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Just War Theory and the Wars of the 20th Century

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by John Buell

Objectives

Rationale

“For as long as men and women have talked about war, they have talked about it in terms of right and wrong.”¹ This quote from Michael Walzer’s *Just and Unjust Wars* is an excellent starting point for a high school unit on the ethical considerations of war. The objective of the unit is to keep that conversation going by creating a framework which students can apply to specific wars and specific events within wars thus enabling them to make reasoned moral judgments. One of the central tenets of Walzer’s book is that despite the vast range of human culture and diversity (often well represented in the urban American classroom) human beings share a remarkable commonality on basic moral questions. By establishing basic criteria securely founded upon the values we all share it is possible to entertain questions and take defensible positions on issues of war and peace on a deeper critical level than found in most high school history text books. High school students are particularly interested in moral questions and any intellectual exercise that calls upon them to apply their own judgment in this area is usually met with enthusiasm.

Although I intend to use this unit in a course on 20th Century history, it is important that it be of practical use in a broader area. The vast majority of history courses taught in this country are survey courses in U.S. or World History. The great challenge in teaching such courses (including one which only covers the last century) is the need to cover the vast amount of material required by the curriculum while still going into enough depth to make the subject meaningful and to engage a range of skills beyond simple retention and repetition of information. It is therefore necessary to choose certain focal points to be considered in some detail that will pull together and illustrate a range of interconnected curricular issues and allow students to engage a wide range of critical thinking skills. One important objective of this unit therefore will be to provide teachers with the tools to create such a focal point out of the study of any war in the last two hundred years. In most cases it simply won’t be possible to undertake a full ethical study of every war encountered in the standard survey course. Once the vocabulary and methods of analysis have been introduced, however, it should be possible to apply them in an abbreviated fashion to a range of wars and military actions.

One aspect of this subject area that makes it especially attractive to teachers of students with a range of abilities is its basic simplicity at its core. Theories of morality in war start with a few essential uncomplicated

principles that students of all levels can grasp and view critically. It should be possible therefore to engage the students in a process that will lead to some level of consensus on what those principals should be. From that point the teacher needs to show students how they can find their own way down a path of deductive reasoning resulting in judgments about specific cases that can be logically supported. "Why don't we just nuke 'em?" (or why didn't we just nuke 'em) is a question I have heard repeatedly in my fifteen years of teaching. Although in most cases it is intended to be glib, students who ask such questions really want to know the answers. What they need are the tools to work out their own answers.

To provide a starting point it is necessary to establish a position between the pacifist perspective that all war is wrong and the realist perspective that "all's fair" in war.² Between these two extremes lies the concept of the just war first espoused by Saint Augustine in the waning days of the Roman Empire. The just war tradition takes the position that in certain cases war is not only acceptable but sometimes morally necessary in order to protect the innocent and avert a greater wrong. It divides moral judgment on war into two sets of ethical principles: those that apply to the reasons for going to war (justice of war or *jus ad bellum*) and those that apply to actions taken while fighting a war (justice in war or *jus in bello*). For most high school students this line of thinking will seem absolutely reasonable and perfectly understandable. The possibility that some will hold firm to one of the extreme positions should be used as a basis for discussion and debate at the outset. It may even make sense for the teacher to play devil's (or angel's) advocate and challenge students on the validity of a position in the middle. Only a limited time can be spent on this point however before it will be necessary to reach consensus on the validity of the just war concept if only for the purposes of intellectual pursuit.

Even within the just war construct there is of course a range of perspectives. My own position in this area can best be described as "a peace-oriented non pacifist who consider[s] warfare a conceivable if distasteful possibility."³ Essentially, this means that I view with deep suspicion any military action outside of the strict requirements of self-defense and believe that only the most extreme circumstances allow for the violation of the rules which govern the nature of military action (known as "the war convention"). It will be this position that forms the starting point for the work of this unit and its bias will be evident. Whether it is the exact position of all students or of all teachers is not really that important. What is important is for students to understand that a starting point must be established from which judgments on war can be deduced. Each step in the deductive process will be an occasion for healthy debate, especially when applied to specific circumstances. It will be necessary, however, for students to be able to defend the positions they take always by referring back to the essential principles established at the outset.

Academic Setting

I teach at the Sound School Regional Vocational Aquaculture Center in New Haven. It is a small interdistrict magnet school (currently about 300 students) with a hands-on marine education program which seeks to prepare students for both the workplace and for college depending on the academic skills and desires of the student. About 60 percent of the students come from the surrounding suburban towns -- some as far as Old Lyme on the shoreline and Cheshire to the north. Aside from a small core of capable students who have a keen interest in fish, boats and the water, most students who come to the Sound School have not had great success in a traditional academic setting and are looking for an alternative. The result is an ethnically, racially and socioeconomically diverse student body with a wide range of academic abilities. One effect of the size of the school is the lack of tracking (grouping by academic ability), especially in the history department, which is the smallest in the school. Students of widely differing abilities and even different years are in the same classes. This poses special challenges which this unit seeks to address.

Learning Objectives

The learning objectives of this unit are indeed quite broad in that they should incorporate a grasp of the historical events to which the ethical principles of war will be applied. Those objectives more specific to the consideration of just war theory should be as follows: students should be able to

identify and articulate a basic set of ethical principles upon which the “rules of war” can be based,
identify and evaluate the basic elements of just war theory,
explain how these concepts and their underlying principles apply to three historical examples from the 20th Century,
utilize just war theory to develop and defend moral judgments on specific decisions and actions taken by individuals in those examples.

The three events to be considered are

the use of strategic bombing in World War II including the use of the atom bomb,
the decision to defend South Korea, and
actions by U.S. soldiers (using two specific examples) in the Vietnam War.

These cases have been chosen both for their central role in important wars of the 20th Century, and because they include both decisions to go to war and decisions on actions taken within wars.

Just War Theory

What follows is a very brief description of the basic elements of just war theory. It is of course a vast and potentially complex field with significant gray areas and multiple exceptions requiring in depth analyses. The basic precepts that are described below are fairly simple, however, and should be accessible to students of all abilities.

As mentioned above, the just war tradition divides ethical rules of war between *jus ad bellum*, those concerning the morality of the decision to make war, and *jus in bellum*, those concerning the morality of actions taken in a war. This distinction is intended to create relatively exclusive realms of consideration. The fact that a war is just cannot be used to excuse unethical actions in that war and it is still important for individuals to take ethical actions in a war even if the cause for which they are fighting is unjust.⁴

The basic requirement of *jus ad bellum* is possessing **just cause** . The clearest example of just cause would be the right of **self-defense** : if a nation is attacked it has the right to defend itself. By extension this also

means the right to defend other nations from aggression to meet treaty obligations or under the direction of an international regime such as the United Nations. By further extrapolation, the right of self-defense allows for preemptive action if an attack is imminent.⁵ This does not mean that a preventative war to forestall an attack at sometime in the indeterminate future is necessarily just. Even in the clearest cases of aggression, however, the principle of **last resort** requires that all peaceful means of resolving disputes must be exhausted before resorting to military action.⁶ Thus a just war is military action taken only as a last resort in response to a wrong already committed or about to be committed. One other important *jus ad bellum* principle is the idea that a just war must be authorized by a **legitimate authority** such as a national government or an international governing body. Without such authority, the thinking goes, military action is simply terrorism or banditry. In recent decades, the need for legitimate authority has been interpreted as a requirement that the United Nations approve military action, particularly in cases that concern collective security. In the section on strategies below, I will introduce some of the other finer and potentially contradictory elements of *jus ad bellum* as they apply to specific examples. Circumstances involving intervention or civil war and questions over proportionality of response or legitimate ends in war certainly muddy the waters, but they can provide excellent opportunities for energetic debate once students have grasped the essential principles.

The rules governing conduct within a war, or what Walzer calls “the war convention,” are based on the principle of **discrimination**.⁷ Under this principle armed enemy soldiers are legitimate targets and can be killed, while unarmed civilians are immune and deliberate attacks on them are prohibited. Enemy soldiers who disarm themselves and surrender are also immune and acquire rights as prisoners of war. Thus the war convention defines whom soldiers can kill and when they can kill. Discrimination becomes difficult to apply when civilian deaths occur as a result of attacks on legitimate military targets - what the military calls “collateral damage.” The doctrine of **double effect** attempts to deal with that problem by allowing for some negative effects - the deaths of civilians - as long as it is outweighed by positive effects - the destruction of military targets. This is also known as the principle of **proportionality** in that it requires that the ends sought in a particular action be proportionate to the harm done. So some civilian deaths are permissible as long as civilians are not the intended targets and every effort is made to keep those deaths to a minimum.⁸ The application of proportionality is of course a judgment call and should again provide the basis for debate when individual cases are considered. More fodder for debate arises when one seeks to apply the war convention to circumstances such as guerrilla war when combatants hide among civilians and may even take on civilian disguise. The civilians may in fact support the guerrillas and provide critical military support.

Strategies

Student Generated Principles of Just War

The first step in introducing students to the basic elements of just war theory is to allow them to develop their own ideas on what the rules of war should be. A brief explanation of the basic distinction between *jus ad bellum* and *jus in bello* will be necessary to enable students to categorize the rules that they develop. Students should be divided into small groups of three to four students to brainstorm as many rules as they can in each category. Prompts such as “list circumstances that would justify a nation going to war” and “identify rules that define whom soldiers can kill in war and who should be immune from attack.” will help the groups to get started. It may also be necessary to introduce the concept of discrimination to narrow the focus

of the *jus in bello* rules. As each group reports back to the class, the most coherent and essential rules should be listed on the board. These could be listed in the form of a web type graphic organizer with *jus ad bellum* in the center of one web and *jus in bello* in the center of the other. Ideally, by the end of the lesson the class has reached a kind of teacher-guided consensus on the most basic just war principles. A detailed version of this lesson is included in the “Classroom Activities” section of the unit.

Strategic Bombing in World War II

The bombing of civilians with aircraft far from the battlefield is an act which falls within the purview of the war convention as it was an act of war generally (but not entirely as we shall see below) unrelated to the question of whether the war - from the Allied perspective - was just. As this is the first case study of the unit, however, it may make sense to open the lesson by raising the basic *jus ad bellum* questions: was this a just war for the Allied powers and if so what made it so? As long as students are versed in the basic facts of the war student’s should be able to respond and defend their responses without too much difficulty. As a legitimate response to naked aggression on the part of the Axis powers, the war is probably the clearest example of a just war in the 20th Century. Once this has been established the next question to consider, although not necessarily answer yet, is whether that fact justifies any bending of the rules of the war convention if it may be the only way for the just cause to avoid defeat.

The Bombing of German Cities

This point is certainly germane to a discussion of how the decision to bomb civilians came about because it was used as a justification for the bombing of civilians by the British in the early years of the war. The decision was made in the desperate months after the fall of France when Britain stood alone and invasion by Germany seemed imminent. At the time the bombing of cities was seen as the only way British military forces could strike at Germany and possibly forestall defeat.⁹ The nature of this act was dictated in part in the early years of the war by the limitations of Britain’s Bomber Command. Lightly armed and without the benefit of a long-range fighter escort, British bombers were committed to nighttime raids in order to avoid being shot down by German fighters. This fact along with the lack of the proper navigational equipment meant that only one third of all British bombers got within five miles of their targets in 1941. The strategy was a result of more than just technological limitations, however, for the leadership of Britain, including Winston Churchill, believed that terror bombing (or what one of Churchill’s advisors preferred to call “dehousing”) could indeed win the war by turning the German people against the Nazi leadership.¹⁰ Thus the strategy was not changed when the ability to hit targets with greater accuracy was developed later in the war nor when the tide had turned and victory by the Allies was all but assured.

The bombing of Germany did indeed become a terror, although it never brought about a popular uprising. One of the most appalling examples of this strategy was the firestorm created in the German port city of Hamburg in July 1943 as the result of four nights of “area” bombing. By the time the fires had died down 62,000 acres were burned, 80 per cent of the buildings were destroyed and 30,000 people (20 per cent of whom were children) were killed. Similar firestorms were ignited in eight other German cities over the next two years including Dresden which was destroyed in the closing months of the war when Germany’s armies were already defeated.¹¹ Altogether some 600,000 German civilians died from bombing in the war and 800,000 were seriously injured.¹²

American Bombing of Japan

While the British carried out a strategy of “area bombing” the Americans held to a strategy of precision

daylight raids in Europe that, in theory, kept civilian deaths to a minimum. Against Japan, however, the Americans changed that strategy to one which closely matched the British. Beginning in February 1945 the Army Air Force switched from high-level daylight strikes to low level bombing at night using incendiaries - tactics that were intended to burn entire cities. Contributing to the destructive effects of these tactics was the lack of any Japanese air force by 1945 to oppose U.S. bombers and the fact that Japanese cities were built largely of wood and paper which burned so much better than European stone and brick. The devastation and civilian death tolls were to surpass even the shocking destruction in Germany. In March a single raid on Tokyo killed almost 100,000 people and burned 16 square miles. The firestorm was so intense that the city's canals were brought to a boil. Over the next four months, Japan's five largest cities had been destroyed at a cost to civilians of 260,000 killed and between 9 and 13 million homeless.¹³

In the context of such loss and destruction, the decision to use atomic weapons against Japan was not really a change of strategy or a significantly greater violation of the war convention -- it was simply a more efficient way of performing the same task. Nevertheless, the use of the Atomic Bomb was dramatic and it represented such a greater potential for destruction that it brought many of the previously ignored moral questions to the fore. The weapon had not even been developed for use against Japan, but as a deterrent to its use by Germany should that nation develop one. Several top American military leaders and technical advisors raised profound moral questions about using such a weapon. One member of an advisory panel on the issue stated that "it introduces the question of mass slaughter, really for the first time in history."¹⁴ Mass slaughter was of course already a part of the strategic plan, but now the issue was more difficult to avoid.

The debate over the legitimacy of the atomic bombings of Japan generally revolves around what it was going to take to get Japan to agree to an unconditional surrender and what that might cost in American and Japanese lives. Those who supported the use of the bomb took the utilitarian view that it would end the war quickly and thereby save even greater numbers of American and Japanese lives by avoiding an Allied invasion of the home islands. They point to the ferocious suicidal defense of Okinawa as proof that the costs would be very high. Those in opposition question whether an invasion would even have been necessary if the demand for unconditional surrender had been altered to allow for the survival of the Emperor. Another alternative that was seriously considered at the time was a demonstration of the bomb in a sparsely populated area. (An excellent classroom resource on the decision to drop the bomb is the video, *Hiroshima and Nagasaki*. See resource list below.) "In the context of *jus in bellum*, however, the issue still comes down to the legitimacy of targeting civilians and this line had already been crossed. Utilitarian considerations, such as the doctrine of double effect, only apply if the intended target is indeed military. Strategic bombing in World War II essentially was a decision to kill people not because of their military role, but because of their nationality.

Applying Just War Theory to the Issue

The best way for students to tackle strategic bombing from a just war perspective is to develop an informed position on whether the basic provision barring the intentional targeting of civilians should be altered. John Keegan's book, *The Second World War*, has an excellent chapter on strategic bombing ("Strategic Bombing," Chapter 22, pp. 415-433) that should give students the necessary background on the specifics of the strategy of "area bombing". With this background and an understanding of the basic concepts of the war convention, students should be able to engage in a formal debate on whether such a strategy is morally acceptable. It may be necessary to assign teams, but in my experience there are always students ready to argue the "war is hell - all's fair in war" position, while others naturally recoil from the idea. Students will usually make a greater effort if they are defending a personal belief.

In preparation for the debate, students should be asked to consider questions that will help them focus on the key issues. See the lesson plan below for examples. After some preparation students should be able to debate the following resolution: The prohibition against the targeting of civilians in war time should not be violated under any circumstances.

The U.S. Decision to Defend South Korea

On the face of it the Korean War appears to be a straight forward example of aggression in which the essential principles of *jus ad bellum* should be easy to apply. In June of 1950, North Korean forces invaded South Korea with the clear intention of conquering South Korea and bringing its territory under the control of the government in North Korea. These circumstances imply that not only did South Korea have just cause to defend itself, but other nations had the right to come to its aid. Indeed the United States was able to take advantage of a boycott of the United Nations by the Soviet Union and get the Security Council to authorize military action against North Korea under the leadership of the United States. The notion of just cause is inherent in the portions of the UN Charter which confers on the Security Council the power to take such action: the prohibition on the aggressive use of force in Article 2(4), the responsibility of the Security Council to maintain “international peace and security” articulated in Article 24(1), and Article 39 which provides that the coercive powers of the Council were to be triggered by a determination of “any threat to the peace, breach of peace, or act of aggression.”¹⁵ It would appear then that the United Nations was playing its proper role as the duly appointed protector of peace. However the case of the Korean War includes a number of complicating factors which will illustrate for students the difficulties of applying just war principles in a way that really seeks to serve a higher purpose.

Korean War: Issues to Consider

Difficulty of defining aggression -- This problem would naturally apply to any act of war that is deemed by some an unprovoked attack. Aggression is a tricky concept to define in a way that most nations are comfortable with. It has been used as an excuse for true acts of aggression for as long as nations have fought wars. Even Nazi Germany claimed that it had been attacked by Poland at the start of World War II. Many nations have also been concerned that a precise definition could limit a nation’s legitimate right to self defense, particularly in circumstances which might require preemptive military action. Since 1952 various United Nations committees have attempted to craft an acceptable definition to no avail. Today the job of defining aggression at the U.N. is essentially left up to the Security Council which does so on a case by case basis. This of course gives the five permanent members the ability to veto any resolution which seeks to define their own acts as aggressive.¹⁶ Perhaps this is an element of *real politick* which most nations are willing to live with. It may be that aggression is a bit like what a Supreme Court justice once wrote about pornography: “I could never succeed [in defining it], but I know it when I see it.”¹⁷

A civil war? -- An authentic civil war generally cannot be defined as a war of aggression because it does not involve other nations. Consequently any unprovoked intervention by an outside power in a civil war *is* potentially a form of aggression as it seeks to impose an outcome that denies a nation’s right to self determination. We would not, for example, view the Union as the aggressor in the American Civil War thereby justifying intervention by Britain on the side of the Confederacy. The only justifiable role of an outside power in a civil war that Walzer acknowledges would be one of counter-intervention which is intended to balance the forces inserted by an aggressive outside power.¹⁸

By 1950, South Korea had a democratically elected and internationally recognized government with strong

support south of the 38th parallel where the country was divided. Although the United States had provided political and economic support, military support had been limited because, ironically, American policy makers feared that it would be used to attack the North. The North Korean government on the other hand, which was not recognized by the United Nations, had been established by the Soviet Union and provided with a powerful offensive military capability. Communist support in the South was almost nonexistent, although this may have been due in part to the increasingly repressive nature of the South Korean regime.¹⁹

Korean Interests vs. U.S. Interests - One common problem of the cold war was the tendency of the United States to define the interests of other countries on its own terms. Clearly President Truman had geopolitical and domestic political concerns over North Korea's invasion especially as it came so closely on the heels of the successful communist revolution in China. Although it had only begun to be applied in Asia, the policy of containment required that communism could not be allowed to expand. Domestically, a red scare was sweeping the nation as Senator Joe McCarthy and his followers pilloried policy makers for the loss of China. Truman and his advisors feared that allowing South Korea to fall would be viewed as a policy of appeasement that would endanger him politically at home and encourage further communist advances elsewhere.²⁰ These issues were obviously not a direct concern of the vast majority of Koreans however. Was it legitimate for the United States to decide the political future of Korea based on U.S. interests? This question is especially significant when one takes into consideration the somewhat repressive and authoritarian nature of the South Korean government. The answer is closely related to and dependent on how one decides the issues of aggression and civil war outlined above.

U.S. Objectives - Finally, to assess the propriety of the U.S. role in the Korean War students must consider whether American objectives in the war were legitimate. This is an especially important point to consider in light of the fact that U.S. objectives changed as the war progressed. At the outset, the U.N. Security Council (which was largely under the control of the United States at the time) authorized U.N. forces to "repel the armed attack and restore international peace and security in the area."²¹ This implied merely a return to the status quo *ante bellum*. After General MacArthur's invasion at Inchon led to a rout of North Korean forces, however, the U.S. leadership decided to change that goal to the unification (conquest?) of Korea under South Korean control. There was certainly some justification for advancing beyond the 38th parallel for the purpose of pursuit and destruction of enemy forces, but the reformulation of objectives went far beyond that.²² The "inflation of ends" as Walzer calls it is often a dangerous temptation after success on the battlefield and can lead to unforeseen negative consequences. It is usually not justified by the precepts of *jus ad bellum* unless it actually leads to a better state of peace.²³ In the case of Korea, as we now know, it led to intervention by China, a greatly increased risk of a wider conflict, and possibly lengthened the war by several years.

Applying Just War Theory to the Korean War

One effective way to take on the Korean War issues in the classroom is to set up a role play in which advisors to President Truman debate the legitimacy of various policy options for the United States in Korea. A detailed lesson plan using this strategy is in the "classroom activities" section at the end of the unit. The class should be divided into three groups and each assigned a different moral/political perspective. One group should be the realists who believe that U.S. policy in Korea should be strictly defined by U.S. interests. Another group should be the ideologues who see communism as an absolute evil which must ultimately be eradicated. The final group should be the just war purists who seek strict adherence to the principles of *jus ad bellum* (perhaps the least likely group to have such a role, but this is only an exercise) .

Each group will be provided with a brief description of their fundamental beliefs and two situation reports: one

describing the circumstances on June 25, 1950 when North Korea attacked, and one describing the circumstances in late September of 1950 after the invasion at Inchon. Students should be encouraged to take on their assigned roles and develop positions that are based on those roles despite the fact that they may not personally agree with them. In preparation for the class discussion each group will have to prepare a response to each of the complicating factors listed above. The class discussion should be structured as a debate on each of the four complicating factors described above followed by a final debate on what action the United States should take in the two situations. As a follow up assignment, students should write a persuasive essay justifying their own personal position on whether U.S. action in Korea qualifies as a just war.

Vietnam: Crimes in War

The American experience in Vietnam provides ample material for considering both *jus ad bellum* and *jus in bellum* issues. Indeed, one could use the same approach outlined above and apply it to Vietnam in order to explore with students whether the United States had just cause for military action there. In this section, however, this unit will revisit the question of the legitimacy of actions taken in war rather than judge whether the war itself was just. There are several reasons why the Vietnam war is useful for this purpose. In the first place it contrasts in an interesting way with the case of strategic bombing in World War II. In the first instance the actions in question were decided upon by top strategic planners and carried out by men who were so far removed from their victims that they didn't even see them. In Vietnam atrocities such as My Lai -- which we will consider in detail -- were ordered by local commanders and committed by soldiers who could see and hear their victims begging for mercy. A second reason is the fact that the acts were committed by young American men not so far removed in age and culture from high school students today. They were for the most part not political fanatics or brutal thugs, but "ordinary men." Finally the incident at My Lai and others like it raise the question of personal responsibility in the context of the military requirement that soldiers follow orders. The "following orders" defense was used at My Lai as it was used most famously at Nuremberg by Nazi defendants. The connection with the Holocaust is significant and this portion of the unit may resonate most effectively with students who have some background in that area.

My Lai

On March 16, 1968 U.S. soldiers from Charlie Company attacked Son My village which included the hamlet of My Lai with the goal of eradicating any Viet Cong (VC) forces in the area. Although there turned out to be no enemy troops and no hostile fire was observed, the soldiers killed over 500 civilians in the hamlet and one nearby.²⁴ Most of the victims were women, children, and old men. Many of the villagers were herded into groups before being executed despite their pleas for mercy. Although not an absolutely unique event in the Vietnam War (as we shall see below) My Lai stands as one of the most violent and well documented atrocities by American soldiers. There is no question that the acts committed that day represented a clear violation of the war convention. All the victims were unarmed civilians who were not observed to be acting to aid or support the enemy. The doctrine of double effect could not be applied because there was no legitimate military target in the area. What is important about My Lai in the context of this unit is the question of who can be held responsible for the crime and to what degree.

The first step in getting high school students to take on this question is to introduce them to the basic facts of the case and acquaint them with the leading participants. The best treatment of My Lai that I have seen and in fact the best source for high school on the entire Vietnam War is *The Lessons of Vietnam* edited by Jerold M. Starr. (See reading list below) The chapter on My Lai covers the events of the incident and the aftermath, explores the question of responsibility in terms of the rules of the war convention and considers the

complicated role of civilians in a guerrilla war like Vietnam. In addition it includes excerpts of an interview Lieutenant Calley gave at the time of his trial in which he describes his state of mind -- and that of many of his men -- at the time of the incident. His comments are especially important in considering the culpability of high level commanders and policy makers in establishing an atmosphere in which such crimes were more likely to occur.

Upon completion of the chapter students should be in a position to consider the relative levels of responsibility for those who were involved. This can best be accomplished by beginning with the enlisted men and moving up the chain of command. It is also important to include the Viet Cong and the North Vietnamese as potentially responsible by choosing to fight a war in a way that put civilians at risk.

Enlisted Men -- Most of the actual killing that day was carried out by ordinary soldiers all of whom claimed to be following orders. There was in fact an officer on the scene -- Lieutenant Calley -- repeatedly giving direct orders to round up and kill civilians and exhorting his men when some hesitated.²⁵ Was it lawful to follow such orders? In his treatment of My Lai, Walzer argues that a soldier is only blameless in such a situation if he is forced at the point of a gun. At My Lai this was not the case. A number of soldiers refused to participate in the killing and none were threatened with sanctions of any kind.²⁶

From the moment they enlist, however, soldiers are trained to obey orders without question. They are not to question their role in any particular action or be concerned with its effects. The bomber pilots over Japan, for example, certainly could have known the probable effects of their actions, but they were assured of the military necessity of their missions and few people would contend even today that they were guilty of war crimes. If soldiers were to question orders on a regular basis it would severely cripple the ability of an army to fight effectively. The U.S. military code makes refusal to obey an order a serious crime which if committed in combat is punishable by death. The code also requires, however, that the orders be lawful and any order which violates the basic rules of war is not a lawful order.²⁷ Does military training deprive the individual soldier of the ability to make judgments in such cases or do we expect our fighting men to retain an essential level of humanity despite their training? How students answer this question will define to what degree the enlisted men at My Lai were guilty of murder.

Junior Officers -- The only officer on the scene, and the only man ultimately convicted of a crime for the incident, was Lieutenant Calley. He was the commanding officer of the First Platoon of Charley Company, which did the bulk of the killing. As noted above, his orders to kill were specific, direct and repeated frequently. He even led by example, killing a number villagers himself. Calley's claim to innocence rested on his contention that he was only carrying out the orders of Captain Ernest Medina, the company commander. Witnesses generally agree that Medina did state that all of the inhabitants of My Lai were VC and ordered his men to leave nothing behind. In addition, however, he only called for the killing of "enemies" which he defined as anyone "running from us, hiding from us, or who appeared to be the enemy."²⁸ These orders were dangerously ambiguous, but they did not specifically call for the killing of civilians.

Higher Chain of Command -- In 1945 General Yamashita of Japan was tried and convicted by a U.S. military court for atrocities committed by his men against Philippine civilians in 1944. The court rejected his defense that he had not ordered his men to commit such acts and that his control over and knowledge of actions by them was limited. The reasoning used by the court in this case -- that high ranking officers are liable for the actions of their men -- could certainly be used to indict the top military leadership in Vietnam. Although Walzer rejects the idea of strict liability in such cases, he does call for "serious efforts of specific sorts" on the part of high ranking officers to ensure that violations of the rules of war do not occur.²⁹ The response of high ranking

officers to My Lai after reports of the massacre began to surface gives a clear indication of what kind of effort they were willing to make. Colonel Henderson, the brigade commander, and Major General Koster, the division commander, conducted a perfunctory investigation that was intended to cover up the incident rather than get to the truth and identify the perpetrators.³⁰ If it had not been for the persistence of a young helicopter door gunner, the story may never have come out. The cover up is but one measure of the degree to which American strategy as crafted by the top military leaders and policy makers generally allowed for an unacceptable level of civilian casualties. As students read about the overall strategy of U.S. forces in Vietnam they should consider whether it sent the message to individual soldiers that protecting civilian lives was not that important.

Viet Cong and North Vietnamese -- Although they certainly cannot be held directly responsible for the actions of American soldiers, it is important to raise the question of whether the communist forces in Vietnam bear some responsibility for contributing to the vulnerability of civilians. Lacking even a fraction of the resources available to the U.S. military, they were forced to resort for the most part to guerrilla warfare. The tactics of this type of war depend on stealth, deceit and disguise. They strike at their enemies piece meal with ambush, sniper fire, mines and all manner of traps that maim or kill. Guerrillas depend on the civilian population for food, shelter, information and cover. This support might be provided willingly or under duress. Such mixing with the civilian population certainly invited attacks which threatened non-combatants and contributed to the common attitude amongst American GI's that all Vietnamese were suspect. American infantrymen in Vietnam were likely to see many of their comrades wounded or killed by mines, traps, or snipers without ever seeing the enemy. What they did see were civilians who, from their perspective, must have known about these dangers and yet didn't warn them. In an interview conducted at the time of his trial, Calley spoke of the frustration of taking casualties from mines "with a Vietnamese village a few hundred meters away" without getting "a VC in my killing zone." Calley's defense lawyer picked up this theme in his argument before the jury stating that the pressures of this type of war had led to Calley's platoon storming into My Lai "with a feeling of revenge and reprisal."³¹ One could argue with some cynicism that the Viet Cong invited such attacks because it served the purpose of driving the civilian population to support them.

Returning again to the role playing strategies that I find to be so effective in the teaching of social studies, I would suggest that a mock trial would be the best way to investigate the relative degree of responsibility each of the groups has for the events at My Lai. The class should be divided into four and each assigned one of the groups described above. Each section of the class would have the task of developing a defense for their own group and making the case for the guilt of the others. The format of the trial need not be overly structured or formal, but could take the form of a discussion and debate. Essays should be assigned as a follow up in which students make their own case for the guilt or innocence of each group.

Thuybo: A Routine Engagement

Although a compelling example of the violation of the rules of war, shocking atrocities like My Lai were probably not typical of the American experience there. More typical were engagements in which violations of the war convention were less obvious and certainly more a response to actions by communist forces. In *Vietnam: A Television History*, an eleven part PBS documentary series on the war, there is an account from both the American and Vietnamese perspectives of an attack on the village of Thuybo near Danang in January 1967. (See resource list below) The witnesses include two marines -- an officer and an enlisted man -- and four Vietnamese from the village. The account makes it clear that the Marines were ambushed as they approached the village, that they took many casualties, and that they suffered as they were pinned down for over 36 hours in the heat with little food and water. It also is clear that the Americans violated the war convention

when they eventually swept through the village. The extent of that violation is disputed with the Vietnamese witnesses describing scenes reminiscent of My Lai, but one of the Marines acknowledges that after what they had been through the Americans were capable of great violence with little remorse.

The engagement at Thuybo provides a dramatic illustration of the difficulty of enforcing the rules of war in an environment which continually provided soldiers with motivations to violate them. The episode in which the incident is described, "America Takes Charge: 1965-1967," includes a number of compelling interviews with veterans who reinforce this point. It also describes the strategies that U.S. forces were following in fighting the war. After viewing and taking notes on the film, students should consider the following questions (possible answers are in italics):

What were the military advantages that the U.S. forces had over the North Vietnamese and the Viet Cong? *Answers should refer to greater firepower, mobility and air power.*

How the U.S. use these advantages in a way to extract the greatest cost to the enemy at the least amount of cost in American lives? *By bombing and shelling heavily in areas thought to be controlled by the communist forces.*

How did these advantages contribute to potential violations of the doctrine of double effect? *Bombing and shelling was often indiscriminate leading to unacceptable numbers of civilian dead.*

How did cultural and racial differences contribute to violations of the rules of war? *American soldiers had little understanding of Vietnamese culture and language which led to suspicion and sometimes racial animosity. Many came to view all Vietnamese as the enemy which in their minds made them legitimate targets.*

List the circumstances that led to the attacks on civilians in Thuybo. Who do you hold most responsible for what happened there? *Answers will vary but should refer to the ambush of the marine unit prior to the attack on the civilians. Students should be able to defend their opinion of who was most responsible.*

What causes Bill Ehrhart to change from a patriotic soldier to one who considers desertion? Why does he come to see himself as a "redcoat"? *Answers should reflect the fact that Ehrhart became increasingly aware that he was not fighting a just war and violating the rules of the war convention.*

Generally I have found that one of the most effective ways to utilize questions like these in a way that contributes to meaningful discussion is to read them out loud and have students write down their answers as they hear the questions. After students have finished writing their answers, go over the questions again, calling on students to read what they have written. Ask if others have different answers and ask them to share and defend them. The result is a lively discussion that tends to include all the students as each has had a chance to quietly consider the question on his/her own.

Classroom Activities

What follows are three examples of lesson plans derived from the strategies section above. The first lesson should be taught first when the class is studying one of the wars which is covered in this unit. In most cases this will be World War II, but the other two will work just as well. What is important is that students be thinking about the nature of modern war and its effects.

Lesson Plan: Student Generated Rules of War

Objectives

Students will identify basic ethical principles upon which the rules of war should be based and use these to develop a list of basic rules. Students will also articulate the essential principles of just war theory.

Procedure

Begin with an introduction to the basic structure of Just War theory by defining the Latin terms *jus ad bellum* and *jus in bello* and explaining the distinction between them. Briefly discuss the reasons for the distinction as well. Students should then be divided into small groups of three to four students to brainstorm as many rules in each category. Prompts such as “list circumstances that would justify a nation going to war” and “identify rules that define whom soldiers can kill in war and who should be immune from attack.” will help the groups to get started. It may also be necessary to introduce the concept of discrimination to narrow the focus of the *jus in bello* rules. As each group reports back to the class, the most coherent and essential rules should be listed on the board. These should be listed in the form of a web type graphic organizer with *jus ad bellum* in the center of one web and *jus in bello* in the center of the other. Ideally, by the end of the lesson the class has reached a kind of teacher-guided consensus on the most basic just war principles. Below is an example of how you might begin the graphic organizer as you begin to take suggestions from students:

(figure available in print form)

Evaluation

Upon completion of the graphic organizer students should write a short essay (300-500 words) on the rules of just war.

Lesson Plan: “Area Bombing” in World War II

Objectives

Students will apply just war concepts to the example of strategic bombing in World War II and develop reasoned opinions on the morality of such a strategy.

Procedure

After covering the basic facts on World War II in a textbook, students should be assigned the chapter on strategic bombing from John Keegan’s book, *The Second World War* (Chapter 22, see resource list below). If there is time the class should also view the video entitled, *Hiroshima and Nagasaki: Was Truman’s Decision to Use the Bomb Justified?* Students should then be assigned the task of preparing for a debate on the following

resolution: The prohibition against the targeting of civilians in war time should not be violated under any circumstances. The class can be divided into two groups or into multiple smaller groups. Allow each group to discuss which position they support. Assign positions only if no group appears to take one side.

In preparation for the debate, students should be asked to consider the following questions:

What element of the war convention is violated by the “area bombing” of cities? Answers should refer to the doctrine of discrimination.

According to the war convention, is there a difference between the killing of civilians as a result of the bombing of factories and the killing of civilians in “area bombing”? Explain your answer.

Answers should include some judgment on the role of factories in supporting military capability.

The principle of proportionality and the doctrine of double effect allows for some civilian deaths as long as the target is important enough to justify those deaths and they are kept to a minimum.

Would the targeting of civilians in cities be legitimate if it were the only way to forestall defeat or to save lives (possibly on both sides) by ending the war sooner? Answers will vary, but should attempt to define the specifics that would decide the issue one way or the other. The use of the atom bomb on Japan could be used as a specific example to support either answer.

The debate should be structured to give each side the chance to make an opening statement, a rebuttal, and a counter rebuttal.

Evaluation

Assessment of student performance should be based on both performance in the debate and on a persuasive essay of 300-500 words. The essay can focus on a particular example such as the use of the atomic bomb or on the overall issue.

Lesson Plan: Role Play of Decision Making in Korea

Objectives

Students will evaluate the elements of U.S. decision making on Korea in 1950 and develop a critical assessment of those decisions in the context of just war theory.

Procedure

The class should be divided into three groups and each assigned a different moral/political identity. The profiles below should be copied and handed to each group. It might be interesting to keep each group from knowing the identities and motivations of the other two groups.

Realists: You believe that U.S. policy in Korea should be strictly defined by U.S. interests. In your opinion, the United States cannot afford to go on a moral crusade against evil or take on the task of protecting small nations around the world which play little or no role in the concerns of the American people. If military action is necessary to protect the United States or its allies from attack or to avoid circumstances which may lead to

attacks then in your opinion it is justified. You are also willing to fight to protect U.S. economic interests such as vital raw materials or significant financial investments by American companies. In situations that do not involve those conditions, you believe that military action is a waste of American lives and resources.

Anti-Communist Ideologues: You believe that Communism is the greatest evil the world has ever seen and must eventually be eradicated. If it is not eradicated it will seek always to grow through the conquest of more territory. Therefore any opportunity to roll back Communist gains must be taken. You believe that the lesson of World War II is that appeasement will only encourage further aggression. Any consideration of half measures will only be seen as a sign of weakness.

Just War Purists: You believe that above all else the rules of just war must be followed and that the United States must have just cause before making war. You believe that any military action must be proportional and limited only to righting the wrong that has been committed. In your opinion the only reason to go to war is to achieve a better state of peace.

Along with the identities each group should be provided with the two situation reports below. Students should already have a general understanding of the events that lead up to the war from readings in their textbooks.

June 26, 1950: North Korean forces have crossed the border with South Korea in a general offensive. The North Korean army has 130 tanks, 110 planes, and heavy artillery. South Korea's army is smaller and has no tanks and little artillery.³² The invading force has broken through South Korea's lines and is advancing southward. Seoul, the capital of South Korea is expected to fall within days. You may choose from the following policy options. You may choose more than one or even develop your own. You must also state what the goal of U.S. policy in Korea should be. Be prepared to defend your choice and explain your goals in debate with the other groups of advisors.

Demand that the Soviet Union force North Korea to withdraw its forces. Threaten to use nuclear weapons if they refuse.

Send U.S. forces into Korea as quickly as possible to defend the South. Limit all military action to Korea. Avoid direct conflict with the Soviet Union or with China.

Go to the United Nations Security Council and request that the United Nations authorize military action in defense of South Korea.

Protest the invasion in the United Nations and request severe economic sanctions (such as an embargo on trade) on North Korea without taking military action. Mobilize naval forces to enforce the sanctions.

Threaten North Korea with nuclear weapons unless they withdraw. Set a firm deadline.

Protest the attack in the United Nations and through diplomatic channels but take no other action.

Plan an invasion of North Korea to be carried out even if North Korean forces complete their conquest of the South.

September 27, 1950: After a successful amphibious assault behind enemy lines at Inchon, U.S. forces (under the U.N. flag) have forced the North Korean army into full retreat. The enemy has been thoroughly routed and there is little to stop U.S. forces from advancing into North Korea. China has threatened intervention if North Korea is invaded.

What should the United States do in this situation? As explained above you may choose from the list below and you must make the goal of your policy choice clear.

Send forces into North Korea with the purpose of uniting the country under the South Korean government.

Send forces into North Korea only for the purpose of the pursuit and destruction of enemy forces.

After that is accomplished U.S. forces should withdraw south of the 38th parallel.

Move forces up to the 38th parallel but not beyond. Request an immediate armistice and the start of negotiations to bring the conflict to an end.

Warn China that the United States will initiate attacks on the Chinese mainland if they intervene.

Nuclear weapons will be used if necessary.

Before students make their choices in both these scenarios, guide the class through a discussion of the basic “issues to consider” described above. Students need to understand the implications of the stands they take on each of those issues. After completion of the role play students should watch the episode on the Korean War from the CNN documentary series, *The Cold War*.

Evaluation

Students should be assigned an essay in which they analyze the pros and cons of the different options presented in each scenario.

Resources

Those items marked with an asterisk will be especially useful for students.

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Bernstein, Baron, “The Atomic Bombings Reconsidered,” *Foreign Affairs* 41:1 (1995) A general discussion of the issues which surrounded the decision to drop the atomic bomb on Japan in World War II.

Chesterman, Simon, *Just War or Just Peace?: Humanitarian Intervention and International Law*, (Oxford: Oxford University Press, 2001) A scholarly work that reviews the history of military interventions that have been justified by international law. Begins with an

extensive discussion of the development of just war concepts in international law. Includes a discussion of the U.N. role in Korea.

*Freedman, Lawrence, ed., *War*, (Oxford: Oxford University Press, 1994) A collection of readings by a variety of authors (even poets) on the subject of war. It includes a section on the ethics of war. All the excerpts are short and organized to make choices easily which makes them useful for high school curricula.

Holmes, Robert L., *On War and Morality*, (Princeton, N.J.: Princeton University Press, 1989) A discussion of the ethical issues in war. Includes a thorough treatment of just war theory.

Karnow, Stanley, *Vietnam: A History*, (New York: Viking Press, 1983) A comprehensive history of the Vietnam War. Companion to the PBS series.

*Kaufman, Burton I., *The Korean Conflict*, (Westport, CT: Greenwood Press, 1999) A short history of the Korean War. Organized to make quick reference easy.

*Keegan, John, *The Second World War*, (New York: Penguin Books, 1990) An engaging and readable account of World War II. Focuses on the basic strategic dilemmas and decisions of the main adversaries. Includes an excellent section on strategic bombing which should be used with this unit.

Lee, Steven Hugh, *The Korean War*, (Harlow, UK: Pearson Education, 2001) Very similar to the Kaufman book above. Written in a more scholarly style.

Russett, Bruce, Harvey Starr and David Kinsella, *World Politics: The Menu for Choice*, (Boston: Bedford/St. Martin's, 2000) A college level text on international relations. Includes a useful section on ethics and war that covers the essential points of just war theory.

*Starr, Jerold M., ed., *The Lessons of the Vietnam War*, (Pittsburgh, PA: Center for Social Studies Education, 1999) An excellent high school text on the Vietnam War. Includes a chapter on My Lai which is essential for this unit.

*Walzer, Michael, *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, (New York: Basic Books, 1977) The book upon which the basic thrust of this unit is based. Written in a straightforward and readable style. Selections from the book are appropriate for high school reading assignments.

*Wells, Donald A., ed., *The Encyclopedia of War and Ethics*, (Westport, CT: Greenwood Press, 1996) A very useful reference book for both teachers and students. There are entries on every term, concept and event discussed in this unit.

Internet Sites

*CNN, *The Cold War Educator Guide*, 6/25/02, http://learning.turner.com/cnn/coldwar/cw_start.html The educators companion to the CNN series on the cold war. Includes images, maps, timelines, graphs and tables. The section on the Korean War is useful for this unit.

Mosely, Alex, "Just War Theory," *The Internet Encyclopedia of Philosophy*, 2001, 4/11/02, <http://www.utm.edu/research/iep/jjjustwar.htm> An easily accessible brief description of the basics of just war theory.

*PBS/WGBH, *Vietnam On Line*, 1997, 6/25/02, <http://www.pbs.org/wgbh/amex/vietnam/index.html> The companion web site to the PBS series. Includes the entire transcript of each episode which is useful for developing questions and assignments.

Video

*PBS/WGBH, *Vietnam: A Television History*, 13 hours in 13 episodes, 1983 Still the best film account of the war. The episode entitled "America Takes Charge: 1965-1967" should be used with this unit.

*Zenger Media, *Hiroshima and Nagasaki: Was Truman's Decision to Use the Bomb Justified?*, 20 minutes, 1988 A short video that gives the arguments on both sides of the issue and allows students to decide. Should be used with the portion of the unit on strategic bombing.

*CNN, *Cold War: The Making of History*, 24 episodes, approx. 20 hours, 1998 Comprehensive video series on the Cold War. The episode on Korea is useful for this unit. Includes an episode on Vietnam.

Notes

1 Walzer, Michael, *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, (New York: Basic Books, 1977) p. 3

2 Russett, Bruce et al, *World Politics: The Menu for Choice*, (Boston: Bedford/St. Martin's, 2000) p. 254

3 Paskins, Barrie, "The Ethics of War" in Lawrence Freedman, ed., *War*, (Oxford: Oxford University Press, 1994) p. 151

4 Walzer, op. cit., p.37

5 Mosely, Alex, "Just War Theory," *The Internet Encyclopedia of Philosophy*, 2001, 4/11/02, <http://www.utm.edu/research/iep/jjjustwar.htm>>

6 Russett, op. cit., p. 255

7 Ibid., p. 255

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9 Walzer, op. cit., p. 259

10 Keegan, John, *The Second World War*, (New York: Penguin Books, 1990) p. 420-421

11 Ibid., p. 426-427

12 Ibid., p. 433

13 Ibid., p. 576

14 Bernstein, Baron, "The Atomic Bombings Reconsidered," *Foreign Affairs* 41:1 (1995) p. 143

15 Chesterman, Simon, *Just War or Just Peace?: Humanitarian Intervention and International Law*, (Oxford: Oxford University Press, 2001) p. 114

16 Wells, Donald A., ed., *The Encyclopedia of War and Ethics*, (Westport, CT: Greenwood Press, 1996) p. 7-9

17 *Jacobellis v. Ohio*, {378 U.S. 184 (1964)}, concurring opinion, Justice Potter Stewart

18 Walzer, op. cit., p. 97

19 Kaufman, Burton I., *The Korean Conflict*, (Westport, CT: Greenwood Press, 1999) p. 7

20 Ibid., p.8

21 U.S., Congress, *The United States and the Korean Problem, Documents 1943-1953* quoted in Lee, Steven Hugh, *The Korean War*, (Harlow, UK: Pearson Education, 2001) p.45

22 Walzer, op. cit., p. 118-119

23 Ibid., p.121

24 Starr, Jerold M. and Christopher W. Wilkens, "When War Becomes a Crime: The Case of My Lai," in Starr, Jerold M., ed., *The Lessons of the Vietnam War*, (Pittsburgh, PA: Center for Social Studies Education, 1999) p. 145-149

25 Walzer, op. cit., p. 310

26 Ibid., p. 315

27 Starr, op. cit., p. 154

28 Walzer, op. cit., p. 310

29 Ibid., p. 321

30 Starr, op. cit., p. 155-156

31 Ibid., p. 158-159

32 Lee, op. cit., p. 44

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