Just War Theory  
Opposition Brief by Joel Erickson



“War is bad in that it makes more evil people than it takes away.” –Immanuel Kant

The Stanford Encyclopedia of Philosophy enumerates the following criteria for dictating a just war.

* Just Cause: “The war is an attempt to avert the right kind of injury.”
* Legitimate Authority: “The war is fought by an entity that has the authority to fight such wars.”
* Right Intention: “That entity intends to achieve the just cause, rather than using it as an excuse to achieve some wrongful end.”
* Reasonable Prospects of Success: “The war is sufficiently likely to achieve its aims.”
* Proportionality: “The morally weighted goods achieved by the war outweigh the morally weighted bads that it will cause.”
* Last Resort (Necessity): “There is no other less harmful way to achieve the just cause.”

“Typically the jus in bello [justice in war] list comprises:

* Discrimination: “Belligerents must always distinguish between military objectives and civilians, and intentionally attack only military objectives.”
* Proportionality: “Foreseen but unintended harms must be proportionate to the military advantage achieved.”
* Necessity: “The least harmful means feasible must be used.”[[1]](#footnote-1)

Affirmed by numerous theologians and assimilated by Christian academia, just war theory presents a formidable challenge, particularly bolstered by its likely esteem in the eyes of your audience. This extensive brief outlines numerous arguments against just war theory, from illustrating its inconsistency to promoting pacifism.

OPP: Just War Theory

Survey\Summary of Counterarguments

“Against the Theory of the Just War,” BBC Ethics Guide, 2014. <http://www.bbc.co.uk/ethics/war/just/against.shtml>

“Some people argue that the Just War doctrine is inherently immoral, while others suggest that there is no place for ethics in war. Still others argue that the doctrine doesn't apply in the conditions of modern conflicts. Here are some of the arguments that have been put forward:

* All war is unjust and has no place in any ethical theory
  + morality must always oppose deliberate violence
  + Just war ideas tend to make violence OK, rather than restrain it
* War so disrupts the normal rules of society that morality goes out of the window.
* The just war theory is unrealistic and pointless
  + in a conflict ‘the strong do what they will, and the weak do what they must’
  + the decision to wage war is governed by realism and relative strength, not ethics
  + morality thus has no use in war
* if God 'requires us to make war' it would be wrong to disobey him, regardless of the requirements of the Just War theory
  + in the Bible God is frequently on the side of those waging wars that don't conform to just war theory
* The overriding aim of war should be to achieve victory as quickly and cheaply as possible
  + if the cause is just, then no restrictions should be placed on achieving it
  + the rules of conduct of war are mere camouflage because they are always over-ruled by 'military necessity'
* the existence of nuclear, chemical or biological weapons of mass destruction requires a different approach to the problem
  + these weapons can only be used for unrestricted war and so the condition of proportionality can't be met if they are used
  + using these weapons guarantees civilian casualties, and thus breaks a basic rule of the conduct of war
  + since these weapons can't be uninvented they render just war theory pointless
  + in recent times it has become possible to target such weapons quite precisely, so the problems above only apply to indiscriminate versions of such weapons
  + the ethics of weapons of mass destruction are a different topic
* terrorists are inherently uninterested in morality, so following any ethical theory of war handicaps those whom terrorists attack - thus a different approach is needed.”

Morality in war overridden by state interest of military exigency

Alexander Moseley [lectured in philosophy before setting up a private educational service in the UK. He is the author of several books, including an educational biography of John Locke, An Introduction to Political Philosophy, and An A-Z of Philosophy], "Just War Theory." Internet Encyclopedia of Philosophy [The submission and review process of articles is the same as that with printed philosophy journals, books and reference works. The authors are specialists in the areas in which they write, and are frequently leading authorities. Submissions are peer reviewed by specialists according to strict criteria. The peer review process is rigorous and meets high academic standards]. <http://www.iep.utm.edu/justwar/>

“The continued brutality of war in the face of conventions and courts of international law lead some to maintain that the application of morality to war is a nonstarter: state interest or military exigency would always overwhelm moral concerns. But there are those of a more skeptical persuasion who do not believe that morality can or should exist in war: its very nature precludes ethical concerns. But as there are several ethical viewpoints, there are also several common reasons laid against the need or the possibility of morality in war. Generally, consequentialists and act utilitarians may claim that if military victory is sought then all methods should be employed to ensure it is gained at a minimum of expense and time. Arguments from 'military necessity' are of this type; for example, to defeat Germany in World War II, it was deemed necessary to bomb civilian centers, or in the US Civil War, for General Sherman to burn Atlanta.”

Skeptics argue war’s nature precludes ethical concerns

Alexander Moseley [lectured in philosophy before setting up a private educational service in the UK. He is the author of several books, including an educational biography of John Locke, An Introduction to Political Philosophy, and An A-Z of Philosophy], "Just War Theory." Internet Encyclopedia of Philosophy [The submission and review process of articles is the same as that with printed philosophy journals, books and reference works. The authors are specialists in the areas in which they write, and are frequently leading authorities. Submissions are peer reviewed by specialists according to strict criteria. The peer review process is rigorous and meets high academic standards]. <http://www.iep.utm.edu/justwar/>

“The continued brutality of war in the face of conventions and courts of international law lead some to maintain that the application of morality to war is a nonstarter: state interest or military exigency would always overwhelm moral concerns. But there are those of a more skeptical persuasion who do not believe that morality can or should exist in war: its very nature precludes ethical concerns. But as there are several ethical viewpoints, there are also several common reasons laid against the need or the possibility of morality in war. Generally, consequentialists and act utilitarians may claim that if military victory is sought then all methods should be employed to ensure it is gained at a minimum of expense and time. Arguments from 'military necessity' are of this type; for example, to defeat Germany in World War II, it was deemed necessary to bomb civilian centers, or in the US Civil War, for General Sherman to burn Atlanta.”

Recent innovation in weapons renders morality irrelevant

Alexander Moseley [lectured in philosophy before setting up a private educational service in the UK. He is the author of several books, including an educational biography of John Locke, An Introduction to Political Philosophy, and An A-Z of Philosophy], "Just War Theory." Internet Encyclopedia of Philosophy [The submission and review process of articles is the same as that with printed philosophy journals, books and reference works. The authors are specialists in the areas in which they write, and are frequently leading authorities. Submissions are peer reviewed by specialists according to strict criteria. The peer review process is rigorous and meets high academic standards]. <http://www.iep.utm.edu/justwar/>

“However, intrinsicists (who claim that there are certain acts that are good or bad in themselves) may also decree that no morality can exist in the state of war: they may claim that it can only exist in a peaceful situation in which, for instance, recourse exists to conflict resolving institutions. Alternatively, intrinsicists may claim that possessing a just cause (the argument from righteousness) is a sufficient condition for pursuing whatever means are necessary to gain a victory or to punish an enemy. A different skeptical argument, one advanced by Michael Walzer, is that the invention of nuclear weapons alters war so much that our notions of morality—and hence just war theories—become redundant.”

Just war is not realism; pacifism is

Hauerwas, Stanley [Gilbert T. Rowe Professor of Theological Ethics at Duke University. His most recent books are War and the American Difference: Theological Reflections on Violence and National Identity and Hannah's Child: A Theologian's Memoir], "Just how realistic is just war theory? The case for Christian realism," ABC Religion and Ethics, 2 September 2013. <http://www.abc.net.au/religion/articles/2013/09/02/3839028.htm>

“Realism is used to dismiss pacifism and to underwrite some version of just war. But it is not at all clear that the conditions for the possibility of just war are compatible with realism. At least, it is not clear that just war considerations can be constitutive of the decision-making processes of governments that must assume that might makes right. Attempts to justify wars begun and fought on realist grounds in the name of just war only serve to hide the reality of war. Yet war remains a reality. War not only remains a reality, war remains for Americans our most determinative moral reality. How do you get people who are taught they are free to follow their own interests to sacrifice themselves and their children in war? Democracies by their very nature seem to require that wars be fought in the name of ideals that make war self-justifying. Realists in the State Department and Pentagon may have no illusions about why American self-interest requires a war be fought, but Americans cannot fight a war as cynics. It may be that those who actually have to fight a war will - precisely because they have faced the reality of war - have no illusions about the reality of war. But those who would have them fight justify war using categories that require there be a ‘next war.’ Pacifists are realists. Indeed, we have no reason to deny that the "realism" associated with Augustine, Luther and Niebuhr has much to teach us about how the world works. But that is why we do not trust those who would have us make sacrifices in the name of preserving a world at war. We believe a sacrifice has been made that has brought an end to the sacrifice of war.”

The paradox of just war theory

Jeff McMahan [professor of philosophy at Rutgers University. He is the author of “The Ethics of Killing: Problems at the Margins of Life” and “Killing in War.” He has several books forthcoming, including “The Values of Lives,” a collection of essays], "Rethinking the ‘Just War,’ Part 2." The New York Times. <https://opinionator.blogs.nytimes.com/2012/11/12/rethinking-the-just-war-part-2/>

“I turn now to the critique of the Theory. As I noted earlier, just war theory distinguishes between the principles of jus ad bellum (resort to war) and those of jus in bello (conduct in war). According to the Theory, the latter are independent of the former, in the sense that what it is permissible for a combatant to do in war is unaffected by whether his war is just or unjust. Whatever acts are permissible for those who fight in a just war ('just combatants') are also permissible for those ('unjust combatants') who fight for aims that are unjust. Combatants on both sides have the same rights, permissions and liabilities — a view commonly known as the 'moral equality of combatants.' According to this view, if we accept that it is permissible for just combatants to participate in warfare, we must also accept that the same is true of unjust combatants. Both just combatants and unjust combatants act impermissibly only if they violate the rules of jus in bello — that is, only if they fight in an impermissible manner. This has one immediately paradoxical implication: namely, that if unjust combatants fight without violating the rules governing the conduct of war, all their individual acts of war are permissible; yet these individual acts together constitute a war that is unjust and therefore impermissible. But how can a series of individually permissible acts be collectively impermissible?”

Just war theory cannot resolve this paradox

Jeff McMahan [professor of philosophy at Rutgers University. He is the author of “The Ethics of Killing: Problems at the Margins of Life” and “Killing in War.” He has several books forthcoming, including “The Values of Lives,” a collection of essays], "Rethinking the ‘Just War,’ Part 2." The New York Times. <https://opinionator.blogs.nytimes.com/2012/11/12/rethinking-the-just-war-part-2/>

“To resolve this paradox, the Theory has to claim that the principles of jus ad bellum apply only to the state, or the government that represents it. Hence only the members of the government responsible for decisions about the resort to war act impermissibly when a state fights an unjust war. Suppose, for example, that the armies of Aggressia have unjustly invaded and conquered neighboring Benignia. Aggressian soldiers never once violated the principles of jus in bello. But to defeat the Benignian army, it was necessary for them to kill more than a million Benignian soldiers, most of whom were civilians when the invasion began and enlisted in the military only to defend their country from Aggressia. According to the Theory, the only people who have done anything wrong in bringing about this vast slaughter are a handful of Aggressian political leaders who spent the war in their offices and never killed anyone. This is incompatible with what we believe about killing in other contexts. Normally, the perpetrator of an act of killing is responsible for the victim’s death to at least as high a degree as an accessory who may have paid or pressured him to do it. Yet the Theory holds that in an unjust war fought in accordance with the principles of jus in bello, only the accessories who have instigated the killing (the political leaders) are responsible for it and have therefore done wrong, while the perpetrators (the unjust combatants) bear no responsibility and have done no wrong. But how can unjust combatants act permissibly when, as the Theory concedes, their ends are unjust, their means include the intentional killing of people who have done no wrong, and their action also kills innocent bystanders as a side effect? They may, of course, be excused — that is, they may not be culpable — if they mistakenly though blamelessly believe that their war is just, or if they fight under irresistible duress. But that is quite different from acting permissibly in the objective sense, which is what the Theory claims they do.”

By extension, just war theory would permit fighting on behalf of the Nazis

Jeff McMahan [professor of philosophy at Rutgers University. He is the author of “The Ethics of Killing: Problems at the Margins of Life” and “Killing in War.” He has several books forthcoming, including “The Values of Lives,” a collection of essays], "Rethinking the ‘Just War,’ Part 2." The New York Times. <https://opinionator.blogs.nytimes.com/2012/11/12/rethinking-the-just-war-part-2/>

“The Theory’s assurance that unjust combatants do no wrong provided they follow the rules makes it easier for governments to initiate unjust wars. The Theory cannot offer any moral reason why a person ought not to fight in an unjust war, no matter how criminal. If a young German in 1939 had consulted the Theory for guidance about whether to join the Wehrmacht, it would have told him that it was permissible to participate in Nazi aggression provided that he obeyed the principles of jus in bello (for example, by refraining from intentionally attacking civilians). To the extent that the theory has shaped our ways of thinking about the morality of war, it has enabled soldiers to believe that it is permissible to kill people who are merely trying to defend themselves and others from unjust aggression, provided the victims are wearing uniforms and the killing is done under orders from appropriate authorities.”

Just war differentiation between innocents and non-innocents justifies all defensive violent action

Jeff McMahan [professor of philosophy at Rutgers University. He is the author of “The Ethics of Killing: Problems at the Margins of Life” and “Killing in War.” He has several books forthcoming, including “The Values of Lives,” a collection of essays], "Rethinking the ‘Just War,’ Part 2." The New York Times. <https://opinionator.blogs.nytimes.com/2012/11/12/rethinking-the-just-war-part-2/>

“Traditional theorists seek to justify their extraordinary claim — that those who fight and kill in an unjust war never do wrong provided they kill in accordance with the rules — by appealing to the familiar idea that, while it is not permissible to attack people who are innocent, it can be permissible to attack and kill those who are noninnocent. But the Theory uses these words in a special way. Innocent means “unthreatening,” so that in war non-combatants are innocent while all combatants are noninnocent. Thus, in Walzer’s words, the right not to be attacked “is lost by those who bear arms…because they pose a danger to other people.” This is true of the just and the unjust alike. “Simply by fighting,” Walzer claims, they lose “their title to life…even though, unlike aggressor states, they have committed no crime.” According to this view, all violent action that is defensive is self-justifying, assuming it is also necessary and proportionate. This account of defensive rights accords no significance to the distinction between wrongful aggressors and their victims, or between unjust and just combatants. Each has a right of defense against the other. Such a view has no plausibility outside the context of war. If a police officer, for example, is about to shoot a murderer on a rampage, the murderer has no right to kill the officer in self-defense, even if that is the only way to save himself. In this and other situations outside of war, the morality of defense is asymmetrical between wrongful aggressors and innocent victims (and third parties who attempt to defend them). While the victim has both a right against attack and a right of defense, the aggressor has neither. This asymmetrical understanding of the morality of defense is found even in the traditional doctrine of jus ad bellum, for the Theory accepts that the morality of defense among states is asymmetrical. It is only in the doctrine of jus in bello, which applies to combatants, that the morality of defense is symmetrical. The Theory thus comprises two distinct accounts of the morality of defense — an asymmetrical account for states and a symmetrical account for combatants.”

Just war theory can create conditions for killing innocents

Jeff McMahan [professor of philosophy at Rutgers University. He is the author of “The Ethics of Killing: Problems at the Margins of Life” and “Killing in War.” He has several books forthcoming, including “The Values of Lives,” a collection of essays], "Rethinking the ‘Just War,’ Part 2." The New York Times. <https://opinionator.blogs.nytimes.com/2012/11/12/rethinking-the-just-war-part-2/>

“According to the second, symmetrical account, all combatants are liable to defensive attack simply because they pose a threat to others. Curiously, however, they are in general liable to attack only by other combatants, not by civilians. Why? Traditional theorists might claim that civilians can attack defensively only when they are being intentionally attacked, in which case the attacking combatants are indeed liable to defensive attack by the civilians. Yet there are actually three other ways in which attacks by civilians against combatants can be defensive:

— Civilians might attack combatants to defend themselves against being harmed as an unintended effect of the combatants’ military action — that is, to prevent themselves from becoming “collateral damage.”

— Civilians might attack enemy combatants in defense of combatants on their own side. Not all defense is self-defense.

— Civilians might attack combatants to prevent themselves from being harmed by the achievement of the adversary’s war aims, for example to defend their property or liberty, just as soldiers do when they fight in defense of territory or political independence.

“The issue of self-defense by civilians against combatants has received only scant attention in the just war tradition. But since it would be highly implausible to suppose that civilians have no right of self-defense against an intentional and wrongful attack by combatants, I will assume that the Theory permits this form of defense.”It is also generally assumed that it prohibits the last of these types of defense, primarily on the ground that self-defense in these circumstances is tantamount to participation in the war without identifying oneself as a combatant, and tends to undermine respect for the distinction between combatants and noncombatants. (The second and third types have been so little discussed in the tradition that I will not consider them here.) Yet if the Theory recognizes that civilians have a right to defend themselves against soldiers who will otherwise intentionally physically harm them, consistency demands that it also recognize that they are permitted to defend themselves against soldiers who will otherwise expose them to the harms involved in defeat, such as rule by an alien regime that may steal their land and other possessions, dismantle their political institutions, and imprison or kill them if they later resist. In part because these latter harms can be long-lasting, they can be more serious than those that civilians might suffer from an intentional physical attack, provided the attack is not lethal. How could the civilians have a right of defense against a lesser harm but not against a greater harm inflicted by the same people?

“Although the Theory permits civilians to defend themselves against intentional attack by combatants, it also reduces their moral status if they do so. For if civilians attempt to defend themselves, they then pose a threat and hence satisfy the Theory’s criterion of liability to attack. Thus, by engaging in self-defense, they cease to be innocent and become legitimate targets. It does not matter that the only reason they pose a threat is that the unjust attack to which they have been subjected has forced them to try to defend themselves. If that exempted them from liability for posing a threat, it would also exempt just combatants who fight in defense only because they and their innocent compatriots have been unjustifiably attacked. Defenders of the Theory will doubtless recoil from the conclusion that by intentionally attacking civilians, combatants can create conditions in which they may then permissibly kill those same civilians in self-defense. But that is what their view implies.”

1. Lazar, Seth, "War", The Stanford Encyclopedia of Philosophy(Spring 2017 Edition), Edward N. Zalta (ed.), <https://plato.stanford.edu/archives/spr2017/entries/war/> [↑](#footnote-ref-1)