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COMMENTARY

ON THE JUSTICE AND PRUDENCE OF THIS WAR

James V. Schall, S. J.

Ad hoc quod aliquod bellum sit justum, tria requiruntur. Primo quidam auctoritas principis, cujus mandato bellum est gerendum . . . . Secundo, requiritur causa justa, ut scilicet, illi qui impugnantur propter aliquam culpam impugnationem mereantur . . . . Tertio, requiritur ut sit intentio bellantium rectam qua scilicet intenditur vel ut bonum promoteatur, vel ut malum videtur.¹

Prudentia est bene consiliativa de his quae pertinent ad totam vitam hominis, et ad ultimum finem vitae humanae. Sed in artibus aliquibus est consilium de his quae pertinent ad fines proprios illarum artium. Unde aliqui, inquantum sunt bene consiliativi in rebus bellicis vel nautibus, dicuntur prudentes duces vel gubernatores, non autem prudentes simpliciter, sed illi solum qui bene consiliantur de his quae conferunt ad totam vitam.²

¹ St. Thomas Aquinas, Summa Theologiae, I-II, 57, 4, ad 3, “De Distinctione Virtutum Intellectualium.” Translated by the author as:

In order that some war be just, three things are required. The first is the authority of the prince, under whose mandate the war is waged . . . . Secondly, it is required that the cause be just in order namely that those who are warred against deserve to be attacked because of some fault of theirs . . . . Thirdly, it is necessary that there be a right intention on the part of those attacking, by which it is intended either to promote good or to avoid evil.

² St. Thomas Aquinas, Summa Theologiae, I-II, 40, 1, “De Bello.” Translated by the author as:

Prudence means to consult well about those things that pertain to the whole life of man, and to the ultimate end of human life. But in things of art (craft) consultation is about those things which pertain to the proper ends of those arts.
I

The thesis of this essay is, briefly, that the present war against what is called "terrorism" can be considered both just and prudent because objective reasons exist that permit this war to be properly so designated. This position does not mean, be it noted, that a just and prudent war cannot be lost or cannot fail in its main objectives or cannot lead to something worse. Each of these alternatives is possible in spite of the fact that a war may be engaged in for just and prudent reasons, with legitimate and limited means. Nor does it imply that this conclusion concerning practical justice and prudence is more than a sensible "opinion," in the technical sense of that word. An opinion, while being aware of certain arguments against its position, articulates as the stronger case reasons for such military actions against a specific enemy with a record of actual terrorist deeds.

That is to say, since all practical things, including especially wars, can in principle be otherwise, grounds, however well or ill formulated, always exist for maintaining that this war, or any given war, is either imprudent or unjust or both. Those constitutionally responsible for the decision to engage in war have to examine the various arguments and events that are available. They have to judge their validity or purpose. They have to act on the basis of their own understanding of the situation at hand. Leo Strauss has written that "[t]here is no expert who can decide the prudent man's vital question for him as well as he can."\(^3\)

Political authority is not a substitute for divine omniscience or providence, let alone divine power. It must often, perhaps always, act with partial knowledge. And any decision not to act in serious situations is itself a choice and falls under the same restrictions of the finite limitation of available knowledge that may itself be either prudent or imprudent. Still, after all the precautions are taken, just men die in unjust ways, both in an Athenian democracy and in Jerusalem under the sober Romans. Such events stand at the intellectual beginnings of all political and legal philosophy.\(^4\) The present efforts to act justly with the

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Whence some, insofar as they consult well in military affairs or in naval affairs, are said to be prudent leaders or captains, but they are not however simply prudent. Those only (are prudent) who consult well about those things that refer to the whole of life.


use of force are classically efforts to avoid putting a nation in a moral conflict with itself that would make its efforts to defend itself seem or be unjust.

Action in threatening war situations again does not allow us to delay too long in making a decision, nor does it normally allow us to do nothing. An enemy may gravely wound us once. But if he tells us that he intends to repeat his lethal actions on a yet greater scale with an obvious capacity to do so, and we do nothing to prevent further damage, we are responsible and have no further excuses.

Moreover, other reasonable grounds, aside from the arguments presented here, can be given for arriving at the same conclusion about this war's justness or its prudence. It is the nature of the ethical and political life that practical decisions must be made about contingent things that can be otherwise. Granted that this contingency is the objective situation, we can, and often must, make good and reasonable decisions that do not exhaust every examination into all the possible alternatives. There is nothing wrong in the fact that we human beings do not have such divine power to know everything before we must act. God did not intend us, as it were, to be gods. What it means to be a political animal is precisely to have the necessity and need to act on partial knowledge, though this fact does not deny that some knowledge is better than other knowledge, nor does it deny the objectivity of the distinctions between good and evil, the just and the unjust.

One's own just and reasonable judgments, furthermore, will be met by reasons and opinions of an enemy who is likewise seeking to achieve his own ends and to make a case for the justice of his own cause. No enemy, even be he the worst of tyrants, is without his own, often persuasive, at least to him, arguments. We should note that Osama bin Laden himself has used every means to claim that these attacks on America are justified as reprisals for the support of Israel or for its presence in Islamic lands. On this basis, he has even claimed that the much-insisted upon distinction between soldiers and civilians does not exist for him. All are guilty, even the three thousand killed on September 11. By this logic, should he kill six hundred thousand with a nuclear or biological weapon, as many think him or his allies capable of doing, he would give the same remorseless reason. Such a man is not open to argument or persuasion.

To be sure, it is not impossible to conceive a war in which both sides have "reasonable" grounds, just as we can imagine a war in which neither side possesses them. Presumably in the history of mankind, the more dangerous and threatening party frequently wins on the field of battle. As the saying goes "the 'good guys' often lose ball games."
realization that in political or military affairs, the virtuous do not always win is itself grounds to recall that politics is not and cannot be the location wherein all rights and all wrongs are rectified or rewarded. The origins of totalitarianism are not unrelated to such claims of omniscience on the part of human states to right all wrongs by their own means and ideas.

Victory or defeat in war, consequently, is not by itself a conclusive sign of moral virtue or vice on the part of either the victor or the vanquished. The world is full of lost causes, many of which on moral grounds should not have been lost. Our polities are filled also with imprudent and unjust laws and actions. As the peace following World War I seems to suggest, our very frontiers can be unjustly drawn. But this fact does not justify a position of moral or intellectual paralysis or impotence. The actual life of men is filled with the need to make clear and indeed good decisions in perfectly awful situations. Those who seek political positions in established polities ought to know this aspect of the human condition since, as St. Thomas indicated, it is under their aegis that their established “authority” for prosecuting a given war is established and moved. They also need to know that chance and other unexpected factors, such as fatigue and virtue or its lack, will invariably play a role in human practical affairs and particularly in wars. Some wars are won by chance, others are lost, but from this we can conclude nothing of whether they are just or not.

II.

First, a few considerations about justice and prudence are in order. The more difficult question in this war is not whether it is just, but whether it is prudent. One’s cause, in other words, may be just, but it may not be prudent to pursue it. The party with the clearly just cause may not have the means to pursue it. Likewise, it may be prudent to wage the war, but also prudent not to wage the war or to wage another kind of war. Our choices can be between good and good, between good and better, between good and evil, and, alas, between evil and evil, or better, evil and the lesser evil. “In this world of sin, imperfection, and suffering, men and states are sometimes confronted with dreadful choices, and they cannot refuse to choose because they do not like either of the alternatives” – so Herbert Deane sums up St. Augustine’s sober realism in this matter. The timorous refusal to make an agonizing choice

is itself a sign of inhumanity, not virtue.

We may not like it that actual human life can be so complicated or dangerous, but not to know that it is in fact often complex and perilous is a product of naivity, not of insight or of intelligence about human affairs. Murphy's famous law - if a thing can go wrong, it will go wrong - is applicable in no place more poignantly than in the wars fought by our kind against one another. That things will go wrong is a simple reaffirmation of the enormous complexity of knowing what is a wise decision in war, especially a war of this kind. Wars - again recall World War I - are notorious for turning out other than its participants had planned or even imagined. But again, this obscure and dire perplexity often found in the human condition cannot be used as an excuse to avoid an objective issue that must be faced. The cost of a failure to do something is a loss of human meaning and worth.

In practice, no virtue, especially justice, can be fully what it is unless it is also prudent. The same action can be and should be both just and prudent. It is one thing to ask whether our cause is just, but another to ask whether what we do about it is wise or prudent. Prudence (phronesis) is the intellectual virtue of the moral virtues. It is primarily concerned with our ultimate end. It sees all human things, including war and evil, in the light of our whole life, in the light of "the ultimate end of human life," as St. Thomas put it. Prudence is the stamp of our intellect on the particular actions that we choose to put into existence, actions that need not be this way or that way, but nonetheless are put into being by our knowledge and choice.

Aristotle tells us that the criterion of morality is "what the good man would do" in these same circumstances. This criterion merely means that an objective "rightness" can and should be found in the action that we choose. A thing is not right because we "make" it right, but because we do the right thing granted the objective situation before us. We do not ourselves create or establish the fundamental distinctions between good and evil, though we can and must articulate them in particular circumstances. That rightness we discover is embodied in the "reason," the "practical reason," that makes this act to be this act and not some other act. The act's "whatness," its final formulation, comes from our reason and defines what it is that we do in its moral dimension. Prudence, in this sense, is the most necessary and highest of the practical virtues since it includes the other moral virtues within its own orbit of reason governing action towards the highest human end which man

6. ARISTOTLE, ETHICS, 1113a25-35, 1144a35.
through his will is choosing to reach by intelligent means.

III.

This emphasis on prudence does not eliminate or mitigate the importance of justice as itself another virtue but rather places it within the order of what it is we ultimately do with our actions, including war actions. As St. Thomas indicated, we can talk of “prudence” in our war actions themselves, what we will do this day (i.e., fight at Delion or Amphipolis, at Gettysburg or Bull Run), but that lesser military prudence, however necessary and valuable in itself, falls under the overarching judgment about the war itself, its purpose and justification. Justice is the virtue that directly relates us to others, to what is their “due.” It is the habitual effort and ability to do what is just in each particular circumstance that involves others to whom we are related under the aspect of some voluntary agreement or some involuntary fact, such as an accident or a crime. In justice, we normally do not know personally the other person with whom we become related. But we still “owe” him what is right in the circumstances and action of our relationship, however it came about.

Philosophers from Cicero to Augustine and St. Thomas have found it necessary to ask the troubling, even paradoxical, question of whether war was always unjust, as seemed at first sight to be the case. We still hear many cries to “abolish war” or that all war is wrong. Though soldiers are praised in the New Testament, many early Christians wanted nothing to do with war, especially a military service or war that required an oath to pagan gods.

The theoretic context of the question of just war goes back to philosophic considerations about the virtue of courage (Andreia). This virtue brought up the question, as its peak expression, of one’s death in battle or in some other case of injury wherein the death or injury was noble because it was met upholding something worthy, the life of the nation, of the innocent. Cowardice, on the other hand, means precisely not dying, staying alive at any cost as if nothing were higher than this life. Hence cowardice meant not upholding the principle that was faced in the occasion when refusing to be brave was chosen above death for principle. It is the worst of ignominies to be alive because we refused to be brave so that others suffered or died because of our lack of courage.

However, as any life was worthy, including one’s own, it was permitted to defend oneself or others from violent, unjust attack. Again there was a question of proportionate means, but the essential priority of innocent
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Life was present. No “right” or “claim” directly to take an innocent life could be sustained. It followed from this premise that courage was the first and most basic virtue for without it, without the life it defended, nothing else could exist. Courage was the virtue directly devoted to preserving, as a good thing, our own lives. Courage was the military virtue and its nobility was related to defending the lives of others who could not defend themselves. Armies and police forces became the public locus of this virtue, of this civil or official defense of life and right against unjust attacks.

Thinking about war and justice resulted in efforts to spell out in some detail the criteria whereby someone might claim to be acting justly even in war. This thinking combined two related questions: Was the war itself reasonable? Were the means used to pursue it also reasonable? St. Thomas, in his famous question on war, gave three brief, but incisive criteria: (1) Under what authority was the war declared? He answered that it had to be the reason or authority of the proper ruler. (2) The cause had to be “just.” (3) The intention in going to war and fighting it had to also be proper. These remarkably simple and penetrating criteria have never been improved upon, though today we are want to spell them out in more detail. St. Thomas was probably wise in leaving them brief. Actually, in considering whether the present war is just, the brevity of St. Thomas seems most appropriate.

However, let me list here the more lengthy, but still pithy, criteria for a just war, a list that is intended to spell out more thoroughly the three basic principles of Thomas Aquinas, which itself reflects the thought of Cicero and Augustine on this topic. I shall cite the list of Professor J. Budziszewski, at the University of Texas. Budziszewski, following the historic precedent, distinguishes two sets of criteria, the *jus ad bellum*, the reasons for going to war, and the *jus in bello*, what is permitted while waging war.

The criteria for justly declaring war are seven:

1. Public authority. War must be declared by a legitimate government. Private individuals and groups cannot do it. 2. Just cause. War must not be waged except to protect innocent life, to ensure that people can live decently, and to secure their natural rights. 3. Right intention. Not only must there be a just cause to take up arms; this just cause must be the reason for taking up arms. Our goal must be to achieve a just peace. 4. Comparative justice. War should not be waged unless the evils that are fought are grave enough to justify killing. 5. Proportionality. There must be reason to expect that going to war will end more evil than it causes. This means not
only physical evil, but spiritual – not only destruction of bodies and buildings, but corruption of callings and virtues. 6. Probability of success. There must be a reasonable likelihood that the war will achieve its aims. 7. Last resort. War should not be waged unless a reasonable person would recognize that the peaceful alternatives have been exhausted. 7

The criteria for how the war can be fought are three. These criteria assume that the war is properly declared and that it is just to wage it.

1. Right intention . . . [T]he goal must be to achieve a just peace. Therefore, we must avoid any act or demand that would make it more difficult for our enemies to reconcile with us some day. 2. Proportionality. We must never use tactics that can be expected to bring about more evil than good. 3. Discrimination. Even though harm might come to them accidentally, directly intended attacks on noncombatants and nonmilitary targets are never permissible. 8

Each of these points, when clearly presented, can be understood by the average citizen as general rules or criteria. The assumption clearly is that the citizens of a nation at war should understand its terms as they are involved in its justice or injustice. It is in the light of these considerations that we can examine whether the present war against “terrorism,” in the opinion of reasonable people, can be considered to be just and prudent. But it should be remembered that the judgment of the war’s justice and prudence is in the hands of the legitimate authority who, by the very nature of the situation, know more of the nature of an enemy, the causes, and the means and strategy to carry out a legitimate defense or offense.

IV.

Let me stress here how important it is to realize that “just war” teaching is largely a question of persuasion, of persuading the enemy that the charges against it are true and just, of persuading the citizens of the warring country and its friends that its reasons are clear, spelled out, worthy of intellectual respect. In this sense, the main burden of the war

is not on the field of battle but in the explanations presented for its reasonableness. In a famous passage, Aristotle wrote:

The state is a creation of nature and man is by nature a political animal. And he who by nature and not by mere accident is without a state, is either a bad man or above humanity . . . . Nature as we say, makes nothing in vain, and man is the only animal whom she has endowed with the gift of speech . . . . The power of speech is intended to set forth the expedient and inexpedient, and therefore likewise the just and the unjust. And it is characteristic of man that he alone has any sense of good and evil, of just and unjust, and the like, and the association of living beings who have this sense makes a family and a state.\(^9\)

The power of speech is precisely to "set forth" the just and the unjust, good and evil. Without this "setting forth," as it were, the clarity of conscience in which a nation can go to war is not established before the "opinions of mankind." In this sense, it is an impediment to victory when the people justly going to war do not have at hand the "just" reasons that explain their actions.

The immediate "cause" of the present war was not imagined on September 10, 2001, except by a very few people, mainly by those who carried the attacks against the United States to completion. Certainly, the United States was unprepared for this kind of war, for this "act of war" against its very people and soil. One might argue that this unpreparedness was related to the previous decade of introversion and lack of understanding of the real conditions of the world. Certainly, contributory was the relative weakening of the FBI, the military services, and the CIA, organizations primarily responsible for knowing about such attacks in advance and for protecting the nation against them. The famous adage, "eternal vigilance is the price of liberty" was certainly not prominent in the years and days before this attack.

The unexpected attack on three major American buildings, and the evident intention of the fourth plane to hit another major edifice, killed some three thousand human beings. It was an accident of time of day and the heroic response of firemen and others that many more were not killed. But enough were killed to remove any doubt about the intention of the attackers. Those killed were mainly Americans but others from as many as fifty other nations were also present in one or other building when the attack planes hit.

The nation was thus fortunate that the damage was not far greater than

\(^9\) ARISTOTLE, POLITICS, 1253a2-18.
it was, but as it was, the damage in terms of lives and property was a major blow. The ensuing financial and economic loses, in terms of undermining confidence in air travel and later, with the anthrax issue, the post, together with continuing threats of further attacks on a world scale, are almost incalculable, certainly in the trillions and trillions of dollars. Civil society lives on trust and the assumption of safe exchanges and communications. Since the attacks were intended not only to kill people but also to spread civil chaos, though by no means fatal, they succeeded very well.

In terms of the just war doctrine, the cause of the war declared against “terrorists” was clearly just. It was the killing of innocent civilians and the immediate threat of further acts of terror of the same or greater scope. In the Parisian newspaper, La Croix, Archbishop Jean-Louis Turan, Vatican Secretary for Relations with States, affirmed:

We recognize that Operation Enduring Freedom (the name of the American counter-measures) is a response to the terrorist aggression against innocent civilians, acts that violated all international laws and humanitarian norms. Today we all recognize the United States Government, like any other government, has the right to legitimate defense, because it has the mission to guarantee the securing of its citizens."

This position certainly appears to describe the general American understanding of the situation and of what it must do. Any government is obliged to protect its own people from such attacks, to identify and neutralize those who carried them out and those who threaten to carry out further attacks. At this level, there seems to be no real problem. Not only is the cause just, but it is the duty of government to respond to it in an effective and forceful way that combines what Jacques Maritain once called “justice, brains, and strength." The proper political authority was invoked and the right intention was articulated.

The intention of the war has not been pictured in terms of “vengeance” or “hatred,” except perhaps the hatred of the evil that fomented such acts. Rather it was articulated in terms of a response to an evil act evidently carried out by a relatively small group of men and organizations associated with certain Muslim movements. President George W. Bush has been quite careful in insisting on or describing the limited nature of the American response. It would be large enough and


persistent enough to find and destroy those camps and organizations, wherever they were found, who conceived and carried out such attacks. Furthermore, it would hold responsible those governments who allowed or fostered these organizations on their land. If at any time, any governments decided to cooperate with this effort, they would be welcome. Repeatedly, it was clarified that the war was not against the Muslim people but against those who used this religion for terrorist purposes. It is difficult to see how these positions are not legitimate intentions and limitations that fulfill the essential points of the just war doctrine as presented by St. Thomas.

The only thing that needs to be added is a certain sense of urgency caused by evident information that suggests these same “terrorists” seek to obtain and presumably use instruments of mass destruction or biological weapons. This urgency explains the need to find and destroy those who proclaim that they would carry the war to the very heart of civilization as a justification for their own complaints or world-view. In this sense, if such terrorists get to us first with a much more terrible attack, we can in part at least blame ourselves for now knowing what we face or how to deal with it.

V.

But is the war “prudent”? Again, most reasonable people would recognize that something had to be done in light of the attack. Certainly to do nothing, whether on the grounds of turning the other cheek or on the general grounds of opposition to war, would seem directly to contribute to and encourage further attacks. Some, no doubt, are willing to accept these attacks as the price to pay for not having “dirty hands” or for suffering evil rather than to do evil. Of course, we should not, morally, either have “dirty hands” or positively do evil. This clarification is what the whole issue of deciding whether the war was just was about. The war against terrorism is a just endeavor. It is conceived as a response to an act of injustice. It is also a well-planned attempt to prevent it from happening again. It is legal having been declared by the competent authorities in due deliberation and decision. Its intention is to stop the terror at its roots.

The most obvious problem concerning the war’s prudence is whether the enemy is correctly defined. No doubt, the enemy is exactly defined. Clearly, President Bush’s first consideration has been to keep the war as limited as possible. Thus, it can be considered prudent to attempt to separate the “terrorists” from the religion of Islam itself, from its history
of military expansion in the name of religion, and from those who are called "peaceful" Muslims. This attempt implies a reading of western history that must deliberately close its eyes to the record of conquest and of the record of actual Muslim states with regard to how they treat their own and other people within their political confines. In this latter light, it might be easy to call the premises of President Bush's explanations seeking to restrict the scope of the problem to be highly suspect, to be missing the real problem. "Islam is an imperialist religion, more so than Christianity has ever been and in contrast to Judaism," the British historian Paul Johnson has written:

The Koran, Sura 5, verse 85, describes the inevitable enmity between Moslems and non-Moslems: "Strongest among men in enmity to the Believers wilt thou find the Jews and Pagans." Sura 9, verse 5, adds: "then fight and slay the pagans wherever you find them. And seize them, beleaguer them and lie in wait for them, in every strategem [of war]." Then nations, however mighty, the Koran insists, must be fought "until they embrace Islam." . . . Koranic teaching that the faith or "submission" can be, and in suitable circumstances must be, imposed by force, has never been ignored. On the contrary, the history of Islam has essentially been a history of conquest and reconquest.  

Clearly, among Muslim peoples throughout the world, there is evidently a great sympathy for the deeds of bin Laden and the attacks on America. Thus, one might argue, it is quite "imprudent" so narrowly to define who the enemy is in terms of a small group of "terrorists." Indeed, to describe those who have engineered and taken part in this attack as "terrorists" and to define the enemy as "terrorism" does seem to miss the fact that these men act like members of an army carrying out orders and following a very "rational" plan, granted the understanding of their own analysis and purpose.

On the other hand, a politician can be excused if he so shapes his policy as to direct the long-range problem into a more manageable form by ignoring it or even pretending it is not a problem. One might think of it as a "platonic lie," that is, an explanation that describes the way the world ought to be now, what is best for us, even though it does not fully correspond to the reality of what goes on in the world. We would like to think, in other words, that most Muslims are peaceful, that they will help

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us find and eliminate "terrorists," even among their own families and states.

By explaining his concept of the war the way he did, President Bush made it possible to reach some sort of agreement on the common denominator of the horror of "terrorism" wherever it appears on the part of all God-fearing men, including Muslims. In a sense, it is a challenge to Islam to be what many of its teachers are now claiming it to be, a peaceful religion. I cannot but think that this is a very prudent approach. It may not work. Indeed, bin Laden seems to think that he will be able to cause a mass rise in Islamic sensibilities towards a world-wide holy war precisely by our efforts to defend ourselves against the annoying and destructive tactics that he and his cohorts have set in motion. The urgency to stop the immediate cause of terrorism as seen in certain militant cells located in some sixty countries is one of the prudential efforts to stop the move to a holy war at its beginning.

In conclusion, it is possible, I think, to be a political realist, that is, to look squarely at what we are up against and the tough means that must immediately be taken, and at the same time to offer prudent and just reasons for our military actions. Things may get worse; in war, they often do. On the other hand, they may get worse if we do nothing or too little. The measured understanding of what we do, the efforts to explain why we act, the efforts to aid those suffering, such efforts make what we do both prudent and just. But it is a war, make no doubt of that. We will see things we would prefer not to see. We may see our own captured men tortured. But we also need to see that the constant reiteration of the patience, the new kind of war against such terrorist cells, the realization that it will take a long time and that we will probably suffer further civilian atrocities, these are implicit in the careful and prudential way that we can pursue this surely just war.