

Ideas

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Just War and Humanitarian Intervention

by Jean Bethke Elshtain



An F-14 Tomcat aboard the *USS Theodore Roosevelt*, as part of an early morning NATO airstrike above Kosovo, April 12, 1999. (U.S. Navy photo by Photographic's Mate Third Class, Donne McKissick.)

Just War and Human

IT IS NOW SO EASY TO DETERMINE just how to assay questions of global inequality in relation to decisions of whether to intervene in local or regional conflicts. When we think of equality or inequality, the nigh automatic reference point is a socioeconomic one: questions of distributive justice dominate the discussion. Yet one could make a case that questions of *fairness* or *just treatment* do bear on the ways we think about intervention and the means of intervention. There is a long tradition of reflecting on questions of war and violence in the language of justice: the just war tradition.

Mistakenly thought of by many as a way to endorse any war a nation decides to embark upon by throwing the mantle of “just” or “justice” over the violence, the just war tradition is, in fact, a theory of *comparative justice*

applied to considerations of war and intervention. In order to better grapple with its complexities and the characteristic form of moral reasoning that enters into the just war tradition—casuistry, which got unfairly labeled by Pascal and others as merely a way in which Catholics managed to mangle Holy Writ to serve narrow Church interests—it is important to get a grip on just what this centuries-old, ongoingly revised tradition consists of and the ways in which it meets the alternative traditions of *realism*, on one end of a continuum, and Christian *pacifism*, on the other.

Approaching humanitarian intervention through a just war lens means that they, or their possibility, must be subjected to intense scrutiny and cannot be played out simply by appealing to compassion or to doing the



The photos included in this article, which appear courtesy of Howard Davies/Oxfam Great Britain, were taken in 1999, as Kosovar refugees gathered at the Macedonian border.

Humanitarian Intervention

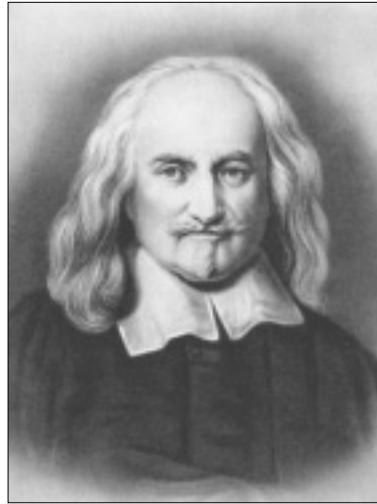
Jean Bethke Elshtain

“right thing.” This is because the just war tradition acknowledges the tragedy of situations in which there may be a “right thing” to do on some absolute standard of justice but no prudent or decent way to do it. Small wonder, therefore, that just war criteria are so frequently repaired to and are just as frequently, and quickly, dropped or forgotten when a certain moment, or need, has passed.

Let’s begin with the basics of the just war tradition and the ways in which it intersects with thinking about international justice. I

will then consider whether this complex tradition affords a compelling frame within which to conjure with the issue of humanitarian intervention, drawing on specific instances of such intervention and measuring these against just war stipulations. Finally, I will conclude with a few comments on the politics of humanitarian intervention drawn from the Augustinian tradition. St. Augustine is the acknowledged forefather of both the just war tradition and its close relative “Christian realism.” Indeed, or so I shall sug-

Jean Bethke Elshtain is the Laura Spelman Rockefeller Professor of Social and Political Ethics at the University of Chicago and has served as a Trustee of the National Humanities Center. Professor Elshtain is the author of many books, including *Democracy on Trial*, which was a *New York Times* Notable Book for 1995. She spent 2000–01 as a Fellow at the Center, where she completed an intellectual biography, *Jane Addams and the Dream of American Democracy*, and prepared an anthology of Jane Addams’ writings. Basic Books will publish both books in December 2001. At the Center, she also began a major new work, *Sovereign God, Sovereign State, Sovereign Self*.



St. Augustine, Thomas Hobbes, and Niccolò Machiavelli. (Courtesy of Thoemmes Press.)

gest, ethically chastened Christian realism is a more powerful philosophical, theological, and political frame within which to take up matters of humanitarian intervention than is a version of the just war tradition assimilated too closely to an often sentimental humanitarianism, one that abandons awareness of the murkiness and imperfection of human action in that realm of contingent possibility we call politics. This means that no perfect standard of justice or fairness can ever be attained by which to adjudicate questions of war, violence, and intervention, but it does not mean that one should exile the language of justice and the concerns intrinsic to it from matters of war and peace altogether.

The Just War Tradition

Just war is a way of thinking that refuses to separate politics from ethics. Unlike the competing doctrine of state-centered strategic realism, just war argument insists one must not open an unbridgeable gulf between “domestic” and “international” politics. The tradition of political realism and that of just war embrace contrasting presumptions about the human condition. The realpolitikers,

whose great forefathers are Machiavelli and Hobbes, hold that men in general are ungrateful, dissembling, back-stabbing, and untrustworthy (Machiavelli here). In Hobbes’s scientific account, humans are isolates driven into forward motion, bound to collide violently, and humanity in general is defined by the most horrible equality imaginable—the power one has to kill another. Under these circumstances, it takes a great deal of coercive force to hold such creatures in check, and not in the interest of a positive vision of human possibility but simply to stop them from marauding.

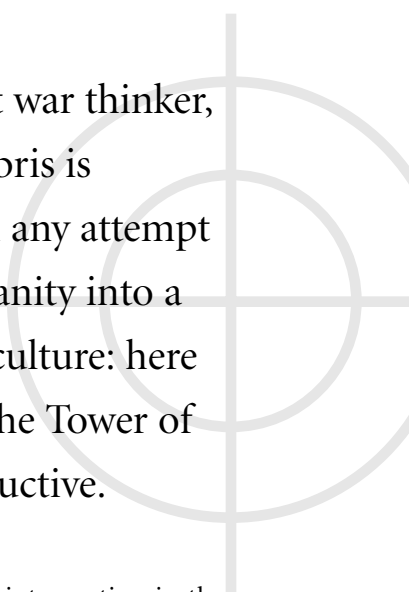
By contrast, just war thinkers begin with a commitment to both human solidarity and human plurality. The presupposition is that there are constant features of humanity of both a universal and a particular nature; indeed, particularity is itself a universal dimension of humankind. Viewing humanity through the lens of “original sin,” just war thinkers have historically expanded on understandings derived from theology: that human beings are broken and separated by sin and that this simply is the human condition between the fall and the end-time. At the

same time, these torn and sinning creatures are haunted by the trace of their lost condition and yearn, therefore, for less alienated and fractured lives. Human motives and actions are always mixed: we both affirm and destroy solidaristic possibilities, often doing so simultaneously. For example, we affirm solidarity within the particular communities of which we are a part. Every human being is a member of a way of life that embodies itself institutionally as family, tribe, civil society, or state. This plurality is a constant feature of human political and moral life. We may launch ourselves into wider or more universalistic possibilities from this particular site, seeking to affirm our common humanity through organizations, institutions, ways of being and thinking that draw us into wider streams of existence. Or we may not. And we may not in dreadful and destructive ways, for example, by denying the very humanity of those from different groups than our own. This denial of humanity is also a denial, or a refusal to recognize, that all cultures without fail define and refine moral codes and that these moral codes invariably set norms for the taking of human life; all have some notion of what counts as a violation of this norm.

In light of this backdrop, the classical realpolitiker sees violence, whether domestic or international, as an unsurprising breaking forth of given features of the human condition, because, from our “chained beast” starting point, we have created institutions that, in some sense, reflect and refract our insecurities, our passions, our drives for dominance, our capacities for suspicion and even hatred. For the just war thinker, human motives and actions are invariably mixed. War, when it occurs, is as likely to be an expression of justifiable outrage at injustice as an ineluctable bursting forth of our innate brutishness. Might never makes right, argues the just war thinker, but might may sometimes, on balance, serve right.

Whereas the realpolitiker insists that the rules governing private or domestic moral

conduct are inapplicable to the world of what used to be called “men and states,” just war politics insists that, although it would be utopian to presume that relations between states can be analogous to those between family and friends, this does not mean a war of all against all must ensue once one leaves the hearth or the immediate neighborhood. The strategic realist is governed by instrumental calculations and a concept of national interest. The just war thinker begins with complex, normative commitments, as well as pragmatic considerations, that overlap with those of strategic realism, though the starting points vary. Although the just war thinker would not be so harsh in evaluating what is usually called liberal internationalism, with



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its justifications of intervention in the name of sustaining, he or she would voice skepticism about the possibility of building a universal culture of Kantian republics governed by identical normative and legal commitments. This skepticism does not derive from opposition to a robust international regime of human rights or greater international fairness and equity but, rather, comes from a commitment to the intrinsic value of human cultural plurality. Indeed, for the just war thinker, the sin of hubris is implicated in any attempt to weld humanity into a single monoculture:

here the story of the Tower of Babel is instructive. The reason God intervened, scattered humanity, and set us to babbling was to remind humanity of the need for humility and limits. The Babel story is a cautionary tale concerning any and all attempts to forge a uniform humanity under a single scheme of things, and it sets in motion profound human tasks: recognition, interpretation, and partial understanding. At the same time, just war thinkers worry that certain appeals to a more cosmopolitan or internationalist order and to the alleged possibility of severing intervention with force from any consideration of strategic considerations or national interest might invite a radical depoliticizing of national action. Note that, in the multiple cases of bombing in the Clinton years, the word “war” dropped away in favor of the phrase “humanitarian intervention.” But no one can fight a war without getting blood on

his hands. Humanitarian intervention that involves the vast modern arsenal of war—soldiers, automatic weapons, attack helicopters, bombers, cruise missiles—is a war of one sort or another, and I will have more to say on this as we proceed.

As a theory of war fighting and resort to war, just war thinking is best known as a cluster of injunctions: what it is permissible, and what is impermissible, to do. The *ad bellum* specifications provide the terms under which a war may be waged: for example, a war must be the last resort, it must be openly and legally declared, and it must be a response to a specific instance of unjust aggression. The *in bello* norms concern the actual conduct of war: the means deployed in fighting a war must be proportionate to ends, and a war must be waged in such a way as to distinguish combatants from noncombatants. Whether in evaluating a resort to arms or in determining



the bases and nature of political order more generally, the just war thinker insists on the need for moral judgments, for determining who in fact in the situation at hand is behaving in a more or less just or unjust manner; who is more the victimizer and who the victim. As well, just war insists on the power of moral appeals and arguments. For the strategic realist, moral appeals are window dressing, icing on the cake of strategic considerations. For the just war thinker, moral appeals are the heart of the matter—not the *only* matter but the place from which one starts. These moral appeals are not abstract deontological *desiderata* but, rather, a version of *phronesis*, or “practical reason,” in a neo-Aristotelian sense. (Although it would be a big mistake to assimilate the comparative justice reasoning of the just war tradition to Aristotelian “virtue theory.”)

Just war thinkers, then, do not so much propound immutable rules so much as clarify the circumstances that justify a state’s going to war (*jus ad bellum*) and what is and is not allowable in fighting the wars—or interventions—to which a polity has committed itself (*jus in bello*). There are those who argue that our moral squeamishness must be laid to rest in times of war; the image of the violated woman, the starving child, the blown-to-pieces man, be put out of sight and out of mind. This is cruel, they say, but we live in a cruel and dangerous world. We must think in terms of the Big Picture, the system of sovereign states and balance of forces. For if we do not think in this way, if we are naive about the world’s ways, many more human beings will suffer over the long run as smaller nations or groups of people within nations are gobbled up by huge empires and tyrants run amok, are ethnically cleansed, are rounded up and murdered. Just war thinkers acknowledge this important insistence on the ways in which refusing to counter aggression may, in fact, make things worse, but go on to insist that we can hold within a single frame a concern for peoples in a collective sense and a commit-

ment to the dignity of each and every human being: the ethical concerns are never simply irrelevant.

The Just War Tradition as Frame for Action: Sic et Non

Now let’s take up the question of whether the just war tradition gives us a vantage point from which to assay critically forms of intervention that appeal to humanitarian considerations or, specifically, to the just war tradition itself, often in and through the many conventions and agreements that have solidified and legalized (so to speak) that tradition over time. For the just war thinker, or to one indebted to that tradition, military intervention shouldn’t be a knockdown conclusion that follows from the articulation of triggering stipulations and claims about national interest. How, then, would the just war thinker build a case for intervention? And what does justice have to do with it? I have already noted that this tradition is demanding and inherently complex, aiming simultaneously to limit resort to arms and to respond to the urgent requirements of justice. There are times when claims of justice may override the reluctance to take up arms. For there are grievances and horrors to which we are called to respond—provided we can do so in a manner that avoids, to the extent that it is humanly possible, either deepening the injustice already present or creating new instances of injustice. This is a tall order.

The first part of the just war framework is devoted to determining whether a resort to war—or intervention—is justified. War should be fought only for a justifiable cause of substantial importance. The primary just cause in an era of nations and states is a nation’s response to direct aggression, a central dictum solidified over the years but nonetheless problematic if one starts with St. Augustine’s insistence that it is better for the Christian to suffer harm than to harm another. That said, Augustine also recognized that statesmen (and women!) bore a responsibility

for the well-being of their polities. Protecting citizens from harm is a fundamental norm, and it scarcely counts as protection if no response is made when one's countrymen and women are being routed from their homes, hounded, slaughtered, and the like.

But there are other justified occasions for war. Aggression need not be directed against one's own to trigger the *jus ad bellum* argument. The offense of aggression may be committed against a nation or a people incapable of defending themselves against a determined adversary. If one can intervene to assist the injured party, one is justified in doing so—provided other considerations are met. From St. Augustine on, saving “the innocent from certain harm” has been recognized as a justifiable cause: the innocent being those who are in no position to defend themselves. The reference is not to any presumption of moral innocence on the part of victims: nobody is innocent in the classic just war framework in that sense. This is another way in which the just war tradition guards against moral triumphalism: by insisting that, even though the balance of justice may fall more on one side than the other in cases of conflict, there should be no presumption that the aggressor is wholly evil; the aggressed against wholly innocent. Presuppositions of total innocence can and have fueled

horrible things. In our time, this saving of the innocent is usually referred to as humanitarian intervention.

This does not mean, of course, that any one nation or even a group of nations can or should respond to every instance of violation of the innocent, including the most horrific of all violations—ethnic cleansing. The just war tradition adds a cautionary note about overreach. Be certain before you intervene, even in a just cause, that you have a reasonable chance of success. Don't barge in and make a bad situation worse. Considerations such as these take us to the heart of the so-called *in bello* rules. They are restraints on the means to be deployed even in a just cause. Means must be proportionate to ends. The damage must not be greater than the offenses one aims to halt. Above all, noncombatant immunity

must be protected. Noncombatants historically have been women, children, the aged and infirm, all unarmed persons going about their daily lives, as well as prisoners of war who have been disarmed by definition. Knowingly placing noncombatants in jeopardy, knowingly putting in place strategies that bring greatest suffering and harm to non-combatants rather than to combatants, is unacceptable on just war grounds. Better by far to risk the lives of one's own combatants than the lives of “enemy” non-combatants. Just war

U.S. Marines, Zagra, Kosovo, June 23, 1999.
(U.S. Marine Corps photo by Lance Corporal Jimmy Perkins.)



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thinking also insists that war aims be made clear, that criteria for what is to count as success in achieving those aims be publicly articulated, and that negotiated settlement never be ruled out of court by fiat. The ultimate goal of just war is peace that achieves a greater measure of justice, the “delightfulness of peace,” in Augustine’s phrase, “peace dear to the hearts of humankind.” In conducting a just war, there should be evident traces of that peace borne along by the two major principles of discrimination, or targeting only legitimate war targets—here noncombatant immunity, and proportionality, a way of restraining the scope and intensity of warfare in order to minimize its destructiveness, to remind human beings there is another possibility.

The Just War Tradition and the Persian Gulf War

How well does the just war tradition bear up when it is specifically evoked as the grounding and framework for intervention? We have two examples of recent vintage that afford interesting and ambiguous case studies: the 1991 Persian Gulf War—not, to be sure, a humanitarian intervention per se, although humanitarian grounds melded to traditional grounds of nonaggression against a sovereign state were evoked; and the 1999 intervention in Kosovo. Well before invading Kuwait, Saddam Hussein’s regime in Iraq was defined by injustices of the most grievous sort, as documented by international human rights groups such as Amnesty International and Middle East Watch. No state escapes whipping when measured up against strong standards of justice, to be sure, but evaluations of comparative justice are what the just war thinker is all about. Just war deplores creating false moral equivalencies: there is a big difference between being paid low wages for hard work; being denied the franchise; and being tortured or gassed because one’s politics is incorrect or because one is a member of an ethnic minority that cannot defend itself against a dominant and violent majority. But

the injustices of Saddam’s reign in and of themselves did not constitute grounds for forceful intervention, not within the just war framework. Had Saddam been engaged in gassing Kurds, a case for intervention in the internal affairs of Iraq could have been mounted. But the day-to-day, routine inequities of a polity, short of such egregious violations as systematic torture of political opponents, targeting and destruction of categories of persons within one’s own boundaries, do not of themselves warrant the upheavals and destruction of intervention with force. The annexation of Kuwait, the brutalization of Kuwaitis, the gutting of their country were clear violations of basic principles of international order which encode respect for the autonomy of states. One need not like the regime in place in a country that is the victim of aggression to acknowledge that an *ad bellum* trip wire has been crossed, a crime (in Michael Walzer’s term) committed by one state against another, one that violates the United Nations charter.

From the beginning, the American response to Iraqi aggression evoked just war imperatives. Such considerations framed much of the debate about whether to intervene and what means to deploy once one had. The language of “just cause” was endlessly repeated, as was “last resort”: the argument here being that sanctions were tried and failed. Legitimate authority was articulated explicitly: a twenty-seven-nation coalition acting under the imprimatur of the United Nations and in the name of collective security. In this case, then, all the imperatives of just war were satisfied. Yes and no. Just war principles are ambiguous and complex. Evaluations have to be made at each step along the way. Greater and lesser evils (injustices) must be taken into account. Thus, certain questions must be asked, including, What would be the cost of resisting Iraqi aggression? Would the postwar Gulf region be a more, or less, unjust and disordered region? Might not the human and environmental damage, and the assaults

to the spirit each and every war trails in its wake, blight any peace? The ends may be justified—restitutive response to aggression—but the means may be unjust or unjustifiable, even if pains are taken to avoid direct targeting of civilians.

Much of this complexity fell out of the argument as a thinned-out variant on “just war discourse” emanated from the Bush Administration and from the supporters of intervention in the House of Representatives and the Senate. It proved to be both heartening and troubling to find just war discourse being evoked: heartening because concerns of justice were at the foreground and because *limits* to the use of force as well as its justification came into debate; troubling because the rhetoric of justification veered dangerously toward a crusade and in the direction of moral triumphalism, with Hussein called a Hitler for our time, although the Iraqi people themselves were spared any blanket Nazification, rhetorically speaking. This rhetorical upping of the ante points to a temptation in, or related to, the just war tradition, namely, the way in which it slides over into crusades at one end of a continuum. Saddam is a bad guy: must he be a Hitler? On the *in bello* front, great care was taken in coalition targeting policy in line with just war restraints. If postwar estimates of the non-combatant casualties of coalition bombing are at all accurate—five thousand to fifteen thousand civilians, according to Greenpeace, scarcely known for its support of forceful intervention—that is ghastly but something to be grateful for at the same time. All one need do is to compare this discriminatory policy against the indiscriminate terror bombing of civilian targets in World War II to appreciate the restraint the coalition partners placed on themselves in their targeting strategy.

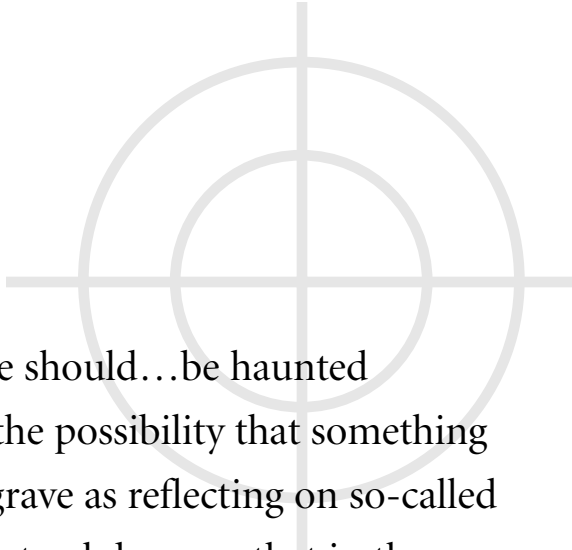
One should, nevertheless, be haunted by the possibility that something as grave as reflecting on so-called collateral damage, that is, the harm that comes to nonmilitary targets

(e.g., civilian noncombatants) from the legitimate targeting of a military site, can too easily become formulaic. This sad, if not cynical, possibility came to light explicitly in the Kosovo intervention. In April 2000, the *New York Times* ran a long reprise on the bombing of the Chinese embassy, and readers of the piece learned that not only error but also dangerous incompetence were involved as, what the *Times* called, “inexpert” targeters forged forth absent higher-level accountability. What was most interesting in the account was the illustration that accompanied the article. One sees an aerial photograph identified as target 493, “Belgrade Warehouse,” described as a site for “Supply and Procurement” for the Serbian forces. “Collateral damage” is noted and ranked as “Tier 3 High” with a “Casualty Estimate” of three to seven civilian workers and an additional calculation of “unintended civilian casualties of 25-50.” These notations seem to say, in a policy management kind of way, “We’ve done our duty.” Particularly chilling is the calculating costing out of lives, accompanied with a good bit of crowing about smart bombs in Desert Storm and the Kosovo war bombing of Belgrade and other Serbian sites.

Just war thinking requires something else: continued attention even after the shooting has stopped. Because the media focused nearly all of its concern on whether noncombatants were actual targets of the bombing strategy of the international coalition, the public’s attention was deflected from the long-range effects of bombing in the Persian Gulf War, including life-threatening assaults to the infrastructure of Iraqi society—energy and water supplies, for example. These matters require explicit attention within a just war framework. The strategic realist can say, “Hit anything that makes them hurt and impairs their ability to fight,” but the just war thinker must not move so hastily. Instead, he or she must sift out what is vital to the opponent’s war effort—including power and communications stations—from what, though it might

be drawn into support of military actions, is essential to sustain civilian life: here water and food supplies are foremost, even paradigmatic, as an example of what noncombatants require.

The First Geneva Protocol codifies just war thinking on civilian and nonmilitary targeting in language that directs our attention not only to the buildup to war, or the war itself, but to its long-term consequences. Those consequences now include malnutrition and epidemics linked directly to inadequate food and water supplies and medicines. Numerous Iraqi children (one never knows which numbers to trust) have suffered or even died from the delayed effects of the Gulf War: innocent casualties postbellum. (Here, in the interest of fairness, it should be noted that one of Saddam Hussein's policies was to refuse humanitarian relief, which was exempted from the oil embargo in order that oil could be used to pay for food and medical supplies.)



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Just war argument precludes a punitive peace, and there is much that smacks of punishment—more retributive justice than justice as fairness—in the suffering of the Iraqi people in the war’s aftermath. If, as the U.S. government insisted, Iraqis are victims of an abysmal regime, it is inconsistent with just war as politics to torment a people in order to punish a dictator, knowing that one can never decisively separate out those who aggressively and actively support an oppressive regime and those who do not, save for the list of government officials.

My point is that, if just war thinkers are serious about justice, this tradition of thought should not be hauled out on various rhetorical or ceremonial occasions and then shelved once the rhetorical or political moment has passed. If just war is evoked, then those evoking it should stay within the framework they have endorsed. The health catastrophes faced by the Iraqi public, the plight of the Kurds, and the disproportionate casualty figures, with estimates of 100,000 Iraqi soldiers killed and 300,000 wounded, leave a bitter aftertaste. Was this a fair fight or a turkey shoot? Just war thinking does not permit one to evade such questions. The lopsidedness of casualties is a problem for the just war thinker as it is not for the strategic realist.

Let’s add another ingredient to this already thick stew. Many of those who took the so-called high ground in the run up to the Persian Gulf War and during it, various pacifists and others who evoked humanitarian and moral considerations, often called for a continuation of the embargo as a preferred alternative to the use of force. But, as just war points out, economic embargoes are not pristine affairs. They directly target civilians, knowingly seeking to put pressure on a regime through depriving civilians of foodstuffs, energy supplies, even medicine. Also worrisome is the fact that just war considerations fell off the rhetorical radar screen once hostilities ceased. Spokesmen for the United States government reverted almost immedi-

ately to the language of strategic realism and the inviolability of sovereignty, thereby justifying coalition refusal to “intervene” in the internal affairs of Iraq when the plight of the Kurdish people captured our attention. Can one really stand back and say “no intervention in internal affairs; that’s international law” when he or she has been responsible in part in bringing about those internal affairs in the first place? It is this sort of ethical schism that the just war tradition aims to bridge. There is nothing wrong per se with diplomatic and strategic categories—depending on how they are used and to what ends. The problem I am raising here is the taking up of a rhetoric of strategic realism abruptly once the rhetoric of just war seems to have exhausted its utility. If a person truly cares about issues of comparative justice, such a move ought not be made cavalierly.

The Just War Tradition and Kosovo

For many, Kosovo is a paradigmatic instance of humanitarian intervention in the very name of humanity itself, calling to mind the Nuremberg precedents and “crimes against humanity.” Hitler and Nazism were evoked repeatedly to characterize Serbian policy. It is the *in bello* dimensions of just war I aim to emphasize, although certain *ad bellum* issues would come into play in any exhaustive examination of the Kosovo intervention within a just war framework, including the vexing matter of “right authority.” If, as an editorial in *Commonweal* magazine pointed out, a hawk (or strategic realist) might have refrained in this situation and a pacifist by definition, unless he or she could somehow squeeze what was going on within the category of a “police action,” interventionists of various sorts argued forcefully that ethnic cleansing is one of those rare knock-down triggers *ad bellum*. Interventionists come in several varieties, of course, and *Commonweal* notes one sort—called “genuine interventionists”—who hold to a seamless web approach to human-rights violations, namely, they are all

“created equal and justice demands going *everywhere* to stop certain harms from continuing if you go *anywhere*” (provided, of course, you have the means). To quote the editorial, “Therefore, international action ought to be taken almost everywhere to stop slaughter and ruin, whether it is born of ethnic and religious rivalries or internal political divisions. The principle of intervention should be universal and uncompromising.” That is not the sort of interventionism the just war tradition underwrites, so long as it remains tethered to Augustinian realism, hence attuned to the role of contingency, including a state’s or a coalition’s inability to respond evenly and robustly everywhere whenever something terrible is happening whatever the demands of an absolute standard of justice. Comparative justice, by contrast, is not a utopian standard.

Humanitarian intervention comes under the category of saving innocents from certain harm or, as it is now more commonly called, those in need of rescue. Augustine might evoke neighbor love here: serving one’s neighbor in the name of a form of friendship and stewardship. How did this play out on the ground? Kosovar Albanians were harassed, tormented, deported, and killed, but we—primarily the United States, though under the rubric of NATO—did nothing on the ground to stop this. Our stated intent, cast within human rights—justice language, was to stop ethnic cleansing in the name of humanity itself. The argument was that World War II taught us genocide is a crime that must not go unpunished. Other avenues had been exhausted. Slobodan Milosevic was immune to diplomatic overtures. NATO is a legitimately constituted concert of states and, therefore, has authority to act, if need be, for humanitarian reasons and in the interest of collective self-defense: protecting the whole idea of a European comity of nations. These are grounds for selective humanitarian intervention with considerations that go beyond the crimes themselves, so let’s assume *ad bellum* justification.

The greatest problem in the Kosovo war from a just war perspective was the means deployed to halt and to punish ethnic cleansing. In the first instance, our means speeded up the process, as the opening sorties in the bombing campaign gave Milosevic the excuse he needed to declare martial law and move rapidly in order to complete what he had already begun, entrenching his forces in Kosovo before NATO might change its mind about introducing ground troops into the conflict—something the United States, rather astonishingly, announced from the get-go it would not do. We blundered into a strategy, without much consideration of the likely reaction to our bombs, namely, a deepening of the terror and expulsions. Hence, there was no preparation for the influx of desperate humanity to neighboring countries and regions, their plight made doubly desperate by lack of food, water, medicine, and shelter at their points of terrified egress. This hardly seems a good way to run a humanitarian intervention, whether in the name of justice or any other good.

Of course, one must state clearly what is in fact clear: the responsibility for ethnic cleansing lay with the Milosevic regime and its enforcers. That our bombing policy sped up the process is worrisome, however, for it suggests that lurching and reaction substituted for a clear-headed and clear-sighted intervention. The heart of the matter from a just war framework is this: we made no attempt to meet the strenuous demand of proportionality; rather, we violated the norm of discrimination in a strange up-ended kind of way by devising a new criterion, it seems: *combatant immunity* ranked higher as a consideration than did noncombatant immunity for Serbian—or Albanian Kosovar—civilians. With our determination to keep NATO soldiers—in other words, American soldiers—out of harm’s way, we embraced combatant immunity for our own combatants and, indirectly, for the Serb soldiers. Instead, we did a great deal of damage from the air, reducing

buildings to rubble, tearing up bridges, killing people in markets and television stations. It is harder by far to face determined combatants on the ground, to interpose one's combatants between the Kosovar Albanians and their depredators, but this scenario wasn't given a second thought. We did not introduce Apache helicopters into the situation for fear of a loss of but one in combat. According to Judge Richard Posner, the introduction of Apaches was also crippled by interservice rivalry between the Army and the Air Force concerning the use of planes to attack surface targets. If combatant immunity is to become our new organizing principle, the United States will surely face future situations in which we refuse or are unable not only to do what is right but to do what may be necessary, having set zero-casualties as a norm for the way we wage war.

This is a strange turn of events. The Serbian army could operate with impunity without any worry of facing its opponents on the ground. In the meantime, there was plenty of "collateral damage" to civilians going on. Once we had exhausted the obvious military targets, we degraded the infrastructure on which civilian life depends—this despite a disclaimer from President Clinton that we had no quarrel with the Serbian people for they, like the Iraqis under Saddam, were victims. Because one cannot eliminate atrocities on the ground by dropping bombs from an altitude that keeps airplanes safely out of range of any possible ground fire, although the Serbians had almost no ability to fight back, our ends were tainted by our means—means that will surely haunt us in the future. It is a terrible thing for anyone to kill or to be killed, but that is the occupational risk of men and women in arms. If the United States is no longer prepared to take any such risk for any cause, then by definition it cannot fight wars effectively, even when a case has been made on grounds of comparative justice. President Clinton sought a "no-casualty" or "no-cost" war, but there is a heavy price, and not just in

monetary terms, for such ventures. "Riskless warfare" is an intrinsically incoherent idea. As Paul W. Kahn argues in "War and Sacrifice in Kosovo,"

If the decision to intervene is morally compelling, it cannot be conditioned on political considerations that assume an asymmetrical valuing of human life. This contradiction will be felt more and more as we move into an era that is simultaneously characterized by a global legal and moral order, on the one hand, and the continuing presence of nation-states, on the other. What are the conditions under which states will be willing to commit their forces to advance international standards, when their own interests are not threatened? Riskless warfare by the state in pursuit of global values may be a perfect expression of this structural contradiction within which we find ourselves. In part, then, our uneasiness about a policy of riskless intervention in Kosovo arises out of an incompatibility between the morality of the ends, which are universal, and the morality of the means, which seem to privilege a particular community. There was talk during the campaign of a crude moral-military calculus in which the life of one NATO combatant was thought to be equivalent to the lives of 20,000 Kosovars. Such talk meant that even those who supported the intervention could not know the depth of our commitment to overcoming humanitarian disasters. Is it conditioned upon the absence of risk to our own troops? If so, are such interventions merely moral disasters—like that in Somalia—waiting to happen? If the Serbs had discovered a way to inflict real costs, would there have been an abandonment of the Kosovars?

Something called "The Clinton Doctrine" fueled the Kosovo operation. This doctrine was an incoherent hotchpotch, neither strategic realism, nor just war, nor liberal interna-

tionalism, nor clear grounds for humanitarian intervention or political rescue but, rather, a *mélange* that was so murky that gleaning from it any clarity for either intervening or refraining from intervening in situations of humanitarian catastrophe is nearly impossible. The doctrine consisted of two parts that involved promulgating the use of force in behalf of universal values and justifying military intervention in the internal affairs of states.

According to Michael Mandelbaum, in a highly critical essay published in *Foreign Affairs*, this “so-called doctrine made a hash of things in the Balkans, where spirals of violence continue, where any indication of an American pull-out inspires panic, and where the end-result of the deteriorating mess is *de facto* partitioning, not unlike the outcome in Bosnia where the Dayton Accords ratified the results of ethnic cleansing. In Kosovo, those who were victims are now victimizers and the more brutal members of the Kosovo separatist movement seem to be in ascendancy. But these persistent and deteriorated conditions have dropped off our media radar screen.”

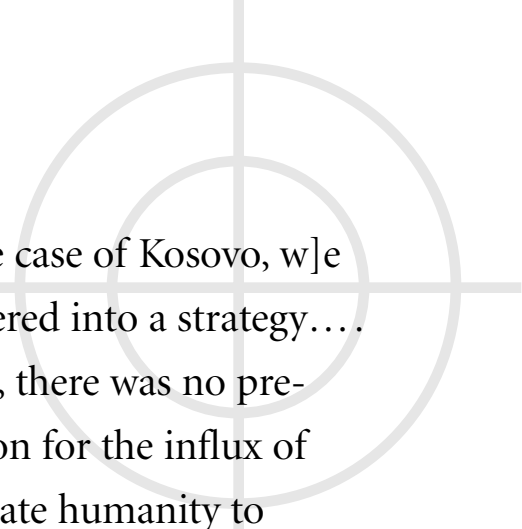
Let’s rehearse a few of the problems with the Clinton doctrine and policy as it played out in Kosovo as a way of solidifying the difference between this way of justifying “humanitarian intervention” by contrast to a just war politics framework that cavils at speedy, risk-free “solutions” or pseudo-solutions to horrible tragedies and political problems. Consider that our entire purpose in bombing was to save lives. Estimates are that some twenty-five hundred people had died before the bombing campaign and that, according to Mandelbaum, during the “11 weeks of bombardment, an estimated 20,000 people died violently in the province, most of them Albanian civilians murdered by Serbs.... By [the bombing campaign’s] end, 1.4 million were displaced.... The alliance also went to war, by its own account, to protect the precarious political stability of the countries of the

Balkans. The result, however, was precisely the opposite.” What Mandelbaum points to is a political failure that emerged, in part, given the means deployed to achieve our stated ends. Evoking strategic realism and national interest, as well as state sovereignty as a value, Mandelbaum argues that the Clinton doctrine’s squishiness virtually guaranteed that U.S. policy would be driven by media attention and public opinion polls rather than coherence of any sort.

Starting from a different perspective than Mandelbaum’s, I come to quite similar conclusions. Mandelbaum is surely correct that a quick resort to bombing was the Clinton administration’s *modus operandi* to almost every foreign policy jam—whether the administration was using at any given point the rhetoric of national interest, national security, punishing dictators, saving lives, or fighting the new global war against terrorism, this being the stated rationale behind the destruction of what turned out to be a legitimate pharmaceutical plant (the Shifa Plant) in Khartoum, Sudan. The administration also preferred embargoes that degraded the civilian infrastructure of targeted societies—a way of making war on civilians. Mandelbaum, too, opposes this way of punishing the innocent in order to express outrage at the guilty. The clearest rationale available to us to oppose such a strategy lies in the comparative justice considerations that arise from just war imperatives.

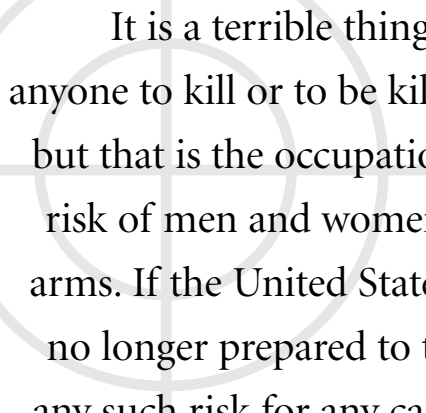
How would a just war approach help us to parse such questions further? Consider President Clinton’s comments throughout the Kosovo intervention and as part of the run-up to it. Mr. Clinton deployed strained domestic analogies in an attempt to put a distinctively American stamp on the Balkans tragedy. The events he selected can be shoehorned within our reigning political preoccupations only via a tortured logic. The just war tradition attempts to balance or to hold in fruitful tension the requirements of universal moral commitments with respect for the plurality of

politics, cultures, and regimes in and through which humankind realizes itself. We are invited to acknowledge that which is “in common” and to respect and recognize signs of difference, so long as these do not violate certain basic norms, allowing that we might well be hard pressed to agree on when cultural norms become violations of human rights (for example, female circumcision). Rather than helping us to see suffering humanity in and through the particular plight of the Albanian Kosovars with their quite particular and complex history, President Clinton forced domestic analogies along these lines: he likened the signing of a federal hate-crime statute to the bombings of Belgrade, on the grounds that each was designed to stop haters. Thus, the Kosovo intervention was mapped onto the preferred domestic rhetoric of the Clinton Administration. The administration spun out a “vision” for a new postwar Kosovo cast in the language of a version of multiculturalist ideology unrealistic even for a pluralist



[In the case of Kosovo, w]e
blundered into a strategy....
Hence, there was no pre-
paration for the influx of
desperate humanity to
neighboring countries and
regions, their plight made
doubly desperate by lack of
food, water, medicine, and
shelter at their points of
terrified egress.





It is a terrible thing for anyone to kill or to be killed, but that is the occupational risk of men and women in arms. If the United States is no longer prepared to take any such risk for any cause, then by definition it cannot fight wars effectively, even when a case has been made on grounds of “comparative justice.”

democracy, let alone a fractured, destabilized region in the Balkans that will be reeling from the events here described for the next half-century or more.

But Mr. Clinton also undercut this rhetoric in a May 23, 1999, op-ed in the *New York Times*. On that occasion, he not only proclaimed restoration of the status quo ante his number one priority, he added the caveat that Kosovo would come under a kind of protectorship more or less run by the KLA (the Kosovo Liberation Army), which aims explicitly for a separatist all-ethnically “pure” Albanian microstate, not a Balkans version of American multiculturalist imperatives. Lost in both presidential rhetorics of justification (which clash with one another) was attention paid to the somber realities of intervention, including rueful recognition of unintended consequences and limits to what our power can accomplish.

Keeping Just War Augustinian and Why Restraint Begins at Home

If just war thinking is to remain honest (so to speak), it is best placed within a framework of Augustinian realism: this by contrast to versions of just war that, having lost any connection to this rich strand of thinking, having become a variant on liberal institutionalism or a kind of generic internationalist sentimentalism, has also lost a developed sense of human finitude, tragic contingency, the ironies of political action generally, and the need for humility and patience in all—or nearly all—things. I hope I have demonstrated that the haphazard nature of the so-called Clinton Doctrine afforded no coherent criteria for when to intervene, why to intervene, or how best to intervene, including in those situations now routinely called humanitarian disasters or crises. The “doctrine” enabled whoever was embracing it to lurch from making the world safe for “markets and democracy” (a phrase from Anthony Lake’s famous article in *Foreign Affairs*) to abiding by the strictures of noninterventionist state sovereignty (depending on which way the domestic winds were blowing) to protecting universal human rights. This was no way to run a foreign policy.

Augustinian realism, by contrast to a world of almost infinite elasticity—and such elasticity is quite different from a reasonable doctrine of prudence—offers no assurances that one can make the world safe for anything. Estrangement, conflict, and tragedy are constant features of the human condition. Politics is one way human beings deal with this condition. Politics on any level can never escape pervasive features of human life in all its complexity and plurality. Augustinian realism also embeds deep skepticism about the exercise of power, beginning with the aims and claims of sovereignty and of any concentration of power. At the same time, this realism recognizes the inescapability of politics and calls on citizens to engage the world of politics faithfully. Politics confronts us with

intransigent “otherness,” with people who have their own cultures and opinions. Politics requires that we respond in some concrete way to a world of conflicts and oppositions. The realist of this sort worries that we have been so overtaken by a sentimentalized notion of compassion that we have forgotten such mordant teachings as Max Weber’s definition of politics as the boring of hard boards. There is little danger of just war turning into either a language of narrow strategic justification or a rhetoric of sentiment within an Augustinian framework. Built in are barriers to the dangers inherent to the just war tradition at one end of the continuum that links it up to crusades and triumphalism. Augustinian realists are not crusaders, but they insist that we are called to act in a mode of realistic hope with a hardheaded recognition of the limits to, and of, action. One can underwrite border crossing with this perspective—because it doesn’t worship at the altar of the state—but one cannot do so with impunity, in light of its innate respect for the plurality of cultures in and through which humanity manifests itself.

Augustinianism as a frame for just war stipulations is more likely to emerge as a *via negativa*. There are things that must not be done and that are, by definition, wrong. Hence, to the extent possible, these intrinsically evil things should be stopped. But this list of knock-down violations is not infinite: it would include genocide and ethnic cleansing, torture as an instrument of political power, unprovoked aggression against another country or people. The aim of intervening in such cases would be interpositional: not to impose an alternative order but to stop a disorder, an instance of clear injustice.

In sum, Augustinian just war thinking imposes constraints where they might not otherwise exist, generates a debate that might not otherwise occur, and promotes skepticism and uneasiness about the use and abuse of power without opting out of political reality altogether in favor of utopian fantasies and

projects. It requires action and judgment in a world of limits, estrangements, and partial justice. It fosters recognition of the provisional nature of all political arrangements. It is at once respectful of distinctive and particular peoples and deeply internationalist. It recognizes self-defense against unjust aggression but refuses to legitimate imperialistic crusades and the building of empires in the name of peace. It requires paying close attention to political rhetoric, its use and abuse, and recognizing, in the words of Michael Ignatieff, in *Virtual War: Kosovo and Beyond*, that “the language of human rights provides a powerful new rhetoric of abstract justification. Keeping control of war in the modern age means keeping control of this powerful new rhetoric, making sure that the cause of human rights does not lure citizens into wars that end up

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abusing the very rights they were supposed to defend.”

Or, another warning, from theologian Richard Miller: “Perhaps because humanitarian intervention can have this *prima facie* altruistic component, it is tempting to consider it to be different from war, thereby enabling those who would ban war to approve of such action.... Insofar as humanitarian interventions might be described (or redescribed) in such terms, they appear to pose little difficulty for pacifists. The paradigm of domestic coercion or police action, allowing for the use of violence in order to stop criminal activity, may enable some pacifists to accept military action (and the prospect of violence) in international affairs.” In other words, humanitarian intervention must bear the heavy burden of justification that just war, in its classical sense, requires of any resort to force. What Miller calls the “intuitively admirable” notion of humanitarian intervention—intuitively admirable “insofar as they spring from selfless or other-regarding motives”—may lull to sleep our critical faculties when it comes to deployment of violent means.

The implication of all this is that pointing to an “intuitively admirable” cause, especially one that is couched in the language of justice and human rights, can easily become a way to forestall serious debate about justification, especially if there is little or no chance of casualties to the armed forces being used. The American public seems at this point so inured to the rather routine use of American bombing in foreign policy situations that these actions scarcely register on the radar screen much of the time. This is especially true if our consciences can be kept clear through deployment of a language of justification that speaks to genuine goods. The just war tradition aims to prevent such insouciance without abandoning the language of justice in international relations altogether and leaving it, thereby, to an elastic “humanitarianism” that refuses, much of the time, to conjure with what can be accomplished through the use of force.

Taking just war seriously raises serious questions about the use and abuse of humanitarian intervention justifications. In the Kosovo intervention, the rhetoric of justification collapsed as inapt domestic analogies were mapped onto the Balkans. Intervention then becomes a kind of police action—not war, not violence, never a violation of norms of proportionality and discrimination. The rhetoric of noble aim—and stopping ethnic cleansing is, doubtless, a noble aim—becomes a cover for troubling and often ineffective (over the long run) means. Here Augustinian realism would deconstruct such masking rhetoric by insisting that those in authority, and citizens of the United States, face up to what is happening and ask themselves the tough questions, not to forestall justifiable intervention but to ensure, insofar as any-

Augustinian just war thinking imposes constraints where they might not otherwise exist, generates a debate that might not otherwise occur, and promotes skepticism and uneasiness about the use and abuse of power without opting out of political reality altogether in favor of utopian fantasies and projects. It requires action and judgment in a world of limits, estrangements, and partial justice.

thing in the world of politics can be ensured, that the means do not defeat, taint, or undermine the ends.

A full fleshing out of this position is beyond the purview of this article, but perhaps I have said enough to indicate that the humanitarian intervention, or appeals to such, should not lull our critical faculties to sleep but, rather, engage them deeply, because these appeals have a kind of automatic urgency, an ethical imprimatur, of the sort that war does not. If the just war tradition cavils at the particular way strategic realists sever international relations from ethical restraints construed as inapplicable to the world of men, war, and states, this tradition also challenges the particular way appeals to humanitarianism and liberal internationalism collapse, or may collapse, domestic and foreign politics.

Augustine warned us all those years ago that the desire to be at peace easily conduces to a desire to impose one's will, to subject others. Augustine makes war much harder to justify than many just war thinkers, who have wrenched just war out of its Augustinian starting point, for he is as concerned by what gets stirred up even among just warriors and what they are driven and feel justified in doing as he is by the depredations done to one's foes.

Further Reading

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Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, 3d ed. (New York: Basic Books, 2000).