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Review of "The Morality of War (2nd ed.)"

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For most of the nineteenth and twentieth century, just war theory appeared as a marginal doctrine. It was long suspected by some pacifist-leaning intellectuals of advocating war due to its association of war and justice. Others owing to their commitment to secularism dismissed just war theory as a relic of Catholic scholasticism. But just war theory has undergone a revival in secular academic and political circles in the twentieth century, due mainly to concern about nuclear weapons in Cold War times as well as to the United States’ involvement in Vietnam and to cases of genocide resulting from inter-ethnic conflicts. This revival has continued in the twenty-first century, due mainly to terrorist activities and to wars waged in response to terrorism. The publication of provocative and thoughtful writings such as Victor’s Justice: The Tokyo War Crimes Trial (1971) by Richard Minear, War and Massacre (1972) by Thomas Nagel, Just and Unjust Wars (1977) by Michael Walzer, and War and Murder (1981) by Elizabeth Anscombe has succeeded in calling attention to the dilemma of warfare and the need for reliable norms for the management of wars by the international community. This has in turn led to a renewed (or a new) interest in just war theory in secular circles, leading to an explosion of publications which are helping to revive this tradition.
Brian Orend’s book, *The Morality of War*, first published in 2006, is one such writing—a book that is successfully helping to reshape just war theory.

The stated goal of this book is to serve as an introduction to the ethics of war and peace, “informed by modern history and current events.” As an introduction to the just war tradition, the book seeks to inform the reader about the richness and intricacies of this tradition. The author has succeeded in providing such information. Indeed, Brian Orend has surpassed most of his just war theory predecessors in terms of systematic organization and clarity of his presentation. *The Morality of War* is a comprehensive study which skillfully merges historical survey and conceptual analysis. The book is thoughtful, articulate, for the most part well researched, and displays great internal coherence. It is approachable to both scholars and students, as it is written in a beautiful but simple style, to the point that even those who would normally dismiss just war theory as an archaic scholastic exercise will still find this book very attractive to read. Indeed, like the first edition, the second edition of *The Morality of War* is structured as a college textbook. In this regard, the inclusion of numerous case studies makes the book even more useful to students and their instructors.

In addition, Orend’s just war thinking is innovative, as it incorporates perennial issues and challenges that are current to the twenty-first century, including those which most people do not ordinarily associate with just war theory. Discussed at length in the book are such current issues as terrorism and its corollary “war on terror,” genocide, armed humanitarian intervention (AHI)—also known as the “R2P” doctrine or “Responsibility to Protect” people facing oppression or “mass atrocity crimes” [MACs], and cyber-warfare and other emerging military technologies (EMTs) such as drones. Major military conflicts of the twentieth and twenty-first centuries are examined, including those related to or resulting from terrorism.

Orend’s lengthy discussion on postwar justice or postwar reconstruction—stated as “*jus post bellum*”—in places like Iraq, Afghanistan, or Palestine, along with aforementioned current issues, enhances the appeal of *The Morality of War* for all categories of readers, including those unfamiliar with just war theory. Even if one is not particularly interested in just war theory, Orend’s book can be illuminating for those interested in the predicaments of warfare as well as in national and international governance. Indeed, while Orend accepts the traditional division of just war theory into two categories, *jus ad bellum* (when it is just to go to war) and *jus in bello* (justice in the conduct of war, after it has begun), he insists on the inclusion of *jus post bellum* (literally the justice of postwar) as a third category and as an integral part of just war theory. And since the principles of just war theory have made their way into binding treatises that constitute international laws, Orend closely connects his analysis of just war theory with a discussion of international laws or treaties on war and peace. However, the book is not a study of the history of wars or of such treaties, as it is more concerned with a conceptual
analyses of the rules of justice in warfare. The inclusion of postwar justice in this book helps to highlight Orend’s main argument on just war theory, that the different phases of war must be reflected in the principles and categories of just war theory as “a coherent whole,” and that these different phases and principles must be given due consideration by the belligerent parties before the decision is made to go to war, in order to guarantee a just conduct of war and a return to lasting peace.

However, for those unfamiliar with the just war tradition, the central thesis of the book may not be apparent, which is not unusual if the book can be conceived as a textbook. The book’s clarity is nonetheless assured in its exposition of just war theory and the debate between the latter and what Orend considers its two main rivals, realism and pacifism. The only clearly stated position involving the entire book is Orend’s assertion that just war theory is superior to both realism and pacifism, in terms of its success in helping to resolve the issues of warfare in real-world situations. Indeed, while the author had announced an introduction to the morality of war and peace, the book is centered primarily on just war theory. After all, seven of the nine chapters (that constitute Part I) are dedicated to just war theory, while realism and pacifism are each treated in one single chapter (chapters 8 and 9 that make up Part II). Despite this uneven division and focus of the book, along with the author’s clearly stated preference for just war theory, the book provides a thorough exposition of the morality of war globally and offers a thoughtful and thorough account of the two stated alternatives to just war theory, namely realism and pacifism. Yet, as an introduction to the morality of war, the reader may wonder if the author can justifiably claim to be truly objective in his introduction to the morality of war and peace—an introduction given to us through his treatment of the three approaches (namely just war theory, realism, and pacifism). One must admit that the author makes no claim for such objectivity, and his book seeks less to describe existing theories than to improve and enrich them. In this case, *The Morality of War* should not be viewed as a textbook in the classical sense.

The introduction and chapter 1 provide a good conceptual clarification as well as a useful historical account of the theoretical contributions and the scholarship of just war theory—from antiquity to present day. One such clarification is an understanding that war is essentially communal or political, i.e., about governance.

Chapters 2 and 3, dedicated to the moral justifications for going to war (*jus ad bellum*), discuss the latter’s principles as well as the categories introduced by international conventions and those inspired by non-classical wars, events and technologies in the twentieth and twenty-first centuries. Central to Orend’s analysis on *jus ad bellum* is the discussion on resisting aggression, primarily interpreted—after John Locke—as the defense of human rights for people and sovereignty and territory for states and communities, while seeming to subordinate state sovereignty and territoriality to human rights. Particularly instructive are Orend’s histories of Vietnamese and Iraqi conflicts in chapter 3.
Chapters 4 and 5 deal with just conduct in war (jus in bello), distinguishing external from internal rules of such conduct. Though much emphasis in the discussion of jus in bello is on civilian immunity and the humane treatment of soldiers, other rules against crimes such as rape, genocide, torture, the use of child soldiers, and reprisals are analyzed and are quite illuminating. Chapters 6 and 7 cover jus post bellum (the justice of postwar), the category pointed out earlier.

Although a detailed analysis is given on realism (chapter 8) and pacifism (chapter 9), these two approaches to war and peace are primarily discussed for the goal of affirming the author’s preference for just war theory. However, Orend engages these two traditions in a thoughtful, fair, and charitable manner, recognizing their respective strengths and weaknesses, and pointing to their usefulness in dealing with issues of war and peace.

Given realism’s excessive skepticism about human nature and cynicism towards morality—as it claims that morality has no place in warfare and in international affairs, and that the latter must be governed essentially by states’ self-interest and quest for security, power, and resources—, Orend charges that this approach can foster aggressive behavior among nations, thereby contributing to social and global instability, as people would accept warfare as part of the normal process of social or political evolution. But realism can serve as “a healthy and needed antidote” against utopianism, by pointing out that states are justified to a certain degree in giving greater weight “to the interests of their own citizens,” and in making us “mindful of the current limits of international institutions, like the UN” and preventing us “from putting too much faith in their capacity to solve severe disputes pacifically. On the other hand, it might also drive us to improve such institutions, in the expectation that more developed and effective global governance can lessen the self-help strain too often left upon the shoulders of imperfect national decision-makers” (page 268).

Orend’s argument against pacifism is that it fails to adequately address aggression because the inadequacy of its nonviolent resistance methods in confronting tyranny would reward aggression. In Orend’s view, just war theory is more effective in dealing with warfare because, by avoiding pacifism’s excessive optimism and realism’s excessive skepticism and cynicism, it offers a useful middle ground—which explains why “just war theory is already so deeply ingrained in international law, as well as in our daily discourse and debate about the ethics of war and peace” (pages 297-298).

Given the space constraints of this review essay, we will limit our discussion to a few issues, focusing primarily on the debate between pacifism and just war theory. Orend’s Morality of War can even have a certain appeal to a pacifist. For despite the author’s claim that pacifism holds an excessively optimistic view of reality, he refuses to fully endorse his mentor Michael Walzer’s claim that pacifism is “unworldly.” Rather, Orend concedes that pacifism “does offer an alternative to armed resistance,” and that pacifism’s methods of nonviolent re-
sistance can be used in non-tyrannical situations in resisting aggression, if only as an initial stage and prior to resorting to armed resistance. And this alternative nonviolent role makes sense, given that in just war theory warfare is morally justifiable only as a last resort. But Orend observes that pacifist nonviolent resistance as tried historically “seems to have worked only in cases where the target was morally sensitive to begin with” (page 293). Orend also points to the important place of pacifism in morality, namely that—through its optimistic worldview—pacifism can help to sustain in people a sense of hope and longing for a peaceful and better world, which can enlighten their strivings even when faced with the obligation to wage war in resisting aggression.

Now, we must point to some aspects of the book that seem less satisfying, starting with the author’s confrontation of pacifism with the just war theory that he endorses. Orend had welcomed the reformulation of pacifism’s claim from never being morally acceptable to kill another human being—which renders war morally unacceptable—to never being morally acceptable to kill innocent or non-offensive civilians in war. He viewed this reformulation as consistent with the principle of discrimination in just war theory. But Robert Holmes—in the name of deontological pacifism (DP)—contends that the nature and conditions of war render the satisfaction of non-combatant immunity impossible and that the ends (which consist in self- and other-defense in the face of aggression) cannot remain moral while the means are immoral. Faced with Holmes’ objection, Orend was led to reformulate just war’s principle of discrimination so as to say that what innocent civilians are entitled to in wartime is not absolute immunity from attack but “due care.” Orend’s reformulation of the principle of discrimination from absolute immunity to “due care” is based on the rationale that the demand for absolute immunity for innocent civilians is not fair to political communities which have the duty to oppose aggression and that such a demand would amount to outlawing warfare altogether.

In my view, Orend’s response to pacifism’s challenge is not satisfactory, and his reformulation of non-combatant civilians’ immunity into “due care,” in the light of the imperfection of warfare, does not adequately address pacifism’s rejection of warfare. And Orend’s rationale for this reformulation sounds circular. For pacifism rejects warfare precisely because it demands that non-combatant civilians be willing to mortgage their lives (the only ones they have) for future security or protection from aggression (which is hypothetical and cannot be absolutely guaranteed). Orend’s rationale and counter-arguments to the objections raised by Holmes’ deontological pacifism seem resigned to the claim that just war theory accepts the imperfection of warfare in an imperfect world, as a way of defending a limited immunity to non-combatant civilians. Orend can thus be accused of using political realism to defend just war theory’s admitted limitations. The author’s strategy here can also be viewed as a way of absolving just war theory from its unfulfilled responsibility towards non-combatant civilians. Indeed,
while one can be sympathetic to Orend’s arguments and counter-arguments—as they highlight the seriousness of rulers’ dilemma of reconciling the resort to war as a just cause with the respect for innocent human lives—the author’s reformulation of non-combatant immunity along with its rationale can hardly convince those committed to the principle of not killing innocent human beings who happen to be trapped in battlefields. And doesn’t the claim that the defense of one’s community against aggression should trump our moral obligation to avoid taking or threatening the lives of innocent civilians (namely people who have not committed themselves to warfare) betray an absence of commitment to respect for innocent human life? But for a pacifist so committed, nothing “seem[s] worth the cost of incidental, indirect civilian casualties,” in Orend’s own words (page 291). Furthermore, Orend’s rationale for reformulating the non-combatant civilians’ immunity into “due care” sounds like an admission that the choice of war is a desperate one or oftentimes less intended to save or protect the lives of non-combatant civilians than to serve other goals such as to protect one’s honor or to assure deterrence from future attacks.

Some of Orend’s views are controversial or troubling, including his endorsement of preemptive strike, in the footsteps of his mentor Michael Walzer. Even when decorated as “anticipatory attack,” preemptive strike is morally problematic, as Orend seems to admit. Many would consider the endorsement of preemptive strike (or anticipatory attack) as an endorsement of aggression pure and simple. As classical just war theorists saw it, one cannot claim aggression from one’s opponent until it is actualized. For the passage from an open threat of war or from a threatening behavior—which we can view as potential warfare—to actual warfare is uncertain, as it depends on multiple factors, some of which are unpredictable and often beyond the control of belligerent parties. The rationale offered by Walzer and Orend for their endorsement of preemptive strike seems to blur the line between the threat of war and actual war. And such an endorsement would amount to embracing recklessness, which can render the international realm chaotic and dangerous for all its participants. The notion of “clear and present danger” cited here may fit neatly in the paradigm of Hollywood movies and detective novels, but may not be so obvious amidst the complexities and uncertainties of the real world. We are all too familiar with the disaster—for the US, Iraq, the entire Gulf region, and the Middle East—which resulted from the preemptive attack on Iraq in 2003 under the Bush administration. The negative ramifications of this preemptive attack are being felt today in North Africa, East Africa, and West Africa. In fact, the repercussions from this 2003 attack have been disastrous for the entire globe.

Certain omissions in the first edition of The Morality of War, pointed out by some critics or reviewers, are still present in the second edition. One such omission is Orend’s silence on whether he would consider the suffering resulting from violations of “jus in bello” (the justice of the conduct of war) as a just cause for
going to war, even if the victim were the initial aggressor. Another omission concerns the discussion in chapter 3 where Orend recognizes the right of states to wage war against non-state groups, such as terrorist groups, gangs, drug dealers, or foreign mercenaries, but fails to explain if non-state groups, like guerilla groups, can have just cause to go to war against states that commit human rights violations. This silence is not limited to the author of *The Morality of War* but is shared by other just war theorists. Still another omission characterizing the just war tradition is its unwillingness to grapple with the sensitive issue of immunity for political rulers—civilians or otherwise—who are responsible for starting wars, including unjust wars, and for sending other people to die for them or kill on their behalf.

It is worth including in this review essay an assessment of the accuracy of some historical facts presented in *The Morality of War*. Orend’s inclusion of criminal gangs and drug dealers in his analysis of just war theory is quite innovative. Unfortunately, his case study on Colombia relies on outdated information. The Colombia that is being described here is that of the 1990s to early 2000s and not the current Colombian state where drug dealers and related gangs are being marginalized. The Colombia described here is not the country which I visited at length in 2008 and 2011. I am afraid Orend is making an amalgamation of the leftist guerilla group, the Revolutionary Armed Forces of Colombia—People’s Army (FARC—EP), with the drug dealers. Although the FARC, just like the paramilitary groups in Colombia, are often suspected of involvement in drug trafficking, none of these militia or guerilla groups can be properly viewed as gangs of drug dealers. Currently, the problem of drug trafficking is in fact more pervasive in Mexico and other parts of the world than in Colombia. Having said that, I do not claim that drug dealers have disappeared altogether from the Colombian soil, but rather that they do not any longer constitute the kind of threat to the Colombian state or to the region as they do in Mexico and as Orend’s account would lead us to believe. The significant progress in this area has been recognized even by the U.S. government, and the current president of Colombia, Juan Manuel Santos, has been praised for being partly responsible for this progress.

Another important omission can be found in Orend’s discussion of the genocide of 1994 in Rwanda. The missing key element here is the assassination of Juvénal Habyarimana, then president of Rwanda, when his plane was shot down on April 6, 1994. This plane was carrying both President Habyarimana and President Cyprien Ntaryamira of Burundi. Those suspected of this crime are either the Rwandan Patriotic Front (RPF) of the current president Paul Kagame and allied to the Tutsi ethnic group, or the Hutu extremists opposed to the policy of reconciliation launched by President Habyarimana. It is this assassination that sparked the conflict that led to the genocide.

Although I find Orend’s analysis very lucid and generally critical, I am also surprised by his willingness to accept at face value the intents or rationales
offered by the United States and its allies in going to war in countries of the southern hemisphere, as well as his tendency to brush aside the charge of hegemony raised against these interventions. This includes Orend’s endorsement of the commonly held rationales for the 1991 Persian Gulf War, the involvement of the U.S. and its allies in the 2010-2011 Libyan civil war, and America’s involvement in World War II. Ulterior motives commonly discussed by many progressive writers and activists tend to be overlooked in the book. Such a tendency may betray a native bias for American or western “exceptionalism,” given that the author does not similarly brush aside charges raised against other nations. In the same line, I can’t hide my surprise that Orend has failed to mention the U.S. invasion of Panama (1989-1990) or the invasion of Grenada which resulted in the assassination of the latter’s president, Maurice Bishop—as cases of unjust (or just?) wars. I must also point out that the case study on the Libyan civil war seems hastily written and not well researched.

One native bias that is apparent in Orend’s case studies is an anti-communist bias, which seems manifest in his identification of communism in North Vietnam with slavery and injustice without clearly explaining why. And he even embraces this identification despite admitting that it was rather the pro-western government of Diem in South Vietnam which was very corrupt and was despised by most Vietnamese people. This identification partakes in a common tendency in the U.S. to conflate the so-called communist or collectivist regimes of the twentieth century with the Marxist ideal of communism. Yet, the Marxist or Marxian ideal of communism aims at universal or inclusive human emancipation, which is the antidote for slavery and injustice. If anything, Marxist communism can only be accused of relying on an excessively optimistic conception of humanity.

Finally, the views of opponents of armed humanitarian intervention (AHI) are not fully explained. For AHI opponents do not just identify imperialism as the wrong motivation for intervening militarily in other countries; they also oppose AHIs for the same reason that the pacifists do, namely out of concern for the lives of innocent civilians. Economic gains for the intervening countries or the danger of manipulation by some of the parties calling for an AHI (as was the case in 2002 and 2003 when Iraqi opponents to Saddam Hussein such as Ahmed Chalabi resorted to lies in convincing the Bush administration to intervene militarily in Iraq) are among the reasons laid out by those who oppose armed humanitarian interventions.

Let me conclude this review essay by indicating that, despite the aforementioned reservations, The Morality of War is a fine book. It is thorough and comprehensive in its treatment of issues, well researched, well organized, thoughtful, and beautifully written. This book fully instructs on the different aspects of just war theory as well as the manner in which the latter relates to rival approaches to war and peace. But the most striking feature of this book is its
originality, manifest in the way the author has enriched the just war tradition by merging new challenges of the twenty-first century with perennial issues. Even as a work of scholarship, *The Morality of War* is pleasant to read.