

LIESL MARISA HAREWOOD

M02HIP: WAR, LAW AND MORALITY
MA IN DIPLOMACY, LAW AND GLOBAL CHANGE



“Can nuclear deterrence and the actual use of nuclear weapons ever be ethically justifiable?”

APRIL 2005

No previously conceived moral position escapes the fundamental confrontation posed by contemporary nuclear strategy.¹

Since the beginning of civilized society, man has established a natural proclivity towards ensuring survival. This inclination has historically led to conflicts of interest where wars were fought to ensure a civilization's continued existence. In the contemporary world arena, technology is the symbol of military power, and nuclear weapons represent the apex of technological power. This essay will not only look at the definition, theory and strategy of nuclear deterrence, particularly as it served the United States of America² throughout the period of the Cold War, but will also discuss whether nuclear deterrence has ever been, or will ever be ethically justifiable. Generally, with any discussion of nuclear deterrence it is useful to also analyse the conception and ethical justification of nuclear weapons, as the two are intrinsically linked in a complex but symbiotic relationship. By evaluating both the concept of nuclear deterrence and the actual use of nuclear weapons, it will be argued that some ethical justification can be found when trying to sustain a balance of power in this volatile contemporary world arena.

“Thus far the chief purpose of our military establishment as been to win wars. From now on its chief purpose must be to avert them”.³

The idea expressed here was two-fold: firstly, that of the existence of nuclear deterrence and secondly, the controversial notion that nuclear weapons should serve the purpose of preventing their actual use. Nuclear deterrence is the adoption and maintenance of a policy by which one country threatens to use nuclear weapons against another in order to discourage the latter country from doing certain things that it might otherwise do-

¹ The Pastoral Letter on War and Peace, ‘The Challenge of Peace: God’s Promise and Our Response’, in J.B. Elshtain *Just War Theory*, (Oxford: Basil Blackwell Ltd., 1992), pp. 77-168.

² Hereafter called the USA.

³ Strategic analyst Bernard Brodie *The Absolute Weapon* quoted at NuclearFiles.org. Retrieved 4 April 2005 from: http://www.nuclearfiles.org/kinuclearweapons/strat_deterrence.html

especially but not exclusively, using its nuclear weapons to devastate the other.⁴ In general, for deterrence to work, the risk must be disproportionately higher than the possible gain. The components of nuclear deterrence are physical and psychological in nature. On the physical level, deterrence requires a series of military instruments, sufficient to threaten the opponent in a way that it would not even contemplate attacking. Successful deterrence however, is guaranteed only if there is a will to use the weapons. Whereas, on the psychological level, deterrence is credible only if a nation is able to successfully convey these points to its opponent: that it is capable and willing to execute its threats. In other words, successful deterrence depends on psychological components of communication and perception. This concept of deterrence is not new, and it would be erroneous to believe that it was invented as a reaction to the development of nuclear weapons. According to Clausewitz:

“If the enemy is to be coerced you must put him in a situation that is even more unpleasant than the sacrifice you call on him to make.”⁵

Evidently, the concept of deterrence is concerned as much with perceptions as with capabilities and although it is arguable whether Clausewitz’s formulation of coercion precisely fits the logic of war in the nuclear age, deterrence is indeed a form of coercion.

Currently, nuclear weapons contain the most powerful means of destruction-comprising the capacity to threaten the existence of not only the enemy but the world at large. Nuclear weapons are distinct from chemical and biological weapons because of their demonstrated capability to produce instantaneous destruction on a massive scale,⁶ and also as a result of the pivotal role they played in the Cold War. The advent of nuclear weapons changed the idea of conventional warfare to automatic destruction, the latter consisting of greater levels of psychological damage to the civilian population. However, it must be noted that the advent of nuclear weapons has not in fact led to the disappearance of conventional warfare, and so far there has been no direct conflict

⁴ R. Wasserstrom ‘War, Nuclear War and Nuclear Deterrence: Some Conceptual and Moral Issues’, *Ethics*, Vol. 95, No. 3, 1985, p. 434.

⁵ Michael Howard and Peter Paret (eds.) *On War by Carl Von Clausewitz*, (Princeton: Princeton University Press, 1984), page 77.

⁶ Although chemical and biological weapons are now generally linked together with nuclear weapons into the category of “weapons of mass destruction”, this essay addresses only the nuclear weapons issue.

between nuclear powers using nuclear weapons. Because conventional warfare has existed before the advent of nuclear weapons and has persisted in the nuclear age, disarmament is not likely to introduce any changes regarding the existence of conventional warfare. When nuclear weapons are attained by a nation, they become a potent necessity to ensure survival of a nation: to deter an enemy from one's obliteration, one is forced to threaten the annihilation of the enemy.⁷

Arguably, one of the most notable, and certainly the most dramatic legacy of the World War II, was the atomic bomb, built at enormous cost and driven by fear that Nazi Germany might win this first nuclear arms race, with terrifying consequences. This, coupled with the first Soviet explosion of a nuclear device, along with the takeover of China by Communism in 1949, triggered the support and justification for the US nuclear deterrent policy. After 1945 nuclear weapons presented unprecedented challenges to world politics and to the leaders responsible for conducting post-war diplomacy. The Cold War provided context and pretext for the growth of nuclear arsenals which threatened the very existence of humankind, and which have continued beyond the end of the Cold War and the East-West confrontation.⁸ With the end of the Cold War, the dissolution of the Soviet Union and the elimination of the Warsaw Pact threat to Western Europe, there was certainly less of a risk of strategic nuclear warfare between the USA and the former Soviet Union. While there was certainly room for optimism concerning world, and particularly USA and former Soviet Union relations, there was no substantive justification for eliminating nuclear weapons. Since these nuclear weapons are already in existence and cannot be 'dis-invented', there is the need that a super power, in this case the role has been assigned or self-appointed by the USA, needs to retain more than just a "virtual reality" of nuclear weapons. Since the beginning of the nuclear age a profound transformation has taken place in the understanding and practice of global politics. Nuclear weapons are generally deemed to be a means not of waging, but of preventing a

⁷ Cadet Kima Megorden 'Epsitemology of Nuclear Deterrence: Manifestation in Civil-Military Relations'. Retrieved 6 April 2005 from: http://atlas.usafa.af.mil/jscope/JSCOPE01/Megorden01.html#_ednref1

⁸ Len Scott 'International History 1945-1990' in John Baylis and Steve Smith (eds.) The Globalization of World Politics: An introduction to international relations, 2nd edition, (Oxford: Oxford University Press, 2001), pg. 75.

war. It is the political use of nuclear weapons through possession, not the military use through fighting wars that has thus far informed the policies of the nuclear powers. Ironically, the existence of nuclear weapons has not prevented the several hundred wars that have taken place since 1945. Nor has the possession of them prevented the USA and Soviet Union from being defeated in Vietnam and Afghanistan respectively. However, the deterrent use of nuclear weapons may be endangered by the development of smaller weapons of more limited destructive capacity or the prospect of an arms race in outer space. Furthermore, the remarkable events of the past few years have fundamentally altered the political landscape. The demise of the Cold War and the acknowledged failure of Communism in the global sphere present unprecedented opportunities to shape a New World Order. The USA and the former Soviet Union have begun to reverse the arms race and significant reductions in nuclear arms can be expected. Despite the important and significant changes, nuclear deterrence is likely to remain the hallmark of defence in the post-World War II era. For those possessing nuclear arms, these weapons will remain the ultimate protector of national security. Several states not possessing these arms today are nonetheless making concerted efforts to do so. Nuclear deterrence, therefore, is unlikely disappear simply because it may not be deemed ethically justifiable by some schools of thought.

David Fisher⁹ has argued that not all conceivable uses of nuclear weapons that result in substantial non-combatant fatalities can be ethically justified. He believes that any nuclear strike against cities, or against military targets near large centres of civilian population, would be morally wrong. No good that would be achieved by any such strike could ever justify the evil that would be done in bringing about the numbers of non-combatant cause. However, according to Fisher, certain uses of nuclear weapons are conceivable in which the good that could be achieved through them clearly and decisively outweighs the evil that they would cause, despite their issuing in substantial non-combatant fatalities.¹⁰ For example, if the use of nuclear weapons by a country was

⁹ This argument is developed and cited in David Conway's 'The Ethical Justification of Nuclear Deterrence', *Foreign Policy Perspectives*, No. 19, 1990. Retrieved 3 April 2005 from <http://www.libertarian.co.uk/lapubs/forep/forep019.pdf>

¹⁰ Ibid.

necessary-and together with other measures was sufficient-to check an adversary intent upon aggression against that country, or its allies, then it might not be morally wrong for the country threatened with aggression to use nuclear weapons to stop its adversary continuing with its aggression, even if such use resulted in considerable numbers of non-combatant casualties. Therefore, it is perhaps accurate in saying that the use of nuclear weapons may be ethically justified where there is a case of a ‘nuclear-armed Hitler bent on world domination and genocide’.¹¹

In peacemaking, not necessarily in a form of military action, deterrence gives an objective towards ideal defence mechanism that concerns both strategic effectiveness and the magnitude of consequences of such an act. Ethical concerns of deterrence, both in effectiveness and consequences, have two big agendas – the just cause to be sustained, and the appropriate outcome to be guaranteed. When there is a conflict between two groups both holding nuclear weapons against each other, anybody who comes in between must know whose idea of just war is proper and whose action may result in bringing peace to both sides. One may have to take side against the other, but any prospect of destruction needs be assessed in order for the end to satisfy the purposes of the means to be carried out, as the just cause of deterrence dictates such an action.

‘In an all-out nuclear war, more destructive power than in all of World War II would be unleashed every second during the long afternoon it would take for all the missiles and bombs to fall. A World War II every second-more people killed in the first few hours than all the war of history put together. The survivors, if any, would live in despair amid the poisoned ruins of a civilization that had committed suicide’¹²

One striking aspect of the discussion regarding the ethical justification of nuclear warfare is the statement by Plato expounding the justification of war whenever it is the best means of restoring peace.¹³ This assertion corresponds with the first principle of the just

¹¹ Ibid.

¹² Former US President Jimmy Carter quoted in Nuclear Files <http://www.Nuclearfiles.org> December 15, 2003. Retrieved

¹³ G. Graham Ethics and International Relations, (Oxford: Blackwell Publishers Ltd., 1997), p.56.

war theory as expounded by St. Augustine, that ‘war should be waged as a necessity and waged only that through it God may deliver men from that necessity and preserve them in peace’.¹⁴ It is hardly surprising that nuclear weapons pose an especially acute problem for those who take the just war tradition seriously. By maintaining that war is evil, but that there can be justification in waging it by following the principles of the just war theory, a perennial conflict between the nature of nuclear warfare and the principle of *jus in bello*, is exposed. This latter principle considers two main conditions that the conduct of war must meet: firstly, the principle of proportionality-that is natural rights and the use of reason, and secondly, the principle of immunity-that is natural justice and the subsequent principles accepted by systems of justice. Both of these principles are at the core of the conduct of warfare and are therefore important when considering the ethical justification for the waging of nuclear war. By applying these principles, nuclear war is condemned as an ‘unjust war’ and therefore wrong and immoral by the rules of the just war theory and the international law system.¹⁵ However, on the other hand, it must be highlighted that nuclear deterrence qualifies as a pre-emptive measure prior to nuclear warfare and it is identified as a strategy used by nuclear states in their attempts to contain a potential nuclear conflict,¹⁶ and in that case, one would believe that any attempt to restrain such a conflict could be ethically justified by its executors.

The threat to use nuclear weapons is the foundation of the strategy of nuclear deterrence as it can be argued that the more powerful a nation’s nuclear strategy, the more effective deterrence a nation can possess. Although it is argued that the application of nuclear weapons can never be ethically justified when considering the high risk of damage they may inflict to the civilian population, nuclear deterrence has to be understood as a strategy that can be employed in order to avoid such a conflict. Therefore, an effective nuclear deterrence must contain a systematic deception within both the military command and the political system. It is necessary that in such a crisis that the military strategists and the heads of the nuclear states maintain control of the

¹⁴ Ibid.

¹⁵ Ibid., p. 77.

¹⁶ For further discussion on this point can be explored in J. Finnis et al (eds.) Nuclear Deterrence: Morality and Realism, (Oxford: Clarendon Press, 1987), pp. 65-74.

situation, and subsequently that the chain of command is ready to execute any instructions to deploy nuclear weapons.

Three strategies employed in nuclear deterrence are the use of effective bluffs, rational actions and nested intentions. One can posit that an effective bluff in nuclear deterrence does not mitigate any serious or actual intention to deploy nuclear weapons, and therefore this secures the ethical justification of the strategy. However, although the deceptive bluff appears to offer the moral window of escape usually for the political leader of the state, there still remains the evil intention of the persons, usually the military strategists, required to execute the threat once given the command. This situation is comparable to the criminal law system where both *actus reus* and *mens rea* are required in order to establish some level of culpability. And it can be argued that the *mens rea*, or intention to act, to deploy nuclear weapons, is as unethical as the physical performance of that act. The bluff seems to solve the problem of intention because one does not truly intend to kill others. It also seems to solve the problem of the likely consequences of nuclear war because other nations will still fear our nuclear strategy, which provides effective deterrence. Though this bluff deterrence strategy seems appealing, it does very little to actually solve the problem of ill intentions, and it can be very undermining to the final resolution of the conflict. Though it curtails the evil intention by avoiding the declaration of an outright intention to kill others, its efficiency is based on a lie. It is based on the perception of doing what a nation does not intend to do. Instead of remedying the previous evil intention, it simply replaces it with a seemingly less ethically offensive intention. It seems that there is little ethical justification added to the nature of intentions; bluff deterrence simply replaces the fundamentally morally flawed intention of traditional deterrence.

Secondly, there is a conditional stage involved in the case of threat by rational action. That is, if the threat of nuclear deterrence is to be successful, it is under conditional circumstances where the uncertainty of the potential use of nuclear weapons is a sufficient deterrent. Furthermore, if the threat of deterrence fails there are still alternative courses of action available before resorting to nuclear warfare. Finally, the

case of threat by nested intentions appears to be the most ethically justifiable because if the threat succeeds, it is under the premise that the deterrent states will not deploy nuclear weapons in the first strike due to the willingness and desire to protect innocent civilians and restore peace to conflicting states. However, if the threat fails, resorting to nuclear warfare would be executed as a retaliatory measure and to exert exact revenge with the intention of taking lives. This last scenario falls neatly into the theory of preserving peace versus exact revenge, which according to the terms of the just war theory is an ethically justifiable strategy for conducting warfare.

At the core of this struggle of contrasting principles and theories relating to the ethical justification of nuclear weapons and the strategy of nuclear deterrence, there exists a great division between those who see the ethical justification in nuclear warfare, and those who do not. Obviously, on the one hand, there are moralists, philosophers and theologians who cannot find any ethical justification in nuclear warfare.¹⁷ Their rationality is generally based on deontological principles, that is reasons for common moral thinking that differentiates between ‘commission and omission’ and ‘intention and status’. Their governing perspective is ‘it is always wrong to threaten to do what it would be wrong to do’¹⁸ and ‘the ones who employ nuclear deterrence are wrong because they murder others in their hearts’.¹⁹ On the other hand, it is unsurprising that those in favour of nuclear warfare are usually the strategists, military planners and government officials. These persons tend to support the principles of consequentialism, that is the school of that that focuses on the calculations of costs and benefits in terms of lives and warfare, within which it is only the consequences of an action that matter and not the intentions. One of the adherents of this school of thought was Gregory S. Kavka who stated that:

“Nuclear deterrence should be morally justified if practiced under the proper restrictions-most importantly, if its most destabilizing features

¹⁷ Further support for these arguments is found in The Pastoral Letter on War and Peace in Elshstain’s Just War Theory.

¹⁸ Graham Ethics and Environmental Relations, p. 57.

¹⁹ Ibid.

were eliminated and it was practised as a stop gap measure while bilateral nuclear disarmament was being vigorously pursued”.²⁰

From this quotation it can be argued that nuclear deterrence could possibly be ethically justified as the lesser evil in the nuclear age. Whether this justification can transcend the imaginary boundary to the actual use of nuclear weapons is another issue which will have to be addressed. Furthermore, it can be seen that from the theories expressed by these conflicting schools of thought it is evident that there is great difficulty in compromising an acceptable ethically justifiable standard for nuclear warfare. It is always dangerous to include a discussion of ethics, bordering on religious fervour, in political and warfare issues, as religion has the capability of clouding one’s judgement. In fact, although most religions do have a strong ethical component, it must be highlighted that these ethics have been responsible for some of the greatest causes of bloodshed on the planet, and it would therefore be unwise to employ such a narrow perspective of ethical justification on a complex subject such as nuclear warfare.

A discussion ethically justifying the use of nuclear weapons could fill many books and articles, without ever resolving the problem. Since a single nuclear weapon targeted on a city would kill a good fraction of a million people, it has been very difficult to find an effective ethical justification for the use of nuclear weapons. Therefore in the Cold War era, the USA and the Soviet Union relied on deterrence-the promise of nuclear retaliation in case of a nuclear attack. Although it can be argued particularly relating to the Cold War, that the concept of nuclear deterrence did not failed, one can question whether it was ever necessary. Furthermore, throughout the post Cold-War era, can one really justify nuclear deterrence as an element of US national security or simply as a piece of military weaponry. Naturally, if there is no longer a monolithic enemy like the former Soviet Union, then why retain nuclear weapons that have been created strictly for that enemy? With a less visible dominant opponent to global stability, nuclear weapons can be seen simply as an instigator, rather than as a deterrent to nuclear war.

²⁰ G. Kavka Moral Paradoxes of Nuclear Deterrence, (Cambridge: Cambridge University Press, 1987), p. 2.

It has been argued that nuclear deterrence is allowable and desirable and acceptable to deter a democratic society, although the “rights of the minority” are hardly protected if the majority initiates nuclear war, and both majority and minority die in the ensuing battle.²¹ Paradoxically, deterrence is hardly justifiable ethically against a country in which almost all those who would suffer in retaliation have no power to prevent a nuclear strike. Yet, if deterrence ‘works’ and may even prevent large-scale conventional wars in which many of those people might have lost their lives, it seems justifiable as an interim measure.

Particularly after the results of the most recent Iraqi invasion, states classified as rogue states are likely to be attracted to nuclear weapons as perhaps the only viable means of deterring a powerful state, specifically the USA. These rogue states can be expected to pursue and utilize nuclear weapons for broader political purposes beyond deterrence. For example, central to the debate over North Korea’s intentions is the extent to which its nuclear weapons program is really designed to extract political and economic concessions from the USA. It can also be expected that rogue states would conceal the size, scope and reach of its nuclear weapons, in order to manipulate an adversary’s uncertainty and induce caution. Whether these classified rogue states would view nuclear weapons as war-fighting tools is a yet unanswered question.

Nuclear weapons will be required as long as nations who have such weapons do not trust each other. Consequently, the ability to deter nuclear war must be retained. Until more precisely destructive, yet more proportional and discriminating weapons can be devised, there will be a need for nuclear capabilities and the global community must possess the ethical restraint to refrain to resorting to the use of nuclear weapons until all other options have been exhausted. The reality is that these arguments make little impact upon reality, since ‘the policies of great nations and their gigantic security systems are hardly likely to be changed by philosophical reflections’.²² For all the discourse on whether nuclear warfare is, or will ever be ethically justified, it must be highlighted that

²¹ Richard L. Garwin ‘Scientist, Citizen and Government-Ethics in Action (or Inaction)’, Richard L. Horwitz Lecture, 4 May 1993. Retrieved 3 April 2005 from: <http://www.fas.org/rlg/930504-imsa.htm>

²² J. Finnis, J. Boyle and G. Grisez Nuclear Deterrence: Morality and Realism, (Oxford: Clarendon Press, 1987), p. 367.

an effective nuclear deterrence strategy was able to maintain peace in Europe during the Cold War era until the final collapse of what is now the former Soviet Union and the establishment of the Warsaw Pact during the 1980s. It can also be argued that dropping the bomb on Hiroshima, was ethically justifiable because it restricted the length of the war, although causing catastrophic destruction. A more acceptable balance between the two extremes of the rather simplistic categorisation of either for or against nuclear weapons and the strategy of nuclear deterrence is perhaps the view posited by Robert Oppenheimer, one of the scientists who created the American atomic bomb. He characterized the atomic age as similar to two scorpions trapped in a glass jar. The scorpions have no means of escape and no alternative but to threaten that which it would be suicidal to carry out.²³ Similarly, the contemporary world arena must accept the fact that nuclear deterrence and the threat of nuclear weapons had a dominant role during the Cold War was because it was the most effective strategy at that time. While no one wants to return to such a period of history, it should be a case of better safe than sorry, and the existence of nuclear weapons and nuclear deterrence should remain a reality in this 'age of nuclear giants and ethical infants', just in case history happens to repeat itself.

²³ Scott 'International History 1945-1990' in Baylis & Smith (eds.) The Globalization of World Politics, p. 86.

BIBLIOGRAPHY

Bailey, Sydney D. War and Conscience in the Nuclear Age, (Essex: Macmillan Press, 1987)

Baylis, John & Steve Smith The Globalization of World Politics: An introduction to international relations, 2nd edition, (Oxford: Oxford University Press, 2001)

Brodie, Bernard The Absolute Weapon quoted at NuclearFiles.org. Retrieved 4 April 2005 from: http://www.nuclearfiles.org/kinuclearweapons/strat_deterrence.html

Conway, David 'The Ethical Justification of Nuclear Deterrence', Foreign Policy Perspectives, No. 19, 1990. Retrieved 3 April 2005 from <http://www.libertarian.co.uk/lapubs/forep/forep019.pdf>

Elshtain, J.B. Just War Theory, (Oxford: Basil Blackwell Ltd., 1992)

Freedman, Lawrence The Evolution of Nuclear Strategy, 3rd edition, (Hampshire: Palgrave Macmillan, 2003)

Finnis, J., J. Boyle and G. Grisez Nuclear Deterrence: Morality and Realism, (Oxford: Clarendon Press, 1987)

Garwin, Richard L. 'Scientist, Citizen and Government-Ethics in Action (or Inaction)', Richard L. Horwitz Lecture, 4 May 1993. Retrieved 3 April 2005 from: <http://www.fas.org/rlg/930504-imsa.htm>

Graham, G. Ethics and International Relations, (Oxford: Blackwell Publishers Ltd., 1997)

Granoff, Jonathan 'Nuclear Weapons, Ethics, Morals and Law', NuclearFiles.org, Retrieved 10 April 2005 from: <http://www.nuclearfiles.org/etinternationallaw/granoff-nuclearweaponsethicsmoralsandlaw.htm>

Finnis, J. et al (eds.) Nuclear Deterrence: Morality and Realism, (Oxford: Clarendon Press, 1987)

Howard, Michael Clausewitz, (Oxford: Oxford University Press, 1983)

Howard, Michael and Peter Paret (eds.) On War by Carl Von Clausewitz, (Princeton: Princeton University Press, 1984),

Kavka, G Moral Paradoxes of Nuclear Deterrence, (Cambridge: Cambridge University Press, 1987),

Megorden, Kima 'Epsitemology of Nuclear Deterrence: Manifestation in Civil-Military Relations'. Retrieved 6 April 2005 from: http://atlas.usafa.af.mil/jscope/JSCOPE01/Megorden01.html#_ednref1

Paret, Peter (ed.) Makers of Modern Strategy: From Machiavelli to the Nuclear Age, (Oxford: Oxford University Press, 2000)

Wasserstrom, R. 'War, Nuclear War and Nuclear Deterrence: Some Conceptual and Moral Issues', Ethics, Vol. 95, No. 3, 1985, p. 434.