

Battel Chapel Lecture – 10/28/01

CF: Good evening, ladies and gentlemen and welcome to the fourth in the “Democracy, Security and Justice” series of lectures and discussions. My name is Cynthia Farrar. I’m the co-organizer of this series with John Gaddis who, unfortunately, is out in California this evening and cannot be with us. We are going to be hearing tonight from Father Brian Hehir. He’s going to be speaking on “Order, War and Terror. Establishing Moral Relationships.” In a moment, I’m going to ask Professor Kennedy to introduce Father Hehir, but first, I want to tell you a couple of things. One is that we’re using a slightly different format this evening than we have in the past. I’ve asked Professor Lamin Sanneh, who is the D. Willis James Professor of Missions and World Christianity at the Divinity School and also a Professor of History, to provide the initial response to Father Hehir’s talk. So after Professor Sanneh makes a few remarks, then we’ll open up for questions, as usual, at one of the aisle mikes. And just to remind you that next week at this time, we’ll be hearing from Professor Donald Kagan of Yale who will be offering us some reflections on the present crisis. Now, to introduce Father Hehir, Professor Kennedy who is the J. Richardson Dilworth Professor of History.

PK: Well, I guess I don’t have to explain who I am anymore. I can just go immediately to my welcome to Father Brian Hehir. Brian is one of our country’s most distinguished commentators on international justice and international security. He has written innumerable articles upon those themes. He’s taught courses upon it at Georgetown and at Harvard where he has been serving as Dean of the Divinity School and in many other capacities. He is repeatedly asked to advise the American Catholic Bishops on matters of international peace and justice. He played a leading role in composing the Catholic Bishops’ famous statement upon nuclear weapons in the mid-1980s. He has been awarded many honors and honorary degrees. I count 8 or 9 honorary degrees, I think. His doctorate—his real, earned Doctorate of Theology is from Harvard.

I first met Brian Hehir about ten years ago when the Pew Foundation in Philadelphia asked me to join the Advisory Board of their so-called Global Stewardship Initiative. Another member of the Advisory Board was also a Yale, William Riley, member of the Yale Corporation and President Bush’s EPA Administrator. The organizer of the Global Stewardship Initiative was a plain spoken lady named Susan Seshler. When she saw Bill Riley and myself chatting before the Board meeting, she came up to us and said—and I can remember this and Brian doesn’t even know this—she came up to us and said, “I used to think you two Yale men were very clever people but now that I’ve met Brian Hehir, I realize what genuine cleverness really is.” There’s a backhanded compliment for you. And then, half an hour later, when I heard Brian first speak upon international affairs and ethics, I came to appreciate how accurate Susan Seshler’s observation had been. There is great wisdom and great genuine cleverness.

Today’s topic deeply concerns us because we are a people of conscious. We are, therefore, particularly fortunate to have Father Brian here despite his hectic schedule—this is his 5<sup>th</sup> public talk this week—come and talk to us tonight. Brian, please. [applause]

BH: Thank you very much, Professor Kennedy. It is always good to be introduced by a friend. Indeed, I’ve had the opportunity to speak at Yale on multiple occasions and one of the things that make those invitations compelling is the nature of Yale and the Thomas More Center

to which I've been invited several times, but also deep friendships here with Paul Kennedy and Bruce Russett, who was an enormous help in the Bishops' letter, and John Gaddis. We have been friends for years, all to my benefit. And so, whenever a request comes, I feel an obligation to say yes.

I originally gave the title of "Order, War and Terror. Establishing Moral Relationships." The more I thought about that, I didn't like the second half of the title. And I think it's probably more appropriate, to describe what I'm going to try to do tonight, to describe the talk this way: "Order, War and Terror. Drawing Moral Lines." Basically, I want to work with these three terms in the following way. By "order," I mean international order. Now, this is commonly understood as the relationship among sovereign states in a world in which none acknowledge a central authority and only abide by a law when they choose to. And so the problem of international order is, can you create any order in that kind of political community? But order, also, has undergone substantial change in recent times. So you have to start with the first, original idea of order among states and then build in the revisions that have been necessary in the last two or three decades in order to understand how those states relate to each other. And as one piece of those revisions of state relationships, there comes to us, more recently, the question of how we think about religion as it cuts across the order of states. So order, for me, means that: the standard model of state relationship and the revisions that have been necessary, both intellectually and academically on the one side and in the order of diplomacy on the other, to address a changing form of international order.

Secondly, I look at war as both an instrument of order and disorder. The empirical phenomenon of war involves, on the surface, great disorder. It always involves killing, destruction, suffering and change. And so there's a way in which, at the surface of the problem, war is an instrument of disorder in the orderly process of state relationships. But there's another way to look at war: war as an instrument of order. Precisely, in an international system where each state believes it has the right to use force, there is a compelling need to try to make war something that is a rule governed activity. And the effort to do that stretches back at least eight centuries. Thomas Aquinas, in the 13<sup>th</sup> century, thought about war the way we would think about a movie on the West of the United States in the 19<sup>th</sup> century. For Aquinas, there were criminals in the community who would commit aggression, and then you would organize the rest of the community in order to round up the criminal. So war, for him, was a penally governed activity. Today, under the auspices of the Security Council, there are provisions to make war both an enterprise that is governed by moral and legal restraint. So war can be an instrument of disorder or order in the life of states.

Finally, terror or terrorism. What strikes one immediately about that is that it doesn't fit either, first, the order among states, because terrorists, almost by definition, are non-state actors. And terrorism resists any idea that the use of force is a rule-governed activity. So these are my terms: the order of states, war as an instrument of disorder and order, and terror as something that, in a sense, stands against both the order of state relationships and a conception of war as a rule governed activity. I plan to address these three things in the following three sets of comments. I want to talk first about religion and international order. I'd like to talk secondly about ethics and war. And then I would conclude with remarks on this war that is presently surrounding us.

First, religion and international order. If one tries to understand the order of states, there is, it seems to me, a two-stage process of development. There is the emergence of the modern order of international relations arising out of the 17<sup>th</sup> century when the sovereign state was recognized as the basic unit of world politics, when the sovereign state assumed that it had the right to use force whenever it fit the interest of the state, and when, in order to keep minimal peace among sovereign states, the other element of modern international relations was the principle of non-intervention that states were to make war only because of the external behavior of other states. This is the first stage of the emergence of modern international relations. The second stage is the development, after World War II, of the U.N. system or the U.N. regime. In one sense, it did not fundamentally tamper with either the notion of the sovereign state as the basic instrument of order. Nor did it tamper with the principle of non-intervention. But it sought to create a framework around states and in their relationships with others that would seek to strengthen the notion that you could place legal and political and implicitly moral restraints on the use of force among states.

Now, if one takes this framework of the modern state, couched within the context of the U.N. charter, the U.N. regime, as a starting point, the next step in understanding changing patterns of international politics is to see how the elements of this system have been challenged over the last 30-40 years. There have been challenges, first of all, to sovereignty. Sovereignty has been challenged by the regime of human rights that arose within the context of the U.N. The home of sovereignty, the U.N., was challenged head-on by the assertion that human rights abuses within states were the business of other states. A second challenge to sovereignty, of course, is increasing interdependence carried forward by the logic of globalization, both of which tend to erode but not to eviscerate sovereignty. The challenge to sovereignty, in a sense, dates back to the middle of the 20<sup>th</sup> century with the emergence of the Human Rights regime. The challenge to the principle of non-intervention is more recent. That tended to become an explicit source of discussion, dialogue and debate in international relations in the 1990s. So sovereignty has been challenged and relativized, non-intervention has been relativized. Neither of them have been eliminated. And then the third element that challenges the modern conception of states and the U.N. system, of course, has been the rise of transnational actors. Transnational actors are ancient in world politics. The British East India Company qualifies as a transnational actor. But what I refer to, of course, is the increasing number, density, scope and influence of transnational actors since the 1970s. They tend to have the following characteristics. They are based in one place, present in several places, have a trained core of personnel, and a single guiding philosophy. This counts for the World Bank, IBM and the Jesuits. All of them can function as transnational actors. All of them, to some degree, can challenge the state, to some degree, by their ability to function across national boundaries. So the pattern of international politics, while stable in some ways, states' non-intervention and the ever-present possibility of war, has been modified both by the emergence of the U.N. system and by patterns of change and pressure within international politics. This serves as a background for remarks about religion and international politics. Because one of the characteristic elements of the modern era of international relations, emerging from the 17<sup>th</sup> century, was an attempt, in a sense, to take religion out of international relations. The reason for that was easy enough to acknowledge. One had lived through 100 years of religious war and, therefore, the sort of founders of the so-called Westphalian system of modern states, sought to extract religion from the reasons that states could claim as causes belli. So there was an effort, in a sense, to secularize world politics. The consequences of that over the last 300

years, in both the study of international relations and in the way in which states organized their foreign policy bureaucracies is that religion, in a sense, had no defined place on the map of world politics, either before or after the emergence of the U.N. system. There was a sense that you could treat religion as a black box. That is to say, in order to understand world politics, you did not have to understand religion as a public force with the capability to produce public consequences in world affairs. The difficulty is that, if one looks at world politics only in the last 25 years, this assumption that religion can be treated as something that need not be understood in order to understand the world runs flat up against a series of events where religion, clearly, has been a major public force. How account for developments in Latin America over the last 25 years without the Catholic Church? How account for the collapse of the communist empire in Central and Eastern Europe without the Lutherans of Berlin or a Polish Pope allied with Solidarity? How account for peaceful transition in South Africa without a Bishop Tutu? And why can you simply not reduce the city of Jerusalem to a question of city planning. What is it that makes it impossible to eliminate the causal effect of religion in all of these cases?

My first point, therefore, is, in a changing conception of international order, while we have attended to other changes, we have not yet systematically attended to the question of the role of religion in international politics. It is easy enough to simply criticize modern textbooks of international relations which hardly ever, virtually never, have systematic treatment of religion and politics. Or easy enough to criticize bureaucracies of states that have no place where there is an identifiable tracing of the role of religion in world politics. But we need more than that. We need a positive, systematic, constructive effort to relate the structure and substance of the great religious traditions of the world as they operate trans-nationally and as they operate locally. How are we to relate them to the structure of world politics? One can at least sketch some sense of what is needed. In a world of increasing influence of trans-national actors, the great religious traditions, in varying degrees of institutionalization, all have trans-national capacities.

Secondly, these religious traditions all have, in some form or other, ideas, institutions and communities, each of which are potentially relevant to politics within different countries and in a trans-national way to the development of world politics.

It is also, finally, necessary to say that religion as it intersects with the political order has always had a certain ambivalent quality about it. Religious conviction and religious vision can help people to transcend differences, can help people to adopt a perspective that results in a sympathetic understanding of the other. Religion can broaden people's sense of motivation, conviction and commitment and service. But it is also true that religion can solidify differences, deepen differences, make it more difficult to come to agreement in political negotiation. One should not be romantic about the role of religion in world politics. My basic point is, one should not be ignorant of it. And, therefore, the understanding of religion in a systematic way in the study of world politics is what I take to be one more example brought home by September 11<sup>th</sup>, if you will, of what is needed in our understanding of the world today.

Let me turn, secondly, to this question of ethics and war. I have described war as both an instrument of disorder and order in world politics. Now, how does one understand war from the perspective of moral analysis. Once again, one runs into a kind of skepticism that one finds sometimes when one seeks to introduce religion into the discussion of world politics. I have

taught “Ethics and War” for thirty years and I have come to believe that anyone who does this for a lifetime ought to always remember what Gandhi said. Gandhi said many things, but this is the one I refer to. When he came home from his first trip to the West, they asked him, “What do you think of Western culture?” And Gandhi said, “It would be a good idea.” And I think that is the way most people think about ethics and war. It would be a good idea if there were some ethics in war, but it is highly unlikely.

And yet, again, it seems to me that whether you read Thucydides or you read Tolstoy or you read Churchill, there has always been this sense that wars are not simply fought and won or lost. Wars are measured. Wars are measured because they are such a deeply rooted human activity with enormous human consequences. There is almost an inevitable instinct, after the war, at least, and sometimes during it, to measure what is done by moral criteria. So the question, how does one measure war by moral criteria, again is a question that is very much with us in these days after September 11<sup>th</sup>. It is not due to September 11<sup>th</sup>. This is simply one ore chapter in a long history of measuring wars as well as fighting them.

I talk about “ethics and war” because there is not a single ethic of war. There is, indeed, a pluralism of perspectives about how one relates ethics and war. Some would argue that the first instinctive reaction of human beings, when asked to think about ethics and war, is to adopt the position that says that all uses of force are morally wrong, that you never can fit the use of lethal force as it occurs in war. And as it occurs in war is as a systematic, organized, conscious killing of human beings, that this can never fit within the moral order. And so there is an historic position, religious and philosophical, which would place war outside the moral order.

There is a second position that, in a sense, is the direct opposite. It also places war outside the moral order but for a very different reason. This is the position that is represented by some versions—and I stress “some versions”—of realism. Not all realists hold the position I am about to describe, but some do. And, as Michael Waltzer points out, if you want to know where this position can be found, it is classically found in Thucydides’ *Peloponnesian Wars*, in the famous Malayan dialogue. Here the Athenian generals confront their adversaries before battle. The Athenians are, clearly, going to win. So, in a sense, they give their adversaries one last chance, and they come and address them in the following way. They say, “Come now, let us have no talk about justice. Let us talk about the world as it is—realism. And in the world as it is, the strong do what they will and the weak do what they must.” Implicit in this position is the idea, again, that war does not fit within the moral order. Only this is, now, a very different case than the pacifist case. This case says that, when you come to the question of war, the stakes are so high, the nature of the enterprise is so severe, and the dynamic is so powerful that there is no room for moral restraint. Indeed, the only morally right thing to do is to fight the war, to win it, and then to return to a situation of civility where moral principles can again be invoked. So, in a curious kind of way, this position also places war outside the moral universe.

The third position—the one I would hold myself—essentially differs from the first two. It says, in moral terms, that some use of force, including military force can be morally legitimate, but not all uses of force can be morally legitimate. Indeed, it distinguishes between a morally legitimate use of force and mass murder. So the middle position is different from either pacifism or realism, and the essence of this middle position essentially argues that, if force is to be used with

moral legitimacy, it must always be used within precisely defined limits. Now the limits here involve limits on purpose—for what purpose war is undertaken. It involves limits on methods—the means by which war is pursued. And it involves limits on the intention—both the personal intention and the logic of the policy that guides the use of force. The notion of intentionality takes us back to one of the most insightful statements of Augustine who stood at the origin of this tradition. In a sense, Augustine reflected some of the view of the world of a realist. Augustine said, “War is the result of sin and war is the remedy for sin. You would not have war unless people were moved to do evil and, in a world in which people are moved to do evil, you need war, under certain circumstance, as an instrument of order,” as I have described it earlier.

But it was also Augustine who said that the greatest moral danger of war is not killing. The greatest moral danger of war is the passion it arouses within those who must pursue war, or perhaps support it. And it is that passion—what he called the *libido dominande*, that is, the great threat morally posed by war. So a morally legitimate use of force must be limited in purpose, methods, and intention.

The function of this moral framework for assessing the use of force is twofold. A moral argument on the use of force is designed to give the citizens of a political community a framework for analysis of the policy they are being asked to support or to pursue in the service of the state. John Courtney Murray, who spent some time on this campus, once put it this way: he said, “The function of the moral doctrine on war is to set the right terms for public policy debate, the right moral terms for public policy debate, the ability to bring together both the imperatives of power and the imperative of principle in an integrated way. That is the goal of the moral argument about war at the level of policy. There is, however, a second function of this effort. It is to provide not only an ethic of policy. It is to provide a personal or professional ethic. That is to say, it is to guide the conscience of the individual, whether the individual be soldier, ambassador or citizen. In other words, it is possible that a state may pursue a policy, that the policy comes under critique on moral basis, but that the moral critique, in a sense, loses—it does not influence the policy. At a second level, therefore, it is always possible and sometimes necessary for individuals to say to the state, “I will serve in the cause of justice. I will not serve in this cause because it violates the moral order. This, then, is the two-fold function of developing an ethic of war. As I said at the outset of this second part of my remarks, to some it is contradictory or useless, really, to try to set the enormous dynamic power of modern warfare within the moral universe. But the great possibility of developing an effective ethic of war is that both the policy of the state and the actions of individuals in the time of warfare are simply not left to brute force.

Moreover, the point to be made here is that it is not simply the Christian tradition from which I have been arguing that has developed this set of norms. A fascinating study done by a professor at Mount Holyoke, Salil Hashme, who took his doctorate in government at Harvard recently, is on the Islamic doctrine of just war. So in an era in which jihad is thrown about, left and right, in the press, it is useful to have a Hashme around that can show us that the lines of argument within scholarly Islam followed much of the same direction as the Christian doctrine on warfare. Some force is legitimate but not all force is legitimate.

Now, what is interesting, as we stand in the year 2001, faced with the problem before us, generated by September 11, is that this conception of the ethic of war, while it remains stable in its basic structure, in fact has had to adapt itself to different kinds of warfare. The standard model of the ethic, again, paralleled the standard model of world politics. War was an \_\_\_\_\_ of arms undertaken by sovereign states. Indeed, limiting the use of force to the sovereign state was an attempt to set limits on how often people could declare war. And war was to be a “rule governed activity.” It was a recurring phenomenon, not necessarily to be exorcised from world politics, but it was to be governed by some set of both strategic and legal rules. Now, that standard model of the ethic of war has had to undergo three adaptations in our lifetime. It had to adapt to the nuclear age and change was necessary there. It had to adapt, more recently—indeed, we are in the midst of adapting it to the question of humanitarian military intervention—the kinds of questions that faced us throughout the 1990s, from Bosnia to central Africa to Haiti. And now, at the beginning of a new century, there is need of adaptation of the standard model to the phenomenon of terrorism which, as I indicated earlier, neither fits easily into the standard model of state behavior, nor does it fit easily, if at all, into the model that war is a rule governed activity.

A quick sense of how this moral tradition has been challenged and changed. The nuclear age challenged the central assertion of the ethic of war. I have said, the central assertion is that any morally legitimate use of force must be a limited use of force. But, of course, the nuclear age proposed unlimited use of force. Indeed, it was a kind of turning point in the history of the tradition when one came in the late ‘40s and early ‘50s to appreciate just how different nuclear war would be from any other form of force we had known. Up until that time, one could say that the Western world, at least, had been taught to think about war, politics and ethics by an unlikely coalition of experts. One was a 19<sup>th</sup> century Prussian general and the other a 5<sup>th</sup> century African saint. Klauswitz, the Prussian general, said, “War was the extension of politics by other means, a rationally governed activity that could be restrained and directed.” Augustine said that, “War was not only rational. It was moral.” But the nuclear age challenged the synthesis of Klauswitz and Augustine. This kind of force seemed neither rational nor moral. And, indeed, one had to change the way one thought about the ethics of war. That is to say, up to the nuclear age, the ethics of war was always about the ethic of what happened when you went to war. But the central question of the nuclear age, the central moral question was not simply could you ever use these weapons in any limited way. There was also the moral question of the way we kept the peace. If you thought you couldn’t control these weapons, then how could you stand ready to use them? And if you did stand ready to use them, once again, did you not, by your intention, implicate yourself in the willingness to do murder. Those were the kind of questions that the nuclear age posed.

In the 1990s, humanitarian military intervention posed a very different kind of question for the ethic of war. All the effort of the 20<sup>th</sup> century in moral discussion of war was how you set limits on the use of force, how you restrained the going to war because war had become such an awful activity in the century that Raymond Ahron called “The Century of Total War.” But then, in the 1980s, after the collapse of the Cold War and the emergence of situations within countries in which not only massive violation of human rights, but actual literal fulfillment of the characteristics of genocide began to take place, indeed, the moral argument shifted. The moral argument were people raising questions like, “Should we not obey a duty to use force in order to

suppress human rights violations?” In order to do that, you had to override the existing U.N. and international law conception of the principle of non-intervention. By the end of the 1990s and the beginning of this century, we were in the midst of a deep and significant debate, which needs still to be carried on, about revising the principle of non-intervention, expanding the duty that states had an obligation to use force in the face of human rights violations. This was the second accommodation of the ethic to a new kind of political military situation. But at least, so far, we were not able to come to solid conclusions on humanitarian military intervention before we now have been confronted with yet a third reason why the ethic of war needs to be adapted in order to be useful. Terrorism, embodied in the September 11<sup>th</sup> attack on New York and Washington, has been a neglected topic in both the empirical debate and the ethical debate. At least it can be said at the empirical level that there were people saying, “We ought to pay attention to terrorism,” various commissions, whose studies were not read, various individuals who proposed that this was, in fact, the coming topic. But in ethics, there were hardly anybody, including your humble servant, who were looking at this question of terrorism. I’ve taught the course on the Politics and Ethics of War, as I say, for thirty years and it is remarkably thin on the question of terrorism, and that’s to be gentle with my outline.

Well, then, what have we got? What kind of adaptation is required to adopt the standard model of the ethic of war, state governed, rule governed activity to terrorism? A quick description of terrorism, I think, can be distinguished in terms of the agent, the motive and the method. The agent of terrorism is almost always a non-state actor. Now, it is possible, as my colleague at Harvard, Jessica Stern, has said, that there are terrorist states, and I’ll return to that in a moment. But normally, it is a non-state actor. Secondly, the motive of terrorism can either be narrowly defined—secular political goals, or it can be broadly defined—ideological goals including religious goals. And those two different types of terrorism are often very different in their manifestation and their purposes. Thirdly, what ties most terrorists together anyway—I hesitate to make this universal—but what ties most terrorist together is a method in which the terrorist, by definition being a non-state actor without a standing army, is driven or chooses to violate the central ethical and legal constraints on the use of force and precisely to make his or her targets precisely those targets that are not to be attacked—civilians.

We are faced then with what happened on September 11<sup>th</sup>, which was a massive attack on civilians with 6,000 civilians being killed at one time. And so we come to, then, the phenomenon that we have before us, and the third part of my lecture: the question, not of the ethics of war generally or religion, ethics and war, but this war. Let me simply summarize it as the beginning, the middle—where we are now—and the future of this process. The beginning, of course, September 11, 2001. The dimensions of this, I think, might be summarized as personal, social and global. The personal consequences of September 11<sup>th</sup> have been, I think, to introduce a new sense of vulnerability into the lives of the citizenry as a whole—in a sense, terrorism made possible by the emergence of transnational society and transnational actors who can as easily be terrorists as they can be religious communities or businesses. Terrorism is made possible by the development of modern international, transnational life. And it is also made possible by highly developed societies that propose multiple soft targets—soft in terms of civilian presence and soft in terms of highly sophisticated technological systems that can be taken out and that can render a society inoperable. At the personal level, we sense our vulnerability in a way that, perhaps, we did not before. At the personal level, also, of course, we have seen extraordinary levels of

personal heroism that is also part of the story. At the social level, the event of September 11<sup>th</sup>, again, is two-dimensional. There has been a kind of community building that is almost instinctive as people gather for multiple events—religious, civic and otherwise. Perhaps, in order to overcome our vulnerability or to share a sense of solidarity, or to provide support in the only way we know how—to simply be with others. But there is also a dimension of the social that must be carefully watched. When any society comes together in solidarity, there is always the danger that we come together against the other. And so there has been extraordinarily interesting attention given to an attempt to prevent ostracism and discrimination. I have a Muslim colleague on the faculty at the Divinity School whom I was on a panel with the other night and she said, “You cannot understand what it meant for me, as a Muslim, to have the President of the United States go to a Mosque and say what he said. The fact that he said it and that others have said it, unfortunately, have not ruled out all acts of discrimination, but clearly, if one takes the view of where we were in World War II and where we are today, we certainly are trying harder in a different way on this question.

And then one comes to the global question, which is the policy question. And now we are back again to ethics and war and religion and war. The first question to ask, since the United States is now at war, is, is there a just cause? That is always the question of purpose. It is that that opens the possibility for a morally legitimate use of force; precisely because not all uses of force are morally acceptable. One has to be clear about what does legitimate the use of force. My judgment is that there clearly is just cause to respond to what happened on September 11<sup>th</sup>. The scope of the attack, the destructiveness of the attack, the fact that 6,000 civilians were the object of the attack, and also the fact that there have been promises since the attack that more is in store of the same kind. All of this creates, in my mind, a kind of standard treatment of just cause. At the same time, having a just cause does not necessarily, then, give you the right to go to war or certainly to go to war within certain ways. And so, I take one of my not favorite columnists, but a columnist that I read the way I do calisthenics—it is necessary to do it, there is some good outcome from it, but it’s never pleasant when you go through it. And that is Charles Krauthammer of the *Washington Post*. Krauthammer argues that this is a war of revenge and deterrence, to which I respond—because Krauthammer often says that he writes with moral acuity—I respond that it cannot be a war of revenge if it is to be morally acceptable, but it is to be a war of deterrence. That is to say, the purpose of the just cause is to prevent this from happening again.

There is a question, then, of religion and war. Religion has been invoked by the people who perpetrated the attacks on New York and Washington. But that, then, raises the question of whether the religion they invoked is the religion that really exists under the name of Islam. We have had multiple scholars of Islam disown these attacks. But it is necessary to keep doing that. At some times, I hear it said, “This has nothing to do with religion so to even talk about religion and be drawn into the discussion is to admit what everybody should recognize from the outset is not true—that this is not authentic Islam.” But I must confess, I’m of a different view of that. I think it is necessary for religious traditions to defend their truth, to defend their limits, and to ostracize those who seek to use religious tradition for purposes that have no meaning within them. For example, it has been the case that abortion clinics in the United States have been bombed by people who oppose abortion. I oppose abortion on moral grounds as part of the discipline of my own community and my own religious moral tradition. But when abortion

clinics are bombed, I find it necessary not simply to say it's self-evident that these people are not Catholic and Christian. I find it necessary to say it explicitly, concretely, and with moral analysis so that one persistently builds up in the mind of the public a clear differentiation between what the authentic religious tradition is and what it is not. I think that is necessary to do at this time—to give voice and platform and support to scholars of Islam who can do this, but also to encourage them and to compliment their efforts to say what is and what isn't the relationship of religion and war. Because, while there has been a notion of holy war in both the Christian tradition and in some versions of Islam, it is necessary to say there was an advance in the just war doctrine when holy war was ruled out of order. It took time, but it did happen.

Now, turning from the fact that there exists a just cause to the rest of the policy of the United States, how does one proceed. Just cause, by itself, is not sufficient basis to say, "You have the right to use force." You have to answer other questions. There was, for example, just cause during times of the Cold War when force could have been invoked; for example, the Soviet invasion of Hungary. But it was not responded to in force because—although just cause existed—there was no way to think about a proportionate response that did not risk nuclear weapons. In the debate about . . . [End of Side A]

. . . to say there was a just cause not to allow Iraq to invade and then to take possession of Kuwait. But we had long and useful debates, I think, about the limits of what was to be done in expelling Iraq. And while they were not totally successful, they were successful in setting some limits. So it's necessary to get beyond just cause to other questions. So the question is, what should we ask about terrorism? We should ask, I think, who, what and how we are pursuing the policy. That is to say, who is the target? The President has said that the target is terrorist groups and states that support them, so there's a kind of bipolar definition of who the adversary is here. I think it is necessary to make other distinctions. I think it is necessary to distinguish terrorist groups, states in which they live because terrorists, by definition, will have to live somewhere. And then, thirdly, the civil society that exists between the state and the terrorist group. I think this distinction is necessary because, if you can identify with evidence—and standards of evidence are important here in the moral argument—that a terrorist group is in a given place, you still have not, *ipso facto*, identified that the state involved supports the group. In Afghanistan, I think the argument is fairly clear. But if terrorist groups really do exist in 60 states throughout the world, it is not self evident that 60 states are simply supporting terrorist groups. So the first distinction is that a terrorist group does not implicate the state automatically. Some states may tolerate what they cannot expel. And then, even more importantly, even if you can identify the terrorist group and the state, then the civil society is never, never simply to be swept into the definition of the target. Those displaced Afghanis who are neither the state nor the terrorist group simply are not open to direct, purposeful attack under any circumstances at any time in any way.

Now, what is it that we are pursuing? Is it a war? Well, people say it is and then immediately say, "But it's not a war like any other war." Michael Howard, also, who inhabited this campus and whose readings I always find insightful, says that it is closer to a war on drugs than the war that we have commonly understood coming out of World War II or the Gulf War. The choice of the drug war may not be terribly felicitous in terms of its success. But the point here is, the nature of the enterprise one is involved in, it is not reducible to geography, tanks and territory.

And then the question of how the war is to be pursued and, once again, it is not simply a question that, from a moral point of view, you would want to say that military force must be limited. It is also the case that, from the point of view of effective strategy, people have wisely said and need to keep saying that the military component of an effective strategy can only be a slice here, that other forms of activity—police activity, intelligence, judicial restraint—all of these, in the long run will probably be much more important than the military dimension.

How have we proceeded? Well, at the beginning, there were some misstatements—misstatements, I guess, is the best way I can put it; talking about ridding the world of evil is not a policy objective. That does not go with the job description of elected officials because, as Reinhold Niebuhr once told us, the only Christian doctrine for which there is empirical evidence is Original Sin. Therefore, the notion of ridding the world of evil expands beyond the realm of what is legitimate policy.

Secondly, ending terrorist states. Once again, the question is, if you identify 60 states as inhabited by terrorists, ending terrorist states endangers international order. And then, thirdly, passing reference to crusade, which was quickly revoked. The point is, these things were all taken back and I use them not to be smart, but simply to indicate that there's a certain learning process that needs to go on.

Let me come now to the final point that I would make about the policy and that is the means and methods—namely, the bombing policy. The criteria here, under the ethics of war, are two. First, non-comminate immunity—civilians are never to be directly targeted, never to be directly attacked—that is to say, purposely and intentionally. The reason for this is that the only thing that justifies the use of force morally is that you need to stop someone doing evil and no other method is possible. Therefore, those who are not doing evil—purposely, consciously, materially—are not to be attacked. This is fundamental. So if you violate non-comminate immunity, you threaten the entire enterprise of the policy.

The second criterion is proportionality. Even if you do not violate non-comminate immunity, there still is a moral restraint on how much damage you can do in pursuit of a good objective. These two criteria are different in their nature and they have to be used in tandem, but they are the two principal ways that you assess the ethics of policy. Now, how should we look at existing policy? I'd say, first, there is not, to my knowledge, evidence that civilians are being directly, purposely targeted. So if ask: Can you indict the policy on non-comminate immunity in the way I would have indicted U.S. policy in World War II in obliteration bombing on the basis of non-comminate immunity, I do not think it can be indicted on that basis. There is a long story here, you will be happy you will not get. But the learning curve from World War II until today in U.S. policy and in the U.S. public about setting restraints on the direct targeting of civilians, I think, is heartening and encouraging. I think it is true that in strategic planning and in the personal sense of obligation that people hold in the military, direct attacks on civilians are not regarded as either permissible or effective or tolerable. That leaves you then with the question of proportionality. In spite of the fact that you don't target civilians, are you observing the limits of proportionality? Here, a memory from the Gulf War. In the Gulf War, I do not think that civilians were directly targeted. Indeed, I've had occasion both to listen to pilots and to read about planning that illustrated that people put their lives in danger, flying under orders, seeking to limit civilian

damage. But the fact is that we struck targets that were best described as dual use targets during the Gulf War. We wanted to take out the communication system, which was altogether necessary during the war. But when you take out the communication system, you have to take out the electrical grids, too. When you take out the electrical grids, you also take out the water supply and the electricity that keeps the ventilators going in the hospitals. So there is a problem here about unintentional impact on civilians. And that is a second step. Now, on that one, there clearly have been civilian casualties—not directly targeted civilians, but civilian casualties where homes have been struck, where hospitals, we are told, have been struck, where the Red Cross centers have been struck, where the U.N. has been struck. Now, here, you have to look at the question of some human error in the so-called fog of war. If you hold the ethic I am holding, you have to accept responsibility for the fact that some civilians will be killed when they are not doing evil. War is simply not that perfect—that you will get away with no civilians being killed, even if you never target civilians. But the question is, how many? And it is not enough to keep apologizing for mistakes. That will not do over time. It is not to say that any civilian that gets killed automatically makes the policy invalid. It is to say that there is the need of a third step that is necessary, besides non-comminate immunity and proportionality, to demonstrate clearly that civilians not only are not targeted, but that their lives are valued and we are willing to alter policy in regard to this. And this third step is what kind of risk are you willing to put civilians under. This is a complicated policy question because it's going to be a trade off between the risk to civilians and the opportunity of certain strikes that people would like to make in areas near civilian territory. And so, this is the kind of question that I think needs to be pressed and pushed at the present time. It is precisely at the intersection of proportionality and risk to civilians that we need a more fine-tuned conception of what is being pursued in this policy.

This, then, is the kind of thing that we are faced with in assessing the ethic of the policy. Just cause, to my mind, is clear. Some use of force is permissible. But not all uses of force, and there is a questionability that arises as civilian casualties continue as an accompaniment of policy.

The future here is open. There is the question of the nature of the struggle that we are involved in. Once again, to call it war in the narrow definition of war, I think, will be to mistake what needs to be done, both strategically and ethically. So there is an element of all of this that is not well defined by either war or by diplomacy. Something in between is where much of what is going ahead lies. And we are not clear on all the ethics or the politics of all of this. The United States has had an executive order that ruled out assassination of foreign leadership figures. I have always thought that was a very wise policy because, if you set lose the policy of assassination, there is no boundary at which it stops. At the same time, in terrorism, where you're talking about a network of non-state actors, the question of who and who isn't open to have their lives taken, it is precisely the foggy question. Again, in interstate warfare, you may rule out the assassination of foreign leaders in peace time, as we have in the past. But that does not mean that, when you go to war, that the leaders of states are immune from attack. And there have been arguments that if you could take down the leader of the state, you wouldn't have to fight a whole war. I still would argue against assassination of political leadership, but you can see where this gets somewhat fuzzy in the present circumstance.

Once again, in terms of the future, the argument is that Afghanistan is the beginning. There is no doubt it is the most urgent place. But when you go from Afghanistan to 60 states, what is one

talking about. Clearly, not talking about disrupting 60 states. So there will be questions about what is the next step. To my mind, the heavy debate will take place around Iraq, and Iraq brings the question of evidence back into play again. There is a question, if you can demonstrate evidence of Iraq as a terrorist agent—as an agent of terrorism—that is one question. But there are those in the policy debate who have been dying to get at Iraq, to strike at Iraq, and seek to use the present moment as simply an opportunity to take advantage of that time. To my mind, that would be both unjustifiable and unwise, although I am not saying that Iraq has nothing to do with the question of transnational terrorism.

These, then, are the kinds of ways I see the relationship of order, war and terror being related. Order is a minimal definition of goals in international relations—but extraordinarily valuable. Terrorism threatens order. War threatens order, too, but, as I have tried to argue, can also be an instrumentality in restraining evil and building order. But neither order nor war can exist without a moral framework. And a moral framework means that, even in pursuit of a just cause, even after having been grievously attacked, one has to set limits to how one pursues necessary objectives. If one does not, then even successful policy lacks legitimacy and that's true at the level of the state and the citizen. Thank you very much. [applause]

CF: Professor Sanneh will now make a few remarks and then we'll open it up for questions.

LS: When I was asked to respond this evening to the remarks of Father Hehir, I was sent a copy of a text which is an article to appear in *America* magazine. So, in the last several hours, I composed a response to that. But it happens that the response I wrote to that article does bare on what has been said tonight. The paper itself for *America* magazine is called "What Can and Should be Done," and there are elements from that paper that have been incorporated into the remarks tonight. My remarks actually focus on religion and the international order. And to go back to the original formulation of the topic tonight—"Order, War and Terrorism"—I am, in a sense, concerned with order and with terrorism only as a phenomenon of fundamentalism. In other words, I make a distinction in my own work on fundamentalism and terrorism. So here are my remarks. I need to say that I spent a good deal of my professional life studying the Muslim world, living in the Muslim world, and having relatives in the Muslim world and friends. And just several hours ago, I was on the telephone to one of my relatives, discussing the coming of Ramadan, the onset of Ramadan in the Muslim world. But in the wake of the terrorist fury unleashed by bin Laden and his Islamic Al Qaeda organization, Western analysts have been scrambling to help us comprehend the deeper issues, that Father Hehir referred to, that have brought about a violent collision between two adjacent cultures, and what sort of response the West, and the United States in particular, might make.

Much of the discussion has focused on what is wrong with America, or with what America has done, or not done, in the world. And this view, we might call the "Black Arm Band" approach to history. It says that the sins of America are being visited on their children and that a little repentance and humility should go a long way toward modifying the enemies of America. The people who wear such Black Arm Bands can be found, I think, on both the right and the left of the political spectrum. Gary Falwell and Pat Robertson on the right, for instance, say that the sins of their political enemies helped make September 11 happen, and that God gave America what it deserves. Muslim spokesmen appearing on CBS Television on September 30<sup>th</sup>, offer a

variation of this theme by saying that bin Laden and his terrorist agents are the creation of America itself. From the left are numerous voices including, actually, a list of 400-500 names on a petition circulated by *Sojourners* magazine, who blame the attacks on U.S. global unilateralism, its failed domestic social and economic programs, and its military industrial complex. The left and the right, but not the CBS Muslim spokesmen, prescribe as remedy a package of measures ranging from disarmament, anti-poverty programs, economic reparations, international partnership, to environmental sensitivity, home front security and moral reform. For all these groups, however, Ground Zero becomes common ground. The picture, I think, that emerges from this narrowing of grievances is of an America that is alone in this business. America's sins of omission and commission account for America becoming the target of international terrorism. And so the answer must lie in actions that the U.S. takes or should take. Here, the problem and its remedy actually develop to another form of American exceptionalism so that NATO and the coalition partners are just fig leaves, you might say.

Now, this analysis seems to me lopsided because missing from it is the other side, the side of the terrorists, that is—who they are, what their ideology is, what their agenda is—if they have any, where they are based, who shelters them or supports them and to what extent, who else they have targeted, apart from the U.S., and how amenable they are to the remedies now being proposed, including the military option. Do these terrorists dance to their own tune, or are they an American epi-phenomenon, created by the actions of America abroad? Now, these are questions worth asking, even if we don't know the answers to them all, and even if we don't have time to consider them in detail. But maybe—and this actually goes back to what Father Hehir has said about the role of religion in national and international life. Maybe the lopsided of our analysis so far is due to the limitations of a secular culture that finds it difficult to appreciate the claims of the fundamentalist when such claims usually \_\_\_\_\_ as the mainstay of their anti-Western propaganda. But we should, I think, take them at their word, at least for starters. Religion in the fundamentalist discourse is not the weekend hobby we know in America of going or not going to church on Sunday. Rather, religion means using political power as a channel of truth on the grounds that God, the law giver, comes down on society as the place of enforcement. The fundamentalist opposition to America is that without any sense of religious obligation, American has appropriated a sense of political dominion that had once been Islam's. The U.S. has extended its influence over the entire world, not excepting the Muslim world, not by pursuing a policy of suppressing religion, but by requiring no religious mandate for its policies. Americanization, even when couched as humanitarian aid, has meant secularization, has meant, in effect, the arrogant display of power, including the prerogative to air-drop food packets without divine acknowledgement. And that represents a direct challenge to the fundamentalist position of the divine nature of power and of human enforcement of it. And so, when conscious-stricken Muslims see their public spaces filled with the unwholesome content of American mass, even fantasy, culture, they recoil in outrage and look for a religious response. For the fundamentalists, poverty is not the issue, but the surge of a global consumer tide bearing marks of American dominance. If the fruits of American dominance taste so bitter, it is because the roots, in their eyes, are evil. And those roots lie in the wicked privatization of religion \_\_\_\_\_ and the elevation of politics as divinity or moral truth. America of the embodiment of political power is, accordingly, guilty of secular fundamentalism.

I remember a meeting in Geneva, many, many years ago, with Sudanese \_\_\_\_\_. And the discussion got round to community projects that would help to improve the lives of the poor in the slum areas of Khartoum. And Mohammed—the name of this \_\_\_\_\_, protested about this was not the business or the interest of Islam. Because, I suppose, we were meeting in Geneva, he had in his sights the wrongs that the West had committed. Now, we see from this perspective, from this analysis of fundamentalism as a stage, really, in the development of terrorist culture—we see from this perspective that the September attacks are not just pay-back for a specific set of global grievances. Because America is deemed guilty of privatizing religion and sacralizing politics, America has found itself in a catch 22 in the eyes of the radicals. They are equally aggrieved by America's friendship with the Muslim world and America's alleged hostility.

The turning point, I think, in all of this really came in 1979 and I don't have time to describe the importance of 1979 in the Muslim world. Suffice it to say that 1979 was the end of one Muslim century and the beginning of another. And in Islamic literature there is a kind of messianic dispensation that is promised for the end of every century and the beginning of one. And it goes like this, if I may quote an Arabic translation: "There will come at the end of the century a reformer who will reform the affairs of the people and revitalize our religion. He will fill the earth with justice and righteousness as the earth is now filled with injustice and unrighteousness." And this has created a culture of messianic expectancy from it of unrest throughout the Muslim world. 1979 in the 20<sup>th</sup> century. In the 19<sup>th</sup> century, it was the Sudanese \_\_\_\_\_. And 500 years earlier than that, there was a major revolution in West Africa, citing exactly this kind of passage. Atollah Khomeini was well aware of the importance of this tradition in Islam.

1979 was important. It was a religious revolution that, for the first time, targeted America as the enemy. Atollah Khomeini gathered a group of students from Saudi Arabia in 1979 and said exactly that—that the West and American in particular is guilty of a crime against the Muslim world, by secularizing religion and elevating politics. "And then the West has said to us"—I'm paraphrasing the Atollah Khomeini—"The West has said to us, 'You can have your Islam back,' after they had secularized it; in other words, separated it from politics." And this catch 22, I think, makes a coherent or effective response to terrorism, at least to the fundamentalism that breeds terrorism very difficult to formulate.

Now, let me end on this note. It may well be that the fundamentalists are running out of stock and, hence, they resort to dramatic violence to solve a losing cause. They thus demonstrate that a weakened cause, with the anointing of conscience, can be more dangerous for that reason. It was a historian who remarked that the worst moment for a corrupt government is when it starts to reform itself. You can apply that to fundamentalism—that the most dangerous moment for fundamentalism is with its awareness of losing battle. With little future prospect, fundamentalism then bets its \_\_\_\_\_ on the jackpot itself. And in response, the U.S. must now consider a mix of options, combining expedience and principle. The goal would be, immediately, to frustrate likely terrorists and to set the security agenda. But I am convinced that, in that agenda, there must be attention paid to the religious factor that Father Hehir referred to and, in that sense, the challenge we face in the West is an intellectual challenge ultimately. Thank you. [applause]

CF: Questions. Please come to one of the microphones.

Q: My question for Father Hehir. I was struck by your giving us context for Aquinas's thinking having to do with his looking at the penal nature of war in those days and of rounding up thugs and criminals. And so, I think, extrapolating, it certainly seems that the terrorist group that we're dealing with is a bunch of thugs and criminals and a legitimate target in a just war. What I'm not clear about is the notion of what evidence there is that the nation of Afghanistan, the state of Afghanistan, is supporting these thugs. I would be interested into what evidence you can sHehir with us that might illuminate this, given that you mentioned that there are at least 60 other nations worldwide that are tolerating terrorists. And I guess I'd like you to discuss that, also, in the context of, perhaps, the Middle Eastern ethics of hospitality which may be particularly . . . There's that story, I believe, in Genesis, with Lot who turns over his virgin daughters rather than give up his guests. And so I'm confused here as to what is the difference between toleration and support, given how poor Afghanistan is and the likelihood that the real support—financial particularly—is not coming from the poor Afghanistan but from other Middle Eastern countries.

BH: First of all, the 60 countries—I would not say they are all tolerating. I think the point is, you have to define what is clear, case by case. In other words, that's why I said, "It may be cooperation and support. It may be toleration of what they can't expel. It may be another definition." So, in other words, I was not saying, "60 nations tolerate." What I'm saying is, "There's a need to distinguish terrorist activity or terrorist organizations, the state in which they live—so then you ask what is the relationship, if there is any—and then, thirdly, the civil society of that country. Even if you say the state is hand in glove with the terrorists, that doesn't mean the civil society is hand in glove." I said that standards of evidence are crucial and I think that standards of evidence still need to be pressed and pushed in the present case. It does seem to me that there are two different dimensions—not so much that the Taliban provided money for Mr. Bin Laden or his activities, but it might have been, in fact, the other way around—that provided money for the Taliban. But there is a question about, I suppose, a conflict between the point that you made at the very end, which I would not really try to comment on that. That is to say, Middle Eastern customs about hospitality because I'm not enough of an expert on the Middle East to know the details of that. There is a question, though, that if you can get a definition of a group that functions outside the borders of the state and does damage outside the borders of a state, what is the responsibility of the state involved to restrain it. And it does seem to me that the Taliban, as a state, did not propose any particular way that they were going to set restraints, not just since September 11<sup>th</sup>—In fact, I think it was sort of too late at that time—but in previous instances that the hospitality question comes into some conflict with the fact if you can demonstrate that harm is being done out of a state and the state does nothing about it, then the state is at least become open to forms of discipline from the international community.

Q. I read an article the other day in the newspaper and I can't recall which one it was and I don't remember the name of the author either. But he was a self-described Muslim and he made the following argument: that first, those who blindly defend Islam in the current crisis are incorrect to do so, that secondly, it's the particular brand of Islam that is practiced currently in the Muslim world—and by that he means anywhere outside the West—that is the cause of this

sort of terrorist activity, and that third, that in order to actually win the war on terrorism, we would have to change to the brand of Islam currently practiced today in the Muslim world.

BH: Again, I'm glad Professor Sanneh is here because I would be happy to have him take the question. I am not an expert on Islam and would not pretend to even attempt that. From what I hear from others, it is not the case that, for example, what Mr. bin Laden said in his television address—just as an example—is representative of Islam and the Middle East period. I mean, that sounds to me wrong, both in terms of the accuracy or the interpretation of what you can do with the text as well as even, I'm sure, there's lots of unpopularity of U.S. policy throughout the Middle East. But to root it in a kind of religious dogma, I'm not too sure. And Lamin, I'd be happy to have you comment on the question.

LS: Well, I think it's fair to say that Islam is a many headed hydra in the sense that there is no Vatican in Islam. There is no central authority. The closest you come to this, I suppose—to a central authority—is the Sheik Alaza, who acts like the Chief Justice. But as a Chief Justice, he doesn't really have the kind of pontifical authority. He does pronounce fatwas, which are very authoritative. I think it's fair to say that maybe this Muslim writer is referring to the Saudi \_\_\_\_\_, a form of Islam, which is a very puritanical form of Islam, it's a very iconoclastic form of Islam, cleansing the mask of any images and so forth and so on. And it's really embedded in what one might call an almost medieval view of Islam in the division of the world between \_\_\_\_\_ Islam and \_\_\_\_\_, between the sphere of faith and the sphere of enmity or unbelief. It seems to me that the fundamental challenge before Muslims is this: One day they got up, after Napoleon's invasion of Egypt, and they were suddenly faced with a question of their identity being based on nationality and citizenship. For the first time in the history of Islam, they had encountered three major civilizations: China, India and the West. And they survived the encounters with China and India. But with the West or with Europe, there was a different shift. And Europe, after all, was not conquered. It was a conquering power. And the international order you referred to is an international order based on an idea of national jurisdiction. The Salmon Rushdie affair showed to the Muslim world that national jurisdiction no longer holds a key to the defining of Muslims. So the reaction to the fatwa of Salmon Rushdie, who was a citizen of Britain, went throughout the Muslim world—India, Capetown, South Africa and so forth and so on. So it seems to me, the fundamental challenge before the Muslim world is an intellectual challenge. Whether Islam or religion can flourish in a society that does not enthrone religion as an arm of the state, so that religion becomes really a matter of personal faith, or whether you really do need to go back to the \_\_\_\_\_, which I think is a forlorn hope. To go back to a form of the Caliphate(?), it becomes a kind of international government for Islam.

BH: When I listen to Professor Sanneh, I've always had a hypothesis that the better you understood the U.S. system of religion and politics, the harder it is to understand the Islamic system. That is to say, we spend an enormous amount of time—I think, usefully, in this culture, in this society, drawing lines on religion and politics. It is based on sort of Robert Frost—that good fences make good neighbors. But this, it does seem to me, is really sort of an alien concept to at least large parts of Islam—to separate the sacred and the secular, to draw the lines between religion and the state is in itself to be seen as eviscerating the fabric of life in a way that is a different framework.

Q: I just was going to try and take that question a little bit further. I don't really have exactly the vocabulary to discuss this issue, so I'm going to probably stumble a little bit. It's very easy for our President to say that Islam is a religion of peace and we have no war with the religion of Islam. Especially because there is no Pope in the Islam world, there's no established church, if you look at any of the Judeo Christian religions, you have a biblical or these texts that are very bloody texts—I'm thinking of the psalm that I read a couple of days ago, saying that we can't sing songs in praise of God because we are in exile in Babylon that's so terrible. But we will sing praise of God when we hear the skulls of the Babylonian children smash against the wall. And you see that existing in the texts of all these religions. And you also see the way in which these religions have carried themselves in the real world—Judaism, Christianity, whatever. All sorts of terrible things are done in the name of religion. How do you . . . If you do find something . . . whether it has to do with the way that women are treated, the relationship to war or violence or whatever in a nation's interpretation of Islam or of any other religion, how do we interact with that as a secular society trying to change what we consider secular, civil aspects of their society which they consider religious? Essentially, there are professors of Islamic Studies and there are Christians and there are just sort of laymen in the United States who would like to impose their understanding of Islam upon the Islam world, but what happens when that understanding isn't shepherded over there. How do we interact?

BH: You've got a series of things there. One is, any religious tradition gets used in multiple ways and there are multiple reasons why it gets used in multiple ways. I made the point that it isn't simply the question of people in Islam saying, "I heard Mr. bin Laden yesterday, and he's no faithful follower of Islam." We've had to do that in Christian terms and it's taken us a long time. I mean, I must tell you I'm a great admirer of a lot of St. Bernard of Clairvois(?), but I'm not a total admirer of everything he did, since he preached the crusade. So that's not his best moment. I don't know that I have to throw everything else out that Bernard of Clairvois did, but I have to distinguish that. Secondly, religious traditions do show an ability to learn. At least, I think that's the case. If you take my own tradition, Roman Catholicism did not fall in love with democracy early on. And when they asked Gregory XVI, around 1835, what he thought of the modern liberties—freedom of conscience, freedom of press, freedom of worship—Gregory XVI's answer was, "They were *delirimenta*," which, as I understand it, roughly translates into "utter madness." That's 1835. By 1965, partly by the result of the church in this country, living with democracy, and partly through the work of John Courtney Murray, you got a different interpretation of Catholicism and democracy and religious liberty. There's a learning process. We had to adjust teaching on usury to a market based economy. Maybe we didn't have to, but we did. Therefore, there is a learning capacity in religious traditions. How quickly that happens is open. Now, the final point, you raise a very difficult question, it seems to me. And the nodal point of the question, I think, is the question of human rights. That is to say—if I understand it correctly, what you say is, there are people who interpret Islam here in the United States, people of Muslim faith, or it may be in other places, who say we should change what's happening in Saudi Arabia. Well, how does one think about that? Well, one could say, "Let's make a distinction between international behavior and behavior within states. That's the classical realist distinction. That is to say, as long as a given state does not impose aggression or harm on its neighbors, what it does within its boundaries is its own business. So you make the distinction. We're not going to change Saudi Arabia as long as Saudi Arabia doesn't attack whoever, and

that's the classic distinction. Human rights law, human rights ideology, erodes some of that distinction and says, what happens within a society ought to be judged by universalizable standards. Now, we have debates in Western universities whether there are such a thing as universalizable standards, but the human rights language was rooted long before that. So, in one sense you could say, "As long as a culture—a state in a culture—doesn't harm its neighbors, we won't do anything." But that, in a sense is hard to reconcile with some conception of universalizable human rights norms. Some place in between upholding some standard of universalizable human rights, which I think is useful and good and, on the other hand, saying that you ought to redesign states and cultures from downtown Manhattan—it just seems to me some place in between there lies some wisdom about building an international community that is based on sovereign states with multiple religions and multiple cultures. I think how far you go in that direction is a question partly of political prudence, partly of means you're prepared to use and means you shouldn't use and partly, once again, of proportionality. You may do a lot more harm than good by trying to enforce certain kinds of standards. [End of Side B]

Q. . . . going to accept your suggestion that the discussion of ethics and war is more important for recording of crimes than it is in preventing them. I'd like to ask you about your definition of terrorism. You talked in terms of non-state agents who resist the idea that the use of force is a rule-governed activity. And then you mentioned the dearth of speculation in your career as a teacher. What puzzles me is, if you've been speaking about nuclear war during that time, haven't you been speaking about what is an essential definition of terrorism. And it is a state definition—that is, that would assume an absolute level of destruction based on fear. I mean, deterrence is really . . . You know, the balance of terror is the old phrase that is used. And I'm struck by the nomenclature of Ground Zero for the World Trade Center sight. Obviously, that has nothing to do with the level of destruction. But it might have something to do with the level of fear that we are now experiencing in regard to it. I wondered if you could comment on that.

BH: You're absolutely right. We talked about the nuclear age as a balance of terror and I think the use of nuclear weapons would have been our crime that was filled with terror. Deterrence, as it worked out, was an attempt to deal with the fact of terror in the existence of these weapons posed within states. Now, you could say, "Well, what states should have done was to get rid of them right away, which is an entirely defensible proposition. It is also a difficult proposition. And my sense is that what happened in the nuclear age is that we tried to devise a set of restraints, including deterrence, that had within in at element of terror. I don't think there's any doubt about that. Whether deterrence itself was terrorism, I'd be hard put to agree with that. I would say that we risked doing something that would classify as a crime, which terrorism is. But the question about not running that risk was the question of what you were going to do, once you produced nuclear weapons. You could go to zero, if you could get there. You could treat them as normal weapons, which some people argued we should have done, or the middle road was to address them, seek to build a system where you wouldn't use them, and seek progressively to bring them under some control, which still goes on today. So there's a dimension of it that's still with us. To my mind, it's a bit too clean cut simply to say it's terrorism pure and simple.

Q. Earlier in your talk, you made the distinction between revenge and deterrence. I was wondering if you could expand on that a little bit more and talk about, perhaps, what the emotional motivation distinction is between them and, perhaps, what the outcome of the action between revenge and . . .

BH: Actually, my distinction, in the first instance is, revenge exists in the will, exists in the will of the actor, that one acts out of revenge. In other words, what drives one is to make revenge for what has happened. Deterrence also rests in the will of both the actor and the adversary. You're trying to affect the will of the adversary. But here, what one is trying to do is not so much avenge a past action and "avenge" and "revenge," I don't think, are quite the same. But one is not primarily focused on the past. One is primarily on the fact that, knowing what the past is like, you seek to shape the behavior of actors in such a way that the past is not recreated. Deterrence, as I say, exists in the will. You can't deter unless you can make a threat that is credible so that your adversary becomes convinced that your threat is real and that the consequences of your threat are such that it is in their interest not to take the action that they might have contemplated. But I would distinguish between deterrence which prevents future action and revenge which is action taken in light of what has occurred in the past, and seeks to, in a sense . . . I guess, again, I would distinguish retributive justice from revenge—there's some distinction there. But retributive justice seeks to set the moral universe of the world back in order again, if you will. But, once again, revenge, I think, is primarily about motive.

Q. My question relates to the permanence of the concept of a just war. It's conceivable that, as we undertake this operation in Afghanistan, collateral damages mount up, whether intentional or proportional, and my own thinking is somewhat informed by utilitarianism, that the lives mount on both sides and at some points, we have to balance them. You could bring in a Powell doctrine or a Kosvitsian doctrine to say that, once we go to war, we go to war whole heartedly. But I would just like to ask you, at what point, morally, do we decide that we lost the just cause and we have not yet achieved our political objective.

BH: Really hard question, I think, because let me first say, the Powell doctrine—I have always thought the Powell doctrine was a threat to the ethics of war. That is to say, the Powell doctrine is so focused on overwhelming force being delivered in a given point of attack that it was an enormous threat to proportionality and could be a threat to non-comminate immunity but wouldn't have to be. So I've never been a fan of the Powell doctrine. And some argue that the Powell doctrine is totally out of play today because this kind of adversary doesn't admit of that kind of thing. There is a question in the Just War tradition about how you relate the so-called *Josad Bellam*—the right to go to war—and the *Josin Bello*—the means you use in war. And the argument runs something like this: that some would argue that you have to fulfill all the criteria, which I didn't even go through. The long story on this is about seven criteria. You have to fulfill all of them simultaneously in order to have just pursuit. Others would distinguish between the *Josad Bellam*—the right to use force and then how you're using it. So if you're using it improperly, the task is not so much to erode the *Josad Bellam*, but to try to change the strategy and work it backwards. John Ford, American Jesuit, who wrote in 1944, an article that the American Catholic theologian Charles Curran says is the only classic in moral theology in the United States. It was an article on obliteration bombing. Now, the way Ford proceeded was to say, "I take it as a given that this war has a just cause and there's a right to pursue it—against

Hitler.” And then he launched into a 20-25 page critique of the bombing strategy. He never concluded what the argument . . . that the justice of the cause had therefore been eroded. It was a devastating critique of how the war was being conducted and, in retrospect, had almost a premonition in it of Nagasaki and Hiroshima. But he did not conclude that that eroded the just cause principle. The argument was, clearly, it needed to be changed. Or at least, that seemed to be the thrust of it. He did have one sentence in the article that said, “If someone says to me, ‘Modern war must be conducted without limits,’” Ford’s comment was, “So much the worse for modern war.” So that opened up the possibility that that’s what he meant. But I must say I’ve been attracted by keeping the two things distinct and trying to work on the limits on means. But that’s not a universally held view.

Q. First of all, I really enjoy all of your insights. I have a simple question which is basic but kind of disturbing for me. We have \_\_\_\_\_ that every human life is sacred and belongs only to God. How do you fit this acceptance to the morality of war?

BH: The ethic of war, as well as, for example, bio-ethics, which also involves the possibly either curing or taking life, begins with the assertion of the unique sanctity of life. That is to say, every human being—this is a religiously based argument but it can be made in other ways—every human being is a unique reflection of the presence of God and every human being, in a sense, is . . . Paul Ramsey, the Princeton theologian, once had a wonderful phrase, “Every human being is protected by an alien dignity,” meaning by that, it is a dignity that is granted by God and not earned by people. So you start this assertion of whether you ever can take life or not, starting with the notion that every life is sacred and all human life is covered by the philosophical and religious idea of the sanctity of life. Then the question arises, given that assumption, can you ever think of a case when the taking of a human life would be morally and religiously justifiable. And to some degree, Augustine is helpful here. Because when Augustine was trying to work his way through this question, he ended up with a doctrine of just war, but he had no doctrine of self defense. Augustine’s argument was that, if someone wanted to take his life as an individual, he would, in observance of the life of Jesus, in observance of the command that we are called to love all, especially our enemies, he could not resist. He told one of his congregations at one time that there are some things in life that we should not be too deeply attached to and life is one of them. So his argument was that there was no reason for self defense. He then came to a second step in the argument, thought—what you might call a third party question, although it wasn’t a case of individual ethics. It was a case of political ethics. And the third party argument is that when someone else is under attack and you have the ability to stop that attack, then you have an obligation to go to the defense of the needy neighbor. Now, do you lose contact with the attacker? Well, the answer is “no,” you don’t lose contact with the attacker. The attacker still is held within the \_\_\_\_\_ of the command of love, of the command of respect for their life, but you have a right to do whatever is necessary to prevent the attacker from carrying out the attack. So that you’re still bound together in a community with moral ties. So even when you go to war against another society, that is part of the basis for the argument about civilian defense. Not everybody is doing “evil” or doing what is wrong. Therefore, not everybody is open to attack. I think you start with the notion of the sanctity of life and the sanctity of all life. The problem comes when one life comes in conflict with another. What do you do at that point? And the argument there is that the prior obligation is to come to the defense of those who are without defense. But it’s cast not as an individualistic argument but as an argument of our

political authority. So then Augustine would say, “The person who has responsibility to defend the whole community has a duty which produces a right to use force that no individual has.” That’s the logic of the argument. But you always keep remembering the sanctity of every human life. So as soon as the attacker stops the attack, you can’t kill him. And, indeed, that is what is in international law as under prisoners of war. They immediately become protected. Now, does that happen in every case in war? Hardly. But that is the problem. We are dealing with a form of human behavior which is probably the least restrained and the least structured form of human behavior that we’re aware of.

Q. I would ask that, perhaps, we return to an early part in your remarks, Father Hehir, when you were talking about globalization. And I guess I’m struck by the fact that it seems to me that much of the fear that people in this country are experiencing now is because a paradigm for defense, and really the paradigm of war that has given people in this culture a sense of superiority and comfort was, in effect, stripped away. People discovered that our trillion dollar enterprise at the Pentagon, in fact, does not equal safety when simple tools that can be had at a local Home Depot, combined with shrewdness, can turn our high technology against ourselves. I guess I wonder if we’re at a point in history—and there have been such points before—when war, as we have known it, is undergoing a dramatic change, and if that change isn’t tied to, in fact, value struggles that are and will be at the heart of globalization. I think that the two value systems that were talked about this evening are permanently at odds, it seems, in my limited understanding of them. The notion that we’ve heard about the way that God and the state are viewed. Those two conceptions seem quite opposite. And surely that is something that is going to be fought out in many ways, including this way. So I guess that’s a question. Is it inevitable that there’s going to be a lot of fighting going on, as the state, as we know it, gets loosened up in this context? And I guess the other thing is, I would wonder if, because of that, the values that those of us who are pacifists hold would deserve a second look in the framework that’s been laid out, if only because of the fact that it seems like the paradigm of war as it has been thought of, in Western culture anyway, seems to be getting turned on its head.

BH: I guess I’m not sure I agree with the empirical assertion. I would say that there are multiple forms of the use of force going on throughout the world, or threatened use of force. And so I don’t think there’s any one form. In other words, we talked about the nuclear relationship. That still exists. Weapons of mass destruction, if anything else, have grown rather than decreased. The nuclear weapons have decreased and they are being reduced even further. But weapons of mass destruction, meaning chemical, biological and nuclear, and ballistic missile delivery systems which can deliver them, in fact, grow, in terms of the number of states who have them. So that form of war that we’ve known for 50 years as a threat is still there. Secondly, there are, unfortunately, a very large number of conflicts within states around the world that are not necessarily terrorism nor weapons of mass destruction. Rwanda, Somalia, Kosovo, Bosnia were not either weapons of mass destruction nor terrorism as such. It was fairly straightforward, conventional war, sometimes fought with very primitive weapons, but it was a war, to some degree about territory, to some degree about living space. So that’s there. Now, terrorism, as I said, is an understudied phenomenon and it is there. And in that sense, I agree with your point that that’s more visible than it has been in the past. But I think, empirically, I’m not positive that terrorism will take over as the form of the use of force or the threat of the use of force. Pacifism has its own logic and its own history and there is a kind of fundamental clarity

about it. It says that the use of force simply cannot be reconciled with the moral order. I respect deeply people who hold that position. I don't hold it either on empirical grounds or what I expect history to produce, nor do I hold it on moral grounds because I'm not convinced that the argument that any single value is absolute and therefore life can never be taken. So that's my view that you end up with a better moral universe if you understand that life should be presumptively protected but do not hold that as an absolute rule. But that's my own judgment and I think, on the basis of at least insofar as I understand international politics, I think it is a tragic but more adequate moral view, I think, than saying that you would never use force, no matter what happened.

Q. I haven't worked on this for 30 years, but I think the Muslim community may be a lot like the Roman Catholic community of which I'm a member. We may have a central figure but anybody who is practicing Catholicism today knows there's all kinds of different opinions. I would like to see—and I appreciate everything you've said—but I'd like to see a piece of the final paper on this, to look at how the rest of the world looks at us. I was a \_\_\_\_\_ agent in Nicaragua during the Contra War and I would say that the hierarchy was on one side of the fence and the majority of the people were on the other side of the fence, considering us as a terrorist state. And tonight there was a stress on terrorism that's not state conducted. But it would seem to me that, as the only imperial power in the world, we should look at how others may perceive us as a terrorist state. I now work in Honduras and the hearings on the \_\_\_\_\_ appointment and \_\_\_\_\_ and 316 and how we supported terrorism against people in that country was very pronounced in the country I live in—probably not considered too seriously here. So on the list of 60 states, are we on that list? And how do we look at ourselves when we get to this question. Just a final thing—globalization. The youngsters I'm living with are making \$26 a week for 6 days of work—our companies. Is that some type of terrorism. I think it's a piece of the puzzle.

BH: My own sense of that is that you're right, that there is a need to try to understand both how we see the world and how others see us and see the world. Secondly, the way, generally, I've thought about September 11<sup>th</sup> is that, prior to September 11<sup>th</sup>, there were several things wrong with American foreign policy, both of a political and moral order, that needed to be addressed, and we were paying much too little attention to foreign policy generally. Thirdly, I don't think those things justified driving planes into buildings with 6,000 civilians. You've got to, it seems to me, hold to an ethic of means or else you're never going to get anywhere. An ethic of means is still hard to figure out. A pacifist ethic of means says, "No taking of human life." Just War ethic says, "Some taking of human life." But you need an ethic of means, and so it doesn't justify that activity. Thirdly, after September 11<sup>th</sup>, you have to go back, among other things, and address the problems that weren't addressed—questions like globalization and what you do with it, how you frame it within some set of purposes, methods, means, international justice, distribution. All of that is entirely up for grabs. The policy in the Middle East needs to be addressed. I think you need to set frameworks as you go about this. I think there's no question the United States, for historical, communal and other reason, will have a special tie with Israel. But I think it is one thing to defend Israel's right to exist and its sovereignty. It's a very different thing to defend Israel's conquests. That's not necessary. But you have to make that distinction and make it live in policy. Globalization, I think, is an empirical phenomenon made up of many things. It's not like a force of nature. It's a product of human choices. It has its own logic. It

does not have its own ethic. That is to say, it is a power and a force and it needs to be given a framework of ethic and directed toward certain purposes and not others, guided by certain means and not others, and evaluated not only by terms of its aggregate ability to produce wealth but also its ability to provide opportunities to sHehir in that aggregate product. So that's all part of the process.

CF: Please join me in thanking both Father Hehir and Professor Sanneh for a very stimulating evening. [applause]