

Just War against Barbarians: Revisiting the Valladolid Debates between Sepúlveda and Las Casas

Daniel R. Brunstetter

Dana Zartner

University of California, Irvine

Tulane University

Contemporary just war theory is experiencing a period of renegotiation as scholars grapple with the dimensions the war on terror places on the relationship between justice and war. A closer examination of the history of the tradition reveals that such intellectual moments have occurred before, and represent a philosophical heritage which can be probed for insight into current questions. We turn to the 1550–1 Valladolid debates between Sepúlveda and Las Casas to gain insight into some of the questions facing just war theorists today because the debates lay bare the logic for expanding *jus ad bellum* in the case of those perceived to be barbarians, and a compelling counter-argument. Sepúlveda proposes that a more expansive understanding of *jus ad bellum* is necessary in the case of barbarians, defining just cause in terms of identity and the natural law, balanced by humanitarian ends such as saving the innocent and spreading the natural law. Las Casas illustrates the dangers of Sepúlveda's position and offers an alternative framework of *jus ad bellum* that focuses on injury and warns against including humanitarian benefits in the just cause criterion. Las Casas' ultimate wisdom lies in arguing for the restriction of *jus ad bellum* in the face of those who make compelling arguments, draped in moral universals and humanitarian imperatives, for its expansion.

The just war tradition is in a phase of renegotiation as scholars grapple with the dimensions the war on terror places on the relationship between justice and war (O'Driscoll, 2008a). The post-9/11 period has seen an explosion of literature on just war in relation to the war on terror. In an article summarizing the emerging trends, Mark Rigstad identifies two competing factions, the conventionalist view working within the ambit of state sovereignty and an emergent revisionist view that justifies a broader view of *jus ad bellum* in light of 9/11 – the so-called Bush Doctrine (Rigstad, 2007, pp. 3–4, p. 27).

While the *raison d'être* of *jus ad bellum* is to prevent the use of force except when certain conditions are met, the Bush Doctrine saw, in the words of Michael Walzer, 'a significant expansion of the doctrine of *jus ad bellum*' to include preventive war against 'evil barbarians', regime change and spreading democracy (Walzer, 2006, p. xiii). Among just war scholars, various interpretations of the just war tradition have been used to justify such an expansion (Elshtain, 2003; 2007; Johnson, 2005; Kessler, 2005, p. 165; 'What We are Fighting For: A Letter from America', 2002). However, with the ultimate result of the wars in Afghanistan and Iraq still up in the air, several troubling outcomes of these wars – the death of thousands of innocents, the difficulty of regime change, the tarnishing of the American image – leave many questions about this expanded view of *jus ad bellum*. How should confrontation with so-called barbarians fit into just war theory? Is preventive war prudent in the long run? How should one reconcile the use of force with

humanitarian goals such as saving the innocent from tyranny? Is regime change a just cause for war? The renegotiating of *jus ad bellum* in response to these questions does not mean that the tradition should be abandoned but, rather, calls for a re-examination of the logic of just war against so-called barbarians.

A close examination of the history of the just war tradition reveals that intellectual moments of renegotiation have occurred before. Such moments represent a philosophical heritage which can be probed for insight into current questions (Johnson, 2006; Rengger, 2002, p. 363). One such pivotal example which parallels the current crisis is the prolonged debate prompted by the Spanish Crown following the discovery of the New World in the sixteenth century. The Affair of the Indies, as the crisis of conscience became known, engaged thinkers in one of history's most important debates about the relationship between war and justice in an effort to provide guidelines for Spain's political relationship with the 'barbarians of the New World, commonly called Indians' (Vitoria, 1991, p. 233).

Numerous just war scholars probe the Affair of the Indies, but those who examine it closely tend to focus on the important contribution of Francisco de Vitoria (Bellamy, 2006; Johnson, 1981). Others mention it in passing: Brian Orend describes it as 'a fertile period', citing Vitoria as having the 'deepest theoretical contribution' (Orend, 2006, p. 16); Richard Sorabji suggests it is a 'case which should impress and inspire us' (Sorabji, 2006, p. 18); Michael Walzer (2004, p. 4) calls it a 'heroic moment from the history of the academic world', but goes no further. Yet the debates about just war and the Indians did not end with Vitoria's repudiation of holy war and assertion of the law of nations so often praised by just war scholars. In the context of the very real political polemic that was the Affair of the Indies, his conclusions were somewhat ambiguous regarding the possibility of regime change, the scope of saving the innocent and the durability of the sovereignty of barbarians (Vitoria, 1991, pp. 287–90). His views crystallized important tensions between the legalist paradigm and the humanitarian element of the Christian just war tradition (Anghie, 1996). Following his death, these ambiguities needed refinement, which occurred at the Valladolid debates in 1550–1 between Juan Gines de Sepúlveda and Bartolomé de las Casas.

The Valladolid debates have been largely overlooked by just war scholars, yet understanding the clash between Sepúlveda and Las Casas can be useful to gain insight into some of the questions now facing just war theorists because the controversy lays bare the logic behind expanding *jus ad bellum* in the case of those perceived to be barbarians, the ensuing consequences of this logic, and a critique. Both Sepúlveda and Las Casas drew from an existing tradition of just war dating back to ancient Greece and deeply set in the Christian canon, and applied this wisdom to pressing political problems related to the 'barbaric' Indians. They turned to (and in some instances modified) perennial concepts such as natural law, human nature, rationality, barbarism, Christian love and just cause. Given that some scholars have suggested the ongoing conflict with the modern-day equivalent to the barbarian – the terrorist – shows signs of the resurgence of a Sepúlvedian-style paradigm in building a case for just war (Crawford, 2003, p. 15; Waller-

stein, 2006, p. 74), revisiting Las Casas' criticism of Sepúlveda's claims, which he viewed as 'honey-coated poison', is a useful lens through which to challenge this logic (Las Casas, 1999, p. 166).

There are methodological challenges that one faces when attempting to turn to historical events for insight into contemporary issues. As Quentin Skinner argues, the historical context circumscribes intellectual arguments within a specific cultural and philosophical orbit. Ideas found in a certain text constitute a response to immediate historical circumstances that do not necessarily transcend time. Thus, to recover the meaning of a text, one must look at prevailing conditions in which the text was written and focus on the author's mental world and empirical beliefs (Skinner, 1969, p. 46). However, the very existence of the just war tradition *as a tradition* suggests that the texts have meaning beyond the historical context in which they were written, found in a retrospective process of reconstruction (Gunnell, 1978). This process can, in turn, serve to inform the way we think about the moral relationship between war and justice by providing some 'particularly illuminating or forceful argument' pertinent to the present character of the world (Walzer, 2006, p. xxii), but also by delineating the intellectual context in which to think about inherited concepts and categories (Johnson, 2006).

In turning to the Valladolid debates, we explore an understudied moment of the just war tradition with two goals in mind: first, to reintroduce Las Casas into the tradition because he was one of the most important figures in the Spanish struggle for justice in the New World who has been overlooked by just war scholars; and second, to use the lessons we learn from Las Casas, whose views challenge certain assumptions of the revisionist view of *jus ad bellum* from within the tradition itself, to inform the way the tradition is used to think about the direction *jus ad bellum* takes in the future. The lessons from Valladolid point to the problems of a black and white presentation of the world, the negative consequences of linking humanitarian ends to just war and the renewed salience of *injuria* when building the case for just war.

Sepúlveda's Expansion of *Jus ad Bellum*

Sepúlveda's arguments at Valladolid were a summary of those he formulated in the *Democrates Secundus de justis belli causis* in which he sought to 'solve the controversy' of the Americas and 'summarize the just causes to undertake a war' (Sepúlveda, 1984, pp. 1–2).¹ While history has largely painted Sepúlveda as the villain, as 'chauvinistic and dogmatic' (Andújar, 1997, p. 71; Hanke, 1959; Pagden, 1986, p. 109), his arguments are, on the contrary, a germane attempt to elucidate *jus ad bellum* when confronted with barbarians whose actions violate the natural law. Reflecting on Spain's confrontation with the 'barbarians' of the New World, Sepúlveda makes three important clarifications of just war. First, in the case of war with barbarians, a more expansive understanding of *jus ad bellum* is necessary compared to conventional wars. Second, his alternative version of *jus ad bellum* defines justice in terms of identity and the natural law which results in a perpetual war. Third, bellicose means by the civilized are justified by the positive ends they promise to bring about, including protection of the innocent and the spread of the natural law for the great benefit of the barbarians.

Redefining the Scope of Jus ad Bellum

Sepúlveda's contemplation of the conquest of the New World was not an *ad hoc* apology of empire or religious crusade. He recognized that there were three agreed upon causes of just war. First, it is just to repel force with force, that is, self-defense. Second, it is a just cause of war to take back things unjustly seized. Finally, it is a just cause of war to punish those who have caused injury to the state with a proportionate response (Sepúlveda, 1984, pp. 16–27). With each of these causes, war is justified as a response to *injuria*, or a wrong received. Sepúlveda acknowledges that these causes do not apply to the case of the Indians because they have inflicted no *injuria* on the Spanish. However, while these constituted the generally accepted causes, Sepúlveda claims they are not the only ones when facing barbarians because there are causes 'perhaps less common but equally just' (Sepúlveda, 1984, p. 19).

Jus ad Bellum as a Function of Identity and the Natural Law

Sepúlveda was influenced by a number of schools of thought, including the Humanist school which privileged the works of ancient Greece and Rome, canon law and the Church fathers (Lupher, 2003). Yet, with regards to the Affair of the Indies, he privileges philosophy over theology, and turns to Aristotle to build the foundation of his arguments (Sepúlveda, 1984, p. 12). Sepúlveda considered Aristotle to be an authority on nature and government because his ideas 'have been received by posterity with such unanimous approval, such that they no longer appear to be words of one single philosopher, but sentences and decisions common to all wise men' (Sepúlveda, 1984, p. 13). While some of his contemporaries disagreed with how he interpreted authority (Tuck, 1999, pp. 65–77), the key for Sepúlveda was that Aristotle's philosophy supposedly provides access to the natural law, and thus exposes the philosophical truths about the world fundamental to humanity including knowledge of good and evil, the best regime and the just causes for war.

Sepúlveda's turn to the natural law leads him to postulate a distinction between the civilized and the barbarian which he sees as easily distinguishable and mutually exclusive categories. He defines the natural law as 'right reason and inclination to duty and to accept the obligations of virtue'. The scope of following the natural law is 'discerning the good and just from the bad and unjust; and not only the Christian, but all those who have not corrupted the right reason with depraved conduct'. The natural law leads men to conserve 'human society' founded in 'charity and goodwill'. Those who do not follow the natural law do not recognize the fundamental principles that govern human society, and are inclined to evil (Sepúlveda, 1984, pp. 11–2).

The natural law serves as the foundation of Sepúlveda's first cause of war, which is the guiding principle of his just war paradigm: 'the *dominium* of the perfect over the imperfect, the strong over the weak, superior virtue over vice' (Sepúlveda, 1984, p. 20). This is the cause, he writes, 'most applicable to those barbarians called Indians' (Sepúlveda, 1984, p. 19). It is a cause applicable to a specific category of man – the barbarians who violate the natural law. Sepúlveda is not singling out simple unbelievers or enemies of the Faith, which was the case in holy war. He admits that if a 'civilized and humane, not idolatrous' people had been discovered in the Americas, war would not have been justified (Sepúlveda, 1984, p. 44).

Despite the transgression of some of the conquistadors, the Spanish were clearly in his mind representatives of superior virtue (Sepúlveda, 1984, p. 57), an assumption which, as Tzvetan Todorov (1984, p. 150) observes, is typical of those nations that claim justice is on their side. The Indians, however, were different because their customs violated the natural law: 'the incredible sacrifices of human victims and the extreme injury caused to innocent peoples, the horrible banquet of human bodies, and the impious cult of idols' (Sepúlveda, 1984, p. 62). Such crimes are 'considered by the philosophers to be the most ferocious and abominable perversities' (Sepúlveda, 1984, p. 38). These actions provided proof that the barbarians had no concept of good and evil, of just and unjust, and therefore no concept of the rational foundation of human society.

The barbarians' customs led Sepúlveda to conclude that they were naturally inferior, the equivalent of Aristotle's natural slave – one who is lacking in reason and therefore incapable of judging good and evil. For Sepúlveda, the world was divided into a hierarchy in which 'those who excel in prudence and wisdom ... are by nature masters while those who are retarded and weak in mind ... are natural slaves' (Sepúlveda, 1984, pp. 21–2). We will not digress to discuss the intricacies and problems of Sepúlveda's appropriation of the natural slave theory, which was by no means a universally accepted idea at the time (Quirk, 1954). While few, if anyone, would assert today that natural slaves exist, what should be retained from Sepúlveda's view of the Indians, and what he argues elsewhere, is that his rhetoric asserts notions of superiority and inferiority in the international realm, substantiated by a call to the authority of the natural law (Sepúlveda, 1975, pp. 332–7). The natural law defines the standard of rationality, empirically observable by looking at the customs and practices of any particular people, which serves as the criterion for judging the stature (civilized or barbaric) of a specific set of values. Justice is never on the side of the barbarians, but always sides with civilization given that the former 'have publicly committed crimes against the ... natural law' which essentially renders their resistance to protect their customs illegitimate (Sepúlveda, 1984, p. 101). In other words, Sepúlveda's rhetoric emphasizes that they do not have the same rights as the civilized. Thus, in the original manuscript of the *Democratues Secundus*, Sepúlveda makes a note in the margin referring to the mistaken arguments of Vitoria regarding the sovereignty and rights of the 'irrational' Indians under the law of nations (Sepúlveda, 1984, p. 57).

The consequences of this rhetoric are seen in the second just cause, which gives the civilized the right to wage war on the barbarians, even absent *injuria*.

Sepúlveda's second just cause states that the civilized have the right to abolish the barbarians' customs because they are intolerable to humanity: it is just to go to war, he writes, to eradicate those customs that 'distance the [barbarians] from humane and civilized morality, life and culture, and contaminate them with such [nefarious] crimes' (Sepúlveda, 1984, p. 39). He imbues the civilized with a moral power to police the natural law through war, and leaves no place for coexisting with evil in the world. Rather than a response to injury, just war becomes proactive to root out evil. Barbarism is a kind of permanent injury to humanity, leading to a war without any visible end until barbarism is eradicated. However, while Sepúlveda's emphasis on identity and the natural

law expands the notion of *jus ad bellum* in the case of barbarians, it does so with a higher purpose in mind.

Saving the Innocent and Regime Change: The Ends Outweigh the Bellicose Means

Tapping into arguments as old as Augustine and asserted by Vitoria, Sepúlveda affirms that war is meant to bring the good to the barbarians (Sepúlveda, 1984, pp. 4–5). Thus, balancing war with a humanitarian element, his view of just war is aimed not simply at peace, but at the betterment of humanity, which is only possible if the natural law is upheld and the best regime is spread. Hence the third cause, saving the innocent who suffered under the barbarian tyrants (Sepúlveda, 1984, p. 61) and the fourth cause, which is spreading the natural law (Sepúlveda, 1984, p. 64).

In a vein similar to Vitoria, Sepúlveda argued that saving the innocent was a moral responsibility because of the common bond of humanity that links one to one's neighbors (Vitoria, 1991, pp. 288–9). Saving the innocent taps into the link in the just war tradition, established in Augustine and reinforced by Aquinas, between the brotherly love Christians have towards their fellows and just war. Although the two previous causes are 'cause enough to justify war', the third cause emphasizes a moral and humanitarian element that strengthens the case. Saving the innocent is morally compelling because the regime under which the Indians live condemns them to 'the most unjust of sufferings' (Sepúlveda, 1984, p. 61). Sepúlveda even calculates that fewer lives were lost during the conquests compared to the number of innocents killed per year because of the Indians' tyrannous customs (Sepúlveda, 1984, p. 62). The horrors of war – death and destruction – are balanced by the immense good that war will bring. This mandate to save the innocent paves the way to the fourth cause, which amounts to removing the old political structure and instilling a new one organized according to the natural law.

The fourth cause represents a moral license to impose by war the ideas of the Spanish philosophical system on the New World. Whereas Vitoria wavered on whether regime change could be a just cause because it seemed to violate the sovereignty of the Indians (Vitoria, 1991, pp. 287–9), Sepúlveda categorically argues that barbarians who violate the natural law do not have *dominium*. They are thus subject to a just war which is not meant to 'punish their sins, but to correct and save them, and promote their public well-being' (Bell, 1925; Sepúlveda, 1984, p. 43). The end of the war is thus the removal of their tyrannical regimes and the installation of a new regime that upholds the natural law. As Sepúlveda rhetorically asks, 'what greater benefit and advantage could befall those barbarians than their submission to rule of those who with their prudence, virtue, and religion have converted them from barbarians and barely men into humans and civilized men to the extent that they can be?' (Sepúlveda, 1984, p. 63)

Sepúlveda was not a warmonger, religious crusader or an apologist for the conquistadors, but saw the confrontation with barbarians as a special case of just war that expanded the just causes beyond *injuria*. Despite having the good of the Indians in mind, however, his arguments were vehemently challenged by Las Casas.

Challenging Sepúlveda: Las Casas' Refinement of *Jus ad Bellum*

Bartolomé de las Casas was perhaps the most adamant defender of the Indians during the first century of the conquest (Gutiérrez, 1993; Hanke, 1959). The debates at Valladolid are the benchmark of this defense in which he specifically targets the just war ideas put forward by Sepúlveda because he feared what might happen if Sepúlveda's views came to be accepted as the standard of *jus ad bellum*. As he states in the beginning of his *Argumentum apologiae adversus Genesium Sepúlvedam theologum cordubensem* (*In Defense of the Indians*) which he composed for the debates, they would 'infect the minds of readers, deceive the unwary, and arm and incite tyrants to injustice' (Las Casas, 1999, pp. 18–9). Turning to Las Casas, we show how his arguments demonstrate three salient critiques of Sepúlveda's paradigm. First, he dismantles the validity of the civilized–barbarian dichotomy. Second, he articulates a view of *jus ad bellum* in terms of *injuria* which restricts and constrains just cause. Third, he unmasks Sepúlveda's positive ends that veil devastating consequences, thereby divorcing the spreading of the good from recourse to arms.

Self-Introspection and De-stigmatizing the Barbarians

Las Casas' experiences in the New World during nearly 50 years meant that he came face to face with the customs of the Indians that Sepúlveda judged to be barbaric, as well as the Spanish wars aimed at paving the way for Christianity (Pagden, 1991). In thinking about war, his first turn was one of introspection in which he scrutinized the actions of his own people, and recognized their barbarity. His first contribution to clarifying *jus ad bellum* is thus the rejection of the civilized–barbarian dichotomy, a stance that serves as a warning against letting moral standards lead to black and white categorizations that dehumanize the Other.

At the beginning of the *Defense*, Las Casas attacks the traditional understanding that barbarism implied inequality, which bolstered Sepúlveda's just war claims. Inspired by Aquinas, and drawing from other pagan and canonical sources such as Cicero, St Paul and Gratian, he redefines what it means to be a barbarian, offering four different definitions that de-stigmatize the term (Nederman, 2000). Las Casas defines the first kind of barbarian as 'any cruel, inhuman, wild and merciless man acting against human reason ... [who] plunges blindly into crimes that only the wildest beasts of the forest would commit' (Las Casas, 1999, pp. 28–9). Following Sepúlveda's world view, one would be inclined to think that the Indians epitomize such barbarians. Las Casas, however, cites the modern Spanish who 'in the absolutely inhuman things they have done to those nations [of the New World] have surpassed all other barbarians' as a prime example (Las Casas, 1999, p. 29). The second kind of barbarians are those who 'do not have a written language which corresponds to the spoken one ... [which means] they are considered to be uncultured and ignorant of letters and learning' (Las Casas, 1999, p. 31). In Greek philosophy, barbarians were those who did not speak Greek and were identified, in Aristotle, as the same as natural slaves (Pagden, 1986, pp. 15–24). However, Las Casas alters the definition by specifying that this kind of barbarity is a matter of 'circumstance' stemming from 'the difference of ... language' (Las Casas, 1999, p. 31).

By showing that even the so-called civilized are barbaric, Las Casas dispels the notion that being barbaric implies any sense of inferiority (Lupher, 2003, pp. 136–49). Rather, Las Casas de-stigmatizes the barbarians by showing that even the civilized can be barbaric if the true nature of their actions is unveiled and if the moral perspective is reversed. For Las Casas, this means that barbarism and justice are not antithetical, and that justice is not always on the side of the so-called civilized. While Sepúlveda assumes a black and white world view in which the categories of civilized and barbarians are mutually exclusive, and the relationship between the two is one of hierarchy, Las Casas suggests that barbarism is a purely conventional term in the same way that ‘the Greeks called the Romans barbarians, and, in turn, the Romans called the Greeks and other nations of the world barbarians’ (Las Casas, 1999, p. 31).

By dissolving the civilized–barbarian dichotomy, Las Casas sets the stage for a more nuanced view of war against barbarians. In Sepúlveda, the rhetoric of just war against barbarians promised an endless war against barbarians as a broad category because of their lack of reason and nefariousness. Las Casas acknowledges that such barbarians might exist with his third possible definition, but then proceeds to restrict severely the applicability of this category: the third kind of barbarians are those who ‘because of their evil and wicked character ... are cruel, savage, sottish, stupid and strangers to reason’ (Las Casas, 1999, p. 32). But he continues by stating: ‘it would be impossible to find one whole race, nation, region, or country’ that fits this category of barbarian, a conclusion that severely limits the definition of barbarism (Las Casas, 1999, p. 38).

While the Indians are not of this type, Las Casas is open to the fact that rare individuals can be strangers to reason. He implies that force can be used to compel such beings to follow the natural law, but at the same time criticizes Sepúlveda’s rhetoric of just war that conflates this definition of barbarism with the other definitions and expands the flank of the enemy. The important point here is that Las Casas severely circumscribes the category of barbarians against whom force can be used. The term barbarism does not apply to a group of people who follow a particularly offensive (by Sepúlveda’s standards) set of beliefs, but to mere individuals. It is unclear what sorts of actions would doom people to this category because, while giving examples of all the other kinds of barbarians, he gives none in this instance. However, Las Casas does make it clear that the reason has nothing to do with moral beliefs, for he defends both human sacrifice and cannibalism, which all other ‘wise’ men believed were barbaric, as just according to an expanded view of the natural law (Gutiérrez, 1993, pp. 166–75; Las Casas, 1999, p. 219, pp. 229–30).

Las Casas did not disagree with Sepúlveda that Christianity represented the truth. He thus recognized a fourth definition of barbarians: ‘all those who do not acknowledge Christ’ (Las Casas, 1999, p. 49). Barbarism in this sense is a function of morality, for all non-believers are barbarians. According to some Christian theologians of Las Casas’ era, these kinds of barbarians did not have *dominium*, and were subject to just war because of their unbelief (Muldoon, 1979, esp. ch. 1). Although Sepúlveda did not specifically make this argument, Las Casas recognized his ideas as related because they deny certain barbarians – those who violate the so-called natural laws – the right of sovereignty and imbibe Christianity with a political force linked to its moral superiority to bring them under the natural laws. Here Las

Casas clarified Vitoria to emphasize that *all* unbelievers have inviolable *dominium* 'even if they are guilty of the most atrocious crimes' (Las Casas, 1999, p. 264; compare Tierney, 1997, pp. 265–72). To put beyond any doubt the unconditional right to sovereignty of the Indians, he contended that if their *dominium* was violated, they had the right to wage a just war against Christians to protect their way of life: 'every nation, no matter how barbaric, has the right to defend itself against a more civilized one that wants to conquer it and take away its freedom. And, moreover, it can lawfully punish with death the more civilized as a savage and cruel aggressor' (Las Casas, 1999, p. 55, p. 172).

Restricting Jus ad Bellum to Injuria

Las Casas was not a pacifist; he believed that war was sometimes necessary. Thus despite his unyielding attack on Sepúlveda and his tenacious defense of the Indians, one should not overlook the fact that in the *Defense* he also elucidated five just causes by which the Spanish could have waged war on the Indians. While he agreed with much of what Vitoria had to say on just war, he admitted that Vitoria 'is a little more careless ... regarding some of those titles, since he wished to moderate what seemed to the Emperor's party to have been rather harshly put' (Las Casas, 1999, pp. 340–1). Here he references the ambiguous statements Vitoria made about regime change and saving the innocent in *De Indis* which could be read as justifying humanitarian wars that violated the Indians' sovereignty (Vitoria, 1991, pp. 287–9). He chastises Sepúlveda for misreading Vitoria (Las Casas, 1999, pp. 340–1), and then delineates an alternative view of just war against so-called barbarians.

The first and second just causes to wage war on the Indians Las Casas identifies clarify the notion of sovereignty. First, when unbelievers 'unjustly possess realms they have unjustly despoiled from a Christian nation' then war can be waged against them. The justice in the recourse to force lies in antecedent claims of sovereignty: 'In the case of others, such as our Indians, who have not usurped a Christian realm', such a cause is not applicable (Las Casas, 1999, p. 118). In the second cause, war can be waged when unbelievers 'practice idolatry in provinces which were formerly under Christian rule or corrupt [this] region with evil and hateful vice against nature' (Las Casas, 1999, p. 119). Affirming the link to sovereignty, the second cause specifically refers to regions that were rightfully ruled by Christians, meaning that Christians have the right to police their views of the natural law only in areas they control, but not in other areas (Las Casas, 1999, p. 120).

The third, fourth and fifth causes clarify the nature of *injuria*. Las Casas states in discussing the third cause that war can be waged against those who are 'maliciously, knowingly, and insultingly blasphemous ... by speaking out of hatred and contempt for the Christian truth' (Las Casas, 1999, p. 165). The fourth cause reads that war can be waged as a punitive measure when 'they attack those who wish to embrace the Faith or have already embraced it' (Las Casas, 1999, p. 168). Both of these causes deserve scrutiny because they are opaque and open to wide interpretation. The fifth cause is self-defense after having been attacked (Las Casas, 1999, pp. 183–4).

The case of blasphemy requires a deeper inquiry because it is in this context that Las Casas' insightful version of *jus ad bellum* is vindicated. As was the case with Sepúlveda, this cause

could be misleading and easily manipulated to uphold a moral agenda, but delving into Las Casas' justification demonstrates how his nuanced view of barbarism is an essential element of *jus ad bellum* which averts the divisive rhetoric of Sepúlveda. Las Casas was not quick to jump the gun, as it were, and justify any blasphemous act as a justification for war. Nor did he turn to the natural law for guidance. Rather, his first reaction is introspective, that is, to inspect the actions and motives of his own country in order to understand the grievances of the Indians and see if their resistance is warranted. It is this introspection, as opposed to the intellectual reflex to combat desistance, which is valuable in assessing *jus ad bellum*. Sepúlveda's call to arms, he claims, deforms the reality of the situation with high flying rhetoric:

So Christians, stop deluding yourself with these pretenses ... Let those keep silent who are swollen with foolish learning and who encourage tyrants to persecute innocent sheep by claiming that the latter kill preachers of the faith ... they kill those who give them reason for killing ... they kill them not because they are preachers but because they are Spaniards, of the same nation, and in the same company of those fierce men who are their enemies (Las Casas, 1999, p. 172).

For Las Casas, Sepúlveda's arguments represent foolish learning blinded by moral supposition, taking what is in reality the Indians' natural right of self-defense as a sign of their irrationality and incorrigibility.

The superiority of the Spanish does not provide a moral blanket that denies the Indians the right to self-defense: even if the Indians were to 'kill two hundred thousand preachers, and even if they were to kill the Apostle Paul and all the other gospel-preaching followers of Christ', war would not be justified against them if they were provoked or waged a war in self-defense (Las Casas, 1999, p. 172). Actions that are for Las Casas justified in the name of self-defense – killing preachers – are for the Sepúlvedas of the world barbarous, blasphemous acts that violate the natural law. Las Casas is not stating that these acts are not horrible in their own right, but he is looking beyond the moral obstacles of 'foolish' paradigms to uncover the reasons behind them.

War, however, can be justified in the case of unprovoked blasphemy. Unprovoked means that the bellicose actions of the adversary can have no legitimate cause, which re-emphasizes the concept of sovereignty and the antecedent instance of *injuria*. The blasphemous act must also be of an egregious nature. The egregiousness of an act is not judged by looking to the natural law, but to a threshold of injury set in the context of the law of nations. Sins such as human sacrifice and cannibalism committed within the culture of the so-called barbarians are not egregious because they do not harm Spanish sovereignty (Las Casas, 1999, p. 164). Moreover, if unbelievers 'speak blasphemously about the Christian religion not out of contempt and hatred of religion but out of anger toward Christians by whom they have been maltreated and injured ... such persons are not blasphemous' (Las Casas, 1999, p. 165). Las Casas again shows himself open to the possibility that justice may be on the side of the barbarians because the conquistadors 'slander the Christian religion by their evil lives, their monstrosities, their savagery, and their pride' (Las Casas, 1999, p. 166). There is, however a threshold of toleration that is linked to physical harm, as opposed to moral universals, such

as the case with the Turks who physically harass Christians (Las Casas, 1999, p. 336; compare p. 160, p. 184). In such cases, just war is vindicated.

Just war is thus framed as a response to *injuria* as opposed to being based on moral qualifications grounded in the natural law. Limiting war to injury sets a standard that constrains the use of war as a political and moral tool. As we saw with Sepúlveda, the turn to a black and white view of the world justified an eternal war against the barbarian, essentially removing the stop-gates that *jus ad bellum* linked to *injuria* imposes. Las Casas' emphasis on *injuria*, on the other hand, even in the case of so-called barbarians, places the onus on restricted just cause that has nothing to do with identity. To the extent possible, he leaves notions of good and evil that banalize the moral deliberation about war out of the rhetoric because they impose an oversimplified view of the world, and tries to understand the perspective of the barbarians.

War is not about policing the natural law as interpreted from the point of view of the civilized; it is not about values, but about vindicating harm caused: 'By the law of [self-defense], the arms of all peoples are raised against their public enemies ... and by inflicting equal destruction we teach them to fear our men and to avoid injuring us so that they pay for the injuries they have inflicted on us' (Las Casas, 1999, p. 184). Equal destruction does not imply spreading values, but a reprisal of the same scale, a proportionate response to the injury inflicted. Las Casas' goal is not to make recourse to war impossible, but to avoid what he sees as fallacious views of the Other and the natural law which encourage wars that, in his experience, lead to more destruction than good. To this end he is overtly wary of rhetoric that emphasizes the benefits a just war might bring to the barbarians and the world at large.

Separating Humanitarian Goals from Jus ad Bellum

Las Casas' fourth cause states that it is just to come to the aid of those who have converted, or want to convert. There is significant room for ambiguity in this cause as it can easily lead to justifying changing the regime of the barbarians to ensure the safety of converts. However, Las Casas adds important elements that clarify this cause by rejecting saving the innocent and regime change as just causes to wage war. While he agreed with the ends proposed by Sepúlveda, Las Casas argued that the so-called civilized nations have no natural mandate to free the so-called barbarians from their barbarity by conquering them and imposing upon them their version of the truth. His experience in the New World showed him that the promises that lace Sepúlveda's arguments lead to more damage than good, hindering the spreading of the faith rather than facilitating it. Saving the innocent and paving the way for the faith are admirable ends, but not just causes to wage war (Wallerstein, 2006, pp. 8–9). While one cannot generalize from Las Casas' experience to all cases, his reflections provide the context to rethink interpretations of just war that link moral goals to the use of force.

Sepúlveda, like Vitoria before him, justified war to save the innocent, calling it 'an obligation of the just and religious prince' (Sepúlveda, 1984, p. 62). But saving the innocent is not an

isolated act of war; it is a moral act with political consequences. For Sepúlveda (and Vitoria), saving the innocent was coeval with removing their tyrannical regimes and installing morally good ones. Such arguments are persuasive because they tap into latent sentiments of fellowship characteristic of universalist paradigms such as Christianity. Las Casas also embraced the Christian ethic of love towards one's neighbor, and while laying out the reasoning behind using war as a tool to save the innocent in chapter 28 (Las Casas, 1999, pp. 185–9), he all but rejects this view in chapters 29–33 as he proves that Christian love is not best served by just war. His first-hand experience with war in the New World led him to recognize a twofold danger in positing saving the innocent as a just cause, thus leading him to repudiate Sepúlveda's claims, and in consequence distance himself from Vitoria as well.

First, in terms of physical damage, such a war leads to the death of other innocents. Sepúlveda downplayed these aspects of war, focusing his rhetoric on the benefits. However, for Las Casas, where the hardships of the innocent 'cannot be avoided by any remedy other than war, we are bound by the natural, human, and divine law to tolerate and overlook them lest a countless number perish' (Las Casas, 1999, p. 213). Vitoria also weighed the risks to the innocent when thinking about just cause. While arguing that it was unlawful to kill innocents intentionally, he concluded that war could be justified if necessary to remove the obstacles to the faith and if the positive results of war outweighed the evils caused by any collateral damage (Vitoria, 1991, pp. 285–6, p. 316). Las Casas, however, does not support this logic, stating that even the death of a few to save the many does not justify the widespread and long-term evils of war. When good and evil are intertwined, it is best to avoid the evil of war despite the good it might produce (Las Casas, 1999, p. 203). However, this physical risk is only part of the story – the greater damage of such a war is to the moral reputation of Christianity.

Second, in terms of moral damage, Las Casas upholds that war will hinder the spreading of the moral good: 'Anything should be tolerated to avoid waging war, the sea of all evil ... for this is not helpful to the spread of the gospel' (Las Casas, 1999, p. 248). Spreading universal values by steel and thunder creates hatred for those wielding the power because of the death and destruction war inevitably produces. The problem for Las Casas is that this method gives no sense of credibility to the values being spread, but sends instead a message of hypocrisy; the advantages of the best regime and the truth – fraternity, piety, equality and the path to the good life – are overshadowed by the evilness of war – rape, burned villages, children impaled. He concluded that the result of a war justified by Sepúlveda's principles would be that 'the Indians will never accept the truth of Christianity if they are hardened [against it]' (Las Casas, 1999, p. 247). Moreover, he claims that those who spread the truth 'accompanied by the clatter of arms ... by that very fact are unworthy to have their words believed' (Las Casas, 1999, p. 173).

These are powerful statements about the dangers of linking humanitarian goals to just war. Yet despite his critique of war to spread the good, he was not ready to abandon the innocent completely to their fate. Las Casas was not a moral relativist and did not advocate living in a world in which cannibalism and human sacrifice were a viable moral alternative; nor did he escape making moral claims about politics, the good and justice that he imposed

on the Indians. As William Connolly points out, Sepúlveda and Las Casas are essentially two sides of the same coin. Sepúlveda argued that in the case of barbarians, imposing the moral good, which was essential to the Christian view of charity and brotherly love, requires the use of force to clear the way. Las Casas rejects the use of force, claiming that the best manner to convert the Indians is not via an offensive war, but 'to see the Christian life shine in our conduct' (Connolly, 1991, p. 43; Las Casas, 1999, p. 179).

In imposing a moral hierarchy on to the world, Las Casas creates the potential for tension within his just war view should the Indians refuse to convert, persecute those who did convert or unjustly resist peaceful attempts at conversion. In these cases, his belief in moral superiority comes into tension with his rejection of war to spread the truth. In a few rare instances in the *Defense*, he wavers towards justifying war to protect new converts in response to injury received or imminent threat. These wars, however, remain punitive in scope (Las Casas, 1999, p. 320, p. 334). On the whole, he rejects war to save the innocent or spread the good and proffers arguments for indefinite toleration of the Indians' customs until they themselves are convinced of the truths of Christianity (Nederman, 2000, p. 111).

While certainly questionable in terms of respecting the identity of the Indians, a point that Daniel Castro (2007) duly expounds upon, Las Casas' rejection of just war for instrumental purposes, coupled with his nuanced view of barbarism and his emphasis on *injuria*, marks an important and overlooked moment in the just war tradition which can offer insight into the renegotiation of *jus ad bellum* today.

Renegotiation of *Jus ad Bellum* Today: The Lessons from Valladolid

The war on terror points to the renewed salience of the clash between Sepúlveda and Las Casas at Valladolid. Confrontation with an adversary whose ideals threaten the moral fiber of one's own belief system – those perceived to be barbarians – has precipitated what Rigstad calls the revisionist vein of just war theory, justifying war according to a black and white view of the world balanced by humanitarian promises (Rigstad, 2007, p. 4). Is this really the essence of the just war tradition spanning more than 1,500 years of collective wisdom and historical lessons that one prominent just war scholar recently hailed as having 'triumphed' (Walzer, 2004, p. 11)? Re-reading Las Casas' response to Sepúlveda reveals several lessons that give philosophical leverage to challenge the revisionist view of *jus ad bellum*.

The starting point of Las Casas' reflection on war is to teach us to be skeptical of a black and white view of just war. Contrary to Sepúlveda's position, Las Casas shows us that the world is not divided between the civilized and barbarians, and that to think it is will lead to removing the safeguards of *jus ad bellum* and the expansion of just cause in dangerous ways. Las Casas' de-stigmatization of the barbarians suggests that we need a more nuanced view of the world. Framing just war in black and white terms paints a picture of the adversary as Other, which expands the flanks of just cause to everywhere one perceives barbarians. However, in the words of Anthony Coates, for *jus ad bellum* to have meaning, 'the

enemy is never the Other. It is this limited concept that informs and sustains traditional just war thinking. It seems that without it, there can be no moral restraint for war' (Coates, 2006, p. 215).

Las Casas' challenge to the civilized–barbarian dichotomy does not lead us necessarily to rethink the standards of civilizations. Despite offering a more nuanced view of barbarism, he still held on to a moral hierarchy with the Christian (Western) view at the apex. Nor does it leave one hostage to fortune because he does believe war is justified under certain circumstances. However, his arguments do force us to rethink the justification of war against those perceived to be barbarians. His reasoning is pertinent to the question of rogue states that hold an ambiguous place on the fringes of international law because they violate international norms (Saunders, 2006). In the conventional view of just war set in the context of international law, such states have sovereignty and cannot be subject to just war unless they are perpetrators of external aggression. With the revisionist view of just war, these states are, as Rignstad explains, at the sufferance of those states that hold the moral high ground and subject to preventive war (Rignstad, 2007, p. 4).

In an era of weapons of mass destruction, rogue states cannot be ignored, but viewing them as evil and the opposite of civilization enhances the appeal of preventive war because the threat of evil is so great that non-action would be disastrous (Bush, 2002; 2007). The idea of preventive war rests on several assumptions: that a state will unjustly attack in the future; this threat can be eliminated now, while waiting would be disastrous; peaceful means of addressing the threat have and will continue to fail (McMahan, 2006, p. 171). Such an argument holds a certain clout in the context of the war on terror. As Jean Bethke Elshtain (2003) argues, the possibility that weapons of mass destruction could fall into the hands of Saddam Hussein or al-Qa'eda terrorists becomes a justified reason for acting before injury is inflicted. However, Las Casas' view of barbarians restrains the way we think about the efficacy of such a war.

One is tempted to say that Las Casas recognized that use of such 'Othering' rhetoric removes the criterion of last resort from just cause, though he did not think in such terms. Yet the result is essentially the same because buying into the civilized–barbarian dichotomy banalizes the decision to go to war. While conventionalist *jus ad bellum* emphasizes that war should always be a last resort, a return to the Sepúlveda-style rhetoric is a return to a just war paradigm without safeguards: an interventionist, proactive *jus ad bellum* that recognizes moral righteousness and power as a political license to enforce justice against evil. As Coates warns, such a black and white perspective 'abolishes the moral threshold for war ... by providing a standing cause for war (the defeat of the Other), a cause so elevated (so "just") in its conception that any war, no matter how destructive, is bound to seem proportionate or worth fighting' (Coates, 2006, p. 217). That said, Las Casas does not teach us to ignore the danger of rogue states, but his reflections on barbarism force one to focus not on their apparent evil, but on other elements of the equation when building a case for just war including limiting the goals of the war and the negative effects of our own barbarism. These elements ultimately restrict the way one thinks about *jus ad bellum*.

Turning to the goals of war, Las Casas challenges the link between Christian love and *jus ad bellum*, rejecting saving the innocent and regime change as just causes for war. What is

persuasive – and perhaps most dangerous – about Sepúlveda’s rhetoric for Las Casas is that it combines a black and white perspective of the world in which war against barbarians is worth fighting with the view that war brings great benefits to the people who suffer under the barbarian regimes. Ultimately, Sepúlveda’s argument about policing the natural law justifies a war of liberation that eradicates the oppressive customs of the barbarians and imposes regime change. As such, it provides a clear answer to some of the just war tradition’s most pressing dilemmas by placing the justness of humanitarian intervention and regime change squarely within the tradition.

Just war scholars have meditated on the importance of saving the innocent as a just cause, and some have suggested that it ought to have a key place in building the case for just war. Moreover, tapping into Sepúlveda’s claim that barbaric regimes have no right to sovereignty, regime change has also been put forth as a just cause. For example, Elshtain, drawing from Augustine, sees protecting the innocent and restoring civic peace and security as primary elements of *jus ad bellum*, and therefore cites these as just causes to intervene in and democratize first Afghanistan and then Iraq (Elshtain, 2003, pp. 48–58, p. 70; 2007). Orend also sees regime change as ‘consistent with, even implied by’ just wars against barbarians (Orend, 2006, p. 212; compare Buchanon, 2006). James Turner Johnson, although he disagrees with the way the Iraq War was justified, ultimately agrees that it was just. Drawing from Aquinas, he argues that it was just because the intention was to ‘create a new order in Iraq – a society no longer ruled by the forces of tyranny and re-established on the basis of democracy, freedom, and all other aspects of genuine justice’ (Johnson, 2005, p. 142).

These are powerful arguments because democracy is worth spreading, because there are evil regimes that make innocents suffer and because these humanitarian benefits are enhanced by the belief that adherence to *jus in bello* rules significantly limits collateral damage to non-combatants in modern warfare. These are arguments that have the greater good in mind, and seek to create a better world of peace *post bellum*. As Johnson explains, such ends can be seen as the kernel of the just war tradition: ‘the end of a just war is not simply to end the fighting, for peace without justice is no peace at all. Rather, the just war tradition requires peace with justice, a peace in which the rule of law is established or restored’ (Johnson, 2006, p. 94). But Las Casas would warn us not to be swayed by such a rosy picture of just war and optimism surrounding its capacity to lead to good. This is where the *gravitas* he lends to our own barbarism is important.

While the conquistadors committed innumerable acts of barbarity to merit his scathing criticism and the hatred of the rebellious Indians, it only takes one act of barbarity to cause tensions to flair and instill deep emotions of grievance and hatred that hinder peace and reconciliation. In the letter written by just war scholars following the attacks of 9/11 entitled ‘What We are Fighting For: A Letter from America’ (2002), it was argued that while we do not always live up to the standards of our values, they are ‘the shared inheritance of humankind, and therefore the basis of hope for a world community based on peace and justice’, and thus worth fighting for and spreading. Citing Augustine, the letter continues: ‘if one has compelling evidence that innocent people who are in no position to protect themselves will be grievously harmed unless coercive force is used to stop an aggressor, then the moral principle of love of neighbor calls to the use of force’. The momentary lapses of

barbarism inevitable with war are eclipsed by the magnanimity of the values being spread to deliver the innocent from their suffering. Las Casas, however, offers an alternative view that focuses on the negative effects of our own barbarism. He does not start from the premise that war is an instrument that can bring good. Rather, he begins with a presumption against war because of the injury it will cause to innocents. In his day, he lamented the loss of hundreds of thousands of indigenous people following the wars of conquest to pave the way for Christianity (Todorov, 1984, p. 170). His reasoning rests on his observation that war is not the context in which the values of civilization shine because war inevitably shows the barbaric side of all men, not just the enemy. Echoing arguments made by Jeff McMahan (2006, p. 171), Las Casas emphasizes the potential *injuria* to the innocent when thinking about constructing a just war, which forces him to reconsider the place of humanitarian goals, noble as they may be, in *jus ad bellum*.

This rationale can be difficult to swallow because it privileges peaceful means in the face of tyranny, thus requiring a great leap of faith that these means will eventually serve saving the innocent better than the engine of war. That said, linking humanitarian goals to war also requires a leap of faith that war will succeed in creating a better world. While we do not necessarily agree with Las Casas' conclusions across the board, his logic is food for thought which deserves a more in-depth examination that is beyond the scope of this article. His arguments offer an alternative to philosophical claims about humanitarian intervention based on Kantian moral imperatives (Bagnoli, 2004; Orend, 2000) or Augustinian ethics of responsibility (Elshtain, 2003; compare O'Driscoll, 2007). The important point for our purposes here is that for Las Casas, saving the innocent is not the kernel of the just war tradition, and that to the extent to which war could be justified to help the innocent, it must be dissociated from instrumental goals linked to political reform or regime change. In cases of 'humanitarian urgency', to use Walzer's phrase, Las Casas comes close to recognizing that war can be justified. However, the goal of the war is punitive and aimed at stopping the persecution, as opposed to imposing regime change by force (Walzer, 2007, p. 640).

Las Casas was not against changing the regimes of barbarians, but rejected war as the legitimate means to do so. His stance echoes in many ways the United States National Conference of Catholic Bishops' (NCCB) letter *The Challenge of Peace* (1983) which rejects the legitimacy of war to challenge the prevailing order or combat injustice (compare O'Driscoll, 2008b, p. 200). The NCCB's letter sparked an important debate within the tradition about the purpose of just war. Johnson calls the presumption against just war for instrumental purposes a 'distortion' of the just war tradition, taking issue with the privileging of the 'prudential' aspects of *jus ad bellum* over the fundamental elements of just cause and right intention (Johnson, 1999, p. 36). He claims that this presumption is a negative and recent development which threatens to turn the tradition 'over into something very different from what it properly is' and thus squander the wisdom of the ages (Johnson, 2005, p. 35; compare O'Driscoll, 2008b, pp. 199–205). For Johnson, as his support for the Iraq War amply demonstrates, the tradition is fundamentally built on the notion that the purpose of just war is to create peace and justice, which at times requires the righteous to employ force to remove tyranny and introduce justice into other societies (Johnson, 2005, pp. 140–2).

The political thought of Las Casas, however, poses a challenge to the view that the tradition does not harbor a presumption against the use of war for instrumentalist purposes *from within the tradition itself*. His sensitivity to the consequences of war led him to rethink the right intention of war and scope of just cause by refining the arguments of the just war canon during the debates at Valladolid to respond to a pressing political problem. As we think about his stance on right intention, his warning – that war acts as an impediment to the spreading of the truth because it hardens those who hold on to a different value system against change that is forced upon them, even though this change may be in their best interest, by tarnishing the reputation of the aggressor's values – is pertinent. Moreover, one should recognize that Las Casas did not make his decision lightly, or abandon the innocent to a disenfranchised fate. He fundamentally agreed with the idea of spreading the good that is at the heart of the instrumentalist view of just war, but rejected war as the best medium to do so. What Las Casas teaches us, as Immanuel Wallerstein notes, is to have humility about our righteousness, and to recognize that the Other has legitimate grievances if we try to spread our values by force (Wallerstein, 2006, p. 29).

Las Casas' stance against the instrumental uses of war does not demarcate a shift towards pacifism. Rather, his concerns about the negative consequences of war led him to search for a more reactive, and hence limited, view of *jus ad bellum* based on *injuria*. The just war tradition has, in many ways, moved away in recent years from any meaningful category of *injuria* to build the case for *jus ad bellum* from the much broader right of self-defense. The problem with self-defense, however, is that it has taken on an amorphous meaning to include preventive war and pursuing humanitarian goals to protect our values by spreading them, as discussed above. In rejecting these causes, Las Casas imposes a more restrictive view of just cause as reactive, as opposed to proactive. *Injuria* can mean being attacked, constantly harassed or coming to the aid of allies, but the real meaning behind his focus on *injuria* is to limit the negative costs of war, which he views as detrimental to the ultimate goal of creating a better world by other means. In other words, his presumption against war leads him to view war as the very last resort, to be avoided unless absolutely necessary, and then only to be used in restricted, proportionate terms.

Is Las Casas, one might ask, a 'naïve humanist', to use Elshtain's language (2003, p. 6), who prefers to ignore or tolerate evil in order to avoid war? The answer, we think, is no. He was, rather, one who was realistic about the potential for war as an instrumental tool to affect positive change, and sought to employ other means. Yet he was not so naïve as to think that war was never justified. As such, he was not shy of justifying the use of force against the menacing Turks. In the end, we think his ultimate wisdom lies in arguing for the restriction of the *jus ad bellum* doctrine in the face of those who make compelling arguments, draped in moral universals and humanitarian imperatives, for its expansion.

Conclusion

In turning to the Valladolid debates, we have sought to bring to the forefront a moment in the just war tradition that has been overlooked, but which is pertinent to the current renegotiation of *jus ad bellum*. It is a surprising oversight that Las Casas, perhaps the greatest

defender of the Indians from the Spanish conquest, does not figure in the literature on the just war tradition. This omission is even more egregious given that Las Casas was not thinking abstractly about the concept of just war, but actually using and modifying the just war tradition he inherited from Augustine, Aquinas and Vitoria to deal with a real-world political problem. We highlighted several lessons that can be learned from Las Casas' attack on Sepúlveda at Valladolid which challenge some of the underlying assumptions of the just war tradition as interpreted by some in the context of the war on terror: rejecting the black and white picture of the international community; dissolving the link between Christian love and *jus ad bellum*; accentuating the evils of war; and emphasizing the salience of *injuria* to limit, but not eliminate, just cause.

While our analysis has tended to highlight Las Casas' criticism of Sepúlveda, we do not pretend that Las Casas provides a perfect alternative of *jus ad bellum*. Like all others who came before and after him, his arguments contain ambiguities and omissions. By engaging with Las Casas, scholars of the just war will actively undertake a renegotiation of *jus ad bellum*, what one might view as a second Valladolid, as the tradition continues to evolve to accommodate the new parameters introduced by the war on terror.

(Accepted: 30 November 2009)

About the Authors

Daniel R. Brunstetter holds a PhD from the University of California, Davis. He is an Assistant Professor in the Department of Political Science at the University of California, Irvine. His research and teaching interests include just war theory, the Spanish conquest of the New World, early modern political theory and the French Enlightenment.

Daniel R. Brunstetter, Department of Political Science, University of California – Irvine, 3151 Social Science Plaza, Irvine, CA 92617, USA; email: dbrunste@uci.edu

Dana Zartner holds a JD from Boston University School of Law and a PhD from the University of California, Davis. She is an Assistant Professor in the Department of Political Science at Tulane University in New Orleans. Her research and teaching interests are the development and internalization of international law, comparative legal cultures, international environmental law and politics and international human rights.

Dana Zartner, Department of Political Science, Tulane University, 316 Norman Mayer Building, New Orleans, LA 70118, USA; email: zartner@tulane.edu

Note

- 1 There is as yet no English translation of this work. All translations of Sepúlveda are our own.

References

- Andújar, E. (1997) 'Bartolomé de las Casas and Juan Ginés de Sepúlveda: Moral Theology versus Political Philosophy', in K. White (ed.), *Hispanic Philosophy in the Age of Discovery*. Washington DC: Catholic University of America Press, pp. 69–87.
- Anghie, A. (1996) 'Francisco de Vitoria and the Colonial Origins of International Law', *Social and Legal Studies*, 5 (3), 321–36.
- Bagnoli, C. (2004) 'Humanitarian Intervention as a Perfect Duty: A Kantian Argument', *Nomos*, 47, 117–48.
- Bell, A. G. F. (1925) *Juan Ginés de Sepúlveda*. Oxford: Oxford University Press.
- Bellamy, A. J. (2006) *Just Wars: From Cicero to Iraq*. Cambridge: Polity Press.
- Buchanon, A. (2006) 'Institutionalizing the Just War', *Philosophy and Public Affairs*, 34 (1), 2–38.

- Bush, G. W. (2002) 'State of the Union Address'. Available from: <http://www.whitehouse.gov/news/releases/2002/01/20020129-11.html> [Accessed 5 October 2008].
- Bush, G. W. (2007) 'State of the Union Address'. Available from: <http://www.whitehouse.gov/news/releases/2007/01/20070123-2.html> [Accessed 5 October 2008].
- Castro, D. (2007) *Another Face of Empire*. Durham NC: Duke University Press.
- Coates, A. (2006) 'Culture, the Enemy, and the Moral Restraint of War', in R. Sorabji and D. Rodin (eds), *The Ethics of War: Shared Problems in Different Traditions*. Burlington VT: Ashgate, pp. 208–22.
- Connolly, W. (1991) *Identity/Difference: Democratic Negotiations of Political Paradox*. Minneapolis MN: University of Minnesota Press.
- Crawford, N. C. (2003) 'Just War Theory and the US Counterterrorism War', *Perspectives on Politics*, 1 (1), 5–25.
- Elshtain, J. B. (2003) *Just War against Terror: The Burden of American Power*. New York: Basic Books.
- Elshtain, J. B. (2007) 'Terrorism, Regime Change, and Just War: Reflections', *Journal of Military Ethics*, 6 (2), 131–7.
- Gunnell, J. G. A. (1978) 'The Myth of the Tradition', *American Political Science Review*, 72 (1), 122–34.
- Gutiérrez, G. (1993) *Las Casas: In Search of the Poor of Jesus Christ*, trans. R. R. Barr. Maryknoll NY: Orbis Books.
- Hanke, L. (1959) *Aristotle and the American Indians: A Study in Race Prejudice in the Modern World*. London: Hollis and Carter.
- Johnson, J. T. (1981) *Just War Tradition and the Restraint of War*. Princeton NJ: Princeton University Press.
- Johnson, J. T. (1999) *Morality and Contemporary Warfare*. New Haven CT: Yale University Press.
- Johnson, J. T. (2005) *The War to Oust Saddam Hussein: Just War in the Face of New Conflict*. Lanham MD: Rowman & Littlefield.
- Johnson, J. T. (2006) 'The Just War Idea: The State of the Question', *Social Philosophy and Policy*, 23 (1), 167–95.
- Kessler, B. (2005) 'Moral Justification for Violent Response to Terrorism', in T. Shanahan (ed.), *Philosophy 9/11: Thinking about the War on Terrorism*. Peru, IL: Open Court, pp. 149–70.
- Las Casas, B. (1999) *In Defense of the Indians*, trans. S. Poole. DeKalb IL: Northern Illinois University Press.
- Lupher, D. (2003) *Romans in a New World: Classical Models in Sixteenth Century Spanish America*. Ann Arbor MI: University of Michigan Press.
- McMahan, J. (2006) 'Preventive War and the Killing of the Innocent', in R. Sorabji and D. Rodin (eds), *The Ethics of War: Shared Problems in Different Traditions*. Burlington VT: Ashgate, pp. 169–90.
- Muldoon, J. (1979) *Popes, Lawyers, and Infidels*. Philadelphia PA: University of Pennsylvania Press.
- Nederman, C. (2000) *Worlds of Difference: European Discourses of Toleration, 1100–1550*. State College PA: Penn State University Press.
- O'Driscoll, C. (2007) 'Jean Bethke Elshtain's Just War against Terror: A Tale of Two Cities', *International Relations*, 21 (4), 485–92.
- O'Driscoll, C. (2008a) *The Renegotiation of the Just War Tradition and the Right to War in the Twenty-First Century*. New York: Palgrave Macmillan.
- O'Driscoll, C. (2008b) 'James Turner Johnson's Just War Idea: Commanding the Headwaters of Tradition', *Journal of International Political Theory*, 4 (2), 189–211.
- Orend, B. (2000) *War and International Justice: A Kantian Perspective*. Waterloo ON: Wilfrid Laurier University Press.
- Orend, B. (2006) *The Morality of War*. Peterborough ON: Broadview Press.
- Pagden, A. (1986) *The Fall of Natural Man*. Cambridge: Cambridge University Press.
- Pagden, A. (1991) 'Text and Experience in the Writings of Bartolomé de las Casas', *Representations*, 33 (Winter), 147–62.
- Quirk, R. E. (1954) 'Some Notes on a Controversial Controversy', *The Hispanic American Historical Review*, 34 (3), 357–64.
- Rengger, N. (2002) 'On the Just War Tradition in the Twenty-First Century', *International Affairs*, 78 (2), 353–63.
- Rigstad, M. (2007) 'Jus Ad Bellum after 9/11: A State of the Art Report', *The ITP Beacon*, 3 (June), 1–30.
- Saunders, E. (2006) 'Setting Boundaries: Can International Society Exclude Rogue States?', *International Studies Review*, 8 (1), 23–54.
- Sepúlveda, J. G. (1975) *Apologia: Juan Gines de Sepúlveda, Bartolomé de las Casas*, trans. A. Losada. Madrid: Editora Nacional.
- Sepúlveda, J. G. (1984) *Democrates Segundo o de las Justas causas de la guerra contra los indios*, trans. A. Losada. Madrid: Consejo Superior de Investigaciones Científicas.

- Skinner, Q. (1969) 'Meaning and Understanding in the History of Ideas', *History and Theory*, 8, 3–53.
- Sorabji, R. (2006) 'Just War from Ancient Origins to the Conquistadors Debate and its Modern Relevance', in R. Sorabji and D. Rodin (eds), *The Ethics of War: Shared Problems in Different Traditions*. Burlington VT: Ashgate, pp. 13–29.
- Tierney, B. (1997) *The Idea of Natural Rights: Studies on Natural Rights, Natural Law and Church Law 1150–1625*. Atlanta GA: Scholars Press.
- Todorov, T. (1984) *The Conquest of America: The Question of the Other*, trans. R. Howard. New York: Harper & Row.
- Tuck, R. (1999) *The Rights of War and Peace: Political Thought and the International Order from Grotius to Kant*. Oxford: Oxford University Press.
- Vitoria, F. (1991) *Political Writings*, ed. A. Pagden and J. Lawrance. Cambridge: Cambridge University Press.
- Wallerstein, I. (2006) *European Universalism: The Rhetoric of Power*. New York: The New Press.
- Walzer, M. (2004) *Arguing about War*. New Haven CT: Yale University Press.
- Walzer, M. (2006) *Just and Unjust Wars: A Moral Argument with Historical Illustrations*. New York: Basic Books.
- Walzer, M. (2007) 'The Crime of Aggressive War', *Washington University Global Studies Law Review*, 6, 635–43.
- 'What We are Fighting For: A Letter from America' (2002) Available from: <http://www.americanvalues.org/html/wwff.html> [Accessed 11 February 2007].