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Inexpressibility in Augustine's Just War Theory: Lessons for Modern Warfare

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Abstract

St. Augustine's Just War Theory is relatively unique in the history of just war in that he relies heavily on Divine involvement in his doctrine of just war. God is the ultimate source of the justice of all wars, and his command is the source of justice for some wars. Furthermore, the authority of political leaders is also derived from God. This is problematic for Augustine's theory because it renders the *causa justa* of wars inexpressible to the subjects of the sovereign, who are forced to rely on the sovereign's (divinely originated) authority. Although these ideas may seem a long way from the state-of-affairs in war today, I will suggest that notions like the privilege of state secrecy, the implied expertise of political leaders, and the coercive power of patriotism represent new manifestations of the inexpressibility of the Divine in the modern-day practice of warfare.

Introduction

At first sight there seems to be very little to say about the expressible and the inexpressible in just war theory (JWT): seemingly, JWT falls entirely in the domain of the 'expressible'; everything that we might want to say or need to say about the ethics of war can be – or has been – said. However, although in some respects this conference's role should be to identify, acknowledge and perhaps celebrate the role of inexpressibility, I believe there is also room to critically examine those areas in which inexpressibility is entirely *undesirable*. One such area is JWT; where any theory worth its salt must be able to express what can and cannot be done with regard to war, and where actual decisions need to be explained and justified in terms of theoretical requirements. That Augustine's JWT is an unacceptable one for practice will be demonstrated through discussion of his reliance on direct involvement of the divine in the vital *jus ad bellum* criteria just cause and legitimate authority.

However, although modern warfare (at least in Anglophone and European states) has distanced itself from discussion of the divine, I want to suggest a few ways in which we have failed to avoid some of the shortcomings – and I will focus here on shortcomings related to inexpressibility – that accompanied Augustine's focus on the Divine.

Augustine's Just War Theory

Augustine's overall project with regard to war and peace¹ can be understood as answering the question of how the Christian pacifism of the early centuries AD, based on the Christ's teaching in the Gospel of Matthew² was mistaken. "[W]hat is here required [in turning the other cheek] is not a bodily action, but an inward disposition. The sacred seat of virtue is the heart"³ Augustine sought to show the relationship between – and compatibility of – Christian faith and war; particularly the relationship(s) between war and God's justice. The primary issue to which Augustine was to respond was the pacifist view that all killing is forbidden. Augustine's first contribution was to distinguish between killing and murder. Murder - unjust intentional killing - is, of course, expressly forbidden, but Augustine does note that "not all homicide is murder".⁴ Exceptions come when killing is commanded by those with authority to do so, viz. public individuals on those who deserve the punishment;⁵ however, the intentional killing of one individual by another is always forbidden. This includes, for Augustine, self-defence.⁶ The only time killing might be permissible is when it is done by an authority with power to do so, power which, as we shall see, ultimately comes from God.

¹ I will not be dealing with Augustine's writings chronologically, but as a body of work in which each work represents different aspects of a complete theory. Thus unless Augustine explicitly rejects a view presented in another work, I will assume that each represent part of the same system.

² Matthew 5: 39 (NIV), "But I tell you, Do not resist an evil person. If someone strikes you on the right cheek, turn to him the other also."

³ Augustine, *Contra Faustum [CF]*, 22.76, Accessed: <http://www.newadvent.org/fathers/140622.htm> [26/4/2012]

⁴ Augustine trans. Henry Bettenson, *City of God [CG]*, Penguin Books, Victoria, 2003, 1.21

⁵ See *CG*, 1.21, "the commandment forbidding killing was not broken by those [...] who have imposed the death penalty on criminals when representing the authority of the State in accordance with the laws of the state."

⁶ See: Holmes, *WM*, p.120. "To kill another person in defense of this earthly life represents an inordinate desire to cling to those things one ought not to love."

The permission for authorised killing derives from the distinction between human and divine law echoed in Augustine's famous distinction between the City of God and the City of Man. There are laws from the eternal (God) which are beyond the laws of man (meaning they are not written by man), and the laws of man must be subject to the eternal law, as Augustine famously notes "an unjust law is no law at all".⁷ Human law *should* (but does not always, due to original sin⁸) adhere to eternal law, which is to be obeyed because the ultimate happiness of humanity lies in salvation in heaven through God, the ultimate source of justice.⁹ This note is important because - as we will see - for Augustine, war can be permitted either by (a) eternal law, or (b) human law, with very different moral implications for each.

The invocation of the language of eternal law is problematic, however, when we turn to war in Augustine, because although the term eternal law is interchangeable with natural law,¹⁰ which is knowable through reason, Augustine's writings on war seem to indicate that God plays a more direct role in granting authority to go to war, indeed going so far as to directly command particular wars; which leads to the first manifestation of inexpressibility in Augustine: inexpressibility of cause.

That wars commanded by God are just is clear for Augustine: those wars are just simply by God's having declared them as such. "God's commands are to be submissively received, not to be argued against."¹¹ Augustine here presents a something like a divine command ethic whereby obedience to God, as the source of justice, must always be just. However, it should be noted that Augustine is *not* a divine command theorist - understood as one who holds that whatever God commands (and he may command anything) is what is just to do - in that he believed that God's nature was "incorruptible, inviolable and immutable",¹² meaning that God and goodness are for Augustine one and the same - as God's nature cannot change, neither can the good.

[T]he account of the wars of Moses will not excite surprise or abhorrence, for in wars carried on by divine command, he showed not ferocity but obedience; and God in giving the command, acted not in cruelty, but in righteous retribution, giving to all what they deserved, and warning those who needed warning.¹³

Here arises the first problem of inexpressibility: if a particular war's justice is knowable only through God's command,¹⁴ how is that justice to be communicated to anyone other than the leader himself? To cite the number of unjust wars that have been fought in the name of God would be a redundant exercise, but Augustine seems to maintain the claim whilst ignoring the important point of the sovereign's need to justify his cause for war. It is one thing to accept God's command as a just cause,

⁷ Augustine, *On Free Choice of the Will*, 1.5.11, in Holmes, *WM*, p. 123

⁸ See: *CG*, 19.15

⁹ *CG*, 19.25

¹⁰ Richard J. Dougherty, 'Natural Law', in Allan D. Fitzgerald (ed.), *Augustine Through the Ages: An Encyclopedia*, Wm. B. Eerdmans Publishing Co., Michigan, 1999, pp. 582-584 esp. P. 583

¹¹ Augustine, *CF*, 22.71. This view is later endorsed by Aquinas in *ST I-II*, Q. 94, Art. 5, resp. 2.

¹² Augustine trans. John K. Ryan, *Confessions*, Image Books, Sydney, 1960, 7.1

¹³ *CF*, 22.74

¹⁴ Or, in the less likely case of Divine Command Theory, the war is just simply because God commanded it.

it is another to demonstrate any evidence that such a command has actually occurred.¹⁵ Just cause, at least this particular type of just cause, appears completely inexpressible.

For Augustine, this isn't an issue because the sovereign's authority also comes from the divine, and there therefore seems to be little reason to question it. Although Augustine views the state as made up of sinful men – one thinks of the famous “band of robbers” assertion – he does believe it to be legitimised by God's authority. God acts providentially through the behaviour of fallen states, and they are thus “agent[s] of God's design for the world in punishing man for his sins.”¹⁶ Robert L. Holmes explains how state's role in God's providential plan gives them legitimate authority.

The ruler, then, whether he be good or bad, plays a role in the carrying out of God's will on earth. In this sense he rules by divine ordination. As he thus has legitimate authority, and as the state is an institution of God's agency in the world, individual citizens of the state owe nearly absolute allegiance to the ruler.¹⁷

The near-absolute obedience is why Augustine wasn't concerned with whether a sovereign could justify the cause of a war to his citizens. Augustine - as Holmes showed above - believed the state to be “the justest and most reasonable source of power”¹⁸, the killings the state orders are, by extension, ordered by God.¹⁹ Original sin of course means that sometimes laws which should be just are not, meaning that any killings that these laws command are evil. However, the executors themselves (including soldiers) are not to blame, for “one who owes a duty of obedience to the giver of the command does not himself 'kill' - he is an instrument, a sword in its user's hand.”²⁰ Langan summarises the soldier's moral immunity well: “Authorization to take part in hostilities, even when this comes from “an un-godly king” or involves an “unrighteous command” leaves the soldier innocent “because his position makes obedience a duty”.”²¹

However, state authority being derivative of God's providence is incredibly problematic for the JW theorist, because even the actions of blatantly unjust states may be part of God's plan; indeed, Augustine is comfortable with attributing Rome's bloody wars of Empire to God's providence. “[W]e must ascribe to the true God alone the power to grant kingdoms and empires [...] God himself gave dominion to the Romans without the worship of those gods to whose worship the Romans thought they owned the empire.”²² This is doubly-curious as Augustine argues that the desire for dominion is inconsistent with virtue,²³ thus it seems that God is willing to grant victory to the wicked on some occasions. The leaders of Rome had acted from their own volition, with no awareness of, or interest

¹⁵ I am here reminded of the debate that surrounded Alvin Plantinga's controversial “reformed epistemology”, if belief in God is properly basic, then it seems impossible to convince those who have not had an experience.

¹⁶ Holmes, *WM*, p. 130. Italics added.

¹⁷ Holmes, *WM*, p. 130. Holmes continues by explaining when the citizen is exempt from obeying the ruler, and the answer is a return to Augustine's divine command ethic. “Only if he [the ruler] should directly command them to do something contrary to God's will may they disobey him.”

¹⁸ Augustine, *CG*, 1.21

¹⁹ *Ibid.*, “There are some whose killing God orders, either by a law, or by an express command”.

²⁰ *Ibid.* Augustine even goes so far as to defend the judge and torturer who condemn an innocent man to torture in order to gain a confession. See: *CG*, 19.6

²¹ Langan, *AJWT*, p. 23. Of course, it should be recognised that soldiers fighting in a JW are equally instrumental and thus free from any moral concerns as well (assuming their internal dispositions are just ones).

²² *CG*, 5.21

²³ *CG*, 4.15

in, divine mandate, however they could easily have claimed such, and their people would have been given little reason to question it. The blind acceptance of state legitimacy and the permissiveness with which Augustine seems to treat blatantly unjust wars – justifying them as providential – is a direct consequence of his faith in Divine involvement in the world.

Modern Warfare: Augustine's Legacy

There seems to be little to say about Augustine's inexpressibility in relation to the modern day; we may not doubt his legacy as one of the founders of JWT, but question his continuing relevance in his regard. Even amongst theological JWTs, Augustine ranks comparably low by comparison to those of Aquinas and Paul Ramsey, for instance. However, although the *divine origin* of the inexpressibility of just cause, and further of the divinity of authority has dwindled, the products have remained - although they have obviously changed over time, managing to ingrain themselves into a less religious community. There are two ways I want to suggest that these forms of divinity and inexpressibility have taken hold in the modern day: the invocation of national security as a justification for withholding evidence (state secrecy), the crisis-based rhetoric of patriotism.

A: State secrecy

National defence as a justification for state secrecy (and state secrecy more generally) presents the opportunity for a modern-day equivalent to the divine command to declare war. Returning to Augustine's example, imagine the war of Moses, if the people had dared ask Moses to somehow *prove* that God had spoken to him and commanded him to war. Moses could perhaps point to previous miracles as evidence that God may well be interceding through him again, but this would be circumstantial. If the follower(s) were not convinced that *this* war was divinely mandated, Moses would have little evidence to rely on; he would rather rely on his authority, and the threat of a displeased God.

Fast-forward to the modern day and imagine a government, A, who discover that an unstable, 'rogue' nation, B, has succeeded in weaponising the smallpox virus and intend to deploy the weapon. A has the power and means to go to war and potentially prevent this from happening, but requires the support of its people, who (naturally) would like some proof of this. However, the dissemination of evidence would jeopardize the safety of intelligence officers still in the field, potentially reveal to the enemy means of successfully hiding the weapon, or demonstrate A's vulnerability to the weapon. In such a case, A would, like Moses, be relying on the faith of its citizens, in going to war without demonstrating the justice of the cause.

Note that the above two cases are ones in which the nations *do* actually have just cause. The more frightening scenario would be where the employment of state secrecy resulted in war being declared absent just cause (as some claim occurred in the 2003 Iraq invasion). The inexpressibility here is not so much a case of a *lack* of evidence, but that it is prudential not to provide the necessary evidence of one's own justice. This is increasingly difficult where global media and the immediacy of social networks mean that keeping public information away from the enemy is impossible.

B: Patriotism and Crisis

I suggested there were two ways in which the problems in Augustine I outlined above have been carried through to the modern day. The first, state secrecy, is concerned with the inexpressibility of

just cause. The next is concerned with the legitimacy of authority, and one's ability to express uncertainty about the decisions of that authority, for instance to express suspicion about the justice of a particular cause.

Consider the rhetoric that surrounded debate before the US-led invasion of Iraq. Although JW theorists now widely condemn the Iraq invasion as an unjust war,²⁴ however, as Jane Cramer notes,

It is widely recognized that the U.S. marketplace of ideas failed during the 2002-03 debate over going to war in Iraq [...] The majority opposition was silenced throughout early 2002 and ultimately defeated in a struggle over the Iraq War Resolution by pressures to be patriotic.²⁵

Here, the Bush administration mobilized (and was likely itself mobilized by) post-9/11 fear; the threat to the US posed by the alleged WMDs of the Hussein regime, and suggested links to Al Qaeda were grounds for war, and were popularly accepted as such. However, as Cramer notes, the potency of the rhetoric coming from the Bush administration earned it a status as 'unchallengeable'.

For Augustine, citizens owed almost complete obedience to the state because the state, as an agent of God's will in the world, also possessed his authority. To question or ignore the sovereign was to defy the will of God. The crisis faced by the US and the subsequent invasion of Iraq were not divinely commanded, but they enjoyed a special status because of the crisis situation that Americans perceived themselves to be in, as Cramer again notes:

individual political actors, especially prominent politicians of national stature, were constrained in their individual behavior by cultural norms of behavior. It was imperative for them to avoid being labeled unpatriotic, thus they could not espouse policies that could be construed as weak on national security or as unsupportive of the executive branch in a time of crisis.²⁶

This has been labelled by some commentators as "the FOX effect",²⁷ "which contends that the mainstream media was under pressure to be more patriotic in its coverage because of competitive pressures from the meteoric rise of the jingoistic FOX news in this period."²⁸ Ronald Krabs and Jennifer Lobasz have also suggested that the Democrat party was less vocal in opposition than one might expect "because they had been "rhetorically coerced," unable to advance a politically sustainable set of arguments with which to oppose the war."²⁹

²⁴ See, for examples: Stephen Strelhe, 'Saddam Hussein, Islam and Just War Theory', *Political Theology*, Vol. 5, Iss. 1, 2004, pp. 76-101; William A. Galston, 'The Perils of Preemptive War', *Philosophy and Public Policy Quarterly*, Vol. 22, Iss. 4, 2002, Accessed: <http://www.cas.umt.edu/phil/documents/GALSTON.pdf> [30/7/12]; Michael Bothe, 'Terrorism and the Legality of Pre-Emptive Force', *European Journal of International Law*, Vol. 14, 2003, pp. 227-240; Brian Orend, *The Morality of War*, Broadview, Ontario, 2006, pp. 78-83

²⁵ Jean Kellet Cramer, 'Militarized Patriotism: Why the US Marketplace of Ideas Failed Before the Iraq War', *Security Studies*, Vol. 13, Iss. 3, 2007, pp. 489-524 at p. 489

²⁶ *ibid.*, p. 492

²⁷ See: Adel Iskandar, 'The Great American Bubble': FOX News Channel, the 'Mirage' of Objectivity, and the Isolation of American Public Opinion', in Lee Artz and Yahya R. Kamalipour, (eds.), *Bring 'Em On: Media and Politics in the Iraq War*, Rowman & Littlefield, Maryland, 2005, pp. 155-74

²⁸ Cramer, *op. cit.*, p. 494

²⁹ Ronald R. Krebs & Jennifer K. Lobasz, 'Fixing the Meaning of 9/11: Hegemony, Coercion, and the Road to War in Iraq', *Security Studies*, Vol. 16, Iss. 3, 2007, pp. 409-451 at p. 409

My point in noting the 2003 Iraq is that whilst for Augustine to question the will of the sovereign was to question the will of God, and therefore heretical, to question actions done in the interests of national security in a time of crisis is to commit the modern-day sacrilege of failing to be patriotic. For groups reliant on public approval (such as the media and politicians), this has the effect of stifling important dissent. Indeed, it was Francisco di Vitoria who noted importantly that "for the just war it is necessary to examine the justice and causes of war with great care, and also to listen to the arguments of the opponents, if they are prepared to negotiate genuinely and fairly."³⁰

Conclusion

I have argued that St. Augustine encounters problems of inexpressibility as a product of the possibility of direct divine intervention in war. These are problems because war is something which should be subject to public scrutiny; just as a judge will want to know *why* an alleged murderer should be excused from the charged, the declaration of war cannot be granted license to hide behind the shades of secrecy. However, despite the jettisoning of Augustine's reliance on the divine, the modern day practice of war has not entirely shirked the problems of inexpressibility introduced by Augustine. The employment of state secrecy and the patriotic rhetoric that occurs in crisis moments are both methods of bypassing the scrutiny which JWT seeks to apply to the declaration of war. It is unfortunately beyond the scope of what I am able to discuss here to outline how these problems might be rectified, but it goes without saying that being aware of the problem is a helpful step in reaching a solution.

³⁰ Francisco di Vitoria, *On the Law of War*, Q. 2, Art. 1, Sec. 21, in Anthony Pagden & Jeremy Lawrence (eds.), *Vitoria: Political Writings*, Cambridge University Press, Cambridge, 1991 at p. 307. Italics removed.