

Incoherences and Incompatibilities: Just Peace and Just War in Contemporary German Protestantism

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Abstract

This article revisits some of the main tenets and problems of the Just Peace concept as developed in the German Protestant Church, showing how it is beset by incoherences, ironical returns of expanded violence, as well as the problem of abstraction: once the Just Peace concept is applied to concrete problems, it runs dry. The article then examines some recent contributions made under the wider umbrella of ‘peace ethics’, showing that attempts to combine the Just Peace and *bellum iustum* are bound to fail. It then retraces the present shift to Just War thinking that reorders the basic terms, whilst also retaining some of the tenets of the Just Peace approach. Some refinements of these developments are indicated.

Keywords

Just Peace, Just War, German Protestant Church, revision, critique, *bellum iustum*

Introduction

The Just Peace concept is a unique phenomenon which grew out of the most destructive war in human history. It came of age during the confrontation between two global superpowers threatening each other with weapons able to destroy civilisations. If war meant *that* much destruction, contemporaries asked, how could it possibly be justified, even ‘just’? Before the backdrop of mutually assured destruction (MAD) and distant proxy wars, civil society in the West seemingly could *only* focus on building peace, be it with reconciliation or democratisation in mind. International law would peacefully regulate conflict, albeit with occasional exceptions. In the East, peace was engrained in the idea of international communist brotherhood. At the same time, the anti-communist

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resistance frequently demanded peace over against oppressive regimes.¹ It seemed war as an ‘institution’ could be overcome, peace be waged *instead of* war.

Although the liberal moment of the early 1990s passed quickly, this essential Just Peace idea was put forth by Catholic and Protestant thinkers well into the new millennium. This article will show how the Just Peace concept is increasingly untenable, looking mainly at the Protestant tradition in Germany. How to enforce the law, how to do justice even in the face of corrupt or non-existent legal regimes, when to resist, overthrow or cease fire: specifically political deliberation remains indispensable, and particularly so *in extremis*. I will retrace how this position emerges as a result of logical problems in the current Just Peace concept itself, and that it is inevitable once authors open the Just Peace position to the concerns of the *bellum iustum* tradition.

Living in God’s Peace (2007)

The Just Peace concept has dominated Protestant theological debates in Germany since the 1980s. *Si vis pacem, para pacem*: ‘Whoever wants peace must prepare peace’, was a key phrase of the German Evangelical Church’s (EKD) seminal memorandum *Living in God’s Peace—Working for a Just Peace* (2007). This *Friedensschrift* (‘peace memorandum’) remains the central reference point for the Protestant debate on war and peace in Germany, so it requires a brief revisit.

Crucially, after a biblically grounded explanation of God’s peace (*shalom*), the practices of justice and peace were equated in the document: ‘Peace as the “fruit” or “work” of justice is not the external result of actions independent of it; rather, *peace-making just action* can only *occur in peace* and *emerge from it*.’² This rules out attaining justice by means of violence, indeed this section demands justice to be ‘peaceful’. A ‘social process’ of ‘decreasing violence and increasing justice’ was ‘directed’ toward four goals: the avoidance of the use of violence, the promotion of freedom, of cultural diversity, and the reduction of hardship.³ Internationally, Just Peace was to be secured through the legal system and institutions, to be further developed (‘legal pacifism’). Whilst ‘law-sustaining force’ was deemed a possible *ultima ratio* in that context, the *bellum iustum*

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1. There are exceptions such as Václav Havel in then Czechoslovakia, who attacked the ubiquitous ‘peace’ talk going back as far as Stalin. The American neoconservative *bellum iustum* proponent and later Catholic convert Jean Bethke Elshtain cited Havel as her ‘political hero’; see William Galston, ‘Remembering Jean Bethke Elshtain’, *The New Republic*, 26 August 2013, available at: <https://newrepublic.com/article/114426/jean-bethke-elshtain-remembering-scholar-and-new-republic-writer> (accessed 30 January 2024); Jean Bethke Elshtain, ‘A Performer of Political Thought: Václav Havel on Freedom and Responsibility’, *Nomos* 37 (1995), pp. 464–82. Arguably, Havel’s and others’ critique of human rights violations in the East were less programmatically ‘non-violent’ than they were simply oppressed and powerless.
 2. Rat der Evangelischen Kirche in Deutschland [EKD], *Aus Gottes Frieden leben—für gerechten Frieden sorgen: Eine Denkschrift des Rates der Evangelischen Kirche in Deutschland* (Gütersloh: Gütersloher Verlagshaus, 2007), para. 76, p. 53, italics added.
 3. Rat der EKD, *Aus Gottes Frieden leben*, para. 80, p. 54.

was declared outdated.⁴ Thus formulated, Just Peace was again proclaimed to be a *magnus consensus* in 2013.⁵ A 24-volume, multi-authored series on Just Peace based on a three-year consultation process at Heidelberg (2016–2019)⁶ discussed a variety of implications and problems, some of which I shall refer to below. Yet, significantly, it came to no summary conclusion.

Part I: Tensions of the Just Peace Concept—Abstractions and Ironies

The Just Peace concept has been dogged by problems, namely inconsistency, abstraction and irony. First, on the level of construction: the document proleptically localises the ‘directional dimensions’ of the process in just, peaceful coexistence. Yet precisely the practical *achievement* of these ‘dimensions’, such as protection from violent perpetrators, always implies the possible use of violent force, thwarting the purportedly ‘peaceful social process’. So after all, the unstable connection of ‘Just’ and ‘Peace’ must operationally fall apart—into justice and subsequently peace.⁷ Second, already immanent to the concept there is a ‘tension’ between the four ‘dimensions’.⁸ Insofar as they are formally conceived, their real-world concretisation entails hierarchisation, conflict, and potentially violence. This is repeated on the international level. An ever-expanded legal framework, if it is to be more than a bureaucratic apparatus, would have to be enforced, indeed installed in the first place. Hence, ironically, the use of force comes into play through the back door. In order to disguise this inevitable, logical turn into a *bellum iustum*, the *Friedensschrift* relabels violence as ‘a kind of police action’. The *bellum iustum* criteria in this context are tautologously relabelled *Prüffragen* (‘check questions’).⁹

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4. Notably, the phrase ‘law-sustaining force’ (*rechtserhaltende Gewalt*) first occurs in Walter Benjamin’s *Critique of Violence* (*Zur Kritik der Gewalt*, in *Gesammelte Schriften*, ed. Rolf Tiedemann and Hermann Schweppenhäuser, 7 vols. [Frankfurt am Main: Suhrkamp, 1991], vol. II, 1, pp. 202–203). In proper legal diction the law is ‘applied’ and ‘enforced’; a judgment is ‘executed’ (*vollstrecken*).
 5. Kammer für Öffentliche Verantwortung, ‘*Selig sind die Friedfertigen*’. *Der Einsatz in Afghanistan: Aufgaben evangelischer Friedensethik* (Hannover: Kirchenamt der Evangelischen Kirche in Deutschland, 2013), p. 8.
 6. Information at: <https://www.fest-heidelberg.de/konsultationsprozess-orientierungswissen-zum-gerechten-frieden-2016-2019/> (accessed 24 January 2024).
 7. Notably, the Catholic Bishop’s Conference explicitly said that ‘justice leads to peace’ in their *Just Peace* published in 2000, quoting their eponymous 1983 document.
 8. Reiner Anselm, ‘Gerechtigkeit und Frieden. Gegenwärtige Herausforderungen für eine am Leitbild des gerechten Friedens orientierte evangelische Friedensethik’, in Kirchenamt der EKD (ed.), *Auf dem Weg zu einer Kirche der Gerechtigkeit und des Friedens. Ein friedentheologisches Lesebuch, im Auftrag des Präsidiums der Synode der EKD* (Leipzig: Evangelische Verlagsanstalt, 2019), pp. 213–23 (216).
 9. Charging the EKD with outright insincerity: Uwe Steinhoff, ‘Wir brauchen eine Kriegsethik’, *Frankfurter Allgemeine Zeitung*, 23 April 2022, available at: <https://www.faz.net/aktuell/feuilleton/debatten/ukraine-krieg-und-pazifismus-wir-brauchen-eine-kriegsethik-17975495.html> (accessed 24 January 2024). The remaining unease with the

Third, as Gerhard Beestermöller has shown, ‘humanitarian intervention’ in the sense of the human rights idea is a continuation of the pre-Reformation notion of an ordered global Christendom.¹⁰ The concept of ‘just policing’, which Ines-Jacqueline Werkner, for example, takes up from the self-professed ‘Mennonite Catholic’ Gerald Schlabach, accomplishes the remarkable synthesis of the radical Reformation’s messianic near-expectation and quasi-canonical legalism.¹¹ This fusion is certainly ironic for a Protestant ethic. It is followed by others. Bernard of Clairvaux once associated *militia* with *malitia*—and contrasted both with the purified *militia Christi* of the Order of the Temple.¹² Analogously, Christopher Daase raises the spectre of the crusades when he speaks of a ‘legally nobilized form’ of violence as a means of ‘legitimate coercion’.¹³ Such talk of ‘just policing’ within a legal peace order (*Friedensordnung*) claims absolute justice for one side. Yet this idea had been rejected by early modern *bellum iustum* theorists precisely because of its incendiary potential.¹⁴

By way of comparison, the German Catholic bishops had published a memorandum on Just Peace already in 2000. Here, Just Peace as a practice is explicitly located

bellum iustum is also due to the neoconservative co-optation of the tradition in the post-9/11 wars. See e.g. Markus Thurau, ‘Dröhnende Stille—Erschütterungen in der westdeutschen Friedensethik?’ and Q&A, at the annual meeting of the Arbeitskreis Militär und Sozialwissenschaften, *Krieg in Europa—Zivil-militärische Beziehungen in der Zeitenwende*, Universität der Bundeswehr München, 17 November 2023.

10. Gerhard Beestermöller, ‘Thomas Aquinas and Humanitarian Intervention’, in H.-G. Justenhoven and W.A. Barbieri, Jr. (eds.), *From Just War to Modern Peace Ethics* (Berlin and Boston: De Gruyter, 2012), pp. 71–98. Arguably, the global moral order persists somewhat in the idea of a ‘European peace order’, largely coextensive with the post-1990s European political order and its liberal Western values.
11. Ines-Jacqueline Werkner, ‘Just Policing—eine empirische Perspektive’, in I.-J. Werkner and H.-J. Heintze (eds.), *Just Policing* (Wiesbaden: Springer VS, 2019), pp. 17–39 (17).
12. Nigel Biggar, *In Defence of War* (Oxford: Oxford University Press, 2013), p. 192.
13. Christopher Daase, ‘Vom gerechten Krieg zum legitimen Zwang. Rechtsethische Überlegungen zu den Bedingungen politischer Ordnung im 21. Jahrhundert’, in I.-J. Werkner and P. Rudolf (eds.), *Rechtserhaltende Gewalt—Zur Kriteriologie* (Wiesbaden: Springer, 2019), pp. 13–31 (26).
14. Henry Shue, *Fighting Hurt: Rule and Exception in War and Torture* (Oxford: Oxford University Press, 2016), p. 233; seeing the Napoleonic wars as a watershed is James Q. Whitman, *The Verdict of Battle: The Law of Victory and the Making of Modern War* (Cambridge, MA: Harvard University Press, 2012). The debate on the moral equality of soldiers cannot be pursued here, but suffice to say that greater differentiation is needed as to what exactly is unequal in soldiers, i.e. on which ‘forum’ this is judged and materially relevant. Arguably, the rules of war such as the prohibition of war crimes against civilians and POWs or certain weapons imply equality on humanitarian grounds. This may well be upheld in a context of moral, historical *inequality* of their cause. The rump of a pragmatic military profession may also persist, however sclerotic and subdued, through periods of profound moral corruption. This is the argument of Sönke Neitzel, *Deutsche Krieger: Vom Kaiserreich zur Bonner Republik—eine Militärgeschichte*, 2nd edn (Berlin: Ullstein Verlag, 2023).

within the Church as a global social society. It is a ‘guiding vision’ on a ‘search’, and the ‘spirit of non-violence’ is merely seen as a ‘*source of inspiration*’ for political, social and economic programmes that truly serve the promotion of peace’.¹⁵ Perhaps wisely, the *bellum iustum* was not extensively debated in this document, even though a 1989 ecumenical document from the German Democratic Republic seeing the ‘teaching of the just war at an end’ was approvingly quoted.¹⁶ Hence the political, deliberative zone was left more open, diffusing a confrontation between Just Peace and Just War approaches. At the same time, a greater Catholic emphasis on virtue ethics allows for the Just War debate to move from international systems, norms and rights to moral anthropology.¹⁷

Pacifist Tendencies—2019

For the EKD, one logical conclusion was to push the EKD’s position towards a more pacifist stance. This was the thrust of the 2019 peace synod’s final statement, owed also to the influence of the pacifist bishop Richard Kramer:¹⁸ ‘The guiding vision of the Just Peace puts non-violence first.’ There is no reference to the use of force as the *ultima ratio*, even force to ‘preserve the law’ can’t be found.¹⁹ Instead:

On the path of justice and peace, we hear God’s call to nonviolence. We follow Jesus, who meets violence neither with passive indifference nor with violent aggression, but with active

15. Die deutschen Bischöfe, *Gerechter Friede*, 4th edn (Bonn: Sekretariat der Deutschen Bischofskonferenz, 2013), para. 69, p. 59; italics added.

16. Die deutschen Bischöfe, *Gerechter Friede*, para. 1, p. 4.

17. Alexander Merkl, ‘*Si vis pacem, para virtutes*’: *Ein tugendethischer Beitrag zu einem Ethos der Friedfertigkeit* (Münster: Aschendorff; Baden-Baden: Nomos, 2015), pp. 59–68, pp. 377–86, referring also to David M. Fisher’s *Morality and War* (Oxford: Oxford University Press, 2011) and Daniel M. Bell Jr.’s *Just War and Christian Discipleship* (Grand Rapids, MI: Brazos Press, 2009). Merkl offers the highly important insight that virtues are needed in the application of Just War criteria. As he endorses Gerard F. Powers’s claim that Just War is complementary to Just Peace, he focuses on ‘non-violent’ virtues. Where justice is mentioned, the ‘simultaneity’ of justice and mercy (rather than some form of sequence or overlap) is emphasised with Pope John-Paul II (Merkl, ‘*Si vis pacem, para virtutes*’, p. 349). A greater focus on warriors is offered in B. Koch (ed.), *Chivalrous Combatants? The Meaning of Military Virtue Past and Present* (Münster: Aschendorff; Baden-Baden: Nomos, 2019).

18. The 2019 statement also remembered the end of the GDR in 1989; the phrase ‘peaceful revolution’ for that period was hardly in use at the time, but chimes with the Just Peace agenda. Cf. note 1 above and Bernd Lindner, ‘Begriffsgeschichte der Friedlichen Revolution. Eine Spurensuche’, *Aus Politik und Zeitgeschichte* B 24-26 (2014), pp. 33–39.

19. Johannes Fischer underlines this drift away from the 2007 Denkschrift, in ‘Gewaltlosigkeit in einer Zuckerwattewelt. Die Kundgebung der EKD-Synode zu Frieden und Gerechtigkeit’, November 2019, available at: <https://profjohannesfischer.de/2019/11/24/gewaltlosigkeit-in-einer-zuckerwattewelt-die-kundgebung-der-ekd-synode-zu-frieden-und-gerechtigkeit/> (accessed 23 February 2023).

renunciation of violence. This way transforms enmity and overcomes violence, and it respects the dignity of all people, including opponents.²⁰

A Just Peace, one might have assumed, was just that little bit closer and real in 2019 than in 2013.

2022 and Ukraine

The problems of pushing political and military Just War considerations to the margins of the Just Peace paradigm became obvious in early 2022. As it were, concrete reality broke in. The church establishment was caught by surprise, speechlessness got mixed with a fast endorsement of media-driven narratives.²¹ Widely held convictions for Germany not to deliver weapons into active conflict zones were overthrown almost overnight.²² The argument followed along legal-pacifist lines and referred to Article 51 of the UN Charter or what Paul Ramsey called the aggressor-defender doctrine: no first use of force is permitted; the morality of war is compressed into its justifying occasion of self-defence.²³ Even the pacifist German Federation for Social Defence (Bund für Soziale Verteidigung, BSV) settled for a 'system of total defence'. Critical thinking on sanctions, weapons deliveries or technologies was by some dismissed as enemy propaganda,²⁴ psychologised ('German guilt complex') or historicised.

However, if mere self-defence amounts to restoring paganism, as Oliver O'Donovan wrote over twenty years ago,²⁵ ethical reflection of war heeds multiple, concrete political responsibilities, national interests and strategic situations, power (im-)balances within the international order as well as long-term capacities. The dynamic of events, particularly in ongoing conflicts, requires persistent judgment beyond the initiation of war, and greater room for change, even entirely new perspectives, than a statist international order often implies.

20. *Kirche auf dem Weg der Gerechtigkeit und des Friedens. Kundgebung der 12. Synode der Evangelischen Kirche in Deutschland auf ihrer 6. Tagung, Nov. 2019*, available at: <https://www.ekd.de/kundgebung-ekd-synode-frieden-2019-51648.htm> (accessed 22 January 2024).

21. Report at a symposium on Peace at the Ludwig-Maximilians-Universität Munich in early December 2022.

22. E.g. Hartwig von Schubert, 'Allen Völkern Frieden? Plädoyer für eine realistische Friedensethik', Katholische Akademie des Bistums Dresden-Meißen, 3 March 2022, streamed on: <https://www.youtube.com/watch?v=Wf-RC0O053I>.

23. Paul Ramsey, 'What Americans Ordinarily Think about Justice in War', in Paul Ramsey (ed.), *Just War: Force and Political Responsibility*, 3rd edn (Lanham, MD: Rowman & Littlefield, 2002), pp. 42–69 (44).

24. In that sense the synod member Maik-Andres Schwarz said in November 2022 that 'the church needs to be careful for her submissions not to become echo chambers of Russian propaganda'. Such statements effectively snuff out critical thinking and fully embroil the church as *the church* in a political war effort. Reported 6 November 2022, <https://www.tagesschau.de/inland/ekd-synode-ukraine-101.html> (accessed 23 February 2023).

25. Oliver O'Donovan, *The Just War Revisited* (Cambridge: Cambridge University Press, 2003), p. 9.

Part II: Attempts to Merge Just War Theory and Just Peace

The EKD's Just Peace concept has frequently been met with critique for the reasons outlined above.²⁶ Yet there are also attempts to meet these criticisms, largely by combining Just Peace thinking with Just War elements. However, similarly to neo-classical and revisionist Just War theory, they remain incompatible.²⁷ Hence, any proposed combination is bound to collapse into either position.

Ulrich Körtner—Evangelical Social Ethics

One such attempt, a Just War within Just Peace, is that of Ulrich Körtner. In his *Introduction to Evangelical Social Ethics* he criticises the *Friedensschrift's* intention to unite different Protestant voices at the cost of coherence. The classical criteria (*auctoritas*, *proportionalitas*, *recta intentio* etc.) are briefly referred to.²⁸ At the same time Körtner claims that there is 'agreement ... on the priority of nonviolent options in securing and creating peace'.²⁹ The concern is for the 'use of military means within the framework of a comprehensive peace policy'.³⁰ Thus both positions, those of Just War and Just Peace, are appreciated.

But Körtner cannot coherently maintain this coexistence. In a concrete situation, the criterion of proportionality (*proportionalitas*) would collide with the 'primacy of non-violent options'. For while 'primacy' suggests an inadequacy of violent means regardless of what they are used for, a proportionality judgment assesses means exclusively in relation to their end.³¹ As soon as a concrete purpose is manifest, the means would have to be ordered to it. Indeed, the 'priority of non-violent options' likely arose from a

26. E.g. Michael Haspel, 'Zwischen Internationalem Recht und partikularer Moral? Systematische Probleme der Kriteriendiskussion der neueren Just War-Theorie', in I.-J. Werkner and A. Liedhegener (eds.), *Gerechter Krieg—gerechter Frieden* (Wiesbaden: VS Verlag für Sozialwissenschaften, 2009), pp. 77–81; Ulrich Kronenberg, *Gerechter Frieden—gerechter Krieg? Chancen und Grenzen zweier friedensethischer Denkmodelle* (Leipzig: Evangelische Verlagsanstalt, 2019).

27. Revisionist just war theory focuses on individual rights and liabilities. Neo-classical war theorists arguing in the wake of Michael Walzer's seminal *Just and Unjust Wars* (New York: Basic Books, 1977) view war as the practice of political communities within a *de facto* anarchic international sphere. Suggesting a historical third way, Christian N. Braun has noted their incompatibility on methodological grounds in 'The Historical Approach and the "War of Ethics within the Ethics of War"', *Journal of International Political Theory* 14.3 (2018), pp. 349–66 (350).

28. Ulrich Körtner, *Evangelische Sozialethik: Grundlagen und Themenfelder* (Göttingen: Vandenhoeck & Ruprecht, 2019), p. 196.

29. Körtner, *Evangelische Sozialethik*, p. 195.

30. Körtner, *Evangelische Sozialethik*, p. 197.

31. Again, one can of course hold that it is *generally* good for unjust attacks to be prevented, but once a concrete attack has occurred, prevention is moot, except for other or future attacks. The 'primacy of non-violence' could have merit, however, as the *suspension of judgment* and potentially force until a given situation has been sufficiently assessed.

proportionality assessment, or from the suspicion that the use of force leads to a disproportionate escalation. Körtner seems to see the primacy of proportionality at least indirectly. A few pages earlier, he criticizes the EKD memorandum for speaking too one-sidedly of law-preserving force, ‘while at times, however, law-creating violence is also necessary, without which even the primacy of civilian means of peacemaking and peacekeeping cannot be maintained’.³² But with law ‘preserved’ or even ‘created’ by force—not merely enforced—*as a condition* for peaceful/civil means, the purported ‘primacy’ of the latter collapses. Civil means need the background of right secured by the threat of force—full stop.

On the status of the legal order, Just War and Just Peace once again jar. Like the Just Peace approach he criticizes, Körtner himself postulates law and order as separate from (the threat of) violence. He argues ‘that the lasting acceptance of the state’s monopoly on the use of force *is not* based exclusively and primarily on the threat of force, *but on the rule of law and an order* that citizens perceive as just’.³³ However, law and order are, after all, perceived as just by citizens *indeed because* they threaten violence to those who do not comply.³⁴ If law prevails only for those who are compliant, it either does not prevail or it is no law in any compelling sense. To be sure, one might agree with Körtner that most people are likely to adhere to law and order primarily out of a sense of justice. The threat of violent force concerns them only secondarily, if at all. The obedient and the disobedient would be on different sides of the same coin. But Körtner tears this reading down immediately, when he recapitulates the separation of force and law, assigning the latter to reconciliation: ‘The churches, however, are to be emphatically agreed that lasting peace is *not established and maintained by* violent force and the threat of violent force, *but rather by* reconciliation, by law and justice.’³⁵ In the end, therefore, he retreats to familiar Just Peace grounds.³⁶

Hartwig von Schubert—a Kantian Just War Theory

A more recent project of realistic peace ethics has been offered by Hartwig von Schubert, who seeks a ‘legal pacifism’ as the practical continuation of the *Rechtsstaat*, the rule of law within a state in the tradition of Kant. The rule of law quells private violence and war, distinguishes a republic from despotism (as ‘forms of government’ rather than ‘forms of rule’, which may include a monarchy). And it has the minimal task of facilitating a life of freedom. Within this paradigm Schubert goes so far as to say that even the residual right to defence or self-defence doesn’t amount to a *ius ad bellum*, but a *ius contra bellum*.

32. Körtner, *Evangelische Sozialethik*, p. 187.

33. Körtner, *Evangelische Sozialethik*, p. 205; emphasis added.

34. Cf. Biggar, *In Defence of War*, p. 218.

35. Körtner, *Evangelische Sozialethik*, p. 205, italics added.

36. This section is largely taken from Therese Feiler, ‘Gerechtigkeit, Gewalt und Krieg—zur Ethik für “die nicht so Sanftmütigen”’, *Verkündigung und Forschung* 66.1 (2020), pp. 56–67.

Individuals or nations purportedly defend themselves in order to ‘stop the war’.³⁷ So far, so familiar.

Yet unlike many Just War revisionists, Schubert knows all too well that Kantian principles, international laws and institutions are frequently ignored. He also supports violence in the *genesis* of a legal state/rule of law as well as in its defence—just like Kant did with regards to the revolutionary new orders. But then he moves away from a legalist reading of Kant (commonly criticised in the Anglosphere) by emphasising the role of the faculty of judgment. ‘Determining judgment’ links the general (laws, concepts) and the particular; reflective judgment takes a particular to enquire after a general. This last general term, for Kant, is ‘functionality, finality and teleology as it appears in the beautiful and the living’. The faculty of judgment is a faculty of imagination, also imagining ourselves in the position of others (here von Schubert aligns with Hannah Arendt’s reading of Kant). As such it plays an important role in rational political deliberation. Crucially, it marks a mediate term between a free-standing moral law and natural-mechanistic laws. Thus read, the faculty of judgment is a form of practical wisdom, ‘assigning to occurrences not an objective universality, but subjective general validity’.³⁸

Von Schubert then interprets the Just War criteria in that way in a section on ‘political imagination’. So, a *legitima potestas*, which concerns the ‘role of the subject and prohibition of wilfulness’, is ‘Only an instance that is impartial to and independent from the legal partners [*Rechtsgenossen*] as well as the legal partners themselves!’ A *causa iustificans*, which concerns ‘duties regarding a threat to freedom’, is: ‘Only the proven violation of provably indispensable external conditions of freedom!’ A *finis iustificans*, i.e., ‘goods to facilitating freedom’, is ‘Only the indispensable external conditions of freedom as a precondition for being able to pursue interests.’ *Proportionalitas* here belongs to the ‘virtues in the execution of freedom [*Vollzug der Freiheit*]’. Von Schubert asks: ‘Which attitudes, actions and means are legitimate? Precisely those that are suitable, necessary and adequate in order to preserve the indispensable external conditions of freedom of everyone concerned.’³⁹ What he calls a ‘heuristic of normative proposals’ is de facto a Just War proposal. Still not quite feeling he belongs to the camp, von Schubert critically asks Just War theorists to ‘offer examples for critical procedures, i.e., some that led to a decision in favour of, others in a decision against a plan to go to war’. But of course this would be no problem for Walzer, Biggar and others.⁴⁰

At the same time, von Schubert’s legal pacifism remains dogged by the same problems as the Just Peace approach: the urge to relabel war (‘Whoever talks about armed conflict is looking towards norms; whoever talks about war is not’⁴¹); the dialectical tendency to

37. Thus formulated, the critical slogan that ‘more weapons don’t stop the war’ remains valid.

38. Hartwig von Schubert, *Nieder mit dem Krieg! Eine Ethik politischer Gewalt* (Leipzig: Evangelische Verlagsanstalt, 2021), p. 258.

39. Von Schubert, *Nieder mit dem Krieg!*, pp. 357–58.

40. Notably, although von Schubert ‘directly objected’ to Biggar’s book title *In Defence of War*, he suspected not too great a difference in the outcome of the argumentation (personal communication, 14 October 2021).

41. Von Schubert, *Nieder mit dem Krieg!*, p. 420. When does ‘armed conflict’ descend into ‘war’? This artificial separation is unlikely to make a difference on the ground. It also

extend war because its aim is to abolish war (*ius contra bellum*); putting the enemy *hors-la-loi* (von Schubert counters this possibility by insisting on the dignity of the human being and the banality of evil).⁴² And when he suggests to the EKD that ‘the prevention of danger’ is to *be preferred to* ‘fighting dangers’ (as a ‘redactional change’⁴³), he confuses the non-concrete, general desirability of a state of affairs with specific moral judgment. Nonetheless, because he is primarily interested in the (non-)theological justification of the state in support of freedom and human dignity, von Schubert spends comparatively little time on the international legal system. As a realist Kantian, he moves away from an all too impractical Just Peace concept to Just War thinking, even if *nolens volens*.

The Measure of the Possible (2023)—*Exodus from the Just Peace*

A similar movement can be observed in a recent ‘contribution to the debate’ (*Debattenbeitrag*) entitled *Maß des Möglichen* (the measure of the possible), multi-authored in early 2023 under the umbrella of the evangelical military deacon.⁴⁴ Despite maintaining that we should not ‘fall behind the teaching of the Just Peace’,⁴⁵ the document reorders basic ‘peace-ethical’ terms and effectively shifts to a Just War position. Just Peace, which was the Christian *modus operandi* in the *Friedensschrift*, is now more emphatically a ‘guiding vision at the horizon’.⁴⁶ Moreover, the need for ‘an ethic of the penultimate’⁴⁷ is recognised. ‘Peace ethics’ as a whole is relocated within the ‘horizon of an ethic of the political’. This shift is arguably undergirded by a larger, also generational shift from ‘public theology’ to ‘public Protestantism’. The former sought to inject practices of faith into a largely apolitically conceived public ‘society’. As a result, it frequently, sometimes naively, landed on politically problematic grounds.⁴⁸ The latter is concerned with safeguarding public debates without denying material

seems counterfactual to suggest that the Ukrainians are fighting an armed conflict, whereas the Russians are at war (or indeed, vice versa).

42. Von Schubert, *Nieder mit dem Krieg!*, pp. 368 and 369.

43. Von Schubert, *Nieder mit dem Krieg!*, p. 409.

44. Dirck Ackermann et al., *Maß des Möglichen: Perspektiven Evangelischer Friedensethik angesichts des Krieges in der Ukraine. Ein Debattenbeitrag* (Berlin: Evangelisches Kirchenamt für die Bundeswehr, 2023). With the *bellum iustum* tradition having been pushed to one final, albeit indispensable bastion—military pastoral care—it is only logical for the initiative to come from this quarter.

45. Ackermann et al., *Maß des Möglichen*, p. 24.

46. *Maß des Möglichen*, pp. 8, 23.

47. *Maß des Möglichen*, p. 25.

48. This difference was reflected e.g. in a debate between Ulrich Körtner and Heinrich Bedford-Strohm on the question of migration, *chrismon*, 1 March 2017, available at: <https://chrismon.de/artikel/2017/33326/ulrich-koertner-und-heinrich-bedford-strohm-ueber-die-ethik-der-fluechtlingspolitik> (accessed 24 January 2024).

differences between positions, whilst heeding given political responsibilities to a greater degree.⁴⁹

Rather than attacking the *Friedensschrift* directly, *Maß des Möglichen* distinguishes between pacifist peace ethics and a subdued ‘realistic’ stance to be further developed. A ‘pacifism within peace ethics’ is seen as problematic ‘when applied directly and without mediation to questions of political order. In this way it is removed from its biblical context in a hermeneutically irresponsible way to then become an abstract political principle that escapes the complex deliberations of political reality.’⁵⁰ By contrast, a Just Peace that relies on theologies of *shalom* and emerges from ‘spiritual practices’ is relegated to church communities, because ‘local contexts are the key place for violent dynamics to develop and to be broken’.⁵¹

Shalom is a key term here: in the Old Testament it describes an all-encompassing peace, order, reconciliation, good health, individual and communal well-being in life with God. Since the 1960s it has resonated with the expanded, post-Marxist notion of ‘structural violence’ and hence peace promoted by Peace Studies.⁵² The frequently reiterated formula that ‘peace is more than the absence of war’ is also, as it were, rather long short-hand for *shalom* read that way. However, as its dimensions go well beyond what politics could ever (be trusted to) accomplish, applying it to the political without mediation on the one hand corrodes concrete political responsibility, as the *Debattenbeitrag* rightly criticises. Simultaneously it can politicise quotidian local and individual life quite to the detriment of peace. Moreover, passages such as Isaiah 32:17 (KJV: ‘And the work of righteousness shall be peace [*shalom*]; and the effect of righteousness quietness and assurance for ever’) or Ps. 85:11-12 do not *per se* exclude Just War considerations. Indeed, the 1983 German Catholic bishops’ document title ‘Justice leads to Peace’ (*Gerechtigkeit schafft Frieden*) arguably supports that approach more than it sustains Just Peace as a non-violent *modus operandi*.⁵³

49. Florian Höhne, ‘Öffentliche Theologie’ (version 1.0, 12.10.2017), in *Ethik-Lexikon*, available at: <https://www.ethik-lexikon.de/lexikon/oeffentliche-theologie> (accessed 18 January 2024); Christian Albrecht and Reiner Anselm, *Öffentlicher Protestantismus* (Tübingen: Mohr Siebeck, 2017), p. 31. Echoing a critique of public theology with a view to Ukraine, Johannes Fischer wrote already in March 2022: ‘The real *skandalon* in this debate is the inability or unwillingness to distinguish between questions of faith and questions of (security) policy.’ Fischer, ‘Ein Scherbenhaufen. Kritische Anmerkungen zur offiziellen Friedensethik der Evangelischen Kirche in Deutschland (EKD)’, *Zeitzeichen*, 2 March 2022, available at: <https://zeitzeichen.net/node/9604> (accessed 24 January 2024).

50. *Maß des Möglichen*, p. 27.

51. *Maß des Möglichen*, p. 31. Cf. Lisa Sowle Cahill’s contribution to the present Special Issue. Many thanks to Lisa for an enlightening conversation on the position of the Just Peace in the United States at the ‘Just War or Just Peace?’ conference in Nijmegen in 2023.

52. Michael Loadenthal, ‘Structural Conflict, Systemic Violence, and Statehood: A Guided Reading’, in C.P. Peterson, W.M. Knoblauch and M. Loadenthal (eds.), *The Routledge History of World Peace since 1750* (New York: Routledge, 2018), pp. 70–84.

53. Cit. from the 2000 document by the German Catholic bishops in *Maß des Möglichen*, p. 59.

Maß des Möglichen makes full use of the ‘hints’ and ‘additions’ in the 2007 *Friedensschrift* pointing towards Just War reasoning: materially, there is the ‘prospect of enforcement’ inherent in the law.⁵⁴ There is the awareness that the criteria ‘apply not only to the case of war, but ... also to policing, the right to resistance within states, and a legitimate freedom fight’.⁵⁵ The criteriology is deemed to be in need of further development.⁵⁶ At significant points the authors draw on the Barmen Declaration and Bonhoeffer’s work on the state’s responsibility, positioning them against the *Friedensschrift*: ‘The threat and use of violent force may only be an exceptional case of the state’s normal action. Yet according to Barmen V they belong to the state’s basic task [*Grundauftrag*] to “care for right [*Recht*] and peace”’.⁵⁷

The Just Peace ethic, they continue diplomatically, ‘in light of the close connection between law and violent force’, would have to be ‘developed in the direction of—*rechtsstaatlich* [i.e., by the legal state] legitimised violent force as a necessary part of a state and inter-state order aimed at peace’.⁵⁸ And, if the state ‘in particular has the task to protect its citizens from illegal violence’, then ‘it also has the duty to defend itself’.⁵⁹ Indeed, the *Debattenbeitrag* regards as ‘foundational’ each nation’s right to self-determination and ‘above all the territorial integrity of states’.⁶⁰ Of course, these two aims may well collide: conflicts over national self-determination *within* states are the very stuff of history, particularly if one looks at a multi-national country such as Ukraine.⁶¹

Either way, the Just Peace ‘perspective’ of a substantial global human rights order—never far from moral or actual colonialism—is largely abandoned. Instead, the new Protestant realism emerging here suggests the idea of a pluralistic world order. Not without reservations the concept of agonistic democracy is transferred onto the international sphere: the idea of tamed, regulated competition between differing value systems. This theory ‘expects a conflictual side-by-side of values and is interested not in conflict as a “struggle between gods” (Max Weber), but as a domesticated political controversy’.⁶² The ‘glue’ between polities are treaties, cooperations, agreements. They provide regulating frameworks. Of course, they also require minimal forms of moral understanding. So, whether a ‘thick’ understanding of human rights is upheld here after all

54. *Maß des Möglichen*, p. 21, cf. Rat der EKD, *Aus Gottes Frieden leben*, para. 98.

55. E.g. on p. 38, with a view to Rat der EKD, *Aus Gottes Frieden leben*, para. 102, where the criteria ‘apply not only to the case of war, but ... also to policing, the right to resistance within states, and a legitimate freedom fight’.

56. *Maß des Möglichen*, p. 43.

57. *Maß des Möglichen*, p. 39.

58. *Maß des Möglichen*, p. 39.

59. *Maß des Möglichen*, p. 43.

60. *Maß des Möglichen*, p. 36.

61. In that sense the claim that Ukraine ‘under the pressure of the attack seems to pursue a path towards a liberal concept of the state, based on a separation of powers and the legal compliance’ (*Maß des Möglichen*, p. 29) seems extraordinarily optimistic.

62. *Maß des Möglichen*, p. 32.

is a valid question.⁶³ Moreover, whether agonism can realistically tame antagonism internationally is a matter of theoretical debate as much as historical chance.⁶⁴

Some substantial references to the Just Peace remain. The ‘primacy of non-violence’ is one, even though, as explained earlier, proportionality and primacy are incompatible *in concreto*. Moreover, the ‘rule of law’, after all, is commonly a domestic concept, so ‘world domestic policy’ seems not to have entirely given way to foreign policy. Arguably, international treaties and agreements *stand in for* an absent ‘rule of law’. Equally, the claim that whenever a state defends itself, it also defends the legal order, seems to be an afterthought to the idea of ‘law-sustaining force’ explained in the *Friedensschrift*.⁶⁵ In itself this legal-positivist formulation may reflect a deeper Protestant unease with natural law sources of international law. But insofar as natural rights play a role (according to, e.g., Hartwig von Schubert they don’t), then a natural right to self-defence persists independently of whether an entity avails itself of the right or indeed fails to defend itself. Indeed, the individual right to self-defence in conjunction with associative rights and duties may in the future put much more pressure on the state’s right to national defence than is obvious at this point.⁶⁶

Despite these critical enquiries, one must acknowledge the significant shift accomplished here. Protestant peace ethics seek to be ‘responsive, steeped in reality, compatible with actual situations, close to the contexts of political responsibility, in one word: “realistic”’.⁶⁷ This entails the much-needed exodus from a permanent state of ‘dilemma’ (because, supposedly, all killing is equally sinful) or ‘paradox’ (the use of force is *passé*—the use of force may be necessary).

63. Christoph Schneider-Harpprecht, ‘Revision der evangelischen Friedensethik?’, *Feinschwarz. Theologisches Feuilleton*, 2 October 2023, available at: <https://www.feinschwarz.net/revision-der-evangelischen-friedensethik/> (accessed 24 January 2024). Schneider-Harpprecht finds it ‘hard to imagine that on the premise of coexistence the critique of human rights violations in totalitarian states will still play a role’. Considering the emphasis on human rights, this seems an oddly misplaced critique. It also repeats the very problem *Maß des Möglichen* seeks to address, namely the unwillingness to think practically in favour of an inconsequential ‘position of critique’.

64. Cf. Mark Wenman, *Agonistic Democracy: Constituent Power in the Era of Globalism* (Cambridge: Cambridge University Press, 2013), pp. 180–217. Behind Chantal Mouffe, the main theorist of agonistic democracy, stands Carl Schmitt, who, besides much else, was a great admirer of Thomas Hobbes. For all three authors moral theory hardly sets the *conditions* into which any foreign policy must act.

65. Absent a global state or natural law, the common law tradition is perhaps more robust through time, as opposed to a *Rechtsstaat*. The former consists of a continuous practice of judgment relying on precedents, at times historically obscure, with greater judicial discretion. The latter grounds the constitutional state’s action in legal compliance, which in turn puts a greater weight on the state as generative of, and upholding, the law. The authors are immersed in the latter tradition, which may account for the ambiguity here.


66. From a revisionist perspective, see Seth Lazar, ‘Associative Duties and the Ethics of Killing in War’, *Journal of Practical Ethics* 1.1 (2013), pp. 3–48. At present (February 2024) a new EKD document on war and peace is being worked on.

67. *Maß des Möglichen*, p. 64.

Outlook

The Just Peace as a guiding vision that combines peace and justice into a *modus operandi* has been influential in the German Protestant debate and the wider ecumenical sphere for a long time. Yet, due to its inner contradictions, but more recently in light of new, persistent conflicts, the old paradigm has been gradually replaced by a new, more realistic one. Whether this shift is further pursued remains to be seen. If the Russia–Ukraine war prompted theological ethicists to reconsider the state’s tasks and the right to national defence, the situation in Israel–Gaza may urge them to look beyond initial moments of defence and retribution. In Germany, the obvious historical connections with Israel account for much of the public theological debate; charges of antisemitism abound.⁶⁸ Yet in light of the atrocities committed in that conflict, revisiting Christian political theologies in contrast to radical Islamism or exclusivist Zionism could explain the sheer grief amongst Catholics and Protestants alike. It could also account for a certain reluctance to clearly take sides, a reluctance that may well be mistaken for pacifism. The Christian differentiation of national politics and religion may not only substantiate ethical criticisms. It may also help discern outlines of peace, however spiritual or unlikely they may be.⁶⁹ In any case, a stance that equates a practice of peace with international juridification has fallen out of time.

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68. Günter Thomas, ‘Fatale Reaktionen. Die Reaktion der weltweiten Ökumene auf das Pogrom vom 7. Oktober und die antijüdische Ikonografie des Weltgebetstags’, *Zeitzeichen*, 2 January 2024, available at: <https://zeitzeichen.net/node/10915> (accessed 24 January 2024); from a Catholic perspective, see Jan-Heiner Tück, ‘Israel und der Vatikan: Diplomatie ohne Empathie?’, *Die Presse*, 19 October 2023, available at: <https://www.diepresse.com/17751504/israel-und-der-vatikan-diplomatie-ohne-empathie> (accessed 24 January 2024).

69. Thus Ulrich’s Körtner’s response to Günter Thomas: ‘Theo-Politik im Nahostkonflikt. Rückfragen an Günter Thomas’ Text “Fatale Reaktionen”’, *Zeitzeichen*, 15 January 2024, available at: <https://zeitzeichen.net/node/10922> (accessed 24 January 2024). Körtner’s insistence on the ‘worldliness of politics’ as opposed to ‘theologically loading’ a conflict that is always already theologically loaded may be an outcome, but it can hardly be the beginning of theologically understanding that conflict.