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What Do We Mean by the Just War Ethic?

SHAUN CASEY

INTRODUCTION

Broadly speaking, Christians have historically assessed the morality of war from three different perspectives: pacifism, the just war ethic, and the crusade or holy war tradition.¹ One of the primary contributions church historians in the Churches of Christ have recently made is the rediscovery of our pacifist roots.² Yet my experience has been that, in actuality, very few members of the Churches of Christ morally assess war from any of the three historic Christian options. Rather, we tend to use a pragmatic political realism that reduces most evaluations of war to some form of calculating American national interest. That is to say, we rely almost totally on secular political analysis and tend to bracket out any theological warrants. The lone exception might be our susceptibility to the occasional thinly veiled holy war argument.

My task is to explore the middle option above, the just war ethic. The just war ethic is invoked once in a while in our churches, but seldom with any close attention to its fully elaborated particulars. I will set out its major components in this essay and draw a few conclusions at the end. Moral evaluation of any war requires both retrospective and prospective analysis. New wars present new moral challenges, and previous conflicts inform the ongoing assessment of new ones. The war in Iraq is a particularly challenging case since it was waged under a radically new strategic doctrine that is in severe tension with the just war ethic.³

JUST WAR ETHIC

The best way to begin to think of the just war ethic is to see it as a broad historic tradition with different contemporary versions. The history of the tradition is widely known, but its contemporary meaning and

1. For a good although somewhat dated introduction see Roland Bainton, *Christian Attitudes Toward War and Peace: A Historical Survey and Critical Re-evaluation* (Nashville: Abingdon, 1960) or more recently Lisa Sowle Cahill, *Love Your Enemies: Discipleship, Pacifism, and Just War Theory* (Minneapolis: Fortress, 1994). The best single volume of essays relating to the ethics of war and peace is Richard Miller, ed., *War in the Twentieth Century: Sources in Theological Ethics* (Louisville: Westminster John Knox, 1992).

2. For an entrance into this literature see Michael W. Casey, "Pacifism," *The Encyclopedia of the Stone-Campbell Movement*, Douglas A. Foster, Paul M. Blowers, Anthony Dunnivant, and D. Newell Williams, ed. (Grand Rapids: William B. Eerdmans, 2004).

3. For an indepth analysis of the Iraq war see Shaun Casey, "Iraq, the Just War Ethic, and Pre-emptive War," in Peter French and Jason Short, *War and Border Crossings: Ethics When Cultures Clash* (Lanham: Rowman and Littlefield, 2005). It was particularly heartening that a number of ethicists within the Churches of Christ signed a petition declaring the Iraq war unjust. For more information on this petition and its signers see Scott McLemee, "100 Christian Ethicists Challenge Claim that Pre-Emptive War on Iraq Would Be Morally Justified," *Chronicle of Higher Education*, Web Daily September 23, 2002. This is available at <http://maxspeak.org/gm/archives/chron.htm>.

application are contested. While I cannot adjudicate all the dimensions of the contested interpretations here, I will offer a description of the version I believe is the strongest contemporary iteration.⁴

The best succinct summary of the just war ethic was given by John Courtney Murray, one of the major figures responsible for the recovery and advancement of the just war ethic in the twentieth century.⁵ Murray articulated a threefold function of the ethic. First, it condemns war as evil. Second, it attempts to limit the evil war entails. And finally, the ethic seeks to humanize the conduct of war to the extent possible. In his view the ethic not only provides a means for individuals to form their moral consciences in the face of specific conflicts, but it also helps structure the necessary public debate over the moral justification for war. Murray was quick to add that any analysis of the morality of warfare has to recognize that at best we are at the far borders of what is moral in any conception of a just war. In contrast to any models of the just war ethic that see war as normal or even obligatory, Murray reminds us that war is always a morally vexing state.

The ethic can be conceived as a presumption/exception model. That is, there is an initial presumption against the use of force. The burden of proof rests upon those who would go to war. While the ethic shares a presumption against war with pacifism, the presumption within the ethic is not an absolute one as it is in pacifism. War is seen as a rule-governed exception to the initial presumption against war. Thus, war requires an explanation and justification before it can be deemed just.

TWO SETS OF CRITERIA

The ethic sets forth two sets of criteria: one governing the resort to war and the other governing behavior within war. These are called the *jus ad bellum* and *jus in bello* criteria respectively. Both sets must be met before a war can be called just.

Why Can War Be Justified?

The first question the ethic asks with respect to war is why can war be justified? In other words, what possible just causes exist that could override the presumption against the use of force? There are three traditional just causes in the ethic, all of which presume a real and not an imagined or anticipated harm. These are to protect the innocent from unjust attack, to restore rights that have been wrongfully denied, and to restore the basic order necessary for decent human existence (thus establishing the possibility of a justified revolution).⁶

This first cause probably requires the least amount of argument. As Ralph Potter observes, war can be justified most plausibly when it is necessary to provide immediate and direct defense of innocent victims from an unjust attack.⁷ The second just cause of war is a way to restore rights that have wrongfully been denied. Here Potter notes that the ethic does not view national sovereignty as granting an absolute status to nonintervention by other nation states. In other words, states can be held accountable for the mistreatment of their citizens.⁸

4. For a detailed account of the major contemporary versions of the just war ethic see Shaun Casey, "Nonproliferation, the Just War Ethic, and Public Theology" (Th.D. Dissertation, Harvard Divinity School, 1999).

5. John Courtney Murray, S.J., "Remarks on the Moral Problem of War," *Theological Studies* 20 (1959) 40-61. This classic article is more easily found in Richard Miller, ed., *War in the Twentieth Century* (Louisville: Westminster John Knox Press, 1992) 247-271. All references will be to the Miller edition.

6. For two of the best descriptions of the just war criteria see Ralph Potter, Jr., "The Moral Logic of War," *McCormick Quarterly* 23 (1970) 203-223; and James F. Childress, "Just War Criteria," *Moral Responsibility in Conflicts: Essays on Nonviolence, War, and Conscience* (Baton Rouge: Louisiana State University Press, 1982). Both are more easily found in Miller, *War in the Twentieth Century*. All citations will be from Miller.

7. Potter, p. 201.

8. Ibid, p. 201.

The most extensive contemporary treatment of the moral issues surrounding pre-emptive war is by Michael Walzer.⁹ He posits a continuum of anticipatory uses of force anchored by preventive war on one pole and by preemption on the other. The preemption end of the spectrum represents the right of states to defend themselves against violence that is imminent but not actual. The right to fire the first shot when one knows one is about to be attacked has long been recognized in moral and legal literature. But this right is subject to rules and analysis. The pre-emption pole is a reflexive response, a position Walzer attributes to Daniel Webster. Here, in order to justify pre-emptive force, there must be a necessity of self-defense, in which a response is instant and overwhelming, and there is no moment for choosing means of defense and no moment for deliberation. Walzer argues that international law stands close to this pole. At what Walzer calls the far end of the spectrum there is preventive war that is an attack that responds to a distant danger as a matter of foresight and free choice. Walzer seeks to generate criteria to draw a moral line of demarcation between acceptable and unacceptable practices along this spectrum.

Walzer notes that the arguments in favor of preventive war are starkly utilitarian and anchored in fear, and are fought in the name of preserving a perceived balance of power. Such a position justifies war based on the fear that growth of an enemy will upset the balance of power; the preventive war is undertaken to prevent the upset of power balance. Fighting early before the balance tips in any decisive way is thought to greatly reduce the cost of the defense. Waiting does not mean avoiding war but only fighting at a greater cost and at worse odds.¹⁰ Walzer counters this argument by saying that there is no way to perform all the necessary calculations and experiments to decide which wars to fight and which to delay. In addition he argues that the augmentation of power by an enemy cannot be a warrant for war. Instead we must reject any attack that is merely preventive in character and that does not wait and respond to the "willful acts of an adversary."¹¹

So where and how does Walzer establish a line between these two poles, simple reflexive pre-emptive war and preventive war? He argues that we have to look not for possible or potential enemies but for states and nations, and presumably terrorists, that are engaged in harming us. The line then is drawn not at the point of imminent attack but at the point of sufficient threat. By this he means three things: "...a manifest intent to injure, a degree of active preparation that makes that intent a positive danger, and a general situation in which waiting, or doing anything other than fighting, greatly magnifies the risk."¹²

He elaborates on the three criteria by saying that current and particular signs are required, not simply previous signs. Actual preparation for war must be present and not simply fear of future expansions of power; there must be an intensification of present dangers, not simply the refusal to guarantee future security.¹³ After taking up the case of the Six Day War between Israel and Egypt, Walzer reiterates that fear by itself establishes no right of anticipation. States may use military force in the face of threats of attack whenever the failure to do so would seriously threaten their political independence and territorial integrity. Measures short of war are preferable to war itself if they hold out hope of nearly the same effectiveness.¹⁴

But even after establishing just cause, there remain several criteria that must be met when asking the question, when is it permissible to go to war? Here five criteria must be met.

9. Michael Walzer, *Just and Unjust War*, 2d ed. (San Francisco: HarperCollins, 1992). Walzer analyzes pre-emptive and preventive war in Chapter 5, "Anticipations."

10. *Ibid.*, p. 77.

11. *Ibid.*, p. 80.

12. *Ibid.*, p. 81.

13. *Ibid.*, p. 81.

14. *Ibid.*, p. 85.

1. First there must be a right intention. Augustine observed that many wars were fought out of a lust for domination. Greed, hate, ambition, cruelty, and vengeance are not morally sufficient motives for going to war. The right intention for fighting is a mournful sense of tragedy in the pursuit of justice and the re-establishment of peace. As Potter says:

The justifications for the institution of war rest upon its presumed utility as a necessary means of serving the common good by protecting the innocent from unjust attack, restoring rights wrongfully denied, or reestablishing a social order necessary for decent human existence. War is always a concession to sin, a restraint upon wrongdoing, a sanction against crime. But it is clearly a clumsy, inefficient, unpredictable, wasteful, and hideous form of sanction, a very faulty instrument of enforcement.¹⁵

While it is difficult to assess the intentions behind specific acts of war, it is nonetheless important to pose the question to leaders who advocate war in specific cases as to what the intention is for going to war. Particularly in a representative democracy, leaders owe the citizenry public justifications, and it is right for such citizens to demand clear answers as to why we are fighting. James Childress argues that right intention applies not only to the overall conflict but also to particular battles, engagements, and acts within war.¹⁶ Thus, even in war it is necessary to discern real intentions on an ongoing basis. Right intention is not simply something dealt with at the outset of hostilities. This is particularly interesting when looking at the Iraq war.

2. Next, there must be due proportion between the good to be accomplished by going to war and the harm that inevitably afflicts all the parties. Obviously this is a prudential prediction of the consequences of any conflict and thus is not subject to absolute certainty. People of good will can certainly disagree in their assessment of the consequences of going to war; nevertheless, this criterion requires the counting of the cost before war breaks out. The overall good which one hopes to achieve by going to war should outweigh the inevitable harms resulting from going to war.

3. The third criterion is legitimate authority. The question here is who decides when to go to war? The legitimate political authority in a community must authorize the use of force. War cannot be waged to serve the needs of private citizens. Due process in going to war protects citizens who are inevitably jeopardized by war. So public opinion matters. If democratic leaders do not seek and maintain popular support for a specific war, they imperil the people and ultimately their own rule. The current anarchic nation state system lacks any central moral or political authority to adjudicate all claims to use force, although the United Nations Security Council does possess some authority here. Even in our own national polity there is a potential conflict between the president and Congress over who has the authority to commit U.S. troops in certain cases. For instance, in the Persian Gulf War President Bush sought authorization from Congress while maintaining that he did not need that authorization to wage the war. Our current environment presents the possibility of a crisis of authority if a president commits troops over the objections of Congress.

While it is generally maintained that the nation state itself possesses the right to go to war, the question of multilateral authorization for war is raised more frequently in the current era as the norm of state sovereignty has been relativized. This became acute in the Iraq war as America attacked Iraq without multilateral authorization in part to enforce multilateral agreements signed at the end of the Persian Gulf War. Although nation states have pursued multilateral authorization for war in some contexts, it cannot be said that multilateral authorization is required in all cases in order to establish legitimate authority. There may be morally prudent reasons for pursuing multilateral authorization for war, and we may be heading toward such a day where multilateral authorization for war will be the norm, but we are not there yet.

15. Potter, p. 203.

16. Childress, p. 360.

4. The next criterion is last resort. Every peaceable means of addressing the conflict must have been tried and exhausted. As Potter says, "Only strict necessity can legitimate resort to force. Thus, a 'preventive war' cannot be justified."¹⁷ The emphasis here then is upon necessity. If there are other potentially fruitful avenues open for the parties in controversy to pursue, then it cannot be the case that war is necessary. Recently, last resort has been under criticism by some. But the abiding force of last resort is that it does not allow optional wars that would otherwise make war a normal and easy policy choice. The emphasis is not on metaphysical certainty regarding last resort, but it is upon war as a necessity. Last resort functions as a strong brake against normalizing war as a policy option, and that is why it is under extreme pressure among politicians and a few just war ethicists. Most of the just war advocates who supported the war in Iraq ignored or radically minimized the force of the last resort criterion.

5. Finally, there must be a reasonable hope for success. Political leaders are stewards of the lives of their citizens, so they do not have the right to send their troops into suicide. There must be some prudential assessment of the military consequences of war. If there is no prospect for success then a wise political leader will seek avenues short of war.

These five criteria, (right intention, proportionality of ends, legitimate authority, last resort, and reasonable chance of success), combined with the criterion of just cause, comprise what ethicists call the *jus ad bellum* criteria. Taken together these criteria set a high bar for any justification for overriding the initial presumption against war.

Just Conduct When War Breaks Out

Once war breaks out the just war ethic holds out two criteria to govern the just conduct of war, or the *jus in bello* criteria. The first of these is proportionality of means, which argues that only enough force should be used to achieve tactical goals in battle. The so-called Powell Doctrine, which calls for the use of overwhelming force, threatens to obliterate this criterion. The second criterion is noncombatant immunity, or discrimination, which does not permit the direct targeting of civilians and other noncombatants.

To summarize, the just war ethic offers a set of moral lenses through which individuals can assess the morality of any given conflict and which also allows for a public deliberation to assess the morality of the conflict. As I noted at the outset, the Churches of Christ do not have a particularly sparkling track record in morally evaluating American wars. It may be that the just war ethic simply requires too much theological and moral work for our apparently limited resources. It is much simpler to conform to the prevailing conservative political ethos many of us live in and evaluate war by secular political standards. The just war ethic presents severe challenges to this type of moral sloth. The ethic does not privilege national interest and it certainly does not baptize American military action simply because it is American. It does limit and relativize national sovereignty in the name of higher goods such as peace and justice. It is an ethic of restraint that places the moral burden upon those who advocate the use of force. It sets high standards to buttress the Christian presumption against the use of deadly force.

CONCLUSION

In conclusion, let me make two observations about the current war in Iraq. First, it was particularly dismaying that the current administration did not and has not offered an explanation of its rationale(s) for going to war in the terms of the just war ethic. This is in contrast to President George H. W. Bush who did make such a case in the Persian Gulf War. The American people were never given an opportunity to hear a moral case for the current war and thus be given a chance to participate in a national debate. Second, the Churches of Christ, with a handful of courageous exceptions, accepted this deliberate moral silence without comment, or worse endorsed it. I take this as a lamentable sign of our deep assimilation to the secular conservative age of which we are a part.

17. Potter, p. 206.

My hope remains that the rediscovery of our pacifist roots may well point to a new day in which the ethics of war may once again move to the center of our thinking and deliberation on what it means to be disciples of Jesus Christ. In the case of the just war ethic, its rediscovery in the 1960's provided much help in the ending of the Vietnam War and in the control of the nuclear arms race. If there is to be a similar reversal of our current perverse doctrine of preventive war, a rediscovery of the just war ethic may play a huge role in that enterprise.

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