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## Review Article: Just War Theory and Peace Studies

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*Abstract:* Please provide a 100–150 word abstract for your article.

To begin with a pun, war is on the defensive among scholars. Few can be found anymore who proclaim the glories of war as many did in times past. For, the twentieth century cataclysms of world wars, nuclear bombs, genocides, and a sustained focus on developing ever more efficient killing technologies have expanded exponentially our awareness of war's negative consequences. Now in the twenty-first century a would-be imperial power has visions of endless wars it allegedly must fight to quell asymmetrical opponents of its claims to hegemony; and cooperative media avoid displaying the grossly unpleasant consequences of this agenda. In this setting, some respected theorists do assert that these patently non-defensive excursions comply with just war criteria.<sup>1</sup> Others, however, are now in print who find unreflective obeisance to the just war tradition jingoistic, even in a military academy classroom. Their works about or related to the just war tradition question the very possibility of a just war. In so doing, they constitute a respectable basis for a peace studies course that would facilitate limiting the amount of carnage in the world by examining forceful philosophical critiques of war-justifying arguments. This theoretical work, moreover, can be supplemented with psychological research that shows how otherwise gentle individuals become violent towards others only when authorized and expected to do so in a context of social control.

The centuries-old just war tradition has always tended to support the hostile objectives (*jus ad bellum*) and practices (*jus in bello*) of its proponents' preferred governments. Thus regarding the former much ink has been used to define others as aggressors; and regarding the latter killing has been approved in fact or in effect on the basis of favored warriors' allegedly pure intentions. This pervasive bias caused the tra-

dition to fall out of favor for centuries until Michael Walzer revived it with his post-Vietnam War study called *Just and Unjust Wars*.<sup>2</sup> In that work Walzer argued that moral considerations must be applied to all aspects of war, and this is now *de rigueur*, at least for rhetorical purposes. He himself limits moral responsibility for war to individuals who fail to act in accordance with what he calls the war convention, which consists of “the set of articulated norms, customs, professional codes, legal precepts, religious and philosophical principles, and reciprocal arrangements that shape our judgments of military conduct.”<sup>3</sup> Taking this inherited complex of rules as the basis for his moral assessments, he is critical of government leaders who start a war that lacks *jus ad bellum* and of military personnel who act beyond the permissible scope of *jus in bello*. Such constraints aside, he recognizes that war is all about killing, which he accepts as a given; so he focuses on identifying legitimate killers, these being for the most part professional belligerents who are authorized by a state to kill others, and legitimate targets, e.g., those so designated out of “military necessity.” Though opposed to U.S. intrusion into the civil war in Vietnam (his characterization) and into Iraq, Walzer tends not to find moral fault with the US government officials who order militaristic mayhem.<sup>4</sup>

What is particularly crucial about Walzer’s attempt to make war a moral (rather than amoral) issue is that he does not draw on any full-fledged moral theory, but seeks to reconcile the components of the war convention with warfare anecdotes that historians and others have studied in detail. Proceeding in this way, he sometimes seems to lean towards a utilitarian standard; then at other times he seems more like a Rawlsian in search of reflective equilibrium. For two decades this presentation of just war theory as a kind of educated pragmatism enjoyed almost canonical status in some quarters. But in recent years the resources of philosophical analysis have been brought to bear on just war theory with far fewer jingoist preconceptions. Contributing to this new-breed critique of just war theorizing are a number of articles that point to this approach’s failure to resolve some crucial problem that modern warfare engenders. And transcending these selective concerns are works by philosophers David Rodin and Andrew Fiala,<sup>5</sup> which challenge the tradition in its entirety by critiquing the assumptions that underlie its war-making norms. Along with a selection of insightful articles, these two books would be crucial to consider in an upper division or graduate level course. Rodin’s would be quite challenging, though, for students who lack fairly well developed logical acumen.

As for tradition-modifying essays, several are included in *Rethinking the Just War Tradition*.<sup>6</sup> Co-editor Van der Linden argues in his “Just War Theory and U.S. Military Hegemony” that a small state’s right to respond militarily to aggression would be morally inapplicable



(or, in traditional terms, would have disproportionate consequences) if the hegemonic United States is the aggressor. Co-editor Lango's "Generalizing and Temporalizing Just War Principles" seeks to extend just war theory's war-making authority beyond states to other entities that engage in armed conflict. And co-editor Brough, finally, in his "Dehumanization of the Enemy and the Moral Equality of Soldiers," seeks to salvage the latter (fostered by Walzer) by discouraging the former – which, as discussed below, is now fostered psychologically during military training. Each of these appeals for modifying just war thinking should be read in conjunction with Joseph Schwartz's deconstruction of the US government's recent ideology.<sup>7</sup>

Rodin's *War & Self-Defense*<sup>8</sup> is nothing less than a dismantling of the just war tradition. Its author achieves this (in my opinion) by drawing on both conceptual analysis and legal responsibility considerations to show that, contrary to the most basic assumption of the just war tradition, war-making cannot be morally justified as a form of self-defense because self-defense, though sometimes justifiable as between individuals, affords no logically defensible springboard from which to justify state-level national defense.

To analyze the concept of self-defense, Rodin draws on relevant views in philosophy and in criminal law. Early on he delineates the paradigm case of justified self-defense and acknowledges that an individual has a right of self-defense; but he qualifies this right by showing that it is limited by the criteria of necessity, imminence, and proportionality. Against these background conditions he then elucidates the "moral asymmetry" between an innocent victim and a responsible aggressor, namely, that at the moment of engagement, a defender has a right to kill and the aggressor has no right to life. To do this, he compares the paradigm case to such ethically charged situations as those involving a "forced choice" (where killing someone is made the condition for sparing others), or an "innocent threat" (or "aggressor" or "bystander"), or the McNaughton Rules appealed to in criminal law to justify a plea of not guilty by reason of insanity. His conclusion from these considerations:

A right of defense exists when a subject is at liberty to defend a certain good by performing an action which would otherwise be impermissible . . . [provided that] . . . (i) an appropriate normative relation exists between the subject and the end of the right . . . , (ii) the defensive act is a proportionate, necessary response to an imminent threat of harm, [and] (iii) the object of defensive force has an appropriate degree of normative responsibility for, and the subject is innocent of, the harm threatened.<sup>9</sup>

He then turns to justifying national defense, noting first that in international law a state has no right to go to war except to fight off an aggressor and secondly that this response might be justified in ei-

ther of two ways: as a state-level activity not dependent upon or even directly of concern to individuals or as the collective equivalent of an individual's resort to self-defense (the "domestic analogy"). The first, a reductive strategy, fails because soldiers go far beyond what is permissible to self-defending individuals and the so-called "moral equality" of soldiers on either side is inconsistent with the "normative asymmetry" that is so basic to an individual's right of self-defense. In short, the "conditions justifying actions in the case of national defense are neither coextensive, nor necessarily concomitant, with those that justify action in the case of self-defense."<sup>10</sup> The "analogical strategy," in turn, also fails because a state is not an organism as fascists asserted, and if one views it as an artificial entity, as have Hobbes and Walzer, then it has no special status on the inter-state level where no state has any superior right to exist. (Walzer sought such a right in community; but this basis is also flawed because few communities are coextensive with a state.)

Other assumptions made by just war theorists are also flawed. For example, there is no precedent in criminal law for saying (as does Walzer) that soldiers have diminished responsibility for killing because they act under duress nor, to assert the opposite, that they are somehow entitled to kill. Theist proponents of just war theory had an "out" at this point to which secularists cannot appeal. So perhaps one can justify national defense apart from just war theory by saying a state can go to war to punish others? No, Rodin argues, this is not sustainable under a social contract or a parental model. More generally, just war theory's concentration on conflicts between nation-states in the absence of any definition of aggression in international law renders it unable to address meaningfully such challenges as those posed by civil wars and by a state's oppression of its own people. Such problems lead Rodin to go beyond Kant and call for development of an impartial universal state, and, until that is achieved, for a recognition that no call for military action, even if seemingly inescapable, will be easy to justify on moral grounds.

Rodin's critique of the just-war tradition, though compelling, is limited in one crucial respect: its focus on self-defense does not anticipate or accordingly take into account the humanitarian/democratization justification of war-making that the Bush Administration would introduce. Some philosophers have written very critically about the Bush Doctrine's canonization of preemptive war (e.g., Peter Singer and Joseph Margolis);<sup>11</sup> but, as noted above, some just war theorists have taken this highly problematic development in stride. Not so Andrew Fiala, whose *The Just War Myth*<sup>12</sup> brings epistemological considerations to bear on the just war tradition as received and as recently manipulated.



Fiala confronts what to him is an insoluble conundrum: on one hand, the just war theory's criteria for justifying a war are and should be rigorous, and this being the case no war is entirely justified; yet, on the other hand, wars must sometimes be fought. Given his skepticism about establishing a moral fit between a real war and the theory's justificatory principles, he maintains that a just war is perhaps possible in theory but improbable in practice. This being the case, a theory-based claim that a given war is "right, noble, and good" renders the theory mythological.<sup>13</sup> By "myth" Fiala means "an unproved collective belief that is accepted uncritically."<sup>14</sup> And he tells us over and over again throughout his book that as often as not, especially in political circles, we are dealing with a just war *myth*. Thus wars in the real world are "more or less justified,"<sup>15</sup> and to believe otherwise, i.e., to romanticize a war, is possible only by "a lack of attention to the facts."<sup>16</sup> And yet, "since wars must be fought, we need the just war theory to tell us how to fight."<sup>17</sup>

Centuries ago, says Fiala, it was no doubt less difficult to fight a just war in accordance with the theoretical criteria given the spatially and logistically confined battlefields that prevailed – not to mention the divine authorization once in vogue. But in practice the kinds of military weapons now being used have burst the bounds of those ancient norms; and on the level of theory the onetime focus on national defense against aggression is being transformed into justificatory appeals to humanistic intervention, especially as propounded in the Bush Doctrine rationale that allows for and even mandates going to war to democratize any country not yet basking in such freedom. To address this new challenge to peace Fiala devotes four chapters to critiquing "the myths of the war on terrorism." He then concludes with an appeal for "skeptical democratic pacifism," which he distinguishes from other pacifist approaches that reject any violent response to aggression, and asserts his conviction that "there must be a universal answer to the question of whether war is wrong."<sup>18</sup>

Fiala adequately defends his position that we should maintain a skeptical view of just war claims. He goes beyond this, however, to say that in a democracy ordinary people have a "shared responsibility" for any war that is undertaken "in their names" because we the people select our political leaders and must see to it that they are responsive to our preferences. This populist stance is itself based on a myth, namely, that if a political system is called a democracy the people are in charge. Subscribing to this myth, Fiala cites but chooses not to consider information to the effect that political leaders may not be merely misleading people about their motives for fighting a war but behind their noble rhetoric they are pursuing entirely different objectives, including the geopolitical interests of their corporate controllers. This procedural

indifference, finally, is inconsistent with Fiala's telling us that ordinary people lack the sort of information they ought to have if they are to pass judgment on a proposed war. And included in that information would surely be what can be known about procedures being employed to turn potential military personnel into effective killers.

As is well known, many who think war can be justified rely on assumptions about human propensities towards violence. So the teacher of a philosophical peace studies course might address the underlying appeal to human nature by including in the course a solid introduction to psychological studies that show how otherwise gentle individuals are not instinctually violent but can be induced to kill out of obedience to group-legitimated authority figures. Best known in this regard is Stanley Milgram's research, originally published under the title *Obedience to Authority: an Experimental View* in 1974 and reissued by HarperCollins in paperback in 2004. No less revelatory in these matters was Philip Zimbardo's 1971 Stanford Prison Experiment in which supposedly docile humans who were assigned roles requiring unyielding dominance (prison guards) responded by harming others (their "prisoners") beyond expectations. Zimbardo has recently republished his account of that research under the title *The Lucifer Effect*;<sup>19</sup> and into the earlier research he incorporates and correlates new detailed accounts of torture activities associated with Abu Ghraib and other US military prisons.

Paralleling these psychological studies of how human beings can be induced to commit acts of violence is a body of research done by or under the auspices of military institutions that seeks to determine why human beings who are under orders to kill often do not comply. This problem (as viewed by the US military) was known about long before the twentieth century, but it came into prominence when S. L. A. Marshall published his finding that only 25 percent of WWII infantrymen shot at anyone.<sup>20</sup> Our military's utterly awesome albeit revolting response to this problem has been to develop and apply psychological techniques whereby docile recruits can be transformed into effective killers.<sup>21</sup> Not content to keep these processes on hold until a recruit arrives at basic training, the military now seeks to engender killing instincts in our youth from their earliest days by means of such cultural devices as electronic war games, violence-prone movies, and much more.<sup>22</sup> Journalist Chris Hedges draws on experienced anecdotal evidence to argue that, provided such manipulation is done under the auspices of the nation-state, individuals will perform the horrible acts associated with war.<sup>23</sup>

This last observation, brought forth from the realm of the empirical, brings us face to face with the moral quandary inherent in war. Here it is tempting perhaps to emulate how other theorists in times past fac-



ilely explained the scope of papal authority: *quod facit, potest* (what he does, he can do). No one claims it is comparably easy to justify a war; but considering how frequently people tend to think the “good guys” side is justified, the historical comparison is not altogether outlandish. Whence the importance, and the challenge, of approaching peace studies philosophically.

### Notes

1. Especially hawkish in this respect are Jean Bethke Elshtain, *Just War Against Terror: The Burden of American Power in a Violent World* (New York: Basic Books, 2003); and George Weigel, *Faith, Reason, and the War against Jihadism: A Call to Action* (New York: Doubleday, 2007).
2. Michael Walzer, *Just and Unjust Wars* (New York: Basic Books, 1977).
3. *Ibid.*, 41.
4. Laurie Calhoun, “Michael Walzer on Just War Theory’s ‘Critical Edge’: More like a Spoon Than a Knife,” *The Independent Review* 10:2 (Fall 2005) 419–24.
5. David Rodin, *War & Self-Defense* (Oxford: Oxford University Press, 2003); Andrew Fiala.
6. M. B. Brough, J. W. Lango, H. Van der Linden, eds., *Rethinking the Just War Tradition* (Albany: State University of New York Press, 2008).
7. Joseph Schwartz, “Misreading Islamist Terrorism: The ‘War Against Terrorism’ and Just-War Theory,” in *The Philosophical Challenge of September 11*, ed. T. Rockmore, J. Margolis, and A. T. Marasoobian (Oxford: Blackwell, 2005). In *Rethinking the Just War Tradition* there is also a useful list of other major publications regarding just war theory (pp. 247–50).
8. For a multi-author discussion of issues raised in this work see “Symposium: War and Self-Defense,” *Ethics and International Affairs* 18:1 (Winter 2004): 63–98.
9. Rodin, *War and Self-Defense*, 99.
10. *Ibid.*, 140.
11. See my reviews in *Teaching Philosophy* 27:2 (June 2004): 181–84; 27:4 (December 2004): 388–91; and 29:3 (September 2006): 269–71.
12. Andrew Fiala, *The Just War Myth* (Lanham, md.: Rowman & Littlefield, 2008).
13. *Ibid.*, xi.
14. *Ibid.*, 15.
15. *Ibid.*, 26.
16. *Ibid.*, 41.
17. *Ibid.*, 25.
18. *Ibid.*, 171; see also 174.
19. Philip Zimbardo, *The Lucifer Effect* (New York: Random House, 2007).
20. S. L. A. Marshall, *Men against Fire: The Problem of Battle Command* (Norman: University of Oklahoma Press, 2000; orig. c. 1947).
21. Lt. Col. Dave Grossman, *On Killing: The Psychological Cost of Learning to Kill in War and Society* (New York: Little, Brown and Company, 1995).

22. Nick Turse, *The Complex: How the Military Invades Our Everyday Lives* (New York: Henry Holt and Company Metropolitan, 2008).

23. *War Is a Force that Gives Us Meaning* (New York: Anchor Books, 2003). See also in this regard Domenico Losurdo, *Heidegger and the Ideology of War: Community, Death, and the West*, trans. Marella and Jon Morris (Amherst, N.Y.: Prometheus Humanity Books, 2001).

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## Corrections for Byrne Review Article TP 32:3 297-304

p. 297 - Abstract:

Scholarly critiques of the just war tradition have grown in number and sophistication in recent years to the point that available publications now provide the basis for a more philosophically challenging Peace Studies course. Focusing on just a few works published in the past several years (there are others over two decades) this review attempts to indicate in some detail how the terrain long dominated by political scientist Michael Walzer's approach is being reclaimed by professional philosophers. On center stage are British philosopher David Rodin's critique of the self-defense justification for war and American philosopher Andrew Fiala's skeptical assessment of the just war tradition in its entirety. Also considered is a collection of more narrowly focused critiques by philosophers and some highly relevant extra-philosophical studies regarding the social interconnections between authority and violence.

p. 300 lines 1-2: change 'activity not dependent upon or even directly of concern to individuals' to read 'defense not of individuals but of the common life of the community'

p 300 line 4: change 'first' to read 'latter'

p 300 lines 11-14: change 'a state is not an organism as fascists asserted, and if one views it as an artificial entity, as have Hobbes and Walzer, then it has no special status on the inter-state level where no state has any superior right to exist.' to read 'the "discontinuity between communities and states substantially undermines the attempt to ground the right of national-defense on the rights of communities" [note: Ibid., pp. 158-159.]

P 300 line 15: delete 'this basis is also flawed because'

In toto, p. 300 lines 1-15 should read:

ther of two ways: as a state-level defense not of individuals but of the common life of the community or as the collective equivalent of an individual's resort to self-defense (the "domestic analogy"). The latter, a reductive strategy, fails because soldiers go far beyond what is permissible to self-defending individuals and the so-called "moral equality" of soldiers on either side is inconsistent with the "normative asymmetry" that is so basic to an individual's right of self-defense. In short, the

“conditions justifying actions in the case of national defense are neither coextensive, nor necessarily concomitant, with those that justify action in the case of self-defense.” [note] The “analogical strategy,” in turn, also fails because the “discontinuity between communities and states substantially undermines the attempt to ground the right of national-defense on the rights of communities.”[note: Ibid., pp. 158-159] (Walzer sought such a right in community; but few communities are coextensive with a state.)

P 303 n. 5: add after ‘Fiala’: ‘, *The Just War Myth* (Lanham, MD: Rowman & Littlefield, 2008)’

[insert new note after note 10]

p 303 note 12: change ‘*The Just War Myth* (Lanham, md: Rowman & Littlefield, 2008)’ to read ‘op. cit.’

P 304 last line: change ‘ebyren@iupui.edu’ to read ‘ebyrne@iupui.edu’

Comment to editor: changes on p. 300 are necessary for accuracy and intelligibility of presentation. If these changes exceed what is normally accepted so that you need to charge me for said changes, so be it.