

A Brief History of Just War Theory

Bradley King, 18 May 2024

“... a coherent set of concepts and values designed to enable systematic and principled moral judgement in war time. The concepts and values are poised to minimising unjust suffering in war, especially for (innocent) civilians, right from the start of the war (*ad bellum*), during the war (*in bello*), and after the war (*post bellum*).”

Orend, B. 2007. *The Perspective of a Just War Theorist*

Animals fight but they do not wage wars.
Humans are the only primates who pursue enthusiastically mass killing of their own kind in a planned way. War belongs to the most important human inventions; the ability to make peace is probably a later achievement. The oldest traditions of humanity, its myths and epic poetry, speak primarily of killings.

Aussichten auf den Bürgerkrieg, Hans M. Enzensberger

Why should we care?



- **Proverbs 31:8-9** *Speak up for those who have no voice, for the justice of all who are dispossessed. Speak up, judge righteously, and defend the cause of the oppressed and needy.*
- **Zechariah 7:9** *Thus says the LORD of hosts, "Render true judgments, show kindness and mercy to one another, do not oppress the widow, the fatherless, the sojourner, or the poor, and let none of you devise evil against another in your heart."*
- **Romans 12:9** *Love must be without hypocrisy. Detest evil; cling to what is good.*
- **Hebrews 5:14** *But solid food is for the mature — for those whose senses have been trained to distinguish between good and evil.*

Why should we care?

- We need to recognise that many of the ways we reason about wars and justice as well as our responses are not informed by the Jesus who died on the cross, but by these theories, which are part of the fabric of our societies.
- Nations at war will invariably claim the justness of their actions; national narratives are rarely the same as God's view; we must not lose our way.
- Claims of just war make enemies of friends and brothers. We must remember Jesus' words: *But love your enemies, and do good, and lend, expecting nothing in return, and your reward will be great, and you will be sons of the Most High, for he is kind to the ungrateful and the evil. Be merciful, even as your Father is merciful.* **Luke 6:35-36**

The origins of Just War Theory

How did war become a topic for Christians?

- The early Christians were largely pacifist and apolitical, following Jesus' teachings: *"You have heard that it was said, 'An eye for an eye and a tooth for a tooth.' But I say to you, Do not resist the one who is evil. But if anyone slaps you on the right cheek, turn to him the other also."* **Matthew 5:38-39**; *"Do not take an oath at all"* **Matthew 5:8**. **Mark 13**: Get out of Jerusalem when the time comes.
- **The Constantine shift**: In the 4th century, Christianity became the official religion of the empire. Among the many problems that this created was the fact that "Christians" were also soldiers and a "Christian" nation felt the need to defend itself. JWT became the posture of "Christians".
- **Augustine** was the first major Christian proponent of Just War Theory (JWT).
- **Thomas Aquinas** worked to systemise it in the 13th century church.
- **Secularisation** 1864 - today: Geneva conventions, Nuremberg trials, international courts

Augustine's basis for JWT

The state is its own master
Aristotle and Constantine

God is a warrior
Joshua
Divine imperative

Justice is based on criteria
Cicero

War can be just

Foundational flaws of JWT

in the christianisation of the theory

- Christian eschatology mixed with secular golden age notions of peace: Pax Romana/the Christian nation
- It is a good thing for Christians to rule the world, so –
 - The good guys should and will win
 - The other side is morally inferior
- Only one adversary can possibly be just, but both consider themselves just.
- As General Sherman, who burned the city of Atlanta, killing many civilians, said: “War is hell”.
- The theory has always been more about *justifying* wars than assuring that war is *just*.



jus ad bellum: justice in waging war



- **A legitimate authority** : dictatorships, mutinies, private uprisings are not generally considered legitimate.
- **A just cause**: the response to an aggression of significance or the imminent risk of that aggression.
- **Right intentions**: both subjectively and objectively
- **A last resort**: all other means of maintaining peace have been tried and failed.
- **The probability of success**: the aims of the war are realistically achievable.

Ah, the just cause!

Without a just cause, war is wrong

- The stories we tell ourselves about our enemies – monsters and scapegoats.
- Why is it so hard to judge justly?
- How do we find true justice?

Ah, the just cause!


Monsters and Scapegoats

- Monsters are –
 - Aggressive
 - Malevolent
 - Violent
 - Revulsive
 - Disgusting
- Scapegoats are simply the monster that has been identified and named as being responsible for *our* sufferings
- It “goes without saying” that destroying monsters and scapegoats is a just cause
- We need to be alert to the propaganda that our nation uses to portray our “enemies”

“Whoever fights monsters should see to it that in the process he does not become a monster.” Nietzsche, *Beyond Good and Evil*

Ah, the just cause!

Why is it so hard to judge justly?

- We grow up in a specific culture, and we live in a specific culture. 
- As Christians we have at least two cultures – the Kingdom of God and our country of residence.
- To truly judge justly, we need to develop “double vision”, seeing the world through our eyes and the eyes of our adversaries – this is very hard!
- We are all mortal, and we long for immortality – one of the most obvious myths that gives meaning is the **hero** – a warrior who dies for the nation. If there are no wars, there are no warriors, no heroes – so fear of death encourages us to want war and to justify it. 😬

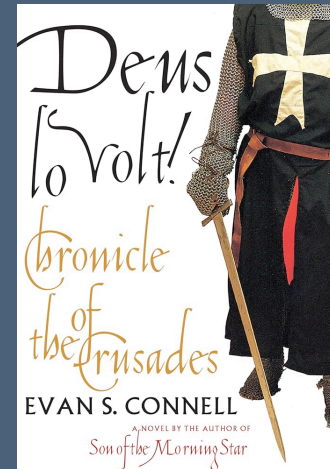
Ah, the just cause!

How do we find true justice?

- If it is possible, it is found in God.
 - God is all knowing.
 - God is perfectly just.
 - God is **not** a tribal deity.
- We can therefore say by our faith in God that there is true universal justice, but we will not have full access to it in this life.
- We are called to be like God, but we get into trouble when we try to take his place!

Some key points in history

- The Crusades: How do they fit ? *Deus lo volt* – God wills it!
- The Protestant Reformation
 - The reform was born in conflict
 - The separation of church and state
 - The possibility of wars between those with a shared faith
- The rise of secular humanism
- The 20th century
 - Missiles and aviation
 - Nuclear weapons
 - Two world wars, multiple genocides , etc



Terrorism

- Those committing acts of terrorism are rarely legitimate authorities.
- Their probability of success is often low, but actions are often perceived as an act of desperation (all other methods have failed).
- The intentions are typically very complex, including desperation and vengeance.
- Terrorisms breaks most, if not all, of the rules for combatants (*jus in bello*).
- However, their cause may or may not be just (victims of significant aggression).

Psalms 9:9 *The LORD is a stronghold for the oppressed, a stronghold in times of trouble.*

Luke 4:18-19 *The Spirit of the Lord is upon me because he has anointed me to proclaim good news to the poor. He has sent me to proclaim liberty to the captives and recovering of sight to the blind, to set at liberty those who are oppressed, to proclaim the year of the Lord's favor.*

jus in bello: justice in war



- **Discrimination:** the methods used **must** protect the innocent (civilian).
- **Proportionality:** the means must not exceed the offence suffered.
- **Necessity:** the means represent the only way possible – no excessive force or violence.
- **Dignity:** no rape, torture, humiliations, respect sanctity of days and places , etc.
- **Fair treatment of prisoners:** those who surrender or are taken captive should not be killed but treated fairly.

The double effect



- **Discrimination** says that non-combatants cannot be targeted, but everyone knows that civilian casualties are one of the tragic consequences of warfare. Catholic casuists in the Middle Ages worked out “rules” for accepting this:
 - The military action in question is a legitimate action of a just war.
 - The direct effect is morally acceptable (a military target).
 - The intention is “**good**”; the **goal** cannot include injury to non-combatants.
 - The outcome is expected to be sufficiently good to merit the risks.

The sliding scale

- Sigwick's rule: You cannot do "any mischief which does not tend materially to the end [of victory], nor any mischief of which the conduciveness to the end is slight in comparison with the amount of the mischief."
- The **greater** the justice of one's cause, the **more** rights one has in war.
- *Supreme emergency* justifies overriding the normal rules of war

"Normal" war

Supreme emergency

More rules



Fewer rules

lex talionis: proportionality and retribution

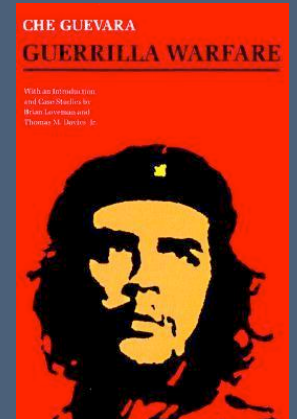
“He hit me first!”

- **Leviticus 24:17-21** *Whoever takes a human life shall surely be put to death. Whoever takes an animal's life shall make it good, life for life. If anyone injures his neighbor, as he has done it shall be done to him, fracture for fracture, eye for eye, tooth for tooth; whatever injury he has given a person shall be given to him. Whoever kills an animal shall make it good, and whoever kills a person shall be put to death.*
- Biblically, *lex talionis* set an upper limit, In reality it was rarely practised. There were conditions, cities of refuge, mercy triumphs over justice, etc. Then came Jesus.
- The “right intentions” rule precludes vengeance, but it is rarely obeyed.
- Retribution is one of the most commonly used justifications for completely ignoring *jus in bello*.



Asymmetrical and guerrilla warfare

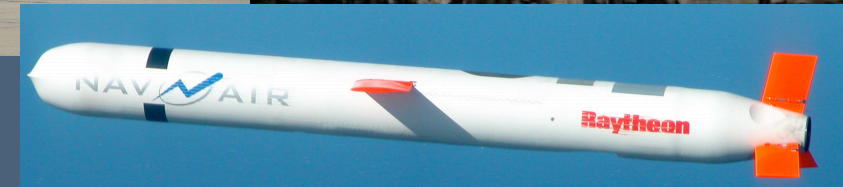
- Often what happens when a conflict exists between unequals.
- Combattants disguise their status and mix with the civilian population making discrimination nearly impossible. Non-traditional combattants (e.g., women and children) are recruited. Non-traditional acts of aggression: raids, sabotage, ambushes, etc.
- The stronger party is often constrained to break *jus in bello* commitments to respond.
- We may have strongly negative feelings towards guerrillas, but God seems to have a special commitment to underdogs – widows and orphans.



The challenges of modern weapons

Nothing new under the sun, but...

- “Surgical strikes” – naive self righteousness
- Drone warfare – ethical questions abound
- Artificial Intelligence – Asimov’s laws
- Nuclear and chemical weapons cannot be discriminate.
- Many modern weapon systems allow belligerent combatants to kill without any personal physical risks – the risks that combatants take in going to battle have a sobering and moderating effect on soldiers’ behaviours.



jus post bellum: after a war is “over”

A much less developed set of criteria

- Just and equitable treaties and covenants
- Restitution and accountability – punishment of war crimes
- Miroslav Volf: Justice is not within our power, only forgiveness. “Forgiveness is the boundary between exclusion and embrace.”
- What was **God’s approach** to the end of war with us in order to go from exclusion to embrace?
 - Make space for the other in himself – to draw us close
 - Self sacrifice – the scandal of the cross
 - A covenant with an eternal commitment

Thoughts about pacifism

- Consider Jesus' words: *But I say to you, Do not resist the one who is evil. But if anyone slaps you on the right cheek, turn to him the other also. And if anyone would sue you and take your tunic, let him have your cloak as well. And if anyone forces you to go one mile, go with him two miles.* **Matthew 5:39-41**
- Martin Luther King, Ghandi, Nelson Mandela: examples of pacifist success.
- Reinhold Niebuhr: "Christian realism" – Jesus was somehow mistaken because of his ignorance of eschatology.
- If the oppressor refuses the notions of *jus in bello*, success is unlikely – Jesus did not promise success in this life.

A word about Critical Theory

Relation to critical war moral reflections

- A generalisation of Marx's notion of the proletarian revolution initiated by the Frankfurt School theoreticians
- The oppressed and oppressor binary – individual intent is not considered pertinent.
- CWT gives the oppressed many rights and the oppressor few rights – notably, the oppressed have a right to violence.
- A noble ambition to eliminate oppression, but it's an unwinnable war. Marxism contains the notion of "the war to end all wars".

Oppressor	Oppressed
bourgeoisie	proletariat
white	black
male	female
heteronormal	LGBTQ+

Conclusions

To the extent that we can conclude anything...

- Justice is hard – judging justly is hard – be slow to judge – “*Judge not, that you be not judged*” **Matthew 7:1**
- Just War Theory is more about war than about justice – institutions are corrupt because they are made up of humans and humans are sinful!
- It is very difficult to say that most of the ethical positions held by Just War Theory are Christ-like – take great care in using it.
- Even if Just War Theory were just – nations have violated its constraints in almost every case. Mao Tse-tung, in reference to the Duke Xiang of Song 600 BC, a noble warrior who carefully respected *jus in bello*, famously said, “We have no use for his asinine ethics.”



