

JUST WARS

In what circumstances can a state legitimately start a war? What are the moral and legal limitations on how a state can fight a war? What are the obligations of a victorious state to the losers of a war? What are the proper limitations that should be imposed on state power when a state is fighting an undeclared war on terrorists? Since the attacks of September 11, 2001, and the invasions of Afghanistan and Iraq and the Bali and London bombings, these and similar questions have been much discussed.

Fanciful or fabricated ideas about weapons of mass destruction were originally used to justify the war and the occupation of Iraq. They have now largely been replaced by claims about liberation from tyranny which are not consistently applied. The situation in Darfur in Sudan would seem to warrant an invasion far more than the situation in Iraq under Saddam. Yet the 'coalition of the willing' has shown no interest in providing a credible military force in Darfur.

The legally and morally dubious treatment of prisoners at Guantanamo Bay and Abu Ghraib has raised serious problems about the legitimacy of the conduct of the United States military. The Australian government's acquiescence in or collusion with the illegal and corrupt treatment of Mamdouh Habib and David Hicks is deeply troubling.

The proposed legislation to deal with the so-called 'war on terror' will give enormous power to government agencies to act without effective scrutiny. Situations such as the recent detention and deportation of Scott Parkin, a peace activist visiting Australia from the United States of America on a six-month visa, give rise to concern as to how the new legislation will be implemented. It appears that Parkin was deported on the grounds that he was deemed to be a threat to

national security. It also appears that powers under the *ASIO Amendment Act 2004* make it unnecessary to provide detailed reasons as to why someone who fits Parkin's profile should be given reasons for his deportation. It is enough that he has been assessed as a perceived security risk to the national security of Australia. *The Age* newspaper reported that '[A] spokesman for the Attorney General Phillip Ruddock said ASIO had not opposed the original visa application, but its understandings of his intentions had changed during his trip. Parkin was detained for "encouraging spirited protest"'.¹

There is a need for credible and consistently applied moral and legal, national and international principles to govern the behaviour of states that declare war on other states or that are fighting undeclared wars. Nevertheless, the power and effectiveness of the United Nations and of international tribunals has been severely undermined in recent times. We were never very close to a workable international system. We are drifting away from the fragile system that existed. Still, moral pressure continues to be brought on governments to improve their behaviour and enter into a workable international system. It may well be that when people realise that draconian terrorist legislation, like military intervention, often does not improve matters and damages important civil liberties, citizens will bring strong pressure to bear on governments to lift their game. This edition of the journal highlights the important issues in this area.

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REFERENCE

1. Ian Munro, 'The Secret Country', *The Age*, 17 September 2005, p 7.

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