

Thomas Aquinas and the Just War - a text for our times?

Lena, vice chancellor, prime minister, colleagues.

It is a very great privilege to be invited to give this lecture at Lund's university, for an institution that bears the name of a great and brave Swedish diplomat to commemorate the career of a great and brave Swedish and European foreign minister.

There are, in all conscience, few enough politicians, political leaders in all countries who appeal across party lines and across national boundaries because of what they believe, because of what they do, and because of who they are. When such a leader is cut down the pain runs deep and the grief is widely felt. Such was the reaction to the death of Anna Lindh, a friend of so many of us here today.

I have said before that for many foreign ministers and for many diplomats, human rights is an optional add-on when it comes to the discussion and practise of foreign affairs. It's something that you glide over scarcely leaving a ripple. When to raise the subject of torture, censorship, the assassination of journalists, to take a contemporary example, the absence of democracy you might cause upset or even offence. So you add a dissident's case almost *sotto voce* at the end of a meeting in Beijing. You mumble into your chin about Chechnya when looking into the cold eyes of president Putin in Moscow. You overlook Guantanamo Bay when you talk to the secretary of state or National security advisor in Washington, let alone when you talk to President Bush.

Anna was not like that. For her there was no contradiction at all between the sensible pursuit of the national and European interests in foreign policy and the espousal of human rights. I don't think she could have untangled them even if she had tried. So I heard her going head to head with president Kuchma in Kiev on press freedom and murder of journalists. I heard her politely but firmly hitting away on Chechnya with Russian leaders. I recall her raising American unilateralism and Americas abrogation of its treaty responsibilities with Condoleezza Rice in Washington. Did that harm her? Or harm Sweden? Certainly not. Did it make Europe seem little more relevant to the world's affairs? I think it certainly did. You, I'm sure, miss Anna greatly here. We all miss her, Anna.

To those of you alarmed that you are going to hear today an exegesis of catholic thinking on morality and political theory, I can put your minds to rest. I'm not qualified to deliver such a lecture, though I have delivered such lectures in the past. I can also reassure the international lawyers among you, that you are not going to get an amateurs painstaking critique of the legalisms of warfare in its many modern manifestations. What I wanted to try to do is to apply some the good sense of Saint Augustine and Saint Thomas Aquinas to recent events, and to solve the seemingly intractable problems that we face in the beginning of this century.

When the Franco-Prussian war broke out Gustavo Flaubert wrote, "Whatever else happens, we shall remain stupid". And stupid we have remained in the modern world, even after the outbreak of peace. The end of the cold war, a decade and a half ago, saw a closing of a period of our history that was marked by fear. Fortunately, the terror felt about the consequences of nuclear war was greater than the differences between the United States and the rest of NATO on the one hand, and the Soviet Union on the other. During those years we several times came close to Armageddon, in 1962 over Cuba, for example. Even as late as the late 1980's, when NATO conducted military exercises after the shooting down of the South-Korean airliner and Russian leaders thought that the West's missiles were about to rise with slow devastating menace from their silos.

It is difficult in retrospect to remember how matter of factly we went about our business in that world of mutually assured destruction. Even now I can remember how, aged perhaps nine or ten, I woke up one night in a thunderstorm thinking that the nuclear missiles were raining down on London. We left that world of potential horror for what? For what Francis Fukuyama regarded as the triumph of political and economical liberalism, the victory of welfare capitalism and of democracy and of the rule of law. The Pax Americana had seen us all safely home. Now all we needed to do by large was to count the digits of the GDP growth and turn the peace dividend into hospitals and satellite dishes.

Certainly the end of the standoff between the west and Soviet Union, indeed communism to call, saw a rapid reduction in the number of wars between states. A principal reason for this was the end of an era of proxy wars, fought on behalf of the would be global fosse who glared suspiciously at each other across the arsenals of missiles. The Soviet Union had its friends who we thought bad even when they weren't really at all bad. And we in the West had our friends who were by definition good, however bad the really might be.

The Canadian Human Security Centre has shown that a welcome consequence of the fall in the number of wars between states has been, naturally enough, a drop in the number of casualties as a result of such wars. But as I shall show, it is not quite as simple as that.

How well have we adapted to a world who's new order was first described by President Bush's father? What are the main ingredients of that world?

First, the world still has only one hyperpower militarily, the United States. But the limits on the ability of military technology, to secure desired political outcome, have become increasingly obvious, not only in Iraq. America is of course not just a military giant, but an economic one too, as well as the dominant educational and cultural influence on the planet. It has benefited hugely from the Pax Americana, which it created on the basis of global acceptance of a rules basis system of governance, and with the aim of promoting self-determination, pluralism, market opening and capitalism.

Now it has to adjust to the rise of Asia. And in the case of China, the rise, for the first time, under the system it created of a country that does not accept Americas' and the West's political agenda of good governance. This is not just a question of Chinese insistence on the virtue of authoritarianism. It affects policy of development assistance, and on the danger posed by failed and failing states.

Dealing with just the first of those issues, while the United States and the European aid agencies press recipients of assistance in developing countries who posses exploitable resources to sign the Extractive Industries Transparency Initiative in order to keep for example Angolan oil revenues in Angola for development there, not in Brazil or Switzerland for private investments in those countries. Chinas message is different: Forget all that Western humbug about good government, just sign on the dotted line with us and sell us your oil or minerals or wood.

How long this can continue without trouble is questionable. Chinas ascent, its economy will probably be the largest in the world later this century, as it has been in the 18 of the 20 last centuries, reminds us of an argument adduced over ten years ago by Henry Kissinger in his remarkable book "Diplomacy". He noted that we lived in a world increasingly fragmented in terms of power, though globalized in terms of economic opportunity and social and environmental threat. It is a world in which by and large strong states do not threaten one another, nor even do strong states usually, I repeat usually, threaten weak ones. But all states face global problems which they can't cope with on their own. Some nation states threaten their own citizens, and weak states where government has largely collapsed threaten the rest of us because in a sense of their very feebleness.

The world in which the end of cold war led to expectation that we could intervene more frequently with the authority of the UN behind us to prevent or ameliorate disaster, for example stopping massive human rights abuse, is not the world we always see today. Things in practise have not turned out quite as we expected or as some of us wanted. In this new world, how do we adapt our rules on international behaviour to cope with the challenges that face us? It should not be so difficult, after all the manichean world, divided between good and evil has been left behind. And it seems obvious, at least to liberal opinion, what needs to be done building on the institutions and the rules based approach to governance created half a century ago. Yet, at the very end of the day, to return to Flaubert, it seems that we are all stupid. Far from solving problems, we appear to be accumulating unsolved problems which fester and pollute the very environment in which international cooperation should be enhanced.

So what help could we get from the learned fathers of the early and medieval church Augustus and Aquinas, who were writing of course for very different times and very different purposes? Writing to justify the circumstances in which one Christian could bear arms against another, writing to distinguish between Christian fighting Christian and Christian fighting Non-Christian. Though at Salamanca in 1520, the faculty of the university bravely deemed the Spanish conquest of Central America an unjust war. Overall, Augustin and Aquinas provided a careful justification for a Christian to assume pacifism in defined circumstances. And much of what they argued stands the test of time remarkably well. Inevitably their efforts are being assaulted from all sides, “all is fair in love and war” has been an English idiom since the sixteenth century to which Clausewitz added his own belief that there were something absurd about trying to put limits on warfare. On the other hand, pacifists claim that there is no justification for taking up arms and taking lives. Christian pacifists draw lessons from Jesus rejection of retribution, of turning the cheek and his praise for the peacemakers, while pass swiftly by the old testament and Jesus announcement that he had come to bring not peace to the world, but the sword.

I guess that most of us dwell in the rather rocky terrain between these two extremes, noting how often it is only the traduced resources of diplomacy that stand between us and mayhem. As W.H. Auden wrote in his poem “Embassy”, describing diplomats, “and on the issues of their charm depended, a land laid waste and all its young men slain, its women weeping and its towns in terror”.

Instead of dealing with just war doctrine in theory, I would like to test it against three recent wars and one abiding issue of concern, before concluding with some random, but I hope relevant, observations.

Let me begin with Afghanistan, where a coalition led by the United States went to war almost five years ago, against a state that certainly sheltered a terrorist conspiracy, even if the state did not itself directly take part in terrorist acts. Was there first a just cause for military action? We can surely give an affirmative answer; look at the scale of the atrocities committed in New York and Washington. Was the intention right? Again surely yes, because the coalition wished to get rid of a real evil and leave the world better off. Article 51 of the UN charter “the right of self defence”, provided the proper authority. The disabling of the al-Qaeda network and the deterrent offered to other terrorist groups, seems to me to make the action proposed proportionate. And there does not appear to be much doubt that the assault on the Taliban regime was a last resort.

So it looks as though the arguments concerning what Augustus and Aquinas called Jus ad bellum, the justice of going to war, was satisfied. What about Jus in bello conduct within

the war? Well, the principle of discrimination seem to have been met, the intention was not to achieve the coalitions ends through the deaths of non-combatants. And the number of non-combatants deaths does not appear to have been disproportionate to the effect that was properly sought.

What finally of *jus post bello*? Here the judgement is surely less positive. Did the coalition, after the main fighting, seek to secure the justice sought in the resort to war? Did we do enough to establish terms to make peace just and stable? Did we do enough to contribute to the construction of a just and stable peace? Did we play a part in any process of forgiveness and reconciliation central to making peace? We know what really happened. Cheques were sent, troops policed Kabul and government was established there, special forces pursued al-Qaeda along the Pakistani border, the warlords were hired like *gite* for the season. But the leader of the coalition, the United States, was so intent on the build up to a new war in Iraq, still in 2001-2002 unannounced but covertly planned, that we failed to make the necessary military commitment to Afghanistan, to give it the chance to rise from the rubble of war to the peace of what its finance minister called a stable, dignified poverty. So now we have returned to Afghanistan, to the tasks which we had five years ago in much more adverse circumstances.

Let me turn second and in the circumstances, because they are issues discussed at great length, quite briefly to the Iraq war. I mean the original, American led invasion, not the civil war that now soaks this liberated country in blood. Let us note three initial points.

First, which has some bearing on motive, the policy on Iraq was pressed home by a group within the Bush administration which had campaigned overtly and covertly for the removal of Saddam Hussein long before 9/11. Whether he had anything to do with 9/11, and the answer is of course that despite the insinuations and worse he had not, the neo-conservatives had wanted his scalp from the end of the Kuwait war.

Second, it was not helpful that the justification of war changed with the political climate or rather with the erosion of one argument for war after another. Our own prime minister in the United Kingdom, who may well have believed what he said whatever it might be, whenever he said it, sometimes cited Saddam Hussein's defiance of the UN, sometimes the threat posed by his elusive arsenal of weapons of mass destruction, and sometimes the wickedness of Saddam's regime.

Third, it is said that whatever the criticism of the invasion and its aftermath, the world is better off without Saddam Hussein. Certainly he was a very bad man and his regime had a ghastly human rights record, both points incidentally, which were just as true, when we were treating him like a friend during the Iran-Iraq war. But it is one thing to say we are better off without Saddam Hussein, another to weigh the costs of his outing in terms of past and present misery and future threat. Have we done more good than harm? Or have we done more harm than good? Can Iraq hold together? What would be the regional consequences of its implosion? Does it improve our prospects of combating terror? I believe it would be very difficult to find positively about the war on Iraq on the grounds of just cause, sufficient and proper cause, right authority or last resort. As for *jus in bello* and *jus post bello*, the dire story from Fallujah to the sacking of the army and the Baathists in government speaks for itself. The title of one of the latest American histories of the whole enterprise is "fiasco".

The other point I want to make, concerns the relationship of the war to the general conception of pre-emption in the US administrations national security strategy of September 2002, in some respects as Professor Sir Michael Howard of Oxford University has argued, a truly revolutionary concept. The standard text on pre-emption in international law and its dangers war written by a US secretary of State, David Webster, in relation to a British attack in 1837

on an American ship ferrying arms, recruits and supplies from New York to rebellious Canada. Webster argued that pre-emption was only justified in response to an immediate threat. The force used should be necessary for self defence and could only be used after non-lethal measures and attempts to dissuade an adversary from acting had failed. Webster rose, and I quote, “It will be for that British government to show a necessity of self defence, instant, overwhelming, leaving no choice of means and no moment for deliberation.”

Instant, overwhelming, no choice of means, no moment for deliberation. Did Saddam Hussein in 2002-2003 have a substantial armoury of weapons of mass destruction? Was he supporting and arming terrorists? Was he prepared to risk giving weapons of mass destruction to a terrorist group? Was such a group in a position to use them in the United States, causing as a result huge number of casualties? At the very best the war in Iraq was not pre-emptive but preventive. The danger, if it existed at all, was distant and speculative, whereas the costs of such a war were close at hand, certain and terrible. I think that it would be most people’s conclusion, unless I suppose you were really convinced that a successful war would be short, low on casualties, popular with the defeated and the necessary switch to turn on the lights of democracy throughout the country and the region. I am all for faith in its right place, but a faith based foreign- and security policy usually leads to the graveyard. It certainly did in this case.

Pre-emption has not always been condemned. Many, certainly including me, if not most, would acknowledge that Israel was justified to strike first in 1967 against its encircling and threatening neighbours. But how does the latest Israeli military activity appear to much of the world? On the 12th July, following a Hamas attack on a military base the previous month, militants from the Lebanese Hezbollah crossed into Israel, captured two soldiers and killed three others. More Israeli soldiers were killed when they pursued Hezbollah into Lebanon. Israel reacted by rejecting any negotiations or prisoner exchange. It launched military operations designed to reduce Hezbollah, to force it to disarm, to deter others from similar activities. In the ensuing hostilities Lebanon was broken apart again. A thousand of its citizens were killed, the quarter of its population fled its homes and much of its infrastructure was destroyed. In the United States and the United Kingdom we declined to call for an early ceasefire, telling the Lebanese that the bombing might be painful in the short term, but in time they would come to appreciate that it was in their own best interest. It certainly turned out to be in Hezbollah’s interest, in Iran’s interest, though hardly in Prime Minister Olmert’s interest or Israel’s or American interest. *Jus ad bellum*, *in bello*, *post bello*? Well, hardly. Just cause and proper authority? Right intention, proportionate action, last resort? Surely not.

What all three examples I have given indicate to me is the remarkable fit between moral tests and political and security outcomes. In each case, ignoring in whole or in part a code that tries to prescribe right behaviour has led to pretty calamitous outcomes. And that leads to a conclusion that Anna, I suspect, would not have found very surprising. Namely that it is invariably the case that to do what is right, is to do the right thing. Where all these arguments become more confusing, is when you consider an issue that increasingly attracts the world’s conscience and should also attract its sense of self preservation.

I refer last to the issue of humanitarian intervention. In each recent case of intervention that I recall, we were dealing with the subject in a failed or failing state. Northern Iraq, Bosnia and Herzegovina, Somalia, Rwanda, Haiti, Albania, Kosovo, East Timor, Sierra Leone. Today the question of Sudan, Darfur hovers unresolved in front of us. The issue of humanitarian intervention about which the Pulitzer Price winning writer Samantha Power has written, and she is of course the first holder of the Anna Lindh-chair at Harvard, “the issue of

humanitarian intervention came dramatically to the fore in the 1990s for several reasons: partly because civil wars, rather than threat of wars between states, came to preoccupy us; partly because of the role of the media and non-governmental organisations; partly because the UN security council was no longer always blocked by East-West disagreements; and partly because of concerns about refugee flows and because of a growth in human rights law and international humanitarian law”.

Increasingly we rejected the hobbesian idea that the state was in the same position in regard to its citizens as the master to the slave. Individuals, we asserted, have rights as well as states. But the law was not clear cut, and anyway unless you could effectively implement international law how could you justify appealing to it? There is an old dictum that law without power is no law. Opposition to the creation of a right of humanitarian intervention was most forcibly expressed by several large and powerful states. China and Russia for example which, to be polite, doubted the motives of those who wanted to intervene would always be disinterested. Many post colonial states in Africa and Asia joined the opposition. Some states doubtless opposed the principle on the grounds that it might be used against them, or at the very least it would be used to discredit authoritarian governments. Criticism invariably focused on the argument that there was no legal basis within the charter for humanitarian intervention and that no organisation outside the UN really had the authority to use force. So proper authority, to return to Augustine, for humanitarian intervention was absent.

The less than impressive record of humanitarian interventions in Somalia and Haiti for example was also cited. This is an argument that remains to be resolved. Failure to resolve it hogties the UN, discredits it in the eyes of most Western democratic opinion, makes it seem irrelevant to those whose human rights are serially and seriously abused, and renders us defenceless against the threat that failed states spawn. We plainly need to try to build support for criteria that could justify humanitarian intervention, based on the just war tradition. At the very least it should be possible to reduce and identify the opposition to such moves. Any acceptable criteria will cover the scope and the responsibility for atrocities, the best way of judging whether or not peaceful remedies have been exhausted, the authorization and legitimization of intervention, its purposes and results, the interests of those who intervene whether they are clean, and the observance of humanitarian norms by the forces that intervene. We have made little progress in recent years, though not enough for example to allow us to act decisively over Darfur.

Five years ago the Canadian sponsored International Commission on Intervention and State Sovereignty invented a new way of talking about humanitarian intervention. It advocated a new responsibility to protect, to protect those at grave risk. At the heart of sovereignty today, the commission argued, lay a responsibility not control. Responsibility to protect was defined as being about much more than intervention. It covered conflict prevention and the responsibility to rebuild after conflicts were over. And the commission finally considered ways in which the Security Council, as the legal authority for intervention, could work better. The UN sixtieth anniversary world summit and the high level Powell Report in imminent threats that preceded it, embraced this concept of the duty to protect. So it is fair to say that the principle survives. Its supporters even claim that today it is broadly accepted international law.

But what about its implementation? What about the capacity and the will to turn it into lifesaving on the ground? Here the situation is much murkier. While there may be a politically agreed principal, where is the power to make it a reality of it? There are several issues on which we in Europe should perhaps try harder to take a lead. The most difficult question for Europe, especially for the two EU member states who are permanent members of the UN Security Council with the right of veto, is the membership of that body and its powers. Both

represent geopolitics at the end of the second world war. Whatever they may or may not represent today, these arrangements complicate or render impossible to achieve right authority for military intervention. So long as the existing right of veto exists for instance, the Security Council will find it difficult to act as the principal or the sole repository of right authority. In other words, the present arguments militate against the UN acting as the legitimizing authority for humanitarian intervention. At the moment it may be tantamount to a virtually hopeless cause, but broadening the membership of the Security Council and replacing the rights of veto in certain circumstances with a strong majority vote, or at least limiting its use appear essential if we are to place humanitarian concerns wholly satisfactory within the generally accepted international rule of law.

There are other matters that briefly we need to address. First, we know about the contribution that soft power can make to prevent conflict, but what happen when soft power fails and hard power is required? UN peacekeepers have done a remarkable job, but there are not enough of them to do all the jobs required. Our capacity in Europe to help is something that we need to be more realistic about and more determined to put right. It is certainly a debate that we should lead at the UN.

Second, we need to review the non-military sanctions that should be available to deal with recousetrant states that commit atrocities against their own citizens. There are two reasons why sanctions do not usually work. First, they are often too soft. Second, and this happens with great regularity in European Union, we do not police them properly. When I was a European commissioner, I think it is fair to say that, we regularly found ourselves in the commission trying to implement sanctions which were agreed by member states only to find that the member states appears to want sanctions in communiqués, but not sanctions that actually worked on the ground. We should look in particular at the efficacy of oil embargos, financial sanctions, travel bans and the imposition of non-fly zones.

Third, the UN's new peace building commission has a potentially crucial role. Its priorities and capability need to be carefully monitored. One thing it should clearly do is to draw some lessons from past attempts of peace building, working with the various international and regional agencies with the greatest experience in this field. A real breakthrough would be to align the bureaucracies, financial regulation and training of these various bodies.

Fourth, the international criminal court has a key role in preventing abuse and coping with its consequences. It should be encouraged to express its concern about human rights abuse and its interest in investigating for example in today in Sudan, Darfur.

Fifth, when we consider today the use of force, we can't overlook worries about the relevance of the international conventions that should govern it. I am not just talking about familiar controversies regarding for example the treatment of prisoners and the types of weapons used such as cluster bombs. I am actually thinking of those who were officially deemed to combatants in the first place, and who were covered by existing national and international treaties and laws. We have seen in the last few years a huge increase in the use in conflict of non-logistical contractors, in other words non-uniformed personnel performing military roles. This is not an issue on which governments have been transparent. It recalls the remark in Joseph Heller's "Catch 22", that governments should get out of the business of war and hand it over to corporations. To a remarkable extent, that is what some of them have done. It is estimated that there are up to 20 000 personnel in this category in Iraq, about one third of the number of contractors in the country. Since the invasion over 600 have lost their lives. Are contractors, non-logistical contractors, subject to the same rules as the uniformed military? If not, what are they subject to? The role of private security companies, and the

consequences of their use and experience in one place when trouble breaks out in another, deserves in my view a much more open debate.

The more I contemplate ethics and foreign policy, the more I always push back to contemplating the relationship between good sense and foreign policy. Good sense makes for dull history, so national and international folly are the meat and drink of historians. The fine American historian Barbara Tuckman wrote a book about it called "The march of folly". She was keen as to demonstrate the stupidity of the war in Vietnam, but just to show that folly runs wide and long and deep, her book began with the Trojan horse, went on to the renaissance popes who drove protestants into secession, and then homed in on the mistakes that lead to Britain's loss of its American colonies. Her conclusion was that as John Adams had written "Governments are little better now than three or four thousand years ago". It is a rather depressing thought, but one advanced by other too. Count Axel Oxenstierna, your chancellor during the thirty years war under Gustavus Adolfus and then the ruler of the country of course under his daughter Kristina, said, you may recall, on his deathbed "know my son, with how little wisdom the world is governed". Happily, that is not always the case. In fact we did pretty well in the second half of the last century, despite the Vietnam war and other problems. Especially in comparison with the preceding fifty years. Today, with so many of the problems of xenophobic, national aggression behind us, we seem curiously unable to cope with the imperatives of the international cooperation. Perhaps this will change. Or perhaps out of success, we are doomed to build failure indelibly marked by original stupidity which Saint Augustine and Saint Thomas Aquinas would probably themselves have dubbed original sin.

Thank you very much.