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Ethics of Conflict, Violence and Peace – Just War and a Feminist Ethic of Care

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Abstract

This paper critically examines Just War Theory and its philosophical foundations, which are conventionally positioned in opposition to pacifism and nonviolent conflict. This paper, however, takes the view that both, Just War Theory as well as pacifism and nonviolent conflict, are equally necessary and complementary approaches to living with the possibilities and tragedies of the human condition. Its approach is grounded in feminist theory and methodology and their connections with Galtung's models of violence and peace. The paper argues that the weaknesses of Just War Theory are intrinsic to the concept and its intent. The inherent contradiction of Just War Theory being that it intended to translate universal moral principles into reality, which makes them context dependent. Fundamentally, Just War Theory is derived from an ethic of justice ultimately centred on the right to use violence and kill. The right is conditional but means that a path to peace inevitably starts from death. An ethic of care is a philosophy where feminist thought meets pacifism and nonviolent conflict. It starts from the creation of life and charts paths to positive peace through the nurture of the conditions for lives in dignity. If we seek to contain the destructive and give space to the creative aspects of the human condition and understand its two extremes, life and death, in their relation to human agency, better we need to complement the traditional ethic of justice (of war and violence) with an ethic of care.

Keywords: *just war; feminism; ethic of care; pacifism; non-violence; positive peace; human condition*

I. Introduction

Pacifism and nonviolent conflict on the one hand and moral philosophies of war which inform Just War Theory (JWT) on the other hand are generally cast as mutually exclusive perspectives on the ethics of conflict and violence. They are not usually treated as

equally necessary approaches to meeting the possibilities and tragedies of the human condition,¹ the beginnings and endings of life's stages, the fundamental needs and desires, the fears and searches for meaning, that characterise the potential and limitations of human existence, creativity, action, and agency as individuals as well as social and political beings. This is the perspective of this paper.

With an approach rooted in feminist thought and methodology, it critically examines the inherent shortcomings of Just War Theory and moral philosophers' rebuttals of pacifism, which usually do not distinguish between total pacifists and adherents of nonviolent conflict who do not define themselves as pacifists. Its aim is to show that the two extremes of the human condition, life and death, in their relation to human agency are better understood by complementing the traditional ethic of justice (of war and violence) with an ethic of care. The latter is a philosophy where at least two schools of feminist thought, difference and standpoint feminism,² meet with fundamental principles of pacifism and nonviolent conflict. It is a confluence of thought, which is still insufficiently explored outside the feminist tradition, but holds up a mirror to the tensions and weaknesses inherent in Just War Theory and moral philosophers' refutations of pacifism and nonviolence.

Why explore these questions and why now? It is curious that moral philosophers, such as Jan Narveson, have variously reduced philosophical standpoints of pacifism and nonviolent conflict with such vigour and some vitriol to mere personal choices which at best fail to acknowledge the harsh realities of life, at worst are morally corrupt and certainly cannot claim to constitute a coherent moral philosophy. Although Narveson, whose 1965 article³ made waves for decades and

¹ The approach is not intrinsically tied to Hannah Arendt's concept, but it is partly inspired by it.

² Grounded in Marxism and today more aware of the importance of intersectionality (influences of multiple identity characteristics such as gender, race or class on lived experience), standpoint feminism started from critical awareness of gendered life experiences within the oppressive reality of gender power hierarchies. It emphasises struggle against the many manifestations of oppression and against dominant narratives that reproduce power differentials, and for equal recognition of the experience and knowledge women contribute to discourses and public life. Difference feminism also foregrounds women's position in society and their specific life experiences, for example as child bearers, mothers and carers, but aims for women and their work to be valued in their difference.

³ Jan Narveson, "Pacifism: A Philosophical Analysis," *Ethics* 75, no. 4 (1965): 259-271. It is worth noting that he wrote against the background of the US involvement in the Vietnam War. An interesting, if within today's professional ethics of scholarly publishing rather disconcerting, aspect of the article is that the arguments are forwarded without any reference to the writings of any pacifists. The representation of the pacifist position is thus at times curious and frequently refutes 'strawmen' whose scholarly provenance is never established.

whose aim appears to have been to discredit pacifism through a *reductio ad absurdum*, declared that he did not share others' categorisation of pacifists as cowards and traitors, he accused them of acting as if they were cowards and traitors because they were confused; he did not even grant them the agency that would be inherent in making a conscious choice of being a traitor.

Coming from an ethic of justice, much opposition to pacifism from moral philosophers of just war like Narveson or Jovan Babic, who shares much of Narveson's perspective,⁴ is framed around questions of rights of all individuals. From this perspective it is a fundamental principle that humans have a right to self-protection and that inherent in this is the right to defend this very right, under certain circumstances even by violent means. They accuse pacifists of refusing to acknowledge, let alone defend, such a right and its derivative justification for using violence for themselves or on behalf of another. Narveson describes in detail and considerable sarcasm the inappropriateness of logical reasoning as the only alternative action to violence by which his hypothetical pacifist might try to dissuade an attacker from killing them.

Two problems arise from here. One, it is disingenuous to equate the refusal of pacifists to use violence, especially physical violence, with doing nothing meaningful or appropriate at all to defend the right to life. Two, there is a tacit, though unconvincing, extrapolation from the individual hypothetical scenario to justifying state behaviour, which is the focus of Just War Theory. Just War Theory offers a catalogue of criteria for deciding whether to go to war, under what circumstances, to what end, and how to conduct it in accordance with principles of justice and ethics derived from western secular and Christianity-based discourses.⁵ Its purpose is to translate moral philosophy of war and violence into the practice of political and military decision-making and action.

The influence of Just War Theory on actual political and military decision-making has waxed and waned over the centuries. After the end of the Cold War, it regained considerable currency in the debates about the use of force, especially in Anglo-American countries, in the African and European violent conflicts of the 1990s and the wars in Afghanistan and Iraq after September 11, 2001. Countries of the global

⁴ Jovan Babic, "Pacifism: Is its Moral Foundation Possible or Needed?" in *Contemporary Yugoslav Philosophy: The Analytic Approach*, ed. Aleksandar Pavković, 57-70 (Dordrecht, Boston, MA, and London: Kluwer, 1988).

⁵ For the evolution of Just War Theory and its principles see for example Brian Orend, *The Morality of War* (Toronto: Broadview Press, 2006).

North applied their perceived right to use armed force under Just War Theory extensively. Some political actors and military ethicists even argued that they had an obligation to defend the human rights of others by armed force. This became a declared international commitment in 2005 when the UN General Assembly adopted the *Responsibility to Protect* human rights in one's own and potentially other countries, if by external military intervention.⁶

Yet, some of the post-Cold War military interventions failed to meet critical conditions for the ethical justification to use force, several fell repeatedly short of the criteria for ethical conduct of wars, and most failed to improve the chances of a better peace at a global level and certainly for the people of the target countries, such as Somalia, Afghanistan, Iraq, and their neighbours. This is a problem of politics and the implementation of Just War Theory. It is also a problem for Just War Theory, considering that its purported *raison d'être* is to offer practically applicable criteria for ascertaining that using force is justified and done ethically in particular circumstances. It is not least a problem for humanity, if not even officially declared efforts to comply with Just War Theory criteria result in an approximation of a better, let alone just peace than the status-quo ante.

It is not suggested here that a pacifist approach would have fared better. The paper is not concerned with such a hypothetical. It seeks to shine a critical light on problematic aspects of Just War thinking which require greater scrutiny. We find this for example in Brian Orend's effective case against all forms of pacifism and in defence of Just War Theory.⁷ His arguments depend on staying within the parameters and philosophical reasoning of Just War Theory and assuming that they are implemented faithfully in practice. He engages neither with the long shadow even an aspiration of compliance with Just War Theory casts on public policy and society, which continuously need to prepare for the possibility of war, nor with pacifist, let alone, feminist theoretical and practical approaches to facilitating the change necessary to bring peaceful approaches to conflict closer to reality than, as he put it, the "level of pure ideals."⁸

This paper steps into these omissions. It argues that the weaknesses of Just War Theory are intrinsic to the concept and its intent. Philos-

⁶ United Nations Office on Genocide Prevention and the Responsibility to Protect, "Responsibility to Protect," undated, <https://www.un.org/en/genocideprevention/about-responsibility-to-protect.shtml>.

⁷ Orend, 244-266.

⁸ Ibid., 263.

ophers and practitioners of Just War Theory aim to preserve innocent life, if it is threatened by the aggression of an unjust war, minimise the use of armed force and the resulting destruction of life and its conditions, and thus enable a better peace than the status-quo ante. With its focus on war, violence and killing, however, Just War Theory's path to peace starts from death as arguably it must. It is rooted in an ethic of justice, which it marries to violence, and which privileges a binary focus on rights, as one does or does not have a right. This works logically as long as, especially, the *ad bellum* conditions are fully respected.

Kimberly Hutchings, however, observed that “[c]ontemporary just war theory, regardless of its theoretical differences, dwells largely in the same historical imaginary as Hollywood, in which a certain reading of the history of warfare and of civilisation enables moral judgments about war.”⁹ And yet, its criteria are malleable enough to be shaped around political and strategic objectives of the day, which leaves scope for false claims of compliance. There is thus an underlying tension between moral philosophy's aspiration to seek universal truths and principles that are dissociated from context, and the specific intention for Just War Theory to translate these truths into practical guidance for decisions and action.

This analysis does not follow Sterba's proposal of a “Just Peace Theory” situated where he identified overlaps between pacifism and Just War Theory.¹⁰ To the contrary, the argument here is that Just War Theory only accounts for the deadly and destructive aspects of the human condition, one of its extreme features whose existence cannot be wished away. It is therefore desirable, even essential, to impose ethical constraints on our efforts to survive the resulting challenges and tragedies of war, survive them well and with dignity, and indeed seek to create real prospects of a better peace. And yet, while the presumed right to use violence and potentially kill other humans in the service of justice brings with it grave responsibilities, the ethical parameters of Just War Theory only insufficiently demand that they are honoured by the implementing actors. Furthermore, the obligations are to comply with the criteria for the just use of force in the exercise of rights. Ultimately that is intended to protect innocent people, but the obligations are to the rights, an abstract category, and not primarily to the people, the embodied and conscious humans, who are affected by the violence used in the exercise

⁹ Kimberly Hutchings' contribution to O'Driscoll et al., “Critical Exchange: How and Why to Do Just War Theory,” *Contemporary Political Theory* 20, no. 4 (2020): 866ff.

¹⁰ James P. Sterba, “Reconciling Pacifists and Just War Theorists,” *Social Theory and Practice* 18, no. 1 (1992): 21-38.

of the rights. This from people also makes the codex of Just War Theory vulnerable to false claims of compliance.

An ethic of care offers a counterbalance by foregrounding people and a path to peace departing from life. It looks at the other side of the human condition and starts with life, creation, and nurture. An ethic of care has much in common with key aspects of pacifism though this is hardly recognised outside feminist circles. It assumes obligation and responsibility as inextricable aspects of care. They arise from the connectedness with other humans. The obligation here is to the subjects of that care, that is, people, and the material, physical, intellectual, and emotional conditions that sustain them for lives in dignity.

The analysis does connect to Laura Sjoberg's proposal for adaptation of Just War Theory through incorporating elements of an ethic of care.¹¹ Sjoberg develops concrete adaptations of Just War Theory principles. This paper might be seen as something of a prequel to hers. It shares the fundamental elements of feminist critiques of traditional Just War Theory which Sjoberg discusses in detail but, rather than adding to her proposals of revised principles, it seeks to tease out the difference and complementarity in the perspectives of the ethics of justice and care. Its core argument is that only by combining an ethic of justice with an ethic of care will we be able to guard against the destructive aspects of the human condition and make room for the unfolding of its creative potential.

The analysis opens up with reflections on the nature and meaning of conflict, violence and peace from the perspectives of peace research and feminist theory. It then explores feminist moral reasoning and approaches to a critique of the traditional moral philosophy of war. This leads to a critical examination of the problematic consequences of just war thinking for state, society and the prospects of Just War Theory as it is applied of achieving the purported aims of creating better peace. The concluding section then brings together the two ethics of justice and care in order to demonstrate where and how the latter might point the way to approaching conflict with less violence and a greater prospect of working towards positive peace.

II. Reflections on conflict, violence, and peace

It is useful to start by reflecting briefly on core concepts which need to be treated with greater nuance than we generally do when we explore the tensions between traditional moral philosophers of war and pacifists: conflict, violence, and peace.

¹¹ Laura Sjoberg, "Why Just War Needs Feminism Now More Than Ever," *International Politics* 45, no. 1 (2008): 1-18.

Conflict and war are often treated as synonymous. The Cambridge English dictionary for example lists two definitions for conflict: “an active disagreement between people with opposing opinions or principles” and “fighting between two or more groups of people or countries.”¹² Equating conflict with fighting is not only misleading, but also brings violence into a discourse without necessity. Conflict, which can also arise over opposing or competing interests, is an inevitable aspect of human life and interaction. The question is how we deal with it.¹³ Contentions between pacifists, especially absolute pacifists, adherents of non-violent conflict resolution who do not necessarily consider themselves pacifists, and moral philosophers of war or Just War Theory arise over how conflict is navigated, and by which means its resolution is sought. They may range from negotiation, civil protest or direct action to conventional or nuclear war and a whole host of methods and tools in between. Violence is only one potential option.

Violence remains an extremely challenging concept, phenomenon, and instrument as Nancy Scheper-Hughes and Philippe Bourgois illustrate.

Violence is a slippery concept – nonlinear, productive, destructive, and reproductive. It is mimetic, like imitative magic [...]. Violence gives birth to itself. So we can rightly speak of [...] a continuum of violence. [...] Violence can never be understood solely in terms of its physicality – force, assault, or the infliction of pain – alone. Violence also includes assaults on the personhood, dignity, sense of worth or value of the victim. The social and cultural dimensions of violence are what gives violence its power and meaning. Focusing exclusively on the physical aspects of torture/terror/violence misses the point and transforms the project into a clinical, literary or artistic exercise, which runs the risk of degenerating into a theatre or pornography of violence in which the voyeuristic impulse subverts the larger project of witnessing, critiquing, and writing against violence, injustice, and suffering.¹⁴

¹² *Cambridge English Dictionary*, “Conflict,” <https://dictionary.cambridge.org/dictionary/english/conflict>.

¹³ Lester R. Kurtz and Lee A. Smithey, eds., *The Paradox of Repression and Nonviolent Movements* (New York: Syracuse University Press, 2018), 4.

¹⁴ Nancy Scheper-Hughes and Philippe Bourgois, eds., *Violence in War and Peace – An Anthology* (Oxford: Blackwell, 2004), 1.

The concept of the continuum of violence comes from feminist theory and activism. Conceived by Liz Kelly in the 1980s in conjunction with her research on sexual violence,¹⁵ it has cast a much more nuanced light on our understanding of violence in war and peace than traditional approaches have been able to shed. Cynthia Cockburn, for example, identified a continuum of violence when she observed in her analysis of women's and men's experiences of war and peace that for women both, war and peace, were characterised by often life endangering violence. For women, violences before, during and after war flowed into each other. As they are rooted in the phenomenon of gender power hierarchies and their manifestations in practice, she called this a "gendered continuum of violence."¹⁶ From this perspective it is not possible to use the experience of violence as a measure of distinction between war and peace.

Three further aspects of Scheper-Hughes and Bourgois's reflections lead us from the continuum of violence to the larger subject matter of this analysis, Just War Theory, pacifism, and non-violent conflict. One, that "violence can never be understood solely in terms of its physicality;" two, that it "includes assaults on the personhood, dignity, sense of worth or value of the victim;" three, that "social and cultural dimensions of violence are what gives violence its power and meaning." Johan Galtung combined all three into his concepts of violence and peace specifically the distinction between personal, structural, and cultural violence and between negative and positive peace.¹⁷ These elements are to a degree mutually constitutive. For the purpose of this analysis it is sufficient to sketch the key aspects of his thinking with the aim of teasing out their interconnectedness, because that is a fundamental basis for the later critique of both, Just War Theory's and moral philosophers' objections to pacifism and nonviolent conflict.

Galtung defines the absence of direct violence as negative peace. Although personal or direct violence may be committed by any individual, the politically and morally most relevant agents are organisations acting on behalf of the state, such as the armed forces or police. A key enabler of personal violence is structural violence. Broadly, this is not

¹⁵ Liz Kelly, *Surviving Sexual Violence: Feminist Perspectives* (London: Polity, 1988).

¹⁶ Cynthia Cockburn, "The Continuum of Violence," in *Sites of Violence: Gender in Conflict Zones*, eds. Wenona Giles and Jennifer Hyndman (Oakland, CA: University of California Press, 2004): 43ff.

¹⁷ Johan Galtung, "Violence, Peace, and Peace Research," *Journal of Peace Research* 6, no. 3 (1969): 167-191.

only the overtly legitimised, but also the implicit discrimination against and exclusion of some groups of the population with common social identity characteristics, such as gender, class or race, who should, in a just society, have access to the same resources as everyone else in order to exercise their agency in private and public spaces, and maximise their opportunities to live a fulfilled life in dignity, security, and peace.

The mechanisms for these forms of discrimination and marginalisation are found in often tacitly functioning structures, processes, norms, and culturally approved roles and rituals, which inscribe in society and state power hierarchies that are based on constructed privilege and what Bourdieu would call social and cultural capital. Galtung only engaged with gender as an important determinant of one's position in power hierarchies and access to resources enabling independent agency in the context of his exploration of cultural violence, which adds nuance to his thoughts on structural violence.¹⁸ Only in absence of personal as well as structural and cultural violence is positive peace possible.

The connection to pacifism and nonviolence becomes clear quite quickly. Galtung's approach to peace and conflict allows for a much more constructive and meaningful understanding of what peace is or could be. In discourses on pacifism, we find such negative definitions as "anti-warism" which are often accompanied by negative definitions of peace as "nonviolence, nonwar, nonkilling, or nonconflict;"¹⁹ the present author cannot escape this framing entirely either. That said, the perspective this language betrays still centres on violence, indicating just how normalised the phenomenon is. It fails to replace the denial of violence with terms that embody the constructive outlook of those seeing the world and humanity as capable of building peace in the vein of Galtung or women's rights activists since the 19th century.

Through campaigning and critical reflection on the gendered causes of war and with the aim of countervailing them, early women's rights activists, whose opportunities to exercise agency in public spaces were severely curtailed, consciously derived their political philosophies from their social position and predominantly privately lived experience *as women*. Preceding Galtung's concepts of violence and peace by some decades, they had already identified conditions for the kind of peace that he would call *positive* more than half a century later.²⁰ Not only

¹⁸ Johan Galtung, "Cultural Violence," *Journal of Peace Research* 27, no. 3 (1990): 291-305.

¹⁹ Andrew Fiala, "Pacifism," *The Stanford Encyclopedia of Philosophy* (Summer 2023 Edition), eds. Edward N. Zalta and Uri Nodelman, <https://plato.stanford.edu/archives/sum2023/entries/pacifism/>.

²⁰ Jan Stöckmann, "Women, Wars, and World Affairs: Recovering Feminist International Rela-

did they develop theories and philosophies on peace and security which one might see as rooted in an ethic of care, they also laid the ground-work for a methodology that still enriches feminist approaches.²¹

These are a certain, if not complete, awareness of firstly, one's situatedness in political and socio-economic contexts and its influence or even power in shaping political discourses; critical discourses among subsequent generations of feminists have broadened and deepened the need for such (self-)awareness considerably. The second insight comes from their practice, that is, building theory from everyday experiences and political activism. It is no coincidence that two of the first female Nobel Peace Prize recipients, the US women's rights activists Jane Addams, founder in 1919 of the oldest pacifist women's organisation, the Women's International League for Peace and Freedom, and Emily Greene Balch both worked in social work and sociology respectively with a focus on those who required support and care, such as poor children and immigrants.

The following section will explain that this linkage between everyday experience and theory or philosophy is also central to the approach this analysis takes to its critical engagement with Just War Theory and the rebuttals of pacifism by moral philosophers.

III. Feminist moral reasoning and approaches to critical analysis of Just War Theory

In contrast to traditional moral philosophy feminists have long argued that questions of morality and ethics need to be understood within the contexts, such as everyday life, of specific cultures or socio-political dynamics, in which they arise and are navigated. This is especially relevant for matters of war and peace or, in a slightly modified conceptualisation, questions of violent and non-violent conflict. For Kimberly Hutchings, who builds her approach on an ethic of care,

the key feature of feminist international ethics is that it necessarily brings politics back into the heart of moral judgment and prescription. This has [...] important implications for considering substantive fields of ethical concern within international ethics, such as just war and human rights. [...] the logic of feminist ethics is to move international eth-

tions, 1915-39," *Review of International Studies* 44, no. 2 (2018): 215-235.

²¹ For contemporary examples see Cynthia Cockburn and Cynthia Enloe, "Militarism, Patriarchy and Peace Movements," *International Feminist Journal of Politics* 14, no. 4 (2012): 550-557.

ics away from the idealizations inherent in the dominant ethical traditions towards a position best characterized as ethical realism.²²

Although the perspective and rationale can be traced back to the early women's rights activists of the late 19th century, today's concept of an ethic of care is generally associated with Carol Gilligan's research on the psychological and moral development of women in the 1970s and 1980s.²³ Gilligan's field research proved to be highly influential in shaping the understanding of gender differences in the moral development of boys and girls which shape their experiences and perspectives on ethical matters throughout their lives as adult men and women.²⁴ She overturned the claim that the moral development of girls was not as complex as that of boys who learnt early on to create abstract rules. That ability set the standard for measuring moral maturity at the time. The height of moral maturity was deemed to be "the capacity to utilize impartial universalist principles in making ethical judgments."²⁵

Gilligan found that women's moral judgment on the other hand arose from context, narratives, emotional understanding, connectedness, and empathy with fellow human beings. Men tended to find their identity through separation, dissociation from their social context and personal achievements or self-perceived attributes, such as intelligence or rationality.²⁶ Women found their identity by navigating complex and often contradictory demands and normative expectations with which their social context confronted them. For many women "identity [was] defined in a context of relationship and judged by a standard of responsibility and care."²⁷ Interestingly, Gilligan observed that

in the transition from adolescence to adulthood, the dilemma itself is the same for both sexes, a conflict between integrity ['personhood'; *add*] and care. But approached

²² Kimberly Hutchings, "Towards a Feminist International Ethics," *Review of International Studies* 26, no. 5 (2001): 113.

²³ Carol Gilligan, *In a Different Voice – Psychological Theory and Women's Development* (Cambridge, MA: Harvard University Press, 1993).

²⁴ She had been accused of essentialising women as naturally predisposed for motherhood and associated role stereotypes, but has revised the judgment that gender differences in moral development were rooted in biological or physiological gender differences.

²⁵ Hutchings, 113.

²⁶ Gilligan, 158.

²⁷ *Ibid.*, 160.

from different perspectives, this dilemma generates the recognition of opposite truths. These different perspectives are reflected in two different moral ideologies, since separation is justified by an ethic of rights while attachment is supported by an ethic of care.²⁸

One cannot extrapolate from one study with US participants that the same is true for men and women across the world, but there is at least reason to suggest a complementarity of an ethic of rights or justice associated with separation and an ethic of care associated with attachment or connection.

This is largely the framework within which Sara Ruddick²⁹ situated her exploration of an ethic of care. She rejected the notion that men are ‘war-like’ and women necessarily peaceful.³⁰ She opposed pacifism, distinguished it from non-violent action, and juxtaposed pacifists, who rejected all violence, with peacemakers who, rather than running away from violence, “ferret it out” in order to expose it wherever it occurs and work towards change;³¹ she clearly perceived the continuum of violence as such. She acknowledged that there are just causes for the use of force, including even the kind of emancipatory or revolutionary violence of which Franz Fanon wrote;³² though she did not reference his work.³³

Starting from the conviction that “peace requires a sturdy suspicion of violence even in the best of causes,” her principal aim was to show that a positive approach to peace-building could be developed from the concept and practice of ‘mothering’ in the widest possible sense. By this she meant not necessarily giving birth, caring and nurturing a child, but “the *maternal practices* that are governed by ideals of nonviolence.”³⁴ Women may through practice or, if they are not themselves mothers, observation or socialisation have privileged access to an understanding of the everyday workings of an ethic of care, but their

²⁸ Gilligan, 164.

²⁹ Sara Ruddick, *Maternal Thinking – Towards a Politics of Peace* (London: The Women’s Press, 1990).

³⁰ Ruddick, 151ff.

³¹ Ibid., 137ff.

³² Franz Fanon, *The Wretched of the Earth* (London: Pluto Press, 1986).

³³ Ruddick, 138.

³⁴ Ibid., 162.

application is independent of gender.³⁵ Like Gilligan, Ruddick has been criticised for essentialising women as mothers in the vein of traditional conservative ideology, although this fails to recognise the nuance of her argument.

Ruddick critically connects to standpoint feminism and rejects what she sees as the absolutism of their dualist perspective. Yet, she defines her philosophy of maternal thinking as “part of a feminist standpoint” and “an engaged critical and visionary perspective that illuminates both the destructiveness of war and the requirements of peace” whose advancement requires struggle and resistance.³⁶ Cynthia Cockburn recorded a very similar perspective on war and peace from her engagement with the peaceful anti-war protests of the Women in Black against War movement of the 1980s and 1990s.

Women in Black groups everywhere were pressing their governments for creative diplomacy and genuine international peacekeeping. They argued for a voice for democratic non-governmental and women’s organizations in negotiating a cessation of hostilities in the Balkan region. Women who engage in this strand of the antiwar movement do not see women as “natural peacemakers.” Rather, they believe it is because they have escaped masculine socialization that women are freer to formulate a transformative, nonviolent vision.³⁷

Feminists share the awareness of a richer, more nuanced and creative perspective as well as the need for and possibility of change with pacifists like Robert C. Holmes. In his introduction to a volume of Holmes’ essays its editor, Predrag Cicovacki, sums up Holmes’ challenge to communalities of “all mainstream ethical approaches.” “They (1) neglect the nonrational aspects of ethical evaluations and choices; (2) ignore the social, political, and cultural factors influencing our choices and behaviour; and (3) leave unchallenged the basic structures of society.”³⁸ These key points of criticism also point towards communalities with the feminist understanding that lived experiences shape perceptions, ideas, and theoretical constructs, and they can also be shaped by the latter.

³⁵ On women’s peace work see Ruddick, 219-251.

³⁶ *Ibid.*, 136.

³⁷ Cockburn, “The Continuum of Violence,” 38.

³⁸ Robert L. Holmes, *The Ethics of Nonviolence – Essays by Robert L. Holmes*, ed. Predrag Cicovacki (New York and London: Bloomsbury, 2013), 1.

This understanding of the cyclical nature of the way in which humans relate to and interact with life events and other humans, be this through direct and personal engagement or observation from afar, has made its way into wider critical discourses on public political philosophy, such as the ‘critical exchange’ on why and how one should ‘do’ Just War Theory, which Cian O’Driscoll convened in 2020.

He and others explored the merits and limitations of looking at public philosophy and specifically Just War Theory and its key principles not in the disconnected, abstract manner of purely theoretical philosophical inquiry of which they are critical, but as connected to the real lives of those whom its application affects, in particular those going to war and the everyday experiences of “ordinary citizens” of war.³⁹ With reference to Tully and Thaler, the contributors frame their exchange around four key “commitments” with the aim of situating Just War Theory in an active exchange with “the on-the-ground realities it purports to address.”⁴⁰

First, that “the activity of theorising starts from the everyday practices of ordinary citizens [...] second [...] that the task of the theorist is to elucidate and problematise these everyday practices [...] third [...] to treat these activities as a platform for critically interrogating and re-imagining those same practices [...] [fourth] the aim of all of this must be to ensure that theorising is both informed by and invested in, rather than divorced from, the lived realities that it seeks to account for. To approach the task of just war theorising in light of these commitments is to embrace the mutuality of theory and practice.”⁴¹

The following sections engage with these commitments in their approach to a critique of Just War Theory which looks not at the specific criteria, but the wider context of its reasoning and consequent reach into the life of a polity and its people, and two salient aspects of its underpinning moral philosophy: violence and action in relation to rights.

IV. The conservative impulse and long reach of Just War Theory

Critiques and defences of Just War Theory and its moral philosophy tend to focus on its application in decisions on the use of force, or the lack of compliance, in wars and their conduct. Feminist critiques, some

³⁹ O’Driscoll et al., 859.

⁴⁰ Ibid.

⁴¹ Ibid.

of which we have already discussed, have examined Just War Theory and its application with a view to identifying and overcoming the lack of consideration of women's specific experiences and everyday perspectives on the impact of war and its aftermath.⁴² Reflections in line with the methodological approach of feminists and O'Driscoll and his discussants on the interdependence between the "lived realities" not of war-affected people, but rather of major figures who drove the development of Just War Theory in or close to religious and political elites on the one hand and their theorising on just war on the other hand are, however, not prevalent.

A very cursory look at some of the major early contributors to the shape of Just War Theory suggests that there is good analytical reason to bring this perspective into the discussion and in future explore correlations in individual cases. Their perspective is anything but that of the 'ordinary citizen,' but the context of their socialisation, their aspirations and where they found opportunities to advance in public life is very likely to have mattered. Their lived reality was one where closeness to influence and power became or was a possibility and often actuality, even if they and their reasoning had occasionally fallen out of favour with an individual ruler.

Aristotle (384-322) educated Alexander the Great. St Augustine (354-430) is described as coming "from a middle-class [sic!] background," but was educated with a view to a future in "imperial administration" and he did hold influential positions first in scholarly circles and at court and later as a bishop.⁴³ The family of Thomas Aquinas (13th century) was wealthy. He rose to fame and influence as a Dominican scholar.⁴⁴ Building on Aquinas' thought, Francisco di Vittoria (1486-1564), regarded today as the founder of international law, and fellow scholars of his School of Salamanca at the time had direct, personal, though not necessarily uncritical, influence on powerful rulers, such as Emperor Charles V.⁴⁵ The family background of Hugo Grotius (1583-1645) is described as "moderately prosperous, well-educated

⁴² For example, Laura Sjoberg, *Gender, Justice and the Wars in Iraq: A Feminist Reformulation of Just War Theory* (Oxford: Lexington Books, 2006).

⁴³ Christian Tornau, "Saint Augustine," *The Stanford Encyclopedia of Philosophy* (Winter 2019 Edition), ed. Edward N. Zalta, <https://plato.stanford.edu/archives/win2019/entries/augustine/>.

⁴⁴ Robert Pasnau, "Thomas Aquinas," *The Stanford Encyclopedia of Philosophy* (Winter 2022 Edition), eds. Edward N. Zalta and Uri Nodelman, <https://plato.stanford.edu/archives/win2022/entries/aquinas/>.

⁴⁵ Thomas Izbicki and Matthias Kaufmann, "School of Salamanca," *The Stanford Encyclopedia of Philosophy* (Summer 2019 Edition), ed. Edward N. Zalta, <https://plato.stanford.edu/archives/sum2019/entries/school-salamanca/>.

and ambitious” and he as “exceptional,” which enabled him to quickly make his way into the Dutch elite and influential positions in law and politics; his life may not have been without jeopardy, but he did maintain his intellectual reach into the European ruling class.⁴⁶

To suggest that through both, their disposition and life experiences, the reasoning of these men was shaped by the positions in political society they aspired to and sought to maintain is not to say that they were uncritical propagandists, nor that they were not motivated by profound concerns for humanity. Yet, they were aiming to and, from an elevated position within the social hierarchy, succeeded in significantly shaping spiritual and moral foundations of political and legal thought. This raises at the very least questions of the universality of principles that have been shaping dominant assumptions of what is good statecraft and have originated from the masculine understanding of members of or close to the ruling class of what states must do, the importance of power and the utility of violence.

It is uncontroversial to point out that Just War Theory is state-centric and seeks to preserve sovereignty. Less frequently discussed are the consequences of this underlying conservative, status-quo oriented rationale of its principles for both the polity itself and international relations; preserving the status-quo does not preclude change, as adaptations can be conceived as necessary in order to maintain a particular position, such as political power. We can see this when we look beyond the ostensible rootedness of Just War Theory in a decision *moment*, that is, whether or not to go to war. The availability of the option or choice to comply with the criteria of both *jus ad bellum* and *jus in bello* in such a decision moment is dependent on another enabler, that is the *permanent* preparedness for this decision in anticipation of the act of an aggressor who will also have been enhancing their ability to go to war, and continuous preparations to be able to meet the criteria for both *jus ad bellum* and *in bello*. We will discuss these issues in turn.

Just War Theory reaffirms existing power hierarchies within societies as well as internationally. When Just War theorists argue that humankind shares a universal impetus to impose constraints on the conditions for going to, and the mode of conducting, war, they usually reference the Mahabharata, specifically the Bhagavad Gita,⁴⁷ the rulers

⁴⁶ Jon Miller, “Hugo Grotius,” *The Stanford Encyclopedia of Philosophy* (Spring 2021 Edition), ed. Edward N. Zalta, <https://plato.stanford.edu/archives/spr2021/entries/grotius/>.

⁴⁷ The Bhagavad Gita is principally concerned with *jus ad bellum*. Sreejith Sugunan for ICRC Global Affairs Team, “The Bhagavad Gita and the Ethics of War,” *Religion and Humanitarian Principles*, October 5, 2022. <https://blogs.icrc.org/religion-humanitarianprinciples/bhagavad-gita-ethics-war/>. *Jus in bello* is discussed in other parts of the Mahabharata. Greg Bailey

of Roman antiquity or the Koran.⁴⁸ They all share with Just War Theory the aspiration to serve and protect principles of humanity, but they do not necessarily share moral principles that some might deem universal. They also bow to fundamental ideas of political realism and strategic thinking which they seek to tame but simultaneously accommodate. What is then universal is the fundamental desire of rulers across regions, cultures and time to protect their power, that of their dynasty, or after 1648 the Westphalian state and its successors, and to demonstrate that they do so in as ethical a manner as they see fit or wish to claim. That is also a matter of strategic and political prudence.

In translation from moral philosophy to political decision-making and military conduct, Just War Theory and its principles become instruments of statecraft casting its influence into the political order, processes and drivers of both the state and the international system. There is a profoundly strategic rationale in the efforts of rulers and their secular and spiritual advisors across history and the globe to seek to justify the application of organised violence on other humans, some of whom must be of their own population. Since a reasonable chance of success is one of the criteria, rulers must be able to expect that the war will result in at least the protection of the power they held before the war and the outcomes would need to be a governable state of affairs which might be called peace.

As Bonnie Mann, however, very pointedly argued in her feminist critique of the *Shock and Awe* approach to the Iraq War in 2003, this comes with a risk of overstretching the scope for justified use of force so far that it effectively untethers even a tenuous link between moral justifications and reasoning in line with offensive political realism. In her reading, *Shock and Awe* represented the replacement of a “too-loose relationship between good reasons and devastating political acts like Bush’s declaration of war on Iraq” with the creation “of an aesthetic of war that feels like our own skin, that is intertwined with the roots of our identities, that works some place where critical scrutiny fails.”⁴⁹ Governments choose whether or not to apply Just War Theory. This makes its effectiveness as contingent on the political,

for ICRC Global Affairs Team, Ethics of Fighting in Ancient Indian Literature, *Religion and Humanitarian Principles*, October 3, 2022, <https://blogs.icrc.org/religion-humanitarianprinciples/ethics-fighting-ancient-indian-literature/>.

⁴⁸ For a brief synopsis on positions in Islam see OCHA, “Islamic Law and the Rules of War,” *Reliefweb*, April 24, 2014, <https://reliefweb.int/report/world/islamic-law-and-rules-war> (originally published by *The New Humanitarian*).

⁴⁹ Bonnie Mann, “How America Justifies Its War: A Modern/Postmodern Aesthetics of Masculinity and Sovereignty,” *Hypatia* 21, no. 4 (2006): 150.

strategic and reputational reasoning of a government as Brian Orend suggests in conjunction with nonviolent protest, when he argued that “it has worked only in cases where the target was morally sensitive.”⁵⁰

Within the state the meaning and justice of ‘legitimate authority’ is as much constructed on the basis of the existing governance and power hierarchical structures as the fundamental assumption that war can be morally good, in principle and for society, and the constructed legitimate authority’s prerogative of interpreting (*Deutungshoheit*) whether the conditions for a just war are met and its conduct can be or is just. Whether or not the rationale is acceptable as just cause for the members of a polity and whether acceptability is a relevant factor depends on the nature of government, for example whether the ruled trust their rulers enough to abrogate some of their own free will to the decision-making of the rulers and are prepared to carry the consequences of decisions and judgments in which they had no part.

In other words, whether the ethical principles of Just War Theory are truly fulfilled for those affected by war, if not by combat, depends on criteria that are not part of Just War Theory. They depend on the context in which the theory is applied. Traditional moral philosophy may demand of itself that it be dissociated from such contingency, but it cannot be when Just War Theory is specifically aimed to impose moral constraints on how to deal with such contingencies. We can see that the universality principle is further undermined by political realities, when we consider that even if in the past rulers or senior military leaders put their lives and physical and mental health at risk in war, those who were subject to their decisions and orders especially the very low ranking subordinates, have always been granted the least free will to exercise. They may be able to exercise their right to defend themselves once they find themselves in combat, but the ability to choose whether to be in the situation or not is at best exceedingly limited.

Just War Theory does not just affect the moment of decisions on whether to use force and how to conduct a war. Its reach across time and into society goes much further. Enabling the legitimate authority to decide whether to wage a war that (ideally) fulfils the *jus ad bellum* criteria, has far reaching consequences for the political, socio-cultural and economic life of that polity. Preparing for war then becomes a moral obligation on all in a position to contribute to such preparations, from those joining and commanding the armed forces to armaments producers and their worker, scientists and every contributor to defence budgets, which are not universally funded through taxes. Being

⁵⁰ Orend, 263.

able in principle to wage a just war, that is, having the choice to fulfil the criterion of a reasonable chance of success, requires consistent attention, effort and vigilance from the strategic down to the tactical level in government, the civilian control of armed forces, military command, organisation, training, equipment, and doctrine.

Much of this preparedness also determines the ability to use organised force within the ethical parameters of *jus in bello*. As Kimberly Hutchings concluded from a similar train of thought, “the meaning of war as a practice is complex and difficult to delimit. Understanding the practice of war involves more even than facing up to its bloodiness [...] [which] is itself a gendered trope, entangled with the everyday practice and justification of war.”⁵¹ Hutchings’s critique of the inherent claim of Just War Theory that there is such a thing as good or bad war, as she pointedly casts the claim to a distinction between just and unjust war, then leads her to the fundamental critique that “constantly reasserting the possibility of different kinds of moral discriminations within the category of war, [...] keeps open the possibility of war that is morally better or even best, and thus reinforces all of those practices that keep the idea of a need for war open.”⁵²

Yet, much of the objections of traditional philosophers of war to pacifism are built around the examples from the perspective of individuals, as if all individuals had the same freedom to exercise the right to self-defence and no other constraints on their freedom to choose. In addition to the objections to this assumption discussed above, it is also simply not the case that one can extrapolate from an individual to a state, even if one were to see such a reification of the state as permissible, or the government of, or representing, a state or polity whose ‘will’ emanates from complex structures, processes and the relative position of individuals within this organisation and social structures.

Jovan Babic describes a conundrum at the heart of pacifism, in whichever specific form it manifests. It lies in “one common characteristic of pacifism, that can be ascribed to it with certainty: it is in a way the standpoint which both involves and denies being in counterposition.”⁵³ The implication is that counterposition here means being prepared to exercise violence and potentially take another human’s life. Narveson incidentally assumes the same when he demands that pacifists “prove” such a “momentous contention as that we have no

⁵¹ Hutchings’ contribution to O’Driscoll, 866.

⁵² Ibid., 867.

⁵³ Babic, 57.

right to resist.”⁵⁴ Measuring being in counterposition by the willingness to act with physical violence does neither the argument nor pacifists much justice.

Pacifists or adherents to nonviolence do not evade a stance of being in counterposition. They refuse to apply one type of counter-action, that is, physical violence and potentially killing, especially other humans, but being and staying in nonviolent counterposition is not ‘the easy option.’ Nonviolent resistance campaigns have demonstrated for decades, if not centuries, that even living by narrow pacifist principles demands a high degree of preparedness to remain in nonviolent counterposition, which opponents, especially if they are agencies of the state, will be determined to make increasingly intolerable and potentially life threatening for the resister. Hannah Arendt acknowledged this when she observed that:

Popular revolt against materially strong rulers [...] may engender an almost irresistible power *even if it foregoes the use of violence* [emphasis added] in the face of materially vastly superior forces. To call this “passive resistance” is certainly an ironic idea; it is one of the most active and efficient ways of action ever devised, because it cannot be countered by fighting, where there may be defeat or victory, but only by mass slaughter in which even the victor is defeated, cheated of his prize, since nobody can rule over dead men.⁵⁵

Even if we discount the instrumentality in Arendt’s verdict that non-violent resistance can be more effective than violence, which might make hers an argument on a matter of tactics, her position suggests strongly that violence per se is neither a sufficient nor a necessary condition for taking and enacting a counterposition meaningfully. Implicitly, she connects negatively to the cyclical, self-reinforcing nature of violence. It would be broken with the deaths of all who rebelled, but for the ruler it would be self-defeating, “since nobody can rule over dead men.”

Indeed, non-violence requires a strong preparedness to make sacrifices, from loss of material possessions, including safe spaces to live, over loss of freedom over body and agency to loss of use of all of an intact body (e.g., through torture) and even life. If we measure the

⁵⁴ Narveson, 264.

⁵⁵ Hannah Arendt, *The Human Condition* (Chicago and London: The University of Chicago Press, 1998), 200-201.

commitment of a person to human values, especially ideational values, by their preparedness to take very serious pain and punishment or even die for a cause, then civil resisters and pacifists who reject violence against fellow humans and refuse to engage in actions that inflict such violence, certainly meet that criterion.⁵⁶

We can argue that the use of violence in (self-)defence may be morally justified for the immediate purpose of “the preservation of some particular value which is threatened (e.g. life, dignity, physical integrity),”⁵⁷ but is it necessary? Is it the nature of violence *sui generis* which marks out the suitability of violence to protect values or qualifies it as a superior criterion for a moral philosophical standpoint? If, for a practice to be morally justified, it is necessary that everyone can be expected to exercise it, that is, it is or can be universalised, then Babic is right, but only within an ethic of justice, that there cannot be an expectation that everyone abstains from defending themselves, but is there an obligation to defend oneself with violence?

The problem is the derivation from the line of reasoning, that “if I decide never to defend myself whatever the circumstances I do not have the right to expect, and even less to require, from others to follow me and abstain from defending themselves when they need it;” hence pacifism is a “private enterprise” and cannot be universalised.⁵⁸ A claim that non-pacifists have the right to demand of pacifists that they use violence to defend another is, however, unjustifiable for the non-pacifist. That is implied, although with severe limitations, in Jovan Babic’s judgment that “at best pacifism is permissible,” but the next step in the argument, that non-pacifists can hold pacifists accountable for failing “to defend” them against violence and that “it is often morally indifferent” is much less convincing.⁵⁹

There is indeed a moral problem, but it lies with the pacifists’ conscience with reference to the life of another. They cannot preserve their morality for three reasons, related in essence to acts of commission, omission, and denial. If they defend someone who is threatened by an aggressor but cannot defend themselves, they may have to kill the aggressor, breaching the prohibition against killing by an act of commission. If they had the means and opportunity to defend the victim, but refuse to breach the pacifist prohibition on killing, they jeopardise

⁵⁶ Evan Perkoski and Erica Chenoweth, *Nonviolent Resistance and Prevention of Mass Killings During Popular Uprisings* (Washington, D.C.: ICNC, 2018).

⁵⁷ Babic, 58.

⁵⁸ *Ibid.*, 59.

⁵⁹ *Ibid.*

the potential victim's right to life thus also transgressing against the prohibition against killing, but by omission. If the principle of total prohibition of killing were to be universally true they would also have to deny the potential victim the right to kill should that be necessary to preserve the victim's own right to life. Either way they would have to violate the fundamental morality underpinning pacifism.

These arguments are consistent within a moral philosophy that drives and is driven by an ethic of justice which assumes that a potential need of physically violent acts is ever present anywhere and that as long as it can be defined as defensive and deemed to be the last resort it is justified. As discussed above, however, the purity of the position is under constant jeopardy from the political and strategic context in which it is applied through Just War Theory. In the final section we will briefly return to the argument laid out in the first part of the paper and outline that more active engagement between philosophers and practitioner from both perspectives, an ethic of justice and an ethic of care, can enable a more ethical approach to conflict, war, and peace.

V. In lieu of conclusions – Balancing an ethic of justice with an ethic of care

Our starting point is Cheney C. Ryan's debate with his own conscience as much as the opposing philosophies on the scope and limitations of the arguments between traditional moral philosophy and pacifism, in particular those Narveson had triggered.⁶⁰ The salient aspect of Ryan's reasoning is that the pacifist "cannot create, or does not wish to create, the necessary distance between himself and another to make the act of killing possible;" pacifists can only see 'the other' as "a fellow creature." For Ryan "this latter point is important to showing that the pacifist's position is indeed a moral position, and not just a personal idiosyncrasy," a position that is "motivated by the picture of the personal relationship and outlook one should maintain toward others, regardless of the actions they might take toward you" thus creating a bond even between the aggressor and defender of "fellow creaturehood" which, although it superficially legitimises "killing in self-defence," is so deep as to "render it impossible."⁶¹

Ryan's approach shares some crucial perspectives with the feminist positions discussed above and the philosophers of an ethic of care.

⁶⁰ Cheney C. Ryan, "Self-Defense, Pacifism, and the Possibility of Killing," *Ethics* 93, no. 3 (1983): 508-524.

⁶¹ *Ibid.*, 522.

His is a fundamentally connected moral philosophy. His pacifist human being is part of, and partly constituted in, their 'creaturehood' through their relations with other creatures, that is, fellow humans. Under the ethic of justice all individuals are treated as if they had the same rights, but as shown above this claim became much less tenable upon distinguishing between rulers and ruled. This distinction is masked by the reasoning underpinning Just War Theory. It is significantly more central to matters of human dignity and ethical treatment than the theory permits. The insistence of Ryan's pacifist to emphasise the common creaturehood with fellow humans is fundamentally compatible with an ethic of care and indeed a feminist approach to peace and peacebuilding.

What he does not address sufficiently are the underlying reasons for the shortcomings of an ethic of justice, especially the scope in Just War Theory for reinforcing existing power hierarchies and structures, both within states as well as internationally, or at least leaving them intact. A feminist ethic of care addresses the effects of these dynamics in at least two important ways. It assumes that working to protect the conditions that sustain life and creativity has a greater prospect of leading to a better, positive peace than Just War thinking. To this end it actively seeks to challenge and change the political structures and processes that so far sustain the conditions for war.

If our aim is to capture the whole of the human condition in a philosophical framework for moral conduct, not just the one destructive side that is ultimately associated with death, but also the other, the creative and nurturing side which is ultimately associated with life, then we must recognise that both are inextricably linked. In this sense we might say that both ethics, that of justice and that of care, view the human condition from opposite ends, that of death and that of life. This is not to say that the ethic of justice endorses or even desires death in and of itself, but it does purport to offer a framework of ethical justifications for the taking of some life in order to save other life. The ethic of care on the other hand seeks to protect life by creating conditions that nurture life, strengthen the conditions for peace and thus reduce the risk of the need to take life.

Philosophers of peace like Galtung and even more so feminists do not deny the existence of unjust violence. Galtung sees the major obstacle to positive peace in the permissive socio-political structures and norms that inflict everyday violence on, and facilitate the exercise of personal, physical violence against, people. Feminists in particular have acute awareness of the wide spectrum and manifold manifestations of the continuum of violence. It is for this reason that they seek to reduce its incidence and opportunities for

its occurrence, but the way to do this cannot be to protect the status quo of governance structures and power hierarchies in the manner Just War Theory does at least currently.

The self-reinforcing nature of violence traps humans in cycles of violence. There is another reading of the aims of Just War Theory to impose *constraints* on the use of physical violence. The necessary mirror image is the *permissibility* of physical violence, which gives humans permission to avoid the hardship of pursuing peaceful or non-violent change. As discussed above taking peaceful action in pursuit of nonviolent change is anything but an easy option. Holding fast to one's moral principles to not commit violent acts prohibits the individual from responding to violence inflicted upon them with violence.

Care must be oriented towards the future and growth. Just War Theory is *reactive* to the existence of an aggressor and their acts of aggression, and the peace it enables in principle is defined by the return to an absence of war, negative peace. An ethic of care confronts the ethic of justice of war with a radically different perspective with its starting point of life. With its *proactive* perspective, it holds up the mirror to Just War Theory and forces the view upon breaking thought the cycles of violence by building social orders at local, regional, and global levels that enable human endeavour thus creating positive peace.

This is why only both perspectives, that of Just War Theory and non-violence, or an ethic of justice and an ethic of care, together allow us to capture the inherent promise and tragedy of the human condition. To move beyond the current weaknesses of Just War Theory's constraints on the use of force, let alone its ineffectiveness in achieving its declared aims, its ethic of justice must be balanced with and against an ethic of care. Only together can they capture the supreme challenges arising from the ability of humans to use tools combined with their will and, we must not forget, their emotions to act as arbiters over other humans' life or death, nurturing or killing, and creation or destruction for purposes of not *prima facie* sustaining life, but other ideational or material values.

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