
J

JUST WAR



The term *just war* refers to the major moral tradition of Western culture that deals with the justification and limitation of the use of force by public authority. Just war tradition has particular relevance for moral reflection about many scientific and technological developments related to military affairs.

Historical Background

Just war tradition can be traced back to Saint Augustine (354–430) in the fourth and fifth centuries and through him to the Old Testament and the ideas and practices of classical Greece and Rome. Augustine, however, did not write systematically or at length about the idea of just war; his treatment of these issues is found in passages about the use of force in works on various topics. A coherent, systematic body of thought and practice on just war did not emerge until the Middle Ages. The thought of Augustine and other earlier Christian writers was drawn together by the canonist Johannes Gratian, whose *Decretum* dates to the middle of the twelfth century. Two generations of canonists who built on Gratian's work, the Decretists and the Decretalists, took the development of the just war idea into the thirteenth century. In the second half of that century theologians, including most notably Thomas Aquinas (1224–1274), placed the canonical materials in an overarching theological framework that showed both a strong dependence on Augustine's thinking and a new effort to give ideas about just war a footing in natural law.

During the thirteenth century but more during the fourteenth and fifteenth centuries, secular factors began

to reshape this canonical and theological concept into a broad cultural consensus. These factors were the growing study of Roman law, especially the idea of *jus gentium* (law of peoples or nations); the maturation of the chivalric code as a guide to the conduct in arms of the international brotherhood of knights; and increased reflection on the experience of governing found in works dealing with the characteristics of a good ruler.

By the end of the Hundred Years War in the mid-fifteenth century the resulting synthesis (seen particularly in writers such as the theologian and scholar Honoré Bonet [1340–1410] and the poet and historian Christine de Pisan [1363–1430]) had defined a cultural consensus in western Europe on the justified use of armed force and the restraints to be observed in using that force. This consensus included the major factors that continue to define the idea of a just war. From canon law and theology came the requirements that for a resort to armed force to be just it must be undertaken on the authority of a sovereign and for the public good; be for a just cause, defined as defending the common good, retaking that which had been taken wrongly, and punishing evil; and right intention, defined negatively as the avoidance of self-aggrandizement, bullying, implacable hatred, and so on, and positively as aiming to restore the peace that had been violated.

The chivalric code joined canon law to provide two kinds of restraint on the employment of force: noncombatant immunity, defined by lists of persons not normally involved in war and thus not to be subjected to direct harm in war, and limits on means, defined by efforts to ban certain weapons (specifically arrows and siege machines) as *mala in se*. The *jus gentium* and the

growing consolidation of political authority reinforced these developments in useful ways: the former by placing them in a broader theoretical framework to define relationships among autonomous political communities and the latter by sovereigns' adoption of these rules both in the use of force to maintain public order and in warfare against external threats.

In this manner the just war tradition was passed to the modern era. Theological and secular theorists of the law of nations, including the theologian Francisco de Vitoria (1492–1596) in the sixteenth century and the jurist Hugo Grotius (1583–1645) in the seventeenth, placed the inherited just war tradition in the context of a general theory of international law based on natural law and the *jus gentium*. After Grotius and as a result of the international order created by the Peace of Westphalia (1648), emphasis on the former part of the tradition, by then called the *jus ad bellum*, began to be reduced as sovereigns' rights to use force were redefined as *compétence de guerre* at the same time that a new emphasis was placed on the restraints to be observed in the use of force, the *jus in bello*.

This has been the pattern of the development of the just war tradition during the modern period. Beginning in the 1860s with the work of Francis Lieber and the U.S. Army's General Orders No. 100 of 1863 and, at almost the same time, the international adoption of the First Geneva Convention, positive international law has played a major role in defining the just war *jus in bello*. Through much of the nineteenth century and continuing into the nuclear age, moral thought on war has focused on efforts to rule out recourse to armed force by states, in effect denying that a *jus ad bellum*, a justification of the resort to armed force, exists any longer, or severely restricting the terms of such justification. During this period, because of its concentration on eliminating war, moral thought effectively lost sight of the just war *jus in bello*. At the same time, however, the increasing codification of international law reframed the tradition's *jus in bello* as positive-law rules for the conduct of nations in war.

The law of armed conflict in international law remains one of the important arenas for the efforts to restrain war first defined in the just war tradition. In moral thought, largely as the result of work by the theologian Paul Ramsey (1913–1988) and the political philosopher Michael Walzer (b. 1935) and public debate occasioned by the U.S. Catholic bishops' 1983 pastoral *The Challenge of Peace*, just war thinking has reemerged in American and some European debates over the use of armed force, informing not only the religious and philosophical spheres

but also public policy discussions and professional military education. Just war is studied in all the service academies and the war colleges and by military lawyers, and it is a common topic in academic and policy-oriented conferences and workshops on military issues.

Science and Technology

Both historically and in recent debates just war tradition has responded to developments in the science and technology of the use of force. In the Middle Ages this involved efforts to eliminate the use of weapons that were deemed too harmful or destructive. Specifically, there was an effort to ban crossbows and bows and arrows, which could penetrate armor and kill, whereas the normal weapons of knights—swords, maces, and lances—were likely to injure but not kill armored opponents. Siege weapons capable of causing heavy and indiscriminate damage when used against fortified places were also the target of a ban.

These themes were carried forward into efforts to restrict or eliminate certain weapons or uses of weapons in positive international law. The first Hague Conference (1899) sought to ban exploding bullets for being too lethal and tending to inflict especially cruel wounds. That conference sought to ban asphyxiating gases, though this did not become positive law until the 1925 Geneva Protocol on gas warfare. Various efforts, beginning from the first Hague Conference, have been made to prohibit bombardment of unfortified population centers from the land, sea, and air. Since World War II international conventions have been adopted prohibiting the use of chemical and biological weapons as “weapons of mass destruction,” and the nuclear proliferation treaty has sought to restrict possession of nuclear weapons as a way to limit the likelihood of their use. A 1980 United Nations Convention prohibits or restricts the use of certain conventional weapons “deemed to be excessively injurious or to have indiscriminate effects.” The 1997 Ottawa Convention, responding to technologies that have made antipersonnel mines cheap, difficult to detect, and ubiquitous, formally prohibits their production, stockpiling, transfer, and use.

These are all examples from positive international law, a major modern carrier of the just war tradition. In the moral debate some have argued that the entire technology of contemporary warfare—not only weapons of mass destruction, including nuclear weapons, but also conventional weapons because of their ability to produce widespread death and destruction—is disproportionately and often indiscriminately harmful. This position, often called “modern-war pacifism” (including

nuclear pacifism as one of its forms) holds that the technology of modern warfare is so destructive that the moral requirements of the *jus in bello*, avoidance of direct harm to noncombatants and of disproportionate destruction, cannot be met, and so there can be no just resort to force.

Opponents of this position, including Ramsey, Walzer, and James Turner Johnson (b. 1938), distinguish between the availability of highly destructive weaponry and the decision about how to fight: The latter is a moral decision, and it implies moral control over whatever means are available. In the debates over nuclear weapons during the early 1980s this difference of judgment about the technology of warfare led to two sharply different policy conclusions. Nuclear pacifists argued against nuclear weapons as inherently immoral and against the development of targeting technologies intended to make them more accurate and thus more discriminating. Others argued that development of such capabilities was a moral imperative both because it could reduce direct harm to noncombatants and because it opened the door to the development of lower-yield warheads, including conventional explosives, that could perform the same strategic and tactical functions as high-yield nuclear and thermonuclear warheads.

Questions of Technological Superiority

The policy decision at that time was to continue developing more accurate targeting technologies and delivery systems. Since then this line of development has matured progressively to produce a “revolution in military affairs” characterized by laser- and satellite-guided bombs and missiles, stealth technology that allows airplanes to get close enough to their targets to enable direct guidance of weaponry onto a target, drone airplanes and satellite imaging to identify and target enemy armed forces without collateral damage to noncombatants, and increasingly sophisticated means of gathering enemy intelligence to lower the levels of force needed for combat.

These developments first became general knowledge with publicity over the “smart bombs” of the 1991 Persian Gulf War. The use of such technology also marked the bombing of Serbia in the conflict over Kosovo (1999), and it was both ubiquitous and decisive in the conflicts in Afghanistan (2001) and Iraq (2003), where in the latter the technological superiority of the U.S. and British forces made possible a campaign that used far lower numbers of troops than previously would have been necessary, destroyed the Iraqi army while coalition forces suffered only a small number of

casualties, and allowed bombs and missiles to destroy major Iraqi government targets with unprecedentedly low levels of collateral damage.

All this is morally significant from the standpoint of the just war tradition, for even in an age of weapons of massive destructive power such technology allows armed force to be used in a way that honors the just war requirements of noncombatant immunity and as low a level of destruction as possible. At the same time, from the perspective of the technologically inferior, the use of superior technology may appear to represent a refusal to accept an equal playing field in which courage and loyalty to opposing causes have a fair chance to compete with each other. What is to be made of this objection?

The latter argument cannot be used to justify means of fighting that disregard moral and legal restraints. In the moral terms of the just war tradition as well as the legal terms of the law of armed conflict, technologically superior and inferior adversaries are equally bound by the same rules. Technological inferiority is no excuse, for example, for terrorist actions against civilians or the Fedayeen Saddam’s use of noncombatants as human shields in the 2003 Iraq war, both of which were clear violations of the moral concept of noncombatant immunity and the legal restrictions laid down in international law. In a conflict involving technologically asymmetrical adversaries each force is restricted, both morally and legally, to means that do not violate noncombatant immunity and do not involve prohibited weapons, such as weapons of mass destruction.

Technological asymmetry is not a new problem ushered in by precision-guided munitions. In earlier ages technological superiority was conferred by the use of Greek fire, firearms, rifled handguns and artillery, repeating rifles, the use of railroads for military transport, semaphore signaling systems and later the telegraph and radio, and the development of armored fighting vehicles. A technologically inferior armed force faces an enormous practical problem: how to match or overcome an enemy that is technologically superior. However, this is a practical problem, not a moral one. The idea of a “level playing field” means that both adversaries must play by the same rules; it does not mean that within the framework of those rules neither side may use means that it alone possesses.

The possession of superior technology, it may be argued, imposes a special moral responsibility to use that technology in ways that honor the *jus in bello* restraints. The moral rule of double effect has long been used to determine when collateral harm to noncombatants is morally allowed; by this rule such harm is allowed only

when it is the indirect, formally unintended result of an attack on a legitimate military target that cannot be attacked except with such collateral harm. Thus, when an enemy places artillery next to a school or deploys troops with rifles to fire from the windows of a hospital, the artillery and the troops can be attacked despite the harm to the school and hospital and the noncombatant persons who may be inside.

However, Michael Walzer (1977) has argued that the rule of double effect also should be understood to impose a proportionality criterion; therefore, a projected attack against an otherwise legitimate target should not go forward if the collateral harm to noncombatants is judged to be disproportionate to the ends to be gained from the attack. In such cases, an alternative weapon or another means of neutralizing the target should be used or the target should be bypassed. This reasoning seems to have been employed in the targeting decisions made by U.S. forces in the 2003 Iraq conflict, in which the choice of weapons systems, the angle of attack, the time of day, fuse timing, and other factors were employed to avoid or reduce collateral damage. The possession of superior technology thus imposes an added moral burden: to use that technology to avoid harm that would be allowed in its absence.

This means that from a moral standpoint based on the just war tradition the question of the technology of warfare does not stand alone. It is also necessary to consider whether overall planning and policy, strategy, rules of engagement, means of command and control, tactics, and military training allow the use of the available technology in ways consonant with the aims of discrimination and proportionality. Not only does the U.S. military in the early twenty-first century have a virtual monopoly on the technology of the “revolution in military affairs,” it is the only national military that has made operational all these elements in the channel of decision that leads toward conducting military actions within the framework required by the *jus in bello*. Arguably, the ability to conduct war more closely in accordance with just war requirements implies the moral obligation to do so. For example, carpet bombing of a mixed combatant-noncombatant area to destroy a legitimate target cannot be the moral option if precision guidance technology allows that target to be destroyed without harming noncombatants.

The question is what this implies for societies that lack such technology: Do they have the obligation to develop it, or may they not fight wars anymore? On just war reasoning, they have the moral obligation to use whatever means they have in the most moral way

possible; they do not, for example, have the moral right to target civilians directly or use weapons of mass destruction, which are both indiscriminate and disproportionate. Beyond this they are obliged to try to develop more discriminate and proportionate means of fighting within the capabilities available to them and taking into account their other responsibilities. If they cannot fight according to the minimum standards of noncombatant immunity and avoidance of weapons *mala in se*, by just war reasoning they should not fight. However, the question whether to engage in armed conflict with a technologically superior adversary is not one of morality but one of political prudence.

The moral obligation to develop more discriminating and proportionate means of fighting extends also to technologically advanced militaries. During the Vietnam War Paul Ramsey (1968) argued for the use of incapacitating gases as morally preferable to the use of weapons such as napalm and even bullets because those gases could incapacitate soldiers without killing them or producing lasting harm. The United States Defense Advanced Research Products Administration has been encouraging research and development in nonlethal weapons technologies. Just war reasoning tends to support the development and use of such weapons in principle, though any particular weapon, even if nonlethal, still would have to be judged by the standards of the *jus in bello*.

In summary, just war tradition places the use of armed force in a moral framework in which some technologies are good and others are bad. The criterion is whether a specific technology makes it possible to use military force, when justified and used on public authority for the common good, in ways that honor the principles of noncombatant immunity and minimal overall destructiveness.

JAMES TURNER JOHNSON

SEE ALSO *Aggression; Atomic Bomb; Augustine; Biological Weapons; Chemical Weapons; Military Ethics; Science, Technology, and Law; Thomas Aquinas; Weapons of Mass Destruction.*

BIBLIOGRAPHY

- Best, Geoffrey. (1980). *Humanity in Warfare*. New York: Columbia University Press. A historical study of the development of international laws on war, peace, and neutrality from the eighteenth through the twentieth centuries.
- Elshstain, Jean Bethke. (2003). *Just War against Terror*. New York: Basic Books. An argument for the justification of the war on terror from a just war standpoint.

- Johnson, James Turner. (1981). *Just War Tradition and the Restraint of War*. Princeton, NJ, and Guildford, Surrey, UK: Princeton University Press. A historical and thematic study of the just war tradition and its relation to the conduct of war from the Middle Ages through the twentieth century.
- Johnson, James Turner. (1999). *Morality and Contemporary Warfare*. New Haven, CT, and London: Yale University Press. A just war analysis of contemporary warfare.
- National Conference of Catholic Bishops. (1983). *The Challenge of Peace: God's Promise and Our Response*. Washington, DC: United States Catholic Conference. A landmark pastoral letter examining the Catholic tradition on war and peace in the context of the Reagan-era debate over nuclear weapons.
- Ramsey, Paul. (1961). *War and the Christian Conscience*. Durham, NC: Duke University Press. A landmark study drawing Christian just war theory from the idea of love of neighbor and applying this theory to nuclear war.
- Ramsey, Paul. (1968). *The Just War: Force and Political Responsibility*. New York: Charles Scribner's Sons. A collection of essays on political ethics, the idea of just war, and moral conduct applied to nuclear war and insurgency.
- Russell, Frederick H. (1975). *The Just War in the Middle Ages*. Cambridge, UK, and New York: Cambridge University Press. A thorough and detailed historical study of the development of the just war idea from the twelfth-century canonists through Thomas Aquinas and his circle in the late thirteenth century.
- Walzer, Michael. (1977). *Just and Unjust Wars*. New York: Basic Books. A reconstruction of the just war idea on the basis of philosophical analysis with historical illustrations, aimed at recapturing this idea for political and moral theory.
-