

„Contemporary times, what did we learn from the past; moral and ethical challenges for the future“

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Good morning ladies and gentlemen.

Thank you for the opportunity to contribute to this conference.

In the following I want to talk about the concept of war, catholic social teaching and Just War Theory. I also will briefly address some of the challenges which have been clustered around the term “new wars”. These basic considerations might then act as a starting point for the working groups after the break.

If I understand correctly there will be some time at the end of the presentation for discussion. And I will also be happy to discuss the subject matters during the working groups.

New challenges – are there new challenges?

In my presentation I will argue that there are two categories of challenges for the future. The first one, which I will concentrate on, is the challenge of war itself, meaning the application of war as an instrument based on different concepts of war. The second one is the employment of certain instruments and methods in war.

To begin with, what are some of these instruments and methods which pose moral and ethical challenges for the future?

Among them are challenges by new technologies. The use of drones and other unmanned systems by the United States of America in Afghanistan and other countries has evoked considerable coverage by the media and has become a topic in the academia and in international organizations alike.

The current debate on unmanned systems focuses on the ethical challenges of already fielded remotely piloted vehicles, but autonomous systems, which are already being developed, will pose additional challenges.

A challenge prompted by the continuously growing global interconnectivity of societies regarding computer systems is Cyberwarfare, either as espionage or as sabotage.

Connected with the availability of computer networks and mass media is the challenge of propaganda and information warfare in the form of media manipulation and the use of social networks.

There are also challenges which are connected to the availability of these technologies and challenges which are connected to how wars are conducted, the most well known the use of drones in targeted killings.

Traditional concepts of the armed forces are also challenged by new ways of organizing military force, namely the outsourcing of certain military tasks to private military contractors, often called the privatization of war.

The war on terror provides numerous challenges for the ethics of war, the most profound probably being the use of torture and other transgressions in International Humanitarian Law.

And although it has lost some of its topicality, the question of nuclear weapons is still relevant and has to be considered.

These are just a few examples of new challenges which have been discussed in the media or by the academia.

However in my presentation I do not want to talk about these specific challenges but I will look at some basic considerations regarding our understanding of war as a basis for how to react to these challenges. I will argue that the fundamental challenges to our understanding of war have not changed to such an extent as the changes in instruments and methods of warfare might suggest. I also argue that based on the principles of Just War Theory we shall put the application of the criteria of Just War Theory under thorough analysis as required by these new challenges. As an example and an incentive for the discussion of the specific challenges and their implications for our understanding of war in the working groups I will discuss the statements of Archbishop Tomasi regarding the challenges of unmanned aerial vehicles and of autonomous warfare at the end of my presentation.

War

To turn to the topic of today's presentation - "Contemporary times, what did we learn from the past" - looking at the given title of this presentation, the question which came to my mind was: "who is we"?

This question leads us to the issue, that if we talk about war, there are a lot of different perspectives. There is a common assumption, that over the course of history and especially after the Second World War, armed conflicts have become less frequent and less bloody and even that war as a phenomenon of human history is in retreat. It is also a common assumption, that war as a political tool of states is by most people disapproved of.

And there is indeed evidence which seems to support these assumptions. Although marred by the cold war and the shadow of a nuclear holocaust, Europe nevertheless witnessed a nearly 40 year period of relative peace. And even if the highest of expectations for a period of a lasting peace have encountered a setback through the wars of a disintegrating

Yugoslavia and recently through the events on the Crimean peninsula and in the Ukraine, it still holds true, that wars among western and central European countries – wars which have been all too common not long ago – are at least for now a thing of the past.

However the same does not hold true for other areas of the world. Depending on how we define wars, worldwide around 200 armed conflicts can be counted between 1945 and today. The Heidelberg Institute for International Conflict Research numbers the highly violent conflicts in 2013 to be 25 limited wars and 20 wars. Although research seems to prove that the number of wars and the number of military fatalities are at least steady or even declining, some researchers have argued, that if you do not count wars but the number of countries involved in wars since 1870 the absolute frequency has been continuously rising.

Supporting the original assumption, that war as a political tool of states is generally increasingly disapproved of, the Charter of the United Nations states the prohibition of force in international relations. Most of us assume that article 2 - member states are to refrain from violence – has become a generally accepted and valued principle. Still, political practice seems to fall short of this goal and many proponents of political theories still hold war to be a tool that states can employ if the need arises and some are even questioning the meaningfulness of a moral discourse in international politics.

We have also become accustomed to the idea that war is seen as an evil. However we have to remember, that this assumption is not shared by all theories in its whole extent. As Catholics our understanding of war rests on two foundations: first the assessment of war as an evil and second the assessment of war as seen through the prism of Just War Theory. The moral and ethical challenges of the future may therefore further question one or both of these foundations.

Realism, Pacifism, JWT

If seen through the prism of catholic social teaching, we should be aware of our first premise about war, namely that war in itself is problematic. Clearly, this sentiment is shared by many different schools of thought as well as many religious traditions and we may justifiably assume that today the majority of people will consent to this assessment.

To talk about the ethics of war and peace and the moral quality of war itself, let us at first have a short look at what Brian Orend called “<the big three perspectives>”: Realism, Pacifism and Just War Theory.

Realism as a theory of international relations revolves around states as rational actors, international anarchy, power politics and the goal to maximize self interest. Referring to war, Realism would argue that moral concepts and legal regulations might be disregarded if it is prudent to do so. However these concepts and regulations may also be employed if it is prudent to do so.

Pacifism rejects war in favour of peace. However pacifism generally does not reject all forms of violence but violence in the degree, quality and organization that constitute war.

Nonviolence as a form of pacifism rejects all forms of violence, while non-aggression rejects only the initiation of violence and accepts violence in self-defence and in the defence of others.

In contrast to pacifism Just War Theory judges war as the permissible use of mass violence IF certain conditions are met. In contrast to realism Just War Theory holds the belief, that states can have moral justification for resorting to armed force only IF it is just. Some have argued for a shift in the phrasing from "just" to "justified" war to emphasize that no side can have a claim on justice, therefore denying it to the other side.

Others, who find Just War Theory too confining, have recently introduced the term "justifiable" war for so called "wars of choice", where alternative policies would be available and the principle of war as "last resort" is ignored for the sake of war being the "best available policy option".

Militarism, another category which I would like to add, is not a category opposed to realism, pacifism and JWT but cuts across Realism and Just War Theory classification. For militarism, ethics is relevant to war, as going to war is seen as a positive moral good, in contrast to realism where this is not the case.. According to militarism in war human virtues are expressed and war is also seen as the natural way to resolve differences. In stark contrast to Just War Theory militarism judges war as beneficial to the individual as well as to the communities.

Partly connected to this approach are the concepts where war is seen as part of human nature or a cultural practice. War in these concepts is not a tool of states but is based on instinct, and has been a driving force in the evolution of mankind. These concepts draw heavily on the findings of biological anthropologists and primatologists and their studies on Chimpanzees and other primates as well as archeological evidence from prehistory. In contrast to militarism however most of the proponents of this approach do judge war as a moral evil or at least believe that war has become a hinderance for humankind today and should be discarded as a method to settle conflicts.

Catholic Social Teaching

Let us now have a look at how Catholic Social Teaching sees war. In 1914, it is said that Pope Pius X replied to the visiting ambassador of Austria-Hungary requesting a blessing of the armed forces of the monarchy fighting in the war: "I bless peace, not war!" I will now refer to some of the most prominent texts of Catholic Social teaching regarding war and peace.

In the Compendium of the Social Doctrine of the Church war is called "the failure of peace". According to Catholic Social Teaching war can never be an "instrument of justice" nor has it, or will it ever be an "appropriate way to resolve problems that arise between

nations". (CSDC 497) Furthermore in the age of atomic power "it no longer makes sense to maintain that war is a fit instrument with which to repair the violation of justice." (PT 127) War in itself is "irrational" and in practice "unthinkable" and the "only way worthy of man" is "the ethical principle of the peaceful settlement of conflicts". (World Day of Peace 1 January 1984)

"Peace is not merely the absence of war" and it also cannot be "reduced solely to the maintenance of a balance of power between enemies" but peace is "rightly and appropriately called an enterprise of justice." (GS 78) It is also an obligation for all governments and citizens "to work for the avoidance of war" (GS 79) Furthermore wars of aggression are "intrinsically immoral", although states which suffer an attack have "the right and the duty to organize a defence even using the force of arms". (CSDC 500) However the gravity of the decision for a legitimate defense calls for the conditions to require "rigorous consideration".

The evaluation of the conditions which encompass what has been called the Just War doctrine "belongs to the prudential judgment of those who have responsibility for the common good" and have to be at one and the same time:

First: "the damage inflicted by the aggressor on the nation or community of nations must be lasting, grave, and certain"

Second: "all other means of putting an end to it must have been shown to be impractical or ineffective"

Third: "there must be serious prospects of success"

And forth: "the use of arms must not produce evils and disorders graver than the evil to be eliminated." (CCC 2309)

As Pope John Paul the second put it, war can be justifiable if it serves the defence of the fatherland, the defence of those pursued and of those who are innocent. The call to be a soldier is in essence nothing else than the call to defend the good, the truth and especially those who are attacked unjustly. (Ansprache an junge Soldaten, 1989)

And just recently Pope Francis pointed at the re-emergence of war and conflict in our world and reminded us, that as Christians we "remain steadfast in our intention to respect others, to heal wounds, to build bridges, to strengthen relationships and to "bear one another's burdens" (Gal 6:2)." (Evangelii Gaudium, 67)

In his words to the Vigil of Prayer for Peace he also asked one fundamental question: "Is it possible to walk the path of peace? Can we get out of this spiral of sorrow and death? Can we learn once again to walk and live in the ways of peace?"

Just War Theory today

So how is this relevant for our argument today?

Seen through the perspective of catholic social thought we may reject the realistic argument, that war is an instrument to be employed by a state as it chooses to preserve its own interests and that war – either generally or specifically - is not subject to moral evaluation.

Tradition may also lead us to reject nonviolent approaches in favour of the right and duty of legitimate self defence and the duty to defend the peace and protect the innocent.

Most will agree that as Catholics we will see war through the prism of catholic social teaching with the qualification of war as a moral evil. Our views on the employment of violent force in the context of international relations may vary, depending on our weighing of the above mentioned duties, therefore leading us either to a more pacifistic approach or an Just War Theory approach which accepts war as a necessary reality.

The general tension between catholic social thought and Just War Theory is based on the prima facie duty not to kill on the one hand and on the prima facie duty to defend the innocent on the other hand. Accordingly, for political entities like states we can suggest a duty not to fight wars. And we can suggest a duty of the entity to protect its subjects and a right to defend itself.

In discussing JWT, first of all, we have to acknowledge that JWT today of course is much more than guidelines inspired by catholic thought. Over the course of the centuries JWT has become part of the legal systems governing international relations and warfare between states and therefore has become common ground for many politicians and schools of thought. Well known philosophers like Michael Walzer in his book "Just and Unjust Wars" published 1977 have explicitly tried to discuss JWT under the perspective of a practical morality. Walzer deliberately does not engage the profound questions of moral philosophy connected to JWT but for the sake of the argument to be applicable on the actual questions of war and morality at hand - as he put it in his own words - "detaches" them from its foundation.

Moreover the concept of JWT has also been used by proponents of the so called Realism. However the overlaps from JWT and Realism are of a very different kind. Realism in its descriptive or prescriptive form rejects the idea of moral concepts in international relations but not all Realists dismiss JWT. Even though realists might reject the idea that a state should or even can act morally in war, they might under certain circumstances endorse certain principles of JWT. But there is a major difference: opposed to JWT, Realism assumes that JW principles may and shall be applied to one's actions on the basis of them being prudent, not of them being ethical.

I think it is safe to say, that among people who think that a moral discourse of war is seen as necessary, many have agreed to certain principles of JWT. And even though realists may

reject these ideas, the principles of Just War Theory appeal to more people than are probably aware of its existence as a theory. One can assume that such employment of violent or military force by political authorities creates the necessity for an explanation, for example directed at the international community or at the population of the state applying such force.

Current Just War Theory provides numerous criteria, which can be used to assess the application of military force in international relations. Traditionally these criteria have been divided into *jus ad bellum* and *jus in bello* criteria, meaning criteria referring to the justice to go to war and to the justice in war. It has to be noted, that these criteria have been brought forward with the goal of a just peace as its basis. Recently another category has been added, namely the *jus post bellum* criteria – criteria which refer to the justice after war.

The *jus ad bellum* criteria can be condensed into the sentence: “Who can wage war on grounds of which cause and with which goal”. The common criteria encompass proper authority (*legitima auctoritas/potestas*), just cause and right intention (*causa iusta* and *recta intentio*), last resort (*ultima ratio*), proportionality of the reaction (*proportionalitas*) and probability of success that the actions will lead to peace (*iustus finis*).

The *jus in bello* criteria refer to actions in the state of an armed conflict. The well known principles are the discrimination between combatants and innocents, the proportionality of the force used regarding the goal of the action and the military necessity of the action.

Apart from these two well known categories, it has become evident that there is also a need for principles which address the issue of justly ending a war or justice after the war has ended.

The *jus post bellum* aims at a just and lasting peace. The criteria of what has been called the rules of just war termination are not as canonized as the criteria of the other two categories, but the following have been proposed:

Rights vindication, meaning that the basic rights whose violation triggered the justified war have to be secured.

Proportionality and publicity, meaning that the peace settlement should be measured and reasonable, as well as publicly proclaimed.

Discrimination, meaning that distinction needs to be made between the leaders, the soldiers, and the civilians in relevant post bellum actions.

Punishment, meaning on the one hand that the leaders of the aggressor state should be held responsible and should face a fair and public international trial; and on the other hand that justice after war requires soldiers from all sides to the conflict to be held accountable for war crimes they have committed.

And finally compensation and rehabilitation, which also might include the change of the institutions of an aggressor regime.

Looking at the above mentioned principles, we can see that jus ad bellum and jus in bello rely on basic yet powerful principles. In contrast the international law, the law of war and international humanitarian law are a highly complex corpus of rules governing the use of force in international and non-international armed conflicts.

Probably one of the most important differences between the legal regulations and the principles of JWT is, that IHL is not concerned with questions regarding the legality of the war itself. Opposed to this, JWT requires a justified war also to be conducted and ended according to its principles, therefore providing us with an instrument to assess a war in its entirety.

During the last decades JWT has also received substantial criticism. It has been argued that with the changing character of warfare, the emergence of nuclear weapons and the strategy of nuclear deterrence and deterrence against terrorist organizations, JWT as a theory to assess warfare has become obsolete as it does provide us with principles, which - when adhered to - do not allow for an effective defence.

Interpretations of War

Understanding the image and function of war in political philosophies and therefore the basis upon which their arguments in the moral discourse rest on, helps us to understand the nature of the challenges posed for our understanding of war and JWT. For example: the mere existence of an unmanned drone does per se hardly pose a challenge to our understanding of war and just war theory. However the employment of drones as a tool in the war on terror using the method of targeted killings may very well do that.

Therefore let us introduce another perspective on war – namely teleological categories, meaning the purpose or the end of war.

In the introduction to his 1968 edition of Clausewitz's "On War" Anatol Rapoport proposed three categories of war, namely political, cataclysmic and eschatological.

Rapoport sees the political philosophy of war best represented by Clausewitz himself, defining war as "an act of violence intended to compel our opponent to fulfill our will". Political entities will use their armed forces as an instrument based on rational considerations. Political war therefore has to be rational, national and instrumental.

The category cataclysmic sees war as "a catastrophe which befalls some portion of humanity or the entire human race" where no one is responsible and no one gains from it. Although not specifically mentioned by Rapoport, theories locating war in the very nature of man as a universal and natural biological necessity, theories attributing war to environmental and economic factors, notably overpopulation and scarcity of resources or

theories who see war as a cultural invention or an expression of culture may be attributed to this category, if they have to fit any of the above three.

Finally, the understanding of war as eschatological is distinguished by the assumption that war is the necessary way to achieve some mission or stage in the progress of history or mankind. Messianic variants of this idea (e.g. Manifest Destiny concept) where a just peace is imposed upon the world by a group or global variants where the peaceful utopia of mankind is result of the chaos of a final war can be found in many ideologies and literary works (e.g. Wells, Things to Come).

“The Sword of Peace”

Let us use an example from the time of the First World War as an illustration: In October 1914 H.G. Wells published a booklet with the title: “The War That Will End War”. In which he writes: “That is why I, with my declared horror of war, have not signed any of these “stop-the-war” appeals and declarations that have appeared in the last few days. Every sword that is drawn against Germany now is a sword drawn for peace.”

I chose this quote because it contains the essence of the idea of war still held by so many, namely that war – although seen as a bad thing – as a just and rightful endeavor eventually will by itself bring peace.

As Wells put it: “It is war not of nations, but of mankind. It is a war to exorcise a world-madness and end an age.” And he continues: “For this is now a war for peace. It aims straight at disarmament. It aims at a settlement that shall stop this sort of thing for ever. Every soldier who fights against Germany now is a crusader against war. This, the greatest of all wars, is not just another war it is the last war!”

Catholic social teaching rejects the eschatological idea of “The War That Will End War”, the idea that war can be overcome by war itself. As Pope Francis said, not only does “war always mark the failure of peace” and is a “defeat of mankind” but “Violence and war are never the way to peace!” He continues: “Violence is not answered with violence, death is not answered with the language of death. In the silence of the Cross, the uproar of weapons ceases and the language of reconciliation, forgiveness, dialogue and peace is spoken.” (Words to the Vigil of Prayer for Peace)

When we discuss the moral challenges to our concept of war, we have to bear in mind that also today dissenting ideas of war have by far not lost their grip on the political discourse. Academics have for example claimed that George W. Bush and Osama bin Laden both have adopted eschatological philosophies in their view of conflict and the role of their state or organization in the world.

More often than not, we are not directly involved in war and therefore generally encounter the phenomenon of war in a political and legal context – through discourses of justice, United Nations resolutions and International Humanitarian Law. However more often than

not images of eschatological war are part of the rationale and the justification discourse of the ones involved or affected.

How is this relevant? On the one hand we have the image of war as an evil befalling mankind and on the other hand we have JWT which deals with the political nature of war. Moreover the principles of JWT are not only present in the moral discourse but also in the legal discourse on war.

The assessment of catholic social teaching that violence and application of military force in some form and to some extent and if certain conditions are met is permissible seems not to be challenged by the new developments. The same partly holds true for the commitment to see war in itself as an evil.

However for war and its moral and legal discourses numerous challenges have emerged, caused by developments which some academics have labeled "new wars".

Challenges – the example of autonomous warfare

In this last section of my presentation I want to discuss the statements delivered in 2013 and 2014 by Archbishop Silvano Tomasi, Permanent Representative of the Holy See to the United Nations in Geneva regarding unmanned and autonomous warfare seen through the prism of Catholic Social teaching.

In November 2013 during the yearly meeting of the state parties of the "Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects", more conveniently called the "Convention on Certain Conventional Weapons" Archbishop Tomasi commented on the use of drones and lethal autonomous weapons.

Tomasi sees the most critical aspect of these technologies in "the lack of ability for pre-programmed, automated technical systems to make moral judgements over life and death, to respect human rights and to comply with the principle of humanity."

He argues that the increased use of weaponized drones in armed conflicts "represent a notable change in the conduct of hostile action". The following aspects are of note:

First: It is indisputable that „large populations live in constant fear“ of attacks by drones. Therefore, even if economical considerations seem to make sense to the budgets of the states using them, it is ethically imperative that these cost savings are not the only costs considered. "Costs to civilian life and property, as well as the psychological and economic cost of living in constant fear of future mistaken strikes, should not be ignored."

Second: It does not seem clear who bears the responsibility for humanitarian violations which may occur in the use of unmanned systems. The fact that more functions are pre-programmed and therefore not under direct human control might blur the accountability of

who is responsible if something goes wrong. Clear accountability for actions taken however is essential for international humanitarian law.

Third: It is also essential to lay out the criteria to identify legitimate targets and to distinguish these targets from innocent civilians. The lack of risk for the military forces and the assumed accuracy of surveillance and accuracy of these systems might make operators more willing to execute strikes with greater risk to the civilian population.

Fourth: The trend towards more automation of warfare should be treated with great caution as decisions over life and death are decisions suited to persons capable of moral reasoning. To entrust automated systems with these tasks results in actions which are taken based on programming and not based on the innate capacity to tell right from wrong. This also applies to "human-in-the-loop" systems, where the potential for removing the human component also exists to some extent.

Fifth: We also should consider the possibility that the use of unmanned systems in war and therefore the reduction of risk to human soldiers might result in lowering the threshold of conflict and might make it more attractive to engage in warfare. Considering the near inevitability of massive civilian casualties in modern warfare should give pause.

In May 2014 Tomasi provided a second statement focusing on aspects of autonomous warfare.

While he acknowledged the possibility that autonomous technology might prove beneficial to humanity in many fields, he emphasized that autonomous weapons technology is entirely distinct, insofar as it does place a machine in the position to decide over life and death. While it might be that autonomous systems can perform in such a way as to respect the rules of international humanitarian law, just respecting the rules of the law of armed conflict shall not be sufficient. To comply, these systems would require human qualities they inherently lack, like compassion and insight. Tomasi reinforces his statement that machines – even highly sophisticated ones – cannot truly replace humans in decisions over life and death. Therefore it shall be imperative to act before the technology for autonomous weapon systems progresses and proliferates and in the end fundamentally alters warfare into an even less humane and less human affair as it already is.

If time permits, I would like to present a few select arguments of statements from other catholic organizations regarding the issue of drones.

Probably the most critical of recent statements concerning the use of drones has been released by Pax Christi UK. In their statement they argue strongly, that drones contravene the existing moral and legal codes that govern war and the conduct of war. Furthermore drones are seen to make war more likely and the world a less secure place.

In the wake of the discussion on the acquisition of weaponized drones in Germany, the german military bishop Franz-Josef Overbeck and the head of the german commission

Justitia et Pax Bischof Stephan Ackermann pointed out that looking only at the positive effects of these systems concerning the protection of one's own armed forces does not suffice. The main question should be how these systems affect the goal of minimizing the amount of force used in armed conflicts and if the strategies which are the basis for the acquisition of these systems are oriented to the building of a lasting and just peace.

Richard E. Pates, Chairman, Committee on International Justice and Peace wrote an open letter to Thomas E. Donilon, then national security advisor pointed to the fact that even when viewed through the prism of JWT the use of these weapons in counter-terrorism raises serious moral questions. He criticises, that the US administration seems to have focused narrowly on the just cause of protecting citizens, but have neglected other elements of the tradition in the evaluation of these systems, namely discrimination, imminence of the threat, proportionality and probability of success.

The Conference of Major Superiors of Men of the United States commented on President Obama's speech on drones of 2013, arguing that the debate focuses too narrowly on the legal aspects of JWT therefore neglecting peaceful measures of conflict resolution and overlooking that the building of a just peace should be in the center of considerations concerning the use of unmanned systems. According to their statement we should shift the primary analysis of armed drones from law, 'just war' theory, and rights to the question: "What kind of people are we becoming by using armed drones?"

Conclusion

A lot has been written about „the changing nature of war“. Often these changes have been attributed to developments in technology and also to changes in the international system and the societies. It seems that many writers have based their concepts of war on their view of warfare as a continuous interplay between technological and societal developments. It is plausible, and history has shown, that the availability of certain instruments or methods of warfare will facilitate certain developments in their application. While these issues clearly had an effect on warfare, I argue that the influence of the understanding and concept of war itself has been overlooked.

However instruments and methods should not be considered as "ethically neutral" as one can argue that these instruments possess ethical qualities intrinsically, stemming from their design. If we look at these instruments through the prism of JWT we might want to use JWT as guidelines to assess if their ethical qualities stemming from design or their employment can be brought in accordance to the principles JWT or if not. We also should consider that JWT is not the only way of assessing the ethical implications of these instruments. Among others are legal regulations, which might to some extent even be inspired by JWT, also can act as guidelines for evaluation of these instruments as can be seen in the case of non lethal weapons.

Therefore I argue that the most prominent challenge for the future would be to question the legitimacy of the concepts of war and the application of force which are the foundation on which these methods and instruments will be employed and how they will be employed.

As Pope Francis said after the Angelus of the 27th of July, "May the common good and respect for every person, rather than specific interests, be at the centre of every decision. Let us remember that in war all is lost and in peace nothing."

Thank you for your attention.