Interdisciplinary Conceptual Background

• Descriptive approaches: History, sociology, psychology, biology, etc.
  – Generally offer the “facts of the matter”
  – Natural Philosophy -- understand

• Prescriptive (normative) approaches
  – Work with the “facts of the matter”
  – Practical / Moral Philosophy -- Ethics
  – Seek to alter the facts in the future -- decide
Theory -- Ethics

• The normative science of human conduct
• Universally applicable
• Tightly related to politics and public policy
• Theories generally consistent with each other
• With very important exceptions that military conflict makes vivid
• Still developing
3 Major Theoretical Underpinnings

• Consequentialist Theory (Utilitarianism)
  – Emphasizes outcome (greatest happiness principle)
  – Optimizes and evolves empirically
  – Predicts the future

• Rights Theory
  – Emphasizes acts themselves (forbids deliberate rights violations)
  – Absolute; certain; accessible now
Consequentialist Theory
(Utilitarianism)

• Emphasizes outcomes (greatest happiness principle)
• Empirical basis – continually evolving
• “Predicts” future and tests outcomes to improve
• Ancient roots; J. S. Mill (1806 – 1873) best known modern theorist
Rights Theory (Deontology)

• Emphasizes acts and their motives
• Absolute – some acts are simply forbidden
  – Anything that offends against human dignity
• Rational basis – “formalist”; immediate guidance
• Best known modern proponent: Immanuel Kant (1724 – 1804)
Virtue Theory

• Emphasizes the sort of person one is/becomes
• Focused on living well and the polis
  – Political underpinnings for a good life
  – Ethics a branch of political science
• Socrates (c. 470 - 399 BC), Plato c. 424 – 348 BC), Aristotle (384 – 322 BC)
Three dimensional lens

- Agent – act – outcome
- Effects on self – virtue theory
- Act itself – deontology
- Consequences – consequentialism
- Seek to respect all three
- Sometimes it seems impossible
Caveats for war and justice

• As in much of applied ethics
  – Wrong answers plentiful; fairly easy to recognize
  – Purely right answers are uncommon
  – Tragedy is common – “dirty hands”
    • Doing harm
    • Allowing harm
  – It’s a good idea to do “the premortem”
  – And, “You may not be interested in war, but war is interested in you.” (Leon Trotsky)
Theory – Security and Conflict

• Assembling a theory in engineering is hard
• How much more difficult in social interaction?
• Security as govt’s primary ethical obligation
  – Freedom / Right to non-interference
  – Consent of the governed
• Implies
  – Territorial Integrity
  – Political sovereignty
Security broadly considered

• Various IOP
• D I M E
• Conflict takes many forms
• And often shifts
  – Permanent interests
  – Does the US understand its own interests?
• Lots of nonviolent methods in use
• War as an exception: “a pulsation of violence”
“Ideal” war

• “A wrestling match on a larger scale”
• Theoretically a contest of military talent, virtues and capabilities
• Theoretically knows no limit
• Targets resistance
  – Power to resist = (means to resist) X will
  – Centers of Gravity: critical means to wage war
  – Necessary conditions for maintaining will
  – Overthrow the adversary; lots of “ways” to accomplish, but best to concentrate on one C of G
“Ideal” war

• Using force compels the adversary to meet or exceed it (“Necessity”)
• And so, war escalates; no logical limit
• Even the most civilized nations can hate
• So you might think “utter viciousness or defeat”
That’s a dialectical setup

• Such thinking is not holistic
  – Familiar but simplistic; unreal – “idealistic”
• Remember war’s purpose – political goal
• “[Ideal war] would . . . usurp policy the moment policy had brought it into being; it would then drive policy out of office. . . .” (von Clausewitz, OnWar, B1c1:23)
“Ideal” war – a strawman

- A “logical fantasy” (but a common misunderstanding)
- The first blow almost never uses all the force available
- Adversaries “size-up” one-another
- Waiting is commonly viewed as smart
  - Most of war is inactivity
Reality: The Importance of Psychology

- Pervasive in politics
- And, therefore, in war
- One *ought* to think of war in this way
  - Summers: “We never lost a battle. . .”
- “War is merely the continuation of politics by (with) other means”
- Occurs within a constellation of shifting influences
War’s nature and its character

• Its logic is constant; its grammar quite variable
• Logical whole: immortal; fed by the transient many
• Nature (logic) – concentrate here
  – Violence (but what is that?)
  – Uncertain
  – Clash of political wills
• Character (grammar)
  – Limited or total, insurgency, civil, etc.
  – Terrain, technology, weather, logistics tail, etc.
Reality: The vital importance of context

• If you take nothing else away . . .
• *Critical* to bear in mind that conflicts take place in contexts
• War is social interaction
• And so, things are not merely complicated; they are complex
• Social and cultural contexts strongly influence outcomes
  – WWII vs. Vietnam
• Context, like war itself, is interactive; dynamic
• Political matters saturate militaries in war and in peace
Politics and proportionality

• Political ends rarely require violence to the utmost
• The less A demands, the less B resists
• Terms for surrender?
• Appeasement?
• War by algebra?
• Demonstrations
• Deterrence
Now, with the preliminaries behind us

• Think of “polar opposite” attitudes one could take toward war.
• Extreme realism (Moral nihilism respecting war)
• Pacifism
One Extreme: Moral Nihilism

• Just how extreme a realist view should be taken?
• Necessity and scarcity
• Reasons of State are supreme -- survival
• “War of all against all” (Hobbes)
  – “Thucydides trap” (T 5.97) from diffidence, etc.
• Seek strength – “any means necessary”
• “Ideal war” (von Clausewitz)
• Does this position contain the seeds of its own destruction?
Pacifism

• Arguing for “unlimited” war results in something like jujitsu; aids the pacifist’s case
  – If war is the only cure, let’s just stay sick
• And in fact, this is likely the “default position” for most of us – nuclear holocaust?
• Private pacifism
• Public pacifism
• Influence of eschatology in early JW thinking
Just war thinking

- A sort of “middle position,” consistent with moderate realism
- A long history; intertwined with Christianity
- Secularized into international law (Grotius)
- Presupposes war’s evil; a language of justification
- Multiple branches
Strategic thinking

• Ends - the purpose or goal. “Why?”
• Ways – the methods. “How?”
• Means – the resources. “With what?”
• If harmonized - may have a chance
• If not, probably not. “Writing checks you can’t cash.”
• War is to be considered holistically
The Wayback Machine

Augustine of Hippo
(354-431)

We’ll start the discussion of JWT with his thinking (even though that’s not exactly correct in historical terms)

*The City of God*
For Augustine

• Earthly concerns are temporary concerns
• Actions and attitudes should be consistent with the end of a Christian order
• The “way of the world” is not under our control
• Our attitudes and actions are under our control
• Private pacifism – better to suffer evil than to commit it – but if in public office . . .
Pacifism and the innocent

• Innocent citizens expect to be secure
  – Police
  – Military
• Public officials may have to use force as a part of their office to fulfill their duties to others; violence waged on behalf of others
• Distinct from self-defense
• Force to be used with regret
Force rendered necessary

• . . . By the immoral acts of others
• Might be somewhat analogous to surgery
• Violence is not a soldier’s own; rather it is a responsibility of the state
• Accordingly, soldiers follow political (or divine) command
• Foundation of the “license to kill” even in an unjust war (IME 28)
• The “moral equality of soldiers”
The Wayback Machine

Thomas Aquinas

(1225-1274)

“Systematized” some of Augustine’s thought

Central Tenets of today’s JWT

• Legitimate Authority
• Just Cause
• Right Intention
• Double Effect
Double effect

- Acknowledges (and *tries* to handle) the fact that a given act may have two effects – one evil; one good
  - Good effect intended; evil foreseen only
  - Good effect must be proportional to evil
  - Act itself must not be evil
  - Effects must be concomitant

- “Double talk about double effect”?
The wayback machine

Hugo Grotius

(1583 – 1645)

• Secular
• International law
• 30 Years War \((8 \times 10^6)\)
• Natural Law
• Modern JWT clearly in this lineage
• *The Law of War and Peace* (1625)
Hugo Grotius (1583 – 1645)

• Natural laws – we cannot flourish without a community
• Positive laws to reflect this truth
  – Drive on right; drive on left – whatever, but establish a rule
• States need laws for international relations
• Amicable relations benefit everyone
• Violations undermine the beneficial order
Order? from chaos

• Motivation? -- Thirty Years War (1618 – 1648); Treaty of Westphalia
• Modern notions of territorial integrity and political sovereignty
• Nonstate actors pose a challenge to this model
• But . . . much of Just War Thinking presupposes it
Just War Thinking today

- A set of interweaving considerations
- Still evolving
- Links to major ethical theories; – largely consistent with contemporary rights theory
- *Jus ad Bellum*
  - Justice of going to war
- *Jus in Bello*
  - Justice in war
- *Jus Post Bellum*
  - Justice post war
Traditional and Important Distinction: Going to war vs. conduct in it

• **Jus ad bellum**
  – Considerations for resort to war
  – The realm of “the sovereign”

• **Jus in bello**
  – Considerations for conducting war
  – Realm of those waging violence

• Can an unjust war be conducted justly?
  – Moral equality of soldiers?
Jus ad Bellum

• *Jus ad bellum* – justice of going to war
  – Political level only (for most thinkers)
  – But . . . for liberal democracies wars are waged in the name of the citizenry
  – The essential crime of war – aggression
    • Forces people to fight or suffer injustice
    • Imposes on freedom/noninterference
    • Consider territorial integrity and political sovereignty
  – Criteria evolving, though most thinkers agree on:
Jus ad bellum (1)

• Legitimate Authority (mostly knowable)
  – Must have authority to “right the wrong”
  – Typically senior governmental folk
  – In Western liberal democracies, should reflect popular will
    • WWII vs. Vietnam
    • Compare defense to “imperial wars”
    • Do voters hold authorities accountable?
Jus ad Bellum (2)

• Just Cause (knowable, though easily abused)
  – Must be in response to serious violation
  – Self-defense against unjust aggression is prototypical
  – Popular Opinion vs. Serious thinking
Jus ad bellum (3)

• Right Intention (Knowable; easily abused)
  – Must intend to restore the rule of law
  – Ethnic hatred, genocide, etc. prohibited
  – War to be entered regretfully
Jus ad Bellum (4)

• Probability of Success (Hard to be sure)
  – Must have a reasonable expectation of winning
  – Some controversy here
    • Melos
    • Battle of Britain/Blitz (24 Aug 1940 error)
Jus ad Bellum (5)

• Last (least-preferred) resort (Varies)
  – No other avenue of resolution is feasible
  – This is a logical “last”; not necessarily temporally oriented
  – Can we ever reasonably say we’ve explored all options?
Jus ad bellum (6)

• Proportionality (Hard to know)
  – War should prevent more harm than it causes
  – But wars do get out of hand
  – Very much consistent with von Clausewitz’s worry over war usurping its “point”
  – How are harm and benefit to be assessed?
  – WWII vs. recent wars
Jus ad Bellum (7)

• Declaration of cause (Knowable; easily abused)
  – Everyone gets to know why and, presumably, removing the cause will preclude war

• Not hard to find cases where “cause” shifts over time

• Surrender terms and resistance
End of (a just) Peace (Varies)

Pure hegemony, bad faith, etc. ruled out

Analogy to a lawsuit – negotiation to end the dispute

Restoration of international order and stability
“War is an ugly thing, but not the ugliest of things: the decayed and degraded state of moral and patriotic feeling which thinks that nothing is worth a war, is much worse. When a people are used as mere human instruments for firing cannon or thrusting bayonets, in the service and for the selfish purposes of a master, such war degrades a people. A war to protect other human beings against tyrannical injustice; a war to give victory to their own ideas of right and good, and which is their own war, carried on for an honest purpose by their free choice, — is often the means of their regeneration. A man who has nothing which he is willing to fight for, nothing which he cares more about than he does about his personal safety, is a miserable creature who has no chance of being free, unless made and kept so by the exertions of better men than himself. As long as justice and injustice have not terminated their ever-renewing fight for ascendancy in the affairs of mankind, human beings must be willing, when need is, to do battle for the one against the other” (J. S. Mill, Contest in America)
Now, of course just about everyone *claims* to be just

- But an assertion is different from the truth of the matter
- Still, pretenses seem important
- Hypocrisy as the homage vice pays to virtue
- *Never, ever* forget – wars are politics with other means
- And can be more or less justified, like any other form of social interaction
Some folks view the criteria as a checklist

• That’s not always the wisest approach in applied ethics
• Instead, think of these as guiding thought about the political decision – a constellation of considerations
• . . . For the premortem
• Apply the criteria in good faith (really impt.)
• And be very wary of self-deception
Jus in bello as an “aspect” of JW

• Some controversy over whether these criteria should be a part of *jus ad bellum*
  – Does, for example, the use of torture render a war itself unjust?
• Still, generally approached as logically distinct from the decision to wage war
• Ethical basis for conventions
  – Geneva, Hague, etc.
Jus in bello (1)

- Generally a military matter but with political implications (Abu Grahib)
- Embodied in military law and ROEs
- The idea of “rules of war”
  - Rawlsian veil of ignorance covers stakeholders
  - Do not impede means to victory
  - In everyone’s interest to establish limits to harm
Military self-image/roles
The Rawlsian approach

• We (military members) are behind a veil of ignorance
  – Know we’ll be in a war
  – Do not know our specific role in it
    • Member of winning or losing “side”
    • Wounded, POW, morally injured?, unaffected
  – Could we establish a set of rules that to which we would consent even if we ended up in the most disadvantaged role?
Jus in bello (2)

• Discrimination (on relevant grounds)
  – Race, religion, geography, etc. are irrelevant
  – Fosters treating people as they deserve to be treated
  – Distinguishes legitimate targets of harm from everyone else
  – Those intending harm cannot expect not to be harmed
  – But noncombatants have the right to be left alone, and combatants have a duty to respect that
Jus in bello (3)

• A reasonable appearance is all we can expect
  – Moral innocence is not enough
  – Legal innocence won’t work
  – Reasonable inferences from activity, etc.
    • Six-month old baby is an easy case
    • Uniformed, armed, 19 years old but secretly a pacifist?
• Discriminates between killing and murder
• Deliberate killing only
  – A prudent driver has an accident -- tragedy
  – An RPA pilot targets the six-month old to generate an armed response -- murder
Jus in bello (4)

- Discriminating between status *qua* soldier or *qua* human
  - An agent of the political body
  - Just folk
- Causal vs. logical chains of agency
  - Both aspects need food, water, power; only one needs artillery shells
  - “Dual use” facilities problematic
  - Factory making both ordinance and surgical instruments
Jus in bello (5)

• Proportionality
  – Mirrors, and intertwined with the *ad bellum* criterion
  – Like all consequentialist criteria, requires prediction
  – Weapons, ordinance; “lethality spectrum”
  – Not all means of rendering a force less harmful are equally harmful (*e.g.* precision from RPAs)
  – Many less or even non-kinetic options
  – Resistance = (capability x will)
  – Targeting will?
Jus Post Bellum (1)

• Just coming into formal consideration
• “Pottery Barn rule”
• Intended to respect rights of all involved
• And to hold the unjust accountable
• Generally accepted criteria follow, but note this area is pretty new:
Jus Post Bellum (2)

• Restore order
  – Preclude descent into chaotic “state of nature”
  – Marshall Plan; aftermath of 2003 Iraq
• Economic reconstruction
  – Necessary for even the most basic of rights
• Restore sovereignty/self-determination
• Punish wrongdoers
  – Nuremberg, but also victor’s crimes
Jus Post Bellum (3)

- 20\textsuperscript{th} century “establishment” of mechanisms for international order
- NATO
- EU
- UN
- ICRC, Doctors w/o borders
- Widespread surveillance and media
- General reductions in poverty
A few more issues (1)

• What happens when respecting *jus in bello* prolongs a war?

• What happens when respecting *jus in bello* risks losing?
  – Losing in an “imperial war”?
  – Losing against Nazis?
  – Supreme Emergency?
A few more issues (2)

- Discrimination and proportionality in obvious conflict
- Nuclear Deterrence
  - Countervalue
  - Counterforce
  - “Escalation dominance”
  - “Minimal deterrence”
- 1983 Bishops’ Letter
A few more issues (3)

• The question of discrimination’s defeasibility
• Is the deontic nature of discrimination to be understood classically? As absolute?
• If absolute, could this lead to violating proportionality? Many military deaths weighed against fewer noncombatant? (WWII)
A few more issues (3)

- If defeasible, what are the criteria for “justifying murder”?  
- “Supreme Emergency” – Churchill  
  – Grave, Imminent threat  
  – To the idea of rights itself?  
- “Dirty Hands” and tragedy  
- An appeal for better-and worse instead of right and wrong?
A few more issues (4)

- Intending to do what it is impermissible to do
- Murderous intent to
- . . . Avoid war?
- Bluffing, uncertainty, rationality?
- Virtuous self-frustrating intentions?
- Is the threat of violence a form of violence?
- Does it corrupt those who intend it?
A few more issues (5)

- Realism and Pacifism revisited
- JWT as a middle position – moderate realism
- Need for a Leviathan?
- Challenges to Westphalia/Sovereignty
A few more issues (6)

- Are soldiers really “morally equal”
- What about command responsibility?
  - Yamashita trial
  - What about citizens’ responsibility?
  - Establishing a “command climate”
  - Notions of a warrior’s honor
- Professional obligation of soldier to refuse?
Pacifism and “Passivism”

• Much more political activity is pacifist than we often appreciate
• Long, vast history of nonviolent resistance
• Coercion – contract -conversion
• Sharp: Authority and consent
  – The vital importance of psychology/will
  – Gandhi and satyagraha
  – Practical role of justice (Socrates, Bonhoffer, MLK)
A sense of tragedy

• Permeates this subject matter
• “No justice – no peace”
• War should be
  – Rational
  – Justified
• . . . Like other forms of social interaction
  – But many of those fail to meet criteria as well
Doomed to war?

• Evolutionary and competitive pressures
  – How much does biology determine?
  – We tend to think our politics are under our control
  – But, sometimes force is used against the innocent
  – Perhaps as a “necessary” act

• Neo-Hobbesian/Kantian political proposals
  – Kant’s *Perpetual Peace*?
Some reading recommendations

- *The Killer Angels* – Shaara
- *The Moral Warrior* – Martin Cook
- *The Warrior’s Honor* – Michael Ignatieff
- *On War* – Carl von Clausewitz
- *The Savage Wars of Peace* – Max Boot
- *Every War must End* – Fred Ikle
- *Making the Corps* – Tom Ricks
“No one in his senses . . .

ought [to start a war] without first being clear in his mind what he intends to achieve by that war and how he intends to conduct it.” (On War B8c2)