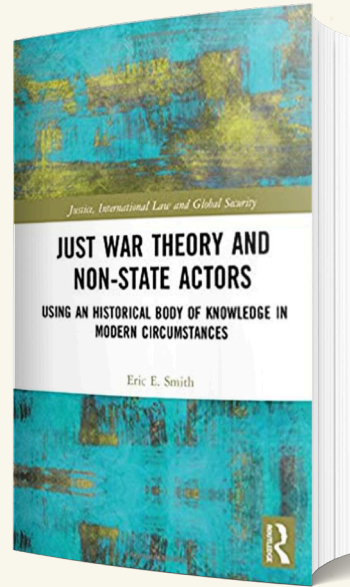




التحالف الإسلامي العسكري لمحاربة الإرهاب  
ISLAMIC MILITARY COUNTER TERRORISM COALITION

## BOOK REVIEW 18



# JUST WAR THEORY AND NON-STATE ACTORS

Using an Historical Body of Knowledge  
in Modern Circumstances

ERIC EDWIN SMITH

October 2020

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## Book Review

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**Book Review**

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**JUST WAR THEORY AND NON-STATE ACTORS**  
**Using an Historical Body of Knowledge in Modern**  
**Circumstances**

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The concept 'Just War' is one of the problematic concepts in politics, international relations and contemporary security studies. Simply put, the question about just wars is problematic in terms of the feasibility of wars that humanity has been witnessing for such a lengthy period of time. It is an ethical problem albeit academic. Some leading questions remain unanswered. Does just war exist? Can war be morally justified? These questions are as old as the wars which are fueled by the conflict of material and symbolic interests ever existing among human beings. The answer to such questions draws on special principles and standards, not norms or legal rules that are binding to the parties, which make up a code of ethics of war and peace, setting the tone for the pre-stage and post-stage of war and controlling the war machine while in full swing.

Michael Walzer, American Philosopher, is perhaps the first to have discussed the foregoing topic from a purely academic point of view in his book *Just and Unjust Wars*. Walzer well explains the differences between a just war and an unjust war based on specific theoretical criteria. In the subsequent sections, we will provide an outline and overview of the thesis – *Just War Theory and Non-State Actors* – submitted by Eric Edwin Smith at Auburn University, Alabama, USA, and will conduct in-depth analyses and insightful reading.

## KEY QUESTION

As we trace back the emergence and development of the concept of 'just war' and revisit the current challenges of globalization, the sovereignty of international institutions, terrorist acts, weapons of mass destruction and the like, one may still question if an old body of knowledge referred to as 'Just War Theory' can continue to serve as a moral guideline in circumstances where regimes seek to use military force to resolve conflicts with other states or groups within states: the so-called non-state armed actors (ANSAs) which the researcher makes the focus of the thesis, posing the pivotal question: how does Just War Theory apply in modern scenarios involving the non-state armed groups (NSAGs) that challenge the state and international institution monopoly on use of force?

Philosophically, Just War Theory seeks to strike a balance between the immorality to use violence and the crying need to defend oneself, property or the state. Paul Cornish believes that Just War Theory as a combination of means and ends is a dualism, in which Jus ad Bellum and Jus in Bello are logically independent, simply because it is not possible for an unjust war to be initiated justly, and similarly it is not logical for a just war to be initiated unjustly.

Theoretically, for any war to be just, it must fulfill the Jus ad Bellum elements before it begins physically. Here, it stands to reason that Jus ad Bellum connects the regime desire to employ violence with the need to achieve peace and maintain security. With regard to Jus in Bello, on the other hand, there is a set of rules that guide military action and militant behavior. Jus in Bello serves as compliment to Jus

ad Bellum, and both work in tandem to achieve a peaceful end-state through avoiding unnecessary conflict and acting appropriately during war.

## JUS AD BELLUM AND JUS IN BELLO

Jus Ad Bellum contains six elements:

1. Just Cause
2. Right Intent
3. Proper Authority
4. Proportionality (Political)
5. Chance of Success
6. Last Resort

Jus in Bello contains two elements:

1. Proportionality (Military)
2. Discrimination

Smith prefers to choose the following as a definition of terrorism 'every act that would terrorize others, and the terrorist usually targets randomly human gatherings to spread fear and panic, because the goal is to change a behavior, or an existing system of government'. In the same vein, Jeffrey Whitman describes contemporary terrorism as 'possessing a little margin of political and military power, yet seeking political reform by using military force. Driven by eschatological goals and enthused by martyrdom, they fight tooth and nail without compromises.'

History, riddled with telling incidents, bears evidence of the emergence of rebel groups against the ruling regimes, and over the past three decades the world has witnessed a number of these violent groups that wield power and methods of military maneuver, posing a real threat to the balance that the United Nations maintains in the international community.

Ulrich Schneckener, Professor of International Relations, explains that these groups challenge the monopoly of international institutions and state systems for the use of force, as non-state armed groups (NSAGs). Schneckener further includes pirates, mercenaries, warlords, bandits, criminal gangs, and others who operate beyond the control of states. This category of actors is characterized by its inability to integrate into formal institutions, such as regular armies, presidential guards and police forces.

Daniel Byman, Middle East Policy Expert at the Brookings Institution, offers three categories of active state sponsorship for these terrorist groups. The first category is control, whereby the regimes create and influence armed groups directly, and these groups serve the policies of these regimes explicitly. A telling example is the establishment of the Palestinian Thunderbolt Group by the Syrian Government to undermine Yasser Arafat's Organization. The second category is Coordination, whereby the state does not control the group; rather, it affects it to still serve the interests of the regimes. A telling example is Iran's influence on Hezbollah to increase its influence in Lebanon. The third category is contact, whereby the sponsoring country exercises less control than the previous categories, but affects the actions of non-state armed actors, by keeping channels of communication open.

## JUST WAR THEORY DEVELOPMENT

Smith observes the development of just war theory over time (circa 2000 years of accumulated knowledge), and traces the bulk of the theoretical output as early as to date, explaining how events and historical facts shape concepts. Smith reviews the body of literature with some necessary considerations to collect the arguments of the theorists in various fields, and to employ the conceptual framework here to move forward in putting questions into discussion to understand how just war theory can be applied in the current situations, with the analysis of case studies.

The term 'justice' is one of the basic components of just war theory. In this regard, Coppieters and Fotion

(2008) view justice as fairness by treating people, groups, cultures and nations with respect and care; acting with justice makes those with power bound by principles that enhance their interest and respect for the choices of those who cannot defend themselves, and their respect for their aspirations.

Historians believe that the first writings on just war were discovered during the reign of "Amenhotep" IV (1367-1350 BCE). These works refer to codes of conduct and etiquette for interaction among dignitaries and royalty, using descriptions of quarreling as a metaphor of prevailing norms for expressing position, entitlements, obligations, and jurisdiction. These writings describe circumstances and scenarios for suitable use of force and who is considered an opponent for the Mediterranean Region.

Smith recalls the contribution of the Roman thinker "Cicero" (106-43 BC), who had a great influence on the thought of just war. The Greeks and Romans saw the issue of protecting their community as indefinite, and condoning such an action was a breach of justice. Cicero believes that protecting the people requires resorting to violence to deter an enemy, under which is subsumed recidivism or withdrawal from treaties, abandonment of the alliance, violation of territorial sovereignty and refusal to extradite criminals.

After the Roman Empire embraced Christianity, thinkers faced the challenge of gaining the support of the Christian Romans, who were adopting the Christian pacifist tendency that preferred and favored peace; therefore, the bet was on the compatibility between pacifist Christianity and the requirements of protecting the Empire from attacks by barbaric tribes. Over time, and with the spread of Christianity throughout the Empire, the interest in absolute peace shifted to the acceptance of Rome that war in compelling circumstances was a necessary action.

In this regard, Augustine is credited with devising the original three elements of Jus ad Bellum in Just War. First, rightful or legitimate political authorities are granted permission by God to use force. Second, a just cause is necessary before using force, and the cause may be identified as avenging injuries

caused by another. Third, the decision to use force should take place for right intention.

If justice affects a just cause, then those responsible for the cause are obligated to use the power granted to them wisely, not with the aim of offending the vulnerable; rather, to display the authority that includes defending the nation, sacrificing for the common good, and striving to curb evil. It is likely that the early writers discussed the idea that evil justifies war, and the competent authority should enter the conflict with pure intention, and if this intention is based on wielding and brandishing power in the face of a weaker entity, then entering the conflict is morally unfair.

### WAR COMPONENTS AND ACTORS

The researcher well traces comments and discussions on the components of a just war: just cause means a moral justification for initiating war. Armed intervention is when one state violates the sovereignty of another. Good intention means the goal of war is noble. Prevention and anticipation mean military precaution for the purpose of self-defense. Legitimate authority refers to the entity authorized to initiate war and take decisions. Proportionality means that the gains from war outweigh the losses ensued. Chances of success mean the certainty of winning the war. Last resort, distinction in war and immunity for noncombatants mean the distinction between legitimate and unlawful targets.

The research study under review attempts to apply just war theory to special cases, including non-state armed actors and the state that provides them with shelter. The aim is to test the feasibility of a cognitive construction known as just war theory in modern and unique circumstances, seeking to prove that it is more appropriate than ever. Simply put, the research study is seeking to refine the theory to apply it in our current reality. Since it is seen today as a standard tool in various conflict incidents, so we return to the fundamental question of the study: How can this theory be applied in the current situations with the presence of the non-state armed actor facing the monopoly of the use of force by states and international institutions?

It is noted that there are overlapping and common grounds among the cases that the researcher addresses; the first of which is that the armed non-governmental actor operates freely and is immune from punishment in the incubating countries. Second, these groups possess military capabilities, equipment and knowledge and are willing to act in a hostile fashion or independent of the host state. Third, they do not feel discouraged to cause harm or kill large numbers of innocent people. Fourth, the countries that incubate these groups are often vulnerable, just like the countries that suffer turmoil and wars. Certain cases have special characteristics; some groups are subject to different political motives, and their resources are widely distributed across the world, governed by diverse religious cultures, and the incubating regimes have different capacities to control these groups according to the diversity of their interests.

Smith sought to test the just war theory in the current situations, while explaining the way to apply the theory in the context of the violence of armed groups against the security services of states outside the borders of the incubating state. Smith further discussed the elements of the theoretical framework for just war in light of contemporary circumstances according to an organized approach, testing all its components in a contemporary context characterized by the ANSA dynamics, interference in state sovereignty, conflicts of interests among powers, and violations of charters and rights.

### CASE STUDIES

Smith has conducted three case studies on armed non-state organizations, as follows:

#### 1. AL-QAEDA, TALIBAN AND UNITED STATES OF AMERICA

Smith traces the political development of Afghanistan from the 1950s to the American invasion and identifies the factors behind the rise of the Taliban and Mujahideen groups, which have forced the United States to intervene in Afghanistan.

The Soviet occupation of Afghanistan was a model of rejected external influence, and the Soviets deliberately modernized Afghanistan's infrastructure by building dams, airports, roads, and



schools, especially in the northern half bordering the Soviet states. The turmoil between the people and the Soviet regimes intensified over the course of three decades in a row, following the policy of dependency that the Soviets pursued, until the outbreak of a great popular rebellion in 1979 to end the Soviet presence in Afghanistan, followed by Gorbachev's decision in 1989 to evacuate his forces. Against this backdrop, a political movement of the Mujahideen rose to existence, which pursued a policy based on Islamic religious convictions, and took over the reins of power after the civil war. The Mujahideen installed Burhanuddin Rabbani, who spearheaded the fight against the Soviets and later the Taliban. Rabbani's leadership triggered the divisions.

Internal wars and external interferences in Afghanistan have led to its failure to provide public services, such as health and education, as well as rampant unemployment and economic crises, in contrast to countries that enhance their political legitimacy by strengthening stability in political institutions, holding public administrations accountable and providing space for political engagement.

The pioneers of Just War Theory throughout history have always expressed their resentment and denunciation of despotic regimes towards their peoples and the peoples of other countries. The question remains: Does society suffer from the tyranny of the ruler and the troubled, anarchist atmosphere, or from collective crime?

### THE 9/11 ATTACKS 2001

A surprise attack by two airliners on the World Trade Center in New York City caused heavy human and material losses. President George W. Bush announced an ultimatum to the Taliban and Al-Qaeda.

The defining distinctive feature in the theoretical framework for just war is the need for dialogue between the conflicting parties. Here, we pose two questions: Have explicit talks been held for a peace settlement? Does the party claiming justice wait for a response from the opponent before making a reaction? Noam Chomsky believes that the power and authority exhibited by a strong state may invite a weak state to consider uncommon responses as a balance of forces with that powerful state. The dialogue between America and the Taliban was subject to America's strong international standing, and was intensified by Bush's threats to use force. One may ask if the Taliban's choice of evasion is a way to prolong recognition at the international level.

After the 9/11 Attacks, the world was sympathetic to the United States, and it was expected that it would use military force to avenge an audacious opponent that defied the entire world. America embodied the sough-after justice of its cause in revenge for the damage resulting from Al-Qaeda attacks, and in protecting the people and the state from other possible attacks. President Bush launched a military campaign against Al-Qaeda, while imposing blockades on anyone affiliated with Al-Qaeda and the Taliban politically.



It seems that this case reveals two unique aspects that may be noticed in future conflicts. The first is that the armed groups possess means that have forced a foreign country to enter into an armed conflict with its sponsor state. The second is that any armed group may stand out and act in a manner that changes the rules of international relations. The conflict that brings together Al-Qaeda and America is a barrier to a just war. The sponsoring states were supposed to control the groups affiliated with each, but it seemed that Al-Qaeda was wielding power with apparent impunity.

## 2. LEBANON, HEZBOLLAH AND ISRAEL

Following the independence of Lebanon in 1943, Shiite factions of Iranian origin immigrated to Lebanon, and the Shiites were able to reach power there. The armed non-governmental group "Hezbollah" increased the influence of the Shiite movement by incitement and violence against the Lebanese government and Israel. The group did not suspend its armaments program, despite the political gains it had made.

The 15-year Lebanese Civil War (1975-1990) brought about a tremendous financial burden on the government, and thus caused intolerable social and political conditions throughout the state, while Hezbollah, since its establishment in (198), rushed to increase its influence. Daniel Byman (2008) remarks that when central governments are unable to meet the needs of the people, the armed non-state actor will rise to the surface to provide support. Hezbollah has evolved into confronting the Israel Defense Forces, one of the most advanced armies in the world.

The war with Israel in 2006 was a model for the conflict in which the non-state armed actor is a major influence, and apply the Just War Theory. Similar to the case of the Taliban with Al-Qaeda and the United States of America, Hezbollah's case with Israel has become an exception, as the state faces a non-state armed group host or incubated by another state, and here we may ask: How can a dialogue be held with a non-recognized party, "Hezbollah"? It is possible to assume that the host state will participate in the dialogue, but Hezbollah

is acting independently, without attention and care provided by the host state.

It is assumed that a sovereign state will settle the conflict in a mature diplomatic manner, but Israel responded to Hezbollah's provocations, thus expressing its lack of a long-term vision by using weapons against civilians, without regard to the consequences. This pattern of wild reactions has been repeated many times, and it reveals that the Israeli occupier influences military action on non-violent alternatives. Israel certainly has the right to protect its citizens and resources, but its use of excessive force suggests that Israel views Hezbollah as a peer state, not just a nuisance group in a neighboring country.

### Three conclusions can be drawn from this case:

1. It is a model for a hosting state (Lebanon) that benefits from an armed group "Hezbollah". Following the civil war, so Hezbollah rushed to provide its basic needs.
2. It shows the state's limited options to curb the expansion of an armed group, "Hezbollah."
3. It shows the influence of external parties (Iran and Syria) on the non-state armed groups "Hezbollah", and thus the host state (Lebanon) is exposed to both external interference and internal conflict.

## 3. PAKISTAN AND LOSS OF CONTROL

In Pakistan, the terrorists approached the borders, and they gave the necessary support to the terrorist campaigns in Afghanistan and India, and the scope of their influence extended after they claimed responsibility for the Stockholm massacre, as more than 200 people were killed, in addition to the assassination of moderate Muslim figures in Egypt and Morocco. The main purpose of the Pakistani President's resort to the United Nations to request the dispatch of peacekeepers was to avoid any potential war with India.

When we speak about goodwill towards a just war in this cloudy situation in Pakistan, what is meant is the motives that move the leader, and the means and ends for every potential conflict. St. Thomas Aquinas explains that the President should stave



off any interests when he made the decision to use force; rather, he should have been on the side of the greater interest of the country. Undoubtedly, the Pakistani President was seeking to gather the support of other countries and the United Nations to extend control over the rogue entities; if the President's intention was sincere, then he would seek peace and prosperity for his country.

Michael Walzer explains that Just War Theory proves its usefulness in understanding the hypothetical scenario in Pakistan, a special circumstance or a dire emergency, where the state has lost control over destructive weapons in the possession of a faction out of the control of the state's military apparatus.

## CONCLUSION

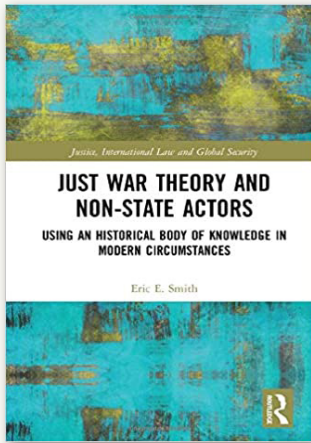
The research study on Just War Theory and its applications in the current situation enables decision-makers to strike a balance between the moral aspect of the conflict and the requirements of state protection. For the victim to settle the matter, the principle of justice should be established and a bad behavior should be apparent; while, non-state armed groups carry out acts of aggression without prior warning or legitimate authority.

In the Afghan scenario, the armed group was about to commit acts of violence against a foreign country; the victim had the right to respond to the attacks. In the case of Hezbollah, the clash with Israel makes us ask: Is it a real threat to Israel? The answer is no, simply because Israel has peaceful means available to settle the conflict, but it has preferred to use force to punish Hezbollah and expose the Lebanese civilians to unpredicted threat. The Pakistani scenario is rife in threats by weapons of mass destruction. This led the country to request international support and intervention.

What does success mean for armed groups? What are the criteria of success? If success is usually evident in achieving peace and stability for the general interest of the citizens, then Al-Qaeda makes its goals the destruction of the west with no compromise, seeking martyrdom-driven fight. As such, armed groups lack a redefinition of means and ends.

Why does it matter for us the issue of the breach of Just War Theory? This is important because it has imposed itself over thousands of years to be an ethical guide for the behavior of leaders and states and its influence on international law.





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# BOOK REVIEW 18



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