Professor Nigel Biggar

AFTER IRAQ: WHEN TO GO TO WAR?

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About the Lecture

This lecture by Professor Nigel Biggar was delivered at Policy Exchange with a Vote of Thanks from Lieutenant General Mark Carleton-Smith CBE, Deputy Chief of the Defence Staff (Military Strategy and Operations), on behalf of the Chief of the Defence Staff, Air Chief Marshal Sir Stuart Peach GBE KCB. It is being published jointly by Policy Exchange's *Britain in the World* project and the McDonald Centre, University of Oxford. The lecture reflects on some of the moral lessons we should and *should not* learn from the recent history of British military interventions abroad, in view of the challenges and dilemmas Britain is likely continue to face in the future. After Iraq, it asks, what are the circumstances in which Britain should go to war?

About the Author

Nigel Biggar is Regius Professor of Moral & Pastoral Theology, and Director of the McDonald Centre for Theology, Ethics, and Public Life (www.mcdonaldcentre.org.uk), at the University of Oxford. He is also the author of *In Defence of War* (Oxford, 2013) and *Between Kin and Cosmopolis: An Ethic of the Nation* (James Clarke, 2014).

About *Britain in the World*

Policy Exchange's *Britain in the World* project was launched in March 2016 by the Defence Secretary, Rt Hon Sir Michael Fallon. It aims to revitalise the public debate on UK foreign policy, by restoring a sense of strategy and realism in support of an enhanced British role in upholding international order and security.

Executive Summary

- **Shouldering international responsibility.** Britain should not abandon its tradition of exercising responsibility for upholding international law and order. The United Nations has only such power as states choose to loan it. So if some states have to shoulder the military costs of global responsibility, why not Britain?

- **Defending the innocent.** Going to war is only morally justified to defend the innocent against grave injustice. While the British Government's primary responsibility is to defend British innocents, it has a secondary responsibility to defend foreign ones too. And as a permanent member of the U.N. Security Council, it has a greater responsibility than most.

- **Being legal if possible, moral if necessary.** While we should never go to war in contempt of international law, the law's letter sometimes serves to shield the perpetration of grave injustice. When that is so, Britain should have the courage to lead international intervention that is widely recognised to be morally necessary, if strictly illegal.

- **Appealing to the national interest in moral self-respect.** To sustain military intervention overseas politically, the Government will have to persuade the British people that it is right that *they* should bear *this* burden *over there*, by appealing to a range of national interests. These interests should include Britain's moral integrity and responsibility.

- **Guesstimating risks and costs.** While it's right to guesstimate the risks and costs of military intervention as conscientiously as possible, it's also true that no government can control the future, that risk cannot be abolished, and that inaction carries risks and costs, too.

- **Exercising the Royal Prerogative.** Where military and diplomatic exigencies permit, parliamentary approval of military action should be sought in advance. But where delay would jeopardise military success or international alliance, the national interest obliges the Government to exercise the Royal Prerogative first and seek parliamentary blessing after.

- **Punching above our weight.** Britain should continue to punch above its solitary weight by means of alliances. When in 1999 Tony Blair—most un-poodle-like—manoeuvred a reluctant President Clinton into putting American military muscle behind intervention in Kosovo, Britain punched above its

solitary weight to very good effect. We continue to have significant power of various kinds, and we have a moral obligation to use that power to best effect. Punching above our weight is not delusional; it's canny.

- *Doing more, early.* Certainly, we need to marry ambition to commitment, but one lesson to be learned from Libya, and probably also from Iraq, is that success requires more, not less; and efficient success requires more, early.

- *Increasing defence-spending.* But in order to commit more, we have to have sufficient resources to commit. If that requires an increase in defence spending, we can afford it. British GDP per head now is four times what it was in 1945, yet defence-spending has declined from just under 10 per cent of GDP in 1954 to barely 2 per cent now. We could decide to spend more on defence, if we were persuaded of the need. One need has become altogether more urgent since the election of President Trump: helping Europe avoid exhausting American patience with its persistent free-riding under the US defence-umbrella three generations after 1945.

- *Rebuilding credible 'red lines'.* A second urgent need is to persuade Russia that what she has got away with in Syria, she shouldn't try elsewhere—say in Ukraine or the Baltic states. Crucial to the credibility of our 'red lines' will be the demonstration of a credible military deterrent. It's a sad and ironic truth, but true nonetheless: if we *really* care for peace, we will prepare well for war.

After Iraq: When To Go To War?

The prevailing narrative

Here's how the story goes. Under Tony Blair, and subsequently under David Cameron, Britain sought to punch above its weight—and got roundly beat. Under Blair we got caught up in an American neo-con, neo-imperialist fantasy of remaking the world in our own image, and came crashing down to earth in the sectarian anarchy of post-invasion Iraq and a Taliban insurgency in Afghanistan. Under Cameron we attempted smarter intervention in Libya, more efficient and surgical, avoiding all-but-specialist boots on the ground, relying on air-power, and supporting the new regime at a safe arm's length. In the course of it, we (and France) ran out of ammunition and had to go cap in hand to Washington. And in return for all our efforts we got civil war, a failed state, boatloads of refugees in the Mediterranean, and a new breeding-ground for so-called 'Islamic State'.

The moral of the story, therefore, is clear: we in Britain must get real, forswear our lingering imperial pretensions, stop trying to live on as a global power by playing poodle to the United States, settle down to the life of a normal middle-class European state, leave the world's policing to the U.N., and concentrate on the British national interest. And if we do go to war, then let's do so only with the incontrovertible backing of international law, and when we're sure that the benefits will outweigh the costs, that success is virtually certain, and that civilian casualties will be negligible. And, of course, before we venture out at all we must have a fully worked-out exit-strategy.

That, I think, is generally the narrative that prevails in circles now present in every political party—among Labour's Corbynistas, among all or most Liberal Democrats and Scottish Nationalists, and even among some Conservatives. It's also a narrative that our international rivals are keen to play back to us. In 2011 a British diplomat in China was told, "What you have to remember is that you come from a weak and declining nation".[1] And two years later, during the G20 summit in St Petersburg, Vladimir Putin's official spokesman commented in public that Britain is "just a small island .... No one pays any attention to them".[2] If Henry Kissinger is to be believed, ever since Sun Tzu's *Art of War* in the 5th century BC China's *Realpolitik* has placed a premium on gaining psychological advantage.[3] Judging by his first formal meeting with Angela Merkel in 2007, so does Putin. Knowing her phobia of dogs, he made sure that the door was left

ajar, so that his black Labrador could enter.[4] Our enemies have observed our diffident tendencies and they have no scruples about exploiting them.

Recent reports and risk-aversion

Current British diffidence finds expression in the acute risk-aversion of the report of the Iraq Inquiry, and of other recent parliamentary reports on British military intervention in Syria, Libya, and Yemen.

Thus, in October 2015 the House of Commons' Foreign Affairs Committee's report on British military intervention in Syria showed itself uneasy with anything less than "the most clear legal basis"—namely, a U.N. Security Council Resolution authorising military action[5]—and it counselled against intervention in the absence of "a coherent international strategy that has a realistic chance of defeating Islamic State and of ending the civil war in Syria".[6] Evidently, the Committee was not satisfied with the authoritative witness of former Attorney General Dominic Grieve that there were "perfectly clear grounds in international law why air strikes could be used".[7] And evidently the Committee was undisturbed by the thought that, if Britain should not intervene in the absence of a feasible, comprehensive, strategic plan, then nor should anyone else, implying that *all* military action to stem the expansion of Islamic State should cease forthwith, until a plan had been fully worked out. Or did the Committee intend that other states should bear the burden of fighting, while Britain sat back and put its thinking-cap on?

In July of last year the Iraq Inquiry concluded that, in future, the U.K. Government must not commit itself to a firm political objective "before it is clear that it can be achieved".[8] At first glance this looks like common sense, but the closer you inspect it, the more its meaning retreats. Obviously, before we attempt something we should assure ourselves that success is possible—that is to say, that we *could* succeed. And we should plan as scrupulously as we can to get all of our ducks in a row. The virtue of prudence demands that; our experience in Iraq has surely taught it. But the truth remains that the conditions of success are seldom entirely in our hands and under our control. Usually they depend on many other agents, who can't always be relied upon to do as we want. And sometimes victory hangs upon a change in the wind. It follows that almost any venture will necessarily involve the taking of risks. Of course, it's

foolish to take high risks for a trivial gain, but it can be prudent to take high risks for a substantial one. In May 1940 with our army smashed up in Northern France, Churchill persuaded us to fight on with little clarity about how regime-change in Berlin could be achieved, and less certainty that it would be, but in the conviction that it *had* to be and in the hope that it *might* be. High stakes can justify high risks.

Last September the Foreign Affairs Committee expressed the current lust for certainty in its report on British intervention in Libya—initially, you'll remember, to prevent Colonel Gaddafi's threatened slaughter of civilians in rebel Benghazi, and eventually to overthrow Gaddafi's regime altogether. On the one hand, the Committee accepted that the Government's reading of the situation was shaped by a desire not to preside over a repeat of Srebrenica,[9] and that it had to act on sometimes unavoidably imperfect intelligence[10] and under pressure of events.[11] Nevertheless, since "*subsequent* analysis" had revealed evidence that the immediate threat to civilians had been exaggerated,[12] the report took the Government to task for acting "on erroneous assumptions and in incomplete understanding of the evidence"[13] and for presenting the scale of the threat to civilians with "unjustified certainty".[14] Hindsight is indeed a very fine thing, but it's really not fair to beat decision-makers with it. Moreover, what the report in effect argues is that the British Government should have risked another Srebrenica, because the risk was, arguably, low. But being low doesn't stop a risk turning bad. Suppose Gaddafi had acted out of character or that his troops had run amok: would the Committee then have absolved the Government? The scapegoating temper of current British culture suggests not.

Later last September the Joint Business and International Development Committee issued a report that called for the suspension of British arms exports to Saudi Arabia, because of "the weight of evidence" of Saudi violations of international humanitarian law in its war against Houthi rebels in Yemen.[15] The law, however, does not forbid the killing of civilians, even on a large scale. It forbids only their being intentionally targeted or being killed disproportionately. The report made no attempt to show either. In effect, then, it recommended the suspension of arms exports to an ally embroiled in a war that is legal, and in whose successful outcome this country has an interest, on the ground of evidence that *might* amount to a breach of the law, but does not yet clearly do so.

Here, the Foreign Affairs Committee (FAC) was much wiser. Its dissenting report spoke only of "evidence of *potential* breaches" of the law[16] and it acknowledged that "setting the threshold for the cancellation of arms export licenses as low as an *arguable case* of a clear risk of a serious violation of IHL [International Humanitarian Law] ... could undermine the confidence of ... all of our allies that anything but *undisputed certainty* that all operations were *fully* compliant with IHL would not disrupt relations in times of war. This denies the reality of any battlefield".[17] It does, indeed.

So one respect in which the narrative about Britain's overdue retirement from global policing needs correcting, is this: that achievable clarity about what's actually going on is seldom crystal; that waiting carries risks, too; that even low risks can turn bad; and that present certainty about future success is very rare. All of that, of course, is common sense. But judging by recent parliamentary reports, it's rather less common than it should be.

The U.N., no substitute for states

Another correction to the retirement-narrative is this: the U.N. is no substitute for states. It doesn't provide global government. Its power to enforce international law is limited to the resources that states loan it. And not infrequently its power is reduced to the ineffectual expression of indignation and moral suasion. Think Syria.

Don't mistake me. The U.N. is very important. It's enormously valuable as a standing forum for international communication and as an international bar at which states are required to give an account of their actions and to suffer criticism. At its best, it's a forum for the forging of international consensus as the basis of concerted action.

But it's not a global government, and until trust among states worldwide has risen to a degree that now seems utopian, it won't become one. Adam Roberts, Professor Emeritus of International Relations at Oxford and former President of the British Academy, puts it thus: "the era since 1945 has witnessed—alongside the new institutions of the United Nations and the multilateral diplomacy that it embodies—the continuation of all the classical institutions of the international system: great powers, alliances, spheres of interest, balances of power and bilateral diplomacy".[18] The vision of a comprehensive security system based on

the U.N. is an "impossible ideal" [19] and the aspiration to create it is "hopelessly optimistic".[20] This is because the fault lies, not simply with the unruly behaviour of particular states, nor even with the right to veto in the Security Council,[21] but with "deep and enduring problems of world politics".[22] "The Security Council", he writes, "is not an impartial judicial body, but a deeply political organisation",[23] whose members have "very different perspectives on the world and the threats it faces".[24] If that ever came as news to anybody, it surely doesn't now: the Security Council's paralysis over Syria writes it big and bold.

So if Britain were to retire from global policing, it couldn't hand over responsibility to the U.N.; it could only hand it over to other states. But if some states have to carry it, then why shouldn't we? What special excuse would relieve us of the responsibility? What would give us moral permission to walk away?

International law and the politics of interpretation

But maybe calls to leave global policing to the U.N. intend, not that Britain should vacate its seat on the Security Council, but rather that it should become a more scrupulous servant of international law.

International law, however, is problematic. In part, this is because its content is controversial. Is it simply what is written in treaties or does it also embrace customary law as expressed in state-practice? And how should different bodies of law relate to one another? Should the battlefield be governed by the Laws of War or by International Human Rights Law? When eminent lawyers pronounce, "International law says this or that", we ought not to be over-impressed. They are behaving as advocates, making a case, pushing a particular point of view. If they were more frank, they would claim, "International law says this or that, *according to my interpretation of it*". There is more than one reasonable view of what international law is and what it says. We've already seen that in regard to British military intervention in Syria: Dominic Grieve thought that there were "perfectly clear grounds in international law" for intervention, but the Foreign Affairs Committee (like the Scottish Nationalists) wasn't satisfied. Perfect clarity wasn't enough; they wanted incontrovertibility.

It has been long recognised in literary and biblical studies that the interpretation of a text is inseparable from the views that the interpreter brings to it.

Accordingly, lawyers' construal of the meaning of the texts of international law is not at all immune from the influence of their moral and political convictions. For example, take the classic dispute between Ian Brownlie and Richard Lillich over the legality of military intervention for humanitarian purposes that lacks authorisation by the Security Council. Brownlie was professor of public international law at Oxford; Lillich, an eminent professor of international human rights law at the University of Virginia. Appealing to the text of the U.N. Charter, Brownlie argued that international law's prohibition of any unauthorised military intervention is unequivocal. And he denied that the meaning of the text should be qualified by customary international law, comprising the informal consensus about a unilateral right to intervene implicit in the history of state practice.[25]

Against this, Lillich argued that pre-Charter history furnishes ample evidence of relevant state practice; that the Charter does not "specifically abolish the traditional doctrine"; that the Charter attributes *two* main purposes to the post-war international legal regime, the maintenance of peace *and* the protection of human rights; and that humanitarian intervention serves the latter.[26] Brownlie judged such a "flexible and teleological interpretation of treaty texts" to be weak;[27] while Lillich criticised Brownlie's reading as "arid[ly] textualist".[28]

The struggle between textualist and contextualist lawyers for the true meaning of international law resembles nothing so much as the struggle between conservative and liberal theologians for the true meaning of the Bible. In both cases, while the text itself does constrain what can plausibly be attributed to it, the variety of plausible interpretations is considerably determined by extra-textual factors. In the case of the interpretation of international law, prominent among these are the empirical, political, and moral assumptions that lawyers bring to the texts of treaties and to the 'text' of the history of state practice.

So it's not irrelevant to his restrictive interpretation of the law that Brownlie assumed a generally cynical view of the motives of governments, writing of "the near impossibility of discovering an aptitude of governments in general for carefully moderated, altruistic, and genuine interventions to protect human rights"[29] and that "[t]he whole field [of humanitarian intervention] is driven by political expediency and capriciousness".[30] Nor is it irrelevant that Brownlie was highly sceptical about the efficacy of military action, arguing that civil conflicts "cannot be 'solved' by a use of force", and that those advocating military

intervention "need to produce more evidence" that such action achieves benefits greater than the costs it imposes.[31]

The interpretation offered by Richard Lillich was, of course, no less influenced by extra-textual considerations. However, unlike the textualists, Lillich thought that international law *should* be interpreted with reference to such factors. Thus he criticised Brownlie for living "within the paper world of the Charter",[32] and complained that "there is little evidence that Brownlie has contemplated the costs in terms of life and dignity his construction of the Charter demands"[33] and that he neglected the problem of "the obvious procedural defects" of the U.N..[34]

In my opinion Brownlie's views of the motives of government and the efficacy of military intervention are considerably mistaken. But the point I want to establish here is that, whatever their truth, they're not legal-textual views, but empirical, political, and moral ones. As such they're also highly controversial. What this means is that being a scrupulous servant of international law isn't going to save the British Government from having to venture an interpretation of what the law says, which some lawyers and some states—at least—will dispute, because they don't share the Government's political and moral assumptions, or its responsibilities. It also means that parliamentary committees should be careful not to rely naively upon a single source of legal argument—as did the Joint Committee on arms-sales to the Saudis upon the "Legal Opinion" that Philippe Sands and his colleagues at Matrix Chambers had prepared on the instructions of Amnesty International UK, Oxfam, and Saferworld.[35]

The possibility of morally obligatory illegality

Because of the irreducibly political nature of the U.N. Security Council, and because of the veto possessed by each of the Permanent Five, occasions arise when the letter of international law effectively shields the perpetration of grave injustice. Suppose there's a regime that reacts to peaceful protest by arresting and torturing a 13 year-old boy and then returning his corpse to his family— bruised, burned, and castrated.[36] Suppose this wasn't an eccentric case, but one of up to 60,000.[37] Suppose such ruthless repression of dissent provokes armed rebellion. Suppose that the regime reacts with a military campaign that observes no limits, repeatedly deploying barrel bombs, phosphorus, bunker-busting munitions and even chemical weapons in urban areas. Suppose it agrees to a

humanitarian convoy and then attacks it. And suppose that a member of the Security Council's Permanent Five colludes in all this by invitation. In such a case the U.N. is powerless to authorise military action to stop it, and any unauthorised action is, according to the letter of the law, illegal. The doctrine of the Responsibility to Protect, which follows the 'just war' tradition in viewing the paradigm of justified military intervention as the rescue of the innocent, has not yet established in international law what should happen in the absence of Security Council authorisation.[38] Quite as much as any flagrant and contemptuous transgression, such paralysis corrodes the moral authority of the law and of the U.N. In this kind of case, therefore, it might be that the authority of the international system is best served by breaking the law's letter—albeit in a manner that respects the international community by making a cogent case before the U.N. that attracts widespread approval. This is exactly what happened in 1999 when, notwithstanding the lack of Security Council authorisation, thanks to Russia's threat of veto, N.A.T.O. intervened in Kosovo. As the eminent Finnish international legal expert, Martti Koskenniemi, has acknowledged, "most lawyers—including myself—have taken the ambivalent position that [N.A.T.O.'s intervention] was both formally illegal and morally necessary".[39]

Should we retire from 'liberal imperialism'?

So, contrary to the retirement-narrative, Britain can't retreat behind either the U.N. or international law. The U.N. has no power to enforce, except that which states, like Britain, give it. And international law is more often than not a field of controversy, in which states, like Britain, have to risk a controversial judgement.

Then perhaps what Britain needs to forswear is 'liberal imperialism'. Well, the term is a loaded one and allows only one answer. If 'imperialism' means the unjustified and rapacious domination of foreign peoples, then, of course, Britain should forswear it. But was it 'imperialist' to intervene in Kosovo in 1999, to save Muslims from ethnic cleansing and Macedonia from implosion? Was it 'imperialist' to defend the government of Sierra Leone in 2000 from take-over by diamond-hungry, drug-crazed, limb chopping rebels? Was it 'imperialist' in 2001 to dislodge the cruelly puritan and misogynist Taliban regime in Afghanistan—and cruel, by the way, not just in Western eyes, but in lots of

Afghan ones as well? Was it 'imperialist' in 2011 to prevent what might have been another Srebrenica in Libya, and then to uproot its cause?

Which brings us to the elephant in the room: the invasion and occupation of Iraq.[40] Surely that was 'imperialist'? Well, no. It might have been foolish and it might have been bungled, but it wasn't for oil, and it wasn't for territory, and we really, really didn't want to stay there for a moment longer than we had to. (That, of course, was a major part of the original problem.)[41] Even a hostile witness such as the redoubtable Emma Sky, no friend of the invasion, admits that when she arrived in Baghdad in 2003 primed with abject apologies for Western interference, she was astonished to be met with a wave of Iraqi gratitude at the fall of Saddam Hussein's dreadful regime.[42]

Okay, let's suppose that we haven't been exactly imperialist. Nevertheless, haven't we learned that Western meddling, however well-meaning, hasn't been successful and does more evil than good? No, I don't think we have. Human affairs seldom occasion perfect success. Most people in this room will agree, I think, that regime-change in Berlin in 1945 was a very good thing, but it did require the deaths of between 60 and 80 million human beings, and it did result in the surrender of eastern Europe to the tender mercies of Stalin. The war against fascism was a success, but it wasn't pure: it involved evils and it entailed them. Britain's military interventions in the past two decades have achieved different levels of success: Sierra Leone was perhaps the most successful, followed by Kosovo. The results in Afghanistan, Iraq, and Libya have been much more mixed, but not even these have been simple failures. As the young Iraqi entrepreneur said five years ago, when I asked him whether the 2003 invasion should have happened: "It's good that it happened; it could have been done better; and it isn't over".

That said, it is certainly true that our recent experience has rightly chastened us: regime-toppling is the relatively easy bit; regime-reconstruction is a lot more complicated and difficult. In Afghanistan, Iraq, and Libya there was clearly a mismatch between our ambition and our commitment, and one lesson that we should learn for the future is to marry the two better, either by lowering our ambitions or raising our commitments.

But the lesson we should *not* learn is that military intervention is generally hopeless and that in future, Britain should give it a wide berth. In support, I call two witnesses, both of whom have served as soldiers, diplomats, and politicians,

both of whom have had direct experience of responsibility for nation-building, and both of whom have written books about it: Paddy Ashdown and Rory Stewart. Ashdown, the international High Representative for Bosnia and Herzegovina from 2002-6, argues that "[h]igh profile failures like Iraq should not … blind us to the fact that, overall, the success stories outnumber the failures by a wide margin".[43] Notwithstanding the fact that we got it considerably wrong in Iraq and Afghanistan, Ashdown remains convinced that there is a way of getting it right:

> *Dominate the security space from the start; then concentrate first on the rule of law; make economic regeneration an early priority; remember the importance of articulating an 'end state' which can win and maintain local support; but leave elections as late as you decently can. When rebuilding institutions be sensitive to local traditions and customs. Understand the importance to the international community effort of coordination, cohesion, and speaking with a single voice. And then at the end, do not wait until everything is as it would be in your country, but leave when the peace is sustainable.[44]*

Rory Stewart was the Coalition Provisional Authority's deputy governor of two provinces of southern Iraq from 2003-4. He approached the task of building a more stable, prosperous Iraq with optimism, but experience brought him disillusion.[45] He now thinks that foreigners' short-term commitment, ignorance of local conditions, and consequent inability to build on local strengths, hamstrings many of their well-intentioned efforts.[46] Nevertheless, he (and his co-author) write that

> *there are certain occasions—such as genocide—that can justify an international intervention …. [W]e accept the basic intuitions of many interveners around the world, and a worldview that seems to permit, for example, the intervention in Kosovo, even without the full legal sanction of the UN Security Council …. Bosnia and Kosovo were successes …. We both believe that it is possible to walk the tightrope between the horrors of over-intervention and non-intervention; that there is still a possibility of avoiding the horrors not only of Iraq but also of Rwanda; and that there is a way of approaching intervention than can be good for us and good for the country concerned…. Intervention may be a necessary, indispensable ingredient of the international system. It is certainly capable, as in the Balkans, of doing good.[47]*

Ashdown and Stewart know whereof they speak: they have both had first-hand experience of trying to make intervention work. Stewart admits that the experience chastened him, and he disagrees with Ashdown about the conditions of success. Nevertheless, both of them believe that intervention *can* be done well. With the right strategy creating the right conditions, sufficient success is possible. Writing in the *Guardian* about the report of the Iraq Inquiry, Emma Sky agrees: "We need to put the Iraq war in perspective. It's not about doing nothing. It's about doing the right things. Previous interventions saved thousands of lives in Iraqi Kurdistan in 1991, in Kosovo in 1999, and in Sierra Leone in 2000".[48]

The political importance and morality of national interest

Sometimes the complaint about recent British military interventions is not that they have been 'imperialist' or that success has entirely eluded them, but rather that they have been too loosely tied to the national interest. How far we should agree with that depends on what's meant by 'the national interest'.

Unlike Ian Brownlie, I don't share the popular Kantian view that self-interest is necessarily an immoral motive and that, in order to be ethical, governments must act out of pure altruism.[49] According to that view, whenever national interests motivate military intervention, they vitiate it. There is, however, an alternative and, I think, superior ethical tradition, which finds classic expression in Thomas Aquinas's combination of the Book of Genesis with Aristotle. Thomist thought does not view all self-interest as selfish and immoral. Indeed, it holds that there is such a thing as morally obligatory self-love. The human individual has a duty to care for himself properly, to seek what is genuinely his own good. As with an individual, so with a national community and the organ of its cohesion and decision, namely, its government: a national government has a moral duty to look after the well-being of its own people—and in that sense to advance its genuine interests. As the French political philosopher Yves Simon wrote during the Abyssinia crisis of 1935, "What should we think, truly, about a government that would leave out of its preoccupations the interests of the nation that it governs?".[50] This duty is not unlimited, of course. There cannot be a moral obligation to pursue the interests of one's own nation by riding roughshod over the rights of others. Still, not every pursuit of national interest does involve injustice; so the fact that national interests are among the motives for military

intervention does not by itself vitiate the latter's moral justification. This is politically important, because some kind of national interest *has* to be involved if military intervention is to attract popular support; and because without such support intervention is hard, eventually impossible, to sustain.

One such interest, however, is moral integrity. Nations usually care about more than just being safe and fat. Usually they want to believe that they are doing the right or the noble thing, and they will tolerate the costs of military intervention in a just cause that could succeed. I am proud that the British Empire played a leading role in the suppression of the Atlantic and African slave trades in the 19th century. I doubt that it profited the Treasury, and I know that it cost the Royal Navy the lives of 17,000 sailors. And I thank God that Churchill persuaded the Cabinet in May 1940 not to heed the advice of Lord Halifax to pursue peace with Hitler via Mussolini. Had we made peace, we could well have spared ourselves the half-million casualties, national bankruptcy, the precipitous dissolution of the Empire, and humiliating dependence upon the United States. But Churchill's instincts were right: the future of humane civilisation in Europe (and beyond) was more important than British economic prosperity and even the bare lives of Britons. A country that heroically took the grave risk of refusing ignominious peace, remembers that heroism, continues to admire it, and measures itself by it, is one deserving of loyalty—and deserving of the confidence of allies. And I am proud to belong to it, as are tens of millions of others. Citizens often care that their country should do the right thing. Moral integrity is part of the national interest.

However, a nation's interest in its own moral integrity and nobility *alone* won't underwrite military intervention that incurs very heavy costs. So other interests—such as national security—are needed to stiffen popular support for a major intervention. But even a nation's interest in its own security is not simply selfish. After all, it amounts to a national government's concern for the security of millions of fellow-countrymen. Nor need it be private; for one nation's security is often bound up with others'.

So national interest need not vitiate the motivation for military intervention. Indeed, some kind of interest will be necessary to make it politically possible and sustainable. It is not unreasonable for a people to ask why they should bear the burdens of military intervention, especially in remote parts of the world. It is not unreasonable for them to ask why *they* should bear the burdens *rather than*

others. It is not unreasonable for them to ask why *their* sons and daughters should suffer and die. And the answer to those reasonable questions will have to present itself in terms of the nation's own interests. And it could and ought to present itself in terms of the nation's own morally legitimate interests.

So when to go to war?

So in the light of Kosovo, Sierra Leone, Afghanistan, Iraq, and Libya, when should Britain go to war?

- Going to war is only morally justified **to defend the innocent against grave injustice**. Given the British Government's special responsibility for its own people, it has a primary obligation to defend British innocents. However, the British national interest is often bound up with international interests. Further, at least in the eyes of God a Briton's life is no more valuable than that of any other human being. And further still, as a permanent member of the U.N. Security Council the U.K. has a special responsibility to uphold international law and order. For these three reasons, Britain also has a secondary obligation to defend foreign innocents, too.

- We should never go to war in contempt of **international law** or the U.N. Optimally we should operate within the law's letter. However, where the manifest deficiencies of international institutions cause compliance to undermine the law's authority, Britain should have the courage to lead international intervention that is widely recognised to be morally necessary, if strictly illegal.

- In order to sustain military intervention overseas *politically*, the Government will have to persuade the British people that it is right that *they* should bear *this* burden, by appealing to a range of **national interests**. These interests should include Britain's moral integrity and responsibility. Even if the Cabinet were entirely tone-deaf morally, the British public is evidently not.

- It's true that going to war is a very risky and costly business, and it's right that we should guesstimate those **risks and costs** as conscientiously as possible, so that we're prepared to manage a variety of scenarios. But let's be clear: no government can control the future; risk cannot be abolished. And let's also be clear: inaction carries risks and costs, too. If you doubt it, reflect

upon the consequences of the West's surrender of initiative to Russia in Syria—first, military, then political.

- Given the importance of democratic support for sustaining military action, must the Government always seek **parliamentary approval** before it goes to war? No. Of course, where military and diplomatic exigencies permit, it should seek approval in advance. However, in cases of emergency, where delay would jeopardise military success or international alliance, the Government should have the courage to exercise the Royal Prerogative first and seek parliamentary blessing after. The national interest obliges it.

- Whenever possible, we should continue **punching above our solitary weight** by means of alliances, as we almost always have. Even at the height of our imperial power we seldom fought alone and we often paid others to do our fighting for us. Among the troops that Wellington commanded in defeating Napoleon at Waterloo, Britons were a minority. More recently in 1999 Tony Blair—most un-poodle-like—succeeded in manoeuvring a reluctant President Clinton into putting American military muscle behind intervention in Kosovo. In both of these cases, Britain punched above its solitary weight—to very good effect. By all means let's have post-imperial modesty, but let's refuse post-imperial sulking. Just because we can't be Number One any more, doesn't mean that we're nothing. If we really were a little island of no consequence, Russia and China wouldn't bother trying to unnerve us. We continue to have significant power of various kinds, and we have a moral obligation to use that power to best effect, and to maximise it. Punching above our weight is not delusional; it's canny.

- For sure, we need to marry ambition to commitment, but one lesson we should learn from Libya, and probably also from Iraq, is that success requires more, not less; and **efficient success requires more, early**.

- But in order to commit more, we must have the resources to commit: so if we anticipate that legitimate military intervention will sometimes be necessary, and unless we're content to rely upon others to do it, and unless others are content to be relied upon, we need to resource our armed forces appropriately—that is, appropriate to what we expect them to do. This will probably mean having to **increase defence spending** at the expense of some other public service. It's not that we can't afford it: British GDP per head now is about four times what it was in 1945. Yet defence-spending has declined

from just under 10 per cent of GDP in 1954 to barely 2 per cent now (notwithstanding periods of real-terms growth). Meanwhile, social security spending has tripled in the same period from 4 to over 12 per cent and healthcare has almost tripled from 3 to about 8 per cent. We could decide to spend more on defence, if we were persuaded of the need. And since the election of President Trump, the need to help Europe avoid exhausting American patience with its persistent free-riding almost three generations after 1945 has become altogether more urgent.[51]

Epilogue: Syria

To conclude, some thoughts on Syria. Generally speaking, moral obligations to do no harm are stronger than obligations to do good. That's because it's usually possible for us to avoid doing harm, whereas it's not always possible for us to do good.

In war there is a primary and absolute moral and legal obligation not to intend the killing of civilians, and to take all reasonable measures to avoid killing them. Over the past five years the Assad regime has proven itself a serial and brazen violator of these obligations in Syria, as has its Russian ally more recently in Aleppo. The blame for all that lies squarely at their feet, not the West's.

The West's responsibility has been to consider whether it has an obligation to rescue civilians from other people's indiscriminate and disproportionate killing. In Iraq and eastern Syria we decided that we did have an obligation, which we have sought to meet. Regarding Aleppo, it is arguable that we had the power, but not sufficient, immediately apparent national interest. Had Aleppo been geographically located where Amsterdam or Dublin is, our national security interest in settling the conflict would have been much more obvious. In the future, of course, when all of the effects of the war in western Syria and of our passivity are clearer—the permission of mass atrocities, the confirmation of the Islamist narrative that the West really doesn't care about Muslims, the flight of refugees in their hundreds of thousands, the export of terrorists, the rightward lurch of European politics, the additional strain upon a troubled European Union, and the encouragement of further Russian and Chinese aggression—when all these things are clearer, we might then decide, in retrospect, that the risks and

costs of early military intervention by the West in western Syria would have been 'worth it'.

Right now, it seems that the moment for prudent military intervention has passed. So if we ever had an obligation to intervene, that has now lifted—at least for the time being. Nevertheless, another obligation still weighs upon us—namely, to uphold a modicum of international law and order by making sure that those who have brazenly trampled over the laws of war are punished. Punishment is certainly pay-back, but it needn't—and shouldn't—be vengeance. Its purpose shouldn't be simply to make the bastards suffer; it should be to persuade them (and others) to play by the rules, for the sake of sparing future victims. We now need to persuade Russia that what she has got away with in Syria, she shouldn't try elsewhere—say in Ukraine or the Baltic states. Indirectly, we also need to persuade China that what Russia has got away with in Ukraine and Syria, China shouldn't attempt in Taiwan or the South China Sea. Ever since London and Washington shrank from punishing Assad for his use of chemical weapons in 2013, the West has communicated to unfriendly powers that its 'red lines' are just rhetoric. We urgently need to *un*communicate that. We need to decide where our 'red lines' really are, and how to make clear that we are serious about upholding them.

Crucial will be the display of a credible military deterrent. If we want aggressive enemies to nibble at the diplomatic carrot of peaceful resolution—and we *really*, *really*, *do*—then we need to give them sight of a credible military stick. It's an ancient truth, and a sad and ironic one, but it remains a truth nonetheless: if we *really* care for peace, we will prepare well for war.

Endnotes

[1] Gideon Rachman, *Easternisation: War and peace in the Asian century* (London: Bodley Head, 2016), p. 61.

[2] James Kirkup, "Russia mocks Britain, the little island", *Daily Telegraph*, 5 September 2013.

[3] Henry Kissinger, *On China* (London: Penguin, 2012), pp. 22ff.

[4] Matthew Qvortrup, "Moscow vs Merkiavelli", *Prospect*, November 2015, p. 50.

[5] House of Commons Foreign Affairs Committee [FAC], *The extension of offensive British military operations to Syria*, Second Report of Session 2015-16, HC 457 (London: HMSO, 29 October 2015), "Summary", p. 3; "Conclusion and recommendations", 1, p. 20.

[6] FAC, *Syria*, "Summary", p. 4.

[7] FAC, *Syria*, section 21, p. 12.

[8] Committee of Privy Counsellors chaired by Sir John Chilcot, *Report of the Iraq Inquiry* (London: HMSO, 6 July 2016), "Executive Summary", section 828. For an ethical evaluation of the report, see Nigel Biggar, "On the Report of the Iraq Inquiry: A Critical Assessment", http://www.mcdonaldcentre.org.uk/news/critical-reflections-iraq-inquiry.

[9] House of Commons Foreign Affairs Committee [FAC], *Libya: Examination of intervention and collapse and the UK's future policy options*, Third Report of Session 2016-17, HC 119 (London: HMSO, 6 September 2016), paragraph 40.

[10] FAC, *Libya*, 25, 27.

[11] FAC, *Libya*, 38.

[12] FAC, *Libya*, 18, 32. The emphasis is mine.

[13] FAC, *Libya*, 38.

[14] FAC, *Libya*, 37. The Select Committee's claim that Gaddafi's threat to civilians had been exaggerated is, of course, disputable and has been vigorously disputed from both the Left and the Right. Writing in the *Guardian*, Bernard-Henri Lévy comments: "How do you verify 'a real threat'? Should we have waited (as happened in Syria) until 100,000 people had died—200,000, 300,000? And those tank columns I saw and filmed in early April 2011 as they levelled the outskirts of Benghazi—would it have been better to let them gut the entire city? Not to mention Misrata. Imagine how the survivors of that shelled and massacred city ... would respond to the report's strange questions" ("We failed in Libya, but going in was the right thing to do", *Guardian*, 21 September 2016, p. 33). And in *Standpoint* Xan Smiley, former Middle East editor at the *Economist* magazine, observes that the report's claims that the threat to civilians was overstated, and that there was "no evidence" that Gaddafi had planned a massacre in Benghazi in the event of recapturing it, rely largely on the analysis of two academics, "whose testimony was accorded reverential credence" by the committee. Smiley comments: "Tell that to the families of the 1,270 people (a tally documented by Human Rights Watch) who were murdered in one night in 1996 in a prison in Tripoli .... People like Gaddafi, a clown but also a mass-murdered, do not have to 'plan' massacres" ("Cameron gave the Libyans a chance. Pity they blew it", *Standpoint*, November 2016, p. 30).

[15] Joint Business, Innovation, and Skills and International Development Committee, *The use of U.K.-manufactured arms in Yemen* (London: HMSO, 15 September 2016), paragraph 106; "Conclusions and recommendations", 19.

[16] Foreign Affairs Committee, *The use of U.K.-manufactured arms in Yemen* (London: HMSO, 15 September 2016), paragraph 27. The emphasis is mine.

[17] FAC, *Yemen*, paragraph 111. The emphases are mine.

[18] Adam Roberts and Dominik Zaum, *Selective Security: War and the United Nations Security Council since 1945*, Adelphi Paper 395 (London: International Institute for Strategic Studies, 2008), p. 24.

[19] Ibid., p. 76.

[20] Ibid., p. 18.

[21] They point out that no veto prevented the Security Council from addressing the Khmer Rouge's auto-genocide in Cambodia from 1975-9, and that Council members have sometimes acted in spite of a veto, e.g., over the Suez crisis in 1956 (Ibid., p. 37).

[22] Ibid., p. 19.

[23] Ibid., p. 20.

[24] Ibid., p. 28. Edward Luck concurs: "As an innately political body composed of member states with individual interests ..., the [Security] Council's determinations about ... whether a government's ... suppression of some of its population ... threaten[s] its neighbors or more distant states ... may often be controversial" (*U.N. Security Council: Practice and Promise*, Global Institutions Series [London: Routledge, 2006], pp. 82-3).

[25] In his 1974 exchange with Richard Lillich, Brownlie argued that before 1945 history can be found to yield only "one possible genuinely altruistic action", namely, the intervention of 1860 in Syria to prevent further massacres of Maronite Christians. The collective intervention in Greece in 1827, he said, did not use a legal justification; and the American intervention in Cuba in 1898 was justified by the Joint Resolution of Congress in terms of American interests. In the period between the U.N. Charter and 1974 Brownlie found state practice of humanitarian intervention "totally lacking" (Ian Brownlie, "Humanitarian Intervention", in Mary Ellen O'Connell, ed., *International Law and the Use of Force: Cases and Materials* [New York: Foundation Press, 2005], p. 301).

[26] Lillich, "Humanitarian Intervention: A Reply to Ian Brownlie and a Plea for Constructive Alternatives", in O'Connell, *International Law and the Use of Force*, pp. 307-8. As evidence of pre-Charter state practice of humanitarian intervention, Lillich cited collective action against Ottoman suppression of the Greeks in 1827; against Ottoman persecution of Christian Cretans in 1866-68; against Turkish oppression in the Balkans 1877-78; and against Turkish oppression in Macedonia 1903-8.

[27] Brownlie, "Humanitarian Intervention", p. 300.

[28] Lillich, "Humanitarian Intervention: A Reply to Ian Brownlie", p. 308.

[29] Brownlie, "Humanitarian Intervention", p. 303.

[30] Ibid., p. 304.

[31] Brownlie, "Humanitarian Intervention", p. 304.

[32] Lillich, "Humanitarian Intervention: A Reply to Ian Brownlie", p. 313.

[33] Ibid., p. 311. Martti Koskenniemi agrees: a formalistic, strictly textual reading of international law "seems arrogantly insensitive to the humanitarian dilemmas involved" ("'The Lady Doth Protest Too Much': Kosovo and the Turn to Ethics in International Law", *The Modern Law Review*, 65/2 [March 2002], p. 163.)

[34] Lillich, "Humanitarian Intervention: A Reply to Ian Brownlie", p. 313.

[35] Joint Committee, *Yemen*, "Witnesses", p. 61. The report cites the Matrix Chambers' "Legal Opinion" six times—on pages 12, 33, 38 and 39. And it cites no other legal authority.

[36] Christopher Phillips, *The Battle for Syria: International rivalry in the new Middle East* (Newhaven, CT: Yale University Press, 2016), p. 54: "Gratuitous torture [by the Assad regime] in custody was widespread, such as the gruesome case of Hamza Ali al-Khateeb, a 13-year-old from Deraa whose body was returned to his family burned, shot, and castrated—a clear message to deter potential protesters". Hamza was arrested in the early, peaceful stage of the Syrian uprising on 29 April 2011 and his corpse was returned to his family on 25 May 2011.

[37] According to the *Economist*, "human rights groups say that the [Assad] regime has tortured to death or executed between 17,500 and 60,000 men, women, and children since March 2011" ("Assad's torture dungeons", *Economist*, 24 December 2016, p. 75).

[38] See Nigel Biggar, *In Defence of War* (Oxford: Oxford University Press, 2013), pp. 237-40.

[39] Koskenniemi, "'The Lady Doth Protest Too Much'", p. 162.

[40] For a comprehensive ethical assessment of the invasion of Iraq in 2003, and its subsequent occupation, see Biggar, *In Defence of War*, Chapter 7.

[41] See Biggar, *In Defence of War*, pp. 300-5.

[42] Emma Sky, *The Unravelling: High Hopes and Missed Opportunities in Iraq* (London: Atlantic, 2015), pp. 87, 97.

[43] Paddy Ashdown, *Swords and Ploughshares: Bringing Peace to the 21st Century* (London: Weidenfeld & Nicolson, 2007), p. 14.

[44] Ashdown, *Swords and Ploughshares*, p. 213.

[45] Rory Stewart and Gerald Knaus, *Can Intervention Work?* Amnesty International Global Ethics Series (New York: W. W. Norton, 2011), p. xv. For the full account of Stewart's experience in Iraq, see his *Occupational Hazards: My Time Governing in Iraq* (London: Picador, 2006).

[46] Stewart and Knaus, *Can Intervention Work?*, pp. xix, xxi. Stewart's first-hand witness goes a long way toward corroborating Michael Walzer's position: "The common brutalities of authoritarian politics, the daily oppressiveness of traditional social practices—these are not the occasion for intervention; they have to be dealt with locally, by the people who know the politics, who enact or resist the practices…. Foreign politicians and soldiers are too likely to misread the situation, or to underestimate the force required to change it, or to stimulate a 'patriotic' reaction in defense of the brutal politics and the oppressive practices. Social change is best achieved from within" (Michael Walzer, "The Argument about Humanitarian Intervention"

[2002], in *Thinking Politically: Essays in Political Theory*, ed. and intro. David Miller [New Haven: Yale University Press, 2007], p. 238).

[47] Ibid., pp. xii, xiv, xvi, xxvi.

[48] Emma Sky, "I governed in Iraq, and saw the lack of planning first-hand", *Guardian*, 6 July 2016. Sky argues that the so called 'Surge' of 2007-9 succeeded in restoring the political stability that disintegrated in the early years of the occupation. It was the Obama administration's support of Nouri al-Maliki in becoming Prime Minister in 2010, the latter's sectarian policies, and the administration's subsequent neglect that squandered all the Surge's hard-won gains. See also *The Unravelling*, chapters 19 and 20. Con Coughlin agrees ("Blame Obama, not Blair, for today's Iraq", *Daily Telegraph*, 7 July 2016).

[49] The ethics of Immanuel Kant are usually held to be simply 'deontological', viewing the only truly moral act as one that is done out of a pure sense of duty or reverence for the moral law. So conceived, the truly moral act stands in stark contrast to a merely prudential one, which seeks to promote the agent's interests. Whether this common, deontological view of Kant fully captures his thought I doubt. I think that a better reading has him argue that truly moral acts are those where the duty of justice as fairness disciplines—rather than excludes—the pursuit of interest.

[50] Yves R. Simon, *The Ethiopian Campaign and French Political Thought*, ed. Anthony O. Simon, trans. Robert Royal (Notre Dame: University of Notre Dame, 2009), p. 55.

[51] Both demographic trends within the U.S. and the rise of China count against the presumption of future American commitment to Europe's security, at least at current levels. According to Robert Kaplan, "[t]he last of America's Second World War veterans will soon be dead. The European-oriented elites that have influenced foreign and defence policy in Washington are gradually being replaced by bright young men and women—many of them the offspring of immigrants from Asia and Latin America—who bring with them different family histories and emotional priorities. This coincides with the security challenges and opportunities that America encounters outside of Europe, particularly in Asia, where American allies are willing to maintain robust, deployable militaries" ("America will lose patience with European appeasement", *Financial Times*, 7 April 2015).