Invited Article

Just the Just Death of Just War

Michael Neu

In this article, I argue that just war theory should be put to death. One would not speak of just rape or just torture, either; it would be (oxy)moronic to do so: a clear category mistake. Just war theory’s death is well deserved and long over-due. I declare it there with no regrets.

Writers in the [just war] tradition have always known that it is virtually impossible to fight a war without physically harming people who are innocent in the sense of not being morally liable to be physically harmed. Yet despite this knowledge, they have constantly referred to certain wars as just wars ... it seems that we have always understood what they meant; hence their way of using the word 'just' must be intelligible.

Jeff McMahan

I don’t understand what writers in the just war tradition have meant when constantly referring to certain wars as just, and I don’t understand what McMahan means when he does. To me, the notion of a "just war" is entirely un-intelligible. We would not speak of "just rape" or "just torture", either, and if it were the case that writers in some tradition had been referring to certain kinds of raping and torturing as "just", we would rightly refuse to listen to them, let alone to engage in debates. We might still have something to say about them (investigating, perhaps, what went wrong), but that would be a different matter. In a similar vein, we should refuse to argue with, or against, anybody who assumes the intelligibility of using the word "just" in conjunction with "war", or even the possibility of intelligibility. The just war language can survive only if we continue speaking it after all, which is something we should refuse to do. Contrary to what I suggested previously, we should also refuse to keep the patient alive artificially, by replacing one word ("just") with another ("justified"). This would mainly be a case of playing with words.

Consider the case of torture. Slavoj Žižek once suggested, provocatively, that “[i]n a way, those who refuse to advocate torture outright but still accept it as a legitimate topic of

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1 The title is Bob Brecher’s.
2 Michael Neu is a Senior Lecturer in Philosophy, Politics and Ethics at the School of Humanities (Brighton University). For his PhD, he wrote a critique of “just war theory”, a strand of contemporary moral philosophy he took too seriously at the time. He is now working on a book on Complicity, in which just war theorists will feature yet again: as a paradigmatic example of public intellectuals who are guilty of what the book’s title suggests.
debate are more dangerous than those who explicitly endorse it." A prominent endorser is Harvard-Professor Alan Dershowitz, who argues for the legalisation and institutionalisation of torture. If Žižek is correct, Dershowitz is best ignored. As Žižek writes: “one does not need to argue against rape: it is ‘dogmatically’ clear to everyone that rape is wrong. If someone were to advocate the legitimacy of rape, he would appear so ridiculous as to disqualify himself from any further conversation. And the same should hold for torture.” Žižek wants to “live in a society where rape is simply considered unacceptable, so that anyone who argues for it appears an eccentric idiot, not in a society where one has to argue against it. The same goes for torture: a sign of ethical progress is that fact that torture is ‘dogmatically’ rejected as repulsive, without any need for argument.”

Bob Brecher challenges Žižek’s view, insisting that we, as thinkers and critics, have a moral responsibility to prevent idiots (my term, and used here in the extended classic sense of being disengaged, or wrongly engaged, in public affairs) from getting away with saying dangerous things. We will have failed to live up to our responsibility if we don’t resist, actively, retreating to our academic comfort zone instead (perhaps in the knowledge that the populists will win the day anyway, regardless of whether or not – or indeed especially if – we try to do prevent them from doing so). It is precisely in order to avoid this failure that Brecher wrote a book against torture. Idiocy is there to be countered, for if it isn’t, the strong will use it to do what they can, and the weak will continue to suffer what they must.

I think that Brecher’s reasons for resistance by engagement, rather than withdrawal, are essentially valid, which is why I have tried, in a number of recent essays, to provide immanent critiques of just war theory. Whilst largely accepting the basic conceptual parameters of this discourse, I have highlighted certain tensions and flaws within standard just war arguments, and also a stunning degree of obliviousness on the part of their articulators: “It is as though just war theory were written for a different world than the one we occupy: a world of morally responsible, structurally unconstrained, roughly equal agents, who have non-complex and non-exploitative relationships, relationships which lend themselves to easy epistemic access and binary moral analysis. Theorists write with a degree of confidence that fails to appreciate the moral and epistemic fragility of justified war, the long-term genesis of violent conflict, structural causes of violence, as well as the moralistic attitudes which politicians and the media are capable of adopting.” Just war theorists fail to see that governments will not go to war for moral reasons or, in any case, that such reasons will enter the strategic picture only as a persuasive advertising trick, or as a driving force of the deluded self-righteous (e.g., Tony Blair). There probably hasn’t been any politician in the history of humankind who deliberated the moral justness of a war she (or more often he) considered waging and concluded

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8 Ibid.
they should not wage this war as doing so would be morally unjustified. This is a ludicrous notion.

My engagement with the just war discourse was always reluctant though. I somehow knew it came at the cost of implicitly legitimising a particular way of thinking and speaking about war, a way of framing normative debates, of deciding what counts as a relevant question – and a valid answer. The language of just war is a language designed to press highly complex historical and political realities into a binary moral straightjacket, with the guiding normative question always being the question of a very specific kind of liability: Who is it right – for “us” – to kill? Note in this context the title of a recent Oxford conference held in Nuffield College in October 2010 that brought some of the leading participants of the just war discourse together: “Why We Fight”. And now try to explain to somebody who doesn’t already have second thoughts about this title – and who never engages in any critical reflection about the “we” in it! – why there might be a problem.

When I set out to write my PhD-thesis, the question I had in mind was whether or not war could be morally just. Whilst my answer was “no”, I now think I shouldn’t have asked this question in the first place. Insofar as my previous articles on just war theory have given the impression that it ought to be asked, and that one ought to (and perhaps can) find an answer to it, I regret having written and published them. Political moralists can find no better intellectual allies than the kind of analytic truth-seekers who are relentlessly engaged in the construction of unbreakable chains of ideal theory concerning the justness of warfare. This is particularly true if the truth-seekers in question are sufficiently naïve to assume – as far as they do care about actually-existing people, including people who are non-Westerners – that their contribution to the construction of ideal theory might eventually have some positive “impact”, namely by reducing (a) the number of wars that are being fought and (b) the number of unjust killings in those wars that fail not to be fought despite the just war theorists’ noble efforts.

There is a possible interpretation, however, according to which the former goal is not exactly the one pursued. From this view, which makes sense if one looks at just war theory as a body of thought addressed specifically to a Western audience, it is the number of unjust wars that ought to be reduced, since waging a just war is of course morally preferable to not waging a just war, or at the very least not morally worse. The obvious difficulty here (if we accept the absurd binary categorisation of war for a moment) is that a reduction in the number of unjust wars logically requires a reduction in the total number of wars, assuming that a just war, as waged by one party, is not to be had without an unjust one, as waged by another. Which means, of course, that just war theorists, as self-professed moral universalists, would be required to actively engage in a sustained and systematic attempt to prevent the occurrence of any war, including “just

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11 There is also a book with the same title on the market: Cécile Fabre & Seth Lazar (eds.), *Why We Fight: The Purpose of Military Force in the 21st Century*. (Oxford: Oxford University Press, 2012). I have never read this book, as the title, which I didn’t take to be satirical, has put me off.

12 In particular, I regret the publication of Michael Nen. “Why There is No Such Thing as Just War Pacifism and Why Just War Theorists and Pacifists Can Talk Nonetheless,” *Social Theory and Practice* 37(2011) 3, 413-433. There is nothing to talk.

13 Unless, of course, one were to argue that the justness of one half of such a war would compensate for the unjustness of the other.

“just wars” – instead of merely adopting what seems to me to be a wait-and-see policy (i.e., by stipulating a vague “last resort” condition as one of the jus ad bellum criteria). But they don’t do this, presumably since it would require them to think about some inconvenient truths, such as the highly militaristic (enemy-dependent?) way in which their own societies are structured, and the ways in which these societies have been, and continue being, causally connected to suffering, exploitation, and oppression elsewhere in the world. None of this is ever allowed to enter the artificially complex, grotesquely parsimonious analytic box of just war theory; it cannot, because the box would then implode.

Žižek’s broader point about complicity, if applied to the case of war, is half-right then; one should not, substantially, engage with just war theory, other than by declaring its death, and by continuing to declare its death for as long as the just war language continues to be spoken. For if one knows that this language ought not to be spoken, and if one doesn’t resist it – not simply by refusing to speak it oneself, but, rather, by continuing to point out that the only sensible thing just war moralists could do would be to shut them up – one really is complicit in evil. This reminds me of a test which my four-year old godchild Anna had to undergo recently. She was asked by some expert of pedagogy to say a very complicated sentence (so the expert could figure out whether she was able to use appropriately complex language). All the other kids tried to say the sentence (and were then divided into special-needs kids and non-special-needs kids), but Anna found it stupid, so decided not to say it. For one hour, the expert was trying to make her say what she had decided not to say. But rather than be silent about the matter, Anna kept insisting throughout the procedure that she wouldn’t say the sentence “because it is stupid (my translation)”. This is precisely, I think, how one should react when prompted to speak the language of just war and to accept it as the normal discourse.

The problem with the term just war theory is that it presents as intelligible and entirely ordinary what is in fact oxymoronic in extremis. War has nothing to do with justness. It is horrific; it causes death, suffering, and destruction of unimaginable proportions; it is one of the worst things that humans and human collectives can do to each other. But it is never just. It also isn’t “unjust”, of course; it simply escapes these categories altogether, and to assume otherwise is, quite simply, to make a drastic category mistake. One would not talk about “just rape”, either, even if, in some preposterous fictitious scenario (which certain inventive philosophers would doubtless be capable of coming up with) raping somebody were to serve some moral purpose. To divide wars into just and unjust wars is as meaningless and repellent as it would be to divide rapes into just and unjust rapes. It simply doesn’t make sense, and one should not engage in discussions with anybody who thinks it does – other than by telling her, or more often him, to please, please take themselves away. Even to call a rape “wrong” is to be guilty of pleonasm, and the same goes for war. War is wrong by definition; it shreds toddlers into pieces; there’s nothing more to be said. I have been criticised at conferences for using such “extreme language”, but I fail to see how what I’ve said is anything other than descriptively accurate – which distinguishes me, I hope, from those who speak the language of “collateral damage”, insisting it is more academically appropriate.

This deeper criticism of just war “theory” is unlikely to be embraced by those firmly immersed in a paradigm that could not have been deliberately designed more viciously by

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15 Most just war theorists are white Westerners.
16 I am of course paraphrasing John Cooper Clarke here.
somebody intending to systematically suppress any form of critical thinking about the application of large-scale violence at the hands of the powerful. Instead of recognising their complicity, just war theorists regard “the triumph” of what they espouse as a sign of considerable intellectual and moral progress. To their mind, it is a good thing that more (and more enlightened) people have finally begun to think about wars in terms of just and unjust. It should be mentioned at this point that any war waged by Western governments, as opposed to non-Western ones, will generally be given a fair (roughly 50/50) chance to occupy the positive side of this moral binary (this is my impression anyway); at a minimum, a lack of consent is mostly guaranteed, which is taken to be demonstrative of just war theory’s critical edge.

One does not need to have read Gramsci to observe that just war theory, as a body of thought, is perhaps most accurately described as a convenient instrument in the hands of people with a great deal of material, political, and discursive power. Large weapons manufacturers in the United States of America, for example, must surely be delighted about the theory’s continuous existence. One wouldn’t be surprised if they dedicated some of their Sunday prayers to strengthen its impact, seeing that they cannot always rely on political realists to advocate warfare. They can, however, rest assured that their government will continue, for quite some time, to speak the language of justice when sending their troops to battle (western governments wouldn’t dream of going to war without calling it just nowadays). Should we, the thinkers, be complicit in this worst of all moralisms? The answer is “no”, and the only way to deliver it effectively is to declare just war theory (JWT) dead (and, perhaps, to point out that this isn’t a great loss, as it’s been brain-dead all along). Personally, I suggest burying it right next to “R2P”, the West’s moralistic and hypocritical “Responsibility to Protect” doctrine.

But surely waging war against Nazi-Germany was morally just, one might intervene? (Just war theorists are roughly as predictable in raising this objection as Pavlov’s dog is in dribbling at the sound of the bell.) My answer, again: It is a meaningless, dangerous, misguided question to ask. The Second World War was a disaster for humankind. What “we” should learn from it is to educate our children to respect themselves and others, to value genuine dialogue, to celebrate plurality, and to develop their critical faculties. We should teach them to not discriminate, oppress, and exploit (neither their fellow citizens nor anybody else in the world), and not to be complicit in discriminating, oppressing, and exploiting. We should enable them to become allergic to the idea of imposing power asymmetries onto anybody, or allowing anybody to impose power asymmetries onto them. And we should encourage them to stop listening to political or economic demagogues and moralists, to not believe the news without good reason, and to question ac-

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ademics who lock themselves in their ivory towers, far removed from (and way above) the real world, sometimes hiding behind two millennia or so of tradition.

All this is quite straightforward actually. Imagine a different kind of demos, one full of thinking, critical citizens – they wouldn’t dream of going to war and calling it just! They would simply know that it’s a horrific and repulsive thing to do, that nothing more needs to be said, and that the only just deed one can possibly perform in relation to war is to prevent it (and, of course, to prevent other kinds of human suffering as well, including forms of suffering that lead to the kinds of aggressions which, according to just war theorists, it is morally right for human collectives to defend themselves against). If these citizens were to take up arms against some awful oppressors, in full knowledge that they couldn’t put their weapons to use without also hitting the “non-liable”, they would know that what they do is wrong by definition, thus in no need of being called wrong, and certainly not to be grasped in terms of just and unjust. They wouldn’t throw military parades and celebrate their war heroes. Indeed, they wouldn’t possibly consider it appropriate to justify their horrific deed, to insist on being in the right. How could they? How could they have any inclination to argue themselves out of the simple fact that they are bombing children into pieces? Indeed, how could they not prefer their own death, individually and collectively, over having to kill or mutilate a child?

In Le Guin’s *The Ones Who Walk Away from Omelas*, the wellbeing of a city called Omelas depends on one child being essentially tortured. In just war theory, it’s not all that different: the wellbeing of a community depends on waging war, which (virtually always) depends on the killing and mutilating of a great number of children. Just war theorists would of course argue (mostly with the help of some bizarre Catholic doctrine) that the two cases are not analogous, since the harming of children in the latter case is “only” a side-effect of rightful conduct. This is precisely one of those just war propositions, however that one should not even begin to argue against. I am not sure how just warriors and their philosophical accomplices can live with themselves any better than the people of Omelas can (some of whom, of course, decide that they cannot).

Meanwhile, just war theorists continue with their business of abstract liability-determination as if war weren’t what it is. In doing so, they completely fail to see that justice and war are mutually exclusive, and that any a-historical, a-political normative truth-seeking endeavour in regard to large-scale violence is futile and dangerous. Just war theory should be replaced by a simple insight then: waging war is horrific and, by definition, wrong. If one does it (even to prevent some other, similarly disturbing or even greater wrong, by whatever metric one were supposed to decide that), one should not even begin to “justify” it. Indeed, those who need to “justify” their war have already lost the argument. There really is not much more to say, particularly not the kinds of things that contemporary just war theorists tend to say. They write about war in a sterile, clinical, pathological way: as if war were some analytic playground, some conceptual juggling exercise, some gigantic crossword puzzle. But whoever engages in these puzzles can


20 I am referring here to the Doctrine of Double Effect. For a helpful introduction, see P. A. Woodward (ed.), *The Doctrine of Double Effect: Philosophers Debate a Controversial Moral Principle* (Notre Dame, Indiana: University of Notre Dame Press, 2001). For the most prominent just war articulation of this doctrine, see Walzer, *Just and Unjust Wars*, 151-159.

21 See Kamm, *The Moral Target*. 
never find out more than they already know; they just get themselves into ever deeper theoretical conundrums. This is so because they operate in a very tiny analytic box with a fixed set of expert terminology at hand. At the same time, however, they are unable to simply pause for a moment and critically reflect on what exactly it is they are doing. They simply take for granted that they are asking the right kinds of questions about war, or indeed the only questions there are to be asked; the premise that binary, action-guiding thinking is what a moral philosopher is supposed to provide; also the unquestioned assumption that one is going about this business, this “war stuff”, in the right (and only possible) kind of way.

I am taking the term “war stuff” from Helen Frowe’s website, which is entitled “Philosophy, War and More”. On this website, one finds a category on “war stuff”, against the backdrop of some beautifully romantic hills and right next to the “photos” category (which will take you to some happily boozing philosophers). This is the message: “One of the best things about being a philosopher is getting to lots of nice places to hang out with other philosophers.” While this is true, one needs to look at this sentence in conjunction with a statement on the previous website to see that we are being presented with a particular kind of “philosopher” here, namely one who is treating the bombing of toddlers as a game that lends itself to hilarious entertainment: “I specialise in the ethics of war and self-defence, and am particularly fond of killing the innocent.” This is followed up at the bottom of the website: “As a philosophical field of study. Please don’t be one of those people who emails me saying ‘oh my god, do you kill babies?’” All this is mixed up with statements like: “I also really want a puppy.” And: “Update: We now want a kitten instead.” Followed by: “Update: We don’t have a kitten yet, but we have chosen a name for the future kitten.”

An altogether dreadful joke about killing innocents, boozing philosophers, romantic hills, the sound of a lovely little creek in the background (at least I think that’s what I’ve heard, though there might be something wrong with my speakers), speculation on what kind of pet one should go for or not: in the world of Frowe, this is all sold as one and the same story, one lovely package deal. I fail to see how any serious philosopher, after a brief glance at this website, could possibly not choose to refuse engagement with anything Frowe might have to say.

Now, while this website speaks for itself and doesn’t merit any further comment (I hope), it would be interesting to speculate on what would happen if one were to write a whole paper on its content and presentation, and what was fundamentally wrong with it. I can only speculate, but presume that people who do “war stuff” would not understand a word of it, as such a critique could not be formulated within their idiosyncratic conceptual scheme (one would have to argue that Frowe’s website would be liable to attack by a virus even if some other websites were collaterally damaged too). And because they lack this basic understanding and ability to think outside their little box, just war theorists – who, by the way, seem to be often mainly that as far as their philosophical engagement goes – will continue going to conferences together, throwing empty con-

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24 As far as my written work is concerned, a similar criticism could be levelled against me. It’s really time to move on.
cepts at each other whilst bombs are being thrown on the people that Frowe so cheerily jokes about. One may suggest that just war theorists are simply irrational and culpably ignorant, but this somehow sounds too complimentary to me. There is something utterly repulsive about this whole business.

I really don’t know what else there is to say. We should finally recognise that writers in the just war tradition have been trying their best, for two millennia or so, to disqualify themselves from any further conversation. Let us do justice to them and declare their theory dead. Its death is well deserved, long over-due, and not really something that should be a big deal. If you are not yet convinced, read McMahan’s quote again. And don’t forget to check out Frowe’s website, which complements it nicely.

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