

**Just War Theory
And
Presidential Doctrines for the Use of Force**

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Abstract: This paper is an examination of the confluence of just war theory and doctrines for the use of military force put forth by U.S. presidents. It begins with a detailed analysis of the religious foundations of the theory as supplied by Saint Augustine and Saint Thomas Aquinas. It then profiles secular rationales with a focus on the works of Immanuel Kant, Reinhold Niebuhr and Michael Walzer. I then provide a synopsis and offer a personal framework for a modern application of just war theory. The framework is then applied to three presidential doctrines: Monroe, Truman and Bush, and three applications of those doctrines: Manifest Destiny, the Vietnam War and the second Iraq War, respectively. I offer a unique application of the theory because I use jus ad bellum constructs for conceptions of presidential doctrines and jus in bello constructs to analyze specific wars fought under the auspices of those doctrines. The analysis ultimately shows that just war theory provides a very challenging standard for U.S. presidents to adhere to when advancing the country's foreign policy goals.

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I. Introduction

For all of recorded history, man has made war against his fellow man. Competition for scarce resources, territory, religion, fear, justice, greed, glory, revenge: all of these have driven men to devote themselves to war. The rise of moral man led to a questioning of the horrors and injustices produced by war, which birthed a loathing of violence. This loathing produced the just war theory: a theory that balances the realities of war with the need for its restraint.

This paper is not meant to be a comprehensive study. The selection of theorists and case studies contained herein is necessarily limited. I concentrate on the moral foundations of the theory and have thus omitted the contributions of Hugo Grotius, an eminent just war theorist who developed the philosophical foundations of international law. For the same reason, this paper includes no discussion of the positivist regimes of international law, which would rightly be included in a fuller picture of the theory. Two more aspects of the theory that I have chosen to forego include: *jus post bellum*, or just conduct after war, and the distinction between the moral culpability of commanders and soldiers, for which considerable work has been done.

However, this paper will examine the evolution of the theory and the restraints it has placed on war. I will then apply the theory to the American political system and presidential doctrines for the use of force. The question of whether or not these doctrines—and the wars they authorize—are just is an important one because in a representative system the citizenry is ultimately responsible for the actions of its leaders. Free states were established with the idea that people should be governed by their own consent. If we consent, tacitly or expressly, to government using force in our name then it is incumbent upon us to hold them accountable for their actions.

In *Just and Unjust Wars*, Michael Walzer's pivotal book on the issue, he asks the burning question: "How is it possible to criticize and blame our leaders ... without involving their enthusiastic followers (our fellow citizens)? Though responsibility is always personal ... moral life is always collective in character."¹ The answer is that it is incumbent upon all of us to examine the behavior of our government and make moral judgments because "in democracies there are opportunities for positive response ... when evil deeds are committed in our name."² Or as Glen Gray wrote, "The greater the possibility of free action in the communal sphere, the greater the degree of guilt for evil deeds done in the name of everyone."³ It is in this light that I offer an analysis of just war theory and presidential doctrines for the use of force. I invite you to reflect on the arguments offered and to reject the temptation to embrace the myopic nationalism that often clouds our judgment when mulling a nation's behavior on the world stage.

II. Religious Foundations

The beginning of this study must focus on the religious foundations of just war theory. Examining those roots requires that we consult two great Christian scholars: Saint Augustine of Hippo and Saint Thomas Aquinas. When considering Augustine's contributions, it is important to first contextualize his writings. His seminal work that influenced just war theory, *City of God*, was written in the early fifth century. Augustine birthed the idea of just war as a way to orient religious conflict and help differentiate among the skirmishes that frequently broke out. He was influenced by the sacking of Rome and undoubtedly thought, "that without law and society there

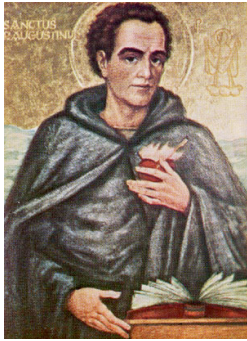
¹ Walzer. *Just and Unjust Wars*. 298

² Ibid.

³ Gray. *The Warriors: Reflections on Men in Battle*. 199

could be no organized Christianity and thus no chance of divine redemption.”⁴ On the other hand, Aquinas was less influenced by his time and had a broad theological tradition to build on, which he turned into an unprecedented edifice. He brought new questions about the legitimacy of cannon law into the discussion over the moral conduct of war.

Saint Augustine of Hippo (354-430)



It has been said that just war theory is nothing more than a *justification* for war and that it has been crafted by those looking for a way to excuse and utilize war. While it may be true in contemporary examples that just war theory has been manipulated to excuse war, at the conception of the theory nothing could be further from the truth. Saint Augustine discusses his view of a just war as follows: “[just war] would still be a matter of grief to man because it is man’s wrong-doing. Let everyone, then, who thinks with pain on all these great evils, so horrible, so ruthless, acknowledge that this is misery.”⁵ Aquinas echoes this position and in his book *Just Wars*, Alex Bellamy summarizes him by saying he “suggested that war could never be *just*, because the very act of killing always contained some element of injustice.”⁶ Both of these theologians were grappling with a way to make sense of the moral imperative not to kill and the reality of the violent world in which they lived.

Although Augustine made a significant step forward by offering the ideological foundation around which the theory was later built, he did not lay out a point-by-point framework. Augustine roots his founding conceptions of just war by declaring that all wars are fought to seek peace. In *The City of God* he discusses the mentality of war, writing, “It is

⁴ Bellamy. *Just Wars*. 27

⁵ Augustine. *The City of God*. 515

⁶ Bellamy. *Just Wars*. 38

therefore with the desire for peace that wars are waged, even by those who take pleasure in exercising their warlike nature.”⁷ Augustine finds that even aggressive wars that disturb an established peace do so with the intent of later reestablishing a peace that better suits the aggressor; his view that man’s nature is to seek peace is central to his theory.

Augustine does not linger on proper conduct in war. Instead, his work is the basis of what will later become *jus ad bellum*, the authority to wage war. We must take from his thought two conditions that will later be incorporated into the tradition. First, he asserts that right intention is paramount. War cannot be waged with malice, greed, revenge or passion as motivations. Instead, self-defense, ending injustice or defending religious orthodoxy are the only just cases.⁸ These stipulations are cogent and, with the exception of religious motives, have properly sanctioned war ever since. Augustine’s idea of right intention has applicability for an individual’s internal debate over war but it becomes more challenging to assess when viewed through a macro-political lens. How can a citizen know if leaders truly have right intention when advancing a presidential doctrine? How can the world know if a state is simply shrouding its national interests in a guise of right intention? We will come back to this later when right intention is applied to the case studies.

Augustine’s second point is that only proper authorities can wage war. His insistence that war be limited to proper authorities had salience in his own time; the fall of the Roman Empire left the geopolitical order in disarray and military power was widely dispersed. However, this condition is much easier to meet in modern times as the Westphalian world order has calcified.

⁷ Augustine. *The City of God*. 517

⁸ Bellamy. *Just Wars* 28

Saint Thomas Aquinas (1225-1274)



The next major thinker in the evolution of just war theory is Saint Thomas Aquinas. In examining his thirteenth-century thought on government and war, we see an extension of the cannon law that Augustine began. This is important because his work shifts from Augustine's efforts to find a place for religious violence to questioning established powers. His most important work on war is *Summa theologiae* and he begins by stating, "It seems that it is always a sin to wage war."⁹ But he is working dialectically and further analysis reveals that Aquinas is confounding the established wisdom that war is a sin. The importance here is that Aquinas is embracing the value of the divine's view of the political act. However, upon deeper reading of the text he alludes to the idea that earthly authorities have unique responsibilities that bestow upon them different rules than on the individual. "Aquinas's account of just war was much more 'earthly' than Augustine's and addressed many practical dilemmas."¹⁰ He believed that governments had an administrative role in man's political relationships, not a divine role in the supervision of religion. So we see even early on the qualifiers that are placed on the restraint of war. Aquinas grants us that it may be a sin, but one that sometimes must be undertaken anyway.

Aquinas was a great admirer of Augustine and quotes him constantly in his work. Aquinas readily incorporated the concepts of right intent and proper authority; but builds upon them and adds two important concepts that have grown into the fabric of the theory: double-effect and proportionality. Aquinas is also credited with justifying lethal force in the service of self-defense. Here it is appropriate to quote him at length:

⁹ Aquinas. *Summa theologiae*. IIaIIae 40. In cited text 239

¹⁰ Bellamy, *Just Wars* 37

Nothing hinders one act from having two effects, only one of which is intended, while the other is beside the intention. Now moral acts take their species according to what is intended, and not according to what is beside the intention ... Accordingly the act of self-defense may have two effects, one is the saving of one's life, the other is the slaying of the aggressor. Therefore this act, since one's intention is to save one's own life, is not unlawful. ... And yet, though proceeding from a good intention, an act may be rendered unlawful, if it be out of proportion to the end. Wherefore if a man, in self-defense, uses more than necessary violence, it will be unlawful.¹¹

It is easy to see how this discussion of the right of the individual to defend oneself becomes the groundwork for the state to defend itself through proportional force, secured by the moral defense of double-effect. Proportionality rightly remains one of the key foundations of just war. Complications will arise later when we attempt to properly conceive of the threat that arises in a world populated with nuclear states and transnational terrorism. Double-effect is a somewhat more problematic guideline to apply. Aquinas is absolving guilt for the unforeseen or that which occurs 'beside the intention' only if it "aims to produce a greater benefit to the community."¹² Thus the aggressor bears the responsibility for reasonably forecasting the results of his actions. Simply acting and hoping for the best-case scenario and washing one's hands under the faucet of double-effect is not a proper application of Aquinas's thought.

The sixteenth-century Spanish scholar Francisco de Vitoria tackles this conundrum in his exploration of the justice of the Spanish conquest of the Americas. He understood that properly manipulated the idea of unintended consequences could be harnessed by a clever ruler to justify any action. "He concluded that political and religious leaders were bound to examine the legitimacy of the cause ... if they failed to do so they would be culpable for the war's injustice because they had the power to avert unjust wars and would be consenting parties to an unjust

¹¹ Aquinas. *Summa theologiae*. IIaIIae 64 a7. In cited text 263-264

¹² Bellamy. *Just War*. 38

act.”¹³ Vitoria provided the first time that *jus in bello* is considered explicitly, although he never used the now-famous term.

Like Augustine, both of Aquinas’s precepts deal with *jus ad bellum* and touch on conduct in war only implicitly, rejecting the killing of the innocent.¹⁴ Although this raises the question, who is innocent, and in a geopolitical sense, who is the arbiter of said innocence? In his broader work, Aquinas does delineate moral conduct on a whole range of issues. But when it comes to conduct of war, his discussion is lacking. In his article, Thomas Aquinas on Virtuous Warfare, Darrell Cole expresses the frustration of a scholar trying to pin Aquinas down on this subject. He writes, this is a “troubling aspect of Aquinas’s approach: the absence of rules for fighting in war ... Although Aquinas offers a few criteria that define the just war, he has almost nothing to say about how a war should be fought.”¹⁵ The remainder of Cole’s piece discusses how to infer how a combatant should behave from Aquinas’s broader discussion of right conduct.

Augustine and Aquinas were both grappling with the paradox that was created by the overwhelmingly Christian world that taught peace, compassion and civility, yet conducted violence in the name of both God and earthly authorities. They had to reconcile this with what they saw as the inevitability of war. They settled on a pragmatic foundation that allowed for war to be conducted if it had right intent, was waged by a proper authority, was proportional in force and sought to mitigate the dangers of double-effect.

III. Secular Just War Theory

Firmly rooted in religious tradition, just war theory was in need of secular advocates to remain relevant in an increasingly logical and empirical post-Enlightenment world. The theory

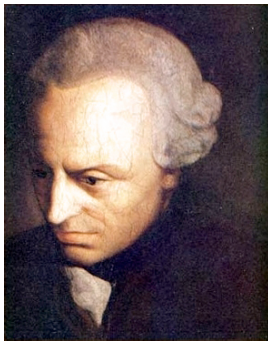
¹³ Bellamy. *Just War*. 53

¹⁴ Aquinas. *Summa theologiae*. IIaIIae 64 a6. In cited text 262

¹⁵ Cole. Thomas Aquinas on Virtuous Warfare. 58

again rose in prominence in the early twentieth century. Reinhold Niebuhr's realism blended modern Christianity with a secular pragmatism that was needed to grapple with world wars and nuclear weapons. Michael Walzer's thought, which both codifies and questions traditions, trumpets just war theory as a moral basis around which governments can base their conduct. However, a proper discussion of secular just war theory begins with Immanuel Kant.

Immanuel Kant (1724-1804)



Although not traditionally considered a just war theorist, Kant supplied future generations with ammunition for military restraint, which is the essence of the theory. Kant situates himself between the idealists and the realists on the question of war. In his own time, Kant rejected the theory because it lacked the ability to positively restrain states. In

Perpetual Peace, he points to its vulnerability to manipulation, as Vitoria had done. Kant writes:

[Just war theorists] are always quoted in good faith to justify an attack, although their codes, whether couched in philosophical or diplomatic terms, have not ... the slightest legal force ... and there is no instance of a state having ever been moved by argument to desist from its purpose, even when this was backed up by the testimony of great men.¹⁶

Although this quote shows that Kant saw no positive value in the theory, his conjecture that moral argument has never forced an abatement or avoidance of hostilities is entirely unfounded. He is entirely unable, as are we, to prove that in private debates among policy makers that just war constructs were not used to dissuade military actions. And indeed whether or not they were used in private debates is beside the point, if citizens and public opinion leaders buy into the theory, then it can have a substantial external influence on decision making. Kant overemphasized the absence of legally binding weight, which is not required for a philosophical tradition to affect human behavior and shape world events.

¹⁶ Kant. *Perpetual Peace*. 131-132

Although he was not a proponent of the theory itself, Kant's thought aligned with many aspects of just war. The beginning of the connection can be seen in his hatred of war. He "assert[ed] that war is 'the scourge of humankind;' 'the greatest evil oppressing man;' 'the source of all evils and moral corruption;' and 'the destroyer of everything good.'"¹⁷ It is only from this initial position that war is an evil to be avoided that anyone has posited a theory for when it is acceptable and when it is not. If we look at Kant's most basic principles and just war theory, we see that there are many more similarities.

Kant's thought hinged on the ability of man to go beyond his animal instincts and rely on reason to make correct judgments; thus man's freedom to make those choices is essential. Additionally, "for Kant, the only thing in the universe possessed of intrinsic value is a good will ... Indeed, Kant goes so far as to say that the development and maturation of good will ... is what justifies and gives sense and purpose ... to the very existence of the world itself."¹⁸ Now the connection between Kant and just war becomes a bit easier to see. His emphasis on good will mirrors both Augustine's concept of right intention and Aquinas's idea of double-effect. All three stress what is intended, i.e., the conception in the mind of the actor, and place less value on the outcome or as Aquinas put it, that which occurs 'beside the intention.' However, as I stated before, good will is not enough; it is a necessary but not sufficient condition for the moral justification of war. Because war is the most extreme exercise of authority, combatants are bound to take all possible precautions for their actions and if they do cause reasonably foreseeable effects, they are responsible for unjust results. And it is in the definition of reasonably foreseeable that manipulation and obfuscation can occur. If combatants are not willing to be held to the highest-of-standards they must refrain from warmaking.

¹⁷ Qtd in Orend. Kant's Just War Theory. 325

¹⁸ Ibid. 328

But just war is not only about restraining war; it is also about identifying cases where it is an acceptable, if regrettable, endeavor. To find the threads of this idea in Kant, we turn to the categorical imperative and the universal principle of justice (UPJ). The categorical imperative says we must act in such a way that 1) we will that it should become universal law, 2) it treats humans always as an end and never a means to an end, and 3) we were both a member and leader in the world of the results of our actions.¹⁹ When this theory is extrapolated from the action of the individual to the action of the state, Kant calls it the UPJ. In an essay on Kant's just war connections, just war scholar and Professor of Ethics at Waterloo University Brian Orend says the UPJ "mandates respecting, protecting and enhancing human agency ... wherever and whenever we encounter it. In fact, this is a mandate which can, and ought, to be backed by coercive force."²⁰ Kant advised that once right action is identified, it contains within it the authority to use coercive force. In *The Metaphysics of Morals*, he categorizes a freedom that is being exercised at the expense of another's freedom to be immoral and authorizes force to rectify this wrong. Thus using coercion, as "a *hindering of a hindrance of freedom* is consistent with freedom in accordance with universal laws."²¹ Because Kant values freely-exercised good will as the highest human action, the defense and liberation of individuals being denied the opportunity to pursue it becomes not only defensible, it becomes compulsory.

However, this Kantian mandate places an enormous burden on the liberating state to police the world in an unending effort to rid all nations of any hindrance of freedom. Indeed Kant laments the national effort that would be needed to achieve such an end, but ultimately

¹⁹ Kant. *Grounding the Metaphysics of Morals*. 30

²⁰ Orend. Kant's Just War Theory. 329

²¹ Kant. *The Metaphysics of Morals*. P. 231-232

succumbs to its inevitability. In the conclusion of his essay, Conjectures on the Beginning of Human History, Kant writes:

The greatest evils, which oppress civilized nations, are the result of ... the unremitting, indeed ever-increasing, *preparation* for war ... All the resources of the state, and all the fruits of its culture ... are devoted to this purpose. Freedom suffers greatly in numerous areas, and the state's maternal care for its individual members is replaced by demands of implacable harshness.²²

In Kant's final quote we see another thinker who made the painful transition from valuing peace above all and rejecting the evils of war to ultimately recognizing that it is sometimes necessary.

Kant's conception of just war is not concerned with proper authority or proportionality, and it is perhaps due to these omissions that he is not formally codified in modern theory. However, his insistence that good will is paramount and his unshakable defense of free people are both valuable contributions to the tradition.

Origin of Terms

As this exploration of just war theory has been a chronological one, it is worthwhile to pause and consider the origin of two essential terms: *jus ad bellum* and *jus in bello*, which does not come until after World War II. This may be a surprising discovery for some, as the intentional choice of Latin terms gives the concepts a certain gravity and implies that the terms, like the concepts, were birthed in antiquity. Robert Kolb reviewed the little-known origins of these now commonly accepted terms and found that in fact, "the terms ... did not exist in Romanist and scholastic traditions," which include Augustine and Aquinas respectively.²³ Immanuel "Kant made an explicit and modern distinction between the two branches of the law, but ... he [did not] use the terms."²⁴ It was not until after the failed attempt to outlaw war

²² Kant. Conjectures on the Beginning of Human History. In cited text 231-232

²³ Kolb. Origin of the twin terms jus ad bellum jus in bello. 1

²⁴ Ibid. 2

through the League of Nations that *jus in bello* rose as a coequal branch of the theory. This new focus on just conduct spawned the need to terminologically divide it from the more established *jus ad bellum*. It was not until Paul Guggenheim drafted “one of the first major international law treatises of the post [World War II] era” that the terms were treated “in the manner to which we have grown accustomed and which we now take for granted.”²⁵ This separation showed the increased importance that just conduct has been given in recent history. With this in mind we turn to twentieth-century just war thought; the first major contributor is Reinhold Niebuhr.

Reinhold Niebuhr (1892-1971)



Every man is a product of his position in history, shaped and sculpted by the philosophical traditions that precede and surround him. However, while some write broad theses that crest generations, others are more deeply entrenched in the moment and comment on the events of the day. Reinhold Niebuhr is one of the latter. The dramatic contestation of moral legitimacy that occurred after the United States employed two nuclear devices at the end of WWII forced Niebuhr to grapple with Christian morality and the geopolitical order in a world dominated by Cold War tensions. Niebuhr is liberal in his approach to world affairs but dedicated a significant amount of his work to explaining the political and moral inadequacies of pacifism, an extreme interpretation of liberal foreign policy. However, Niebuhr was no realist hawk either. He “perceived his own position as ... between an irresponsible pacifism that refused to oppose fascism and communism and an unbridled realism that countenanced nuclear first-strike.”²⁶ He tasked himself with attempting to strike a middle path, a way that could plausibly reconcile the realism needed to confront the Axis

²⁵ Kolb. Origin of the twin terms *jus ad bellum* *jus in bello*. 3

²⁶ Bellamy. *Just Wars*. 106

powers and still remain true to the Christian ideals that dominated his worldview.

With this in mind we consider his attacks on pacifism, which finds no war morally justifiable. In one of his early works, *An Interpretation of Christian Ethics*, Niebuhr tells us, “A responsible relationship to the political order ... makes an unqualified disavowal of violence impossible. There may always be crisis in which the cause of justice will have to be defended against those who will attempt its violent destruction.”²⁷ His main targets were the tyrannical states flexing their muscle in Europe. He rejected the pacifist position that 1) totalitarian control was preferable to war and 2) that free states can weather the gathering storm unaffected. Niebuhr believed that where tyranny existed, war would follow. The only thing left to be determined was the date of engagement and the means of combat. He wrote, “Tyranny is not only real; it is worse than war ... but further, it must inevitably lead to war ... to allow tyranny to grow means to have war in the end.”²⁸ This is because once firmly entrenched within his borders, the despot will inexorably inflict his will on other nations.²⁹ Niebuhr further rightly identifies that a tyrant may become too powerful to be toppled by internal pressure alone.

However valid this opposition to tyrannical ambition may be, its repudiation leaves us in a quandary. Tyrants abound in a big world: are those who value freedom to become the world’s police and work to free people from the grip of despair wherever it may occur? On this point I echo Kant and his fear of the ever-increasing preparation for war that consumes all of a nation’s labor in an unending attempt to impose justice in tyrannical states. However, Niebuhr has no such concerns and rejects this argument as an excuse for pacifism.

²⁷ Niebuhr. *An Interpretation of Christian Ethics*. 170

²⁸ Niebuhr. *Reinhold Niebuhr on Politics*. 117

²⁹ Ibid. 144

Although Niebuhr rejects pacifism, he does not take issue with the fact that we must make distinctions between different military campaigns and objectives. In a collection of essays, he notes that “Not all wars are equally just and not all contestants are equally right. Distinctions must be made.”³⁰ But he balked at the idea of creating a point-by-point theory with which to assess conflicts. He rejected the possibility that any established standard could be applied to all wars or used to provide proper moral guidance. Niebuhr echoed the fear of the manipulation of right intention in the same way that Vitoria feared it when analyzing the Spanish conquests of the New World and that Kant feared in *Perpetual Peace*. In *On Politics*, Niebuhr wrote, “The judgments with which we make [just war distinctions] are influenced by passions and interests, so that even the most obvious case of aggression can be made to appear a necessity of defense.”³¹ We will see that his writing is prescient in light of the application of the Bush Doctrine to the second Iraq War.

In her essay on modern applications of Niebuhr’s thought, Robin Lovin discusses the difficulties that arise from his position; she writes, just war theorists “will reject Niebuhr’s approach because it fails to provide determinate criteria that tell us when the use of force is morally justified, but the fact that he insists that moral considerations are relevant at all means that Niebuhr cannot be a political realist.”³² While Niebuhr finds plausible reasons to avoid setting forth a code, he does not avoid the theoretical discussion that has echoed down through the ages. Like Kant before him, it is his very insistence on moral considerations that makes his work applicable to the school of thought that he abhorred.

³⁰ Niebuhr. *Reinhold Niebuhr on Politics*. 169

³¹ Ibid.

³² Lovin. Reinhold Niebuhr in Contemporary Scholarship. 496

Niebuhr's work is a logical extension of Kant and a theological extension of Aquinas and Augustine. In a secular-logical sense, he agrees with Kant that a moral, stable and freethinking nation should put its foreign policy resources toward ending injustice beyond its borders. However, he makes a rather mealy-mouthed defense of his own position. He identifies that at least one difficulty "when dealing with the actual human situation ... [is that] it is impossible to fix upon a single moral absolute. Equal justice remains the only possible ... criterion of value ... but so many contingent factors arise in any calculation of the methods for achieving equal justice that absolute standards are useless."³³ He values justice above all but gives no means to go about attaining it. In a politico-theological sense, he is trapped in the same paradox as Aquinas and Augustine. All three struggle to align the Christian ideals of love for others and the inviolability of the human spirit with the pragmatic need to endorse violence and confront tyrannies. This approach is endemic of philosophers who choose not to endorse either camp but are writing in a time that demands they apply their thought to the issue. Either Christianity identifies a moral absolute regarding the human spirit that compels a thinker in that genre to conform his works accordingly, or it does not. Niebuhr wants to have it both ways.

Niebuhr's positions are further complicated because he is the first theorist in the tradition who is forced to integrate nuclear weapons. Because nuclear weapons so drastically alter the conceptions of war, and because Niebuhr doubts that man is capable of engaging in limited war (a war that does not commit a nation's full arsenal to an objective) he necessarily raises the bar for what constitutes a just war. Niebuhr writes, "Because the ultimate consequences of atomic warfare cannot be measured, only the most imperative demands of justice have a clear

³³ Niebuhr. *An Interpretation of Christian Ethics*. 175-176

sanction.”³⁴ In order to raise the bar, he offers a new qualification to the developing theoretical framework, the concept of order. If a state is run in an orderly—albeit unjust—manner then Niebuhr compels us to resist our previously instructed duty to intervene. He profiles the construct of just war in a nuclear age this way:

A war to defend the victims of wanton aggression, where the demands of justice join the demands of order, is today the clearest case of a just war. But where the immediate claims of order and justice conflict, as in a war initiated to secure freedom for the oppressed, the case is now much less clear ... the concept of just war does not provide moral justification for initiating a war of incalculable consequences to end such oppression.³⁵

These ‘incalculable consequences’ forever confound the conceptions of just war articulated to this point. Proper authority, while still a valid argument, faces new problems in light of transnational terrorist networks with nuclear ambitions. Proportionality in the face of a nuclear first strike compelled superpowers to maintain arsenals capable of outlasting the initial destruction and responding with equal force, spawning a Cold War arms race that lasted decades. Double-effect is utterly impossible to justify with nuclear weapons, because we know that nuclear fallout, which occurs ‘beside the intention,’ affects generations for decades to come. Right intent, except perhaps to deny a nation’s nuclear ambitions, is as difficult to measure here as in any other arena.

Niebuhr advanced the just war tradition in that he showed us it is still relevant in a post world war debate. He accurately outlined the moral limitations of nuclear arms. However, I believe that his unsuccessfully blending of religious piety and secular realism resulted in a philosophical position that endorses some degree of both but gives clear sanction to neither. He

³⁴ Niebuhr. *Reinhold Niebuhr on Politics*. 146

³⁵ Ibid.

undoubtedly reinvigorated the tradition and set the stage for modern theorists. The best examples of this modern theory are found in the writings of Michael Walzer.

Michael Walzer (1935 -)



The quintessential modern just war theorist is the vaunted American communitarian Michael Walzer. Although not the first to establish a formal framework, his 1977 book *Just and Unjust Wars* does provide a pivotal moment in the tradition. As with other authors, Walzer hates war and is trying to make sense of when, if ever, it should be tolerated. He begins as both Kant and Niebuhr did, by espousing as useless the very tradition to which he would contribute. In the early chapters of his seminal work, Walzer writes, just war theory “is often described as a program for the toleration of war, when what is needed is a program for its abolition ... War is hell ... even when the rules are strictly observed ... War is so awful that it makes us cynical about the possibility of restraint.”³⁶ He follows this statement with nearly three hundred pages devoted to that elusive ‘possibility of restraint.’

Walzer does this by examining both *jus ad bellum* and *jus in bello*, which he re-titles the theory of aggression and the war convention, respectively. The first sentence of his section on the theory of aggression aligns his disdain for political violence with all of the authors studied herein. He writes, “Aggression is the name we give to the *crime of war*,” emphasis added.³⁷ It is not surprising that in this vein he draws a narrow reading of just cause. Walzer’s theory of aggression is posited in six precise points that culminate in his version of *jus ad bellum*. These points are placed in a simple logical construct, one point building on the last. His list includes:

- 1) There exists an international society of independent states.

³⁶ Walzer. *Just and Unjust Wars*. 45-46

³⁷ Ibid. 51

- 2) This society has laws granting states territorial integrity and political sovereignty.
- 3) Any use of force or imminent threat of force by one state against another constitutes aggression and is a criminal act.
- 4) Aggression justifies two kinds of violent response: a war of self-defense and a war of law enforcement by the victim and any other member of the international society.
- 5) Nothing but aggression can justify war.
- 6) Once the aggressor state has been repulsed, it can also be punished.³⁸

We should ponder his fifth point with considerable consternation. His initial outline lists response to aggression as the only legitimate use of force. This flies directly in the face of Kant and Niebuhr who compel us to act for the sake of justice and order. On first blush, Walzer does not allow these moral questions to enter into his equation. Ironically, he would spend the remainder of his career explaining occasions when his own rubric is insufficient.

On humanitarian issues, he justifies intervention in the very few cases “when it is a response ... to acts ‘that shock the moral conscience of mankind’” and when the internal government has so failed its own people that “we must doubt the very existence of a political community.”³⁹ His allowance challenges the second tenet of his formula, as the aggrieving nation is only violating its own people and has committed no aggression against anyone else that would breach international sovereignty. Indeed, “Walzer has come under critical fire for his stress on the magnitude of rights violations that must be present to justify intervention ... [critics] have suggested that regimes which fail to respect human rights, yet do not go so far as to massacre or enslave their citizenry, have lost their legitimacy as readily ... as those monstrous few ... [that do] resort to massacre.”⁴⁰ But for these critiques to hold water we are forced to ask, whose definition of human rights should be applied? If it is Walzer’s standard then his theory is entirely consistent, as he is primarily concerned with life and liberty. However, if the

³⁸ All six points outlined in, Walzer. *Just and Unjust Wars*. 61-62

³⁹ Ibid. 107, 101

⁴⁰ Orend. Michael Walzer on Resorting to Force. 542

intervening nation is the arbiter then we quickly approach a 'might-makes-right' standard, the problems with which are too numerous to be outlined here. As with most just war theorists, Walzer is attempting to limit politically and morally sanctioned violence to an absolute minimum. He is going to err on the side of caution, while allowing exceptions to prove his rule.

On the issue of nuclear weapons, Walzer is again forced to reassess his own 'nothing but aggression can justify war' standard. However, his stance on nuclear arms is unequivocal. Their use produces indiscriminate violence, the very height of injustice. And what of nuclear proliferation as a means of deterrence? Even on this he does not budge. "The immorality lies in the threat itself ... no one wants to kill [the innocent victims of a nuclear strike] and it may well be true that no one expects to do so. [But] we intend the killings under certain circumstances ... and from the perspective of morality, the readiness is all."⁴¹ So even the specter of disproportionate violence delegitimizes war even if, as in this example, it is only a Cold War.

This discussion of indiscriminate violence brings us to proper conduct in war or Walzer's version of *jus in bello*: the war convention. By this he means "the set of articulated norms, customs, professional codes, legal precepts, religious and philosophical principles ... that shape our judgments of military conduct."⁴² His primary concern is with the treatment of non-combatants, although he does offer a compelling argument against conscription as well. His work in this area is a continuation of the debate over proportionality and its subservient clause, double-effect. He attacks both of these concepts throughout his work as being properly conceived but not properly defined, thus allowing for improper use. It is this very lack of definition that continues to pose a question for the theory that has not yet proven answerable.

⁴¹ Walzer. *Just and Unjust Wars*. 272

⁴² Ibid. 44

Recalling Aquinas's work on double-effect, states could still be conducting a just war if they do not intend to kill noncombatants but in fact do so. I share Walzer's concern that "we have to worry ... about all those unintended but foreseeable deaths, for the number can be large; and subject only to the proportionality rule—a weak constraint—double effect provides a blanket justification."⁴³ The flaw in double-effect and proportionality is that they both focus too heavily on *unintended* and not enough on *foreseeable*. Our experience with war as a species has advanced such that we can rarely contend that the results of our actions were not foreseeable, and Walzer rightly holds belligerents morally culpable for their actions in this area. He raises the bar for protection of innocents in the following way:

Simply not to intend the death of civilians is too easy ... what we look for in such cases is some sign of a positive commitment to save civilian lives. Not merely to apply the proportionality rule and kill no more civilians than is militarily necessary ... Civilians have a right to something more. And if saving civilian lives means risking soldier's lives, the risk must be accepted.⁴⁴

This is a new and controversial stipulation on moral conduct of war; but it is a necessary one. As technology has advanced and greater precision has allowed militaries to target their violence with increased accuracy, as global media has brought the realities of war into living rooms and as moral consciousnesses continue to be awakened, we must take it upon ourselves to conduct our wars with near impunity. This includes accepting the increased risk to combatants. Of course, this new precept is easier to conceive on a traditional battlefield, with two armies and a battlefield that is well defined and engaged upon. However, battles between great powers have subsided since the total wars that marked the history and shaped the consciousness of the past century. Asymmetric warfare in urban settings against undeclared forces will continue to be the norm. Just war must find a way to include proper treatment of innocents in this context as well.

⁴³ Walzer. *Just and Unjust Wars*. 153

⁴⁴ Ibid. 155-156

Shortly after the September 11 terrorist attacks, Walzer penned the following comments for *Dissent* magazine, for which he is senior editor. By his own admission he was still dazed by the attacks and this lends his principled stand even greater credibility. It is in these times of crisis that we must exercise restraint and must not ‘cry havoc and let slip the dogs of war’ in such a way as to ignore our responsibility to civilians. Walzer writes, “In fighting against terrorists ... we should get close enough to the enemy ... so that we are quite sure not only that we are aiming at them but also that we are hitting them ... we must avoid overestimating the smartness of our smart bombs.”⁴⁵ This is consistent with his previous works but it is the next section of his article that exemplifies the type of commentary that was in short supply at the time. Walzer continues:

And, finally, because even if we do all these things, we will still be imposing serious risks on the civilian population, we must reduce those risks as far as possible—and take risks ourselves in order to do that ... The proportionality rule is commonly invoked here ... But because I don’t know how to measure the relevant values or how to specify the proportionality ... I prefer to focus instead on the seriousness of the intention to avoid harming civilians, and that is best measured by the acceptance of risk.⁴⁶

We condemn terrorist activity because they target innocents. And just war theory allows us to respond with defensive, remedial and proportional force. However, Walzer calls on us to rise to a level that casts the moral debate so clearly in our favor as to be beyond reproach. That requires accepting a higher level of risk to our own military personnel and civilian populations than would otherwise be necessary. To conduct a just Walzerian war, that is what we must do. I agree wholehearted with his requirements. Perhaps this is an easy position to take from the editor’s desk at *Dissent* magazine or as a university student, but without an urging of restraint from citizens—whose force is being projected—what is the point of fighting for the defense of the ideal of governing by consent.

⁴⁵ Walzer. Five Questions About Terrorism. 7

⁴⁶ Ibid. 7-8

Regarding mandatory military service or drafts, Walzer sees these efforts as antithetical to the purpose of war. He tasks the foremost duty of the state to be defense of the individual, which is why he values the repulsion of aggression so highly. “It is ... life and liberty that are at issue, though now we are concerned with these two as they are individually rather than collectively possessed... no one can be forced to fight or to risk his life,” Walzer writes.⁴⁷ He praises the hesitant soldier who dodges the draft or who later becomes aware that his task is unjust and refuses to fight. He compels us to “honor ... and respect such people and ... certainly to tolerate their refusals.”⁴⁸ He calls on our most basic humanity and employs the necessarily strict standard that requires both conception and conduct to be correct in an effort to protect noncombatants. “They are men and women with rights and ... they cannot be used for some military purpose, even if it is a legitimate purpose.”⁴⁹ The influence of the categorical imperative here is quite clear; Walzer has almost directly quoted Kant’s second stipulation: ‘treat human beings always as an end and never a means to an end.’ His distinction between combatant and noncombatant is absolute, leaving no room for qualifiers or unintended mishaps. The blood of the innocent must be protected and war, just or unjust, is no excuse for it to be spilt.

The Case of Preemption

One more area that must be discussed before I can bring forth my own thoughts on the tradition is that of preemption. This concept has been present throughout the debate over just war for centuries; however, it has gained new importance in light of the Bush Doctrine. We can examine the idea in two veins; are we trying to justify *preemptive* or *preventative* war? This

⁴⁷ Walzer. *Just and Unjust Wars*.135

⁴⁸ Ibid. 299f

⁴⁹ Ibid. 137

distinction is an important one, as preemption is simply an extension of self-defense, while prevention distorts the fear of threat to national interest as a justification for military remedy.

Augustine discusses the issue of preemption implicitly when using the allegory of a traveler on the road to demonstrate the validity of self-defense. J. Warren Smith analyzes Augustine's position in his essay, Augustine and the Limits of Preemptive and Preventative War. Smith writes, "Augustine ... allows for preemptive action to be taken in the face of an imminent attack. He contrasts the onrushing enemy ... who is in the act of attacking, with the ... one who is intent upon killing ... but is [still] preparing to attack."⁵⁰ Augustine applies a pragmatic standard in his extension of self-defense to preemption. We are to calculate the lesser of the evils. Is the death of one brigand, even before he commits his crime, preferable to the death of many travelers as they innocently proceed along the road? Augustine obviously thinks that the death of the brigand is the lesser of the evils. But this brings us to proportionality. Smith exposes the problem as follows:

Since no 'crime' has yet been committed, one cannot easily establish a proportional degree of retaliation ... one does not know if the highwayman is simply going to rob the traveler or cut his throat. If it is the former, then killing the highwayman is disproportionate to the intended crime. Indeed, one cannot know exactly what the attacker will do.⁵¹

This is the enduring challenge that must be addressed when attempting to find moral justification for preemption. Social contract theorists have delineated how we should approach this issue. In his 1690 *Second Treatise of Government*, John Locke writes that once the brigand has breached civil comity and prepares to knowingly commit any crime, he has entered the state of war and has thus opened himself to violent remedial counteraction. This breach of civility should be

⁵⁰ J. Warren Smith. Augustine and the Limits of Preemptive and Preventative War. 145

⁵¹ Ibid. 146

taken by the victim “as a declaration of a design upon his life.”⁵² Locke’s position is a rejection of proportionality and I find it a harsh response in the face of an undefined level of aggression.

In the end, Augustine does not allow for preventative war because it is always possible for a nation to conceive of a threat to its national interests and thus mobilize for war to mitigate it. Augustine does, however, extend the principle of self-defense to preemption of imminent aggression. Hugo Grotius echoes Augustine’s thought a millennium later, postulating that self-defense should be limited to instances when threats are “immediate and imminent.”⁵³ He went on to say, “preventative war (war born of fear of future threat) [is] an unjust cause of war.”⁵⁴

Michael Walzer also makes a distinction between preemptive and preventative war, endorsing the former under limited circumstances and decrying the later as thinly veiled aggression. In *Just and Unjust Wars* he writes, “States can rightfully defend themselves against violence that is imminent but not actual; they can fire the first shots if they know themselves about to be attacked,” employing the classic example of Israel’s action during the Six Day War.⁵⁵ Continuing his tradition of logical progressive writing, Walzer lays out a simple formula in an attempt to encapsulate an excruciatingly complex question: when has an enemy’s preparation crossed the thin line that authorizes preemption? His “general formula must go something like this: states may use military force in the face of threats of war, whenever the failure to do so would seriously risk their territorial integrity or political independence. Under such circumstances it can fairly be said that they have been forced to fight and that they are victims of

⁵² Locke. *Second Treatise of Government*. §16

⁵³ Qtd. in Bellamy. *Just Wars*. 159

⁵⁴ Bellamy. *Just Wars*. 159

⁵⁵ Walzer. *Just and Unjust Wars*. 74

aggression.”⁵⁶ Walzer concludes by acknowledging that the line between preemption and prevention is often blurry and that political leaders are forced to make subjective judgments.

IV. A Just War Framework for Presidential Doctrines

As the writing from the just war theorists I have selected suggests, the application of the theory to world events can be subjective. Each successive writer or moral analyst brings their own worldview to the tradition and its application. It is in this light that I will offer my own synthesis on the arguments posited to this point. I will organize my personal just war theory into concepts put forward that I both accept and reject, as well as supplying my own additions. I will conclude by offering my own framework through which I will then assess presidential doctrines.

Just Cause

The most basic question of any military action, or conception for military action, is the cause over which it will be fought. Self-defense is the most universal justification and I join in the expression of every state’s right to defend its own existence. Assisting others in resisting aggression from invading tyrannies is the next most morally justifiable use of military force and as Niebuhr espoused earlier, resisting expansion of tyranny is akin to preventing future wars. However, this assistance must come in response to an act of aggression. Attacking tyrannies because we value individual freedom and wish to see it expanded is not morally tenable. This justification is problematic because 1) the imposition of an external value system can have detrimental effects far worse than tyranny and 2) the rampant injustices that inevitably occur during a military campaign are similarly unacceptable. Responding to aggression, either at home or abroad, remains the only justifiable use of military force.

⁵⁶ Walzer. *Just and Unjust Wars*. 85

Proper Authority

I wholeheartedly agree with the most basic tenet of Augustine's just war theory, proper authorities are the only ones who can wage war. In the globe's current nation-state structure, the authority to speak on behalf of a particular territory or group of people is widely recognized. However, there are two forces pulling this claim of authority in two separate directions. One is from supranational groups—like the United Nations and European Union—that attempt to supplant nearly all violent actions with diplomatic ones. The other is from subnational groups that seek to assert themselves through violent means in place of the political ones that they are often unable to wield. Subnational use of violence without transparent popular consent is largely without moral support. Terrorists, rebels and extremists are bent on avoiding the constraints of the traditional political order, chiefly because their tactics and goals lack sufficient support to be channeled by proper authorities. Without this widespread support their claims are by definition marginal and thus lack the weight necessary to be proper authorities in the just war context.

In analyzing presidential doctrines, it bears examining where authority is based in the American system. I accept the social contract framework put forth by Hobbes, Locke and Rousseau. American citizens are bound to this contract through either *express* consent, “positive engagement, express promise or compact,” or *tacit* consent, “submitting to the laws of any country, living quietly and enjoying privileges and protection.”⁵⁷ In return, the representative system is imbued with the authority and bound by the responsibility to serve its citizens. The foremost of these responsibilities is security; extended only slightly further in the Declaration of Independence as the government's duty to protect the inalienable rights to ‘life, liberty and the pursuit of happiness’ for all of its citizens. In the context of just war this means that the United

⁵⁷ Locke. *Second Treatise of Government*. §122

States Government is bound by compact to defend its citizens, respond to aggression, and do so in a way that is consistent with the morals of its people.

Last Resort

Employing violence as a method of last resort is a simple condition that should be easily recognizable as a restraint by those who disdain war. The challenge is calculating when and where the line of sufficient diplomacy has been crossed. In fact, the concept of ‘last resort’ actually contains a paradox. By any imagination, one could always claim that there was an opportunity for one more diplomatic foray to resolve a conflict. Likewise, whenever military action is employed, that moment instantly becomes the one in which the ‘last resort’ occurred. No matter when decision makers subjectively decide to switch from diplomatic to military remedies, there will always be some who claim one more overture could have been made and those who claim one too many was made.

Thusly, last resort should be abandoned as the standard for diplomacy; instead we should require good faith effort. Of course this standard is also highly subjective, but it does not contain the terminological paradox. When a good faith effort is combined with response to aggression, war is sufficiently restrained so as to avoid wanton acts and disingenuous positions.

Noncombatant Immunity

Noncombatant immunity is well proved throughout the tradition. However, too much emphasis has been placed on double-effect, which relies on *unintended* as opposed to *foreseeable* consequences. It is this higher standard that I will apply in my analysis.

However, the moral reasoning provided in the tradition neglects the most compelling reason not to kill innocents: human interconnection. An arbitrary division has been drawn between citizens of one country and those of another. Maps contain lines that divide masses of

people into nations sometimes against their will and against their interest.⁵⁸ True, a government's primary duty is to safeguard the interests of its citizens and when confronted with violent threats it must act. However, doing so by dismissing the humanity of noncitizens is in itself a breach of moral ethics.

Even the average soldier recoils at the distinction. In his reflective work on soldiers' physiological battles with war, Glenn Gray discusses the atomic bombs dropped on Hiroshima and Nagasaki. He writes:

The combat soldier knew better than did the Americans at home what those bombs meant in suffering and injustice. The man of conscience wherever he was realized intuitively that the vast majority of the Japanese in both cities were no more, if no less, guilty of the war than were his own parents, sisters or brothers ... All the arguments used in justification ... cannot alter the fact that his government was the first to use ... a monstrous new weapon of annihilation.⁵⁹

Gray empathizes with the enemy citizens and even draws parallels with his own family. The human understanding of the relationship between individual members of the species is advancing with each successive generation. I am not suggesting that this evolution is complete or that a world government is called upon to administer the affairs of humans everywhere, as is often the political critique of the idea of human interconnection.

However, war is largely a political dispute between governments, not individuals. Just war theorists from this examination agree that innocent civilians on each side of a dispute deserve the same level of treatment to avoid, as Aquinas calls it, that which occurs 'beside the intent.' Kant maintains that we must 'treat human beings always as an end and never a means to an end;' he makes no moral provision for citizens receiving different treatment than noncitizens.

⁵⁸ Even a cursory examination of post-colonial Middle East and Africa shows how the political machinations of the few can affect the many for decades.

⁵⁹ Gray. *The Warriors*. 200

Walzer is the most adamant in his insistence that we treat civilians with the utmost respect. He calls for a level of care that could place soldiers in more danger, and accepts the increased risk.

The increasing care for civilians that is demanded from each successive era of just war theorists is indicative of similar heightened awareness in other fields. Humankind shares a kinship—a common fate—that is becoming more apparent as Westphalian boundaries begin to soften and we recognize our connection to the species as a whole. In a representative government, if the state is wielding power on behalf of newly aware citizens, it must do so in a way that respects their growing understanding of their connection to innocent people abroad. This insists that when responding to aggressors, governments do not create new wrongs in the name of citizens who abhor these violations.

Right Intent

Numerous theorists prominently feature the concept of right intent, but it fails to command a dominant position in the theory due to its extreme subjectivity. In an abstract and individual analysis of a war, intent is an appropriate measure. However, it is limited in a macropolitical examination because it is ultimately impossible to know what motivated an actor. As a rule, the theory judges a war by looking at the declared intent, but that too is highly suspect. We know for a fact that foreign policy is motivated by the intersection of often-divergent goals. It is unreasonable to suggest that we can know which of these motivations was the most responsible for an action. Additionally, as wars have grown increasingly retail in nature, they have become products that must be packaged and sold to the public in order to gain popular support.⁶⁰ This casts further doubt on our ability to trust governments and their stated intent. On

⁶⁰ Evidence of which is when White House Chief of Staff Andrew Card was asked why the ramp up to the Iraq War began a full year after 9/11 in September of 2002, he responded, “from a marketing point of view, you don’t introduce new products in August.” Qtd in Schneider.

an individual level, right intent retains a place in a person's moral calculation over whether to support or participate in a war. However, in an analysis of presidential doctrines, it is problematic to include this tenet because we never know if the intents we are told are the real reasons the war is being fought.

Proportionality

The unending advance of military technology continues to make proportional response a challenging condition to abide by. Nuclear weapons have made total war and full proportional response less viable options for responding to aggressors. We must restrain our actions in war via a mentality that recognizes objectives must be met, but also one that knows if we always respond in kind, our mutually assured destruction will become a reality. Conversely, the doctrine of proportional response creates the possibility for nations to act as the most restrained, a so-called race to the top. Because the right to proportional response is such a widely held belief, countries have the opportunity to forego full-blown retaliatory action and gain a measure of good will in the international community. This moral currency may be exchangeable for leverage over aggressors.

Despite these two possible applications of proportional force, a nation should not be afforded the right to apply full proportional force. Instead, they should be granted the moral authority to end the aggression and right inflicted wrongs. For example, if a nation is invaded and several towns are destroyed, it is not justified for the victim to counterattack and destroy villages in the aggressor's land. Instead, they should focus on expelling the aggressor and reviving their damaged territory. Restitution should be extracted from the aggressor, but ending the unjust aggressive action must be paramount. The only other option is a devolving cycle of violence similar to the one that has played out between Israel and the Palestinians. Once the

cycle of proportional response has been established, one side must either be destroyed or take the high road and decry the right to respond.

Preemption

The moral justification for preemption is logical extension of self-defense. However, its political ramifications are a world apart. I again employ social contract theory to prove my point. If we acknowledge, as I do and as just war theory does, that war is an evil to avoid at all costs, we must give our fellow man every chance to back down, before the horrors are unleashed.

If we allow the mere suspicion of future activity to justify war, a prisoners' dilemma is created. Both sides would be able to logically claim their best course of action is preemptive war, if they possess the capability. However, if we delegitimize first strikes, we remove the dilemma and both sides have a stake in ensuring strong defenses and maintaining peace. While this does raise the bar on just war, it does not completely destroy the idea of preemption, but allows it in the case of imminent danger. Imminent threats must not be gathering; they must not be perceived; they must be clearly ascertainable to all rational actors who examine the evidence. Attempting to prevent a possible future enemy from increasing his arsenal or advancing his national interests incorrectly presumes that you always know how an actor will behave. In a nuclear world this does expose a restrained nation to the possibility of being a victim of a nuclear first strike. And as horrific as the consequences would be, the only way for the cycle of violence to end is if those with the largest arsenals show restraint.

A Just War Framework for Presidential Doctrines

Presidential doctrines for the use of force are major reorientations of the national psyche toward foreign policy. They represent the stated policy of the government and put other nations on notice regarding our potential future behavior. In this way they mirror *jus ad bellum*, in that

they are *conceptions* for the use of force. Specific wars that are waged under the auspices of presidential doctrines are the means by which the doctrinal conceptions are carried out. In this way they mirror *jus in bello*, in that they are the means by which our government *conducts* itself militarily. I will therefore apply *jus ad bellum* standards to doctrines and *jus in bello* standards to specific wars. Although this is not the original intent of just war theory, I believe it provides a unique and valuable way to conceptualize U.S. foreign policy.

It is important to understand that I have purposefully selected difficult case studies for this analysis. Because I am focusing on presidential doctrines and their implementations, it was challenging for me to select case studies that may provide a more balanced look at the just application of U.S. foreign policy. A prime example of this is World War II, which was not fought directly under a presidential doctrine but did produce what is arguably one of the most just causes in world history. My framework also does not allow me to grapple with one of the most contentious cases: the use of nuclear weapons against Japan, which occurred two years before the Truman Doctrine was announced.

Additionally, by the mere structure of the just war theory, once one principle has been violated the entire war can plausibly be identified as unjust. I believe that this is an academically appropriate way to apply the theory, but one that has limited value in decision-making. I believe that we must use moral constructs to guide our behavior; we must constantly strive to approach the ideal but it is the rare case when we achieve it. The rigid just war framework I will apply may appear to paint U.S. foreign policy as wholly unjust but this not the case. I am applying the high standard to display the need for vigilance, not to categorically repudiate U.S. foreign policy.

V. The Monroe Doctrine

The occasion has been judged proper for asserting as a principle, in which the rights and interests of the United States are involved, that the American Continents ... are henceforth not to be considered as subjects of future colonization by any European Power

...
We should consider any attempt on their part to extend their political system to any portion of this hemisphere as dangerous to our peace and safety

...
*It is equally impossible, therefore, that we should behold such interposition in any form with indifference.*⁶¹

—President James Monroe
Annual Message to Congress, December 2, 1823



The first doctrine that I will examine is the declaration by the fifth President of the United States, James Monroe. In 1823, America was still politically disentangling itself from European powers, while trying to remain commercially engaged. This was a daunting task that required the charm of a salesman and the deft of a statesman. In order to accomplish this undertaking, Monroe relied heavily on his Secretary of State, John Quincy Adams. The oratory that Adams was instrumental in crafting for Monroe was intended to apply to real world issues that would soon need to be addressed, however, the message “was based on general principles which played an important part in the thinking of the president and his advisers.”⁶² It is these principles and motivations that we must examine in order to ascertain the justness of the Monroe Doctrine.

Motivations

There were numerous motivations for the establishment of the Monroe Doctrine. Monroe and Adams were taking advantage of an opportunity for the United States to make an official break with the old continent, something they had been seeking for some time. There can be no

⁶¹ Monroe. The Monroe Doctrine: Annual Message from the President of the United States.

⁶² Perkins. *Hands Off*. 29

doubt that “long before 1823 [Adams] had begun to formulate his ideas with regard to the exclusion of European influence from the American continents.”⁶³ The American statesmen saw the dangers in continued European imperialism. The Spanish concessions of 1819—relinquishing control of Florida and their subsequent agreement not to pursue any Pacific lands north of the forty-second parallel, which marks the northern border of California—paired with British concessions of rights to the Columbia River region in 1821 gave Monroe and Adams the opening they were looking for. The Russians were also encroaching on North America and in 1823 they held Fort Ross, just north of San Francisco. Tsar Alexander had recently declared that the Russians had exclusive trading rights to the nearby waters. Adams responded in July of 1823 by telling Russian Minister to the U.S. Baron Diederik Tuyl that he would “contest the right of Russia to *any* territorial establishment on this continent and that ... the American continents are no longer subject for any new European colonial establishments.”⁶⁴ His language with Tuyl matches almost exactly with the doctrine laid out by Monroe five months later.

Yet territorial control and European disentanglement were not the primary motivations for the doctrine. Adams was keenly aware of the commercial ramifications of continued European colonialism in the Caribbean and Latin America. To Adams, this commercial control amounted to “a monopoly, [an] exclusion of the United States from the markets of the New World.”⁶⁵ He knew that without a major reorientation of the political dynamics, America was in danger of losing its trading rights. Cornell University Professor Dexter Perkins⁶⁶ notes that in constructing the doctrine, Adams was thinking “primarily of the commercial interests of the

⁶³ Perkins. *Hands Off*. 29

⁶⁴ Qtd in *Ibid.* 31

⁶⁵ *Ibid.* 30

⁶⁶ Professor Dexter Perkins was the eminent scholar on the Monroe Doctrine in the first half of the twentieth century, writing several volumes detailing its history. His work has been invaluable and I reference it consistently throughout this section.

United States,” and he bemoans the fact that this “point has been too little emphasized” in analyses of the doctrine.⁶⁷

Monroe echoed another fear that was common among political elites and citizens in his address to Congress one year prior to the annunciation of his doctrine. He said, “in regard to other powers, we might reasonably presume that we should not be molested by them. This, however, ought not to be calculated as certain. Unprovoked injuries are often inflicted, and ... our [vulnerable] situation might be with some a cause for excitement and aggression.”⁶⁸ This fear of aggression was not unjustified given the War of 1812.⁶⁹ The diplomatic and military victories along the Gulf Coast and in the Pacific Northwest gave the assertive Adams and Monroe additional confidence to press their advantage and state unequivocally that the Western Hemisphere belonged to the United States.

Importance

The Monroe Doctrine was important because it built on the tradition that President George Washington had begun with his farewell address: the president would be the nation’s clearest voice on foreign policy and the nation would avoid foreign entanglements. Interestingly, we have North Carolina Senator Gorge E. Badger to thank for our terminological tradition of presidential doctrines. It is in his comments during an 1852 debate that the term Monroe Doctrine was coined. The phrase stuck and it became “not only common, but practically universal ... as the term by which to describe the growing American” lexicon of foreign policy.⁷⁰

⁶⁷ Perkins. *The Monroe Doctrine, 1823-1826*. 17

⁶⁸ Qtd in Perkins. *Hands Off*. 34

⁶⁹ For more on early American leader’s fear of European aggression see, Nerval. *Autopsy of the Monroe Doctrine*. 33

⁷⁰ Perkins. *The Monroe Doctrine, 1826-1867*. 223

The Monroe Doctrine is seminal not only in that it is the first presidential doctrine to be so titled, but because it stood as an executive declaration for so long without congressional action. Professor Quincy Wright marvels at the doctrine's longevity in his 1922 tome, *The Control of American Foreign Relations*. He writes, "Though the Monroe Doctrine was stated in 1823 ... the first statement referring to it, accepted by either House of Congress, appears to be [in] 1899."⁷¹ Instead of operating by statutory mandate, the doctrine served as an overarching theme that shaped the national mentality for more than a hundred years. This lack of official strictures was a boon for the doctrine as it allowed it to expand and contort to fit successive generations' needs to assert U.S. regional hegemony. In 1895, President Grover Cleveland's Secretary of State Richard Olney removed any ambiguity as to the doctrine's scope and ferocity, saying, although the doctrine "does not establish any general protectorate by the United States over other American states ... today the United States is practically sovereign on this continent, and its fiat is law upon subjects to which it confines its interposition."⁷² The doctrine was also reaffirmed in 1914 when once-Secretary of War and then-Secretary of State Elihu Root said:

Never for a moment have the responsible and instructed statesmen in charge of the foreign affairs of the U.S. failed to consider themselves bound to insist upon [the Monroe Doctrine.] Never once has the public opinion of the people of the U.S. failed to support every just application of it as new occasion has arisen. Almost every President and Secretary of State has restated the doctrine with vigor and emphasis.⁷³

After assuming the presidency in 1923, following the sudden death of President Harding, Calvin Coolidge pledged that the doctrine "must be maintained. But in maintaining it we must not be forgetful that a great change has taken place."⁷⁴ He was referring to the shift in the balance of power that had occurred since the doctrine's inception one hundred years earlier. No longer was

⁷¹ Wright. *The Control of American Foreign Relations*. 283

⁷² Qtd in Furniss and Snyder. *An Introduction to American Foreign Policy*. 73

⁷³ Qtd in Barratt. *The Real Monroe Doctrine*. 2

⁷⁴ Qtd in Godwin. *The Arrow and the Olive Branch*. 51

America bristling in the face of European threat, but now the doctrine had become a way for America “to help stabilize a turbulent world.”⁷⁵ But this forces us to ask, if the Monroe Doctrine was birthed from a fear of aggressive European colonialism and commercial interdiction, where is the justification for the doctrine that Coolidge espoused? This evolution shreds the original justifications with a manipulative force that recalls the warnings of Vitoria, Kant and Niebuhr.

Just Doctrine?

In my research on the Monroe Doctrine I found scant analysis, modern or otherwise, as to its justice. The pragmatic acceptance of the need for a young nation to stretch its diplomatic and military wings in the nineteenth and early twentieth century went essentially unchallenged. In the forward to his 1943 book *Hands Off*, Perkins provides a snippet of the widespread acceptance the doctrine enjoyed. He wrote, “In the field of politics, there are few more unqualified truths than the faith of the American people in the Monroe Doctrine. Few persons can define it; but that does not matter ... most Americans in our time would be willing to declare their loyalty to the principles laid down in the message of 1823.”⁷⁶ This type of unbridled nationalism is frightening, especially given the timing of Perkins’ writing. Given the world wars that were swirling, one would expect that philosophers and politicians would have learned the dangers inherent in nationalism. But America was yet to healthfully examine her own foreign policy.

It is perhaps telling that major contributions to the just war tradition are missing in the one hundred and twenty or so years that the Monroe Doctrine enjoyed supremacy. The gap that I detailed earlier between Kant’s moralism the late eighteenth century and Niebuhr’s revival of the Doctrine after WWII fits almost exactly with the reign of the Monroe Doctrine. But was it a just doctrine? We turn to the two central questions surrounding *jus ad bellum* and presidential

⁷⁵ Godwin. *The Arrow and the Olive Branch*. 51

⁷⁶ Perkins. *Hands Off*. ix

doctrines: right authority and right cause.

Right Authority

It is difficult not to get swept up in the need for the U.S. to assert itself and stake a permanent claim to the hemisphere; however, the Monroe Doctrine is an unprecedented overreach by the United States. It would have been conceivable for Monroe and Adams to construct a framework that insisted on European withdrawal from the American mainland, but extending that authority to the entire hemisphere is without justification. Perkins echoes my skepticism, saying, “the rights [claimed in the Monroe Doctrine] had always been rather shadowy and were far from being clearly established ... [and as] often as the language of Adams has been cited since 1823, it rested upon an insecure foundation of logic and fact at the time.”⁷⁷ You must admire the audacity of the effort, but I can find no reason to authorize the extension of U.S. authority beyond its own land as just.

Right Cause

The causes underpinning the doctrine include: fear of European aggression, protection of commercial interests, political disentanglement and territorial expansion. Of these, only the first is mentioned by just war theory. However, fear of future aggression is not sufficient. One of the few critics of the doctrine was Quincy Wright and in his 1925 essay, The Outlawry of War, Wright pointed to the illegitimacy of American occupations of Haiti, Santo Domingo and Nicaragua because they fit into the preventative not preemptive context. He wrote, it does:

Not justify occupation of ... Caribbean countries on the pretext that failure to occupy them would invite European occupation, which would menace American security. This interpretation of the Monroe Doctrine can find no justification in the right of self-defense ... since the contemplated danger is not sufficiently ‘instant and overwhelming.’⁷⁸

⁷⁷ Perkins. *Hands Off*. 33

⁷⁸ Wright. The Outlawry of War. 90-91

I agree that taking steps to limit European control of the Caribbean and Latin America was prudent, however, it fails the just war test of right cause.

Manifest Destiny and *jus in bello*

The quintessential application of the Monroe Doctrine to actual military efforts is Manifest Destiny. This policy claimed the U.S. had the right and the duty to expand its legal, political and military control over the entire continent. It was a “restatement and enlargement of the Monroe Doctrine by President Polk.”⁷⁹ How was this application conducted and does it meet the *jus in bello* standards previously laid out?

As America pushed the boundaries of its officially controlled territories toward the Pacific Ocean, California became of increasing interest. Polk was concerned that because Mexico could not control all of California, the territory ran the risk of falling into revolutionary, Russian, or European hands. “For Polk, all these possibilities violated the Monroe Doctrine—and the risk of ... them occurring was too high.”⁸⁰ Under pressure from Polk, Mexico ceded control of California and in 1850 it became the thirty-first state to join the Union. President Ulysses S. Grant tried to use the same security rationale in his attempt to justify annexation of Republic of Santo Domingo⁸¹, a battle he lost with Congress and eventually abandoned.⁸²

One party that is often overlooked in the Euro-American discussion of the Monroe Doctrine and Manifest Destiny is Native Americans. By espousing a doctrine that authorized complete control of the Western Hemisphere, the United States swept aside countless native tribes. In an article in *American Indian Quarterly*, John Wickham discusses the ramifications of the Monroe Doctrine for Indian tribes:

⁷⁹ Nerval. *Autopsy of the Monroe Doctrine*. 193

⁸⁰ Godwin. *The Arrow and the Olive Branch*. 20

⁸¹ The Republic of Santo Domingo has since been renamed the Dominican Republic.

⁸² Ibid. 22

In 1822, under the imperialist Monroe Doctrine, Europe was warned that the United States was now the protector of all lands in the western hemisphere. The Supreme Court quickly provided the underpinnings of this doctrine in *Johnson v. McIntosh*. Still a cornerstone of federal Indian law, *McIntosh* jettisoned the sovereign nation status of tribes, ... [which] reduced tribes from landowners to occupants without legal title. Then in the 1830s under the Cherokee Nation cases, tribes were relegated from foreign nations to mere 'domestic dependent nations.' ... This policy proved morally and legally untenable for both parties: it was alien and hostile to tribal traditions of communal self-sufficiency and American bedrock principles of individual liberty and equality. Shortly thereafter, removal treaties began forcing tribes west across the Mississippi River to Missouri, Arkansas, and Oklahoma.⁸³

The violations of noncombatant immunity and good faith effort at diplomatic settlements are clear in the United States Government's treatment of native tribes. The goals of the Monroe Doctrine had established in the American mind the right to all of the land that it could occupy. This contention was enforced with violent relocation of anyone who stood in the path of the advancing superpower. It is quite untenable to find moral justification for either the treatment of native tribes or the conduct of the Monroe Doctrine and Manifest Destiny more broadly.

VI. The Truman Doctrine

One of the primary objectives of the foreign policy of the United States is the creation of conditions in which we and other nations will be able to work out a way of life free from coercion.

...

We shall not realize our objectives, however, unless we are willing to help free peoples ... against aggressive movements that seek to impose upon them totalitarian regimes. This is no more than a frank recognition that totalitarian regimes imposed on free peoples, by direct or indirect aggression, undermine the foundations of international peace and hence the security of the United States.

...

*I believe that it must be the policy of the United State to support free peoples who are resisting attempted subjugation by armed minorities or by outside pressures.*⁸⁴

—President Harry S. Truman
Address to Congress, March 12, 1947

⁸³ Wickham. September 11 and America's War on Terrorism. 120-121

⁸⁴ U.S. Senate. *Legislative Origins of the Truman Doctrine*. vii-xi



The Truman Doctrine presents one of the clearest cases of good intentions gone awry. What was initially a masterstroke of humanitarian and economic aid following Europe's devastation in World War II became a distortion of principles that resulted in a slaughtering of the innocents, a decade-long quagmire and military conscription. President Truman's speech ended the reign of Monroe's call for limited American involvement in European affairs, including a string of corollaries that continually reinflated an outdated policy.

The Truman Doctrine pledged American support to nations that were in danger of falling to Soviet rule. However, Truman said, "I believe that our help should be primarily through economic and financial aid, which is essential to economic stability and orderly political process."⁸⁵ To show that he intended to put actions behind his words, Truman launched a major effort to fend off Soviet domination by establishing the Marshall Plan, which sought to prop up struggling post-war nations. With a dose of Missouri charm that only he could muster, the president called the Truman Doctrine and the Marshall Plan, "two halves of the same walnut."⁸⁶ But it was Secretary of State George Marshall who gave eponymous voice to Truman's promise.

He proclaimed America's commitment at the Harvard commencement in June 1947, only three short months after the Truman Doctrine was announced. Marshall said, "The United States should be whatever it is able to do to assist in the return of the normal economic health in the world without which there can be no political stability and no assured peace. Our policy is not directed against any country, but against hunger, poverty, desperation and chaos."⁸⁷ The plan succeeded in resurrecting war-torn Europe from the doldrums of economic despair. It injected

⁸⁵ U.S. Senate. *Legislative Origins of the Truman Doctrine*. x

⁸⁶ Qtd in Bostdorff. *Proclaiming the Truman Doctrine*. 143

⁸⁷ Qtd in Mills. *Winning the Peace*. 21

American sweat and capital into the reconstruction of free societies. “In its first fiscal year, the Marshall Plan absorbed more than 10 percent of the entire federal budget.”⁸⁸ The shipments contained food, livestock feed, fertilizers, fuel and raw materials. The efforts to protect the innocent victims of Axis’ aggression were clear. The plan’s signature moment was the Berlin Airlift, which kept the western part of the city supplied with food and fuel for almost one full year using airplanes to avoid the Russian blockade of road and rail. “The airlift carried over two million tons of supplies in 270,000 flights ... [and] became a symbol of the United States resolve to stand up to the Soviet threat without being forced into a direct conflict.”⁸⁹

Truman’s rhetoric and economic assistance displayed America’s willingness to recognize her own interests were closely linked with the protection of freedom, repulsion of aggression and active efforts to contain the Soviet Union. In addition to rational self-interest, the doctrine is also an example of Kant’s insistence that those who are capable of doing so must act as “a *hindering of a hindrance of freedom*.”⁹⁰ But what were the actual motivations of the actors who crafted and installed the Truman Doctrine?

Motivations

The doctrine reflected a mentality that had been fostered by members of the president’s administration for some time. In fact, Truman was philosophically prepared to deliver the doctrine a few years before he actually did. In October 1945, he said he believed everyone “should be permitted to choose their own form of government by their expressed choice, without interference from any foreign source.”⁹¹ While his words were intended to soothe an American public leery of unending engagements following two world wars, they were also emblematic of

⁸⁸ Mills. *Winning the Peace*. 169

⁸⁹ Truman Library, The Berlin Airlift.

⁹⁰ Kant. *The Metaphysics of Morals*. P. 231-232

⁹¹ Bostdorff. *Proclaiming the Truman Doctrine*. 17

Truman's distaste for Stalin's expansionism. A point he made clear by espousing the just war concept of opposition to tyrannical oppression, saying, "We shall refuse to recognize any government imposed upon any nation by the force of any foreign power."⁹² Truman had been recalibrating his view toward the Soviets following his trial-by-fire introduction to Stalin at the Potsdam Conference in August 1945, where he initially found him a tough but amenable man.⁹³

A critical turning point in the evolution of the policy of Soviet containment was the February 1946 'Long Telegram' sent from the Moscow-based George Kennan to Washington warning of coordinated communist expansion. He outlined the pernicious nature of the threat and the likelihood that Stalin would quickly become a threat to neighboring free societies. While his 8,000-word missive "did not lead immediately to a change in U.S. foreign policy, ... [it] planted the seeds for such a change ... [and] appeared to both reflect and spur evolutions in thought that were already underway."⁹⁴

However, it was not until 1947, and the exhaustion of British aid to Greece and Turkey in their efforts to resist the Soviets, that the president was pressed into formally articulating the need for an official shift in foreign policy. A key player in the construction of this speech was Under Secretary of State Dean Acheson. He knew that following Britain's withdrawal from the Greco-Anatolian situation, the U.S. "could either accept the responsibility [to help] ... or face the consequences of the widespread collapse of resistance to Soviet pressures."⁹⁵ Acheson began articulating what later became known as President Eisenhower's domino theory; claiming that if

⁹² Mee. *Meeting at Potsdam*. 295

⁹³ To say that Truman was unprepared for this meeting is an understatement. He had only been vice president for eighty-two days when President Roosevelt passed away; and had only been president for four months before he was thrust into the conference with the titans: Churchill and Stalin. For more on Truman's view of Stalin see: Mee. *Meeting at Potsdam*. 11

⁹⁴ Bostdorff. *Proclaiming the Truman Doctrine*. 23

⁹⁵ Kuniholm. Loy Henderson, Dean Acheson, and the Origins of the Truman Doctrine. 73

one weak state was allowed to fall, the Soviets would topple one regime after another. He advised Truman to “pull out all the stops and speak in the frankest, boldest, widest terms to attract [congressional] support” for Soviet containment.⁹⁶ Another close advisor, Michigan Senator Arthur Vandenberg told Truman he needed “to make a personal appearance before Congress and scare the hell out of the country.”⁹⁷ And on a cool clear March afternoon in 1947, President Truman postponed his Key West vacation long enough to go to Capitol Hill and do just that. He delivered a speech that secured funding for Greece and Turkey, laid the groundwork for the Marshall Plan and realigned American foreign policy for the next fifty years.

Just Doctrine?

The Truman Doctrine was a pragmatic and principled response to a world with a shifting balance of power. Without a strong American commitment to defend freedom, Western European nations could have quite easily fallen victim to communist expansion, much as they had to fascist advancement only a few years before. It was pragmatic and it was effective, but was it just? We again turn to the two central questions surrounding *jus ad bellum* and presidential doctrines: right authority and right cause.

Right Authority

There can be no question as to Truman’s authority to set the pace for the nation on foreign policy. Nor is there much to censure his voice in the global context of leading the Allied recovery. America had come to Europe’s rescue in war and Truman was intent on securing the peace as well. Further legitimizing his authority on the issue, he also obtained congressional approval for the immediate aim of his speech, economic aid to Greece and Turkey. The Truman Doctrine passes the just war test of right authority.

⁹⁶ Bostdorff. *Proclaiming the Truman Doctrine*. 71

⁹⁷ Ibid. 72

Right Cause

The stated purpose of the doctrine as voiced by Truman, Marshall, Acheson and others was the defense of free people in the face of totalitarian oppression. After self-defense, coming to the aid of others is the most justifiable military action. While most of the resistance to the doctrine was logistical or financial in nature, one critic did appeal to just war rational. Truman aide George Elsey wrote a memo to White House Counsel Clifford Clark outlining his concerns over the timing of the speech. Elsey wrote, “There has been no avert action in the immediate past by the U.S.S.R. which serves as an adequate pretext for the ‘all-out’ speech.”⁹⁸ However, Soviet aggression was by no means absent at the time of Truman’s assertion and it would continue throughout the next several decades. The conception of the Truman Doctrine—and the Marshall Plan—is one of the most selfless acts that America has ever undertaken. It is true that stalling the Soviet’s advance created a bipolar world that advantaged the United States’ material interests. However, Truman’s statement that he would ‘support free peoples who are resisting attempted subjugation by armed minorities or by outside pressures,’ is the most compelling just war rational ever offered in a presidential doctrine.⁹⁹

Vietnam and *jus in bello*

As the Cold War progressed, the doctrine evolved from an effort to slow Soviet expansion in Western Europe to an opposition of communism wherever it spread. Conflicts in Korea, the Hungarian Revolution, the Berlin Crisis of 1961 and the Cuban Missile Crisis were all examples of the U.S. applying the Truman Doctrine to contain Soviet aggression. However, I believe that in order to examine the way even the most just doctrines can be manipulated, we should turn our attention to Vietnam.

⁹⁸ Clifford. *Counsel to the President*. 133

⁹⁹ U.S. Senate. *Legislative Origins of the Truman Doctrine*. ix

There was a basic understanding that the American people embraced the idea of Trumanesque containment but were conflicted on the war in Southeast Asia. Therefore, “The war in Vietnam ... [found] its place in history as America’s first imperial war—a war the significance of which was obscured by the familiar rhetoric of containment and the Truman Doctrine.”¹⁰⁰ Furthermore, Johns Hopkins Professor Robert Tucker illustrates that when viewing the world through the doctrine’s lens of regimes that are either for or against freedom, America falls prey to Kant’s distaste for the devotion of ‘all the resources of the state, and all the fruits of its culture’ to war. Tucker finds this results in “a policy that does not and apparently cannot distinguish between vital and less-than-vital interests [which] is bound to result in the overcommitment of the nation’s resources.”¹⁰¹ America found itself overcommitted to a jungle war with no end in sight. After sixteen years the country finally accepted that it could not achieve strategic victory. But how did America conduct itself during the war?

Expanded Noncombatant Immunity

Applying the expanded structure of noncombatant immunity, which insists not only on not targeting civilians but also on taking active steps to ensure their safety, we can see that U.S. forces failed miserably. Noam Chomsky argued, “It is important to understand that the massacre of the rural population of Vietnam ... is not an accidental by-product of the war. Rather it is the very essence of American strategy.”¹⁰² He continues by summarizing that the military took the position that in order “to crush the people’s war, we must eliminate the people.”¹⁰³ Additionally, in her essay on the use of chemical weapons in Vietnam, Frances Harbour finds “that destruction

¹⁰⁰ Osgood. Introduction: Reappraisal of American Policy. 11

¹⁰¹ Tucker. The American Outlook. 60

¹⁰² Chomsky. After Pinkville. 73

¹⁰³ Ibid. 74

of food crops violated the principle of [noncombatant] discrimination.”¹⁰⁴ However, she also stated that perhaps in the early years of the war the use of Agent Orange for “defoliation as part of the policy to try to cut off the suppl[ies] ... from the north was arguably acceptable under the rubric of the principle of double effect.”¹⁰⁵ I find the examples provided by both of these scholars to be the very essence of injustice. Chomsky’s rejection of the justness of targeting of rural inhabitants is entirely correct but Harbour falls victim to the flaws of double-effect. Dropping massive amounts of defoliants on an area in hopes of discovering enemy forces is guaranteed to produce injustice in that innocents will definitely be harmed. These tactics are not only a horribly unjust way to conduct a war, but they also proved an ineffective counter insurgency strategy as America was unable to gain widespread local popular support.

Interestingly, Harbour recognized the interconnectedness that I referenced in my framework for a more stringent application of just war theory. However, she extends it to ecological damage, writing, “As our sense of the interconnectedness of life grows, specific protection of nonhuman life might also be considered under the principle of [noncombatant] discrimination.”¹⁰⁶ Although this expansion of just war theory to ecological damage is not part of this analysis, it does provide a just war perspective that is worth considering.

In addition to the unjust treatment of noncombatants in the war zone, the Vietnam War had unjust ramifications at home. The Selective Service inducted more than 1.8 million American men into the Vietnam War between 1964-1973, culminating in the introduction of the draft lottery in 1969.¹⁰⁷ Michael Walzer succinctly summarized the inherent injustice in

¹⁰⁴ Harbour. The Just War Tradition and the Use of Nonlethal Chemical Weapons during the Vietnam War. 51

¹⁰⁵ Ibid.

¹⁰⁶ Ibid. 59

¹⁰⁷ 15th Field Artillery: Vietnam Veterans

conscriptive service, stating, ‘no one can be forced to fight or to risk his life.’ One can make the argument that in a just war national necessity allows the government to compel its citizens to military service for the preservation of the state. However, the rationale for this compulsion is confounded by the fact that preservation of the state was not at stake in Vietnam and because the draft was not equitably conducted. In a book profiling the draft, Lawrence Baskir and William Strauss outline the inequities as follows:

The burden of the war shifted even more to society’s less privileged. While these men were ... filling draft quotas, their more favored peers were ... figuring out ways to stay away from Vietnam ... By expanding the pool of potential manpower at the lower end of the [income] scale, the administration could fight the war in Vietnam without resorting to dramatic and politically undesirable alternatives ... The war, despite its increasing call on the nation’s manpower resources, did not have to disrupt the daily lives of more affluent and politically vocal citizens.¹⁰⁸

This socio-economic disparity further undermines any moral justification for the nation to compel able-bodied citizens in a time of crisis. If the cause in Vietnam was so righteous as to require conscription, all men and women should have been eligible, not just the politically inept.

New Life for Just War

While the Vietnam War unquestionably violates several tenets of *jus in bello*, it did have positive impacts on the theory itself. It heightened the nation’s awareness about the limits of military force. It provided the first opportunity for the now-global media to give in-depth detail and, more importantly, photographic reality to the horrors of the battlefield to the country on a nightly basis. Walzer writes:

The Vietnam War taught the military that fighting with moral constraint is important for gaining the local civilian support needed for ultimate victory, while the growing impact of the media requires that violations of the law of war be avoided so as not arouse

¹⁰⁸ Baskir and Strauss. *Chance and Circumstance*. 123

opposition to American wars across the globe ... 'the whole world is watching, [and] war has be different in these circumstances.'¹⁰⁹

Just war theory is inherently a philosophical and moral force that seeks to restrain military action largely through social forces. Vietnam heightened the awareness of honoring just war constraints among both the government and general public. This heightened awareness was one of the factors behind the protests that helped end the war and shaped military attitudes in future engagements.

The Truman Doctrine shows us that although presidential doctrines are an important tool for setting the nation's foreign policy, their necessarily sweeping rhetoric has the potential to lead the country to just and unjust applications. What began as a commitment to halt Soviet expansion and assist war-torn Europe became an ideological quagmire in Southeast Asia. The doctrine itself is just, based on proper authority and driven by right cause; however, its application in Vietnam is one of the blackest marks on the nation's soul.

VII. The Bush Doctrine

On September the 11th, enemies of freedom committed an act of war against our country.

...
*Every nation, in every region, now has a decision to make. Either you are with us, or you are with the terrorists. From this day forward, any nation that continues to harbor or support terrorism will be regarded by the United States as a hostile regime.*¹¹⁰

—President George W. Bush
Address to Congress, September 20, 2001

The gravest danger to freedom lies at the perilous crossroads of radicalism and technology ... our enemies have declared this intention, and have been caught seeking these terrible weapons.

...
*The war on terror will not be won on the defensive. We must take the battle to the enemy, disrupt his plans, and confront the worst threats before they emerge. And this nation will act.*¹¹¹

—President George W. Bush
Graduation Speech at West Point, June 1, 2002

¹⁰⁹ Van der Linden. Just War Theory and U.S. Military Hegemony. 67

¹¹⁰ Bush. Declaring a War on Terrorism. 50, 53

¹¹¹ Bush. Graduation Speech at West Point. 64

We make no distinction between terrorists and those who knowingly harbor or provide aid to them

*We will not hesitate to act alone ... to exercise our right of self-defense by acting preemptively against such terrorists, to prevent them from doing harm against our people and our country.*¹¹²

—President George W. Bush

National Security Strategy, September 17, 2002



The terrorist attacks of September 11, 2001 forever changed the psyche of the American people and the country's understanding of the threat that it faced. The attacks carried out by nineteen men in the clear skies above New York and Washington birthed a new world, a 'post-9/11 world.' This term would come to define the sweeping social, economic, political and military changes that lay in store for the nation. The United States Government knew that it would need a new foreign policy to deal with this new world and President George W. Bush was swift in the declaration of his doctrine for the use of military force. In a series of speeches and policy papers, he defined a set of principles that became the Bush Doctrine.

However, the doctrine is so overly broad and claims so much moral legitimacy in the face of evidence to the contrary that it fails to meet the standards of just war either in its conception as a whole or in its implementation in Iraq specifically. This failure is one of the most tragic results of U.S. foreign policy because it squandered an opportunity to turn the horror of 9/11 into a new international agreement about dealing with non-state threats to global security.

The Bush Doctrine is complex and has many elements. Although it was never officially declared in one concise set of principles, it is largely agreed that the doctrine is comprised of at least the following seven ideas:

- 1) The U.S. will regard any nation that harbors or gives aid to terrorists the same way that it regards terrorists themselves.

¹¹² Bush. The National Security Strategy of the United States of America: September 2002. 5, 6

- 2) The U.S. has the right to wage preemptive war against terrorists or rogue regimes in order to pursue its own security.
- 3) U.S. is committed to spreading democracy and toppling regimes that deny their citizens the right to popular representation.
- 4) The U.S. has the right to pursue all of these goals unilaterally.
- 5) 'Coalitions of the willing' carry just as much moral and international legitimacy as established coalitions, such as NATO.
- 6) If international organizations, such as the United Nations, do not support U.S. goals they are to be avoided and ignored.
- 7) The U.S. claims moral authority for its actions and asserts that it has both good and God on its side. The war on terror would be one of good versus evil.¹¹³

Each of these points carries massive implications for the country's policies. However, for this analysis, I will focus on Bush's groundbreaking claim of the right to preemptive war.

Importance

The Bush Doctrine was the first major realignment to U.S. foreign policy since the end of the Cold War. It was also a realignment of mentalities on a scale not seen since the Truman Doctrine, a point that was not lost on policy makers.¹¹⁴ National Security Advisor Condoleezza Rice described the connection between the two doctrines as follows:

I really think this period is analogous to ... the period when the [Truman] Doctrine took shape—in that events so clearly demonstrated that there is a big global threat ... that has started shifting the tectonic plates in international politics. And it's important to try to seize on that and position American interests ... before they harden again.¹¹⁵

Although the Bush Doctrine is a shift from the Truman Doctrine, in that it rejects containment and stresses direct confrontation, it continues the trend of claiming dominion over the entire globe. Both doctrines place the entire world and management of global threats under the rule of American foreign policy and view them as pivotal to U.S. national interests.¹¹⁶

¹¹³ Seven basic ideas of Bush Doctrine summarized in: Peleg. *The Legacy of George W. Bush's Foreign Policy*. 37-38

¹¹⁴ There have been several minor presidential doctrines in the intervening fifty years between the Truman and Bush Doctrines.

¹¹⁵ Qtd in Dolan. *In War We Trust*. 4

¹¹⁶ Gurtov. *Superpower on Crusade*. 3

As the second Iraq War strained this policy and the doctrine became more contentious, the administration would fall back on the link between Truman and Bush in an attempt to reclaim legitimacy. In the introduction to the 2006 National Security Strategy, Bush claimed, “The path we have chosen is consistent with the great tradition of American foreign policy. Like the policies of Harry Truman ... our approach is idealistic about our national goals and realistic about the means to achieve them.”¹¹⁷ While parallels between the two doctrines do exist they differ on an important factor: moral authority according to just war theory. To see this difference we turn to the two fundamental questions regarding the creation of a presidential doctrine: right authority and right cause.

Right Authority

As with Truman’s proclamation, there can be no doubt as to President Bush’s authority to realign United States foreign policy. Ilan Peleg provides an interesting look at how Bush was uniquely positioned to capitalize on proper executive authority in his book, *The Legacy of George W. Bush’s Foreign Policy*. He identifies three critical systematic factors that explain how Bush successfully exercised his power. These factors include:

- 1) The genuine crisis situation following 9/11 and the near universal sentiment among the American people that the government needed to act.
- 2) Bush was president during a transitional time on the global stage. This uncertainty gives leaders leeway to make bold strides. Much in the same way that Truman announced his doctrine during a transitional moment, so too did Bush.
- 3) The fact that 9/11 was perpetuated by a non-state actor sufficiently complicated the issue so that Bush could announce an unprecedented response to an unprecedented attack.¹¹⁸

Peleg’s framework provides us with a lens through which to view Bush’s authority that goes beyond just war’s insistence that only official leaders can declare war, it adds a level of popular

¹¹⁷ Bush. The National Security Strategy of the United States of America: September 2006. ii

¹¹⁸ Peleg. *The Legacy of George W. Bush’s Foreign Policy*. 77-78

support and institutional analysis that further clarifies that Bush easily passes the test of right authority in the pronouncement of his doctrine.

Right Cause

The most contentious question in determining the justness of the Bush Doctrine is the administration's extension of the right of self-defense to preemption, which is a far more difficult standard to prove. Rice knew the difficult moral position that the administration was advocating and attempted to mollify the opposition by agreeing that:

This approach must be treated with great caution ... it does not give a green light to the United States ... to act first without exhausting other means, including diplomacy. Preemptive action does not come at the beginning of a long chain of effort. The threat must be very grave. And the risks of waiting must far outweigh the risks of action.¹¹⁹

But Rice's standard of weighing 'risks of waiting' against 'risks of action' is not consistent with just war theory. According to Walzer's contributions to the theory, there is a distinction between preventive and preemptive war. Rice's risk analysis has nothing to do with overt imminent threats and everything to do with preventing the advancement of enemy arsenals.

President Bush anticipated this counterargument and in the 2002 National Security Strategy acknowledges that we have traditionally "conditioned the legitimacy of preemption on the existence of an imminent threat ... [but] we must adapt the concept of imminent threat to the capabilities and objectives of today's adversaries."¹²⁰ From his perceptive, this new imminence was created by the confluence of transnational terrorists, their demonstrated willingness to cause massive civilian casualties and the availability of weapons of mass destruction (WMD). In a study examining preemption policy and WMD, Lyle Goldstein puts Bush's decision in an historical context. He writes:

¹¹⁹ Qtd in Dolan. *In War We Trust*. 7

¹²⁰ Bush. The National Security Strategy of the United States of America: September 2002. 15

The concept of preemption is hardly new, especially when considering responses to WMD proliferation. What is new in the extent to which preventative attacks against hostile proliferators of WMD has become the centerpiece of U.S. national security policy—not just below the surface, but as an explicit foundation for U.S. defense and foreign policy planning.¹²¹

And it is this unprecedented relocation of preemption as central to U.S. foreign policy that undermines its legitimacy. Preemption was no longer one of many tools; it became the primary means of accomplishing policy goals. As Walzer wrote in 2002, “Whether or not war is properly the last resort, there seems no sufficient reason for making it be first.”¹²²

Announcing a public national policy of preemption is fraught with complications. In his book *Preemption*, Alan Dershowitz details many of these issues. He sites false positives, spurring rouge nations to speed up their WMD ambitions in hopes of finishing their programs before being attacked, and incentivizing a “pre-preemptive first strike.”¹²³ His final point reinforces my own concerns over the prisoner’s dilemma that arises from a publically-stated preemptive policy. The Bush Administration may have discounted these concerns because of the disproportionate military advantage the U.S. enjoys over any nation that would attempt a ‘pre-preemptive first strike.’ And from a pragmatic realist perspective this is wholly correct; however, from a moral and just war perspective, it is not.

But Dershowitz challenges us further to understand that not all preemptive attacks are created equal. He defines a continuum of attacks with quasi-military blockades and sanctions on one end, direct aerial strikes on known terrorist camps or nuclear facilities in the middle and full scale ground invasion on the other.¹²⁴ It is precisely where in these range of options an administration selects its foreign policy that determines its justice. This is a referent to the

¹²¹ Goldstein. *Preventative Attacks and Weapons of Mass Destruction*. 164

¹²² Walzer. *No Strikes*. 21

¹²³ Dershowitz. *Preemption*. 165-166

¹²⁴ Ibid. 224-226

proportionality clause of the just war theory. President Bush's assertion that any nation that harbors terrorists would be dealt with as though they were terrorists *is* a proportional response to the Taliban's protection of Al-Qaeda before 9/11. However, claiming the right to unilaterally strike anywhere in the world out of the fear of eventual attack is neither proportional nor just. We can see that in this regard, the most important aspect of the Bush Doctrine fails to pass the just war test of right cause.

The Iraq War and *jus in bello*

The first application of the Bush Doctrine was in Afghanistan where coalition forces swept in and relieved the people from the Taliban's oppressive rule that had harbored Osama bin Laden and Al Qaeda. However, it became apparent very quickly that the Bush Administration intended to use its new doctrine to implement regime change in Iraq. Saddam Hussein had been thumbing his nose at International Atomic Energy Agency inspectors for years and was impervious to United Nations sanctions and U.S.-enforced No Fly Zones. The Bush Administration began the drumbeat for war but since "change of regime is not commonly accepted as a justification for war," the president turned to everyone's greatest fear: WMD.¹²⁵

In 2002, Bush reignited the country's latent nuclear paranoia saying, "we cannot wait for the final proof—the smoking gun—that could come in the form of a mushroom cloud," a line repeated by National Security Advisor Condoleezza Rice.¹²⁶ But the specter of a threat was not enough, without immediacy, panic is a hollow tool. Bush stoked the country further, calling the issue "a threat of unique urgency."¹²⁷ Secretary of Defense Donald Rumsfeld echoed the president's sentiments, adding there is no "more immediate threat ... than the regime of Saddam

¹²⁵ Walzer. No Strikes. 21

¹²⁶ CNN.com/Inside Politics. Bush: Don't wait for mushroom cloud.

¹²⁷ Center for American Progress. In Their Own Words: Iraq's 'Imminent' Threat.

Hussein.”¹²⁸ This string of incendiary comments set the stage for the invasion of Iraq under the pretense of preemptive war. However, it was clearly more preventative in nature.

Michael Walzer quite nicely proves that the administration was either misleading the country or derelict in its duty. In a September 2002 article for the *New Republic*, Walzer admits that Saddam Hussein was a global menace and “as an aggressor state, Iraq was subjected to a set of constraints designed to make future aggression impossible ... this was a just outcome of the [first] Gulf war.”¹²⁹ But he admits Iraq had flouted any reasonable attempts to bring down the regime through means short of invasion. In the end, he accurately points out why the administration knew in advance that the Iraq War would ultimately prove to be a preventative and not preemptive endeavor. He writes:

If the Administration thinks that Iraq is already a nuclear power, or is literally on the verge of becoming one, then the past months of threatening war rather than fighting would seem to represent, from the administration’s perspective, something like criminal negligence ... [but] no one expects an Iraqi attack tomorrow or next Tuesday, so there is nothing to preempt. The war that is being discussed is *preventative*, not preemptive—it is designed to respond to a more distant threat.¹³⁰

This is central point on which to analyze the Bush rationale. Without an imminent threat that is on the verge of becoming a reality then the entire house of cards falls apart very quickly.

This is why the fear of manipulation runs so high during debates about justifications for war. On this point it is worth re-referencing Reinhold Niebuhr who wrote that our decisions about war “... are influenced by passions and interests, so that even the most obvious case of aggression can be made to appear a necessity of defense.”¹³¹

¹²⁸ Center for American Progress. In Their Own Words: Iraq’s ‘Imminent’ Threat.

¹²⁹ Walzer. No Strikes. 20

¹³⁰ Ibid. 20-21

¹³¹ Niebuhr. *Reinhold Niebuhr on Politics*. 169

If it was not a preemptive attack to stave off an imminent nuclear threat then what was the real motivation behind the Iraq War? On this point any number of speculative claims have been made. One is that “Saddam’s conspiracy to kill the elder Bush in April of 1993 lingered on the mind of the president for years. The president even hinted publically why he wanted to end the regime in Iraq, [saying], ‘After all this is the guy who tried to kill my dad.’”¹³² Another suggests that the connections of administration officials to prominent oil companies portends a largely profit driven or energy security related motive. Yet another claims that the Project for a New American Century, a neoconservative think tank in Washington DC with numerous alumni in the Bush Administration, had an outsized influence on decision making and that the invasion of Iraq was being planned from the day Bush took office. Yet none of these explanations needs to be proven true to show that the preemptive conception for the war was false, and thus the entire campaign lacked sufficient justification to pass muster in the just war theory.

Violating the (Social) Contract

In addition to the unjust misrepresentation of preemption listed above, the actual conduct of the war was atrocious. One area that proves unjust conduct is the increased use of contractors to carry out military functions. In 2005, P.W. Singer wrote a scathing article for *Foreign Affairs* maligning the increased privatization of military duties. He so well encapsulates the issue that it bears quoting him at length. He began by showing that the contracting of war has reached unprecedented levels, finding that in addition to regular troops, Iraq “is also the marketplace for the largest deployment of [private military firms] and personnel ever. More than 60 firms currently employ more than 20,000 personnel there to carry out military functions.”¹³³ Singer

¹³² Davis. *Presidential Policies and the Road to the Second Iraq War*. 2

¹³³ Singer. Outsourcing War. 122

continues by showing the reasons why this increase is untenable for both the military and American democracy. The problem is that contractors:

Remain private businesses and thus fall outside the military chain of command and justice systems. Unlike military units, [they] retain a choice over which contracts to take and can abandon or suspend operations for any reason ... Such freedom can leave the military in the lurch, as has occurred several times already in Iraq ... placing great stress on U.S. troops.¹³⁴

These contractors are also not subject to the same rigorous training, which can result in substandard military performance and undisciplined ‘soldiers’ who are prone to the types of unjust behavior that *jus in bello* abhors. “For example, U.S. Army investigators of the Abu Ghraib prisoner-abuse scandal found that ‘approximately 35 percent of the contract interrogators ... lacked formal military training as interrogators.’”¹³⁵ This lack of training, combined with other factors, resulted in the mistreatment of prisoners that violated any number of international laws of war, not to mention basic codes of moral decency and *jus in bello*.

In addition to the logistical complications created by contracting soldiers, the practice also destroys much of the social contract between citizens and their government; the relationship demands that people be able to judge if government is upholding its half of the contract. But military contractors empower governments to engage in behavior that would never be possible if it had to gain popular or legislative support. This “disconnects the public from its foreign policy, removing certain activities from popular oversight.”¹³⁶ The Bush Administration has “been able to shield the full costs [of the Iraq War] from scrutiny, [as] contractor casualties and kidnappings are not listed on public rolls and are rarely mentioned by the media.”¹³⁷ This deflection of scrutiny and disconnection of the public from its foreign policy is made worse because

¹³⁴ Singer, *Outsourcing War*, 124

¹³⁵ Ibid. 125

¹³⁶ Ibid. 123

¹³⁷ Ibid. 126

contractors are “not subject to Freedom of Information Act requests. This reduction in transparency raises deep concerns about the long-term health of American democracy.”¹³⁸

And if contractors are not transparent, they are even less accountable legally for their conduct in war. In 2004, Director for Reconstruction and Humanitarian Assistance in Iraq Paul Bremer issued Order 17. “This directive granted sweeping immunity to private contractors working for the United States in Iraq, effectively barring the Iraqi government from prosecuting contractor crimes in domestic courts.”¹³⁹ Since they are not members of the military, contractors are also not subject to military justice and operating overseas grants them considerable—although not total—immunity from U.S. courts. The legal black hole that has been created makes a farce of just war and any semblance of a contract between citizens and government.

The combination of insistence on preemption as the leading rational for the doctrine and the unjust conduct of military contractors, which shields government from the people, is more than enough for both the Bush Doctrine and the Iraq War to be judged unjust from either a *jus ad bellum* or *jus in bello* point of view.

VIII. Conclusion

Just war is a dangerous concept. By employing its tenets, political and philosophical leaders are able to claim a moral legitimacy that tends to quiet the questioning public. We hunger for justice and when seemingly unjust actions—like war—are framed in ways that make them more palatable, we tend to examine their injustice less closely. This situation creates an incentive for leaders to manipulate both their actions and rhetoric for the sake of appearing just. All of the modern theorists examined in this paper are concerned with this problem. And I find it

¹³⁸ Singer. *Outsourcing War*. 126

¹³⁹ Scahill. *Blackwater*. 15

a largely irresolvable issue. But this quandary does not resolve the fact that we must have a moral framework with which to judge military behavior. And just war theory is a noble and valuable school of thought for this process. The fact that it can be manipulated does not destroy the legitimacy of the theory. However, it does require that when we see its rationales used we question the motivations and behavior of military and civilian leaders.

In a free society, individuals must take it upon themselves to apply a serious and unbiased analysis to their leader's foreign policy. If citizens find those actions to be unjust they must act to remedy them. Unfortunately, this has proved a tall order for an often-complacent populace. However, popular rejections of wars that are patently unjust, such as Vietnam and the second Iraq War, helped contribute to either an adjustment of tactics or a total cessation of combat.

This is what I have attempted to provide in this analysis of U.S. foreign policy, as represented by presidential doctrines and wars fought in their name. The Monroe Doctrine was an overreach of authority that spawned the policy of Manifest Destiny, which ignored the concept of noncombatant immunity. The Truman Doctrine was a just and courageous response to Soviet aggression, but it resulted in a calcified ideology that did not allow for the morality of the Vietnam War to be considered until it was too late. The Bush Doctrine was a predictable hawkish response to non-state aggression but its insistence on preventative strikes undermined its justice and mired the country in a war of occupation and obfuscation.

These examples show how difficult it is to conduct war in a just fashion. This difficulty proves that the theory has accomplished what I would say is its goal: to restrain war. By removing the moral legitimacy from military actions in all but the most extreme cases, the theory wields the gavel of justice in favor of less war, not more. War is hell, and man should strive for

its elimination, but without a rubric to judge when it is actually just, we would be lost. This makes just war theory—like war itself—a necessary evil.

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