Discussion Questions

1. Anscombe supports preemptive strikes under certain conditions. What are these conditions? Discuss whether she would support the United States's preemptive strikes against Iraq.

2. Anscombe argues that the Bible supports war, while Christian pacifists claim that war is inconsistent with the teachings of Jesus. Discuss the merits of both positions.

3. Like Anscombe, President George W. Bush believes that evil exists and that God permits governments to limit the power of evil through the use of violence. However, the Islamic terrorists also believe that God is on their side and it is the United States that is evil. Referring to just-war theory, discuss the legitimacy of the use of religious ideology to morally justify war.

4. In March 2001 a Palestinian detonated explosives next to a bus in Jerusalem, killing himself and injuring 30 Israelis. While some Muslims regard suicide bombers as merely suicide and a violation of God’s law, other Muslims regard suicide bombers as martyrs. Martyrdom operations are tactics used by Palestinians. Discuss the use of suicide bombers in light of the *jus in bello*.

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**C.A.J. COADY**

**War and Terrorism**

C. A. J. Coady is senior research fellow and deputy director of the Centre for Applied Philosophy and Public Ethics at the University of Melbourne, Australia. Coady begins his reading by summarizing Hobbes's position on war and how it mirrors the just-war theory. He then examines and critiques the just-war theory and the conditions it puts forth for (1) when is it right to go to war (*jus ad bellum*) and (2) how one should conduct oneself in war (*jus in bello*). Finally, Coady applies the principles of the just-war theory to the morality of terrorism.

Critical Reading Questions

1. According to Coady, what are some of the problems with Hobbes's political philosophy?
2. In what way does Hobbes's position on war mirror the division in the just-war theory?
3. What is *jus ad bellum* and what are the five rules of *jus ad bellum*?
4. What is the requirement for proportionality?

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Our discussion can best begin with Thomas Hobbes since for Hobbes civil society primarily exists to solve the problems posed by the endemic role of violence in human life. Hobbes thought that violence created such miseries in pre-civil or non-civil conditions (his "state of nature") that reason required men to alienate, almost entirely, their natural right to self-protection in order to set up a sovereign with the sole right of the sword. His solution to the problem posed by the widespread violence of the state of nature is to monopolize the potentiality for violence in one agency.

The phenomena of war and terrorism, in their different ways, challenge this solution. Hobbes's political philosophy faces certain notorious problems, but even were it to provide a local solution to the problem of violence, it would do so at the cost of establishing a proliferation of (almost) absolute sovereign powers. They would very probably confront each other (as Hobbes realized) in a stance of permanent hostility akin to the war of all against all with which his problematic begins. This "anarchy" of the international order thus poses almost intractable difficulties for the peace that Hobbes took to be a primary objective of the laws of nature and for which sovereign power was to provide the guarantee.

For Hobbes, not only is the sovereign power virtually absolute, but it also defines the contours of justice, inasmuch as nothing the sovereign does can be unjust... The sovereign cannot be accused of injustice but may violate the laws of nature and be answerable to God for what Hobbes calls iniquity. Thus the sovereign has certain obligations as a ruler to preserve the peace, and is bound before God to conform to the tenets of natural law. Consequently, many resorts to war would be ruled out on prudential and moral grounds.

Nor are Hobbes's qualifications restricted to the morality of beginning war, for his brief discussions of honor, cruelty, and necessity in war allow some minimal room for moral restrictions on how a war is conducted (Hobbes, 1969: 78). Hobbes's qualifications mirror the twofold division of discussion within the just-war tradition, the first concerned with the morality appropriate to resort to war at all, and the second with the morality that should govern the way a war is fought. The former is often called *jus ad bellum* and the latter *jus in bello*. The Hobbesian mirroring is reductive: the fulsome shape of the *jus ad bellum* appears in the thin form of "providence" (i.e., prudent foresight) and the demanding conditions of the *jus in bello* are reflected as the (largely unspecified) requirements of honor.

**THE JUST WAR: JUS AD BELLUM**

Although it is common to talk of "just-war theory," the mode of thinking thereby indicated is more a broad tradition than a precisely specified intellectual construction. It is less like the theory of the categorical imperative and more like commonsense
morality. None the less, certain rules and maxims are invoked and I will begin with a digest of those that are most central to the argument about when it is right to go to war: the _jus ad bellum._

1. War must be declared and waged by legitimate authority.
2. There must be a just cause for going to war.
3. War must be a last resort.
4. There must be reasonable prospect of success.
5. The violence used must be proportional to the wrong being resisted.

Each of these conditions raises problems. We shall briefly review some of the difficulties with conditions (3)–(5) and then comment more fully on condition (2). Conditions (3) and (5) are specifications of a commonsense understanding of the rational limits to self-defense. Given the ambiguous benefits and definite risks of most uses of violence, and the inherent tendency it has to move beyond control, the idea of “last resort” registers the desirability of a cautious approach to warfare. None the less, the condition cannot require that a nation must resort to war only after it has tried every other option. Some of these will be too absurd or counterproductive; others may delay the inevitable to the grave disadvantage of a just cause. Last resort requires the use of imagination and some degree of risk-taking in the search for reasonable alternatives to war, but it does not counsel peace at any price. Hence it will be a matter of practical judgment whether the relevant alternatives to war have been exhausted. Moreover, it should not be forgotten that some of the alternatives to war may have their own serious moral costs, as is illustrated by growing disenchantment with the human costs of certain sorts of sanctions.

The requirement of proportionality spans the _jus ad bellum_ and the _jus in bello_ and insists that lethal violence should not be employed without consideration of the balance between the evil it brings and the good to be achieved in resisting evil. There is here an element of calculating consequences, but the appeal to proportionality is not full-bloodedly consequentialist. This is because its focus is narrower. We are not asked to consider whether going to war is the best thing for the universe, all things considered, but whether the foreseeable costs of this resort to violence are out of kilter with the criminal behavior it seeks to redress . . .

Condition 4 is also a reflection of common sense, but at an even more basic level, since it is merely an application to warfare of an apparently fundamental condition of rational action. Normally one is irrational to engage in a plan with little or no perceived prospect of success. Yet there are desperate circumstances in which one may need to act against the odds. The mountain climber who faces disaster from an avalanche may be rational to attempt the leap across a ravine even where he thinks it unlikely he can make it. In the case of war, a fight against the odds may be justifiable where the stakes are very high, as when a powerful enemy is determined not only to conquer but enslave. This seems plausible, but it does not refute condition 4 so much as require a more subtle interpretation of “reasonable.” . . . Some would argue that there are circumstances in which a flight to the death is preferable to mere capitulation. This has most plausibility where the enemy is bent upon enslavement or extermination. But some would extend the circumstances further to encompass the symbolic assertion of national honor, as Michael Walzer seems to do in his discussion of Finland’s “futile” war of defense against the Soviet Union in 1939–40. What these arguments show is that the concept of “success” is open to complex interpretations. At first blush, one naturally takes it to mean winning the war, but the counterexamples suggest other purposes. None the less, enough crimes have been committed in the name of national honor to warrant a note of caution about self-immolation for its sake.

Condition 2 concerning just cause also has its origins in commonsense intuitions but again its interpretation raises problems. There are differences between the older tradition and much contemporary theory. The medieval tradition of the just war stems primarily from St Augustine and was generally more permissive . . . Although the ground of self-defense had always loomed large in legitimating resort to war, Aquinas and others had also allowed various “injuries” of a religious nature. Hence, in some circumstances, a war to return heretical peoples to orthodoxy or, even, to conquer heathens was
a candidate for a just war. Both Vitoria and Suarez and later Grotius are anxious to limit further such recourse, so it is plausible to see them as standing at the beginning of a move toward a more restrictive attitude to just cause (Grotius, 1925: 516–17, 553–4; Suarez, 1944; Vitoria, 1991). The current ban on "aggressive war" can be seen, for all its obscurity, as the outcome of such a development.

The strength of this ban is also, of course, connected with the rise of the modern state and the doctrine of sovereignty that has accompanied it. . . .

Admittedly, the contemporary abhorrence of "aggression" has critics; moreover, the exact meaning of "aggression" is elusive and open to exploitation. None the less, the moral power of the idea of defense against aggression comes from the moral significance of self-preservation and particularly self-defense. It is not a uniquely modern concept, as Anscome (1970), for instance, seems to believe since it may be found virtually at any time or place where questions about the legitimacy of war are raised. . . . Moreover, ancient Chinese discussions of the morality of war are specifically concerned to reject the legitimacy of aggressive war, and, although the concept of aggression at work is somewhat different from that enshrined in the United Nations Charter, it is a recognizable relation (Tzu et al., 1964).

The basic moral intuition draws much of its appeal from the legitimacy of personal resort to self-defense. Hobbes, for instance, treats the legitimacy of self-preservation as the fundamental right of nature. There are certainly problems in extrapolating from the case of an individual to that of a nation-state and in elucidating concepts of national rights, but where the state is clearly defending its people rather than its honor or the power of an elite, then the extension has palpable force. Moreover, it is easy to see the point of some other extensions that have had a place in traditional discussions. If a nation is sometimes entitled to the use of violence in its own defense, then surely other nations may come to its aid as long as their objective is to help repel the attack and no more. This parallels what seems allowed with regard to aid in the case of individuals. Of course, in both the domestic and the international cases, what is abstractly morally permissible is not the whole story. There may be powerful prudential reasons for not helping others defend themselves. When the Soviet Union invaded Hungary and later Czechoslovakia the world stood by, principally because of fear of nuclear war, and those fears were realistic enough at least to make a reasonable case for such agonizing inaction.

Another extension is the idea that a nation may defend against aggression before it has begun. The pre-emptive war is sometimes defended on the ground that when aggression is genuinely imminent it is rational to strike against the enemy before he gets the advantage of the first blow. There seems to be logical space for this, but it remains worrying. As Sidgwick pointed out, the legitimate pre-emption "easily passes over into anticipation of a blow that is merely feared, not really threatened. Indeed this enlarged right of self-protection against mere danger has often been further extended to justify hostile interference to prevent a neighbour growing strong merely through expansion or coalescence with other states" (Sidgwick, 1898: 101). . . .

How then should we understand "aggression"? The UN Charter defines it as follows: "Aggression is the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State or in any other manner inconsistent with the Charter of the United Nations" (United Nations 1974). . . . There are three broad types of criticism of the defense against aggression model of just cause . . .

The first complains that the appeal to aggression is too strong. Sometimes aggression is made to seem as if it obliges those attacked, or their sympathizers, to give a military response. . . . But such insistence ignores the rule of proportionality as illustrated and discussed above, and may well conflict with conditions 3 and 4. At most, defense against aggression satisfies the condition of just cause, but it will only license war if the other conditions are fulfilled.

A second complaint is that the aggression appeal is, in another respect, too weak. This questions modern just-war theory's emphasis upon the central, even unique, role of self-defense, and argues that there are other legitimate causes for war. The basic line of criticism here is that restriction of just wars to defense against aggression (even allowing for the extensions discussed above) leaves evils undealt
with in the international order. The criticism is put trenchantly by Anscombe: “The present day conception of ‘aggression’, like so many strongly influential conceptions, is a bad one. Why must it be wrong to strike the first blow in a struggle? The only question is, who is in the right?” (Anscombe, 1970: 43–4). As stated, this criticism would not seem to jettison the concept of aggression as dramatically as she supposes since her argument seems to presume the existence of a struggle in which actual blows have not yet been struck, though they or something like them have been extensively prepared for. So some form of aggression (different from the UN model) may have already occurred, or we may be in the area of legitimate preemption discussed earlier.

But a more interesting construal of “the first blow in the struggle” would refer to the aggressive blow that initiates armed conflict. . . . It would encompass the idea of military intervention in other state’s affairs in order to remove an awful government or remedy some great internal evil, such as persecution of a minority group. Following current fashion, let us call these many diverse situations “humanitarian wars.” These are not philosophers’ fantasies, as wars in Uganda, Cambodia, Somalia, and Kosovo have recently shown.

Support for humanitarian warfare strengthened amongst philosophers and other theorists at the end of the twentieth century, though politicians were generally less enthusiastic. Some humanitarian wars are harder than others for the aggression model to handle, but the tendency to return to a more permissive attitude to the just war needs to be treated with wariness. There is a presumption against the moral validity of resort to war given what we know of the history of warfare, of the vast devastation it commonly causes and the dubious motives that have so often fueled it. For these reasons, the development of just-war theory has been progressively away from altruistic legitimations of war. Our experience of wars of religion, of trade and imperialist wars, and of what tends to happen when one nation conquers another “for its own good” speak against allowing expansive accounts of “just cause.”

This provides a powerful objection to humanitarian war, but the fact remains that there can be extreme cases that challenge the objection. Walzer treats the Indian invasion of Bangladesh in 1971 as such a case where the intervention was to prevent the massacre of a population by what was nominally its own government. The Vietnamese invasion of Cambodia may be a similar case or the Tanzanian of Uganda, though the histories of those nations since then has been less than happy. Anscombe’s example of the use of violence against “the man-stealing business” is another case that has good claims to exception from the ban, though the example is complex because it sometimes involved armed action against criminal groups disowned by their own governments. . . .

A third, related problem with the aggression model is that it sanctifies existing national-state arrangements. Critics ask: why should these boundaries and these states be given such respect? The question is given added force by the ways in which colonization and decolonization have created states with whimsical boundaries. This is not the place to engage in a full-scale discussion of sovereignty, national determination, nationalism, and the justification for state authority, but we can note two things. One is that any idea of sovereignty that requires absolute immunity from outside involvement has never made much sense and makes even less in the contemporary world; the second is that sovereignty, however qualified, is still usually perceived as having profoundly positive significance by those subject to it. Hence, outside intrusions, no matter how well intentioned, will often face deep moral and political problems. The case for humanitarian war needs to be very conscious of these drawbacks. . . .

THE JUS IN BELLO

Moral restrictions on how one conducts oneself in war are apt to be met with incredulity. “You do what needs to be done to win” is a common response. There is a certain appeal in this pragmatic outlook, but it flies in the face not only of just-war thinking but of many common human responses to war. The concept of an atrocity, for instance, has a deep place in our thinking. Even that very tough warrior, the US war ace General Chuck Yeager suffered genuine moral revulsion at orders to commit
"atrocities" that he was given and complied with in World War II. He was especially "not proud" of his part in the indiscriminate strafing of a 50-square-mile area of Germany.

The idea that there are non-legitimate targets amongst "the enemy" is the basis of one of the two primary rules of the _jus in bello_: the principle of discrimination. The other is the principle of proportionality, the operation of which parallels its work in the _jus ad bellum_, for there are questions to be raised both about whether the resort to war is a proportional response to some injury, and whether some tactic or means is proportionate to its projected effect.

A major part of the discrimination principle concerns the immunity of non-combatants from direct attack. This is a key point at which utilitarian approaches to the justification of war tend to part company with the classical just-war tradition. Either they deny that the principle obtains at all, or, more commonly, they argue that it applies in virtue of its utility. The former move is associated with the idea that war is such "hell" and victory so important that everything must be subordinated to that end, but even in utilitarian terms it is unclear that this form of ruthlessness has the best outcomes, especially when it is shared by the opposing sides. Hence, the more common move is to argue that the immunity of non-combatants is a useful rule for restricting the damage wrought by wars. Non-utilitarians (I shall call them "intrinsicists" because they believe that there are intrinsic wrongs, other than failing to maximize goods) can agree that there are such extrinsic reasons for the immunity rule, but they will see this fact as a significant additional reason to conform to the principle. Intrinsicists will argue that the principle's validity springs directly from the reasoning that licenses resort to war in the first place. This resort is allowed by the need to resist perpetrators of aggression (or, on the broader view, to deal with wrongdoers) and hence it licenses violence only against those agents. This is the point behind distinguishing combatants from noncombatants, or, in another terminology, wrongdoers and innocents. In this context, when we classify people as noncombatants or innocents we do not mean that they have no evil in their hearts, or lack enthusiasm for their country's policies, nor do we mean that the combatants have such evil or enthusiasm. The classification is concerned with the role the individual plays in the chain of agency directing the aggression or wrongdoing. . . .

But even when these distinctions are made, there seems room not only for doubt about the application of the distinction to various difficult categories of person, such as slave laborers coerced to work in munitions factories, but also its applicability at all to the highly integrated citizenry of modern states. It is surely anachronistic to think of contemporary war as waged between armies; it is really nation against nation, economy against economy, peoples against peoples. But although modern war has many unusual features, its "total" nature is more an imposed construction than a necessary reflection of a changed reality. Even in World War II not every enemy citizen was a combatant. In any war, there remain millions of people who are not plausibly seen as involved in the enemy's lethal chain of agency. There are, for instance, infants, young children, the elderly and infirm, lots of tradespeople and workers, not to mention dissidents and conscientious objectors. Moreover, the model of total war that underpins this objection is itself outdated. . . .

In fact, there has been a remarkable change on this issue in the strategic doctrine and military outlook of many major powers since the end of the Cold War. It is now common to pay at least lip service to the principle, as evidenced by certain restraint shown during the Gulf War and the bombing of Serbia, and by the widespread condemnation of Russian brutality in Chechnya. The real question is not so much whether it is immoral to target non-combatants (it is), but how "collateral" damage and death to noncombatants can be defended. This was always a problem in just-war theory, often solved by resort to some form of the principle of double effect. This allowed for the harming of noncombatants in some circumstances as a foreseen but unintended side-effect of an otherwise legitimate act of war. The "circumstances" included the proportionality of the side-effect to the intended outcome. Not everyone agrees with the principle (and this is not the place to discuss it in detail) but the conduct of war in contemporary circumstances is morally
impossible unless the activities of warriors are allowed to put noncombatants at risk in certain circumstances. Some modification to the immunity principle to allow indirect harming seems to be in line with commonsense morality in other areas of life, and to be necessitated by the circumstances of war. If it is not available, then pacifism, as Holmes (1989: esp. 195–205) has argued, seems the only moral option.

TERRORISM

For a phenomenon that arouses such widespread anxiety, anger, and dismay, terrorism is surprisingly difficult to define. . . . Rather than extensively reviewing the varieties of definition, I propose to concentrate on one key element in common responses to and fears about terrorism, namely the idea that it involves “innocent” victims. This provides a point of connection with the moral apparatus of just-war theory, specifically the principle of discrimination and its requirement of noncombatant immunity. Of course, terrorism does not always take place in the context of all-out international war, but it usually has a war-like dimension. I will define it as follows: “the use of violence to target noncombatants (‘innocents’ in the jus in bello sense) for political purposes.”

This definition has several contentious consequences. One is that states can themselves use terrorism, another is that much political violence by non-state agents will not be terrorism. As to the former, there is a tendency, especially amongst the representatives of states, to restrict the possibility of terrorist acts to non-state agents. But if we think of terrorism, in the light of the definition above, as a tactic rather than an ideology, this tendency should be resisted since states can and do use the tactic of attacking the innocent. Some theorists who think terrorism cannot be perpetrated by governments are not so much confused, as operating with a different definition. They define terrorism, somewhat in the spirit of Hobbes, as the use of political violence by non-state agents against the state. Some would restrict it to violence against a democratic state. This is the way many political scientists view terrorism, and, at least in the case of a democratic state, they see it as morally wrong. Call this the political definition to contrast with the tactical definition.

A further consequence of the tactical definition is that it implies a degree of purposiveness that terrorism is thought to lack. Some theorists have claimed that terrorism is essentially “random,” others that it is essentially “expressive.” In both cases, the claim is that a reference to political purposes is inappropriate. In reply, it can be argued that talk of terrorism as random is generated by the genuine perception that it does not restrict its targets to the obvious military ones, but this does not mean that it is wild and purposeless. Indeed, most terrorists think that the best way to get certain political effects is to aim at “soft” noncombatant targets. Similarly, there can be no doubt that many terrorist attacks are expressive and symbolic, involving the affirmation of the attitude: “We are still here; take notice of us.” Yet the expressive need not exclude the purposive, or even the assertive. “That’s a rattle-snake” may express horror, be designed to warn an audience, and state a fact. So terrorist acts can be, and are, both expressive and politically purposive. . . .

The tactical definition faces the problems already discussed concerning the meaning of the term “noncombatant,” but even more acutely. In guerrilla war, insurgents may not be easily identifiable as combatants and will seek to enlist or involve the villagers and local inhabitants in the campaign thereby blurring their status as noncombatants. On the other hand, many state officials who are not directly prosecuting the campaign against the insurgents may be plausibly viewed as implicated in the grievances the revolutionaries are seeking to redress. There are certainly problems here, but they do not seem insurmountable. In the heat and confusion of battle, it may be difficult and dangerous to treat even children as noncombatants, especially where children are coerced or seduced into combatant roles (as is common in many contemporary conflicts). None the less, a premeditated campaign of bombing regional hospitals to induce civilian lack of cooperation with rebels is in palpable violation of the jus in bello. So are the murder of infants and the targeting of state officials, such as water authorities
or traffic police, whose roles are usually tangentially related to the causes of the conflict. It is true that some ideologies purport to have enemies so comprehensive as to make even small children and helpless adults into "combatants." Western advocates of "total-war" strategic bombing of cities share with the Islamic fanatics, who incorporate American air travellers and sundry citizens of Manhattan into their holy targets, a simplistic and Manichaean vision of the world that is at odds with the just-war tradition's attempt to bring moral sanity to bear upon the use of political violence.

Is terrorism wrong? Given just-war theory and the tactical definition, the answer is clearly yes. And if one takes the principle of noncombatant immunity to invoke an absolute moral prohibition, as just-war thinkers have commonly done, then it is always wrong. Yet many contemporary moral philosophers, sympathetic to just-war thinking, are wary of moral absolutes. They would treat the prohibition as expressing a very strong moral presumption against terrorism and the targeting of noncombatants, but allow for exceptions in extreme circumstances. So, Michael Walzer thinks that in conditions of "supreme emergency" the violation of the normal immunity is permissible in warfare though only with a heavy burden of remorse (extending even to scapegoating). He thinks the Allied terror bombing of German cities in World War II (in the early stages) was legitimated by the enormity of the Nazi threat. John Rawls has recently endorsed this view while condemning the bombings of Hiroshima and Nagasaki (Walzer, 1992; Rawls, 1999). If this concession is allowed to states, it seems mere consistency to allow it to non-state agents on the same terms. The general reluctance to do so suggests that such categories as "supreme emergency" may mask contestable political judgments.

REFERENCES


Discussion Questions


2. Is the just-war theory, as explicated by Coady, morally justifiable? Analyze the theory in light of the prima facie moral duties and rights discussed in Chapter 1.

3. Discuss whether the United States's preemptive strike against Iraq, and the attacks by Iraqis on the occupying coalition forces, are justified under the just-war theory.
Apply the just-war theory to the Israeli/Palestinian conflict. Are the terrorist attacks of the Palestinians justified under the just-war theory? Support your answer.

Discuss whether a policy of nuclear deterrence is justified under the just-war theory. Applying the *jus in bello* reasoning, discuss whether the use of chemical and biological weapons in self-defense is justified if a country is invaded by another country that has greatly superior military strength.

In the September 11 attacks, the terrorists chose targets that symbolized what they regarded as the heresy of globalisation and the destruction of traditional ways of living, and exploitation of the poor of the world by the rich. Discuss whether targeting symbols of "evil" by groups that lack the power to directly attack the military of a superior force is ever legitimate. How would Coady and a utilitarian each most likely answer this question?

On the other hand, President George Bush attacked Iraq as one member of the "axis of evil." What does it mean to be "evil" in the context of the just-war theory? Is being "evil," at least in the eyes of the attacker, ever a just cause for going to war? Support your answers.

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**Interpreting the Islamic Ethics of War and Peace**

Sohail H. Hashmi is an associate professor in the International Relations Program at Mt. Holyoke College. In this reading, Hashmi reviews the origins of Islamic ethics of war and peace and the concept of *jihad*, and points out some of the disagreements and ambiguities in the Islamic position on war. He then discusses *jihad* in the context of the just-war tradition. Finally he applies Islamic ethics of *jihad* to current issues such as the killing of civilians during the Iraq/Iran war and the first Gulf War, and the possession and use of weapons of mass destruction.

**Critical Reading Questions**

1. What is the source of the controversy regarding the concept of *jihad*?
2. What are the primary sources of the ethical discourse in Islam?
3. Who is Ibn Khaldun and what are his views on war and peace?
4. According to the *Koran* (*Qur'an*) why is humanity prone to war?
5. What is peace (*salam*)?

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