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William H. Shaw, *Utilitarianism and the Ethics of War*, (London and New York: Routledge), 183 pages. ISBN: 9781138998964 (pbk.)

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Utilitarianism has a fairly bad reputation in military ethics, mainly because it is thought to make military expedience override all other concerns. Most of its critics seem to reason that utilitarianism is not bad per se, but prone to be misapplied in a self-serving way. Especially in war, writes Michael Walzer in his rather fierce critique on utilitarianism, ‘cost/benefit analysis has always been highly particularistic and endlessly permissive for each particular.’ At the end of the day, ‘no “enemy life” has any positive value; we can attack anyone; even infant deaths bring pain and sorrow to adults and so undermine the enemy’s resolve’ (*Arguing about War* (New Haven and London: Yale University Press, 2004) p. 39). The nuclear bombing of Hiroshima and Nagasaki forms a famous instance of such a partial utilitarian calculation that ‘the rules of war and the rights they are designed to protect’ should have stopped, writes Walzer elsewhere (*Just and Unjust Wars* (New York: Basic Books, 1992), pp. 263-8). But William H. Shaw argues, contra Walzer, that the seemingly obvious conclusion that we are too partial for utilitarianism to work would be too quick, and that most of the other common objections to utilitarian thinking about the moral issues war raises are equally erroneous.

Shaw begins his *Utilitarianism and the Ethics of War*, a careful depiction and mostly convincing defence of utilitarian thinking about war, with a rebuttal of realist and (more interesting) relativistic arguments about war, arguing against realists that morality has a place in our thinking about war, and contra relativists that we can (and often do) reach some basic agreement on what is right and what is wrong in war. Having done so, he outlines his own utilitarian position, primarily by juxtaposing it against more right-based approaches such as that of Walzer (the role of virtues is only mentioned in passing in a later chapter (pp. 150-1)). Not unlike John Stuart Mill and Henry Sidgwick, Shaw adheres to a fairly subtle variety of utilitarianism that does not expect us to make elaborate utilitarian calculations before every action; rather, it wants us to act from motives, dispositions and character traits that have proven to produce the best results on the long term (p. 31). Utilitarianism is therefore not necessarily at odds with the fact that we feel a special loyalty, and thus distinct duties, to our family, friends and, for that matter, countrymen. It also accepts that we need some general rules, such as keeping promises and telling the truth, since such rules tend to contribute to the general welfare. These rules work best if they are not seen as rules of thumb, but as moral rules that, once internalized, we are strongly inclined to follow. The disposition to tell the truth and keep our promises has enormous beneficial consequences. That we will occasionally also adhere to these internalized rules in the rare instances that breaking them would in fact increase general utility is a small price to pay. And what goes for rules goes for rights too: accepting and institutionalizing a specific set of rights has vast beneficial consequences. We must therefore adopt these rights (p. 36), and not violate them if we think that would increase general happiness in a concrete instance. Although utilitarians view rights in an instrumental way, they nonetheless want to internalize in themselves and others a non-instrumentalist commitment to the most important ones, as that serves the social well-being best (p. 81).

Turning to utilitarianism and war, Shaw emphasizes that one does not have to be convinced that utilitarianism as outlined above has the best answer to most moral questions to accept that it has the best answers regarding questions about *when* (Jus ad bellum) and *how* (Jus in bello) wars are to be fought. As to Jus ad bellum: Shaw forwards a utilitarian war principle (UWP) that holds that a state has a moral right to wage war if and only if there is no alternative course that ‘has greater expected well-being’ (p. 47). Shaw is the first to admit that it can be rather hard to decide whether such an alternative course exists, but in the end concludes that states at the minimum do have a right (in the sense that it contributes to the general well-being) to fight wars in self-defence. This is mainly because not recognizing that right would, in the world as it currently is (i.e., without an effective world peace-keeping force), reward aggressive wars. As it happens, self-defence is also the main ground on which the traditional Just War Tradition (JWT), which attempts to offer an alternative for pacifism and realism alike, allows states to wage war. In fact, writes Shaw, it is difficult to imagine a war that UWP would approve but JWT not, or vice versa (p. 69). Utilitarians endorse JWT principles such as just cause and right intent for their beneficial effects, and Shaw proposes that we see such JWT principles as secondary moral rules that are ultimately subservient to the UWP.

What holds for Jus ad bellum holds for Jus in bello: Shaw stays surprisingly close to the received rules of war, perhaps the most important one being the discrimination between civilians and combatants. Clearly, utilitarians do not hold that the lives of enemy combatants are intrinsically less valuable than those of civilians: the revolutionary aspect of Hutcheson’s the greatest happiness for the greatest number is not that happiness is the highest good, but that all count for the same. Nonetheless, utilitarians do want soldiers to distinguish between civilians and combatants because the net result is that war causes far less harm that way. In fact, soldiers should take as much care, and run as much risk, to avoid casualties among enemy civilians as they would do for their own civilians. Even if enemy forces do little to avoid civilian casualties, or target them deliberately. Utilitarianism is not about fairness, but about minimizing the damage of warfare (pp. 139-140), and the well-known principle of civilian immunity is not grounded in a theory of rights, as for instance Walzer holds. (Although Walzer grants in a footnote that utilitarian arguments and rights arguments are not ‘wholly distinct’ (*Just and Unjust Wars* (New York: Basic Books, 1992), p. 156).) A rights based account of civilian immunity fails to explain why accidental civilian deaths are sometimes permitted, or why in case of supreme emergencies even the intentional killing of civilians might be allowed. Shaw hence argues that although just war theory on the surface consists of a mix of deontological (civilian immunity, no *mal in se*) and utilitarian (proportionality, chance of success) elements, it is in fact a entirely utilitarian affair. Civilians and combatants both have rights, but only because of ‘the enormous utility that comes from recognizing and protecting those particular claims and entitlements’ (p. 113).

Interestingly, Shaw holds that states not only *should* follow principles such as proportionality, discrimination, and civilian immunity because the principles maximize welfare. In practice, Shaw suggests, the wish to maximize welfare (or minimize suffering) is also why states and militaries *do* follow these principles in practice. Utilitarianism provides the best account of why the received rules of war ‘have the moral force they do’ (p. 100). According to Shaw no major overhaul of the existing rules is needed – utilitarians deem it more important to further the adherence to the current rules, than to improve and expand these rules (p. 105). Although utilitarians will not ‘hesitate to propose utility-promoting refinements’ to the existing rules (p. 112), there seems little need to do so. Utilitarianism and the received rules of war roughly coincide, and the latter actually evolve ‘in a welfare-enhancing direction’ (p. 112). There is little use in proposing rules that would reduce the carnage of war more than the existing ones, if there is little or no chance that people and states will accept them (p. 127). But if the received rules of war are already to a large extent – and increasingly so – based on utilitarian considerations, what is there to wish for?

Shaw already warned his readers in the preface that he will not deal with ethical issues modern military technology raises, or with ‘situation specific moral challenges that military personnel can face.’ And although *Utilitarianism and the Ethics of War* ends with a chapter on ethics and the profession of arms, there is probably not much in this book that is of practical relevance for members of that military profession; but, clearly, they are also not the intended audience. What Shaw’s book wants us to convince of is that the existing rules are more grounded in utility, and less in rights, than we usually think. And in that aspect, he makes good on his word. Nonetheless, some suggestions for ‘utility-promoting refinements’ to the current war rules, or maybe some attention for contemporary issues such as the rise of unmanned weapons as a means to decrease the risks to soldiers (but perhaps also to civilians), would have made this volume even more relevant.

Peter Olsthoorn

Netherlands Defence Academy

phj.olsthoorn.01@mindef.nl