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WHAT IS THE CLASSICAL THEORY OF JUST CAUSE? A RESPONSE TO REICHBERG

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Gregory Reichberg's argument against my reading of the classical just war theorists falsely assumes that if just cause is unilateral, then there is no moral equality of combatants. This assumption is plausible if we assume an individualist framework. However, the classical theorists accepted quasi-Aristotelian, communitarian social ontologies and theories of justice. For them, the political community is ontologically and morally prior to the private individual. The classical just war theorists build their theories within this framework. They argue that just war is only waged by supra-individual political communities for irreducibly social ends. War by private individuals for private ends is always unjust. The ends sought in just war presuppose the justice of a hierarchy of authority over war such that the soldier is obligated to serve in war upon the command of his or her legitimate authority. In this way, the classical theorists accept a unilateral theory of just cause and a division of authority over war that entails the possibility of the moral equality of combatants.

KEY WORDS: Public war, moral equality of combatants, just cause, Augustine, Thomas Aquinas, Francisco Vitoria, Jeff McMahan, Gregory Reichberg

Introduction

In a recent issue of this journal (Parsons 2012b), I argue that the traditional just war theory conceives of just war as public war and that this understanding of war entails the possibility of the moral equality of combatants. I argue that recent critics of the moral equality of combatants are committed to the rejection of public war and the reduction of just war to private war. Further, I raise concerns about the implications of this rejection of public war for political society. The primary target of my argument is Jeff McMahan. Ultimately, I aim to situate his work in the history of just war thought and to reveal how extreme his views are.

Gregory Reichberg's (2013) response to me does not raise doubts about my immediate concerns with McMahan's theory. Rather, Reichberg criticizes my interpretation of the classical just war theorists, arguing that they could not (and do not) defend the moral equality of combatants. Regarding McMahan, Reichberg acknowledges that his theory of just war is a theory of private war in that it reduces to principles governing the justice of private self- and other-defense. Yet, in a concession to my position, Reichberg asserts that this is not how the classical theorists understood things. It is worth noting that McMahan claims that the classical theorists take views like his. In his *Killing in War*, for instance, he claims that in this respect he is 'reinventing the wheel' and he credits Reichberg for showing him this (McMahan 2009: 33 n. 26). Apparently, Reichberg rejects

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this account of McMahan's relationship to the classical theorists. In this regard, among others, Reichberg and I are in agreement. In my view, however, Reichberg does not fully appreciate just how distant the classical theorists are from McMahan. Once this distance is understood, we will see that Reichberg's reasons for thinking that the classical just war theorists could not endorse the moral equality of combatants are not persuasive.

The crucial disagreement that Reichberg and I have is over my claim that the theory of public war entails the possibility of the moral equality of combatants in a given war. For Reichberg, there is no such logical relation between public war and the moral equality of combatants. This is supported, according to him, by noting that the classical theorists both advocated public war and denied the moral equality of combatants. Their denial of the moral equality of combatants is revealed by their assertion that just cause for war is, to borrow the phrase, unilateral – if one side has just cause for war, then their opponents do not have just cause for war. Thus, there is a *prima facie* reason to hold that a theory of public war and a denial of the moral equality of combatants are consistent.

I do not deny that for the classical theorists just cause is unilateral. This much is quite clear. Reichberg's argument falsely assumes, however, that if just cause is unilateral, then there can be no moral equality of combatants. In fact, in a war between two public bodies, just cause can be unilateral and the combatants on both sides can be moral equals in the sense that they are fighting in full accordance with their personal responsibilities. On my reading, this is what the classical theorists believe.

I think that what leads Reichberg to assume that the unilateral character of just cause entails the denial of the moral equality of combatants is a failure to appreciate that the classical theorists, as *classical* theorists, hold that the political community, or commonwealth, is morally and ontologically prior to the private individual. They build their just war theories out of the framework of their quasi-Aristotelian communitarianism. For them just war is not reducible to an act of individuals seeking private ends but is an act of supra-individual political communities in pursuit of irreducibly social ends. Soldiers are conceived of as natural parts of the community whose obligation is to engage in war upon command for the sake of the communal whole. Not until 1625 did Grotius become the first systematic just war theorist, indeed the first systematic political philosopher of the modern era, to fundamentally break from this tradition by attempting to build a theory of justice and just war on a thoroughgoing individualist bedrock (see Haakonssen 1985; Schneewind 1998; Tuck 1979, 1999).¹

In this regard, the classical just war theories are fundamentally different from McMahan's. For his part, this is something that McMahan has simply failed to understand. In a wildly erroneous account, he says of the 'classical phase' of just war theory that 'Its tendency was to understand the morality of war as an adaption to problems of group conflict of the moral principles governing relations among individuals...' (McMahan 2008: 19).²

Once we recognize the communitarian character of the classical theories, we will see how public war, even though just cause is unilateral, entails the possibility of the moral equality of combatants. There is no space here to adequately defend my views. What follows is merely a sketch of my readings of Augustine, Aquinas and Vitoria on the relevant matters.³

Just Cause as Rectification of a Harm to the Common Good

When Augustine says 'It is the iniquity on the part of the adversary that forces a just war upon the wise man', he is asserting that a just war is waged in response to an injustice committed by the adversary. Thus, just cause is unilateral. The crucial question though is: What 'iniquity' gives one a reason for war? The answer is that it is only a harm to the common good of a supra-individual political community. A war has a just cause when it is fought to punish and thereby correct violations of the peace between harmoniously composed hierarchical political communities. For Augustine, only with this as its aim can a war have a just cause. Any war aimed at private benefit, even self-defense, is unjust. Just war is therefore not an act by private persons for private ends but an act by public bodies for public ends.

In his *The City of God against the Pagans* (CG), at XIX.12, Augustine famously says: 'Wars... are conducted with the intention of peace' (1998: 934). Augustine makes clear that peace is not simply the absence of conflict. Rather, it is the harmonious coming together of things in accordance with nature. Peace is achieved when, as he says at CG XIX.12, 'suitable things [come] suitably together' (Augustine 1998: 937). This harmony of parts is intrinsically good. Indeed, when it is perfectly complete it is the highest good that anything can attain. At CG XIX.11, Augustine (1998: 933) says that peace is the supreme and final end of all things. Perfect peace is perfect justice.

Although Augustine says that perfect peace is only attainable in the city of God and that the earthly city is inherently a corruption of Divinely ordained nature, he nevertheless asserts that there is a form of peace natural to the earthly city and he relies on it in his just war theory. Peace for the earthly city is the coming together of harmoniously composed patriarchal households into a harmonious relationship where each wholeheartedly embraces his position in a political hierarchy. CG XIX.13 says: '[T]he peace of a city is an ordered concord, with respect to command and obedience, of the citizens' (Augustine 1998: 938). The peace of the city is therefore an irreducibly social thing. Thus, when Augustine says that a just war aims at peace, he means that a just war aims to protect and maintain this natural social harmony. This social harmony is constitutive of the common good.

Augustine claims that violence done out of self-interest and not for the sake of the common good is unjust. In *On Free Choice*, Augustine (1994: 214) describes killing a person in defense of one's life, liberty or chastity as wrong. However, when a man is in a position of authority, whether as a head of household, a judge, a soldier or a king, he may use violence against others when it aims at and is done from a sincere regard for the common good.⁴ According to Augustine, the ruler of a political community is good in as much as he serves the common good of his own and other communities in his office. Just as it is the duty of a head of household to govern in the manner most appropriate for the whole household, as is said at CG XIX.16 (Augustine 1998), it is the duty of the ruler to govern the city in the manner most appropriate for the whole city.

Since just wars aim at peace, or the maintenance of a natural social harmony, unjust wars aim at unnatural social orders. Unjust rulers take their people to war for the sake of the subjugation or theft of people who are otherwise living harmoniously with others. In this way, unjust wars seek to position a person or people in an inappropriate

place in the natural global order. Unjust wars are a perversion of nature. As CG XIX.12 says:

[H]e who has learnt to prefer right to wrong and the rightly ordered to the perverse, sees that, in comparison with the peace of the just, the peace of the unjust is not worthy to be called peace at all. (Augustine 1998: 936)

When a ruler takes his people to war for unnatural ends, he gives others just cause to engage in war against him in order to rectify the wrongs committed. Without the antecedent injustice, there could not be a just war. Just cause is the rectification of injury to the social harmony of a naturally constituted political order. In this regard, just cause is not reducible to a relation between private individuals. Rather, it is a relation between a natural social order and those who corrupt it.

Aquinas holds a similar view of just cause. In his *Summa Theologiae* (ST) at II-II, q. 40, a. 1, ad. 3, Aquinas (2002: 242) endorses Augustine's injunction that just wars are only conducted for peace. For Aquinas too, peace is not a private thing. Rather, it is the unity of the commonwealth in accordance with nature, or the common good. In his *De Regno* at I. XVI, Aquinas (2002: 43) defines peace as 'the unity of a community'.

According to Aquinas, the violence that is done in war is only justified when it is done for the common good and cannot be justified when done for private ends. At ST II-II, q. 40, a. 1, ad. 2, Aquinas (2002: 241) responds to the charge that it is always wrong to wage war because it is contrary to Matthew's precept, 'resist not evil', by stating: '[A] man should always be prepared not to resist or not to defend himself if need be. But it is sometimes necessary to act otherwise than this for the common good....' Just as punishment of domestic criminals is only to be done for the sake of the common good of the whole (Aquinas 2002: ST II-II, q. 64, a. 2, 3, and 6), so is war only to be waged for the sake of the common good of the whole. At ST II-II, qu. 64, a. 7, *corpus*, Aquinas (2002: 263–264) insists that intentionally killing another human being can only be done for the sake of the public good and not for private ends.

Aquinas is less equivocal than Augustine on the issue of the natural character of the political community. Aquinas endorses the Aristotelian view of the commonwealth as a natural body, or 'perfect community', that is more than the sum of its individual parts. This supra-individual body has interests that cannot be reduced to the private interests of its parts. As he says at *De Regno* I.I, '[I]ndividual interests and the common good are not the same. Individuals differ as to their private interests, but are united with respect to the common good...' (Augustine 2002: 7). For Aquinas, the common good can trump the private good. At ST I-II, q. 91, a. 3, ad. 3, he says:

Just as one man is part of a household, so a household is part of a State; and a State is a perfect community, as is said at *Politics* I. And so just as the good of one man is not the final end, but is subordinated to the common good, so too the good of one household is subordinated to the good of the whole State, which is a perfect community. (Augustine 2002: 82)

For Aquinas then, just wars are fought by public bodies for the sake of irreducibly social ends. Unjust wars, however, threaten the common good. In this regard they are perversions of the natural global order. Just as sinners give the commonwealth the right to execute them to preserve the health of the community, so those who wage unjust wars give the commonwealth the right to war with them to preserve the common good.⁵

Contrary to Reichberg's (2013: 183) reading, when Aquinas says 'those who are attacked [in just war] deserve this attack by reason of some fault', there is no 'strong suggestion' that those who have committed some fault include all individuals participating in war. The phrase 'those deserving of attack' can easily be read as referring to commonwealths and their rulers as well as to sets of private individuals.

Vitoria, an avowed Thomist, echoes Aquinas' views on just cause. In his *On the Law of War* at 1.2.2, Vitoria (1991: 300) tells us that a commonwealth has the right to wage war to defend itself against injuries and to punish others for such injuries. For Vitoria too, just cause is unilateral. At 1.3.4 he says: '[T]he sole and only just cause for waging war is when harm has been inflicted' (Vitoria 1991: 303). The injury in question must be an injury to the common good. As he says at 1.1, a just war is fought for the sake of the common good of the commonwealth: '[T]he purpose of war is the peace and security of the commonwealth' (Vitoria 1991: 298).

Although it is analogous to the right of an individual to defend himself, the right of the commonwealth to war is not reducible to the rights of individuals. Just as it is for Aquinas, Vitoria's commonwealth is a supra-individual entity. At 1.2.3, shortly after asserting the right of the commonwealth to wage war, Vitoria defines the commonwealth in Aristotelian terms as 'a perfect community'. He defines a perfect community as that in which 'nothing is lacking' and is 'complete in itself' (Vitoria 1991: 301).

This view of the commonwealth is more clearly stated in Vitoria's (1991) often neglected *On Civil Power*. Relying heavily on Aristotle, at 1.2.1–4 he describes commonwealths and civil power as natural to mankind (Vitoria 1991: 6–10). He describes the commonwealth as an ontological whole that has rights that are foundationally distinct from the rights of private individuals. For him, the supreme value of justice is the common good, not the private good. Individuals are parts of the communal whole and may be used for the sake of the whole. At 1.4.2 he says:

[T]he commonwealth, in which "we, being many, are one body, and every one members one of another" as the Apostle says (Rom. 12:5), ought not to lack the power and right... to command the single limbs for the convenience and use of the whole. (Vitoria 1991: 11)

For these seminal figures in the just war tradition, just cause is unilateral but it is a right that is possessed by a supra-individual political community that has had its irreducibly social interests harmed. Just war is not carried out by private individuals who are pursuing their private interests but by supra-individual commonwealths that are pursuing public ends.

The Common Good and Authority over War

For the classical theorists, the common good not only grounds the commonwealth's right to war in response to certain injuries; it also grounds the right of political rulers to command subordinates in war. Indeed, the right of rulers to command subordinates in war is a constitutive part of the common good. For this reason, the classical theory of just cause is based on a more fundamental political theory subordinating subjects to rulers or other sovereigns.⁶ Thus, the theory of just cause presupposes an inequality of responsibility for the justice of war among the members of political communities. For the same reason that war is justified, soldiers are obligated to obey the commands of their rulers in matters pertaining to war. For the sake of the common good, responsibility for protecting the

common good via war resides uniquely with the political ruler or civil power. Reichberg (2013: 183) is not mistaken when he says of Aquinas, 'his formulation of just cause... makes no differentiation between political and military leadership, on the one hand, and subordinates, on the other'. Still, the theory underpinning Aquinas' principle of just cause does make such a differentiation.

As noted above, for Augustine, at CG XIX.13, peace is the aim of a just war and the peace of the earthly city consists of 'an ordered concord, with respect to command and obedience, of the citizens' (Augustine 1998: 938). In general, he says at CG XIX.13: '[T]he peace of all things lies in the tranquility of order; and order is the disposition of equal and unequal things in such a way as to give to each its proper place' (Augustine 1998: 938). Thus, for Augustine, there is a natural inequality among the members of the commonwealth. Justice consists in each member wholeheartedly embracing their place in the social hierarchy. Among other things, this inequality among individuals gives the rulers a responsibility for the justice of public acts that subordinates do not share. When a subordinate is ordered to, for instance, engage in war, he can engage in an unjust war yet be acting personally righteously. This view is rather clearly articulated by Augustine (1994: 220–223) in his *Contra Faustum*, which I quote in my original paper. In CG at I.21, Augustine (1998: 33) also describes a person under another's authority as 'the instrument' of the other. At I.26, he says explicitly that if a soldier commits murder while following the unambiguous orders of his authority, then he is not guilty of murder. Indeed, if that soldier disobeys such orders, he is guilty of 'desertion and contempt' (Augustine 1998: 39). The obvious implication of this passage is that the soldier is not guilty of murder *because he is obligated to do it* when ordered to by his authority.

Augustine does allow for one exception to the obligation to obey the ruler. In any case where a ruler commands subordinates to act contrary to Christian faithfulness and worship, they ought to disobey. In all other cases, however, subjects ought to obey. As Augustine says in *Enarrationes in Psalmos*:

Julian was an infidel Emperor, an apostate, a wicked man, an idolator; Christian soldiers served an infidel Emperor; when they came to the cause of Christ, they acknowledged Him only who was in heaven. If he called upon them at any time to worship idols, to offer incense; they preferred God to him: but whenever he commanded them to deploy into line, to march against this or that nation, they at once obeyed. (quoted in Deane 1963: 149)

For Aquinas too, the unique authority of the ruler over war is grounded in the natural composition of supra-individual political bodies, that is, the common good. According to Divinely ordained laws of nature, the common good is the harmonious ordering of a community into patriarchal households governed by a quasi-monarchical (or 'mixed') state.

Aquinas claims that dominion, or the authority of some over others, is natural to humanity. At *De Regno* I.I, he says this is so because, first, man is by nature a political animal and dominion is necessary in order to preserve the political community as a 'unity', as a 'body' (Aquinas 2002: 7–8).⁷ Without someone who has dominion over the whole, there is no political body but merely a multitude. This unity of the whole is not good because a unified community serves the private interests of its members. Rather, it is good because the commonwealth is a whole, or a 'perfect community', that is more than the sum of its parts. The unity of the commonwealth is thus intrinsically good and is not reducible to the private good of its parts.

Secondly, dominion is natural because some men are by nature superior to others. These superior people ought to be in positions of authority over others. Aquinas tells us elsewhere that those who fall under the authority of superiors are bound to obey their superior's orders. At *ST II-II*, q. 104, a. 1, *corpus*, he says:

[J]ust as in the divinely instituted natural order lower natural things are necessarily subject to higher things and are moved by them, so too in human affairs inferiors are bound to obey their superiors by virtue of the order of natural and Divine law. (Aquinas 2002: 58)

Indeed, given that this is naturally just, it is also intrinsically good. Aquinas says that obedience to a deserving authority constitutes a good and is thus the virtue of a subject. At *ST II-II*, q. 104, a. 2, *corpus*, he writes: 'Now obedience to a superior is due according to the divinely instituted order of things...and is consequently a good...' (Aquinas 2002: 60).

As Aquinas says at *De Regno* I.XIV, those in a possession of political authority are obligated to protect the common good of the whole community. This gives the political ruler complete authority to organize and regulate the political economy of the community, including the military forces, in order to realize and protect the common good. The ruler also has the right to assign members of the community to appropriate social roles (Aquinas 2002: 38–39).

This appropriately constructed social order and the roles that it assigns not only constitute the common good, they also constitute the virtue of each member of the group. What is appropriate for each individual is relative to his station in his community and its relation to the production and maintenance of the common good. As Aquinas says at *ST II-II*, q. 58, a. 5, *corpus*:

Now it is clear that all who are included in a community are related to that community as parts to a whole. But a part is that which belongs to a whole. Hence whatever is a good of a part can be directed to the good of the whole. It follows therefore that the good of any virtue whatsoever, whether the virtue in question directs a man in relation to himself or in relation to some other individual persons, is ultimately referable to the common good to which justice directs: so that all acts of virtue can pertain to justice insofar as justice directs man to the common good. (Aquinas 2002: 177)

The soldier is thus obligated to obey his ruler in things pertaining to war (Aquinas 2002: *ST II-II*, q. 104, a. 5, *corpus*). An obedient soldier is a good soldier (Aquinas 2002: *ST II-II*, q. 104, a. 2, *corpus* and *ad. 1*). This is because it is a soldier's purpose in the commonwealth to wage war when called upon by his legitimate king. Armies are raised by kings for the purpose of protecting the commonwealth against attack upon command. In this respect, soldiers *qua* soldiers are parts of the community that are to be used by the rulers for the sake of the preservation of the communal whole. This is grounded in the natural order of things. Aquinas clearly expresses this view of the soldier in his discussion of the self-love of Angels at I, q. 60, a. 5, *corpus*:

For we observe that the part naturally exposes itself in order to safeguard the whole; as, for instance, the hand is without deliberation exposed to the blow for the whole body's safety. And since reason imitates nature, we find the same imitation among the political virtues; for it belongs to the virtuous citizen to expose himself to the danger of death for the conservation of the whole body politic; and if man were a natural part of the state, then such an inclination would be natural to him. (Aquinas [1945] 1997: 563)

For these reasons, it is clear that Aquinas does not hold soldiers responsible for the justice or injustice of the wars they fight. A soldier's primary obligation is to obey his ruler, not to ensure that he only fight in just wars. This is clear from the above, but Aquinas also states it explicitly at *ST* II-II, q. 64, a. 3, *ad.* 1:

As Dionysius shows... responsibility for an act belongs to the person by whose authority the act is done. And so, as Augustine says... "He does not slay who is the servant of one who commands him, just as the sword is only the instrument of him who wields it." Hence those who slew their neighbours and friends at the Lord's command seem not to have done this themselves, but by His authority, just as the soldier slays the enemy by the authority of the prince and the executioner the robber by that of the judge. (Aquinas 2002: 255–256)

Reichberg is thus wrong when he says:

Aquinas never explicitly asked whether the wrong in question [the wrong that gives others just cause for war]... should be viewed as extending down the chain of command to rank and file soldiers or is best understood as a condition that pertains to leaders only. (Reichberg 2013: 183)

Aquinas, however, is more permissive of disobedience than Augustine. In particular, Aquinas says that when a ruler fails to govern according to his purpose as ruler, he loses the rights of authority and ought to be disobeyed by his subjects. In his *Scripta Super Libros Sententiarum* at II, d. 44, a. 2, *corpus*, he says that a ruler ought to be disobeyed 'when what is commanded by the ruler is contrary to the purpose for which the ruler was appointed: for example, if some sinful act is commanded contrary to the virtue which the ruler is ordained to foster and preserve' (Aquinas 2002: 73). This claim is similar to (though not the same as) the one that Reichberg attributes to Aquinas: 'soldiers are not bound to obey in an unjust war.' (Reichberg 2013: 184) How is this exception to the duty to obey to be reconciled with the above theory of the subjugation of the political subject and soldier?

The most obvious reading of Aquinas' views on political obedience is that the subject ought to obey all orders that are not patently unjust. If an order is patently unjust, the subject ought to disobey provided that disobedience would not damage the common good more than obedience. In all other cases, the subject ought to obey. Specifically, it is not the subject's duty to review all orders by his superiors prior to abiding by them to determine if they are appropriate. Indeed, such scrutiny of a superior is wrong. Unless it is obvious that an order is unjust, that an order comes from one's legitimate authority is sufficient to bind a subject to obedience. This view is clearly articulated by Aquinas in his discussion of the obligations of an executioner ordered to execute an innocent man. At *ST* II-II, q. 64, a. 6, *ad.* 3, Aquinas tells us that it is only when the sentence is manifestly unjust that the executioner should not obey his orders:

...if the sentence contains an intolerable error, the executioner who is to carry out the sentence of the judge who has condemned an innocent man should not obey him; otherwise the torturers who slew the martyrs would be excused. If, however, the sentence does not contain a manifest injustice, he does not sin if he carries out the judge's command, for he has no right to scrutinize the judgment of his superior; nor is it he who slays the innocent man, but the judge at whose behest he acts. (Aquinas 2002: 262)

Applying this view to soldiers, the soldier ought to obey all commands from his legitimate prince without critical review. If an order is received that is unjust on its face, the soldier

ought to refuse to obey provided that disobedience would not be more damaging to the social harmony than obedience. Thus, the occasions on which a soldier ought to disobey an order to serve are not coextensive with the occasions on which those orders are to do something unjust. Thus, a soldier can be obligated to serve in a war that is objectively unjust provided that he has been ordered to serve by his legitimate ruler and the order is not to do something patently unjust. This is similar to the view of the duties of soldiers in public war that I articulate in my original paper (Parsons 2012b: 309, 314–315).

Vitoria's views on these matters are not as simple. This is because Vitoria is simply not consistent and speaks with two minds. This dualistic character to Vitoria's just war theory is, on my reading, a seminal development in the history of systematic just war thought. It is an expression of the difficulties of coherently articulating a theory of political authority over war and a plausible theory of discrimination in war, a difficulty that only becomes more intractable when we embrace an individualist theory of justice. Systematic just war theory is still struggling to overcome this challenge.⁸

On the one hand, Reichberg correctly interprets Vitoria's theory of discrimination as based on the view that combatants, including soldiers, can be intentionally killed in war because they are liable to such treatment as a result of their participation in the unjust war. Here, the injury that gives others just cause for war is an injury that soldiers are wrongly committing even when acting under the orders of their legitimate ruler. They may be excused from blame for their participation, but they have done wrong nonetheless. In this regard I do not have substantive disagreements with Reichberg's readings of the passages that he cites.

On the other hand, however, Vitoria, as we have seen, clearly endorses the Thomist position that the commonwealth is a supra-individual whole and that war is conducted by such entities for the sake of the irreducibly social common good. Vitoria dissents from Aquinas, however, by distinguishing the authority of the whole commonwealth over its parts from the authority of rulers or heads of state over the commonwealth. The authority of the prince is not a natural part of the commonwealth but is 'transferred' from the commonwealth to the prince. Still, the authority of the commonwealth as an ontological whole over its parts is natural. In his *On Civil Power* at 1.2.4, Vitoria (1991: 9–10) argues that a civil community without the civil power to govern itself in accordance with the common good is not a community but a mere multitude. Thus, civil power, or political authority, is natural to human community.

At 1.7, Vitoria (1991: 18–19) argues that once the commonwealth transfers its civil power to a ruler, the commonwealth loses all rights and is in absolute subjection to the king. Vitoria was very much concerned by the justifications of revolution promulgated by late renaissance republicans. Against these 'heretics and schismatics', Vitoria sought to render the authority of the ruler absolutely binding and permanent. Contrary to Aquinas, at 3.6, Vitoria (1991: 42) says that even a tyrant is not to be opposed by his subjects.

Vitoria articulates virtually the same view of the duties of soldiers in war as Aquinas. For Vitoria, the ruler has unique responsibility over the justice of war. He describes the soldier as an ontological part of the supra-individual commonwealth that may be used by the civil power in war for the sake of the whole. At 1.4.2, he says:

[E]very man has the power and right of self-defense by natural law, since nothing can be more natural than to repel force with force. Therefore the commonwealth, in which "we, being many, are one body, and every one member one of another" as the Apostle says

(Rom. 12:5), ought not to lack the power and right which individual men assume or have over their bodies, to command the single limbs for the convenience and use of the whole. Individuals may even risk the loss of a limb if this is necessary to the safety of the rest of the body; and there is no reason why the commonwealth should not have the same power to compel and coerce its members as if they were its limbs for the utility and safety of the common good. (Vitoria 1991: 11)

Political subjects generally are not responsible for ensuring that they only obey orders that are just. Vitoria argues that typical subjects are not morally required to examine the reasons behind the sovereign's decision to wage war. Concern with such matters is simply not part of the subject's civic responsibility. Rather, this responsibility is solely the sovereign's as well as anyone the sovereign asks for assistance in examining the matter. In *On the Law of War* at 2.2.3, Vitoria says that aside from other high-ranking officials and those who counsel the sovereign:

lesser subjects who are not invited to be heard in the councils of the prince nor in public council are not required to examine the causes of war, but may lawfully go to war trusting the judgment of their superiors. (Vitoria 1991: 308)

At 2.3.5, he argues that in cases where a subject has reason to doubt the justice of his sovereign's war, he is still obligated to serve because obedience to legitimate authority is an independent moral duty grounded in nature. To think otherwise is to assume that, 'If I am in doubt whether the prince's war is just or whether the cause of a particular war is just, it follows immediately that I must doubt whether or not I may lawfully fight.' But, Vitoria argues:

I admit that it is never lawful to act against a conscientious doubt, so that if I am in doubt whether I should act or not it is a sin to act. But it is incorrect to deduce that if I am in doubt as to whether the cause of war is just, I must therefore doubt whether I may lawfully make war, or fight in that war. In fact, we must deduce just the opposite: if I am in doubt about the justice of war, it follows that it is lawful for me to go to war at the command of my prince. In the same way, if an officer of the law is in doubt whether the judge's sentence is just, it is quite invalid to conclude that he must doubt whether he may lawfully carry out that sentence; on the contrary, indeed, he knows very well that he is required to carry out the sentence of his superior. (Vitoria 1991: 312)

At 2.2.1, Vitoria (1991: 307) says that in cases where the sovereign's war is patently unjust, that is, it is unjust on its face, subjects are obligated to disobey the sovereign. Thus, the occasions on which soldiers ought to disobey orders to serve in war are not coextensive with the occasions on which those orders are to serve in an unjust war. Thus, soldiers can be obligated to serve in a war that is objectively unjust provided that they are ordered to by their legitimate authority and the order is not patently unjust. Again, this is not significantly dissimilar to the view of the duties of soldiers in public war that I express in my original article. Although Vitoria contradicts this view in his discussion of discrimination in just war, it is nevertheless found in his works.⁹

Conclusion: Unilateral Just Cause with the Moral Equality of Combatants

The presumption that a theory of just cause that is unilateral entails the denial of the moral equality of combatants is plausible if we assume that the private individual is ontologically

prior to the political community and justice is reducible to the rights or interests of equal private individuals. Within an individualist framework like this, it would seem that the wrong that gives others just cause for war is simultaneously a wrong that is attributable to the individuals, including soldiers, who participate in the wrong.

However, the classical just war theorists rejected this kind of individualism and embraced a pre-modern quasi-Aristotelian theory of justice. For them, justice is the natural ordering of supra-individual political communities. Just war is carried out by such entities in response to harms to their irreducibly social interests, that is, the common good, and aims at protecting those interests. War waged by private agents for private ends is always unjust.

The same concern for the commonwealth grounds the duty of soldiers to obey their political superiors. War is justified by the supremacy of the common good and the common good is constituted in part by a division of authority between sovereign and subject such that subjects, including soldiers, are obligated to obey their sovereign in matters pertaining to war. Thus, the classical theory of just cause presupposes a division of responsibility for just war that gives political authorities unique responsibility for the justice of wars. Subjects who are ordered to serve in war by their legitimate sovereign can be obligated to serve in war even though the war is objectively unjust. Thus, soldiers who are serving in an unjust war can confront soldiers serving in a just war as moral equals in the sense that, personally speaking, they are equally doing what they are ethically obligated to do, that is, serve in war upon the command of their legitimate sovereign. Thus, for the classical theorists, there is no conflict between a unilateral theory of just cause and the moral equality of combatants.

McMahan and the classical theorists may both have unilateral theories of just cause but their dissimilarities are much more noteworthy.

I am not sure precisely how or to what extent this reading of the just war tradition upsets Reichberg's distinction between the just war and the regular war paradigms, but it does seem to have revisionary implications. For instance, Reichberg (2008: 208–209) has claimed that one of the distinctive characteristics of the regular war paradigm is the view that war is a relation between sovereign states and soldiers are instruments of the state. On my reading, the classical just war theorists would not radically disagree.¹⁰

NOTES

1. Of course, this should not be taken to mean that Grotius' just war theory is substantively similar to McMahan's.
2. See also:

Classical accounts of the just war were individualist in character, in that they applied principles that were thought to govern moral relations among individuals outside the context of war to individual action in war...although the individual combatant's relation to the sovereign might mitigate his responsibility for his action in war, individuals and their acts were nevertheless the basic units of evaluation rather than collectives and collective action. (McMahan 2010: 494)

Thanks to Omar Dahbour for directing me to this passage.

3. For a more detailed treatment, see Parsons (2012a).
4. See *Against Faustus the Manichaeon* (Augustine 1994: 221–222).

5. On this statement of the justification of punishment, see *ST II-II*, q. 64, a. 2, *corpus* (Aquinas 2002: 253–254).
6. This reveals a crucial difference between classical just war theory and most contemporary approaches to military ethics, including McMahan's. For the classical theorists, the ethics of war is not, as it is for many contemporaries, an interpersonal ethics that is prior to political theory. Rather, military ethics is applied political theory and is grounded in a comprehensive theory of the just political society.
7. See also *ST I*, q. 96, a. 4, *corpus* (Aquinas 2002).
8. As I read him, Walzer, for instance, struggles (and fails) to overcome this challenge. See Parsons (2012c).
9. I would argue that the contradictory views of the duties of soldiers that Vitoria juggles explains his description of the invincibly ignorant soldier in an unjust war as alternately excused and justified in fighting in *On the Law of War*, 2.4.2 (Vitoria 1991: 313).
10. In case it is not clear, I am honored that Gregory Reichberg has shared his rendering of the history of the theory of public war and the moral equality of combatants in response to mine. The scope and precision of his knowledge of the history of the philosophy of war and peace is an inspiration to me.

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