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Introduction

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The genesis of this book lies in a March 2005 symposium on the 'Just War in the Twenty-First Century' and the context for the encounter was the 2003 Iraq War, a conflict that helped to crystallise in the most acute way the recurring moral, political, legal and military tensions that are involved in the recourse to and conduct of war. Historically, the framework used most frequently to explore these issues has been the just war tradition[1] and the symposium aimed to facilitate a transatlantic dialogue involving a diverse range of participants on the ethics of war and peace with a view to investigating and renewing that tradition as part of a broader public conversation.

The starting point of the symposium, as well as of this book, is the premise that the just war tradition remains an indispensable framework for analysing global order, peace and security. In our view, it is critical to see just war thinking as a dynamic tradition for reflecting on the nature of international society rather than as a set of prescriptions to be rigidly applied to crises, a sort of checklist that can be ticked or crossed. Even more fundamental to the volume is the belief that conflict tragically remains an inextricable part of both intra- and inter-state relations. Therefore, trying to understand such a fundamental phenomenon is itself a moral obligation and the just war remains the best way to do so. Allied to this is the sense that moral reflection and action must remain at the heart of politics and that a properly understood just war tradition can play a significant role in shaping public discourse about the values and ends of political communities. Thus, properly understood the tradition becomes,

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[1] The other element within the Christian tradition is pacifism. Perhaps the foremost British thinker within that strand was the late Sydney D. Bailey. See, for example, *War and Conscience in the Nuclear Age* (Basingstoke: Macmillan, 1987). One of his legacies remains the continuing work of the Council on Christian Approaches to Defence and Disarmament, which he helped to found and to which several of the contributors to this volume belong.

above all, an exercise in practical wisdom about the nature of interna-
tional society and fundamental questions such as intervention. Yet war
remains what it has always been, 'a defeat for humanity' in the words of
Pope John Paul II, and just war thinking should never be seen as an
attempt to moralise war with the intention of making it easier to fight.
Nor can the tradition answer the interlinked security questions that face
us about the environmental crisis, disease and poverty and the corre-
sponding moral imperative to realise objectives such as the Millennium
Development Goals or more effective conflict prevention. However,
focusing on war explicitly allows us to address what remains a fundamen-
tal aspect of the human experience and using just war thinking allows, in
Bryan Hehir's words, for 'a two–dimensional ethic' that addresses both
policy-makers and the conscience of individual citizens.[2]

It is arguable that the just war tradition underwent a narrowing during
the Cold War that deformed its utility as a guide to action. The over-
whelming shadow of the US–Soviet confrontation understandably shaped
the very grammar of our moral language in a way that focused almost
exclusively on nuclear weapons. Yet, with the ending of the Cold War and
the emergence of radically different threats, the tradition needs to be
re-examined. We asked the contributors to this volume to explore
whether or not the just war tradition continues to be relevant given the
changing nature of international relations. If it is relevant, how can the
tradition be reworked in order to provide a framework for practical reflec-
tion? The continuing need for dialogue between political and public actors
was evident in the fierce debate over the 2003 Iraq War. The symposium
sought to encourage such a dialogue by providing a space in which theo-
logians, political and military analysts could consider how a re-energised just
war tradition might assist policy-makers and the wider public to grapple
better with the moral and political dilemmas of war.

Because that fundamental shift has occurred in the structure of con-
flicts, away from inter-state 'industrial warfare' to something as yet to be
determined, there is an even greater need to explore the relationship
between moral theory and practice. In view of this, the book takes an
interdisciplinary approach in the belief that the insights from one disci-
pline and culture should usefully contribute to and further the debate in

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[2] Fr Bryan Hehir, 'The Politics and Ethics of Nonproliferation', *CISAC's Annual Drell Lecture*,
Stanford University, 6 December 2005, p. 4.

another. Such an interdisciplinary approach has been central to the long development of the just war tradition as a body of moral reflection, rooted in Christian theology and natural law, that has evolved through a dialogue between secular and religious sources. That conversation between diverse and competing actors, whether theologians, military commanders or politicians, means that the tradition represents more than just a set of moral assumptions or ideals. Participants within this dialogue have always sought to shape and maintain the tradition to give it renewed meaning when faced with new security challenges. This dialogue has shaped methods of statecraft and rules of military engagement while still providing guidance to conscientious individuals grappling with the terrible moral dilemmas posed by war.

In its simplest form, the tradition argues for certain conditions and criteria to be met before any military action occurs. It has two thematic branches, classically denoted by the terms *jus ad bellum* and *jus in bello*. *Jus ad bellum* as generally understood today consists of seven principles, which need to be met to justify the resort to war. They include that war must have a *just cause*, be waged by a *proper authority* and with a *right intention*, be undertaken only if there is *reasonable chance of success* and if the total good outweighs the total evil expected (i.e. overall *proportionality*). It must also be used as a *last resort* and be waged in the *pursuit of peace*. In contrast, *jus in bello* is defined by two concerns: *discrimination*, or avoiding intentional harm to non-combatants, and *proportionality of means*, which implies using such force as is essential to achieve an objective that is itself necessary.

The history of just war thinking suggests that these criteria will atrophy if they are not reworked and then applied afresh in the unprecedented context of the contemporary international environment. One recent example of this reworking is that provided by the philosopher Michael Walzer. *Arguing about War* revisits many of the arguments that Walzer made some thirty years previously in *Just and Unjust Wars*.[3] Faced with the sheer number of recent horrors such as Rwanda, Kosovo and the Sudan, he finds himself defending the right to intervention, a right that he previously opposed. This in turn leads him to sanction long-term

[3] Michael Walzer, *Arguing about War* (New Haven: Yale University Press, 2004). Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (New York: Basic Books, 1977).

military occupations in the form of protectorates and trusteeships. Taken together, these shifts result in Walzer questioning whether the just war tradition needs to be expanded to include a third branch, namely *jus post bellum*, to help address many of the issues that have arisen in post-conflict situations like East Timor and Iraq.

Walzer's efforts are reflective of a wider uncertainty as to what constitutes a just war in the twenty-first century, as witnessed, for example, by the work of Michael Ignatieff.[4] The traditional image of a country's armed services constituting a war-fighting machine designed and equipped to achieve a decisive military victory on the battlefield in order to 'solve' the original political problem that necessitated the military deployment in the first place sits oddly with post-Cold War reality. It is difficult now to identify not only the battlefield but also who or what is the 'enemy'. Military force is more often than not employed 'in the presence of civilians, against civilians', and most importantly 'in defence of civilians'.[5] Using military force to resolve an international political dispute has increasingly given way to the aim of creating by force the conditions in which peace might be restored and then maintained by non-military means. This is a prolonged and painful process, as, for example, in Bosnia, which takes years, involving political and military skills and equipment quite distinct from those required in the past.

If, as General Sir Rupert Smith argues, the end of the Cold War made obsolete the dominant industrial model of warfare, and with it the industrial army that underpinned it, then it is necessary to rethink what constitutes a justified war, even if war in the conventional sense perhaps no longer exists. The shift from heavy industrial warfare, characteristic of the nineteenth and twentieth centuries, to war amongst the people poses several distinct challenges that need to be resolved as part of a public conversation if military force is to have any moral basis.

Most public and political debate regarding military matters is restricted either to contesting defence budgets or to debating the legality of a particular use of force. These debates are an important part of any

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[4] Michael Ignatieff, *The Warrior's Honour: Ethnic War and the Modern Consciousness* (London: Vintage, 1999). Michael Ignatieff, *Empire Lite: Nation Building in Bosnia, Kosovo, Afghanistan* (London: Vintage Books, 2003). Michael Ignatieff, *The Lesser Evil: Political Ethics in an Age of Terror* (Edinburgh: Edinburgh University Press, 2005).

[5] General Sir Rupert Smith, *The Utility of Force: The Art of War in the Modern World* (London: Penguin Allen Lane, 2005), p. 5.

functioning democracy. They provide a mechanism for executive account-
ability and civilian control of the military. However, as in other fields of
public policy, such encounters seem fragmented and episodic and
informed by a cost–benefit culture of positivism that is proving to be
increasingly inadequate. In this context, Christians can play a significant
role in expanding the dimensions of that public conversation so that
fundamental moral questions about ends and means feature more
prominently.

The aim of this volume is to explore the continuing validity of the just
war tradition, and to examine the ways in which it should be updated to
take account of the new security environment. In so doing, the volume
aims to help stimulate a wider and more inclusive debate than has perhaps
existed in this area, without endorsing any one of the diverse and often
provocative opinions expressed. It is concerned rather with the relation-
ship between theory and practice, with the intention of providing a robust
way in which to think and speak about war in the modern world. Running
through this book is the question: 'How can we make the just war
tradition both relevant and accessible to today's moral and political
challenges?'

The book is structured around four themes and concludes with a set of
reflections. In addition to analysing the merits of the just war tradition as a
decision-making model, it examines each of the classical elements of the
just war tradition (*jus ad bellum* and *jus in bello*). Crucially, it also
considers what Walzer calls *jus post bellum*. The intention is to move
beyond recognising that the just war tradition needs rethinking to artic-
ulating some of the features of what a reconstituted just war tradition
might mean in practice. This book avoids deliberately the quest for
consensus. Indeed, several of the contributors disagree sharply about
vital contemporary issues, such as the Iraq War. Yet every chapter stands
as a contribution to a wider discussion in which each discipline finds its
own voice in conversation with others.

A framework for ethical decision making

An important contribution to that debate came on the eve of the 1999
Kosovo War. Tony Blair's speech to the Chicago Economic Club on
22 April 1999 drew heavily on just war criteria to provide a 'Doctrine of
the International Community' that could assist governments in identifying

the circumstances in which they should become involved in other people's
conflicts. Similarly, both the *Responsibility to Protect*, a document com-
missioned by the Canadian Government, following the Kosovo War, and
a report by a UN High-Level Panel on Threats, Challenges and Change,
following the 2003 Iraq War, affirmed the continuing importance of the
just war tradition by using its criteria to frame their deliberations regard-
ing the legitimate use of military force. The concepts of the just war thus
form part of our public grammar, but how have governments and inter-
national institutions used them? How relevant is a tradition, first devel-
oped some twelve hundred years ago, in offering criteria for deciding
how new security issues can be appropriately dealt with? Does the use of
these criteria suggest that there is a transatlantic consensus as to what the
just war tradition means in theory and practice?

In the opening chapter, George Weigel analyses whether a developed
just war tradition is evident in the 2002 US National Security Strategy.
This is a controversial issue not least because many commentators see this
document as providing the ideological framework for the 2003 Iraq War.
Weigel acknowledges that the language of the 2002 US National Security
Strategy sits uneasily with European sensibilities. However, Weigel argues
that when re-read from the perspective of a retrieved and developed just
war tradition, a tradition that allows for the morally legitimate first use of
armed force, it is an appropriate attempt to respond to the new interna-
tional reality. Central to Weigel's analysis is the argument that the concept
of just cause as defence against aggression already underway, enshrined in
the UN Charter's willingness to sanction only the second use of armed
force, is inadequate in a world in which rogue regimes or terrorist net-
works possess or seek to possess weapons of mass destruction (WMD). In
certain circumstances, he argues, it might be both necessary and legiti-
mate to use force as a first rather than a last resort, even if the UN does not
sanction such action. Weigel admits that while the document addresses
the new *ad bellum* issues, it falls short of providing sufficient clarity as to
how *post bellum* questions should be resolved.

William Wallace accepts that, unlike their US counterparts, European
governments have not yet succeeded in defining the geopolitical context
within which they wish to deploy force. As a result, the rules of engage-
ment are more often than not determined at a national rather than a
European level. Projecting the argument onto the United States has
circumvented to some extent European debates about just war. This has

left Europe free to criticise the moral justification for US actions, without necessarily recognising that European governments cannot avoid, at some stage, addressing these issues themselves. Wallace illustrates that events since the end of the Cold War, most notably in the Balkans and more recently in Afghanistan and Iraq, have forced European governments along a painful learning process in containing conflict and in post-conflict reconstruction. All major European states have contributed troops to the Balkans, Afghanistan or Iraq, but the majority have contributed to post-conflict operations rather than to the initial stages of military intervention. According to Wallace, Europe must develop the skills and capabilities to move beyond civilian nation-building exercises to active military enforcement operations. He recognises, however, that such a move remains difficult given the absence of any Europe-wide public and political debate about strategic priorities and geopolitical interests.

The contributors in chapters 4 and 5 examine the impact of just war thinking upon the churches' understanding of the use of military force as a tool of statecraft. How have British and American churches used or rejected the just war tradition at times of international crisis? Why are some within the churches increasingly disenchanted with this tradition? What factors have contributed to this situation and how should Christians respond? How can the churches revitalise what has been their dominant way of understanding, judging and limiting violence? Are there alternative ways of analysing conflict that would supplant the just war framework?

Nigel Biggar's controversial analysis of the various statements and reports issued by churches following the end of the Cold War argues that whilst the language of just war features prominently, the moral reasoning that binds the tradition together is noticeably absent. Many within the churches do not deny that a justified war is possible, but they do often raise the bar so high that no conflict could ever qualify. Biggar attributes this to broader cultural influences: the suspicion of 'power', post-imperial Western self-loathing and a belief that something as terrible as war must be avoided at all costs. In Biggar's analysis, the repudiation of the just war corpus takes one of several forms of 'anti-Americanism'. Biggar argues that the just war tradition is capable of further development to respond to international public life, but he mourns the fact that many within the churches, like most of civil society, seem reluctant to participate in such an agenda-setting exercise.

Much of Biggar's analysis mirrors James Turner Johnson's consider-
ation of American churches. Johnson shows that, with the exception of the
evangelical Protestant churches, American churches have for the most
part interpreted just war thinking as assuming a presumption against
using military force rather than seeing it as a legitimate tool of statecraft
that has utility in maintaining and restoring peace and order. Johnson
suggests that this reflects the emergence of a form of functional pacifism
within the churches that owes its origins to the nuclear debates of the
1970s and the Civil Rights movement of the 1960s. Catholic and main-
stream Protestant churches began identifying themselves less and less as
an integral part of the existing social and political order and more and
more in opposition to the state and to society. The public moral leader-
ship role that these churches had traditionally played in such policy
debates has increasingly been assumed by evangelical Protestant churches.

Responding justly to new threats

International security has fundamentally changed since the end of the
Cold War. New security threats have emerged (such as mass-terrorism,
'rogue regimes' and proliferation of weapons of mass destruction) that
affect the way states view the use of force as an instrument of foreign
policy. Ideas about preventative war and regime change have added
another layer of complexity to the conduct of international relations.
The use of force by some Western governments resembles a form of police
action more than a traditional model of warfare. International law has
been slow to adjust to this new security environment with the result that
state practice can appear at odds with the UN Charter. This discrepancy is
deeply problematic because it has eroded the international consensus as to
when it is right and proper to use force. If the old rules governing state
behaviour no longer seem particularly relevant, it is far from clear what
the new rules are, or even who should draft or enforce them.

From a *jus ad bellum* perspective, the emergence of new security threats
challenges the 1945 consensus, as enshrined in the UN Charter, that
military force should only be used in self-defence. This consensus was a
reaction to the horrors of the First and Second World Wars and reflected a
significant narrowing in the just war understanding of what constituted
just cause. Prior to the political transformations in Europe following the
treaties of Westphalia just war jurists, such as Hugo Grotius, recognised

the state's right to use force to inflict punishment on those that trans-
gressed universal values. In the absence of clearly defined rules, and
in a global environment that is now distinctively post-Westphalian, how
helpful is it to revisit pre-Westphalian understandings of the just war
tradition?

Redefining what just cause means has implications for the other *jus
ad bellum* criteria, most notably last resort and competent authority.
If classical just war thinking has at times sanctioned anticipatory self-
defence and humanitarian intervention, it has been more reticent about
the benefits of preventive and pre-emptive military action. If it is accepted
that the nature of the contemporary threats requires early intervention,
can the just war tradition provide insights into when such action is both
necessary and legitimate? Alternatively, will such action always constitute
a breach of the peace and therefore be open to abuse? Finally, if, under
certain circumstances, it might be legitimate to resort to unilateral action,
what are the boundaries of such action?

In chapter 6, David Fisher examines the moral and political dilemmas
that arise when contemplating using military force for humanitarian
purposes. Fisher argues that while the classical notion of just war always
recognised that there existed a legitimate right to intervene in the internal
affairs of another nation-state, this right was overtaken by developments
in international law following Westphalia and the creation of the states'
system. He argues, however, that international law needs amendment to
reflect the growing international moral consensus in favour of interven-
tion where human rights are seriously under threat. He suggests that the
just war tradition provides a robust framework to help determine when
such an intervention is necessary, whilst also ensuring that this new-found
right of intervention is not open to abuse. He concludes by underlining
the urgent moral necessity for action to prevent tragedies such as the
Rwandan genocide and the horrors now unfolding in Darfur.

Jean Bethke Elshtain's analysis of the historical and ethical roots of the
just war tradition leads her to reject vigorously the claim that just war
thinking is applicable only to conflicts between states. She argues that
while a just response to terrorism will not be narrowly and exclusively
military, military means might be necessary where a legal–criminal para-
digm is found wanting, such as when a terrorist organisation works from a
failed or failing state. Controversially, she argues that the modern-day
complexity of terrorism requires a flexible nuanced response that may at

times skirt the edges of law and restraint, but that just war thinking remains crucial if politics and ethics are not to diverge.

In the subsequent chapter, Paul Schulte argues that the presumption against the first use of force is no longer sustainable when a nexus of threats such as terrorism, 'rogue regimes' and weapons of mass destruction threaten world order. Schulte lists a number of defining characteristics of what constitutes a rogue regime that helps to ward against cultural demonisation, although he recognises that the term remains problematic. Despite the threat posed by rogue regimes, only a handful of states can undertake regime change. Such states, he believes, will make a decision on a case-by-case basis and the overriding ethics in such decisions will invariably be prudential, requiring a significant dosage of moral luck. Using a utilitarian analysis, Schulte provides a provisional schema that might help to ensure that those states that do respond with military action without international authorisation can ensure that their actions more closely approximate 'wars of enforcement', that is, military interventions intended to reinforce world-ordering principles.

The brief overview of the above chapters points to a willingness amongst many of the contributors to assume that moral outrage can and should act as driver for the formation of new laws by either treaty or custom. Taken to the extreme this can lead to the conclusion that in the absence of clearly defined legal rules it is legitimate, even necessary, to fall back on natural law. In chapter 9, Franklin Berman examines in closer detail the correlation between compliance and enforcement, which is fundamental to the functioning of any legal system. Berman argues that the question 'Is there a right of intervention?' is misleading because it confuses the 'right holder' and the 'obligee'. If the question is reframed as 'Who is entitled to intervene?' a more fruitful discussion can be had as to the question of values (justice, welfare and peace) and agency in the international law context. This discussion leads him to the formidable combination of obstacles that confront the construction of a viable legal regime of ethical intervention.

Fighting wars justly

Changes in international security have accompanied a revolution in military affairs. The emergence of network centric warfare and effects-based warfare has given rise to such language as the 'intelligent battlefield'