

**"[W]e support the right of selective conscientious objection as a moral conclusion which can be validly drawn from the classical moral teaching of just-war theory."**

**Statement by the Administrative Board of the United States Catholic Conference**

(1980).

The Military Service Act authorizes the President to order males between the ages of 18 and 26 to register for possible military service. In 1980, President Jimmy Carter ordered registration to begin again, the first time since conscription had ended at the close of the war in Vietnam. This decision was controversial—see *Rostker v. Goldberg* (1981) for a challenge to the MSA's exclusion of females. Among the reactions it provoked was a declaration by the Administrative Board of the organization of Roman Catholic Bishops in the United States.

... The questions of registration and conscription for military service are part of the broader political-moral issue of war and peace in the nuclear age. But registration and conscription bear so directly on the moral decision making of citizens that they require specific attention. ...

We recognize, of course, that the questions of registration and conscription arise, as Vatican II [the Second Vatican Council] said, "because war has not been rooted out of human affairs." In the face of the sad truth of this statement, our response as teachers in the church must be the same as that of all popes of this century. We call in season and out of season for the international community to turn from war and to do the works of peace. The primary obligation of the nuclear age is to banish resort to force from the daily affairs of nations and peoples. From Pius XII to John Paul II the cry of the church and the prayer of all believers is a reiteration of the words of Paul VI: "No more war, war never again!" This must remain our primary response to war today.

Only in the context of this statement can we consider the question of what is the legitimate role of governments and the responsibilities of citizens regarding military conscription. We see registration, conscription and participation in military service as moral questions as well as political issues. Our perspective on these issues is shaped by Catholic moral teaching on the role of the state and the rights and responsibilities of citizens when both citizen and state are confronted by questions of war and peace.

With Vatican II we recognize that "as long as the danger of war remains and there is no competent and sufficiently powerful authority at the international level, governments cannot be denied the right to legitimate defense once every means of peaceful settlement has been exhausted." ... To this right there corresponds the duty each citizen has to contribute to the common good of society, including, as an essential element, the defense of society. Both the right of the state and the responsibility of the citizen are governed by moral principles which

seek to protect the welfare of society and to preserve inviolate the conscience of the citizen.

The moral right of the state to use force is severely limited both in terms of the reasons for which force is employed and the means to be used. While acknowledging the duty of the state to defend society and its correlative right to use force in certain circumstances, we also affirm the Catholic teaching that the state's decision to use force should always be morally scrutinized by citizens asked to support the decision or to participate in war. From the perspective of the citizen, the moral scrutiny of every use of force can produce a posture of responsible participation in the government's decision, or conscientious objection to some reasons for using force, some methods of using force or even some specific branches of the service because of the missions they may be asked to perform. ...

In light of these general principles, we are led to the following specific positions:

1. *Registration:* We acknowledge the right of the state to register citizens for the purpose of military conscription, both in peacetime and in times of national emergency. ...

2. *Military Conscription:* We are opposed to any re-institution of military conscription except in the case of a national defense emergency. ...

3. *Conscientious Objection:* We regard this question in all its dimensions as a central element in Catholic teaching on the morality of war. First, we support the right of conscientious objection, as a valid moral position, derived from the Gospel and Catholic teaching, and recognized as well in U.S. civil law. The legal protection provided conscientious objectors is a commendable part of our political system which must be preserved in any policy of conscription.

Second, we support the right of selective conscientious objection as a moral conclusion which can be validly derived from the classical moral teaching of just-war theory. The position of selective conscientious objection has not yet found expression in our legal system, but a means should be found to give this legitimate moral position a secure legal status. The experience of the Vietnam War highlighted the moral and political significance of precisely this question. We are sure of the moral validity of selective conscientious objection; we would welcome a dialogue with legislators, lawyers, ethicists and other religious leaders about how to transpose this moral position into effective legal language. ...

### **Editors' Notes**

(1) This statement was by no means the first time American Catholic bishops had proclaimed a moral right to selective conscientious objection. In November 1968, for example, when the war in Vietnam was near its peak, the Conference issued a pastoral letter, "Human Life in Our Day," affirming a moral right to conscientious objection and calling on Congress to modify the Selective Service Act not only to allow selective conscientious objectors to refuse "to serve in wars they consider unjust" but also to decline to serve "in branches of service (e.g., the strategic nuclear forces) which would subject them to the performance of actions contrary to deeply held moral convictions about indiscriminate killing."

(2) By 1982, some Catholic bishops' opposition to war, and more particularly to threats of use or even possession of nuclear arms, had moved far beyond earlier statements. Seventeen bishops signed a letter questioning whether any nuclear conflict could qualify as a "just war." Archbishop John Quinn of San Francisco wrote: "The teaching of the church is clear. Nuclear weapons and the arms race must be condemned as immoral." As more and more clergy of all faiths questioned the morality of serving in forces that had nuclear weapons, Archbishop Raymond Hunthausen of Seattle announced he was refusing to pay part of his income tax as a protest against American nuclear armaments. Then in May 1983, American Catholic bishops, speaking as a group, issued a Pastoral Document on War and Peace subtitled "The Challenge of Peace." In it, the bishops stressed that all human beings were members of the same family, reiterated their endorsement of selective conscientious objection, and reminded their people that "no state may demand blind obedience." Disobedience by the military of immoral orders, the bishops claimed, was "not an act of cowardice or treason but one of courage and patriotism." What was new in the pastoral was an institutional attack on the morality of nuclear deterrence as a national policy. Such a doctrine, the bishops said, was moral only as a stop-gap measure to keep the peace while proceeding with disarmament.

(3) The First Gulf War: In the summer of 1990, Iraq, one of the largest producers of oil in the world, invaded and then annexed Kuwait, another of the great sources of oil. After the Iraqi leader, Saddam Hussein, continued to ignore resolutions of the United Nations ordering withdrawal, a coalition of nations began a large military build up in Saudi Arabia and the Persian Gulf. These forces were principally but not exclusively American. In January 1991, they began heavy air attacks against Iraqi targets and then launched a ground offensive that swiftly decimated Hussein's troops.

President George H.W. Bush and his advisers were skilled at weaving together an international coalition, but inept in justifying intervention to the American people. At various times, they described the reason for use of force as "saving jobs," preventing Hussein from obtaining a choke hold on the world's oil, and righting the horrible wrong of invasion and annexation of a "free" nation. The fact that Kuwait's authoritarian government did not recognize that its citizens had either democratic or constitutional rights did not strengthen a claim for justice. As we saw in Chapter 11, the Gulf War Resolution, authorizing use of American troops, passed Congress by a slim margin. (For text, see p. \_\_\_\_.) And many religious leaders, Protestant as well as Catholic, protested that the impending conflict did not fit into the category of a "just war."

Because the United States had moved to an all-volunteer military, there were no new constitutional challenges along the lines of *Gillette*. Nevertheless, some 2,500 people in the armed services applied for the status of conscientious objectors because they believed the war to be unjust; only 111 actually were granted such status. The Pentagon released some of these people but court martialed and imprisoned others. No appeal from these convictions reached the Supreme Court.

(4) The Second Gulf War: Despite meeting with defeat at the hands of coalition forces, Saddam Hussein remained in power after the First Gulf War. Under the terms of surrender, Hussein agreed to verification of disarmament through inspections of his weapons capacities to

be carried out by the United Nations. After years of dispute and ongoing tension, inspections ceased in 1998.

After the terrorist attacks of September 11, 2001, President George W. Bush adopted a new National Security Strategy that emphasizes the prevention of terrorist threats before they can reach the United States or affect our interests abroad. Of special concern are enemy or rogue states that have or are pursuing weapons of mass destruction. The so-called Bush Doctrine calls for preemptive strikes against such threats:

The inability to deter a potential attacker, the immediacy of today's threats, and the magnitude of potential harm that could be caused by our adversaries' choice of weapons, do not permit [the reactive posture employed in the past]. We cannot let our enemies strike first. ... To forestall or prevent such hostile acts by our adversaries, the United States will, if necessary, act preemptively.<sup>1</sup>

The new National Security Strategy came into play as the United States faced the fear that Hussein's regime in Iraq was in the process of obtaining weapons of mass destruction while also providing refuge to terrorists. As President Bush moved military forces into the region and prepared the public for war, many foreign governments and religious leaders of nearly every major denomination—along with scholars of just war theory—questioned his justifications for war. In February 2003, the United States Conference of Catholic Bishops issued a statement that read, in part:

People of good will may differ on how to apply just war norms in particular cases, especially when events are moving rapidly and the facts are not altogether clear. It is difficult to justify the resort to war against Iraq, lacking clear and adequate evidence of an imminent attack of a grave nature. With the Holy See and bishops from the Middle East and around the world, the U.S. Bishops Conference fears that resort to war, under present circumstances and in light of current public information, would not meet the strict conditions in Catholic teaching for overriding the strong presumption against military force.<sup>2</sup>

After months of attempting unsuccessfully to build a wide international coalition, and facing the inability to obtain a United Nation Security Council Resolution clearly authorizing military force, President Bush, in March 2003, ordered the military invasion of Iraq to remove Hussein and his regime from power. Meanwhile, during the early months of 2003, several

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<sup>1</sup>The National Security Strategy of the United States of America, available at <http://www.whitehouse.gov/nsc/nss.html>.

<sup>2</sup>Department of Social Development and World Peace, United States Conference of Bishops, *Statement on Iraq* (February 2003), <http://www.usccb.org/sdwp/international/iraq2003.htm>. See also "Threats and Responses: Catholics – Conservative Catholics' Wrenching Debate Over Whether to Back President or Pope," *N.Y. Times*, March 6, 2003, A14.

hundred United States soldiers applied for conscientious objector status, according to the Center on Conscience and War.

**Query:** Does the preemptive nature of the American political action provide support for the claims of conscientious objection that arose during the Second Gulf War? Does the lack of clear United Nations authorization contribute to claims of conscientious objection? What impact does the Catholic Bishops' statement have for Catholic conscientious objectors to the Second Gulf War?

In considering the foregoing questions, bear in mind that under American law, to obtain the status of conscientious objector, one must object to war in any form, not merely to unjust wars. And so, the issues of conscientious objection and unjust war are conceptually and legally distinct. Furthermore, one might ask whether, when the nature of warfare changes, and when rogue elements become capable of unleashing nuclear, chemical, or biological weapons on non-combatants without warning, the criteria for just war change?