

Morality & War

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Most people acknowledge a strong presumption against the moral permissibility of killing others, but nevertheless believe that in some circumstances this presumption is overridden by other morally important considerations. This article will survey a range of positions that have been taken on the question of whether, and if so how, warfare can be justified as one of the exceptions to the presumption against killing.

There are two fundamental questions which must be answered by any adequate account of morality and war: (1) Is it ever morally permissible to go to war? and (2) What is it morally permissible to do in war? The answers to these two questions have received the names *ius ad bellum* and *ius in bello*, respectively.

The best-developed and most widely held theory of morality and war is the just-war theory and the major part of this article will be devoted to that view. But it is not the only possible view, so the article will begin with a discussion of some of the theory's rivals.

1. *Alternatives to the Just-War Theory*

One insightful way of looking at a theory like the just-war theory is to situate it between two other theories. In the case of just-war theory, one of the contrasting theories would be pacifism; the other might be called permissivism.

1.1 *Pacifism—The Restrictive Option*

The term “pacifism” has been used to refer to a variety of views adopted for a variety of reasons. Two are of particular interest here.

The first might be called absolute pacifism. It is grounded in the moral principle that some kinds of killing (whether all homicides or only wars) are *never* morally permissible. The absolute pacifist's answer to the two fundamental questions is clear. Under what circumstances does one have a right to go to war? None. That answer, of course, makes the second question moot. This view is defended in various ways by various writers. For a more detailed discussion, see “Pacifism.”

The rejection of this first form of pacifism is usually based on the claim that homicide is permissible when, but only when, the use of force is made necessary by the wrongful acts of others. It is justified insofar as it is the only practical or expeditious way of avoiding or righting those wrongs. It is justified because there is nothing unjust about making it the case that the one who suffers harm in an unjust attack is the aggressor himself rather than the intended victim. After all, were it not for the actions of the aggressor, no one would need to suffer any harm at all, and, if he cared that much about not

being harmed himself, he could always avoid the harm by breaking off his attack.

The second form of pacifism, which might be called modern-war pacifism, claims only that the current historical situation is such that no war could in fact meet the criteria which a defensible just-war theory would have to set. This view will be discussed in more detail below.

1.2 Permissivism

The question is sometimes raised whether moral principles can even be applied to war. The Roman proverb, *inter arma silent leges* [in time of war, the law falls silent], and its English counterpart, "All's fair in love and war," both suggest that they cannot. Wasserstrom ("On the Morality of War" in Wasserstrom 1970:78-85) calls this view moral nihilism with respect to war. Such a view might be defended on the grounds that morality is concerned with evaluating choices whereas war is a matter not of choice, but of necessity. But, as Walzer (1977:3-20) points out, any particular decision to go to war is necessary only in the sense of being indispensable to previously chosen ends. And the question of whether it was permissible to choose those ends in a given context *is* an appropriate subject of moral inquiry.

But moral nihilism with respect to war is not the only view which is more permissive than the just-war theory. What might be called the permissivist account of the *ius ad bellum* holds that a state has a right to go to war whenever it chooses to do so. This is the doctrine of *Staatsraison* (or, *raison d'état*). A permissivist account of the *ius in bello* would grant belligerent powers (or individual combatants) the right to do whatever is required to win a war. This doctrine has been called the doctrine of *Kriegsraison* (or, *raison de guerre*). These doctrines are, of course, logically independent. That gives us three possible positions:

- (1) A state may go to war whenever it wants and is entitled to do anything that would help it win the war.
- (2) There are only certain conditions that would justify going to war, but once those conditions are met, a nation is entitled to do anything that would help it win the war.
- (3) A nation may go to war whenever it wants to do so, but there are moral limits on what it may do to win the war.

1.2.1 Hobbesian-Clausewitzian (or Complete) Permissivism

The first version of permissivism might be drawn out of the writings of Karl von Clausewitz or Thomas Hobbes. Each imputation is at least somewhat conjectural, since neither author addressed himself directly to the questions we are asking.

In the opening chapter of *Von Kriege*, Clausewitz lays out his understanding of the nature of war. The argument that he accepts the doctrine of *Staatsraison* is an argument from silence. In one famous passage, he says:

War is therefore a continuation of policy by other means. It is not merely a political act but a real political instrument.... What still remains peculiar to war relates merely to the peculiar character of the means it employs.

If the peculiar character of the means employed had anything to do with moral limitations on the right to go to war, this would surely be the place to say so, but Clausewitz does not. His support of the doctrine of *Kriegsraison* is more explicit:

Philanthropic souls may imagine that there is a way to disarm or overthrow our adversary without much bloodshed.... Agreeable as it may sound, this is a false idea which must be demolished.... We can never introduce a modifying principle into the philosophy of war without committing an absurdity.

Hobbes offers what might serve as a theoretical ground for these views. According to Hobbes (*Leviathan*, ch. 13-14), nations are in a State of Nature relative to one another. In this condition (1) "There is...no mine and thine distinct; but only that to be every man's that he can get; and for so long as he can keep it," and (2) "Force and fraud are...the two cardinal virtues." The first branch of Hobbes' Fundamental Law of Nature requires that those in a State of Nature "seek peace, and follow it," which would seem to require efforts to set up a world government, rather than to permit waging war at will. But Hobbes concedes that sometimes peace will be unattainable. In those cases, the other branch of the same Fundamental Law says that the person (or ruler) in the State of Nature "may seek, and use, all helps, and advantages of war."

Such a view of war will stand or fall with the soundness of Hobbes' general moral theory, discussion of which is beyond the scope of this article. For an application of Hobbes' views to a contemporary problem in military ethics, see Morris' "A Contractarian Defense of Nuclear Deterrence" (in Hardin 1985).

1.2.2 MacArthurian (or Military) Permissivism

The second version of permissivism accepts the doctrine of *Kriegsraison* but not that of *Staatsraison*. It is thus permissive with respect to military means, but not with respect to political ends. This is, perhaps, the view held by General Douglas MacArthur, whose April 19, 1951 speech to Congress includes the following remarks:

I know war as few other men now living know it, and nothing to me is more revolting. I have long advocated its complete abolition....But once war is forced upon us, there is no other alternative than to apply every available means to bring it to a swift end....In war, indeed, there can be no substitute for victory.

On this view, war is hell. Waging war at all thus requires strong moral justification. Thus the doctrine of *Staatsraison* is rejected. Those who force another nation to go to war by treating it unjustly are to be condemned. But from the fact that war is hell it also follows that justice should be done and peace reestablished as quickly as possible. If certain means (say, the burning of Atlanta or of Hiroshima) contribute to victory then they are permissible (if not required). Refusal to use means that would hasten victory is irresponsible since it leaves everyone in the hell of war longer than is necessary.

Accepting this view presupposes two things. First, it presupposes the dubious factual claim that the awfulness of war is more closely tied to the length of the war than to the nature of the means used. Second, it presupposes the controversial moral claim that worthy ends (whether in the sense of objectives or consequences) sometimes justify morally abhorrent means.

1.2.3 Political Permissivism

The final version of permissivism accepts war as a morally unproblematic means of achieving political ends, but does insist that war is a rule-governed activity. War, on this view, is like a duel or a jousting tournament. It is not like a brawl, on the one hand, for in a brawl there are no rules; and it is not like law enforcement, on the other, for in law enforcement, one side (the police) claims an exclusive right to the use of force. Perhaps this is the view of war that would have been taken by a Renaissance *condottiere*.

This view is plausible only when wars are fought by soldiers who enlist, not because they feel obligated to defend their country, but either because they enjoy war for its own sake or have made an unconstrained choice of it as a means to some other end. Otherwise, wars initiated at the whim of the attacking nation will involve unjust killing (either of conscripts who do not want to fight at all or of volunteers who are merely acting on their obligation to protect their community against harm). Even when all the soldiers on both sides are people who have freely chosen to be soldiers, political permissivism is only plausible if consent of the victim makes homicide permissible. The maxim, *scienti et volenti nulla fit iniuria* [no injustice is done to a willing victim], to the contrary notwithstanding, neither the law, nor common morality accepts consent as exculpating homicide. Political permissivism cannot, in the final analysis, be justified.

2. The Just-War Theory

The most common alternative to the two kinds of view discussed above is the just-war theory, whose origins date at least to the Middle Ages (Russell 1975; Johnson 1975, 1981). This theory holds (against absolute pacifism) that

(1) Going to war is not always wrong in principle
and (against permissivism) that

(2) *Staatsraison* is not a sufficient reason to go to war, and

(3) *Kriegsraison* is not an adequate criterion of what one may do in war.

War, according to this view, would be justified under certain circumstances, but only under those circumstances.

Since the just-war theory is a *moral* theory, it does not commit itself on the factual question of whether these conditions are sometimes met. Many just-war theorists believe that they are, and hence believe that some historical wars have been justified and that war continues to be a morally acceptable response to certain kinds of injustice. Other people believe that no modern war could meet all of the criteria of a just war. Since such people differ from the absolute pacifist with respect to moral principles, they are often called modern-war (or practical) pacifists. Since they arrive at their position, not by rejecting the just-war theory, but by applying it, they are also sometimes called just-war pacifists. They differ from the mainstream just-war theorists, not over (1)-(3), on which both agree, but over the truth of the following:

(4) The just-war criteria are sometimes met.

And (4), of course, is not a moral principle, but only a factual claim about the modern world.

The moral foundation of the just-war theory varies from author to author. Walzer 1977 relies on a theory of rights; Childress (“Just-War Theories,” in Wakin 1986) relies on a theory of *prima facie* duties; and other authors appeal to Thomistic natural law. But surely most would agree with Potter (1969: 49-50) that

Rightly perceived, the criteria of ‘just war doctrine’ pertain to all situations in which the use of force must be contemplated as an immediate or remote possibility...Whenever men think about the morally responsible...use of force, some analogue of the just war doctrine emerges.

Despite disagreements over the question of moral foundations, there is fairly general agreement among just-war theorists about the necessary conditions of a just war. Nearly all authors offer the following list—legitimate authority, just cause, last resort, proportionality, prospect of success, right intention, and just conduct. Some authors add other criteria (e.g., declaration of war, comparative justice) but it is doubtful that such variation in the lists reflects anything more than different ways of formulating the same basic position. There are differences among various just-war theorists, but these differences are differences in their interpretation of the criteria rather than in their enumeration of them. Although this seven-criteria list has become nearly universal among contemporary just-war theorists, there are a number of ways in which it is conceptually inelegant (Kemp 1988). The theory will be presented here in a way that, by following more closely the presentation of St. Thomas Aquinas, avoids those problems.

2.1 *The Ius ad Bellum*

The first question which must be asked is about the moral permissibility of going to war. This question might take either of two forms (1) whether it is morally permissible to initiate a war, or (2) whether it is morally permissible to get involved in a war that is already underway. Either of these questions might be faced either by a public official or by a private citizen.

A public official would confront the first question when he asked himself whether war would be a morally permissible response to some problem his country faced, e.g., the occupation of its territory by a foreign power, seizure of its citizens as hostages, predatory raids on its commerce, or negligence of a debtor nation in meeting financial obligations. Although war is, by definition, a community act, and not an individual one, private citizens might also face the same question. The Hearst press, for example, is sometimes accused of having started the war fever which led to the Spanish-American War. If such a thing is possible, then private individuals have, in the morally relevant sense, the power to initiate a war.

A public official would face the second question when he asked, for example, whether he should come to the aid of a victim of aggression, as Britain and France (nominally) did on behalf of Poland in 1939. A private individual would face the same question when he asked, for example, whether his country's war effort was just, and hence whether he was permitted (or required) to enlist.

2.1.1 *Legitimate Authority*

The medieval founders of the just-war theory believed that government authorities were entitled to do certain things that were forbidden to private individuals. Among those special entitlements was the right to kill malefactors when necessary. Since war involves just such killing, it could only be waged by those who had that right. Modern theorists tend to recognize a stronger individual right of self-defense (one which extends to a right to intend to kill the aggressor if necessary) and to place more emphasis on the right of revolution than it earlier received. But that cannot be allowed to diminish the importance of this criterion, for the point of the criterion is to insist that the decision to commit a country to a war may be made only by those whom the community has authorized.

The criterion would be violated, e.g., by a US President who initiated a war without the permission of the Congress, or by a military officer who committed his soldiers to war without the permission of his civilian superiors. But there is no reason why the principle must be inseparably tied to an existing political structure. So the criterion would not be violated by a revolutionary leader who could show some good reason why he should be leading a revolution. Whether one held that that good reason would have to be popular support, dynastic right, sincere concern for the common good, or some other reason would vary with one's general theory of political authority.

2.1.2 *Just Cause*

The criterion of just cause forms the substantive core of the just-war theory, and is indeed the criterion on the basis of which the theory as a whole got its name. For the point of the theory is to insist that war is only permissible in the service of justice, i.e., in response to some past or impending wrong committed by others. No other reasons for waging war (e.g., promotion of the national interest, or the salvation of those to be conquered in a crusade) are accepted. To advance such reasons would be to put forward yet another kind of alternative to just-war theory. Most recent defenders of the theory have placed last resort, proportionality, and prospect of success on the same level of generality as just cause. It might be better to say that a nation has a just cause for war only when (1) a serious wrong has been committed by the nation to be attacked, (2) there is no other way to right the wrong, (3) resort to war will not be more destructive than righting the wrong is morally worth, and (4) there is some prospect of righting the wrong by going to war.

2.1.2.1 *Precedent Wrong*

The question of what counts as a sufficient wrong is as central to an understanding of the criterion of just cause as is the discussion of just cause as a whole to the full theory. The traditional answer cites three types of action as justified—repulsion of attack, recuperation of captured things (or persons), and punishment of wrong-doers. Modern international law is more restrictive, allowing self-defense alone. This need not, however, be seen as a difference at the level of principle. The problem with the more inclusive list is that in wars to recapture things or punish malefactors the aggrieved nation acted as plaintiff, sheriff and judge. And the restrictions of the Kellogg-Briand Treaty and the UN Charter could be read as an acknowledgement of the dangers of making a nation a judge in its own case. Although modern practice may still be closer to the classical triad than to positive international law on this point, at least the abuses have been less egregious than they were in the last century.

Walzer (1977:51-127) provides the best recent treatment of this criterion. His discussion of preventive and pre-emptive wars and the right to intervene in foreign wars raises important issues neglected by most earlier writers. O'Brien (1981:19-27) also offers a helpful discussion. But there is plenty of room for continued work on these questions.

2.1.2.2 *Proportionality*

The second part of asking what counts as a sufficient wrong focuses on the particular historical situation. Sometimes waging war will cause more destruction than righting the wrong is worth. That may, in part, explain why the United States government used military force to rescue the *Mayagüez* from Cambodia in 1975, but not the *Pueblo* from North Korea in 1968.

2.1.2.3 Last Resort

This criterion requires that all attempts to resolve a dispute by negotiation and arbitration be exhausted before any resort to armed force is made. It does not require that every conceivable alternative, however dim its prospects of success, be tried, but it does require a sincere exploration of every reasonable option. To the extent to which the criterion of Precedent Wrong is limited to defense against actual armed attack, this criterion may seem less prominent, since there is not much opportunity for exploration of peaceful alternatives to military defense once an invasion has been launched. But even on such a restrictive interpretation of Precedent Wrong, this need not be the case. First, the criterion hints at an obligation not only to see that avoidable wars are avoided, but also an obligation to see that peaceful alternatives are available. Each nation must do its part in establishing and strengthening such institutions as the International Court of Justice. Second, even once a war has begun, the attacked nation has an obligation to be attentive to ways in which the war could be brought to an end. Though a counter-attack may be the only resort in immediate response to an invasion, continuing the counter-attack is not permissible once the original invader is sincerely willing to negotiate an end to hostilities along lines fair to all parties involved. For under those revised conditions, waging war would no longer be a last resort.

2.1.2.4 Prospect of Success

This criterion is fairly closely related to Proportionality. Obviously the stringency of attempting to fulfill a positive duty (say, to protect one's community) decreases as it becomes less likely that the attempting will succeed. But, of course, when applying this criterion, one must distinguish among the various objectives that a nation might have. Though Finland may have had little prospect of winning its Winter War with the Soviet Union in 1939-40, its war effort may well have succeeded in discouraging the Soviet Union from making similar demands in the future.

2.1.3 Right Intention

The criterion of Right Intention concerns not so much the external act, as the internal disposition with which the action is performed. This emphasis on internal, and hence essentially private, features of the action has led some political theorists to ignore the criterion. But its point is surely valid. Anyone who wages war, not out of a concern that peace return and justice prevail, but out of hatred and revenge is simply doing wrong. The proper corrective in such a situation is, of course, not to refrain from performing the external action, for its performance may be an objective moral requirement of the situation, but to purge the bad intention. While that may not be important to the political analysis of a situation, it certainly is relevant to a full moral appraisal of the agents involved.

2.2 *The Ius in Bello*

The principles of the *ius in bello* has traditionally received less systematic attention than those of the *ius ad bellum*. The typical analysis concentrates on only two principles—discrimination and proportionality. But more careful analysis reveals that all three of the principles of the *ius ad bellum* apply to individual actions in war as well as to the act of going to war.

2.2.1 *Legitimate Authority*

This criterion might at first seem irrelevant to the *ius in bello*. If the war has been launched by legitimate authority, what more does the soldier need? The question overlooks the existence and significance of rules of engagement, truces, and the like. One example of a case in which the *ius ad bellum* criterion of legitimate authority is met, while the *ius in bello* criterion of legitimate authority is not, might be the bombing of North Viet Nam by General John D. Lavelle's Seventh Air Force despite explicit orders from the Pentagon not to do so.

2.2.2 *Just Conduct*

This criterion, the analogue of the just cause criterion of the *ius ad bellum*, is concerned with evaluating the acts of war themselves. Explication of the criterion can follow either the moral principles involved (as below) or the kinds of restrictions which the principles impose. Three different kinds of restrictions can be distinguished—on targets, on weapons, and on tactics.

To a certain extent, the moral principles governing the conduct of war can be investigated by looking at the positive international law of war (see International Law). There are three limitations to this approach. First, as the Martens clause acknowledges, the codification is not exhaustive:

in cases not included in the Regulations [sc., the Hague Conventions]... populations and belligerents remain under the protection and empire of the principles of international law, as they result from the usages established between civilized nations, from the laws of humanity, and the requirements of the public conscience. (Preamble to 1899 Hague Convention II)

Second, there are often good reasons for prohibiting targets, weapons, and tactics that are not immoral *per se*. And third, there is no guarantee that the international lawyers are not simply mistaken in some of their permissions and prohibitions. But the Hague and Geneva Conventions do nevertheless form a good starting point for the inquiry.

Target restrictions underlie the principle of non-combatant immunity, and the protection afforded to ex-combatants, medics and chaplains, certain kinds of natural resources (e.g., the water supply), and cultural property (e.g., art museums and architectural monuments). Prohibited weapons include biological weapons, certain kinds of small arms ammunition, and (for first use, at least) chemical weapons. Prohibited tactics focus on the concept of perfidy.

This prohibits the use of “moral camouflage” (e.g., the white flag or the Red Cross) and wearing the enemy’s uniform. The medieval Truce of God, which forbade private warfare on certain days, would be another example of such a prohibition.

These prohibitions can be grounded either intrinsically (i.e., as a direct violation of some moral principle) or extrinsically (i.e., as a generally useful prohibition of something not immoral *per se*). The prohibition on biological weapons (which is based on their uncontrollability) is a fairly clear example of an intrinsically grounded prohibition. The prohibition on chemical weapons (possibly) and the Truce of God (more clearly) are examples of the latter.

2.2.2.1 Discrimination

The principle of discrimination is concerned exclusively with targeting issues, though not all targeting restrictions are derived from the principle of discrimination. It is the *ius in bello* analogue of precedent wrong.

The clearest and most familiar application of the principle is that of non-combatant immunity, which asserts that the deliberate killing of non-combatants is immoral. This principle has received as thorough a discussion as any point in just-war theory. (See Ford and Wasserstrom in Wasserstrom 1970; Walzer 1977; O’Brien 1981; and Mavrodes in Beitz 1985; Nagel and Murphy in Wakin 1986 among others.) The principle is a natural consequence of the anti-pacifist argument sketched above. That argument justifies killing only the person who is making an attack and hence is in a position to break it off. It does not justify harm to those near and dear to the attacker, however effective making them suffer might be in discouraging the malefactor from continuing his misdeeds. In war, combatants are the ones who are carrying out the attack; thus they are the only legitimate objects of attack. Much of the controversy is focused on three questions:

- (1) determining whether the principle is best grounded in rights (Walzer, Murphy), consequences (Wasserstrom), or convention (Mavrodes);
- (2) determining whether the principle admits of exceptions (Walzer, O’Brien) or is absolute (Murphy, Nagel, Ford); and
- (3) sorting out middle cases (e.g., farmers, industrial workers, political leaders, and war-mongering private citizens).

The first two points of difference, while unresolved, depend for their solution on more general questions of moral theory. The last point, in particular, is perhaps less dependent on theoretical issues and could surely use more attention.

But non-combatant immunity, as important as it is, does not exhaust the scope of the principle of discrimination. The disabled and the shipwrecked, being incapable of further resistance also gain moral right not to be subject to direct attack. This immunity is reflected in international law. Prisoners form an only slightly more complicated case. A prisoner who genuinely surrenders must, by law and morality, be given quarter. There is no need, and hence, no right, to kill those who are no longer fighting.

Other cases of immunity under the principle of discrimination include protected persons (e.g., chaplains and medics) and cultural property. Both have received some explicit recognition in international law.

2.2.2.2 *Proportionality*

Failing to discriminate between legitimate and illegitimate targets is not the only way of going wrong in military operations. It would also be wrong to permit harmful side effects out of all proportion to the good one expects to gain. This criterion, which focuses on a direct comparison of the cost (to all parties) of a given attack and its potential benefit, corresponds to the *ius ad bellum* criterion of proportionality.

This and the following criterion should be able to account for any remaining restrictions on targeting and all restrictions on weapons and tactics. Unfortunately, little work has as yet been done in this area. Consequently, anything more than suggestions about the exact moral bases for various actual and proposed restrictions would be premature.

The criterion of proportionality probably underlies the prohibition of biological weapons. The uncontrollable character of these weapons might be said to create a harm out of proportion to any conceivable political gain.

2.2.2.3 *Military Necessity (Last Resort)*

Another way of going wrong in military operations would be failing to choose the least destructive way of accomplishing one's objectives. This would violate the principle of military necessity, which, properly speaking, is the principle without which there would be no justification for any destruction at all. It is a necessary, though not a sufficient, condition for an act of destruction that it have some military utility. Or put differently, all unnecessary military operations are morally wrong, but not all useful military operations are morally permitted. This principle, which focuses attention on alternative means of achieving the same end, corresponds to the *ius ad bellum* criterion of last resort, since a destructive military operation is not the only remaining option (or last resort) in situations in which less destructive alternatives are available.

The criterion of military necessity may underlie the prohibition on the use of dum dum bullets. If an ordinary bullet effectively puts an enemy soldier out of action, and a dum dum bullet adds to the suffering of the wounded without making any real contribution to victory, its use would constitute resort to more costly means when less costly means are available and its prohibition would respond to a moral imperative.

2.2.3 *Right Intention*

Right Intention can also be applied to individual acts in war, quite independently of its application to the war as a whole. An individual soldier can be evaluated both with respect to why he enlisted to fight a given war and with respect to why he performed any particular action. It is possible for his intention with respect to enlistment to be fully correct and his intention

with respect to a particular action in the war to be wrong. Perhaps a soldier who enlisted in order to protect democracy from totalitarian aggression later comes to hate the enemy and to kill them, even when necessary, not *out of* necessity but out of hatred. Or perhaps he kills just one enemy soldier out of hatred or a desire for revenge. Then we might say that, even if his killings are objectively justified, he has done (or in one action did) wrong.

3. Conclusion

Although it has become fashionable in some circles to assert that the just-war theory is not applicable to the modern world, in fact the criteria it lists seem to be exactly the terms in which questions of morality and war continue to be discussed by all parties. Those who believe that no modern war can be justified usually cite one or another of the just-war criteria in defense of their views; political leaders defend the military operations they initiate in terms that map easily onto the criteria, and the critics of these same operations argue, not that the criteria are insufficient, but that they have not, in fact, all been met.

See also: *Pacifism; Professional Military Ethics; International Law; War Crimes*

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