

Political Philosophers on War

Arguments inside the “Just War” Box

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LAURIE CALHOUN

For hundreds of years, intellectuals have been arguing about just war theory, attempting to determine how best to use it in thinking about contemporary war. But war is not what it used to be, and it is entirely unclear that scholars who wrote about the topic before the advent even of machine guns, much less airplanes, missiles, and nuclear, biological, and chemical weapons can offer us much guidance or enlightenment. Yet many scholars interested in war continue to frame their arguments in the terms of just war theory, nearly always paying what they regard as the customary deference to its early expositors, or “fathers,” as many writers fondly refer to them. In recent decades, Michael Walzer has made this practice seem incumbent on “serious” scholars of war; his *Just and Unjust Wars* has since its publication in 1977 (New York: Basic Books) largely shaped the contours of debate about war among philosophers and political scientists.

There are no signs that this trend will abate any time soon because budding academics interested in the morality of war are essentially taught that its study is synonymous with that of just war theory. Alfred North Whitehead once remarked that all of Western philosophy has been but footnotes to Plato, and it would seem that

Laurie Calhoun is a research fellow at the Independent Institute and an advisory editor of *Transition: An International Review*.

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the bulk of the writings of philosophers of war over the past thirty years has amounted to footnotes to Walzer. In the latter case, however, this tendency would seem to be largely a consequence of the modern structure of academia, where departments are filled with job-seeking graduate students and tenure-seeking professors. The progressive homogenization of many values-focused disciplines evinces the intellectual effects of this highly politicized structure nowhere more dramatically than in philosophy.

A case in point, Larry May's recent edited collection, entitled not *Just War Theory*, but *War*,¹ begins with two chapters on the thought of sixteenth-century thinkers Francisco de Vitoria, Francisco Suárez, and Hugo Grotius, among others entirely ignorant of the practices that go by the name of *war* today. I do not deny that the work of such figures may have historical interest, but I am amazed by the amount of ink spilled and the number of trees felled in efforts to ascertain what sixteenth-century scholars thought about sixteenth-century war, which bears no resemblance to the practices carried out under the banner of just war theory today. In fact, I know of no other discipline—aside, of course, from history—that looks to thinkers who wrote five hundred (or more!) years ago for anything even approaching what might be regarded as knowledge about their discipline in the twenty-first century. What physicist, biologist, or economist looks to the sixteenth century for answers about the most pressing questions in his field today?

My complaint is not a mere expression of gratuitous irreverence; it involves a serious question: Have contemporary philosophers of war, trapped in a paradigm of the past, paralyzed themselves to the point of being incapable of contributing in any meaningful or constructive way to the resolution of the ever more vexing problems of contemporary war? Many scholars spend their time rehearsing the standard list of just war theory requirements and debating whether, according to their understanding of the list, this or that recent war (*already waged*) was just or unjust. This activity may be a fine way to while away one's hours, certainly no less noble than the occupation of a chess master or a professional poker player. Meanwhile, however, people continue tragically to be massacred on a regular basis while just war theorists sit around playing what is tantamount to an intellectual game.

Having duly honored Vitoria, Suárez, and Grotius in section one, sections two and three of May's volume treat, predictably enough, the topics of "initiating war" and "waging war"—or, as those "in the know" refer to them, *jus ad bellum* and *jus in bello*. That the Latin continues to be used, even though the vast majority of modern philosophers of war have no actual knowledge of that language beyond these sage-sounding expressions, merely underscores the extent to which they are arguing within a paradigm box established back in the good old days, when warriors were all men who fought men (not drone operators sitting comfortably in impenetrable, undisclosed places, thousands of miles from the scene of their assassinations) and scholars spoke Latin!

1. Larry May, ed., *War: Essays in Political Philosophy* (New York: Cambridge University Press, 2008).

I do not mean to suggest that the just war theorists included in this volume are not without their occasional insights. In the opening chapter, Gregory M. Reichberg reminds us of the work of early political realist Thucydides, author of *History of the Peloponnesian War*, whose view Reichberg summarizes in these terms: “in the conduct of their external affairs, states . . . only pay lip service to morality while in reality they (i.e., their leaders) are motivated solely by a calculation of basic interests.” Nicholas Rengger recalls in his chapter, “*Jus in Bello* in Historical and Philosophical Perspective,” that just war theory was originally an effort to “explain” why and how war was permissible for Christians, notwithstanding Jesus Christ’s apparent prescription to “turn the other cheek” in the face of violent aggression.

Such insights make it disheartening, to say the least, that so many self-proclaimed just war theorists, following in what they take to be this grand tradition, should continue to direct their intellect and energies toward broadening the range of rationales for war available to belligerent leaders. Nothing can be clearer from history than that political leaders need no help whatsoever in figuring out ways to persuade their people to support their wars. Yet the gist of May’s own chapter, “The Principle of Just Cause,” as well as Jeffery McMahan’s, “Aggression and Punishment,” is to do precisely that. May ultimately argues for “a broader sense of what counts as just cause” (p. 66). McMahan takes himself to be boldly standing up against the now orthodox view that wars may not be punitive in nature, concluding that punishment can be a just cause for war, but that “just war can be punitive only when the aim of punishment is defense or deterrence.” All of this, remarkably enough, in spite of McMahan’s own astute observation that “states tend to seize any pretext that is available [for war]” (p. 77).

It would be one thing if the wise words of past thinkers had been used—even once—to stop a war. Instead, a sober look at the facts reveals that just war theory is used to rationalize, not to limit, and least of all to prohibit wars. In this regard, just war theory is rather like the doctor who takes credit for all of his patients who survive, while shirking any responsibility—by blaming uncontrollable fate—for those who die. I ask sincerely: What potential war did just war theory ever stop or limit? The sad truth is that, far from taming belligerent tendencies, just war theory has proven to have one clear and undeniable application: leaders who wish to wage war invoke the rhetoric of the just war paradigm—checking off the list of requirements allegedly prescribed by wise men from centuries past—in their propaganda campaigns designed to persuade their populace to pick up the tab.

Cindy Holder, in her contribution, “Responding to Humanitarian Crisis,” appears to accept uncritically the very state system that has rendered modern war a highly lucrative business, while repeatedly insisting (by my count, three times) that “all actual states are deeply unjust both in their internal structure and operations and in the relationships they establish between individuals and groups across state borders” (p. 99). Holder seems to recognize that all so-called humanitarian rationales for war to date have neglected the most obvious and least homicidal solution to such

conflicts: to loosen or temporarily suspend immigration laws, thereby permitting the peaceful entry of threatened people into other lands where they can take refuge until the danger has subsided or passed.

One example that comes immediately to mind is Rwanda. Although no military action was taken to stop the 1994 genocide, this inaction arguably reflected the domestic disfavor feared by officials in the aftermath of the 1993 Blackhawk fiasco in Somalia, when the bodies of U.S. marines were dragged through the streets of Mogadishu, a grisly scene captured for posterity on film. Yet in the buildup to the Rwandan slaughter, virtually every white person was transported out of the country. The question, then, is: Why not the threatened black people as well? The answer, of course, is that no one really wants to support the endangered people of another land. The military is ready and willing to bomb entire cities to smithereens when called on to do so by their commander-in-chief, but offering foreigners at risk genuine security and safety is another matter altogether.

To her credit, Holder cynically resists so-called humanitarian calls to military intervention, but her alternative is likely to be scoffed at by the very advocates of “humanitarian war”—an oxymoron if ever there were one—whom she needs to reach. In spite of her insistence that states are unjust, she proposes that the solution to such crises is “mediation.” What this mediation is to involve and how it is to work she does not articulate, which leaves the self-proclaimed humanitarian warriors with their usual pretext, that they have “no alternative” but to pummel the offending regime’s territory with bombs.

In reality, there is always a choice. Indeed, what is in effect the ongoing, tacit choice not to intervene—for example, not to provide food, water, and shelter to the millions upon millions of people whose lives are being severely curtailed each day owing to their lack of access to the same—somehow fails to impinge on interventionists’ consciousness (or conscience) until the opportunity for war arises. In truth, many things can be done for the world’s less fortunate people for only a tiny fraction of the cost of waging a war. It’s a matter of “tough luck” that one should have been born destitute in Bangladesh rather than secure in the U.S. suburbs, but when circumstances become ripe for war, those who rally for military action as a solution to humanitarian crisis suddenly feel a welling up of compunction for their potential failure to act—in this particular case.

Having once wielded homicidal force, the warriors exonerate themselves for the regrettable “collateral-damage” casualties, retreating once again to their tried and true exculpation: they had no choice but to act—and they also had the courage of their convictions to do so! The ultimate irony of such missions is that some of the people whose rights to life, liberty, and the pursuit of happiness are said to necessitate military intervention are stripped of those very rights by the officious bombers claiming to defend them. Under bombing, such people are far more vulnerable than they are while living under a glaringly oppressive regime because in the latter situation they are able to make sound judgments about how to protect themselves, being at the

very least familiar with their own tyrant's despicable ways. Holder appears to appreciate these paradoxes, which is probably why she opposes military intervention, but her solution merely emboldens the warmongers because she accepts their premise that they must intervene and offers no feasible alternative to war.

In "War and Democracy," James Bohman breaks out of the "footnotes to Walzer" paradigm trap to examine a largely independent question: whether democratization is a sound rationale for war against an undemocratic regime. Although Bohman, too, poses the question in terms of "just cause," he essentially offers a wide-ranging critique of U.S. policy in Iraq—but without naming any names, though the primary target would appear to be George W. Bush, given that no other administration in recent history has so vociferously rationalized military action in the name of democracy. Bohman presents a careful and compelling critique of the oft-parroted claim that spreading democracy is the best way to ensure long-term peace, even if doing so may require that nondemocratic regimes be tyrannically toppled by force! He observes that in fact such policies not only do *not* foster democracy abroad, but also degrade democracy at home, as those waging and promoting military action begin to use war as a pretext for expanding executive power in the name of security and at the expense of civil liberties.

Bohman is surely right, as recent history clearly seems to confirm, that attempting to bomb people to democracy is an ill-conceived notion. But rather than focusing on the idea that stable democracies emerge as the culmination of lengthy processes instigated by the people themselves, Bohman offers the European Union as an example of a model that might be established between nations more generally to further the aims and reach of democracy. This idea is certainly an intriguing hypothesis, but it is unclear how the model might apply between nations at the intercontinental level. Indeed, it was precisely the inability of the United Nations and the community of states as a whole to stand up to President George W. Bush that permitted him to wage with effective impunity a unilateral war with devastating consequences for hundreds of thousands of Iraqis, not only those killed, but also those who survived, including the many professionals who fled their homeland in a perfectly rational quest for security for themselves and their families.

Although the establishment of the European Union does appear to have empowered the noncitizens of its member states, giving them rights and a voice, no single member state possesses a military larger than those of all of the other member states combined. In the end, although Bohman does not offer a feasible alternative to the spread of democracy through the application of military force, it is unclear that he needs to do so, and he does adeptly dispense with the confused project to (tyrannically) force or coerce people to democratize.

Returning to the shell game of just war theory, in "Proportionality and Necessity," Thomas Hurka sets out to show how just war theory, despite its deontological cast, nonetheless captures most people's intuitive concern with the consequences of war, especially through its requirements of proportionality and necessity. To Hurka,

only some benefits and harms are relevant in calculating whether a war is just in the sense of being proportional. So, for example, he says, the fact that a war may improve a nation's economy does not provide a relevant justification. However, it does not count against the warriors that they will "incidentally" benefit. Happily for Dick Cheney and Halliburton, then, war profiteering need not detract in the least from a war's justice. Alternatives that might have been pursued—for example, directing the money that would have gone into the war and reconstruction to more productive ends—do not bear on a war's justice, at least not from the vista of just war theory, which Hurka heartily embraces. This argument is an extended application of the just war theorist's beloved doctrine of double effect (DDE) to the macrolevel rather than the microlevel of warfare, where it is usually applied.

The DDE represents a longstanding and assiduous effort (beginning with Aquinas) to explain how what appears on its face to be impermissible, the slaughter of innocent people, can in fact be permissible in war, provided the warriors do not *intend* to kill their victims either directly or as a means to their legitimate military objectives. Hurka cleverly explains how, using DDE logic, just war theorists can accommodate the intuitive concern with consequences that must attend any war perceived as just. His position is essentially that only directly intended benefits and harms are relevant to evaluations of a war's justice.

Hurka's assumption, like that of just war theorists more generally, is that somehow states have intentions that supersede those of the individual agents who represent and speak for the state. Every single North Atlantic Treaty Organization (NATO) employee had a self-interested reason to support the 1999 bombing of Kosovo: to demonstrate the relevance—and necessity—of NATO in the post-Cold War period. For that matter, President Bill Clinton must have felt relieved when the initiation of bombing suddenly diverted public scrutiny from his sex scandal with Monica Lewinsky to the plight of the people of Kosovo. Yet these sorts of motivators, the real galvanizers of individual human action, are supposed not to detract from a military mission's justice, according to just war theorists, who locate the "intention" of war in a mindless entity altogether incapable of having intentions: the state.

Throughout his discussion, Hurka makes a number of tangential assertions that, though widely accepted, strike me as rather contentious and badly in need of rethinking. Regarding soldiers, he observes that "the moral weight of soldiers' deaths is diminished by choices they made in the past," meaning, among other things, that the decision not to flee the country or to endure a prison sentence essentially renders a conscript a "voluntary" soldier in the relevant sense. Hurka also remarks that "our soldiers are *ours*; they are citizens of our nations and deserve extra consideration as such" (p. 141). Although this is the widely shared view among patriots and war supporters, it would seem to be a thinly veiled prejudice akin to racism and sexism, both of which have fallen into disfavor in Western democracies in recent years. One can only hope that such chauvinism will as well, if only people come to recognize the arbitrary nature of state borders and the fact that no one chooses his land of birth.

The inhabitants of many lands do not even choose their leaders, all of whom have become such through a political process, not through appointment by God, as was thought to be the case at the inception of classical just war theory. For now, however, just war theorists and other military supporters uncritically accept the concept of the state as sacrosanct and the divisions engendered by borders as a perfectly valid basis for making moral discriminations between persons and, specifically, for deciding who may and may not be killed.

In “Collateral Damage,” David Lefkowitz asks whether the DDE suffices to exonerate warriors for their annihilation of innocent people during wartime—provided that this killing is not their intention. Lefkowitz competently summarizes this lengthy debate among scholars over the past few decades, concluding that, in fact, DDE does not suffice. Although this conclusion may be an astounding discovery for those who already embrace the doctrine, it is not so surprising for those who do not. In summing up the basic problem, Lefkowitz quotes David Rodin: “[T]here is no sense in which the party who bears the risk of harm benefits from the risky activity. Neither have they autonomously chosen, either individually or collectively, to bear the risks of the bombardment” (qtd. on p. 157).

Although I agree here with Rodin—and Lefkowitz—one need not spar with just war theorists inside the box in order to arrive at the conclusion that the collateral damage of modern war is inexcusable. It should suffice to recognize that accepting as morally permissible the killing of civilians who assented neither to their criminal leader’s policies nor to their own so-called liberation through massively destructive bombing by an officious outsider nation is tantamount to stripping them of not only their autonomy, but also their rights to life, liberty, and the pursuit of happiness—all of this at the behest of a leader they never appointed or approved, who therefore has no proper business meddling in their affairs, much less ending their lives.

As for whether consequentialism can capture our intuitive concern with war’s collateral damage, again, I agree with Lefkowitz’s conclusion but find his “in the box” discussion to be not much help for anyone more concerned with war than with the history of just war theory. Here it would seem to suffice to observe that each decision to wage a new war increases the probability that future leaders—whether ours or others—will do the same; therefore, strong consequentialist reasons exist for a general antiwar policy because it offers the best way to decrease the probability of future wars. It is no mere whimsical conjecture that administrators reach readily for the tools at their disposal: according to Colin Powell (in his autobiography *My American Journey* [New York: Ballantine Books, 1995]), then U.S. ambassador to the United Nations Madeleine Albright once asked him, “What’s the point of having this superb military that you’re always talking about if we can’t use it?”

As things stand, war has become so normalized that powerful leaders often resort to it first rather than last, as just war theorists suppose they should, leading the latter at times to indulge in truly contortionist interpretations of “last.” In the

buildup to wars, due consideration is virtually never made of the long-term consequences with which consistent consequentialists should concern themselves. Instead, short-term consequences guide the thinking of myopic war supporters.

One of the most unfortunate consequences of the favor that just war theory—in all of its various guises—continues to enjoy is that for any war some faction of just war theorists stands ready to defend that war as just. As a result, virtually every belligerent leader ends up parroting the alleged tenets of this theory in marketing and rationalizing his war. Thus, the theory's actual use in the real world, beyond the academy, where intellectuals wage wars only of words, is propagandistic. Far from stopping wars, just war theory merely encourages them, fostering the belief that war is not only permissible, but even morally laudable, provided it can be shown to satisfy the infinitely malleable "requirements" of *jus ad bellum* and *jus in bello*.

Robert Holmes remarks in *On War and Morality* (Princeton, N.J.: Princeton University Press, 1989) that just war theorists tend to be more "hard-line" (hawkish) than even realists about war, and Steven P. Lee would seem to be a case in point. His chapter, "Weapons of Mass Destruction: Are They Morally Special?" offers a detailed and well-informed analysis of various types of weapons—biological, chemical, and nuclear—lumped together under the WMD label. Lee provides good reasons for believing that the three distinct forms of weaponry are not actually weapons of *mass* destruction, but of *indiscriminate* destruction (for which he coins the acronym WID), and he initially observes that such weapons appear to be impermissible in the framework of just war theory. Yet given the reality of some nations' possession of nuclear WID in particular, Lee finally argues, it becomes permissible for others to possess them as well, because the only way to deter the use of such ghastly weapons is to possess an arsenal sufficient to obliterate enemies, should they initiate a nuclear war.

This reasoning is, of course, the familiar logic of mutually assured destruction, or MAD, which fueled the Cold War between the United States and the USSR, leading eventually to the production and stockpiling of many times more nuclear weapons than would be needed to wipe out every living creature on the planet. The flaw of MAD logic seems clear to those who oppose nuclear weapons: the people who actually wage wars and push buttons are fallible human beings driven by emotions and capable of gross strategic and prudential miscalculations under conditions of extreme stress, such as the threat of nuclear war indisputably represents. Among other problems with the premise that "all strategists and military administrators—present and future—are supremely rational" is its neglect or dismissal of the possibility that a suicidal person in a sensitive position might well choose to take everyone down with him.

In fact, megalomaniacal men do sometimes rise to power, inheriting the arsenals of those who preceded them. Yet MAD strategists—and even MAD just war theorists—table or conveniently forget Walzer's favorite rhetorical question ("What about Hitler?") when they consider the alleged rationality of stockpiling

WMD to be controlled by future, unknown leaders. Hitler himself, lest we forget, chose to commit suicide rather than face up to defeat.

Either oblivious to or unwilling to acknowledge the reality of human fallibility and frailty—in spite of the ever-lengthening list of wayward soldiers who have indeed committed unthinkable crimes or committed suicide, their vision clouded by war's extraordinary pressures—Lee sides with the MAD strategists in maintaining that although this implication may seem on the surface to be paradoxical, just war theory actually permits the production and stockpiling of nuclear weapons so long as they are needed to defend “oneself” against another nuclear power. Otherwise, he claims, defense would be impermissible, which is a manifest absurdity!

In speaking thus of “defense,” Lee depends on a common false analogy among military supporters in general and just war theorists in particular: that individual self-defense implies that states, conglomerates of individuals, have a right to self-defense. But the two cases are entirely disanalogous because human beings are conscious, autonomous creatures who were born innocent and are vulnerable to pain, and whose rights to life are natural. In contrast, states are artifacts to which moral rights cannot with linguistic propriety be ascribed because they lack *all* of the properties in virtue of which human beings are said to be moral persons. Furthermore, the arbitrariness of state borders is patent: any group of people might band together and stake a claim to land, appointing a member of the group as their leader. Having done so does not suffice to give the group a right to kill innocent people—a right that each individual lacked before the members of the group banded together. Any claim to the contrary needs to be demonstrated, not merely presumed, as it is by just war apologists, who speak of states as though they were eternally reified entities with rights to life that supersede those of the moral persons killed during war.

Continuing the discussion of *jus in bello*, Michael Davis and Marilyn Friedman treat the touchy topics of torture and terrorism, respectively. In “Justifying Torture as an Act of War,” Davis offers a thorough taxonomy of and guidelines for distinguishing practices that do and do not constitute torture and then asks whether the ordinary proscription to torture might be lifted during wartime. In his view, torture is a particularly objectionable evil—even worse than premature death—because it involves “suffering by design, against the sufferers’ will and interests, the limiting case of inhumane treatment” (p. 197).

Davis essentially sets out to bolster the idea that just wars are those that exclude unjust acts, thus implying throughout his discussion that although the torture of people in war is impermissible, killing them is not. Somewhat ironically, Davis rests his case against torture in any conceivable circumstance—as evil without exception—on the epistemological flimsiness of intuition. But his skeptical argument, though interesting, appears to undermine his own position, given the dependence of the entire apparatus of just war theory on scholars’ intuitions. In discussing the “ticking bomb case,” a hypothetical scenario (widely discussed among professional philosophers) involving the necessity of torturing a suspected terrorist to prevent the entire

city of Paris from being blown up, Davis flatly states that those who believe that it would be right to torture the suspect are trusting intuition without a basis for doing so, because in reality none of us has had experience with such a scenario.

The same argument can be wielded, of course, against Davis's account of torture as being absolutely wrong or, for that matter, his commitment to the possibility of a just war. The fact that many people may share the "intuition" that it is sometimes necessary to go to war does not suffice to show that it is right to do so. They may, after all, have simply inherited from other confused souls their approval of the practice of war, assimilating it with self-defense by an erroneous analogy of the state to the individual.

Davis stands in a long line of just war theorists who, arguing within the box, attempt to distinguish just from unjust wars by criticizing particular actions—in this case, torture—presumably excluded as impermissible by just war theory. What he fails to see, however, is that acts of war, viewed from the perspective not of the killers, but of the persons at the receiving end of bombs, may be every bit as inhumane as acts of torture. Many of the features that make torture so horrible are present in the slaughter of noncombatants whose homes and workplaces are bombed by "just warriors" who attack city centers with no "intention" to harm civilians, despite being fully aware that some of their bombs will indeed end up in the wrong places. From the perspective of those thus assaulted, their experience is similar to—if not indistinguishable from—that of the torture victim, who, Davis explains, suffers from "physical and intellectual helplessness" (p. 191). But the people under bombing, too, are essentially rendered puppets by the untouchable puppet masters who execute war according to their own rules and their own schedule. In fact, those who erase collateral-damage victims from the face of the earth make them "disappear" no less than do those who use torture for political ends.

Carl von Clausewitz famously claimed that war is "politics by other means," and it is difficult to see how stripping people of both their rights and their life can be understood as less objectionable than the former alone. Moreover, victims of errant bombs may suffer agonizing pain for long periods of time before they finally die. According to just war theorists, however, all of this suffering is perfectly permissible, provided only that the bombers did not intend this consequence as either a direct end or a means to their military objectives. Herein lies perhaps the most profound problem with just war theory: its hegemonic presumption that the warriors' perspective is the only one that matters. The victims have nothing to say and are, indeed, no less than the torture victims described by Davis, physically and intellectually helpless: nameless, faceless persons whose fate is sealed by those who wage war with the best of intentions, knowing full well that innocent people will be destroyed in the process.

In "Terrorism: Definition, Defense, and Women," Marilyn Friedman offers what she takes to be a feminist twist on just war thinking, inquiring whether female terrorists are somehow less culpable than their male counterparts in societies in which women are oppressed and have a lower social status than men. Friedman initially

expresses her interest in offering a definition of *terrorism* that does not prejudice the wrongness of particular terrorist acts, but it is unclear why anyone needs to do so. In fact, it seems rather like asking for a neutral definition of *murder*, one that does not prejudice the wrongness of particular acts of murder. What Friedman appears to be suggesting is that the political violence of subnational factions with valid claims may in certain circumstances be comprehensible as a last resort. This issue naturally concerns those who criticize the conservative tendency embodied in the *jus ad bellum* requirement of legitimate authority, and many just war theorists have offered readings of this notion that are not synonymous with “head of state.” A similar sentiment is succinctly expressed in the popular slogan “one man’s terrorist is another man’s freedom fighter.”

Friedman offers a fairly thorough analysis of the soldier’s situation—essentially grounded in Vitorio’s notion of *invincible ignorance*—correctly observing that in their professional capacity, soldiers are trained and expected to obey their superiors’ orders in all cases but those involving obviously criminal actions. She proceeds to reason along feminist lines that women in some societies may have less autonomy and therefore bear less responsibility for their commission of terrorist acts. What is striking about this discussion is Friedman’s failure to recognize that her arguments would seem to apply in a most general way to male members of society who are required through conscription to serve in the military on pain of being disparaged and ridiculed as cowardly and effeminate or even rendered pariahs or prisoners. This situation obtains especially in “macho” societies, where “manliness” is highly esteemed, but it may also be difficult for some men to avoid serving in the military wherever this service is a socially lauded expression of manhood. Where the army is voluntary but soldiers have opted for service as the best available vocational opportunity, the same argument about reduced responsibility for their decision to commit homicide at the behest of their leader would seem to apply. This situation evidently obtains in the United States, where most enlistees come from the lower classes, a disproportionate number of whom are minorities looking for legal, stable careers.

Friedman’s discussion of terrorist actions (political violence committed by nonstate actors) and the possibility of soldiers’ refusal to follow manifestly immoral orders presupposes that soldiers’ ordinary work—killing the people of another land because the commander-in-chief has deemed war to be the best course of action—is in fact permissible, a basic, unquestioned assumption of just war theory. By sympathetically considering the plight of subnational groups who take up arms though they lack a formal military, Friedman, too, is attempting to judge their behavior through the notions of just war theory, especially just cause, last resort, and proportionality. Sympathy certainly is in order for the sorry souls swindled into serving as the vehicles of homicide, but another tack to take here would be not to attempt to show how nonstate actors might under certain possibly conceivable scenarios be just warriors, but to show that state actors who kill on command when political alternatives to war exist—as they always do—are not.

Can any group today with a legitimate authority—implying also well-developed institutions of justice—claim last resort in wars waged abroad? Certainly a nation as powerful as the United States can undermine a foreign regime by economic means alone. If such a nation were literally cut off from the rest of the world—if all exports and imports were halted—the offending administration would in all likelihood fail. Instead, weapons and other forms of assistance continue to be doled out to future potential enemies (as they were to both Saddam Hussein and Osama bin Laden), and wars are subsequently waged, each claimed to be a “last resort,” which is really code for “best resort” as deemed by leaders on behalf of the people of the nation waging the war, not for the people of the lands attacked.

Members of groups that lack formal institutions and mechanisms of justice, those without a voice in the “legitimate” government of their land, ironically would seem to be the only agents with a plausible claim of last resort in attempting to overthrow their governments. A profoundly conservative framework, just war theory appears on its face to put things in precisely the reverse way: no subnational faction can ever wage war justly because all such groups fail to satisfy the *jus ad bellum* requirement of legitimate authority.

The third and final section of May’s volume treats issues that arise after the cease-fire, for which contemporary just war theorists have begun to sketch out what they call *jus post bellum* conditions. The most obvious reason these issues have begun to impinge on the minds of those who wish to uphold the just war paradigm is that war has become exponentially more destructive and deadly than it was when Augustine, Aquinas, and other early expositors reflected on war. Indeed, the most plausible explanation of why writers such as Suárez, Grotius, and Vitorio never touched on these topics is precisely because war in their day was an entirely different enterprise. At that time, leaders fought alongside other soldiers, using weapons such as swords, spears, and arrows that targeted one person at a time in acts readily comprehensible as personal self-defense.

In “War’s Aftermath: The Challenges of Reconciliation,” Trudy Govier broaches the extremely important topic of trust, which just war theorists have largely neglected, so occupied have they been with demonstrating how the various tenets of *jus ad bellum* and *jus in bello* should be understood. Govier recognizes that the official stories of war—invariably written by the victors—do nothing to mitigate the moral damage done to war’s bereft victims left behind on both sides, or what is tantamount to second-order collateral damage (Govier refers to them as “secondary victims”). Because just war theorists assume that the debt to first-order collateral-damage victims is defused by asserting that the killers never really *meant* to kill them, it is unsurprising that they should be largely silent about the psychological casualties of those same, supposedly permissible acts.

War, Govier correctly observes, leaves much more than death and physical destruction behind. War also emotionally scars the survivors, so the competing values of justice and peace must be weighed judiciously in deciding how to proceed after the

killing has ceased. Notwithstanding the simple black-and-white accounts the victors promulgate, war creates both victims and perpetrators, and these groups are not mutually exclusive. Govier therefore argues that in postwar attempts at reconciliation, dichotomization and polarization should be avoided. She focuses primarily on South Africa, but another example of the complexity of real conflict—as opposed to the neat and tidy hypothetical Manichean cases that just war theorists tend to discuss—would seem to be the former Yugoslavia, where factional fighting went on for centuries before one group was demonized in order to support what was claimed to be a just war by NATO in 1999. Just war theorists tend to identify atrocities committed at a certain moment in time without considering possibly relevant explanations, such as the human thirst for revenge.

In “Revenge and Demonization,” Nancy Sherman reconsiders the negative attitude that some people have toward revenge, pointing out that there are two distinct ways of looking at the role of emotions during wartime: one stemming from the ancient Stoics, the other from Aristotle. Siding with Aristotle on the role of emotions such as anger, Sherman explains how atrocities such as the massacres at My Lai in Vietnam and Haditha in Iraq can occur. But she, like David Luban in his chapter, “War Crimes: The Law of Hell,” takes these exceptional events as evidence that war is generally rule governed. What supposedly makes war nobler and more honorable than “organized murder” is that it involves disciplined obedience to a code of conduct.

Oddly enough, just war theorists have no difficulty in dismissing the testimony of actual warriors—soldiers and even commanders on the ground, such as Paul “Thank God for the Atom Bomb” Fussell or James “Hell of a Hoot” Mattis. When General Colin Powell, then chairman of the U.S. Joint Chiefs of Staff, was asked in April 1991 about the extent of civilian casualties in Iraq, he replied, “That’s not really a number I’m terribly interested in.”

Armchair just warriors ignore such evidence, adamantly insisting that notwithstanding the occasional “rogue” element, the military as a whole is an admirable, “rule-governed” institution, by which they mean guided by just war theory. That the perspectives of the killers themselves should be dismissed as “irrelevant” to what they themselves do strikes one as tendentious at best. But just war theorists remain steadfastly intent on demonstrating that war remains a worthy enterprise. It does not appear to cross their minds that something might be dreadfully wrong with training countless young people to kill other people at the behest of leaders who have reasons all their own, disregarding the undeniable fact that this very practice made Nazi Germany’s atrocities possible. According to Luban, “We would not want a *lex specialis* for murderers. Warriors are supposed to be different: they use violence in a disciplined manner, and only against those who might do them harm” (p. 281).

But this claim is false: modern wars fought abroad routinely harm people who pose no danger whatsoever to the warriors themselves. Luban’s defense of international tribunals such as the International Criminal Court stems from a belief that

these institutions best persuade commanders and their troops to conduct themselves in accordance with the so-called laws of war. He himself acknowledges, however, that such tribunals and the guidelines they apply in making postwar judgments are largely drawn up by the victors, who apply them only to the warriors on the other side. Ironically, then, such institutions might in fact have the opposite effect, goading warriors to fight with no holds barred in order to ensure victory. In reality, the so-called rules of war tutor state functionaries to do no more and no less than to describe their own military's actions in terms that "the rules" require and to condemn the enemy's actions as war crimes.

Along these lines, in "Amnesties and International Law," Christopher Heath Wellman sketches an account according to which virtually anything the United States and Israel does should be regarded as permissible because they are "legitimate" states, and "the international community should virtually always respect a legitimate state's amnesty for crimes committed exclusively by and against its own citizens, because legitimate states enjoy dominion over their own self-regarding affairs" (p. 260). This statement appears to imply that Israel has final say on whatever transpires in Gaza. But one can only wonder what sorts of actions a state might take that would fail to be "self-regarding." Do the summary executions of nonnationals by Predator Drone in faraway lands constitute murder, or are they acts of just war? The U.S. administration's answer is unequivocal. Were anyone to attempt the analogous action on U.S. territory, the answer to the same question would doubtless be equally univocal: such acts would be denounced as abominable crimes—indeed, they were decried and rightfully so on September 11, 2001.

Wellman's discussion, situated well within the box of the just war paradigm, rests on the uncritically accepted analogy of the state to a person. But individual people wage wars, and individual people issue and obey orders to kill. All these people may have entirely different reasons for acting, reasons that may or may not have anything to do with "the official story" promulgated by the state's spokespersons, which gives no voice to the people actually subjected to military violence, the victims of so-called just war, not only the collateral-damage casualties, but also the soldiers who kill and risk death in doing so.

Although just war theorists cling tenaciously to their paradigm, war has slowly transmogrified over the course of the past five hundred years from a practice embodying chivalric values of honor to the institutionally implemented mass destruction of people and their property, in situations no one can reasonably claim to have been so desperate as to constitute a last resort. It should be a matter of common knowledge—and is easy enough to confirm by asking soldiers themselves—that the mythic picture of the honorable warrior no longer meshes with the demographics of and motivations for enlistment.

In 2006, Senator John Kerry "facetiously" warned a group of college students, "You know, education, if you make the most of it, you study hard, you do your homework and you make an effort to be smart, you can do well. And if you don't,

you get stuck in Iraq.” This warning was a cold but bold truth, for which Kerry was scolded by pundits and politicians alike. But the reality of which he spoke offends only those concerned to uphold essentially fictional portrayals of the war enterprise. In fact, with only rare exceptions, soldiers today agree to don uniforms as a secure means of legal employment. Moreover, many officers accept their role only in order to pay for their education. Yet war supporters cling to the vestigial image of ancient warriors, rather than acknowledging that voluntary soldiers are fighting not for causes, but for cash, as mercenaries always have.

Ignoring such harsh realities, Nancy Sherman concludes her discussion of revenge and wraps up *War* by rehearsing a familiar just war apologist’s line regarding the role of warriors: “Respect is operationalized in the way one may prosecute war justly (i.e., with *jus in bello*)” (p. 304). Amazingly able to ignore cases such as the burying of Iraqi soldiers alive in their trenches during the First Gulf War, just war theorists stand by their paradigm, incapable of facing up to or unwilling to accept the sad truth of what war has become. Instead, they express their heartfelt solidarity with the troops: “The special challenge for our soldiers today is to fight in a way that respects an enemy and its civilian population that does not always respect them” (p. 305). The idea that were the tables turned and Iraqi or Afghan soldiers to invade the United States, citizens of this land would object most vociferously and—I dare say—violently does not appear to penetrate the consciousness of the supporters of recent U.S. interventions.

In the end, the very fact that contemporary just war theorists should feel the need to draft *jus post bellum* requirements would seem to be an acknowledgment of the warriors’ responsibility for the mess that they make of another land. But if “just warriors” are responsible for the ugly aftermath of war, the “unintended consequences” that emerge in the chaotic postwar environment, why should they not also be held responsible for so-called collateral damage during the execution of the war? To propose that just war theory be expanded to include *jus post bellum* requirements amounts to an admission that the theory, as it stands, is inadequate to the task of regulating war as it is fought today. Having spent so much time—entire careers—in defending this paradigm, however, academics steer clear of an alternative yet entirely reasonable response: to acknowledge the anachronism of just war theory, abandon the otiose exercise of rehashing texts written centuries ago, and begin at last to consider the actual practices of war in the twenty-first century.

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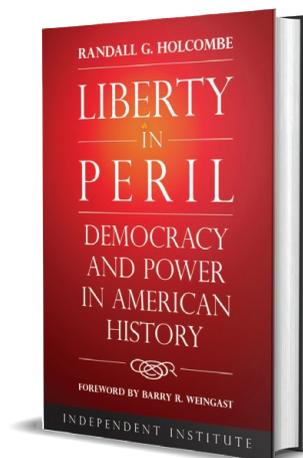
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