

Just war theory

The aggression involved in war is at odds with basic values of civilization. It attacks people's rights to life, security, subsistence, peace and liberty. However, just war theory claims that war can, under certain conditions, be morally justified. Pacifism argues that war is never morally justified. Realism says that moral concepts cannot be applied to questions of war (or foreign policy generally).

Just war theory divides into three parts:

1. jus ad bellum – the justice of resorting to war;
2. jus in bello – just conduct in war;
3. jus post bellum – justice at the end of war.

JUS AD BELLUM

The following six criteria have been suggested for a war to be just. The first three are deontological, the last three are based on securing the best consequences.

1. War must be in a just cause. There is disagreement over what constitutes a just cause. Examples offered are self-defence, the defence of others from aggressive attack, the protection of innocent people from aggressive regimes, or corrective punishment for aggression past action. All involve the 'resistance of aggression', the violation of basic rights by use of armed force.

We can also argue that only a legitimate state can begin a war with just cause. To be legitimate, a state must be recognized as legitimate by its citizens and by other states; it must not violate the rights of other legitimate states; and it must respect the basic rights of its citizens.

2. The right intention for fighting the war is because it is in a just cause. Any other intention, e.g. material gain, undermines the justice of the war.
3. The decision to go to war must be made with the proper authority (usually laid down in the state's constitution) and by a public declaration.
4. The declaration of war must be a last resort, following the exhaustion of all plausible alternatives means to resolving the conflict.
5. A declaration of war can only be just if the state can foresee a probability of success in resolving the conflict through war. Violence without likely gain cannot be justified.
6. The response of declaring war must be proportionate, i.e. the good that can be secured through war must outweigh the evil that will most likely occur. The end must justify the means. And in this calculation, the state must take into account not just the costs and benefits to itself, but those that will affect everyone involved in the war (e.g. including enemy casualties).

JUS IN BELLO

Jus in bello means justice in war, and has traditionally been concerned with the treatment of the enemy. The following six rules are a general summary:

1. Weapons prohibited by international law must not be used.
2. There is a distinction between combatants and non-combatants. Only combatants may be targeted. It is wrong to intend the deaths of non-combatants. Some philosophers argue that it is wrong even to intend the deaths of combatants, as only the minimum use of force is legitimate.
3. Armed forces must use proportional force, i.e. proportional to achieving the end.
4. Prisoners of war must be treated well, because once captured, they have ceased to be the threat to life and security.
5. No weapons or means of war that are 'evil in themselves' are permitted. Examples include ethnic cleansing and mass rape.
6. Armed forces are not justified in breaking these rules in response to the enemy breaking these rules.

JUS POST BELLUM

There is little agreement on the rules of jus post bellum. However, we can apply a number of the values expressed in jus ad bellum and jus in bello to form an outline.

1. The rights whose violation justified the war should be secured.
2. Just as the declaration of war must be publicly made by the proper authority, so must the declaration of peace.
3. Proportionality governs both jus ad bellum and jus in bello, and so it should govern the peace settlement as well. It should be reasonable, not a form of revenge, which will likely fuel resentment and further aggression.
4. The discrimination between combatants (including political leaders) and non-combatants still applies when seeking punishment. Public, international trials for war crimes should be conducted.

A fifth set of considerations relates to the rehabilitation of the aggressor state. Does justice require or permit the state to be disarmed? Does it allow for training in respect for human rights, or even political institutional reform to secure this?

CAN THERE BE A JUST WAR?

'Realism' objects that justice applies within the boundaries of a state only. In relation to each other, states act only in terms of self-interest. This claim can take either of two forms.

According to 'descriptive realism', states are simply not motivated by justice. They are motivated by the national interest, including power and security. However, it seems unlikely that states have no concern with justice – they are created and sustained by individuals (and a national community) who are concerned with justice.

According to 'prescriptive realism', it is prudent for states to act without regard to morality in foreign policy. It should respect the conditions laid down by just war theory only if doing so would be in the best interests of a state to, e.g. if doing so would lead to a more peaceful world.

Pacifism argues that war is always unjust. Aggression by a state does not need to be resisted by war, as there are other means, less destructive but just as effective, such as a very widespread campaign of civil disobedience and international sanctions. However, just war theorists will reject this. There can be times when these responses work (Gandhi's campaign to free India from the British Raj; Martin Luther King's campaign for black civil rights) – but they only work when the aggressor is sensitive to claims of justice. But what of an aggressor that responds to such campaigns with ethnic cleansing? War may be the only means to resist, and can therefore be justified.

A different defence argues that war always involves violating our duties. One common response is that pacifists are too concerned with 'keeping their hands clean', with protecting their moral purity in a world that may make this impossible. But this response is unconvincing, as pacifists are no different from their opponents in arguing that we ought to do what is just. If one accepts that wars are not just, but nevertheless necessary, this is to adopt realism, not just war theory.

But does war always involve violating our duties? Most theorists would agree that, in general, there is no duty not to kill another human being who is threatening one's life. Many of our deontological intuitions support this view. If Adam attacks Barry, it would be unfair to allow Adam to gain at Barry's cost and Adam is responsible for the situation. So it would be wrong to prohibit Barry from resisting Adam, and Barry commits no wrong in resisting. The force Barry may use should be proportionate – so if Adam is threatening Barry's life, Barry may kill Adam if no other option is available.

However, the pacifist can respond that no actual war has or can meet the conditions for being just.

ASYMMETRIC WARS

An asymmetric war is one in which the two sides differ significantly in military resources or tactics. It may differ from 'normal' or symmetric war only in that one state is significantly weaker than the other; or it may involve one side not being a state or even a politically recognised body; or it may involve tactics of unconventional warfare, e.g. guerrilla warfare. Examples, therefore, are very wide-ranging, from the American Revolution of 1776 (a people v. an imperial force), World War II once the USA acquired the nuclear bomb, to the recent conflict between Israel and Palestinians in Gaza and the two Gulf Wars of 1990 and 2003.

A number of asymmetric wars are revolutionary, seeking to overthrow or secede from a political authority. For this to be a just cause – the first condition of a just war – the political authority needs to be illegitimate, and probably also needs to treat its citizens aggressively. Holy war – wars intended to spread belief in a particular religious faith or instate a theocratic government – does not meet this criterion.

Asymmetric wars suggest two changes to just war theory. First, if there can be just wars in which one party is not a state, then the declaration of war need not be made by a 'proper authority' nor by a legitimate state. Second, we may argue that, e.g. oppressed people have the right to resist an oppressive state even if they are unlikely to succeed. With individual self-defence, my right to self-defence does not depend on whether my attempts to defend myself are likely to succeed, so why should this condition apply in

cases of war? And indeed, others may legitimately come to my aid without meeting this condition as well. What matters is the justice of resisting aggression.

We can object that such a war will lead to misery without benefit. But in response, we could say that the people waging the war in resistance to aggression already face misery without benefit.

Proportionality

In many asymmetric wars, one side has far greater military might than the other. Is it required to use force only proportional to the force used by the other side? Just war theory says that both the declaration of war and the force used should be proportional to the end, not to the opposition's military ability. (Of course, the opposition's military ability will affect the degree of harm it can threaten or inflict.)

Under *jus ad bellum*, the degree of force that is justifiable is proportionate to the harm that is being threatened, and which the war seeks to avoid. However, a different reading of proportionality can be taken from *jus in bello*, viz. that military action must not use more force than is necessary to achieve their ends of eliminating the threat of harm. In asymmetric wars, e.g. if one side uses guerrilla tactics, this can be very difficult to achieve. To end the war, the military may need to use much greater force than seems proportional to the harm threatened.

This conflict between these two interpretations of proportionality is illustrated by the debates regarding civilian deaths in the Israel-Palestine situation. In responding to civilian deaths intentionally caused by rockets fired into Israel, can Israel be justified in unintentionally, but predictably, causing far more civilian deaths in Palestine through the use of tanks and bombs? The aim is to secure Israel's borders against foreign attack and end the deaths of Israeli civilians. Were Israel to pursue these aims by limiting the destructiveness of its response to that caused by the rockets, it can be argued, the aims would never be achieved. But using even the minimum amount of force necessary to achieve these aims would mean deploying a force that seems disproportionate to the harm threatened by the rockets.

The Israeli government may argue that in using no more force than necessary to secure its ends, and by not intentionally causing civilian deaths, it complies with the rules of *jus in bello*. In response, it can be objected that even if this is true, if the destruction caused by its actions are far greater than the destruction it seeks to prevent, it fails to comply with the rules of *jus ad bellum*. On this view, war is not the morally appropriate response to the attacks in the first place.