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BOOK REVIEW

JUST AND UNJUST WARS: A MORAL ARGUMENT WITH HISTORICAL ILLUSTRATIONS. By Michael Walzer.¹ New York: Basic Books, Inc. 1977. Pp. xx, 361. \$15.00.

*Reviewed by Richard Wasserstrom*²

At least three fundamental moral questions arise with respect to war: under what circumstances, if any, is it justifiable to engage in war; what kinds of things are right or wrong to do in fighting a war, and against whom; and what are the appropriate principles of responsibility for wrongdoing in relation to war? One of the distinctive virtues of Professor Walzer's book is that it deals with each of these questions, as well as with a host of related subsidiary ones. Few philosophical examinations of war are as comprehensive, sustained, and detailed.

It is to Professor Walzer's credit that the inquiry remains fixed throughout upon the moral issues, rather than being diverted either to a detailed explication of existing rules and conventions of international law or to a thorough analysis of the strategic and prudential concerns of military strategists or political leaders. Such matters are indeed relevant to any complete study of war, but there is much to discuss if attention is limited to the question of how thoughtful persons would approach these basic moral questions. The book is valuable because it considers carefully and in detail virtually every normative problem raised by the moral issues of war. Aggression, preventive war, intervention, military necessity, the status of noncombatants, guerrilla war, terrorism, neutrality, supreme emergency, nuclear deterrence, superior orders, command responsibility, and nonviolence are among the topics thoughtfully treated. Readers who engage the book will be more than adequately repaid for their time and effort. Whether they agree or disagree with the arguments and conclusions advanced, they will come away with a deepened understanding of what is involved in developing and maintaining a set of coherent, defensible views on each of these discrete but connected topics.

The detail and comprehensiveness combine, however, to make it a difficult book to review. It does not lend itself well either to summary or to easy overall assessment. It contains a series of sustained analyses and arguments, each of which requires careful reading and reflection. I have chosen, in what follows, to concen-

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trate upon only one of the topics covered: that of when, if ever, it is right to engage in war. And even here much is necessarily either condensed or omitted. My aim is to consider explicitly the grounds of moral assessment that Walzer thinks should govern the analysis, and to probe the strengths and weaknesses of the arguments he derives from them.

One reason to concentrate upon this aspect of Walzer's analysis is that his thesis is provocative: he argues that it is almost never right to initiate a war and almost always right to fight a war if one is begun against you. Another reason to examine his discussion of this topic is that it exhibits his general manner of proceeding; in Walzer's view, the governing ideas are those of individual rights and consent, as opposed to utilitarian calculations and analyses, which are, in general, to be avoided. At a number of places I find the recourse to a theory of rights unconvincing and unilluminating; at others I find the conclusions suspect and unattractive.

Walzer's discussion of why it is "a crime" to begin a war proceeds by way of a series of distinct arguments. First, to begin a war is to begin an activity in which it will then be legitimate that at least some, and probably many, persons will be killed. Sometimes it is not wrong to kill people, but, according to Walzer, it always is when they have not chosen fairly explicitly to take the risk that they will be killed. If individuals have consented to fight, then their deaths cannot be called unjust; but if they have not elected to do so, then their deaths are wrongly caused.

If a country begins a war, it causes the ensuing wrongful deaths of at least two classes of individuals. First, those soldiers of the invading country's own army who did not choose to make war as soldiers and who are killed are killed wrongfully. And the conditions of choice in this regard are rather strict.

What is important here is the extent to which war (as a profession) or combat (at this or that moment in time) is a personal choice that the soldier makes on his own and for essentially private reasons. That kind of choosing effectively disappears as soon as fighting becomes a legal obligation and a patriotic duty. (P. 28).

Second, and more obviously, there are those who are attacked. The point is not that the invaders are determined to kill those whom they attack, no matter what, for in most cases they would be happy to have them surrender. The point is, rather, that whenever a country is attacked, it is proper and right that the attack be resisted with deadly force. Thus, since people rightfully resist in order to avoid losing a war they did not initiate, "[t]he wrong

the aggressor commits is to force men and women to risk their lives for the sake of their rights" (p. 51).

This argument is, I think, in need of clarification, for it is not as straightforward as it appears at first. If the significant feature is the presence or absence of choice on the part of those who are killed, it is not wholly clear exactly how the aggressor *forces* others to risk their lives by fighting. For they do not have to fight and thereby risk their lives at all. They can surrender.³ Force, the absence of choice, does not seem the determinative ingredient here. Only if it is rightful to resist with deadly force any and all acts of initiating a war can the blame for the wrongful deaths be fixed solely on the initiators. The fundamental argument, then, is that countries behave rightly whenever they forcibly resist a war initiated against them, even if such a response assures that large numbers of persons will be killed. Hence the criminality of the initiation of war.⁴

What is both striking and problematic about Walzer's thesis is his relatively unqualified assertion that it is the sanctity of the territory or sovereignty of the nation-state which underlies the rightfulness of full scale resistance to all initiations of war. "Every violation of the territorial integrity or political sovereignty of an independent state is called aggression" (p. 52). There is, he says, wisdom in refusing to look more discriminatingly into the magnitude or character of the aggression, for "[a]ll aggressive acts have one thing in common: they justify forceful resistance . . . [and thereby necessarily put] life itself at risk" (p. 52). This raises in a nicely focused way the central question: why should we be persuaded that each and every act of a country which violates the territorial integrity or political sovereignty of another state justifies the full measure of forceful resistance which directly and inescapably makes deaths so likely that such violations are

³ This is certainly a plausible way to think about the comparable issue in a domestic context. If someone, for instance, comes onto my property without my consent, I can decide to do nothing that may jeopardize my life and to allow the person to stay rather than run any risks. Even if it is absolutely clear that I have a right that he or she not enter my property, I do not think that it is thereby correct to say that I have been forced to run a risk of being killed. If I attack the intruder with deadly force, it is not obvious that I can plausibly claim that the intruder *forced* me to kill so that he or she caused the death rather than I.

⁴ The analogy to domestic life is roughly that of self-defense. If I am attacked by someone who intends to kill me, I have a right to use force to prevent myself from being killed. If I kill the attacker, he or she is the cause of the death that results. If the attacker kills me, I have been wrongfully killed because I have a right not to be attacked and killed. If in using reasonable means to defend myself from attack, I kill another — say, an innocent bystander — the cause of the bystander's death is also properly attributed to the wrongful attacker, not to my justified efforts at self-defense.

properly regarded as a crime comparable to, if not identical with, murder?

The answer, Walzer claims, fundamentally derives from a theory of rights — the rights of what he calls “political communities.” In his view, all political communities possess two rights, a right of territorial integrity and a right of political sovereignty. These rights are in turn founded upon the rights of the individuals living in the communities. “When states are attacked, it is their members who are challenged, not only in their lives, but also in the sum of things they value most, including the political association they have made” (p. 53).

The point appears to be that even if lives are not directly and wrongfully put in jeopardy by the act of initiating war — either because the territory invaded is not occupied by any persons or because they can surrender — the act of war is a serious wrong because other things of enormous value are interfered with by the violation of either territorial integrity or political sovereignty. These other things relate to the rights of individuals. As I have indicated, Walzer claims that the rights of states derive from the rights of individuals. But, more precisely, what are these rights, and why should we think people have them? A theory of rights is meaningful only if the rights are specified with care and convincing grounds are offered for the claim that these are the rights individuals possess.

At times, Walzer’s view appears to be that one such right is the right to choose the kind of state in which one will live. If this is so, then the rights of a state rest in a rather straightforward way upon the consent of the members of the society to its being the kind of state that it is. Thus, although Walzer acknowledges that “[t]he moral standing of any particular state depends upon the reality of the common life it protects and the extent to which the sacrifices required by that protection are willingly accepted and thought worthwhile” (p. 54), he goes on to assert that it is fair to assume that most states do protect the community of their citizens. That is why, in his words, “we assume the justice of their defensive wars” (p. 54).

Now, if the people living in a state have in fact chosen the characteristics of that state, then we may view them as having a rather strong claim to be permitted to live the kinds of lives they have chosen to live through having a society of that sort. But one problem, of course, is that few, if any, states can claim to enjoy the consensual underpinning required for this justification to apply. Indeed, if for Walzer this consent of the individuals is the foundation of the rights of states, then one difficulty is that he employs two rather different ideas of consent. First, there is the

exceedingly strict idea of consent, already alluded to, which is utilized to explain why soldiers have not consented to fight unless they have chosen to do so for "private reasons." Second, there is a vaguer notion, typical of most social contract theorists, which seeks to include a great deal of what is doubtfully consensual under the general heading of consent.

In fact, despite some language to the contrary, as the argument progresses the consent of the citizens does not prove to be very central to Walzer's defense of the rights of nation-states at all. This becomes clear in his discussion of when, if at all, intervention is justifiable. Here Walzer makes it quite explicit that the right of states not to be invaded does not turn on the consent of the governed to their government or national institutions. For there is, he tells us, an important difference between ideas of *self-determination* and *political freedom*. And a state is self-determining "even if its citizens struggle and fail to establish free institutions" (p. 87).

But this is ambiguous. The assertion about self-determination may be a tautology. It may mean that irrespective of the presence or absence of free institutions, states *can* determine their own destinies as long as no other states interfere with them. Or it may be a moral claim. It may mean that even in the absence of free institutions and genuine consent, states have a right to determine their own destinies, and it is therefore unjustifiable for other states to interfere with them. If the latter is meant, then clearly the consent of the governed is not what makes territorial integrity so important, and we have to look elsewhere to discover the rights of individuals from which the rights of states derive. In particular, what must be explained is why, in the absence of the political freedom of its citizens, any state should nonetheless be thought to have a virtually inviolable right to be left alone by other states — for that is what the idea of self-determination as a moral concept comes to. This is to reintroduce the fundamental question in a somewhat altered form: what rights of persons who lack political freedom are so central that those persons are better off left alone by other states than they would be if such states forcibly interfered with the territorial integrity or the political sovereignty of their nation? Unless Walzer's theory can answer the question satisfactorily, his account does not provide a convincing reason to believe that all states *rightfully* resist invasion with as much deadly force as they can muster. I can identify three arguments that Walzer offers, but none of them, either singly or in combination, seem to me fully able to sustain his conclusion.

One such argument is that the system of political organization which we know today and which consists of nation-states in which

all persons live, is itself a very important and valuable system. Any move to upset the status quo by attacking any existing nation-state inevitably threatens the entire international order of states. Hence, aggression is a crime against human society as a whole (p. 59), and all states are justified in aiding the state attacked.

One problem with this argument is that it avoids the essential question: must we take the existence of nation-states as given, and confine our moral inquiry to the best means of maintaining the existing state of affairs? That seems unduly to restrict the domain of legitimate moral investigation. The alternative is to ask what states do that makes them so valuable. Do they reflect, embody, or give effect to the consent of those who live within them? If that is the claim, then we are back to the problem of consent. Is it that they protect the basic rights of the individuals living within them? If so, we once more require an account of what those basic rights are, and a determination of which states provide a context in which those rights are in fact enjoyed. Let us suppose that states *qua* states are necessary or desirable entities for the enjoyment of individual rights. Nonetheless, if some states are not providing that context, why should they not be altered? Why should the international order of states not be able to distinguish between, say, justified and wrongful initiations of war?

This argument is wholly analogous to that concerning the obligation to obey the law. Some argue that because it is in general right that people obey the law, it is never right to disobey it; any concept of justified disobedience threatens the entire legal order. But that is simply not correct. Persons can quite properly and consistently act on the principle that some laws are justifiably disobeyed. And as an empirical matter, persons can justifiably disobey some laws without destroying, or even weakening, the general system of law. Our society, for example, has experienced many cases of justified disobedience, and yet the social order has remained intact. I do not see why the same cannot be true of the existing system of nation-states.

Walzer's second argument derives from Mill:

The members of a political community must seek their own freedom, just as the individual must cultivate his own virtue. They cannot be set free, as he cannot be made virtuous, by any external force. Indeed, political freedom depends upon the existence of individual virtue, and this the armies of another state are most unlikely to produce — unless, perhaps, they inspire an active resistance and set in motion a self-determining politics. (P. 87).

Again, he approves of Mill's view that the internal "freedom of a

political community can be won only by the members of that community" (p. 88).

This argument is an independent, pragmatic argument for the right of states not to be attacked, namely, that intervention in order to secure the conditions of political freedom or the protection of the rights of individuals will not typically be effective. Unfortunately, it has no grounding whatsoever in a theory of the rights of individuals, and is instead a version of the kind of utilitarian reasoning that Walzer on most occasions condemns. More seriously, it seems unduly hard as well as mistaken to insist that good can only come when individuals manage to wrest their own political salvation from the might of the contemporary nation-state.

The third argument in opposition to external intervention also draws upon the behavior of the citizens within the state. The fact that persons within any state are actively involved in resisting their government is taken by Walzer as bearing in an important way on the legitimacy of that state. "The test," he says, "for governments as for insurgents, is self-help" (p. 98). Where a government is unable to "reduce its subjects to obedience [it] is clearly an illegitimate [one]" (p. 99). This suggests, although it does not strictly imply, that where it can or has so reduced them it is legitimate. But if this is Walzer's view then he has, of course, moved very far indeed from the centrality of consent in the direction of a nation-state's ability to *control* its citizens as the basis for its claim to be left alone by other states. This recourse to the absence of active internal resistance as an important, if not decisive, indication of legitimacy and the corresponding right of a state to be free from aggression is also morally unattractive. It is, for one thing, surprisingly unrealistic to suppose that a modern state cannot control its citizens effectively without their genuine consent. As I have suggested, the absence of internal resistance is as likely to be the result of the great personal risks of action as it is to be evidence of genuine legitimacy. Certainly, additional argumentation is needed before we should readily accept such a view of things. More to the point, as an implicit argument it is reminiscent of Hobbes' in its disproportionate elevation of the benefits of internal order as an overriding justification for non-intervention from without. The dependence of the rights of individuals is reduced on this view to the solitary individual "right" to a civil society of almost any sort. And this is at least an uninspiring, constricted theory of individual rights.

To be fair, Walzer's position is not as absolute as has been portrayed thus far. For he does allow that intervention is justifiable in certain extreme cases, where the "violation of human

rights within a set of boundaries is so terrible that it makes talk of community or self-determination or 'arduous struggle' seem cynical and irrelevant, that is, in cases of enslavement or massacre" (p. 90). And again, humanitarian intervention is justified, he says, "when it is a response (with reasonable expectations of success) to acts 'that shock the moral conscience of mankind'" (p. 107). Thus, the rights of states to territorial integrity and political sovereignty are not completely absolute. These rights can be overridden where the violations of human rights are horrendous — as, for example, in Nazi Germany.

I am uncertain to what extent this qualification helps. It certainly does make Walzer's thesis more plausible by removing one obvious objection to it — that no matter how many lives are being taken by the state, no matter how oppressive the regime, intervention is always wrong. But that kind of qualification is not enough to make a theory. Still needed is a fuller account of the reasons why we ought to think it a very serious crime in every other case for a state to enter upon the territory of another or to use the force of war to alter or restrict the political sovereignty of another state. We require a more complete argument as to why we should value so highly the mere existence, in almost any form it may happen to take, of every nation-state. And what is also needed is a justification that illuminates the basis on which the exception for humanitarian intervention is detached from the general prohibition upon the initiation of war.

Unless states have an independent, defensible claim to use the deadly force of war to resist all movements onto their territory or all attempts to alter their structure, the case against the initiation of war has not yet adequately been made out. If the saving of lives is crucial, it may well be that the lives of more citizens of any particular state would be better protected by the initiation of war than by the virtually unqualified respect for territorial integrity that Walzer favors. And that issue cannot be settled simply by insisting that many lives will be lost when a state resists. As we have seen, it must first be established that it does so rightfully. And it seems to me that it must also be shown that fewer lives will be lost in the process. This is, no doubt, to introduce a kind of "utilitarianism" which Walzer thinks it mistaken to embrace. But without a good deal more in the way of a presentation and defense of a particular theory of individual rights, it is difficult to see why, since individuals matter so much, the effect upon the lives of individuals should not be the direct moral issue. The problem is made more acute by the exception for humanitarian intervention. If individual rights are so important, why should not each and every violation shock the conscience? Why is not anything less

the kind of sacrificing of the individual to the greater good that is supposed to constitute the fatal flaw in any utilitarian mode of thought? My quarrel is less with Walzer's conclusions than with his belief that recourse to rights without regard for consequentialist considerations will do the theoretical work to get him there.

If the bedrock for the integrity of the nation-state is the consent of the persons living within it to the kind of state that it is, then the rightfulness of resistance can probably be made out without much difficulty. But genuine consent of this sort is notoriously difficult to discern. Moreover, whenever the consent of the governed is absent, this would appear to remove consent as a justification for the value attached to the territorial integrity and political sovereignty of that state.

If the basic rights of individuals — to such things as a decent standard of living or to a decent way of life in which political liberties are genuine realities — are crucial, then once again the unanswered question is why war is necessarily wrong if it is begun in order to bring about the recognition and protection of those rights presently unprotected and unrecognized in any particular state. Massacre and enslavement do not seem to be the only cases in which basic individual rights can be violated, even on a large scale. South Africa, for example, may be a country in which there is neither massacre nor enslavement. But the existing political arrangements are surely unjust, unconsented to by many, and violative of many important rights. Even if there is *order*, I do not see why it would necessarily be wrong to initiate war in order to alter those arrangements in a way that would make the society a substantially more just one. Once again, if individual rights are the touchstone, then a "utilitarianism of rights" — a determination of whether the net enjoyment of those rights would be increased by intervention — appears to be one strong theoretical formulation by which to determine whether or not the initiation of war is a crime. If it is not, then on Walzer's own account we are left, I believe, either with a somewhat mysterious dimension to the theory of individual rights or with a troublesome and as yet unsupported defense for the international status quo. In the case of the former, it remains unclear why the rights of individuals do not justify more in the way of intervention and less in the way of commitment to the desirability of the nation-state. In the case of the latter, the right of states, and not the rights of individuals, come in the end to enjoy an exalted, primary status within the moral critique of aggression.

Here, as elsewhere, it is of course far easier to raise questions and doubts about the clarity and consistency of the thoughts of another than to set things down in order or to get the matters

right. The hard work consists in seeing what the issues are, how they might reasonably be approached, and where lines of plausible argument might lead. In *Just and Unjust Wars* Walzer has done a great deal of the difficult work well, and that is why engagement with it is so instructive.