1. Introduction

The just-war theory, which has been the standard answer to the question of the morality of war since the early middle ages, can be summarized as follows:

J1: Killing other human beings (including the waging of war) is not always wrong.

J2: The Jus ad bellum:1
A person has a right to participate only in wars which are:
(a) declared by legitimate authority,
(b) waged for a just cause (i.e., to right a wrong), for the vindication of which war is both proportionate and the last resort, and
(c) rightly intended (i.e., aimed at justice and peace).

J3: The Jus in bello:
A soldier at war has a right to perform only those actions which are:
(a) approved by legitimate authority,
(b) discriminate, proportionate, and militarily necessary, and
(c) rightly intended.

Just-war theorists have their internecine disputes—e.g., over the interpretation of last resort, the prominence of prospect of success, and the scope of just cause.2 There are also, at the margins of the just-war theory, controversies over whether the criteria are moral absolutes, as traditionalists hold, or whether such restrictions as non-combatant immunity (a corollary of the jus in bello criterion of discrimination) sometimes give way.3

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1 The term jus ad bellum refers to the right to go to war. The just war theory insists that this is a limited right, i.e., that there are restrictions on the jus ad bellum. Removing all the restrictions makes the right unlimited; eliminating the right would make war always wrong.

2 There are also variations in the formulation that do not seem to be merely verbal, but which have not generated any careful discussion in the literature. Examples include the relevance of a formal declaration of war and the criterion of “comparative justice” listed by the American Catholic Bishops in The Challenge of Peace: God’s Promise and Our Response (1983).

Of course, not everyone accepts the just-war theory as the correct account of morality and war. Not only pacifists, but some non-pacifists as well, reject the theory. One can often gain a deeper understanding of an answer to a particular question by contrasting it with other proposed answers to that same question. Answers to the question of whether war is ever morally permissible can be classified as follows.

Waging war is either susceptible to moral appraisal or it is not. If it is susceptible to moral appraisal, then it must either always be wrong (“pacifism”) or sometimes be permissible. If it is sometimes permissible, then it must either be evaluated by the tenets of the just-war theory or by the tenets of some other theory.

The relationship between pacifism and the just-war theory has been fairly well treated in the literature on this question. The last word on this contrast has by no means been said, but that will not be the topic of this paper. For the contrast between the just-war theory and its non-pacifist rivals (unlike that between just-war theory and pacifism) while not unexplored, is still in need of a good map. In this paper I attempt to provide such a map and to say something about what is wrong with these non-pacifist alternatives.

There have been a few attempts to delineate that conceptual space. That space, as is suggested above, includes two sub-spaces.

The claim that waging war is not susceptible to moral appraisal (Theory X₁), is discussed by Richard Wasserstrom,⁴ who calls it “moral nihilism with respect to war.” Wasserstrom distinguishes three different senses of moral nihilism’s central claim. In the first (“descriptive”) sense, the claim is merely that morality does not in fact influence decision-making in wartime. According to the second (“prescriptive”) sense, moral considerations should not influence them. According to the third (“analytic”) sense, war is not even the kind of thing to which morality considerations can apply. The first interpretation of the claim raises historical questions, but not philosophical ones. It is surely not true, but even if it were, its truth would have no relevance to the question of whether moral considerations should influence policy-making during wartime. The second and third interpretations raise questions about the scope and content of morality. They will be discussed below.

The other non-pacifist alternative to just-war theory accepts the claim that war is susceptible to moral assessment, but rejects the claim that this assessment should be made in accordance with the tenets of the just-war theory. This pigeonhole is filled by other taxonomists of views on the morality of war. Roland Bainton writes:⁵

Broadly speaking, three attitudes to war and peace were to appear in the Christian ethic: pacifism, the just war, and the crusade. Chronologically, they emerged in just this order.

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John H. Yoder\textsuperscript{6} contrasts the just-war theory with both the “holy war” theory and with national interest theories. In Section 7, I express my concerns about the reality of the contrast between historical “holy war” theories and just war theory. Whether I am right or wrong about that, the Bainton-Yoder analysis (perhaps partly because they confine themselves to explicitly Christian views) vastly oversimplifies the terrain.

Since the point of this paper is to clarify the content of the just-war theory by contrasting it with its non-pacifist rivals, the paper is organized on the basis of differences between those rival views and the just-war theory. As non-pacifist theories, they share with the just-war theory its acceptance of J1. Their differences from it are created by their radical modification, or rejection, of J2-3. Note that J2 and J3 are logically independent. The rejection of J2 is not equivalent to the rejection of \textit{any} restrictions on what one may do once war has begun. Similarly, the rejection of J3 does not grant a nation the right to go to war whenever it wants to do so.

Rejection of both J2 and J3 seems to leave morality with no point of applicability to war. This double rejection is a form of moral nihilism with respect to war, which will be discussed in Section 2. Rejection of either one, considered separately, will be discussed in Section 3. Those alternatives which result from either addition of significant new criteria or from replacement of some criteria with substantively different (but somehow formally similar) ones, will be discussed in Sections 4-6.

2. Moral Nihilism with Respect to War

Moral nihilism with respect to war, as defined above, challenges the very possibility of applying moral predicates to acts of or within war. It is captured in the Roman proverb, \textit{inter arma silent leges}, and its English counterpart, “All’s fair in love and war.” This may be the view of Karl von Clausewitz, who, in the opening chapter of \textit{On War}, lays out his understanding of the nature of war. His rejection of J2 is implicit in the following passage:\textsuperscript{7}

\begin{quote}
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.
\end{quote}

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 rejection of J3 is more explicit:\textsuperscript{8}

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\item[8] Book I, ch. 1, §3.
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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.

Similar views appear in the writing of Machiavelli. In the “Exhortation to Liberate Italy from the Barbarians,” with which he concludes The Prince, Machiavelli wrote: “Here is a just cause; iustum enim est bellum quibus necessarium, et pia arma ubi nulla nisi in armis spes est.”9 And “necessary”, for Machiavelli, meant necessary to the growth, expansion, and glory of the state. Machiavelli readily acknowledged the value of the traditional virtues of honesty, kindness, &c. among the citizenry, but his adherence to the maxim, Salus populi, suprema lex, in the Discourses on the First Ten Books of Titus Livy,10 and to the presumably related emphasis in The Prince on the prince’s maintenance of his own power led him to a more limited estimation of their worth for the public man.11 The evil of the men with whom he must deal makes it necessary for the prince, if he is to be successful, to follow a different morality.12 The problem is that “men in general are ungrateful, voluble, dissemblers, anxious to avoid danger and covetous of gain.”13

And it must be understood that a prince, and especially a new prince, cannot observe all those things which are considered good in men, being often obliged, in order to maintain the state, to act against faith, against charity, against humanity, and against religion. And, therefore, he must have a mind disposed to adapt itself according to the wind, and as the variations of fortune dictate, and, as I said before, not deviate from what is good, if possible, but be able to do evil if constrained.

In conclusion:14

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9 ['For that war is just which is necessary; and those arms righteous which are taken up where there is no hope except in arms.'] The quotation is from Livy’s account of a speech of Gaius Pontius. Gaius Pontius’ conception of necessity is arguably within the scope of justice—he is preparing to resist a punitive raid in a case where, while punishment is deserved, restitution has been refused. (History, 9.1)

10 Cf. III, 41.

11 Machiavelli himself seems to have had some reservations about whether one ought to undertake public service under these conditions:

Such methods [as are necessary] are exceedingly cruel, and are repugnant to any community, not only to a Christian one, but to any composed of men. It behoves, therefore, every man to shun them and to prefer to live as a private citizen than as a king with such ruination of men to his score. (Discourses, I, 26)

12 The Prince, Ch. XVIII.

13 Op. cit., Ch. XVII.

14 Discourses, I, 9.
It is a sound maxim that reprehensible actions may be justified by their effects, and that when the effect is good,...it always justifies the action.

Moral nihilism with respect to war, but not in general, is a curious kind of view. This two-tier account of morality, maintains that some, but not all, of our actions are subject to moral assessment. Some of its defenders argue that it is only war that is different. Others argue that this difference extends to international relations in general, war only being a special case. It has been defended on at least three distinct grounds.

a. **Analytic Nihilism & the Necessity of War.** Some moral nihilists begin with the reminder that moral predicates have never been held to apply to all our actions, but are restricted to those that are free, i.e., to our choices.\(^{15}\) War, they continue, is not a matter of choice but of necessity. So, war is not a matter to which moral judgments are applicable. In Thucydides famous phrase, “What made war inevitable was the growth of Athenian power and the fear which this caused in Sparta.”\(^{16}\) This would be a defense of what Wasserstrom called the analytic sense of moral nihilism.

The problem with this argument against the applicability of morality to war is that it is based on an equivocation.\(^{17}\) There are at least three things that those who say that war is necessary might mean.

First, they might mean that war will always remain a feature of international relations—that war (in general) is inevitable. No matter what we do, war will sooner or later break out. This proposition, even if true, does not make any particular nation’s decision to go to war immune from moral assessment. One might as well say that crime, in the same sense, will be always with us and conclude that bank robbery is not subject to moral appraisal.

Second, they might mean that a particular war is necessary, that, given the domestic politics of two rival nations, the war party in each will come to power and carry out its policy. Concretely, perhaps by 1940 war between Japan and the US was inevitable. That may or may not be true, but it is not inconsistent with the claim that the decision to go to war was a free decision which is a legitimate subject of moral assessment. Jeannette Rankin bears the peculiar distinction of being the only Member of Congress to have voted against declaration of both World Wars. Obviously what it was possible for her to do was possible for every congressman. If enough had done so, the United States would not have been at war in 1917 or in 1941. If enough did so in every country, there would be no war at all. Going to war might be the best possible choice in a given situation, but it is never the only possible one.

Third, they might mean that, given a certain policy objective, war would be a necessary (i.e., indispensable) means of attaining it. Again, it may be true that certain policy objectives can only be attained by waging war, but the fact that war is an

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15 See, for example, St. Thomas, *Summa Theologiae*, 1a2æ, Qq. 1 & 6.
16 *Peloponnesian War*, I.27.
17 This critique of moral nihilism is made in more detail in Walzer, *op. cit.*, ch. 1. (Walzer calls moral nihilism “realism.”)
indispensable to the attainment of previously chosen ends does not provide it with an immunity from moral assessment. Perhaps those ends should be abandoned, or perhaps seeking them should be deferred until it can be accomplished by other means. On the other hand, perhaps they should not be deferred, but the question of whether, say, an unjust peace is better than a just war is a *moral* question.

**b. Prescriptive Nihilism & the Nature of State Action.** Second, some American political realists have argued against the applicability of moral predicates to international relations in general (and hence to war as well) on the grounds that all state actions are different, in a morally significant respect, from those of individual human beings.

Hans Morgenthau, for example, says that “the individual may say for himself: ‘Fiat justitia, pereat mundus…,’ but the state has no right to say so in the name of those who are in its care,”\(^{18}\) In a similar vein, Ernest W. Lefever warns against the danger of “personal purity becoming more important than political effectiveness”\(^{19}\) and Arthur Schlesinger, jr., says that:\(^{20}\)

> As a trustee for others, they [sc., statesmen] must defend interests and compromise principles. In consequence, politics is an area where practical and prudential judgment must have priority over simple moral verdicts.

Several authors have quoted Camillo, Count di Cavour’s remark that “If we had done for ourselves what we did for the state, what scoundrels we would be.”

It is not always clear exactly how those passages are to be taken. For it may be that the “compromise of principle” which Schlesinger has in mind is only a violation of a *prima facie* duty, say, the duty not to harm others. Given the emphasis on the peculiar responsibility of the statesman, it may mean that those in government, due to their special responsibility for the common good, are entitled to violate *prima facie* duties in ways which private citizens are not. Some position of this sort is essential to many theories of criminal punishment.\(^{21}\) It is not a version of moral nihilism.

The claim that the constraints of morality do not apply to the actions of states, however, faces two problems. First, state actions are conceived and executed by individuals who cannot escape from moral responsibility just by pointing to the fact that they thought up some misdeed in concert with, or acting on behalf of, others. Second, the argument fails to recognize that heads of government are not just representatives and executives of the public will; they are also *leaders*. What they say and propose helps form what the public is willing to do. A public that demands that its officials undertake some morally objectionable enterprise may well be susceptible to dissuasion. A political leader has an obligation to promote the

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common good, but not at any price, and if he cannot lead his community away from such misconduct, he had best resign his post as one he is incapable of handling.

One wonders whether these authors could really mean that there are no moral restraints on foreign policy. More plausible is that what are ordinarily called “moral” restraints they refuse to call “moral” on the basis of a restricted (I would say impoverished) understanding of morality. An idea of what that impoverished account is can be gleaned from those passages in their writings that emphasize the fact that states are collective entities.

Morgenthau, for example, emphasizes that politics is “an autonomous sphere of action and understanding apart from other spheres, such as economics..., ethics, aesthetics, and religion.”\(^\text{22}\) Its concern is “the concept of interest defined as power.” The concern of morality (as of such other normative systems as law and mores) is “to keep aspirations for power within socially tolerable bounds” since these aspirations might otherwise either “tear the society apart” or “deliver the life and happiness of the weak to the arbitrary will of the powerful.”\(^\text{23}\) It is on the basis of sanction, not of content, that morality is distinguished from other normative systems. And it is precisely its sanction, pangs of conscience and remorse, that makes it inapplicable to entities (such as states) which do not have consciences.

In another passage, Morgenthau sheds more light on his understanding of morality and its limits:\(^\text{24}\)

Political realism is based upon a pluralistic conception of human nature. Real man is a composite of “economic man,” “political man,” “moral man,” “religious man,” etc. A man who was nothing but “political man” would be a beast, for he would be completely lacking in moral restraints. A man who was nothing but “moral man” would be a fool, for he would be completely lacking in prudence.

Prudence, Morgenthau elsewhere defines as “the weighing of the consequences of alternative political actions.”\(^\text{25}\)

The pursuit of national interest is nevertheless subject to certain restraints, which even Morgenthau sometimes characterized as moral. Morgenthau devotes Part V of his book to “Limitations of National Power: International Morality & World Public Opinion.” In the introduction to his chapter on “International Morality” he writes:\(^\text{26}\)

On the other hand, there is the misconception…that international politics is so thoroughly evil that it is no use looking for moral limitations on the aspirations for power on the international scene. Yet,…statesmen and diplomats…do less than they probably could [sc., to further the power objectives of their respective nations] and less than they actually did in other periods of history. They refuse to consider certain ends and to use certain means, either altogether or under certain conditions, not because in the light of expediency they appear impractical or unwise but because certain moral rules interpose an absolute barrier. Moral rules do not permit certain policies to be considered at all from the point of view of expediency. Certain things are not to be done on moral grounds, even though it would be expedient to do them.

Morgenthau discusses a number of ways in which morality has in fact acted as a constraint on policy. One example is the reluctance to assassinate foreign leaders. At another point he writes:27

It is especially in the refusal to consider seriously the possibility of preventive war, regardless of its expediency in view of the national interest, that the moral conduct of war as such has manifested itself in recent times in the Western world. When war comes, it must come as a natural catastrophe or an evil deed of another nation, not as a foreseen and planned culmination of one’s own foreign policy. Only thus might the moral scruples, rising from the violated moral norm that there ought to be no war at all, be stilled, if they can be stilled at all.

So the only question seems to be whether it is appropriate to call these constraints “moral.” There is no point in getting bogged down in a dispute over the use of a word, but it does seem helpful to emphasize a couple of points. First, it is appropriate to use the term “moral” whenever the object of appraisal is human character. Second, political leaders too have characters which are shaped by and reflected in their public actions as much as in their private ones. One does not have to believe that the principles of public and private conduct are identical to accept this point. Morgenthau and the other American realists have not made their case against the moral appraisal of the actions of states.

**c. Hobbesianism & the International Situation as a State of Nature.** There is another reason why the relevance of morality to international relations is sometimes denied, namely that the circumstances which make morality applicable in interpersonal relations simply do not exist among nations. This is the view of Thomas Hobbes. His exemption of the state (or, more precisely, of the men who direct it) from adherence to ordinary moral rules in their relations with other nations

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is based on a distinction between men interacting within a commonwealth (i.e., within the context of a compact with a sovereign who undertakes for them to keep the peace) and sovereign rulers interacting in (the international counterpart of) a state of nature. Hobbes emphasizes the importance of morality inside the commonwealth but denies its relevance to the state of nature, his view of which is summarized in the following passage:

> And from this diffidence of one another, there is no way for any man to secure himselfe, so reasonable as Anticipation; that is, by force, or wiles, to master the persons of all men he can, so long till he see no other power great enough to endanger him: And this is no more than his own conservation requireth, and is generally allowed....Hereby, it is manifest, that during the time men live without a common Power to keep them all in awe, they are in that condition which is called Warre; and such a warre as is of every man against every man.

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.”

Hobbes is explicit about the fact that international relations are like the state of nature:

> But though there had never been any time, wherein particular men were in a condition of warre one against another; yet in all times, Kings, and Persons of Soveraigne authority, because of their Independency, are in continuall jealousies, and in the state and posture of Gladiators; having their weapons pointing, and their eyes fixed on one another; that is, their Forts, Garrisons, and Guns upon the Frontiers of their Kingdoms; and continuall Spyes upon their neighbours; which is a posture of War.

Hobbes’ Right of Nature, “the Liberty each man hath, to use his own power, as he will himselfe, for the preservation of his own Nature; that is to say of his own Life; and consequently, of doing any thing, which in his own Judgment, and Reason, hee shall conceive to be the aptest means thereunto,” when transferred to the international sphere, would seem to entail rejection of any moral constraints on war. However, Hobbes’ the Fundamental and Second Laws of Nature, viz., “That every man, ought to endeavour Peace, as farre as he has hope of obtaining it; ...” and “That a man be willing, when others are so too, as farre–forth, as for Peace and defence of himselfe he shall think it necessary, to lay down this right to all things; and be contented with so much liberty against other men, as he would allow other

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28 See, e.g., The Leviathan, Pt. II, Ch. 30.
30 Ibid.
men against himselfe;” 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 (omitted in the above quotation) 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.

3. Radical Permissivism.

The just-war theory can be made more permissive by removing some of the criteria. The eliminated criteria could come either from the restrictions on the jus ad bellum or from those on the jus in bello. At the extremes are the claims that either (1) reasons of state are sufficient justification for waging war (i.e., that the jus ad bellum is unlimited) or (2) reasons of war (or military utility) are sufficient reason for any military operation (i.e., that the jus in bello is unlimited).32 The alternatives to J2 and J3 are, therefore, the doctrines Staatsraison (raison d’état) and Kriegsraison (raison de guerre), respectively. More modest challenges to the just-war theory might remove only some of the restrictions. For example, one might reject the principle of non-combatant immunity without rejecting the entire jus in bello. This section of my paper will say a little more about how each of those views has been or might be defended.

a. Political Permissivism. Changing the just-war theory by replacing J2 with the doctrine of Staatsraison leaves as the following account of morality and war:

A nation may go to war whenever it wants to do so (or, whenever it would be in its interest to do so), but there are moral limits on what it may do to win the war.

This 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, for in a brawl there are no rules; but neither is it like law enforcement, for in law enforcement, one side (the police) claims an exclusive right to the use of force.33 Perhaps this is the view of war that would have been taken by a Renaissance condottiere.

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32 Strictly speaking, of course, reasons of state and military necessity are themselves a kind of limit. They rule out at least gratuitous violence.

33 Note that the defense of just wars is often made by analogy to law enforcement. St. Thomas, for example, writes: “Just as it is lawful for rulers to have recourse to the sword in defending the common weal against internal disturbances, when they punish evil-doers, … so too it is their business to have recourse to the sword of war in defending the common weal against external enemies” (ST, 2a2æ, Q. 40, a.1). John Calvin uses the same argument: “If kings have been entrusted with the power to preserve the tranquillity of their own territories… and if they justly punish those robbers, whose injuries have only extended to a few persons, shall they suffer a whole district to be plundered and devastated with impunity? For there is no difference, whether he who in a hostile manner invades, disturbs and plunders the territory of another to which he has no right, be a king, or one of the meanest of mankind: all persons of this description are equally to be considered as robbers and are to be punished as such.” (Institutes of the Christian Religion, IV, 20).
This view has serious problems. Wars initiated merely to promote some interest of the attacking nation will involve unjust killing. The soldiers of the nation attacked are, until they fight back, innocent in the etymological sense, i.e., not harming others, and even after they do so they are innocent in the other sense of not having done anything to deserve harm. As long as no individual is entitled to inflict intentional harm on the innocent (which I believe to be true, but will not argue for here), the fact that the innocent person on whom harm is to be inflicted is a citizen (or a soldier, for that matter) of an inconvenient nation has no moral relevance. Here, if ever, Pascal’s lament applies:\(^{34}\)

Can anything be more ridiculous than that a man should have the right to kill me because he lives on the other side of the water and because his ruler has a quarrel with mine, though I have none with him?

Even when all the soldiers on both sides are people who have freely chosen to be soldiers—those, that is, who enjoy war for its own sake or have made an unconstrained choice of it as a means to some other end—and thus cannot be said to be treated contrary to their wills, political permissivism is only plausible if consent of the victim makes homicide permissible. The maxim *scienti et volenti nulla fit iniuria* to the contrary notwithstanding, neither the law, nor common morality accepts consent as exculpating homicide. Political permissivism cannot, in the final analysis, be justified. There must be more to the *jus ad bellum* than the willingness to fight.

**b. Military Permissivism.** A 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:

There are only certain conditions that would justify going to war, but once those conditions are met, a nation is entitled to do anything useful for (or necessary to) winning the war.

This is, perhaps, the view held by General Douglas MacArthur, whose April 19, 1951 speech to Congress includes the following remark:

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

\(^{34}\) *Pensées*, V, 294.
quickly as possible. If certain means (say, the burning of Atlanta with its citizens evacuated or, for that matter, of Hiroshima with its citizens still at home) 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.

4. Narrowing the Permission: National Interest Restrictivism

In contrast to the views considered above, some critics of the just-war theory seem to reject it because they believe that it is too permissive of war. One version of this objection is the crypto-pacifist objection that just-war theorists are just too lax in the application of their criteria.\(^3^5\) Strictly speaking, of course, this is a criticism not of the just-war theory, but of just-war theorists. Another, theoretically more interesting, version of this line of criticism maintains that the traditional theory simply does not include all the relevant criteria. That is another way of understanding a certain strand of American realism.

These theorists sometimes argue that no war should be fought unless it is “in the national interest.” This is just an application of their more general suspicion of the intrusion of moral considerations into policy-making. Morgenthau’s examples of such unjustified intrusion are not focussed on such traditional concerns of military ethics as the proper immunity of prisoners or noncombatants, but on the appropriateness of non-recognition of governments whose domestic policies we find abhorrent (e.g., Communist China, 1949) or of rallying (militarily) to the defense of the victims of aggression (e.g., Belgium in 1914 or Finland in 1939).\(^3^6\)

The realist concern to separate politics from morals is grounded in the danger of what Kenneth W. Thompson calls “the beckoning will–of–the–wisp of moral crusades against evil which eventuate so often in the strident calls for preventive war.” George Kennan argues for this point in the following passage:\(^3^7\)

Government, particularly democratic government, is an agent and not a principal; and no more than any other agent can it attempt to substitute itself for the conscience of the principal. This last would be true even if the people at large were an individual. Still more is it true when the principal is not an individual but, as in the case of the American people, a great mass of individuals.

\(^3^5\) John Yoder is one of the more prominent proponents of this critique. It can also be seen in some of the arguments about whether the American liberation of Kuwait met the criterion of last resort.


\(^3^7\) “Ethics & Foreign Policy: An Approach to the Problem,” in Hesburgh & Halle, op. cit., p. 43.
The activity for which the government official has undertaken responsibility is characterized as follows by Kennan:\(38\)

Foreign policy is conducted by governments, as a function of their governmental responsibility; and it must serve the purposes of government generally. The government of human beings is not a moral exercise. It is a practical function, made necessary, regrettably, by the need for order in social relationships and for collective discipline.

What we have here is a return to the realist emphasis on the status of political leaders as vice-gerents\(39\) of the people, but with the implications reversed. As considered above, the fact of vice-gerency served as a constraint-removing consideration. Here, it is a constraint-imposing one.\(40\)

The view that no nation is obliged to fight a war that does not promote its interests\(41\) might be defended in either of two ways. The first way focusses on the nature of political leadership. By what right, the defender of the restriction might ask, does the political leadership use the resources entrusted to it for purposes other than the promotion of the common (i.e., national) interest? The second way focusses on the limits of the rights of the majority. The preamble to the Constitution of the United States lists a number of the objectives which a federal government was to achieve—establishing justice, ensuring domestic tranquillity, providing for the common defense, promoting the general welfare, and securing the blessings of liberty to the nation. It does not include promoting a new world order, rescuing the latest victims of ancient feuds, and the like. Moreover, the argument might continue, this is not just an historical point. Although there is nothing wrong with individuals undertaking such projects—as they did, for example, in forming the Lafayette Escadrille in World War I or the Eagle Squadrons in World War II—there is something wrong with the majority, having secured general consent for reasonable national goals like those mentioned above, transforming the body politic into an international relief agency in which all who signed on to the original compact are compelled to participate. The argument might be personalized by imagining a young soldier asking why his volunteering to defend his country entitles anyone to send him off to defend someone else’s.

There are two things that might be said in reply. The first is that a peaceful world order is in every nation’s interest. If the answer to the question “Why die for Danzig?” was not clear in 1938, it should be clear to everyone by now. (It is not, of

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\(39\) Although the meaning of the term “agent” is clear enough when it is explicitly contrasted with the term “principal,” the fact that its broader, etymological, sense is still prevalent in philosophy makes the substitution of this less common alternative term appropriate.

\(40\) There is, of course, no inconsistency in claiming that a certain consideration removes some constraints and imposes others.

\(41\) Interests here must, I think, be construed rather narrowly; probably as wealth or power. On a sufficiently broad definition of the term, the constraining force of that criterion would disappear.
course, but it should be.) But that reply only denies that the national interest restriction really rules out anything that passes the criterion of just cause.

In starker contrast to the national interest restriction on the right to go to war is the claim that the community as a whole has a right, or even perhaps a duty, to come to the aid of the victims of aggression. This duty was stated in a general way by St. Thomas Aquinas in the following passage:\(^42\)

> Not to resist evil … in the sense of tolerating patiently the wrongs done to others … is an imperfection, or even a vice, if one can suitably resist the wrongdoer.

It is stated with explicit reference to war by Pope Pius XII:\(^43\)

> Among the goods of humanity some are of such importance for society, that it is perfectly lawful to defend them against unjust aggression. Their defense is even an obligation for the nations as a whole, who have a duty not to abandon a nation that is attacked.

The general duty to aid our fellow man, and the fact that help is sometimes only possible at the national level, found a basis on which a government can require its citizens to cooperate in fulfilling that requirement.

5. Broadening the Permission: Altruistic Permissivism

The third class of rivals differs from the just-war theory not by adding or deleting criteria, but by replacing the just-war theories focus on just cause as a necessary condition of justified war with some other condition. A number of commentators, both supporters and critics of the just-war theory, have suggested that there is something odd about the term just-war theory. Charles P. Lutz, for example, says\(^44\)

> There is … one additional problem with the ethic of the just war. That is the very name it has carried down through the centuries: “just war.” The implication is that a given war can—objectively and theoretically—be just. This suggests that a war, or war in general, may be viewed as a positive good. A better term for the tradition would be “war as less evil under well-defined circumstances”—but it is clear why such a label never caught on.

But the name is exactly right, as consideration of the alternatives taken up in the next two sections makes clear.

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\(^42\) *Summa Theologiae* 2a2æ, Q. 188, a. 3, ad 1.


The just-war theory requires that war be a response to some precedent wrong, an act of injustice on the part of those being attacked. In the words of St. Thomas, “those against whom one fights must deserve it on account of some fault.” St. Augustine (though probably without committing himself on the question of whether this list is exhaustive) identifies three kinds of just cause—repelling attack, recapturing things taken, and punishing wrongdoers. Justifiers of war (or of various wars) have offered two kinds of defense of war that are hard to construe as attempts to do justice. The first kind of defense is altruistic, expressing a concern with the well-being of the other nation. The second kind of defense is more narrowly focused, concerned only with the well-being of one’s own nation. Each of these rivals to the just-war theory could be adopted as matters of disjunctive addition. Presumably, these theorists do not want to reject that claim that wars could be fought to remedy an injustice. They do not, however, believe that the aim of righting a wrong is a necessary condition for a justified war. So, they add a second, alternative permission. All of the other restrictions on the *jus ad bellum*, as well as the entire *jus in bello*, (presumably) remain untouched. These views will be taken up in this and the next section respectively.

Wars motivated by concern for the well-being of some other people usually involve the conquest of that people as the necessary means of providing them with the good in question. Such wars can be further divided into wars concerned with the religious well-being of the conquered and those concerned with their political or economic well-being.

The term “Crusades” is often used to refer to such religious wars, but the term is historically and etymologically inappropriate. Historically, some of the Crusades were not concerned with the conversion of the conquered, and some wars not so called did have that as their object. Etymologically it is odd because other proselytizing religions (e.g., Islam) have fought such wars. Both that term, and the term “holy war” in addition (perhaps from consideration of the Biblical conquest of Canaan), sometimes suggest a war of extermination, which, of course, is not consistent with the objective of converting the conquered to the true religion. History does show that such wars can accomplish their objectives. The Albigensians are gone; the Saxons are still Christian. But however much good adhering to the true religion might bring to the as-yet unconverted, refusal to do so is no act of injustice, at least not against other human beings. Wars of conversion, even if they could be justified would not be “just wars.”

Wars have also been defended on the grounds that they would promote the political or economic well-being of the conquered. The clearest example would be the defense of the European colonial wars of the nineteenth century on the grounds that managing an empire (and civilizing primitive peoples) was the white man’s burden. Another possible example would be certain ideological wars, e.g., Communist insurgencies, especially when combined with Lenin’s notion of the party

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45 *S.T.*, 2a2æ, Q. 40, a. 1.
46 Of course, it is possible for someone to combine one of the substitutions under discussion here with a rejection of one or the other criteria. My point is that these are conceptually separable.
47 For a fuller discussion of the concepts of Crusade and holy war as they actually occurred in Western intellectual history, see Section 7 below.
as vanguard of an as yet possibly unsupportive proletariat or with Stalin’s understanding of the leading role of the Communist Party of the Soviet Union.

Interpretation of such ideological wars is complex. Looked at one way, they very much resemble the wars of conversion discussed above. The conqueror claims to know of a way of life (religion, political system) that would benefit those who share in it. Those who will not adopt it freely will have it forced upon them until, like children with vegetables, they come to appreciate it. But that is not the only way to look at such wars. Wars fought, not at all as a response to a precedent wrong, but solely to bring some new good to the conquered, must be distinguished from two other kinds of war for the benefit of another nation where justice is involved, namely humanitarian intervention (e.g., Tanzania’s invasion of Uganda to overthrow Idi Amin and Viet Nam’s invasion of Cambodia to overthrow the Khmer Rouge) and law enforcement in areas where there is no government (e.g., the UN intervention in Somalia in 1992). In each of these cases, there are questions of justice. The Ugandan and Cambodian people were being treated unjustly. The invasions were aimed (though only in part in the latter case) at putting an end to that injustice. These are different from more conventional wars because the injustice was internal to the nation invaded, not a matter of an injustice inflicted by one nation on another. Defenders of ideological wars often claim that they too are responding to an injustice, usually of colonial or class oppression. To the extent that is indeed the case, wars of this type are not inconsistent with the just-war theory.

Pure just-war theorists must reject any extension of the jus ad bellum to cases where there may be a benefit to be bestowed, but there is no injustice to be remedied. The reason they must do so is that those against whom war is waged do not deserve to be injured or killed on account of any fault. Community resistance to the bestowal of a benefit may be pig-headed, but it is not morally wrong. Indeed when one looks, not at isolated accomplishments such as the British suppression of sati in India or the American Army’s cleaning up of Vera Cruz in 1917, but the big picture of imperial involvement with subject peoples, it is not so clear that such resistance is even pig-headed. Political and economic techniques and systems are not always easily transplanted. The power to further the development of a subject people seems, even more than other kinds of political power, to corrupt those who acquire it.

6. Broadening the Permission: National Interest Permissivism

A second permission that might be added to the permission to wage war to promote justice is the permission to wage war to promote the national interest, but only given that the other criteria (last resort, for example) are met. Since this is the third time that considerations of national interest have appeared in this paper, it is perhaps appropriate to review the distinction between the three theories:

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48 Not, it must be emphasized, without the support of Indian reformers.
Radical Political Permissivism: The promotion of the national interest is a sufficient reason to go to war.

Moderate Political Permissivism: Waging war is only justified if
1) the war is
   (a) in the national interest, or
   (b) in a just cause; and
2) all the other criteria of the just-war theory are met.

Political Restrictivism: Waging war is only justified if
1) the war is
   (a) in the national interest, and
   (b) in a just cause; and
2) all the other criteria of the just-war theory are met.

On these views, the national interest is understood in terms of the elements of power—wealth, prestige, geopolitical or strategic situation, &c.49

Two facts invite confusion. Indeed confusion with respect to them has been the bane of much recent public discussion of particular military operations.

The first bedeviller of shallow thinkers is the fact that some wars that it is in the national interest to fight are also matters of justice. The liberation of Kuwait, for example, was in the United States’ economic interest, since Kuwait was an important trading partner. It was also a matter of justice, since its union with Iraq was a matter of conquest. The first point is sufficient for the radical permissivist; the second for the just-war theorist. For the moderate permissivist, both are necessary. If the Kuwaitis had chosen to become Iraq’s nineteenth province, it would still have been in the United States’ economic interest to separate it from Baghdad by force, but it would have been unjust to do so. That would make such an undertaking acceptable only to the radical permissivists. The fact that a certain war is in the national interest does not undermine its status as a just cause.50 This point should be obvious, but it is often missed.

The second source of confusion is the fact that it is generally not in a nation’s interest to act unjustly (or even to be perceived to act unjustly). This Hobbesian point has been emphasized by many recent international relations theorists. Conquering a nation that has needed resources, even if it solves economic problems, may create new problems. A nation willing to conquer others may, for example, find it has created for itself security problems that it did not previously have as other nations take precautions against themselves being conquered. This is not, of course, invariably the case.

49 This is, of course, a very narrow construction of the term. For a good discussion of this term’s problems and possibilities, see W. David Clinton, The Two Faces of National Interest (Louisiana State, 1994).
Once these confusions have been cleared up, we can proceed to the identification of various versions of political permissivism. Three alternative lines of legitimation might be cited—honor, wealth, and security. For each we will have to ask to what extent the line of legitimation is an alternative to a consideration of justice. To the extent that each is distinguishable from justice, it may be difficult to determine to what extent it is accepted by anyone as a possible legitimation of war. It is not too difficult to find cases where such considerations seem to be the operative motive for war, but the principals do not as often cite such alternative lines of legitimation. Perhaps they are self-deceived, having convinced themselves that they have a right to that in which in fact they only have an interest. Perhaps they merely lack candor, believing that their actions will be tolerated by others only to the extent that the actions are presented as oriented on justice rather than on self-interest.

Let us first take up wars in vindication of national honor. In his declaration of war against Sweden, for example, Tsar Peter the Great said he was going to war “for the many wrongs of the Swedish King and especially because during the Tsar’s journey through Riga, he suffered at the hands of the people of Riga many obstacles and unpleasantnesses.” It is doubtful that this was Tsar Peter’s real reason for going to war, for war with Sweden fit in well with Peter’s general political objectives. It is not at all clear that Peter was badly treated during his stay in Riga. What is the correct protocol for a monarch travelling incognito, anyway? And surely the sentry who shooed him away from the fortress wall which Peter was trying to sketch acted sensibly in doing so. But, aside from these historical worries, what can be said about vindication of a nation’s honor as a legitimizing cause for war?

Two things. First, although a war in vindication of honor would seem to be easily and sharply distinguishable from those waged in pursuit of justice, the distinction is not, as it first appears, a difference in kind. For in what way is a nation’s honor injured if not by treating it in a way that it does not deserve? For example, by failing to treat a nation’s monarch with the dignity befitting his rank. And what is it to treat someone in a way that is not due them if not an injustice?

Second, although wars in vindication of a nation’s honor may not be formally distinguishable from matters of justice, they are not, by that fact, automatically justified. Even Suarez, who defends the legitimacy of such wars, insists that the injury be grave. The simple fact is that it would not be easy for such an injury to rise to the level of gravity at which war would be a proportionate response. So, wars on points of honor will generally fail to be legitimate, not because they are not about justice, but because they are destructive in a way disproportionate to the good to be achieved.

Wars over wealth and security will require a similar effort to determine when and to what extent the wealth or security sought is a matter of justice and when it is not. Security interests might include the preservation of the balance of power or control of geopolitically useful territory.

Preventive wars to preserve the balance of power were a commonplace of modern European history. If an argument could be made that the balance of power were a necessary feature of the international system that each nation had a duty to

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51 *On Charity* (1621), D. 13,4,3.
help maintain, then disrupters of the balance would be doers of injustice and a war to prevent this injustice might itself meet the criterion of just cause. Whether it would also meet the criteria of last resort and proportionality is more dubious.

Wars to secure geopolitically useful territory could also conceivably be matters of justice. Presuming Israel’s right to be secure in its borders, a case might be made that Syria’s long-standing hostility to Israel forfeited for them the right to control the Golan Heights, their possession of which made Israel particularly vulnerable to Syrian attack.

Not a matter of justice was Stalin’s seizure of Viipuri from Finland in 1939. Stalin claimed that having the Russo-Finnish border so close to Leningrad (indeed, within artillery range) made insufficient provision for Soviet security needs. Similarly, the fact that Croatian control of the Prevlaka Peninsula leaves Yugoslavia’s best harbor (the Bay of Kotor) useable only at Croatia’s pleasure would not justify a Yugoslav attempt to rectify the border by resort to war. In these cases, there may be an obligation on the part of nations possessing strategically valuable territory not to threaten their neighbors, but there is no demand in justice to cede those territories to nations for whom they would be useful to possess.

Wars fought to secure an economic interest would be matters of justice only to the extent that some resource holder had a duty to trade or share the resources in its possession. Again, failure to fulfill one’s duty in this respect would be a just cause for war only to the extent that it was a last resort and that war was a proportionate response. The difficulty of meeting these criteria should not be minimized.

7. Holy War

No discussion of the non-pacifist rivals of the just-war theory would be complete without attention to the concept of crusade or holy war. The contrast between this concept and that of just war was introduced into the current analysis of Christian thinking on war by Roland Bainton, who presented it in his seminal Christian Attitudes Towards War & Peace. Bainton sees this alternative Christian justification of war both in some medieval authors and in some seventeenth century English Puritans.

What is holy war theory and how does it contrast with just-war theory? As Bainton characterizes it, holy-war theory varies from just-war theory in several ways. One of his definitions of this kind of war—a war conducted under the auspices of the Church for a holy cause—bases the contrast on two points of the jus ad bellum. A later characterization is more elaborate:

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53 Op. cit., p. 111. He calls it a “crusade” and seems to distinguish holy wars from crusades (pp. 44–5). He does not draw the distinction very clearly and the authors he discusses do not use the word “crusade” in preference to “holy war.” Hence, I use “holy war” as the generic term.

54 Christian Attitudes, p. 148
The crusading idea requires that the cause shall be holy..., that the cause shall be fought under God and with his help, that the crusaders shall be godly and their enemies ungodly, and that the war shall be prosecuted unsparingly.

This adds a third point of difference with the just-war theory—rejection of the *jus in bello*. (Bainton later acknowledges, however, that “the claim that religious war is typically more brutal than secular war is difficult to document.”55) The rest of what this passage adds is extraneous to our interest here, for Bainton merges a list of the criteria of a permissible war with what might be called a “conception of war.”56 (Or maybe he here is attempting only to present the latter.) Bainton then gives us an account of holy-war theory according to which holy war justification can be distinguished from just war justification on the basis of three criteria—authority, cause, and means.

Is holy-war theory indeed an historically real alternative to just-war theory? A number of later investigators57 have challenged the sharpness of this distinction, or even the propriety of making it at all. St Thomas’ criteria for a gaining the indulgence associated with a crusade are exactly parallel to his criteria for a just war:58

First, a cause pertaining to the honor of God, or to the necessity or utility of the Church; second, authority in him who grants it,... third, that the one who wants to receive the indulgence be in a state of charity.

James A. Brundage writes:59

The holy war may be viewed ... as a subset of the just war. Every holy war, to put it another way, was a just war, but not every just war was a holy war.

James Turner Johnson, who has reservations about Bainton’s taxonomy, sees the medieval theorists as open to both religious and secular war. He goes on to trace what he sees as a split between authors who are increasingly explicit about holy war and those (beginning in the seventeenth century) who permit secular holy wars only. Following Johnson, let us focus on the early modern period, when the explicit

56 For more on this distinction, watch for my “Conceptions of War” (in progress).
58 *Quodlibetal Questions* II.8.2.
controversy makes the contrast sharper. Did some theorists defend on religious grounds wars that would not count as just?

Since cause is the focal criterion of just-war theory, it is best to begin the inquiry there. One cannot merely say that holy wars are somehow about religion and just wars are about justice, for when one asks what exactly is it for a war to be about religion, one realizes that the categories are not exclusive.

There has, to be sure been a difference of opinion among Christians over whether wars of religion may be fought. Heinrich Bullinger, the 16th century Swiss Zwinglian whose *Decades* became required reading for the clergy of the Church of England in 1586, wrote:

> They err, that are of the opinion that no wars may be made in defence of religion. The Lord ... bade not the magistrate to be negligent in looking to religion, neither forbad he him to defend and maintain the pureness of faith. For if it be lawful for the magistrate to defend with the sword the things of account, of which sort are liberty, wealth, chastity, and his subjects' bodies; why should he not defend and revenge the things of greater account, and those which are of greatest weight? But there is nothing of more and greater weight than sincere and true religion is.

Bullinger is explicit that such wars include wars to punish apostasy and being drawn to false idolatry. His conclusion is that “It is lawful … for the magistrate to defend his people and subjects against idolaters and by war to maintain and uphold true religion.” William Gouge, the seventeenth century Puritan divine of whom Johnson says “if ‘complete’ holy war doctrine is anywhere to be found,... it is perhaps in the treatises of William Gouge,” places first on his list of legitimate reasons for waging offensive war “Maintenance of Truth & Purity in Religion.” These distinctive tenets of the holy-war theorists are denied by Francisco de Vitoria, Francisco Suárez, and others.

Authors who affirm the right to wage wars over religious matters, however, do not set aside claims of justice in doing so. Alexander Leighton summarized his account of legitimacy with respect to cause this way: “there must be a just cause,

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63 *Gods Three Arrows: Plague, Famine, Sword* (George Miller: London, 1631), Part III. “The Churches Conquest over the Sword,” p. 214. It is important to note that “offensive war” does not mean “aggressive war”—other cases of legitimate offensive war, according to Gouge, are “Recovery of that which is unjustly taken away” and “Execution of vengeance on such as have done publique wrong” (pp. 215–216; see also p. 293).
which may briefly be exprest, under the maintenance of religion, or civil right, eyther for ourselves, or our Christian confederates.” William Cardinal Allen wrote:67

The true way of defence for English Protestants in this case touching the wars of Ireland, … should be … to prove that his [sc. the Pope’s] cause was not just.

Francis Bacon, in his unfinished dialogue “An Advertisement Touching a Holy War,”68 has one has of the characters distinguish five cases of holy war:

1. invasive war, only and simply for the propagation of the faith, without other cause of hostility …;
2. it being made part of the case that the countries were once Christian … though now they be utterly alienated and no Christian left …;
3. it be made a further part of the case that there are yet remaining in the county multitudes of Christians … to free them and deliver them from the servitude of the infidels;
4. war for the purging and recovery of consecrate places, being now polluted and profaned; …
5. war for the revenge or vindication of blasphemies and reproaches against the deity …; or for the effusion of Christian blood, and cruelties against Christians, though ancient and long since passed.

The five cases distinguished by Bacon do perhaps include some which any just-war theorist might accept as legitimating war—at least if the third include religious persecution and the fourth destruction of religio-cultural property. What about the other items on the list? By stretching, one might attempt to make them matters of justice. They presume the truth of the Christian religion and then, perhaps, consider blasphemy, apostasy, and even simple neglect of the Gospel (by pagans, Muslims, and Jews) as unjustly denying God His due. In doing this, however, they can be contrasted with “secular” just-war theories in three ways. First, some assert a right to vindicate ancient wrongs (2 & 5). Second, others assert a right to vindicate distinctively religious wrongs (4 & 5). Third, one asserts a right to use military force to attain a religious good (1). Obviously, each putative justification would have to be assessed on its own merits; acceptance of one does not logically require acceptance of any of the others.

If holy-war theory is distinguished by acceptance of such wars, however, it differs from ordinary just-war theory not by offering an alternative to justice, but by broadening the conception of justice (or at least the range of justice-based concerns on the basis of which war might be waged). It is, of course, always open to the just-war theorist to reject such wars, not as failing the criterion of just cause, but on some other grounds. Perhaps such wars are beyond the competence de guerre of any civil, or even any human, power. Perhaps they are never the last resort in

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righting the wrongs in question. Perhaps, whether because of unlikelihood of success or for other reasons, they are generically likely to fail the criterion of proportionality.

Do holy-war theorists also challenge the criterion of legitimate authority? Not, in the main, by denying that there must be a legitimate authority. Alexander Leighton, for example, says, “What the meanest souldier doth, hee must doe it by authority, which doth warrant him to doe many things, which otherwise were were unlawfull.”69 Nothing in his text suggests that this applies only to some kinds of wars and not to all. “Secular” just-war theory makes that authority the persons in charge of the political community. Gouge, no doubt because his Puritan methodology keeps his eyes fixed squarely on the Old Testament history of Israel begins his accounts of permissible wars by distinguishing “extraordinary wars”—those made by express charge of God—from ordinary offensive and defensive wars. Despite his willingness to see Roman Catholics as the modern Amalekites, he never clearly expresses any expectation that extraordinary wars will be a feature of his own day. Cardinal Allen, whose writings explicitly accommodate religious wars not waged, in the first instance, on secular authority, conceives of holy war as war conducted under the authority of the Church.70 In this, he follows the teachings of St Thomas.71

The idea that holy wars loosen the strictures of the *jus in bello*, seems to have worked its way from Bainton into various contemporary treatments of this issue, but it does not seem to be grounded in the original sources.

There are, to be sure, some authors whose texts suggest such a reading. Bullinger72 refers to cases where “the magistrate of duty is compelled to make war upon men which are incurable, whom the very judgment of the Lord condemneth and biddeth to kill without pity or mercy.”73 Whatever Bullinger may mean by that phrase, however, he does not mean that the soldier in a holy war has a general license to kill, for he said a few pages earlier:

> Thus hitherto I have shewed you that it is lawful for the magistrate for to make war. … But if the magistrates purpose be to kill the guiltless, I declared in my former sermons that then his people ought not to obey his wicked commandments.

Leighton and Gouge are even more explicit in their recognition of the restrictive version of *jus in bello* that characterized the just-war theory. Gouge, for example, says:74

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71 *Summa Theologiae*, 2a2æ, Q. 188, a.4 ad 2.
Onely that which is lawfull must be lawfully used: to which end receive a few directions:
1. Shew that thou delightest not in bloud. Shed no more then of necessity (thorow the obstinacy of enemies) thou art forced to shed. If enemies yield and relinquish their hostility, spare them.…
2. Slay not such as cannot hurt thee, as weake women, aged men, and young children.…
3. Put not those whom thou slayest to exquisite torments.
4. What thou doest against thine enemies do in love. Love their persons though thou hate their practices. Pray therefore for them.…
5. Take heed of making that publique execution of justice an occasion of executing private revenge …

And Leighton:75

In every warre be two things especially to be observed. That it be Iustum & Iuste; just in itself, that is, justly undertaken; and that it must be justly and duely followed.

Leighton will not even allow lies or perfidy in war.76

Perhaps it is merely a matter of convention whether this attempt to make religious causes matters of justice makes holy-war theory a version of just-war theory. If the designation is admitted, “secular” just-war theorists will merely say that some versions of just-war theory are defective because they let in too much with respect to just-cause. This would be analogous to a current matter of controversy—orthodox just-war theorists reject the details of such “just-war theorists” as William V. O’Brien and Michael Walzer, both of whom accept, under some circumstances, the killing of the innocent.77

8. Conclusion.

Theories often become clearer in a dialectic context. One understands them best when one asks not only what they assert, but what they deny. I have attempted to do this systematically, with explicit attention to exactly which tenets of the just-war theory are being denied and to what is being offered in their place. In one sense, this approach is not comprehensive, there are a number of ways in which the positions distinguished above could be combined. For example, one might accept both religious and political versions of moderate permissivism, or loosen the restrictions of the jus in bello for some kinds of wars, but not for others. I have also not attempted to refute each of the versions I have discussed, and that for two reasons. First, there are too many of them. Second, the best refutation of them requires

development of a positive case for the correctness of each of the tenets of the just-war theory. Constructing that case is a different project.