

## Introduction

Larry May and Emily Crookston

Philosophers have written about war for as long as there have been philosophers. Indeed, the pre-Socratic philosopher Heraclitus (c. 502 B.C.), from whom we have only a few scattered words remaining, talks about war and uses war as his main analogy to understand all other relations.<sup>1</sup> Since ancient Greek times, nearly every major philosopher has had something to say about war, and many have written special treatises on the topic. There are several obvious, and several not so obvious, reasons why philosophers have been intrigued by war. Most obviously, many lived during times of war and war tends to color every part of one's experience. War is also the kind of experience that calls out for attempted justification, given the sheer amount of horror that often accompanies it. And war also offers considerable puzzles to be solved, such as why the killing of soldiers in war could be condoned but seemingly lesser offenses such as mistreating soldiers who have been captured would be so strongly condemned.

Perhaps more subtly, war has intrigued philosophers because the morality of war is thought to be special and somehow different from the morality of normal life. And this has also caused a reexamination of whether it is indeed true that death is the worst of harms that can befall an individual person. The issue of war has also inspired philosophers to think about collective action (and the metaphysics of groups) in ways quite different from individual action. In addition, war is perceived as both horrible and attractive at the same time – making many philosophers wonder about what it is about human nature that could account for both of these responses.

<sup>1</sup> G. S. Kirk and J. E. Raven, *The Presocratic Philosophers*, Cambridge: Cambridge University Press, 1957, fragment 215: "War is father of all and king of all, and some he shows as gods, others as men; some he makes slaves, others free."

In the just war tradition of the Middle Ages and early modern period, philosophical discussion of war crystallized in a way that is true for few philosophical debates. At that time, all the major philosophers argued about the criteria for a just war, coming up with a dozen principles that were meticulously refined. What is even more unusual, the principles that philosophers developed were referred to by kings and emperors, generals and foot soldiers. Today, the just war principles, especially the principles of necessity, proportionality, just cause, and discrimination (or distinction), have formed the basis for the international law of war. Indeed, contemporary international lawyers continue to discuss war in terms of the Latin categories of the Middle Ages, namely, in terms of *jus ad bellum* and *jus in bello*.

War is the oldest of topics in applied philosophy, but it is more than this. As we indicated, since Heraclitus war has been a metaphor for how one should view other human relations. For there is an enduring connection, especially when trying to provide timeless rules of conduct that should govern everyone, even in how to treat one's most despised enemy. Consequently, the morality of war has provided some of the best examples of lasting normative rules. For instance, for 2,500 years the use of poisons during battle has been forbidden, and this is true regardless of whether one has no other effective means of defending oneself from imminent attack. Nothing that specific has been part of the moral code of so many peoples for such an extended period. Thinking about the rules of war, such as prohibiting the use of poisons, makes it possible to think concretely about universal moral norms, both their nature and efficacy.

Thinking philosophically about war also brings to the foreground the more general issue of the justifiability of violence, what must be done or shown prior to the act of violence as well as what must be done or shown after the violence occurs. Traditional just war theory distinguished among three questions: When is it just to initiate war? What tactics are just during war? And what must be done in the aftermath of war? These questions will frame the discussions that will ensue. We here present 15 essays by contemporary philosophers who attempt, collectively, to survey the current philosophical issues on war and to offer their own original insights into the philosophy of war and peace. After an initial exploration of the historical background, the anthology proceeds thematically evaluating justice at each stage in the war process: initiating war, waging war, and ending war.

In Part I, Greg Reichberg and Nicholas Rengger each explore the historical background to the normative perspective on war. First, Reichberg

discusses the nature and scope of the principle of *jus ad bellum*, or just grounds for resorting to war, focusing upon the tradition as formulated by medieval and early modern thinkers such as Gratian, Aquinas, Cajetan, Vitoria, Suarez, and Grotius. He argues that three opposing positions defined the development of the just war doctrine: pacifism, political realism, and bilateral rights. The correlative response to each of these positions from just war theorists led to increasingly sophisticated accounts of what it means for a state to have just grounds to enter into war. Second, Rengger traces the development of the other category used to delineate the criteria by which wars ought to be judged, *jus in bello*, or just conduct during war. However, Rengger warns against the tendency of modern just war theorists to structure the debate around the distinction between *jus ad bellum* and *jus in bello*. Indeed, according to Rengger, consideration of the *jus in bello* actually evolved from questions of *jus ad bellum* and that evolution hinged upon the “problem of simultaneous ostensible justice” or whether it is plausible to think that both parties in a conflict have just cause for waging war against the other. Rengger argues that because there is often an epistemological barrier to knowing which party has justice on its side, contemporary just war theorists ought to think about the relationship between war and morality in terms similar to those Francisco de Vitoria and his colleagues of the School of Salamanca used during the sixteenth century. They were correct to say that we ought to treat our enemies under the assumption of invincible ignorance rather than lawless malfeasance. This assumption necessarily leads to a rule of restraint during war.

Next, the essays in Part II concentrate upon justifications for initiating war. First, Larry May examines the principle of just cause in contemporary international law arguing that we need a bifurcated just cause test, one that applies to the regulation of states and another that applies to the prosecution of individuals. He examines two examples of unjust war, war fought for the conversion of heathens and war fought for the sake of promoting democracy, as well as the paradigmatic example of just war: war waged for self-defense. May argues that the principle of just cause should be reconceptualized to be preventing or stopping a wrong committed by a state, or statelike entity, against another state, or subsection of a state, that is sufficiently morally serious to be analogous to the risk of large loss of life that war involves. On May’s understanding, just cause and proportionality are closely related. Though this way of thinking reduces the number of just causes for determining when to sanction a state for acts of aggression, in considering individual responsibility for aggressive

war he argues that it should be easier to prove that one has a just cause for war. From here, Jeff McMahan discusses aggression and punishment. Diverging from the standards of contemporary just war theory that deem aggressive and punitive wars always unjust, McMahan argues instead that aggressive war can be just and punishment can be a just cause for war. He shows that the tendency within the just war tradition to rule out aggression *tout court* stems from the idea that striking the first blow in a struggle is somehow inherently wrong. However, McMahan suggests that this is not necessarily the case. He recognizes that in recent years the paradigmatic just cause seems to have shifted away from state self-defense and toward prevention of individual human rights abuses; so it is conceivable that aggression, for example, unilateral humanitarian intervention, is permissible so long as its aim is defensive. Likewise in the case of punishment, McMahan distinguishes between two possible aims of punishment, defense (or deterrence) and retribution, arguing that, with the exception of retributive wars, it is possible to wage a punitive war with the aim of defense. Therefore, it is fallacious to pronounce punitive wars patently unjust.

The final two articles in Part II examine particular cases of potentially just causes for waging war: humanitarian intervention and promotion of democracy. Cindy Holder discusses the complex relationship between sovereignty and humanitarian crises. She argues that the problem that the international community faces regarding humanitarian crises is closely tied to the problems of intrastate conflict and the neglect of human rights. Because solving these problems necessarily involves debates about how to deal with states, Holder argues that the corresponding response to humanitarian crises necessarily involves non-ideal theorizing. Successfully confronting the problem of humanitarian intervention, then, depends upon recognizing the injustices inherent in the state-based system and finding the appropriate response while working within that system. Holder recommends adopting a presupposition against military intervention and favoring mediation as the best method of intervention. Finally, James Bohman considers whether it is ever justified to go to war with the main goal of democratizing another nation. He argues that although it seems that the emergence of democratic states should lead to an increase of peace in the world, war is not a plausible means of achieving the democratic peace and has actually served to undermine that effort. According to Bohman, the current international situation requires a different solution: “the formation of institutions by which democratic states and the international system may become more

democratic in a mutually reinforcing way.” His argument proceeds in three steps. First, he argues that war is not a plausible means of establishing democracy. Second, current internal and external conditions undermine the democratic peace hypothesis because war undermines the very conditions that help citizens of democracies to avoid evils such as famine. Third, using the European Union as an example, Bohman argues that interaction among institutions can have the same democratizing effects as wars for the sake of spreading democracy, but without the threat to peace.

The next five essays, constituting Part III, address just and unjust methods of waging war. The issues examined here are proportionality and necessity, collateral damage, weapons of mass destruction, torture, and terrorist methods. First, Thomas Hurka discusses the deontological and consequentialist aspects of two conditions used to evaluate whether a state is meeting the *jus in bello* requirement, namely, proportionality and necessity. Although just war theory evaluates acts of war in terms of their consequences, it does not do so in a purely consequentialist way. Rather than weighing all benefits and harms equally, just war theorists employ deontological considerations in order to assess *which* harms and benefits are morally relevant. Just war theory, then, rules out certain types of harms and benefits taking into consideration their causal history, including the intentions of particular actors. The resulting morality of war, which takes a distinctive deontological approach to assessing the consequences of war, is sometimes more and sometimes less restrictive than consequentialism. Second, David Lefkowitz continues the discussion of the consequences of war asking what, if anything, morally justifies acts of war that cause one consequence in particular, collateral damage. Collateral damage is harm done to illegitimate targets in war as a side effect of attacking legitimate targets in war. Lefkowitz looks at both the nonconsequentialist and consequentialist justifications for collateral damage arguing that both types of justification fail. Therefore, Lefkowitz takes a skeptical position toward the morality of acts of war that cause collateral damage and given the inevitability of the occurrence of this consequence of war, concludes that it is practically impossible to fight a morally justifiable modern war.

The final three articles in Part III examine particular cases of violations of normative principles concerning how wars should be fought. Steven P. Lee asks whether the special moral status bestowed upon weapons of mass destruction (WMD) is actually warranted. He looks at each of the traditional classes of WMD, nuclear, biological, and chemical, and argues that on the basis of the simple criterion of destructiveness, these three

types ought not be lumped together under the same terrifying banner. However, the three types of weapons do share a common quality in virtue of which they violate the standard of *jus in bello* and so may appropriately be conflated, namely, indiscriminateness. These findings have ramifications for thinking about the permissibility of having these weapons in one's arsenal during times of war. Ultimately, Lee argues that from the perspective of *jus ad bellum* nuclear (and perhaps biological) weapons are allowable for purposes of deterrence, that is, when two states each have the capacity to destroy each other. But from the perspective of *jus in bello* and its principle of discrimination, all three types of weapon are prohibited. Michael Davis argues that because of its inherent inhumanity, there is no sense in which torture could be morally justified as an act of war. He even rejects the permissibility of torture in the famous ticking-time-bomb case. In fact, Davis rejects all forms of inhumane treatment as impermissible on deontological grounds regardless of specific circumstances or consequences. In the final essay of Part III, Marilyn Friedman discusses terrorism and gender. Friedman addresses three basic questions: (1) how best to define terrorism, (2) whether terrorism is ever defensible, and (3) whether female terrorists should be held to the same standards of moral responsibility as their male counterparts. With regard to the definitional question, she argues that a wider definition of terrorism – one that covers acts beyond intentionally aiming at the death of innocents – would allow for fruitful debate on the important question of whether terrorism is ever justified. Second, Friedman thinks that certain terrorist acts may be justified within a narrow set of circumstances. If a state forcefully denies a group its right to self-determination and violates its members' other human rights, then the group may be justified in using acts of terrorism as a last resort to defend its members. Finally, drawing an analogy between the military "superior orders" defense and women's subordination within male-dominated societies, Friedman concludes that there are weighty reasons for thinking that the coercive socialization to which women in some societies are subject exempts them, to a greater degree than men, from moral responsibility for terrorist acts.

Part IV concerns the aftermath of war and ways of moving forward for all relevant parties. Just war theory and other philosophical considerations of war have rarely raised the issues involved in regaining justice and peace after the conclusion of war, sometimes referred to as *jus post bellum*. So this final part of our volume represents an especially significant addition to the normative debate. First, Trudy Govier tackles the difficult question of reconciliation including the relationships between persons and groups

who had various roles during the war. Govier begins by looking at criteria for *jus post bellum* and argues that some form of reconciliation is necessary as a precursor to the satisfaction of these conditions. Additionally, Govier contrasts two conceptions of justice in the debate over the appropriate way to end wars. The traditional framework has been that of retributive justice, which focuses upon the punishment of those who perpetrated injustice. However, besides the many practical problems with this type of penal justice, Govier says that the obligations of retribution ought not take priority over seeking peace. Rather she argues that the framework of restorative justice, which focuses upon restoring the relationships needed for a functioning society through remorse, restitution, and reconciliation, has a better chance of helping individuals rebuild those relationships destroyed by war. Second, Christopher Heath Wellman explores the advantages and disadvantages of offering amnesties to participants in wartime atrocities. He deals with three questions: (1) Under what conditions is it rational to grant an amnesty? (2) Under what conditions is it morally permissible to grant an amnesty? and (3) Under what conditions must the international community respect amnesties granted by individual state governments? Wellman shows that it is wise to begin with a strong presumption against amnesties insofar as a fully functioning legal system is only possible within a legal climate in which criminals are systematically pursued, prosecuted, and punished. However, the permissibility of any particular amnesty does not depend upon its being perfectly rational. So, Wellman allows for the possibility that amnesties may be permissible so long as they are issued in the genuine pursuit of important moral purposes. As for the role played by the international community, Wellman recommends that the global community act as a monitoring agency reviewing and deciding upon the validity only of amnesties the terms of which have been previously negotiated within individual countries. He emphasizes that above all the international community ought to respect amnesties granted by the free and informed decisions of a domestic population as a whole.

The final two essays in this section address significant problems that people face in attempts to achieve reconciliation after war's end. First, David Luban discusses war crimes and criminal trials. Before sketching the history, structure, and justification of laws backed by criminal punishment with regard to war, Luban proceeds by historical example asking whether it even makes sense to claim that war is restrained by law. Perhaps unsurprisingly, he concludes, against the Hobbesian realist, that the basic project of establishing and enforcing a code regulating the conduct of



war wins the day. Yet, this project has its complications. For example, there is the demarcation problem: it is fairly clear that morality within war is different from ordinary, everyday morality, but what is the proper principle governing this distinction? Luban argues that at least part of the solution to these complications requires a greater emphasis on an ideal of military discipline and personal responsibility. Still he admits along with Trudy Govier and Christopher Heath Wellman that alternatives to criminal trials such as truth and reconciliation commissions or amnesties might better accomplish the social healing needed truly to serve peacekeeping needs. Finally, Nancy Sherman addresses the main barrier to peace and security after the devastation of war: the human thirst for revenge. In the light of an underlying dialectic between Stoic and Aristotelian images of the good warrior, Sherman argues for a fresh look at the moral psychology of contemporary warfare. Sherman's hope, in the end, is that the empowering aspects of feelings of revenge might be harnessed and exploited by military leaders, absent the more objectionable elements.

As Sherman's essay illustrates, even in war's aftermath there are troubling implications of war for how we understand human nature. Many times over the course of history, people have called for the elimination of war. And yet, war remains. There is a sense in which war serves some primeval need of humans: to separate themselves into groups and then to confront one another violently. Hobbes may not have been all that far off when he identified the natural human state with the state of war. But there is also a very strong human desire to live peaceably with even one's enemies so that maximal efforts can be used to attain an ever higher quality of life.

The philosophical debates about war are debates about how to harness some of the darker sides of human nature so that peace may obtain. Of course, peace at the cost of justice is not the preferred state of affairs. Sometimes wars need to be fought to stop injustice or at least to make a just peace more likely to last. Here is where the philosopher can enter the public debate: indicating when it is indeed justified to go to war, what are legitimate tactics during war, and what should be done to reconcile people after war has run its course. Surely the importance of such issues is the reason nearly all the great philosophers have examined the questions in this book. And surely this is why some of the leading political and moral philosophers today also have written new essays for our volume. War calls out for philosophical analysis. We believe that the essays to follow advance the long-standing debates about war and justice.