NUCLEAR DETERRENCE

AND THE

DOCTRINE OF JUST

WAR
Nuclear Deterrence
and the
Doctrine of Just War

We are discussing a policy whose primary intention is to prevent war and yet the secondary action is to commit the actions which breach the principles of proportionality and discrimination and whose justification on the basis of this criteria especially the former must be subject to the most stringent analysis.\(^1\) Nuclear deterrence is based on a compromise between the logical opposites. It connected the prevention of war with the capability to fight. It therefore conferred dignity on thermonuclear weapons and made people feel innocent. This led to moral euphoria and made the task of those who wanted to rid of these weapons more difficult.\(^2\)

The fundamental issues have to do not only with nuclear war or accidents but how these weapons are developed and deployed in furtherance of the practice of nuclear deterrence. This discussion is with reference to the partially veiled tradition of Just War - that war and means of

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war must be justified and restrained by by a concern to protect and preserve the values of utmost importance.

The doctrine of just war refers to the rightness of going to war and the means to be used to fight in a war under certain conditions. A 'just' deterrence would refer to the conditions concerning the rightness of maintaining nuclear deterrence and the ways deterrence should be conducted. Paul Ramsey states the dilemma succinctly,

"If one side of the dilemma is how to apply the moral wisdom contained in the just war tradition to the case of contemporary war, the other side is that we cannot escape doing so." 3

Moral problems are created by the necessity of having to maintain nuclear weapons for the sake of a deterrence posture. The ambiguity is more confounded as stable deterrence is assumed to ensure continued non use of nuclear weapons. Walzer provides the other observation on the problem of morality of nuclear deterrence:

The reason for our acceptance of deterrence strategy most people would say, is that preparing to kill, even threatening to kill, is not at all the same thing as killing. Indeed it is not but it is frighteningly close—else deterrence would not 'work'... and it is in the nature of the closeness that the moral problem lies." 4

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The very notion of jus in bello requires us to condemn even the very threat to use nuclear weapons. Yet there are circumstances in the right of self defense which require the very threat. Here we move out of the limits of justice to achieve or maintain justice and peace."5

1.1 Counterforce and Countervalue Targeting

When the application of force requires the transgression of boundaries set by the jus in bello concepts of proportionality and discrimination, this necessitates an examination whether the defence of a nation's interest by force is morally justified. This raises the problem of the nature of values, the threats against them and the means employed to defend them. It prompts us to analyse jus ad bellum i.e the war decision!6 A nation must be able to conceive of a war policy, involving the use of nuclear weapons which can satisfy the tenets of both discrimination and proportionality and one which within these limits is

6. The term is O'Brien's, meant to emphasize the difference between ad bellum and in bello which refers to 'war-fighting' once the decision to go to war has been made. O'Brien, William V.O., The Conduct of Just and Limited War (New York: Praeger, 1981).
sufficient to deter. Such a policy need not be declared but must be left to the adversary to think about.

The *in bello* norm of discrimination for countercity attacks, whether they be offensive or in retaliation, is reinforced by the principle of proportionality. Once a countercity warfare has begun, both sides would embark on an orgy of nuclear destruction. This violates the criterion of reasonable hope of success.

It is not enough that civilian deaths be unintended. There has to be a proportionality between the civilian deaths and military purposes to be achieved. It is however better if civilian deaths are avoided whatever be the proportionate objectives sought. The crucial distinction in the theory and practice of war is not between prohibited and accepted weapons but between prohibited and accepted targets. This creates problems well before one gets to the question of nuclear escalation. The same is true of strategic counterforce attacks against the homelands of the United States and the former Soviet Union.

The moral question is can there be a morally acceptable destruction through the use of nuclear weapons? Tactical and counterforce warfare was condemned by some moral

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theorists as it seemed to meet the formal requirements of jus in bello. But the collateral damage to be caused by counterforce targeting and even by the use of tactical nuclear weapons would be so great that it would violate the proportionality limits.

Commenting on the theories of limited war in Europe, Raymond Aron observed, "The disproportion between costs of such hostilities and the results they could achieve would be colossal." In all cases one is still bound by the traditional interpretation of the principle of double-effect, to weigh the evil consequences which indirectly accompany the attacks against the good effects which flow from it. Thus on the basis of traditional double effect analysis, the collateral damage indirectly intended provides no justification for the employment of nuclear weapons.

While the killing of non-combatant is wrong, no doubt, the application of the principle of proportionality to the principle of discrimination illustrates the truth of David Ross's idea that right and good are not synonymous.


One range of good ideas may be right in particular circumstances; one out of many evil options may in certain other circumstances at least justifiable. Thus we may not do evil that good may come.10

Ramsey has focussed entirely on questions related to the moral use of force (*Jus in Bello*) and within this framework, made an explicit connection between the idea of non-combatant immunity and the requirements of Christian love for neighbour. This proved to be a powerful argument in the context of religious ethical reflections during the late 1950s and 1960s, which was dominated by the concept of love as the principle uniquely Christian ethical norm. Ramsey argued that the Christian idea of love gives birth to a "twin-born" just war theory, including both justification and limitation of the use of force. However, force is also limited.11

The principle of discrimination means that it is never moral to directly and intentionally attack noncombatants. In contrast to proportionality which moves according to the utilitarian calculus of good versus evil, discrimination

expresses a moral absolute. Unintended indirect harm is not forbidden by the principle of discrimination. What is regarded as wrong is that noncombatants should not be made the intended targets. Hence, Ramsey upholds, within the criteria of Jus in bello, the principle of discrimination has "normative priority"

> Whatever is wrong to do, is wrong to threaten ...
> ... If counterpopulation warfare is murder, then counterpopulation deterrent threats are murderous".12

On the other hand, deterrence based on counterforce targeting puts the intent of harm where it justly belongs on the enemy's combatant forces. In such strikes, the principle of proportionality provides the only moral limitation. Immorality lies in the threat itself, not in its present or even its likely consequence. As Walzer points out,

> "... it is our own intentions that we have to worry about and the potential victims ... of those intentions".13

St. Thomas Acquinas justified killings in self-defence committed with public authority and for public good because life is a basic human right in defence of which we are

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entitled to use force. However, lawful authority and just cause would be insufficient if the intention were not righteous; such intention would be influenced by the principle of proportionality\(^{14}\).

If the killing of those noncombatants whose activities contribute to the more deadly activities of combatants is justified the problem however is to differentiate-

1) When a killing has occurred in self-defence, and

2) Who intentionally contributed to the helping of combatants and who did it for the sake of earning a livelihood\(^{15}\).

Rev. Anthony Kenny points out that:

"To claim that a counterforce strategy... does not involve an attack on civilian population is like claiming to be not responsible for the death of a friend, if one shoots a bullet to kill a mosquito perched on his throat"\(^{16}\).


O'Brien has argued that proportionality is a more fundamental norm than noncombatant immunity. Hence countercity strikes can be justified for one reason - selective strategic countervalue attacks carried out to "deter a continuation of antecedent selective countervalue attacks by the aggressor". He is able to say so by ignoring the dangers of escalation and the criterion of reasonable hope of success\textsuperscript{17}. Even if the inevitability of escalation is doubtful, one needs to consider the risks - especially in relation to proportionality, discrimination and reasonable hope of success\textsuperscript{18}.

The key dispute over whether strategic counterforce war fighting strategies are less objectionable than a countercity warfare is the prudential military-political judgement about whether the limitation of nuclear war can indeed be predicted with any reasonable amount of confidence. This is where the criteria of reasonable hope of success becomes the relevant moral norm.

Ramsey tries to make just war possible in the modern age. He has defended the use of tactical nuclear weapons against invading armies and of strategic weapons against

\textsuperscript{17} O'Brien is aware of the importance of danger of escalation.

nuclear installation and conventional military bases and isolated economic objectives though these targets too are only conditionally permissible because of the rule of proportionality. He has maintained that the collateral civilian damage that would result from counterforce warfare in its maximum form would be sufficient to deter potential aggressors.

The non-combatants, according to him, are the incidental victims of a legitimate military strikes. Such a warfare with such collateral damage is morally superior to deterrence. What is however ignored is that the threat of collateral damage is ineffective unless the damage is disproportionate to the objectives of war or the actual value of military targets. Ramsey argues that:

"the threat of something disproportionate is not always a disproportionate threat."

Criticizing Ramsey, Walzer says,

"Given the effect it does have and the central part it is assigned, the word collateral seems to have lost much of its meaning. Surely anyone designing such a strategy must accept moral responsibility for the effects on which he is so radically dependent."


Johnson points out the need to be aware of the longterm effects of the weapons used. Ultimately in view of the immoral outcomes of a nuclear attack, one can never forget that in the end "after any war, all are non-combatants and the use of weapons that will endanger generation yet unborn by making target areas unlivably hot represents as much a violation of non-combatancy as a bullet through the brain of a child held hostage to cause any enemy to surrender". Johnson states that the ideal way out would be to have weapons which if use, would have temporary effects:

"... that could be used in the contexts typical of war directly and intentionally against combatants, while avoiding harm to non-combatants".

Nevertheless, the intention to kill civilians under certain circumstances is omnipresent and most probably such a threat is a necessity in order to deter an aggressor who wouldn't risk harm to his own civilians. However, in most cases it is the least concerned leadership which orders a strike on another nation. Further, the very threats and preparedness for indiscriminate attack is wrong.

"... there are thousands of men trained in the techniques of mass destruction and drilled in instant obedience", standing ready to carry out orders. "And from the perspective of morality, the readiness is all"\textsuperscript{23}.

Johnson says that foreseeable yet unavoidable harm to noncombatants in a battle area may be allowed in order to protect noncombatants in other geographic areas who would be harmed "or to protect values of equal or greater weight than harm to innocent persons by the use of indiscriminate means of war\textsuperscript{24}. Morally this is the last resort.

However, in most cases it is the presence of civilians that has either made leaders hesitate to declare their war intentions or else have deterred an attack for fear of hurting them. But the consideration for proportionality has always had priority over discrimination. Moreover, the principle of proportionality calls for lower total collateral destruction and an avoidance of high yield weapons with high circular error probability in counterforce attacks. Most people believe that such accuracy could be destabilising because of possible pressure for preemption.

\textsuperscript{23} Walzer, n.4, p.272.

\textsuperscript{24} Johnson, n.23.
The issue of first-use of nuclear weapons in a conflict poses a fresh dilemma of assessing a threat as against its execution in moral terms. A first-use represents the breaching of a threshold and erodes the very value of distinction between use of nuclear and non-nuclear weapons. As Garfinkle states: "There is in fact an inverse relationship between raising the nuclear threshold and raising threshold of outbreak war in general, but a direct relationship between credibility of deterrence and the prospect of nuclear war."25. He goes on to say that:

"To declare an intention first to employ nuclear weapons as a conscious act of national policy is to threaten to become involved in a process which will ultimately lead to the use of these weapons by choice and not by mindless escalation."26

Such an outcome is bound to prompt the deterred state to base its own strategy on the early use of nuclear weapons. Deterrence, after all, does not express an absolute intention not to use nuclear weapons. It in fact expresses a conditional intention to use them in certain

26. Ibid.
circumstances. If deterrence never implied such an intention, it could hardly be effective. It requires at least the "remotest of possibilities" to be credible and even this minimum is enough to disallow any separation between deterrence and use.

On the other hand, if the nuclear threshold is lowered by having more plausibly usable weapons (accurate with low yield) the risk of a nuclear war is reduced; but then chances of any war escalating to a nuclear war are great. If, on the contrary, the nuclear threshold is raised by having only counter value weapons (inaccurate with high yield) the chances of war for lesser stakes than necessary are increased; but there is less likelihood of a nuclear war.

Bruce Kent on the other hand observes that there is no conditional intention to use nuclear weapons.

"The willingness to use nuclear weapons is a present reality on a daily basis for those in the armed forces who have responsibility for them...Nor is there any way in which our present strategic nuclear weapons can be used discriminately even if limited war were actually possible and the genetic change in the future generations ignored...the more accurate they become the more they will be seen as weapons of preemptive first strike and the more unstable the situation becomes."27.

Johnson, however, points out that "it is not that just cause inevitably takes priority over just restrained conduct of war but rather that a balance must be kept between considerations to use force and how to use it. For this it is essential that the firebreak between nuclear and conventional weapons be wide and strong. Such more dilemmas are related to the basic norms observed by a society and sought to be protected by its decision-makers. To recognize them and sort them according to priorities (though each society would have different priorities among the same set of values) is an art learnt in a community of moral discourse. The importance of each value will became apparent when threatened or violated. All depends on the nature of those values and the interrelation among them because the utility of one value conflicts with that of another. It would be very difficult to demarcate between values on a priority basis.

The problems of morality and nuclear weapons are more confounded when we ask how good are the values to be defended? Can values be defended by forceful means? For Walzer, justification for fighting lies in recognition of

evil and revolting against it\textsuperscript{29}. The root cause of threat to these values come from an excessive diversion of resources to military enhancement, especially for a nuclear overkill capacity. The distinguished theologian John Courtney Murray says:

"It is not enough simply to consider the sorrows and evils that flow from war. There are greater evils than the physical death and destruction wrought in war. And there are human goods of so high an order that immense sacrifices may have to be borne in their defense."\textsuperscript{30}

This is also the fundamental rationale of just war tradition, a position that makes it all the more necessary to think about how to structure military doctrine as well as the deployment of weapons to be used in an armed conflict. It is sometimes suggested that more lethal weapons can shorten the duration of conflict thereby reducing the misery of those involved in it. But it has been rightly observed:

"What is wrong... is not the desire to shorten armed conflicts when they do break out; it is the assumption that is the chief goal to be served."\textsuperscript{31}

\textsuperscript{29} Walzer, n.4. The values endangered are those of justice, freedom, independence which are important for personal dignity and a nation's integrity.


\textsuperscript{31} Johnson, n.33, p.112. Also see Cheshire, Leonard, \textit{The Light of Many Suns} (London: Methuen, 1965).
The issue is to hold the use of military force within moral limits. The political ideals which such force serves are themselves framed in morally justifiable terms and the means of war are in principle capable of being kept under the control of moral intentionality.32

There is need to emphasise limitation, relativity and control. Johnson provides a justification for weapons that could be brought within the parameters of use of force within the Just War limitations of proportionality and discrimination.33 He considers the neutron warhead to be within the parameters because it is not a pure radiation weapon by any means but a miniaturized fusion warhead with effects characteristic of larger strategic warheads, though proportionally smaller. Neutron radiation is enhanced but not long-enduring. From the standpoint of discrimination, it has an advantage over tactical fission and high explosive warheads which it displaces.34 What distinguishes the neutron warhead is its smaller longterm effect: less property damage and less long term residual radiation. It exploits radiation effect as compared with blast and heat.

32. Ibid.
33. Ibid, Chapter 5.
34. Ibid, p.115.
The level of damage would be less than from the fission and thermonuclear weapons. The effect on military personnel is expected to be as great as of any other weapon.

If account is taken of the total effect on the belligerent populations, in particular on those people whose homes and livelihoods are found in combat areas, the new weapon emerges as possibly a more proportionate means of waging modern war.35.

Johnson propounds a general criterion for the employment of weapons:

"... the most discriminating and proportional weapons should be those of first resort, while the least discriminating and proportional should be those last chosen"36.

Johnson also maintains that the accuracy of cruise missiles and the variety of types of warheads available mark these weapons as falling within the criteria of weapons that could be justifiably and legitimately used. Cruise missiles allow for change in direction of missiles in flight and "homing in" on the most vital part of a target by corrections of course close to time of impact, with controllability depending on the efficacy of the guidance mechanism.

35. Ibid, p.117.
36. Ibid.
Apart from being cheaper and having potential for avoiding detection in flight, this accuracy makes it suitable to adopt a defense strategy oriented principally around the concept of counterforce warfare\textsuperscript{37}.

(a) High yield strategic nuclear warheads: the fact is that when a target is close to a population centre the very power of strategic warheads would destroy the noncombatant areas nearby. Fewer strategic warheads may be needed to destroy a military target; hence the lowered destruction of noncombatant areas.

(b) Low yield tactical nuclear warheads the delivery systems of such warheads are precise and difficult to defend against. One disadvantage of cruise missiles is that, if deployed for tactical use, they could extend the sphere of operations and raise the level of destruction to combatants and non-combatants alike\textsuperscript{38}. The accuracy to target the intended areas necessitates the lowering of number of warheads required. A lower yield warhead does the job of a high yield warhead.

(c) Conventional high-explosive warheads the capability to discriminate among targets at long-range has


\textsuperscript{38} Ibid, p.126.
opened the possibility of replacing nuclear warheads with those of conventional high explosives for tactical and even strategic use.

Johnson, justifying these weapons on the grounds of being within the permitted limits, states that the low cost, accuracy, ability to penetrate defences, easy utility in combat and possibility of deploying them with conventional warheads makes cruise missiles.

The idea is to develop more manageable, more discriminating and more proportionate weapons for use in situations where forces is genuinely necessary. Discriminate use requires accuracy and some targets may have to be foregone.

Johnson refers to the decapitation strategy which involves much more selective targeting. The targets are command, control and communications network of the military and political forces of a potential enemy. The main criteria for judging this is to be within the moral purview of discrimination and proportionality. Here is a principle of "economy of force... carried to a new high level"39. Here three principles, economy of force, proportionality and discrimination, converge. Johnson says that it is from this

convergence that decapitation strategy appears morally to be a worth-while idea.

"The principle involved is the same one established classically in international law that makes rulers liable for wars waged at their behest".

Johnson concedes that this principle suggests political assassination at the extreme as the most discriminate and proportionate means of war though the moral question arises because of the difficulty to distinguish between assassination and murder.40

Aware of the fact that nuclear weapons are both indiscriminate and disproportionate, Johnson has attempted to fit accurate and low yield warheads and delivery systems "in the service of a morally informed human intentionality". This advantage has led Johnson to sanction, however grudgingly, precisely those weapons and strategies which from the nuclear arms control perspective, have been the most destabilizing and prone to preemptive strike. The neutron warhead, the cruise missile, the HX missile it was around these technological innovations that the massive peace movement gained momentum. Counterforce targeting accelerated the nuclear arms race. David Allan Rosenberge has documented this fact. Nuclear decapitation strategy was

40. Ibid, pp.145-146.
condemned by arms control experts as a dangerous development. This as well as the effort to fit some weapons into the framework of the Just War tradition led to a paradoxical situation - even those who supported nuclear deterrence as well as conscientious objectors to it found these the most dangerous weapons and strategies. In their view, they become part of nuclear war-fighting scheme.41

41. Ibid, p.143.
NUCLEAR DETERRENCE AND THE PASTORAL LETTER
OF THE AMERICAN CATHOLIC BISHOPS

In the Hebrew scriptures, three types of justified war are identified: war commanded by God; defensive war and war initiated by the king for his own purposes. Roman law required the authoritative publishing of the causes of war and a formal declaration that the state of war existed.

International law in the Twentieth Century has gradually reduced the justification of war to defence. Defence refers to not only the prevention of injury (the Roman and Medieval term) but also the reaction to aggression already begun or completed. For Pope Pius aggression was not a moral option. Pope John XXIII ruled out retaliation against an aggression already accomplished. John's successor, Pope Paul VI declared his views in three words: "Never again war" – reminiscent of the Kellogg Briand Pact of 1928.

The problem of nuclear weapons is a human problem. Approximately five million people demonstrated in the West European capitals in the Autumn of 1981 and 1983.41 For once people have the power to reverse God's creation, with weapons million times the power of the atom bomb that obliterated Hiroshima and Nagasaki.

41. Kaldor, Mary, "After the Cold War", New Left Review (March-April 1990), No. 80, p. 34.
positioned on delivery systems and otherwise that could be launched
by intent or miscalculation.42 The American Catholic Bishops were
motivated by such a concern and for the first time "a deeply
conservative hierarchy traditionally identified with patriotic
sentiment and military strength took a firm position in opposition
to the declared nuclear strategy of the United States. 43

The Bishops explained their intrusion into a subject far
away from their pastoral duties - nuclear strategy - was due an
unprecedented development in human evolution:

"We are the first generation since Genesis with the
power to threaten the created order. We cannot remain
silent in the face of such danger." 44

They had the courage to address the gravest moral problem well
aware that whatever they said would be open to criticism,
especially if it were contrary to the American defense policy. This
did not deter them, said Joseph Cardinal Bernardin, the leader of
the drafting group:

"Silence in this instance would be a betrayal of its
(Church's) mission ... Nuclear weapons and nuclear
strategy constitute a qualitatively new moral problem." 45

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42. Foreword by Hesburgh, Theodore M., in Murnion, Philip
J., ed., Catholics and Nuclear War: A Commentary on the
Challenge of Peace: The US Catholic Bishop's Pastoral Letter
on War and Peace (New York: Crossroad, 1983), p. xii.

43. Thompson, E.P., Star Wars (Harmondsworth: Penguin

44. The Challenge of Peace: God's Promise and Our

45. Thompson, n. 43, p. 25.
The Pastoral Letter "ambushed President Reagan from an unexpected quarter...He had supposed that he was the nation's specialist in moral homilies, but here were competitors who could threaten the sovereignty over the world He had brought into being and who could destroy His work."46

As a noted mathematical physicist has admitted, scientists had written a great deal about nuclear strategy "but nothing we have written is as thoughtful as the Pastoral Letter on War and Peace ... that letter is indeed a challenge to us scientists as well as to everybody else."47

The Drafting of the Letter

The letter is admirable for the fact that in their field of reference there are no theological or moral precedents. The drafting process was open - something unusual in the production of church documents. It involved scientists, theologians, specialists in nuclear theory and strategy and those who in general agreed and disagreed with the direction in which the document was going. The Ad Hoc Committee on War and Peace established in 1981, chaired by Cardinal Joseph Bernadin of Cincinnati, included Bishops George Fulcher, Daniel Reilly, Thomas Gumbleton; the President of

46. Foreword, m. 2.

Pax Christi, Bishop John O'Connor - Second in Command of the Catholic Military Chaplains, monks and nuns from other religious groups; Father Bryan Hehir, Director of the Conference's Department of International Peace and Justice in Washington D.C., Edward Dougherty of the same office, a retired US Foreign Service officer and Bruce M. Russett of Yale University as the 'principle consultant.'

The Committee proceeded with many days of discussions and hearings at which about fifty experts were heard and questioned. Concerned about the impact of any criticisms directed at American nuclear strategy, the Reagan Administration sent senior officials to reassure the Bishops that American official policy strictly adhered to the principle of discrimination.

After circulation and criticism of various portions the Committee's first draft of the letter was released early in June of 1982. It became the subject of widespread discussion. Thousands of pages were submitted commenting on the draft. After scrupulously studying the defence provided by the Reagan Administration, they declared that no defence can be made for the destruction of the Soviet cities. In the final debate a more common sense


condemnation was given: "Such a strike would be deemed morally disproportionate even though not intentionally indiscriminate." It held out the possibility of a tolerable nuclear attack on isolated but significant conventional units proving the desperate grip that a limited nuclear war had on the claim of moral respectability.

The proposed tolerance of the counterforce nuclear strategy was the object of criticism. When the second draft appeared in October, the passage on counterforce had been entirely deleted and there appeared the unequivocal condemnation of any use of nuclear weapons in a war. The reason was that the experts were unsure how to control a nuclear war. They knew how to start a war, not how to end one.

The third draft was released in April and became subject to the formal process of amendment. On 3 May 1983, 247 Bishops assembled for the voting of the final text. After hundreds of amendments in the three month process, the letter as amended was adopted by a vote of 328 to 9, i.e. 96% in favour.

The letter brought great public attention to the issues of nuclear weaponry and established those issues not as esoterical technical issues best left to the 'priesthood' of civilia ad military strategies but as fundamentally political and moral issues.

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which were the proper province and indeed the responsibility of ordinary citizens. This is the letter's most enduring achievement.

2. The Letter

The Bishops began their discussion on the fundamental principles of morality. Nuclear weapons were unacceptable as a basis of permanent system of international security, not only because they expose the people to unacceptable dangers but even more because they express the intention under certain conditions to commit unacceptable crimes. They condemned three aspects of nuclear deployments - deliberate targeting of civilian populations, willingness to use nuclear weapons first under certain circumstances and planning to fight limited nuclear wars. The consensus was forged around the long established tradition of 'just war'. This provided the standards through which states are justified in waging a war: the cause must be just; authority legitimate and resort to force a last resort. It was presented as a legitimate option. The Bishops however took care not to prescribe non-violence as they sincerely believed in the right of self defence and that there are major values - liberty, justice human rights - to be defended.

Even though military installations or industries might themselves be permissible targets, the good to be achieved (or evil

51. Dyson, n.47.
prevented by hitting them) would have to be in some way balanced against the harm done in killing innocent civilians indirectly or unintentionally. This principle therefore leads to extremely great scepticism about whether even a 'limited' use of nuclear weapons could be justified, and it is confounded by doubts that command and control capabilities are, or could ever be, adequate to contain the use of those weapons at sufficiently limited levels.

The letter is a complex of scriptural, ethical, political and strategic issues. Their just war premises, their evidence and their logic taken together drive so strongly towards absolute nuclear pacifist conclusions that their reasons for the moral acceptance of nuclear deterrence must lie elsewhere than in the thrust of their arguments.

A strong adherence to a moral equivalence of intention and action implied that 'deterrent intentions' were exempt from all such moral equivalence because of their peculiarly positive consequences of the intention per se.52 Further a moral equivalence of intention and action would mean that the only deterrent threats that are acceptable are the threats to use nuclear weapons in ways and circumstances that could be morally acceptable. However the just war criteria and other requirements that the Bishops consider necessary for any deterrent policy that is to be even temporarily

acceptable to them make it extremely doubtful that any effective policy of nuclear deterrence could meet their standards.53

2.1 On the Use of Nuclear Weapons

The bishops were careful, however, not to advocate unilateral disarmament. They could recognize, however reluctantly, the moral justification for the possession of nuclear weapons only as a deterrent to nuclear war. But this permissible retention of nuclear weapons was subjected to severe limitations. First, the weapons could only be used in retaliation after a nuclear attack. Second, if they were not to reject nuclear deterrence totally, the Bishops had to find some strategy that at least had a chance, in some hypothetical circumstances, of being morally neutral rather than intrinsically evil—thus a 'strictly conditioned acceptance' of nuclear weapons. Further the temporary possession of nuclear weapons should be coupled with serious efforts to achieve disarmament. They stated in no uncertain terms:

"We do not perceive any situation in which the deliberate initiation of nuclear warfare, on however restricted a scale can be morally justified."54


54. Russett, n. 48, p. 203.
Interestingly since neither the Pope nor the Vatican Council had condemned all possible uses of nuclear weapons, it was not, given the hierarchical nature of the Church, open to the American Bishops to do so. The ambiguity in the letter was in part to accommodate the views of the more nuclear pacifist Bishops who would not have tolerated any statement about the legitimacy of nuclear deterrence.

The use of nuclear weapons would have passed the tests of discrimination, proportionality and reasonable chance of success. The Bishops are extremely sceptical of whether that is possible. They were aware of the risk of escalation even in the best of circumstances and if the opponent were to begin a war, some of those risks would already have been taken. To deter the same and bring the war to a negotiated halt, a restricted plan of retaliation was permitted, but the risk of first use was too high to justify such an action. As they said:

"We have no experience of control, much testimony against its possibility and therefore no moral justification for submitting the human community to this risk." 55

They expressed their "profound scepticism about the moral acceptability of any use of nuclear weapons." They rejected this use whether they be against civilian centres of population or against military targets, whether in a first strike or in a -----

55. Ibid.
retaliatory second strike. Their rejection of even a limited nuclear war is complete.

They had in fact made a binding and clear cut statement regarding the use of nuclear weapons on non-combatants or the harm it would cause them, using the most controversial criteria of just war — the principle of discrimination.

"Under no circumstances may nuclear weapons or other instruments of mass slaughter be used for the purpose of destroying population centres of the predominantly civilian targets." 56

The attempt to find a position between total rejection of nuclear deterrence because of its almost inevitable implications for innocent civilians and seeming endorsement of the hazards of counterforce strategies is inevitably delicate, and it is over these difficulties that some of the most remarked-about changes in the letter occurred. This ambiguity had to be removed in the third draft and the form finally adopted at the Chicago meeting.

The Bishops call for 'sufficiency' and reject any quest for nuclear superiority. They oppose proposals which have the effect of lowering the nuclear threshold and blurring the difference between nuclear and conventional weapons (probably including the neutron bomb). Furthermore, they recommend a variety of measures including a comprehensive test ban treaty, removal of nuclear

weapons from the border areas, where they be overrun in war (thus forcing early decision on their use), and immediate, bi-lateral and verifiable agreements to halt the testing production and deployment of new nuclear weapon systems. This last was widely, and correctly interpreted as meaning support for a freeze.

Perhaps the keystone, in their effort to avoid endorsing a limited nuclear war is their advocacy of a policy of no first use of nuclear weapons. It is not quite an unequivocal rejection of first use. "We do not perceive any situation in which the deliberate initiation of nuclear warfare, on however restricted a scale, can be morally justified." But it comes very close to it. In doing so the Bishops reject the idea of using nuclear weapons for 'extended deterrence' and require that non-nuclear attacks be resisted by other than nuclear means. The risks of first use of nuclear weapons are too high to justify ever setting the process into motion.

On Deterrence

The Bishops letter is a proof of their puzzled conscience. They balanced their decisive 'no' to nuclear war with a qualified 'yes' to the strategy of deterrence. The reason for such recommendation was perhaps the fear that nuclear weapons would undoubtedly be used in violation of a "no first use". At the same time they also realised that an unreciprocated reduction would remove the one leverage that the West had to reduce the Soviet arsenal. This could create a destabilising situation in the international, especially West European, politics. At that moment
of confusion, they were comforted by the reassuring words of Pope John Paul II, when he indicated that deterrence was not intolerable, 'for the time being'. 'Nothing less guarantees security and nothing more satisfies conscience.'

They were willing to consider some strengthening of conventional defence 'as a proportionate price to pay' if it would reduce the possibility of nuclear war. Appreciative of Europe's astonishing political and economic recovery from the last war, they did not believe that Europe could not be defended by other than nuclear weapons. However they are unsure of the deterring capabilities of conventional weapons. The hurdles are political rather than economic or military and basically because of a lack of political will.

The Bishops hope that the good effect would not have to depend upon the evil one. A choice had to be made intending only the good effect while tolerating the evil one. The good effect of continuing to maintain the arsenal is political and the other effect is the military one. On this basis, inert arsenal was regarded as a moral option but the Bishops pondered on the politico-military question of how an effective deterrence can be maintained on the mere physical capacity inherent in the nuclear arsenal, when national policy is opposed to its use.57

They concluded that deterrence is in the eye of the beholder. It is the arsenal that the Soviet planner would look to not the declaratory policy. Evidently they have struggled over the language they used for deterrence. They have provided a "just war" analysis of deterrence that many people will use to say that nuclear weapons are in fact per se evil. The effect of this analysis is to demonstrate that the traditional just war teaching is in fact alive and well. It is nuclear deterrence that does not look so healthy.

The Bishops' normative and factual assumptions lead them in terms of the familiar debates over deterrence, to conclude that while the need for military deterrence cannot be evaded in a conflicting world of states, relatively lower levels of threat are adequate and a shift to lower levels is required. This means a no 'city-busting' and no first strike capability, and the extended deterrence of conventional attack can succeed without reliance on nuclear threats. A shift to lower levels is required because of the ever-present and fully controllable chance that deterrence may fail.

Finally the Bishops served notice that deterrence however defined can only be an interim strategy on the road to disarmament.

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The Bishops had begun by strongly condemning the mass slaughter of civilians entailed in the use of nuclear weapons but finally gave their strictly "strictly conditional" acceptance of nuclear deterrence as a provisional remedy while nuclear disarmament is being worked out. Some have argued that the Bishops critique permits the bare possibility of the most restricted use of nuclear weapons. But the Bishops position can no longer be reconciled with the official American deterrent posture. They call for using the 'peace of a sort' as the framework to move towards authentic peace through nuclear arms control, reduction and disarmament, all the time, aware of the time consuming process of moving from a nuclear to a non-nuclear defensive strategy. The relation between maintenance of a credible deterrent and the reduction of the military capacity has proven to be the Achille's heel for every arms reduction proposal since World War II: the Bishops' Letter is certainly not a final word on technical and political problems. Though they have grappled with this issue, they have not been able to resolve them.

However the Bishops present a far better case against the moral acceptability of deterrence than the case in its favour. Despite their rejection of a completely pacifist position their logic and the weight of their evidence leads them to the same


60. Okin, n. 53, pp. 16-26.
conclusion. Their argument that the nuclear strike is as immoral as the nuclear threat seems to be directed at Paul Ramsey whose moral defense of counterforce deterrence relies heavily on the distinction between intentional and unintentional harm that the Bishops term as "perverted moral casuistry."61

They do reject the targeting plans but the thrust of their arguments is blunted to suit the members of the military. (For example they prohibit harm to innocent civilians but bless the Catholics in armed forces.) They neither leave the problem nor are they able to fully confront this problem. They in fact seemed to have also sensed clearly the danger of engaging in specifying the ideal counterforce deterrence strategy that would be acceptable to them.62 In fact it could be stated that a counterforce aided by technological advance escalates arms race to a point of no limit.63 As Barnet said nuclear force is regarded as "flexible" for achieving purposes other than deterrence, and the arms race becomes a never ending escalating contest.64

The Bishops' conditional acceptance of nuclear deterrence leaves them in a seriously paradoxical situation. They cannot


condone counterforce deterrence because if executed, it would involve massive civilian damage, though indirectly. They were left with one deterrence that is most dangerous of all - deterrence based on the threat to disable the adversary's strategic nuclear capability. This may involve making one's own weapons invulnerable.65 But just as technology helps to achieve this, it also provides methods for rendering this invulnerability vulnerable.

Even the theory of just war seems to belong to the domain of personal morality and the concept of justice within which it works is individualistic than political. Pope John Paul II provides a very valid observation when he says:

"...together with the will for peace that all profess and that most desire, there is also in existence, perhaps in latent or conditional form, but nonetheless real, the contrary and the negation of this will, taking the risk that sometime, somewhere, somehow, someone can set in motion the terrible mechanism of general destruction." 66

In Pacem in Terris, Pope John XXIII said that

"In this age which boasts of atomic power, it no longer makes sense to maintain that war is a fit instrument with which to repair the violation of justice."

This is the essence of the Letter. On the other hand instead of -


outright rejection of nuclear weapons we note that the Bishops have said:

"As long as the danger of war remains, there is no competent and sufficiently powerful authority at international level, governments cannot be denied the right to legitimate self defence, once every means of settlement have been exhausted."

True, this statement cannot be challenged, but is legitimate defence possible with nuclear weapons, whatever the urgency? However the Bishops' effort to tackle the ethical dilemmas of nuclear deterrence is commendable. Hundreds of Church leaders grappled for more than two years under some measure of collective discipline (despite the problems of having to work under the Church hierarchy and the need to keep in mind not to go against the interests of the administration) to develop and perfect what the authors called 'a teleology of peace suited to a civilization poised on the brink of destruction.'

Influenced by this extraordinary Letter on War and Peace, the Christian groups and Churches of other nations - France, Netherlands and the two Germanys - joined in the effort to

contribute their share in the common outcry against reliance on nuclear weapons. Machiavelli had believed that a good Christian had no business in politics.68 But the letter has provided the much needed moral basis to political decisions.