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Just war

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Introduction

The idea of the just war is in danger of becoming one of the political clichés of the new century. From an object of neglect and indifference it has been transformed into the dominant image of war in the post-cold war age. Moral distaste for war and things military, widely felt during an era of superpower rivalry and nuclear confrontation, has given way (in some circles at least) to enthusiastic moral approval of the use of force for an avowed humanitarian purpose. Even a seasoned observer of war like the military historian John Keegan appears infected with the new spirit: 'The world community needs, more than it has ever done, skilful and disciplined warriors who are ready to put themselves at the service of its authority. Such warriors must properly be seen as the protectors of civilisation not its enemies.'¹ In the 'New World Order' the moral rehabilitation of war gathers pace.

This development might be expected to meet with the enthusiastic approval of just war theorists. After all, rescuing war from the clutches of realists, pacifists and assorted moral sceptics has been the primary aim of the just war tradition throughout its long history. The idea of the moral determination of war, once so hotly contested, now seems widely, if not universally, accepted. Yet this transformation is not without its dangers. It poses a threat not just to the theory of just war – compromising its critical force and utility – but also to the practice that the theory seeks to shape or influence.

Classically and, it seems, authentically, just war theory is aimed more at the restraint of war than it is at its justification. Upholding the moral primacy of peace over war, it begins from a moral presumption against war. Now, not for the first time in the tradition's long history, that primacy and that presumption are in danger of being reversed, with the idea of just war as moral restraint and inhibition giving way to the idea of just war as moral justification and empowerment. In this more positive and bellicose form, the idea of just war threatens to become part of the problem of war rather than part of its solution.

1 The ambiguity of the just war tradition

The phenomenon is neither new nor accidental. 'For the past 3,000 years', writes F.H. Russell, 'just war theories have had the dual purpose of restraining and justifying violence, essentially a self-contradictory exercise.'² Restraint or justification? In its inherent ambiguity lies the central dilemma of just war thinking. Without restraint war cannot be justified and yet, it seems, the more war is justified the less restrained it becomes. As realists have frequently observed, the attempt to subject war to moral regulation leads, all too easily, to its escalation rather than its limitation. Paradoxically, the biggest threat to the moral containment of war may come from morality itself. The more war is informed with moral purpose, the less limited it becomes – the more eagerly is it sought and the more intensely is it fought. In such a destructive enterprise as war we may have more to fear from a surfeit of morality than we have from any deficit.

Must we choose, therefore, between the restraint and the justification of war, as Russell implies and realists argue? Is the restraint and justification of war 'essentially a self-contradictory exercise'? Are we to conclude, with the realist, that the surest way of limiting war is to eschew morality altogether? However tempting it may be, such a conclusion is less than compelling, for the restraints placed on war by the amoral pragmatism of the realist are themselves far from secure. Those limits spring from realism's understanding of the instrumental nature of war, according to which a war fought as a means to the attainment of finite, specific goals – as an instrument of policy – is likely to remain limited in conception and execution. However this realist concept of limited war is inherently unstable.

In the first place, the idea of limitation articulated here is quite distinct from moral limitation. Ends and means may be 'limited' in the realist sense and yet be at odds with moral principle. Second, policy goals may not remain limited, as realists themselves readily admit. 'If policy is grand and powerful', wrote Clausewitz, 'so also will be the war, and this may be carried to the point at which war attains to its absolute form.'³ Third, even if the goals of policy do remain limited, there is no guarantee that they will be pursued by limited means. In short, total war is alien neither to the theory nor to the practice of realism.

Realism, therefore, is no solution to the problem of the restraint of war. Neither is pacifism. By washing its hands of war, pacifism leaves the way open to its unbridled prosecution. The solution lies not in a rejection of the very idea of just war, but in a conception of just war that recognises its threat as well as its promise.

2 Two concepts of just war

The real choice is between two radically different concepts of just war, with opposing logical structures and divergent effects. It is not a choice between

restraint and justification, but between two different forms of justification: one 'negative', restrictive and inhibiting, the other 'positive', expansive and empowering. In the 'negative' concept restraint and justification work together. War is justified in such a way as to strengthen moral inhibitions over the use of force and to reinforce the moral containment of war. In the 'positive' concept justification works against restraint, energising war and acting as a form of moral empowerment. It is not, therefore, the justification of war, as such, that needs to be rejected, but a form of justification that undermines the essential restraining role of just war theory. The ambiguity of just war thinking stems from this struggle between the logic of restraint and the logic of empowerment.

The concept of just war as restraint is based on a moral presumption against war. The claim that just war theory, in its classical and authentic form, starts from such a presumption is contested by some just war thinkers. For example, James Turner Johnson (the most prominent contemporary historian of the just war tradition) argues that a negative presumption is part of a modern distortion of just war theory.⁴ It is the result of a radical scepticism about war that has more in common with pacifism than it has with just war theory. According to Johnson, the classical view of war itself is a neutral one. It is the moral presumption in favour of justice that determines whether the response to war is a negative or a positive one.

There is reason to be wary of regarding war with the kind of moral equanimity that this neutral view of war seems to encourage. Of course, to question the neutrality of war is not to regard war as an intrinsic moral evil. Johnson's concern to dissociate just war thinking from pacifism is understandable. To retain any intellectual integrity the just war tradition must uphold the potential moral use of war, a use that pacifism is at pains to deny. However, upholding that instrumentality seems wholly consistent with the retention of a moral presumption against war, a presumption that perhaps reveals the shared past (and continuing, though limited, affinity) of the just war and pacifist traditions.

In the western world at least, the idea of just war as moral restraint appears to have its source in the writings of medieval theologians and philosophers. Though notions of the just war are discernible in Greek and Roman thought, both ancient cultures were too indebted to war and military values to develop the idea of just war as restraint. The Heraclitean view that 'war is the father of all things' was as much a cultural principle as it was a philosophical one.⁵ As a result, the justification of war came too easily to Greek (or Roman) thinkers. The pacifist tendencies of early Christianity, however, established a moral presumption against war that survived the later renunciation of pacifism itself.

Unlike their pacifist predecessors, Christian thinkers like Augustine (354–430) and Aquinas (1224–74) were prepared to defend the potential moral instrumentality of war. At the same time, the fundamental orientation of their thinking about war remained a negative one, as evidenced by the question with which Aquinas begins his moral analysis of war: 'Is warfare always sinful?'⁶ This was, and remains, an ethical conception of war imbued with an

abiding moral scepticism. In this way of thinking there is always something anomalous about war. Morally speaking, war is the exception rather than the norm. The presumption is that war is not justified though, in certain extreme (but none the less real) circumstances, that presumption (like any moral presumption) may be overcome.

To say that, in certain circumstances, the negative moral presumption may be overcome is only partially true. In a fundamental sense, that presumption is never overcome but continues to guide the course of the just war in its 'negative' form. The 'positive' concept, on the other hand, may admit a negative moral presumption as a point of departure, but that initial phase is quickly transformed into an affirmation of war. In this case the moral presumption against war really is 'overcome'. The initial moral struggle against war is resolved once and for all; a negative presumption changes into a positive moral preference, even, in extreme but not uncommon cases, into a real lust for war. By contrast, the 'negative' idea of just war not only starts from a moral presumption against war, it is grounded in such a presumption, and the structure and dynamics of the theory are such as to keep that presumption to the fore at all times.

The restraining role of just war theory is not limited to the identification and proscription of unjust wars. This 'negative' concept of the just war is as much concerned with maintaining a moral hold on wars that are perceived to be just as it is with the moral exclusion of manifestly unjust wars. Indeed, in this self-critical form of just war reasoning, the dividing line between just and unjust wars is not nearly as clear-cut as some, more positive, conceptions of just war would have us believe. The danger of concentrating on the distinction between just and unjust wars is that it may deflect moral attention away from those wars that have been identified as 'just' with the result that the application of the idea of just war comes to have an empowering rather than restraining effect. In such instances the early (in fact, premature) delivery of a 'just war' verdict seems designed to quell moral doubts about a war, to silence or forestall moral criticism, to marshal support or to clear a path for war. Thereby, an instrument of moral criticism is in danger of being transformed into a tool of political propaganda.

In the 'negative' concept of just war the persistence of a moral presumption against war manifests itself in a keen, actively sustained, awareness of the physical evil of war. Both the just recourse to war (*ius ad bellum*) and the just conduct of war (*ius in bello*) depend on it. Failure to realise the cost of war in human suffering distorts moral judgement and undermines the moral response to war. Addressing just belligerents, Augustine wrote, 'Let every one, therefore, who reflects with pain upon such great evils, upon such horror and cruelty, acknowledge that this is misery.'⁷ That acknowledgement is often lacking in a belligerent whose moral imagination has been fired by the justice or the moral grandeur of his cause. In its 'positive' form the idea of just war can generate an ethic of hardness that makes the 'just warrior' impervious to suffering, whether of himself or of others. By contrast, maintaining a sympathetic awareness of the real horror of war is a mark and a condition of the just war in its 'negative' sense.

It is not just the physical evil of war that warrants a continuing moral presumption against it. From this 'negative' standpoint, no real war is free of moral ambiguity. Assumptions of moral purity are both misplaced and dangerous. No war, however 'just', is without moral deficiency and the potential for moral catastrophe. As noted earlier, this approach stops short of regarding war as an intrinsic moral evil, in which it is impossible to participate without committing injustice. Such a view of war underpins pacifism, not just war theory. Rather, it is a question of recognizing the real moral poverty of war and its potential moral evil, of guarding against the moral pitfalls in which any war must abound and the moral degradation that is the common, if not inevitable, accompaniment of war.

Unlike its 'positive' rival, therefore, the concept of just war as restraint does not 'idealise' war. On the contrary it keeps the physical and moral costs of war clearly and constantly in view. In this regard it remains faithful to Augustine's counsel of moral realism: 'Take off the cloak of vain opinion, and let such evil deeds be examined naked. Let them be weighed naked and judged naked.'⁸ When war is viewed in this way, the adoption of a posture of moral neutrality towards it seems misplaced. Given its brutal and brutalising nature, nothing less than a moral presumption against war will do.

3 The structure of just war theory

The complex structure of just war theory, properly understood, embodies its 'negative' or restraining role. Ostensibly, the mechanisms of restraint in just war theory are the various principles or criteria that the theory articulates and upholds. Traditionally, two broad areas of ethical concern and ethical limitation have been identified: one preceding the outbreak of war – the matter of recourse to war – and one following the outbreak of war – the matter of the conduct of war. Though there is no absolute agreement among just war theorists about their number, nature, or manner of application, the following criteria are now commonly acknowledged: in respect of the recourse to war (*ius ad bellum*), legitimate authority, just cause, right intention, proportionality, prospects of success, and last resort; in respect of the conduct of war (*ius in bello*), proportionality and discrimination (or noncombatant immunity).

The ambiguity of just war thinking is evident in the manner in which these criteria are understood and deployed for, depending on their interpretation, they can serve as instruments either of moral empowerment or of moral restraint.

3(a) *Just recourse*

The role allotted to the criteria of just recourse is a matter of considerable import and potential controversy. In some versions of just war theory (even more so in instances of practice or application) their role seems, predominantly, one of moral endorsement. Often, the individual criteria are understood and applied

discretely or separately, in the manner of a checklist that, successfully completed, sets the moral seal of approval on the war in question. One theorist writes:

[T]hese principles have no more than a checklist status when it comes to theory application. The leader who is thinking about going to war checks off whether there is a just cause leading to war and then moves on to the other principles in the *of [ad bellum]* portion of the theory . . . The necessary and sufficient condition [for war] is achieved when a positive answer favoring war has been arrived at for each and every one of the criteria.⁹

Conceived in this way, the application of the criteria appears more like a form of moral therapy than one of moral criticism. It seems designed to resolve doubt and assuage anxiety, to overcome moral resistance to war (as if a moral barrier to war already existed). In such an understanding moral restraint and inhibition readily give way to moral endorsement and empowerment. The negative moral presumption, which should remain a permanent feature of any authentic just war, has been transformed in this justificatory version into a positive presumption in favour of war. In this way, the criteria that ought to act as restraints on war become, instead, the moral catalysts of war. A war that has passed these moral tests is a war invested with a newfound (and dangerous) moral energy and vigour.

From the 'negative' standpoint, just war criteria are understood differently. They are not fixed moral counters to be applied externally to the business of war, but analytical concepts, formed as much in the light of the 'facts' as in the light of abstract principles, designed to unearth moral complexities and to raise moral issues that are unlikely to surface spontaneously. The more dogmatic the criteria are in conception the less effective they are likely to be in this regard. Criteria need to remain open, or receptive, to the complex realities they seek to illuminate and regulate.

They need, too, to be seen in dynamic interaction. The deficiency of the checklist approach is its failure to focus on the interrelation between the several criteria. Instead it treats them singly and apart (mechanically not organically), as if they were wholly discrete and independent of one another. The effect of this approach is further to diminish the restraining power of the criteria, which derives in large measure from their interactive force.

For example, the manner in which just cause is conceived will greatly affect the application of last resort. In the Gulf war of 1990–91 the prospects of a non-violent, diplomatic solution to the crisis always appeared dim, given the historical parallel drawn from the outset by Prime Minister Thatcher and President Bush between Saddam Hussein and Adolf Hitler.¹⁰ A similar phenomenon was evident in the moral posture adopted by western leaders towards Serbia in the Kosovo war. The initial moral characterisation of the conflict left the parties with little room for subsequent political and diplomatic manoeuvring.

The fact is that some concepts of just cause are more reconciliatory than others, some are more confrontational than others – sometimes so confrontational that an important criterion like last resort is rendered largely redundant or

unworkable. Interaction works both ways but, whether towards restraint or empowerment, the manner in which one criterion is understood will have a powerful impact on the way in which other criteria are understood and applied.

In the 'negative' concept of just war the criteria are viewed, not as moral validators, but as moral hurdles or obstacles, designed to inhibit recourse to war.¹¹ The aim is to raise the moral threshold of war, to strengthen moral resistance to war. The need for such strengthening is often acutely felt. The moral presumption against war that this concept of just war upholds owes much to the perception that, far from there being any natural or spontaneous resistance to war, a strong presumption in favour of war often exists. The last thing needed is moral reinforcement or encouragement of that presumption. In this negative tradition the idea of the moral abnormality of war goes hand in hand with the recognition of a pervasive and widespread disposition to war.¹²

One of the commonest forms of moral empowerment (and causes of loss of restraint) stems from a drastic reduction in the criteria of moral assessment, involving either the simple omission, or the severe weakening, of important criteria. More specifically, it is the tendency of just cause to monopolise the moral assessment of war (to the extent that just recourse is often simply equated with just cause) that undermines moral restraint. This can be seen to apply regardless of the actual content of just cause. The distinction between 'negative' and 'positive' just war concepts should not be confused with the conventional distinction between 'defensive' and 'offensive' war. It cuts across that distinction. The present argument runs counter to the common assumption that a war of self-defence is inherently limited or that an offensive war is naturally expansive. So-called 'defensive' wars can be conceived and fought 'positively,' just as 'offensive' wars (armed humanitarian intervention for example) can be conceived and fought 'negatively'.

In its 'positive' form just cause is understood in stark (even Manichaeic) terms. A clear moral divide – a moral chasm – is seen to exist between potential or actual belligerents. The idea that adversaries inhabit the same moral universe – a key concept in the 'negative' theory of just war – is alien to this positive approach. Here absolute good is ranged against absolute evil. The conception of the conflict veers towards the apocalyptic. Given what is thought to be at stake, morally speaking, this is hardly surprising. The struggle with Evil brooks no compromise and, in any case, such a demonic, or pathological, adversary is thought to be beyond all rational-instrumental appeal.

This inflated moral characterisation of war is not uncommon; no doubt in part a reflection of the high propaganda value attached to this moralistic form of political rhetoric. For example, speaking of the conflict with Iraq in 1990–91, President Bush declared, 'For me it boils down to a very moral case of good versus evil, black versus white'.¹³ In the President's view the Gulf war was a 'just war' in that unequivocal sense. Justice belonged entirely to one side and injustice to the other. In the mind of the President, it seems, this is what a just war entails. Many would agree with him.

In the current 'war against terrorism', President George W. Bush appears to share his father's (and, ironically, Osama bin Laden's) absolutist view. This is a war dubbed immodestly (but, as an indicator of underlying moral assumptions, revealingly) 'Operation Infinite Justice' (a jihad, or holy war, in all but name). According to the President, the war 'will be a monumental struggle of good versus evil [in which] good will prevail'.¹⁴ The idea of the 'just war' articulated by the President is without any sense of moral ambiguity, moral self-criticism, or moral self-doubt. It is portrayed as a struggle, not between civilisations but, much more grandiosely and exultantly, between Civilisation and Barbarism, a struggle that embraces the global community, a struggle that knows only friends or enemies. No neutral, no intermediate, no politically and morally nuanced, positions are recognised. 'Either you are with us or you are with the terrorists', insists the President (as if to be critical about aspects of American foreign policy, or to voice concerns about some of the means employed in the counter-terrorist war, is automatically to side with terrorism).¹⁵

The problem with the absolutist, or unilateralist, conception of just cause is twofold. In the first place, it does scant justice to the ethical realities and complexities of international politics. By contrast, in the 'negative' theory the criterion of just cause is approached with a moral caution and a healthy scepticism that flow from the recognition that the moral boundaries of international politics are always blurred. The idea of absolute or unilateral justice ill accords with this more complex appraisal of the sources of international conflict. The just war is not the struggle between Good and Evil that the 'positive' concept takes it to be. Such an exclusive moral vision of the world flies in the face of a moral reality where justice and injustice are, more often than not, shared. Consequently, what the 'negative' concept of just war upholds is a bilateral or comparative understanding of just cause that makes explicit the shared, or mixed, nature of justice and injustice among potential belligerents.

Second, and more urgent, the absolutist rendering of just cause threatens the restraint of war. The permissive and perilous implications of an undue regard for just cause are captured clearly, though unwittingly, in the advice given by Bernard of Clairvaux to those about to embark on the Second Crusade: 'O mighty soldiers, O men of war, you have a cause for which you can fight without danger to your souls.' Here the sheer moral allure of the cause silences moral doubt and releases moral inhibitions. The sense of the moral threat inherent in war, on the preservation of which the moral restraint of war crucially depends, is dulled. Moral defences are swept aside by the force of the moral impulse itself. Nothing does more to undermine the just war (from within) than this insidious idea of a war that can be fought 'without danger to the soul'. It is anathema to the 'negative' concept of just war. Despite common and persistent assumptions to the contrary, no cause, however 'just,' carries with it the power of moral absolutism. A 'just cause' is no guarantee of the justice of war. On the contrary, the more inflated the cause, the greater the potential for the moral corruption of war.

The magnification of just cause in the minds of potential belligerents undermines the restraining power of the other criteria of just recourse. In the case of legitimate authority, for example, the right to war is readily assumed by those who are convinced (or who claim to be convinced) of the moral, or historical, importance of their cause. In the modern revolutionary tradition, or in the practice of contemporary terrorism, for example, the perceived justice of the cause is invariably seen as sufficient authorisation for the use of force by self-appointed, often miniscule, minorities. In such cases, moral or ideological conviction is able to withstand the counter pressure of an adverse, even hostile, public without apparent moral qualm or effort. The same can be seen to apply to the assumption of the right to war by states (particularly in the case of wars of intervention) without prior legal or institutional international sanction. In both cases the principals claim to be acting on behalf of the very communities that withhold their support or voice their opposition. The inflated moral claims made for war help to overcome, or suppress, the problems (and the hurdles) that are meant to be raised by the criterion of legitimate authority.

Traditionally, right intention is about the moral disposition that is brought to war. Though relatively neglected in modern times, it was perhaps the key to a just war for classical writers like Augustine and Aquinas. They realised that the moral containment of war depended ultimately upon the moral habits and dispositions of the parties involved. The greatest obstacle to the moral containment of war is the 'lust for war' that commonly takes hold of belligerents, even (perhaps especially) those engaged in the pursuit of 'just' wars. It would be unsafe to assume, as exponents of the 'positive' concept of just war tend to assume, that all that is required to fulfil the criterion of right intention are strength of moral conviction and unity of moral purpose. A 'moral' disposition, in itself, is no guarantee of right intention. A moral disposition that is vindictive and triumphalist is a recipe for unjust war (and unjust peace). There is no lust for war to compare with a moral lust for war.

The criterion of proportionality suffers just as badly. So elevated is the conception of just cause that no war, however destructive its potential impact, can appear disproportionate and, therefore, unjust. 'Better wipe out Ireland in one year's civil war', wrote Patrick Pearse, the leader of the 1916 Easter Rising, 'than let England slowly bleed her to death'.¹⁶ The higher the goal of war, the more tolerant of war prospective belligerents become. Indeed, the apparent disproportionality of war, far from engendering doubt about the recourse to war, can strengthen moral resolve. A war that is apocalyptic in its conception demands the symmetry of great destructive force. 'How close could we look into a bright future', wrote Che Guevara, 'should two, three or many Vietnams flourish throughout the world with their share of deaths and their immense tragedies'.¹⁷ As many apologists of the First World War argued, there is no price that is too high to pay for 'a war to end all wars'.¹⁸ Indeed, the higher its price, the more just war seems.

As noted previously, this immoderate version of just cause has an equally destructive impact on the criterion of last resort. The absolute and unilateral

conception of just cause diminishes the prospects of (or, in more extreme cases, rules out completely) nonviolent – political or diplomatic – means of resolving conflict, the very means that the criterion of last resort is intended to advance. The view, attributed to Hamas,¹⁹ that a negotiated settlement is ‘the path of shame’ is widely shared by those who uphold such an uncompromising version of just cause. A negotiated peace with the ‘Great Satan,’ or with any adversary that is thought to be utterly beyond the moral pale, would constitute a betrayal of the most fundamental kind (not least of those who have already sacrificed their lives for the cause).

Moreover, as Aron observes, the more elevated the ends of war the more war begins to acquire its own intrinsic, and not simply instrumental, value.²⁰ In the end, war may be invested with such creative, or redemptive, power that it comes to be seen as a thing of first, rather than of last, resort, a unique source of communal and personal fulfilment. Milovan Djilas wrote that

Wars and rebellions are a vital proving ground for leaders, ideas, and nations. Wars and rebellions are an imperative: to renounce war when it is time for war means to renounce one’s own inner nature. In opting for war, we came to understand who we were. Only in armed conflict could we affirm ourselves and force the enemy to understand us and grant us recognition. That affirmation, that self-realization – of the self and of the nation – took place on July 13, 1941 [the day the partisan war commenced].²¹

From this inflated, moral or ideological, perspective, there really is no substitute for war. There is a good to be had in war that cannot be had in peace. In this way the moral primacy of peace over war, which the criterion of last resort is meant to uphold, is decisively reversed.

In the ‘negative’ concept of just war just cause is not allowed to silence the other criteria of recourse. Far from making them redundant, the bilateral or comparative understanding of just cause invokes and strengthens them. The more complex and contested nature of the moral claim underlines the need to establish – not assume – legitimate authority. The recognition that justice and injustice are, to a degree, shared by potential belligerents cultivates right intention and diminishes the triumphalism and the vindictiveness that flow from a sense of moral certitude and moral exclusiveness. When war is stripped of its false grandeur, its proportionality can no longer be taken for granted: the more limited the end the more disproportionate a means war seems. The impetus to war is checked, as moral divisions become more blurred and moral enthusiasm wanes. The moderation of just cause strengthens the moral imperative to seek, creatively and imaginatively, a solution to the conflict that stops short of war. At the same time, the acknowledgement that justice and injustice are not absolute or unilateral – that potential belligerents have mutual rights, duties and interests – enhances the prospects of finding such a solution.

3(b) *Just conduct*

The interaction between the moral categories of just recourse and just conduct underlines the need to conceive just war theory as a whole, and not as a set of discrete principles that operate independently of one another. Though there are criteria that apply specifically to the conduct of war (proportionality and discrimination), the force of those criteria is greatly affected by the way in which the prior criteria of just recourse are understood and applied. In war ends and means work together: the 'justice' of the means will reflect the 'justice' of the ends (and vice versa). Just as it did with the criteria of recourse, the 'positive' concept of just cause tends to undermine the criteria of just conduct. The more inflated and one-sided the belligerents' sense of the justice of their cause, the more unjust their conduct of war seems likely to become.

The absolute, or unilateral, concept of just cause leads to the 'demonisation' of an adversary, and to the dehumanisation of both sides (an agent of Good being just as inhuman, or unreal, as an agent of Evil). It suppresses that fundamental moral equality and moral solidarity between belligerents, on the recognition of which the just conduct of war ultimately rests. As a result, proportionality and discrimination are irreparably damaged. Both the economical and the discriminate use of force begin to lose their moral attraction in the face of an enemy absolutely conceived. At the extreme, but not hypothetical, end of the 'positive' spectrum of just war thinking, a war of annihilation may seem an entirely appropriate moral response to the presence of an absolute moral evil.

'[O]ne has duties only towards one's equals', wrote Nietzsche.²² However dubious this might seem as a general proposition (particularly, in its Nietzschean sense), its moral and psychological force in time of war often seems compelling. Moral community among belligerents is the underlying principle of the just conduct of war. The more inclined we are to distance ourselves from an adversary, the less likely we are to treat him with the respect that just conduct demands. The debilitating impact on the moral conduct of war of a sense of fundamental difference and superiority and, conversely, the moderating effect of a vestigial sense of community, have been frequently observed in the history of warfare.

The contrast between the conduct of war on the Eastern and Western Fronts in the Second World War is instructive in this regard. While the relatively 'civilised' conduct of war on the Western Front may indicate that some rudimentary sense of community or solidarity among belligerents remained intact despite hostilities, the 'barbaric' conduct of war in the East owed much to the moral and ideological gulf that divided belligerents from the start. Given the moral contempt that both sets of belligerents had for one another (a result of the systematic suppression of any sense of common humanity), the inclination to conduct the war proportionately and discriminately was bound to be lacking. In this 'battle of ideologies' (or *Weltanschauungskrieg*) a quite contrary inclination was at work, to devastating effect.²³

The absolute understanding of just cause erodes the distinction between combatant and non-combatant on which the principle of discrimination rests. A war fought to vindicate a particular 'civilisation' or 'way of life' (let alone a war fought on behalf of 'Civilisation' in some absolute and universal sense) is not easily contained. Such 'countervalue' warfare seems unlimited in its prevailing tendency. The threat that justifies the use of force is not simply the threat posed by 'combatants,' in the conventional and limited sense of those directly engaged in war-making, but the threat posed by an entire society, nation, race, class, religion, or culture. From this perspective the status of 'combatant' extends to all those who belong to the category in question and, therefore, so does the liability to attack. The 'friend or foe' mentality that so often accompanies this grandiose approach to war is blind to the careful distinctions that any serious application of the principle of discrimination demands. Such crude categorisation seems designed to evade the constraints on war imposed by that principle. 'Those who are not with us are against us.' To be classed as the 'enemy' – to lose one's right of immunity from attack – it is no longer necessary to be party to some hostile act of war. The refusal to take sides may be considered offence enough.

The very disposition cultivated by this all too moral war jeopardises its just conduct. In extreme cases an excess of zeal engenders the reckless and the ruthless conduct of war in equal measure. The readiness to sacrifice oneself and others becomes the test of moral authenticity and commitment to the cause. An inverse logic, whereby the sense of the justice or moral worth of a war increases with its destructive force, strengthens the movement towards total war. 'A lot of killing', Conquest notes, 'seems to convince people of the seriousness, and thus the justifiability, of a cause.'²⁴ In this intensely, morbidly, moral world, the more vicious and deadly its conduct the greater the moral aura attached to war. Virtue and crime become indistinguishable. The readiness to violate basic moral norms becomes the measure of moral worth. One commentator, struggling to make sense of the thinking behind the attack on the World Trade Center, surmised: 'It rests on a perverted syllogism: only a great cause would justify killing at random; I have killed at random, therefore my cause is great.'²⁵

In contrast to the permissive tendencies of its 'positive' counterpart, the 'negative' concept of just war strengthens the criteria of just conduct. The limitations inherent in the justification of recourse to war exert a restraining influence upon the conduct of war. The modest definition of just cause invites a proportionate use of force that is also an economical use of force. The bilateral or comparative understanding of justice, that recognises the moral equality and the rights and interests of an adversary, encourages both the proportionate and the discriminate use of force. No enemy is beyond the moral pale. Therefore, no enemy is without rights (and no belligerent without reciprocal duties). The moral preference for non-violent resolution of conflict, embodied in the *ius ad bellum* criterion of last resort, continues to inform and guide the conduct of war. As a result, war is fought in a restrained way with a view to peace and the

ultimate reconciliation of adversaries. The idea of peace as victory, that animates the 'positive' concept of just war and that encourages belligerents to prosecute total war, is here replaced by the idea of peace as community. Just conduct rests on the recognition of a moral tie and a common good that unite adversaries even in the midst of war. The aim is not to vanquish but to unite (or reunite) in just order. That aim makes the limited conduct of war a political as well as a moral necessity.

Conclusion

For practical as well as theoretical reasons, the argument has focused on the ambiguity of the just war tradition. That ambiguity is of particular concern in the new 'cosmopolitan' age, when war is being invested with a heightened moral purpose. It would be dangerous to assume that such investment solves the problem of war. Far from solving the problem, it may add to it. The just war is a double-edged sword that can make things worse as well as better. Contemporary 'just' wars, fought for proclaimed humanitarian goals, are in danger of veering towards the 'positive' end of the just war spectrum. In doing so, they pose a substantial threat to the moral limitation of war. The moral restraint of war requires that the moral impulse itself be kept very firmly in check. The 'negative' concept of just war seems better equipped to meet that requirement than its 'positive' rival.

Notes

- 1 J. Keegan, *A History of Warfare* (London, Hutchinson, 1993), p. 391.
- 2 E.H. Russell, *The Just War in the Middle Ages* (Cambridge, Cambridge University Press, 1975), p. 308.
- 3 C. von Clausewitz, *On War* (London, Penguin Books, 1982), p. 403.
- 4 J.T. Johnson, *Morality and Contemporary Warfare* (New Haven, CT, and London, Yale University Press, 1999).
- 5 M. Austin, 'Attitudes to Warfare', in S. Hornblower and A. Spawforth (eds), *The Oxford Companion to Classical Civilization* (Oxford, Oxford University Press, 1998), pp. 773–4.
- 6 P.E. Sigmund (ed.), *St Thomas Aquinas on Politics and Ethics* (New York, Norton, 1988), p. 64.
- 7 St Augustine, *The City of God*, ed. and tr. R.W. Dyson, XIX, 7 (Cambridge, Cambridge University Press, 1998), p. 929.
- 8 St Augustine, *The City of God*, III, 14, p. 111.
- 9 N. Fotion, 'Reactions to War: Pacifism, Realism, and Just War Theory', in A. Valls (ed.), *Ethics in International Affairs* (Lanham, MD, Rowman and Littlefield, 2000), p. 28.
- 10 See A. Coates, 'Just War in the Persian Gulf?', in A. Valls (ed.), *Ethics in International Affairs* (Lanham, MD, Rowman and Littlefield, 2000), pp. 33–47.
- 11 Even 'moral hurdles' does not do justice to the concept of just war as restraint. The problem is that, once surmounted, 'hurdles' are left behind. Here criteria are seen to exercise a more enduring and dynamic influence.

- 12 This theme is treated more extensively by A. Coates in *The Ethics of War* (Manchester, Manchester University Press, 1997), see esp. ch. 2.
- 13 Quoted in S.J. Wayne, 'President Bush Goes to War', in S.A. Renshon (ed.), *The Political Psychology of War* (Pittsburgh, PA, University of Pittsburgh Press, 1993), p. 40.
- 14 *The Times*, 13 September 2001, p. 1.
- 15 Speech to the Joint Session of Congress (20 September 2001), *The Times*, 22 September 2001, p. 16.
- 16 P.H. Pearse, *Political Writings and Speeches* (Dublin, Talbott Press, 1952), p. 188.
- 17 J. Gerassi (ed.), *Venceremos! The Speeches and Writings of Ernesto Che Guevara* (London, Weidenfeld and Nicolson, 1968), p. 423.
- 18 See A. Marrin, *The Last Crusade* (Durham, NC, Duke University Press, 1974).
- 19 A. Taheri, *Holy Terror* (London, Sphere, 1987), p. 8.
- 20 R. Aron, *Peace and War* (London, Weidenfeld and Nicolson, 1966), p. 593.
- 21 M. Djilas, *Wartime* (London, Secker and Warburg, 1980), p. 22.
- 22 F. Nietzsche, *Beyond Good and Evil* (London, Penguin Books, 1973), s. 260.
- 23 See the work of O. Bartov, for example, *Hitler's Army* (Oxford, Oxford University Press, 1991).
- 24 R. Conquest, *The Great Terror* (London, Macmillan, 1968), p. xiii.
- 25 M. Colvin, 'Suicide Terrorists Find a New Way to Marry into Death', *Sunday Times*, 16 September 2001, p. 21.