

Can War be Just without a Just Ethic?: Ethical Considerations for Large Scale Combat Operations

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The Foundational Ethic for Just War

Every war has its origin in a desire. The desire can be for power and control which is often shaped by ideology wrapped around a national ego, in most cases this desire is characterized by selfish ambition to the exclusion of specific people. The other alternative is it can be for more altruistic reasons like those written in the Declaration of Independence (DOI). “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.” For the American people the principles found in the DOI are the plumb line by which they are to measure their actions throughout society, and arguably the world! This is no less true when making the decision to go to war, and how to wage war once it is determined to be necessary.

A plumb line as defined by Merriam-Webster is a line (as of cord) that has at one end a weight (such as a plumb bob) and is used especially to determine verticality, or a line directed to the center of gravity of the earth: a vertical line. This ancient tool was used to build structures based on the earth’s center of gravity. The plumb line employs the law of gravity to establish what is “plumb” (that is, what is exactly vertical, or true).¹ It is then from this true vertical line that action can be taken knowing that what is being done, or in the case of an actual plumb line what is being built will stand the test of time because it has a foundation in what is fixed and true. It is with this understand that one must look at war. What is the plumb line by which America can determine whether or not a war is just? To answer this question, one must first have a firm handle on what is morally right. What is America’s center of gravity?

Specifically in reference to war what is morally right? What is ethical in a legal sense? What is just? In some ways much like the simplicity of a plumb line, which is nothing more than a string and a weight that gives a visible reference of the existence of gravity when it pulls the string taut because of the weight of the plumb bob. Gravity is ever present, but only visible when it is revealed through the plumb line. It is only then the truth can be realized. Like gravity the truth found in the DOI has always existed, but it was not until they were written down and acted on that a nation and its laws could be fashioned under the principles of innate equality and the right to life, liberty and the pursuit of happiness. What seems so simplistic is in all actuality the intended foundational principle for everything that Americans do to include going to war. To be exact, “just war” is “just killing,” because war in its pure state is killing for a just cause, it is imperative that war transpire to right a wrong.

No matter what the type of warfare that must be waged by the American people, whether Large-Scale Combat Operations (LSCO), or Counterinsurgency Operations (COIN) to fight it justly there must be a just cause. In order for there to be a just cause, there must be a method of measurement by which a country can determine an act to be unjust. For an act to be unjust there must be an ethic, a moral philosophy from which to base the judgement.

In Army Doctrine Publication 6-22, Army Leadership and the Profession, the Army ethic is said to be a set of enduring moral principles, values, beliefs, and applicable laws embedded within the Army *culture of trust* that motivates and guides the Army profession and *trusted Army professionals* in conduct of the mission,

performance of duty, and all aspects of life.² For this statement to have the impact intended there must be a clear understanding of enduring moral principles. The only option for Americans is that these moral principles are one and the same as the foundational principles laid out in the DOI. Americans hold to the belief that all men, all people, to include our enemies, are created equal. This ideology is emblazoned in the words of the DOI and imitated in the United Nations' universal declaration of human rights.³ This American foundational enduring moral principle from which all the laws of the land are based is the plumbline from which right and wrong is declared. It is on this foundational moral principle that the Founding Fathers began the construction of a new nation. To give further clarity the DOI provides three more specific moral principles, that of the unalienable rights of life, liberty and the pursuit of happiness that is naturally possessed by all people to further provide a picture of what America is striving for as a nation, and with its interactions with other nations. It is only after the moral principles are established that it is acknowledged that a government must be instituted among men deriving their just powers from the consent of the governed.

The rights to Life, liberty and the pursuit of happiness based on the idea of an innate equality are the bridge to the legal principles found in the introduction to The Constitution of the United States, where it begins with the people, the same people, who are created equal and possess the unalienable rights of life, liberty and the pursuit of happiness are now included in the building of a more perfect union. What is the reason for this union? The principles as stated in the Constitution are to establish justice, ensure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessing of liberty to ourselves and our posterity.

For the purposes of this paper the emphasis moving forward will be on the constitutional principles of establishing justice and providing for the common defense both of which are vital components of determining just cause for war and the perimeters from which a war that is just can be fought. Once again returning to *ADP 6-22* the idea that the Army ethic originated from the nations philosophical heritage as well as theological traditions is more evidence that basic foundational principles are what lies behind the laws and the basis for just war that Americans use to continuously build their nation on.

The Army ethic has its origins in the philosophical heritage, theological and cultural traditions, and the historical legacy that frame our Nation. Army professionals swear to uphold the principles codified in the Constitution, which include establishing justice, ensuring domestic tranquility, providing for the common defense, promoting the general welfare, and securing the blessings of liberty to ourselves and our posterity. These principles are affirmed in oaths of service, and reflected in the Army motto—This We'll Defend.⁴

If America begins with the enduring moral principles found in the DOI the natural progression would be to make rules that reinforce these principles and establish the process by which the American people can defend their principles. Once the law is established it cannot be isolated from the moral principles or it will suffocate with the absence of meaning and purpose. In his book the "The Interaction of Law and Religion," Harold J. Berman addresses that danger of disconnecting the law from the principles that give the law its validity,

On a more pragmatic level, the trouble with purely intellectual or philosophical analysis of morality is that the very inquiry, by its exclusive rationality, tends to frustrate the realization of the virtues it proclaims. The intellect is satisfied but the emotions, without which decisive actions cannot be taken, are deliberately put aside. Therefore all legal systems require not only that we recognize the proclaimed legal virtues with our intellect but also that we become committed to them with our whole being. And so it is by a religious emotion, a leap of faith, that we attach to the ideals and principles of law the dimension of universality. To say, for example, that is against human nature to tolerate indiscriminate stealing and that every society condemns and punishes certain kinds of taking of another's property is not the same thing as to say that there is an all-embracing moral reality, a purpose in the universe, which stealing offends. And when a society loses its capacity to say *that* – when it rests its law of property and of crime solely on its rational perception of human nature and of social necessity and not also on its religious commitment to universal values – then it is in grave danger of losing the capacity to protect property and to condemn and punish stealing.⁵

Does the law determine what is ethical or does what is ethical determine what is legal? The American understanding of right and wrong is based on moral principles. The law is the fruit of these principles, and all actions taken by the state and in extension the individual citizen, are subject to the moral principles, as well as laws that propagate the moral principles proclaimed in the DOI any law that does not seek to build on the principles in the DOI is not ethical and must be changed. It can then be deduced that war entered in by the America people must have as its basis American moral principles.

Just War Based on a Just Ethic

By extension the United States Constitution, the United States Code, the Uniform Code of Military Justice, executive orders, treaties, and the Law of Land Warfare are all foundations of the Army Ethic, which is arguably the American ethic.⁶ It is hard to rationalize that the Army would have another ethic than that of the nation that it serves. What differentiates the mission of the U.S. Army from the domestic application of just war is its responsibility to apply American moral principles to the complexities of LSCO using *jus in bello* principles. To declare war on another nation there must be a breach of the foundational moral principles that are upheld by the American people. The oath of office for enlisted, commissioned officers and Department of the Army Civilians is proof of this as the beginning of the oath states that anyone who swears the oath will support and defend the Constitution. It is then an injustice based on the moral principles translated into law in the American Constitution that give the nation a plum line, a truth, by which an injustice can be determined.

Only when there is a clear and established just ethic can a sovereign nation begin to operate in the *jus ad bellum* principles. At this point there is a foundation to make the determination that an injustice has occurred. In essence any action that potentially challenges the sovereignty of America as a nation must be measured against the truth of the moral principles found in the DOI and brought to life in the United States Constitution, this is the first step of making the determination that going to war is right.⁷

The remaining considerations for making the determination for going to war are *competent authority*; this principle asks whether or not the individuals making the decision have the authority to uphold justice, assure order and national security in the name of the sovereign nation.⁸ The principle of *comparative justice* delves into the question of whether or not it is right to go to war knowing that it will cause more harm than good.⁹ The assumption is that more good will come from going to war than bad. This is a utilitarian argument that must be calculated using the moral principle of equality of opportunity; will the war bring equality back into balance and ensure a greater access to life, liberty and the pursuit of happiness? This speaks to the next principle of *right intention*, the intention for going to war must be to bring about peace. The intent of the war cannot be for glory or to punish, humiliate, or conquer the enemy.¹⁰

Once again, the considerations for going to war are based on laws that are founded in the moral principles that founded our nation which means that war is regrettable any time it becomes necessary and that it is only entered into as a last resort and all nonviolent alternatives have been exhausted. The principles of *right spirit* and *last resort* shape the very nature of war in a way that permits the Soldier to kill the enemy knowing that there is no other option. Finally, the *jus ad bellum* principles of *probability of success* and the *proportionality of projected results* allow for the consideration of the cost associated with going to war. Can the war be won, and will the losses associated with winning be too high a price to pay for victory are critical questions which must have sure answers before committing to going to war.¹¹

When there are clear and concise moral principles and appropriate laws that flow from these principles there is a basis from which to make the determination to go to war using the principles of *jus ad bellum*. As a plumb line represents true verticality establishing the base from which construction can progress the moral principles as declared in the DOI are the reference by which injustice can be determined. This means anything not congruent with DOI moral principles is evidence of a breach of justice. Once an act is deemed to be unjust and the resulting decision is made to go to war using the *Jus ad bellum* principles there is a shift from domestic American law and international law to the principles of *jus in bello* and the Law of Armed Conflict (LOAC).

Executing a Just War

Jus in bello principles are the standards Americans use to fulfill their obligations of going to war under the *jus ad bellum* principles. These principles are flushed out in the LOAC and further the moral principles upon which the nation is founded. They are the left and right limits that guide the overall execution of the war and help maintain the overall goal of correcting the clearly defined injustice. Proportionality in the use of force, discrimination or distinguishing between combatants and noncombatants, the avoidance of evil means good faith, which is treating the enemy like they are equals in the sense of their humanity are vital elements of fighting a just war. The moral principles on which our nation is founded are extended to our enemies to fight a war that is good, therefore just.

The final principles of *jus in bello* allow for any changes that may occur in war that change the original understanding of American capabilities as determined by *jus ad bellum* considerations allowing for the reconsideration of the *probability of success, proportionality of projected results, and right spirit*.¹²

It is at this juncture of *jus in bello* and *jus ad bellum* that the Judge Advocate General Corps (JAG) steps in to provide clarity in the execution of a lawful war. The JAG Corps provides principled counsel as one of its four constants. Principled counsel is professional advice on law and policy grounded in the Army ethic and enduring respect for the rule of law, effectively communicated with appropriate candor and moral courage that influences informed decisions. The law does not operate outside the Army ethic instead moral principles are aligned with American beliefs, values and the laws they gave birth to shaping the execution of war.

The law alone cannot provide the commander on the ground sufficient guidance, in and of itself, in every situation that LSCO will present on the battlefield. *ADP 6-22* makes it clear that there will be situations of uncertainty, where the rules do not provide clear, courses of action, and that Army professionals must base their decisions and actions on the moral principles of the Army ethic. The Soldier on the ground must live by and uphold the moral foundations of the Army ethic. This is to be done with the assistance of the JAG Corps as principled counsel and masters of the legal landscape in conjunction with the decisive nature of the just war principles that provide clear purpose for the war.

Having a clear purpose will allow all war fighters to have the most complete understanding of how they must carry out the overarching mission in LSCO. As the U.S. Army transitions from what was predominantly COIN operations in an operational environment that allowed for robust decision-making time due to dominant air power to a war that potentially pits America against a peer or near peer adversary with equivalent capabilities it is of the highest urgency that maximum clarity be provided to the war fighter on how to carry out the mission specifically when it comes to decisions centered around killing the enemy.

Any future LSCO battlefield is going to be unpredictable and unlike anything experienced in recent history. According to U.S. Army Training and Doctrine Command (TRADOC), “The Army can expect that LSCO will be characterized by multidomain threats on an increasingly transparent and lethal battlefield across multiple theaters. Our adversaries will capitalize on the democratization of technology and advance in robotic and cyber systems to confront the U.S. Army in every domain.” Considering the scale, scope, and violence of LSCO – as envisioned by TRADOC – the rules of engagement will need to be permissive to effectively execute mission command with the appropriate level of control.¹³

To win a large-scale combat operational war there must be shared understanding of American moral principles and the laws that reflect these principles. The principles of just war must be understood by the lowest ranking members of the Army who will carry out the killing on behalf of the American people. All aspects of the execution of a just war must be aligned with the moral principles found in the DOI which must flow through all applicable laws derived from the Constitution. Principled counsel given by the JAG Corps in support of carrying out a just war will be vital to victory, but not all sufficient. Neither will the rules of engagement cover every possible scenario that may arise in a LSCO environment.

American success in future LSCO will rest on the certainty found in a just ethic that sustains the execution of a just war. There can be no just war without a just ethic to guide the American warrior. As a nation America is

committed to equality and to expending her resources for just causes that have clear end points and measures for victory. Anything short of aligning American moral principles, laws, and applicable just war principles will reduce the likelihood for an America victory in large-scale combat operations in the future. A just war founded on a just ethic on the other hand provides a solid foundation for future victory in any combat environment to include LSCO.

Endnotes

- 1 Bob Villa, *The Plumb Bob: What Is This Tool, and How Do You Use It?*, February 27, 2025, <https://www.bobvila.com/articles/495-the-plumb-bob/>.
- 2 Headquarters Department of the Army, *Army Leadership and the Profession* (ADP 6-22). (S.L.: Lulu Com, 2019), 1-7.
- 3 Simon Blackburn, *Ethics A Very Short Introduction*, (Oxford: Oxford University Press, 2001), 118.
- 4 Department of the Army, *Army Leadership and the Profession*, 1-7;1-47.
- 5 Harold J. Berman, *The Interaction of Law and Religion*, (Nashville New York: Abingdon Press, 1974),38-39.
- 6 Department of the Army, *Army Leadership and the Profession*, 1-7; Table 1-1.
- 7 Daniel R. Heimbach, *Fundamental Christian Ethics*, (Nashville; B&H Academic, 2022), 441.
- 8 Ibid.
- 9 Ibid.
- 10 Ibid.
- 11 Heimbach, *Fundamental Christian Ethics*, 442.
- 12 Heimbach, *Fundamental Christian Ethics*, 442-443.
- 13 Lt. Gen. Milford Beagle Jr., Lt. Gen. Joseph B. Berger III, Lt. Col. Jack D. Einhorn, “Lethal Force, Risk, and LSCO Preparing for Permissive Rules of Engagement in Large-Scale Combat Operations.” *Military Review Online Exclusive*, (2025): 1-11. Accessed February 28, 2025, <https://www.armyupress.army.mil/Journals/Military-Review/Online-Exclusive/2025-OLE/Lethal-Force-Risk-and-LSCO/>.