

# Book Reviews

## ETHICS AND WAR

### **Just War Reconsidered: Strategy, Ethics, and Theory**

By James M. Dubik

Reviewed by Charles D. Allen, Professor of Leadership and Cultural Studies, US Army War College

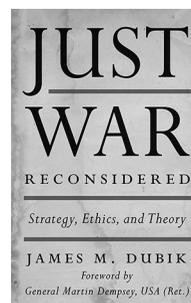
Lieutenant General (Ret.) James Dubik has written a little book with big ideas. After an extraordinary military career, he served as the Omar N. Bradley Chair of Strategic Leadership at the US Army War College, completed a PhD in philosophy, and is now Professor of Practice in the Strategic Studies Program at Georgetown University.

*Just War Reconsidered* is an ambitious and provocative book. Dubik conducts a critical analysis of two contemporary models of civil-military relations—Peter D. Feaver’s “Principal-Agent” model presented in *Armed Servants: Agency, Oversight, and Civil-Military Relations* (2003) and Eliot A. Cohen’s “Unequal Dialogue” illustrated in *Supreme Command: Soldiers, Statesmen, and Leadership in Wartime* (2002)—against the moral framework proposed by Michael Walzer’s *Just and Unjust Wars* (1977). Military professionals are well acquainted with the Just War terms of *jus ad bellum* (just cause for war) and *jus in bello* (just conduct in war). The latter is more salient for them vis-à-vis the use of military force against combatants and noncombatants with the prevalence of rules of engagement for military operations during the ongoing war on terror. Arguably, such rules for fighting wars are clearer and simpler under the model of state-on-state conflict, and they get fuzzier with civil wars and insurgencies. This is especially so against nonstate actors as with the twenty-first-century’s global experience with violent extremist organizations.

Early in the book, Dubik introduces the expression “citizens-who-become soldiers” to reinforce the link between a government that has a moral obligation to protect and defend its citizens, who in turn become agents of the state in the protection of national security interests. Given that soldiers have moral value and are simultaneously citizens, their activity, effort, and lives, when sacrificed, should be used well.

Dubik identifies an important gap in Walzer’s Just War theory in that it fails to address the moral obligations of political and military leaders in waging war. Ostensibly, senior national leaders guide and direct war-waging strategy, resourcing, and decisions for how war is conducted. Perhaps, most important is the leader’s responsibility to sustain the will of the people—here Dubik completes his allusion to the Clausewitzian trinity. War-waging decisions by political leaders are necessarily in collaboration and coordination with leaders of the military profession. Civil-military relations are thus an integral component of the decision-making processes for Just War deliberations and actions.

Dubik sets the stage appropriately with Samuel Huntington’s *Soldier and the State* (1957) and the precept of objective civilian control for the military profession. Noticeably absent is the mention of Morris Janowitz, the author of military sociology. This reviewer finds it difficult to discuss



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civil-military relations and the military profession without addressing the precepts of *The Professional Soldier: A Social and Political Portrait* (1960). Janowitz would support military leaders having the agency to influence and shape policy—as Dubik contends is necessary—because the stakes of getting it wrong are so high. Dubik asserts, convincingly, that moral responsibility does not give anyone “the right to be wrong” in waging war. Accordingly, insistence on that authority and failure to establish the conditions (leader climate or organizational/institutional culture) that increase the chances for success are morally bankrupt actions of civilian and military leaders, who have “an obligation to be as right as possible before they make a decision” (93).

Dubik uses three primary cases to test Walzer’s framework for *jus in bello*: the American Civil War, the Second World War, and the combined case of Afghanistan and Iraq. For the ideal war waged rightly, he notes civilian and military leaders had “several months of active analysis, intense and sometimes acrimonious debate, aboveboard and behind-the-scenes maneuvering, contentious analysis, and final argument” (16).

In completing his analysis of less-than-ideal war, Dubik cites cases of broken dialogue “when participants, whether civilian or military are dismissive of the perspectives of others, the dialogue breaks down and is quickly replaced with a facsimile or worse—no dialogue at all” (119). He concludes: “There is no arbitrary line dividing civilian and military war-waging responsibilities” (123) and derives the following five principles for ethical war-waging for national security professionals:

1. Continuous dialogue with senior civilian and military leaders (devise strategy and plans; understand, acknowledge, and address risk)
2. Final Decision Authority with the political-strategic leader in accordance with governing documents (for the United States, the Constitution)
3. Managerial competence in performing enterprise-level functions (US Title 10) that enable the operational force in the conduct of mission across the spectrum of conflict
4. Legitimacy established and maintained with the governed populace
5. Resignation as a form of dissent (moral agency for senior military leaders)

While Dubik provides a framework and set of principles for national leaders, his epilogue presents two sections with important questions by which to judge the conduct of war as ethical and moral. It really comes down to who is to blame and who is responsible for wars waged badly. To judge, Dubik asks simply “is the war being dragged out unnecessarily owing to a refusal to allocate sufficient resources—forces, funds, or strategic attention.” (175) The reader is left to conclude that while senior military leaders may be complicit, it is the civilian leaders who are ultimately responsible for waging wars justly.

*Just War Reconsidered* offers a compelling challenge to the existing civil-military debate. When does a military leader’s provision of “best military advice” to inform the development of policy objectives and thereby shape strategy cross the line from influence to insistence? At what point does the option of military resignation threaten civilian

leaders and have an adverse impact on civil-military relations? These questions remain unanswered, but the military profession must have this conversation.

## Fighting Hurt: Rule and Exception in Torture and War By Henry Shue

Reviewed by David Perry, Professor of Applied Ethics, Davidson College, and author of *Partly Cloudy: Ethics in War, Espionage, Covert Action, and Interrogation*

Philosophers are often accused of living in “ivory towers,” preferring to ruminate about arid abstractions rather than the stuff of everyday human existence. Thankfully, Henry Shue is not that kind of philosopher. Even though he has studied and taught at several top-notch universities, including Princeton, Cornell, and Oxford, his whole scholarly career has been devoted to examining practical ethical and political issues. *Fighting Hurt* gathers 22 essays published over a 40-year period on topics such as preemptive and preventive war, humanitarian military intervention, *jus ad bellum* and *jus in bello* proportionality, torture, and whether a country facing a “supreme emergency” may justifiably target enemy civilians.

Shue is steeped in the laws of armed conflict and international humanitarian law. Many of the arguments in the book reflect his efforts to interpret treaty law in connection with US strategy and military doctrine, as well as to urge reforms of international legal norms where he finds them wanting. Most chapters will be of interest to Department of Defense lawyers and doctrine writers. A few chapters will be accessible primarily to Just War theorists who have followed recent lines of dense philosophical debate, for example, on whether soldiers fighting for an unjust cause forfeit some rights that opposing combatants retain. While most readers will not study the complete anthology, all strategic leaders will benefit from reading Shue’s careful analyses.

Given that a current presidential candidate has endorsed waterboarding and “worse” interrogation tactics, and threatened to order US government personnel to employ them even if they are illegal, it would be prudent for military and intelligence leaders to reflect on one or more of Shue’s chapters on torture. For decades, Shue has argued against government-sanctioned torture, criticizing the standard “ticking bomb” hypothetical scenario as artificial and unrealistic and condemning attempts by judges and government lawyers to dilute the clear meaning of US-ratified treaties that ban torture under all circumstances. Although I have taken issue with a couple of Shue’s stances in my book *Partly Cloudy: Ethics in War, Espionage, Covert Action, and Interrogation* (Rowman & Littlefield, 2009, 2016), his arguments against legalizing torture, even against suspected terrorists, are powerful and well worth considering.

Some of Shue’s most interesting work (exhibited in several chapters) has focused on issues surrounding the targeting of “dual-use” infrastructure in war, for example, in some of the bombing tactics employed against Iraq in 1991 and Serbia in 1999. “If radar and missiles designed to bring down attacking aircraft cannot function without electricity, electricity-generating plants then serve a vital military role. But operating



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