

Trends in just war thinking during the US presidential debates 2000–12: genocide prevention and the renewed salience of last resort

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Abstract. In this article, I explore the place of the just war tradition in US foreign policy by examining the use of just war language in the presidential debates in 2000 (Bush-Gore), 2004 (Bush-Kerry), 2008 (McCain-Obama), and 2012 (Obama-Romney). While critics focus on the use and abuse of just war language as rhetorical gloss to persuade the public an upcoming conflict is morally legitimate while serving the national interest, the debates showcase just war principles as part of a language of critical engagement. Each debate cycle allowed for critical reflection on the foreign policy decisions and just war philosophy of the incumbent president. During the time period I examine, the process of critical engagement identified two moral shortcomings of the past – the failure to act to stop the genocide in Rwanda and the premature use of force in Iraq. These perceived failures catalysed convergence, across party lines, on the way some *jus ad bellum* principles were understood: Just cause as including the moral obligation to intervene in some way to stop genocide and the renewed salience of the principle of last resort. There remained, however, stark differences in the way legitimate authority was understood.

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Introduction

President Obama's reference to the concept of just war as a means 'to regulate the destructive power of war' in his 2009 Nobel Peace prize acceptance speech points to the salience of this moral framework, spanning several thousand years of philosophical reflection, as a guide to assist statesman in adjudicating the challenges linked to the use of force in the world today.¹ A rich scholarship that examines the three categories of *jus ad bellum* (justice of war), *jus in bello* (justice in war), and *jus post bellum* (justice after war) exists. Recent work, however, points to the concept of *jus*

¹ Barack Obama, 'Obama's Nobel Remarks', *New York Times* (11 December 2009).

ad bellum undergoing a process of renegotiation in light of changing security conditions linked to the threat of terrorism.² While there exists a common moral vocabulary to debate issues and explain choices, questions arise regarding the meaning and application of the *ius ad bellum* criteria – just cause, right intention, legitimate authority, reasonable hope of success, last resort and proportionality of aims – on the decision to go to war. Thus while some scholars seek to delimit a single just war theory that can serve as a moral slide rule to govern foreign policy decisions,³ others speak of a tradition where the value of the concepts lies in the notion of a shared moral language that facilitates evaluation of our societies' use of force.⁴ In this vein, to quote one scholar, 'just war is a site of contestation constituted by a protean idiom or moral vocabulary that both structures and informs how we think about war in substantive terms'.⁵ Meanwhile, critics argue just war principles have been misused and manipulated to provide statesmen the ability to adapt the criteria to justify almost any war to pursue underlying state interests⁶ or cannot accommodate the geopolitical challenges facing states in the contemporary world.⁷ What, then, are we to think of Obama's use of just war language? Is it a positive moral stance to be embraced or rhetorical gloss to be treated with suspicion? Have the just war principles been so renegotiated and manipulated over time to have lost all the ethical meaning they might once have had? Where is the current phase of renegotiation of just war principles leading?⁸

To begin to answer these questions, I think it is important to make several observations. Obama is not the first US president to have turned to the just war tradition. His three predecessors, George W. Bush, Bill Clinton, and George Bush Sr. also used the just war precepts to talk about foreign policy. Moreover, they did not instrumentalise the principles in the same way. Proponents hail the way just war principles have served to regulate warfare in the modern world by informing statesman and military personnel about the laws of war;⁹ critics focus on the use and abuse of just war language as rhetoric to persuade the public at large that an upcoming conflict is morally legitimate while serving the national interest.¹⁰ Finally, the concept of the

² Cian O'Driscoll, *The Renegotiation of the Just War Tradition and the Right to War in the Twenty-First Century* (New York: Palgrave Macmillan, 2008), p. 163.

³ See, for example, Jeff McMahan, 'Just Cause for War', *Ethics & International Affairs*, 19:3 (2005); Eric Patterson, 'Just War in the 21st Century: Reconceptualizing Just War Theory after September 11', *International Politics*, 42 (2005), pp. 116–34; and Ian Holiday, 'Ethics of Intervention: Just War Theory and the Challenges of the Twenty-First Century', *International Relations*, 17:2 (2003), pp. 115–33.

⁴ Alex J. Bellamy, 'Is the War on Terror Just?', *International Relations*, 19:3 (2005), pp. 275–96; Nicolas Rengger, 'On the Just War Tradition in the Twenty-First Century', *International Affairs*, 78:2 (2002), pp. 353–63; Cian O'Driscoll, 'Learning the Language of Just War Theory: The Value of Engagement', *Journal of Military Ethics*, 6:2 (2007), pp. 107–16, 113.

⁵ Cian O'Driscoll, 'Talking About Just War: Obama in Oslo, Bush at War', *Politics*, 31:2 (2011), pp. 82–90, 84.

⁶ Ken Booth, 'Ten Flaws of Just Wars', in Ken Booth (ed.), *The Kosovo Tragedy* (London: Frank Cass, 2001), pp. 314–24; Robert Myers, 'Notes on the Just War Theory: Whose Justice, Which Wars?', *Ethics & International Affairs*, 10 (1996).

⁷ Richard W. Miller, 'The Ethics of America's Afghan War', *Ethics & International Affairs*, 25:2 (2011).

⁸ O'Driscoll, after a brief comparison of Bush and Obama, raises similar questions that merit close attention, but does not answer them; 'Talking About Just War', p. 90.

⁹ Michael Walzer sees this as a sign of the 'triumph of just war theory'; *Arguing About War* (New Haven: Yale University Press, 2004), p. 11. Stephen Carter hails Obama use of just war concepts as evidence he has carefully thought about war in the abstract, but claims he has not fully explained his ideas in public; *The Violence of Peace: America's Wars in the Age of Obama* (New York: Beast Books, 2011), pp. ix–x.

¹⁰ Neta Crawford, 'Just War Theory and the U.S. Counterterror War', *Perspectives on Politics*, 1:1 (2003), pp. 5–25; Daniel Brunstetter and Dana Zartner, 'Just War Against Barbarians: Revisiting the Valladolid Debates between Sepúlveda and Las Casas', *Political Studies*, 59:3 (2011), pp. 733–52.

just war has also been a language of critical assessment of foreign policy alternatives by political officials. For example, in the build-up to the 2003 Iraq invasion, leaders from France and Germany referenced notions of legitimate authority and last resort to counter President Bush's case for war.¹¹

With this in mind, in this article I examine the US presidential debates in 2000 (Gore-Bush), 2004 (Bush-Kerry), 2008 (McCain-Obama), and 2012 (Obama-Romney) to see how the concepts of just war were appropriated differently, the factors that affected the way the criteria were understood, and how the interpretations changed over time.¹² The decisions made by US presidents during this period spawned a rich critical literature about the legitimacy of humanitarian intervention,¹³ the distinction between preemptive and preventive war,¹⁴ the legitimacy of regime change, and whether the precepts of the just war tradition can adapt to asymmetric warfare against non-state actors.¹⁵ Some scholars identify a problematic expansion of *jus ad bellum* principles,¹⁶ while others see the tradition as adapting to changing security conditions or marking a recovery of the just war tradition's core principles.¹⁷ In other words, the tradition could be seen as moving away from acceptable parameters, being renegotiated to establish a new set of adequate standards, or returning to its foundations.

I turn to the presidential debates – largely overlooked by just war scholars – to garner an understanding of the uses, interpretations, and patterns of change of just war principles. My argument has three parts. First, presidential candidates were aware of a moral framework – sometimes called just war theory, other times referred to as the concept of just war or the just war tradition – but did not understand this framework in the same way or rely entirely on it to think about war. Second, there

¹¹ For example, the speech by the French Minister of Foreign Affairs, Dominique de Villepin, before the UN Security Council on 14 February 2003 in which he said inspections had not yet failed, meaning the recourse to force was premature, and that the authority for any turn to force rested on the unity of the international community, available at: {<http://www.republiquesolidaire.fr/438-ministre-affaires-etrangeres/>} accessed 10 August 2012. Regarding Germany, Brunstetter and Brunstetter point to the Iraq crisis as a moment of 'critical solidarity' whereby German criticism provided a check on the Bush administration's interpretation of *jus ad bellum*; Daniel Brunstetter and Scott Brunstetter, 'Shades of Green: Engaged Pacifism, the Just War Tradition and the German Greens', *International Relations*, 25:1 (2010), pp. 65–84, 76–9.

¹² I use the transcriptions of the debates from the Commission on Presidential Debates {www.debates.org}.

¹³ For a good summary of the arguments on humanitarian intervention, see Mona Fixdel and Dan Smith, 'Humanitarian Intervention and Just War', *Mershon International Studies Review*, 42:2 (1998), pp. 283–312. The failure to systematically intervene during the 1990s launched a broad discussion on the Responsibility to Protect regime; see Alex J. Bellamy, 'The Responsibility to Protect – Five Years On', *Ethics & International Affairs*, 19:2 (2005).

¹⁴ Whitley Kaufman, 'What's Wrong with Preventive War? The Moral and Legal Basis for the Preventive Use of Force', *Ethics & International Affairs*, 19:3 (2005).

¹⁵ For a summary of recent arguments in the tradition, see Mark Rigstad, 'Jus ad bellum After 9/11: A State of the Art Report', *The ITP Beacon*, 3 (2007), pp. 1–30. Rigstad identifies two competing factions, the conventionalist view drawing from the Walzerian approach limiting just cause and the revisionist approach that expands *jus ad bellum* in light of 9/11, pp. 3–4, 27.

¹⁶ See, for example, Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (New York: Basic Books, 2006), p. xiii; Crawford, 'Just War Theory and the U.S. Counterterrorism War', pp. 14–18; and Eric Patterson, 'Just War in the 21st Century: Reconceptualizing Just War Theory after September 11', *International Politics*, 42 (2005), pp. 116–34, 122–7.

¹⁷ Jean Bethke Elshtain harkens back to the founding principles of what she calls Augustinian realism, *Just War against Terror: The Burden of American Power* (New York: Basic Books, 2003). James Turner Johnson cites the importance of legitimate authority and right intention in Aquinas; *The War to Oust Saddam Hussein: Just War in the Face of New Conflict* (Lanham: Rowman and Littlefield Publishers, 2005).

are two facets to the use of the just war tradition by presidential candidates: the persuasive and the critical. The persuasive facet provides statesmen a rhetorical tool to legitimise foreign policy decisions, serving as a language to mobilise public support. This sometimes altered the meaning of the principles in a way that facilitated the recourse to force. However, the debates illustrate presidential candidates have also turned to the concepts of the just war tradition to legitimise non-intervention and to criticise wars authorised by the incumbent. Thus, the periods of just war persuasion have been punctuated by a debate cycle during which the principles of the just war tradition served as a language of critical engagement. This tended to have a restraining effect, bringing into check interpretations of just war principles perceived to be irresponsible.

Third, the process of critical engagement reveals the moral failures of the past, thus providing lessons for the future. While just war scholars have focused on Bush's problematic expansion of just cause, the presidential debates point to additional moral lessons that cut across party lines. These lessons catalysed two trends that emerge from the debates. The failure to act on the genocides in Rwanda and Darfur prompted a shift from a stance rooted in morally frayed arguments linked to strategic interests and probability of success, to a general consensus among presidential candidates by 2008 that there is a moral duty to intervene in such cases. In addition, while Michael Walzer identified during the heart of Bush's tenure as president 'a significant expansion of the doctrine of *jus ad bellum*' that diminished the importance of last resort, a diachronic look at the debates shows this trend came to be reversed.¹⁸ The precipitous nature of the Iraq invasion and the difficulties that resulted after the official end of hostilities provoked a renewed emphasis on the principle of last resort. This began with the rejection of the Bush doctrine by the Democratic challengers in 2004 and 2008, and evolved into a consensus between both candidates in 2012. However, there remain subtle differences in how Obama and Romney viewed the relationship between last resort and legitimate authority, and what last resort means regarding the use of drones to combat non-state actors.

Gore vs. Bush in 2000

The last decade of the twentieth century was a quagmire of moral dilemmas regarding the use of force that challenged the legalist paradigm guiding just war thinking during the Cold War.¹⁹ The outbreak of humanitarian crises across the world in the 1990s (Haiti, Somalia, ex-Yugoslavia, Rwanda) brought into question the sanctity of territorial sovereignty, while the threat of oppressive dictators flaunting international law (such as Saddam Hussein in Iraq) and the terrorist attacks against US interests abroad (the bombing of US embassies in Kenya and Tanzania in 1998) raised questions about how to deal with the amorphous threat of terrorism and weapons of mass destruction (WMD) falling into the wrong hands. The Clinton administration responded to these international challenges by supporting a just war to restore civil order in Haiti (1994) and to stop ethnic cleansing in the Balkans (1995, 1998–9), sending cruise missiles into the mountains of Afghanistan and Sudan in response to

¹⁸ Walzer, *Just and Unjust War*, p. xiii.

¹⁹ O'Driscoll, *Renegotiation*, pp. 9–26.

the threat posed by Al-Qaeda (1998), but removed troops from Somalia (1994), and did not justify war in response to the genocide in Rwanda (1994), or to remove Saddam Hussein's antagonistic dictatorship in Iraq.

The foreign policy themes discussed during the 2000 presidential debates between Vice President Al Gore and Texas Governor George W. Bush reflected the tumultuous events of the 1990s. The debates point to two important conceptual differences of *jus ad bellum* that emerged between the presidential hopefuls. First, their conceptions of just cause and probability of success differed according to a disagreement about the salience of human rights, the scope of national interest, and finding a balance between resource limitation and capacity to act on just cause. Second, their interpretations of last resort and legitimate authority differed according to alternative understandings of threat and national interest.

Regarding just cause, there was disagreement as to whether stopping genocide and nation-building were just causes for war. In the case of the former, while both Gore and Bush agreed on the justness of the intervention in the Balkans, they did so for different reasons. For Gore, intervention was justified because the violence represented a grave violation of universal human rights, and therefore a transgression of American values which mirrored them: 'So I think first and foremost our power ought to be wielded to in ways that form a more perfect union. The power of example is America's greatest power in the world. And that means, for example, standing up for human rights.' (GvB#2) Gore linked the notion of just cause to universal values as opposed to strategic material interests:

Now, just because we don't want to get involved everywhere doesn't mean we should back off anywhere it comes up. I disagree with the proposal that maybe only when oil supplies are at stake that our national security is at risk. I think that there are situations like in Bosnia or Kosovo where there's a genocide, where our national security is at stake there. (GvB#2)

Regarding nation-building, Gore saw the US as 'the natural leader of the world'. And while recognising that 'we cannot be involved everywhere, and shouldn't be', he asserted the US needed 'to step up to the plate as a nation, the way we did after World War II'. (GvB#2) For Gore, the quintessential example of nation-building was the post-World War II rebuilding of Europe, which saw the US invest militarily and economically in European post-war democratic reconstruction. His idea of nation building was based on the idea that the US has a global image to uphold, because of its position as sole superpower. This view reflected Clinton's 1996 National Security Strategy: 'We are the world's greatest power, and we have global interests as well as responsibilities . . . For the American people to be safer . . . our nation must work to deter would-be aggressors, open foreign markets, promote the spread of democracy abroad, combat transnational dangers of terrorism'.²⁰

However, there was a caveat – acting on just cause depended on whether there was a high probability for a successful mission, which depended on having multi-lateral support. Even when the violence had reached the point of genocide, the criteria of legitimate authority and probability of success imposed limits on the use of force. While the case of the Balkans was one where there was ongoing ethnic violence and NATO support, meaning there was a high probability of success and multilateral

²⁰ 1996 National Security Strategy, available at: {<http://www.fas.org/spp/military/docops/national/1996stra.htm>} accessed 29 July 2012.

legitimate authority, Gore saw the case of Rwanda as not satisfying these key elements of his just war philosophy: ‘But because we had no allies and because it was very unclear that we could actually accomplish what we would want to accomplish about putting military forces there, I think it was the right thing not to jump in, as heartbreaking as it was.’ (GvB#2)

In terms of last resort, Gore did not think, in the case of Iraq as of 2000 that the threshold had been crossed. He recognised Iraq was a threat, but was reluctant to justify invasion. Rather, he wanted to solve the problem of Hussein’s brutal regime short of international war by continuing to work through the UN to enforce sanctions and inciting Iraqis to revolution: ‘I want to give robust support to the groups that are trying to overthrow Saddam Hussein . . . [it] seems a little early to declare that we should give up on the sanctions.’ (GvB#2) Sanctions and the system of containment, he believed, were weakening Hussein’s capacities, and thus buying time for internal mechanisms to catalyse change without a US-led war. His view of last resort points to something of a paradox: it focuses on limiting interstate conflict, while permitting sanctions that devastated the Iraqi civilian population, the use of force short of war (establishing a no-fly zone), and the escalation of intra-state violence to remove a dictator. This paradox forces us to think of the last resort criterion not as the absence of violence, but, rather, in terms who wields the violence and at what level.

To summarise the Gore doctrine ‘Now, I think we should be reluctant to get involved . . . in a foreign country. But if our national security is at stake, if we have allies, if we’ve tried every other course, if we’re sure military action will succeed, and if the costs are proportionate to the benefits, we should get involved.’ (GvB#1) Gore privileged the criteria of probability of success and last resort when deliberating on whether to act on just causes like protecting human rights and securing democracy. His faith in UN imposed sanctions in Iraq, coupled with his unwillingness to intervene without allied support in Rwanda (but support of the NATO-led Kosovo mission), suggests a view of legitimate authority linked to multilateral intervention. Yet, this interpretation is a mixture of just war thinking and strategic realism that leaves open the possibility for extreme moral shortcomings, such as not acting on the Rwandan genocide. Indeed, it is difficult to glean any moral clarity when it comes to humanitarian intervention, except perhaps the dark conclusion that the US should only intervene when it serves its own interests, not out of some higher duty to protect (a point to which I return below).

That being said, Bush agreed with the decisions made by the Clinton administration regarding genocide, but for different reasons. He viewed the Balkans as strategic because they were in the heart of Europe, meaning intervention was justified; Rwanda was not strategic, and therefore not justified. This reflects Bush’s view of *jus ad bellum*, which on the surface presented a more restrictive interpretation than Gore’s.

Bush was highly critical of the human rights and nation building rhetoric employed by Gore. He placed constraints on acting on just cause based on US strategic national interest, limited US resources, and the importance of maintaining a more humble global image. He defended this stance by claiming it guarded against over-extending the US military and that it would be irresponsible to imagine the US as world policeman: ‘If it’s in our vital national interest, and that means whether our territory is threatened or people could be harmed, whether or not . . . our defence

alliances are threatened, whether or not our friends in the Middle East are threatened.’ (GvB#1)

Regarding the Middle East, Bush was severely critical of the way the Clinton administration dealt with the issue of Iraq. Citing a litany of violations, Bush intimated that the threshold of last resort had been crossed because aggression was already underway, implying war was warranted as a response: ‘The coalition against Saddam has fallen apart or it’s unravelling . . . The sanctions are being violated. We don’t know whether he’s developing weapons of mass destruction. He better not be or there’s going to be a consequence should I be the president.’ (GvB#2) While Gore did not interpret this as evidence the threshold of last resort had been crossed and sought to continue to work through the UN, Bush had an alternate view driven by the perception of imminent threat to national and strategic interests that diminished the importance of last resort and legitimate authority linked to multilateralism: ‘I think our troops ought to be used to help overthrow the dictator when it’s in our best interests.’ (GvB#2) This fit the case of Saddam’s regime because Iraq was in a region of strategic importance, the threat of WMD was potentially catastrophic, and the inefficacy of diplomatic means to resolve the issue. Bush’s criticism targets the inefficiency of the UN, and what he saw as Gore’s opaque view of the last resort principle that allowed for an infinite number of additional UN resolutions. Such a strategy, in his mind, postponed any definitive solution. This criticism suggests Bush viewed legitimate authority as rooted in the state and had a diminished appreciation for the threshold of last resort. Here we find the kernel of the post 9/11 Bush Doctrine, the makings of a just war philosophy teetering on what just war scholars see as the slippery slope between preemptive and preventive war.²¹

Yet, while Bush hinted that he would be more bellicose where he perceived a strategic threat, his view of just war was tempered by statements of caution: ‘I would take the use of force very seriously. I would be guarded in my approach. I don’t think we can be all things to all people in the world.’ (GvB#1) Moreover, he appeared to be aware of how the excessive use of force might negatively hurt the US image in the world: ‘If we’re an arrogant nation, they’ll resent us. If we’re a humble nation, but strong, they’ll welcome us.’ (GvB#2) And finally, he rejected spreading American values by force, what he labelled as Gore’s emphasis on nation-building: ‘I think one way for us to end up being viewed as the ugly American is for us to go around the world saying, we do it this way, so should you.’ (GvB#2) Bush was against nation-building in 2000 because it used military resources in places that were not part of the national interest: ‘I’m worried about over-committing our military around the world. I want to be judicious in its use . . . I wouldn’t have sent troops to Haiti. I didn’t think it was a mission worthwhile. It was a nation-building mission, and it was not very successful.’ (GvB#2) Yet, while he was reticent about committing resources to build democracies, this does not mean he was against the idea of the US having a global responsibility. Rather, he was hesitant in cases that did not lie in zones of strategic US interest: ‘[Gore] and I have a disagreement about the use of troops. He believes in nation building. I would be very careful about using our troops as nation builders. I believe the role of the military is to fight and win war and therefore prevent war from happening in the first place.’ (GvB#1) The problem with Gore’s policy

²¹ Jeff McMahan, ‘Preventive War and the Killing of the Innocent’, in Richard Sorabji and David Rodin (eds), *The Ethics of War: Shared Problems in Different Traditions* (Ashgate, 2006), pp. 169–90.

was that sending troops to places that were not within the national interest was a strategy that, in Bush's view, actually weakened American power by overstretching the military, hurting the US image, imposing unnecessary physical and monetary costs, and taking one's eye off more pressing threats.

In sum, the Bush doctrine in 2000 delimited a view of just cause restricted by national interest and resource limitation. However, while more restricted on the surface, such a view was subject to expansion because Bush's conception of national interest was elastic. Such elasticity, connected to a perception of imminent threat that diminished the salience of last resort and (multilateral) legitimate authority, was the mechanism that would allow Bush to disregard the stop-gap that resource limitation placed on his ethics of war and expand his conception of *jus ad bellum* after 9/11 to legitimise the global war on terror.

Bush vs. Kerry in 2004

George W. Bush was elected president in 2000 by the slimmest of margins, and America was deeply divided along ideological lines. But these differences were put aside after the terrorist attacks of 9/11, as there was near unanimity within the US government that the coming war in Afghanistan was just. Yet, how the scope of justice in the global war on terror would be determined remained an important question that later split the country again as Bush built a case for war against Iraq in 2002–3.

In the build up to the war in Iraq, just war precepts were employed as a language of persuasion to convince the American public and the world at large that the coming war was legitimate.²² A specific interpretation of the just war tradition had a focal place in the Bush administration's ethical outlook post 9/11.²³ In a memo dated 17 December 2001 from Robert Andrews, Principal Deputy Assistant Secretary of Defense to the Under Secretary of Defense, Andrews recommended an op-ed by George Weigel, a 'prominent Catholic theologian' and 'former president of the Ethics and Public Policy Center', as an ethical authority who 'demonstrates how preemptive action against Iraq fits into the just war tradition'.²⁴ In the weeks following 9/11, Weigel argued that 'the just war tradition needs to be stretched' to face the new threats posed by terrorism and states seeking WMD: just cause cannot be 'limited to repelling aggression already under way' but must also include 'preemptive military action' against those seeking WMD. Such action is 'not only morally justifiable but morally imperative' because the potential destruction that might be caused diminishes the imminence level needed to legitimate anticipatory force. Weigel claimed legitimate authority need not be anchored to the UN, but falls to the specific state under threat because 'we do not require the permission of others to defend ourselves or to take war to the enemy to defeat him. Allies in that enterprise are welcome. Their

²² Amy Gershkoff and Shana Kushner, 'Shaping Public Opinion: The 9/11-Iraq Connection in the Bush Administration's Rhetoric', *Perspectives on Politics*, 3:3 (2005), pp. 525–37; see also O'Driscoll, *Renegotiation*, especially chs 2 and 3.

²³ The just war tradition was not the only influence; for a discussion of the impact of the neo-conservatives, see Mark Ayyash, 'The Appearance of War in Discourse: The Neoconservatives in Iraq', *Constellations*, 14:4 (2007), pp. 613–34.

²⁴ US Department of State, Bureau of Intelligence and Research (29 September 2002), Intelligence Assessment.

approbation, while prudently desirable, is not morally necessary.’ Last resort must also be revisited because terrorists do not ‘play by the rules’, meaning it does not make ‘moral sense to argue that one must first attempt to negotiate’ with them. Finally, the document pointed to the need to convince the world the destructive costs of war would be outweighed by a ‘committed, credible, long-term postwar reconstruction plan’.²⁵ Although the Bush administration recognised using such just war language to frame the Iraq war could be problematic given other interpretations of just cause, legitimate authority, and last resort,²⁶ the 2002 NSS came to reflect Weigel’s key claims: ‘We must adapt the concept of imminent threat to the capabilities and objectives of today’s adversaries . . . The greater the threat, the greater is the risk of inaction – and the more compelling the case for taking anticipatory action to defend ourselves, even if uncertainty remains as to the time and place of the enemy’s attack.’²⁷ This language was used in the Bush administration’s initial framing of the Iraq war in an attempt to persuade the world it was just to intervene.²⁸

The persuasive aspect of just war thinking is not, however, the just war tradition’s only function. Alex Bellamy argues that ‘if governments are not forced to justify their actions there is a danger that the war on terror will be used to relax the restraints on war contained within the Just War tradition’.²⁹ The thrust of his claim rests on the view that the just war tradition can somehow provide a moral check on a government’s use of force. The 2004 debates provided a forum of public scrutiny in which the just war tradition served this purpose, as an ethical framework to analyse Bush’s decision to invade Iraq. The major question on the agenda was whether Bush’s just war philosophy was a responsible one. Unlike in 2000, where the presidential candidates did not directly employ just war terminology to talk about US foreign policy, both President Bush and his challenger, Senator John Kerry, explicitly framed their foreign policy views in just war language. Bush was in the position of having to defend his growingly unpopular decision to invade Iraq, while Kerry proffered a multi-pronged attack framed in an alternative interpretation of just war principles.

Kerry’s criticism was born from what he viewed as the failure of Bush’s foreign policy. Even though he had voted to approve the Iraq war in the US Senate, Kerry came to view this decision as a mistake. His change of opinion led Bush to accuse him of being inconsistent and not being of sound military judgment. Kerry’s shift in opinion, however, can also be read as reflecting an alternative interpretation of just war principles. The thrust of Kerry’s attack was framed in the language of legitimate authority and last resort: ‘[Bush] made a huge mistake, a catastrophic mistake, not to live up to his own standard, which was: build a true global coalition, give the inspectors time to finish their job and go through the UN process to its end and go to war

²⁵ George Weigel, ‘Reality of Terrorism Calls for a Fresh Look at Just War Tradition’, *The Catholic Difference* (20 September 2001).

²⁶ US Department of State, Bureau of Intelligence and Research (29 September 2002), ‘Problems and Prospects of “Justifying” War with Iraq’.

²⁷ 2002 National Security Strategy, p. 15, available at: {<http://www.state.gov/documents/organization/63562.pdf>} accessed 30 July 2012.

²⁸ The Iraq war was justified by what Brian Orend calls Bush’s ‘scattershot’ approach, which amounts to throwing out sometimes dubious arguments in succession – that is, the imminent threat of WMD, the perceived link to Al-Qaeda, and finally democratisation. For a critical discussion, see Brian Orend, *The Morality of War* (Peterborough, Ontario: Broadview Press, 2006), pp. 78–83.

²⁹ Bellamy, ‘Is the War on Terror Just?’, p. 293.

as a last resort.’ (BvK#2) Kerry read threat through a different lens in which multi-lateral legitimate authority and last resort were paramount:

[Hussein] was a threat. That’s not the issue. The issue is what you do about it. The president said he was going to build a true coalition, exhaust the remedies of the UN and go to war as a last resort. Those words really have to mean something. And, unfortunately, he didn’t go to war as a last resort. (BvK#1)

Kerry’s about-face on the war in Iraq reflected a lesson he learned about over-extending the global war on terror to quell perceived threats. Iraq taught him one should take into account what acting on just cause will mean in the long-term before doing so. Taking a long-term view gave resonance to the constraints posed by resource limitation. Kerry thus challenged the notion that regime change, which required deep financial and military investment, was a just cause:

Smart [judgment] means not diverting your attention from the real war on terror in Afghanistan against Osama bin Laden and taking it off to Iraq where the 9/11 Commission confirms there was no connection to 9/11 itself and Saddam Hussein, and where the reason for going to war was weapons of mass destruction, not the removal of Saddam Hussein. (BvK#1)

Diverting resources to Iraq, he claimed, took them away from other more pressing problems, and made the US less safe:

With nine out of ten active duty divisions of our Army, either going to Iraq, coming back from Iraq, or getting ready to go, North Korea’s gotten nuclear weapons and the world is more dangerous. Iran is moving toward nuclear weapons and the world is more dangerous. Darfur has a genocide. (BvK#1)

While Kerry employed just war principles to deliver critical arguments, Bush utilised the same language to defend his foreign policy: ‘a president must always be willing to use troops . . . as a last resort. I was hopeful diplomacy would work in Iraq. It was falling apart.’ (BvK#1) His view of last resort echoed the principles laid out in the 2002 NSS cited above, namely that in a post 9/11 world, the standard of imminence needed to justify anticipatory force was not the same as it was before: ‘[Diplomacy] wasn’t going to work. That’s kind of a pre-September 10th mentality, the hope that somehow resolutions and failed inspections would make this world a more peaceful place.’ (BvK#1)

That said, Iraq was not the only member of the infamous ‘axis of evil’. Iran and North Korea were also threats, and Libya was an honorary member of that group. War was not, in the case of any of these threats, the best option according to Bush because the threshold of last resort had not been crossed: ‘Each situation is different. And obviously we hope that diplomacy works before you ever use force.’ (BvK#2) Bush went on to claim diplomacy had a better chance of working in these cases because the invasion of Iraq had sent a powerful message to other nations:

So we use diplomacy every chance we get, believe me. And I would hope to never have to use force. But by speaking clearly and sending messages that we mean what we say, we’ve affected the world in a positive way . . . I think by acting firmly and decisively, it will mean it is less likely we have to use force [in the future]. (BvK#1)

In other words, for last resort to have any meaning, one cannot indefinitely push back the threshold by calling for more diplomatic measures; rather, there has to be a point at which all reasonable measures have been tried, and the decision to wage war is made. This signals to other states that there is a real threshold, which provides incentive for recalcitrant states to acquiesce to diplomatic pressures.

Despite Bush's claims that he was acting out of necessity – 'the enemy attacked us ... and I have a solemn duty to protect the American people, to do everything I can to protect us' – and his use of diplomacy to quell other threats, his operationalisation of the just war tradition to legitimise the war in Iraq did not fit the moral standard of some allies. (BvK#1) Indeed, it led to the very 'ugly American' syndrome Bush had warned against in 2000 insofar as key allies such as France and Germany were very critical of Bush's approach, a fact which Kerry seized upon.

During the debates, Kerry called on Americans to think carefully about what last resort and legitimate authority mean: 'I ask each of you just to look into your hearts, look into your guts. Gut-check time. Was this really going to war as a last resort?' (BvK#2) Kerry answered that it was not because it did not pass the 'global test'. Linking concerns regarding when the threshold of last resort has been crossed to multilateral legitimate authority, Kerry asserted that if a US president is going to use anticipatory force, then 'you have to do it in a way that passes ... the global test where ... you can prove to the world that you did it for legitimate reasons'. (BvK#1) Kerry's critique suggested Bush's understanding of these principles was problematic, implying that it was not up to the US to set the standards for just war, but that these standards should reflect a broader perspective. The implication was that a just war philosophy not accepted by major allies was a sign that all other options had not been completely exhausted, meaning the threshold of last resort had not yet been crossed.

Bush, however, rejected Kerry's notion that the rest of the world should influence the way the US defined just war:

[Senator Kerry] proposed America pass a global test. In order to defend ourselves, we'd have to get international approval. That's one of the major differences we have about defending our country. I'll work with allies. I'll work with friends. We'll continue to build strong coalitions. But I will never turn over our national-security decisions to leaders of other countries. (BvK#3)

For Bush, legitimate authority rested in the hands of the state because the collective global community did not necessarily conceive of strategic interest or perceive threat in the same way the US did.

The thrust of Kerry's criticism, however, was not that the US should hand over foreign policy decisions to others. Rather, he was suggesting that the Bush doctrine was a distorted view of just war principles because it made the US less safe in the long run. Protests from key allies were a litmus test to recognise that in proposing to invade Iraq, Bush's just war philosophy was going astray of the core essence of the just war tradition, which, in his view, was to limit the recourse to force.

Bush's re-election, in the short run at least, arguably represented a vote of confidence within the policy realm that, despite substantial criticism on many fronts, the Bush doctrine was a viable philosophy of just war. Yet, the continuing challenges in both Iraq and Afghanistan meant that when the 2008 elections came along, the viability of the Bush doctrine once again came under scrutiny.

McCain vs. Obama in 2008

The 2008 debates between Senator John McCain and Senator Barack Obama highlight the continued use of just war principles as a medium for critical engagement – the focus of this section – but also reveal how just war norms evolved in the face of

the perceived moral failures of previous administrations. While the two candidates disagreed sharply on the viability of the Bush doctrine, one important point of agreement between them was on how to deal with genocide. Recall that in 2000, both Gore and Bush shunted a moral responsibility to act on genocide everywhere. By 2008, McCain asserted ‘we must do whatever we can to prevent genocide’ while Obama called it a ‘moral obligation’ to do so. (MvO#2) I will have more to say on this shift in the next section. For the moment, let me turn to the critical aspects of the debates.

McCain, even though he differed on some issues with Bush, notably torture, was left in the position of defending the Bush doctrine from its critics. He largely agreed with Bush’s view of *jus ad bellum*, criticising not the reasons for the war in Iraq, but the tactics: ‘I think the lessons of Iraq are very clear, that you cannot have a failed strategy that will then cause you to nearly lose a conflict.’ (MvO#1) McCain insisted that the major foreign policy issue was not ‘whether [it was just that] we went into Iraq or not. The next president of the United States is going to have to decide how we leave, when we leave, and what we leave behind.’ (MvO#2) Thus, the lessons from the wars waged by the Bush administration pointed to the need to deepen the importance of *jus post bellum*, not the need to renegotiate *jus ad bellum*.³⁰

Obama agreed on the need to reflect on *jus post bellum*, but this led him to challenge the *jus ad bellum* principles the Bush doctrine had relaxed because thinking through the post-war complexities led him to call for strengthened *jus ad bellum* constraints. As he intimated early in his campaign, he based his foreign policy arguments squarely in the realm of *jus ad bellum* by seeking to repudiate the ‘mind-set that got us into war in the first place’.³¹ For Obama, the most important issue was future oriented – discerning who was ‘best-equipped as the next president to make good decisions about how we use our military, how we make sure that we are prepared and ready for the next conflict’. (MvO#1) This required looking at past judgments, with a focus on the Iraq case.

The major lesson to be learned from the Iraq case was that Bush’s view of *jus ad bellum* was not of sound judgment: ‘I think the lesson to be drawn is that we should never hesitate to use military force . . . but we have to use our military wisely. And we did not use our military wisely in Iraq.’ (MvO#2) His criticism of Bush marked an engagement with the just war principles of just cause, last resort, legitimate authority, and probability of success. In a similar vein to Kerry, Obama targeted Bush’s expansion of *jus ad bellum* by questioning ‘whether we should have gone into the [Iraq] war in the first place’. Rejecting Bush’s expanded view of just cause, Obama criticised the decision to use anticipatory force, claiming that expanding the war on terror to Iraq weakened the US. As evidence, he cited an ‘overstretched’ budget, a ‘resurgent’ Al-Qaeda, a ‘strengthened’ Iran, and tarnished global image. (MvO#1)

The rejection of the Bush doctrine implicitly revalorises the notions of last resort and legitimate authority rooted in multilateralism and global institutions. The US was still a bellicose nation, but Obama’s just war logic was tempered by the employment of a more diplomacy-driven foreign policy and focused on working closely with

³⁰ On *jus post bellum*, see Orend, *The Morality of War*, chs 6 and 7; for a critique, see Alex J. Bellamy, ‘The Responsibilities of Victory: *Jus Post Bellum* and the Just War’, *Review of International Studies*, 34:4 (2008), pp. 601–25.

³¹ Cited from the Obama-Clinton debate (31 January 2008), available at: {www.cnn.com/2008/POLITICS/01/31/dem.debate.transcript/index.html} accessed 15 May 2010.

allies to share the burden of global security: ‘We’re not going to be able to be everywhere all the time. That’s why it’s so important for us to be able to work in concert with our allies . . . if we can help mobilise the international community and lead.’ (MvO#2) Thus, the Bush policy of snubbing allies was seen as having tarnished the American image and therefore undermined its capacity to meet a myriad of international challenges. For Obama, a solid just war policy was a multilateral one in which allies had fundamental agreement on *jus ad bellum*: ‘It is important for us to understand that the way we are perceived in the world is going to make a difference, in terms of our capacity to get cooperation and root out terrorism . . .’ (MvO#1) This suggests that the notion of legitimate authority lies in multilateral, as opposed to unilateral, recourse to war. His point was that even if multilateral diplomatic efforts eventually failed, by engaging in them ‘we have strengthened our ability to form alliances’ to undertake more bellicose measures in the future. (MvO#1)

However, Obama did not completely reject the right to unilateral action. When discussing Iran’s quest for nuclear weapons, he asserted that he would work ‘with other countries diplomatically to tighten sanctions on Iran’, but, implying there were limits on the notions of legitimate authority and last resort, he also exclaimed that ‘we will never take military options off the table. And it is important that we don’t provide veto power to the United Nations or anyone else in acting in our interests.’ (MvO#2)

The nascent foundations of the Obama doctrine, briefly sketched here, reflect a critical engagement with the Bush doctrine. Although he did not explicitly use just war terminology in this instance, he has done so on other occasions. In his Nobel Prize acceptance speech in 2009, he spoke of the ‘concept of a just war’, which implies ‘that war is justified only when certain conditions were met: if it is waged as a last resort and in self-defense, if the force used is proportional; and if, whenever possible, civilians are spared from violence’.³² In the 2010 NSS, the language of anticipatory force from Bush’s NSS was removed, and replaced by principles that echo the notions of last resort and legitimate authority: ‘While the use of force is sometimes necessary, we will exhaust other options before war whenever we can . . . When force is necessary . . . we will seek broad international support, working with such institutions as NATO and the U.N. Security Council.’³³

Elements of Obama’s just war philosophy have been the subject of scrutiny for just war scholars – especially mission creep in Libya and the controversial drone campaign.³⁴ Moreover, the ongoing Syria crises, and the looming threat of Iran, raise questions about Obama’s emphasis on multilateral legitimate authority and last resort. However, by the time of the 2012 debates, a remarkable convergence emerged between the presidential candidates on the salience of last resort, although key differences remained with regards to who has the legitimate authority to decide when the threshold is crossed.

³² Obama, ‘Nobel Remarks’.

³³ 2010 National Security Strategy, p. 22, available at: {http://www.whitehouse.gov/sites/default/files/rss_viewer/national_security_strategy.pdf} accessed 10 August 2012.

³⁴ See, for example, see James Pattison, ‘The Ethics of Humanitarian Intervention in Libya’, *Ethics & International Affairs*, 25:3 (2011), pp. 1–7; Daniel Brunstetter and Megan Braun, ‘The Implications of Drones on the Just War Tradition’, *Ethics & International Affairs*, 25:3 (2011), pp. 337–58.

Obama vs. Romney in 2012

The 2012 debates pitted President Obama and against the Republican challenger, Massachusetts Governor Mitt Romney. Obama's tenure as president saw him wind down the Iraq campaign and orchestrate the US pullout. He provided air support as part of a UN mission in Libya to prevent imminent humanitarian catastrophe, expanded the drone campaign against Al-Qaeda in Pakistan and Yemen, and used Special Forces to kill Osama bin Laden in Pakistan. In addition, he cooperated with the international community in applying heavy sanctions against Syria and Iran.

Romney, despite being critical in the lead-up to the debates about mission creep in Libya, did not challenge Obama's course of action there. Moreover, he agreed with Obama that the threshold of last resort had not been crossed in the cases of Syria and Iran. Finally, he heaped praise on Obama's use of drones to pursue Al-Qaeda. That being said, each of these cases illustrates important differences regarding how the candidates understood the meaning of last resort and legitimate authority.

Regarding the ongoing crises in Syria, Romney agreed with Obama that despite a 'humanitarian disaster', the threshold of last resort had not been crossed. This meant military interventional – even as little as establishing a no-fly zone – was not yet justified: 'We don't want to have military involvement there.' (OvR #3) Unlike Libya, where the threat of genocide was deemed to be imminent because the virulent speeches made by Gadafi were perceived as mapping his intentions,³⁵ the violence in Syria had not yet reached the level when there was a responsibility to intervene. Following Obama, he thus called for continued sanctions to pressure the Asaad regime. Romney's view of last resort, however, moved beyond sanctions insofar as he said he would authorise providing arms to the rebels: 'And so the right course for us is working through our partners and with our own resources, to identify responsible parties within Syria ... and make sure they have the arms necessary to defend themselves.' (OvR #3) Echoing Gore in 2000, Romney viewed the last resort principle as permitting alternative types of coercive action, even those that would escalate violence, before the US could enter into war.

In the case of Iran, Romney also highlighted the importance of last resort: 'And of course, a military action is the last resort. It is something one would only ... consider if all of the other avenues ... had been tried to their full extent.' (OvR #3) This struck a more cautious tone compared to his speeches leading up to the debates during which he called on the Obama administration to draw clear red lines. However, the thrust of his disagreement with Obama's policies was spelled out clearly in the debates: Obama's focus on diplomacy and multilateralism did not provide credibility to the notion there really was a threshold that, if crossed, would spur the US to war.

Harking back to Bush's view of last resort, Romney criticised the Obama administration for 'not being as strong as it needed to be' in handling the Syrian and Iranian crises. Targeting Obama's view of legitimate authority anchored in multilateralism, Romney declared: 'This should have been a time of American leadership. We should have taken a role, not militarily, but a leading role organisationally, governmentally to bring together the leadership ... the responsible parties.' (OvR #3) Romney

³⁵ Alex J. Bellamy, 'Libya and the Responsibility to Protect: The Exception and the Norm', *Ethics & International Affairs*, 25:3 (2011), pp. 263–9, 264.

referenced Obama's pledge to talk with 'all the world's worst actors in his first year', including Castro, Chavez, Kim Jong-il, and Ahmadinejad on what he called an 'apology tour of going to various nations in the Middle East and criticising America'. He accused the President of remaining 'silent' during the Green revolution and creating 'daylight between ourselves and Israel' to conclude Obama's foreign policy projected American weakness. (OvR #3) The implications of this perceived weakness, when put into the context of preventing Iran from obtaining nuclear capacity, imply that Obama's opaque threshold of last resort could perpetually be pushed back because the President would not have the strength to act when necessary:

All of these things suggested . . . to the Iranian mullahs that, hey, you know, we can keep on pushing along here, we can keep talks going on, we're just going to keep spinning centrifuges . . . That's unacceptable for us, and its essential for a president to show strength from the very beginning, to make it very clear what is acceptable and not acceptable. (OvR #3)

Obama agreed with the emphasis Romney placed on last resort, but rejected the criticism that his diplomacy-first foreign policy and multilateral efforts projected American weakness. On the contrary, he argued that multilateral legitimate authority gave greater credibility to any future intervention should the threshold of last resort be crossed. Regarding Syria, Obama observed that the situation was 'heartbreaking' and that the US 'had to do everything we can to make sure that we are helping the opposition', but also intimated the threshold of last resort had not been crossed. However, he sounded a more cautious tone regarding arming the opposition: 'But we also have to recognize that . . . for us to get more entangled militarily in Syria is a serious step and we have to do so making absolutely certain that we know who we are helping.' (OvR #3) Obama's cautious tone underscores two problems with arming the rebels: First, this would require, as in the case of Iraq from 1991–2003 or Libya in 2012, the establishment of a no-fly zone to eventually turn the military advantage to the anti-Asaad groups; simply supplying them with arms may serve towards equalising the playing field, but this could lead to a more drawn out conflict in the long run. Second, one needs to be certain who will obtain the arms, and how this might impact the establishment of a democratic post-Asaad regime. These concerns echo a lesson he gleaned from the Iraq debacle, namely the importance of thinking through the *post-bellum* phase before acting.

Regarding Iran, Obama saw Romney's view of last resort as being too stringent: 'The disagreement I have with Governor Romney is that, during the course of his campaign, he's often talked as if we should take premature military actions. I think that would be a mistake . . . because I always understand that that is the last resort, not the first resort.' (OvR #3) Although each spoke the language of last resort, there was clear disagreement on when the crossing point was passed and who would decide.

Obama favoured a more opaque view of last resort – one without red lines – that would allow flexibility for non-violent options to work. The success of non-violent measures requires, in his view, multilateral coordination. Obama defended his foreign policy as fostering global cooperation by having marked a successful departure from the divisive Bush doctrine: 'Ending the war in Iraq allowed us to refocus our alliances and relationships that had been neglected for a decade.' His foreign policy had not weakened the US, but 'restored American credibility and strength around the world'. Having global support increased the probability that sanctions would successfully

isolate Iran and put pressure on the regime: ‘It’s because we got everybody [including Russia and China] to agree [on sanctions] that Iran is seeing so much pressure.’ (OvR #3)

The extent to which sanctions succeed will ostensibly push the threshold of last resort further into the future, but this does not mean the threshold would never be crossed. Recognising there is a limit to what can be tried as a last resort, Obama declared: ‘The clock is ticking. We’re not going to allow Iran to perpetually engage in negotiations that lead nowhere . . . we’re going to make sure that if they do not meet the demands of the international community, then we are going to take all options necessary to make sure they don’t have a nuclear weapon.’ (OvR #3) While unwilling to draw definitive red lines, his statements imply that even unilateral pre-emptive measures might be justified at some point. This opaque view of last resort arguably allows more space for diplomatic manoeuvres to work by not creating a timeline to war that would force America’s hand. Moreover, because his focus on last resort is intertwined with renewing alliances diminished by the Bush doctrine, there is greater likelihood that, should the time come when the US chooses to strike, there would also be broad global agreement that the threshold of last resort had indeed been crossed.

Wither the just war tradition? Lessons from the presidential debates

The four US presidential debates between 2000–12 illustrate how the principles of the just war tradition have served as a common language for presidential hopefuls to debate the potential use force. Rather than always being used to legitimise wars, the concepts also served to criticise a president’s decision to employ force, or even sometimes to show agreement. The debates raised (at least) two essential questions for the renegotiation of the just war tradition I want to discuss as we think about Obama’s turn to the concept of just war.

First, do the differences in interpretation and appropriation to the realm of US politics suggest just war principles have lost their essential meaning, and are nothing more than rhetorical gloss meant to persuade a public audience? O’Driscoll implies some level of difference is normal because a ‘language such as just war theory is not a set of instructions to follow, nor is it a logic to be perfected. Rather, it is an inheritance that must be interpreted and re-interpreted, made and re-made by those who invoke it and engage its terms.’ But how much difference is too much? One could make the argument that foreign policy outcomes – Clinton’s intervention in the Balkans (but not Rwanda), Bush in Iraq (but not Darfur), or Obama in Libya (but not Syria) – show the criteria are in fact so malleable that they lose their moral significance. Or perhaps even worse, to cite O’Driscoll’s fear, just war theory shows signs of being a ‘strategic discourse, which serves, rather than challenges, *realpolitik*’.³⁶ The risk is that because the principles are employed in so many different situations with changing meanings, concepts such as just cause, legitimate authority, and last resort are empty language markers that have no meaningful ethical relationship to the actions they describe.

³⁶ O’Driscoll, ‘Learning the Language of Just War Theory’, pp. 107–16, 113–14.

Notwithstanding this fear, the presidential debates showcase the role of the just war tradition as a language of critical engagement. In the spirit of O'Driscoll, who ultimately seeks to defend the moral worth of just war thinking, the *jus ad bellum* principles afford 'us a way of calling such leaders to task on their hypocrisy, and holding them to their word. Through the language of just war theory, we can scrutinize the claims of our leaders and take on their casuistry.'³⁷ While one should always be sceptical of how politicians speak and be wary of the motivations behind their words, the use of just war language in the presidential debates suggests just war principles do have meaning – as a language of critical engagement to elucidate the perceived moral failures of previous presidents.

If just war principles have meaning as a language of critical engagement, a second question arises: what do the debates tell us about the salience and evolution of the various *jus ad bellum* principles in deliberating foreign policy challenges? Even if the debates sometimes point to sincere differences in how last resort, just cause, probability of success and legitimate authority have been interpreted and applied, the identification of two major moral failures led to a shift, across party lines, in the way certain just war principles were interpreted: the failure to act with clear principles to stop genocide (Rwanda and Darfur) and the dangers of not heading the principle of last resort (Iraq).

Just cause and the prevention of genocide

Regarding preventing genocide, there many different claims found in the just war tradition, ranging from capable states having an imperfect duty – a right to choose whether to intervene, but not an obligation – to intervene, to those states having a moral obligation to intervene.³⁸ In the context of the presidential debates, it is worth emphasising that in both 2000 and 2008, the candidates, despite significant disagreement on the principles of just war, were in agreement on whether stopping or preventing imminent genocide provided just cause to intervene. However, a major moral shift had occurred between the two elections.

In 2000, both Gore and Bush agreed that the Rwandan genocide was a terrible event, but that not intervening was the right decision. Their stark stances mark a dark moment in the US understanding of just war principles. While Clinton later regretted his decision and apologised for US inaction during a 1998 visit to Rwanda, neither Gore nor Bush followed suit during the 2000 presidential debates. Clinton's remarks – that 'we owe to all the people in the world our best efforts to organize ourselves so that we can maximize the chances of preventing these events, and where they cannot be prevented, we can move more quickly to minimize the horror' – went unheard.³⁹ Rather, Bush and Gore's claims prioritised certain geographic areas and the national interest, a moral stance that is highly problematic if the notion of just war is to have any meaning.

³⁷ Ibid., pp. 113–14.

³⁸ For an excellent review of the major positions of humanitarian intervention, including genocide, along with an examination of recent cases, see Alex J. Bellamy, *Just Wars: From Cicero to Iraq* (Cambridge: Polity Press, 2006), pp. 199–228.

³⁹ Remarks by the President to Genocide Survivors, Assistance Workers, and US and Rwanda Government Officials (25 March 1998), available at: {<http://clinton4.nara.gov/textonly/Africa/19980325-16872.html>} accessed 2 July 2012.

However, the US view towards genocide prevention began to change during Bush's tenure. Absent from Bush's 2002 NSS, preventing genocide – 'a principle that many believe has lost its force in parts of the international community' – was restored to Bush's 2006 NSS.⁴⁰ Linked to the inaction of the US and the international community during the Darfur crisis, this represents a sharp change from the Bush of 2000 who did not take the moral high ground when evaluating the Rwanda case to recognise a duty to stop genocide. As Johnson observed, 'the principle lesson, in retrospect', learned from the moral failures of the past was that of 'limited will'.⁴¹

By 2008, both Obama and McCain viewed stopping genocide as essential to a viable just war doctrine. As McCain remarked: 'And I understand that we have to say never again to a Holocaust and never again to Rwanda. But we had also better be darn sure we don't leave and make the situation worse, thereby exacerbating our reputation and our ability to address crises in other parts of the world.' (MvO#2) While McCain's caveat seems to harken back to Gore's argument regarding Rwanda, his views reflect more the question of how to intervene rather than whether to intervene. For Obama, the sense of duty was more pronounced: 'If we could have intervened effectively in the Holocaust, who among us would say that we had a moral obligation not to go in? If we could've stopped Rwanda, surely, if we had the ability, that would be something that we would have to strongly consider and act. So when genocide is happening, when ethnic cleansing is happening somewhere around the world and we stand idly by, that diminishes us.' (MvO#2) Obama directly rejected Gore's argument regarding probability of success by implying that stopping genocide did not have to be a luxury. Referencing Darfur, he argued 'we could be providing logistical support, setting up a no-fly zone at relatively little cost to us, but we can only do it if we can help mobilize the international community and lead'. (MvO#2) The implication was that stopping genocide was a just cause, and the US needed a strong reputation as a state that acted consistently when it comes to intervening. The problem was that the Bush administration had not acted consistently, but had abused just war principles by waging war in Iraq. Obama's stance echoes Bellamy's critical view of humanitarian intervention, namely that 'states that invoke a broad right of intervention in the Kosovo and/or Iraq case cannot avoid a duty to act in a case like Darfur without undermining future claims for a permissive right of intervention'.⁴² Yet, unlike Bellamy, who suggests states that do not act inconsistently have but an imperfect duty to intervene, Obama sees stopping genocide as an obligation that all capable states must accept. This strong moral stance is reflected in the 2010 NSS: 'The United States and all member states of the U.N. have endorsed the concept of the "Responsibility to Protect." ... In the event that prevention fails, the United States will work both multilaterally and bilaterally to mobilize diplomatic, humanitarian, financial, and – in certain instances – military means to prevent and respond to genocide and mass atrocities.'⁴³

It is beyond the scope of this article to go into the details of why this shift occurred, but the debates suggest that there was recognition that both political parties had

⁴⁰ 2006 National Security Strategy, pp. 17, 23, available at: {<http://www.presidentialrhetoric.com/speeches/nss2006.pdf>} accessed 30 July 2012.

⁴¹ James Turner Johnson, 'Humanitarian Intervention after Iraq: Just War and International Law Perspectives', *Journal of Military Ethics*, 5:2 (2006), pp. 114–27, 123.

⁴² Bellamy, *Just War*, p. 226.

⁴³ 2010 National Security Strategy, p. 48, accessed 5 August 2012.

learned from their collective moral failures: Democrats (Clinton with Rwanda) and Republicans (Bush with Darfur) each stood silent in the face of mass atrocities which left a scar on the US self-perception as a force of good in the world. In just war terms, the result has been a shift towards recognising imminent or ongoing genocide as a just cause that carries with it the moral obligation to intervene. Bellamy observed this shift has been occurring at the UN level – as reflected in the cases of Kenya, Guinea, Darfur, and Côte d'Ivoire.⁴⁴ However, that this norm has permeated the ethics of war of the US, across party lines, is significant.

In 2012, the trend continued, as Obama and Romney each agreed it was just to intervene to stop what was perceived to be the imminent threat of genocide in Libya. However, neither viewed the violence in Syria as having reached the level of genocide, with each asserting the threshold of last resort had not yet been crossed.⁴⁵

The renewed salience of last resort

A second moral failure that emerges from the debates, which led to the renewed importance of the *jus ad bellum* criteria of last resort, was the Iraq war. In order to justify the Iraq war, the criterion of just cause underwent an expansion under the Bush administration to include what just war scholars call preventive war. Bush's active engagement with the tradition was influenced by an intensified notion of threat following the events of 9/11 that marginalised the principles of last resort and multi-lateral interpretations of legitimate authority. This moral shift, however, has not marked an irreversible trend.

In the lead-up to the Iraq war, Crawford warned that the bar for anticipatory war was set 'too low in the Bush administration's National Security Strategy'. She claimed that 'the consequences of lowering the threshold may be increased instability and the premature use of force', and that such a doctrine 'short-circuits nonmilitary means of solving problems'.⁴⁶ Similar concerns emerged in the 2004 and 2008 presidential debates, during which the foreign policy focus was largely on criticising (or attempting to defend) the Bush doctrine as enabling the use of force in dangerous ways. The language of the just war tradition provided both Kerry and Obama with moral concepts to hold Bush accountable for his actions. Both claimed he did not live up to his promise to exhaust all reasonable possibilities before engaging in war. Challenging his view that the threshold of imminence was diminished in the post-9/11 world, they called for a more robust understanding of last resort buttressed by a view of legitimate authority anchored in multilateralism. By 2012, the principle of last resort was a key phrase used across party lines to articulate why recourse to use force in Syria and Iran was not yet warranted. That both Obama and Romney utilised this language, especially in the case of an Iran seeking WMD and defying UN resolutions – echoes to the Iraq case should be obvious – marks a remarkable change

⁴⁴ Bellamy, 'Libya', p. 264.

⁴⁵ Although the subject of red lines did not come up in the debates, Obama intimated elsewhere that the threshold of last resort would be crossed if the Asaad regime were about to use chemical weapons. This would be evidence of an imminent threat of a humanitarian disaster on the same level as genocide, a scenario the US has, in Obama's view, a responsibility to prevent. Mark Landler, 'Obama Threatens Force Against Syria', *New York Times* (21 August 2012).

⁴⁶ Neta C. Crawford, 'The Slippery Slope of Preventive War', *Ethics & International Affairs*, 17:1 (2003); see also Thomas Nicholas, 'Just War, Not Prevention', *Ethics & International Affairs*, 17:1 (2003).

from the Bush era. This shift illustrates the reinvigoration of the last resort principle in US foreign policy as a means to justify not intervening. However, despite this convergence, there are nevertheless subtle differences of interpretation between the candidates that deserve our attention.

The first difference lies in the relationship between last resort and legitimate authority. Romney, harkening back to Bush's state-centric view of legitimate authority, took issue with Obama's focus on multilateralism, claiming this view projected a weak America. His point was to suggest that a strong relationship between multilateral legitimate authority and last resort ultimately diminished the meaning of last resort – that is, there really was a moment when force would be justified – because it took power out of the hands of the US to decide when that point was reached. He thus sought to balance a more unilateral view of legitimate authority with a robust view of last resort that did not lead to the premature use of force. This assumes that the UN is unreliable in making such a choice and that the US is reliable – a problematic view given the Iraq war. The thrust of Obama's view of foreign policy was built off a rejection of Bush's assumptions regarding the Iraq conflict. His just war philosophy implied that because the US worked multilaterally, the principle of last resort was in fact more robust. This view follows from the first enduring lesson he took from the Iraq war, namely that criticism from key allies – it is perhaps too much to demand UN support given the veto structure – should be taken seriously as a sign that a president's understanding of last resort is problematic.⁴⁷

The second difference, perhaps equally as important, is the link between last resort and the global image of the US. For Obama, a second enduring lesson from the Iraq case was that war undertaken prematurely without global support – that is, before most states agree the threshold of last resort has been crossed – not only reduces the probability of success of such wars, but also divides the international community in ways that makes it difficult to enforce sanctions and isolate rogue regimes in future cases. While Romney viewed heeding the principle of last resort as independent from the US global image, insofar as he thought the US should not curtsy to other states, Obama's stance focused on repairing the US global image – which deeply suffered in his mind during the Bush era – by employing a just war rhetoric that put diplomacy first and championing the notion of last resort. He believed that a renewed global image, coupled with a foreign policy grounded in a strong link between last resort and multilateral legitimate authority, would increase the probability that actions short of war – such as collective sanctions – would be successful in resolving international crises.

As we think about the trend towards the renewed salience of last resort, one final point needs to be made. We have seen in the debates how this trend reverses the diminished imminence principle characteristic of the Bush doctrine. While clearly applicable to inter-state conflict, it may not apply to the struggle against non-state actors. As Mark Totten argues, 'against the new threat of global terrorism the point of last resort may arrive prior to the point of imminence'.⁴⁸ Adopting such a perspective, however, does not mean a return to the Bush doctrine.

⁴⁷ This echoes Kaufmann's argument that preemptive war is the right of individual states, but preventive war 'belongs to the central authority vested with a monopoly on international force – that is the Security Council', 'What's Wrong with Preventive War?', p. 37.

⁴⁸ Mark Totten, *First Strike* (New Haven, Conn.: Yale University Press, 2010), pp. 186, 172.

In the 2008 debates, and through his tenure as president, Obama's rejection of the Bush doctrine has been evident. However, as he exclaimed in a face-off with McCain in 2008, 'if the United States has Al-Qaeda, bin Laden, [or] top-level lieutenants in our sights, and Pakistan is unable or unwilling to act, then we should take them out'. (MvO#1) This stance enabled the mission to kill bin Laden, as well as the extensive and controversial drone campaigns in Pakistan, Yemen, and beyond. Obama's strategy to fight Al-Qaeda has thus led to a focus on using what scholars call 'force short of war' instead of the large-scale occupation forces utilised during the Bush era wars of democracy building.⁴⁹ Such use of force raises questions about whether the emphasis he has placed on legitimate authority and last resort is consistent across all levels of applied force.

Drones in particular raise concerns about the principles of last resort and legitimate authority that deserve our attention. Echoing Totten, recent trends in drone usage suggest the notion of imminence has been diluted to permit so-called signature strikes based on patterns of suspicious behaviour, as opposed to impending threat. This dilutes the notion of imminence and diminishes the importance of the last resort principle, while the limited scale of force bypasses concerns of multilateral legitimate authority. As I have argued elsewhere, 'the risk becomes, somewhat paradoxically, that drones forestall the threshold of last resort for larger military deployment, but that the last resort criterion does not apply to drone strikes themselves because the targeted killing of (alleged) terrorists becomes the default tactic'. Such a view of last resort for drones may 'enhance a state's capacity to act on just cause proportionately and discriminately [but] may lead to the propensity to do the opposite'.⁵⁰

My point in raising this caveat is that we as scholars need to consider the differences in the meaning of *jus ad bellum* principles across different contexts. With regards to drones and last resort, this process has already begun in the minds of one recent presidential candidate. Despite his praise of Obama's use of drones, Romney, hinting that the president was not using drones as a last resort, quipped: 'But we can't kill our way out of this mess. We're going to have to put in place a very comprehensive and robust strategy to help the world of Islam and other parts of the world reject this radical violent extremism.' (OvR #3) Romney's criticism reflects the view that Obama's drone policy may lead to an increase in terrorist recruitment, implying that non-violent measures should be tried first.⁵¹ As the ethical standards surrounding the drone program become more transparent, it will be important to observe how the *jus ad bellum* principles will be used to critically engage their use and abuse, as well as how, or if, future presidential candidates critically engage Obama's use of drones.⁵²

Conclusion

The 2000–12 presidential debates provide a unique snapshot of the major questions regarding the ethics of war during the first decade of the new millennium from the

⁴⁹ Walzer, *Just and Unjust Wars*, pp. xv–xvi.

⁵⁰ Brunstetter and Braun, 'The Implications of Drones', pp. 345–46.

⁵¹ David Kilcullen, 'Effective Counterinsurgency: The Future of the U.S. Pakistan Military Partnership,' Hearing of the House Armed Services Committee (23 April 2009).

⁵² On how such uses of force would alter the *jus ad bellum* principles, see Daniel Brunstetter and Megan Braun, 'From *Jus ad Bellum* to *Jus ad Vim*: Recalibrating Our Understanding of the Moral Use of Force', *Ethics & International Affairs*, 26:1 (2013).

perspective of the US and reveal the different ways in which the presidential candidates navigated the moral concerns related to the use of force. In the case of US presidents, the principles of just war are best understood as part of common language, rather than one single just war theory, with the significance of key principles in a cyclical process of renegotiation. This has certain drawbacks insofar as this kind of flexibility potentially over-valorises the persuasive element of just war principles, and diminishes their use as a yardstick against which to measure the justice of a particular action.⁵³

However, the debates also highlight the role of just war principles as a language of critical engagement employed to proffer criticism and identify moral failings. Two lessons emerge from the perceived failures of previous administrations (for example, Rwanda, Darfur, and Iraq) that point to trends across party lines in the way some *jus ad bellum* principles are understood: The moral obligation to intervene in some way to stop genocide and convergence towards the renewed salience of the principle of last resort. The continuation of each trend may be intertwined and mutually reinforcing. A sustained commitment to intervention in the case of genocide depends on the ability to act when necessary. This requires a strong network of alliances, which is maintained in part by upholding, in other crises, an understanding of the principle of last resort that incorporates the views of key allies and international institutions. However, adhering to last resort does not necessarily mean war will ultimately be avoided, while waiting too long, especially in the case of Iran, could lead to a reversal of the renewed salience of last resort.

As we think about Obama's use of the just war tradition, it is important to keep in mind the principles of the tradition are in a state of renegotiation as they must evolve to fit the nature of the times in which we live. As Obama himself noted, the challenges we face today 'will require us to think in new ways about the notions of just war'.⁵⁴ Despite convergence on the major issues in 2012, the cyclical nature of the election cycle ensures that Obama's interpretation of the principles of just war may come under scrutiny as the key foreign policy challenges of his second mandate unfold. The task of just war scholars is to be attuned, not simply to the way just war principles are used to justify war, but also to the way in which they are used to legitimise non-intervention. Moreover, as the Syrian and Iranian crises unfold, we need to pay attention to the ways these principles are used both persuasively and critically in the political realm.

Finally, we need to pay attention to how the meaning and salience of just war principles evolves based on the perceived triumphs and failures of the Obama administration, and what these triumphs and failures mean for the continuation of the trends identified in this article into the future. Key elements to look for with regards to genocide prevention include: The eventual point at which the Obama administration views the Syrian crises as having escalated from tragic civil war to mass genocidal atrocity, who (the US alone or in accordance with the UN) makes that distinction, how long it then takes to justify intervention, what form of intervention would be legitimised (arming rebels, no-fly zones, bombing raids, ground troops, special

⁵³ This is the critique levelled against the tradition by Ronald Dworkin, 'To Each His Own', *New York Review of Books* (1992).

⁵⁴ Obama, 'Nobel Remarks'.

forces raids, drones, etc.), and with what *post bellum* outcome in mind. Regarding last resort, it is important to pay attention to when, if ever, Obama deems it prudent to arm the Syria rebels, when he views sanctions as having succeeded or failed in both the Syrian and Iranian cases, what imminence means with regards to the use of chemical weapons in Syria or the development of nuclear weapons in Iran, and at what point he would reject pleas from allies or the UN that the threshold of last resort had not been crossed in order to undertake unilateral action. These eventualities, or others, will provide talking points to help us evaluate the moral significance and permanence of the trends identified in this article, and continue to renegotiate the meaning of *jus ad bellum* principles in the future.