

The Falklands War: A Moral Balance Sheet

In what follows I examine the events of the Falklands War in the light of the just war tradition and come to some conclusions about the moral justifications which might be offered for the two parties involved. For the purpose of the discussion I assume that there is, indeed, such a thing as a just war and I shall, thus, not be concerned to defend this claim against the claims of pacifism in its various forms. I simply take it that there are circumstances in which recourse to violence is, in principle, morally justified and that there are morally defensible (or at least tolerable) means of prosecuting such just wars.

These two aspects of the just war are frequently distinguished in moral discussion so that we have (to use the traditional Latin tags) – *jus ad bellum* (the justice of the war) and *just in bello* (justice in the war).

For any conflict it may thus be asked not only whether the belligerent parties are justified in fighting at all but also whether the way in which they fight in accordance with the set of international understandings and formal agreements which make up the modern concept of the just war.

Jus in bello Issues

In the case of the Falklands conflict, there is relatively little that needs to be said in regard to the conduct of the war itself. The Falklands war was remarkable for the adherence of both parties to the laws of war and to general just war understandings. Hastings and Jenkins comment that it was ‘fought with remarkable respect for decency on both sides’¹. The International Committee of the Red Cross also gave the belligerent parties a broadly clean bill of health in their 1985 report.²

There are nonetheless some matters that might be discussed. In regard to weapons use, questions have been raised about the employment of cluster bombs against Port Stanley airport and about the use of phosphorous munitions (both by British forces). Bluth (whose comment this is) describes the former as ‘clearly contradicting the principle of proportionality’.³ It isn’t clear to me why cluster bombs should be thought to be particularly objectionable on these grounds, although it might be argued that munitions of this kind are rather more than usually indiscriminate.

Again, the Argentinians apparently had stocks of napalm that they might have used had circumstances required it, or opportunities presented themselves. Phosphorus and napalm seem to me to be particularly unpleasant weapons but I am nonetheless unable to find unambiguous moral principles by which these may be clearly distinguished from other modern weapons. I am thus not able to support an argument that their employment (or deployment) in this conflict contravened the principles of the just war. No specifically prohibited weapons were used in the war (i.e. there was no employment of gas or biological agents).

As noted earlier, general observance of the Geneva principles was of a very high order. Non-combatant status was generally protected (there were only three civilian casualties in the entire war) and prisoners on both sides seem to have been well treated and speedily repatriated. On the other hand, there is the oft-cited incident at Goose Green. This took place during an assault by British paratroops on the schoolhouse. I take my account from Hastings and Jenkins –

The Argentine defenders fought back fiercely until a white flag suddenly appeared from an enemy position. One of D’s subalterns, Jim Barry, moved forward to accept the surrender. He was instantly shot dead. It was almost certainly a mishap in the fog of war rather than a deliberate act of

treachery, but the infuriated paras unleashed 66mm rockets, Carl Gustav rounds and machine-gun fire into the building. It was quickly ablaze. No enemy survivors emerged.⁴

That this was, indeed, an aberration is indicated by the fact that surrender was offered and accepted on the following day, before the main attack on the Goose Green garrison actually began. In the context, it seems reasonable to accept Hastings and Jenkins' judgement that it was an 'unfortunate accident' with 'no moral blame on either side'. There were few other incidents of this kind although a very much more recent report (September 1992) raises the allegation that during the battle around Mount Longdon some capture Argentine soldiers were summarily shot. It remains to be seen whether these allegations are sustained and what precisely the circumstances of the shootings were. At this stage it does not appear that these incidents would seriously challenge the general claim that the Falklands war was generally fought in accordance with the requirements of international humanitarian law.

Before leaving questions of *jus in bello* it might be noted that the fact that the Falklands War was apparently fought in quite strict accordance with the requirements for a just war is not unimportant. In recent times it has been quite fashionable to argue that there can be no such thing as a just war because modern weapons and modes of fighting are inevitably disproportionate and indiscriminate. They thus inevitably breach the *jus in bello* requirement that harm inflicted be in proportion to the good achieved and that non-combatants must be protected. The Falklands War provides a specific counter example to this claim. There is little evidence of gratuitous, or unnecessary killing in any phase of the war and, as noted above, civilian casualties overall amounted to just .3% of the total (3 out of 900). Of course, there are reasons why these things were so, some of which have to do with the peculiarities of the location and others with diplomatic and political considerations. These do not alter the fact that the Falklands war shows that it is still possible to fight within the spirit and intentions of humanitarian law if the belligerent parties wish to do so. The much more contentious question as to whether the losses in the war as a whole were in proportion to what was at issue (i.e. whether the war itself was just) will come up for discussion below.

Jus ad bellum

The just war tradition provides a number of tests on the basis of which the moral legitimacy of the recourse to violence to secure political ends may be determined. Prominent amongst these is that there must be a just cause. That is, there must be some worthy moral end to be achieved whose values will offset the inevitable losses of war. This statement implies a second requirement for a just war. In order that the ends *do* justify the means (in this sense), there must be some *proportion* between the value of the ends sought, and the cost of achieving them, in terms of human lives and the destruction of property. Speaking generally, it may be said that a great deal of the killing of war has been gratuitous. That is to say, the human harm has not been instrumental to any purpose that might have morally justified the war in question. This consideration applies particularly to the killing of civilians or non-combatants and it provides the basis for the requirement of *discrimination*, already referred to. As with proportion, it is a requirement that may be applied both to the war as a whole and to individual actions within it. To resolve to act in such a way as to promote discrimination and proportionality is to have a '*right intention*' with regard to the war as a whole. Right intention is another requirement of the just warrior.

Connected with the proportionality principle is the demand that recourse to war must show some *prospect of success*. Again the logic of this is that unless there is such a prospect the inevitable losses will not be offset by morally overriding gains. A recognition of the

enormous waste of war also lies behind the requirement that it should be a *last resort*, that all alternative means of achieving the desired end should have been exhausted before recourse is had to violence. This principle may also be taken to reflect the fact that violent means are in any case *uncertain means* and that the consequences of war are very frequently not what those who initiate them anticipate.

It is also sometimes said that for a war to be just it must be formally declared and by legitimate authority. In many ways, the first condition has become obsolete. Wars are no longer formally declared and it may be that this is no bad thing. Conflicts that are entered into without formality may be easier to end. The requirement of legitimate authority may also be inappropriate. There may well be representatives of social aggregations who we may think to be morally justified in committing their people to war despite their apparent inability to pass a formal legitimacy test (insurgent leaders, generally, would seem to fall into this category). In the case of the Falklands war there was no formal declaration of war by either party. In line with the immediately preceding comments, we do not need to inquire whether the Argentine Junta was, indeed, legitimate in this sense. On the other hand, it might be noted here that some writers have argued that only wars entered into with the full knowledge and consent of the people of the state concerned are legitimate.

The example often used is that of the Vietnam War where it is asserted that United States participation would not have passed this test. This is a very complex matter to determine, raising as it does difficult questions that go well beyond the justice of a particular war. In the present case, it seems that the Falklands War enjoyed at various times a substantial degree of popular support in both of the countries concerned. On the whole it may be better to treat the matter of *just ad bellum* directly rather than through uncertain constitutional niceties.

In regard to the just war claim itself, tradition suggests that there may be three justifications for the recourse to war. They are righting wrong, inflicting punishment and responding to a prior attack. Of these, the infliction of punishment would seem to be the most difficult to support on utilitarian grounds. The usual deontological justification is inevitably backward looking and the application of punishment uncertain (both as regards the guilt and the identity of the punished party). It is also very likely to be productive of further violent episodes as punishment is sought for perceived prior wrongful punishments. For all that, there are contemporary cases where the claimed justification for acts of war amounts to a claim of just punishment. The United States air attack on Libya in 1986 and numerous Israel attacks on PLO bases might fall into this category, although some of the latter could also be considered under the heading of reprisals in the context of an on-going war. This principle is not, however, relevant to the Falklands situation, since neither side made the claim and since the events surrounding the war do not suggest that it is appropriate. On the other hand, the claim to be righting a long-standing wrong and the claim to be fighting in response to aggression are central to the moral claims made by the respective parties.

The just war claims of Argentina and Great Britain in regard to their participation in the Falklands War will now be considered in turn, and in the light of the principles outlined above.

Argentina

Argentina has a long-standing claim to territorial sovereignty over what is called by that country the Islas Malvinas. (Without wishing to prejudice the substantive issue, I shall continue to refer to them simply as the 'Falkland' Islands.) The basis of this claim is that Argentina was the regional heir to the Spanish colonial owners who in turn had made an agreement with Great Britain in 1790 (Nootka Sound Convention) under which the latter renounced any colonial ambitions in South America and adjacent islands. This, in turn,

provided justification for Argentina's violent occupation of the Falkland Islands in April 1982.

However, closer examination of the historical detail suggests that the legal and moral situation might be rather less clear cut than this bald description would imply. In the first place it seems evident that the British authorities did not ever quite give up their interest in the Falkland Islands, despite the convention of 1790 and despite a much-cited adverse report by Dr Samuel Johnson. Of the Falkland Islands, he said they were –

.... thrown aside from human use, stormy in winter, barren in summer, an island which not even the southern savages have dignified with habitation, where a garrison must be kept in a state which contemplates with envy the exiles of Siberia, of which the expense will be perpetual.⁵

Spain finally quit the region in 1811 and Argentina established some sort of administration on the Falkland Islands around 1820. This continued until 1833, when a dispute arose between the administration and some American sealers which resulted in the eviction by an American warship (that just happened to be at hand) of almost all of the Argentineans and the destruction of the settlement. It was at this point that the British took advantage of the situation to establish themselves. The British claim to sovereignty over the Falkland Islands is based on continuous possession since that date. This is the doctrine of prescription, under which continuous possession over a long period generates a right of ownership. Of course, it needs to be added that the Argentine authorities have pretty continuously disputed ownership over the period and critics of the doctrine have pointed out that it is little more than a legal cloak for the more basic doctrine, that might is right. It is certainly the case that the reason why the situation did not change was because over this long period Argentina was not in a position to enforce, or have enforced, its claim. On the other hand, if it is considered that possession (even disputed possession) over more than 150 years does not confer good title, then the potential for territorial dispute world-wide must be very large, perhaps undesirably so. With whatever limitations, some version of the doctrine of prescription must be accepted if the long historical procession of war is ever to be ended.

I conclude from this that Argentina has the basis of a claim in respect of the Falklands Islands but that it is not an overwhelming one. It also must be added, that to say that there are grounds for such a claim (even without the qualification) is not to say that the Argentine authorities were morally justified in the violent repossession of the islands in 1982. As indicated above, to justify the initiation of war it is also necessary to show that all alternatives have been exhausted, that war is, indeed, the last resort.

In this connection, it might be observed on behalf of Argentina, that by 1982 there had already been one hundred and fifty years of argument and protest, and that the current phase of negotiations had been proceeding for fifteen years without satisfactory resolution. If this does not amount to exhaustion of the non-violent possibilities (it might be asked), then what would do so, as far as the just war requirement is concerned? On the other hand, it may seem that unless a state is actually subjected to attack, there is always something additional that might be done towards resolving the issue instead of using violence. It is an important implication of this argument that the only just cause for war is prior aggression. The argument does not, however, entail the conclusion that those subjected to aggression *always* have the right to fight back. I shall return to the matter of aggression as a just cause a little later.

The great uncertainty and the inevitable cost of war, also suggest a general duty to utilise non-violent options, whatever the wrong in question might be. It seems clear that Argentina could have continued the negotiations that were proceeding, however fitfully, at the time of the onset of the war (by this time under United Nations auspices). Despite British

foot-dragging, there was good reason to believe that the British Government would have been happy to be ultimately rid of the Falklands problem.

There were, in fact, political reasons why Argentina did not continue the negotiations. The Argentine Government was desperately unpopular. There was civil unrest. It needed something to revive its political fortunes, and it was *this* that could not be delayed. It was even suggested in the public press that the only thing that might meet this need would be a popular war.

Similarly, there were political reasons why the British were dragging their feet over the negotiations. There is also good reason to think that political considerations were significant in determining the British response once the invasion had taken place. I shall return to this matter, in due course.

I conclude, then, that despite the long period over which Argentina sought a satisfactory settlement of the dispute with Britain over the Falkland Islands, it cannot be claimed that all alternative avenues to war had been exhausted. Thus, this factor does not strengthen the Argentine case.

By contrast, the requirement that for a war to be just it must show a good prospect of success does seem to support the Argentine claim. Indeed, in its initial phase the Argentine action was outstandingly successful. All objectives were achieved and at a minimal cost in terms of human lives and general destruction. There were, in fact, only a handful of soldiers killed or injured, almost all of them Argentine. There seems to be no problem here, either in regard to proportion. From an Argentine point of view, justice had been served at an absolute minimum cost. It seemed that the prospect of Britain fighting to reclaim the islands, once they were occupied, was almost inconceivable.

But for all that, we may ask whether it is really right to count 'prospect of success' as a positive value in a just war moral calculation. Speaking more generally, it would seem strange to say that a powerful predatory state was more justified in attacking its neighbour in virtue of a high prospect of success. It might be that this criterion only operates appropriately in a negative sense. On this way of looking at things, prospect of success (where it is low) can only detract from a good just war case, already made on other grounds. It cannot significantly enhance a poor one. This argument may also be applied to a claim that the Argentine action generally was in proportion and that this adds to its justification. Again, logic suggests that proportion, too, may only operate negatively. An action that is *prima-facie* justified on other ground may be called into question by an apparent lack of proportion. Actions are not morally proper merely because they seem to be in proportion to what is gained from them.

Great Britain

The basis of the just war claim as far as Britain is concerned is imply that it was a response to aggression. Not only is this principle central to the just war tradition, it is also enshrined in international law. Article 51 of the United Nations Charter, for example, provides for 'the inherent right of individual and collective self-defence if armed attack occurs'.⁶ The 1928 Kellogg-Briand Pact and the Nuremberg Charter go further than this by stipulating that response to aggression is *the only just cause*. The United Nations Charter to some degree equivocates on this point (in the context of anti-colonialism). However, there is no doubt that *de facto* British territory was attacked on April 2, 1982, and, on that basis, there was a *prima-facie* right of violent response. There are nonetheless a number of questions which might be raised, the effect of which might be held to significantly undermine the British just war claim.

The first concerns the whole basis of the claim of self-defence. The right of a state to defend itself against an act of aggression by another state is usually thought to be based on

the domestic analogy. In this an individual subjected to attack that feels his life to be threatened by the assault and who has no other recourse (he cannot save himself by flight) is taken to be morally justified in using violence in his defence. The weakness of the analogy as a support for state defence, is well shown-up in the Falklands case since here it may be plausibly argued that the lives and well-being of the islanders were not apparently at immediate threat from the presence of the occupying Argentine troops. Gerard Fotion (*Ethics for a Shrinking World*) is one who argues this (although he does not explicitly link this conclusion to the domestic analogy). The British attack was unjustified (he says) because the lives and personal security of the Falkland Islanders were not at peril. Of course, the argument would be different *if there were no citizens*. In this case we might agree with Fotion:

.... violent responses, even to acts of aggressive warfare, are unjustified if the aggression is not directed against human life but involves, say, slicing off an uninhabited piece of territory.⁷

Although, even here, we might think there were general grounds for opposing aggression whenever it occurred. I return to this topic later.

But to say that the Falkland Islanders themselves were not endangered by the occupation is surely to over-simplify. It is true that the civil population were by and large well treated by the occupation force but the fact remains that they were entirely at the whim of a notorious totalitarian regime which had an unenviable reputation for atrocity against its own people. They would have had plenty of grounds to fear that once the new status quo had become accepted, any show of disagreement or dissent on their part could result in their joining the ranks of the 'disappeared'.

It may be that the right to national self-defence is less securely based on the domestic analogy in a case in which the attacking party merely intends to alter the political and administrative arrangements within the victim state but otherwise not detract from the personal security and autonomy of its citizens. However, this must be a situation which has had few, if any, exemplifications. It certainly cannot be said of the Falklands case. Generally the personal security question cannot be separated from the broader issue protection of institutions. A threat to the latter will almost always involved a threat to the former.

Some formulations of the just war right to self-defence make reference to a response to '*unprovoked* aggression'. In relation to the Falkland War it may be claimed that Britain was guilty of 'a certain degree' of provocation in its dealings with Argentina in the period leading up to the outbreak of war and that this factor detracts from its claim of just cause. Bluth is one who makes this specific point. He says –

...the Argentine Government correctly concluded that the British government was only interested in maintaining the *pretence* of achieving a peaceful and negotiated settlement with Argentina. (emphasis added)⁸

However, this seems to me to be a misstatement of the situation. It is certainly the case that the Conservative Government of Margaret Thatcher was going slow on the negotiations in response to strong, populist, back-bench and opposition criticism (just as a Labour Government had experienced fifteen years before). But the government *was* looking for a formula which would secure the support of Parliament and the Falkland Islanders because it did not wish to retain the territory any longer than it needed to. There was no deception or pretence about what the ultimate aim of British policy was. On the other hand, there are substantial grounds for ascribing contributory negligence to successive British administrations for allowing negotiations with Argentine authorities to drift over seventeen years, from 1977 to 1982. More determined efforts could and should have been made to overcome the political difficulties standing in the way of a negotiated settlement. This is

particularly so since the British authorities were made well aware several times over this period of the possibility that the Argentine government might take matters into its own hands.

However, we also need to recognise here the political realities of life for a politician in a democratic state. To take an unpopular stand of principle on a matter of apparently small relative importance (as the Falklands issue was seen to be by most British politicians) is to invite political destruction. It may even show a lack of proportion. With hindsight it is clear what should have been done and what significance political failure in this connection was to have but I do not think that it may be claimed that this was so obvious at the time. It cannot, thus, be made the basis of heavy moral censure.

There is another way of looking at this aspect of the matter and that is to say that the British Parliament was right to resist the handing over of the islands *on any terms*. The Foreign Office, on the other hand, was doing neither one thing nor the other, being largely concerned to conceal its intentions from both the British Parliament and the Argentine government.

Successive British governments failed in their duty (they were) indifferent to the wishes of the Falkland Islanders only Parliament saved the Falklands, prior to the Argentine invasion.⁹

But even allowing that British policy formation in this area was indecisive and inconstant over a long period (perhaps, through genuine moral conflict) it is difficult to see this as amounting to a plausible cause for war. This aspect of the run-up to hostilities, then, does not add to the Argentine justification for invasion. It may, however, be taken to detract from the British just cause claim. As indicated earlier, the right to self-defence is not an absolute one. It is particularly problematical where the issue at stake (in this case sovereignty over the Falklands Islands) had not been strongly defended before hostilities began.

At the same time there is an evident and significant difference between being willing (under certain conditions) to hand something over and having it snatched away. In the latter case it is not simply a question of right of ownership or respect for the conditions of transfer but the general objectionability of 'snatching'. It is surely in the interest of the entire international community that disputes are resolved peacefully and that claimant groups do not have recourse to violence to satisfy their claims. In the light of this it may be that in addition to a moral *permission* to resist aggression and defend interests there is also an *obligation* to do so. Looked at in this way, it may be that an earlier failure to act appropriately only adds to the moral obligation to set things right.

On the other hand, if it were thought that the situation had been deliberately contrived, then the moral claim of self-defence would simply collapse. Dillon, who, like Bluth, is generally no supporter of British Prime Minister, Margaret Thatcher, specifically rejects this possibility –

The Prime Minister did not deliberately incite confrontation in order to revive her political fortunesthere was no pre-set game plan for the military humiliation of Argentina.¹⁰

Overall, it seems to me that neither the political ineptitude of the British government before the war, nor the positive political fall-out after its successful conclusion, detracts significantly from the just war case which it had to respond to Argentine aggression.

The possibility that war might not have been the last resort seems a strange one to raise in the case of a party reacting to aggression. However, this claim has been made¹¹ in the case of the British response to the Argentine occupation of the Falkland Islands. It arises because of the time taken for Britain to assemble and deploy forces during which (it is suggested) there were possibilities for a non-violent resolution of the conflict which would have met the minimum demands of either side. In the initial phase, during which the British task force was approaching the Falkland Islands, negotiations between Britain and Argentina

were brokered by the United States Secretary of State, General Haig. Despite some British concessions on what had been on offer before the war began, these negotiations failed. It seems most likely that this was due to an Argentine belief that the British were bluffing¹² and since Argentina was already in possession of the disputed territory, there was really no need for any concessions. It might be added that for most of this time few members of the British cabinet believed that they would be going through with the operation on which they were ostensibly embarked.

The crucial period was that of the first and second of May. On 1 May British naval and air forces made a substantial attack on Argentine positions on the Falkland Islands. This, it is suggested, convinced the Argentine leadership that Britain was serious and at this point the Argentines would have been ready to settle on suitable terms. Peru was at that moment in the process of putting together a peace plan along the lines of the previously rejected Haig proposal. Bluth and others claim that significantly altered Argentine intentions are evidenced by an order to Argentine naval units to return to port. They further claim that this possibility for peace was scuttled by the sinking on 2 May of the Argentine heavy cruiser *General Belgrano* –

If the construction we have put on events is correct, then one could argue that the sinking of the *Belgrano* and subsequent military efforts violate the criterion of last resort.¹³

However, there is substantial opinion that Bluth's construction of events is seriously defective. To begin with, it does not seem that the British authorities were aware of any Argentine change of heart or of the Peruvian peace proposals. It is also likely that Bluth and his source (Gavshon and Rice) are mistaken about the intent of the naval messages sent to the *Belgrano* and other units of the Argentine navy. This is Dillon's account of the episode –

...withdrawal signal was sent out which, according to Argentine sources, instructed the Northern Groups of Task Force 79 'to return to safer waters in order to wait for more suitable weather'. It also directed the *Belgrano* group to return to the vicinity of Isla de los Estados, specifically to a position 'in less deep water – no more than 120 metres – to avoid the presence of nuclear submarines'.... Gavshon and Rice seem to be alone in claiming that the instruction directed the Argentine ships 'the *Belgrano* group included, "back to port" [emphasis added]. Neither of the most detailed Argentine accounts supports this point. Both maintain instead that Argentina was effectively engaged in a tactical military withdrawal...¹⁴

In the light of this it must be accepted that the prospects for a negotiated peace in the early days of May 1982, were not as bright as Bluth is claiming. The other factors that must be recognised are that Argentina continued in possession of the Falkland Islands and would thus be favoured by every delay. On the other hand, it is clear that British military assets, newly arrived and eight thousand miles from base, would waste rapidly in the hostile conditions of the South Atlantic in winter. In these circumstances it is utterly unrealistic to have expected them to have waited in case peace proposals might have been forthcoming. The spirit of the just war tradition cannot require a party attacked to so prejudice its interests. I conclude that at this point there was no alternative to a violent response.

Despite this conclusion the submarine attack on the *General Belgrano* has seemed to many to have been gratuitous and disproportionate. More than one third of the entire fatalities of the war were accounted for by this action (368 out of 907 on both sides). The ship may not have been returning to port but it was apparently well away from the action at the time and did not appear to constitute an immediate threat to British forces. Certainly, it was beyond the 'Total Exclusion Zone' around the Falkland Islands that been proclaimed as British forces reached the vicinity themselves. On the other hand, British authorities had

issued (on 23 April)"a public warning that the carrier battle group would attack any Argentine forces seeking to interfere with its 'mission'..." (Such a declaration was required under United Nations Charter Article 51, which authorised response to aggression.)¹⁵ Moreover, it does seem strange, in the context of an on-going war, to suggest that only units in contact with the other side, or moving close to it, are legitimate targets. By May 2, it was clear that general conflict had begun. In such a situation all forces, including those held in reserve, must be equally vulnerable. This construction of events is supported by the Argentine commander of the naval task force that included the *General Belgrano* (Admiral Allara). He is reported as saying that he could not criticise the action –

She (the *Belgrano*) was a ship carrying out a war mission and military mission connected with the conflict.¹⁶

The *Belgrano* and its attendant exocet-armed frigates had the potential to add significantly to the task force's problems, especially when the landing phase of the operation began. (They were also so placed as to intercept possible British supply from the Pacific.) Indeed, the rationale behind the Argentine order referred to above seems to have been that the British attack of 1 May was not judged to be associated with an attempted landing, so that Argentine naval units were to be withdrawn to beyond British carrier-born aircraft range (and, hopefully, submarine range) until that event occurred.

Overall, it does not seem to me that the sinking of the *General Belgrano* presents any special problem as far as the just war is concerned. It was the warship of a belligerent party in a war zone in a time of war. As far as proportion is concerned, it may be significant that after May 2 Argentine naval forces (which included an aircraft carrier) played no further part in the conflict. In view of the narrow margin for success of the British operation (which I shall discuss in greater detail below), this may have been of the utmost significance. Finally, as argued above, it is clear that the sinking of the *Belgrano* had no substantial influence on the prospects for a peaceful resolution of the Falklands conflict. As indicated earlier, by May 2 these were minimal in any event.

This conclusion is further supported by testimony from key persons in the United States State Department (especially General Vernon Walters, who was Secretary of State Haig's deputy). In the American view, the Peruvian proposal was *less* acceptable to Argentina than the earlier (US) peace formula. The Americans could not understand why this had not been accepted –

The final proposal I really cannot believe that the British agreed to it but they did.... was the fleet would stop, the Argentines would evacuated the Island in accord with the UN resolution, a tripartite administration would be set up in the Falklands.¹⁷

The problem was simply that the Argentine government saw no reason to make any concession whatsoever because they did not believe that the British would really fight. General Walters, who was a Spanish speaker, tried to convince them otherwise but failed. He reports that Argentine leader, General Galtieri, as saying 'that woman (Margaret Thatcher) wouldn't dare!'

In the opinion of many commentators, the prospects of success for the British task force were really quite modest. This judgement was based on the long distance of the operation from home base, the minimal potential for air cover (effectively the carrier-based harrier aircraft), the lack of effective early-warning radar cover and the strength and sophistication of enemy formations. In the light of this it may be reasonably asked whether the British government was morally justified in undertaking the reclamation of the Falkland Islands, at all. As has already been observed, the just war requires a good prospect of success. In this case it would appear that this would not have been present.

But, again, we must ask, how should this prospect of success requirement be applied? At first sight it would seem to imply that a small state that was attacked by a much larger neighbour (a 'Belgium', for instance) would have no right to fight in its defence. Such a conclusion appears counter-intuitive. Surely (we might think) the victim nation has the right to defend itself, however limited its prospects might appear. Such action would at least extract a price from the aggressor and it might be a price he was unprepared to pay. Certainly we could argue, from a rule-utilitarian standpoint, that it is generally desirable that aggressors be resisted. Not to do so, would be to encourage international lawlessness, rather than inhibit it. We may allow that a diminished prospect of success ought to detract from the moral case for *initiating* violent action, in whatever good cause. It is less clear that it should do so in the case of response to aggression.

I conclude that insofar as it is the case that military prospects in the matter of retaking the Falkland Islands *were* as limited as has been claimed, this did not significantly detract from the claim to be acting justly in attempting to do so. As I shall argue below, there are occasions when what has to be done, simply has to be done.

The matter of proportionality may be raised both in relation to individual actions in a war and in relation to the war as a whole. On the face of it, the cost of the Falkland War in both financial and human terms was out of all proportion to the value of the territory or to the political freedoms defended. Hastings and Jenkins are very clear on this point. It was (they say) –

...patently disproportionate to send 1,000 men to their deaths simply to enable 1800 British citizens (and half citizens) to keep the government of their choice.¹⁸

On the other hand they do think that it was politically desirable to set an example against aggression and that the British response to the Argentine invasion of the Falkland Islands was necessary to avoid 'a severe blow to British self-respect and confidence'.

However, it does not appear to me that the matter is as clear as this. It seems reasonable to ask just what level of 'expenditure' would have been proportionate in this case? And, how, anyway, are such calculations to be performed? And, again, if the moral justification in this kind of case is also to be seen in terms of a general obligation to oppose aggression (as Hastings and Jenkins seem to accept), how is that to be valued?

As indicated above, it may be appropriate simply to say that there are some things that just have to be done. It is a bit like search and rescue. Here the rule of thumb seems to be, that we do what is necessary (and incur the cost, hereof) all the while there is a prospect of success. What we do not have is a per capita 'rate for the job'. Although we do have a sense that there are occasions when we may reluctantly judge that further effort is not justified (i.e. it would be out of proportion). If the same principle is applied to a war in response to aggression, it would suggest that we are morally justified in doing whatever we have to do, within a wide cost margin, as long as we have a reasonable prospect of success. In a case such as the Falklands, then, it is not simply a question of the value of the real estate or the importance we accord to the interests of those affected, but equally it is a matter of our obligation to stand by principle. The extent of obligation, especially in the latter context, is inherently difficult to quantify but it may not necessarily be determined by a narrow cost-benefit analysis. Certainly, it cannot be imagined that a party that still had a demonstrable prospect of success would break off action and give up all because it now judged that the costs were becoming disproportionate.

Conclusion

There are strong utilitarian grounds for supporting a general rule that the only just cause for war is prior aggression. My position here is substantially that taken at Nuremberg. That is –

....that no grievances or policies will justify resort to aggressive war
.... whatever grievances a nation may have, however objectionable it finds the *status-quo*, aggressive warfare is an illegal means for settling those grievances or for altering those conditions.¹⁹

Argentina, then, had a just cause in virtue of its long-standing territorial claim over the Falklands Islands but it did not have a just cause for war. In the light of this, questions such as those of proportionality and prospect of success become irrelevant.

Britain had a just cause for war (response to aggression) but its moral position was compromised by the extent to which it unwittingly drew Argentina towards the initiation of conflict and the inevitable disproportion between the value of the interests being defended and the cost of that defence.²⁰ This factor, however, does not extinguish the British claim to be acting justly in a matter of self-defence.

The Falklands War was a war that should not have occurred. Unlike many disputes, world wide, there was (as Dillon observes²¹) no lack of suitable peace formulas, notwithstanding the apparent objections of the islanders themselves to a transfer of sovereignty. The wishes of the local inhabitants is not to be taken as an overriding consideration any more than it has been in the case of Hong Kong. It is hard to believe that a determined effort to bring local opinion around could not have been successful, particularly if it had been backed up by the application of only a fraction of the financial resources which were subsequently used in the military defence of the islands.

The blame for the failure to find a peaceful solution to the dispute may equally be laid at the door of the Argentine Government. They should have been aware that a satisfactory resolution was only a matter of time, and not all that long a time, either. But it was the Argentine Government that abandoned persuasion and diplomacy and took to coercion and violence. It is thus they who must bear the bulk of the responsibility for the war and, incidentally, for the fact the Falklands dispute is now that much harder to resolve.

NOTES

¹ Hastings and Jenkins, *The Battle for the Falklands* (WW Norton and Company 1983), p.321.

² International Committee of the Red Cross, *Protection of the Victims of armed conflict Falklands-Malvinas Islands*, 1985, Geneva.

³ Christoph Bluth, 'British Resort to Force in the Falklands Conflict', *Journal of Peace Research*, Vol 24, No 1 (1987).

⁴ Hastings and Jenkins, p. 247.

⁵ Hastings and Jenkins, p. 4.

⁶ *Yearbook of the United Nations* (1986), p. 1227.

⁷ Gerard Fotion, *Ethics for a Shrinking World* (Macmillan 1990), p. 46.

⁸ Bluth, p. 10.

⁹ Sir Bernard Braine, Conservative foreign affairs spokesman, cited in Michael Charlton, *The Little Platoon* (Oxford, Blackwell, 1989), p. 89.

¹⁰ G.M. Dillon, *The Falklands: Politics and War* (MacMillan 1989).

¹¹ By Bluth, for example.

¹² See Hastings and Jenkins.

¹³ Bluth, p. 16.

¹⁴ Dillon, p. 207/208.

¹⁵ Dillon, p. 194.

¹⁶ Charlton, p.316.

¹⁷ Charlton, p.173.

¹⁸ Hastings and Jenkins, p. 335.

¹⁹ Mr Justice Jackson, cited in Richard Wasserstrom, "On the Morality of War", *War and Morality*, Wasserstrom, R. (ed) (Wadsworth 1970), p. 88.

²⁰ Put by Dillon, at upwards of £5 billion, when all costs are taken into account.

²¹ Dillon, p. 235.