

# *Jus ad Bellum:* A Noble Concept in Need of Renewal

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The idea that that going to war is a moral decision that can be justified only in light of the need to preserve or achieve a greater social good, namely, to rectify an unjust situation and to achieve a lasting peace, is one that has dominated Western moral thinking about war for centuries. Although the ideas which developed under the concept of *jus ad bellum* are still present in discussions about decisions about war and peace, the original moral grounding for these ideas has been largely forgotten. This loss of connection between the underlying moral concepts which validate the idea of the just war and the expressions of the just war in international law and protocols have diluted the moral authority of these legal documents. Without moral authority decisions to go to war become merely a matter of political expediency and are removed from the domain of morality. Once removed from the moral realm, decisions on war and peace tend to become a matters of raw power-politics. Granted, foreign policy realists would argue that these decisions, when stripped of their rhetorical justification are truly reducible to what leaders deem advantageous to their personal or national interests. But others may point out that, given the need for justification in public diplomatic discourse and most especially in international forums such as the United Nations, arguments based on moral authority, when solidly grounded, cannot be so easily ignored. Our purpose is twofold: first, to examine the reasons for the loss of connection between the justification of war and morality, and then, to determine whether the ideas expressed in the traditional concept of *jus ad bellum* are still valid even in what many believe to be a radically different global environment. Finally, we offer some ideas on how the idea of *jus ad bellum* could be recovered and revitalized for a globalized and diverse world.

To understand the concepts that govern *jus ad bellum* it is important to understand that they are rooted in the idea of natural law. The concept of natural law, *ius naturalis* in Latin, was developed by Roman statesmen such as Cicero and other juridical thinkers. These men united the concept of Roman civic duty, the idea that the laws that order relations among nations—*ius gentium*—are governed by rational norms akin to those of nature *ius naturalis*, and the idea that decisions for war must be morally justified. Both of these ideas were rooted in the ethical ideals proposed by the Stoic school of philosophy which was very influential among the Roman educated classes and which hold up Nature (with a capital N) as a divine force which ultimately orders all that exists for the good. As Cicero noted: “If we follow Nature as our guide, we shall never go astray.”<sup>1</sup> Romans could be cynical pragmatists and were certainly ruthless in imposing their will on other peoples; but even so, they did not, as a rule, make decisions to go to war lightly, or on mere impulse. To the orderly Roman mind, war was too grave an affair to be left to arbitrary decisions of despots and its consequences too severe to be merely a tool to be used at whim. When advising on whether a state should go to war Cicero observes that: “... in the case of a state in its external relations, the rights of war must be strictly observed. For since there are two ways of settling a dispute: first, by discussion; second, by physical force; and since the former is characteristic of man, the latter of the brute, we must resort to force only in case we may not avail ourselves of discussion.”<sup>2</sup> Furthermore, Cicero clearly stated that the natural state of affairs between nations was one of peace, not war. “The only excuse, therefore, for going to war is that we may live in peace unharmed; and when the victory is won, we should spare those who have not been blood-thirsty and barbarous in their warfare.”<sup>3</sup> This was indeed, one of the main difference between civilized peoples, such as the Romans and the Greeks, and mere barbarians. Once conquered peoples were brought

under Roman rule, they were offered the guarantee of a peaceful existence under what came to be known as the *Pax Romana*—the Roman rule of law.

After having enjoyed several centuries of security under the *Pax Romana*, the peoples living under Roman rule expected protection from the state as barbarian tribes continued to exert more pressure on Roman frontiers. By the fourth century A.D., the Roman Empire was crumbling. It had also officially become a Christian state. Bishops were not only responsible for the spiritual wellbeing of their flocks. They also served as imperial functionaries. At times, they had to offer even military advice to a failing imperial system. Bishop Augustine of Hippo was a brilliant writer. Had he only written his *Confessions*, it would still be counted among the classics of Western literature. But it is in his massive tome, *The City of God*, where Augustine attempts to understand the meaning of history and of tragic contemporary events, such as the sack of Rome by the Vandals, as part of God's overall plan of salvation. In it, he explains the relationship between "The City of the World" and the "City of God" or as we would say today, between church and state. Since he was not a systematic thinker, we cannot find a detailed theory of war and peace anywhere in Augustine's writings. What we do find, are ideas on fruitful ways in which the competing demands of evangelical perfection and the imitation of Christ may be accommodated to the demands of justice, the protection of the vulnerable, and the responsibility of society to protect its citizens. Christian ethics demands justice or right moral reason not only in the decision of going to war but also in one's actions in war. First, it is necessary to decide whether war is a valid moral option at all. As we have seen, from the Christian perspective, an individual person always has the option of submitting to martyrdom in perfect imitation of the example of Christ. However, martyrdom, strictly speaking, does not include meek submission to a criminal or to unlawful violence. Martyrdom is offering one's life only because one is a Christian. Thus, a Christian need not submit to criminal assaults, barbarian depredations, or (in our time) terrorist assaults. In such cases, Christians are not being asked to renounce their faith and offered the choice of life or death, they are simply being victimized. Furthermore, when a large proportion and even a majority of a state's population is Christian and Christians are in positions of social responsibility, they have an obligation to protect their fellow citizens by virtue of their position. Even if when martyrdom would be feasible as a personal choice, it is still not a choice that could be made by one person on behalf of others, particularly if his/her position includes the responsibility to protect others.

The next step towards the systematization of Christian thinking in matters of war and peace was taken in the thirteenth century by Thomas Aquinas, a Dominican Friar and professor of Theology at the University of Paris. As an admirer of Aristotle, Aquinas was a master of deductive reasoning from premises. As a Christian philosopher, Aquinas distinguished between the domain of theology and that of philosophy. Christian theology could legitimately rely on premises derived from scripture and revelation whereas philosophy would have to rely on premises obtained solely through the use of natural reason. As a matter of practice, moral matters were treated in the light of Christian revelation and doctrine and were therefore considered theological rather than philosophical problems by Aquinas. Accordingly, Aquinas treated the problem of whether it is legitimate to go to war, and under what conditions would this be permissible in his encyclopedic work of theology, the *Summa Theologiae*. The masterly use of deduction and the systematic acknowledgement and critique of reasoned objections make his logic almost watertight provided that one accepts the premises Aquinas' proposes. He examines the problem of war in terms of the legitimate defense of justice within a Christian commonwealth of nations. He uses both Scripture and the ideas expressed by Augustine to delineate what may be termed the classic Christian position on this issue. "Those who wage war justly," writes Aquinas, "aim at peace, and so they are not opposed to peace, except an evil peace" meaning an unjust peace.<sup>4</sup> Thus, just war is not only legitimate, but sometimes morally necessary to preserve or institute justice in this world. Next, Aquinas establishes the conditions that must be met in order to wage just war. These are: 1) it must be waged by someone in a position of rightful authority, that is a Christian sovereign; 2) it must be waged for a just cause; and 3) those who wage it must do so with rightful intention;

that is, not for any base motives of personal ambition or revenge, but for the establishment of a just peace. From the perspective of scholastic philosophy and theology, Aquinas' guidelines had unquestionable authority, an authority that eroded only with the dissolution of Christendom and the advent of secularism in foreign relations.

The Italian thinker Niccolò Machiavelli was the first to diverge sharply from the principles maintained by Aquinas. He proposed what many took to be a pragmatic, cynical, and ultimately amoral view of the role of war, and power generally, in political life. In his treatise *The Prince* he wrote: "The man who wants to act virtuously in every way necessarily comes to grief among so many who are not virtuous."<sup>5</sup> Machiavelli's writings may have reflected more faithfully the political realities of his time, but as ideals to follow and as policy guidelines, his ideas were roundly condemned by most thinkers at the time and his name has forever come to be associated with cynical political manipulation. The sixteenth century saw the division of Christendom into a Catholic and a Protestant camp. This led to a century of very bloody wars in the name of what the contenders proclaimed to be the true religion. In the end, out of sheer exhaustion, and war-weariness, both camps signed a momentous peace treaty at Westphalia. The Peace of Westphalia, among other things, ensured that European powers would in future refrain from waging war in the name of religion. It also marked the beginning of the modern era of international relations dominated by the nation-state as the sovereign entity. These interests, in turn were now entirely secular. Arguments were framed in terms of what the French called *raison d'état* and on legal grounds and became increasingly divorced from any moral claims. Wars were now waged for narrowly dynastic interests among the crowned heads of Europe as exemplified by the wars waged by Louis XIV of France who famously equated the state's interests to his own—"L'état c'est moi." The French Revolution and the Age of Napoleon glorified concepts of nation and ethnicity and ushered in the age of nationalisms. In the nineteenth century European nations consolidated their power and expanded their reach to the point that most of Asia and Africa came under direct or indirect colonial rule by Europeans. The rise of capitalism and democracy only meant that narrow dynastic interests were replaced by broader nationalistic ideals of a country's "civilizing mission" and "rightful place in the world" as well as the commercial and financial interests of the ruling elites. This extreme nationalism was exemplified by the aggressiveness of the Prussian state and later of a unified German state guided by the militaristic policies of Chancellor Otto von Bismarck, who advocated a policy which we would now call "preventive strikes" against neighboring states.

The twentieth century saw the breakdown of the balance of power system which was the foundation of European stability for nearly a century following the Napoleonic Wars. The systematic mobilization of entire societies, the tremendous power of modern weapons, and the technologies generated by the industrial and scientific revolutions of the nineteenth century made war ever more pervasive throughout entire societies and more destructive at the point of conflict. The introduction of machine guns, heavy artillery, tanks, airplanes and submarines made gruesome caricatures of the traditional notions of gallantry and *élan*. After all, what could hundreds, or even thousands, of valiant men do against the death of traditional romantic notions of jingoistic nationalism? Out of its ashes and unresolved problems emerged the brutal totalitarianisms of the mid-twentieth century—Nazism, Fascism, Stalinism, and Japanese militarism which brought about an even greater conflagration—World War II. The unprecedented levels of destruction on a sustained scale world war made even more terrible by new weapons and tactics of mass destruction such as aerial carpet bombing, fire bombing, mechanized warfare, unrestricted submarine campaigns, were complemented by social policies such as the imprisonment and enslavement of whole classes of people, cruel experimentation with human beings, and Nazi policies of ethnic cleansing and extermination. Totalitarian regimes abused and tortured prisoners without regard to the traditional standards of warfare. Many combatant armies used rape and physical abuse of civilian populations as an instrument of policy and revenge. Both war and policy were united as never before and entire societies were mobilized for war. The crescendo of destruction culminated only when a lone airplane dropped two small bombs with

unprecedented destructive power over Hiroshima and Nagasaki thus ending the war. Ironically, the fear of nuclear annihilation was probably the only thing that prevented a further clash between a victorious and confident Soviet Union and the United States and its allies. The end of WWII saw the institution of war crimes tribunals at Nuremberg and Tokyo and the conviction of those found guilty of having committed “crimes against humanity.” This led to a desire for international agreements to prevent, limit, and regulate the conduct of war.

After the disaster of World War II, the leaders of the victorious allied powers decided to create an international forum intended to avoid future wars. Thus the United Nations, emerged out of a desire for peace born out of sheer war-weariness. A similar institution, The League of Nations, had been tried and found wanting after the First World War—arguably the failure was due to the lack of participation by the United States and lack of representation by other key powers on the losing side of the war. This time, the United States took the lead and pressured other countries to join in the creation of the United Nations. As is well known the United Nations is, at present, a very flawed institution plagued by internal divisions, unwieldy, and beholden to a wasteful bureaucracy. Time and again, it has proved impotent in the face of crisis. Despite its weaknesses, it is all we have; and it is better than nothing. The United Nations has adopted a universal declaration of human rights which has been signed by most members. This and other similar documents embody the principles embraced and defended by secular liberal democracies. From the start, the communist bloc and other totalitarian nations resisted the universal adoption of these ideals. Soon after the massive process of decolonization in Africa and Asia, many newly-independent regimes protested what they deemed the imposition of foreign values, often to cover their own failings and violations of human rights, and as such is resented by nations that claim that these principles represent nothing other than ideological colonialism. This approach takes advantage of the perceived equivalence of morality and custom and of the moral relativism advocated by many in the social sciences. Thus, the moral force of traditional Western thinking about the just war became greatly diluted and reduced to a form of legalism and persuasion based on emerging common acceptable practices in the community of nations.

Almost from the moment that Soviet tanks rolled over the ruins of Hitler’s bunker in Berlin, the Soviet Union emerged as an ambitious and powerful rival to the allied powers who, under the leadership of the United States, came to be known as the Western democracies, or simple as “The West.” The Soviet Union under Stalin’s totalitarian dictatorship sought the spread of its brand of communism throughout the world embracing the Marxist-Leninist ideals of class struggle. The rise of the Berlin Wall and Winston Churchill’s famous declaration that “an iron curtain has descended upon Europe inaugurated the Cold War between the western democracies headed by the United States, and the communist world headed by the Soviet Union and China. The acquisition of nuclear weapons by the communist bloc made the specter of nuclear holocaust real; but, at the same time, made war between the two superpowers, the United States and the Soviet Union highly improbable. However, given the realities of superpower competition for world supremacy, both camps supported minor allies that served as their proxies around the world. Thus, the Cold War Era was also the time of innumerable “small wars” which were in many cases not so small in the numbers of casualties, destruction of civilian infrastructure, and human suffering. There were wars in Greece, Eastern Europe, Malaya, Vietnam, Indochina, Angola, South Africa, Eritrea, the Middle East, El Salvador, Cuba, and many other well-known and obscure places around the globe. The record of the United Nations in preventing or stopping these wars was dismal. This was mostly due to the dysfunctional structure and the fact that two nearly equal opposing camps were part of the organization and generally neutralized each other as permanent members of the Security Council.

Since it was created by secular democracies and officially atheistic powers such as the Soviet Union and China, the United Nations embraces secular values and has little space for religion. These values are often described as “humanitarian” and ultimately derived mostly from the values of the European Enlightenment and a materialistic world-view. The resulting political discourse has little use for standards of objective

morality such as are offered by the major world religions or even secular absolute values such as the Kantian categorical imperative, or other deontological, natural law based, or eudaimonistic moral theories. In concert with its governing world-view, religious views are tolerated, and occasionally, religious figures such as the Pope or the Dalai Lama are invited to speak at its halls, but they are not taken seriously as part of the political discourse. As former President Jimmy Carter points out in his preface to the book *Religion: The Missing Dimension of Statecraft*, “Historically and currently, we all realize that religious differences have often been a cause or a pretext for war. Less well known is the fact that the actions of many religious persons and communities point in another direction. They demonstrate that religion can be a potent force in encouraging the peaceful resolution of conflict.”<sup>6</sup> In recent years, various Popes, as leader of the Roman Catholic Church, a religious group that numbers nearly 1.3 billion souls world-wide have been very influential in world politics. At the outbreak of WWI Pope Benedict XV called on European leaders to stop what he termed their collective suicide and the underlying attitudes of nationalism, racism, and class conflict. The documents of the Second Vatican Council condemn war as evil and outline the responsibilities of national leaders to achieve peace with justice. Pope John Paul II was instrumental in accelerating the fall of totalitarian communism in Eastern Europe. Pope Benedict XVI engaged in constructive dialogue with Muslims and Jewish leaders. Today Pope Francis has continued the need for dialogue and for working together for common causes among all Christians, as well as between Christians, Muslims, Jews and all other men and women of good will. In order to reduce the persecution of Christians in the Middle East and other places, he will be meeting with Muslim leaders in Cairo’s Al Azhar University. Another leader who is a strong advocate for peace is the Dalai Lama, the leader of Tibetan Buddhism. Anglican Archbishop Desmond Tutu is of course a hero to millions for his role in South Africa’s dismantling of apartheid and his pioneering work in establishing truth commissions for social healing.

The failure of the United Nations to prevent war and even to intervene effectively once war has started is now compounded by the lack of moral consensus other than a vague interest by most member nations at a given time to abide by “humanitarian values.” This vague humanitarianism is further weakened by the prevailing Machiavellian political realism that places the perceived national, and in many cases, the personal interest of authoritarian leaders, over the greater good for humanity. As some observers have pointed out, only the major world religions have the philosophical and historical depth, and possess sufficient hold over the minds and hearts of millions of people to provide the ethical force needed for lasting peace. Despite Marx’s famous dictum the religion was the opium of the masses, Marxism, in its various forms proved to be far more oppressive and stultifying to the human intellect and spirit than any religious system had ever been. Western unbridled capitalism or neoliberalism, has proved entirely empty of moral meaning and Secular Western philosophies rose and fell with dizzying rapidity and have ended in tautological, often nihilistic pronouncements devoid of any real meaning and with little ability to inspire or shape a moral life. The Islamic revival has reminded the West that religion as a human aspiration to the eternal cannot be denied. If it has often taken the form of a dogmatic fundamentalism, this does not mean that the religious impulse could not be channeled into more productive and humane forms of expression. We now have tried to legislate morality. But law in and of itself, has little persuasive power when divorced from its moral foundations. As we have seen in our short survey of the development of the idea of the just war and the *casui belli* that may be used to justify the decision to go to war lack of consensus and reliance on secular values grounded on custom or preference will not carry the moral authority necessary to persuade leaders and population to the cause of peace. Our contention is that only when religious leaders from the major world religions have the requisite moral authority to design a code of ethics based on absolute values that could be morally persuasive. The challenge is that this can only happen when the various world religions agree to search within the ethical bases of their respective traditions for a set of common values that would be applicable and acceptable to the faithful. This is a clear and present challenge; it is also our hope.

## Endnotes

- 1 Marcus Tullius Cicero, *De Officiis*, trans. Walter Miller (New York: Macmillan, 2014), par. 100.
- 2 Marcus Tullius Cicero, *De Officiis*, trans. Walter Miller (New York: Macmillan, 2014), par. 34.
- 3 Marcus Tullius Cicero, *De Officiis*, trans. Walter Miller (New York: Macmillan, 2014), par. 35.
- 4 Thomas Aquinas, *Summa Theologiae, Quaestio 40 De bello*, accessed 21 January 2017, <http://www.newadvent.org/summa/3040.htm>.
- 5 Niccolò Machiavelli, *The Prince*, trans. George Bull (New York: Penguin, 1981), 43.
- 6 Jimmy Carter, “Foreword,” in *Religion, The Missing Dimension of Statecraft*, ed. Douglas Johnston and Cynthia Sampson (New York: Oxford University Press, 1994), vi.