

**LAST RESORT AND COERCIVE THREATS:
RELATING A JUST WAR PRINCIPLE TO A MILITARY PRACTICE**

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I. The Last Resort Principle

Just war theorists are mostly in agreement that recourse to war must be a last resort. Recently, however, Michael Walzer challenged the just war principle of last resort: "I have always resisted the argument that force is a last resort" (2004: 160):

Taken literally [...] "last resort" would make war morally impossible. For we can never reach lastness, or we can never know that we have reached it. There is always something else to do: another diplomatic note, another United Nations resolution, another meeting. (2004: 88)¹

However, according to James Childress, the last resort principle does not require "that all

possible measures have to be attempted and exhausted if there is no reasonable expectation that they will be successful" (1982: 75).² Noting the key term *reasonable*, a pivotal question that I shall raise in this paper is: what are the standards for determining whether it is reasonable to attempt an alternative measure before using armed force? In brief, what are the *reasonableness standards*? Rather than jettison the last resort principle, Walzer's challenge shows the need to investigate the topic of reasonableness standards. By means of reasonableness standards, we should strive to determine whether we have reached lastness. By means of such standards, we should strive to determine whether it is reasonable to transmit another diplomatic note, whether it is reasonable to seek another UN resolution, whether it is reasonable to hold another meeting.

But first I want to make some remarks about just war theories. A just war theory is best construed as a theoretical framework within which the justice or injustice of particular wars – or other forms of armed conflict (e.g., armed humanitarian interventions) – may be debated rationally.³ A main purpose for answering the above question about reasonableness standards is to facilitate the rationality of the moral debate about whether in a particular case the use of armed force is morally prohibited by the last resort principle. Moreover, I think that a just war theory should also be a theoretical framework within which the justice or injustice of particular threats to use armed force may be debated rationally. Eventually, I shall also raise a related question about reasonableness standards: what are the standards for determining whether it is reasonable to attempt an alternative measure before threatening to use armed force? Answering this question should facilitate the rationality of the moral debate about whether in a particular case the threat to use armed force is morally prohibited. Presumably, it is important to have a theoretical framework that is sufficiently politically neutral. Accordingly, while striving to avoid politically controversial

issues – and thus refraining from engaging in political controversies about particular cases (e.g., the Iraq War) – I shall focus in this paper on framework issues about the last resort principle.⁴

Why should a just war theory include a principle of last resort? A fundamental purpose of the *ad bellum* just war principles should be to morally constrain agents from engaging in unjust wars. When agents deliberate about whether to engage in a war, they should make the strong moral presumption that they must not. To override this presumption, they have the rigorous burden of proving that those principles really are satisfied – that is, they have the rigorous burden of proving that there really is a just cause for engaging in the war, that war really is a last resort, and so forth. A moral basis for the presumption is, as C. A. J. Coady has said, that war "involves deliberate killing and maiming of human beings and great destruction of their property and of their natural and cultural environment" (2002: 18).

My view is that this moral basis for the general moral presumption against war – namely, that war involves acts of killing human beings and other greatly destructive acts – is also a moral basis for the specific moral presumption that war must be a last resort. "We say of war that it is the 'last resort'," Walzer observed, "because of the unpredictable, unexpected, unintended, and unavoidable horrors that it regularly brings" (204: 155). Therefore, when agents deliberate about whether war is a last resort, they should make the strong moral presumption that it is reasonable to attempt some alternative measure first. To override this presumption, they have the rigorous burden of proving that it is not reasonable to attempt any alternative measure first. Eventually, I shall make comparable (but somewhat different) remarks about the making of a threat to use armed force. In light of these concepts of moral presumption and burden of proof, the pivotal question of this paper can be reformulated as follows: what are the standards for determining that

it is not reasonable to attempt an alternative measure before using armed force? This question is investigated in the third and fourth sections of this paper, and in the fifth and sixth sections there is an investigation of the related question: what are the standards for determining that it is not reasonable to attempt an alternative measure before threatening to use armed force?

II. Two Documents

In scrutinizing a moral principle, it is sometimes illuminating to contemplate simultaneously disparate illustrations. Let us consider two documents that have emerged recently from starkly different political cultures: a UN report – namely, "Report of the High-level Panel on Threats, Challenges and Change" (2004) – and a U.S. draft document – namely, "Doctrine for Joint Nuclear Operations" (2005).⁵ In considering these two documents, I shall strive to avoid politically controversial issues raised or implied by them.

In the UN report, it is proposed that the Security Council – when deliberating about whether to authorize the use of armed force – should utilize "five criteria of legitimacy," which resemble traditional just war principles. In the third criterion of legitimacy – entitled "Last resort" – we find the key term "reasonable": "Has every non-military option for meeting the threat in question been explored, with reasonable grounds for believing that other measures will not succeed?" (Report 2004: para. 207). To further the goal of reforming the United Nations at the 2005 World Summit, Kofi Annan endorsed the five criteria, and recommended that the Security Council accept them (Annan 2005: para. 126). Subsequently, an "Outcome Document" (15 September 2005) for the 2005 World Summit was adopted by "Heads of State and Government."⁶ During the drafting of this document, some UN Member States (notably, the United States)

exerted considerable pressure to dilute or eliminate various provisions (Gantz 2005: 1).⁷ In an earlier draft of the document (10 August 2005), the other four criteria were alluded to but not expressly stated,⁸ but there was the following statement: "[We] agree that the use of force should be considered an instrument of last resort."⁹ Lamentably, in the final draft (15 September 2005), nothing was said about the other four criteria, and the statement about last resort was absent.¹⁰

Why would any UN Member State want to exert pressure to remove such a statement accepting the criterion of last resort? Let me voice a conjecture about one motive: the criterion might have been interpreted as prohibiting absolutely every preventive (or non-imminent "preemptive") use of armed force. In accordance with current U.S. doctrine about this sort of use of armed force, such statements as the following are made in the U.S. draft document:

"Deterrence of potential adversary WMD use requires the potential adversary leadership to believe that the United States has both the ability and will to *preempt* or retaliate promptly with responses that are credible and effective."¹¹ And: "To maximize deterrence of WMD use, it is essential [that] US forces prepare to use nuclear weapons effectively and that US forces are determined to employ nuclear weapons if necessary to *prevent* or retaliate against WMD use."¹²

My conjecture is that the last resort criterion might have been interpreted as prohibiting absolutely such deterrent threats about preemptive or preventive uses of nuclear weapons.

My view is that it is better to debate the justice or injustice of a preventive or preemptive use of armed force within the theoretical framework of a just war theory. Furthermore, it is better to debate the justice or injustice of deterrent or compellent threats to use armed force within such a framework. Recently, some just war theorists have become engaged in the project of rethinking just war principles, in light of contemporary forms of armed conflict, including global terrorism,

preventive wars, and genocidal civil wars. Instead of rejecting the last resort principle, the goal of morally evaluating the use of – or the threat to use – armed force is best served by rethinking it. Accordingly, a main theme of this paper is that the project of rethinking the last resort principle essentially involves rethinking how the above questions about reasonableness standards should be answered. In particular, through an investigation of reasonableness standards, my hope is that the last resort principle could become acceptable to all (or almost all) UN Member States.

III. Reasonableness Standards

What, then, are the standards for determining that it is not reasonable to attempt an alternative measure before using armed force? Preliminary to answering this question, let us survey some different types of measures. In Chapter VI of the UN Charter, a variety of alternative measures are listed – for example, negotiation and judicial settlement. In addition to such pacific measures, there are alternative measures that are coercive. In Chapter VII of the UN Charter, some coercive nonmilitary measures are listed – for example, economic sanctions. A distinguishable type should be recognized, one that is intermediate between such coercive nonmilitary measures and actual uses of armed force – namely, coercive military threats. For example, in Chapter VII, one of the listed measures is blockade. Even if weapons are not discharged in imposing a blockade, there often is a threat to use them against a transgressor. In light of the example of blockade, it also should be recognized that a concept of limited war is implicit in the UN Charter, for Chapter VII states that nonpacific measures "may include demonstrations, blockade, and other operations by air, sea, or land forces." Instead of a sharp dualism (or bright line) between pacific measures and wars, there is a scale of measures, ranging from the extremely pacific to the extremely violent.

Accordingly, I am assuming that the just war principle of last resort is pertinent not only to large-scale wars but also to a gamut of limited wars – including what are often called acts of war (e.g., a demonstration shot to signal resolve).

It is important to realize that there are different kinds of reasonableness standards. In particular, for each type of alternative measure, there should be specific reasonableness standards. For example, in order for negotiations to be just, representatives of the parties should be selected appropriately, the terms of the peace agreement should be fair, and a stable peace should be expected. Accordingly, the specific reasonableness standards for negotiations should include procedural standards, standards of fairness, and stability standards. Complementary to just war theory, there ought to be an ethics of negotiation, an ethics of judicial settlement, an ethics of economic sanctions, and so forth. To rethink the last resort principle thoroughly, detailed accounts of the various reasonableness standards need to be provided, but there is no space to attempt such accounts here.

Instead, I shall focus on two comprehensive categories of reasonableness standards – namely, feasibility standards and awfulness standards. For the sake of concreteness, I shall make some illustrative remarks about the ongoing conflict in the Darfur region of the Sudan, under the assumption that there is a just cause for armed humanitarian intervention there.¹³ The African Union is sponsoring negotiations, which thus far have faltered. Before resorting to armed humanitarian intervention, there is the burden of proving (among other things) that it is not reasonable to continue to attempt to end the conflict through negotiations.

To satisfy the burden of proving that it is not reasonable to attempt an alternative measure before using armed force, there has to be adequate evidence. In reply to Walzer's claim that "we

can never know that we have reached" lastness (2004: 88), my claim is that among the reasonableness standards there should be standards of evidence (cf. legal standards of evidence). For instance, let us assume that there should be a standard of clear and convincing evidence.¹⁴ Moreover, a just war theory should have a general requirement of publicity. To satisfy their burdens of proof correctly, agents should be obligated to state their proofs publicly – detailing their clear and convincing evidence – so that we the people can understand why it is just to use armed force. Of course, if their proofs are flawed, we are enabled to understand why the use of armed force has not been justified.

Feasibility standards are presupposed in Childress's contention that alternative measures do not have to be attempted first "if there is no reasonable expectation that they will be successful" (1982: 75).¹⁵ Analogous to the just war principle of reasonable chance (or hope) of success that pertains to wars, a just war theory should include a moral principle of reasonable chance of success that pertains to alternative measures. However, because of the moral presumption against war, there is a significant difference between the two principles: in applying the former, there is the burden of proving that there is a reasonable chance of success; whereas, in applying the latter, there is the burden of proving that there is not. Thus, before resorting to armed humanitarian intervention in the case of Darfur, there is the burden of proving that it is not reasonable to expect that the conflict will be halted by negotiations. A piece of evidence indicating that this burden of proof has not yet been satisfied is that there were negotiations that succeeded recently in terminating the protracted conflict in Southern Sudan.

IV. Awfulness Standards

In order to rethink the last resort principle appropriately, it is essential to rethink how the question about reasonableness standards should be answered. It might be thought that, in the just war tradition, the only reasonableness standards are feasibility standards. However, I think that there should be other comprehensive categories of reasonableness standards.¹⁶ I want to stress that, insofar as the last resort principle has been understood differently in the just war tradition, my understanding of it is revisionary.

In rethinking a principle, it is instructive to examine its foundation. Recall that a moral basis for the moral presumption that war must be a last resort is that war involves acts of killing human beings and other greatly destructive acts. Thus, according to Simon Caney, the last resort principle is grounded on "the assumption that war is the most awful option" (205: 202). Indeed, large-scale war is a terrible option, one that is correctly thought to be the most awful. However, sometimes a war that is sufficiently limited might not be the most awful option; sometimes an alternative measure to a sufficiently limited use of armed force might be more horrific (e.g., economic sanctions).

Accordingly, in addition to feasibility standards, I think that there should be standards of comparative awfulness. The general concept of awfulness standards can be summarized roughly as follows: an alternative measure does not have to be attempted first if there is no reasonable expectation that it will be less harmful. But, in utilizing a standard of comparative awfulness, we are not simply weighing (as if we were consequentialists) the harms and benefits of the alternative measure against the harms and benefits of using armed force. Instead, because of the moral presumption against the use of armed force, we have the burden of proving that it is not

reasonable to expect that the alternative measure will be less harmful.

For instance, in the ongoing conflict in Darfur, more than 200,000 people have already died and more than 2,000,000 people have become refugees. Even if it is reasonable to expect that negotiations will eventually succeed in stopping the conflict, it also seems reasonable to expect that in the interim many more people will die and many more people will become refugees. Arguably, many fewer people would die and many fewer people would become refugees, if the conflict were ended promptly by armed humanitarian intervention. Nonetheless, because of the moral presumption against the use of armed force, there is the burden of proving that it is not reasonable to expect that attempting to continue the negotiations will result in less harm than promptly engaging in armed humanitarian intervention.

In debating the justice or injustice of a preventive or preemptive use of armed force within the theoretical framework of a just war theory, it is crucial to have awfulness standards for the last resort principle.¹⁷ A "first strike" is "legitimate," Walzer has argued, if there is a "sufficient threat"; and one of the conditions that makes a threat sufficient is, he asserted, "a general situation in which waiting, or doing anything other than fighting, greatly magnifies the risk" (2000: 81).¹⁸ Awfulness standards are presupposed by this condition. Sometimes a preventive or preemptive use of armed force might not be the most awful option; sometimes it might be more awful to attempt various alternative measures first. Again, because of the moral presumption against the use of armed force, there is the burden of proving that it is not reasonable to expect that attempting alternative measures first will result in less harm than the prompt use of armed force preventively or preemptively.

In the case of Darfur, the Sudanese government has consented to the deployment there of

an African Union peacekeeping mission (AMIS), which presently has insufficient troops and an overly restrictive mandate. However, suppose that this AU peacekeeping mission were transformed into a robust UN peace operation with a Chapter VII mandate permitting the use of armed force proactively. And suppose that credible intelligence were received about a future attack on a village by Janjaweed militiamen. Then, instead of waiting for the attack to occur, and using armed force defensively, it might be less harmful if the UN peace operation were promptly to use armed force preventively. Clear and convincing evidence from past Janjaweed militia attacks could help to satisfy the burden of proving that such a preventive use of armed force would be less harmful.

V. Coercive Military Threats

Supplementary to the concept of last resort, it might be thought that, before resorting to coercive nonmilitary measures, all possible pacific measures should be reasonably attempted.¹⁹ However, sometimes it might be better to use a pacific measure and a coercive nonmilitary measure concurrently. For example, when parties to a conflict are engaged in negotiations, they might be pressured by economic sanctions to accept expeditiously a fair peace agreement, but then they also might be pressured by the limited use of armed force. Ideally, diplomatic negotiation should be peaceful, but there also is "coercive diplomacy" (George 1991). To generalize, sometimes it might be better to use an alternative measure and limited armed force concurrently. The last resort principle holds of any such use of armed force to buttress an alternative measure. Although large-scale war is the most awful option, sometimes the limited use of armed force to bolster an alternative measure might not be the most awful option; sometimes the alternative measure by

itself might be more horrific (e.g., prolonged negotiations while civilians are being slaughtered).

Moreover, when parties to a conflict are engaged in negotiations, they also might be pressured expeditiously to accept a fair peace agreement by the threat of economic sanctions or the threat of armed force. In the case of Darfur, the faltering negotiations might be considerably accelerated by the credible threat of armed humanitarian intervention. But how is the last resort principle pertinent when an alternative measure is buttressed by the threat of armed force?

To answer this question, I shall examine the concept of a coercive military threat. For brevity, I shall make some remarks about the concept of a deterrent military threat, but parallel remarks hold of the concept of a compellent military threat.²⁰ Typically, a deterrent military threat by agents to targets is conditional: if you (the targets) perform a specified action, then we (the agents) will use specified armed force against you.²¹ For example, in Resolution 1591 (2005), the Security Council demanded that the Government of Sudan "immediately cease conducting offensive military flights in and over the Darfur region." This demand might have been enforced by roughly the following deterrent threat: if the Government of Sudan continues to conduct such flights, then armed force will be used (e.g., by NATO) against Sudanese military aircraft and airfields.

Indeed, war results in terrible harms that are, as Walzer said, "unpredictable, unexpected, unintended, and unavoidable" (2004: 155). Presumably, when such a conditional threat is made, the harms of war would be avoided, were the targets to refrain from performing the action specified in the condition. Also, by endeavoring to make the threat credible, not only would the agents intend to coerce the targets to refrain from performing the specified action, but also they could expect and even predict that the targets will refrain from performing it. Nonetheless, even

though unintended or unexpected or unpredicted, the targets could still perform it. Deterrence could fail. And then the agents could respond by using the specified armed force against the targets, especially because their threat was meant to be credible. Consequently, in making a coercive military threat, agents create for themselves the serious risk of their having to perform acts of killing human beings and other greatly destructive acts.

VI. The Principle of Penultimate Resort

Therefore, my view is that coercive military threats should be a next-to-last resort. Ancillary to the last resort principle for actual uses of armed force, there should be a principle of penultimate resort for such threats to use armed force. Recall that a moral basis for the moral presumption against war is that war involves acts of killing human beings and other greatly destructive acts. Similarly, there should be a moral presumption that a coercive military threat must be a penultimate resort, because the making of such a threat involves seriously risking having to perform acts of killing human beings and other greatly destructive acts. Therefore, when agents deliberate about whether to make a coercive military threat, they should make the moral presumption that it is reasonable to attempt some alternative measure first. To override this presumption, they have the burden of proving that it is not. I have been exploring the pivotal question: what are the standards for determining that it is not reasonable to attempt an alternative measure before using armed force? It should now be evident why there is a related question of comparable import: what are the standards for determining that it is not reasonable to attempt an alternative measure before threatening to use armed force?

In answer to the latter question, I shall outline some reasonableness standards for coercive

military threats. First, in accordance with the moral principle of reasonable chance of success that pertains to alternative measures, there should be feasibility standards. Because of the moral presumption against the making of a coercive military threat, agents have the burden of proving that it is not reasonable to expect that some alternative measure would be successful. For example, before resorting to the stated deterrent threat against the Government of Sudan, the Security Council has the burden of proving that it is not reasonable to expect that the offensive military flights in and over the Darfur region would be halted by some alternative measure (e.g., negotiations or economic sanctions).

Furthermore, there should be awfulness standards for coercive military threats. Because of the moral presumption against the making of such a threat, agents have the burden of proving that it is not reasonable to expect that there is an alternative measure that would be less harmful. For instance, even if it is reasonable to expect that negotiations with the Government of Sudan would eventually succeed in halting the offensive military flights, the Security Council could obtain clear and convincing evidence that in the interim many innocent villagers would be killed or made refugees as a result of the flights.²² Arguably, then, the Security Council could satisfy the burden of proving that it is not reasonable to expect that attempting such negotiations would result in less harm than promptly making and enforcing the stated deterrent threat.

Additionally, there should be credibility standards for coercive military threats. Especially when such a threat is meant to be credible, agents create for themselves the serious risk of their having to perform acts of killing human beings and other greatly destructive acts. In the case of Darfur, suppose that the Security Council makes the stated deterrent threat – and it is meant to be credible – but the Government of Sudan continues to conduct the offensive military flights. Then

the Security Council would have the burden of proving that it is not reasonable to attempt an alternative measure before using armed force against Sudanese military aircraft and airfields. Arguably, a reason critical to satisfying this burden of proof would be that it is essential that the resolutions of the Security Council – the organ of the United Nations with the "primary responsibility for the maintenance of international peace and security"²³ – be credible. Borrowing words from the U.S. "Doctrine for Joint Nuclear Operations" (2005: vii), it is essential that the Security Council assure Member States of its "steadfastness of purpose and its capability to fulfil its security commitment."

Indeed, in the fog of conflict, one motive for making a coercive military threat might be to create a bright line, or the semblance of one, between circumstances in which the use of armed force would be reasonable and circumstances in which it would not. When agents make such a threat, the decision to initiate the use armed force might be, or might appear to be, transposed to the targets; and, should the threat fail, the agents might construe their use of armed force as (tantamount to) an act of self-defense. More perversely, agents might be hypocritical, and their motive might be merely to rationalize their use of armed force.²⁴ Therefore, because of the moral presumption against the use of armed force, there should be a moral presumption that, in the event that the targets fail to satisfy the condition of a coercive military threat, the credibility of the agents is not a reason for using armed force. There should be specific reasonableness standards for determining whether credibility is a reason.

For a different illustration than the case of Darfur, let us return to the U.S. draft document, "Doctrine for Joint Nuclear Operations." In that document, coercive military threats are made by the United States against potential adversaries. These threats can be schematized as

follows: if you (our potential adversaries) are planning or intending to use weapons of mass destruction against us, then we (the United States) are prepared to use nuclear weapons against you.²⁵ My view is, as I have said, that the justice or injustice of such threats should be debated within the theoretical framework of a just war theory.²⁶ Because of the moral presumption against the making of such threats, the United States has the burden of proving that it is not reasonable to use some alternative measure. Furthermore, because of the publicity requirement, these proofs should be stated publicly – clear and convincing evidence should be related – so that we the citizens of the United States can understand why the threats are just. On the other hand, if the proofs are flawed, we would be enabled to understand why the threats have not been justified.²⁷

In conclusion, I have been exploring the question: what are the standards for determining that it is not reasonable to attempt an alternative measure before using, or threatening to use, armed force? But I have only sketched some elements of an answer, and thus much remains to be achieved, including detailed accounts of the various reasonableness standards.

Works Cited

- Annan, Kofi. 2005. *In Larger Freedom: Towards Development, Security and Human Rights for All*. "Report of the Secretary-General" (New York: United Nations, 21 March 2005).
- Caney, Simon. 2005. *Justice Beyond Borders: A Global Political Theory* (Oxford: Oxford University Press).
- Childress, James F. 1982. "Just-War Criteria," in his *Moral Responsibility in Conflicts: Essays on*

- Nonviolence, War, and Conscience* (Baton Rouge: Louisiana State University Press).
- Coady, C. A. J. 2002. "The Ethics of Armed Humanitarian Intervention," *Peaceworks* No. 45, United States Institute of Peace (Washington, D.C.).
- Coates, A. J. 1997. *The Ethics of War* (Manchester: Manchester University Press).
- Coppieters, Bruno, and Nick Fotion, editors. 2002. *Moral Constraints on War: Principles and Cases* (Lanham, Md.: Lexington Books).
- Doctrine for Joint Nuclear Operations*. 2005. Joint Publication 3-12 [of Department of the Army, Department of the Navy, Department of the Air Force, and United States Coast Guard]. Final Coordination (2): 15 March 2005. Available at <http://www.nukestrat.com>.
- Flood, Patrick J. 2005. "A Next Rwanda? A Next Iraq? Military Intervention in the 21st Century," *ILSA Journal of International and Comparative Law* 11 (Spring): 379-93.
- Gantz, Peter H., and Michelle Brown. 2005. "The UN Summit: U.S. Spoiler Role Weakens Draft Outcome Document," *Refugees International* (09/14/2005). Available at <http://www.refugeesinternational.org/content/article/detail/6777>.
- George, Alexander I. 1991. *Forceful Persuasion: Coercive Diplomacy as an Alternative to War* (Washington, D.C.: United States Institute of Peace Press).
- International Crisis Group. 2005. "A New Sudan Action Plan", *Africa Briefing* No. 24 (Nairobi/Brussels, 26 April). Available at www.crisisgroup.org.
- Johnson, James Turner. 1999. *Morality and Contemporary Warfare* (New Haven: Yale University Press).
- Kristensen, Hans M. 2005. "The Role of U.S. Nuclear Weapons: New Doctrine Falls Short of Bush Pledge," *Arms Control Today* (September).

- Lango, John W. 2005. "Preventive Wars, Just War Principles, and the United Nations," *The Journal of Ethics* 9: 247-68. Reprinted in Gillian Brock and Darrel Moellendorf, editors, *Current Debates in Global Justice* (Dordrecht: Springer, 2005).
- O'Brien, William V. 1981. *The Conduct of Just and Limited War* (New York: Praeger).
- Orend, Brian. 2000. *War and International Justice: A Kantian Perspective* (Waterloo, Ontario: Wilfred Laurier University Press).
- Outcome Document. 2005. "2005 World Summit Outcome" (United Nations). Various drafts of and sets of proposed amendments to the Outcome Document (including those cited here in endnotes) are available at the website of the Global Policy Forum:
<http://globalpolicy.igc.org/msummit/millenni/m5outcomedocindex.htm>.
- Regan, Richard J. 1996. *Just War: Principles and Cases* (Washington: Catholic University of America Press).
- Report of the High-level Panel on Threats, Challenges and Change. 2004. *A More Secure World: Our Shared Responsibility* (New York: United Nations).
- Schelling, Thomas C. 1966. *Arms and Influence* (New Haven: Yale University Press).
- Walzer, Michael. 2000. *Just and Unjust Wars*, Third Edition. (New York: Basic Books).
- _____. 2004. *Arguing about War* (New Haven: Yale University Press).

Notes

1. See also Walzer 2004: 53-54, 155.
2. Some other examples are: "Every reasonable peaceful alternative should be exhausted" (O'Brien 1981: 33). And: "A state may resort to war only if it has exhausted all plausible, peaceful alternatives to resolving the conflict in question, in particular through diplomatic negotiation" (Orend 2000: 49). Influenced by Walzer, Brian Orend has argued that the traditional last resort principle should be replaced with the principle "*No precipitate force*" (2000: 194) – i.e., "that states ought not to be precipitate in their resort to force" (2000: 195). But note his "key question" about this principle: "is the proposed use of force reasonable, given the situation and the nature of the aggression?" (2000: 196).
3. According to Childress, just war principles "constitute a formal framework and structure for moral debates about the use of force" (1982: 90). According to Coady, a just war theory furnishes "the best framework for discussing the moral arguments for and against humanitarian intervention" (2002: 5).
4. In some books concerned with just war theory, the subject of last resort is discussed quite briefly -- e.g., Johnson 1999 and Regan 1996. But the following two books have chapters entitled "Last Resort": Coates 1997 and Coppieters and Fotion 2002.
5. When this paper was submitted for delivery at 2006 JSCOPE -- namely, January 10, 2006 -- the final draft of this U.S. document was not available. Hence I have relied on the draft of the document dated 15 March 2005.

6. United Nations General Assembly, 2005 World Summit Outcome (15 September 2005), A/60/L.1.
7. See also "The Lost U.N. Summit Meeting," editorial, *New York Times*, 14 September 2005.
8. "Revised draft outcome document of the high-level plenary meeting of the General Assembly of September 2005 submitted by the President of the General Assembly" (10 August 2005), A/59/HLPM/CRP.1/Rev.2, par. 56.
9. *Ibid.*, para. 55.
10. Note that the reference to the last resort criterion is missing in the document called (at the Global Policy Forum website) "US Amendments to the Revised Draft Outcome Document from August 10th (August 25, 2005)."
11. Doctrine for Joint Nuclear Operations 2005: Chapter I, p. 6, lines 35-38 (emphasis added).
12. *Ibid.*, Chapter III, p. 1, lines 30-32 (emphasis added).
13. Concerning the case of Darfur, see, for instance, International Crisis Group 2005.
14. Sometimes more stringent standards might be appropriate – for example, a standard of "abundant, well-corroborated, clear, and convincing" evidence (Flood 2005: 384).
15. "Clearly, some principle of feasibility is required," Coady maintained, "to screen the realistic availability of alternatives to violence" (2002: 28).
16. For example, a just war theory should also include a moral principle of proportionality that pertains to alternative measures, one that is analogous to the just war principle of proportionality that pertains to wars. Accordingly, there also should be proportionality standards for the last resort principle. Even if an alternative measure can be reasonably expected to prove successful, it still might be reasonably expected to produce more harm than good.
17. I discuss the question of how the last resort principle pertains to preventive military actions

more fully in Lango 2005.

18. Note Walzer's remark: "The line between legitimate and illegitimate first strikes is not going to be drawn at the point of imminent attack but at the point of sufficient threat" (2000: 80).

19. Perhaps the framers of the UN Charter thought this, in separating such measures respectively in Chapter VII and Chapter VI.

20. Concerning the distinction between deterrence and compellence, see Schelling 1966.

21. And a compellent military threat can be formulated as follows: if you (the targets) refrain from performing a specified action, then we (the agents) will use specified armed force against you. By means of a conception of negative actions – e.g., the negative act of refraining from answering a ringing telephone – there can be a single formulation of the concept of a coercive military threat that encompasses both compellent and deterrent threats: if you (the targets) perform a specified (positive or negative) action, then we (the agents) will use specified armed force against you.

22. In a recent UN news release (December 27, 2005) entitled "Western Sudan's Darfur Area is Still Scene of Rape and Banditry, UN Mission Says," it is reported that "Two Sudanese Government helicopter gun-ships were observed patrolling over Marla [South Darfur] on Saturday."

23. UN Charter, Article 24.

24. The just war principle of right intention is pertinent here.

25. Perhaps this schema is not sufficiently ambiguous. The aim of U.S. declaratory policy about the use of nuclear weapons is to "reinforce deterrence" by refraining from "clearly defining conditions" under which they would be used (Doctrine for Joint Nuclear Operations 2005: viii). In a full discussion of this U.S. doctrine, this and other complications would have to be considered.

26. Such debate should involve all of the just war principles. For example, even if the last resort

principle is satisfied, the principle of noncombatant immunity could still be violated.

27. Surprisingly, this U.S. document has not provoked much political controversy. However, on December 4, 2005, seven Senators and nine Representatives wrote a letter of protest. Available at <http://www.house.gov/tauscher/Press2005/12-05-05.htm> (accessed December 31, 2005). Also, see Kristensen 2005.