



MILITARY INTERVENTION IN SYRIA: AN ETHICAL CASE FOR BRITAIN'S PARTICIPATION

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Summary

1. THE MORAL PRINCIPLES

According to 'just war' thinking, to be justified, military intervention should meet the following conditions:

- **just cause (grave injustice)**
- **right intention (to rectify the injustice)**
- **last resort**
- **proportionality (aptness of means to ends)**
- **prospect of success**
- **legitimate authority**

In addition, whether generally justified military intervention should be carried out by Britain, rather than by others, should be decided in terms of

- **legitimate national interests**
- **international obligations**

2. THE JUDGEMENT

- British military intervention against ISIL in Syria meets all the conditions of justified war:
 - just cause (ISIL's record of mass atrocity, etc.);
 - right intention (to destroy ISIL's power, hard and soft);
 - last resort (absent any realistic prospect of peaceful negotiation with ISIL);
 - proportionality (aptness of military means to immediate-term ends);
 - prospect of success (strategic success, while not guaranteed, is possible)
 - and legitimate authority (a strong legal case).
- In addition, both legitimate national interests and three international obligations entail that such justified military action should be undertaken by Britain.
- Therefore, Britain should join its allies in intervening militarily against ISIL in Syria.

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1. IS THERE JUST CAUSE? WHAT WOULD BE RIGHT INTENTION?

The 'Islamic State' (ISIL), so called, is murderous, and its murder is massive in scale, atrocious in nature, and—in the light of the 31 October destruction of the Russian passenger flight over Sinai and the 13 November attacks in Paris—global in reach. As the source of grave injustice, therefore, ISIL constitutes ample 'just cause' for military action.

Correspondingly, the 'right intention' of military action would be to destroy ISIL's military power, in order to stop and reverse its expansion, to end its malign rule, and to spoil its seductive narrative of triumph. This is what British intervention would aim at.

2. AREN'T THERE ALTERNATIVES?

If we could stop ISIL's expansion and terminate its operation by simply non-violent means—say, diplomatic negotiation or cutting off funding—we should prefer that to the risks and costs of war.

However, ISIL's apocalyptic ideology doesn't lend itself to the give-and-take of negotiation, and there is no evidence that its leadership is open to it.

With regard to cutting off financial support, which the Leader of the Opposition has recently urged upon the Government, we have in reality been engaged in that for some time—as the Government's "Memorandum to the Foreign Affairs Select Committee" (26 November 2015) attests (pp. 12-13). If we could afford to wait, ISIL would probably collapse financially in the long term. But we can't afford to wait—as recent events in the skies over Sinai and in Paris have reminded us.

Therefore, in the absence of non-violent alternatives that are practicable and not merely the fancies of wishful thinking, our recourse to military action in Syria would be a 'last resort'.

3. IS IT IN OUR INTEREST?

Since civil war broke out in Syria in 2011 we have cursed the perpetrators of atrocity and lamented the unfolding human tragedy. But we told ourselves that it was someone else's problem.

That wasn't entirely unreasonable. It's perfectly reasonable for us to ask why we (rather than another people) should bear the burdens of military intervention in faraway parts of the world, why *our* uniformed sons and daughters should be put in harm's way. And the answer has to come in terms our own legitimate national interests.

Now, however, with several hundred of our own citizens helping 'Islamic State' murder its way across Syria and Iraq, with £1bn of our tax-payers' money supporting refugee camps in Jordan, with asylum-seekers in their hundreds of thousands washing up on the shores of Europe, and with coordinated terrorist attacks just down the Eurostar line, Syria has become our problem and solving it is in our interest.

4. WOULD MILITARY INTERVENTION IN SYRIA BE LEGAL?

Legality is important for international trust: other countries need to be assured that we are playing by the rules. Agreed rules, however, can be interpreted in different ways and invoked to support different cases for and against military action. Those cases will seldom be beyond the reach of any objection, but they can be stronger or weaker in their reasoning.

Even before the recent UN Security Council (UNSC) Resolution, the widely respected former Attorney General, Dominic Grieve, MP, QC argued that there was a strong legal case for British military intervention in Syria. In his testimony to the House of Commons Foreign Affairs Committee (FAC) he said: "Is it possible for me as a lawyer to see a legal basis on which you could attack IS in Syria? The answer must be yes. If IS [ISIL] is threatening the national security and the lives of people in the United Kingdom and is operating in ungoverned space, and if the Government have gone through a checklist to decide that what they want to do is necessary and proportionate, and there is no other way of dealing with the problem than using lethal force, those provide perfectly clear grounds in international law why air strikes could be used" (*The extension of offensive British military operations to Syria*, 3 November 2015, HC 457, p. 12).

The UNSC Resolution 2249 of 20 November 2015 only strengthens this case. Unanimously adopted by the Security Council, it calls upon Member States with the requisite capacity to take "all necessary measures" to prevent and suppress ISIL's terrorist acts on territory under its control in Syria and Iraq. The phrase 'all necessary measures' is customary UNSC-speak for military action.

Implicitly, the Resolution endorses the legal basis of the military action already taken by Russia and France, namely, self-defence under Article 51 of Chapter VII of the UN Charter.

In calling on other states to take part in collective action, it clearly extends to them the possibility of using same legal basis, on the ground that ISIL "constitutes a global and unprecedented threat to international peace and security".

The Government's legal case, as presented in its Memorandum of 26 November, is based on collective self-defence with Iraq plus self-defence of the UK and its allies, taken together with the authorisation of necessary measures under UNSCR 2249 (pp. 15-17). The collective self-defence of Iraq warrants attacks on ISIL in Syria because "there is a direct link between the presence and activities of ISIL in Syria and their ongoing attack on Iraq, and [because] ... the Assad regime is unwilling and/or unable to take action necessary to prevent ISIL's continuing attack on Iraq" (p. 16). That is beyond reasonable doubt.

Some sceptics have cautioned that legal self-defence requires at least an 'imminent threat'. We may respond that the threat to Iraq is not merely imminent, but actual; and that, since ISIL has already killed British citizens, indirectly in Tunisia and directly in Paris, and is actively engaged in planning further attacks on British targets, the threat to the UK is actual, too.

The UK Government's legal case is, therefore, a strong one. How widely accepted by the international community would it be? How far would it satisfy other states that, in undertaking military action in Syria, Britain would be playing by the rules? To date, no state has criticised the legality of military action in Syria taken by the US, France, and Australia. And in the wake of its Resolution, it is clear that no member of the Security Council would criticise the legality of Britain's joining them.

5. DON'T WE NEED A STRATEGY?

If military intervention were not part of a strategy, we could not know whether it was proportionate. Without knowing the ends, we cannot judge the aptness of the means.

In its report, the FAC recommended no extension of British military action into Syria, “unless there is a coherent international strategy that has a realistic chance of defeating ISIL and of ending the civil war in Syria” (p. 4).

But there are different levels of strategy: immediate and long-term. And there is a distinction between having a strategy and being assured of the means of realising it. In the wake of Dunkirk in May 1940, for example, Britain did not have a strategy for winning the war against Hitler’s Germany, or, if it had a strategy, it did not yet have the means (e.g., US military intervention) of realising it. Nevertheless, it did have a viable strategy for surviving in the interim.

In its Memorandum of 26 November 2015 the Government makes clear that it has a coherent, long-term strategy: to bring about a political transition in Syria from Assad’s regime to a new one, to maintain the Syrian state’s structures (unlike in Iraq in 2003), and so to enable the new government’s armed forces to cooperate with the moderate opposition in fighting ISIL on the ground (pp. 4-5, 14, 15, 20).

The Government has a comprehensive strategy, but it is not yet assured of the diplomatic agreements necessary to realise it. Those will take time to secure. Meanwhile, ISIL will continue to slaughter the innocent, obliterate history, multiply refugees, attract the gullible, train terrorists, and plot further attacks in Europe and in the air.

In the meantime, therefore, we need an immediate-term military strategy for stopping, reversing, distracting, and degrading ISIL. This we already have, of course. It involves a combination of air-strikes and action on the ground, which is meeting with some success (see 6 below).

With such a strategy we should stay, while working diplomatically to realise our long-term political and military goals.

Some sceptics seem to argue that British military intervention should wait, not merely until the Government has a comprehensive strategy, but until that strategy is virtually assured of success. This implies that, without a sure prospect of achieving its ultimate goals, British intervention would be inapt and so disproportionate. But if that is true of British action, it is also true of all current military action against ISIL, since no other party can be certain of achieving its ultimate strategic goals. Indeed, guarantees of success are *never* available. The sceptics’ argument implies, therefore, that *all* current military action against ISIL should stop, leaving ISIL free to run amok. Merely to state the implication is to expose the argument’s flaw. Military action can be apt to proximate goals, even while ultimate ones remain uncertain. So long as the uncertain goals are possible, action to secure the proximate ones is apt.

6. SURELY BOMBING CAN'T SOLVE ANYTHING?

No one has ever claimed that either military action in general, or bombing in particular, can be the whole solution. The claim is only that they can be a vital part of it.

According to Michael Clarke, Director General of the Royal United Services Institute, the current bombing campaign "is in fact having some military effect" in pushing ISIL back on the ground, degrading its command structure, and helping destroy the flow of oil on which its finances depend ("Syria's future will be decided by ground troops. But whose?", *Guardian*, 17 November 2015).

Since bombing in Syria has an important part to play in the immediate-term military strategy, it is an apt means and therefore proportionate.

7. WOULD A BRITISH MILITARY CONTRIBUTION ADD ANYTHING SIGNIFICANT?

The FAC thought not. British firepower, they said, would have nothing but "a marginal effect" (p. 3).

Evidently our US, French, and Australian allies think otherwise. According to the FAC's own military expert witnesses, "the extension to Syria of the British man-date to conduct airstrikes would be welcomed by our allies in the coalition" (p. 10).

Why? In part because Britain would bring valuable expertise in military cooperation with the US, rare airborne intelligence capabilities, and weaponry capable of greater discrimination between combatants and civilians.

But the main reason is that, as a permanent member of the UNSC, Britain has a special obligation to lead in deploying its armed forces in global public service for the purposes of maintaining international order and rescuing the innocent from mass atrocity.

Further, one of our closest allies, France, has suffered direct attack by ISIL and has called for help from the UN and the EU, both of which we belong to. Further still, the French Government has made a direct appeal to Britain to join it in striking ISIL at its Syrian root (Jean-Yves Le Drian [France's Minister of Defence], "Britain, France needs you in this fight", *Guardian*, 27 November 2015).

Therefore, if firepower is needed at all in Syria, Britain's permanent membership of the UNSC, its membership of the EU, and its close alliance with France all oblige it to be in the front line of those providing it.

8. DOESN'T BRITAIN'S RECORD SINCE 2001 TRAIL A SERIES OF 'FAILED INTERVENTIONS', WHICH HAVE CAUSED ISIL AND COMPROMISED ITS OWN SECURITY? WOULDN'T BOMBING IN SYRIA JUST EXACERBATE THAT? SHOULDN'T WE LEAVE THE MIDDLE EAST WELL ALONE?

Military intervention that is counterproductive uses means that undercut their own ends, and are therefore disproportionate.

By any fair reckoning, Britain's interventions in Iraq, Afghanistan, and Libya have included elements of success as well as failure. The narrative of simple failure is empirically false. Certainly, in each case success is fragile. Whether or not it becomes more secure, depends on what we decide to do—or not to do—now.

The 2003 invasion of Iraq didn't cause ISIL. ISIL was born in Syria's civil war, whose indigenous roots lay in the Assad regime's ruthless oppression. Then it was nourished by Iraqi premier al-Maliki's anti-Sunni sectarian policies, which were unrestrained by a negligent Obama administration.

The possibility of failure attends any venture, however noble, and is not a sufficient reason for inaction. Besides, inaction carries its own risks. To some extent ISIL is the fruit of our failure to intervene in Syria earlier.

We have tried leaving Iraq alone since 2010, and Syria since 2011. Now we see the results.

Would ISIL leave us alone, if we refused to bomb it in Syria? Not unless we also stopped bombing it in Iraq, abandoned our allies, and left the Syrians, Iraqis, and Kurds to their fate. And even then, we'd be unwise to count on ISIL looking kindly upon our weakness. After all, its ideology is essentially hostile to the West, of which we are a prominent member.

CONCLUSION

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