

REVEREND J. BRYAN HEHIR



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Rev. Hehir's teaching and writing engage issues of ethics, foreign policy, and international relations, as well as Catholic social ethics and the role of religion in world politics and in American society.

NEW CHALLENGES TO AN ANCIENT ETHIC

Welcome from Dr. Albert C. Pierce, Director, Center for the
Study of Professional Military Ethics

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Introduction by VADM John R. Ryan, Superintendent,
US Naval Academy

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Lecture by Rev. J. Bryan Hehir, President, Catholic Charities,
USA

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Questions and Answers

This is an edited, abridged version of the original lecture transcript.

WELCOME

Dr. Pierce

Ladies and gentlemen, welcome to this lecture, which is the fifth in a series sponsored by the Center for the Study of Professional Military Ethics. I'm Al Pierce, the Director of the Center. I want to welcome especially the midshipmen from NE203, who are here as part of this important core ethics course at the Naval Academy. This course introduces them to the formal study of ethics for a military officer.

We inaugurated this series three years ago this month, and our first two events focused on moral courage, which is an essential, central virtue for military professionals. It's what your profession demands of you, and it's what we the American people demand of you.

Last April, we switched our focus to the ethics of the use of military force, with a lecture on the ethical challenges posed by virtual war. This past fall, another lecture explored terrorism and the response to it through the twin lens of the Just War Tradition and the Islamic tradition on war and peace. Tonight, we continue with ethics and the use of military force as our focus.

How many times since September 11th have you heard someone say, or have you said yourself, "This is a new world and a new kind of war, and we need a new ethics to help us navigate through it"? Well, of course, the world since September 11th isn't entirely new, nor was terrorism invented on that date. Nor, for that matter, is terrorism the first dramatic challenge to the ethics that we have inherited and nurtured down through the centuries. Our task then, perhaps, is to adapt these ethics to this new challenge, and that is the central thesis of our speaker this evening. To introduce that speaker, I will turn the podium over to the 56th Superintendent of the U.S. Naval Academy, Vice Admiral John Ryan.

INTRODUCTION

Admiral Ryan

Good evening. This is an evening that I've been looking forward to for some time. As Dr. Pierce said, this is the fifth in a series of lectures that have been delivered here that are sponsored by the Ethics Center. Many of you have been at the four previous lectures, all given by distinguished men: Senator Bob Kerrey, Vice Admiral Jim Stockdale, Dr. Michael Ignatieff, and Dr. James Turner Johnson. Tonight's guest speaker certainly is in that hall of fame.

The Reverend J. Bryan Hehir is someone who has been writing, speaking, and thinking about weighty subjects for well over two-and-a-half decades, which means he's still a young man. Father Hehir has taught at some of our most distinguished universities—Georgetown and Harvard—but he's also made it a point to get out and about, to talk to the practitioners. I think he has probably benefited modestly, but many of us, who have had the pleasure to hear him talk and interact with him and certainly read what he's written over the years, appreciate his thoughtful and cogent articles that have appeared all over the world.

Tonight, you're in for a real treat. I can tell you that Father Hehir is someone who is always well prepared, and even more importantly, he treats serious questions seriously, so for you young midshipmen out there, I hope you have some good questions for our guest speaker.

Please join me in a warm welcome for Father J. Bryan Hehir.

LECTURE

Rev. Hehir

Thank you, Admiral Ryan. It is a great privilege and pleasure to come back to the Naval Academy, where I've had the opportunity to speak before, but it is particularly a pleasure to be introduced by you. I've known your life and your work, and so I am grateful to be able to come in your last year here at the Academy.

I should say that is in the nature of my work and life that I get introduced many times during the course of a year, and even in a very generous introduction like Admiral Ryan's, no matter how generous the introduction is, there is always a part of my life they never talk about. For 20 years, I worked in Washington for the National Conference of Catholic Bishops, and like any good staff person in Washington, I wrote speeches that other people gave. That is a growth industry in Washington. There are many who do it, and there is a certain fraternity that comes from doing that.

I had a good friend in the 1980s, in the midst of the Cold War, who wrote for a senator. Now, during the course of five years, the senator not only never thanked him once for his speech, the senator never read a speech before he gave it. So at the end of five years, my friend decided he would manifest his pent-up frustration with the senator. It was during the election campaign the senator was in. He came in on Friday afternoon as he always did, picked the speech up off the desk, went out to Reagan National Airport, flew out to the Midwest, stepped into a room just like this, packed with people, and began the speech. He said, "Ladies and gentlemen, I know you have declining faith in government. I know you think we can be neither efficient nor effective. I'm here tonight to tell you we can be both efficient and effective. I'm here to tell you we can hold down the arms race with the Soviet Union and not sacrifice our security. We can make new friends among the Arab nations and not sacrifice our relationship with Israel. We can hold down unemployment and not do it at the price of rising inflation, and my task tonight is to tell you exactly how government can do these things." He turned to page two, and at the top of page two, it said: "Good luck, buddy. You're on your own."

(Laughter.)

Rev. Hehir

I deeply appreciate the chance to write my own speech tonight and to come and talk about an ancient ethic and changing challenges to that ethic. What I propose to do is to sketch a framework for how one thinks about war and peace in moral terms; and then secondly, I would like to examine three challenges that this ancient ethic has had to confront over a relatively short period of time, bringing us up to the present; and then finally, I want to say a word about post-September 11th, when the discussion to some degree changes from war and peace to religion and politics, a quite different theme.

Let's begin with how we think about war and peace in moral terms. The question one must face is this one: Is the systematic, organized, conscious, large-scale taking of human life—which war almost inevitably implies—is that something that fits within the moral universe? Does it even fit within the framework of how one would think about morally right things to do? If one asks that question and looks back historically at the way people have struggled with that question, one finds, I think, three broad answers to the question, three options.

The first answer is the one that people often instinctively give to the question as I have framed it. The instinctive answer is to say that that activity—the conscious, systematic, large-scale taking of human life—is simply outside the moral universe. That position yields a tradition that is sometimes called nonviolence or pacifism, which essentially says that all use of lethal force and taking human life is morally wrong. Now, pacifism always encounters a moral critique, for someone will say, if you are prepared to take that position, you're also prepared to turn the world over to the most unscrupulous people and states, who will use force when you won't. So, essentially, you are treasuring peace over justice.

But the best of the pacifist tradition does not have to remain silent then. The best of the pacifist tradition says we will seek to stop injustice. We indeed may give our own lives to stop it, but we will not take another's life, and that is the logic of a first position.

A second position that one can find historically is very different, but interestingly enough, it also places war outside the moral universe. It is a position that must be described carefully, because it is a version of realism. Realism has multiple strains and multiple themes and a long history, but I mean one version of realism. It is the version that the Princeton philosopher Michael Walzer describes in the opening chapter of his book, *Just and Unjust Wars*, and it is rooted in Thucydides' account of the Peloponnesian War. If you remember that at all, you know that there is a section called the Melian Dialogue, where the Athenian generals, clearly superior in strength, confront their adversaries. They are about to go to war, but the Athenians, in a sense, give their adversaries one last chance. There is no question who is going to win. The Athenians are far superior in force, and so the Athenian generals come to their adversaries, and they say, "Come now. Let us have no talk about justice here. Let us talk about the world as it is"—realism—"and in the world as it is, the strong do what they want, and the weak do what they have to."

That view says that there may be a moral order which should be observed, but when you go to war, the nature of war, the stakes of war, and the dynamic of war are such that there is no room for moral restraint. Indeed, the only morally acceptable position is to go to war to win it at all costs so you then can return to life under normal conditions, when morality can be taken into account. Both positions therefore place war outside the moral universe.

The position I will defend tonight argues that there is a place in the moral universe for a certain conduct of war. The essential position—sometimes called the Just War or just defense position—says that some taking of human life is morally acceptable, but not all taking of human life is morally acceptable. The function of the ethic is to determine the difference between those two. Again, the essential argument is that the only morally legitimate use of force is a limited use of force. It must be limited in its purposes. It must be limited in its methods, and it must be limited in the intention that drives people in the midst of combat. So limits surround moral justification of the use of force.

How does one structure a moral argument that allows one to set limits on the dynamic of war? Well, it's really a three-step

process. The first step begins with what one might call a presumption against the use of force. In other words, in the articulation of the ethic as I understand it, you begin almost close to where the nonviolent position begins, that war is neither a good way to resolve political disputes nor a good way to resolve relationships among states. But that is a presumption.

Now, a presumption is different than an absolute moral rule. An absolute moral rule does not admit any exceptions. It holds in all cases. A presumption gives you a normal conception of how you live your life, but presumptions admit exceptions. Now, exceptions are not excuses. Exceptions are defined circumstances, where the circumstances in question force you to come to a different moral conclusion than the one that your presumption leads you to. You override the presumption in a well-defined exception, and so the first step acknowledges the possibility that some circumstances would make it morally necessary, or at least permissible, to take human life because of those circumstances.

The second step in the ethic, then, is to define what constitutes a justifiable exception, not a rationalization, not an excuse—a defined justifiable exception. You determine a justifiable exception by asking three questions: Why can you use force, for what purpose? When can you use it, under what conditions? How is force to be used, by what methods? Those three questions then constitute a framework for judging morally acceptable use of force.

The “why” question is the first one, because it constitutes the possibility of overriding the presumption against the use of force. There are various ways to explain the “why” question. Why can you go to war?

Normally, we understand the beginning of this ethic, although there were predecessors to it, but the line that is usually drawn is to the work of a Catholic bishop who governed a diocese in Northern Africa. His name was St. Augustine. In the 5th century, the Roman Empire, as you know, was under attack from outside, and the argument within the empire was, in fact, that the empire was failing because the Christians had cultivated virtues within the empire that made the empire weak. Augustine set

himself the task to defend the name of the Christians within the empire, and in writing *The City of God*, Augustine made an argument that some taking of human life is morally acceptable.

What does it mean to say “some taking”? Well, Augustine made an interesting distinction. He said, if someone wants my life I, following the example of Christ, will let him have it. I will not resist. Augustine did not have a doctrine of personal self-defense, but he said, if I am in a situation where someone else’s life is being threatened, and they have given no cause for that, and I am in a position to prevent that, I am then obliged to go to the defense of the needy neighbor. When I do so, I must resist another neighbor, but it is possible to distinguish neighbors. The presumption is: I live in peace with all my neighbors. The exception is: I can move to attack a neighbor if that neighbor is assaulting the life, the rights, or the welfare of a third party.

Augustine then casts that argument in political terms rather than individual terms and argues that those who had responsibility for the welfare of political society had the right to use force and the right to call others to use force. So the “why” question is: For what purpose may force be used? To summarize the long argument, it is that force may be used to protect innocent life, life under attack. Force may be used to prevent massive violation of human rights—think of genocide—and force also may be used to reconstitute basic conditions of justice within a society, when the Just War argument becomes a just revolution argument. That’s the first step. You can think of defined circumstances that override, that trump the presumption against the use of force.

But force, as you know, is a blunt, unpredictable instrument, and so even if you have “just cause,” you need other justification to make it a morally acceptable use of force, so the “when” questions arise. While I will not treat all of them, I’m trying to give you a sense of how you frame this ethic. You ask questions like: Is this the last resort? Have we tried other means to prevent injustice? You ask questions like: Will there be a proportion between the good I seek to do in using force and the inevitable harm and destruction that come from warfare? You ask questions about right intention. What is it that really drives this policy? Is the real reason to prevent injustice, or are there other

reasons, unexpressed or hidden? You ask questions about the moral possibility of success. You are not to use force fecklessly without purpose, without connection between ends and means, so that there is endless, purposeless killing without objectives being reached. These are the kinds of questions you ask under “when.” “Why” is the purpose. “When” are the conditions.

The “how” questions are the questions that have been most debated in modern warfare. That is to say, even when you have a justifiable cause, and the conditions have been satisfied, how you fight the war is crucial to a moral understanding of the war. The essential argument that is made here is that, if you are to justify the use of force, you must justify it because someone else is actively pursuing evil and doing harm to others, but you see, if that is the case, then only those actively pursuing evil and doing harm are legitimate targets. So here comes the distinction between combatants and noncombatants, or the protection of civilians. The argument essentially is you can go to war against a state, for example, that is pursuing aggression, but you can never go to war against a whole society, and the reason you cannot go to war against a whole society is because not everyone in the society is an aggressor, even if the state they live in is an aggressive state.

Now, some say the conditions of modern war are such that when the nation goes to war, everyone is involved, to which I say: In every society, there are the very young, the very old, and the Carmelite nuns. Because they are there, you cannot go to war against the whole society. So we distinguish lines drawn between civilian and combatant, and finally, even in the tactics of war, we bring up again the proportionality question, not the proportion of war as a whole, but the proportion of this strategy, this bombing strategy, this tactical move. What kind of good will it produce? What kind of harm will inevitably come?

In broad strokes, that is the function of the ethic. You determine just cause, just means, and a set of conditions that make the use of force justifiable. The function of the ethic is twofold. On the one hand, this is an ethic that is a policy ethic. It is an ethic that is open to policy discourse. It is capable of absorbing political strategic discourse, logic, and thinking, and giving it its own due,

its own right to exist, its own logic, and then setting over it a framework by which it is judged. In one sense, the function of this ethic is to school a citizenry or to school policy makers or to school diplomats and soldiers in the framework of how policies are to be judged.

But there is a second function of the ethic. It is also meant to be an ethic of personal conscience. One may find oneself in a situation where the state, which calls one to duty, is in fact pursuing a war that is unjust in its purposes or its methods. One may not be able to reverse the policy, but one has one final court of last resort. One can say, "I will not serve. I will not obey orders in this situation." Now, one cannot do that without a certain confidence in one's judgment, and this ethic is designed to give individuals the confidence to stand before the state and say, "I will serve because of what you are doing," but it also gives one the confidence to say, "I will not serve because of what you have called me to do." That then is the function of the ethic: a policy discourse and a personal ethic.

I have said that it was an ancient ethic, and in the long version of the course, which you'll be glad you're not going to get, you trace this from Augustine's first initiative up through the medieval commonwealth and watch Aquinas and others and then on into the interesting period of the rise of the sovereign state in the 16th and 17th centuries, and you watch theologians try to adapt an ethic that had existed in a single universe of a Christian community and adapt that now to sovereign states that acknowledged no superior authority in either church or the secular order. How will the ethic function then? Then you bring it into the 20th century, the century that Raymond Aron, the French philosopher, called the century of total war, and you ask: Can an ethic survive? Can it function? Can it discipline force in a century of total war? This is where the ethic has come from.

The revival of the ethic in 20th-century terms was a product really of the second half of the 20th century. In the first half of the 20th century, including up through World War II, one did not find much attention given to the debate about the ethics of war. With the end of World War II and the rise of the nuclear age, one found the first challenge that I refer to in the title of this

talk. How was this ethic to relate to the nuclear age? That challenge took up most of the period of time from the late forties through the late 1980s.

In the 1990s, a second challenge arose. With the collapse of the Cold War, a very different set of questions absorbed us in the last decade, and that was the question of humanitarian military intervention, a very different question than nuclear policy. Now at the cusp of a new century, indeed another new problem has arisen out of the tragedy of September 11th, and that is the phenomenon of terrorism.

My point is that all three of these challenges coexist for anyone thinking about strategic doctrine and American foreign policy in the world today. Indeed, what is interesting is that these three challenges give you a chance to look at the United States through different lenses. In the nuclear debate, in its present form, what stands out is the United States as the world's sole superpower. In the humanitarian military intervention debate, what stands out is the United States as a member of the international community, and in the terrorism debate, what stands out is the United States as a target. So it is through those three lenses that I would sketch, if you will, how the ethic confronts changing challenges.

First, the nuclear age and its contemporary legacy. To say something about the moral and empirical challenge of the nuclear age today, one needs at least a sense of the origins of the nuclear age, because the nuclear age confronted this ancient ethic with a formidable challenge. I have said already that this ethic is about limits, limits on ends, means, and intention. Yet, with the dropping of the atomic bomb on Hiroshima and Nagasaki and the opening of the nuclear age, this ethic of limits now confronted the prospect of unlimited war. Indeed, the challenge was deep and broad.

A few people captured it in a way that helps us to understand it. Let me put it this way. Prior to the opening of the nuclear age, two people had taught the western world to talk about war, politics, and ethics, and they were an unlikely combination. They were a 19th century Prussian general and a 5th-century African saint. The Prussian general was Clausewitz, who said that war

was the extension of politics by other means. To put that in another way, war belonged within the rational universe. You did not leave the rational universe when you went to war. The other person who taught the western world, as I have already said, was Augustine, who said that war was not only rationally defensible; it was, in certain circumstances, morally defensible.

Now Augustine and Clausewitz together framed the argument within which the Western world had thought about war, politics, and ethics, but this kind of war that emerged out of the origins of the nuclear age, the threat of this kind of war, seemed neither rational nor moral. For 50 years, one watched the strategists and the moralists struggle with this question. The question was how you avoided catastrophic damage—instant, massive, catastrophic damage, damage that would make no distinction between civilian and noncivilian, indeed would make no distinction between nation and state—and the struggle was not simply the quantitative problem of nuclear weapons in their quantitative, destructive mode.

Again, in the long version, one would have to look at how drastically nuclear strategy changed the language and the discourse of the strategists. Once again, it was captured early in the nuclear age when Bernard Brodie, one of the great military historians and strategists of the 20th century, in the first book written on the nuclear age said: “In the past, we have raised armies in order to use them. From now on, we will raise armies in order not to use them.” There was born the modern doctrine of deterrence, and so the strategists and the moralists struggled with deterrence. The strategists: How did you make it work? The moralists: Was it morally acceptable to stand ready to do, to be prepared to do what if done would very likely be immoral in its consequences? How did one answer that question?

For centuries, the question had been the ethics of war. When you went to war, then you could make your moral judgments. Now, the question became not simply the ethics of war but the ethics of peace. The way of preserving peace contained within it a highly ambiguous threat that one could argue only with great care that it fitted within the moral universe.

The nuclear age changed rather dramatically with the collapse of the Cold War. Nuclear weapons or weapons of mass destruction have not disappeared, but the political context of a global struggle of two superpowers has changed rapidly, dramatically, and radically, and yet we have today a new set of questions that also challenge the strategists and the moralists. The President's proposal that there needs to be a new architecture to think about nuclear weapons I think is altogether necessary to take up as a challenge, to think about empirically and ethically, but that challenge will bring its own new questions. Deep cuts in nuclear weapons indeed are to be welcomed, but deep cuts probably mean that the temptation will be to use soft targets in urban areas as targets for existing weapons, precisely what is ruled out by the ethic. Of course, since September 11th, the question that confronts us is not how you think about preventing catastrophic damage between two nation states that presumably follow the logic of the rational actor, but what do you do when nuclear weapons are combined with potential terrorist possessors of nuclear weapons?

Does deterrence work in that framework, and if it does work, with what kind of threats, and what kind of limits do you place on the structuring of nuclear discourse, nuclear weapons, and nuclear strategy? One set of questions.

The nuclear age challenged the ancient ethic. A lot of us tried to design answers that we thought were at least marginally acceptable. We also took a deep breath after the end of the Cold War and thought it would simply be a downward spiral from then on. We now know differently. We now have new actors with these new weapons, and that constitutes a different kind of challenge.

What is striking is that with the end of the Cold War, problems arose that almost none of us had thought about for 20 or 30 years. Places in the world that hardly ever got mentioned all of a sudden became the toughest foreign policy problems for the sole remaining superpower, for now the problem was not how to avoid catastrophic damage in the sense of the nuclear age. The problem now had names like Bosnia, Kosovo, Rwanda, Burundi, Sierra Leone. These were a different kind of problem. For decades, we had struggled with how you set limits on the use of

force, indeed how you prevented any use of nuclear force, how you avoided catastrophic damage, but the problems posed by the nations I've just talked about were a different kind of problem. The problem now was not how you avoided catastrophic damage, but what did you do about creeping chaos? What did you do about massive human rights violations not carried out under the aegis of classical aggression, one state against another, but massive human rights violations within the boundaries of sovereign or failed states? What responsibility did the international community have to this problem? And I place the United States within the larger context of the international community here, because unlike the nuclear question, many states had the capacity to do something about this, we being one of several.

By the middle of the 1990s, it was clear that we had on our hands in this problem of creeping chaos a very basic problem. I like to describe it as a problem of international jurisprudence.

Jurisprudence, of course, is the discipline by which one relates the obligations of moral analysis to the existing status of positive civil law. In international affairs, the problem of international jurisprudence that we faced in the situation of humanitarian military intervention was the following one. When the situation was massive violence within the boundaries of a sovereign state, and when positive international law and the U.N. charter both reinforced a notion of nonintervention as a standard rule of governance in international affairs, what did you do when there were clear moral arguments that said that a Rwanda required action, and there were also equally clear positive law restrictions on intervention inside the boundaries of sovereign states? How was one to think about the clash of moral obligation and legal status?

In fact, one went through the decade of the nineties without developing an adequate consensus. When there was a gap between moral law and positive law, politics was left adrift, left adrift without guidance and without a direct imperative calling people to act. Once again, this was what was noticeable about the difference between the nuclear age and humanitarian military intervention. Most of us who thought about ethics in the nuclear age were wholly dedicated to limits on force or again preventing it

at all costs, but in the 1990s, to look at the problem of international jurisprudence was to try to convince states that they had an obligation to use force and to use force precisely in those kinds of situations that reached a kind of climactic moment in Rwanda.

To speak to a class of second-year midshipmen, it is necessary at this moment to try to recreate a little history. Those of my generation would understand the history instantaneously. We came out of the generation of World War II, and one of the things one learned from that was a phrase that everyone understood. All you had to do was to say it, and it was instantly understood. You said, “Never again.” “Never again” meant that the lesson of World War II, among others, was never again genocide. Of course, the 1990s—the last decade of the 20th century, with two world wars behind us, with the U.N. in New York—was a decade that delivered us a new version of massive human rights violations equaling genocide, and we did not respond well. It is now clear from research that was carried on that it was almost a rule of thumb within the U.S. government not to use the word “genocide,” because once again, everyone understood that if you said genocide, you were expected to do something about it. So we chose not to say anything, and others did too, and the effect of it was 800,000 people killed in a matter of weeks, and the international community did nothing. This clearly constituted a kind of moral question different in scope and structure from the nuclear age, but perhaps not any different in the dimension of human tragedy that was implied.

The question then became what should one do in a world in which massive human rights violations were taking place inside the boundaries of sovereign states, when the law provided a kind of shield that nations could stand behind and say, we are observing nonintervention. The outcome of that was [captured] in the title of a book on Rwanda, *We Wish to Inform You That Tomorrow We Will be Killed With Our Families*.

How can one break the knot of this question? I suggest there are two kinds of responses to humanitarian military intervention. One is a normative response, an ethical argument that must change the framework, and secondly, there is a strategic

argument, for even if you get the ethics right, there has to be some consensus that we will undertake the necessary strategy.

My own view of how you recast the ethic to deal with humanitarian military intervention runs something like this. I think one needs to begin with recognizing the value of the nonintervention principle. In the lecture so far, I could easily be interpreted as thinking it had no moral value, but that is not at all my view. The principle of nonintervention—which in some form or other has been part of international relations for four centuries and is clearly part of the U.N. charter—has served the world well. It, in fact, has fostered three distinct values: the value of order, the value of freedom, and the value of justice.

It fosters the value of order because it reduces the possibility of interstate conflict. It argues that states should not intervene in other states because of the internal affairs of other states, and the purpose of that is to prevent states from having excuses to go to war against their neighbors.

Secondly, it fosters the value of freedom. It allows societies to struggle and fight out the direction of the life and determination of their way of life in a society. Michael Howard, the great British historian of war, came here in the early 1990s, when people were first starting to debate nonintervention, to give a lecture on the topic. Howard began the lecture by saying, “I will first tell you a story. There is a war going on in a great country. There are thousands upon thousands of people losing their lives in a seemingly endless conflict, and in the midst of that, Britain is asked to intervene in the conflict.” Howard paused and then said, “I think most Americans would not have welcomed British intervention in the American Civil War,” because that was one of those instances when a society fought out what its inner life should be about. So there is a way in which self-determination is protected by nonintervention.

And finally, nonintervention is the principle that protects small states against large states. As the late Australian political scientist Hedley Bull once said, “Large states don’t worry about intervention because large states are not intervened upon,” and that is indeed the case. The rule protects small nations.

And yet, although it has this threefold function, I would argue it is necessary to recast the ethic of intervention. How do you do it? I think you do it first by distinguishing the original purpose of the rule, which, as I see it, was to prevent great power intervention against other great powers, to distinguish that from humanitarian military intervention, which is really not about great power politics. Indeed, part of the problem of humanitarian military intervention is that it probably means violence taking place within states that do not have much leverage in world politics and therefore are not seen as part of the national interests of great powers.

But under humanitarian military intervention, I would begin with a presumption against intervention, but once again not an absolute rule. Secondly, I would expand the reasons for overriding the presumption. Presently, the one reason that is accepted is genocide, but I think the experience of the 1990s proves to us that ethnic cleansing, while it is not genocide, is sufficiently serious to call the international community to action. What we have come to call failed states, in the style of Somalia and Rwanda, also constitute the kind of reason where you should override the presumption against intervention. Thirdly, by expanding the causes of intervention, you risk expanding them very widely. Therefore, I would limit authority of who has the right to intervene. It is best in these cases to have some kind of multilateral legitimation of intervention, lest we simply give states an excuse to intervene. Finally, one must always test the means question, how you are going to use force.

Now if you get that logic right, you will change incrementally the thinking about intervention, not totally but incrementally, but there will still be a strategic debate, and that one runs something like this in abbreviated form. Is it the business of the world's sole superpower to address questions like Rwanda, Sierra Leone, Kosovo, and Bosnia?

One side of this argument says it is not the business. We are a superpower, and we ought to act like a superpower, and what superpowers do is to deal with other big powers. That's what we ought to do. They keep the macro-stability of the world in order, or as Charles Krauthammer, the Washington columnist, said

during the midst of the Kosovo war: “This is a war that Sweden should fight,” the argument being this is not our business. I would argue that that is a mistaken conception of our responsibility in the international community. Indeed, I would argue that we ought to be a great power plus. That is to say, surely we are a great power and need to act like one, and macro-stability is important, but it is not the only thing that is important. The kind of case exemplified by Rwanda demonstrates that when big powers look the other way, terrible things happen in a world that is still one single globe and one single human community.

Let me turn finally to the kind of challenge posed by terrorism. Here we are not talking about the United States as the sole superpower primarily or the United States as a member of the international community with obligations. Here, we’re talking about the United States as target, and obviously this constitutes a new chapter, when the homeland has become targetable.

Part of the difficulty here is that there is no common definition of what terrorism is. There are several definitions abroad but no single consensus. I think about terrorism this way. I want to distinguish the agent, the method, and the motive, because I’m trying to grasp terrorism as we find it today. It has not come on the scene just today, but the terrorism we face today has characteristics like this.

The agent involved is transnational, a transnational network as it is called. There are forms of terrorism that are purely confined within a single state, where there is a political struggle in a state. That is not the problem we confront at the present time. We confront transnational terrorism, a non-state actor with a capacity to act across state lines.

Secondly, the method of terrorism is that it usually violates the central premise I’ve talked about on means. Terrorists cannot field large, well-equipped armies or armed forces, so terrorists strike soft targets. The very rule you seek to prevent in standard warfare is what gets violated.

And finally there is motive, and here one needs to distinguish, I

think, political terrorism from transcendent terrorism. Political terrorism has defined goals: remove this regime, change this government, accomplish this objective that you have on the negotiating table. However, there is a transcendent terrorism that goes beyond ordinary political objectives, that is informed by either religious or ideological reasoning, in which the terrorist is so convinced about the truth of his or her cause that to talk about limits in warfare, distinguishing civilians from noncivilians, seems irrelevant or petty, because the transcendent reason is so overwhelming. This is what drives people to kill both civilians and themselves in support of a cause that seems so self-evidently, overwhelmingly right, that the distinctions that philosophers and strategists make are marginal.

Responding to terrorism is precisely the challenge of the new century, but I want to stress that the other two questions have not gone away, so it is precisely in connecting them that I want to finish the talk. That is to say, if you look at the U.S. response, one can distinguish phase one and phase two. Phase one, of course, was the response undertaken in the fall of 2001, in response to the attacks on the World Trade Center and the Pentagon, and it takes place in Afghanistan. If one parses the policy, there is clearly, it seems to me, just cause. If direct attacks on the territorial sovereignty and the civilian population of a sovereign state do not constitute a just cause, I do not know what does, and just cause, so it seems to me, was appropriately and quickly validated.

Legitimate authority: in a sense one could search for more precise legitimation, for example, from the U.N. under the terms of the charter, but there was at least a consensus that terrorism threatened the international community. If you don't get quite the lawyer's okay out of this, it seems to me you get a common-sense legitimation. The means question is the tough one always, but one needs to say two things about this. First of all, it is noticeable that the discussion about means and civilian casualties, which we have now had in detail in the Gulf War, in Kosovo, and again in Afghanistan, is a remarkable example of how the ethic of war functions differently today. During World War II, both sides violated noncombatant immunity without restraint, and no one said anything about it. Today, it is not possible to fight a war if

one doesn't justify one's actions precisely by saying that one seeks not to kill civilians. That does not mean that some civilians are not killed, but one has to distinguish the intentional targeting of civilians and the fact that civilians sometimes die when they are not targeted. That again does not mean that there are no questions to be raised. At times, I must say with due respect that I find Secretary Rumsfeld tends to dismiss charges that there is something to be looked at here, in a kind of public relations manner that is not adequate. If we are to sustain a morally just use of force, we must ask hard, difficult, persistent, consistent questions about who gets killed and under what circumstances and according to what strategy.

The phase two of the terrorism strategy is where one connects the nuclear question with the terrorist question, because phase two means cases like Iraq, for example, where the question is: Do you have here a terrorist state which, in fact, is about to produce or has produced weapons of mass destruction, and what do you do about it? Clearly this constitutes a major security problem for the region and the world, but the question again is what you do about it. We are now prospectively looking at that question. I think we need to raise some additional questions.

First of all, this would be great power intervention. To go after Iraqi weapons of mass destruction is technically intervention. We would be entering inside the boundaries of a sovereign state, not because they had aggressed against another state *à la* Kuwait in 1991, but because they are a threat because of weapons of mass destruction.

Whenever you open up the question of great power intervention, that at least is something to think about, because that sets precedents for other great powers that also may take actions under certain circumstances. One would say, "But we are taking this action for a very specific reason: weapons of mass destruction." Weapons of mass destruction are not ordinary threats. They can be conceived as a threat to the entire international system, but once again, one would want to ask how many questions do we have to ask and answer before we take this precedent and set it? There are several countries that have the potential to make weapons of mass destruction or possess

weapons of mass destruction, sometimes without declaring them, so what are our criteria? If someone threatens to make weapons of mass destruction, are they open to intervention, or do they have to field weapons of mass destruction before they're open to intervention? Is it that they threaten to make them, and they're a certain kind of regime, so one would distinguish between Israel and Iraq on the basis of what kind of regime they are?

These are the kinds of questions that need to be asked. It will be great power intervention, and it will be great power intervention based on the criterion of the threat of weapons of mass destruction, when more than one nation fits that framework. This then is the kind of question that arises out of phase two, and I would argue that while phase one was clearly justified, phase two ought not to be undertaken without long, distinct arguments of both an ethical and strategic nature.

Let me say one final word that I have not discussed at all. I have discussed ethics in war, and I have discussed an ethic that originated within a religious tradition, but there is today a larger question, not just ethics and war, but the way religion and politics today are related. Interestingly enough, in the same period of time that the nonintervention principle arose, one of the things that happened in the understanding of world politics was that, after 100 years of religious war in Europe in the 16th century, it was wisely thought that it was best to keep religion out of politics. That is to say, you tried to "secularize" world politics. There was wisdom in this notion, and there still is.

One certainly does not want religion to be understood as a legitimate cause of war, but in trying to secularize world politics totally, I think the fact is we have gone too far, because the assumption here is that religion has only private consequences in life and does not have public consequences. The assumption appears to be that to understand the world, you have to understand politics, strategy, economics, and law, but you need not understand religion because religion does not have public consequences. That, I submit, is not a tenable argument if you look at the world of the last 30 or 40 years. How do you interpret Latin America without the Catholic Church? How do you interpret the collapse of communism without the Lutherans in

Berlin and a Catholic Pope allied with Solidarity? Why is Jerusalem not simply a problem of city planning, and how does one understand the transition to a peaceful South Africa without Archbishop Tutu?

There, in fact, are deep, powerful religious forces at work in the world, and they need to be incorporated into an understanding of how they relate to politics, strategy, and ethics. It is not only questions of ethics and war we are confronted with. We are also now confronted with how we reintegrate religion and politics.

Thank you very much.

QUESTIONS AND ANSWERS

Question

You spoke about macro-stability in the world and how we only need to be involved with the other large powers. How is the United States justified in getting involved in the conflict between the Israelis and the Palestinians and not getting involved in the conflict between the Northern Irish and Great Britain?

Rev. Hehir

Good question. Having the vocation of a great power requires what my religious tradition called the virtue of prudence, which is to know how to relate general principles to very complicated cases, and I don't think great powers should be involved everywhere. Great powers that are involved everywhere can be sources of disorder, so I think you have to choose your involvement carefully by certain criteria. I think the Middle East is a kind of geopolitical region that no matter who was there, take the Israelis and the Palestinians out of there, and put two other groups of people in there, call them by different names, and the rest of the world is always going to be concerned about what happens in the Middle East because of its geographical position, because of what is under the sand in the Arabian desert, and because of the fact that when you put people into that confine of the Middle East, it constitutes one of the most difficult problems in the world if the people there have deep religious conviction about territory. If this square foot of land is holy to me and you, and two of us can't pray on it at the same time, that adds a certain edge.

Now that edge is there in Ireland, I admit, but my sense is that the Ireland case, tragic as it is, and that's where my ancestors came from, requires a different kind of involvement by the United States than the Middle East does. The Irish situation, tragic as it is, has local consequences which are tragic and awful. The Middle East has consequences that are potentially global in many different ways. During the Cold War, they were global in a different way, because one always worried about recreating World War I, where the major powers were drawn into a regional conflict and lost control of it. That's probably not likely today,

but the global impact is still there. So I would distinguish the cases based on their characteristics. I would not say the United States shouldn't be involved in Northern Ireland, but it should be a different kind of involvement than in the Middle East.

Question

During the first two World Wars, it was very easy to distinguish who the enemy was, based on their atrocities, and the moral question wasn't there, as you have said. In the case of terrorism, what are your thoughts on how we combat an invisible enemy that has that transcontinental reach?

Rev. Hehir

Two of the three things I talked about, intervention and terrorism, neither of them are new in world politics. There have been interventions since the Peloponnesian Wars, and there have been terrorists around for a long time, but there are specific characteristics to both today. My colleague at Harvard, Joe Nye, argues that in a world of interdependence and the information revolution, there is lots of privatization going on, and terrorism is the privatization of war. It gives groups, who are not state actors, capacities to exercise violence on a significant scale, if not a large, planned scale as we think of with major armies. So we are confronted with an actor with transnational capability but no local address in one sense, or at least, no local address that has the same character as a sovereign state.

My own sense is that it is wise for the U.S. government to distinguish terrorism that has systemic possibilities, transnational, from terrorism that exists within a single state. Secondly, I think the identification of the adversary is crucial, because I do think you have to make some distinctions. There is the terrorist organization. There is the state or states in which terrorists exist, and then there is the civil society of those same states.

The fact that a terrorist organization exists in a state does not necessarily mean that the state is hand in glove with the terrorists. There are states that have very little capability to prevent terrorist action emanating from their border. Think of Lebanon in the 1970s. Terrorists operated from the border of Lebanon, and the chances that the Lebanese government could control it I think

were very minimal. So once you identify the terrorist organization, I don't think you automatically can equate the state with it. In Afghanistan, there was empirical evidence to do that. I don't think it would necessarily be that way in every case. Thirdly, even when you can equate the state and the terrorist organization, you can't then simply sweep the civil population of that state or nation into the target that you are fighting.

So how do you identify it? I think it takes some real clear searching, and one has to distinguish transnational actors from state actors from civil society.

Question

Father, you spoke of the obligation the U.S. has as a world power to places like Rwanda. However, in light of Somalia and the movie *Black Hawk Down*, how is that in conflict with the obligation the U.S. has to its personnel, where the members of military swear to the Constitution and not foreign policy?

Rev. Hehir

Here is my way of going about it. I think the Commander in Chief of military forces and commanding officers under the Commander in Chief have a responsibility to protect their forces and, as much as possible, to reduce loss of life and casualties. I think that's an abiding moral obligation. If you send people into the service of the state, you have an obligation to do that.

Secondly, it is an obligation that must coexist with certain sense of limits; that is to say, you can't really say that you have an overriding responsibility to protect your own forces if you are doing it by purposely attacking civilians, for example. That runs up against another limit, because that violates international law, violates the Nuremberg tradition, and therefore you can't do it. So you have an obligation, and the argument that somehow it's wrong to try and protect your own forces seems to me nonsensical. The question is: Within what limits do you frame that?

Thirdly, you get to tactics, and let me give you two examples. I teach virtually all the professional military who come to Harvard. Almost all of them take this course called, "The Politics and

Ethics of the Use of Force,” and we have discussed this question at some length in a much larger class, where there are loads of people who are not military but are interested in foreign policy. I had two interesting examples. One was during our discussion of Kosovo. One member of the class stood up and said that the way we are bombing Kosovo is endangering civilians, and we are doing it to avoid casualties. We are flying at a certain height so we’re out of the range of anti-aircraft missiles, but the price of that is that we are endangering civilians. Well, if that’s true, that raises a question.

I had a pilot in the class, who stood up and said, “Let me explain to you how this works.” He said, “If I fly at 25,000 or 30,000 feet, out of the range of anti-aircraft fire in this instance, I have a chance to look at the whole situation and use the radar effectively. If you send me in at 5,000 feet, flying 700 miles an hour, 500 or 600 miles an hour, I’m not seeing much of anything.” So, in fact, he took the argument and turned it on its head on empirical grounds.

That’s an adequate expression, it seems to me, of the situation. You frame the problem normatively. You have a responsibility to protect civilians. It is not a responsibility that operates without limits, but empirically, the case was being made that, in fact, it was not purposely endangering civilians to fly at a certain level.

Secondly, Somalia had very grievous consequences because you can draw a fairly direct line between Somalia and Rwanda and the fact that the United States government was not prepared to go into Rwanda in the face of genocide. That may not have been the only reason, but I think it is one of the reasons.

The question about Somalia is: Should the U.S. be willing to allocate forces to the Somalias of the world, Liberia, Sierra Leone? What would we do? So I said, “Well, one way we might think about it is the following. We have an all-volunteer, professional military force. What about if we had a second volunteer system, where once people are in the military, they volunteer explicitly to serve in U.N. commands. They volunteer to serve in situations that will not engage massive U.S. interests.”

That all seemed logical to me. The class was over, and this man came up, who was a very burly Special Forces man who towered over me. He said, “You almost had a revolt in the back of the room.” I asked why, and he said, “Those are all professional military sitting in that back row, and your idea of a two-volunteer system runs against our professional ethic. I am committed to serve the Constitution and the country and the Commander in Chief, and I’m committed to do what the Commander in Chief tells me to do. I commanded forces in Somalia, and nobody under my command had any doubt about why they were there.”

Now, that was a very interesting kind of argument, because I was trying to create space, and he said, “We don’t want that kind of space. That’s a different kind of space; it violates our professional ethic.”

Well, even if you had forces allocated to the U.N., you’d still have to make policy judgments about when it’s wise to go in and out, but I do think you can adjudicate the clear, powerful responsibility that a Commander in Chief has to his or her own forces and still do that by obeying international law and having an adequate foreign policy that the world’s remaining superpower is worthy of.