man running a bad

regime. But Iraq was not a failed state. Was it up to us to topple him? Have we made things better?

Second, you must have a proportionate cause. The case for going to war must be weightier enough to warrant the massive step of engaging in armed conflict. It is not good enough to go to war if you believe one of our citizens has been cheated and his holiday house or property confiscated or the national flag has been burnt by a mob or the President of the United States or The Queen has been insulted. We must have a reasonable expectation that the outcome will entail enough good to outweigh the inevitable pain and destruction of war. I always think the war of Jenkins' ear when Spain and England went to war, we were itching to fight and to have a war with Spain and when Spanish Coast Guards cut off a sailor Jenkins' ear one had an excuse.

Third, we must have the right intention, our aim must be to create a better, more just and more lasting peace than there would have been had we not gone to war.

Fourth, the right authority must be somebody with proper authority. Historically this has been a Head of State, the Ruler or Governor of a Sovereign State. This is not so straightforward today. In 1945 the Charter of the United Nations laid down that countries have a right to take up arms in self-defence and that external military action going beyond that must be taken only with the

authorisation of the United Nations' Security Council. The failure of the UN has been due not only to the bad behaviour of particular countries, although over the past 60 plus years there has been plenty of that, and because of the short-comings inherent in the present composition and the power of veto within the five permanent members of the Security Council. Any one of the members can block a resolution.

It is not surprising that the Security Council cannot always agree. National interests often prevail. They did in the Balkans, they did in Syria, and any number of other places one can think of.

I believe Rwanda, Kosovo and many commentators would add perhaps Darfur, where widespread desires for more determined humanitarian interventions were held back by a perceived likelihood of veto by China or Russia or France in the Security Council, does show us that a rigid absolute insistence on the Security Council clearance can at present be incompatible with a proper recognition of the world's practical and moral realities.

The Fifth criterion is that there must be a reasonable possibility of success. If a war's likely result is simply death and suffering without making things materially better, we should not take up arms. Death before dishonour is not right. However, this criterion is a good example that it may not always be right

to slavishly follow the Just War tradition. In 1939 Finland engaged in a war with Soviet Russia. A war they could not possibly win but undoubtedly achieved a far better deal by fighting than they would have if they had just capitulated.

The Sixth and final criterion is 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 securing our Just Cause. This does not mean that war is not to be embarked upon until every other option, however unrealistic, has been tried. It would be unreasonable to demand that every conceivable non-military instrument must have been exhaustively tested irrespective of whether it is likely to work.

Dropping leaflets on an enemy who is just about to kill you is not wise. There comes a point when Diplomats and Politicians who are getting nowhere with negotiations which are proving fruitless, with no prospect of success, must stop and military action becomes paramount, hopefully for not too long.

If those six criteria should be taken into account before going to war then there are two criteria under Jus in Bellum. How one should behave during the war. First, discrimination. This means that in the conduct of war we must not deliberately attack the innocent. Innocent means those not involved in harming

us or helping to harm us. But it is not easy to define innocence. In 1991 I think it was legitimate to target the reluctant Iraqi conscripts facing the United Nations Forces. The relevant fact was that they were there to help do harm and were killing people – mostly Kuwaiti civilians. But are civilians innocent, who provide logistic support to the armed forces? Are workers in armament factories? All these seem plainly "involved". Are the broadcasters putting out a hostile regime's propaganda? We can remember the television station in Belgrade being destroyed. Is an old lady knitting socks for her grandson serving in the front line? surely not. Disarmed captives? almost certainly not but they could be if the captives outnumber their captors and begin lynching their armed guards. But there is much to debate and very different questions are posed. Increasingly often the situation is not a tidy one of state versus state, but countering guerrilla-like or clandestine opponents. Terrorists rarely wear uniform and look like the innocent civilians they are amongst and perhaps using as a shield. Tidy rules are impossible but honest judgements have to be made. General attack on a nation's population in order to weaken a nation's resolve surely is wrong. Increasingly we look back at the bombing of Dresden as wrong and other raids by Bomber Command. They happened towards the end of the War when the final outcome, our victory, was clear. The morality of Bomber Harris's campaign will be argued about for many years.

The second criteria then is proportionate. We must not do things, however legitimate in themselves – if in our honest and considered opinion the good they achieve is likely to be outweighed by the harm inflicted on those who ought not to be harmed. It is entirely legitimate to knock out an enemy tank but if the enemy tank is hiding in a large hospital complex or a school, it is not permissible to flatten everything to ensure the tank is destroyed.

What one must avoid is creating a vacuum after hostilities are over. If one fails to do this there is a danger of this void being filled by the ill-intentioned as happened in Iraq and in Afghanistan in certain areas. The post –conflict phase needs judges, lawyers, policemen, prison officers, diplomats, doctors, aid workers, civil engineers, vets and economists.

Soldiers are not well-trained in these tasks but too often they are likely to be the only people around to do them at the end of a war. Perhaps the greatest failure of Iraq and Afghanistan is the lack of policy and co-ordination of effort once the real fighting was over. Military aid, foreign and political policy had to be co-ordinated and quite honestly it has not always happened at national or international levels.

When the Allies went into Kosovo I seem to remember only one NGO was ready to go with them. A year later there were over 400 such organisations.

One of the great problems about war and armed conflict is that they have unforeseen consequences. The outcome is difficult to predict and one of our traditions is to make things better. It is not like a play in a theatre where there is a script and we know what the ending will be. But we have to be prepared for the unexpected. We have to plan and I think the greatest indictment on the second Iraq War is that the United States, Cheney and Rumsfeld, was steadfast in their opposition to plan for what might happen after the first 21 days of war when the Iraqi army collapsed, and as a result some very unfortunate decisions were taken. Conflict is dangerous and frightening but what happens afterwards is usually more complicated, goes on longer and ends up being even more expensive than the war itself. Iraq and Afghanistan are excellent examples. Most conflict resolution is very difficult.

The Roman writer Tacitus talks of the Victorious creating a desert and calling it a peace. This cannot be right. One must strive to create a better solution.

In conclusion the tradition of a Just War doesn't yield a tidy unambiguous answer to every question. Terrible problems and dilemmas have to be faced and those who lead are faced with horrific decisions – sometimes based on sparse evidence and which have to be taken very quickly. The Just War calls for judgement, often contestable in good faith, on matters lying well beyond the

expertise of moral philosophers. It is I think simply a systematic reminder of moral questions we ought to think about when we consider embarking upon armed conflict or when we engage in it. One recognises not everybody will consider moral questions but it is surely beyond argument that some framework and analysis of war is necessary. Politicians and Generals need to understand what the Just War tradition means and avoid sliding into wars without understanding. The possible consequence, intervention is comparatively easy when compared with conflict resolution.

Those who reject the Just War approach and there will be those who will continue to do so, have to face and answer the question of what other ethical road map they propose to put in its place. Conflict has changed, weapons are more terrible but I believe the tradition of the Just War is still relevant and we abandon it at our peril.