

**A Just War?
Judeo-Christian and Islamic Perspectives**

A Conversation with J. Bryan Hehir and Roy Mottahedeh
Moderated by Alan Berger

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On December 10, 2001, the American Academy hosted a panel to discuss Judeo-Christian and Islamic perspectives on Just War doctrine and how it relates to the attacks of September 11 and the US response. The speakers were introduced by the Academy's President Patricia Meyers Spacks. Alan Berger, editorial writer for the Boston Globe, moderated the discussion. The speakers began with an opening presentation. Following these presentations, they answered questions from the audience.

On the panel was:

Roy Mottahedeh, Gurney Professor of History at Harvard University. His work has focused on the social and intellectual history of the Islamic Middle East. His publications include *Loyalty and Leadership in an Early Islamic Society* and *The Mantle of the Prophet: Religion and Politics in Iran*.

J. Bryan Hehir, currently the president of Catholic Charities USA. At the time of the lecture, he served as head of Harvard Divinity School. Professor Hehir's writing and research engage issues of ethics, foreign policy, and international relations, as well as Catholic social ethics and the role of religion in world politics.

OPENING REMARKS

J. Bryan Hehir

Thank you. I appreciate the chance to be here tonight, and particularly to appear on the same panel as Roy Mottahedeh. We are given a two-part assignment, as I understand it. And that is, to locate long and large religious traditions that have thought about the issues of war and peace and somehow bring those traditions into a living relationship with the current policy questions that face the United States. And while, inevitably, some of that will have to be left to the question period, I will proceed in the following way: I think that when one thinks about the morality of war and peace, there are three distinct positions that one can take. I will try to indicate those. Then I would like to trace some sense of the logic and evolution of the just war doctrine in Christian thought. Then I will look at three challenges it has had to face over the last fifty years. This will bring us finally to the contemporary problem.

When one considers the ethics of war and peace, I think that there are three possible positions. First is the instinctive position that there is no way that war can fit within the moral order. There is simply an inherent contradiction between the systematic, organized, purposeful, conscious taking of human life – which is one way to describe war – and the moral order. This proposition leads to a position known as nonviolence or pacifism. It is not a position that says one should never oppose evil. It says one should try to oppose evil through multiple ways, but not by taking human life, particularly in the systematic fashion that is warfare.

The second position also places war outside the moral universe, but in a very different way. It is a version of realism that is captured in the opening chapter of Michael Walzer's book, *Just and Unjust Wars*. Walzer cites a passage in the *Peloponnesian Wars*, by Thucydides in which the Athenian generals, who clearly are more powerful than their adversaries, come to their adversaries before the battle, and they say: "Come now, let us have no talk about justice. Let us talk about the world as it is." Realism. And in the world as it is, the strong do what they will, and the weak do what they must. The implications of this position are that there is a moral order that applies to most areas of human life, but it does not apply to warfare. The nature of war, the stakes of war, the use of arms to settle conflict, cannot afford moral restraint. And so the only moral position from this point of view is: when one goes to war, one fights to win, and then goes back to normalcy. And under normalcy, one can live within the moral order.

Opposed to both of those positions, which place war outside the moral universe for different reasons, there is a third position that recognizes that some use of force is morally acceptable, but not all uses of force are morally acceptable. That is the essential argument contained in the so-called "Just War Doctrine." The essential argument here is that the only morally legitimate use of force is a limited use of force – limited in its purposes (not all reasons justify war), limited in its methods (not all ways of fighting war are morally acceptable), and also limited in its intention, in terms of the inner logic that drives the war. That is the third position, and it is that position that I would now try to summarize.

Where does that position come from? How has it evolved? And how does it relate to the present state of the question in terms of US policy? The position normally is understood to be rooted in the 5th century with Augustine of Hippo. There were versions of just war in classical Roman thought that preceded Augustine, but what I call the "Augustinian move" is the fundamental place from which the Christian just war doctrine begins. Augustine was aware that he belonged to a religious community in which the founder of that religious community instructed followers in various ways to turn the other cheek, go the extra mile, when asked for your coat, give them your cloak. And the model of Jesus' own life was: faced with the power of the Roman Empire, he did not resist it, even though the trial was regarded as unjust. Augustine understood this tradition but still asked the question, how does one live that ethic in the context of the world as he understood it. And in the world as he understood it, there was a certain "realism" in Augustine's view of history. And as he put it, "war is the result of sin, and war is the remedy for sin." In other words, the reason we have war is because people do sinful –

that is to say, morally wrong – things. They aggress against other lives or other interests. And therefore, in a world in which that is possible, then war becomes, at the edge of the moral universe, legitimate. War is the remedy for sinful action. When everything else fails, one can resort to force in the name of protecting human life, key human values, and a basic order of existence that is necessary for human dignity. Beginning from Augustine, therefore, you open the line where it is possible to think about a limited use of force that fits within the moral universe.

The evolution of that teaching then moves from Augustine in the 5th century through the high middle ages, where it is best represented by Aquinas, who really does not add much to Augustine, but simply his own authority. But then there is a crucial move in the 17th century. By the 17th century, this ethic now must confront the modern, sovereign state. And that sovereign state acknowledged no higher authority, either secular or sacred. So the 17th century is a time of very creative adaptation of this ethic, because the people want to preserve some sense of limits on the use of force. It is this period of time in which Hugo Grotius, the famous Protestant jurist, joined with, in a sense, the two Catholic jurists, Francisco de Victoria and Francisco Suarez, to readapt the ethic. And the way they readapted the ethic is that rather than asking questions of when states can go to war, they concentrate on the question of how states should fight the war in order to keep it limited. From the 17th century, the next step is to the 20th century, and I will come back to that later. So the evolution of the doctrine is the 5th, the 13th, the 17th and the 20th centuries.

Now what is the structure of the ethic? Essentially, once Augustine opens up the possibility that some use of force is morally acceptable, we are faced with the question of what kind of moral reasoning should one use, if you will, to fit within the moral universe. And the way the ethic is usually explained is: one begins with the burden of proof on anyone who says, “It is now time to kill people.” In other words, there is a presumption against the use of force, and the burden of proof rests on those who seek to override the presumption. The overriding of the presumption is done in the name of what is technically called a moral exception. An exception is a defined set of circumstances whereby your normal mode of activity, as implied by the moral order, is overridden because new circumstances create a new moral situation. So, faced with the fact that people’s lives will be taken, and there is no reason for that, faced with massive human rights violations (think of genocide), then the argument is: this creates an exception where war becomes morally acceptable.

Once things get to that point, then one has to ask how to define a justifiable exception. How does one distinguish between an exception and a rationalization? One usually asks three questions: Why is war necessary? When is war necessary? How should the war be fought? The why question is the so-called just cause question. For what purposes is the exception validated? The when question says: war is a very blunt instrument of achieving justice or the moral order. So it is necessary to keep all kinds of restraints on it, including,

- proper authority: not everyone can go to war;
- last resort: one ought to try other things;

- moral possibility of success: don't go to war unless one can put ends and means together in a successful formula;
- finally, proportionality: don't do more harm than the evil already being done.

Proportionality was the kind of question we thought of in the 1950s. Some argued that the Soviet invasion of Hungary should have been resisted on moral grounds, but not with nuclear weapons. We did not want to go to nuclear war to solve the Soviet invasion of Hungary. It was just disproportionate. One had to abide the injustice.

The final question is how. The how question says: if war is to be limited, two principles need to be abided by. One, it is never permissible to go to war against a whole society. Ever. It is only permissible to go to war against those who have purposefully, consciously carried out the evil that needs to be resisted. And then, finally, once again, one cannot even use tactics in way that cause disproportionate harm.

This set of configurations of rules and principles is designed to follow Augustine. Some uses of force are morally acceptable, not all, and these are the kinds of principles that shape what one means by a limited use of force.

Now in the 20th century, there have been three major changes that required the ethic to adapt. The first was the nuclear age. When the ethic says that the only legitimate use of force is a limited use of force, what does one do when war becomes almost total by definition? That argument is for another seminar, but it took many of us 30 years, and we never were very satisfied with the answers, but we kept at it. The second kind of challenge arose in the last decade: humanitarian military intervention. Faced with the nuclear question, one wanted to dissuade states from using force, to set limits on force. In the last ten years, people have tried to use moral reasons to obligate states to use force to stop genocide. And so it was a real shift for those of us who had worked at the question for many years. People were now trying to open up channels to force states to accept an obligation to spend blood and treasure on resisting evil.

And now we face the terrorism question. It is different than the nuclear age. It is different than the question of humanitarian military intervention. First, this ethic that I have described is a state-centric ethic. It was designed to establish the criteria under which states could use force and for how to set limits on state-power. The nature of terrorism almost inevitably involves non-state actors that are carrying out the terrorism. It is a different kind of question. Second, this ethic is based on a sense of limits. And the idea was to introduce shared limits among the adversaries. That is in fact what we did in the deterrent structure of the nuclear age: shared perceptions of limits on what each side would do. But terrorists by definition cannot observe, usually, the classical limits. Terrorists cannot launch major armies in the field. And so they look for soft targets. They look for the very targets that are ruled out by the ethic of war: civilians, cities. And then finally, the goals of terrorism vary. Some versions of terrorism have limited political goals. But what one faces today, I think, is a very different thing than classical political goals. I do not think Osama bin Laden gets terribly upset about the US position

at the World Trade Organization. He may get upset about Middle East negotiations, but minor changes in US policy are not what move him. What moves him are much larger questions, I think, of a nature that is not simply limited political objectives. So, terrorism poses a very different kind of challenge.

What can one say about US policy? I will say it quickly and then probably have to defend it in the question period. Was there just cause for using force? I think a direct attack on the sovereign territory of a nation-state in which civilians are the primary target of the attack constitutes the kind of aggression that the just war argument seeks to oppose. I think it constituted just cause. Secondly, I think the pursuit of the war is more complicated. On the whole, there has been an enormous effort not to directly target civilians. Civilians have been killed, but have not been directly targeted. But in all the wars, from Gulf War up until now, there has been a noticeable, conscious effort not to target civilians. But given the nature of US power – highly focused airpower – you are always going to have troubling questions about proportionality. And I think there are some proportionality questions in terms of the air campaign. I will be glad to go into some of those later, but in other words, I am faced with a situation where I think the cause is just. I think proper authorization has been given, at least implicitly, by UN resolutions. I think the possibility of success, at least in the case of Afghanistan, is real. I think the noncombatant immunity, of protection of civilians, has been observed in terms of a principle of the way the war was fought. I think one can make arguments about proportionality, and I will be glad to look at those.

Roy Mottahedeh

Thank you. My role here will be more descriptive than prescriptive, first because, unlike Bryan Hehir, I am representing a legal tradition which is not my own. And second, I am representing a tradition which is unsettled. I will be talking, therefore, descriptively about the development of the Islamic ethics of war. But I want to emphasize throughout that Islam is what every Muslim says it is. And it cannot be said often enough that there is no structure of religious authority in the Muslim community. People keep expecting someone to speak for Islam, and I feel sure that in the near future, no one will be able to do so with anything approaching universal authority.

First, let me say some things about the general dynamics of creating a moral argument in Islam. There are always certain problems when one has discussions based on scriptures. If the Koran is the revelation of God, where does its meaning reside? How do we get to the meaning? Does anyone have more authority than anyone else to interpret its meaning? To some extent, this is true of all Abrahamic religions, but it is particularly a problem for Islam. For, whereas Christians understand the great self-revelation or self-presencing of God to mankind to be in the birth of Jesus, for Muslims, that which God has sent to mankind is the Koran. Hence, most early Christian schisms are about the nature of Jesus. Most early Muslim disputes are about the nature of the Koran.

Now, I mentioned that we want to know who are the guardians of the word. In Islam, as I said at the beginning, there are no clear guardians of the word. However, by the 8th century, there began to develop a class of people who, by the 10th century, are clearly apparent in Islamic world – people we call the *ulema*, the learned men who are, to some extent, the guardians of a scholastic tradition of the interpretation of the word. I want to say that, basically, the theory of war that they worked out continued until the 19th and 20th centuries. It was then transformed internally among them, but at the same time, their activities came to seem less and less relevant to most Muslims.

The Islamic conquest began more or less haphazardly. Muslims found the Byzantines and the great Persian Empire next to them to be less strong. Their forays turned into armies of conquest. About 100 years later, Muslims found themselves on the defensive. They had reached the limits of their expansion, and the Byzantines were able to defeat them, as could the Turks in Central Asia, as did Charles Martell in Europe. So, at this point, a discussion began. Does the tradition oblige continual warfare? A wide array of Koranic verses on warfare exists. With the formation of a scholastic tradition in Islam it was said that verses that were considered to be chronologically revealed latest in the life of Mohammad abrogated all verses before them. As a result, many verses which advocated choosing peace over war as a way of settling conflicts were abrogated by a single verse which some call the “Verse of the Sword.” At the same time, Muslims assimilated the ideas of the *imperium*, the universal god-given right to rule, which characterized both Sassanian and Byzantine political thought.

Now, orientalist scholarship – and by that I mean scholarship by non-Muslims who are studying Islam from the outside – by and large believe that Mohammad intended only a kind of struggle – and *jihad* means struggle, including armed struggle – to conquer the peoples of the Arab peninsula. Nevertheless, the more aggressive belief in an *imperium*, a universal state, where there would not necessarily be an entire Muslim population but a Muslim Rule remained a theoretical possibility to Muslims and remained a possibility in classical Islamic law. It disagreed with other aspects of the law, and therefore, the law leading to war, the *jus ad bellum*, which Professor Hehir has so well explicated here, became rather messy in classical Islamic law.

In contrast, the law as to how people should behave in war – *jus in bello* – was rather elaborately worked out and quite humanely defined: no women, no children, no noncombatants, no property, not even the “smallest tree,” as it says in the law, should be harmed. Equally, in separate areas of the law – the law about highway robbery, *hir bah* – there evolved an idea that to attack people suddenly and without warning was wrong, cowardly, did not allow people the chance to change their minds, it could only be for bad purposes, and so forth. In this way, a law developed which actually has a great deal of relevance to terrorism. It is surprising how seldom it has been evoked in recent discussions.

And a third source of law developed which has to do with the universal human responsibility to rescue other people. It can be called the “right of rescue.” In Arabic, it is called the “right to command the good and to forbid the wrong,” and it is an individual

obligation in Muslim thought. The individual has a responsibility to forbid what is wrong. Interestingly, in this particular law, all the aspects of what we would consider just war theory in modern Western law – that is, having a just cause, a just intention, probability of success – are discussed elaborately.

The curious, and rather sad, thing is that all three of these aspects of the law were not melded together into a coherent body of law. However, the high scholastic tradition did undergo a transformation in the 19th and 20th centuries. In the 19th century, the British wanted to abolish slavery all over the world. Muslim law accommodated itself to this. And in the 20th century, as early as the 1960s, partly under the influence of the formation of the United Nations, a high scholastic tradition transformed itself to say: we are now all partisans of a treaty. We no longer speak of “the abode of war and the abode of peace” (something that did not arise in the time of Mohammad, but came a century later). On the contrary, we are all in the abode of treaty – *dar al ‘ahd* as it is called in Arabic – because we are all signatories to the Charter of the United Nations. In the 1960s, a quite brilliant book was written by perhaps the most important living Sunni jurist, Wahba Zoheili at the University of Damascus, in which he says that the *jihad* or struggle is now only a struggle against the distortion of Islam. The real meaning of the struggle is not a warlike struggle, but the struggle to convert. He thus offered a complete reinterpretation of the high tradition, and many of the *ulema* accepted his conclusions.

Nevertheless, there was also the development of a contrary tradition which really is well represented by Ayman Zawahiri. He is the right-hand man of Osama bin Laden, and really the most intelligent person, as far as I can figure out, in that circle, and probably the author of most of Osama bin Laden’s response or *fatwa*. He represented a new generation. His grandfather was a sheikh of Al-Azhar, one of the great positions in the old scholastic establishment. But he himself was a surgeon, not trained at all in the religious disciplines. He presumably thinks to himself that: “I can interpret the law as well as my grandfather. I can just sit down, read the book and come to my own conclusions.” He is really typical of a whole generation of people who no longer respect the scholastic tradition. In the *fatwa* co-signed by him in 1998, after the failed US attack against the al-Qaeda camps.

He says, in essence: “Yes we know about the scholastic tradition, but we follow what we like in that tradition.” The *fatwa* names several pre-modern jurists, without actually recounting their arguments, and finally quotes one jurist, Ibn Taimiyah. He explains in effect that: “This jurist says that in the worst case, the person who is defending himself against armed attack or an assailant, has a right to strike around him with any kind of force necessary to defend himself.” In other words, a theory had been built – which only finds its culmination, actually, in this particular circle – that people in the Muslim world who are true believers are involved in hand-to-hand combat with the rest of the world. Therefore, any terrorist act is like striking back at an assailant in such a hand-to-hand combat.

As the *fatwas* from Osama bin Laden continued, and more people gathered in his circle, or maybe in the circle of Zawahiri, additional accusations about the million supposed

children believed to have died in Iraq as a result of the American blockade, and about Hiroshima and Nagasaki, arose. Who are the Americans, Osama bin Laden's followers ask, to talk about collateral damage?

I will only one very brief prescriptive comment. I wish we had announced every day of the war that we would stop the bombing the minute Osama bin Laden and the people representing his entourage were surrendered. I don't think he would have been surrendered, but I think it would have strengthened our moral position immensely. The US made such a statement at the beginning, and I think it might have even strengthened our moral position to have made specific statements about who would try them, that they would be given, for example, to the court in the Hague, where there are Muslim jurists. I do not think we would have avoided the war, but I think it would have given the US a clearer moral high ground. And secondly, I wonder if it is not better to think about this as a moral cause rather than a moral war. I have never been quite sure of the war rhetoric. I know that it is a very good way to rally people and it puts us in contact with our heroic past and similar dastardly deeds, such as Pearl Harbor, but I am not sure that it is really a correct analogy. At that point I will stop.

QUESTIONS & ANSWERS

Berger: Thank you very much. I am going to start by asking one question of each speaker and then we will throw it open to all.

Let me ask, on the question of the probability of success in Christian tradition, Father Hehir, what are the grounds used for that category? That is to say, is it a matter of compassionate concern for one's own people and/or the other side, and therefore moral, or is it pragmatic? And how would such an assessment be different from, for instance, elements of the Powell Doctrine – that one needs to have a very clear sense of what the political objective is in a war, how achieve that end, how to get out, and, in his case, how to preserve the integrity of the institution of the army (that is probably not a traditional Christian concern)?

Hehir: I do think – and Michael Waltzer (again I will refer to him) has made the point – that the language of ethics and the language of strategy are at least analogous. In other words, you find a lot of similarity if you read strategists just straightforwardly and then if you read moralists. They are not identical by any means. And indeed, the trick most of the time, when you are doing the kind of thing that I do, is to try and make sure that the language of strategy does not overwhelm the language of morality. But there is a kind of inner logic to the two. In terms of the criterion of success, there are different ways of thinking about the rationale behind it. One way to think about it is that war should not be used fecklessly; force should not be used fecklessly. That is to say, you should not undertake an enterprise which involves at its very heart the conscious, purposeful taking of human life if in fact you do not have any way to relate ends and means. You are simply going to be killing people for no purpose whatsoever. There was a way in which, in the midst of Vietnam, to a lot of people, that is what it looked like was going on: that

we were killing people to save our reputation, or to save some vision of global struggle, but there was no purpose, there was no endgame to it, there was no connectedness to it. And so, on the one hand, moral possibility of success is an argument against using force without purpose, without rational connectedness of ends and means. The second understanding of moral possibility of success is that, particularly, political authorities, who have the right and duty to declare war, should not send people to death needlessly – in the sense of suicide, for example. For example, I have heard people in the 1970s and 80s make the argument that all the criteria for just war would have worked for the black population in South Africa, except possibility of success – if the blacks were to take on the South African army, they would be slaughtered. So you have all these kinds of arguments, but no possibility of success. That is a second reason. First, connect ends and means, and second, be sure of the possibility of success. Now there is a limiting principle here. This is usually referred to as the moral possibility of success. It does not mean that war has to be a sure thing, or that every time you use force you know you are going to be successful. There is another element here. It is the kind of thing you saw in the Polish Ghetto, where people say, “In the name of certain values, I will put my life on the line, even though there is virtually no chance I am going to succeed.” So that is a limiting condition on success, but the heart of the argument is that you do not use force without purpose, without consideration of what one might call the virtue of prudence.

Berger: Thank you. For Professor Mottahedeh, this is perhaps an idiosyncratic question, but it has been bothering me for some time. There have been voices I have heard, quotes from scholars in the Islamic world, saying that Osama bin Laden certainly does not have the authority to issue the *fatwas* he has. However, as I understand it, his primary reason in the 1998 *fatwa* for the virtual declaration of war against America has to do with the presence of non-Muslim troops – and he is particularly bothered by female troops – on the soil of Mecca and Medina. What is the reaction generally in the Islamic world and among contemporary Islamic scholars to that as a reason?

Mottahedeh: I don't know that he has specifically referred to female troops, although I am sure he is bothered by their presence. As to the question of authority, just as Professor Hehir has said that you have to have justly constituted authority in the Christian world, so in the Islamic scholastic tradition you have to have justly constituted authority to declare war. One of the things that Osama bin Laden keeps saying is that for eighty-some-odd years, there has existed no Islamic polity. So what he is in a sense saying is that, “I have the authority.” But sometimes, in fact quite frequently, he uses the strange ploy of saying, “I am working in the only real Islamic state of the world run by Mullah Omar,” and he calls him the Commander of the Faithful. So he more or less is hiding behind Mullah Omar to say that he is working under the aegis of the only justly constituted authority. Mullah Mohammad Omar, by everybody's count, is an extremely uneducated fellow. Osama bin Laden, even with his education in engineering, is probably better acquainted with the Islamic scholastic tradition. So it is strange that he has to defer to him. On the second question about Saudi Arabia, it is clear, if you look at the *fatwa* – in Osama bin Laden's *fatwa*, he begins with a preoccupation with Saudi Arabia and only secondarily with Palestine, although the question of the Palestinians is

always there, and the preoccupation with Palestine grows as he reaches for a larger audience.

Muhammad supposedly said on his deathbed – and there are two versions of this – “Clear the Arabian Peninsula of non-Muslims” or he said, “Clear the *h jaz* [the province of Mecca and Medina] of non-Muslims.” Overwhelmingly, tradition has understood the Prophet to have said the second. There was a huge Jewish community in Yemen right up until 1947. There is still a small Jewish community there. Nobody has ever challenged its right to be there. But this change has to do with the evolution of a modern peninsular-wide sense of Arab Muslim identity. It shows bin Laden to be a child of the polity of the Saudis that saw itself as special guardians of Mecca and Medina, and somehow different from every other Muslim polity.

Among his fellow Saudis there is a lot of sympathy for this complaint.

Berger: I have one follow-up to that. Is there a difference in how that particular cause is viewed in the Shia world and the Sunni world?

Mottahedeh: There is only one Shiite nation in the world, and that is Iran. The Iranians are not particularly worried about the presence of American troops for any reason except their own safety. With American troops in Arabia and in Afghanistan they feel surrounded

Berger: Thank you. Now, if you would like to come to the microphone and ask questions, feel free.

Question: I am not quite sure from your presentation, Father Hehir, the difference between moral exception and rationalization, especially in the case of US strikes against Afghanistan. Why do you think the cause is just? And how would you explain the justness of this cause to a Muslim both in the US and abroad? And finally, before the strikes started at the end of August, did you argue for or against the use of force, and has that view changed?

Hehir: I think just cause is fairly narrowly located in this case, and it is due to the attack that took place and the promise that Osama bin Laden made that there would be other attacks. So I see the use of force as a deterrent. It is a response to the attack and a deterrent against future attack. And I think that is a legitimate moral use of force. If you are promised that there could be large-scale damage done to your population, that limited use of force is acceptable. How would I explain it to a Muslim? I think there are two broad areas, whenever you deal with the ethics of war. One is the cause and rationale and policy issues that go around it – I suspect that that would not be an area in which you could be very convincing, at least to many Muslims, because large arguments will be lodged against US policy in the Middle East or other policies. But second, I think on the means question, I could get someplace. First of all, the way the debate goes in the United States about “Was this attack due to policies the US pursues or patterns of US actions?” I think there were loads of things wrong with US foreign policy before September 11 that

ought to be corrected and I think there are loads of things that are still wrong that ought to be corrected. I don't think any of those things justify a direct attack on those two buildings with civilians in them. And the way I would try and find common ground with Islam is precisely to pick up the point that Roy made, that there is an extended area of Islamic ethics on war on means. Part of the problem usually, with terrorism – not always, but usually – is precisely that it finds it hard to stay within the context of means, in terms of who gets attacked and under what circumstances.

Did I advocate going to war against Afghanistan before the attack? No. I thought there were loads of different questions regarding Afghanistan. The main thing I would say about Afghanistan before the war was that the United States did not live up to responsibilities that I thought it had to do something about Afghanistan after the Soviets left, but I did not see reason for war. In the same way that I would not have advocated the use of force against Saddam Hussein until he invaded Kuwait. Once he invaded Kuwait, that constitutes aggression across a national boundary. I think that is an issue of international order, and I think you need to respond to it.

Question: I had a couple questions. One is about Palestine. Are there ways that Palestine can justly use force against Israel, considering that it is not a state? Does Arafat have the authority to declare war or is it a smart decision not to call it a war when they are contesting land? The other question is the morality of the draft under the just war framework: Why is it morally prohibited to attack noncombatants of your adversaries and still responsible to send your own somewhat innocent citizens into combat and potentially death.

Hehir: Let me take the second question first. The reason why you cannot attack noncombatants or civilians, or the reason why you cannot go to war against the whole society, is rooted in the very first step. Making the argument that war fits within the moral universe is not an easy case. By nothing I say do I want to communicate that this is a self-evident judgment, that war fits within the moral universe. I think it is a tough case. I think you have the deck loaded against you – particularly if you go beyond the moral universe and say you fit within a religious tradition that is wider than the moral tradition that holds all kinds of values about turning the other cheek and going the extra mile. This is not an easy case to make. If you are going to be able to make the case that war fits within the moral universe, and maybe within the religious universe, it has got to be a very narrowly, precisely defined argument. And I think that narrowly defined argument is that people embodied in political communities do things that are objectively wrong. Call it aggression for lack of a better term. If you make the case that you have a right to stop aggression in the moral order, then only those who commit the aggression become subject to attack. Therefore, you cannot attack a whole society. So this is the argument against not attacking civilians. It goes right back to the fundamental rationale. In other words, by attacking civilians purposefully you threaten the whole rationale for the ethic, because you are now involved in unlimited war rather than limited war.

Secondly, what about the draft? The argument that war can be undertaken in moral terms is because “the common good requires it.” That is to say, there are moral values being

violated. The argument usually goes that political authority has the right to defend the common good, and included in that right is the expectation that it can call citizens to minimal civic duties – minimal not meaning small, but meaning basic. And that is what the draft is about. I think you should make provision for conscientious objection, but the draft is about a sense of loyalty and belonging to a political community, and understanding that one has certain obligations to it. The draft is often put in the same category morally as taxes. We have responsibilities to a political community to contribute to its welfare.

The first question was: do Arafat and the Palestinians have the right to use force against Israel? You would have to distinguish the cases, it seems to me. In principle, I don't think it has the right to use force against Israel just because Israel is Israel. Obviously, there are contested issues since 1967 about boundaries, territory and property. You could make a just cause argument on that front. You could not make a just cause argument and then combine it with means that are illegitimate in the same way that the Israelis, having a right to defend certain areas and territory, cannot defend them using unjust means.

Question: I will direct this question to Professor Hehir. You both talked about the moral proscription against causing civilian casualties, and yet in every war that I am aware of in this century, we have done precisely that. And the reason we have done it is because there is another moral assumption, which is that the lives of our troops are more valuable than the lives of the opponent's troops, even though in both cases they are 18-year-old kids, and they are innocent in that sense. But there is an implicit – and sometimes explicit – understanding that the life of one American soldier is infinitely precious compared to the lives, not only of the opponent's soldiers, but also of their civilians. And therefore, we dropped the atomic bomb on Hiroshima. And therefore, we bombed Vietnam from an altitude of 35,000 ft, where you could not possibly distinguish between enemy troops and civilians.

Hehir: There several necessary distinctions we must make, and you have just highlighted one that we need to make more precisely. I would not say that it is a moral indictment of war if citizens get killed. It is a tragedy that citizens get killed. The moral indictment is when citizens get killed as a result of being purposefully targeted in the course of the war – when there is a purposeful intent to take civilian life. That was true at Dresden. That was true in the German bombing of London. That was true in Hiroshima. George Bundy's really remarkable history of the nuclear age has this interesting chapter on the decision to drop the atomic bomb. And he says that when the time came to make the decision about Hiroshima, no one, absolutely no one in the upper reaches of the American government even raised the question about attacking civilians. He said that the reason this was the case was that that barrier had been crossed already in Dresden and Tokyo. It highlights to me the enormous question of keeping alive moral restraints. Because if you do not keep them alive – in the policy discussions, in the minds of citizens and in the minds of policymakers – then that is when the logic of strategy overwhelms the logic of moral argument. So, I would not want to say that every time a civilian gets killed, it is morally wrong. I would say civilians a) should never be directly targeted, and

b) their lives should be preserved insofar as it is possible under the criterion of proportionality.

Your other question – do we kill civilians because we always value American lives more – I would go about in the following way. I think every life is of infinite value. Therefore, you only can kill when you have an explicit rationale as I have tried to lay out. Secondly, it is the responsibility of political authorities to try to reduce the casualties on their own side. Thirdly, that goal of protecting your own troops must be pursued within the context of a set of other restraints. You cannot protect your own troops at the price of consciously killing civilians. This is why the bombing of civilian centers in the name of, for example, protecting against your own casualties, would be wrong. At the same time, it is not wrong for political authorities to try to protect their own troops. But they have to do it within limits. You then get into very large discussion about how you do that. I have had people in class in the last two years who were pilots in Kosovo who object strenuously to the argument that if you bomb from 15,000 ft. or 30,000 ft. you are less moral than if you bomb from 5,000 ft. Their argument, which is empirical and not moral, is that at 15,000 ft., generally immune from anti-aircraft fire, they can see the target, whereas at 5,000 ft, flying at 700 mph, they cannot see anything. But that is an empirical argument and not a moral argument.

Question: The question I would like to address has to do with the issue of harboring terrorists, going after those who harbor terrorists, who give protection to terrorists. This is a problem certainly with respect to terrorists that are nongovernmental. And it comes up as a problem, it appears to me, in dealing with the targeting of the Taliban – the ethical problem of dealing with the targeting of the Taliban – but also in future situations in which the United States might feel compelled under the Bush doctrine to go after those who harbor terrorists. What kind of a problem is that for the just war ethic and how can that be dealt with, either in the Islamic tradition or in the Christian tradition of just war?

Mottahedeh: Well, it is very interesting. During the Iranian hostage crisis, I wrote an article about why, from the point of view of Islamic law in general and Shiite law in particular, Khomeini should behave in a slightly different way. And it has to do with the principle, which is very strong in Islamic law, of “safe conduct.” If someone comes to your territory, even on the mistaken presumption that they have safe conduct, and it is found out that they are not wanted, they are to be led to the borders without harm. So, that is why I said that from the point of view of the Islamic moral dimension, I think it is terribly important that we continually announce that for the surrender of Osama bin Laden and his entourage, we will cease any hostility toward any portion of the Afghan people. I think that was one of the principles that should have protected our diplomats in Teheran. Safe conduct is also one of the interesting ways in which Islamic law was violated on September 11th. Anybody who has entered the United States with a visa has absolutely no right to do any hostile act to the United States. So the majority were violating the Islamic law as to the conditions of safe conduct in even this very primitive sense.

Hehir: You really have to reshape the ethic when the nature of war changes or the nature of the challenge changes. That is very clear in the nuclear age. There is a re-doing of the ethic in order to think about questions like deterrence – which is not how you fight the war, but what you do when you are not fighting the war. I think there is the same kind of thing going on now. When you look at the kind of policy problem we face, you can take the president’s definition of it to start the discussion. You are facing a transnational terrorist network. His argument is that he is going after the network and going after the states that harbor the network. I think you have to break that out into 3 different categories and test it out in different situations.

First is the actual group of terrorists themselves. What kind of evidence do you show the world that they in fact fit that definition? Evidence, here, I think, is really important to the credibility of the moral argument – evidence of what you are talking about.

Second is the relationship between the terrorist group and the state. I think in Afghanistan, the case is fairly clearly drawn. I think you could draw credible links in Afghanistan. Beyond Afghanistan, I think that question is going to get much more complicated. For example, if you say there is a state and a terrorist group in the state, to automatically say that state is harboring terrorists seems to me to be a jump. They may be putting up with what they cannot get rid of. They may know or not know a lot about what is going on. Think of Lebanon in the 1970s. On Lebanese soil, there were loads of terrorist groups. The idea that the state of Lebanon had the capacity to do anything about that, I think, is very problematic. So if we have a “Lebanon” case again, what are you going to do with that? There are other situations like the Philippines, where clearly we are not going to say that the state is at fault, but you might argue that there is a “terrorist group” linked to al Qaeda in the south of the Philippines. So I want to distinguish between the “terrorist group,” the state involved, and the connection between the two.

And even if you can define that linkage precisely, there still is the third group – wider civil society, which cannot be swept up either into the state or the terrorist group. And so, once again, you are back to noncombatant immunity and civilian society.

The final point is that the argument about what is next after Afghanistan, it seems to me, is a highly, highly complicated, problematic argument. You are not going to take this show out on the road and start moving through 60 countries. You would become international disorder in the name of fighting for order. So the question is: what do you do? The Iraq debate is interesting in itself. There are clearly some people in the Iraq debate who have been waiting to hit Saddam Hussein for 10 years, and want to use this as the occasion. That seems to me not to be justified. If you can make specific cases about terrorism, etc., it is a different question. But it seems to me there is a very large question about what is beyond Afghanistan and what has been labeled a “worldwide campaign.” What linkage and what steps?

Question: I have a fairly simple question. In either the Christian or the Islamic tradition, can terrorism be morally justified? To give some thought to that question, let me ask, for example, in the situation where a nation with very great power assaults or puts at risk a

nation with much less power, is a terrorist response considered proportionate? And also, US policy now seems to regard the development of weapons of mass destruction as a form of terrorism. Is holding those weapons and using them to establish our military authority over the rest of the world a form of terrorism?

Mottahedeh: Well, first of all, I would like to point out that we have an example of terrorism in the Bible. Samson brings down the temple of the Philistines without any concern for collateral damage, and nobody seems to have noticed it or criticized him for it. That aside, can terrorism be justified within the Islamic tradition? You know, a tradition can be put to any use you want. There was a point at which people said that suicide bombing had something to do with the traditions of Shiism, because during the war between Iran and Iraq, many Iranians participated in suicidal attacks and the Shiite Hizbollah in Southern Lebanon seemed to be inclined to do this kind of thing. And then it became clear that these attitudes had nothing particularly to do with Shiism. Such suicidal attacks are currently undertaken by people in the Gaza Strip, where the population consists of Sunni Muslims. The Real IRA has undertaken such attacks without any particular consideration for Catholic doctrine. I don't think we should say, "Can the tradition justify it?" Any tradition can be put to extra work to justify almost anything. But is the learned Islamic tradition as a whole largely accepting of terrorism? No.

There is a somewhat related question which has always bothered me, and I feel I do not have an answer for it. People say, "If nations use atomic weapons, do not other nations have the right to use the poor man's atomic weapons, such as biological warfare?" Of course, I am strongly against the use of both, but I do think we face difficult moral questions when we assume that we have a right to weapons of mass destruction but the have-nots have no right either to these weapons or their equivalents..

Hehir: Definition here is part of the debate that we are in. There is not a consensual definition of terrorism. People have struggled with it in different ways. The way I would try and get hold of the question is to try to go back to some of the categories of just war. Who has the authority to invoke the use of force? For what purpose? And by what means? Then that gives you at least neutral terms – terrorist is not a neutral term – to be able to parse out the argument. For example, if you look at a simple case – simple in the sense of the tradition – it is: can the just war doctrine (which is usually a moral tradition which endows the state with the right to use force to protect the society) become a just revolution doctrine? Is it possible to justify action against the state – political authority given to someone else? The answer is yes. Much less work has been done on this question than on just war, but Thomas Aquinas said that when the government becomes the enemy of the common good, the enemy of everyone, then the implicit argument is that political authority no longer rests with the state. Now the difficult question is: where does it go? If it leaves the state, which group can claim it? And that is where you get into very difficult arguments. But the point is that it is possible to take the use of force, which belongs to the state, and take it away from the state because of the way the state acts. Now that is within a domestic context. You still, then, are bound by the purposes for which the new group would use force, and then finally the methods and means.

In defining terrorism, it is perhaps easiest to focus on the means questions and argue against it from that point of view – to argue against means. As I said earlier, that is often (not always, but often) where a terrorist action will proceed, because you can have soft targets, and therefore you can use unconventional means and soft methods. In this area, terrorism gets ruled out because I really do think you have got to hold everybody to just means. Now that raises then the questions of weapons of mass destruction. This does go back to the question of US policy or the policy of the West and how it is viewed in the world. My teaching colleague, Stanley Hoffman, has written the best piece on this question. He has laid out several areas where there are objective reasons for people to be upset. Concerning the question of weapons of mass destruction, many people in this room know about this problem – that the nonproliferation policy is based on an assumption that there are two groups of people in the world: the possessors and the non-possessors. Then the argument is made that it is in the interest of the safety of the world to keep it at least that way and no further - to which Lawrence Freedman, the British political analyst and historian of war, says that the West's position on nonproliferation is like the town drunk preaching abstinence. There is a certain inner logic here that is not terribly powerful from the moral point of view – until you press it far enough. If you press it far enough and say, “Well, in order to equalize the moral argument, we ought to say that everyone should have nuclear weapons,” then that is going to run up against proportionality arguments. Thus, I think there is a flawed moral framework to the nonproliferationist position. There is some moral grounding for using and trying to take it beyond where it is. And that implies taking down weapons of mass destruction as much as possible. But if you are not trying to do that, then the moral fragility of the position shows up pretty radically.

Berger: Could I just add that where there is a nonproliferation position, it could be moral, couldn't it, if it is abolitionist?

Hehir: Well, Paragraph 6 of the Nonproliferation Treaty binds the nuclear powers to at least arms control if not going to zero. But then the problem is: it has been on the books since 1970, and while there are now some remarkable cuts, it was a huge problem in the high point of the Cold War, where you were not doing anything about it.

Mottahedeh: There is some discussion in the Muslim world about the question of weapons of mass destruction and the ethics of war. And you find both positions. If Israel has a bomb, why shouldn't the Egyptians have a bomb? There are opposing voices that say, as one writer so beautifully expressed it, that having a nuclear bomb is the heart of whiteness and is something that, morally, people should abstain from all together.

Question: How does the just war ethic speak to the Israeli government's recent decision to drop bombs on certain portions of Arafat's headquarters in Gaza City?

Hehir: How does it speak to it? Not easily. I think you have an escalation of violence on both sides, neither of which fits nicely into the kind of limits on the use force that would bind actors in a moral universe. I said earlier that I thought you could make a case

that both sides could use force in the extreme to defend certain things, but not everything. My own sense is that the fundamental problem in the Middle East at the minute, before you get to judging tactics, is the willingness of both parties to provide some sense of a political argument of what they regard as an end result that they would accept. I think the use of force at the present minute is what I earlier described as a “feckless” use of force. I don’t mean that people don’t think they need to use force. I mean, there is very little connectedness between ends and means in the force that is being used.

Question: You mentioned proportionality in the use of airpower earlier in the talk. It seems to me that our American way of war changes as our means of war change, but also that the degree of the use of precision munitions allows both greater discrimination and the obligation to exercise discrimination. You said there were arguments against proportionality and I would like to hear that from both of you gentlemen if I could.

Hehir: The proportionality argument, I would answer in two steps. First of all, I would say, there has been a remarkable shift on the noncombatant immunity principle. And that needs to be acknowledged in a positive way. That is to say, if you take the historical framework from World War II up to today, one of the things that is quite evident at the level of policy, at the level of public opinion, and at the level of public discussion, is a very, very steep learning curve that has been climbed on noncombatant immunity. In other words, noncombatant immunity was violated in World War II by all the powers, and there was virtually no public discussion of it or resistance to it. That was the point that Bundy made in his history of World War II leading up to Hiroshima and Nagasaki. There was very little discussion of noncombatant immunity during the Korean War. There was some during Vietnam. And since the 1970s, there has been a very rapid intensification of the effort within the policy process and in the public debate so that directly intended attacks on civilians are not regarded as permissible and sustainable in policy. That is the first point.

Second point is: has that solved all the moral problems on the use of force? And my point there is no. I think if you take the Gulf War, there was very great attention paid not to strike civilians. I think it involved rules of engagement, and I think it involved orders under which pilots both targeted and flew, and therefore there were real efforts not to strike civilians. But I think the striking of what I call dual-use targets during the Gulf War – targets that were both essential for the prosecution of the war and essential to civil society – raised proportionality questions. If you need take out the communication system in order to fight the war (which was part of the strategy) then you have to take out the electrical grids. When you take out the electrical grids, you take out the water supply and the electrical supply that keeps that ventilators going in the hospital. The fact is simply to recognize that while that is a legitimate military target from one angle, it is also an essential need for civilian society from another angle. Thus, people came away from the Gulf War with questions about proportionality on that grade. Go to Kosovo and you find the same kind of question – not on the targeting of civilians, but on some of the targets in Belgrade that were used in a coercive way to get Milosevic to submit. When you turn to Afghanistan, my question is due to ignorance. When the New York Times says, “The United States is bombing in Kandahar, in Kabul,” I don’t know enough about

what is going on at that point. I certainly get nervous, if we are bombing in downtown Kabul, in the ability to separate out civilians and non-civilians. But that is a question that you need to know in detail. I personally oppose anti-personnel weapons and cluster-bombs. I oppose them unless you are in a totally combatant situation. And I think there has been significant use of anti-personnel weapons and cluster bombs. I don't know exactly whether their use has always been in a situation where only combatants were in the surrounding area.

Question: I have to confess to a sense of deep frustration and sadness at this discourse, which is making so clear that we are yet again exhibiting a form of mental illness – social mental illness. It is clearly destructive not only to our species, but possibly to all forms of human life on the planet. I guess I would key off the remarks like, “a fundamental rethinking of the ethic,” a recognition that these times are at a point in human history where our command of the planet is totally unprecedented and is going to become progressively greater. So that it seems to me that we are discussing at a level that is not commensurate with depth and profundity of the problem that we as human beings face. I don't know if that is a question which can be answered. But I would welcome any comments that the panel might have on that frame of reference for the situation in which we find ourselves.

Hehir: I am taken by your remarks and impressed by them. I am not wholly convinced by where I think the conclusion would go – namely, that in a sense, war is unnecessary and we simply indulge in it because we don't have enough willpower to deal with it or intelligence to deal with it. I often wonder whether war is like slavery. For centuries people thought slavery was necessary for society, and then all of a sudden, we came to understand that it was not and that it should be done away with. Or maybe war is more rooted in deeper dimensions of human nature and human relationships. I certainly don't think that war should be glorified. I don't think it even should be mitigated in the horror that it creates as we describe it. But the question that you raise with the ethic of war is: are there some circumstances, some situations, where it is clear that massive amounts of injustice will be done and there seems to be no other way to stop it? The example I would use to try and get away from the US theme – because we are all self-interested when we talk about it – is the fact that in Rwanda, 800,000 people were killed, and I think that in the minds of most people who look at that politically and militarily, there is a conviction that it could have been stopped. To stop it would have taken force. It would have taken troops with guns who were willing to use guns against people who were using other weapons. I think that is a situation that justifies the use of force. You could make an argument, and I would believe it, that you could have stepped in 12 years before in Rwanda and mitigated the situation so it would not happen. But I am not positive – I really want to stay with your basic thrust – that you can explain every situation in the world by saying that if we thought about it more, that if we acted more or used our resources more, we would simply eliminate this. I am not positive that is so.

Question: I want to follow up on Rwanda. Because at the beginning, when you were talking about what constitutes a just war, you talked about human rights violations. And I think you talked about the duty to rescue. What I would like to explore with you is:

how grotesque do the human rights violations have to be within the borders of a country to want the rest of the world to come the rescue of those people? I think most of us would agree that the genocide in Hitler's Germany would have warranted going in and stopping it even if he had not invaded Poland. What I am getting at is if there were to be blacks in South Africa who were required to wear burkas and who could not be educated, who could not have medical care, who had no civil rights, who were annihilated in every way short of actually being murdered, would you say that that warranted doing something about it? It just seems extraordinary to me that we can spend this long talking about Afghanistan and never mention women.

Hehir: The question you raise is the question I describe as humanitarian military intervention, which is different than war. War is what the international community undertakes when there is aggression across an international boundary and it needs to be disciplined and set back. Humanitarian military intervention is the use of military force to address questions within the defined boundaries of a sovereign state because of what is going on inside the sovereign state. War is legitimated by international law and politics. Humanitarian intervention, at the present state of international law, in most instances is not legitimated. Indeed, the rule of nonintervention as a political rule is the abiding norm. However, there has been one defined exception – genocide. Genocide is the justifying cause to undertake military action inside a state even if that state does not pose a danger as such to the international community. That is why the United States purposefully did not use the word genocide when talking about Rwanda, because it knew it was an action term. Secondly, then, what else do you want to add to genocide that would spark war? I would add ethnic cleansing (which is not technically genocide, but is bad enough), and I would add what would we today would call a failed state. I would not say that what I will call ordinary human rights violations should justify war. What I mean is, when you have a regime that puts its political opponents in jail, closes down the newspapers and the unions, infringes on the rights of women or children, those are human rights violations, but it would not justify the use of force every time I found them, because as I read Amnesty International, you would be going to war in a hundred countries. And therefore, I think that calls for human rights policy, but not war. I would confine war to a very narrow range of things, but a real range.

Question: This question is for both of you. Professor Mottahedeh, you mentioned *jus post bellum* and my question is regarding that. What do you think the boundaries should be for US and others with respect to imposing traditionally Western values and standards on the new Afghani government?

Mottahedeh: I believe that there is in Afghanistan, as in several of its neighbors, a general impetus toward popular sovereignty. People really would like to have elections again. There is at the same time a desire for ethnic balance. There are some countries, like Switzerland, which have had to accede to something like ethnic balance at the same time as accommodating popular sovereignty. This is a difficult achievement and we should consider the models of federation that do at present. There are a number of places in the modern world where one has to maintain a de facto ethnic balance while allowing for popular sovereignty. Lebanon is such a place. Feelings for individual rights and

liberties seem to be somewhat less developed. And I think that is a failure in some of the neighbors of Pakistan as well.

I think that one of the most important things that we can do in a *post bellum* situation throughout the third world – I am thinking particularly about poorer Muslim societies – is to have a new kind of Fulbright Plan. Elites in most of these countries, because they are educated abroad or in schools that teach in English, are cut off from many elements in the population. I feel it is terribly important in a *post bellum* situation, not only to offer the basic medicine and subsistence that is necessary to carry on as a society, but also to create institutions of education at all levels in the vernacular of such nations.

Afghanistan should be a model in this respect. One of the problems we have, in speaking about human rights, is that NGOs who stand up for human rights in these countries are often accused of being stooges for the West. How can we overcome that? We can overcome that by sponsoring liberal education in the vernacular at all levels so that indigenous elites are produced. I would love to see an expanded Fulbright Plan as something that would be part of a *post bellum* reconstruction.

Question: I have a short question and even shorter reflection. My question is for Roy Mottahedeh. You mentioned the advantages of having insisted that we were pursuing Osama bin Laden and his senior aides from the perspective of criminal justice and taking them to the Hague. My question is, in having talked about this, whether the Muslim judges in the Hague or on any international tribunal would in fact be accorded the legitimacy and respect that I think we in the West hope. It is my understanding that they are not actually Islamic jurists, in the sense that they are not *ulema*. They are judges who are trained in the Western tradition and are working in secular judicial systems. I wanted your reaction to that question. And just a final reflection to Bryan Hehir: you were interesting when you talked about presenting evidence as a key part. And the difficulty here is that we normally don't present evidence before we go to war. We present evidence in courtrooms. And I wonder, if instead of thinking of this in terms of presenting evidence as part of the use of force, we should not be thinking about this as to when we can legitimately use force for the ends of the criminal justice system and make that the focus and war simply the means, and a very limited means.

Mottahedeh: About the question of the jurists and the kind of law by which they would judge – there are several nations in which the governments are technically secular, but, as in the case of Egypt and Pakistan, in the constitution says that the source of the law is classical tradition of Islamic law. Interestingly enough, I think that along with a case that would be made in the Hague in terms of existing and, we have to admit, overwhelmingly Western-produced international juridical norms, I think a perfectly good and strong Islamic brief could be submitted. I know from a case in which a Western oil company had a disputation with a north African country, and there was, because of the provision in the constitution which says that the ultimate resource is Islamic law, both a brief in terms of ordinary international law and a brief framed in terms on Islamic law were submitted.

Hehir: On the basis of your second question, I would say two things. One, I fully agree with those who say that even if this approach to terrorism involves some military force,

war is not the overarching term to define what we are involved in. Because what that term does is to overemphasize the military dimension of a coherent policy that will be necessary. Even people like Michael Howard and others who are not shy when it comes to saying, "It's time to go to war," have made the point that it would be a policy mistake to define the question in terms of war as a whole. You define the question much more culturally in terms of police work, intelligence work, political work, that kind of thing. That is my point. The step beyond Afghanistan is a very complicated question in terms of whether military questions are the key questions or whether others are, and then how you would justify any step and what kind of evidence you would produce.

Berger: Thank you very much. Patricia Spacks is going to make some concluding remarks.

Spacks: Thanks to all of you for the insight you brought to tonight's presentation. I think we all come away from this discussion with a deeper understanding of the meaning of the just war and probably with more questions than we started out with, which is not a bad thing.