

Only Connect?

“Only connect” is, of course a famous maxim from E.M. Forster’s 2010 novel *Howard’s End*, but more to the point in this context it is also the name of a very erudite quiz show on BBC Television, where teams of pub quizzers are asked to perform tasks such as finding the common factor present in three or four apparently unconnected items. The task that Cian O’Driscoll, our quiz master, has set in this Critical Exchange is rather simpler, but still challenging, namely, to articulate a version of the just war thinking that can be connected to the flesh-and-blood experience of war. Why is this so challenging? One answer is that just war thinking—especially in the version that could be called “just war theory”—is essentially deontological while the flesh-and-blood experience of war leads participants in the direction of consequentialist thinking (Brown, forthcoming). But that may be a little more complicated than it needs to be; instead I want to base my argument on a striking sentence in an unjustly neglected book, Grady Scott Davis’s *Warcraft and the Fragility of Virtue*. The sentence reads (1992, p. 112): “That defeat is better than committing injustice and that we must have the resolve to accept defeat is central to [...] the just war tradition in general.”

This is, indeed, a central precept of the tradition, but the reason it strikes one on the page so forcefully is because it is rarely articulated with such clarity. The analytical philosophers who have produced the revisionist version of just war theory would certainly endorse Davis’s proposition, but their formulations are so abstract that they lose contact with the reality of war long before the point that real-world soldiers might have to consider the consequences of defeat. As Kim Hutchings remarks early in her essay, their approach goes against the current trend towards linking ethics to real-world politics (Brown and Eckersley, 2018)—although, as Christopher Finlay demonstrates in his essay, it is still possible to employ some revisionist modes of thought to good effect. With some notable exceptions, most non-revisionist writers duck the issue by assuming, albeit usually implicitly, that while adhering to

the precepts of just war thinking might not be cost free, the trade-off is rarely as stark as Davis's formulation invites us to consider. It is rare that writers confront the possibility that adhering to the rules might lead to defeat.

Connoisseurs of just war thinking will, of course, already have identified one writer who does indeed recognise that possibility, and famously argues that as a result it may be necessary to leave the realm of the just war and enter, as he puts it, the realm of necessity. Michael Walzer's notion of "supreme emergency" takes very seriously Davis's formulation and argues that there are some circumstances where defeat cannot be contemplated even if its avoidance involves unjust behaviour. I will examine his argument below, but first I want to examine another argument which takes the precept that injustice is worse than defeat seriously and is, as a result, willing to envisage catastrophic defeat, the argument of the Catholic natural lawyers, John Finnis, Joseph Boyle and Germain Grisez in *Nuclear Deterrence, Morality and Realism* (1987).

When Finnis, Boyle and Grisez (hereafter FBG) produced their book the politics and morality of nuclear deterrence was a much discussed subject, understandably so because in the first half of the 1980s the so-called Second Cold War led many to believe that the possibility of a nuclear exchange between East and West was quite high, either because of misplaced notions that a nuclear war might be winnable, or, more likely, because of misunderstandings in an era of great tension.¹ Political movements such as the Campaign for Nuclear Disarmament (CND) and European Nuclear Disarmament (END) called for unilateral nuclear disarmament by NATO, in the hope that this would produce a similar move from the Warsaw Pact and in the belief that, in any event, the Pact had no ambition to conquer Western Europe. Western governments held to a multilateral stance on disarmament, refusing to consider unilateral moves and, indeed, Margaret Thatcher's government in the UK opposed the removal of nuclear

¹ The Able Archer scare being the best example of the latter (Scott, 2011).

weapons under any circumstances believing that this would leave an opportunity for the USSR to employ its conventional strength to dominate Western Europe.

Moral philosophers held a number of different positions on the subject of deterrence; there was general agreement that the use of high-yield nuclear weapons could not possibly discriminate in the way that any ethical theory would require and therefore would be unjust—the question was whether it could be just to possess and threaten to use weapons that it could not be just actually to employ. I use the term “moral philosophers” here rather than “just war theorists” because the just war was more noticeable by its absence from these discussions than by its presence. It is noteworthy that in an authoritative journal issue on ethics and nuclear deterrence bringing together strategists and ethicists, of the 20 participants only one drew in any depth on the just war—and he was a strategist (Tucker, 1985). Most of the philosophers found that threatening to do something that was morally wrong was an unacceptable policy and recommended abandoning deterrence—unilaterally in the case of the most powerful article in the collection by the utilitarian philosopher Robert Goodin (1985), who argued on the precautionary principle that even a very small risk if nuclear war could not be justified. However, none of the authors paid more than lip service to the idea that nuclear disarmament might allow Soviet aggression and lead to war and conquest—they more or less without question believed that such fears were overstated and unrealistic.

Also in the 1980s, and unlike the philosophers, the American Catholic Bishops in their statement on nuclear weapons did use the just war tradition to resolve that the use of nuclear weapons and the threat of their use would be morally unacceptable, but, they concluded—rather against the general tenor of their analysis—that, and, here they cited Pope John Paul II, “deterrence based on balance, certainly not as an end in itself but as a step on the way toward a progressive disarmament, may still be judged morally acceptable (NCCB, 1983, par. 175)”. It was perhaps unsurprising that the Catholic hierarchy in the US, long known for its anti-

communism, would be rather less sanguine about leaving the West defenceless than the moral philosophers, and equally unsurprising that a Polish Pope would have a more jaundiced view of Soviet intentions than western adherents of CND and END. This, then, is the context of FBG's contribution to the debate. These Catholic natural lawyers rigorously applied the tradition to nuclear weapons and determined that they could not possibly meet the standard criteria for an acceptable weapon and that they should therefore be abandoned. Their central point is that "nuclear deterrence is morally excluded by common morality's norm forbidding intentional killing of the innocent" and they argue that the Pope could not have meant to deny this clear and unambiguous position (1987, pp. 96-98). Being rather conservative in their political values they had no illusions about the nature of communism. They believed it was quite possible that the result of the policy they advocated would be the Soviet conquest of Western Europe and perhaps further afield, that this would be a disaster, and that all steps that were morally acceptable should be taken to prevent this disaster, including, if necessary, building up conventional defences. But it would not be acceptable to act unjustly to prevent this disaster. Davis's formulation, "defeat is better than committing injustice" perfectly summarises their position.

Is it possible to hold this position without some kind of transcendental belief that such a defeat could not be final? "Let justice be done, though the heavens fall" is all very well as a maxim if one believes, with FBG, that God is active in the world and will not allow the heavens to fall—but without such assurances can one be so confident that this maxim holds? The other writer who takes seriously Davis's formulation—Michael Walzer—thought not (1977/2015, Part 4, esp. chapters 16 and 17). His controversial account of "supreme emergency" is based on the proposition that we cannot always agree that suffering defeat is better than acting unjustly. If, for example, the only way to prevent Nazi Germany from winning World War II had been to bomb German cities then because the former would be so disastrous for all

humanity, the latter action, though criminal, would have been the right thing to do. Again, to threaten to use nuclear weapons is clearly unjust but a deterrence posture is the right one if it offers the best way of avoiding their use, because the horrors of nuclear war must be avoided whatever the moral standing of the policy that prevents them.

As virtually everyone who has written on the subject agrees, the problem with this argument is deciding when an emergency is supreme; defeat at the hands of the Nazis is one thing but is any defeat that threatens national survival to count as a supreme emergency? How far can the notion of supreme emergency be stretched? Churchill in late 1939 specifically used the language of supreme emergency to justify violating Norwegian and Swedish sovereignty to keep Swedish iron-ore from going to Germany. His memo to the Cabinet is very well worth quoting because it summarises perfectly part, but only part, of Walzer's argument;

We are fighting to re-establish the reign of law and to protect the liberties of small countries.....small nations must not tie our hands when we are fighting for their rights and freedom. The letter of the law must not in supreme emergency obstruct those who are charged with its protection and enforcement.....Humanity, rather than legality must be our guide (quoted in: Roberts, 2018, p. 479).

Part, but only part, of Walzer's argument because the latter allows this position to be valid if and only if there is no viable, ethically acceptable, route to victory, which could not have been said in December 1939, before the Fall of France in the Summer of 1940.² Churchill's Cabinet colleagues also did not accept his argument (although partly on pragmatic rather than moral grounds, because such a move would alienate other neutrals) and Norwegian neutrality was, for a time respected (though later in the Spring of 1940 it was violated more or less simultaneously by both sides).

² Walzer (1977/2015, Chapter 15) rejects Churchill's position.

Still, even if the concept of “supreme emergency” is fuzzy at the edges, it picks up something quite important about the connection between just war thinking and the flesh-and-blood experience of war. Soldiers, and the nations they represent, want to win when they engage in war; generally they would prefer to win while fighting honourably and within the precepts of justice and legality, but the desire to win is such that fighting dirty is an ever-present temptation if things go wrong or if the costs of doing the right thing become unbearably high. Perhaps in the cabinet wars of the eighteenth-century defeat was something that could be accepted with relative equanimity, but in modern wars, where the consequences of defeat can be very severe, such equanimity may not be appropriate. Consider two recent conflicts which in different ways illustrate the point; in the Falklands War of 1982 the stakes were not such that relative equanimity in the face of defeat was impossible and neither side was seriously tempted to break the rules; but in the various Arab-Israeli Wars of the last fifty years, especially in 1968 and 1973 Israel faced an existential threat and, had it been necessary, would almost certainly have played dirty, or, to put things more politely, done whatever was necessary to avoid catastrophic defeat.

Absolutists such as Finnis, Boyle and Grisez and Grady Scott Davis abhor such considerations and argue that behaving unjustly is always wrong and never to be contemplated, but this is a counsel of perfection and the ordinary human beings who make up armies and governments are most definitely not perfect. In her contribution, Kim Hutchings regards the disconnect between the absolutist position and the realities of war as an indication of the inability of the just war tradition to make the connection O’Driscoll is looking for, and thus as a reason to turn aside from just war thinking altogether, in favour of pacifism. Thomas Gregory similarly regards this disconnect as exploding the belief that the tradition can distinguish between legitimate and illegitimate forms of violence. They have a point: if we must accept some version of ‘supreme emergency’ as a necessary feature of thinking about the ethics of

war—as I think we must—it is important to recognise, with Davis, and indeed with Walzer, that this cannot be part of just war thinking, but is rather the judgement that sometimes just war thinking is not appropriate. To return to the question which provoked this short essay, the notion of supreme emergency doesn't connect just war thinking to the flesh-and-blood experience of war, rather it tells us that *in extremis* that connection cannot be made—but, contra Hutchings and Gregory, I would argue that while this indicates the limits of just war thinking, it does not signal its complete irrelevance. Most of the time, in most cases, just war thinking asks the right questions about violence and its legitimacy, and we should not reject the tradition simply because, on some occasions it has no answer to offer us.

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