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Just Military Preparedness and Irregular Warfare

In several recent papers, I have argued that just war theory (JWT) is in need of a fourth category of just war thinking (in addition to *jus ad bellum*, *jus in bello*, and *jus post bellum*) with its own principles (van der Linden, 2007, 2009a, 2009b, 2010). I call this category “just military preparedness,” or, in line with the commonly used naming of the other JWT categories, it may be called *jus potentia ad bellum*, or, more briefly (but less accurately), *jus ante bellum*. Military preparedness raises two types of justice concerns. First, we may raise questions about whether the military preparation of a country is just toward its military personnel, places a fair burden on the civilian population, reflects adequate civilian control, and the like. Second, we may raise questions about whether the military preparation of a country is such that it is conducive to the country resorting to force only when justice is on its side as well as to executing and concluding war in a just manner. My ultimate concern is military preparedness that is just in the second sense – that is, how should we prepare for the possibility of military conflicts so that wars will be only justly initiated, executed, and concluded? However, since military preparedness that lacks justice in the first sense will be an obstacle to realizing justice in the second sense, my JMP principles also aim at addressing justice in the first sense.

My main focus in this paper is to explore the significance of JMP for just war thinking, especially with regard to irregular warfare. I will proceed as follows. First, I will

state six just military preparedness (JMP) principles and briefly explicate each of them in general (rather than with regard to irregular warfare only). Next, I will discuss how America's military preparation fails the JMP principles and how this negatively impacts its capability to justly initiate, execute, and conclude (irregular) war. My point of departure here will be Defense Secretary Robert Gates' view that the Pentagon needs to be "reprogrammed" toward a "balanced strategy" of preparing for both conventional and irregular warfare.

I. *Just Military Preparedness Principles*

1. *The basic defense structure of a country, should accord with its general purpose of using military force only for the sake of protecting people against massive human rights infringements caused by large-scale armed violence.*

Explication: It is widely accepted that national self-defense, assisting an ally in its national self-defense, and protecting a population against genocide are just causes for war. This first JMP principle assumes that the rational core of these causes is that resort to force is only justified to protect against massive human rights violations. Notably, mere violation of territorial integrity is not an adequate cause for resort to force (cf. May 2008, 103). Terrorist acts typically require police action, not a military response (Cortright and Lopez 2007). The principle requires weapon systems appropriate to the tasks of human rights protection by force. Most obviously, this means that nuclear weapons should be abolished and that a weaponization of space should be avoided (Van der Linden 2010). The principle also requires a defensive military posture, not global power projection (Van der Linden, 2009a).

2. Military personnel should be trained with this general purpose in mind and participate in moral decision-making concerning the initiation and execution of military force.

Explication: The military as experts of human rights protection by force should be experts in avoiding excessive force. Current military training in the United States falls short in this regard. Timothy Challans (2007, 24) writes: ‘The vast majority of military students I have personally taught in the classroom have many malformed moral beliefs. [M]ost justify [an] exorbitant degree of collateral damage...harsh and coercive interrogation measures [and] they are more than willing to err on the side of excessive force.’ In the words of Challans (2007, 186), the second JMP principle also requires the existence of “legitimate avenues of public reason and disagreement, dissent, and disobedience within the war machine.” Increased moral competency among military personnel reduces the risk of wrong resort to force, protracted unjust wars, and the erroneous continuation of (an otherwise just) military conflict. A corollary is that military personnel should have a full right to selective conscientious refusal.

3. The way that the military draws its personnel from the population at large must reflect that preparation for, and possible execution of, resort to military force is a collective choice and enterprise that impacts the moral standing of all citizens of a society and should be expressive of their values.

Explication: In a democratic society, resort to force should reflect the will of the people and the moral burdens of war should ultimately rest with the people. A military that is culturally, socio-economically, ethnically (and so on) not reflective of the citizenry is more likely to engage in alienated wars defined as wars that are fought in the name of

the people but are not viewed by the people as an expression of their will and responsibility (cf. Ryan 2008). Resort to force becomes easier with an alienated military (Bacevitch 2005). The principle requires an end to the Don't Ask, Don't Tell policy within the American military. Similarly, there should be a full integration of women into combat units.

4. Priority should be given to nonmilitary means of preventing massive human rights violations caused by armed force.

Explication: As President Obama noted in his Acceptance Speech of the 2009 Nobel Peace Prize, “no matter how justified, war promises human tragedy ... [it] is never glorious, and we must never trumpet it as such.” Accordingly, priority should be given to prevent threats from materializing rather to meet them militarily. Few politicians do not pay lip service to this point; however, it is as widely acknowledged in theory as it is ignored in practice.

5. The value of security (against the threat of massive human rights violations by armed force) and the resources committed to this value must be balanced against other human values (e.g., education and health) and the resources set aside for their realization.

Explication: The growing nuclear stockpiles during the Cold War illustrate that increased military spending may make us less secure, but even increased spending that contributes to our security must be questioned in light of both its opportunity and actual costs. Two public policy issues that have recently received much attention exemplify the significance of the fifth JMP principle: military preparation, not to speak of actual war, is costly in terms of global warming, while the increasing resources spent on the military

during the past decade must be questioned in terms of the resources needed to provide basic health care to all Americans.¹

6. *Matters of military preparedness should be settled by a competent authority with right intention (e.g., military preparedness for human rights protection, not for profit and employment opportunities).*

Explication: In a democratic society, the representatives of the people should be this competent authority, requiring them to communicate openly and honestly with the citizens about the costs and benefits of competing JMP proposals. The defense budget should be transparent to the representatives and they should allocate resources free from pressures of weapons manufacturers, local employment opportunities, and the like.

II. *Seeking Balance: the Small Picture*

As suggested in my brief explications of the JMP principles, I hold that the United States fails to satisfy the JPM principles and so clearly falls short of just military preparedness. In a way, this is hardly a radical view. In “A Balanced Strategy: Reprogramming the Pentagon for a New Age,” Defense Secretary Robert Gates makes a variety of critical observations about the military preparation planning of the Pentagon that underline to some extent that the United States fails to satisfy the JMP principles, even though Gates would undoubtedly be critical of my specific interpretation and explication of the

¹ Arguably, several ten-thousands Americans die prematurely every year due to lack of health insurance. See <http://www.factcheck.org/2009/09/dying-from-lack-of-insurance/>. Of course, there are other ways of addressing this situation besides shifting tax dollars from defense to public health care, but to question defense allocation from this perspective has the merit that it might put a dent in the habitual support of politicians and the public at large for the Pentagon budgets.

JMP principles. On his account, the Pentagon presently fails to strike a proper balance between allocating resources for ongoing wars, maintaining conventional military superiority, and developing greater counterinsurgency capabilities (Gates 2009, 1-2).² The main problem is that the Pentagon is wedded to fighting conventional wars rather than committed to fighting the irregular wars that the United States increasingly has fought in the recent past (since the end of the Cold war) and will increasingly fight in the immediate future. Gates (2009, 2) writes: “Support for conventional modernization programs is deeply embedded in the Defense Department’s budget, in its bureaucracy, in the defense industry, and in Congress. My fundamental concern is that there is not commensurate institutional support – including in the Pentagon – for the capabilities needed to win today’s wars and some of their likely successors.” Gates (2009, 6) notes that one aspect of this conventional orientation of the Pentagon is that its weapon systems “have grown ever more baroque, have become ever more costly, are taking longer to build and are being fielded in ever-dwindling quantities.” Gates (2009, 7) adds that American soldiers paid a price for this high-tech fixation, posing the rhetorical question, “why was it necessary to bypass existing institutions and procedures to get the [low-tech] capabilities needed to protect U.S. troops and fight ongoing wars?”

In short, Gates’ observations confirm that the American military preparation violates the sixth JMP principle, the competent and right authority principle, and show that as a result the first JMP principle is also violated. After all, inadequate preparation for irregular warfare means inadequate preparation for how to use force to protect people from massive human rights violations through asymmetric violence.

² Page references are made to the electronic copy (10 pages) of Gates’ article in the Academic Search Premier database.

Interestingly, Gates even suggests (indirectly, to be sure) that current military preparation fails in terms of the second JMP principle. He writes: “The United States needs a military whose ability to kick down the door is matched by its ability to clean up the mess and even rebuild the house afterward” (2009, 4). Gates (2009, 4) notes that “impressive strides” have been made in better equipping and training military personnel for this purpose. Yet, at the same time, there are “cultural traits’ within the American military blocking progress in this regard. Notably, “we should look askance at idealist, triumphalist, or ethnocentric notions of future conflict that aspire to transcend the immutable principles and ugly realities of war, that imagine it is possible to cow, shock, or awe an enemy into submission, instead of tracking enemies down hilltop by hilltop, house by house, block by bloody block” (Gates 2009, 9-10).

Even though I hold that Gates is correct that American military preparedness must partly shift from conventional warfare to irregular warfare and that institutional and cultural changes are necessary for this purpose, I disagree with his understanding and explication of irregular warfare. Once we define conflicts between states fought by their armies as regular warfare and define all other military acts as irregular warfare, we end up with a notion of irregular warfare that may obscure important distinctions. On this definition, supporting fighters against an oppressive regime, fighting insurgents who challenge our occupation of a foreign country, combating militarily global terrorists who have declared war on the United States, and intervening in an unfolding genocide in a failed state are all forms of irregular warfare. The moral issues raised in each case, however, are rather different; the military training needed might differ in the various cases; and even the kind of military equipment necessary for optimal execution might

not be the same. Accordingly, the issue is not merely to balance preparation for irregular and conventional warfare, but to find a proper balance within the preparation for irregular warfare (broadly defined). My view is that the first priority should be preparation for humanitarian intervention, but I will not try to argue here for this claim.

Not surprisingly, Gates says little about how our JMP failure might negatively impact our capability to justly initiate, execute, and conclude war. His rejection of “shock and awe” points to a link between JMP failure and unjust initiation of force: the fixation on America’s military technological superiority may lead one to fail to take into account all the horrors of resort to force with the result that the *jus ad bellum* principle of proportionality is misapplied. More broadly, technologically based triumphalism may lead one to set aside the last resort principle and even careful reflection on just cause. Surely, Operation Iraqi Freedom was based on technologically based triumphalism with its guiding idea that “Rapid Dominance” could be established through “Shock and Awe.” It is worth recalling that Harlan Ullman (2003) predicted that “2, 3, 4, 5 days” would suffice for complete victory. Gates might be too optimistic that this lesson has been learned, stating that “the United states is unlikely to repeat another Iraq or Afghanistan – that is, forced regime change followed by nation building under fire – anytime soon.” But, of course, the catch here is what is meant by “anytime soon?”

Furthermore, Gates (2009, 8) bemoans that the improvised transformation of the American military in Iraq into an effective counterinsurgency “came at a frightful human, financial, and political cost.” It is not clear whether Gates ignores here, as is so often done, the human costs to the Iraqis themselves, but, to say the least, the Iraqi civilian suffered not only from a drawn-out conflict, as such, but also from an American military

violating the *jus in bello* principle of discrimination (due to its failure to satisfy the second JMP principle).³ The discrimination problem is also partly caused by the use of inappropriate weapons. Gates might be too optimistic about the discriminatory capability of high-tech weapons. He writes: “A button can be pushed in Nevada, and seconds later a pickup truck will explode in Mosul. A bomb dropped from the sky can destroy a targeted house while leaving the one next to it intact” (Gates 2009, 9). But targets are missed, regularly misidentified, or often so blended into a civilian setting that unacceptable collateral damage follows. Generally, it is difficult to upkeep the distinction between combatants and noncombatants in irregular warfare, especially in counterinsurgency. (The problem seems less in humanitarian intervention, underlining my previous claim that it is important to make a distinction between various forms of irregular warfare.) What adds to the problem is the increasing use of private military contractors (PMCs) in irregular wars.

Gates is completely silent about PMCs in his plea for a reprogrammed Pentagon. This neglect is rather striking in light of the currently indispensable role of PMCs in irregular warfare. George R. Lucas, Jr., (2009, 332-33) writes: “It is wholly impossible, at present, to deploy the military forces of any of our allied [NATO] nations for any purpose whatsoever, without the logistical and security support provided by such firms [PMCs] and their contract personnel. This is the sobering reality of post-modern [irregular warfare] operations, the full and stark significance of which most nations, governments, and their militaries have yet to fully confront.” Military preparedness that includes PMCs involves serious violations of the second, third, and sixth JMP principles. What leads to the violation of the second JMP principle is that PMCs set their own

³ For an overstated but still valuable account, see Hedges and Al-Arian 2008.

standards of how to train their personnel morally and militarily. The third principle is violated because PMCs draw their personnel from numerous nations and have an ethic of profit-seeking rather than one of service to the nation. And the sixth PMC principle is violated because PMC operations are not subject to full democratic oversight and control. The violation of JWP principles spills over into violation of traditional just war principles. Military personnel from PMCs have engaged in indiscriminate violence, often without paying any price for doing so, and their blending with American forces weakens the traditional combatant-noncombatant distinction, thus posing additional risks to legitimate noncombatants in armed conflict situations. Credible accusations of corruption and bribery of insurgents have been made against PMCs operating in Afghanistan (Roston 2009). It might also be case that PMC personnel work together with US Special Forces in Pakistan, adding to the problem of inadequate oversight and accountability of covert operations in general (Scahill 2009). We must avoid, though, to make the PMCs an easy scapegoat since it is ultimately Congress and the Pentagon that allow convenient accountability gaps within which various wrongdoings and even war crimes are often committed.

III. *Seeking Balance: the Big Picture*

Gates' main concern is to create balance within the defense budget, but he also notes that there is a misbalance between military spending for the sake of national security and nonmilitary spending for the same purpose. He writes in reference to the "war on terror" that "over the long term, the United States cannot kill or capture its way to victory." Gates (2009, 2) continues: "Where possible, what the military calls kinetic

operations should be subordinated to measures aimed at promoting better governance, economic programs that spur development, and efforts to address the grievances among the discontented, from whom the terrorists recruit.” What Gates has in mind here seems not only that there must be a better balance between nonmilitary and military measures in fighting a counterinsurgency, but, more broadly, there must be a better balance between conflict prevention measures and military measures in general. Accordingly, Gates (2009, 4) argues that the budgets of the State Department and the U.S. Agency for International Development need to be increased. In theory, then, there is recognition that the fourth JMP principle is violated. The insight is not new among politicians. Even the bellicose national Security Doctrine of 2002 (section VII) claims that “including all the world’s poor in an expanding circle of development – and opportunity – is a moral imperative and one of the top priorities of U.S. international policy” because “a world where some live in comfort and plenty, while half of the human race lives on less than \$2 a day, is neither just nor stable.” In fact, this “top priority” receives very modest funding as compared to defense funding, leaving American foreign policy militarized. To be sure, budget increases for total foreign operations, including economic assistance, have been greater in the past few years than the budget increases for defense, but total foreign operations for FY 2010 is still less than 10% of the defense budget and economic assistance is less than 5% (Congressional Budget Justification Foreign Operations, FY 2010, 1-2).⁴ This is in sharp contrast to the ratio of official development aid to military spending found Western Europe, ranging up toward 50% in The Netherlands, Belgium, and Denmark.

⁴ I have not taken into account here that the 2010 international affairs request includes financing for foreign military (about 10% of the total budget) and that the US military budget is partly located under budgets other than that of the defense department.

Granted that there is a serious imbalance between preventive and defensive security measures, it must be concluded that American resort to force has at the outset a moral strike against it. Once a country fails to invest adequate resources in war prevention through poverty relief, fair trade, and diplomacy and other nonviolent conflict resolution strategies, and instead places most resources for security in the military, its claim that its resort to force in a given situation was a last resort measure has at the outset greatly diminished plausibility. A credible JWT, then, must insist that the United States greatly rebalances its preventive and defensive security spending.

Considering that more than 50% of all federal discretionary spending is on defense, the only viable way to affect a significant rebalancing is to cut defense spending. The fifth JMP principle also suggests a need for a reduced military budget. So the question must be asked whether there is a convincing justification for the United States spending about half of the current global military expenditures and outspending its closest competitor (in terms of military spending), China, by ratio of approximately 10 to 1. Why do we need to project our military power across the world and maintain an “empire of bases” (Johnson 2004)? Some common answers are that American military hegemony is necessary for securing access to oil and other resources, for expanding or keeping open markets for American corporations, or for creating employment opportunities at home. These answers have explanatory merit, but they fail as normative justifications (in accordance with the first JMP principle).⁵ These answers have explanatory merit, but they fail as normative justifications (in accordance with the

⁵ To avoid misunderstanding, members of Congress often seem to support new weapon systems partly because of the employment opportunities created by their production, but this does not mean that federal spending on alternatives projects, such as mass transit and infrastructure, might not be better in terms of creating job opportunities. That downsizing the military would be good overall for employment is argued by Pollin and Garrett-Peltier, 2007.

first JMP principle). The common *moral* defense is that American military hegemony is necessary to protect freedom and democracy across the globe, and that this is ultimately for the sake of our own freedom and democracy at home. I think that this defense fails. The American military lacks the authority to play global cop and divide the world -- in an act of stunning hubris -- into regions under its command. In practice, we all too often engage in imposing freedom and democracy (or something much less uplifting) instead of protecting these ideals. Moreover, American wars, even when justly initiated, commonly lead to the establishment of permanent military bases in foreign countries, often against the local popular will (Lutz 2009). Military hegemony may also make us and our closest allies less safe because it has such global security costs as leading to asymmetric attacks against the United States and its allies, as well as to nuclear proliferation (Van der Linden, 2009a, 34-38). Of course, all these claims are controversial and I cannot substantiate them here. But these claims show, at least, that the issue of whether America's recent wars have been justly initiated, executed, and concluded cannot be separated from the question of whether America's military preparation is just, thus underlining my main thesis that JWT should add JMP as a new category of just war thinking.

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