

Cet article a été téléchargé sur le site de la revue Ithaque : www.revueithaque.org



Ithaque : Revue de philosophie de l'Université de Montréal

Pour plus de détails sur les dates de parution et comment soumettre un article, veuillez consulter le site de la revue :

<http://www.revueithaque.org>

Pour citer cet article : **Kurstak, D. (2007) « Is it Practically Possible to Wage a Just War? », *Ithaque*, 1, p. 219-245.**

URL : <http://www.revueithaque.org/fichiers/Ithaque1/12kurstak.pdf>

Cet article est publié sous licence Creative Commons « Paternité + Pas d'utilisation commerciale + Partage à l'identique » :

<https://creativecommons.org/licenses/by-nc-sa/2.5/ca/deed.fr>



Is it Practically Possible to Wage a Just War?

Daniel Kurstak*

Abstract:

Just war theory, for it to become an effective instrument in assessing existing wars and planning just ones, presupposes that two fundamental kinds of conditions can be fulfilled: theoretical and practical conditions. Much of the pertinent literature seems to focus heavily on the first group of conditions, with somewhat less emphasis placed on the second one. And yet, these oftentimes overlooked practical conditions can imply difficulties as heavy, if not heavier, than the theoretical ones. I therefore examine this second group of practical conditions, and demonstrate that they imply what I call a “minimal representation of all salient features”, proper to the part of the world affected by the conflict, if one is to even have the possibility of practically applying the theoretical prescriptions of just war theory. Furthermore, I demonstrate that, while such a minimal representation would not require the “gift of omniscience”, on the part of the competent authority responsible for waging the just war, it would nevertheless require an exceptionally heavy and burdensome attention to prudence and detail on its part in the war’s planning and execution. I then conclude with the implications of all this for the “really real” possibility of anybody being able to wage a just war.

*Doctorant en Philosophie, Université de Montréal, danielkur@look.ca

Just war theory presupposes that two fundamental kinds of conditions be fulfilled for it to be applicable to real-world scenarios: theoretical and practical conditions. Theoretical conditions, on the one hand, are those which pertain to the soundness of the very premises upon which just war theory rests, as well as to its internal coherence and consistency. Practical conditions, on the other, are those which pertain to the kind of knowledge and control required of a competent authority for it to be sufficiently empowered to actually be capable of waging a just war.

After a brief overview of just war theory's conceptual core, and after outlining a possible methodology for its application as a method for gauging the *overall* justness of wars (and for the planning of such overly just ones), I examine what exactly these practical conditions would imply. I show that the practical critics of just war theory suggest the impossibility of attaining the kind of *minimally required representation* of the state of affairs in question, pertaining to the part of the world affected by the conflict, that would be needed for a competent authority to be able to plan and prepare such an undertaking sufficiently well, so as to guarantee its execution in minimally adequate fulfillment of the just war criteria. Considering these criticisms, I then entertain what kind of ideal scenario could best counteract them, and show it to involve a *complete* representation of the state of affairs, pertaining to the part of the world affected by the conflict.

Unfortunately, despite acknowledging the great potential of such a complete representation for just war planners, I am then forced to concede its unfeasibility. However, looking for another way to fulfill the representative requirement, I follow up by articulating a pragmatized and reduced version of this ideal scenario, which I believe could become the practical purview of (certain sufficiently empowered) competent authorities, and could also be sufficient, to allow such war planners to guarantee the justice of the war's evolution and final outcome.

This being said, I remark that, while this pragmatized scenario would not require something quite as drastic as the "gift of omni-

science” (as the ideal one practically would), the particularities of our modern world, coupled with the holistic requirements of the just war criteria, mean that it would nevertheless require an incredibly difficult, delicate, and heavy amount of war planning, if one is to guarantee, from the onset, the just outcome of the war. Finally, I conclude with a short reflection, regarding the implied practical possibility of *anybody* being able to wage a just war, as well its entailment for the actual value of just war theory itself.

1 Contemporary Just War Theory’s Central Core

It is perhaps best to begin by stipulating that, by the term “*just war theory*”, I will be referring here to what I take to be the central corpus of inherited ideas, guidelines and principles, from the variety of just war theorists, as they have come to be adapted and transposed into the modern context. In so doing, I am by no means claiming to formulate an essentialist version of it, nor what I necessarily take to be its best, nor even definitive incarnation. I am simply sketching out what I take to be its currently most agreed-upon principal core.¹ With this observation in mind, let us now look at the central tenets of just war theory, and determine what they imply for those wishing to engage in such military action:

Just war theory can be understood as resting on the fundamental notion that it is sometimes justifiable (and morally defensible) to employ an *appropriate* military action, so as to terminate an unjust act.² The kinds of acts that fall into this category include direct aggression, aggression of another, or aggression of a community, within its own country.³ In such events, the use of military force (whether by the victim itself, or by way of outside assistance, such as by a foreign intervention force) can become justified, seeing as how it is “solely”

¹As a principle source for this sketch, I am employing Brian Orend’s *The Morality of War*: Brian Orend, *The Morality of War*, Broadview Press, 2006.

²Michael Walzer, *Guerres Justes et Injustes*, translated by Simone Chambon and Anne Wicke, Éditions Berlin, 1999, pp. 125-131.

³See: Brian Orend, *The Morality of War*, pp. 32-33. 90-97.

employed to reverse the injustice being committed. However, for such a use of force to be considered “truly appropriate”, it cannot be employed in any *ad hoc* fashion. For this reason, just war theory incorporates a set of *just war criteria*, devised specifically so as to render possible such a judgment on the appropriateness of the use of force. And, so as to avoid various wanton forms of violence, opportunities and abuse, these criteria impose severe limitations upon: (1) the very justifications for going to war; (2) the kinds of activities permissible within the course of the conflict; and (3) the consequences and obligations incurred, by the various parties involved, after the end of the war. One thus comes to find these various criteria respectively grouped and incorporated under the three conceptual frameworks of *jus ad bellum*, *jus in bello*, and *jus post bellum* (“justice before war”, “justice within war”, and “justice after war”), corresponding to the respective timeframes within which they are (most) operative.⁴ And, one can represent the conceptual core of just war theory, as per its various criteria, by way of the following outline:

Jus ad bellum (justice before the war):

1. just cause (self-defence, defence of another, humanitarian intervention, preventive/pre-emptive strike⁵)
2. good intention (wishing to attain the just cause)

⁴As we will see in the next sections, however, many (if not most) of these criteria need to be considered consistently and continually, throughout the course of the conflict, if one is to be able to truly assess their fulfillment, or not.

⁵The case of preventive/preemptive strikes could constitute a fourth kind of justifiable military action. However, this kind of action is usually much less intuitively defensible, as opposed to ones *in reaction* to the three cases of flagrant aggression, enumerated above. Orend clearly presents the preventive/preemptive strike as problematic (Brian Orend, *The Morality of War*, pp. 25, 54-55), whereas Walzer accepts it as a genuinely justifiable possibility, without, for that matter, denying the difficulties which it encounters (Walzer, *Guerres Justes et Injustes*, pp. 172-181). Naturally, all of this has not prevented the perpetrators of preventive/preemptive strikes, throughout history, from employing “just war-like” rhetoric as support for the necessity and moral acceptability of their actions.

3. public declaration by a competent authority (so as to sustain legitimacy and competence)
4. last resort (going to war is only justified when all other pacifist or diplomatic options, and/or sanctions, have been used up)
5. probability of success (so as to employ weaponry in an intelligent and mitigated manner)
6. proportionality (so that the *anticipated* destruction be justifiable by the objectives gained)

jus in bello (justice within the war):

1. discrimination (distinguishing between combatants and non-combatants, as well as between legitimate and non-legitimate targets)
2. proportionality (so that the *actual* destruction be justifiable by the objectives gained)
3. minimal use of force (so that only the required amount of force be employed to fulfill the various military missions)

jus post bellum (justice after the war):

1. just cause (making various appropriate arrangements for the end of the conflict, such as retribution, reconciliation, compensation, formal pardon, etc.)
2. good intentions (so that the conflict *only be ended* for the reasons enumerated above)
3. public declaration (so that the end of conflict be formulated *and* accepted by the legitimate authorities *on both sides* – by the victors *as well as* by vanquished)
4. discrimination (regarding punishment and/or lustration)
5. proportionality (so that the peace terms be proportional to the rights originally violated)

2 Employing Just War Theory to Evaluate the *Overall Degree of Justness of a War*

The above-listed just war criteria provide us with a set of variables for examining whether, and to what extent, various parts of the conflict have been carried out in a just or unjust fashion. However, the question remains as to how such a detached and individual evaluation of these various elements, as per these various criteria, can then come together, so as to be converted into a *global* evaluation of the *overall* and *final* degree of justness of the war. To perform such a conversion, one needs to take cognizance of the following three factors:

1. The particular modes of evaluation of these various criteria.
2. The “absolute” and “nuanced” quality which they respectively hold.
3. The ultimate weight which they hold, in the final examination of their *combined* fulfillment, or not, as indicative of the global justness of the war.

Hence, the methodology for applying just war theory (as per its core framework) can be understood as operating by way of three respective steps:

1. The first step involves arriving at a collective consensus (i.e. semantic agreement) as to the *specific meaning* of each of the just war criteria, by all concerned parties.⁶ This is vital, so that a further agreement can be reached as to manner in which the unfolding

⁶By concerned parties, I am referring here two to entities, which I take to be necessarily present in the unfolding of any planned war, so as to guarantee its overall justness. On the one hand, there is the actual competent *military* authority itself, practically responsible for waging the war. I take such an authority to be a government or international organization, which is sufficiently empowered to be able to “put the required boots on the ground”, so to speak and which genuinely wishes to do so, while fulfilling all of the just war criteria. On the other hand, to counterbalance a possible slip into unwarranted opportunism and excess, by this military authority in question, the other party is to be composed of the “greater international community”

course of events will be judged in relation to its specifically being indicative of the fulfillment (or not) of the various just war criteria.⁷

2. The second step involves understanding the “absolute” and “nuanced” quality of the just war criteria. This is because some of these criteria, such as just cause and (possibly) good intention, for example, are considered “absolute”, in the sense that a war that does not respect them from the start, cannot, later, become just, by sole virtue of all of the other criteria being fulfilled, even in an “exemplary fashion”.⁸ This is due to the original conditions, regarding the ultimate right to engage in war (direct aggression, aggression of another, or aggression of a community, within its own country), eliminating outright any claims to a “just war” undertaken for *bad reasons*, such as: territorial expansion, vindictive punishment, extension of geopolitical influence, etc.

However, some of the other just war criteria, such as the probability of success, proportionality (within the three categories of *jus*),

at large, which is to include (following Richard W. Miller in “Respectable oppressors, hypocritical liberators, morality, intervention, and reality”, in *Ethics and Foreign Intervention*, ed. Deen K. Chatterjee and Don E. Scheid, Cambridge, 2003), a combination of multilateral agencies and “concerned individuals”. This being said, I will not pronounce myself more accurately here, regarding the ontological status of the competent authority in question, seeing as how this matter would require another paper altogether. However, I can state this much: I ultimately take the competence of such an authority to be squarely dependent upon its capacity at best fulfilling the just war criteria, *as determined and overseen* by the kind of “greater international community”, which Miller specifically has in mind.

⁷In this respect, Thomas O’Connor suggests that the various just war criteria be understood as a set of *prima facie* duties, which win public acceptance, not because of their essentialist character, but because they reflect human sensitivities, regarding the need to limit war to potentially moral goals: Thomas O’ Connor, “A Reappraisal of the Just-War Tradition”, in *Ethics*, vol. 84, no. 2, 1974, pp. 167-68. Walzer also supports this idea in *Just and Unjust Wars*, suggesting that this “casuistic” approach can likewise counter historical and cultural relativism: Michael Walzer, *Guerres Justes et Injustes*, pp. 68-76.

⁸For example, Jeff McMahan suggests, in “Just Cause for War”, that the just cause criterion constitutes a prerequisite, which needs to be sustained all throughout the conflict, if all of the other criteria are to be at all satisfied: Jeff McMahan, “Jus Cause for War”, *Ethics & International Affairs*, vol. 19, no. 3, 2005, pp. 3-11.

or minimal use of force, for example, have a more nuanced quality, in that determining their fulfillment (or not) depends, not on the ascertainment of a *fixed state of affairs* (such as the judicial violation of sovereignty, by an act of war, for instance), but rather on the *degree* to which the obligation implied by them has been fulfilled. Furthermore, these nuanced criteria affect, and are strongly affected by (in a *reciprocal* manner), the fulfillment of the other just war criteria. Hence, the criterion of the probability of success is intimately linked to, and affects, the subsequent level of fulfillment of the criterion of proportionality, which itself is intimately linked to, and affects, the criterion of minimal use of force (in the *jus in bello*), or that of discrimination (in the *jus post bellum*). This implies that, of the nuanced criteria, each and every one of them needs to be comprehended in a *holistic* manner, in intimate relationship to all of the other criteria to which it pertains and which pertain to it, and respectively evaluated and counter-evaluated as such, if a proper verdict of the respective fulfillment of each of these nuanced criteria is to be reached.

3. Having thus fulfilled the first step (agreeing upon the meaning of the just war criteria, and on their relationship to actual worldly states of affairs), and the second step (distinguishing between their absolute and nuanced qualities, as well as determining how these are to be ascertained), the third and final step, in passing global judgment upon the justness of a war, involves understanding how the absolute and nuanced criteria relate to each other, when combined into a final evaluation of all of their respective fulfillments, and of the subsequent global fulfillment of the justness of the war. The first thing to realize, in performing this final step, is the one-way entailment caused by the absolute criteria - meaning that, if a war is even be considered as just, it must, first of all, fulfill the absolute criteria.⁹ Afterwards, if it has been ascertained that these absolute criteria have, indeed, been fulfilled, the next part of the final step involves examining whether the nuanced criteria have not been vio-

⁹*Ibid.*

lated to the point of rendering the moral justification, established by the fulfillment of the absolute criteria, insufficient or even null.

What this collective weighing of the fulfillment of absolute and nuanced criteria entails, is that we come to face four conceptual possibilities¹⁰ regarding the possible level of justness of a war. In the optimal case (1), a fulfillment of the absolute criteria, coupled with a very high degree of fulfillment of the nuanced criteria, allows us to state that the war has, indeed, been a just war. In the non-optimal (but still acceptable) case (2), a fulfillment of the absolute criteria, coupled with a dubious, but “non-excessive” lack of fulfillment of the nuanced criteria, allows us to state that the war has been “mainly just” (such is Walzer’s opinion regarding the Second World War¹¹). In the mainly inadequate case (3), a fulfillment of the absolute criteria has been overshadowed by a serious lack of fulfillment of the nuanced criteria, resulting in what we would call a “mainly unjust” war. And, finally, in the last case (4), any war, which was begun in violation of the absolute criteria, cannot but become classified as an “unjust war”. These four conceptual possibilities can thus be expressed as follows:¹²

1. Just war (implying, theoretically, an evolution of the conflict in complete fulfillment of all of the just war criteria)

¹⁰It is important to note that I do not conceive of these conceptual possibilities as tight niches into which all wars should be forcibly classified, but rather as four conceptual spaces around which to understand the general levels of justness of wars.

¹¹Walzer reminds us that, even the second world war, which is often perceived as a paradigmatic case of a just war, was not fully so, seeing as how the allies failed to fulfill the criteria of discrimination, proportionality, and use of minimal force (Dresden, Hiroshima and Nagasaki bombings). However, Walzer also believes that the overwhelming threat of Nazi rule rendered the moral weight of the just cause criterion sufficiently overriding, even in the face of the violation of these various other jus in bello criteria, so as to warrant his classification of the Second World War as being a “mainly just” war: Michael Walzer, *Guerres Justes et Injustes*, p. 453.

¹²These four conceptual possibilities are enumerated (albeit in a more rudimentary fashion) by Nicolas G. Fotion in *Military Ethics, Looking Toward the Future*: Nicolas G. Fotion, *Military Ethics, Looking Toward the Future*, Hoover Institution Press, Stanford University, Stanford, California, 1990, p. 9.

2. Mainly just war (implying, theoretically, an evolution of the conflict in complete fulfillment of the absolute criteria, but with some lack of fulfillment of the nuanced criteria)
3. Mainly unjust war (implying, theoretically, an evolution of the conflict in complete fulfillment of the absolute criteria, but with serious lack of fulfillment of the nuanced criteria)
4. Unjust war (implying, theoretically, an evolution of the conflict with a lack of fulfillment of the absolute criteria)

Basing itself on these four possible outcomes, it naturally becomes the goal of any competent authority (as defined in footnote # 6), wishing to wage a just war, to try and achieve the first conceptual outcome, if not (in the worst case scenario) to try and fall back on second. However, the history of conflicts reminds us that this remains an exceptionally difficult end to achieve, even for those who are best intentioned and best prepared for war. However, if it remains the case that some wars can come to be judged as “mainly just” by historians (such as Walzer), what are the practical *base conditions* that need to be fulfilled for any competent authority to be *truly* able to wage a just war, for one planning to do so nowadays?

3 Theoretical Criticisms of Just War Theory (in Brief)

In the previous two sections, I have outlined what I take to be the core of contemporary just war theory (as per its three conceptual schemes, and respective criteria for each), as well as a possible methodology for converting these prescriptions into an actual tool for evaluating the overall degree of justness of a war. Naturally, this same methodology can also be employed when planning a war, so as to attempt to verify, to the best of one’s abilities, if the war waged will, indeed, come to be considered as being just. However, this approach still remains highly theoretical at best, and making the transition from paper to the field results in a unique set of new difficulties, which have not quite been captured within the theoretical

framework of just war theory. These are what I call the “practical criticisms” of just war theory.

However, before these criticisms even arise, a great number of theoretical criticisms already exist, attacking the very foundations of what I have outlined in the previous two sections. While I will not dwell on them in this paper (seeing as how I am particularly interested in what I take to be the less examined practical ones), I will nevertheless enumerate them, so as to better distinguish them from the practical ones to follow:

Theoretical arguments against just war theory come from its two great rivals, namely realism and pacifism. Both these approaches formulate a number of highly diverse objections, which can be respectively classified, according to the level at which they attack just war theory. There are three such respective levels:

1. Arguments which operate at the level of *principles* affirm that just war theory is simply incompatible with certain fundamental moral principles.¹³
2. Arguments which operate at the *structural* level claim that just war theory is internally incoherent, seeing as how its criteria prescribe simultaneously contradictory (and thus, impossible) actions.¹⁴
3. Arguments which operate at the *conceptual* level claim that ethical systems and war are simply two separate concepts, and are incompatible.¹⁵

Upon examination, one immediately notices that these arguments can be distinguished by their extensive reliance on a direct critique

¹³Such principles can be of a secular (teleological, deontological, consequentialist), or of a religious, spiritual, or philosophical nature. See: Brian Orend, *The Morality of War*, p. 245.

¹⁴A good (albeit non-exhaustive) critique of the principled and structural levels of just war theory can be found in Laurie Calhoun’s “The Metaethical Paradox of Just War Theory”: Laurie Calhoun, “The Metaethical Paradox of Just War Theory”, *Minda de Gunzburg Center for European Studies*, Harvard University, Cambridge, MA, 2001.

¹⁵This is primarily the argument associated with the classical realists.

of the very thoughts and foundations underlying just war theory. Hence, they either: (1) outright deny that just war theory makes sense, due to its violation of some other moral principles; (2) claim that it is useless as a guide for conduct in war, seeing as how it prescribes paradoxical or impossible actions; or (3) claim that the state of affairs known as war cannot admit of the kinds of states of affairs required for ethical systems to operate, or (at least) be meaningful (classical realist argument). While certainly not wishing to minimize the heavy challenge and impact which these theoretical arguments do, indeed, bring to the table, let us assume, for a second, that the core requirements of just war theory can, indeed, be fulfilled (as outlined in section 1, and suggested in section 2), and that we can find ourselves in the presence both of a competent authority ready to wage a just war, as well as of a greater international community, ready to keep everything in check, so that the war be kept as just as possible. What would then practically stand in the way of such a competent authority, as an obstacle to carrying out such a just war?

4 Practical Criticisms of Just War Theory

Strictly practical arguments against just war theory likewise come from both realist and pacifist camps, but they distinguish themselves from their theoretical counterparts in that they claim that, while it might be theoretically possible (and sometimes even sound) to wage a just war, such an undertaking is simply impracticable in the current modern context. Fotion enumerates these types of arguments in *Military Ethics, Looking Toward the Future*, and distinguishes them from their more “abstract counterparts”¹⁶, adding that they hold “particu-

¹⁶Fotion uses this term to refer to arguments which advance universal and absolute principles, in defense of their claims (such as the ones described here as operating at the principled and structural levels), as opposed to those which rest more on considerations based on the empirically observable changing conditions of war: Nicolas G. Fotion, *Military Ethics, Looking Toward the Future*, p. 2.

lar interest”¹⁷ today, because they base themselves on empirical observations, regarding the evolution of the ways in which wars are waged. He classifies these arguments according to their origins, with some coming from those he calls “pacifists of a more empirical persuasion” and others he calls “inability realists”:

1. “Pacifists of a more empirical persuasion” rely on their observation of the arms race and of the current state of the militarized world (especially when considering modern means of communication, coordination, destruction, and retaliatory speed) to claim that it would simply be *impossible to anticipate all the chains of events*, unleashed by the start of a war, to be able to lead it in a minimally responsible fashion. Furthermore, some of them also claim that the start of a modern war could create an uncontrollable chain of destruction¹⁸, constituting, for them, the ultimate grounds for the profound immorality of going to war.¹⁹
2. “Inability realists” formulate an interestingly similar argument, although they focus, not on the impossibility of anticipating all the chains of events, stemming from the start of a war itself, but rather on our inability to comport ourselves in a moral fashion, once the hostility starts. Their argument is of a psychological nature, and rests strongly (albeit not exclusively), either on the strength of the passions, engendered by war, which can overwhelm sound judgment (needed for fulfilling the just war criteria), or on the breakdown of the social environment needed to

¹⁷This “particular interest” naturally applies to those who are of a “more empirical persuasion” (as opposed to a universal or absolute one), regarding arguments pro and contra war.

¹⁸Some of these critics likewise claim that, for the same reasons of destructive power and strike potential, modern wars are always immoral, whereas some of the wars of the past could have been moral: Nicolas G. Fotion, *Military Ethics, Looking Toward the Future*, p. 3. An example of this suggestion is provided by Donald E. Wells in “How Much can the “Just War” Justify”: Donald E. Wells, “How Much can the “Just War” Justify”, *The Journal of Philosophy*, vol. 66, no. 23, 1969, pp. 827-828.

¹⁹Nicolas G. Fotion, *Military Ethics, Looking Toward the Future*, pp. 4-5, 97-100.

reinforce the respect of moral norms. In either case, since these “inability” realists depict *self-control* as an unsustainable goal during wartime, it follows (according to them) that any kind of moral control (as required by just war theory) constitutes an unrealistic demand, placed upon the individuals implicated in war.²⁰

What are we to make of these “practical” arguments, contra just war theory? One need not endorse all of their more “problematic claims”²¹, to appreciate their underlying worry. This worry rests on a fundamental intuition concerning the seemingly unattainable degree of *knowledge* and *control* that would be required to wage a just war, without it slipping out of our hands and (most likely) resulting in a severe violation of many of the just war criteria. It is interesting to note that, regarding this matter, one encounters two drastically opposed schools of thought: On the one hand, we find those who, like Michael Walzer, believe in the reasoning power and integrity, governing the political-military structure, as being sufficient to guarantee control, even over such dangerous and regrettable (albeit necessary) practices as nuclear deterrence²²; on the other, we find sceptics, such as Henry Shue, who suggest that our planificatory and anticipatory limits render faith in a system, such as that of nuclear deterrence, a “grave error in judgment”, which may end up costing us very dearly, one of these days²³.

Clearly, the point of contention here is one regarding the very epistemological requirements mated to the immense degree of control that would be needed to successfully wage a just war. To see

²⁰*Ibid.*, pp. 10-11, 93-97.

²¹I am naturally referring here to the blatant “slippery slope” argument formulated by the “pacifists of a more empirical persuasion”, as well as to the underlying psychological convictions of the “inability realists”.

²²Walzer, “A Liberal Perspective on Deterrence and Proliferation of Weapons of Mass Destruction”, in *Ethics and Weapons of Mass Destruction, Religious and Secular Perspectives*, Cambridge University Press, 2004, p. 164.

²³Henry Shue, “The Impossibility of Justifying Weapons of Mass Destruction”, in *Ethics and Weapons of Mass Destruction*, p. 159.

how this translates into a strictly practical difficulty, let us now examine more closely what is entailed by this knowledge and control requirement. . .

5 The Epistemological Exigencies Underlying the Practical Application of Just War Theory

It is clear, from the previous section, that any competent authority wishing to wage a just war needs to fulfill specific knowledge and control conditions, and that the practical critics suggest these conditions to be very heavy, if not downright impossible to attain. For the purposes of this examination, I will take the control requirements to be subservient to the knowledge ones (i.e. I will assume that sufficient knowledge of *all* matters pertinent to the waging of a just war will also include matters regarding each and every factor susceptible of causing a loss of control, whether contingent or psychological, and that the knowledge requirement will therefore include specifications regarding ways to specifically *bar against* such said potential loss of control)²⁴, allowing me to focus primarily on the epistemological aspect of the problem.

Thus, if we are to examine what our competent authority (assuming, naturally, that it is legitimate, professional, dedicated, well-intentioned and highly concerned about respecting all of the just war criteria) needs to do to fulfill this knowledge requirement, we find that it would need to assemble a group of specialists, whose task it would be to furnish it with the needed intelligence, throughout all the phases of the war, so that it may at all times act in accordance

²⁴I am fully aware that, in so stating my position, I am ascribing to a certain metaphysical commitment, regarding the degree to which chance and luck can be eliminated from a set system of operations. It should be stated, however, that full determinism is by no means required here (besides, it has been demonstrated as being nigh impossible or meaningless, anyways), and that what I am aiming at is solely a sufficient enough attenuation of the chance factor, so that it may not result in an unforeseen event, which would sufficiently upset the balance of fulfillment of the just war criteria, beyond the possibility of a *responsible* undertaking of a just war.

with the preset just war criteria. Although this intelligence would be similar to the kind already sought by current military commanders²⁵, so as to minimize the inherent “fog of war”²⁶, it would have to go far beyond it in many important respects. The reason being that the task set before our competent authority would not be limited to achieving the swiftest and most effective victory in war, but (most importantly) would involve doing so *justly*. And, while many of the requirements proper to sole military effectiveness and just war planning do, indeed, overlap (probability of success, proportionality, minimal use of minimal force, for example), the just war requirements, with their much further forward-looking, and much broader far-reaching requirements (stretching well into the end of the war, and far beyond the scope of sole military efficiency) impose an additional and very heavy burden on war planners.

What would then allow our competent authority to achieve such an immensely intricate, precise and extraordinarily forward-looking planning; to be able to predict, from the onset, that the war waged will, indeed, come to be classified as being just. Basing ourselves on the observations made by our practical critics, one might believe that this may require, of the war planners, a continually updating *complete representation*²⁷ of the state of affairs²⁸, corresponding to the

²⁵This type of intelligence is aimed at by the NCW (network centric warfare) program of the U.S. Army, which seeks to minimize, to the highest extent possible, all manners of unseen and unforeseen events on the battlefield: *US Army War College, Guide to National Security Policy and Strategy*, 2nd edition, revised and expanded, edited by J. Boone Bartholomees, Jr, Department of National Security and Strategy, 2006, pp. 373-86.

²⁶See: Carl Von Clausewitz, *On War*, Michael Howard and Peter Paret, trans., Princeton University Press, 1984, p. 140.

²⁷Such a representation corresponds to a “collectively shared” *mental object* (and not to an imagistic representation), such as that which is referred to as an “Idea”, in Husserlian terminology, or even a *concept*, in the vocabulary of contemporary thinkers in the philosophy of mind.

²⁸A “state of affairs”, as understood here, corresponds to a chunk of objective reality. However, this formulation does not, by necessity, imply an epistemological theory of truth, nor a metaphysical commitment to the notion of a “world as it really is”. A “greatest degree of possible inter-subjective agreement” may be quite sufficient for at-

part of the world affected by the conflict. For, if each and every little detail of the operation may, in one sense or another, affect the balance of the various just war criteria (especially knowing how closely these criteria are interconnected), then it would only seem logical that each and every such detail would also have to be continuously scrutinized and kept in check, in relation to the principles of just war, so that some unforeseen events (no matter how small) does not crop up and destabilize the ongoing fulfillment of the just war criteria.

Ideally, then, once such a complete and continuously updated complete representation is achieved by the competent authority in question, it could be utilized to anticipate, in a very precise and highly adequate manner, all possible forms of variations of evolution of the state of affairs in question, and this would always remain the case, relative to each and every military move that the competent authority would contemplate, or actually undertake. And, since such a complete representation would be most ideally proximate to the “actual state of affairs” in question, a war waged by a competent authority, endowed with such a complete representative capability, would encounter a minimal number of unforeseen events, and would thus result not only in victory but, more importantly, in a *just* victory.

Unfortunately, such a complete representation constitutes and unattainable ideal in our actual world. The problem is twofold: On the one hand, no competent authority (no matter how empowered and capable it is) holds the means to gather sufficient intelligence to create such a representation. On the other, its members are likewise limited in the power and extent of their predictions drawn, regarding the consequences of their actions, as based on the intelligence in question. This is because the practical limits set on our powers of observation and data handling imply an impossibility of a complete

taining a proper representation of such said state of affairs: Richard Rorty, *Philosophy and Social Hope*, New York: Penguin Press, 1999, p. 15. See also: Adam Weinstein, “Pragmatism and Pre-emption: Why Just War Theory Isn’t the Law, But It’s Still a Good Idea”, presented to the Joint Services Conference on Professional Ethics, 27-28 January, 2005.

representation of the world, and this remains the case, even for the greatest, most complex and best-equipped organizations.²⁹ We may be able to represent certain parts of the world in a more or less accurate manner, but never in a complete manner, and certainly not the whole world itself in a complete manner.

What does this spell out for the task just war theory sets out for our competent authority? Does this strictly practical limit imply the impossibility of waging a just war? Not quite, for this conclusion would only follow if it were necessary for a competent authority to truly attain such said complete representation of the part of the world, affected by the conflict. But that would only be needed if it were likewise necessary to know every little detail of what's going on to guarantee the fulfillment of all the just war criteria. And, while that may certainly appear to be the case, as tentatively suggested by the observations made by our practical critics, it is not necessarily so. Granted, fulfilling all the just war criteria certainly requires us to set our gaze upon many more details (and in a much more careful manner) than strict pragmatic military planning would, but it does not follow from this that we would truly need to *know everything* about our terrain of operations, to be able to carry out our war, and still remain within the requirements of just war theory.

This being said, what would then be the *actual* representative requirements, placed upon our competent authority? For starters, it would need to be able to attain a *partial* but *sufficient* representation of the part of the world, affected by the conflict, so that it may exercise its operations in a sufficiently responsible manner, so as to fulfill all of the just war criteria. To understand what this partial presentation would consist in, it is necessary to “pragmatize” the theoretically ideal (but practically unattainable) complete representation, so as to eliminate, from it, all superfluous information, which would only distract and overload the logistical capacities of the competent authority. To perform such an act of pragmatization, a distinction needs

²⁹Consider, as an example, the sole computing power required to generate a map of global weather patterns, and its inherent limitations, the further forward in time it attempts to make such predictions.

to be drawn out between *complete features* and *salient features*:

- Complete features correspond to the collection of *all the possible facts* (exemplified by a complete representation) that may come to be known about a certain state of affairs. Thus, each and every thing that may possibly be known about a certain situation would naturally belong to the sphere of complete features.
- Salient features constitute a sub-category of complete features. A feature, from the sphere of complete features comes to be considered as a member of the sphere of salient features based upon a set of *specific interests*. These interests delimit what is important and needed for the fulfillment of a specific goal, and consequently enable one to direct her attention to (and seek to gain knowledge of) only those features which are truly required for the fulfillment of that goal. In the case of just war theory, it is the end-goal of fulfilling all of the just war criteria *as they relate to worldly states of affairs* that delimits what will come to be considered the sphere of salient features.

So, how does this translate into a creation of the partial representation minimally needed for waging a just war? Consider the following example: Take a certain terrain of operations. The terrain constitutes a certain part of the world, which will be affected by the upcoming conflict, caused by a competent authority, waging a just war on it. On this terrain, one finds a very rich set of entities (people, vegetation, buildings, cultures, institutions, etc.), themselves holding various levels of moral status, all susceptible of affecting the fulfillment, or not, of the various just war criteria, depending on the treatment granted to them, during the conflict. Taken together, complete knowledge of all of these entities would constitute the sphere of complete features, proper to this part of the world. But we want to see what would constitute the sphere of salient features that the competent authority needs to know in order to guarantee that the war waged will, indeed, be just.

To constitute this sphere of salient features, we need to look at these various entities, and examine what their moral status (if any) actually is. In so doing, utmost prudence and planning is required: If we are to consider (for example) a number of old, abandoned buildings located on this terrain, they may not appear (on the face of it) to be very important for our just war considerations, and we may come to believe that their potential (collateral) destruction would have no effect on the justness of the war. Would this really be the case, then they would not come to be a part of the sphere of salient features, and they would not come to be among the variables needing to be considered by the competent authority in the planning of a war. More importantly still, in the present scenario, devoting undue attention to them (and to any other such entities) would constitute just the kind of taxation of the logistical and cognitive resources of the competent authority susceptible of rendering impossible the minimally required partial representation needed for guaranteeing the justness of the war.

However, if, on the other hand, extensive planificatory studies reveal that these old buildings do, indeed, have some military, civilian, sentimental, religious or cultural value (and hence, moral or potentially morally-affecting status), then they immediately become susceptible of affecting the fulfillment of the various just war criteria, and this automatically causes them to belong to the sphere of salient features. Their use in wartime would then have to be carefully planned out and evaluated, so that their misuse not result in a strong enough violation of one, or many, of the just war criteria, susceptible of upsetting the overall justness of the war.

Hence, the same principle of saliency, as outlined above, would also need to be applied to all of the other entities, constitutive of the terrain of operations in question, if we are to cut down the sphere of complete features to the more manageable size of the sphere of salient features, yet still remain sufficiently knowledgeable in our planning, to guarantee the just outcome of the war. Conceptually, this sphere of salient features would then become the result of an *equilibrium*, reached between trying to balance out the sole features

needed to be known (and represented) for pragmatic military expediency (but which would be inadequate for just war planning) and the greater sphere of complete features, where everything is known (including what is needed for just war planning), but where too much needs to be known, for any competent authority to be able to handle it.

Having said this, it is important to keep in mind that what is to constitute this sphere of salient features is to be determined, not solely by the competent authority itself, waging the just war, but rather as the result of an exchange between this competent authority and the international community at large. The reason being that this sphere of complete features needs to contain all of the elements needed for *everyone involved* to agree upon the justness of the war, and not solely those elements which may come to be utilized as a heuristic tool for rhetorical justification of the right to go to war, covering up overt unjustifiable motives. Thus, by pragmatizing what is to be included in the considerations for going to war, the purpose is not to *manipulate the truth* to the advantage of a number of self-interested individuals, but rather to render the planning of the just war a manageable affair, for our competent authority.

6 Implications for Modern Conflicts

We have seen, in the previous section, that any competent authority wishing to wage a just war would need to be able to reach at least a minimal level representation, containing all the salient features of the part of the world affected by the conflict, if it is to guarantee that it will also fulfill all of the just war criteria. While this partial representation is certainly less taxing, logistically and cognitively, than the ideal (but unattainable) complete representation, how truly attainable is it? Two principal factors come into play here, suggesting that even this pragmatized representation would be most difficult to attain:

1. On the one hand, the modern world renders the “actual part of the world affected by the conflict” a much larger chunk than it would have been in the past. Modern means of mobility, telecommunication and intelligence imply that: (1) many more effectives can come to be deployed, even into a geographically rather constrained area; (2) many more people, governments, agencies and institutions can come to be affected, and/or come to have a stake in the conflict. This means that the participation and activity of *all of these extra entities* can automatically come to have a stake in determining the fulfillment of the just war criteria – which, in turn, implies that their participation in the conflict also comes to constitute *additional factors*, properly belonging to the sphere of salient features, needing to be represented by the competent authority planning the just war.
2. On the other hand, Just war theory presents a set of conceptual schemes, which are simultaneously: (1) interrelated; and (2) which stretch (potentially quite far) across space and time. This betrays the (solely) apparent easiness with which some of the more basic just war criteria can be individually fulfilled (for instance, just cause solely requires that an other agrees to a free military aggression of one political community in order to warrant possible appeal to just military counter-attack³⁰), when one considers that, in actuality, all of the just war criteria need to be considered together, in a holistic fashion, if one is planning to wage a war that will come to be *globally* considered as “just”. And, as indicated in the second section of this paper, any competent authority, which wishes to plan a just war, in its integrity, would need to be able to plan (represent to itself) all pertinent factors proper to fulfilling the *jus ad bellum*, *jus in bello*, and *jus post bellum* criteria. In other words, it would need to know beforehand: (1) that it is in its right to wage war and that that is its only possible course of action; (2)

³⁰Brian Orend, *The Morality of War*, pp. 32-33.

that it can wage the war, all the while fulfilling all of the heavy *in bello* criteria; (3) and that it can furthermore plan and anticipate all manners of post-war reconciliation, reconstruction or retribution. In other words, such a competent authority would essentially need to have the war planned out from beginning to end in very precise details before it could ever be sure that the war waged will be just!

Given these two principal factors, it is clear that even such a pragmatized, minimal and partial (salient) representation of the part of the world involved in the conflict would invariably need to contain knowledge of the state of affairs of a rather substantial chunk of the globe, along with a very good approximation of its possible evolution, if the war is to be undertaken in a responsible manner. No less would suffice for ensuring the just outcome of the war. Hence, by pragmatizing the sphere of complete representation down to the sphere of partial representation (as per the salient features), we may have absolved a competent authority from requiring something like the *gift of omniscience*, for it to be able to wage a just war, but what we leave it with is a no less humongous task, still with monumental requirements placed upon its logistical and cognitive resources.

7 Conclusion

We have revisited the conceptual core of just war theory and proposed a methodological means for employing it towards a global evaluation of the justness of wars in general, as well as a planificatory tool for preparing a just war. We have then revisited the two main kinds of practical criticism of just war theory (and distinguished them from their theoretical counterparts), and demonstrated that they both rest on an assumption that regards the unattainable amount of knowledge needed in order to be able to effectively plan out and execute a just war without having it slip out of our hands and turn into an uncontrollable (and very unjust) mess.

Having done this, we have then explored what this unattainable amount of knowledge assumption really implies. After toying for a moment with the ideal (but unrealistic) scenario of fulfilling the knowledge requirement by attempting to reach a complete representation of the part of the world affected by the conflict, we have demonstrated that this is not, in fact, what would be required from a competent authority. And, we demonstrated that a partial representation, based squarely on salient features, could be quite sufficient for our competent authority, on the condition that the saliency of the features in question be determined according to: (1) the conceptual framework of just war theory; (2) an exchange between the competent authority, planning the just war, and the greater international community at large. This, we have shown, would be sufficient to plan out a just war quite well, and (most importantly) would not require the gift of omniscience.

However, granting this pragmatized alternative to the just war theorists, we have then examined what such a partial representation, by way of a sphere of salient features, would still imply. In so doing, we have shown that, due to the holistic nature of just war theory's three conceptual schemes, together with the far-reaching influences of any conflict, as enabled by the particularities of the modern world, such a partial representation would still remain extremely complex, difficult, and taxing on the logistical and cognitive resources of any competent authority.

What can we conclude from all this, regarding the truly practical possibility of waging a just war? It is not in my capacity to draw such a conclusion, regarding the feasibility of such an enterprise – for such a task would best befall experts in the field, better suited (and quite more knowledgeable) about these matters than I am. All I have done here is outlined the *basic practical conditions* which would need to be met, by any competent authority, wishing to wage a just war, and demonstrated the impending weight of these conditions. This being said, I may nevertheless suggest three options available to any such competent authority, given knowledge of the difficulties at hand:

1. The first option (*successful just war*) supposes that the competent authority has the means at its disposal to actually achieve the required minimal partial representation. It could then proceed (with full confidence and in full responsibility) with its enterprise, knowing quite well that the war undertaken will, indeed, be considered just at the end of the conflict

The second and third options suppose that the competent authority is unable to achieve said minimal partial representation. In such cases, assuming that it is still responsible, it could:

1. (Moral prudence) Make a prediction regarding the probable justness of the war - not beyond a reasonable doubt - but to the best of its abilities, and accept full well the final assessment that will be made of the conflict after the fact
2. (Realism) Not rely on just war theory at all, seeing how there is no guarantee that it will be possible to even minimally conform to its requirements.

The difficulties underlying any attempt to wage a just war, whether they are of a theoretical or practical nature, constitute a sobering reminder of the seriousness of the matter. Choosing to go to war is always a hard decision, heavy in consequences and responsibility. All armed conflicts invariably imply human, material and moral losses, no matter how small and controlled the battles, or how righteous the cause. Unlike the pacifist route, just war theory accepts the realist premise that sometimes resorting to armed conflict may be a necessary, if quite unfortunate choice. Unlike realism, however, it also proposes a conceptual framework, trying to place the most intuitively acceptable moral constraints on the nefarious activity that is war. Unfortunately, the practical requirements incurred by the nature of its theoretical framework and the modern world place its successful execution out of reach for all but (perhaps) the most empowered and affluent competent authorities. It should be

noted, however, that the fact that it might be nigh impossible to follow the precepts of just war theory, so as to plan a fully just war, does not diminish its potential usefulness as a rich conceptual approach designed to minimize carnage and injustice during wartime. But it does force us to confront, head-on, the extremely difficult and thorny business that is trying to practically reconcile morality with war.

BIBLIOGRAPHY

Calhoun, Laurie, "The Metaethical Paradox of Just War Theory", *Minda de Gunzburg Center for European Studies*, Harvard University, Cambridge, MA, 2001.

Fotion, Nicolas, G., *Military Ethics, Looking Toward the Future*, Hoover Institution Press, Stanford University, Stanford, California, 1990.

McMahan, Jeff, "Just Cause for War", *Ethics & International Affairs*, vol. 19, no. 3, 2005.

Miller, Richard W., "Respectable oppressors, hypocritical liberators, morality, intervention, and reality", in *Ethics and Foreign Intervention*, ed. Deen K. Chatterjee and Don E. Scheid, Cambridge, 2003.

O' Connor, Thomas, "A Reappraisal of the Just-War Tradition", in *Ethics*, vol. 84, no. 2, 1974.

Orend, Brian, *The Morality of War*, Broadview Press, 2006.

Rorty, Richard, *Philosophy and Social Hope*, New York: Penguin Press, 1999.

Shue, Henry, "The Impossibility of Justifying Weapons of Mass Destruction", in *Ethics and Weapons of Mass Destruction, Religious and Secular Perspectives*, Cambridge University Press, 2004.

US Army War College, Guide to National Security Policy and Strategy, 2nd edition, revised and expanded, edited by J. Boone Bartholomees, Jr, Department of National Security and Strategy, 2006.

Von Clausewitz, Carl, *On War*, Michael Howard and Peter Paret, trans., Princeton University Press, 1984.

Walzer, Michael, "A Liberal Perspective on Deterrence and Proliferation of Weapons of Mass Destruction", in *Ethics and Weapons of*

Mass Destruction, Religious and Secular Perspectives, Cambridge University Press, 2004.

———. *Guerres Justes et Injustes*, translated by Simone Chambon and Anne Wicke, Éditions Berlin, 1999.

Weinstein, Adam, “Pragmatism and Pre-emption: Why Just War Theory Isn’t the Law, But It’s Still a Good Idea”, presented to the Joint Services Conference on Professional Ethics, 27-28 January, 2005.

Wells, Donald, E., “How Much can the “Just War” Justify”, *The Journal of Philosophy*, vol. 66, no. 23, 1969.