

## ETHICS AND PUBLIC LIFE

This book is part of the series 'Ethics in Public Life' edited by Professor C. A. J. (Tony) Coady, Professorial Fellow in Applied Philosophy in the Centre for Applied Philosophy and Public Ethics at the University of Melbourne. The series aims to provide intellectually challenging treatments of the ethical dimensions of issues of public importance. The perspective is broadly philosophical, in that issues are examined with a view to their basic presuppositions and underlying fundamental values. But the series is geared to interdisciplinary input and a concern for practical ramifications.

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*All Connected: Universal Service in Telecommunications*, edited by Bruce Langtry, 1998.

*Codes of Ethics and the Professions*, edited by Margaret Coady and Sidney Bloch, 1996, (reprinted 2002).

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# Righteous Violence

The Ethics and Politics of  
Military Intervention

*Edited by*

Tony Coady and  
Michael O'Keefe



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## CONTENTS

Preface	vii
Contributors	xiii
<b>PART I: The Philosophical Problems</b>	<b>I</b>
1 Ethics and the International Politics of Rescue: Getting Beyond an American Solution for an International Problem	3
<i>John Langan</i>	
• 2 Intervention, Political Realism and the Ideal of Peace	14
<i>C. A. J. (Tony) Coady</i>	
3 The Ethics of Invasion: <i>Jus Ad Bellum</i> and Iraq	32
<i>Hugh White</i>	
4 Collective Responsibility and Armed Humanitarian Intervention	51
<i>Seumas Miller</i>	
<b>PART II: The Practical Dilemmas</b>	<b>73</b>
• 5 Australian Intervention in Its Neighbourhood: Sheriff and Humanitarian?	75
<i>Michael O'Keefe</i>	

6	The Doctrine of Humanitarian Intervention and the NATO Air Strikes against the Federal Republic of Yugoslavia <i>Paul Muggleton</i>	99
7	Domesticating Military Interventions and the Creation of a UN Standing Force <i>Lutz Unterseher</i>	137
8	Foreign Intervention in Côte d'Ivoire: The Question of Legitimacy <i>Moya Collett</i>	160
9	The United Nations and the Humanitarian Imperative: Some Challenges <i>William Maley</i>	183
	Notes	194
	Bibliography	214
	Index	233

## PREFACE

Almost nightly we are presented with graphic images of the latest humanitarian catastrophe unfolding across the globe. Ordinary citizens, the politicians who represent them, and the practitioners that implement their policies are forced to make value judgements about the justifiability of military intervention in faraway places to seek remedies for these disasters. Increasingly, too, there are demands for armed intervention that address not humanitarian crises but perceived political threats, such as that of terrorism. Beyond the directly moral and legal considerations these value judgements raise are a range of partly practical partly moral questions, not the least of which is whether we have the capability to intervene, and could we cause more harm than good? The existence of state breakdown, 'rogue' states, fragile states and humanitarian crises pose acute dilemmas about the efficacy and moral suitability of military solutions.

So it is not surprising that armed intervention against states that are not engaged in aggression is now on the international agenda in a new way that represents a striking shift in attitude amongst thinkers and activists of very different political persuasions. From the end of World War II until the mid-1990s, military intervention was largely rejected on moral, political and legal grounds. The reasons for this are complex, but many of them concern reactions to the cataclysm of World War II. That terrible conflict changed many things but one of its most significant effects was to concentrate thinking about the morality and politics of war in a particular direction. For the Allies,

be required and how it would overcome the problems besetting UN peacekeeping operations.

Moya Collett's chapter reviews the tenuous agreement to bring an end to the conflict in Côte d'Ivoire and the legitimacy of the forces that have attempted to keep the peace. The declaration of peace has been implemented by relying on peacekeeping forces co-ordinated separately by France, the Economic Community of West African States and the UN. The effectiveness of foreign involvement needs to be questioned, with legitimacy determined by both ideological and practical considerations.

In the final chapter, William Maley tackles the pressing issues associated with the role of the United Nations in humanitarian intervention. Maley provides a succinct overview of the challenges associated with planning, approving and undertaking UN humanitarian operations in the post-Cold War era. He surveys the successes and failures of the UN in this area and examines recent proposals for reforming the organisation in ways that might equip it better to meet the intricate political and moral problems posed by humanitarian crises.

The combined impact of the essays presented in this volume is to challenge complacency about simple solutions, especially military solutions, for the complex disasters and threats to peace that now loom so large in our consciousness. Faced with violent injustice at home or abroad it is natural to confront it with righteous violence. None of the contributors denies that there may sometimes be a legitimate role for military responses to massacres, violent persecution, or terrorist campaigns, but they point to a variety of practical and moral difficulties that bedevil the resort to armed intervention. These difficulties highlight the need for caution in the resort to military force, the value of alternative approaches, the significance of prudent planning, and the dangers of viewing the international scene as a stark battleground of good versus evil.

Noble intentions are not enough. Resort to righteous violence must have a firm ethical basis and must heed the lessons of past conflicts. The costs of failure are great, and they are costs we can ill afford.

Tony Coady and Michael O'Keefe

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## PART I

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# The Philosophical Problems

### 3 THE ETHICS OF INVASION: *JUS AD BELLUM* AND IRAQ

HUGH WHITE

The invasion and occupation of Iraq by the US and its allies in 2003 is the most ethically controversial military operation undertaken by a Western country since the Vietnam War. I want to focus here on the questions of *jus ad bellum* ('just grounds for going to war'). That focus does not imply that I think that other moral questions about the war are not important. But as always the questions of *jus ad bellum*, though they do not necessarily take logical or conceptual priority over questions of *jus in bello* ('just conduct in waging war') or *jus post bellum* ('just ways of concluding war and controlling its aftermath'), do retain a kind of psychological priority. And after nearly three years of intense public debate in many countries, before and after the invasion, the bases for a judgement about whether the US-led coalition was right to invade Iraq remain as contested and, indeed, confused as ever. The aim of this chapter is to contribute to clarifying the issues and questions, and to offer some tentative conclusions. Along the way I will touch on some broader questions about the circumstances in which resort to armed force is legitimate.

There are three reasons why the issues of *jus ad bellum* in relation to Iraq are so unclear. First, the principles themselves are in flux. Over the fifteen years since the end of the Cold War, many questions about the scope and limits to the legitimate use of force have been opened up by experiences in Kuwait, Somalia, Rwanda, the Balkans, East Timor and many other crisis spots around the world. In the resulting debates about humanitarian intervention, many of the accepted principles of *jus ad bellum* have been called into question. The sanctity of sovereignty has been downgraded and the scope for legitimate military intervention has expanded. But the limits to these changes are far from clear. And after the terrorist attacks of September 11 2001, many people believed that even these updated and expanded rules and principles no longer applied, and new principles needed to be formulated to handle unique new circumstances. Second, the reasons for the invasion have been confused. Coalition governments have produced a wide range of different arguments to justify their invasion of Iraq, and their explanations have changed as circumstances have changed. So it has been hard to know what has been the real basis for the decisions actually taken by policy makers. Third, the facts themselves have been, as always, obscured by the fog of war and the no less dense fog of politics.

In what follows, my focus will be on the primary US decision to invade and occupy Iraq in March 2003, but my comments are clearly relevant to the Australian decision to join with the British and Americans in this venture since the Australian justifications mirrored the US reasoning to a very large extent. From the accounts published so far, it is not clear that the key US decision makers ever self-consciously made that decision at an identifiable time and place.<sup>1</sup> But the decision was nonetheless made, and it remains the critical act of those responsible for launching the war. I should perhaps make it clear that, since the idea was first mooted in early 2002, I have regarded the Iraq invasion as a *policy* mistake for the US for the purely realist, national interest reason that the costs and risks of the operation were not justified by the benefits that could be expected of it. I have been less clear in my own mind whether it was a *moral* mistake as well. That is my prime focus here: whether that decision, at the time it was taken, was morally right or wrong.

My approach will be to examine in turn five alternative grounds that have been advanced or need to be considered as providing a moral basis for the decision to invade. They are: the utilitarianism implied in much of the public debate, an appeal to the authority of the UN, preventive war, humanitarian intervention, and what I shall call 'strategic intervention'.

## IMPLIED UTILITARIANISM AND DUE DILIGENCE

It is best to start with the broad public debate. Throughout the public debate about invading Iraq, ethical judgements about the rightness and wrongness of the decision have been most influenced not by the arguments about weapons of mass destruction (WMD) or the evils of Saddam, but by practical judgements about the chances of success and failure. Before the invasion, opponents on moral grounds also argued that it would end in failure; those that supported it also expected it would be a pushover. And since the invasion, critics have been pessimistic, and supporters have been optimistic, about events on the ground.

Behind this thinking is an implicitly utilitarian model of *jus ad bellum*. Since early last century, there has been a strong presumption that resort to armed force can only be justified in order to prevent worse outcomes. This is an intuitively attractive principle. Its application is reflected in the actual judgements people make about the war in Iraq: those who oppose the invasion as immoral argue, at least in part, that it will make things worse, while those who support it argue that it will make things better. On this account, there is not much anyone can say now about the rights and wrongs of the decision to invade Iraq: we have to wait until we know whether it succeeds or not. Success today probably means establishing, within a year or two, a cohesive Iraq with a stable and enduring government that genuinely serves the interests of its citizens and lives at peace with its neighbours, and thereby helps to stabilise the Middle East and encourage political reform there. Success in these terms is not likely, but it is not yet impossible. If all this happens, I will have been proved wrong in my judgement that the Iraq invasion was a mistake

of policy. But what about moral judgements? Must they also await the outcome of events?

This highlights the limitation of the implicit utilitarian model. It suffers from the problem that Kant identified in his original critique of utilitarianism: that it makes the morality of actions contingent on outcomes which are inherently unknowable at the time the action is taken. Moral action is reduced to a kind of gamble on the outcome of events. Of course, no one can know what will happen when a decision is taken. This uncertainty is, in most practical cases, not merely theoretical—a matter of epistemology, so to speak—but an issue of urgent practical reality, inherent in the nature of military operations. In retrospect, the actual outcomes of events acquire a patina of inevitability. But when decisions are made, uncertainty about their consequences is, and remains, very real. We can see that in Iraq today.

So the implicit utilitarian model of *jus ad bellum* seems to offer no alternative but to suspend moral judgement on a military operation like the invasion of Iraq until the result is clear. This is surely not good enough—not least for decision makers themselves, who need some ethical basis to guide their choices when they make them, and before they can be sure of their outcomes. Nonetheless, it does seem intuitively important to maintain a clear connection between the rightness of a decision and its consequences.

One way to address this problem might be to borrow a phrase from the world of business. A company director cannot be morally condemned for failing to predict a business problem, but he can be condemned for failing to exercise due diligence—that is, failing to take all due care to ensure that he or she has assembled the relevant facts and given them proper consideration. The same might be said of strategic policy makers. It is important that judgements about the cost, benefits and consequences of armed intervention are well based. They need to be carefully made on the basis of all the evidence, duly weighed with an open mind. The responsibility is particularly strong when the issue is as momentous as the use of armed force, especially on the scale envisaged in the invasion of Iraq.

Due diligence requires not just the assembly of facts, but also the exercise of imagination: to consider how things might develop, and

what unexpected or unintended consequences might arise from different courses of action. John Kennedy's decision making in the Cuban missile crisis is an example of this kind of due diligence: not being willing to be swept along by the advice of his officials, Kennedy thought carefully about how things might go wrong, and what that might mean.<sup>2</sup> Of course, moral judgements about the exercise of due diligence must not take advantage of hindsight: decisions need to be evaluated in the light of evidence and conclusions that would have been available and reasonable at the time the decision was taken. That in turn requires some imagination, on the part of those who look back and judge past decisions, to grasp what wasn't, and couldn't, have been known at the time.

Due diligence in deciding to use force also requires the exercise of cautious prudence. It is like the practice of medicine: the seriousness of the decisions, the consequences of error and the uncertainty of outcomes mean that the burden of evidence lies with those who favour action. Hence the physician's Hippocratic Principle—first do no harm. This is a good guide for strategists as well. And it suggests a further principle: rash and ill-considered judgement on the use of force is morally wrong; and remains wrong even if the consequences turn out well. There is an analogy here with gambling: if it is wrong to gamble with other people's money, it remains wrong even if you win. Likewise, it is wrong to gamble with the lives of others, even if the gamble pays off.<sup>3</sup>

So we might ask whether the decision to invade Iraq met the test of due diligence. This is something the decision makers themselves know better than we. But from the published accounts of the process, the reports of the many official inquiries about the handling of intelligence, and above all the manifest fact that the problems of post-Saddam Iraq were very seriously underestimated, there are significant grounds for doubt.

## UNITED NATIONS AUTHORITY

As the debate over the invasion of Iraq unfolded, a lot of attention was given by both advocates and opponents to the role of the UN in authorising military action. Supporters of Operation Iraqi Freedom

argued that UN Security Council resolutions at least implicitly authorised the action, thus providing a sound legal and ethical basis for the decision to invade. Some cited UN Security Council Resolution 1441 of November 2002 as providing authority for the attack in March 2003, but that argument hardly survives serious scrutiny. Nothing in the explicit language of the resolution supports it, and it is clear from members' comments at the time and subsequent conduct that many of the Security Council did not interpret it in that way.<sup>4</sup>

Supporters of the invasion have more plausibly argued that the Security Council had given authority to use armed force against Iraq in Resolution 678 of November 1990, under which Operation Desert Storm was launched. The subsequent cease-fire was conditional on Saddam's compliance with UN requirements that he abandon his WMD programs. So, the argument runs, his (apparent) non-compliance with these cease-fire conditions reactivated the authority under Resolution 678. A number of legal counter-arguments have been advanced against this claim,<sup>5</sup> but to my mind the most powerful rebuttal relies more on common sense than legal reasoning.

The argument runs as follows: Resolution 678 authorised military action only to enforce the Security Council's earlier resolutions requiring Iraqi forces to withdraw from Kuwait. It was absolutely clear at the time that Resolution 678 did not authorise the use of force to invade Iraq and depose Saddam. So, while it can be argued that Saddam's non-compliance with the cease-fire resolutions reactivated Resolution 678's authorisation of some kind of military action against Iraq, it is hard to argue that it provides authority for an invasion which was unambiguously beyond the scope of the resolution as originally adopted. In other words, the old resolutions provided authority for some kinds of military action against Saddam in response to his non-compliance—action like the periodic air strikes launched in the no-fly zones under operations Northern and Southern Watch. But they could not provide authority for full-scale invasion and regime change.

So the argument that Operation Iraqi Freedom was authorised by the UN cannot be sustained. How serious is this to the ethical status of the decision to launch the operation? Some opponents of the invasion believe that it is decisive. On this view, any use of force

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not sanctioned by the UN is, by that fact alone, unethical. There are three variants of this position. The fundamentalist variant holds that the UN Charter sets out limits on the rights of nations to use force which are morally binding in their own right: to wage war without UN authority is morally wrong simply and directly because to do so defies UN authority. But the processes of the UN cannot support this kind of moral authority. UN decisions on these issues depend on votes of individual national governments. It is hard to argue that a war which would be right if one or other of the delegates on the Security Council votes one way becomes morally wrong if they vote the other way. A war which is morally right if Chad, or Venezuela, or Australia, votes for it does not become morally wrong if for some quite irrelevant reason—pressure, whim or national interest—that vote goes the other way.

The second basis for arguing that making war without UN authority is morally wrong is consequentialist: that it is wrong to wage war without UN authority because, even if the war is in other respects justified, defying the UN makes it more likely that others will launch unjust wars in future. This is quite a strong argument as far as it goes, but it is hard to argue that it provides a basis for an absolute moral prohibition on resort to force without UN authority. The harm done to the UN's authority needs to be balanced in each case against the harm done by not taking military action. If the reasons for military action were compelling in the first place, then consequentialist concerns, though significant, might not outweigh the other considerations in play.

The third basis for UN authority is prudential. The UN provides a forum for testing the quality of your reasoning and judgements in choosing to use armed force. Failure to win UN endorsement for a military operation should give any decision maker pause. But if, having with due diligence reviewed the pros and cons in the light of arguments put in New York, the use of force still looks the right course, then opposition from the UN cannot by itself make it wrong.

These limitations on the UN's moral authority were all demonstrated in 1999, when NATO launched operations against Serbia over Kosovo without UN authority, because Russia was opposed to it. Much might be said about the wisdom of the decision and the

way it was taken, and about the way the war was conducted, but it is hard to claim that the operation as a whole was wrong because it had not been endorsed by the Security Council. None of these arguments deny that the UN has real and significant moral authority, and that there is a moral responsibility to engage with the UN seriously in considering the use of force. But they do suggest that going to war without explicit UN authority is not, on that basis alone, wrong.

So, the US had no moral authority from the UN to invade Iraq, but this is not decisive in deciding the legitimacy of the decision.

## PREVENTIVE WAR

The main argument advanced by the US government to justify the decision to invade Iraq before the event was that Iraq's WMD posed a threat to world peace, and to the US specifically, that was so grave and so urgent that the US was justified in waging preventive war to forestall it.

Of course, as it has turned out, there were no WMD in Iraq. Nonetheless, it remains important in judging the moral status of the decision to invade Iraq to consider whether the invasion would have been justified if Iraq had possessed a militarily significant stock of WMD. The argument for war related to Iraq's WMD was based on the doctrine of pre-emption, which allows a state to take military action to forestall an evident and imminent military attack. But the doctrine has limits, classically set out by US Secretary of State Daniel Webster in 1842: pre-emptive military action is only justified where the threat is 'instant, overwhelming, leaving no choice of means and no moment for deliberation'.<sup>6</sup> Justifying the invasion of Iraq as pre-emption required that doctrine to be significantly extended to cover a threat which was not immediate and imminent, but only a reasonable future possibility—more a matter of prevention than pre-emption. Some opponents of the invasion have argued against this extension of pre-emption, on the grounds that it is too permissive and would be open to abuse by allowing governments to launch military attacks on mere suspicion.<sup>7</sup> Supporters of the invasion, including the Bush administration itself, have argued that in the unique and unprecedented threat posed by the combination of global terrorism and

WMD, preventive wars could be justified. This argument was set out in President Bush's speech at West Point in June 2002 and in more detail in the National Security Strategy in September 2002.<sup>8</sup>

In fact, the doctrine of preventive war has a long and respectable history. It is not the invention of the Bush administration and is not simply a response to the new strategic circumstances that have followed September 11. Michael Walzer devoted a chapter to the subject in *Just and Unjust Wars* in 1977. He argued that, while there are limits on the right to wage preventive war, Webster's limits are too restrictive. He concluded that nations had a right to strike first at what he called 'the point of sufficient threat'. 'Sufficient threat', he says, requires 'a manifest intent to injure, a degree of active preparation that makes that intent a positive danger, and a general situation in which waiting, or doing anything other than fighting, greatly magnifies the risk'.<sup>9</sup>

This formulation, as far as it goes, is compelling. And it seems to fit exactly what the Bush administration was claiming about Iraq before the invasion. So I do not think the problem lies in the doctrine of preventive war itself: we cannot condemn the invasion of Iraq simply on the grounds that it was a preventive war. But there are three other issues to be addressed. The first is the question of whether Iraq really posed a 'sufficient threat' to the US. This is hard to sustain. The strongest basis for thinking Iraq and its WMD might pose a threat to the US was the possibility that Iraqi WMD could be passed to terrorists. The evidence of links between Iraq and terrorist groups targeting the US was always very weak. There remains a question whether, for all Saddam's bluster, he had a manifest intent to attack the US directly. It would be easier to argue that he had a manifest intent to attack his neighbours, or Israel. That might justify a kind of extended justification of preventive war analogous to the right of co-operative self-defence under Article 51 of the UN Charter. But it is pulling the doctrine in new and problematic directions.<sup>10</sup>

Second, there is the test of necessity, implied in Walzer's third condition quoted above. Military action to prevent an attack can only be justified if it is the only way to deal with the threat. This is hard to argue in the case of Iraq. Saddam's military ambitions were

effectively contained, his WMD programs were at least constrained by the UN inspections, and the threat of retaliation if he did use his WMD remained real and credible. The argument that deterrence is no longer effective, made in the National Security Strategy, may be true in relation to terrorist groups, but it is much harder to sustain in relation to states like Iraq. So it was hard for the Bush administration to argue that there were no other options to deal with the supposed threat other than military action.

Third, and I think most importantly, there is the question of proportionality. Walzer's earlier treatment of the question in *Just and Unjust Wars* omits this issue, but he touches on it in his more recent writing.<sup>11</sup> Any preventive military action will involve an element of judgement and uncertainty. The less immediate the threat, the less certain it is that the threat would in fact eventuate if it was not pre-empted. Most likely, also, less force would be required to forestall it, economy of effort and cost being part of the underlying rationale of prevention. It seems reasonable, therefore, to require that the amount of force used in preventive military operations should be proportionate to the scale, imminence and probability of the threat. This means a country may be justified in undertaking limited strikes to prevent a threat, but not justified in launching a full-scale invasion. Israel's 1981 strike against Iraq's Osirak nuclear reactor is a perfect example, cited by Walzer.<sup>12</sup> A single strike, causing little collateral damage and killing relatively few people, did much to reduce the long-term risk to Israel. The action, though widely criticised at the time, seems defensible despite the fact that the threat was not imminent, precisely because the military operation was itself so modest.

This point has been developed recently by David Luban, who distinguishes between preventive strikes and preventive war.<sup>13</sup> In the debates over Iraq, much of the focus has been on the rights and wrongs of military action per se, rather than of different types of military action. Of course, any resort to force is serious and takes us across an important threshold. But there are clear moral as well as strategic differences between a decision to launch a limited campaign of air strikes against military targets, and a decision to launch a full-scale invasion. I have no doubt that a campaign of precisely targeted strikes

against Iraqi WMD, provided that they could have been hit without too much risk to civilians, would have been entirely legitimate in the circumstances of 2003. An invasion was quite another matter.

The idea of preventive war is not itself a problem, but even if Saddam had had the WMD that the coalition leaders believed him to have, the invasion of Iraq was not justified as a response. Lesser military actions may have been.

## HUMANITARIAN INTERVENTION

Since it became apparent that Iraq did not have substantial WMD capabilities, the principal justification for the invasion advanced by the US has relied on a version of the emerging doctrine of humanitarian intervention. Over the past decade, the scope for legitimate military action within another state's territory to prevent violence against individuals has been greatly expanded. How far that expansion can prudently be allowed to go remains a subject of debate. A Canadian-sponsored international commission has recently suggested some tests that might be applied to individual cases.<sup>14</sup> These tests include the immediacy and the seriousness of the threat of violence, whether non-military means are available to address the threat, the proportionality of the military action required to counter the threat, the balance of consequences (whether on balance military intervention would do more harm than good), and right intention (whether our motives are indeed humanitarian).

Does the invasion of Iraq meet these tests? The first issue relates to the nature of the humanitarian problem in Iraq. The threat to individuals under Saddam's regime was serious and immediate, but it was also long-established. The doctrine of humanitarian intervention had been conceived from the need to provide for a response to sudden emergencies like Rwanda, East Timor and Kosovo. There are clear humanitarian grounds for extending the doctrine to cover the violence perpetrated year in year out by stable and enduring oppressive regimes. But to do so would constitute a very significant extension of the doctrine. Could such an extension be justified? Is there a morally significant distinction between the slow, steady

oppression of a whole population by a brutal authoritarian regime, and the sudden collapse of order which threatens immediate death or suffering to an entire population? I think there is. We are impelled to action in the paradigmatic cases of humanitarian intervention by a sudden catastrophe that simultaneously and immediately threatens whole populations. Iraq in 2003 was suffering from something quite different; no worse for the individuals immediately targeted by the regime's violence, but less disruptive for the bulk of the population. It was bad enough being an Iraqi in 2002, but not as bad as being a Tutsi in Rwanda in 1994, or a Kosovo Albanian in 1999.

It is important to remember that humanitarian intervention is an *obligation*, not a *right*. So the question is not whether the US and its allies would have been *right* to have invaded Iraq to liberate its people from Saddam; the question is whether they would have been *wrong* not to, as many people think we were wrong not to intervene in Rwanda to stop the killing. I think that would be a very hard argument to sustain, especially when we consider the scale of the obligation the US and its allies have taken on. One might be morally obliged to rescue a drowning child if one can do so without endangering one's own life, but one is not in the same way obliged to bring up and educate a destitute child. In the first case, the danger is sudden and immediate, and the assistance required is equally short term. In the second case, the danger is enduring, and the assistance required is equally enduring, and the burden (for that reason) much greater.

This leads into the second question about whether Operation Iraqi Freedom could have been justified as humanitarian intervention: the issue of proportionality. The sheer scale of the project—invading and occupying a substantial country, destroying its system of government, and establishing in its place a quite new state structure—goes way beyond the kinds of operations that have previously been contemplated under humanitarian intervention, even in the Balkans. If Saddam's regime had been engaged in systematic mass murder of a large proportion of its population, as the Khmer Rouge did in Cambodia in the 1970s, this kind of action might have been proportionate to the emergency, and therefore legitimate. But appalling as Saddam's regime undoubtedly was, he did not pose an immediate threat to Iraq's people on that scale.

And finally, of course, there is the question of right intention. No matter what is said by governments now, the historical record will not sustain an argument that the invasion really was undertaken primarily for humanitarian purposes. So, a retrospective justification of the decision to invade on these grounds does nothing to establish humanitarian intervention as a moral ground for that decision.

## STRATEGIC INTERVENTION

The strangest thing about the decision to invade Iraq is that the least discussed rationale for the decision is probably the most significant in our judgement of the moral standing of the decision. It has been evident since before the event that the successive reasons put forward for the invasion do not capture the real motivation of the key decision makers. There has been a lot of instant history written already trying to unravel the strands of thinking that led to Iraq.<sup>15</sup> These provide a complex and at times contradictory picture of the ideas behind the decision. It will be several years at least before we have a complete enough picture, and enough detachment, to form a definite view. But we know enough already to describe the key ideas which principally motivated those who decided to invade Iraq. We might label this set of ideas the doctrine of strategic intervention.

During the 1990s a number of those who later became influential office holders in the Bush administration had developed a view that the proper goal of US strategic policy in the new century was to use American power, including US military power, to shape the world in ways which suited American interests by perpetuating US pre-eminence. This included removing regimes which did not share US interests and values. They believed that this was not only in America's interests, but the world's.

They believed that, with the end of the Cold War, American military pre-eminence meant that the US could use force to promote this objective at low cost and low risk. They came to view armed force as a natural and appropriate policy instrument for America to use in achieving its long-term policy goals. In this they moved away from more restrictive attitudes towards the use of force that had developed in liberal Western societies over the twentieth century, but which

they tended to believe were primarily a reaction—or overreaction—to the Vietnam War.

This group concluded, long before Bush was elected, that in pursuit of these objectives America should give high priority to removing Saddam, if need be by force. Saddam's supposed possession of WMD was part of the reason for this but not the key reason, though they undoubtedly believed he did have an active WMD programme. They apparently believed that once Saddam was removed Iraq would easily develop a democratic, pro-Western government that would support US interests, and in particular would serve as a catalyst for the emergence of similar regimes in neighbouring countries.

After September 11 this pre-existing policy was transformed from an ambitious programme to promote American interests and values, to a defensive response to what they saw as an unprecedented attack on those interests and values. It is too early to say whether they really believed that Iraq and its WMD was the biggest threat to the US and therefore the highest priority in the 'War on Terror', or whether they promoted this argument to gain support for a policy which they were convinced was in America's broader interests. Perhaps they were not sure themselves. But whether cynically or sincerely, the situation after September 11 was interpreted in ways that justified a policy whose real origins lay much further back.

This powerful but radical set of ideas met relatively weak resistance among other members of the Bush administration, the wider US policy community and public opinion. This reflected the political and personal drive of the proponents of the invasion. But it also reflected the fact that many in Washington and beyond shared or sympathised with some of the key underlying ideas. Many more agreed that September 11 justified and perhaps demanded some kind of exceptional response that went beyond the boundaries of orthodox policy—and there were no alternative radical ideas on offer. And most, as always, simply followed the loudest drum.<sup>16</sup>

These are the ideas which underpin the Bush administration's National Security Strategy. It has been described by many, with some justice, as an imperial concept. If it lasts, it would constitute the most radical reorientation of US national strategy since the doctrine of containment was adopted at the start of the Cold War. On practical

policy grounds, I do not believe that it is a sustainable strategic posture for the US. But the question here is whether this set of policy ideas could constitute the basis for legitimate use of military force. *Prima facie*, the answer must be no. The guiding idea behind strategic intervention is that America can and will use armed force to shape the world to suit American interests. I am not necessarily uncomfortable with the objective: it is true that America's example has much to offer the world, and that a Middle East transformed into a peaceful community of liberal democracies would be a better place for everyone. The problem is the means: the use of force to achieve these goals.

This approach to the use of force seems to me to be entirely at odds with the ethical principles about resort to force in international relations that have evolved in Western liberal societies over the past two centuries, and which have been embodied in key international norms and institutions during the twentieth century. The key to those principles and norms is the rejection of force as an instrument of policy except in the immediate defence of lives, territory and a stable international order against violence by others. The idea behind strategic intervention is that America should use force to build a better world—and a better world for America. If everyone had that right, the result would be anarchy. So no one would propose that this is a doctrine that could be applied universally. Arguments in support of it must therefore rely on the concept of American exceptionalism.

Three arguments of this kind have been advanced in defence of this revolutionary policy. First, there is an argument that America can be trusted to use force more often, and to achieve wider objectives, than other countries because it is, morally, better than other countries.<sup>17</sup> To many Americans, apparently including President Bush, this proposition is almost literally self-evident. Even to more sceptical minds, this argument cannot be dismissed out of hand. For the last 100 years at least, the US has been overwhelmingly a force for good in the world, and much that is good in today's world is the product of the fortuitous combination of American power and American principles. We might wonder what the twentieth century would have looked like without them.

But what are the sources of this moral strength? American political rhetoric today would have us believe that it springs from the inherent goodness of the American people. America's founding fathers knew better: they distrusted individuals and put their faith in strong institutions. If there is a rational basis for thinking that America can be trusted to use power more wisely than other countries, it is that America's institutions can be trusted to ensure that US policies are more reliably sensible—and moral—than other powerful countries' policies have proven to be throughout history. The strength of American institutions is the intense contestability of policy within the government system. Ideas of all kinds are subject to relentless scrutiny and debate, and in the process most of the bad ones are thrown out, and what remains are generally pretty good.

But the system is not infallible, and Iraq demonstrates how failures can happen. I think history will judge that Washington's decision making on Iraq represented a failure of contestability. The fact that the real reasons for invading Iraq have not been properly presented and debated in America is itself a failure of the political processes on which the doctrine of strategic intervention relies. There are several reasons for that failure: the political and emotional impact of September 11, the personal and political strength of the advocates of the invasion, the relative weakness of other key players, and at the heart of the process a president who does not seem actively to shape decisions. That does not mean America will not get most things right in the future, as it has in the past. It does mean US policy processes are fallible, just like everyone else's. No grounds for exceptionalism here.

The second argument advanced, since September 11, to justify a policy of strategic intervention by the US is that America is uniquely threatened by global terrorism and therefore needs to be granted wider latitude than other countries in responding to that threat. This claim suffers from two weaknesses. First, the threat of terrorism, serious though it is, is not as serious as the threats America has faced before, and which were not thought at the time to justify revolutionary expansions of the right to use armed force. What is called the 'War on Terror' has been compared to, and even described as more

serious than, World War II and the Cold War in the scale of threat it poses to the US and its society. That does not seem sustainable: even the very real risk of nuclear terrorism against American cities is not as bad as the threat of global nuclear war which America, and the rest of us, lived with for decades before 1989. How quickly we forget. In retrospect we may downplay the risk because in the end it didn't happen, but the risk was very real. Those who see the new terrorism as raising unprecedented dangers are suffering from what Owen Harries has called the 'parochialism of the present', the beguiling belief that what is happening to us is more important than anything that has ever happened before, and of unique historical significance.

The second weakness in the claim that terrorism justifies an expanded role for US military power is that there is no evidence that the extensive use of armed force will help to reduce the threat of terrorism to America. Sometimes it can: military operations in Afghanistan in 2001 helped to disrupt al-Qaeda and were justifiable on these grounds. But no compelling argument has been advanced that removing Saddam would directly damage al-Qaeda or its affiliates, or directly reduce the risk of terrorism to the US. The arguments that support the Iraq invasion as a way to tackle terrorism rely on the claim that a free and democratic Iraq would help to transform the Middle East in ways which would make terrorism less likely in future, or that a demonstration of US resolve would discourage America's enemies. Perhaps, but the arguments for the contrary positions are equally compelling. Either way, it is hard to support the claim that the US has a special right to use force to combat terrorism if the use of force is not effective in doing so.

Third, it can be argued that the US has a right to use force more broadly than others because it has the power to do so. A recent commentary, apparently without irony, compared America's military superiority over any possible adversary with those of Homeric gods over mortals.<sup>18</sup> At first blush, the suggestion that this power gives the US special rights sounds like an unadulterated assertion of the right of power, in the finest Athenian tradition. But, as always, more sophisticated arguments can be marshalled to support the assertion.<sup>19</sup> However, there is no need to go into those arguments in detail,

because the claim fails the first test of factual accuracy. US military power is very substantial and, in some respects, unprecedented. But it is not overwhelming in every field of military operations. America's capacity to dominate the sea, to destroy targets from the air and to conduct land force operations against opposing conventional armed forces is indeed overwhelming. Its abilities to control territory and populations, to fight insurgent campaigns, and to locate and identify critical targets in other countries are modest.

These critical deficiencies are clearly demonstrated by the problems the US is experiencing in Iraq. There is a tendency to blame these problems on poor planning, too few troops, or to discrete and avoidable errors like failing to prevent the looting after Baghdad fell. That is a misunderstanding: America's problems in Iraq arise from the very nature of the enterprise. More troops and better plans would not have removed the basic sources of the insurgency, nor done much to improve America's ability to contain it. These deficiencies revealed in Iraq are inherent in the nature of US power. They critically limit America's capacity to achieve the kind of ambitious political objectives that the more expansive trend in US strategic thinking has set for its armed forces. Olympian military superiority is a myth. The claim to Olympian rights to use that power vanishes with it.

America is an exceptional country, but I do not think the case can be made for the kind of moral exceptionalism that would be required to sustain the doctrine of strategic intervention as a basis for just war. I think for this reason, and because it is based on unrealistic assessments of US military capability, global tolerance and domestic public support, the imperial phase of American policy will not outlast the harsh realities of Iraq. Indeed, I think it will be seen as an unfortunate aberration.

## CONCLUSION

It will be evident that I do not believe there is a moral case to be made for the decision to invade Iraq. The decision was made on insufficient grounds and with insufficient care, and presented with less frankness than the weight of the issue required. But I do not

think that makes America a bad country, or its rulers bad people. Nor do I think the Australian decision, with its parallel reasoning, should produce a similarly jaundiced total verdict on us. In 'The Sources of Soviet Conduct', George Kennan quoted Edward Gibbon as follows:

From enthusiasm to imposture the step is perilous and slippery; the demon of Socrates affords a memorable instance how a wise man may deceive himself, a good man may deceive others, and the conscience may slumber in a mixed and muddled state between self illusion and voluntary fraud.<sup>20</sup>

## 4 COLLECTIVE RESPONSIBILITY AND ARMED HUMANITARIAN INTERVENTION

SEUMAS MILLER

In recent times there have been a number of armed humanitarian interventions by nation-states in conflicts taking place within the borders of other nation-states. Here one thinks of Bosnia, Kosovo, Somalia, Rwanda and East Timor. In some instances, such as Rwanda, armed intervention was evidently morally justified; however, the armed forces deployed were inadequate and/or arrived far too late. In other instances, such as Kosovo, armed intervention might have been justified and timely, but arguably the force deployed was excessive, or at least of the wrong form.<sup>1</sup>

The first general point to be made here is that at least *some* armed humanitarian interventions are morally justified. Consider the case of Rwanda. According to Fergal Keane, in Rwanda after the deaths in a plane crash of the Rwandan and Burundian presidents on 6 April 1994 an orchestrated programme of genocide took place: 'In the ensuing 100 days up to one million people were hacked, strangled, clubbed and burned to death'.<sup>2</sup> The genocide in Rwanda, and like cases, constitutes a decisive objection to the claim that armed humanitarian intervention is *never* morally justified. Moreover, cases such as

# WHEN—IF EVER—IS MILITARY INTERVENTION IN THE AFFAIRS OF A SOVEREIGN NATION ETHICALLY JUSTIFIABLE?

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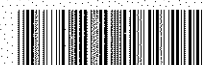


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