EVALUATING THE IRAQ WAR BY JUST WAR PRINCIPLES

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In his case study of the Iraq War, Gabriel Palmer-Fernandez asks, “Is this a just war?” and “Can an unjust war be fought justly?” In the history of the ethics of war, such questions have been raised by supporters of just war theory. According to that theory, the first question should be answered by means of *jus ad bellum* principles — for instance, the principles of just cause, legitimate authority, proportionality, and last resort. And the second question should be answered by means of *jus in bello* principles — for instance, the principles of proportionality and noncombatant immunity. In terms of these principles, I shall raise some additional moral questions, thereby expanding the final section of Palmer-Fernandez’s case study, which is entitled “Questions.” Of course, in a paper of this brevity, I can only raise the questions. I cannot provide answers to them.

The Iraq War has been called a “preemptive war.” Usually, however, the term “preemption” has meant “striking first when one believes the enemy is about to try to strike.” In contrast, the term “preventive war” has meant striking first when one believes (among other things) that “waiting longer before resorting to [military] force would only allow the enemy to inflict greater damage later.” Since the Bush administration did not believe that a strike by Iraq was imminent, it is more accurate to call the Iraq War a “preventive war.” Consequently, in order to answer Palmer-Fernandez’s two questions by means of just war principles, the following question needs to be investigated. How can just war principles be used to morally evaluate preventive wars?

Because war is so destructive, there must be a moral presumption against it. If one wants to override this moral presumption, one has the burden of proving that the *jus ad bellum* principles are satisfied. In the
absence of an adequate proof, one is morally required not to engage in war. Did the Bush administration prove adequately that the Iraq War satisfied these just war principles?

Uncontroversially, a state has a just cause for war when it is attacked by the armed forces of an aggressor, but there was no such just cause for the Iraq War. Instead, as Palmer-Fernandez relates, the primary goal announced by the Bush administration was to eliminate Iraq's weapons of mass destruction, in order to prevent them from being used by Iraq itself or by terrorists. Is this goal a just cause for a preventive war?

Even if the Iraq War has a just cause, it would not be a just war if it did not also satisfy the other *jus ad bellum* principles. The last resort principle requires (roughly) that measures other than war — e.g., diplomacy and economic sanctions — must be tried first. Especially because of this principle, there is considerable doubt about whether a preventive war could be a just war. For, when a strike by the enemy is not imminent, there could be ample time to try measures other than war first. Did the Iraq War satisfy the last resort principle? For example, one measure other than war would have been to continue the search by the UN inspectors in Iraq for weapons of mass destruction. When the U.S. invasion of Iraq began, was there still ample time for this other measure?

The legitimate authority principle requires (roughly) that a war must be declared and controlled by legally authorized persons. In accordance with Article VI of the U.S. Constitution, the United States must be in compliance with the UN Charter. Prior to action by the Security Council, the UN Charter permits a state to engage in a war of “self-defence if an armed attack occurs” (Article 51). However, prior to action by the Security Council, the UN Charter does not allow a state to engage in a preventive war. Did the Iraq War satisfy the legitimate authority principle? In particular, did the principle require the Iraq War to be authorized beforehand by the Security Council?

The *jus ad bellum* proportionality principle requires (roughly) that the benefits of a war should outweigh the harms. At the outset of the Iraq War, what were the benefits and harms that reasonably could have been expected, and how should they have been weighed?

Similarly, the *jus in bello* principle of proportionality requires (roughly) that the benefits of each battle or engagement within a war should outweigh the harms. For example, was the principle satisfied during the assault on Baghdad?

Roughly speaking, the principle of noncombatant immunity (or discrimination) prohibits intentional harm to noncombatants while permit-
ting foreseen but not intentional (and yet not disproportionate) harm to them. Was this principle satisfied during the Iraq War? For instance, was it satisfied when the U.S. Air Force made precision strikes? Arguably, the most challenging moral question that can be raised about the Iraq War by just war theory is as follows. Does the noncombatant immunity principle require “saving innocent Iraqi lives at the cost of more U.S. casualties”?¹⁰

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NOTES


² I have space to consider only the stated just war principles. Hence I cannot consider the controversial topic of *jus post bellum* principles, a topic Palmer-Fernandez mentions at the end his paper. Somewhat different lists of just war principles are found in various writings on just war theory. For separate discussions of some just war principles, see Bruno Coppieters and Nick Fotion. *Moral Constraints on War: Principles and Cases*. (Lanham, MD: Lexington Books, 2002).


⁵ Ibid. p. 56. The quotation concerns preventive nuclear wars. To generalize it to preventive wars of all sorts, the word “nuclear” is replaced by the word “military.”


⁸ Later, another goal was announced: making Iraq a democracy, thereby helping democracy to spread throughout the Middle East. By contrast, the European Union could help democracy to spread there, by admitting a sufficiently democratized Turkey as a member. How should states be democratized, by military measures or by peaceful measures?