**JUST WAR THEORY AND THE CHALLENGES IMPOSED BY TRANSNATIONAL TERRORIST NETWORKS**

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# JUST WAR THEORY AND THE CHALLENGES IMPOSED BY TRANSNATIONAL TERRORIST NETWORKS

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ABSTRACT

Terrorism and terrorists' tactics pose a tremendous threat to security on a global scale.  This impacts the security of both developed and developing countries.  A particular aspect of terrorist activities that increases the capabilities, and thus the threat, of terrorist organizations is the formation of transnational terrorist networks.  These networks provide increased operability, mobility, and technology flow.  This presents a particular challenge regarding the moral standards for the use of military force and standard measures to counter security threats.  Just war theory is the framework that guides the ethical use of military force.  The theory is broken down into three categories: *jus ad bellum* presents ethical guidelines for undertaking military action, *jus in*

*bello* defines ethical standards for actions during armed conflict, and *jus post bellum* outlines responsibilities following the conflict. Current strategies, embraced by many global players, call for multilateral efforts with benefits spread across the globe.  These strategies are based on building partner capacity and preventing escalation to kinetic military action.  Additionally, these strategies are likely to prevent conflicts and reduce the ability of terrorist groups to operate effectively. Reducing conflicts shifts the strain on the ethical framework from evaluating military action to the ethical evaluation of who should help whom and when.  Although the operation and organization of the networks challenge aspects of just war theory, it is indeed still viable.  It is still relevant.  More than ever, strong ethical values are needed to preserve the current world order and prevent the deterioration of humanity.   Indeed, society must constantly remind itself that the values of preserving human life and dignity must be the overarching constants that guide all endeavors.

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# CHAPTER 1

## JUST WAR THEORY AND TRANSNATIONAL TERRORIST NETWORKS

Transnational terrorist networks are currently the greatest emerging threat to global security.  They operate in dispersed groups with leaders who are capable of blending into their surroundings and becoming part of the landscape.  This aspect alone makes them difficult to counter.  Further, they operate as non-state entities with no accountable sovereign.  They threaten the fragile governments of weak and failing states and, this would be the worst imaginable case, they persistently attempt to gain access to weapons of mass destruction.

How the world deals with the emerging terrorist threat closely relates to the ethical base that drives international affairs and military action.  For the United States and many member countries of the United Nations, that ethical framework is just war theory.  Although this framework has evolved over time, it has recently come under scrutiny.  Additionally, the dispersed operation of the terrorist networks challenges the state-based nature of the framework.

Chapter two of this paper will examine and discuss the basis of just war theory.  Chapter three will analyze the operational techniques and organizational structure of transnational terrorist networks.  Chapter four will look at current counter terrorism strategies. The intent is to specifically discuss the challenges which the terrorist networks pose to the ethical framework.

There are multiple challenges to traditional just war thinking.  The non-state operation of the networks poses a specific challenge to counter terrorism efforts.  By operating as small geographically dispersed groups, the ability of state actors to target these groups is limited. In cases like Afghanistan, these limits are reduced.  In this example, the Taliban was the government in place, and provided support to al Qaeda, the terrorist group responsible for the September 11, 2001 attacks on U.S. soil. This act more than justified the regime as a military target.  Groups who have no sovereign government supporting them present no such target.  The ethical base for invading a country whose government is making every effort to counter terrorist activity is shaky at best.

Further, this paper will examine environmental factors that affect military action and the ethical issues surrounding it.  These factors affect every aspect of military operations from planning through reconstruction. When they are combined with the ethical framework of just war theory, the result is a complicated web of analysis. However, as you will see, each factor affects the outcome and each must be duly considered.  As these factors come together, they impact not only the ethical analysis, but the strategic engagement of terrorist networks.

Currently the U.S. and UN have adopted security strategies based on building the capacity of partner nations on a global scale.  The effect of this is a leveling of counter terrorism capability.  By building economies, various skill sets, and security capacity across the board, escalation to kinetic military action is avoided.  Although these kinds of strategies have significant costs, the prevention of armed conflict justifies the expense.

The operational techniques and organizational structure of terrorist networks, environmental

considerations, ethical framework for action, and current

security strategies all tie together to form an complex

operating picture.  These factors form a fluid environment

in which each impacts the others.  The question this paper

examines is whether the current ethical framework, just war

theory, can stand up under the strain.

# CHAPTER 2

## FOUNDATIONS OF JUST WAR THEORY

> For it is the injustice of the opposing side that lays
> on the wise man the duty of waging wars; and this
> injustice is assuredly to be deplored by a human
> being, since it is the injustice of human beings, even
> though no necessity for war should arise from it.  And
> so everyone who reflects with sorrow on such grievous
> evils, in all their horror and cruelty, must
> acknowledge the misery of them.  And yet a man who
> experiences such evils, or even thinks about them,
> without heartfelt grief, is assuredly in a more
> pitiable condition, if he thinks himself happy simply
> because he has lost all human feeling

-St. Augustine of Hippo, *The City of God*

In the 5th century, St. Augustine outlined the

seriousness of violent war or military action.  The

argument that it is a significant act, which demands

thorough ethical scrutiny, is irrefutable by rational human

beings.  He further articulates that even considering such

endeavors "...without heartfelt grief...."[1] causes one to

lose touch with humanity and illustrates that unregulated

acts of war place everything known to humanity in grave

danger.  Considering these concepts, one must ask: what

structure do we use to determine if wars are just?  What

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[1] St. Augustine of Hippo, *The City of God*, trans. Henry Bettenson
(London, England: Penguin Group, 2003), 862.

guidelines can help us form adequate responses?  What
factors affect these criteria, and whom do they govern?
These questions are difficult enough to answer when
sovereign states are in play.  They are even more daunting
when considering state-based military actions against non-
state actors.

In order to explore U.S. responses to international
terrorist activity, one must first understand the basis of
the ethical framework that governs U.S. military action.
This framework is just war theory.  It guides the ethical
use of military force.  The theory is broken down into
three categories: *jus ad bellum* presents ethical guidelines
for undertaking military action, *jus in bello* defines
ethical standards for actions during armed conflict, and
*jus post bellum* outlines responsibilities following the
conflict.

Just war theory is based on a set of Christian values
that have evolved over time.  Mark Evans defines the theory
as such, "The term 'just war theory', however, is usually
employed to denote that specific body of moral doctrine

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found within Christianity."[2]  The fact that the theory is based on Christian values is important.  These values formed the U.S. National identity.  This establishes a clear link between the U.S. and just war theory. The theory however, has evolved to a point that it affects many people, states, and even regions with varying religious values, which are not necessarily Christian based.

Although there is debate about Christian beliefs and any level of acceptability related to warfare; early Christian writings began to tackle this issue.[3]  "Most significant in this process is *The City of God,* a monumental text by St Augustine of Hippo (354-430)...."[4] In his writings, Saint Augustine distinguishes that life on earth is different from life in heaven.  Living among humans comes with a unique set of problems; war is one of them.[5]  Saint Augustine went on to lay out the core of just

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[2] Mark Evans, *Just War Theory: A Reappraisal* (New York: Palgrave Macmillan, 2005), 1.

[3] Ibid., 2.

[4] Ibid.

[5] Ibid., 3.

war theory:

> In the face of civil disorder, Augustine concludes that the resort to violence is justified but *regrettable*. To restore, as best one can, a just order, violence may be necessary if no alternative remains viable. But it must always be used as sparingly as possible, never wavering from its moral intentions and only ever to be deployed by legitimate civil authorities.[6]

The next most notable figure in the development of just war theory is St. Thomas Aquinas (1225-74).[7] Aquinas' writings suggest that war should be entered into deliberately and with discipline:

> In Part II, Question 40, "Of War," in the *Summa Theologica* (Aquinas 1952), he specified three clear and irrefutable conditions for a just war: legitimate authority must be received from the sovereign; a just cause for the attack must be present; and a rightful intention should guide the proceedings, so that the advancement of good is the sole purpose of going to war.[8]

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[6] Ibid.

[7] Ibid.

[8] Michael J. Butler, "U.S. Military Intervention in Crisis, 1945-1994: An Empirical Inquiry of Just War Theory," *The Journal of Conflict Resolution* 47, no. 2 (April 2003): 231.

Through his writings, Aquinas further defined and clarified the concepts of St Augustine.  Although there have been many other contributors, before and after, to the current state of just war theory; St. Augustine and St Thomas Aquinas are two of the most notable and included here to establish the Christian base.

It is important to understand that there are many debates surrounding this ethical framework.  The overarching debate centers on whether it is a true ethical framework at all.  Additionally, each category of criteria is subject to criticism.  Most recently, the *jus post bellum* criteria has come under direct criticism; sparking significant debate.  This chapter does not seek to argue the intricacies of just war theory.  It is intended as a basis for exploring the ethical challenges discussed later.

In addition to the categories and criteria, this chapter examines the influential factors related to the evaluation of ethical challenges.  Leaders must consider factors such as time, risk, political environments, varying perspectives of the actors involved, the fluid environment of military actions, the inability of humans to predict the

future, and the varying definitions of terms. These factors are all intricately related and have significant impacts on the evaluations and proposed outcomes. It is important to understand that the cumulative environment of the conflict may influence the evaluation of ethical criteria. In other words, leaders may be ethically justified to use military force in a specific situation; however, another similar situation, surrounded by a different environment, may offer no such justification.

Each category of just war theory has specific criteria. These criteria must be considered, not only in relation to the aspects of the environment, but in relation to one another. Additionally, they must all be satisfied. Leaders may not simply choose the criteria that support their intent; 90% is simply not enough.

Finally, throughout this chapter, it is important to pay particular attention to the application of just war theory in the context of state and non-state actors. The history and evolution of the theory focus on state-centric environments. Contemporary application requires equal

consideration for those who operate outside the umbrella of sovereign statehood.

As mentioned previously, the origins of just war theory are traceable to St. Augustine of Hippo in the 5th century and Thomas Aquinas in the 13th Century. It is based on Christian values, which is evident in its evolution and the high value of human life.[9] Michael Walzer furthered the definition of these principles in his book *Just and Unjust Wars.* His book is one of the defining texts on the subject of morality of war. Many of the noted experts used in this paper frequently refer to it.

There are several factors which affect the analysis of each criteria defined by just war theory. In no specific order, these are: time, risk, political environments, the varying perspectives of all involved actors, the fluid environment of military actions, the fog and confusion of combat, the inability of human beings to accurately predict the future, and, perhaps most contentiously, the inability of involved actors to agree on the definition of terms. None of these factors stands alone; they are interrelated

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[9] Charles Guthrie and Michael Quinlan, *Just War: The Just War Tradition: Ethics in Modern Warfare* (New York: Walker & Co., 2007), 5.

and leaders must consider them as such when evaluating the criteria of just war theory.

The temporal aspect, for example, is important to nearly all the criteria used to evaluate the moral acceptability of military actions.  When determining if a military action was, indeed, a last resort, leaders must consider the amount of time required for any other course of action and then attempt to predict how the environment would differ at some point in the future.  When leaders propose an embargo in lieu of military action, they must consider the likelihood of success as well as the effects of time on the military environment and the repercussions for the people under the belligerent regime. This consideration may indicate a need to act quickly with military force, rather than to pursue sanctions or diplomatic options.

While considering the time involved and attempting to predict the future, leaders must also consider the risks involved.  Will the risks to lives and infrastructure be greater if they wait, or will time reduce these risks? What are the risks to indigenous population?  Is there a

greater risk of killing innocent civilians if they act now, or does immediate and decisive action lessen this risk? Again, leaders must try to predict the future and determine the varying levels of many risk factors.

One must also consider the fluid political environment.  What political support, both internal and external, is in place?  What are the risks of waiting?  As mentioned above, waiting for any reason may change the pertinent risk factors.  Similarly, what are the risks of acting prior to achieving a globally acceptable level of political support?

Another cause for debate in the evaluation of these criteria is the varying perspectives of involved actors. What one actor believes is a valid cause for undertaking military action others may not.  The 2003 debate related to the invasion of Iraq exemplifies this.  President Bush acted on intelligence, which indicated that Iraq possessed weapons of mass destruction (WMDs).  Obviously, many other nations had varying perspectives.  Ultimately, investigators found no WMDs and President Bush lost face with many world leaders.

Afghanistan and Iraq both demonstrate the

difficulties related to the fluid environment of military

actions. Soldiers and political leaders alike debated the

troop levels required for success in Iraq. The current

drawdown in Iraq, accompanied by the increased

functionality of the Iraqi government, indicates that

environments can change rapidly.  Similarly, recent

increases in violence in Afghanistan show that

unpredictable trends are common in military environments.

This factor significantly affects just war analytical

determinations.

Nearly every decision made, within the context of

military action, is subject to the fog and confusion of

combat.  Clausewitz states:

> Everything in war is very simple, but the simplest
> thing is difficult.  The difficulties accumulate and
> end by producing a kind of friction that is
> inconceivable unless one has experienced war.[10]

This particular aspect of the environment has an

immeasurable effect on decisions made during military

[10] Carl von Clausewitz, *On War,* ed. Michael Howard and Peter Paret (Princeton, N.J.: Princeton University Press, 1984), 119.

action.  As best as possible, leaders must include this in
their decisions and their predictions of future outcomes.

As you will see, predicting future outcomes and
environments has an effect on nearly every analytical
process of just war theory.  In order to make accurate
determinations related to each criterion, political and
military leaders must understand the outcomes of proposed
courses of action.  Although human beings have no clear
ability to do this, responsibility rests with the leaders.
They simply must make these predictions, and they simply
must get it right.

The lack of commonly agreed upon terms presents a
significant challenge to just war analysis.  This factor
ties in closely with the varying perspectives of involved
actors.  There is significant debate surrounding the
definition of the term terrorism. These definitions vary,
not only globally, but within the U.S. Title 22 United
States Code (U.S.C.) outlines the following definitions:

> (d) Definitions
> As used in this section—
>
> (1) the term "international terrorism" means terrorism
> involving citizens or the territory of more than 1
> country;

(2) the term "terrorism" means premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents;

(3) the term "terrorist group" means any group practicing, or which has significant subgroups which practice, international terrorism.[11]

Although the National Counter Terrorism Center has adopted this definition,[12] the definition used by the FBI is as follows:

A terrorist incident is a violent act or an act dangerous to human life, in violation of the criminal laws of the United States, or of any state to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives.[13]

The FBI even states, "There is no single, universally accepted, definition of terrorism."[14]  As you can see, if there is not an agreed upon definition within a single

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[11] 22 U.S.C, §2656f (2010).

[12] U.S. National Counter Terrorism Center, "2009 Report on Terrorism," U.S. National Counter Terrorism Center, http://www.nctc.gov/witsbanner/docs/2009_report_on_terrorism.pdf (accessed August 12, 2010).

[13] U.S. Federal Bureau of Investigation, "Terrorism 2002-2005," U.S. Department of Justice, http://www.fbi.gov/stats-services/publications/terrorism-2002-2005/terror02_05#terror_0205 (accessed August 12, 2010).

[14] Ibid.

country, imagine the debates on the world stage.

Additionally, there is no common understanding of the

concepts driving questions of ethics. This is evident in

the debate of who has the right authority to undertake

military action.  Further, once combat has begun, who

determines the definitions of acceptable uses of force?

This concept alone creates grand debates over the

satisfaction of all levels of just war criteria.

*Jus ad bellum*, the guide for going to war, has six

criteria.  All of which must be satisfied in order for acts

of war to be ethically justified under this framework: just

cause, proportionality, right intention, proper authority,

reasonable probability of success, and military action must

be the last resort.

The first, just cause, requires that there be an

acceptable reason for the military action.  Although basic,

many leaders frequently challenge this criterion just as

they challenge the others.  What one party may view as just

reasons for military action, another may dispute.  This is

most evident in the 2003 invasion of Iraq. The U.S. based

the justification on the past indiscretions of a

belligerent regime:  failure to comply with UN resolutions,
intelligence indicators that Iraq possessed weapons of mass
destruction, and the ethnic cleansing of the Kurds.  The
opposing views stated that the real reasons for the
invasion were revenge for the attempted assassination of
George Bush, Sr. and a National Energy Policy driven by
U.S. dependence on foreign oil.  This exemplifies the fact
that varying perspectives certainly affect the analysis of
this category.

The proportionality criterion is a cost-benefit
analysis.  The proposed cost of military action is
difficult to ascertain.  Not only is it difficult to
estimate the costs in blood and treasure, it is also a
significant challenge to estimate the costs related to
post-war stabilization, regime change, and particularly the
second and third order effects on other countries within
the region.  Collateral damage to infrastructure and cost
to the indigenous population also factor in. Of course,
predicting cost is only part of the calculation and becomes
increasingly complicated when leaders consider it in
relation to the environmental factors.

It is equally difficult to estimate the benefits related to the action. Who will gain what benefits? Although difficult, it is critical to answer this question. In determining the benefits, just as in determining the costs, all aspects must be considered. The benefit of the country undertaking the military action is the most simple and straightforward to examine. National interests to include security, economic interests, and political gain are all considered. Additionally, leaders must consider benefits to those outside their own borders. Humanitarian relief, preventing or stopping egregious offenses against humanity, and stopping unjust military action are examples of situations where external entities receive benefits.

The concept of proportionality prevents the use of excessive military force. Excessive actions would drive up the financial burden, damage to infrastructure, and potentially raise the number of civilian casualties. In some cases, the escalation of these costs outweighs the benefits gained at any level or by any group.

Right intention, just as it says, requires the intent

of the military action produce an equitable result.  As

Guthrie and Quinlan state:

> The criterion of right intention means that our
> purpose of going to war must genuinely be to help
> create a better subsequent peace than there would
> otherwise have been.[15]

This is different from the criteria imposed by just cause,

which governs the motive for going to war.  Right intention

speaks to the result.  Some argue that the 1993 Iraq

invasion was ill motivated.  However, the intended result

was to emplace a non-oppressive government that complied

with international law and did not threaten stability in

the region.  Again, this exemplifies that varying

perspectives affect analytical determinations.

Right authority is a more subjective criterion, but

still subject to challenge and debate.  Traditionally, the

authority to conduct acts of war rests with the nation

state.[16]  Some consider the United Nations, a group of

nation states, the overarching authority.  The legitimate

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[15] Guthrie and Quinlan, *Just War,* 24.

[16] Nicholas Fotion, *War and Ethics: A New Just War Theory* (London: Continuum, 2007), 18.

authority debate stems not just from the UN but also from the emergence of non-state actors. Political or military groups who are not operating under the authority of a sovereign state are challenging this. The question of the extent of UN authority and the emergence of non-state actors are not the only factors that expose this criterion to debate.  The overarching question is hinted at by Guthrie, "...whether, when and in what ways oppressed peoples may legitimately resort to arms in internal uprising against gravely unjust governments."[17]  The debate over the legitimate authority of non-state and sub-state actors creates a significant challenge to the contemporary validity of just war theory.

When considering the criterion of reasonable prospect of success, it is imperative to compare the expected results following military action to expected results of alternative courses of action.  In other words, the military action must produce better results than the results produced by any other aspect of national power.  If diplomacy would produce similar results then one cannot say

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[17] Guthrie and Quinlan, *Just War*, 13.

that the outcomes of military action are better.  The key is not to simply use the status quo when comparing the results. Leaders must make accurate predictions of the outcomes of all courses of action and they must base their predictions on careful analysis.

The definition of success is also a challenging criterion.  It has become evident by the current conflicts in Iraq and Afghanistan that defining success is not as simple as coercing or forcing the capitulation of an unjust government.  Success now encompasses the stability, reconstruction, and security of not just the government in question, but also the entire region.  It is important that governments considering military action, and the people they govern, understand this prior to any military action.  Otherwise, divergent expectations between the people and the government make it nearly impossible to satisfy this criterion.

Last resort is the final criteria of *jus ad bellum*. Again, it is just as the name implies; governments must reserve the use of military force until all other methods prove ineffective.  This does not require full employment

and failure of diplomacy, information, and economic

measures. It does require leaders to make predictions about

the outcomes of these measures as well as situational

predictions.  In other words, if diplomacy is moving

slowly, leaders must estimate the effects of continuing

down that path.  Before committing to resolve a situation

through diplomatic measures, they must predict differences

in military and economic situations.  Last resort does not

require that the world stand idly by while a hostile regime

delays diplomatic efforts to allow time for building

military strength.  It is unreasonable for any ethical

framework to restrict military action until the risk of

that action is significantly increased.

*Jus in bello* is the category of criteria which focuses

on the conduct of military action.  Fotion explains this

part of the theory:

> ...many things can happen once it starts that cannot
> possibly be covered by that part of the theory
> concerned with starting or not starting the war.  So
> part 2 tells the war participants how they can fight
> the war while maintaining a sense of justice
> (ethics).[18]

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[18] Fotion, *War and Ethics*, 21.

*Jus in bello* is broken down into two criteria, discrimination and proportionality. "...'Discrimination' contains two key concepts: 'innocence' and 'deliberate attack'."[19] In the conduct of military action, this criterion determines which targets and actions are acceptable and which are not. Simply put it prevents commanders from undertaking actions that cause excessive loss of life and damage to property, collectively termed collateral damage.

Discrimination applies to civilian lives and property as well as all involved military forces and assets. Fotion highlights some of the issues with determining acceptable targets and actions:

> Everyone understands that it is not always easy to draw a line between what should and should not be attacked. Should a bridge, for instance, that is used mostly by civilians to take food to market but is also used by the military 'on a priority basis' be attacked? What about a factory that produces clothing both for civilian and military personnel? What if the production is 50-50? What if, to complicate matters, the factory is opened 24 hours a day, seven days a week? Does the principle give guidance on whether it can be attacked? In short, the principle has some vagueness to it.[20]

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[19] Guthrie and Quinlan, *Just War*, 35.

[20] Fotion, *War and Ethics*, 23.

Although separate criteria, innocence and deliberate attack, relate closely to one another and must be considered as such.

Fotion not only highlights potential challenges to the principle, he highlights issues with satisfying the discrimination criterion.  Military forces face many situations for which solutions simply are not clear and well defined.  Second and third order effects must be taken into account when selecting targets and planning military action.  On a fluid battlefield, these predicted effects may change at any time.

Proportionality, in *jus in bello,* differs slightly from the criterion discussed above in *jus ad bellum.* Proportionality in *jus ad bellum* focuses on the scope and type of proposed military action.  Here it focuses on the conduct and application of individual military acts.  This concept compares many competing goals and evaluates acceptable means based on the importance of those goals. For example, protecting U.S. Soldiers in Iraq and Afghanistan is certainly an important goal.  The value of that goal is the determining factor for identifying

acceptable means.  In other words, the level of risk to

local populations cannot exceed the value of protecting the

force.[21]  Both of these criteria, value and risk, require

subjective analysis.  Additionally, the result of the

analysis depends on the perspective of the analysts.   The

value of U.S. force protection is much higher to U.S.

entities.  Similarly, people of Iraq and Afghanistan have a

very low level of acceptable risk.  These varying

perspectives demonstrate a key reason for debates related

to the proportionality of military actions.

Fotion highlights some other examples, "...mounting a

major attack on a fortress that, in fact, is about to

surrender."[22] He goes on to say, as follows:

> A general wishes to gain glory by being the one to
> capture the enemy capital city.  He is in competition
> with fellow generals to get the job done.  To get the
> glory, he incurs very heavy casualties among his own
> troops and causes heavy casualties among enemy
> civilians.  Had he not been in such a rush to occupy
> the capital, many lives would have been spared on both
> sides.[23]

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[21] Guthrie and Quinlan, *Just War*, 45.

[22] Fotion, *War and Ethics*, 21.

[23] Ibid.

Although the motives for these actions may be entirely

different, both highlight the use of excessive force.  This

presents the key question in satisfying the proportionality

criterion; is the force used excessive or overwhelming?[24]

The distinction is that overwhelming force may prevent the

loss of life and damage to property by shortening the

duration of the action and reducing the enemy's ability to

resist.  On the other hand, excessive force achieves the

same end as a less intense action could have also achieved.

Thus, the loss of life and damage to property is considered

unnecessary.[25]

Fotion synthesizes this principle into the following

recommendation to commanders:

1. Identify the options available to the attacking (or
   even the defending force and choose the option that
   is projected to cause the least excessive damage.

2. Once the best option is identified, if it proves
   that the option will in all likelihood also cause
   excessive damage, desist from attacking the target
   (or defending whatever land one is holding)[26]

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[24] Ibid.

[25] Ibid., 21-22.

[26] Ibid., 22.

In reality, determining whether a specific action meets the requirement for proportionality is incredibly difficult.  Varying perspectives, the fluidity of the battlefield, and the inability to accurately predict the future all contribute to the challenges of justifying actions made with imperfect information.  Debates on the proportionality of military actions must be evaluated based on the information available at the time and from each unique perspective.

*Jus post bellum* is the final pillar of the just war theory.  It is relatively new, and still surrounded by heavy and contentious debate.  It is included in this discussion due to its importance and the fact that the threat of transnational, non-state actors poses significant challenges to its development.  There are three principles that make up this pillar: order, justice, and reconciliation.[27]

The criterion of order, required for the just ending of a military conflict, refers to the political,

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[27] Eric Patterson, "Jus Post Bellum and International Conflict: Order, Justice, and Reconciliation," in *Rethinking the Just War Tradition, ed.* Michael W. Brough, John W. Lango, and Harry Van der Linden (Albany: State University of New York Press, 2007), 41.

international, and security environments.[28]  Although this
does not mean that military action is justified to continue
until such an order can be established; it does highlight
the desired end state.  Afghanistan provides a striking
example of this.  Although U.S. forces removed the Taliban
from power some time ago, withdraw of U.S. troops would
have left the country in ruins with no means to provide for
the security of its people, no means of protecting its
borders, and no political parity within the region.
Indeed, this highlights, as stated in *jus post bellum,*
there is a moral obligation to ensure these terms before
completely ending a military action.

In addition to ending a conflict with a secure
environment, justice is a key concept of *jus post bellum.*
According to Patterson, justice is a step beyond security:
"By *justice* I mean that in addition to creating a situation
of security, aggressors are held accountable in some way
for their actions."[29]  Again, this criterion does not
dictate that hostilities should not end if justice is

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[28] Ibid.

[29] Ibid., 43.

unattainable.  It does mean that, ethically, justice must
be a goal that determines the desired end states of armed
conflicts.

Additionally, Patterson points out that justice refers
also to the military participants: "The same also applies
for warriors and military leaders who, during the fighting,
violate the war convention: they should be held, when
possible, responsible."[30]  This is an important part of the
criterion.  Before there can be a truly effective
termination of conflict all parties must be assured that
justice will be served.

Justice, as applies to all participants, may take the
form of compensation or even punishment.[31]  These are
important factors in termination.  Required compensation or
punishment for those, military or civilian, who have
committed atrocities, offers vindication to those who have
been wronged.  These reparations must be tempered with
proportionality because without temperance, these acts may
lead to further hostilities.  Arguably, it is the

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[30] Ibid.

[31] Ibid.

responsibility of those in power to ensure justice is served. This is a necessary step in order to bring about a lasting and meaningful peace.[32]

Conciliation or reconciliation is the final piece of *jus post bellum*. Reconciliation focuses on rebuilding relationships that have existed in the past.[33] The post civil war era exemplifies this; relationships between belligerents existed prior to the beginning of hostilities. This is most common with hostilities within the same nation state or region. After international conflicts, where the actors are geographically dispersed, conciliation is the goal.[34] This is the most difficult of the *jus post bellum* criteria; in fact, it may not be possible at all. Patterson writes "If the fundamental goals of just war theory are to promote international security and to protect human life, then conciliation does this by ameliorating the conditions that can lead to new or renewed violence."[35]

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[32] Ibid., 35-40.

[33] Ibid., 46.

[34] Ibid.

[35] Ibid.

These are the criteria that form the basis for just war theory and its various stages: *jus ad bellum*, *jus in bello*, and *jus post bello*. As you can see, there are significant challenges to the legitimacy of these criteria. Not only are they challenged based on their values, but also based on the varying perspectives of those doing the evaluation.

Further, the pertinent environmental factors increase the subjective value of the determinations. Time, risk, political environments, varying perspectives of the involved actors, the fluidity of military actions, the fog and confusion of combat, and the inability of human beings to predict the future all complicate this process. The determinations of these evaluations are uncertain and unpredictable.

The six criteria of *jus ad bellum*: just cause, proportionality, right intention, proper authority, reasonable probability of success, and last resort must all be satisfied before ever undertaking military action. *Jus in bello*, which includes discrimination and proportionality must also be adhered to. Finally, the new and debatable

criterion of *jus post bellum* also requires careful, analytical consideration.  The combination of these considerations comprises the "heartfelt grief" discussed by St. Augustine.  It is crucial that states and leaders devote significant attention to these issues.  Without this, there would surely be a deterioration of just wars and consequently, humanity.

   As this chapter illustrates, we must have a consistent ethical framework that governs our use of military force.  Since the 5th century, just war theory has evolved into that framework.  Although surrounded by debate, it still provides a strong basis that leaders can rely upon.  However, in a time when terrorism and aggression by non-state actors are becoming more prevalent, is just war theory still relevant?

# CHAPTER 3

## TRANSNATIONAL TERRORIST NETWORKS: OPERATION AND STRUCTURE

> On the one hand, the War can be fought against regimes that support terrorists or terrorist networks.  Such wars, such as the recent conflicts in Afghanistan and Iraq, may meet some of the criteria of "old" wars.  On the other hand, fighting the "new" war on terrorism departs from traditional warfare in several ways.
>
> -Eric Patterson, *Just War Thinking: Morality and Pragmatism in the Struggle against Contemporary Threats*

The principle challenge transnational terrorism poses to just war thinking isn't based on operations or environment; it is based on beliefs.  It is the religious and ethical beliefs that drive the actions of terrorist groups and reactions from the rest of the world.  Walzer's discussion on terrorism highlights key differences in beliefs:

> Randomness is the crucial feature of terrorist activity.  If one wishes fear to spread and intensify over time, it is not desirable to kill specific people identified in some particular way with a regime, a party, or a policy.  Death must come by chance to individual Frenchmen, or Germans, to Irish Protestants, or Jews, simply because they are Frenchmen or Germans, Protestants or Jews, until they feel themselves fatally exposed and demand that their governments negotiate for their safety.[1]

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[1] Michael Walzer, *Just and Unjust Wars:  A Moral Argument with Historical Illustrations* (New York: Basic Books, 2006)*, 197.*

This type of targeting shows that radical terrorists place a distinctly different value on human life. As if this isn't challenging enough for an ethical framework, the environment, strategies, operational models, and tactics pose further challenges.

Developing an understanding of transnational terrorist networks allows a basic understanding of why their actions challenge just war theory. First, there is the issue of defining sovereign states. As mentioned previously, global actors often have varying perspectives and divergent term definitions. Second, terrorist networks thrive in very specific conditions. Political, social, and economic factors all contribute to their growth and prosperity. Third, a basic understanding of the operational network models is necessary to show why evaluating measures to counter them is difficult using just war criteria. Fourth, the threats posed by terrorists provide a distinct sense of urgency; terrorist networks simply should not be ignored. Lastly, operational safe havens and terrorist network financing are very difficult to defeat. Safe havens and

finance, reserved for the final part of the chapter, are the most important and most challenging to just war theory.

Some say that just war theory is based on statehood. Regardless of this argument, statehood is the basis of the current international order.  States and political leaders often debate the criteria for determining statehood status. This leads to further discussion over ethical and legal conditions for the application of just war theory.

Ultimately, evaluation of statehood criteria leads to the debate about proper authority. If statehood is an accepted qualifying factor, political leaders of terrorist groups and sub-state actors cannot claim proper authority for initiating military action.  Opponents to the use of just war theory claim that this criterion heavily weights the theory to the advantage of established and globally accepted states.  Although, sovereign states sometimes support terrorist networks, this type of activity changes the calculus of just war evaluation.

Legitimate authority aside, terrorist organizations cannot survive without some form of external support. Without state-based support, terrorist organizations find

that supporting each other is necessary in order to

survive.  Based on common goals and ideologies, terrorist

networks provide financial support, recruiting and manning

support, increased access to technology, and global

credibility.  We will examine each of these individually

with particular focus on growth, operation, and finance.

Additionally, it is important to discuss why these networks

have become necessary.

Prior to the horrific terrorist attacks on September

11, 2001, state supported terrorism provided state and

state-like actors a viable strategy to further their

agendas.  Monika Huepel discusses this in her 2007

evaluation of the UN Security Council's approach to

terrorism:

> Several countries in the Middle East and North Africa
> began supporting terrorists as a strategy to
> destabilize other countries.  Libya, for instance,
> financed and provided training to various terrorists.
> After the revolution in the late 1970s, Iran began to
> give radical Islamic groups financial and military
> support.  Syria hosted several terrorist groups in its
> national territory and in Lebanon, and cooperated with
> Iran in supporting Hezbollah.[2]

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[2] Monika Heupel, "Adapting to Transnational Terrorism: The UN Security Council's Evolving Approach to Terrorism," *Security Dialogue* 38, no. 4 (2007): 480.

The 9-11 attacks solidified the terrorist strategies as

viable and readily executable.  However, the U.S. reaction

significantly reduced the feasibility of state sponsored

terrorism.  On September 21, 2001, in a speech to the

nation, Present George Bush issued stark warnings to

terrorists and those who support them:

> We will direct every resource at our command -- every
> means of diplomacy, every tool of intelligence, every
> instrument of law enforcement, every financial
> influence, and every necessary weapon of war -- to the
> destruction and to the defeat of the global terror
> network...We will starve terrorists of funding, turn
> them one against another, drive them from place to
> place until there is no refuge or no rest. And we will
> pursue nations that provide aid or safe haven to
> terrorism. Every nation in every region now has a
> decision to make: Either you are with us or you are
> with the terrorists.[3]

Thus, the U.S. began the Global War on Terrorism, and led

the world's effort to minimize state supported terrorist

endeavors.

This reduction in the tolerance of state supported

terrorism resulted in an increased necessity for terrorist

networks.  Without state sponsorship the terrorists have to

provide safe havens, training, and logistical support for

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[3] CNN, "Transcript of President Bush's Address," CNN,
http://articles.cnn.com/2001-09-20/us/gen.bush.transcript_1_joint-
session-national-anthem-citizens?_s=PM:US (accessed October 1, 2010).

one another.  Without the ability to move about freely,

terrorist groups had to mutually assist one another with

manning and financial challenges.  Terrorist groups learned

to take advantage of opportunities to give and receive

assistance.  This was the only means available that allowed

the groups to further their political agendas.  Huepel

discusses this, as follows:

> In the 1990s and 2000s, state-sponsored terrorism did
> not vanish, as is evident, for example, from the
> persistent links between terrorist groups and Iran and
> Syria. However, state-sponsored terrorism has
> gradually given way to a form of terrorism that we can
> call transnational terrorism, as it relies to a lesser
> degree on direct state support and features cross-
> border network structures. This form of terrorism, as
> epitomized by al-Qaeda after the overthrow of the
> Taliban regime in Afghanistan, commonly uses weak and
> failing states as safe havens and receives support
> from various non-state actors. Spanning a global
> transnational network, it capitalizes on legal
> loopholes and deficiencies in law enforcement in
> developing and developed countries alike. [4]

Thus the combination of the polarization created by

"...either with us, or with the terrorists...."[5], the need

to advance ideological political goals, and the increased

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[4] Heupel, "Adapting to Transnational Terrorism," 478.

[5] CNN, "Transcript of President Bush's Address," CNN,
http://articles.cnn.com/2001-09-20/us/gen.bush.transcript_1_joint-
session-national-anthem-citizens?_s=PM:US (accessed October 1, 2010).

need to operate without state support created an environment conducive to the growth of transnational terrorist networks.  In fact, terrorist groups had to form networks to survive.

This need forms the basis for the driving factors behind the creation of terrorist networks.  A further discussion of the finances, manning, sanctuary, and operational ability of these groups will show the necessity of establishing networks.  Each of these factors intricately relates to the others.  All are required for the networks, and thus the individual groups, to achieve success.

In order to be successful, terrorists must find settings conducive to their operations.  In other words, the growth and success of transnational terrorist networks closely relates to the environment in which they exist. There are many factors that contribute to this environment. Some of the most commonly discussed include; poverty,

trained natural resources, weakened and failing

governments, and problems created by overpopulation.[6]

Berschinski highlights the factors that promote the ability

for terrorist networks to operate with minimal restriction.

When states are failing, the remaining fragmented

government may be willing to work with terrorist groups in

order to remain in power.[7]  Impoverished groups of people

offer little resistance and a potential recruiting ground.

Religious divisions may prevent the solidarity among the

people, which would be required in order to form a new and

effective government.  In layman's terms, when it's every

man for himself, no one cares what the terrorist groups are

doing; nor do they have the necessary resources to stop

them.

The ability to conduct day to day operations, with

little interruption from local governments, is certainly a

short term goal of the terrorist groups. However, this is

not the key motivation for the groups or the networks.  It

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[6] Robert G. Berschinski, *AFRICOM's Dilemma: The "Global War on Terrorism, Capacity Building, Humanitarianism, and the Future of U.S. Security Policy in Africa* (Carlisle, PA: US Army War College, 2007), 5.

[7] Ibid.

is the lack of an international voice that primarily

motivates the terrorists. To understand the existence of

terrorist networks, it is necessary to understand why they

form.  First, as discussed previously, international law

challenges the legitimacy of these organizations due to

their non-state status.  This establishes a group of, from

an international perspective, outsiders.  Secondly, these

groups share a common ideology and a common understanding

of the enemy.  These factors highlight the need for

terrorists to gain an international voice.  To do this, in

the post 9-11 environment, they must form networks based on

the common fabric of radical Islam.  Al Qaeda in East

Africa (AQEA), the al Qaeda Organization for the land of

the Islamic Maghreb (AQLIM), and the Armed Islamic Group

(GIA) demonstrate this.

   AQEA desires the creation of an Islamic Caliphate.  To

accomplish their goal, they intended to drive Western

forces out of Africa. The targeting of American forces and

guidance from top al Qaeda leadership illustrate this

point.  Osama Bin Laden, the well known al Qaeda leader,

stated that, "It is the duty of the people of Islam in the

Sudan and its environs, especially the Arabian Peninsula,

to perform jihad against the Crusader invaders and wage

armed rebellion to remove those who let them in."[8]  Attacks

on U.S. interests also illustrate al Qaeda's strategy and

intent:

> 29 May 2001 - Four alleged followers of Osama bin
> Laden were found guilty of all 302 counts stemming
> from the nearly simultaneous, 1998 bombings of the
> U.S. embassies in Kenya and Tanzania.[9]
>
> 04 Dec 2002 - President Bush said Wednesday he
> believes al Qaeda was involved in last Thursday's
> suicide bombing of an Israeli-owned resort hotel in
> Kenya that killed 13 people and the nearly
> simultaneous unsuccessful missile attack on an Israeli
> charter jet.[10]
>
> 20 June 2003 - U.S. intelligence agencies have
> uncovered information about a possible al Qaeda
> terrorist plot on the U.S. Embassy in Nairobi, Kenya,
> prompting the embassy to close, intelligence and
> diplomatic sources said.[11]

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[8] Nadia el-Magd, "Bin Laden Calls for Jihad Against Darfur Peacekeepers," *International Herald Tribune,* October 23, 2007: 1-2.

[9] Deborah Feyerick and Phil Hirschkorn, "Jury convicts four on all charges in embassy bombings," CNN, http://archives.cnn.com/2001/LAW/05/29/embassy.bombings.verdict/ (accessed December 17, 2008).

[10] CNN, "Bush: Al Queda linked to Kenya Attacks," CNN, http://archives.cnn.com/2002/WORLD/africa/12/04/kenya.bush/ (accessed November 27, 2008).

[11] Andrea Koppel and Barbara Starr, "U.S. Embassy in Kenya Closed After Threat," CNN*,* http://www.cnn.com/2003/US/06/20/kenya.warning/ (accessed November 27, 2008).

The combination of leadership statements and focused

targeting clearly indicate that this particular group,

AQEA, has a clear goal and defined ways of accomplishing

it. The goal, establishing a new Islamic Caliphate, and the

way to accomplish it, is driving out Western influence.

Similarly, AQLIM shares the goals and strategy of

AQEA. This group previously operated as the Salafist Group

for Preaching and Combat (GSPC). The goal of the GSPC was

"...to establish an Islamic state within Algeria."[12] They

too intended to do this by removing Western influence.

This included the capture of 32 European tourists in the

Sahara Desert.[13] Additionally, they expanded their targets

to include local police, civilians, and UN assets.[14] The

targeting, strategy, and desired end state all coincide

with AQEA. These similarities demonstrate a strong

ideological and strategic connection between the two

groups.

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[12] Global Security, "Salafist Group for Preaching and Combat," Global Security, http://www.globalsecurity.org/military/world/para/gspc.htm (accessed November 27, 2008).

[13] Ibid.

[14] Roger Hardy, "Algeria: A New Front for al-Qaeda?," BBC News, http://news.bbc.co.uk/2/hi/africa/714250.stm (accessed November 28, 2008).

The GIA also intended to establish an Islamic state;

"The GIA vowed to raze the secular Algerian government and,

in its place, establish a Muslim state ruled by *sharia,* or

Islamic law."[15]  The GIA strategically selected targets

similar to the previous groups.  They primarily focused

their efforts inside Algeria but also attacked

international targets.  "The GIA...is responsible for the

murder of hundreds of foreigners, journalists, clergy,

women and children."[16] Although this group has since broken

into smaller groups, the original goals and tactics show

that the desired end states of the three organizations

provide a common bond and a strong reason for supporting

one another through networks.

Environment, ideological goals, the lack of

international voice, strategies, desired end states, and

even operational necessities collectively illustrate the

reasons terrorist networks form. However, understanding the

functions of terrorist networks is important to illustrate

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[15] Lauren Vriens, "Armed Islamic Group (Algeria, Islamists),"
Council on Foreign Relations, http://www.cfr.org/publication/9154/
(accessed November 22, 2008).

[16] Algeria-Watch, "GIA: Armed Islamist Groups Serving the Algerian
Sécurité militaire?," Algeria-Watch, http://www.algeria-
watch.org/en/aw/gia_sm.htm (accessed November 22, 2008).

the challenges they pose to just war theory.  Thomas

Dempsey explains this in his 2006 report as follows:

> Terrorist groups that are the focus of the current
> GWOT display the characteristics of a network
> organization with two very different types of cells:
> terrorist nodes and terrorist hubs. [17] Terrorist nodes
> are small, closely knit local cells that actually
> commit terrorist acts in the areas in which they are
> active. Terrorist hubs provide ideological guidance,
> financial support, and access to resources enabling
> node attacks.[18]

This discussion of hubs and nodes shows that terrorist

networks can establish decentralized methods of operation.

This makes it difficult for law enforcement, military, or

other government agencies to find and defeat network

operatives.

Gunaratna states, "As an unprecedented transnational

phenomenon Al Qaeda's infrastructure has proved very hard

to detect and combat...."[19] The decentralized organizational

network model poses a significant threat to global

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[17] Marc Sageman, *Understanding Terror Networks*, (Philadelphia: University of Pennsylvania, 2004), quoted in Thomas Dempsey, *Counterterrorism in African Failed States: Challenges and Potential Solutions* (Carlisle, PA: Strategic Studies Institute, 2006), v.

[18] Thomas Dempsey, *Counterterrorism in African Failed States: Challenges and Potential Solutions* (Carlisle, PA: Strategic Studies Institute, 2006), v.

[19] Rohan Gunaratna, *Inside Al Qaeda: Global Network of Terror* (New York: Berkley Publishing Group, 2003), 72.

security. The U.S. Department of State explains as follows:

> ...the al-Qa'ida threat was more dispersed than in recent years, which partially offset the losses suffered by al-Qa'ida's core. The attempted December 25th bombing of a U.S. commercial airliner demonstrated that at least one al-Qa'ida affiliate has developed not just the desire but also the capability to launch a strike against the United States.[20]

Al Qaeda continues to operate through these dispersed networks. Although based in Pakistan, they have affiliates in the Arabian Peninsula, throughout Africa, and have even reached into the United States. This is shown by the fact that, "Five Americans from Virginia, were arrested in Pakistan on suspicion of terrorist ties."[21] The ability of these networks to operate across borders, decentralized, with little, if any, state assistance, and continue to support one another is their greatest strength. This operational model is also the single factor that makes the ethical use of military force such a difficult option.

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[20] U.S. Department of State, *Country Reports on Terrorism 2009*, U.S. Department of State, http://www.state.gov/s/ct/rls/crt/2009/140882.htm (accessed October 7, 2010).

[21] Ibid.

The operational and strategic environments,
ideological ties, and the network operational model form a
base for understanding terrorist networks.  Additionally,
it is important to understand that discussions of the
threats posed by terrorists are different from discussions
of what is at stake.  Many terrorist threats are well known
and they have clearly demonstrated the capabilities, which
make these threats credible. The events of 9-11 clearly
show that terrorist networks will use any means available,
directed at any target, to achieve their desired goals.
Terrorist networks pose a significant threat to U.S.
interests overseas; not simply to U.S. persons or assets,
but to the development of nation states that can bring
stability to their regions.  For example, al Qaeda in
Pakistan is working against the Pakistani Government.  The
U.S. State Department's publication, *Country Reports on
Terrorism 2009* stated, "...al-Qa'ida has collaborated with
the Taliban insurgency against the Pakistani government by
providing technical know-how and disseminating

propaganda...."[22]  Additionally, al Qaeda in the Arabian

Peninsula focused on destabilizing the Yemeni government to

exploit the opportunity for an operational safe haven.  The

report explains as follows:

> The security situation in Yemen continued to
> deteriorate during 2009. Al-Qa'ida in Yemen (AQY)
> announced its merger with al-Qa'ida (AQ) elements in
> Saudi Arabia in January 2009, creating al-Qa'ida in
> the Arabian Peninsula (AQAP). This strategy of
> consolidation received significant publicity and
> demonstrated AQ's reinvigorated recruitment efforts
> and commitment to expand operations throughout the
> Peninsula. However, the creation of AQAP coincided
> with fewer attacks within Yemen. This was due in part
> to Yemeni security forces' disruptions of the group,
> but also may have reflected the desire of AQAP's
> leadership to reduce its attacks within Yemen and use
> the country – and particularly those regions that were
> largely outside government control -- as a safe haven
> for planning future attacks.[23]

The situations in Pakistan and Yemen are only two of many

instances where terrorists oppose weakened governments to

further their cause.

Although the terrorist organizations recognize the

need for safe havens and operational space, they also

recognize the need to increase their arsenal.  The

proliferation of WMDs is a significant threat.  This is a

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[22] Ibid.

[23] Ibid.

well-known goal of many, if not all, terrorist groups.

From the terrorists' perspective, it is a reasonable goal,

which allows them to level the playing field.  Although, to

date, there is no evidence that they have been able to do

so, it is a constant concern.

   For terrorists, the key aspect of attaining WMDs is

the ability gain political parity.  Contrary to what many

believe, terrorist do not commit heinous acts against

humanity simply for the sake of doing so.  Their intent is

to further a political cause.  Possessing a WMD allows some

form of political parity.  A small cohesive group, even

without a recognized sovereign, becomes a player on the

global stage.  After all, the terrorists intend to achieve

their desired end states by first achieving a voice on the

world stage. They believe this voice comes with the

possession of WMD capabilities.  Any such capability

certainly gives the group who possesses it the potential to

gain collective support from, and further unify, Islamic

radicals and certainly makes the rest of the world pay

attention.

The discussion of voice highlights the difference

between what targets terrorist threaten, and what is at

actually at stake. Terrorists threaten the security of U.S.

citizens at home and abroad.  They threaten the security of

developing nations.  They threaten the sovereignty of

weakened states.  They threaten everyone with the potential

proliferation of WMDs.  Indeed, their targeting is

indiscriminate.  Patterson characterizes terrorist views as

follows:

> ...terrorists and guerrillas see no distinction
> between combatants and non-combatants.  Al Qaeda and
> other terrorist organizations view their opponents
> through apocalyptic lenses which distinguish "holy"
> from "damned," usually along religious or racial
> lines.  Thus, an American businesswoman or child is as
> legitimate a target as an American Marine because all
> Americans represent the Great Evil.[24]

If they gain political parity and further radical causes

through terror or blackmail, global order, the current

world structure, which is based on sovereign statehood, and

the security of everyone is at stake.

As you have seen, for the terrorist groups,

strategically and operationally, the establishment of safe

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[24] Eric Patterson, *Just War Thinking: Morality and Pragmatism, in the Struggle Against Contemporary Threats* (Lanham, MD: Lexington Books, 2007), 6.

havens is a top priority.  The Taliban government of

Afghanistan provided a safe haven to al Qaeda forces.  It

was the successful use of the Afghan safe haven which

prompted the U.S. invasion of Afghanistan.  The Taliban

government supported al Qaeda by providing training

facilities, logistical support, and most importantly the

capability for the al Qaeda network to operate with a

limited hierarchical structure.  With the safe haven

destroyed, al Qaeda has moved on and their operational

model has evolved. They have strengthened throughout

Africa, and most importantly, in Pakistan.

The geographical proximity of Northern Africa to

Europe, combined with the environment created by weakened

and failing states, provides an excellent opportunity for

al Qaeda.  Operatives have established planning cells,

recruiting practices, and logistical hubs.  With these

systems in place al Qaeda operatives were easily able to

move into Europe camouflaged in the refugee flows created

by the dire situations in Africa.[25]

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[25] Anneli Botha, "Terrorism in the Maghreb: The
Transnationalisation of Domestic Terrorism," Institute for Security
Studies, 125, http://www.issafrica.org/uploads/MONO144FULL.PDF
(accessed November 1, 2008).

The history of the development of Pakistan into a strong al Qaeda safe haven shows a long standing tie between Pakistan and terrorist networks. This relationship, along with the operational safe haven, poses an immediate threat to regional instability.  Riedel and Clarke explain as follows:

> Over the course of the past three decades, Pakistan's army has built a complex network of relationships with numerous jihadist terror groups, including the Taliban, and with terrorists like Osama bin Laden. Fear of India is the driving force behind the army's pursuit of these relationships.[26]

Denying terrorists the ability to use Pakistan as a safe haven is a significant challenge to counter terrorism initiatives and just war theory.  For example, can one, justly, threaten the sovereignty of a nation who supports terrorist networks in order to simply survive?  Can a state that provides this kind of support, motivated by their survival, be considered irrational? These questions put the value of state sovereignty at odds with the value of security outside the region.

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[26] Bruce Riedel and Richard A. Clarke, "Pakistan and Terror: The Eye of the Storm," *The Annals of The American Academy of Political and Social Science* 618 (July 2008): 31.

The questions are not as simple as they seem and the answers have a global impact.  The operational ability provided by these safe havens creates a dramatic result. Riedel and Clarke explain as follows:

> The bottom line is that the top leadership of al Qaeda had not only eluded capture; they had thrived.  A sophisticated propaganda machine has developed in the badlands [of Pakistan] producing dozens of high-quality video and audio tapes for al Qaeda leaders and offering them a public forum for speaking out.  More deadly, the badlands have been used to train operatives to carry out operations outside South Asia, particularly in Western Europe.  Every major operation in the United Kingdom in the past five years, including the July 7, 2005 underground bombings and the foiled August 2006 plot to blow up simultaneously 10 jumbo jets outbound from Heathrow Airport over the Atlantic, have been connected by the British security establishment back to Pakistan and to the al Qaeda leaders hiding there.[27]

In the previous discussion, Riedel and Clarke clearly demonstrate the dangers terrorists pose when allowed operational safe havens.  Indeed, these operational safe havens are one of the factors that enable terrorists to strike targets all over the world.  However, the questions remain, how do we counter this without jeopardizing sovereignty, and whose security is more important than whose sovereignty?

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[27] Ibid., 39.

Although many of the terrorists' tasks cannot be conducted without safe havens, recruiting is not one of them. Safe havens certainly enhance recruiting and operational activities, but they are not required. In Nigeria AQIM still attempts to leverage the weakened government and utilize as much ground as possible. This is explained as follows:

> Al-Qa'ida in the Islamic Maghreb (AQIM) demonstrated a greater interest in Niger in 2009, with attempts to extend its influence into Nigerien territory from the largely ungoverned region bordering Mali and Algeria. The porous borders and ungoverned spaces provide terrorist groups such as AQIM a potential environment for recruiting, people and contraband smuggling, undetected transit, and logistical facilitation. Niger's severe resource constraints stemming from its status as one of the poorest countries in the world, and the ongoing political crisis, hampered the Nigerien government's ability to prevent AQIM intrusion.[28]

Al Qaeda attempts further growth throughout Africa, as evidenced by the situation in Kenya:

> Cross-border kidnappings and arms smuggling, reports of extremist recruiting within refugee camps and Kenyan cities, increased allegations of terrorist plotting, and public threats by al-Shabaab leaders led to a heightened recognition among government

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[28] U.S. Department of State, *Country Reports on Terrorism 2009*, U.S. Department of State, http://www.state.gov/s/ct/rls/crt/2009/140882.htm (accessed October 7, 2010).

officials, the diplomatic community, and civil society
that Kenya remained vulnerable to terrorist attacks.[29]

Additionally, the efforts to recruit and man the terrorist
groups are not limited to Africa. The U.S. State department
discusses this as follows:

> In May 2009, [Italian] judicial authorities issued
> arrest warrants for Bassam Ayachi and Raphael Marcel
> Frederic Gendron, French citizens, on charges of
> international terrorism for promoting, managing, and
> funding an Islamic organization connected to the al-
> Qa'ida (AQ) network, and for recruiting terrorists
> locally and through the Internet for potential attacks
> in France, the UK, Iraq, and Afghanistan[30]

Al Qaeda recruiting is taking place all over the world.
Why then is it so hard to counter these efforts with
military force?  Why can't law enforcement be utilized to
the fullest extent?  Again we see the questions, both
ethical and practical, related to the use of military force
as a countermeasure for transnational terrorist networks.

Another important enabling factor is finance.
Terrorist networks also benefit greatly by financially
assisting one another.  The ongoing trend toward
globalization has made the process of financially
supporting terrorist nodes somewhat simpler. Quan Li and

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[29] Ibid.

[30] Ibid.

Drew Schuab discuss how terrorists benefit from this:

> Transnational terrorists also often take advantage of
> the international trade network to market goods or
> services in an effort to marshal resources with which
> to carry out their criminal activities. Terrorist
> organizations often rely on the international trade
> network to trade contraband to fund their various
> operations.[31]

The use of international finance networks allows terrorists

to expedite both legitimate and ill-gotten gains.  This

aspect of globalization and network based models not only

improves their operational efficiency, it exposes them to

intervention risks.  However, the terrorist networks

continue to rely on the use of financial markets, as well

as gains from illegal activities.

The globalization effect certainly makes continuing

the use of illegally gained finances simpler and more

efficient.  As Li and Schaub point out, the trade network

that allows global economic benefit, also benefits the

terrorist organizations.  Academic, government, and news

media organizations have produced volumes of information on

the illegal drug trade based in Afghanistan.  Although

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[31] Quan Li and Drew Schaub, "Economic Globalization and
Transnational Terrorism," *The Journal of Conflict Resolution* 48, no. 2
(April 2004): 235.

Coalition entities have made significant efforts to mitigate this, it remains a source of financing for terrorist networks.

Narcotic trafficking will, most likely, provide income to al Qaeda for some time. In 2007, testimony to the Subcommittee on the Middle East and South Asia, Ambassador Thomas Schweich stated:

> It will take many years, like it did in Thailand, and Laos and Pakistan, but we do think we can see a sustainable turnaround such that the Taliban will be cut off of its source of financing such that narco corruption will not be polluting the political system that is in Afghanistan and such that the listed economy will be allowed to grow in a way that will not be burdened by the narco economy.[32]

Terrorists have many forms of financing their efforts. Many, as with narcotic trafficking, are illegal. Ties to organized crime, ransoms, illicit drug trade, and even sales of diamonds and precious gems from Africa[33] will all be sources of financing for terrorist organizations.

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[32] Ambassador Thomas Schweich, speaking for the Counternarcotics Strategy and Police Training in Afghanistan, on October 4, 2007, to the House Committee on Foreign Affairs, 110th Cong., 1st sess.

[33] Princeton N. Lyman, "The Terrorist Threat in Africa," Council on Foreign Relations, http://www.cfr.org/publication/6912/terrorist_threat_in_africa.html?id=6912 (accessed September 14, 2010).

Although all of these are cause for concern, the networked aspect of terrorist financing is the most dangerous.

The capability to provide mutual financial support is a benefit for the terrorists. However, it has a downside as well. The Terrorist Finance Tracking Program (TFTP), created by the U.S. Department of Treasury is part of post September 11 U.S. attempts to counter the terrorist networks.[34] The TFTP has shared leads with the European Union, aiding in the investigation of, and in some cases preventing, terrorist attacks. They have shared over 1500 reports since 2001.[35] These reports include information in the following terrorist attacks: the Bali bombings (2002), the Madrid train bombings (2004), The London bombings (2005), the planned attack on John F. Kennedy airport (2007), the Mumbai attacks (2008), and the Jakarta hotel attacks (2009).[36] The TFTP represents only one aspect of the

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[34] U.S. Department of Treasury, "Terrorist Finance Tracking Program Questions and Answers," U.S. Department of Treasury, http://www.treasury.gov/resource-center/terrorist-illicit-finance/Terrorist-Finance-Tracking/Documents/Summary_Q-and-A_HALFPG_62410.pdf (accessed September 18, 2010).

[35] Ibid.

[36] Ibid.

global efforts to mitigate terrorist network financial
efforts.

Collectively, the reasons terrorist networks exist,
the environmental factors that enable them to operate, and
the operational models provide a situation that challenge
just war theory as an ethical framework.  Most military
structures are not equipped to affect the political,
social, and environmental factors that enable the networks.
Further, affecting the expansion of radical Islam is also
outside the military scope.  The network operational model,
dispersed, non-hierarchical, and transnational nature of
the networks place military responses in direct conflict
with the national sovereignty of the states in which the
terrorists operate.

It is this conflict that challenges just war thinking.
The conflict between whose sovereignty and whose security,
causes leaders to face difficult evaluations.  Terrorists
believe anyone who does not practice their brand of
religion is a legitimate target; the Western world strictly
believes combatants are the only legitimate targets and

collateral damage must be minimized.  The conflict between
ideologies causes debate and even armed conflict.

Most importantly, it is the conflict between the
ethical bases of the terrorist networks and the Western
world that challenges just war thinking.  When the
principles collide whose is dominant?  Can the criteria of
either framework adequately deal with the opposing views?
Saint Augustine believed that the reason for going to war
was to achieve peace.[37]  Just war thinking simply helps
determine whose peace and at what price.

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[37] St. Augustine of Hippo, *The City of God*, 862.

# CHAPTER 4

## WHAT'S BEING DONE:
## CURRENT COUNTER TERRORISM EFFORTS

For nearly a decade, our Nation has been at war with a far-reaching network of violence and hatred. Even as we end one war in Iraq, our military has been called upon to renew our focus on Afghanistan as part of a commitment to disrupt, dismantle, and defeat al-Qa'ida and its affiliates. This is part of a broad, multinational effort that is right and just, we will be unwavering in our commitment to the security of our people, allies, and partners.

-President Barack Obama, *National Security Strategy*

This chapter examines current strategies and initiatives that focus on countering terrorism and transnational networks. The scope here does not allow for detailed discussion of every aspect. Instead, the discussion focuses on the overarching strategies of various institutions, along with examples of specific techniques. The intent is to examine these networks and the ethical challenges they produce.

An example of this is the cost burden to the people of the U.S. Many of the techniques discussed are paid for through U.S. contributions or direct U.S. involvement. As mentioned in the opening quote, the strategy values the security of all and espouses the cause as being "right and

just."[1] As you will see, the criteria of just war theory have a reduced role when partners work together to avoid armed conflict and promote the collective good.

In May 2010, President Obama and his administration released the National Security Strategy (NSS). This document outlines the current strategy from a top-level perspective. Some of the key points to this strategy are building of the U.S. economy, enhancing national capacity through the Whole of Government approach, building partner capacity abroad, and defeat al Qaeda.[2]

Before discussing the outlined practices for defeating terrorist networks, it is worthwhile to note the value base of the NSS. The Obama administration places a high value on the rights of people inside, as well as people outside the borders of the U.S. The NSS explains this as follows:

> The freedom that America stands for includes freedom from want. Basic human rights cannot thrive in places where human beings do not have access to enough food, or clean water, or the medicine they need to survive.[3]

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[1] Barack Obama, *The National Security Strategy of the United States*, (Washington, DC: U.S. Government Printing Office, May 2010), i.

[2] Ibid., 4.

[3] Ibid., 39.

These values are key foundations of the strategy. In
accordance with the values set forth by just war theory,
preservation of human life and dignity are necessary in all
endeavors. It is the pragmatic clash of this value with
the value of security that causes the "heartfelt grief"[4]
Saint Augustine spoke of.

In the section of the NSS titled, "Disrupt, Dismantle,
and Defeat Al-Qa'ida and its Violent Extremist Affiliates
in Afghanistan, Pakistan, and Around the World,"[5] the
strategy outlines several avenues. Most of them center on
improving relationships with international partners and
working to reduce the level of acceptance of al Qaeda
efforts. A key part of this is denying safe havens for
terrorist networks:

> Wherever al-Qa'ida or its terrorist affiliates attempt
> to establish a safe haven – as they have in Yemen,
> Somalia, the Maghreb, and the Sahel – we will meet
> them with growing pressure. We also will strengthen
> our own network of partners to disable al-Qa'ida's
> financial, human, and planning networks; disrupt
> terrorist operations before they mature; and address
> potential safe-havens before al-Qa'ida and its
> terrorist affiliates can take root....We will also
> help states avoid becoming terrorist safe havens by

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[4] St. Augustine of Hippo, *The City of God*, 862.

[5] Obama, *The National Security Strategy of the United States*, i.

helping them build their capacity for responsible governance and security through development and security sector assistance.[6]

The NSS recognizes and openly acknowledges the threats from transnational terrorist networks. Clearly, the strategy is to prevent conflict by building relationships and capacity so that terrorist networks cannot operate unchecked.

United States African Command (AFRICOM) provides an excellent example of how these strategies can be put in place. In 2007, under President Bush, AFRICOM was established to bring improved security to the region and further U.S. security interests. Sean McFate discusses this in his 2007 article in *African Affairs*:

> AFRICOM has been created to address at least six areas of concern contingent to US interests: counter-terrorism; securing natural resources; containing armed conflict and humanitarian crisis; retarding the spread of HIV/AIDS; reducing international crime; and responding to growing Chinese influence.[7]

As McFate points out, the intent of AFRICOM was not wholly to facilitate the use of military force. This kind of

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[6] Ibid., 21.

[7] Sean McFate, "US Africa Command: Next Step or Next Stumble?" *African Affairs* 107 (December 2007): 113.

thinking has evolved into the current strategy of prevention, outlined in the NSS.

In addition to the preventative strategies, improving the U.S. economy, and building partner capacity abroad, the U.S. continues to engage in Afghanistan and Iraq.  The NSS states, "In Iraq, we are supporting a transition of responsibility to the sovereign Iraqi Government."[8] Further, the NSS recognizes that continuing operations in Afghanistan are closely related to affecting al Qaeda operations in Pakistan.  This is explained as follows:

> We are supporting the security and prosperity of our partners in Afghanistan and Pakistan as part of a broader campaign to disrupt, dismantle, and defeat al-Qa'ida and its violent extremist affiliates.[9]

This kind of activity exemplifies the base belief that preventing escalation is a more effective strategy than reacting to terrorist attacks. In order to further this strategy, the U.S. military has placed a high priority on efforts to build partner capacity.

Early in the war in Afghanistan, the U.S. used Embedded Training Teams (ETTs) to coach, teach, and mentor

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[8] Obama, *The National Security Strategy of the United States*, 8.

[9] Ibid.

Afghan soldiers.  Additionally, Provincial Reconstruction

Teams (PRTs) were put in place in key provinces across

Afghanistan.  These units assisted local governments,

provided security, and took on special projects to build

infrastructure in their assigned Area of Responsibility

(AOR).  In 2007, U.S. Army and civilian leadership

developed the concept of Agribusiness Development Teams

(ADTs).  The ADT concept epitomizes the strategy of

building partner capacity.

The design and purpose of the ADTs focus on improving

a particular capability of the Afghan people.  Improving

their agricultural production capability, improves their

economy.  Improving their economy, improves the ability of

the government to provide security for its people.

Improving security reduces the operational ability of

terrorist networks. The Center for Army Lessons Learned

discussed this in their ADT Handbook:

> Collectively, these leaders[10] saw the farming expertise
> contained within the National Guard to be the solution
> – farming skills to grow the Afghan agribusiness

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[10] The leaders include: Secretary of the Army, Pete Geren;
Director of the Army National Guard, Lieutenant General Clyde Vaughn;
Missouri Farm Bureau President, Charles Kruse; and the Adjutant General
of Missouri National Guard, Major General King Sidwell.

economy and Soldier skills vital to operating in a counterinsurgency environment.  They knew the National Guard had successfully employed this concept throughout Central America for the past two decades.[11]

The use of counterinsurgency and farming expertise in the same sentence ideally illustrates the varied levels of building partner capacity.  The handbook further discusses the desired result, "The larger hope of the ADT initiative was that by improving the economy, the security in Afghanistan would also improve."[12]  This ties the concept together nicely and reinforces the fact that improved security is indeed the motivating factor.

The use of ETTs shows an example of U.S. efforts to build the security capacity of partner countries directly. The U.S. military embeds these small teams directly into units of the Afghan National Army.  The intent is to assist Afghan forces in building and developing effective units. By coaching, teaching, and mentoring military leadership, ETTs are significantly accelerating the development of Afghan military capability.  Using this model, U.S.

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[11] U. S. Department of the Army, *Agribusiness Development Teams in Afghanistan: Tactics, Techniques and Procedures* (Fort Leavenworth, KS: Center for Army Lessons Learned, November 2009), 1.

[12] Ibid., 2.

military forces are able to develop counter-terrorism

forces in host nations.  Like the other methods, this is

not a new technique.  The Military Assistance Command

Vietnam (MACV) used similar techniques.[13]  Although these

units were composed of U.S. Special Forces, conventional

forces now execute ETT missions based on the model MACV

provided:

> The Special Forces' experiences in organizing Civilian
> Irregular Defense Groups (CIDG), the Combined Action
> Program (CAP), and Abrams' expansion of the Civil
> Operations and Revolutionary (later Rural) Development
> and Support (CORDS) pacification effort offer valuable
> lessons for current and future counterinsurgency
> operations.[14]

These lessons learned have indeed provided an excellent

model.  Since 2001, the Afghan National Army has grown to

112,779 soldiers.[15]

The PRT Model is also based on lessons learned from

experience.  Through special projects, interaction with

local government entities, and integration into the

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[13] Robert M. Cassidy, "Winning the War of the Flea: Lessons from Guerilla Warfare*," Military Review*, September-October, 2004: pg 42.

[14] Ibid., 44.

[15] U.S. Department of Defense, *Report on Progress Toward Security and Stability in Afghanistan* (Washington, D.C.:  U.S. Department of Defense, April 2010), 105.

security plans of coalition forces, PRTs have had, and

continue to have, a dramatic effect.  The U.S. Agency for

International Development discusses this as follows:

> Provincial reconstruction teams (PRTs) have been an
> effective tool for stabilization in Afghanistan,
> strengthening provincial and district-level
> institutions and empowering local leaders who support
> the central government. In many locations, PRTs have
> helped create conditions that make increased
> political, social, and economic development possible.
> Three years into implementation, and with transitions
> to International Security Assistance Force (ISAF)
> control accelerating, the assessment, dissemination,
> and application of lessons learned is appropriate and
> important to U.S. government (USG) national
> objectives.[16]

As the U.S. Agency for International Development (USAID)

illustrates above, these teams have a broad effect.  Their

efforts cross the boundaries between security, government,

and economic development.

In addition to continuing the efforts in Iraq and

Afghanistan, building partner capacity, and working

globally to reduce terrorist safe havens, the U.S. is

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[16] U.S. Agency for International Development, "Provincial
Reconstruction Teams in Afghanistan: An Interagency Assessment," U.S.
Agency for International Development,
http://pdf.usaid.gov/pdf_docs/PNADG252.pdf (accessed September 14,
2010).

working to limit the financial resources of terrorist networks. As discussed in the previous chapter, the TFTP is a U.S. Department of the Treasury initiative, created to "...identify, track, and pursue terrorists – such as Al-Qaida – and their networks."[17]

The TFTP works with the Society for Worldwide Interbank Financial Telecommunication (SWIFT), which is "...an international bank-to-bank clearing house."[18] TFTP analyzes financial messaging data for "specific message types, geography, and perceived terrorism threats."[19] The TFTP was specifically created to assist SWIFT with these searches. This is illustrated as follows:

> SWIFT has said that it has no ability to search its data. Therefore, after the September 11 attacks, the US agreed to bear the resource and time cost to develop and implement the TFTP to conduct pinpoint searches of the data that might help to prevent or investigate attacks.[20]

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[17] U.S. Department of Treasury, "Terrorist Finance Tracking Program Fact Sheet," U.S. Department of Treasury, http://useu.usmission.gov/media/pdfs/tftp-fact-sheet-revised---8-2-10-final.pdf (accessed September 18, 2010).

[18] U.S. Department of Treasury, "Terrorist Finance Tracking Program Questions and Answers," U.S. Department of Treasury, http://www.treasury.gov/resource-center/terrorist-illicit-finance/Terrorist-Finance-Tracking/Documents/Summary_Q-and-A_HALFPG_62410.pdf (accessed September 18, 2010).

[19] Ibid.

[20] Ibid.

As discussed in the previous chapter, the TFTP did indeed investigate, and in some cases, prevent terrorist attacks. Additionally, by working with the European Union and its member states, the TFTP was able to impact terrorist activities on a global scale.

Again, the implementation of this type of program exemplifies the U.S. counter-terrorism strategy. The U.S. Department of the Treasury as a counter-terrorism agency definitely shows an interagency approach. The fact that the TFTP ties in with the European Union and provide SWIFT additional capabilities highlights building partner capacity on an international and interagency scale.

The U.S. is not the only global player who understands this concept. On September 28, 2001, the UN adopted Security Council Resolution 1373, "...Resolution 1373 is the cornerstone of the United Nations' Counterterrorism effort."[21] This resolution went further than past resolutions.

> Resolution 1373 requires all states to take steps to
> combat terrorism; it creates uniform obligations for

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[21] Eric Rosand, "Security Council Resolution 1373, the Counter-Terrorism Committee, and the Fight against Terrorism," *American Society of International Law* 97, no. 2 (April 2003): 333.

all 191 member states to the United Nations, thus going beyond the existing international counterterrorism conventions and protocols binding only those that have become parties to them.[22]

Additionally, 1373 established the Counter-Terrorism Committee.[23]  Subsequent resolutions have improved the UN response.  Resolution 1540, passed in 2004, "...calls on States to prevent non-State actors (including terrorist groups) from accessing weapons of mass destruction."[24]  In 2005 Resolution 1624 was passed:

> ...condemning all acts of terrorism irrespective of their motivation, as well as the incitement to such acts. It also called on Member States to prohibit by law terrorist acts and incitement to commit them and to deny safe haven to anyone guilty of such conduct.[25]

Recently, in a UN Security Council meeting on September 27, 2010, UN Secretary-General, Mr. Ban Ki-moon's remarks illustrated ideas that underscore the UN's strategy on counter terrorism.

Mr. Ban remarked that to counter terrorism, the UN's

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[22] Ibid., 334.

[23] Ibid., 333.

[24] United Nations, "UN Action to Counter Terrorism," United Nations, http://www.un.org/terrorism/securitycouncil.shtml (accessed November 3, 2010).

[25] Ibid.

approach must cover the following areas:

1) Security and law enforcement

2) Education, development, intercultural dialogue and conflict prevention

3) Understanding the reasons people are drawn to violence

4) Strengthen the legal regime

5) Improve the way we share information and best practices

6) Full commitment to the protection of human rights and the rule of law

7) Supporting the victims of terrorism[26]

Individually, these areas of focus represent specific ways to improve conditions, thus countering terrorist efforts. When examined collectively, the approach is similar to that of the U.S.; a holistic approach with many beneficiaries, intended to counter terrorists' efforts by improving environmental conditions across the globe.

The UN has significantly progressed in its counter terrorism measures. Resolution 1373 (2001) was binding on

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[26] United Nations Security Council, "6390th Meeting", United Nations, http://daccess-dds-ny.un.org/doc/UNDOC/PRO/N10/551/36/PDF/N1055136.pdf?OpenElement (accessed October 22, 2010).

all member states of the UN.  It labeled terrorism as "a

threat to international peace and security." [27]  From the

first post 9-11 action to the current comprehensive, value

based strategy the UN has evolved.  Both the UN and the

U.S. have shifted focus from kinetic and sanction based

reactions to strategies based on cooperation and

prevention.

It is readily apparent, the strategies to combat

terrorism have significantly progressed.  The U.S., UN, and

the EU are some of the key global players in this effort.

When evaluating the success of these strategies, one must

consider that the number of deterred terrorist acts may not

be measurable.  Additionally, the impacts made by denying

terrorist groups the use of operational safe havens may

never be known.  The true impacts then must be evaluated

based on the perceived remaining threats, the number of

successful attacks, and the number of documented

interventions.

In Europe there is a high level of perceived threat.

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[27] Rosand, "Security Council Resolution 1373," 333.

A discussion paper from the Council of the EU points this

out:

> While militant Islamist terrorism today still
> constitutes the biggest threat facing Europe as a
> whole, a number of Member States continue to face
> their own indigenous terrorist problems, and we should
> not lose sight of the longer term possibility that
> other fringe groups could resort to political violence
> on a European scale as has happened in the past.[28]

The identification of Islamist terrorism as the biggest

threat shows the high level of success that terrorists have

had in becoming global players.  The long-term success of

counter-terrorism strategies then, is yet to be determined.

The U.S. Department of State says, "Terrorist activity

and the presence of terrorist support networks in Europe

remained a source of serious concern."[29]  This statement,

along with the statement from the Council of the EU, shows

that terrorism is indeed a threat in Europe.  Additionally,

the terrorist support network based in Europe compounds the

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[28] Council of the European Union, "EU Counter-Terrorism Strategy -
Discussion Paper," Council of the European Union,
http://register.consilium.europa.eu/pdf/en/09/st15/st15359-
re01.en09.pdf (accessed October 3, 2010).

[29] U.S. Department of State, "Country Reports on Terrorism 2009,"
U.S. Department of State,
http://www.state.gov/s/ct/rls/crt/2009/140882.htm (accessed October 7,
2010).

problem.  What then should the U.S. action be?  Is the U.S.

limited to financial assistance and efforts to build the

security and economic capacity of European partners?

In examining these questions, it is worthy of note

that the terrorist groups in Europe maintain interests

similar to other disconnected groups.  The EU council

stated:

> The threat from terrorism thus remains significant,
> but more importantly it is constantly evolving both in
> response to our attempts at combating it, and to new
> opportunities that present themselves. The emergence
> of self-starting "lone wolves" (or small groups) that
> have no organizational connections, but work entirely
> from material they find for themselves on the internet
> is a particular example. Terrorist groups have shown
> interest in developing CBRNE [Chemical, Biological,
> Radiological, Nuclear, high yield Explosive]
> capabilities. To keep Europe protected against a
> further mass casualty attack, our counter-terrorism
> measures need to evolve as fast and as effectively as
> do the terrorists.[30]

The acknowledgement that terrorists are seeking CBRNE

capabilities indicates a need for urgency in countering

their efforts.  Lone wolf groups would have little to lose

and virtually nothing to prevent the indiscriminate

reckless use of such capabilities.

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[30] Council of the European Union, "EU Counter-Terrorism Strategy -
Discussion Paper," Council of the European Union, http://register.
consilium.europa.eu/pdf/en/09/st15/st15359-re01.en09.pdf (accessed
October 3, 2010).

Further, these standalone groups present excellent growth opportunities for established terrorist networks. Already, as previously stated, they are relying on internet resources for information. The use of electronic sources to build their knowledge base means they are actively seeking guidance from, and affiliation with, established organizations. This link to established groups provides solid recruiting resources for al Qaeda. The risk is that individual terrorist operatives, from surrounding areas, can link up with stand-alone groups and solidify the network connections. As this happens knowledge bases will improve, ideological influences will solidify, and links to transnational terrorist networks will become permanent.

The situation in the U.S. is somewhat better. The U.S. Department of State classifies this as, "The threat of a transnational terrorist attack remained low for most countries in the Western Hemisphere."[31] This is, in part, due to the effective advantage provided be state-to-state

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[31] U.S. Department of State, "Country Reports on Terrorism 2009," U.S. Department of State, http://www.state.gov/s/ct/rls/crt/2009/140882.htm (accessed October 7, 2010).

relationships in the region, explained as follows:

> The United States enjoyed solid cooperation on
> terrorism-related matters from most hemispheric
> partners, especially at the operational level, and
> maintained excellent intelligence, law enforcement,
> and legal assistance relations with most countries.
> As important regional focus for this cooperation was
> the Organization of American States Inter-American
> Committee Against Terrorism, which is the only
> permanent regional multilateral organization focused
> exclusively on counterterrorism.[32]

This statement shows, again, that the strategy of building

relationships with nation-states is affecting global,

regional, and local counter-terrorism efforts.

Although transnational terrorist attacks in the

Western Hemisphere have been limited, there is still a

strong threat.  The NSS states:

> ...there is no greater threat to the American people
> than weapons of mass destruction, particularly the
> danger posed by the pursuit of nuclear weapons by
> violent extremists and their proliferation to
> additional states.[33]

governments throughout the region have gone to great

lengths to improve counter-terrorism efforts. However, the

threat remains.

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[32] Ibid., 164.

[33] Obama, *The National Security Strategy of the United States*, 4.

Obviously, the current approaches to counter-terrorism
efforts have both strengths and weaknesses.  One of the key
strengths is the multilateral approach embraced by the
U.S., the UN, and the EU.  This approach has significant
benefits that many parties share.  Although these benefits
cover a broad range, reducing the terrorists' ability to
operate effectively is the overarching benefit shared by
all.

Building partner capacity is one of the key pieces of
the counter-terrorism strategy that provides shared
benefits.  Engaging in these efforts provides partner
countries improved security and improved economies.  The
scope of counter-terrorism activity extends well beyond
Afghanistan and Iraq.  Currently, there are efforts
underway throughout Asia, Europe, Africa, South America,
the Middle East, and even North America.[34]  Additionally,
the presence of U.S. military forces gains access to areas,
otherwise unattainable.  Without access to developing
partner nations, many of the dividends would be

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[34] U.S. Department of State, "Country Reports on Terrorism 2009,"
U.S. Department of State,
http://www.state.gov/s/ct/rls/crt/2009/140882.htm (accessed October 7,
2010).

unattainable.  Additionally, the fact that U.S. entities
are able to provide a physical presence, greatly improves
efforts to assist partner nations in a variety of
endeavors.  This effect not only benefits the host nation,
but the entire region.

The widespread comprehensive approach of this strategy
provides multilateral benefits to many regions and partner
countries on a global scale.  The efforts to improve
security, using approaches like the ETTs, enable many
countries to, more effectively counter terrorist operations
with internal security forces.  This significantly lowers
the demands on U.S. Military Forces. The coach, teach,
mentor, enable method requires relatively few forces.
Although there are logistical and security needs for the
embedded teams, the host nation can accomplish many of the
support tasks.

The benefits discussed cover a broad range of
categories and are spread across the globe. However,
current strategies have weaknesses as well.  The most
glaring of these is cost.  Someone must pay the bill for
every partner the U.S. assists, every UN undertaking, and

every effort of the EU.  Of course, supporters say this is

simply the cost of security.  However, it is a cost

nonetheless and when funds are dedicated to counter-

terrorism efforts, other programs must be sacrificed.  This

particular weakness in the current strategies threatens

much of their success.  The will of the people can erode

quickly when they believe high security costs are unduly

causing civic priorities to be minimized.

The U.S., it seems, is bearing much of the cost for

global security.  U.S. contributions to the UN are more

substantial than the contributions of any other country.

The Heritage foundation outlines this in a recent report:

> The U.S. has been the largest financial supporter of
> the UN since the organization's founding in 1945. The
> U.S. is currently assessed 22 percent of the UN
> regular budget and more than 27 percent of the UN
> peacekeeping budget.[35]

No other single country matches this percentage of

contribution.  As further outlined in the report,

requirements of the UN are expected to rise and so then

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[35] The Heritage Foundation, "U.S. Funding of the United Nations
Reaches All-Time High," The Heritage Foundation,
http://thf_media.s3.amazonaws.com/2010/pdf/wm2981.pdf (accessed October
16, 2010).

will the demands placed on the U.S.[36] This is the increasing

burden that U.S. Citizens will bear.  Leaders must consider

this when they are evaluating potential courses of action.

Of course, this evaluation includes an ethical analysis

with predicted outcomes.  How much U.S. Citizens should pay

to avoid conflict, and thus ethical dilemmas, ties directly

to the ethical base and political will of the people.  In

other words, leaders are accumulating large bills so that

the world, and the U.S., can be secure while avoiding

sustained armed conflict.

Not only is the U.S. the leading contributor to the

UN, they lead the way in building partner capacity.  Even

the efforts for financial interdiction, led by TFTP, are

resourced by the U.S.  The events of September 11 served as

a wakeup call for the entire world.  However, the people of

the U.S. continue to pay, in dollars and cents, to provide

security, through the cumulative effect of many counter-

terrorism strategies.

The further burden, borne by the U.S., is the stress

placed on military forces.  Although the U.S. has the only

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[36] Ibid.

Army in the world capable of long-term force projection

operations, there are limits.  Due to the sustained and

cyclical nature of modern deployments, the all-volunteer

force may be at risk.  The strain to families, formations,

and individual Soldiers may jeopardize the ability of the

U.S. Military to maintain experienced Soldiers among the

ranks.  Currently, U.S. troops are deployed to over 150

countries worldwide.[37]  Although counter terrorism efforts

are not solely the responsibility of the U.S., the high

numbers of deployed U.S. troops illustrate the unequal

contributions.  In Afghanistan, forty-eight countries

contribute to the International Security Assistance Force

(ISAF).[38]  Of the approximately 130,000 soldiers in

Afghanistan, 90,000 are U.S. Military members.[39]

A second stress on the military is its use for new and

different purposes.  Military members, particularly in the

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[37] U.S. Department of Defense, "Active Duty Military Personnel by Service by Region/Country-Total DoD-June 30, 2010," U.S. Department of Defense, http://siadapp.dmdc.osd.mil/personnel/MILITARY/history/hst1006.pdf (accessed October 21, 2010).

[38] International Security Assistance Force, " International Security Assistance Force (ISAF): Key Facts and Figures," NATO, http://www.isaf.nato.int/images/stories/File/Placemats/25OCT10 Placemat page 1,2,3.pdf (accessed November 1, 2010).

[39] Ibid.

combat arms area, are trained to engage and destroy the

enemy.  Force structure is designed to support this,

logistical systems are designed to enable this, and years

of training have gone into improving this capability.

However, the new strategy calls for new techniques.  As

mentioned earlier, building partner capacity and training

militaries are methods which are based on earlier models.

MACV operations in Vietnam provide an illustration of this.

The distinction is the makeup of the force.  In Vietnam,

these missions were reserved for Special Operations

Soldiers specifically trained to conduct them.  Currently,

the strategy requires that conventional forces build

economies, assist local populations, and establish best

practices across the spectrum of government; including

finance, law enforcement, penal systems, and, of course,

establishing militaries.  Historically, the State

Department would undertake many of these efforts.  However,

the new strategies require increased effort from all

government agencies.

Indeed, the Whole of Government approach of the U.S.

involves the U.S. Department of State, as well as many

other agencies.  However, many of these organizations are not fully adjusted to the additional strain.  For example, the U.S. military has health care facilities, housing, family assistance groups, and even a pay structure that facilitates deployments.  Not only do other government agencies not have these structures, they simply do not have the manning.  Additionally, in many cases, the civilian workforce has neither inclination nor motivation to become an expeditionary force.  The military is designed for force projection.  Logistical structures are in place to support deployments.  When Soldiers are not fighting a war, they train and prepare to do so; that becomes their job.  Employees in other arms of the Government are hired for a specific purpose, not as a contingency.  For this reason, the various government agencies involved in the Whole of Government strategy, may find it difficult to part with the manning resources required for forward operations.

In summary, the current strategy, embraced by many global players, calls for multilateral efforts with benefits spread across the globe.  Additionally, this strategy is likely to prevent conflicts and significantly

reduce the ability of terrorist groups to operate effectively.  Reducing conflicts shifts the strain on the ethical framework from evaluating military action to the ethical evaluation of who should help whom and when.  Without the active use of military force to engage kinetically, ethical debates about the use of such force, significantly change in tone and focus.

However, this type of strategy has a high cost.  Overuse, and the use of resources for varying unintended purposes, strains government agencies.  Leaders must determine how much strain is acceptable.  The U.S. Military capability has always had a deterrent property.  Overuse and strain threaten that.  Leaders must determine; at what point does the U.S. Military become ineffective as a deterrent?  Additionally the high burden of costs threatens to reduce the political will of the people.  Further, the strategies place high burdens of growth and change on other government agencies.  Overall, avoidance and prevention come at a very high cost.

# CHAPTER 5

## THE WAY AHEAD

The brutal nature of the terrorist threat
shattered naive assumptions terrorists would be
deterred by geographic, political, or moral borders. A
new strategic paradigm was needed. Containment,
deterrent, reaction, and mutually assured destruction
no longer served to protect the fundamental security
interests of the American people. In fact, it would be
absurd to think it could.

- Congressman Christopher Shays

This paper has examined several areas.  The first is

the history and criteria of just war theory.  Further, it

examines the operational methods of terrorist networks, and

their organizational models.  The third chapter broadly

discusses current counter-terrorism activities and

strategies to combat the networks.  Throughout the paper,

there have been examples of how each of these affects the

ethical framework of just war theory. This section looks

specifically at the challenges and continued applicability

of that ethical background.  In short, this chapter will

demonstrate that, even though challenged by the need to

counter terrorist activities, just war theory does provide

a valid ethical framework. However, those who intend to

adhere to it must apply it appropriately.

To apply the theory appropriately, leaders must first ground their analyses in the intended ethical base of the framework. They must use this ethical grounding when considering the values placed in conflict by terrorist networks and their operation. This has to be consistent throughout the application. Leaders do not have the luxury of choosing which situations require military action and which do not based only on which solution is the most politically expedient. Consistent application may require military engagement in spite of political cost. Additionally, the framework must not be used as a simple checklist for justification of actions or justification for a lack of action. To be an effective framework, leaders must integrate the ethical base of just war theory throughout the process.

The ethical base is exactly what the framework is intended to provide. This is the most critical consideration during the use of just war theory. It is the base ethical values that require leaders to focus their evaluations on reducing the loss of human life and preserving the human condition to the maximum extent; not

simply answering questions on a checklist.  In spite of the challenges to the checklist form, the ethical base is exactly the aspect that renders just war theory relevant today.

It is important to discuss a few of the significant challenges.  The dispersed organizational model means that terrorist networks operate from many locations.  Due to their non-state status, there is no legitimate government that overtly claims responsibility or control of the networks.  These two factors are responsible for the most significant challenges to just war theory.  The combination they form places internationally recognized sovereignty at the forefront of the arguments.

Pakistan exemplifies this dilemma.  It is a known safe haven for al Qaeda operatives.  Yet the government in Pakistan does not openly support the terrorists.  What then is the point at which military action is acceptable? Is it the point that terrorists are able to successfully launch attacks?  Is it the point that government is no longer able to provide basic services for their people?  Is it the point at which the government is no longer able to control

the radical groups within their borders?  This is the

primary sticking point of just war theory and transnational

terrorist networks.

This sticking point is based on two values set in

conflict.  The security of the western world, or any area

threatened by terrorists and the value of sovereignty

compete for priority.  For example, in order for the U.S.

to consider military action in Pakistan, the value of that

outcome would have to be greater than the cost of the

damage imposed by violating the sovereignty of that nation.

This is particularly highlighted when considering that the

sovereign government of Pakistan does not overtly provide

support to the terrorist networks.

To face this issue leaders must return to the ethical

value base when evaluating the just war criteria.

Evaluations must consider the human conditions and dignity

of those they intend to protect from terrorist activity as

well as the people of Pakistan, or any other state in which

terrorists operate.  Leaders must also consider and make

every possible effort to minimize the potential loss of

life, both military and civilian.  By tightly adhering to

the ethical base of the framework, leaders can overcome the

challenge of sovereignty versus security.

For this base to be applied consistently, leaders must

accept that certain situations may require military action

with little effect on the security situation outside the

target area.  It must become a basic tenet of operation

that the value of human life and dignity outweigh other

considerations.  Although the number and intensity of

operations may be inhibited by high cost and lack of

military resources, the world cannot simply allow egregious

violations of human rights in some areas while intervening

in others in the name of morality and security.  If this

continues to occur, the legitimacy of the ethical framework

comes strongly into question.

The 2003 invasion of Iraq illustrates potential issues

caused by the double standard presented when military

action is reserved for politically expedient situations.

Although, there has been much debate about Weapons of Mass

Destruction (WMDs), there is little discussion pertaining

to the hostility or human rights violations of the Hussein

regime.  The lack of intervention in Rwanda provides

another example of the results of non-action.  For any nation to claim adherence to an ethical value base, it simply must apply that base consistently and with consideration of all parties.  Otherwise, ethical claims are reduced to hollow self-serving rhetoric.

Consistent application also requires that the framework of just war theory not be treated as a simple checklist.  The current understanding of the criteria, as outlined in chapter one, provides a neatly organized layout, similar to a checklist.  Although the layout and definition facilitate this sort of use, leaders must avoid this pitfall.  By evaluating each criterion from a situational perspective, results may be open to any of several interpretations.  Political parties and nation states may use these interpretations to support specific positions or build cases for policy reform and military action.  This sort of use may not give the proper weight and consideration to the ethical value base.  The fact that the U.S., UN, and other entities incorporate this ethical base into all military actions must be beyond question.  Leaders must learn to incorporate this detailed analysis

into open and transparent discussions with the public. Detailed comprehensive analyses, consistency, and transparency, are absolutely required for the just war framework to produce ethically sound results.

The detailed consideration that must be included incorporates the ethical base and closely ties it to the environmental criteria previously outlined. These factors include; time, risk, political environments, varying perspectives of the involved actors, the fluidity of military actions, the fog and confusion of combat, and the inability of human beings to predict the future. Tying environmental considerations to each criterion of just war theory and weaving the ethical value base into all aspects of consistent and transparent analysis is a complicated and ever-evolving process. However, it is necessary; it is complicated; most importantly, it is relevant.

Evaluating the criterion of just cause shows the first challenge. Current strategies focus on preventing kinetic action. With the exception of situations like Iraq and Afghanistan, there is little opportunity to examine this. The strategy then must be looked at from a holistic

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approach.  As demonstrated previously, terrorist networks

are indeed a threat.  They are a threat to security.  They

are a threat to stability.  They are a threat to the global

economy.  Actions to prevent this threat from becoming a

reality rely on the sound ethical base of the betterment of

humanity.

To demonstrate the factors involved in an appropriate

evaluation of just cause it is necessary to focus on the

possibility of future actions.  Just cause requires an

acceptable reason for the military action.  The ethical

considerations of this criteria focus on preventing the

unnecessary loss of life or degradation of human dignity

and human conditions.  During the evaluation leaders must

never lose sight of this.  The organizational model and

operational techniques of transnational terrorist networks

must be considered through this ethical lens.  Leaders must

take into account the effects of training facilities, safe

havens, growth, and localized effects on the states in

which terrorists function.  Each of these must be examined

to determine whether the results, or potential results,

provide an acceptable reason for military action.

Further, the environmental factors must be considered.
The overarching environmental factor for determining a just
cause for military intervention in terrorist operations is
the need to predict the future.  Leaders must determine
what effects the terrorists will produce.  At times, this
need forces leaders to base their reasoning on assumptions.
A terrorist group that has carried out successful attacks,
even on a small scale, and is actively engaged in
recruiting activities, strong financial operations, and
threatens weakened governments of failing states poses a
more significant threat than an isolated struggling group.
Even though this group may not have carried out attacks on
a large scale their current and potential operations may
provide an acceptable reason for military action.  The key
to this evaluation is the ethical basis of preventing the
loss of life and security.

The next criterion, proportionality, requires similar
considerations for appropriate evaluation.  The ethical
base behind the proportionality evaluation is meant to
ensure that excessive military force does not become a
means of the strong to execute or create self-serving

policies or conditions and forcefully impose them on weaker

states.  The result of such behavior could involve

empirical and unjust expansion of military states.

Additionally, it is difficult to imagine that such an

excessive use of military force would not also endanger and

oppress innocent civilians in the target state.

Many times terrorist networks that are successful in

carrying out attacks do so on a small scale.  This is

particularly challenging to proportionality evaluations.

How can it be justified to invade a sovereign nation-state

when a relatively small terrorist group has caused only a

few casualties?  Again, leaders cannot consider this in

isolation, but must take into account the surrounding

environmental aspects.  The political conditions of the

state in which the terrorists operate, potential risks of

allowing the group time to grow, the financial means of the

group, and the recruiting potential are all significant

factors in determining a proportional response.  Throughout

the evaluation leaders must never lose site of the ethical

base.  Lives must not be sacrificed unnecessarily and the

collateral effects of an occupying force must never be

disproportionate to the terrorist acts conducted by the group in question. These criteria tie closely with the discussion of right intention.

Right intention, requires that military action only be used to create a better, more equitable result than any other employment of national power would have attained. Actions of a terrorist group may provide an acceptable reason for military action. Leaders may be able to tailor a response that is proportional to the existing threats and successful attacks of the group. However, if the same end state could have been achieved using some other aspect of national power, then the concept of right intention would have been violated.

The ethical base for this criterion requires an understanding that military actions cannot be conducted without collateral effects. Even a proportionate response impacts everything from government activities to local population and even the environment. It is because of this fact that leaders must ensure that if there is another means to achieve the same results, they pursue that alternative, otherwise, the intent is not valid. Intent

must be grounded in the just war ethical base of preserving human lives and conditions.

Countering terrorist threats is a challenge to this evaluation.  Does a small terrorist group operating in a failing state require military action?  What effects would military engagement have on the struggling government?  If the same result could be attained by using economic means, either financial assistance or trade embargos, what then would be the underlying intent of military action.  The dispersed organizational models of terrorist groups make this particularly challenging.  The nations in which terrorists operate may claim that only limited assistance is required to enable them to internally counter the groups activity.  Simply put, leaders must ensure that the intention of military action is to remove the threat, not any other unnecessary political gain.

Proper or legitimate authority requires evaluation on the world stage.  Although, historically, the accepted level of authority was the nation-state terrorist organizations and non-state actors open this assertion to debate. The ethical base for the criteria is an effort to

prevent any radical non-established group from conducting unjust military action.  Again, the intent is to prevent unnecessary loss of life or the degradation of the human condition.  Arguments against these criteria are concerned with the restriction of recourse for oppressed peoples not represented by an established government.  Non-state terrorist networks claim exactly that status.

The desired end states of terrorist networks often involve some political gain or the furthering of religious goals.  In order to achieve this, they use the only means they consider effective, violent action.  It is the desire for a voice on the world stage that drives their actions.  However, this is in direct violation of the basic ethical protection of human life.  Their need for a voice simply does not outweigh the value of the lives of those who have differing views.

In considering the evaluation of legitimate authority, leaders must take into account the varying perspectives of the involved actors.  Legitimate non-state actors may be due some recognition, but that does not mean they have a right to carry out violent acts as a means to further their

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political goals.  The ethical base must be considered and global leaders must impose the same ethical standards on non-state actors. Additionally, when considering the evaluation of legitimate authority it is necessary to maintain sight of the intention to prevent the needless loss of life through military actions initiated by non-state or sub-state actors.  Leaders must also temper this by considering the rights of large groups of truly oppressed people.

The criterion of reasonable prospect of success requires comparing the expected results following military action to the expected results of alternative courses of action.  The ethical value base for this criterion demands that leaders forgo military action if it is possible to produce a better result otherwise.  Additionally, military action, along with all the negative by-products, should never be an option unless leaders expect it to be successful.

The definition of success must be understood prior to the military undertaking.  Certainly, there are environmental aspects to any military undertaking that may

cause the definition to evolve throughout the process. The
fluid environment of military action combined with the fog
and friction of war have significant impact on this.  The
definition of success prior to the invasion of Afghanistan
has morphed tremendously since the initial action.
Although the Taliban were removed from power early on, al
Qaeda continues to operate within the country.  It has also
become readily apparent that until the Afghan government is
able to function on its own, which includes providing
adequate security, success cannot truly be claimed.

Leaders must consider these environmental factors
prior to military engagement.  They must understand that
lives lost for a cause which can never be achieved violates
basic ethical principles.  Unfortunately, this is not an
ethical dilemma terrorist networks face.  The use of
suicide tactics clearly shows that they have a different
ethical standard.  The analysis of this criteria requires
significant consideration for the environmental factors,
enemy tactics, and assumptions about future outcomes

Last resort is the final criteria of jus ad bellum.
By definition, this criteria means that governments must

not use military force until all other possibilities have been explored and analyzed. The ethical intent is again; to minimize loss of life and the collateral effects military action could have on the population. The intent of this is not to completely forgo the use of military action, but to ensure that its use is intended to provide the best possible outcome with the least amount of damage.

Terrorist networks significantly challenge the underlying ethical base of this criterion. For example, how can one employ non-military aspects of national power in order to affect change in the behavior of a non-state actor? Economic pressures or assistance can only be applied to third parties. Economic aid may be used to bolster the capabilities of partner countries to build their counter-terrorism capabilities. Similarly, diplomacy has little effect when dealing with the subversive, and often hidden, leadership of terrorist organizations. In fact, direct application of any aspect of national power is often impossible. However, indirect application by affecting third parties is an available option.

For leaders to evaluate this criterion they must take into account the effects of national power on the terrorist networks.  This must be done with due consideration to the operational techniques and organizational structure of the networks.  Predicting the effects of any application of power requires significant assumptions.  The strength of the networks may well be their dispersed organization.  However, this may limit the feasibility of non-military efforts.  As with the other criteria, leaders must constantly make assumptions regarding future outcomes and dutifully temper their analysis through the required ethical base.

The combined analysis of *jus ad bellum* criteria shows that in any analysis of just war criteria, it is the value base that must be taken into account.  The underlying values of preserving human life and maintaining dignified human conditions have not changed.  Further, the development of terrorist networks with dispersed organizational structures does not change the need to adhere to this ethical framework. It is the application of just war theory that must be monitored.

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Leaders cannot use the framework as a simple checklist. Detailed analysis requires a constant monitoring of the ethical base along with consideration of the environmental factors which affect each aspect of just war theory. These factors must be painstakingly evaluated and applied consistently across the board. In order to claim adherence to the ethical standard, the luxury of picking and choosing to engage only when it is politically expedient to do so does not exist. Leaders and nation states must accept that there may be situations, which require military action, whether they prefer it or not. Additionally, there must be transparency in all aspects of the analysis and forthcoming execution of strategies, both military and non-military.

Although this chapter has stepped through each aspect of *jus ad bellum*, *jus in bello* and *jus post bellum* cannot be ignored. The environmental considerations applied to each criteria of *jus ad bellum* and the ethical bases discussed must be analyzed and applied consistently across all pillars of just war theory. Preserving human life within the conduct of war and in the reconstruction that

often follows must guide the actions of military forces as well as established governments. Additionally, these actions must constantly seek to preserve the human conditions of Soldiers and civilians alike. These must be the priorities of any strategy to counter any threat.

The current strategy of the U.S. and UN involves building partner capacity and preventing escalation to full-scale military operations. These concepts are integrated into the strategies and form an over-arching guide designed to improve security while simultaneously improving the global ability to counter terrorist activity. Although these strategies minimize the potential for military conflict, as long as terrorists continue to operate, the potential will continue to exist. Therefore, persistent monitoring and propagation of ethical standards is required to prepare for future conflicts.

This chapter began with a quote from former U.S. Congressman Chris Shays. Mr. Shays stated that the time for old strategies was over and new ones are required. He was right. The new strategies of building partner capacity and preventing military conflict offer a new means to

counter an emerging threat.  The value base of just war

theory has existed for years.  It is indeed still viable.

It is still relevant.  More than ever, strong ethical

values are needed to preserve the current world order and

prevent the deterioration of humanity.   Indeed, society

must constantly remind itself that the values of preserving

human life and dignity must be the overarching constants

that guide all endeavors.

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