

*Information.* Your final paper will be due, online, by 10am on June 15. You are to bring a draft of your paper with you to class on June 13 so you can “workshop” it with other members of the class. The paper itself should be five to six pages (5-6 pp.) double-spaced. For your font, use Times New Roman 12pt., with the 1” margins. These papers are short. This is intentional: I want you to learn how to write cleanly, forcefully, and succinctly. Don’t write a paper that’s merely a summary of the readings thus far. Write with prosaic and not poetic language. Don’t consult or use any secondary sources. For further information about the virtues your paper should demonstrate refer to the “Paper Structure” handout, which I’ve uploaded to the “Supplemental Materials” section of our Blackboard page. Print this handout and bring it with you to class on June 13. I don’t accept late work, under any circumstances, so it’s your responsibility to submit your paper on time.

*Feedback.* Unless you specifically request it, I will *not* offer feedback on the final paper.

*Final grade.* In the interest of promoting fairness, your final grade is your *final* grade. I will neither debate nor amend the final grade. It’s your responsibility as a student to know whether you have been attending class, participating in discussion, and submitting your discussion posts.

*Plagiarism.* All students at the University of Evansville agree to the University honor code: *I will neither give nor receive unauthorized aid, nor will I tolerate an environment that condones the use of unauthorized aid.*

I have zero tolerance for plagiarism. If you’re caught plagiarizing, you’ll receive an F *for the course* and be reported to the University’s Dean of Students for engaging in academic misconduct. It’s your responsibility to know what does and doesn’t constitute plagiarism.

*Here’s the essay prompt.* Religious ethicists are concerned with addressing issues of moral and political concern, especially as these issues arise within or are given justification from religious traditions. Violence that is justified using Islamic sources—from (among others) the Muslim Brotherhood, Hamas, or Osama bin Laden—confronts many religious ethicists. Pick an example discussed by Kelsay. What sorts of religious reasons do the actors in the example you picked use? Then, drawing from Hauerwas, Miller, Stalnaker, or Stout, discuss how you would (or wouldn’t) assess the reasoning given by the actors in the example. Is it possible to engage in cross-religious ethical evaluation? If so, how? If not, why not?

Here are some grammatical and stylistic comments:

1. Use gender-neutral language. That is to say, “he” or “man” shouldn’t be used as a generic term for people.
2. “If” versus “whether.” Use “if” only in conditional sentences. For example, “If you’re going to lunch, could you let me know?” “Whether” should be used in sentences like “Do you know whether you’re going to lunch?” or “Do you know whether you’re getting Chinese or Italian for lunch?”
3. “Ethics.” “Ethics” is singular. Thus, it is “an ethics” or “a Christian theological ethics” and not “an ethic.” (The same thing can be said about apologetics, metaphysics, poetics, etc.)
4. Please avoid writing that someone “has demonstrated” or “has shown.” For example, avoid writing “As Kant has demonstrated...”
5. “Critique.” Please use “critique” as a noun and not as a verb. So, “I will offer a critique,” whereas, for the verb, “I will criticize...”
6. “Between” versus “among.” Use “between” for relations involving two objects—for example, “Between Rawls and Nozick”—and “among” for relations involving three or more—for example, “Among Rawls, Nozick, and Sandel.”
7. When speaking, someone might say “an historic event,” etc. But in writing, please write “a historic event,” etc.
8. For the singular possessive, it is “Rawls’s” or “Hauerwas’s” not “Rawls’” or “Hauerwas.’”

## Just-War Doctrine: A Synopsis

Richard B. Miller  
Indiana University

### Introduction

Just-war doctrine provides a basis for the moral evaluation of war. The doctrine traces its origins to the writings of Augustine, who died in the 5<sup>th</sup> century, and has been developed since then by theologians, international lawyers, political theorists, and ethicists. Over the course of its long history, this tradition has produced two general categories, the jus ad bellum and the jus in bello, to evaluate the morality of public policy and military conduct.

The jus ad bellum is designed to answer the “when” or “whether” question: When, if ever, is it right to go to war? When is war morally justified? The jus ad bellum consists of several criteria, defined below. The core idea is that entering war is not justified if those criteria cannot be met.

The jus in bello is designed to answer what might be called the “how” or “methods” question: What methods are morally acceptable in war? Here the core idea is that the justification for entering war does not cover all the acts that occur in war. According to just-war doctrine, you are not allowed to do anything to win a war. Criteria for evaluating soldiers' conduct in war are listed below. The main point is that, according to the jus in bello, the ends do not justify the means.

Generally speaking, the jus ad bellum provides terms for evaluating whether to enter war, and the jus in bello provides terms for evaluating the conduct of soldiers and their leaders once war has begun. When we ask whether it is right to go to war, we are asking a jus ad bellum question. When we protest against the bombing of innocent populations, we are drawing on jus in bello criteria. Various interpretations and applications of these categories have occurred over the past three decades, which have witnessed a renewed interest in just-war doctrine. No understanding of that tradition is complete without reference to both categories, the jus ad bellum and the jus in bello.

It is almost inconceivable today for Western leaders to make a case for war without implicitly or explicitly invoking just-war doctrine. George Bush Sr., Bill Clinton, and George Bush Jr., along with their immediate political and military subordinates, drew on just-war ideas to justify U.S. military actions in Central America, the Persian Gulf, the Balkans, and Central Asia. Critics who raised questions about the justice of these ventures likewise invoked just-war criteria. Also, if September 11 meant anything to most citizens, it meant reckoning with the morality of going to war in response to terrorist aggression. For proponents and opponents of military action by the United States, just-war doctrine has provided the basis for practical reasoning and public policy. For these and other reasons it makes sense to speak, as Michael Walzer does, of a “triumph” of just-war doctrine as providing a moral basis for evaluating war.

Just-war doctrine is not relevant to political leaders only. One of our beliefs in modern democracies is that ordinary citizens have a stake in just-war doctrine during times of war or rumors of war. The idea is that just-war doctrine can inform our assessments of political and military decisions – that being a “responsible citizen” means holding public officials accountable to the norms one finds in just-war doctrine. With the jus ad bellum and the jus in bello as our compass, we ask about war's cause, authority, aims, and risks, along with war's proper and improper methods.

For many citizens who concern themselves with the morality of military action, just-war doctrine provides a framework for analysis, social criticism, and approval or dissent.

### Specific Criteria

The jus ad bellum includes the following seven criteria:

1. Just cause: War is occasioned by another group's unjust aggression against state sovereignty or human rights. Just cause thus allows for two kinds of wars: wars of self-defense and wars of rescue, in which nations intervene to assist persons at considerable risk of violence and oppression.

2. Right intention: Political officials and military planners should pursue justice and peace, not vengeance, as the goal of war. In recourse to war, it is not sufficient to be fighting against an unjust cause; one must also fight for a just one. The act of war should be subordinate to and directed toward the creation of peace and justice.

3. Legitimate authority: War must be declared and marshaled by public officials responsible for protecting the common good. In democratic contexts, this criterion requires public officials to render an account of their decisions and policies to their constituencies.

4. Last resort: All peaceful means of settling disputes within a reasonable reach of public officials must be tried before resort to force is justified.

5. Proportionality: The foreseeable risks must not outweigh the value of the ends being defended or pursued. War's tendency to escalate must be monitored; its dangers and aims must be evaluated regularly. Not all threats or injustices should be countered with the use of lethal force; political and moral stakes must be weighed.

6. Reasonable hope for success: States may not enter war against obviously insuperable odds, or make decisions premised on irrational or futile recourse to force. Yet taking on enormous odds for symbolic reasons, however unlikely a successful military outcome, is not ruled out by this criterion.

7. Relative justice: The rhetoric of moral triumphalism and self-righteousness is impermissible. To say that one side is justified in going to war is not to say it has "God on their side."

In bello criteria, governing the conduct in war, focus on the morality of means. Just-war doctrine is an ethic of limited war. Proponents of just-war criteria claim that war's violence must be moderated by a commitment to justice and a respect for persons, regardless of their political affiliation.

The central idea of the jus in bello is that the justification for entering war does not extend to all possible methods of war: The ends do not justify the means. Just-war doctrine is not, strictly speaking, a utilitarian doctrine. Just-war doctrine says that those who are engaged in defending a just cause may not do certain things to prosecute a war more efficiently.

The jus in bello includes the following two criteria, applied (as we shall see) according to the rule of double effect:

1. Discrimination: This criterion prohibits the intentional attacking of civilians; the shorthand is the phrase "noncombatant immunity." It is premised on two distinctions.

First is the distinction between combatants and noncombatants. Combatant denotes those who are materially cooperating with the war effort (e.g., soldiers and those working for war-related industries, such as bomb factories). Noncombatant refers to persons who are not contributing materially to the war, including children, the disabled, the sick, farmers, teachers, and health-care professionals, to name a few. The general view is that such persons have not done anything to forfeit their rights to life and liberty. As such, they are "innocent" of any wrongdoing that would otherwise permit the use of force against them.

The second distinction calls attention to the difference between intentional (i.e., purposeful) and foreseen, but unintentional, effects of an act.

Combining these two sets of distinctions, we get the following rule: Intentional attacks against noncombatants are not permissible. Such persons are innocent in the sense that they are not engaged in carrying out acts of lethal force, however much they might otherwise endorse the war effort. The principle of noncombatant immunity implies that the rights of strangers or distant neighbors may not be intentionally violated in the effort to protect near neighbors and close relations.

Foreseen, unintentional loss of innocent life passes the test of discrimination, but is subject to moral assessment according to the second in bello criterion, proportionality.

2. Proportionality: This criterion involves balancing risks and benefits. As an in bello criterion, proportionality requires us to balance foreseen, unintended dangers against the values that are defended in a particular act of war. Here we must think about the morality of specific tactics: Is the good that is being defended balanced by the regrettable, unintended risks that may reasonably be expected? Tactics are immoral when the foreseen, unintended loss of life outweighs the defended values, even if those tactics are discriminate. At a minimum, this condition prohibits risking civilian lives for trivial military purposes.

Taken together, jus in bello criteria impose clear restrictions on the use of force in war. They prohibit intentionally taking civilian life and imposing disproportionate foreseeable risks or lethal threats on noncombatants.