Justice and Justification in the War on Terrorism

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This paper offers a few preliminary reflections on some ethical implications stemming from the disconnect between the moral rhetoric and the reality of the War on Terrorism. I suggest that the Bush Administration certainly shares a large part of the responsibility for constantly attempting to justify a war that, by the standards of traditional just war theory, is almost impossible to see as just. However, I also suggest that part of the responsibility lies with a public that demands high ethical standards of its public officials, but appears to be ultimately unprepared to face the full consequences of acting ethically when it comes to issues of security.

Over the past few days, commentators everywhere have been claiming that extreme public dissatisfaction with the handling of the War on Terrorism underpinned the phenomenal losses experienced by the US Republican Party in last Tuesday’s midterm elections. To a large extent, such dissatisfaction stems from increased doubts that have crystallized over the last twelve months over the ethical standards of the Bush Administration.¹ These suspicions centred on the Iraq war, how terrorist threats have been handled at home, rising suspicion concerning the flawed intelligence leading to the invasion of Iraq, accusations of human rights abuses in Afghanistan and Guantanamo,

and a string of accusations of corruption involving key members of the White House staff—including last year’s CIA leak that led to the indictment of Vice-President Cheney’s former chief of staff for perjury. In the face of these issues, the promise at the base of the President’s 2004 election campaign to “restore honour and integrity to the Oval Office” is now ringing rather hollow.

After years of false statements and empty promises, it's time for big changes in Washington... We need a president who will finally stand up and fight against the lies and corruption. It's time to renew the faith the people once had in the White House. If elected, I pledge to usher in a new era of integrity inside the Oval Office... The people have spoken. They said they want change. They said it's time to clean up Washington. They're tired of politics as usual. They're tired of the pursuit of self-interest that has gripped Washington. They want to see an end to partisan bickering and closed-door decision-making. If I'm elected, I'll make sure that the American people can once again place their trust in the White House.

A credibility gap has opened between the Oval Office and America... The public hears talk, but they don't see any result. But if you choose me as your next president, the promises I make in my inaugural address will actually mean something. The president of this country will be held accountable for his promises, starting Jan. 20 of next year.²

For the first time in his presidency, a poll conducted last November revealed that a majority (67 percent of respondents) rated Bush and his administration negatively on handling ethical matters. Fifty-eight percent doubted Bush’s honesty and personal integrity.³ The 2006 midterm election results suggest that the public’s perceptions of, and concern with, the ethical dimensions of the War on Terrorism remain similar—a conclusion that the recent departure of Donald Rumsfeld appears to support. Ethics and ethical conduct, it seems, are now key factors in public perception of US government performance at home and abroad. It is therefore unsurprising that commentators are predicting that ethical issues are likely to dominate US political debate until the next presidential election in 2008.⁴ What is surprising is that no proper national debate...

concerning the moral values at stake in the War on Terrorism has been forthcoming, where values are argued for rather than simply asserted.⁵

I deal here very sketchily with two aspects involved in this state of affairs. The first lies in the disconnected relation between the political rhetoric justifying the war on terrorism and the rather less-than-just manner in which the war has actually been conducted. The second, which is related to the first, concerns the public’s continual demands for an ethical justification of the war. The more the public pushes for this justification, the more the rhetoric disconnects from the “reality” of the war—or at the very least, the more politicians attempt to reconstruct the “reality” of the war through their ethical discourse.

Let us first examine the claim that the rhetoric is removed from the reality of the War on Terrorism.

It is generally accepted in scholarly circles that, by the standards of just war theory, America’s counterterror war is far from just, regardless of the administration’s rhetoric to the contrary. Bush and his aides have continuously couched their language to the nation and to the world in distinctively ethical and often highly emotive discourse.

On September 20th 2001, for example, Bush claimed that,

Great harm has been done to us. We have suffered great loss. And in our grief and anger we have found our mission and our moment. Freedom and fear are at war. The advance of human freedom -- the great achievement of our time, and the great hope of every time -- now depends on us. Our nation -- this generation -- will lift a dark threat of violence from our people and our future. We will rally the world to this cause by our efforts, by our courage….

I will not relent in waging this struggle for freedom and security for the American people…The course of this conflict is not known, yet its outcome is certain. Freedom and fear, justice and cruelty, have always been at war, and we know that God is not

neutral between them. Fellow citizens, we'll meet violence with patient justice -- assured of the rightness of our cause, and confident of the victories to come.  

The following, taken from Bush's well-known 2002 "Axis of Evil" speech, is also representative.

Our cause is just, and it continues. Our discoveries in Afghanistan confirmed our worst fears, and showed us the true scope of the task ahead. We have seen the depth of our enemies' hatred in videos, where they laugh about the loss of innocent life. And the depth of their hatred is equaled by the madness of the destruction they design. We have found diagrams of American nuclear power plants and public water facilities, detailed instructions for making chemical weapons, surveillance maps of American cities, and thorough descriptions of landmarks in America and throughout the world…

Our military has put the terror training camps of Afghanistan out of business, yet camps still exist in at least a dozen countries. A terrorist underworld -- including groups like Hamas, Hezbollah, Islamic Jihad, Jaish-i-Mohammed -- operates in remote jungles and deserts, and hides in the centers of large cities…

My hope is that all nations will heed our call, and eliminate the terrorist parasites who threaten their countries and our own… But some governments will be timid in the face of terror. And make no mistake about it: If they do not act, America will.

Notwithstanding the many stirring speeches such as this, the central distinction to be made is that justified wars are not equivalent to just wars. “A nation fighting an unjust cause may still fight justly, or vice versa.” Here I can only mention very briefly some of the strongest arguments contesting the justice of the war on terror.

Of the many scholars who argue that the counterterror war is unlikely to ever be as just as the rhetoric purports, Neta C. Crawford claims that, even accepting that terrorism presents new challenges in applying a theory that was conceived more than a millennium ago, the counterterror war fails to meet several of its central criteria.

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Defining, for example, the –self- in “self-defence” as widely as the US has done neglects to distinguish between short- and long-term threats. This not only fails to meet the criterion of just cause; this kind of preemptive doctrine is thoroughly morally unacceptable.\(^{11}\) Due to the nature of the terrorist “enemy,” Crawford also argues that the criterion of likelihood of successful outcome is far from assured in the war on terrorism. “[O]ne can never be sure that all terrorist networks are destroyed and that the threat is eliminated.”\(^{12}\) Others challenge the war on terrorism for failing to meet the criterion of last resort and several add that the theory’s rules concerning conduct in war (\textit{jus in bello}), proportionality and discrimination, have been consistently violated in the years since 2002. Examples of arguments here include that it is almost impossible to avoid collateral damage when using hi-tech weapons and, given that it is similarly impossible to distinguish between terrorists and civilians living together, indiscriminate hits on civilians can never be eradicated in counterterror-type wars.

The general point that most of these authors make is that no matter how much the administration attempts to discursively justify, for example, the fundamental role of preemption in the Bush Doctrine, that justification fails to render the war, in itself, just. At best, the government has been accused of “overextending the strategic rationale for preemption to support the case for the invasion of Iraq.”\(^{13}\) At worst, through its strategy of preemption, the Bush administration “is practicing a revolutionary policy more suited to a “rogue” nation than a world leader.”\(^{14}\)

As Bush himself admitted, "[y]ou know, one of the hardest parts of my job is to connect Iraq to the war on terror."\(^{15}\) It is fairly clear that, to many voters, he never really

\(^{12}\) Crawford, “Just War Theory,” 16.
succeeded in connecting it – a problem only exacerbated by several unfortunately inconsistent comments from members of his inner circle. Vice President Cheney’s infamous remarks include the following.

We also have to work, though, sort of the dark side… a lot of what needs to be done here will have to be done quietly, without any discussion, using sources and methods that are available to our intelligence agencies… it's going to be vital for us to use any means at our disposal, basically, to achieve our objective.\textsuperscript{16}

The rupture between the stark reality of the war on terrorism and the moral rhetoric over the last four years goes some way toward explaining why approval ratings and support for the Bush administration have declined steadily over the course of time. To some extent, Bush and his inner circle are clearly responsible for this. Given the lack of a plausible argument linking Iraq to the War on Terror and therefore cementing any clear just cause, the increasing death toll of US soldiers in Iraq finally forced the public to question both the reasons for involvement in the war in the first place and why Bush has remained so inflexible when stability in Iraq seems increasingly elusive. The ends appear almost impossible to accomplish and the means are certainly nowhere near justified. Added to “a year in which Republican legislators have been besieged by ethics and corruption scandals,”\textsuperscript{17} it is not surprising that perceptions of the honesty of the administration and of the president have waned.

However, to say the Bush Administration is partially to blame does not mean that the American electorate is without responsibility. The main reason why Bush and his aids spend so much time constructing an ethical justification of the war on terrorism is, of course, because the electorate and the world at large demand such a justification. All of us, it seems, find the idea of packaging war as a possibly ethically acceptable


\textsuperscript{17} Griffith, “Iraq War Fuels Massive Republican Loss.”
project very attractive. Indeed, it is for this reason that just war theory was originally conceived and why it has survived relatively intact for a millennium. However, viewing any war as a just war, as an ethically acceptable project, makes it perhaps easier to conceal, or even fail to recognize, the more self interested, less morally justifiable motives that might be involved. To risk going one stage further, is it not the case that national security, the most self-interested and realpolitik of motives, is being deployed in the discourse of the counterterror war as a moral motive? If this the case, while the Bush Administration is clearly partially responsible for framing the discursive “reality” of the war on terror, the public are likewise responsible for uncritically accepting it. We appear to be more comfortable when advancing our interests in security, if we conceive of them and pursue them as if they were morally sanctioned.

Part of the problem, perhaps, rests in our inability to grasp the complexity of war in general and counterterror war in particular: an inability that seems to lead us to see justice in war as fully compatible with victory (especially within a short period of time and with minimal casualties). As Michael Walzer puts it in his seminal work on just war, “we want to have it both ways: moral decency in battle and victory in war.” Walzer suggests that there may well be a fundamentally irresolvable contradiction between just war theory’s rules for going to war (jus ad bellum) and its rules for moral conduct in war (jus in bello). It is almost certain that any strict rules constraining moral conduct in battle may well jeopardize our chances of winning, or at least of winning without serious costs. It is the way in which the public seems to accept this curious and potentially incompatible mix of ethics and extreme self-interest that leads to the increasingly strong demands for observance of high ethical standards on the part of elected and appointed public officials. Attempting to fulfill these demands, without

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separating the ethical motives from the self-interested ones, leads to a just war rhetoric that can never be fully met in practice.

It seems over-simplistic to place the blame entirely with Bush, Cheney, Rumsfeld and their speech writers, if they are at least partially responding to confused and incoherent demands from their own electorate. There seem to be two broad alternatives to the current disconnect between rhetoric and reality and the current confusion between moral and self-interested motives. Neither are likely to be something the people will immediately feel comfortable with. The first is to act out the moral guidelines of just war theory in practice as well as in the rhetoric. Would the American public really wish to face the consequences of practicing the moral guidelines that are preached, if it weakens their security, or their impression of their president as a strong leader, or both? History suggests not. President Carter attempted to pursue US security interests with some restraint and was punished severely because people perceived that he was putting national security at risk. The second alternative is to pursue the current conduct in war, without cloaking it in inconsistent ethical discourse. Would they really wish to hear even part of the truth of the war situation in all its pragmatic detail?

All this suggests that the time is over-ripe for a national debate. That debate needs to focus on framing the limits of the debate and the definitions of the enemy, as well as exploring and working out the present inconsistencies in the motives of the nation and the way they are expressed. Most importantly, these points need to be discussed, dissected and argued for rather than just asserted on the part of the politicians and left effectively unquestioned on the part of the public. The public needs to think about, and be committed to, the consequences of the ethical positions that they demand of their public officials.
Developing an ethical environment in foreign policy, especially when it is connected to war, presents perhaps more problems than in other areas where some improvements in ethical conduct have been achieved. For some areas of public administration we have begun to create procedures and practices that foster an ethical environment in which our public officials can work and be called to account. The War on Terrorism is not yet one of them. It seems that when security is at issue, then the Machiavellian argument still holds: ethics is secondary, or lower. It is reasonable to expect that the challenge of the future, for both democratic public officials and a fully committed democratic polity, understands the political role of the public in foreign policy. Democracy has meant that foreign policy is no longer an area that is entirely left to statesmen to design and determine. Elections are occasionally won on the basis on the people’s preferences in foreign policy. Therefore, the people need to share in the responsibility of critically examining foreign policy options, and the motives behind them.