

Humanism as *Casus Belli*: Carl Schmitt's Critique of Just War Theory*

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This article deals with the critique of Just War Theory (JWT) which appeared in the works of Carl Schmitt. JWT was revived in the middle of 1900s and was treated as an absolutely secular direction for military ethics. However, being Christian in its origin JWT retained a certain religious reasoning. This call for political morality could be compared to an appeal to divine law, but outside of the Christian context it loses its validity and weight. These features of JWT were noticed by Schmitt who offered the concept of bracketed warfare instead. The bracketing of war was an essential component of *jus publicum Europaeum* and it presupposed the recognition of an enemy as equal. Bracketed war was defined in political and legal terms and did not presuppose moral or religious evaluation of armed conflicts. In the 20th century bracketing of war was replaced with discrimination of war as morally and legally unacceptable act. JWT served as a theoretical foundation for this change. Though it is the prerogative of JWT to prove itself as an attempt at humanism, the invasion of morality into politics, from Schmitt's perspective dehumanizes the enemy and increases the totality of a conflict. Schmitt insisted on purifying the political sphere from all moral constituents in order to make it more balanced. A mere political approach to war made Schmitt's theory of bracketed war more humane and reasonable than JWT.

Keywords: war, JWT, bracketing of war, human rights, humanitarian intervention, Carl Schmitt

Introduction

Just War Theory (JWT) was revived during the Vietnam War, and proved its value and urgency in the 1990s when humanitarian intervention was actively discussed and carried out, especially after the September 11 attacks when the war on terror began, and as interest in the political thoughts of Carl Schmitt was rekindled. In spite his connections to Nazism, Schmitt is an important source for different authors. Moreover, we suppose that the presence of Schmitt's ideas in the contemporary agenda of political theory can be explained by the restoration of JWT.

The current dominant perception of Schmitt is as an inhumane bellicist, and this point of view will be critically evaluated in this paper. The central thesis of the article is that

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Schmitt expressed in his critique of JWT an alternative approach to an understanding of humanism and humanity. In discussing the ambiguity of JWT, we cannot avoid considering Schmitt's point of view on the application of ethics to politics. From a Schmittian perspective, true humanism could not legitimize any war because the lethal force used in war is incompatible with the very idea of human dignity. As Schmitt noticed, "Humanity as such cannot wage war because it has no enemy, at least not on this planet" (2007b: 54). Applying the term humanism to war is a logical fallacy, unless a rhetorical or ideological trick.

This paper, first, considers briefly the status and essence of contemporary JWT. Why and how has this theory returned from oblivion and what has reinforced it? Second, turning to a critical treatment of this normative theory of war in Schmitt's political theory, we will consider which JWT, and who, he was criticizing, as JWT has a long history and different traditions and modifications. Some of its premises can be found in the writings of Aristotle and Cicero, later it was developed by Christian political philosophers and then was restored in the second half of the 20th century within the framework of Anglo-Saxon political philosophy. Third we reveal Schmitt's arguments against JWT. Fourth, we raise the question of Schmitt's specific criticism of the humanism of the political. The humanistic aspect of the political is often overlooked by those who read Schmitt and this leads to the accusation in militarism and radical conservatism, which is, in fact, unjust.

Conflicts of the Present and JWT

As we noted above, JWT in the West was elaborated by Christian scholars, primarily by Augustine of Hippo and Thomas Aquinas who rejected early Christian pacifism and stated that divine sanction allows the use of force. The Christian doctrine of *bellum justum* was carefully worked out in the Middle Ages and reached its zenith in the School of Salamanca, in the works of Francisco de Vitoria and Francisco Suarez. In the 17th century, Hugo Grotius stimulated the secularization of JWT. Immanuel Kant is usually identified as the last classical philosopher to support JWT, although there are different views on Kant's position on the ethics of war and many authors do not treat Kant as a just war theorist. However, we will leave this question aside since localization of Kant's thoughts within the framework of normative war theory is beyond our scope. It is only important to note that in the 18th century, Kant discussed war and peace without reference to divine sanction. After Kant, JWT suffered a theoretical crisis and there were only a few prominent adherents of this doctrine in the 19th century. John Stewart Mill is an exception with his essays "On Liberty" and "A Few Words on Non-Intervention." The lack of theoretical development of JWT is apparent even for its contemporary disciples—"it really is remarkable that it was not until the mid-1900s that just war theorists equal to the stature of Grotius, Pufendorf and Vattel appeared" (Orend, 2006: 20).

There are a number of reasons for this decline. Probably the most important is the systemization of international law which began in the 19th century. Theorists were involved in peace conferences, where they discussed treaties and conventions elaborating the laws

of armed conflict. As Orend described this process, “many of the diplomats, academics and lawyers who worked on such treaties and codes would have made first-rate just war theorists. But the opportunity was ripe for them to engage in legal construction instead of theory-building, and so pragmatically they chose the former” (Ibid.). Only in the middle of the 20th century, did the works of Josef McKenna, Paul Ramsey and finally Michael Walzer appear, heralding a significantly renewed tradition of justification of war which had nothing to do with Christian political philosophy. The process of secularization was complete.

At present, JWT is a very heterogeneous area of military ethics. It is impossible to treat JWT as a group of schools each concentrated around one scholar or a group of classical authors. However the theory has a “core” approved by most just war authors. This core is a set of principles which determines the conditions which make a declaration of war justified (*jus ad bellum*) and which methods of waging war are humane (*jus in bello*). The moral acceptability of war is justified if going to war meets the requirements of both *jus ad bellum* and *jus in bello*. A discussion on a third category of just war, defining how to finish an armed conflict properly (*jus post bellum*) has recently begun. This third category has prominent advocates (Orend, 2006; Allman, Winright, 2010), however it has not been embraced by all just war theorists.

Contemporary JWT postulates that there could be circumstances when resorting to war would be not only wishful but also a morally acceptable way to resolve a conflict. Just war theorists assume lethal force may be used legitimately only for the restoration of justice or the protection of human rights and freedoms. However, just war doctrine has a property that often remains unexpressed but which is important for our discussion on Schmitt’s criticism of this theory. Just war theorists usually divide the world into those who are right and just, and those who are not, in other words into those who are morally competent and incompetent. This division is implied if not stated explicitly. St. Augustine, considered the father of JWT, elucidated this ontological dichotomy of the world: “But the wise man, they say, will wage just wars. Surely, if he remembers that he is a human being, he will lament that fact that he is faced with the necessity of waging just wars; for if they were not just, he would not have to engage in them, and consequently there would be no wars for a wise man. For it is the injustice of the opposing side that lays on the wise man the duty of waging wars” (Augustine, 2003: XIX, 7, 861–862).

This appeal to reason and wisdom, defined by Augustine, in a very platonic manner as knowledge of justice, may be found in contemporary just war language. JWT proponents understand themselves to be defenders of humanity and disciples of the pacifist ideal of perpetual peace but who are not afraid to do the “dirty work”—to use military force when necessary. In their struggle for peace, just war theorists suggest strictly limiting cases where war could be declared without committing a crime. Although the doctrine of *jus ad bellum* presumes that the criterion of just cause (*causa justa*) should be supplemented by a number of related principles—among them are proportionality, discrimination, probability of success, right intentions and legitimated authority — this latter criterion is absolutely dominant.

The list of just causes expanded in the 20th century because of dramatic changes in international relations and the rise of new types of armed conflicts. Just war theorists of the past admitted only two just causes of war: self-defense and the assistance of an ally fighting a defensive war. Ever more often we talk about the so-called new wars or non-classical wars, which have become the dominant type of armed conflict in the past few decades. Several features are inherent to non-classical wars: asymmetry (the collision of unequal political subjects); the low intensity of conflicts; identity politics (ethnic, religious or tribal); and the financing by predatory economic activities, such as pillage, the “taxation” of humanitarian aid and, kidnapping (Kaldor, 2013). Contemporary just war theorists have tried to adapt the theory to this context as otherwise it would remain incomplete and out-of-date. Orend suggests there are four more cases when the arms could be used legitimately—the war on terror, intervention in civil wars, an anticipatory attack, and humanitarian intervention (Orend, 2006: 68).

Civil war itself is not a new type of a conflict, but just war theorists are concerned with the problem of justifying an intrusion into a country where a civil war has begun. Orend, amongst numerous other philosophers, states it would be morally acceptable to assist a group rebelling against the oppression of an unjust and criminal government. In the middle of the 19th century John Stuart Mill stated that if people trying to throw off the yoke of tyranny “have not sufficient love of liberty to be able to wrest it from merely domestic oppressors, the liberty which is bestowed on them by other hands than their own, will have nothing real, nothing permanent” (Mill, 1988: 6). In fact this notion is usually ignored. Intervention in a civil war is considered to be morally permissible if it is aimed at a tyrant who “has no moral reason to exist” (Orend, 2006: 84).

Further, terrorism has become a generally recognized global threat. World powers carry the most notable losses in collisions with terrorist or rebel groups.¹ Terrorism is regarded as a just cause for resorting to arms as it is “always an impermissible tactic, since it involves the deliberate killing of innocent civilians” (Orend, 2006: 70). Human rights are understood as basic values and a state should ensure the security of its citizens and prevent them from terrorist threats by any means.

An anticipatory attack or pre-emptive strike is the third new just cause. In certain circumstances, force may be used to repel potential aggression. The justice of an anticipatory attack is confirmed by a “credible, grave and imminent threat” (Orend, 2006: 76). JWT is concentrated on the notion of the defense of human rights, and missed opportunity to prevent aggression can be considered a lack of competence and diligence to protect citizens.

Lastly, the fourth new just cause is humanitarian intervention, which is probably the most important and contradictory pro war argument. Humanitarian intervention has become one of the crucial arguments of political philosophy and war ethics over the last 20–30 years. In contrast to other just causes of war, humanitarian intervention gains not only political but also sacred meaning because it appeals directly to the univer-

1. See The Uppsala Conflict Data Program datasets: <http://www.pcr.uu.se/research/ucdp/datasets/>

sality of human values. It presupposes that the human rights protector obtains a specific *auctoritas spiritualis* which allows the use of arms.

Humanitarian intervention can be considered a pre-emptive strike which is treated now as a just cause of war, as we noted above. This type of war rests on the idea that human rights violations are an international crime and must be punished. If there is desperate trouble—government massacres, ethnic cleansing, or criminal groups oppressing innocent people—a foreign army should intervene. Civilians cannot always resist mass slaughter, therefore another country cannot wait until the situation is resolved of its own accord. As Walzer wrote, “We don’t require that they [civilians] pass the test of self-help before coming to their aid. It is their very incapacity that brings us in” (Walzer, 2006a: 106). Human dignity should be protected even by armed force.

This amendment of JWT and especially of the *jus ad bellum* categories reveals the typical logic of the theory. Justification of war implies the rectification of an injustice, and the punishment of the offenders: the tyrant loses the moral right of existence; terrorism is by definition impermissible; a political community accused of human rights violation is deprived of the protection granted by international law.

These supplementary just cause principles are controversial as contemporary JWT lacks an important feature possessed by the Christian JWT. That theory is based on the Christian dogma appealed not merely to ethics but also to divine law. Reference to divine law made a war of self-defense or even an offensive war just, as it was a measure to punish sinners.

Secularized JWT can be supported only by positive law, which lacks the degree of universality peculiar to divine law. However, contemporary JWT is based on the claim that its principles and values protected by them are universal. The justification of war which was based on traditional religious reasoning is replaced now by something quasi-religious—science or morality—which pretends to gain the same immense force and absolute status as religious faith. This peculiar property of group belief was mentioned by Durkheim: “When a somewhat strong conviction is shared by a single community of people it inevitably assumes a religious character” (1997: 119). Nietzsche also pointed out this tendency to exalt common beliefs. He wrote about the “Will to Truth” as a new divine truth, new faith that was offered at the altar, but at the very altar where mankind have already “slaughtered one faith after another” (Nietzsche, 2001: 201). JWT works in exactly the same way, when it offers morality as a universal political value. This looks ambitious in the political sphere. Lee, in an analysis of Tony Blair’s moral justification of the military operation in Iraq in 2003, noted this doubtfulness saying that morality joins politics only when a “solid legal case for war could not be demonstrated” (Lee, 2012: 316). This unconvincing use of morality as a basic foundation of politics makes the consideration of Schmitt’s critique of JWT all the more relevant.

Carl Schmitt as a Critic of JWT

The writings of Schmitt on the problems of war and peace were written in the middle of the 20th century, at a time when interest in just war doctrine had almost been lost. However, from Schmitt's point of view, integrating just war thinking into military ethics or international law was dangerous. If one side may appeal to justice, the idea of the equality of political actors disappears. It was evident to Schmitt that JWT complicated and embittered modern warfare. An inevitable question arises in this context: which JWT was criticized by Schmitt? Another related question—and maybe more important—is Schmitt's skepticism and critique still relevant to contemporary JWT restatements?

The works of Schmitt contain many references to authors of European political science, some of whom belonged to the *bellum justum* tradition, including Augustine, Aquinas, Vitoria and Suarez. But it is almost impossible to find references to any contemporary just war author in his texts. Schmitt mentioned American international law theorist James Brown Scott who advocated a “return to the Christian-theological doctrine of just war” (Schmitt, 2006: 321) and a move to a discriminatory concept of war. Scott's book *The Spanish Origin of International Law: Francisco de Vitoria and His Law of Nation* (2000) may be regarded as a contribution to JWT, although this work was concentrated primarily on Vitoria's influence on contemporary international law and should be considered as a qualitative historical review on this matter. And, after all, criticisms of Scott appear in Schmitt's works in a terse form. Schmitt did not mention or quote any other contemporary just war theorist. We have to assume, therefore, that Schmitt's criticism was concentrated on catholic authors of the late Middle Ages, first of all on Vitoria and Suarez.

Schmitt's criticism was retrospective as he disputed the scholastic just war doctrine. It should be noted that retrospective criticism of JWT is not uncommon. In the same period, Hannah Arendt criticized this doctrine in her book *On Revolution*. She argued against Aristotle's idea of the justice of war against barbarians, which was compared to hunting for slaves. Some Antique authors agreed on this matter, Titus Livius could be an example, though the argument for legitimizing war for enslavement was not repeated either in the Middle Ages, or in the Modern Era; no one supported Aristotle's Hellenic chauvinism. Perhaps Arendt's retrospective criticism of JWT missed the target, while for Schmitt the retrospection was appropriate and deliberate.

Schmitt concentrated on the past but he guessed the coming of a new trend in the ethics of war, realizing that the reasoning typical for Christian JWT had become relevant again. His retrospection was foresight at the same time. Nor was Schmitt confined to criticism of the School of Salamanca (with Vitoria and Suarez as its most prominent scholars). He was engaged in theoretical disputes and in the debates on the practicalities of public law. Schmitt argued not only with the classics of JWT, but also with those who developed the international legal system after the First World War and who adapted the concept of justice to the political sphere. Justice in international politics (the core of JWT) included the legal discrimination of the enemy and war. Schmitt used this concept—“discrimination”—in order to emphasize radical change in understanding of war.

According to Schmitt, discrimination of war as aggression or criminal act would lead to an outbreak of international civil war that eventually would be the last war of humanity. JWT was criticized by Schmitt for both theoretical and practical ambiguity.

However, the question of Schmitt's urgency remains open. Is it possible to use Schmitt's arguments against the modern, secularized forms of JWT, with Michael Walzer as their patriarch? Walzer being a left-wing theorist did not require archaic—in his understanding—religious arguments when he was working on “Just and Unjust Wars.” Walzer's concept was based on logic, reasoning and the ethics of common sense. But as Schmitt noted in *Political Theology*: “All significant concepts of the modern theory of the state are secularized theological concepts not only because of their historical development . . . but also because of their systematic structure” (Schmitt, 1985: 36). JWT updated its exterior but the internal content has not changed essentially as it kept a scholastic logic for the justification of war.

As Brown explained, faith was a significant element of medieval JWT. The authors who developed the *bellum justum* doctrine in the Middle Ages expected the Antichrist's advent. This anxious expectation manifested itself in the political thoughts of *respublica Christiana*, which “believed itself to be under potential assault from the Antichrist” (Brown, 2007: 64) and was ready to play the role of Antichrist restrainer. Augustine and many other authors expressed same ideas. Contemporary JWT is secular in the sense that it does not need direct references to religious reasoning in order to legitimize warfare. But, as we said above, its logic and form imply there should be a kind of strong faith that makes use of force morally permissible. Prioritizing human rights, freedom and Orend's concept of the “minimal justice of a state” constitutes this new faith. In this context, it would be wrong to call Schmitt's critique retrospective, as we said above, inappropriate or outdated. Schmitt stated that in our time, when religious rhetoric is removed from politics, a moral justification of war would lead to a dangerous mode of political thinking and the expansion of war.

Schmitt's relevance is supported by the specificity of his arguments. There are several major ethical doctrines of war besides JWT—realism, pacifism and militarism. And there are authors who cannot be attributed to one of these traditions as they have offered an original approach to the philosophy of war. Schmitt's position diverges from political realists and other JWT opponents. Realists suppose that a state pursuing its national interest may use any means regardless of morality. Schmitt concurred with the realists in this respect but he went further declaring war to be a key characteristic of the global political order. Brown, comparing Schmitt with the British political theorist Ken Booth, wrote: “Schmitt makes much the same criticisms of the idea of Just War as Booth and other radicals but goes further, providing a fully worked-out context within which these criticisms make a great deal of sense. Moreover, although Schmitt does have some affinities with at least classical realism, his critique of Just War is far more deeply grounded than their critique” (Brown, 2007: 58). Schmitt is deeper and keener than the classicists of political realism to which he is moderately close. This explains the interest in Schmitt

among those who need to reinforce a realistic or conservative approach in arguments with the modern liberal JWT.

Arguments against JWT

Despite the fact that Schmitt criticized medieval religious JWT, his criticism is still relevant for two reasons. First, Schmitt mentioned that system of international law which utilized some assumptions of JWT returns the world to an unbalanced condition comparable to medieval times when war might be waged not only for political reasons. In addition to his belief that the ethical doctrine of war was incorrect, Schmitt found it dangerous because of its inherent potential to legitimize unrestrained warfare. This cruelty, as we know from history (at least, from the form of history that was described by Schmitt) was typical for religious and feudal wars. Second, contemporary JWT tends to see its basic foundations as a universal dogma which makes them similar to religious norms. JWT, from this point of view, is a methodology of contradictory moral justification for violence used for the sake of universal human values or humanity itself.

Now we will look more closely at the reasons that made Schmitt reject JWT. Schmitt suggested that the transition from bracketed warfare (or the non-discriminatory concept of war) to discriminatory war was a key move of the last two centuries. The golden era of *jus publicum Europaeum* (international law of European states)—as Carl Schmitt characterized the period between 1648 and 1918—established the tradition of the bracketing of war. This bracketing was guaranteed by a specific political order that presumed the equality of political bodies involved in a conflict. As Vattel notably proclaimed “the law of nations is the law of sovereigns; free and independent states are moral persons” (Vattel, 1916: 12). An adversary was recognized at that time as a sovereign state; his legal status as a *justus hostis* (just enemy) undoubtedly meant that there were always legal ways to regulate an armed conflict: by concluding peace or capturing the enemy’s territory. In addition, civilian immunity was unquestionable since noncombatants were excluded from being legitimate targets of war.

Bracketed war exhausted itself with the beginning of the total war era. The treaty of Versailles was “not a treaty and not peace and certainly not a peace treaty in terms of international law, but condemnation of the victors over the vanquished” (Schmitt, 1979: 103). The indictment of this treaty launched the process of the discrimination of war. International law condemned the enemy in categories of criminal law, and offensive wars were banned as aggressive.

This legal and moral denunciation of the military sphere removed the unique status of classical European laws of war and peace. The treaty of Versailles and subsequent international legal norms “in essence [rejected] the differentiation between combatants and non-combatants” (Schmitt, 1999: 34) and therefore rejected the differentiation between war and peace, which made the identification of the enemy impossible. Schmitt is too strict and harsh in this accusation of Anglo-Saxon (as he calls it) international law; modern international humanitarian law and JWT are extremely concerned about the distinc-

tion between combatants and non-combatants and civilian immunity as inalienable part of their mission. The problem is whether the ethical evaluation of war would serve as a deterrent to conflict escalation since now “the *justice* of a war is, more than anything else, fundamental to its totality” (Schmitt, 2011: 31).

The discrimination of war as a criminal act causes confusing situations when a state describes its activity not as a war but as, for example, police action or peace-keeping operations. This has become more apparent after the death of Schmitt. Benoist in a recent essay calling into question Schmitt’s impact on contemporary American policy noticed that *jus publicum Europaeum* “excludes the very idea of ‘international police’” (Benoist, 2013: 23). However, although the conflicts of our time could be designated as police operations, international police could operate only in a world civil society or *civitas gentium* (state of nations). This political and social structure is an unattainable ideal as “each state places its majesty (for it is absurd to speak of the majesty of the people) in being subject to no external juridical restraint” (Kant, 2007: 17). Another contradiction appears when we look at the forces that conduct such police operations—that is armies rather than police. The army is not empowered to assume police duties as the “institution of the police in the modern sense of the term [is] the instrument by which one prevents the occurrence of certain disorders” (Foucault, 2007: 353–354). The army as an international police would have to undertake negative functions to suppress disorder. That in turn presupposes the existence of a special global order, while this global order is as unattainable as *civitas gentium*. “[I]nternational law is, after all, a ‘right of war and of peace’, *jus belli ac pacis*” (Schmitt, 2011: 31). This global order could appear only after states stop fighting.

Another dangerous tendency changing the essence of war, according to Schmitt, is the recognition of irregular forces which would be impossible in other circumstances. Irregular forces have demanded acknowledgment as legitimate political parties. Among them are insurgents, partisans and, we may add, terrorists. These new actors know neither the bracketing of war, nor the laws of war. It is obvious for Schmitt that

[F]or rebels, recognition as belligerents meant an extraordinarily significant and fundamental upgrading of their status. For the legal government in question, it meant a downgrading and a serious intervention. . . . What appeared, both internally and externally, to one side to be rebels, treason, felony, and criminality, and to the other side to be prosecution of crimes, administration of justice, and police action, now became for the recognizing state a *bellum justum*. (Schmitt, 2006: 299)

Bracketed and restricted war has been replaced by just and humanitarian war, but armed conflicts have not become more humane or rational. This can be seen in the fact that the majority of victims in contemporary wars are not soldiers but civilians. A partisan or terrorist victory, or victory over partisans or terrorists does not imply concluding peace and signing a treaty; only the complete destruction of the opponent. Irregular war contains the permanent threat of the transformation into the last war of mankind, into a global civil war which affects everyone and which would be international *bellum*

omnium contra omnes. The integration of liberal JWT into international law provoked this intensification of unrestrained irregular hostility.

JWT vindicates war in the name of universal values, such as justice, freedom, democracy. The problem is whether there are any truly universal values, commonly shared and approved by every political community. Furthermore, what was important for Schmitt, was that war as a political means should be void of moral, religious or any other value. It cannot be justified or morally cleansed while the “physical destruction of human life is not motivated by an existential threat to one’s own way of life” (Schmitt, 2007b: 49). In this sense, the roots of war are both political and ontological, and the question is not whether war is good or not good, just or unjust. The question is how to fight a war and how to end it.

JWT goes hand in hand with rhetorical attacks on the enemy as it makes opponents unjust or inhuman. Combat flows from the battlefield to mass media. Information warfare requires decisive steps since it is necessary to define the enemy as negatively as possible and do this rapidly. The enemy is dehumanized and demonized when one of the parties tries to assert itself as the protector of humanity and the defender of all of mankind. The opponent is identified as *hostis humani generis* (the enemy of mankind) so that any available means of destruction can and should be used against him. Today “the most terrible war is pursued in the name of peace, the most terrible oppression only in the name of freedom, the most terrible inhumanity only in the name of humanity” (Schmitt, 2007a: 95). The cynical and oxymoronic practice of “humanitarian bombing” could be an example.

Total war with a criminal aggressor, with world evil, or with the enemy of mankind is threatening because, as an alternative to bracketed war, it lacks an important property possessed by classical war—the ability to be ended. The road to peace in the era of discriminated war is difficult. Long-term peace processes replace the evidence of victory over an enemy (Münkler, 2005). The erosion of the distinction between war and peace makes peace to be nothing more than a continuation of war by other means.

The irrelevance of the moral justification of war applies to all kinds of war—not only to those of self-defense or the defense of an ally, but also to the intrusion into civil war, war on terror or humanitarian intervention. New threats, which make the use of force legal in the opinion of just war theorists, were generated by the dominance of liberalism in international law, and therefore these types of wars are liberalism wrestling with itself. As described by the Italian political philosopher, Giorgio Agamben: “Security and terrorism may form a single deadly system, in which they mutually justify and legitimate each others’ actions” (Agamben, 2001).

Self-righteousness, peculiar to JWT, is another weakness of this doctrine. Liberalism remains controversial in its attempt to portray itself as the most progressive and reasonable political and economical form. In fact, it turns out to be aggressive and intolerant. Conventions and declarations which are supposed to regulate armed conflicts have repeatedly been violated by the superpowers without consequence. This reduces the meaning of justice and morality. Moreover, the concept of justice used for the vindication

of war serves as a cloak hiding national interest and a state's private objectives. The difference between JWT and political realism is therefore blurred.

To sum up, JWT in Schmitt's opinion promotes the discrimination of war and the enemy. The use of force ceases to be restrained and bracketed when the causes of war are assessed as just or unjust, legitimated or criminal. It is cynical to propose that the just cause you have would serve all mankind as some part of mankind would suffer from war, regardless of whether it is just or unjust. None of the new just causes proposed by Orend—humanitarian intervention, anticipatory attack, war on terrorism, and intervention into an anti-tyranny uprising—are truly justified by ethical reasons since only political reasons may justify warfare. According to Schmitt, the consequences of this discrimination are fatal. The international political system, which replaced *jus publicum Europaeum*, has caused the abnormal situation when an intermediate position between war and peace holds. This has made peace almost unattainable now.

Schmitt's arguments against the idea of the moral justification of war are directly relevant to the analysis of contemporary JWT. However, there are some shortcomings in his views. Brown points out Schmitt's selective account of history (Brown, 2007: 63). Slomp described Schmitt's position as "deeply ideological" (Slomp, 2006: 445). But we may say, that even if Schmitt is not always accurate in his historical interpretations, his concept still holds as a theoretical model alternative to JWT.

The arguments expressed by Schmitt are well known for just war theorists. Orend names the three most commonly held misbeliefs about JWT: (1) the theory is tainted by Catholic doctrine, (2) it is irrelevant, and (3) it justifies great evils. On the contrary, he says, the main purpose of JWT "is to facilitate a more insightful and targeted reflection upon the justice of the resort to war, conduct within it and its process of termination" (Orend, 2000: 9–10). Just war theorists usually describe themselves as advocates of peace and accuse their critics of a lack of humanistic concerns. In fact, they privatize the concept of humanism. In the concluding section of the paper we discuss, briefly, the substance and meaning of the alternative approach to humanism proposed by Schmitt.

The Humanism of the Political

Schmitt criticized JWT, and one could conclude the "Crown Jurist of the Third Reich" was a ruthless militarist. In fact, Schmitt was concerned about the specific humanism of the political which does not require ethics but a respect for human dignity by the people involved in politics. Describing the era of *jus publicum Europaeum* as a time when the major achievements of Renaissance humanism proved themselves, Schmitt blames the School of Salamanca for its reactionary character and retrograde philosophizing. Schmitt supposed that the humanism of politics and international relations appeared in the bracketing of war. War was central to politics and therefore required certain behaviors and mutual respect. And yet, Schmitt did not define war as the purpose and substance of politics, as war "does not have to be common, normal, something ideal, or desirable. But it must nevertheless remain a real possibility for as long as the concept of the enemy re-

mains valid” (Schmitt, 2007b: 33). Politics consists of the possibility to define friends and enemies, but not war as such. We cannot depict Schmitt as a militarist or a war attorney.

We mentioned before that Schmitt was similar to the political realists, but since he was not a military ethicist or a philosopher of war, it would be best not to assign him to one or another tradition of military ethics. Schmitt was anxious about the inevitable threats caused by the application of just war rhetoric to the sphere of war and international law. In *The Tyranny of Values* he partly follows Plenge and Sombart in their antipathy to vendible Anglo-Saxon capitalism and liberalism. The concept of value, the key concept of JWT, was derived from a capitalistic approach to morality, while the only sphere where the idea of value has sense is economics (Schmitt, 1996). The injection of a value-based moral theory into politics causes extremism and selfishness because the question of value always presupposes an individual standpoint. In other words, the “direct and automatic enactment of values” leads to an escalation of conflict, rather than to reconciliation.

Criticizing JWT, Schmitt came to an original interpretation of the humanism of the political. From his point of view, only a sovereign state could fulfill humanistic ideals in a political context. However, Schmitt used a kind of theoretical trick locating humanism in Europe and limiting the triumph of humanism to the period between the 17th and early 20th century. Humanism in political relations was possible only as a characteristic of the *jus publicum Europaeum* when “war was waged between states, between regular state armies, and between sovereign bearers of a *jus belli* [right to war], who also in war respected each other as enemies, and did not discriminate against each other as criminals” (Schmitt, 2007c: 9). And therefore “a peace treaty was possible and even constituted the normal, self-evident end of war” (Ibid.).

Humanism was a property of sovereign states equal in status. Humanity and morality were understood as kinds of immutable constants. Based on this implicit founding in ethics and law, states did not require ongoing discussions on the moral evaluation of their acts, or disputes on the concepts of justice. After all, each part of the conflict possessed a minimal opportunity to gain a victory. This state of affairs determined the appearance of the political in the sense that Schmitt understood it—as a sphere where a clear distinction between friends and enemies was possible and where war was a political, rather than ideological, instrument.

Matthias Lievens in his article “Carl Schmitt’s Two Concepts of Humanity” agreed with Schmitt’s notion that classical interstate wars did not require moral constituents. Though, Lievens points out that “once struggles become deterritorialized, however, it becomes harder to avoid a moral content slipping into the political struggle” (Lievens, 2010: 921). But the question is about the change of the convention of war rather than in the “deterritorialization of the struggle.” A purely political interpretation of war has been augmented by legal and moral interpretations. This has caused the integration of moral arguments into the political sphere which was previously free from ethical components. Changes in the political itself open the door to the invasion of morality into politics.

Schmitt criticized JWT as a theological concept; being a Catholic he criticized the School of Salamanca for its reactionary ideology. We may find here an amazing echo of

the conflict between Renaissance culture and scholastic theology. Schmitt made visible the difference between the two approaches to humanism. The first is classical humanism, or the humanism of the political. The latter is contemporary, liberal, depleted. In the past sovereign states did not wage wars for or against the sake of mankind, and in this sense they protected humanity. Wars between states did not presuppose the extermination of one state by the other. On the contrary, liberal humanism drew a line between those who require protection and those from whom the former must be protected. An enemy, in accordance with liberal JWT, is a disturber of universal human values. He is antihuman in this sense, a *hostis humani generis* who must be totally defeated. The just warrior realizes his moral superiority as well as the wise man in Augustine quoted at the beginning of the article. This superiority causes an intensification of hostility. War is always something of principal for the just warrior, as it is a struggle between good and evil where evil must be annihilated. Humanism unexpectedly became a method of justification for the extermination of the enemy, although initially, JWT proclaimed concern for the good of all people to be a grounding principle.

Conclusion

Our aim has been to define Schmitt's arguments against the idea of the moral justification of war and assess his approach to political humanism. We have outlined the status and principal propositions of contemporary JWT. Secularized JWT tends to impart universal significance to the norms of morality. This universality should justify waging wars for moral reasons. Morality is offered by JWT adherents as a common belief-system; as a fundamental law uniting mankind. In fact, and this was Schmitt's main argument against JWT, the use of force in the name of humanity divides people, and places the enemy outside humanity. In that case, war is not an opportunity to restore peace and security but a means to crush the enemy totally. From the point of view of Schmitt, the appeal to ethics in war makes armed conflicts more violent and leads to the dehumanization of the enemy. That brings the world to a dangerous condition of war that never ends.

Instead of this notion of humanism, Schmitt offered his own concept of political humanism. As Schmitt states, this specific humanism of the political was carried by sovereign European states in the period between the mid-seventeenth century to the early twentieth century and related to the practice of the bracketing of war. It was a true humanism because the aim of war was peace and opponents did not intend to exterminate each other, while *tantum licet in bello justo* (Schmitt, 2006: 322).

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Гуманизм как *casus belli*: критика теории справедливой войны в работах К. Шмитта

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В статье рассматривается критика теории справедливой войны, представленная в работах Карла Шмитта. Интерес к теории справедливой войны возродился в середине XX века, когда благодаря усилиям ряда англо-американских авторов, в первую очередь М. Уолцера, была создана новая, секулярная, интерпретация этой концепции. Однако своё начало теория справедливой войны берёт в христианской политической мысли, и можно отметить, что и современные подходы к проблеме нравственного обоснования войны сохраняют определённые черты религиозной аргументации. Аргумент к морали в политике может быть сопоставлен с апелляцией к божественному закону, но вне христианского контекста политический морализм теряет свою значимость и обоснованность. К. Шмитт обратил внимание на это парадоксальное свойство теории справедливой войны, предложив взамен оригинальную концепцию оберегаемой войны. По его мнению, оберегание войны было одной из ключевых характеристик *jus publicum Europaeum*. Суть его сводилась к признанию врага равным по статусу политическим субъектом. Несмотря на то, что именно сторонники теории справедливой войны претендуют на роль защитников человечества, использование морали в политике, с точки зрения Шмитта, ведёт к дегуманизации врага и усилению тотальности конфликта. Область политического должна быть очищена от всех моральных привнесений, это позволит сделать её более сбалансированной. Концепция оберегаемой войны Шмитта, основанная на исключительно политическом подходе к понятию войны, оказывается в большей степени гуманной и обоснованной, нежели теория справедливой войны.

Ключевые слова: война, теория справедливой войны, оберегание войны, права человека, гуманитарная интервенция, Карл Шмитт