

PDF hosted at the Radboud Repository of the Radboud University Nijmegen

The following full text is a publisher's version.

For additional information about this publication click this link.

<http://hdl.handle.net/2066/164607>

Please be advised that this information was generated on 2021-09-27 and may be subject to change.

LONNEKE PEPERKAMP

The Blurry Boundaries Between War and Peace: Do We Need to Extend Just War Theory?

ABSTRACT: Saint Augustine, being seen as one of the first just war theorists, famously stated that the true object of war is peace.¹ And while just war theory is often said to be the leading position on the morality of war, today, it is struggling to keep up with the changing international reality. It is premised upon a certain conception of war – as armed conflict between two states – and on a clear demarcation line between the situation of war and the situation of peace. This however, seems to no longer fit the political reality. More often than not, we find ourselves in a grey area. This ‘new’ political reality, the changed character of war(fare), and the often blurry boundaries between war and peace, pose serious challenges to just war theory. This paper analyzes one solution: an extension of the bipartite conception of the theory. A branch called *jus ante bellum*, preventive peacemaking, is sometimes suggested to precede *jus ad bellum*. And *jus post bellum*, justice after the war, is the welcomed branch that could provide post war guidance. This paper explores what it means to adopt these branches. What does it bring us to extend the theory? It is presumed that it would benefit the goal of just war theory, that Augustine already pointed at: limiting war and realizing a ‘just and durable peace.’ But is an extension really a good idea? There are several reasons why we should be careful to regard these arguably important issues within the parameters of just war theory.

Keywords: just war theory, new wars, *jus ante bellum*, *jus post bellum*, peace

1. Just War Theory’s ‘Struggle’

Just war theory is often said to be the leading position on the morality of war. The theory dates back to Greek and Roman antiquity and remains popular up to date. One can safely argue that this theory is significant and has proven sustainable.² Its criteria appeal to moral intuitions widely held by many around the world. In the words of Michael Walzer, the leading contemporary just war theorist, just war is the theoretical version of ideas of our common heritage, “designed to help us resolve, or at least to think clearly about, the problems of definition and application”.³ Many

1 Augustine, *The City of God*, 1950, Book XIX, 687, 688.

2 According to Larry May “It has stood the test of time”. See: Larry May, Eric Rovie, Steve Viner (ed.), *The Morality of War. Classical and Contemporary Readings*, 2006, ix. This does not mean that the theory was always popular to the same extent as today in history.

3 Michael Walzer, *Arguing about War*, 2004, x.

theorists today accept the basic premises of just war theory;⁴ the theory is widely taught in universities and military academies; political leaders use its criteria to argue whether or not they undertake military action, and in general, they consider their armies restrained in war;⁵ and just war language is widely used in public debates. According to Alex Bellamy, there is “an ‘overlapping consensus’ around the just war tradition’s basic ideas”.⁶

Located in between the two ‘extreme’ positions of pacifism and realism, just war theory provides principles with which to judge war. Contrary to realists, just war theorists believe that war is subjected to moral principles. As pacifists, they argue that this means that war is principally immoral, mainly because of the wrongfulness of the intentional taking of human life – the killing of non-combatants in particular. But while just war theorists are reluctant to approve of war, they do think, contrary to pacifists, that there are situations in which a war can nevertheless be justifiable.⁷ To avenge a greater wrong, it is possible that the ends justify the means. In that case, war is perceived as the ‘lesser’ of two evils.⁸ But while it is – at least theoretically⁹ – considered possible that a war is justified, the general goal of just war theory is a ‘just and durable peace’.¹⁰ It means that just war theorists are concerned with limiting the occurrence of war, and when it does occur, with ensuring that the conduct of war is as humane as possible.¹¹ These concerns correspond with the two main branches of just war theory: *jus ad bellum*, determining under which conditions war is justified, and the *jus in bello*, determining what the proper behaviour is during a war.

But while this theory might remain the leading position on the morality of war, there is another side to that story. Just war theory is in fact struggling to keep up with the changing international reality. It is premised upon a certain conception of war – as armed conflict between two states – and on a clear demarcation line between the situation of war and the situation of peace. And this seems no longer typical for the

- 4 Jeff McMahan, “Just War”, in Robert Goodin, Philip Pettit and Thomas Pogge, *A Companion to Contemporary Political Philosophy*, 2007, 669.
- 5 An excellent example is the 2009 Nobel Lecture by president Barack Obama ‘A Just and Lasting Peace’. In this speech, Obama defends just war theory and invokes its norms to explain the United States defense policy. See: http://www.nobelprize.org/nobel_prizes/peace/laureates/2009/obama-lecture_en.html.
- 6 Alex Bellamy, *Just Wars: From Cicero to Iraq*, 2006, 4.
- 7 Which does not mean that in general for just war theorists, war is considered as something good or properly just; in war, “justice is always under a cloud”. Walzer (footnote 3), x.
- 8 Bellamy (footnote 6), 3.
- 9 For some, this is remains merely a theoretical possibility, a position called contingent pacifism. According to John Rawls: “The possibility of a just war is conceded but not under present circumstances.” See: John Rawls, *A Theory of Justice*, 1971, 382. Larry May argues that nearly all wars with just causes will nevertheless be unjust because of the (expected) failure to meet the proportionality principle. See: Larry May, *After War Ends: A Philosophical Perspective*, 2012. He calls this position contingent pacifism, a position which is criticized by Jeff McMahan: Jeff McMahan, Pacifism and Moral Theory, *Diametros* 23 (2010), 3–20. For a discussion of the different variations of contingent pacifism, see e.g. Andrew Fiala, *The Just War Myth. The Moral Illusions of War*, 2008, 163–168.
- 10 E.g. Mark Evans, Moral Responsibilities and the Conflicting Demands of Jus Post Bellum, *Ethics & International Affairs* 23/2 (2009), 149 and May (footnote 9), 10.
- 11 Bellamy (footnote 6), 4.

political reality. Many agree that war itself and the way in which it is waged are different today as compared to earlier in history.¹² It is claimed that particularly since the end of the Cold War, the character of war has changed significantly. There is a large body of literature on this subject, an important part of which revolves around the debate on the so-called 'old and new wars'.¹³ An important trend is that the number of wars between the armies of two states have declined since the Second World War, particularly since the early 1990s.¹⁴ These so-called 'conventional wars', commencing with a declaration of war, fought between two professional armies, and ending with a peace treaty, almost seem to have become a thing of the past.

In many situations, it is not even clear whether something qualifies as war. The situation in Afghanistan, is that still a war? The operation in Mali? The drone attacks in Pakistan? The Russian presence in the Ukraine? In legal terminology, the term 'war' is abandoned. And contemporary wars (or armed conflicts; acts of war; or military actions) have many shapes and sizes: peace enforcement operations, military occupation, the 'war against terror', airstrikes outside areas of war, guerrilla attacks and targeted killings. Obviously, it has become difficult to separate the paradigm of war and the paradigm of peace. More often than not, we find ourselves in a grey area.

The decline of these conventional wars also means that there are different actors in contemporary wars, who play different roles and have different interests (e.g. financial, or control and power). The actors in wars are both state actors as well as non-state 'belligerents' such as war lords, militias, mercenaries and private military companies.¹⁵ The result is that some wars can be characterized as asymmetric, meaning that there is an imbalance of military strength between the belligerents, e.g. when non-state militias are fighting a guerrilla war against a national army.¹⁶ The growing involvement of non state actors in war makes it less likely that wars start after an official declaration made by state representatives at a given point in time. It is well possible that a period of civil unrest or rebellion develops – more fluently – into a situation that can qualify as war. And if the war starts with a political decision, who makes this decision? Political representatives of the state, or of a different political entity, military leaders, a war lord? It appears that today's wars are more likely to develop from the bottom, instead of top-down. The asymmetric character of contemporary wars and the fact that war is more and more commercialized – making it a potentially profitable endeavour for belligerents and other actors – furthermore means that the war can drag on (at a high or low intensity) for a long time.¹⁷ This also indicates that fewer wars have a clear beginning and end today.

12 For an overview of the nature of war throughout history see e.g. John Keegan, *A History of Warfare*, 1994.

13 Important contributions to the debate are Martin van Creveld, *The Transformation of War*, 1991, Herfried Münkler, *The New Wars*, 2004, and Mary Kaldor, *New & Old Wars*, 2007.

14 Human Security Center, *Human Security Report 2005: War and Peace in the 21st Century*, 2006; Human Security Center, *Human Security Report 2009/2010: The Causes of Peace and The Shrinking Costs of War*, 2011.

15 The activities of these non-state actors blur the line between soldiers and civilians. See further: Kaldor (footnote 13), 9.

16 Münkler (footnote 13), 19–20.

17 Ibid, 21.

This political reality, the changed character of war(fare), and the often blurry boundaries between war and peace, pose serious challenges to just war theory. More specifically, it raises questions of relevance and applicability. Is just war theory still tailored for the 'new' political reality?¹⁸ Can we apply just war principles to contemporary armed conflicts? Do they still offer the required moral guidance?¹⁹ And perhaps most importantly, are they able to advance the goal of a just and durable peace? Being pessimistic, one could argue that these developments mean that just war theory is outdated and should be discarded. But it is worth exploring potential solutions to these challenges.

This paper analyses one solution: an extension of the bipartite conception of just war theory. It is plausible that in the contemporary reality, just war theory has become incomplete. The principles of the two existing branches are no longer sufficient to provide moral guidance and to realize the goal of a just and durable peace. Therefore, in order to keep up with changing circumstances, many argue that just war theory needs to be extended beyond the familiar *jus ad bellum* and *jus in bello*. In the last decade, arguments for incorporating one or two additional branches to complete just war theory are heard.²⁰ There are other important issues, so it is argued, that should also be regulated by just war theory. Issues that are vital in limiting war and realizing a just and durable peace. The most common argument is that just war theory must be completed with a branch called *jus post bellum*.²¹ This branch could provide the re-

- 18 This critique is heard before at several points in history, for example during the proliferation of weapons of mass destruction, when the risk of a 'total war' which could not be limited in any way became a serious threat. As Evans points out, many thinkers thought this to be the end of just war theory because it was considered hopelessly outmoded and irrelevant. Mark Evans (ed.), *Just War Theory: a Reappraisal*, 2005, 5, 6.
- 19 For example, the discrimination principle means that in war, there is a morally relevant distinction between soldiers and civilians; combatants and non-combatants. In principle, non-combatants enjoy immunity; which means they must be spared from the violence of war. It is easy to understand that the application of this principle has become problematic in wars where it is difficult to make that distinction – e.g. when a national army fights irregular militias, who refrain from wearing uniforms and attack from within densely populated areas. Michael Walzer argues that the responsibility to discriminate and protect civilians can no longer fully be put on the national army fighting these militias. See further Walzer's Thomas More Lecture, *War and Death: Reflections on the Just War Theory Today*, 2007.
- 20 Arguments for several additional branches are made. For example: Darrel Mollendorf and David Rodin argue that just war theory should consist of *jus ad bellum*, *jus in bello*, *jus ex bello* (governing the process of war termination and agreement on the terms of peace), and *jus post bellum* (governing the situations after the termination of the war); Mark Allman and Tobias Winright claim that the theory should consist of *jus ante bellum* (preventive peacemaking), *jus ad bellum*, *jus in bello* and *jus post bellum*; and Steven Lee argues that the theory should consist of *jus in abolitione belli* (the abolition of war altogether, overlapping with *jus ante bellum*), *jus ad bellum*, *jus in bello*, *jus extendere bellum* (the justice of the continuation of the war, overlapping partly with *jus ex bello*), and *jus post bellum*. In this article, I will focus on two common, and in light of the outlined changing circumstances the most relevant additional branches: *jus ante bellum* and *jus post bellum*. I must acknowledge that *jus ex bello* would also be interesting to explore, however, that that is not undertaken in this article. See further: Darrel Mollendorf, *Jus ex Bello*, *The Journal of Political Philosophy* 16/2 (2008), 123–136; David Rodin, *Ending War*, *Ethics and International Affairs* 25/3 (2011), 359–367; Steven Lee, *Ethics and War. An Introduction*, 2012; Mark Allman and Tobias Winright, *After the Smoke Clears: The Just War Tradition and Post War Justice*, 2010.
- 21 See e.g. Michael Schuck, *When the Shooting Stops: Missing Elements in Just War Theory*, *Christian Century* III/30 (1994), 982, 983; Louis Iasiello, *Jus Post Bellum: The moral responsibilities of victors in war*,

quired guidance after the end of war. As Brian Orend argues: “Conceptually, war has three phases: beginning, middle and end.” Just war theory is therefore only complete when we include *jus post bellum* in the theory.²² But if ‘justice after war’ must be included, should we then not consider ‘justice before the war’ as well? Just war theory can namely be extended both ways: at the end *and* at the beginning.²³ A branch called *jus ante bellum* is sometimes suggested to precede *jus ad bellum*. This first additional branch is discussed in the second section. The second additional branch, *jus post bellum*, is discussed in the third section. This paper explores what it would mean to integrate these branches in just war theory. What can an extension of the theory bring us? An important advantage is that it is likely to benefit the general goal of just war theory: limiting war and realizing a ‘just and durable peace’. But is an extension really a good idea? We have to critically consider the question as to what should fall under the scope of just war theory. It will appear that there are several reasons why we should be careful to regard these arguably important issues within the parameters of just war theory.

2. Jus Ante Bellum

The first potential branch regulates the situation prior to war and is often named *jus ante bellum*. Its norms apply in peacetime, in the absence of a particular war or threat of war. In that sense, it precedes *jus ad bellum*, which applies to the start of war. The content of what is proposed for this branch varies: *jus ante bellum* is proposed in order to train the armed forces and prepare for war in general; or it is proposed in order to prevent war from occurring at all. This latter conception of *jus ante bellum* is also referred to as *jus in abolitione belli* or ‘just peacemaking’. It is remarkable that this additional branch, often titled *jus ante bellum*, is used to argue for the realization of two seemingly contrary goals: the preparation or prevention of war.

Jus ante bellum is used in the preparatory sense to describe a branch of norms that regulate the general preparation for war. It deals with military policy and action before war, such as the maintenance of the armed forces, longer-term preparation for war and education and training of combatants.²⁴ George Lucas argues that, together with *jus*

Naval War College Review 3/4 (2004), 33–52; Richard DiMeglio, The Evolution of the Just War Tradition: Defining Jus Post Bellum, *Military Law Review* 186 (2005), 116–163; Camilla Bosanquet, *Refining Jus Post Bellum*, lecture at the International Symposium for Military Ethics, January 2007, available online: <http://isme.tamu.edu/ISME07/Bosanquet07.html>; and Brian Orend, Jus Post Bellum: A Just War Theory Perspective, in Carsten Stahn and Jann Kleffner, *Jus Post Bellum, Towards a Law of Transition From Conflict to Peace*, 2008, 31–52.

22 Orend (footnote 21), 36.

23 This is referred to by Mark Allman and Tobias Winright as the ‘growing edges of just war theory’. See: Mark Allman and Tobias Winright, Growing Edges of Just War Theory: *Jus ante bellum, jus post bellum*, and Imperfect Justice, *Journal of the Society of Christian Ethics* 32/ 2 (2012), 173–191.

24 Especially focused on the training of military personnel is Roger Wertheimer, *Empowering Our Military Conscience: Transforming Just War Theory and Military Moral Education*, 2010.

post bellum, this branch completes just war theory. *Jus ante bellum* as he understands it “encompasses the appropriation of resources for military preparedness, training, and education of troops; provisions to develop requisite military leadership; appropriate management and oversight of military and defence apparatus; and the general preparedness for future war.”²⁵ These are practical issues to do with the development and maintenance of a functioning defence system. According to Lucas such norms complete the conceptual circle because *jus ante bellum* also involves the planning of post war behaviour. Leaders should prepare for war, including a proper consideration of the implications of war and the exit-strategy. And similarly, combatants are trained both to ensure that they fight justly, and also that they conclude the war justly. When lessons are learned from the aftermath of war, which in turn infest considerations of *jus ante bellum*, the circle is complete.²⁶

What remains rather unclear in Lucas’ discussion of pre-war justice is the substance of this branch. Which type of norms are to govern these preparatory activities? It seems wise to properly consider the maintenance, education and training of the military. If wars occur, the soldiers that are deployed should be thoroughly informed and trained on the rules of war and the protection of human rights. However, it seems that what Lucas’ understands to be preparatory *jus ante bellum* are simply practical guidelines that flow from *jus in bello*. The obligations of *jus in bello* namely demand commitment not only in war, but also before war, or even in the absence of a particular war. Military personnel is not educated and trained ‘on the spot’, but must be generally prepared for war in order to comply with *jus in bello* norms when they are deployed. For instance, the principle of discrimination requires that military personnel is educated on the rules of war, trained to distinguish military from civilian targets, and that they have weapons at their disposal with which they are able to make the distinction. This way, *jus in bello* norms require preparations for war in general during times of peace. These issues are therefore – in a sense – already part of just war theory’s moral framework. These preparatory activities entail nothing essentially different than the existing *jus in bello* responsibilities. This consequently means that *jus ante bellum* in the preparatory sense need not constitute an independent branch of just war theory.

Others argue that *jus ad bellum* must be preceded by norms on preventive peace-making – in an effort to prevent all war. Instead of preparing for war when there is not necessarily a particular occasion for war at hand, Allman and Winright state that *jus ante bellum* is concerned with reducing the chance that wars break out in the first

25 George Lucas, *Jus Ante and Post Bellum. Completing the Circle, Breaking the Cycle*, in Eric Patterson (ed.), *Ethics Beyond War’s End*, 2012, 56.

26 *Ibid.*, 58–60. And with the completion of this conceptual circle, the cycle of perpetual violence and war can be broken, according to Lucas. It appears that this way, his understanding of preparatory *jus ante bellum* tends towards preventive *jus ante bellum*. However, I find it hard to understand how he concludes that the cycle of war can be broken based on the presented reasoning.

place.²⁷ This can be done by addressing the root causes of potential conflicts in the period before war. According to them, the two branches of *jus ante bellum* and *just post bellum* complete the ‘equation’ of just war theory.²⁸ This understanding of justice before the war is similar to Steven Lee’s proposal for an additional branch, which he titles *jus in abolitione belli*.²⁹ He uses this term to refer to a branch of just war theory aimed at the prevention of all wars by formulating the right methods to abolish war. Lee proposes the following three criteria for *jus in abolitione belli*: “maximize feasible non-military alternatives to achieving justice”, “bring greater legitimacy to international institutions”, and “accept national sovereignty as a necessary moral fiction”.³⁰

The ‘just peacemaking ethic’,³¹ which forms the basis of preventive *jus ante bellum*, is more elaborate and provides us with ten practices of preventive peacemaking: ‘support nonviolent direct action’, ‘take independent initiatives to reduce threat’, ‘use cooperative conflict resolution’, ‘acknowledge responsibility for conflict and injustice and seek repentance and forgiveness’, ‘advance democracy, human rights, and religious liberty’, ‘foster just and sustainable economic development’, ‘work with emerging cooperative forces in the international system’, ‘strengthen the United Nations and international efforts for cooperation and human rights’, ‘reduce offensive weapons and weapons trade’, and ‘encourage grassroots peacemaking groups and voluntary associations’.³²

Would it be possible to incorporate preventive *jus ante bellum* in just war theory? As preparatory *jus ante bellum*, preventive *jus ante bellum* is related to the other criteria of just war theory. It flows from the *jus ad bellum* criteria of last resort and right intention; criteria which are particularly aimed at the limitation of war, and meant as a blockade against starting war. The above makes clear what type of norms are considered part of preventive *jus ante bellum*. And while they are related to other just war criteria, they are not simply the concrete and practical guidelines to fulfill such criteria. Rather, they constitute a broad strategy to realize the abolition of war. As such, they entail something different than what is already part of just war theory.

Furthermore, unlike the two established branches of just war theory, *jus ante bellum* does not apply to a particular war. This might be a problem when trying to incorporate this branch in the theory. Namely, the central idea to just war theory, dating back to Cicero, is that the ‘normal’ state of affairs is peace, and that war is an excep-

27 Mark Allman and Tobias Winright, *After the Smoke Clears: The Just War Tradition and Post War Justice*, 2010, 7.

28 Ibid, 10.

29 Lee (footnote 20), 300.

30 Ibid, 300–306.

31 This ‘just peacemaking ethic’ can be integrated in just war theory as an additional branch, but can also be part of the pacifist position (depending on the position on what to do when peacemaking fails; can it be justified to wage war or is the nonviolence proscription absolute?), and it is also presented as alternative to pacifism and just war theory; i. e. as another paradigm. See further one of the most important spokesmen of this position: Glen Stassen (ed.), *Just Peacemaking: the New Paradigm for the Ethics of War and Peace*, 1998.

32 Ibid and online at: <http://justpeacemaking.org/the-practices/>.

tion to that.³³ In this exceptional state of affairs when the war is raging – this state of emergency – some of our most important moral principles are on hold. The premise of just war theory is that even this exceptional state of war is governed by certain moral norms, protecting the most essential values. However, *jus ante bellum* does not apply in this exceptional state of war. It applies in peacetime, dealing with the general practice of preventing war. But this problem might not be as serious as it appears. The introduction namely showed that today, it is not easy to separate the war- and peace paradigm. The line between war and peace is often blurry in our contemporary world. Therefore, it might be might not be necessary to hold onto this strict temporal conceptualization of just war theory.³⁴

And lastly, it is obvious that *jus ante bellum* is very much in line with just war theory, as it is particularly focused on the theory's general goal: limiting war and realizing a just and durable peace. It therefore makes the achievement of this goal more likely and efforts to support this goal and realize the abolition of war from the world must be praised. These three reasons: the relationship with other branches; the blurry boundaries between war and peace, making the peacetime application less problematic; and the focus on the just war theory's goal, constitute rather compelling arguments to integrate *jus ante bellum* in the theory.

3. Jus Post Bellum

The second additional branch that is proposed is *jus post bellum*, 'justice after war'. *Jus post bellum* should function as a moral framework regulating the situation after the war. *Jus post bellum* is used to refer to either a body of legal or moral norms, or both, aimed at regulating the transition from war back to a 'normal' state of peace. As such, it provides a framework guiding political and military action, and it forms a standard which can be used to evaluate and judge particular post war situations. While many agree on the importance of a branch of *jus post bellum* in just war theory, there is no agreement on the content of such a branch. Often, the debate on *jus post bellum* is presented as a debate between two opposing positions: minimalism and maximalism. Minimalists, as Michael Walzer, are said to endorse a restricted version of *jus post bellum*, as they are particularly concerned with respect for the sovereignty of states and limiting what victors are allowed to do after war. Maximalists, as Mark Evans, are concerned that victors will do too little after war. Consequently, they propose broader and more comprehensive obligations.³⁵

The norms that are proposed could be roughly divided into different categories: safety and security; political justice; criminal justice; reparations/ compensation;

33 Stephen Neff, *War and the Law of Nations, A General History*, 2005, 29–34.

34 It will however appear later in this article that this does in fact constitute a problem when trying to integrate *jus ante bellum*.

35 The distinction between so-called minimalism and maximalism is explored in: Lonneke Peperkamp, *Jus Post Bellum: A Case of Minimalism versus Maximalism?*, *Ethical Perspectives* 21/3 (2014), 255–288.

general reconstruction; and reconciliation.³⁶ The first and foremost priority after war, acknowledged in all accounts of *jus post bellum*, is halting the aggression and ensuring safety and security in the war affected area. This has two components: guaranteeing international peace and security, through the consolidation of peace and the prevention of future external aggression; as well as guaranteeing the security of the citizens of the defeated state itself, which means the prevention of future internal aggression.³⁷ This requires disarmament, arms control and the reintegration of soldiers in the society.³⁸

Political justice encompasses norms regarding the influence on the political system of the defeated state. Post war activities in this category are: institutional reform; legislative reform; reformation of the security sector; the realization of human rights; and replacement of (members of) the prior regime. In all proposals, political justice is part of *jus post bellum*. However, as pointed out earlier, there is considerable disagreement on the proper scope of political justice after a war. The central question is: when and to what extent is coercive political change justified? There are different values which are at stake here: on the one hand international security and the protection of human rights, and on the other hand sovereignty of states and self-determination of peoples. It appears as if the character of the defeated regime determines when one set of values can overrule the other. This is true for most authors: the more unjust the regime, the more likely it is that political reconstruction is justified. However, the turning point is different for all, and is dependent on the value that is attached to each of those values. E. g., for the ‘minimalist’ Walzer, sovereignty and self-determination are so important that political reconstruction of the defeated state is only allowed in case of inherently aggressive and murderous regimes.³⁹ Orend, tending more towards maximalism, disagrees with Walzer. He does not attribute the same value to sovereignty and consequently, the turning point appears in a much earlier stadium, namely, when a state fails to be ‘minimally’ just.⁴⁰ As result, political reconstruction of the defeated state is considered a post war obligation in a wider range of situations.

The category of criminal justice entails norms on how to deal with international crimes that have occurred before and/ or during the war. Criminal justice can serve a variety of more specific goals, as retribution, deterrence of future crimes, closure for

36 In the past years, many good pieces on *jus post bellum* appeared. In this article, I will focus on three of these theorists, which also represent distinct positions on the subject: Michael Walzer (minimalism); Brian Orend (‘in between’); and Mark Evans (maximalism).

37 The priority of these goals is highly dependent on the nature of the war or conflict. In case of a classic self defensive war the focus will be on international peace and security. In case of a civil war, the people of that war torn state form the main concern. But international security issues, like migration, international crime, and destabilization of the region, do demand attention in civil wars as well.

38 Gary Bass, *Jus Post Bellum*, *Philosophy & Public Affairs* 32/4 (2004), 394.

39 Michael Walzer, *The Aftermath of War. Reflections on Jus Post Bellum*, in Eric Patterson (ed.), *Ethics Beyond War’s End*, 2012, 39.

40 Orend defines that as: “A minimally just community makes every reasonable effort to: (i) avoid violating the rights of other minimally just communities; (ii) gain recognition as being legitimate in the eyes of the international community and its own people; and (iii) realize the human rights of all its individual members,” Orend (footnote 21), 43.

the victims, fostering reconciliation; and symbolically reclaiming values. There are different instruments to establish individual criminal responsibility: e. g. through national trials, international criminal tribunals, the International Criminal Court, and truth and reconciliation commissions. Again, there are different values at stake, and this potentially makes this operation difficult. On one hand, the value of criminal justice – punishing the guilty – and the achievement of the above mentioned goals, and on the other hand the value of national and international peace and security. To put it shortly, this means that in some situations, a conflict can arise between justice and peace.⁴¹ While criminal justice is widely considered part of *jus post bellum*, disagreement exists on the question of how to deal with such a conflict: should the value of justice be sacrificed when necessary in order to achieve peace? The proportionality principle, well known in just war theory, is invoked by some authors to determine the operation of norms within this category. According to Walzer and Orend, the punishment of international crimes is subjected to such a proportionality test. This means that prosecution should be reconsidered if it extends the war, increases the casualties or endangers the peace.⁴² Walzer states: ‘sometimes security might require amnesties and public forgetfulness.’⁴³ But other theorists argue that proportionality cannot function as a mediating factor here. The achievement of criminal justice is valued so highly that responsible individuals should always be held accountable in war crimes trials.⁴⁴

Reparations and compensation constitute the next category of *jus post bellum* norms. The specific goals here are both economic redistribution, which seeks to materially compensate the victims of aggression for inflicted damage, as well as psychological reparation, aimed at righting past wrongs in order to support the mental transformation and to provide closure. Post war instruments falling in this category are the restitution of confiscated property, the extraction and payment of compensations, and formal apologies. The principle of proportionality can reappear here to determine the scope of reparations. When it does, it proscribes that the extracted reparations should not be overly punitive. Responsible people and/or the state must be realistically capable of paying the reparations.⁴⁵ Sometimes it is perfectly clear who should return the property or who is responsible for compensation of that lost property or other inflicted damage. But it is not always easy to determine who is responsible and liable for damage done. And who then should pay for the reparations? Walzer and Orend disagree on this matter. According to Orend, we should discriminate when extracting reparations: only those who were responsible for the aggression should pay. Walzer however, argues that these reparations can be extracted from the citizens of the former aggressor state through a tax system. In that view, the people bear collective

41 There is an extensive debate in the literature on this issue. I will only highlight the controversy here, and analyse the opinions of the discussed authors regarding this question in relation to *jus post bellum* only.

42 Walzer (footnote 39), 45, Brian Orend, Justice after War, *Ethics & International Affairs* 16/1 (2002), 53.

43 Walzer (footnote 39), 45.

44 E. g. Iasiello (footnote 21), 47–48 and DiMeglio (footnote 21), 153–158.

45 E. g. Brian Orend, *The Morality of War*, 2006, 166–167.

responsibility for the damage done by the aggression.⁴⁶ Unlike the previous categories of *jus post bellum*, reparations and compensation are not an established part of *jus post bellum*. While that appeared to be so, in recent years some theorists, as ‘maximalist’ Mark Evans, argue that instead for extracting compensation, the victor must invest in the defeated state in order to foster reconstruction.⁴⁷ In fact, Orend now also seems to argue against compensation, and instead on economic reconstruction. This means that the victor cannot extract reparations for damages done by the war, but must instead invest in the defeated country, rebuilding its economy.⁴⁸

The next category of *jus post bellum* is put forward particularly by so-called maximalists. While safety and security; political justice (to a certain extent), and criminal justice (balanced in a certain way) seem to make up what can be called the ‘core’ of *jus post bellum*, general reconstruction consists of norms that are broader and more comprehensive. Therefore, they are often said to be part of maximalist *jus post bellum*. The category of general reconstruction entails obligations regarding economic reconstruction and development,⁴⁹ rebuilding infrastructure like road, rails and electrical grids,⁵⁰ and cleaning up the environment. The fact that Evans and Orend stress the importance of economic reconstruction, and the related duty of the victor to take responsibility for their share of the material burdens, explain the rejection of compensation on the part of the defeated highlighted above.

The last category is also characteristic for the maximalist position. Forgiveness and reconciliation is not specifically recognized by minimalist accounts of *jus post bellum*. However, Evans argues that repairing the relationships between former enemies is an extremely important aspect of post war justice.⁵¹ Therefore, part of Evans’ *jus post bellum* is the obligation to “take full and proactive part in the ethical and socio-cultural processes of forgiveness and reconciliation that are central to the construction of a just and stable peace.”⁵² Because the obligation to achieve forgiveness and reconciliation seems very demanding, Evans argues that these concepts should be understood in thin, narrow terms: reconciliation “refers only to the business of developing means by which former enemies can live on the same planet without fighting each other.”⁵³ More theorists recognize the importance of reconciliation as part of *jus post bellum*. And while Evans interprets these obligations in a limited way, further reaching obligations are recognized by others.⁵⁴

46 Walzer (footnote 39), 42.

47 Mark Evans, “Just Peace”: An Elusive Ideal, in: Eric Patterson (ed.) *Ethics Beyond War’s End*, 2012, 207–208.

48 Orend (2012), 188.

49 Evans (footnote 48), 208 and Allman and Winright (footnote 20), 160–163.

50 Evans (footnote 48), 207, 208; Allman and Winright (footnote 20), 161; and Orend (footnote 43), 52.

51 Evans (footnote 48), 210.

52 Evans (footnote 48), 208.

53 Ibid, 211.

54 Mark Allman and Tobias Winright for example, argue even stronger that reconciliation is a vital part of *jus post bellum*. They present a richer religious understanding of reconciliation. The main goal of reconciliation is not only to make sure former enemies can continue to live on the same planet together, but to create relationships of respect, trust and friendship. “The reconciliation phase seeks to turn enemies

Would it be possible to incorporate *jus post bellum* in just war theory? As preparatory *jus ante bellum*, *jus post bellum* is connected to the other criteria of just war theory. There are many ways in which the norms of *jus post bellum* are related with other just war norms. The category of criminal justice for example, directly flows from other *justum bellum* obligations. It determines how to deal with those guilty of violating *jus ad bellum* and those guilty of war crimes – violating *jus in bello*.⁵⁵ And these activities, the investigation of crimes, prosecution and punishment of individuals is usually something turned to when the war is over. Furthermore, there are theorists that argue that *jus post bellum* in general is strongly related to just war theory. Walzer claims that failing to achieving a just peace after the war undermines good results from the war, even if the war itself can be called just (meaning that an unjust peace can undermine an otherwise just war).⁵⁶ Thus, although there is no agreement on the exact influence, it is clear that there is a connection between *jus post bellum* and the other two branches.

Furthermore, like preparatory *jus ante bellum*, *jus post bellum* applies in peacetime; not in the exceptional state of war but after the war. However, as noted above, that obstacle seems to have become quite irrelevant because of today's blurry boundaries between war and peace. And this new political reality, in which the paradigm of war and peace can no longer be separated easily, and the character of war has changed, in fact shows the value of a branch of *jus post bellum*. Today, international military action is – more often than before – employed to protect the population of another state against grave human rights violations; to change an oppressive regime (and create a democracy); to stabilize so-called 'failed states'; or a combination of such reasons. These considerations are different, and more comprehensive than was often the case earlier in history, or so it is argued.⁵⁷ An important consequence of these comprehensive aims is that a particular situation has to be realized *after* the war, and the bipartite conception of just war theory does not offer much guidance on this matter. Return to the *status quo ante bellum* as post war principle, which was part of traditional just war

into friends and to bring emotional healing to the victims of war". They stress that reconciliation is not about forgive-and-forget, but is instead is about true reconciliation between people, for which the truth is essential. Allman and Winright (footnote 23), 102.

- 55 As Walzer states, if there was aggression, there must be aggressors and if war crimes were committed, there are war criminals. Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, 2000, 287–288.
- 56 Orend agrees that there is a strong connection between the branches. He however points to something else, arguing that violating *jus ad bellum* automatically results in a failure to achieve *jus post bellum*. An unjust cause infects the conclusion of the war according to Orend. Walzer disagrees and states that after a debatable war (a premature pre-emption or misguided military intervention that topples tyrannical regime) the war would remain unjust, but nevertheless, a just peace can be created *post bellum*. See: Walzer (footnote 3), 163 and Helen Frowe, *The Ethics of War and Peace: An Introduction*, 2011, 210.
- 57 Michael Walzer argues that the reconstruction of Germany and Japan after the Second World war was something new in the history of war. And also in the decennia after the Second World War, the goals of war were more limited than today. He mentions the example of the Gulf War: the war ended with the removal of Iraqi troops from Kuwait's territory, and thus the restoration of the *status quo ante bellum*. No attempt was made to change the regime in place. Today's wars, he argues, and especially humanitarian interventions, require something more after the war than the restoration of the situation that existed prior to the outbreak of the war. Walzer (footnote 3), 18–20.

theory, is not sufficient anymore. This shows why just war theory needs, now more than before, an additional branch of norms that apply after the war.

And lastly, similar to *jus ante bellum*, *jus post bellum* would probably benefit the general goal of limiting war and ensuring a just and durable peace. A lack of post war norms could allow for *ad hoc* policy and measures, with the danger a so-called ‘victor’s justice’, in which the victor determines justice in his advantage. This leaves room for the political interests of the victorious state to determine post war conduct and to profit economically from the benefits of war. These activities are not helpful for the transition to a state of peace. In general, it seems that failure to plan a just post war situation can prolong the war, or lead to internal chaos after the war, failing of the state or the start of a civil war. These scenarios mean that the damage and casualties are increased. Planning an exit strategy based on norms of *jus post bellum* therefore means better prospects for a just peace.

4. A Four Partite Just War Theory?

What do we envision for just war theory? If we acknowledge its value and refuse to discard just war theory altogether, it is worth trying to adapt just war theory so that it fits in with contemporary circumstances. When reflecting upon this ‘new’ political reality, in which just war theory needs to realize its goal – limiting war and realizing a just and durable peace – it appears as if an extension of just war theory is a sensible way to ‘modernize’ just war theory. A *prima facie* case for a four partite just war theory was presented in the second and third paragraph of this paper. Both *jus ante bellum* and *jus post bellum* turned out to be related to the other branches of the theory, even though these additional branches do not simply consist of practical guidelines to realize these existing principles. Rather, they flow from traditional just war theory, but nevertheless constitute independent criteria. Furthermore, while they apply in peacetime, and are in that sense at odds with *jus ad bellum* and *jus in bello*, this might not pose a serious problem precisely in light of today’s blurry boundaries between war and peace. Since a clear demarcation between those two paradigms can rarely be made, it is no longer necessary to strictly adhere to this distinction. Also, the general goal of just war theory could greatly benefit from an extension of just war theory. Although *jus ante bellum* and *jus post bellum* apply in peacetime, all four branches aim to limit war: *jus ante bellum* aims at general prevention, *jus ad bellum* limits the number wars, *jus in bello* at limits the damage, and *jus post bellum* aims at peacemaking, reconstruction and prevention. While *jus ante bellum* is strictly forward looking in character, *jus post bellum* is mainly backward looking, since it deals with things that happened right before and during the war. In some respects, the latter is also forward looking, as e.g. political reconstruction and the prevention of future wars are essential for *jus post bellum*. We could indeed say that these four branches are not neatly separated. Rather, each of them flows into the next. When *jus post bellum* deals with peacemaking, reconstruction and prevention, it eventually flows into *jus ante bellum*, indeed closing the circle.

However, despite these arguments, and the praiseworthy efforts to integrate norms on preventive peacemaking and post war reconstruction and peacemaking into just war theory, difficulties *will* come up when trying to integrate these additional branches. These difficulties relate to various elements: the character of the norms; the addressees/ duty bearers; the content; and the foundation. Before welcoming these new branches, we must seriously consider these – at the very least.

First, the character of *jus post bellum* is – to a certain extent – similar to the two established branches. While it deals with rather concrete areas of post war justice, the norms that are put forward are not entirely different from the traditional ones. For a large part, *jus post bellum* consists of moral norms regulating a particular post war situation. For example, if *jus in bello* insists on upholding certain rules, violations of these rules must be prosecuted, although the value of justice and the value of peace must be balanced using the proportionality principle, well known in just war theory. The character of *jus ante bellum* however, seems different from the other branches. The proposed norms are not abstract moral rules or principles but this branch consists rather of general strategies to prevent war. *Jus ante bellum* reflects the best methods and practices to prevent wars from breaking out, such as strengthening international organizations and reducing weapons trade.

The second difficulty that needs to be considered regards the addressees of the additional branches. Who are the duty bearers? Similar to *jus ad bellum* and *jus in bello* norms, which are addressed to the (would be) belligerents – the parties that are involved in the war – *jus post bellum* primarily addresses the (former) belligerents. *Post bellum* obligations are generally assigned to the states that took part in that war.⁵⁸ On these states, the obligation rests to fulfil these duties, such as the creation of a certain level of safety, the responsibility to reconstruct a war torn society and the achievement of criminal justice, even though admittedly, this branch need not be exclusively directed at the belligerents. While the first and foremost responsibility to fulfil *jus post bellum* rests on the former belligerents, it is plausible that other parties – states that were not directly involved in the war or international organizations – assist in *post bellum* activities. Walzer e. g. strongly argues that the burdens of reconstruction need to be wider distributed, for example in the situation of Iraq.⁵⁹ And Walzer is not the only one arguing that *post bellum* obligations are not exclusively assigned to the belligerents, but that this branch is characterized by collective, international obligations, assigned e. g. according to the ability to fulfil these obligations.⁶⁰ Still, *jus post bellum* remains primarily focused on the parties that were involved in the war.⁶¹

58 There is some disagreement on the distribution of these responsibilities between the victorious and the vanquished. Some argue that the *post bellum* norms apply differently and some argue that these responsibilities need to be – in principle – shared between the involved parties. See further e. g. May (footnote 9), 14–19.

59 Walzer (footnote 3), 167, 168.

60 Eric Patterson, *Jus Post Bellum and the Responsibility to Rebuild*, *British Journal of Political Science* (2013), 1–27.

61 See further: Lenneke Peperkamp, *On the Duty of Reconstruct After War: Who is responsible for jus post bellum?*, *Canadian Journal of War & Jurisprudence* (2016), 403–430.

This is not true for *jus ante bellum*; those duties cannot be addressed at discernible actors. Rather, it seems that the international community in general would be responsible for realizing this branch. The problem that arises here is that *jus ante bellum* duties, as well as potentially some *jus post bellum* duties, are considerably less determinate than *jus ad bellum* and *jus in bello* duties. The specific duty bearers are namely hard to identify. The fact that there is less agreement on the specific norms of these additional branches, than these of *jus ad bellum* and *jus in bello*, only reinforces that. Which state or international organization should take up the responsibility to comply to these rather indeterminate duties? Compliance is already a serious concern for just war theory's established branches, but this problem is only increased by integrating such indeterminate norms. Walzer acknowledges this concern, referring in this context to the 'collective action problem'. When we might be inclined to think that *post bellum* justice is better served by multilateralism (even if the *ad bellum* decision was unilateral) it is still questionable that *post bellum* obligations are better fulfilled when taken up collectively.⁶² As a result, integrating these additional branches into the theory, especially *jus ante bellum*, brings with it problems of indeterminacy which decreases its clarity and consistency, and therewith its feasibility. This makes it really difficult to identify *jus ante bellum* as a viable part of just war theory.

Third, the content of *jus ante bellum* is different from the content of the other branches of just war theory. This becomes clear when we examine the application of modern just war theory. Earlier in this article, it appeared that it is not problematic that *jus ante bellum* and *jus post bellum* actually apply in peacetime, because the line between war and peace is often blurry in our contemporary world. In the grey zone between war and peace it can be hard to determine whether a particular situation qualifies as 'war'; and when this war begun and ended. Therefore, it is argued, just war theory should cover the whole of such situations. However, with this difficulty to demarcate the time of war from the time of peace arises the difficulty to determine which branch of just war theory is applicable. It could be argued that in situations like this, we should be flexible in the application of just war theory, e.g. using just war theory without there being an 'official war', or applying two branches at the same time. For example, it would seem useful to apply *jus in bello* norms together with norms of *jus post bellum* when the war is 'officially' over, but large scale violence remains, such as the situation in Afghanistan. For this reason, we could assume that the strict temporal conceptualization of just war theory is no longer the best way to understand the operation of modern just war theory. We should change our perspective and understand just war theory as applicable to the exceptional *practice* of war, not to the time of war.⁶³ It is the *activities* that need to be justified. The branches do not regulate specific periods in time, but rather war related activities. And while these activities do usually take

62 Walzer (footnote 39), 41, 42.

63 Seth Lazar similarly argues in an unpublished working paper that the different branches regulate specific practices instead of that they are separated by an 'arbitrary timeline'. See: Seth Lazar, *Endings and Aftermath in the Ethics of War*, CSSJ Working paper, 13. Online at: http://social-justice.politics.ox.ac.uk/materials/SJ016_Lazar_Endings&Aftermath_War.pdf.

place during a certain period, they are not confined to them. This conceptualization of just war theory, that Jann Kleffner dubs the functional conceptualization,⁶⁴ creates room for the required flexible and overlapping application of *justum bellum* norms. But what activities are regulated by the additional branches? When assessing their content, it is clear that while *jus post bellum* indeed deals with war related activities, *jus ante bellum* does not.⁶⁵ On the contrary, *jus ante bellum* does not have anything to do with the issue of war, as it arises not in the context of a particular war but offers a strategy to foster peace. This functional conceptualization of just war theory therefore reveals that while the content of *jus post bellum* matches the theory, the content of *jus ante bellum* is entirely different.

A fourth difficulty for both *jus ante bellum* and *jus post bellum* is that, although they are both related to the other branches, it is questionable whether their foundation can be located in just war theory. Because *jus ad bellum* and *jus in bello* apply in that exceptional state of war, it is governed by certain moral norms, protecting the most essential values. This ‘core’ of fundamental norms is the radically dressed down version of what could be simply called our ‘normal morality’. For example, while the intentional killing of other human beings is almost universally considered morally wrong, this can be justified in times of war. And while it can be justified as inherent part of war, just war theory tries to regulate this by proscribing that attacks must be proportional to the military goal aimed for, and by proscribing that only deliberate attacks on combatants are justified.⁶⁶ Now the fact that *jus ante bellum* and *jus post bellum* apply to future and past activities in peacetime – outside that emergency situation – suggests that it is inadequate to ground the norms in the limited moral framework of just war theory, determined by the exceptional state of war. The foundation of the norms is located in that ‘normal morality’, consisting of general principles of justice based on e.g. global justice, international political morality, cosmopolitanism and/ or human rights. Walzer argues that: “Democratic political theory, which plays a relatively small part in our arguments about *jus ad bellum* and *in bello*, provides the central principles of this account (post war justice). They include self-determination, popular legitimacy, civil rights, and the idea of a common good.”⁶⁷

Seth Lazar makes a similar, rather convincing argument against integrating *jus ante bellum* and *jus post bellum*. He claims that: ‘In the period before a threat is raised, we

64 “In such a conceptualization (with functionality as the leitmotiv), it would be the facts on the ground that determine whether and to what extent *jus post bellum* starts or ceases to apply, and which of its constituent elements.” Jann Kleffner, Towards a Functional Conceptualization of the Temporal Scope of Jus Post Bellum, in Carsten Stahn, Jennifer Easterday, Jens Iverson (ed.), *Jus Post Bellum: Mapping the Normative Foundations*, 2014, 296.

65 In this, I disagree with Seth Lazar, who argues that *jus post bellum* does not regulate the same aspects as *jus ad bellum* and *jus in bello*, but the practice of peace building. I am however inclined to think that *jus post bellum* applies to war related activities, since most issues that are regulated are direct consequences of the war, for example criminal prosecution, compensation and political reconstruction.

66 This conception of jus in bello is today challenged by so called ‘revisionists’. See e.g. Jeff McMahan, *Killing in War*, 2009.

67 Walzer (footnote 3), 164.

should follow the full gamut of moral reasons, not this polarised set.⁶⁸ Indeed, *jus ante bellum* cannot be reduced to the moral framework of just war theory. It is obvious that its limited framework sufficient as foundation for duties as: ‘advance democracy, human rights, and religious liberty’; ‘foster just and sustainable economic development’; and ‘strengthen the United Nations and international efforts for cooperation and human rights’.⁶⁹ This is only partially true for *jus post bellum*. *Jus post bellum* is mainly backward looking as most of its duties are related to (a violation of) *jus ad bellum* and *jus in bello* norms, as the example of criminal justice proves: these norms are backward looking in that they are directly related to crimes committed before and in the war. Also, reparations and compensation are directly related to the war; they are owed when e.g. property is seized or destroyed in war. Since a substantial part of the *post bellum* norms and duties directly flow from the war, it is plausible that its norms are grounded in just war theory’s moral framework. However, this framework is an insufficient foundation to guide the more extensive, forward looking *post bellum* norms. For example, general principles of justice come into play when considering comprehensive political reconstruction, as Walzer and Lazar rightly argue. The broader and more comprehensive post war obligations are understood, and thus the more maximalistic the interpretation of *jus post bellum* is, the more obvious the shift to general principles of justice is and the connection to just war theory is loosened. The broad post war activities of economic reconstruction; rebuilding infrastructure; and fostering reconciliation cannot be grounded in the limited moral framework of just war theory. These activities are therefore inevitably guided by the full range of moral reasons, however those are understood.⁷⁰ If these additional branches are meant to be fully integrated, just war theory can no longer be separated from general theories of justice. And when general principles of global justice, international political morality, cosmopolitanism and/ or human rights are integrated into the theory, the indeterminacy is complete.⁷¹

Conclusion

We can conclude that while arguments for an extension of just war theory into a four partite conception appear strong, we should reconsider adopting these two additional branches. Conceptually, *jus ante bellum* does not fit into just war theory, as it is a general strategy consisting of guidelines as opposed to moral norms; the regulated activities and the addressees deviate from the established branches; and the foundation must be located entirely outside just war theory. While it was expected that the general goal of

68 Lazar (footnote 63), 22.

69 <http://justpeacemaking.org/the-practices/>.

70 Lazar (footnote 63), 22.

71 Cécile Fabre notes that this would only make just war theory rictier, which opens the way for including maximalist *jus post bellum*. Cécile Fabre, War’s Aftermath and the Ethics of War, in Setz Lazar and Helen Frowe (ed.), *The Oxford Handbook of Ethics of War*, forthcoming 2016.

just war theory – realizing a just and durable peace – would benefit from an integration of *jus ante bellum*, the contrary would be true. While *jus ante bellum* provides praiseworthy guidelines in an effort to prevent wars, they seem to be too indeterminate, idealistic and demanding compared to traditional just war theory. *Jus ante bellum*, as it is now understood, could therefore hardly be perceived as realistically attainable part of just war theory. And aside from the conceptual difficulties and the infeasibility, adopting *jus ante bellum* would run the general risk of inflating just war theory as a whole. Integrating norms on preventive peacemaking entails a substantial expansion of the theory. And the more issues are integrated, the more drastic and fundamental this expansion will be. The risk of inflating just war theory, with a considerate devaluation of the theory as a whole as result, is significant and must be acknowledged.

These arguments against integrating *jus ante bellum* are not entirely valid for *jus post bellum*. *Jus post bellum* fits better into the concept of just war theory. The character and the content of the norms is similar; the addressees are primarily those who took part in the war (while an involvement of other states or organizations is also possible); and the foundation can be located in just war theory, although general principles of justice creep in. *Jus post bellum* seems to have one foot in just war theory and one foot out. What turns out to be relevant here is the way how *jus post bellum* is interpreted. A minimalist *jus post bellum* is more tightly connected to just war theory than a maximalist *jus post bellum*. The more comprehensive *post bellum* norms are considered to be, the further this branch conceptually drifts away from the just war paradigm, and the less realistically attainable it appears to be. Therefore, the idea of integrating only a limited, minimalist account of *jus post bellum* into the theory sounds convincing. This way, just war theory is more ‘complete’ in offering the required moral guidance in the contemporary political reality while at the same time conceptually leaving just war theory intact, and minimizing the risk of inflating and devaluating the theory. This by no means reduces the importance of the issues regulated by *jus ante bellum* and maximalistic *jus post bellum*. It merely means that these issues should not be regarded within the parameters of just war theory but rather, should be perceived from the wider perspective of global justice or an ‘ethics of peace building’.

LONNEKE PEPERKAMP LL.M. MA

Department Philosophy of Law, Law Faculty, Radboud University Nijmegen, PO box 9049,
6500 KK Nijmegen, T: 003124/3612384, E: l.peperkamp@jur.ru.nl

