

# CONSTRAINTS ON MILITARY POWER

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MILITARY POWER IS ...



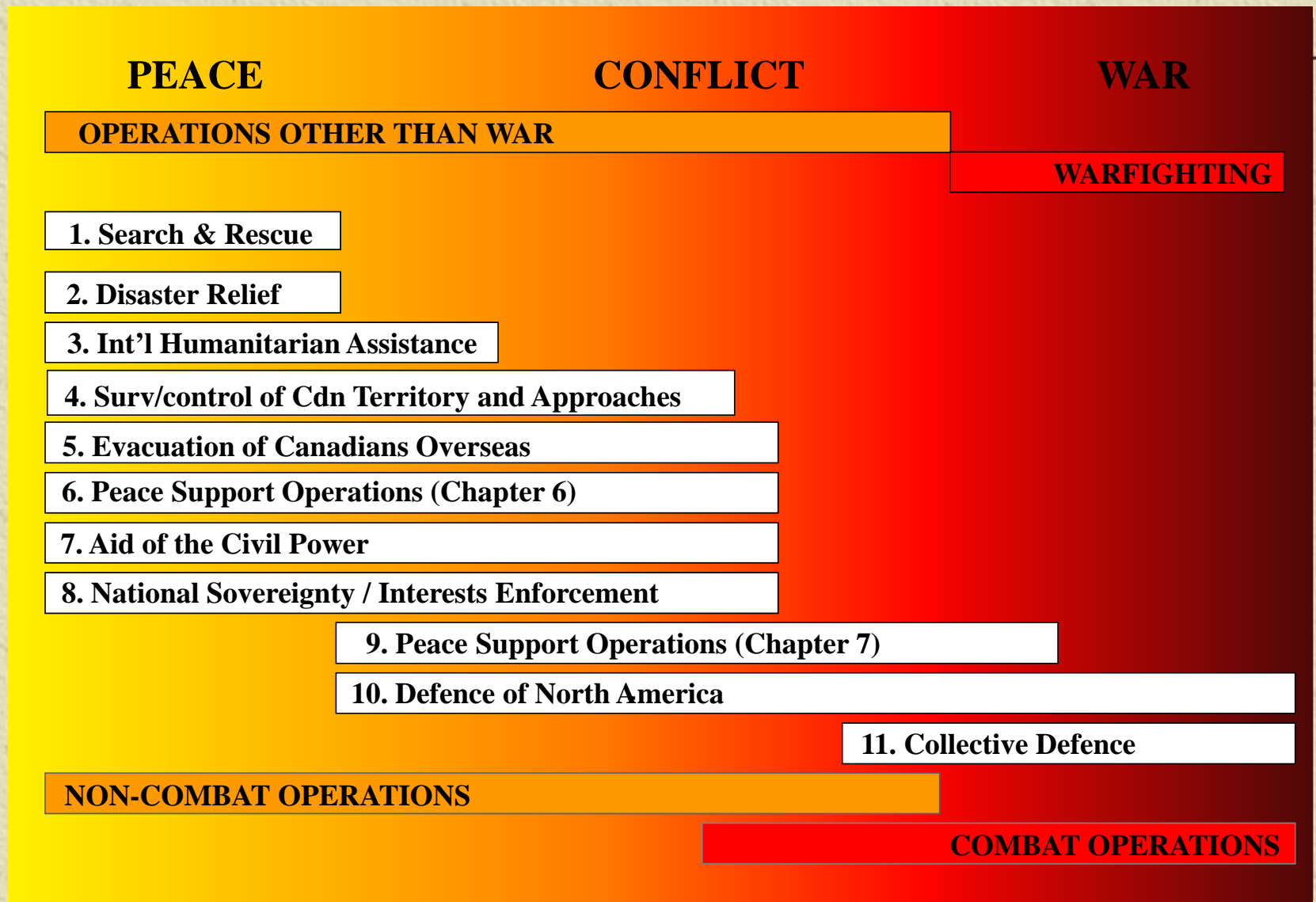
# ... A SPECTRUM

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... more than deadly force

# Spectrum of Military Force





# PSO Spectrum: NATO Doctrine



Increasing levels of Force &  
Decreasing levels of Consent



Source: Adapted from PSTC, EO 401.02

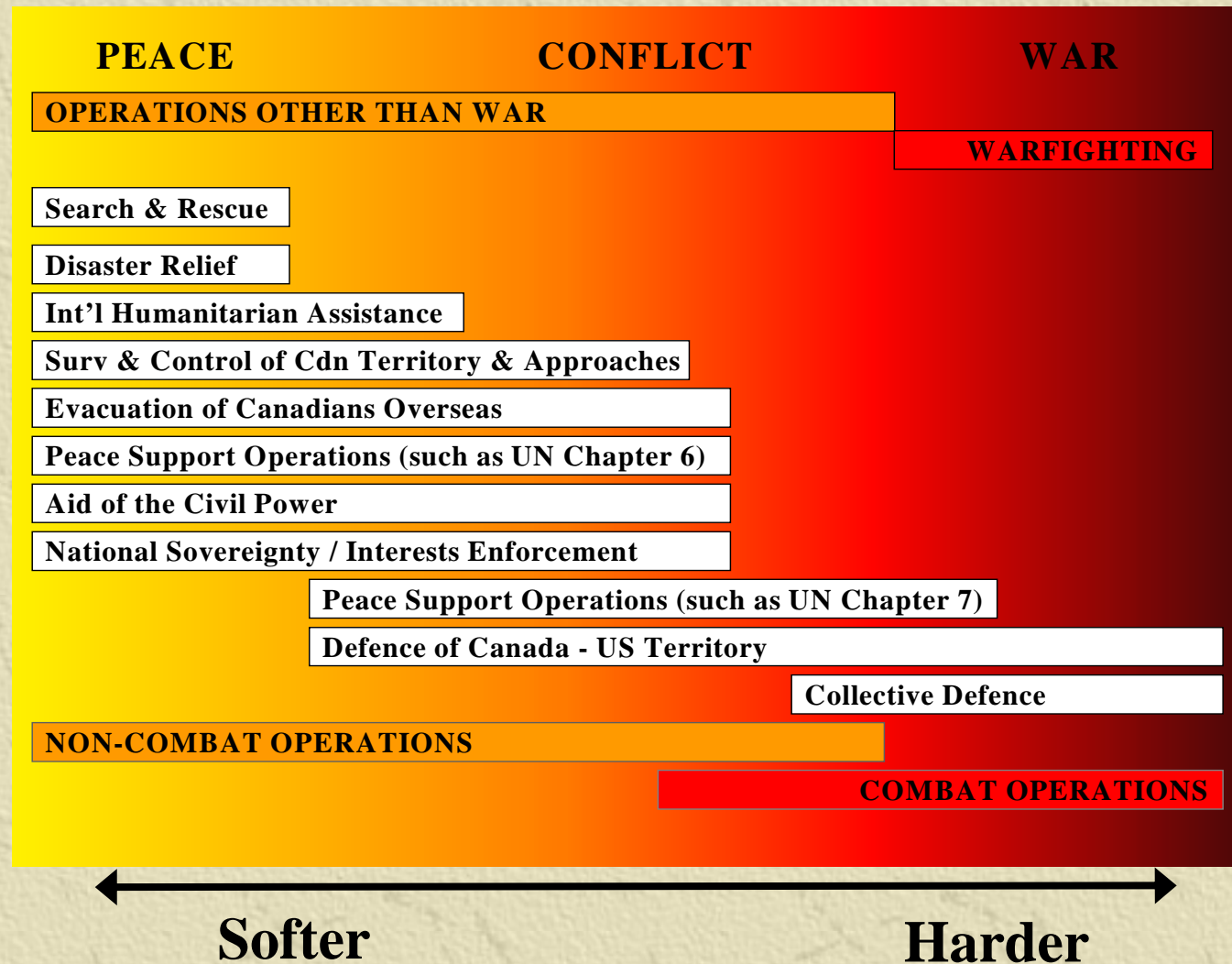
# ***Spectrum of Military Operations***



Adapted from Gen. J. Shalikashvili



# Spectrum: Soft to Hard Power



# Types of Power (J. Nye)

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✦ Ability to bring others to your position through

- ◆ **Persuasion** - Soft power

- ◆ **Coercion** - Hard power

✦ Nossal's spectrum

- ◆ Persuasion, Inducement, Coercion, Sanctions, Force

**“Smooth Power”**



## **Paradoxes of Counterinsurgency**

A draft Army and Marine Corps field manual describes nine “representative paradoxes” of counterinsurgency operations.

**The more you protect your force, the less secure you are.**

If military forces stay locked up in compounds, they lose touch with the people, appear to be running scared and cede the initiative to insurgents.

**The more force used, the less effective it is.**

Using substantial force increases the risk of collateral damage and mistakes, and increases the opportunity for insurgent propaganda.

**The more successful counterinsurgency is, the less force that can be used and the more risk that must be accepted.**

As the level of insurgent violence drops, the military must be used less, with stricter rules of engagement, and the police force used more.

**Sometimes doing nothing is the best reaction.**

Often an insurgent carries out a terrorist act or guerrilla raid with the primary purpose of causing a reaction that can then be exploited.

**The best weapons for counterinsurgency do not shoot.**

Often dollars and ballots have more impact than bombs and bullets.

**The host nation's doing something tolerably is better than our doing it well.**

Long-term success requires the establishment of viable indigenous leaders and institutions that can carry on without significant American support.

**If a tactic works this week, it might not work next week; if it works in this province, it might not work in the next.**

Insurgents quickly adapt to successful counterinsurgency practices. The more effective a tactic is, the faster it becomes out of date.

**Tactical success guarantees nothing.**

Military actions by themselves cannot achieve success.

**Most of the important decisions are not made by generals.**

Successful counterinsurgency relies on the competence and judgment of soldiers and marines at all levels.

“Counterinsurgency”, U.S. Army Field Manual 3-24, December 2006



# PSOs



✱ Negotiation



✱ Observation



✱ Rebuilding



✱ Separation



✱ Protection





# Robust PSOs

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✦ To ...

- ◆ Enforce decisions
- ◆ Deal with “spoilers”
- ◆ Apply limited force  
(Chapter VII)
- ◆ Withstand attacks
  - Protective means
- ◆ Serve as deterrent presence



Medak Pocket, 17 September 1993





# Use of Force in PSOs:

## “Consequences are Constraints”

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### ✧ Increase or decrease?

- ◆ Respect / animosity
- ◆ Cooperation / confrontation
- ◆ Security and stability / retaliation

### ✧ Providing example of use of force

### ✧ How to determine correct levels

- ◆ Don't alienate large segments of population
- ◆ Isolate “spoilers”
- ◆ Consider consequences
- ◆ Consider moral justification / perception



# “Three Block War” concept

- ✧ Humanitarian
  - ✧ Peacekeeping / stability
  - ✧ Combat
- ✧ Simultaneously in confined area (3 city blocks)
- ✧ Inclusive of NATO's PSO peacemaking and peacebuilding?
- ✧ Accurate: some operations some of the time





# A down side?

- ✱ One concept fits all
- ✱ Mandate confusion
  - ◆ Emphasis on combat
  - ◆ Warfighting or peacekeeping?
- ✱ Workable?
  - ◆ Vulnerable soft side
- ✱ Non-acceptance
  - ◆ DFAIT, CIDA
- ✱ Correct description sometimes but dangerous prescription in general
- ✱ Overzealous interpretation
- ✱ Three Block War adds new constraints.
- ✱ “The object of war is to obtain a better peace .... It is essential to conduct war with regard to the peace you desire.”
  - Basil Liddell Hart

**ARMY TRANSFORMATION**  
**THREE-BLOCK WAR**

Within the same mission, we will engage in a high-intensity fight against the armies of failing states, conduct stabilization or peace support operations including counter-insurgency and deliver humanitarian aid or assist others doing it (three-block war)

**Combat**

**Stability**

**Humanitarian**

“Preparing our soldiers for the three-block war will be the foundation of all our training. Leaders at all levels must ensure that our soldiers are set up for success in all aspects of the three-block war.”  
- Commander of the Army

**Block One**  
High intensity  
Combat  
Operations against  
Armed forces of  
Failing and Failed  
States

**Block Two**  
Stability Operations  
including  
Counterinsurgency

**Block Three**  
Humanitarian  
Assistance including  
Reconstruction

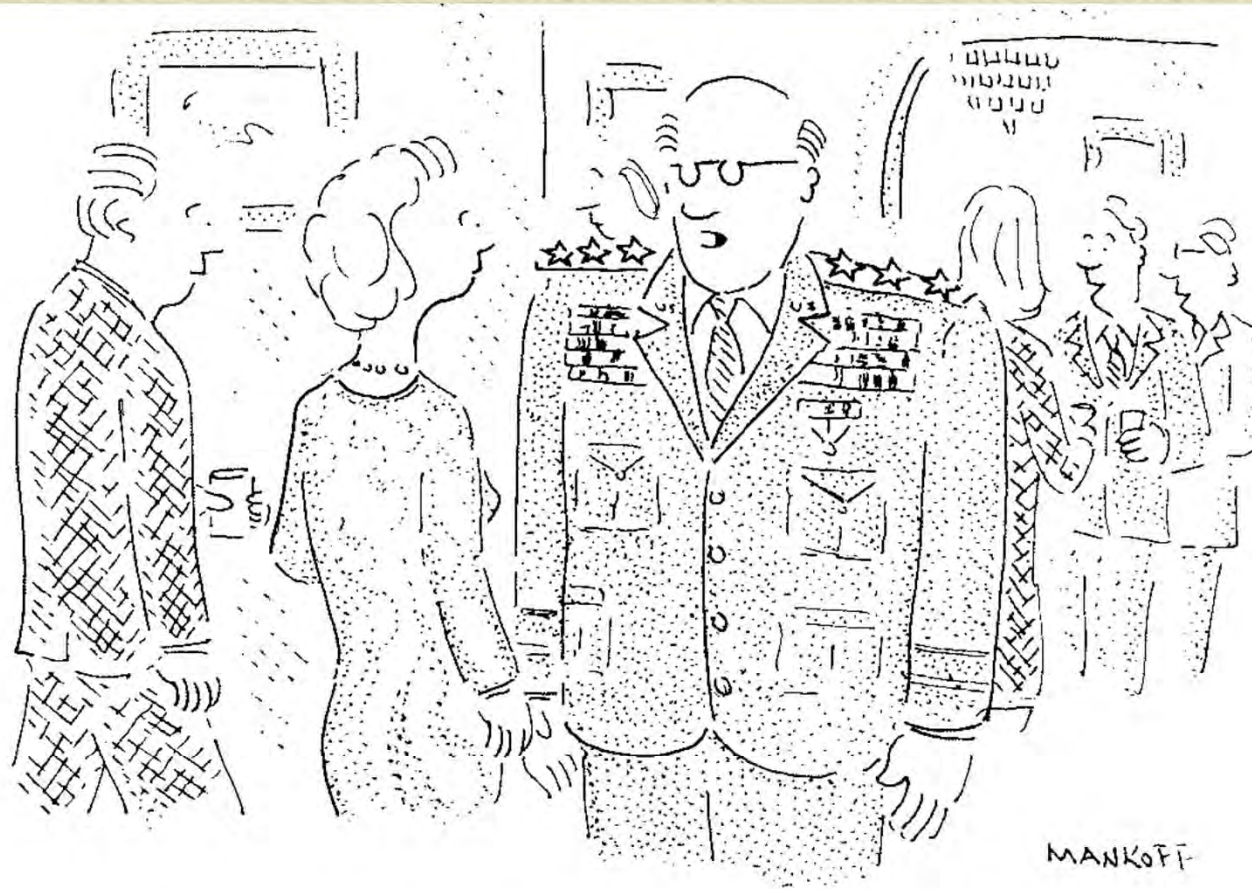
**Simultaneous**

**Project power into population centres**

**GO TO: [WWW.ARMY.GC.CA](http://WWW.ARMY.GC.CA)**

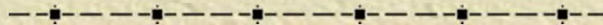
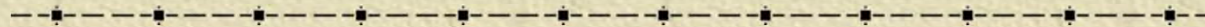
Canada  
National Defence / Défense nationale  
Army Public Affairs / Aff. Pub. Armée





*"Look, I'd like to avoid overkill, but not at the risk of underkill."*

# FINDING THE RIGHT BALANCE





# Use of Force in Human History

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## Unconstrained Military Force

- ✠ Aggression and aggrandizement
- ✠ Atrocities
  - ◆ Massacres, genocide and ethnic cleansing
- ✠ Unacceptable collateral damage





# Extremes of Warfare

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## ✧ War casualties

- ◆ Battle of Solferino (1859): over 6,000 deaths & 40,000 casualties in 9 hours
- ◆ Hiroshima (1945): estimated 140,000 deaths through blast, heat/fire, radiation (6 mo)





# Controlling/Constraining the Use of Force

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## ✧ Efforts to codify and create norms

- ◆ Limit when, who and how force can be used
- ◆ Early codes of conduct
- ◆ Laws of warfare – Geneva Conventions (1864+), Hague Conventions (1899+)

## ✧ Problems

- ◆ Enforcement
- ◆ Non-state actors

# Code of Conduct in Ancient India: Book Of Manu (4<sup>th</sup> c. BC)

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“When the king fights his foes in battle, let him not strike  
... with weapons [that] are barbed, poisoned, or the points  
of which are blazing with fire.

... one who is in flight, who joins the palms of his hands  
in supplication, one who sleeps, one who has lost his  
coat of mail, one who is disarmed, **one who looks on  
without taking part in the fight**, nor one who is  
fighting with another foe;

... one afflicted with sorrow, [or is] wounded,

but in all cases let him remember the **duty of honorable  
warriors.**”

Source: Book of Manu, quoted in Christopher “The Ethics of War& Peace”, p. 9.



# Use of Force

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## ✧ Most important of decisions

- ◆ Physical and psychological impact
- ◆ Lives at stake

## ✧ Controversial examples (strategic)

- ◆ US/UN invades N. Korea 1950
- ◆ UN (in)action in Rwanda 1994
- ◆ NATO attacks Kosovo 1999
- ◆ US-led coalition attacks Iraq 2003

## ✧ Not to ask soldier to use force unless sure it is justified

## ✧ When justified?

# CONSTRAINTS

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- ✧ 1. Political
- ✧ 2. Legal
- ✧ 3. Social
- ✧ 4. Practical/Operational
- ✧ 5. **Moral/Ethical**



# 1. Political Constraints

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## ✧ Domestic opinion

- ◆ French/English divide in Canada
- ◆ Vietnam War, 1960s: US domestic opposition

## ✧ International opinion

- ◆ Iraq invasion, 2003: coalition partners list
  - US not isolated?

## ✧ Civil-military relations

- ◆ Korean War 1950-53

# Case: Truman-MacArthur (Korea 1950-51)

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## ✧ General MacArthur advocated:

- ◆ Attack on Chinese bases
- ◆ Blockade of Chinese coast
- ◆ Use (“unleash”) Nationalist Chinese troops

## ✧ Lobbied Congress and issued unauthorized policy statements

## ✧ President Truman relieved Gen. MacArthur of his command

- ◆ “General MacArthur was willing to risk starting World War III and I was not.”





# Military-Industrial Complex

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“This conjunction of an immense military establishment and a large arms industry is new in the American experience. ... In the councils of government, we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex.”

- President Dwight D. Eisenhower,  
Farewell Radio and Television  
address, 17 January 1961



## 2. Legal Constraints

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### ✧ Domestic law (e.g.)

- ◆ Canada: National Defence Act, S.C. 1998
- ◆ USA: Constitution, Congressional legislation
- ◆ Japan: Constitution

### ✧ International law

- ◆ UN Charter
  - Articles 2(4) and 42
- ◆ Laws of Armed Conflict (LOAC)
- ◆ Arms control treaties
- ◆ Implementation: ICJ and ICC



# CF: Domestic & international law

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“Commanders at all levels are responsible for the correct and comprehensive application of **both** bodies of law [domestic and international] in planning and conducting operations, since the interpretation of these laws will affect the definition of the operation's mission and its execution.”

- *Canadian Forces Operations*,  
B-GG-005-004/AF-000, 2000-12-28, p.5-4  
(emphasis added)

# UN CHARTER: Articles 2(4) and 42

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2(4). All Members shall refrain in their international relations from the **threat or use of force** against the territorial integrity or political independence of any state ...

42. ... [Security Council] may take such action by air, sea, or land **forces** as may be necessary to maintain or restore international peace and security.

- actions may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.



# Article 51: Self-defence

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51. Nothing in the present Charter shall impair the inherent right of individual or collective self-defence

- ◆ if an armed attack occurs against a Member of the United Nations
- ◆ until the Security Council has taken measures necessary to maintain international peace and security.

✧ [Measures] immediately reported to the Security Council

# Use of Force: Modern Law

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## Use of Force Prohibited (2(4))

except for ...

### 1. Self-defence

- Charter (Art. 51) & limitations

### 2. Enforcement

- UN authorized enforcement operations (Charter VII)

Prohibited: aggression, retaliation



# Other Constraints

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3. Social

4. Practical/Operational

**5. Moral/ethical**

*“The moral is to the physical as three is to one.”*

- Napoleon Bonaparte

... Just War Theory

## 5. Moral/ethical

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### When is the use of force justified?

- Unjust action is an fundamental constraint on military power
- Importance of wide-ranging military advice to policy makers
- Principles applying to the strategic, operational, tactical

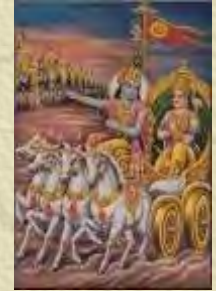


# Just War Theory

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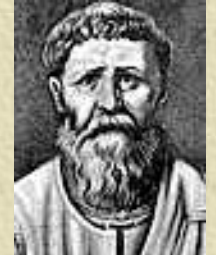
- ◆ Ancient civilizations

- Indians, Romans and Greeks



- ◆ Catholic theologians

- St. Augustine (4<sup>th</sup> Century): Jus Ad bellum
  - ◆ Right (Just) cause
  - ◆ Right intention
  - ◆ Right authority
- St. Ambrose, Thomas Aquinas



- ◆ Hugo Grotius



# Just War Criteria / Constraints

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1. *Just Cause*
2. *Right Intention*
3. *Competent Authority*
4. *Last Resort*
5. *Net Benefit*
6. *Proportionality (of means)*
7. *Non-combatant Discrimination*



# Just War Criteria

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## 1. *Just Cause*

- ◆ Protection and preservation of values; real and present danger to innocent life, to conditions necessary for life or securing basic human rights

## 2. *Right Intention*

- ◆ Force used for declared cause, not for ulterior motives

## 3. *Competent Authority*

- ◆ Originally: sovereign body; not private groups /indiv
- ◆ Democratically representative
- ◆ Authority based on treaty and custom

## 4. *Last Resort*

- ◆ All peaceful means exhausted

# Just War Criteria

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## 5. *Net Benefit*

- ◆ Benefit must be greater than the costs (suffering inflicted)

## 6. *Proportionality (of means)*

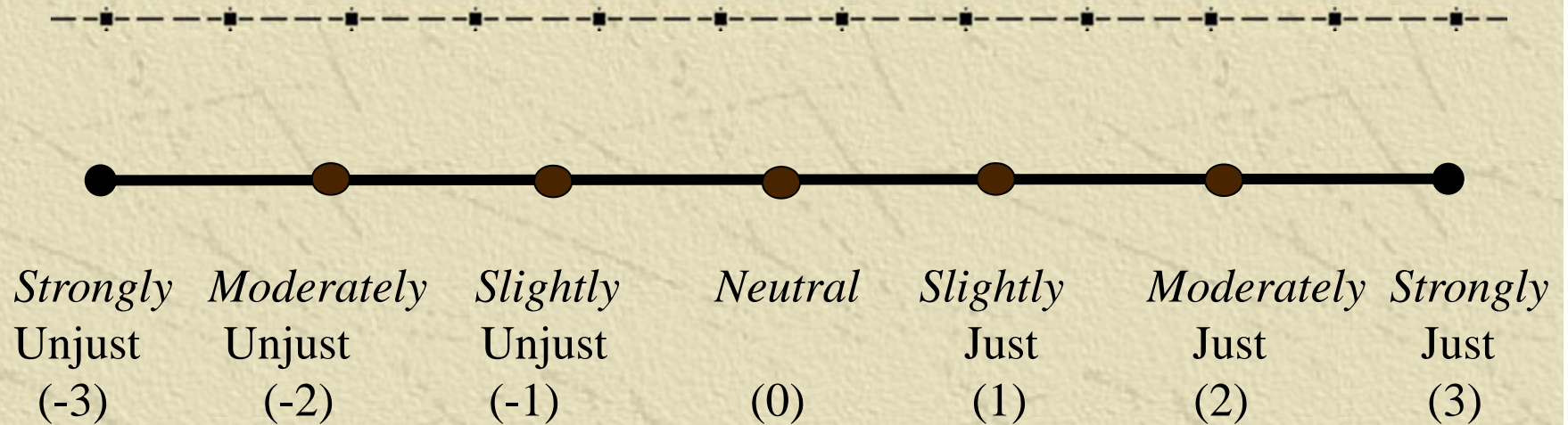
- ◆ Minimum force necessary to achieve objectives

## 7. *Non-combatant Distinction*

- ◆ Avoid civilian casualties/damage
- ◆ Military necessity not an excuse



# Just War Theory Applied



Seven possible values: -3 to +3

Seven Components:

*Cause, Intent, Authority, Last Resort,  
Benefit, Proportionality, Discrimination*

# Comparing Gulf War I and II:

Walter Dorn's evaluation (2008)

Criteria	Gulf War I (1991)	Gulf War II (2003)
<i>1. Just Cause</i>	2	-1
<i>2. Right Intention</i>	2	0
<i>3. Competent authority</i>	3	-2
<i>4. Last Resort</i>	2	-2
<i>5. Net Benefit</i>	2	-2
<i>6. Proportionality of Means</i>	2	-2
<i>7. Non-combatant Distinction</i>	1	1
<b>Average</b>	2	-1.1



# Comparing Gulf War I and II:

Results of a survey of over 100 “experts” (Ph.D.s working in international affairs)

Criteria	Gulf War I (1991)	Gulf War II (2003)
<i>1. Just Cause</i>	+1.9	-1.7
<i>2. Right Intention</i>	+1.6	-1.3
<i>3. Competent authority</i>	+2.2	-0.6
<i>4. Last Resort</i>	+1.2	-1.5
<i>5. Net Benefit</i>	+1.4	-1.7
<i>6. Proportionality of Means</i>	+1.1	-0.9
<i>7. Non-combatant Distinction</i>	+1.1	-1.0
<b>Average</b>	<b>1.5</b>	<b>-1.2</b>

# Other survey results



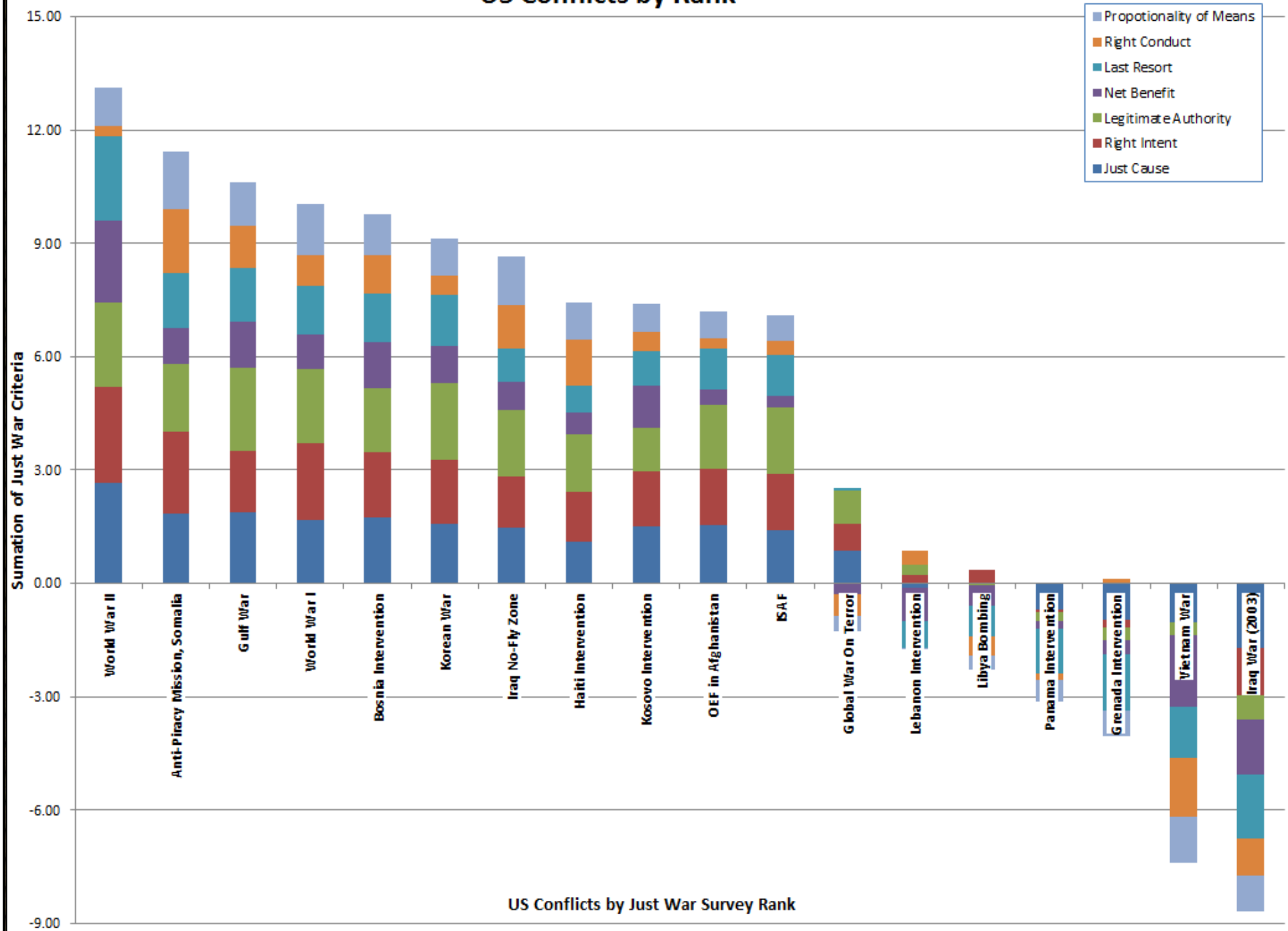
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✳ Wars & conflicts fought by the US

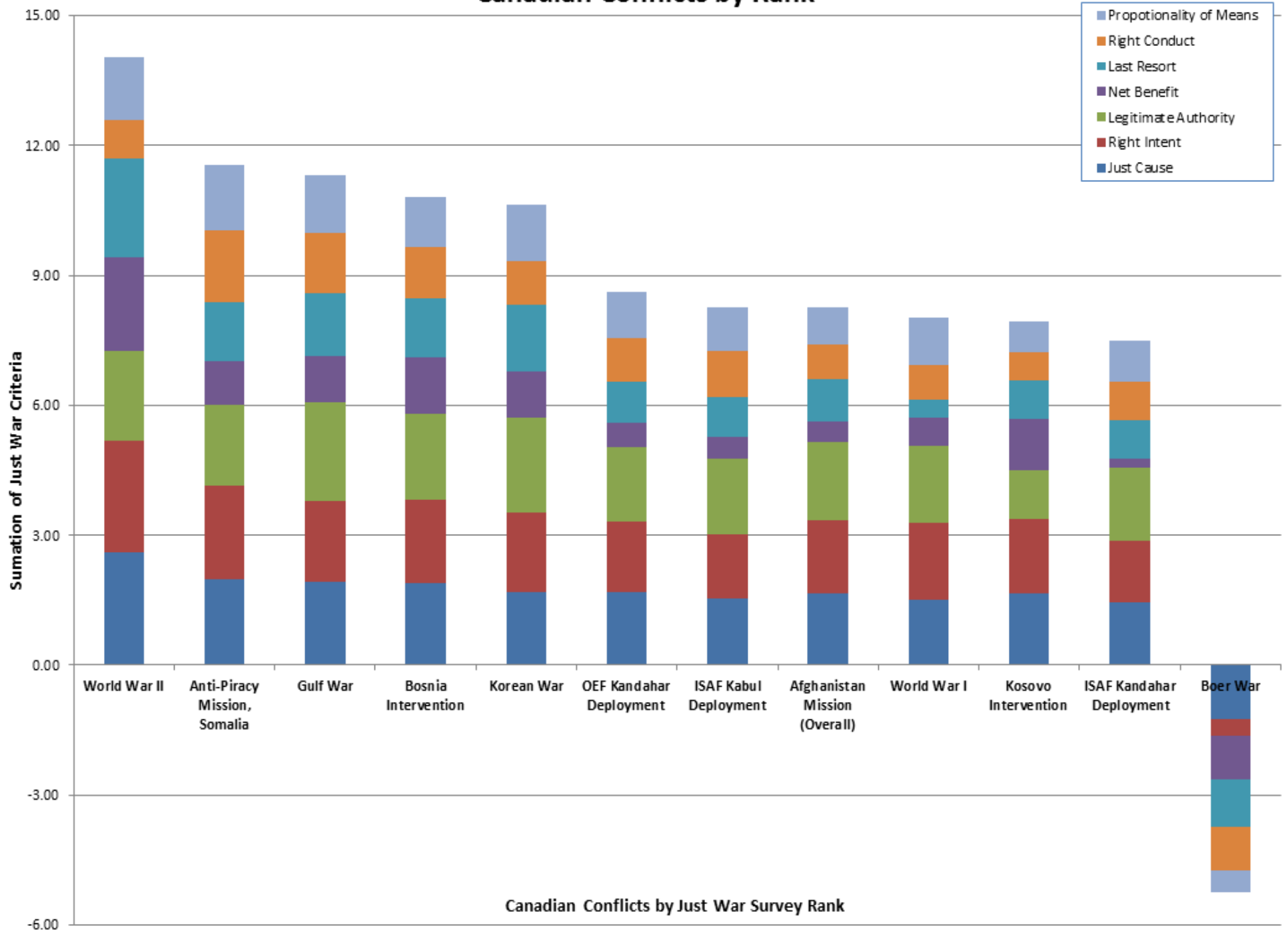
✳ Wars & conflicts fought by Canada



# US Conflicts by Rank



# Canadian Conflicts by Rank





# Criticisms of Just War Theory

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- ✧ Pacifist: too permissive
- ✧ Militarist/realist: too constraining
- ✧ Internationalist: insufficient
  - ◆ Not sufficiently like standards of national justice
  - ◆ Lacks impartiality, automaticity, individual accountability
  - ◆ Need an international force
- ✧ Spiritual/religious: ignores “higher authority”

# Intellectual Critique of Model

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## ✧ Vague criteria

### ◆ Subjective

- Interpretation and values stretched
- Whose perspective? National or universal interest?

### ◆ Weighting of criteria? Equally?

- One good reason

### ◆ Different stages of war evaluate differently

### ◆ Justifications - how far back in history?

### ◆ Hard questions not answered: real distinguishing characteristics

## ✧ Additional criteria to add?

- |                       |                             |
|-----------------------|-----------------------------|
| * Aftermath of war    | * Consent of the people     |
| * Probability success | * Individual accountability |



# Other Issues (cont'd)

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## ✧ Problem of reciprocity

- ◆ One-sided constraints

## ✧ What is “acceptable” level of collateral damage?

## ✧ How just does an operation need to be?

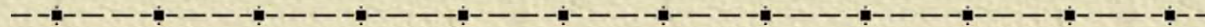
- ◆ UN Charter comparison

## ✧ Application

- ◆ Can it be applied to non-wars, military operations?
- ◆ Can it be applied to tactical & operational levels as well as strategic?
- ◆ Applied as international, as well as national levels?

Just War Theory Applied to “Humanitarian Intervention”

# THE RESPONSIBILITY TO PROTECT



## Synopsis

Gareth Evans & Mohamed Sahnoun (Co-chairs)

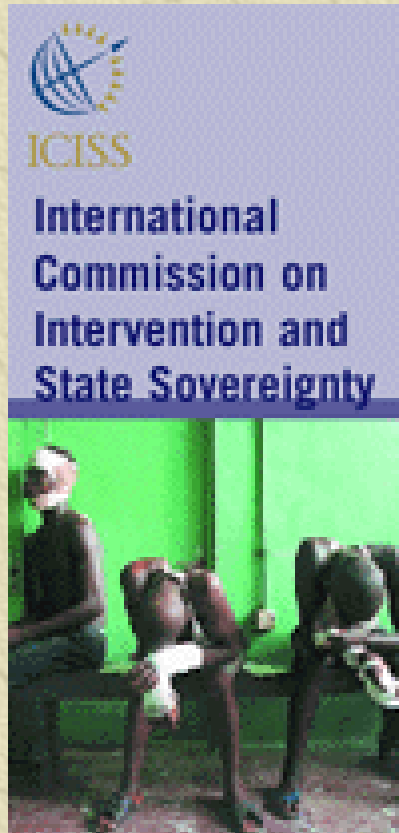


International Commission on  
Intervention and State Sovereignty



# Humanitarian Intervention?

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- Is there a “right of humanitarian intervention”?
- What threshold?
- When to use force and when NOT to use force?

<http://www.dfait-maeci.gc.ca/iciss-ciise/report-en.asp>  
(...report-fr.asp for French version)

# R2P CORE PRINCIPLE

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- ✧ *Sovereignty* implies *responsibility*
- ✧ Primary responsibility for the protection of its people lies with the *state* itself.
- ✧ When state is *unwilling or unable* to halt or avert serious suffering, non-intervention yields to the **international** responsibility to protect.



# Threshold for Military Intervention

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## ***Just Cause***

“serious and irreparable harm occurring to human beings, or imminently likely to occur”  
of the following kind (actual or apprehended):

### **A. large scale loss of life**

Product either of deliberate state action, or state neglect or inability to act, or a failed state situation

### **B. large scale ‘ethnic cleansing’**

Whether carried out by killing, forced expulsion, acts of terror or rape

# “Precautionary Principles” of Intervention

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## A. Right intention:

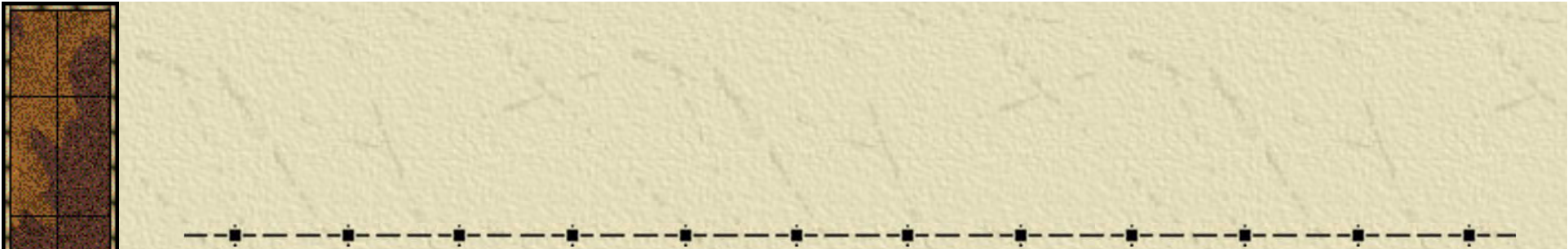
- primary purpose: to halt or avert human suffering.
- better assured with multilateral operations, clearly supported by regional opinion and the victims concerned

## B. Last resort: every major non-military option has been exhausted

- ◆ reasonable grounds for believing lesser measures would not have succeeded.

“Precautionary Principles”





**C. Proportional means:** scale, duration and intensity of intervention minimum necessary to secure objective.

- ◆ Cf. Powell doctrine of “overwhelming force”

**D. Reasonable prospects of success**

- ◆ Consequences of action better than of inaction

# Right Authority

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Security Council ...

A. ... the most appropriate body

- Task to make SC work better

B. ... authorization should in all cases be sought

- ◆ Through formal request or UN Secretary-General

C. ... should deal promptly requests

- SC should seek verification of facts on the ground that might support a military intervention

D. Permanent Five should agree not to apply veto

- ◆ “in matters where their vital state interests are not involved”



# Right Authority (cont'd)

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E. If Security Council fails to deal with case,  
alternative options are:

I. General Assembly in

- ◆ Emergency Special Session under “Uniting for Peace”

II. Regional or sub-regional organizations

- ◆ Charter Chapter VIII, “subject to their seeking subsequent authorization from the Security Council”

F. Other means

- ◆ if SC fails to discharge responsibility
- ◆ action by concerned states not ruled out, though UN stature and credibility may suffer





# Constraints on Military Power

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## ✧ Military power as a spectrum

- ◆ Soft power is still power; Hard and soft power can enhance each other; “smooth power” to move along spectrum but drawbacks

## ✧ Constraints are political, legal, social, moral and practical

## ✧ Use of force (hard power): constrained morally

- ◆ Also on a spectrum

## ✧ Just War Criteria/Constraints

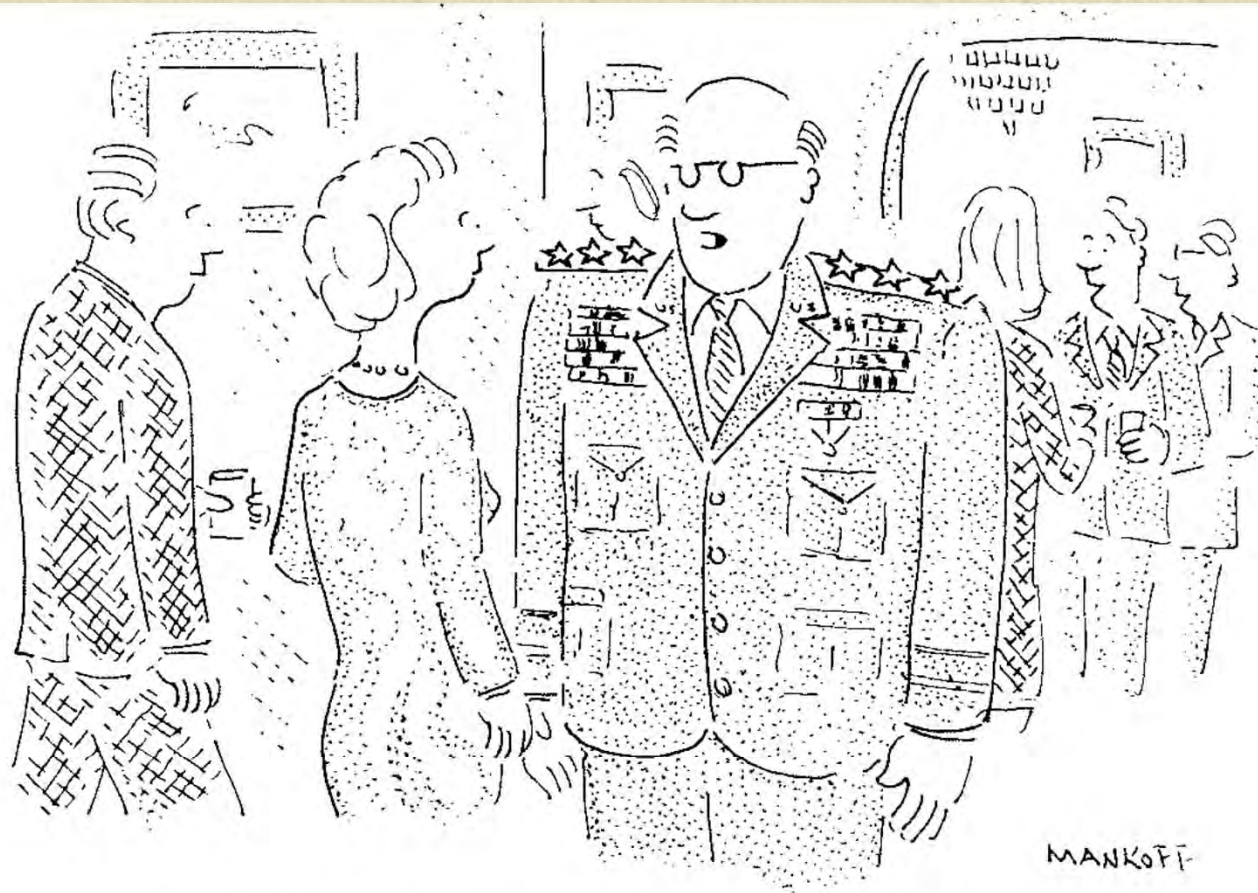
- 1. *Just Cause*; 2. *Right Intention*; 3. *Competent Authority*; 4. *Last Resort*; 5. *Net Benefit*; 6. *Proportionality (of means)*; 7. *Non-combatant Discrimination*
- Critique

## ✧ Towards a more *just* world

- Powers of enforcement



# Finding the Balance



*"Look, I'd like to avoid overkill, but not at the risk of underkill."*



