The Just War Tradition and Utopian Political Thought

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To what extent is the Just War doctrine Utopian? Discuss with reference to examples.

"Before Venus, censorious; before Mars, timid".[1]

Man is the moral animal. As a species capable of foregoing primal pursuits in favour of greater and more abstract ideals, we seek to impose order on that which itself is the product of the loss of control over human behaviour. As human civilisations began to flourish and come into contact with one another, we began to institutionalise the act of combat as a key mechanic of societal development congruent with the apocalyptic thinking innate in utopianism[2], whether for aims such as territorial expansion, exercise of sovereignty, protection of national interests, or establishment of a unified citizenry. Opening his timeless treatise *Man, the State and War*, Kenneth Waltz reminds us that the primary factor for the origination of war is "from selfishness, from misguided aggressive impulses, from stupidity",[3] thereby presenting the implication that war is an inevitable flaw that stems from the inherent incompleteness of human nature. However, similar to the manner in which the unwieldy egocentrism of human behaviour is partially tamed for the purposes of establishing civilised societies, certain confines must be constructed in order to maintain the cruelty of warfare to an alleviated extent commensurate to the overall benevolence of mankind's progress as a species. To this end, the 'civilisation' of warfare is a supremely high-minded endeavour; in Thomas More's iconic work *Utopia*, the idyllic portrayal of the eponymous polity is of one that eschews unnecessary conflicts except for worthy goals such as self-defence, protection of allies, and the liberation of those oppressed by the unjust.[4] In this respect, More's conception of the way in which a superior state would behave in war was remarkably modern, and far surpassed the conventions of warfare and foreign relations of his era. It is also notable that utopian political thinking, both classical and contemporary, does not predicate the absolute elimination of war and treats it as an inexorable evil to be mitigated and controlled, if not consciously tolerated. To err on the side of amateur sentimental poeticism, it is as if the proclivity to create strife is somehow encoded into the holistic makeup of mankind, and the idealistic prosperity of human civilisation is almost unthinkable in the absence of considerations of conflict. Therefore the moral reality of war has been a constant burden inflicted on mankind's efforts to better itself, as an evolving problem to an evolving species, and the history of *jure belli* continues as a lycanthropic struggle for supremacy within human nature, between the base instincts that fuel war and the higher rationalism that seeks to govern war.

This essay seeks to examine the evolutionary narrative of the just war doctrine, and its convergence and compatibility with utopian political thought. The Western conception of the just war arose essentially from the theological aspect, as organised religion provided the primary source of moral guidance throughout history. Although antiquity theorists such as Cicero and Thucydides provided the basis, it was arguably the works of early Christian theologians that laid the broader foundation of systemised just war theory.[5] Initial thoughts on the just war revolved around justifications for a polity to enter into conflict; in other words, *jus ad bellum* (lit. "right to war"). For example, the canon of Christian thinking on just war began with Augustine and continued with Aquinas and subsequent theorists in identifying the main conditions for a righteous war; just cause, right authority and right intention.[6] As mentioned briefly in the introduction, just cause essentially entails the correction of wrongdoing through aims such as self-defence or recovery of stolen property. However, even this definition is an evolved construct shaped by the development of concepts such as the sovereignty and inalienable rights of polities, since Aquinas acknowledged no

intrinsic right for a tyrannical regime to defend itself[7], in keeping with the absolutist theological morality prevalent throughout the Old Testament. Indeed, early just war tradition was largely moralistic in flavour, centuries before the concept that there could even be certain mutual principles to serve as directives for the conduct of foreign relations and war, let alone any notion of international law.[8] In contrast, subsequent classical conceptions of just cause developed alongside changes in the modes of political order to eventually imbue each state with a set of rights, not unlike those enjoyed by an individual under state law. For this legalistic system, the justification for war consists of violations with regards to the inherent rights of each state entity. In this manner, classical theories of just war treat each political community as the primary subject "in pursuit of irreducibly social ends",[9] which tentatively corresponds to the main assumption of the state as the main actor in realist international relations theory. Classical realism, characterised by theorists such as Thomas Hobbes, contend that since morality requires the existence of a sovereign to administer the good and bad consequences of good and bad cases of moral behaviour, nation-states cannot be moral due to the absence of a supranational authority,[10] a thematic concept shared by modern realists such as Waltz.[11] Therefore states are free to act in any desired manner, and the attempt to enforce legal or moral stipulations with regards to any aspect of war, since sovereign states ontologically rejected subjugation under such arbitration.[12]

Instead, the concept of the just war evolved naturally from internal factors of justification, which went on to become mutual expectations for reciprocity between polities entering into war with one another, concerning basic principles such as the return of prisoners of war, safeguarding the innocents, etc. For example, early necessity for *jus ad bellum* arose from the need of the sovereign – or leviathan, to borrow the Hobbist concept – to gain legitimacy and support among his subject in the eventuality of war, and hence emphasised the sovereign's monopolised authority of war-making, the intended spirit with which the military action is sanctioned, and the probability of the desired successful outcome. In the early days of Christian just war theory, scholars such as Aquinas and Francisco de Vitoria agreed that aside from passive goals such as self-defence, polities were entitled to 'punish' others for wrongdoings.[13] Despite the moderation of such seemingly arbitrary measures of rights to war, it is arguable that ironically, justifications for pre-emptive war have persisted throughout contemporary history, as potentially exemplified by cases such as the Vietnam War, the second Iraq War, and the Korean War, which also demonstrate the subjective and relative nature of the enterprise of justifying offensive or pre-emptive war. The leading scholar of the libertarian theory of justice, Robert Nozick offers a scientific perspective to justify pre-emptive war in his foremost work,*Anarchy, State, and Utopia*. In some fundamental ways, Nozick follows the amoral conventions of classical realist thinking by taking traditional balance of power calculations into consideration when theorising acceptable circumstances for preventive war; postulating the hypothetical yet real scenario of an imminent use of a newly-developed weapon of mass destruction, Nozick's theoretical formula for pro-active engagement relies upon the offensive intention of the potential enemy state as the probability of the use of the aforementioned weapon, which rhetorically resembles more recent models of state behaviour such as defensive realist scholar Stephen Walt's 'balance of threat' concept. Crucially, Nozick places the focus of just war actions on the intention of the perpetrator; "An act is not wrong and so cannot be prohibited if it is harmless without a further major decision to commit wrong".[14] Interpreting the statement inversely, we are able to infer that an act with the connotation of further wrongdoing does constitute a subject of prohibition. This idea is essentially relevant to the post-realist just war discourse, in particular the establishment of defensive war against *iniuria non facta* (lit. "wrong not perpetrated") as permitted by legalist Hugh Grotius.[15]

In contrast to the realist doctrine of just war that rejects the existence of supranational, universalist and utopian principles with regards to the conduct of war, legalist just war theory acknowledges (or postulates, depending on the perspective) that states function within a system of shared legal and conventional norms[16] and that while war itself is not inherently right or wrong, it ought to be regulated for the purpose of maintaining order on the international stage. However, the international law envisioned by Hugh Grotius, a pre-Enlightenment theorist on war ethics, demonstrated a more contractual system of dynamic interactions as opposed to a universal system of law applicable to all sovereign states as state law is to individuals.[17] Therefore Grotius' legalist just war strictly identifies itself as separate from the moral conceptions of the just war, since morality among states connotes a transcendental authority, which does not exist as discussed previously. The Utopia in Thomas More does not require the administration of such superior authority, since its own worldview refutes the notion that all states are equal, and instead views itself as the superior authority whose actions are justified by the same idea. The Utopia featured in the original novel is a positively hegemonic force, compared to which all other political communities, both allies and

enemies, are explicitly or implicitly described as inferior. Moreover, the utopian state embodies and almost monopolises the just use of force, since its allies are tributary states in essence, which were freed from oppression by Utopia.[18] In the sense that Utopia inherently ascribes a certain set of highly idealistic principles to its actions, it would appear to adhere to the natural law reasoning of just war theory, which presents a much more organic standpoint on the development of law. Natural law is the theoretical consideration of morality as the basis of positive law,[19] which is purposely created to create order. The origins and postulates of natural law are ambiguous, yet a broad range of thinkers have emphasised its importance over the course of history and although the seemingly divine or cosmic attribution of natural law may appear to contradict the humanist premise of utopianism, the fact that the application of natural law is often not realised in actuality but instead remains in the "paradisiacal imagination" of its adherents keeps it a utopian ideal.[20]

Testament to the notion that just war theory is the product of mankind's desire to conduct warfare on more civilised terms, Islamic political thought also contains aspects that relate to the justification and just conduct of war. For Muslims, the concept of *jihad* is central to any actual warfare. As the divine directive conveyed through the prophet Mohammed and the sacred Qur'an, the idea of the internal and external struggle lends itself naturally to the natural law that governs the behaviour of Muslims with regards to war. Since Islam fundamentally does not distinguish between the state and religion, the Islamic polity is its own moral guidance with regards to the conduct of war and foreign relations. Central to the Islamic notion of just war are the two concepts that delineate the Muslim worldview; in a manner akin to Samuel Huntington's clash of civilisations model, Islam views the world in a somewhat monochromatic manner, dividing it into *dar al-Islam* (lit. "house of Islam") and *dar al-harb* (lit. "house of war"). The former denotes the territory (amalgamation of the geographical sense of the word as well as the spiritual and cultural aspects) occupied by believers of Islam in which Muslim worship is unhindered, while the latter denotes all other territories in which Islam is not the established way of life. Although a number of other worldview concepts exist to indicate concepts such as Muslim communities in non-Muslim polities, the two expressions are useful in highlighting Islam's embattled position towards the outside world. By dividing mankind into believers and non-believers (*kafir*), political Islam creates a kind of insular, fortified mentality, more colloquially an "us vs. them" dichotomy. Naturally, the Islamic worldview is more nuanced than this dualistic caricature, and obviously is not limited to practicing social identity theory on a civilisational scale. Certainly, the case can be made with credibility that political Islam is a utopian project; from the aim to create a universally unified citizenry in the form of the *umma*, as well as to establish a unified territory under the caliphate and eschatological beliefs such as the return of the Mahdi as an apocalyptic and rejuvenating event horizon.

However, although political Islam remains as potent a movement as ever, the near-century since the dissolution of the last caliphate in the form of the Ottoman Empire resulted in the erosion of cohesiveness in the body politic. Just war doctrine traditionally necessitates one to have the right authority in order to engage in war, with its legitimacy cognisant among the public, and in the absence of a reigning caliph or imam, directives such as Osama bin Laden's 1998 *fatwa* to compel hostility among Muslims against the United States failed to gather legitimate status, since bin Laden was neither of a political nor clerical standing to initiate such a movement.[21] Unlike Christianity in today's secular Western democracies, Islam theoretically maintains the institutional place for centralised convergence between political and religious authority. For example, Shia Islam remains deeply committed to the theocratic figure of *wilayat-e faqih* (lit. "guardianship of Islamic jurisprudence"), a role which is conceptually close to the Western idea of the sovereign and yet transcends the national boundary of Iran to exercise authority over all Shiites.[22] Since the *wali al-faqih* is assumed to receive his authority from the Imam and ultimately the Prophet himself, the will of the *wali al-faqih* automatically retains most prerequisites of the just war, including the right intention, right authority, just cause, and popular support. However, the interfusion of the fundamental Islamic polity and the Westernised nation-state system has led to a disconnect between the religious authority of the Shia leader and the political will of the governments presiding over Shiite populations. To this end, although the Shiite paramilitary organisation Hezbollah will draw directives from the Ayatollah in Iran, it is implicit that it will refuse to do so if such a directive is in conflict with the national interests of Lebanon.[23] Overall, contemporary political Islam is a movement towards revivalism of old, fundamental values that are perceived to have been eroded by the rise of Western hegemony. In response to the corrupting influences of Western unbelievers, sects such as the Wahhabi in particular, primarily based in Saudi Arabia, stress the concept of *jihad* as resistance. In this respect, the dualistic division of the world allows an easy application of *jus ad bellum,* even if *jus in bello* is a different matter altogether, with regards to controversial issues

such as terrorism and insurgency warfare. In any case, although the theological grounds for just war may appear to differ from the moral one, there is a substantial overlap between the two, and it is even debatable whether there exists a clear delineation, especially in the case of Islam.

The theoretical foundation of contemporary just war discourse is set in large part by Michael Walzer, a prominent US scholar in political ethics. Walzer establishes the 'war convention' as a set of "articulated norms, customs, professional codes, legal precepts, religious and philosophical principles, and reciprocal arrangements" that provide the guidelines of judgment towards conduct in warfare.[24] Although classical studies initially identified two criteria through which belligerents are judged – the reasons for going to war and the means of conducting warfare – subsequent developments in the theoretical field have since assigned equal importance to the concept of*jus post bellum*, justice in the aftermath of war. As opposed to realism, in which *jus ad bellum* is not a requirement, political ideologies such as socialism, fascism or neo-liberalism espouse the respective visions of utopia as both the goal and the justification of war. Therefore such doctrines require careful consideration of *jus post bellum*, since the resulting circumstances of war must be shaped to befit the prescriptive ideology; for the same reason, the United States could not leave a decimated Iraq behind after the initial 2003 invasion and was ideologically obligated to shape the state into a model palatable with the neo-liberal inclinations of the Bush administration.

To espouse the idea of the just war is to imbue the feral and fratricidal act with a veneer of civility. By binding the unruly nature of conflict to an orderly set of conventions, mankind seeks to mitigate the inhumane fallout of the human condition. Justifying war may be a self-satisfactory undertaking and yet, in this act, we continually identify the ends and the means that define the benign ideals underlying the progress of human civilisation. The prevalence of ethical and legalistic aspects in the consideration of conflicts even contributed to the emergence of a new type of conflict: peacekeeping operations. This type of hybridised conflict is yet another example of the 'twilight zone' between war and peace. The party involved in the police action, most often the United Nations, has no direct interests to gain from placing itself in a circumstance of war. The intervening party is solely concerned with the arbitration of *jus in bello* and the swift enactment of *jus post bellum*. Unlike More's Utopia, however, the UN absolutely does not seek to "avenge previous injuries", for to do so would be an emotional act and counter to the organisation's core principles. From this aspect, it is possible to observe the evolution of the notion of justice and its application to international law. A particularly prominent debate in the contemporary just war tradition examines the just war status of UN intervention in Kosovo during the early 1990s. Criticising what he dubs "militarised humanitarianism", Ken Booth presents ten moral flaws in the doctrine of just war that comprehensively excoriates the virtue of justifying any war. For Booth, the act of justifying war and attempting to conduct war justly self-perpetuates the prevalence of war, as the sanitised view of the process of war (as opposed to actual combat) ameliorates the gravitas of the consequences of war.

Just war theory is in itself a semantically and conceptually controversial doctrine. Due to the loss of human lives always implicitly associated with war, war is inherently thought of as a negative aspect of human society. However, while just war theory mostly postulates that war is an inevitable outcome of the human condition, the Kantian notion of perpetual peace stipulates that mankind's propensity for war is a temporary facet and a collective choice made by mankind.[25] Laurie Calhoun, a Harvard scholar, is a noteworthy sceptic towards the idea of the just war, whose critique develops from the idea that just war seeks to apply relativist morals in absolutist terms.[26] In much the same way as liberal utopian thinking, just war theory assumes the existence of universal ideals that must be shared and pursued in common by all of mankind, resulting in the breakdown of its credibility when the cause of conflicts actually stem from the divergences in ideals among different cultures and societies. Calhoun is astute in pointing out that although *jus ad bellum* is supposed to serve as a mechanism to preserve a facet of humane behaviour amidst combat, it does not signify that killing another human being, regardless of the reason or justification, is an acceptable act.[27] Indeed, it is arguably true that from the utilitarian standpoint, the negation of human lives detracts from the overall happiness of mankind in summation; therefore, any war is a bad war that diminishes utility in the collective human civilisation, and a setback for the utopian goal of perpetual peace. However, this author believes that the critique of just war theory presented by Calhoun *et al.* fails to seriously consider the fact that, regardless of justness or unjustness, war is a reality, which will not simply disappear when mankind ceases the attempt to morally or legally justify and conduct just war.

The progress of humanising war is an asymptotic, Sisyphean attempt to bridge the gap between war and the

absence of war, in that to regulate the ferocity of war to an increasing degree may as well be to strive for peace in its partial definition as the cessation of conflict. Although overused to a cliché, the Clausewitzian maxim that "war is merely the continuation of policy by other means" is extremely valuable for the implication that there need be no artificial demarcation between a state of war and otherwise, and furthermore that such distinction is largely semantic and temporal. Relevant cases in modernity may include the gunboat diplomacy of the 18th century, the Cold War, or even more recently and specifically the 'small-stick diplomacy' wielded by the People's Republic of China in testing the water for regional hegemony against smaller states in the Asia-Pacific. All such situations exist or existed without absolute clarity as to the state of war or peace, and therefore it is possible to posit that war and peace do not intrinsically comprise binary states. Therefore to compel moral absolutism with regards to conflicts between states is to create a layer of ambiguity upon a structure that is already anarchic; to force an analogy, a person aimlessly floating adrift in a vast ocean may only face greater confusion from acquiring a map. Nonetheless, even if the actual materialisation of justice in war is an unattainably lofty aim, the utopian attempt itself is often worthy in reality for the positive outcomes it creates, and a just war may indeed be virtuous if used as the last resort after all pacific options have been exhausted.[28] In summation, the school of thought that we call 'the just war tradition' is in fact a diverse spectrum of principles and methodologies that are bound by the same objective, and thus it is impossible to describe just war theory as a singular doctrine. However, it is without doubt that all such theories nevertheless follow the purpose to achieve a measure of justice in war. War is neither humane nor inhumane; it is merely human, and to elevate the phenomenon to a humane altitude is a utopian project necessarily beyond mankind's present reach, but one that is nevertheless worthy of pursuit in the absence of the capacity to eradicate the very barbarism that spawns war in actuality.

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[1] Walzer, 1977, 3.

[2] O’Donovan, 2003, 4-5.

[3] Waltz, 1954, 16.

[4] More, 1516, 66.

[5] Bellamy, 2006, 29; Heinze and Steele, 2009, 4.

[6] Tooke, 1965, 21; Reichberg, 2002, 20; Bellamy, 2006, 39-40; Guthrie and Quinlan, 2007, 12-13; Heinze and Steele, 2009, 5.

[7] Bellamy, 2006, 39.

[8] Mattox, 2006, 7.

[9] Parsons, 2013, 358.

[10] Holmes, 1989, 53.

[11] Waltz, 1954, 159.

[12] Bellamy, 2006, 70.

[13] Reichberg, 2002, 21; Guthrie and Quinlan, 2007, 18.

[14] Nozick, 1974, 127.

[15] O’Donovan, 2003, 49.

[16] Bellamy, 2006, 59.

[17] Bellamy, 2006, 71.

[18] More, 1516, 64.

[19] Holmes, 1989, 154.

[20] Getmanenko, 2011, 14.

[21] Acuto, 2010, 21.

[22] Kelsay, 2007, 124.

[23] Saad-Ghorayeb, 2002, 67.

[24] Walzer, 1977, 44.

[25] Booth, 2000, 323.

[26] Calhoun, 2001, 41.

[27] Calhoun, 2000, 453.

[28] Calhoun, 2000, 449.

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