Three fairly modern arguments for unjust war

[new slide:] The brutal Spanish conquest of the New World elicited some of the first coherent arguments against war as natural and unavoidable. A few leading law professors, most notably Francisco di Vitoria, argued that the invaders had to find a strong justification for conquering the newly discovered but well settled lands.

It is easy for anyone familiar only with the typical histories of just war thinking to miss the novelty of this approach. Previous arguments about the justice of particular wars were almost entirely what today would be called psyop (short for psychological operations) or military propaganda: we are just in our cause but our opponents are acting without good authority or without good claims. In contrast, Vitoria developed universal principles which led to criticism of some of the practices of the armies of his own king.

The king took Vitoria s arguments seriously. He declared that the settlers could only make war against the natives in order to convert them to Christianity, the religion of universal peace.

[new slide:] In practice, the royal rules did little or nothing to promote peace in the Americas. That was not surprising, because until the end of the 19th century, almost everyone, Christian or not, assumed that wars were part of the human condition. Like anything having to do with death, wars were surrounded by religious and quasi-religious rituals. As is typical when the gods are invoked, the rules of war were different from the laws of profane life. The normal constraints on killing, enslaving, raping, and destroying were suspended.

[new slide:] This view of war as both inevitable and somehow sacred seems to have vanished. Wars are now supposed to be undertaken only as a last resort and only to counter a huge injustice.

The advent of this higher standard of justice in war is often portrayed as an ethical advance. Vitoria is a hero, because he started to treat war as subject to the normal, not sacred, standards of justice.

[new slide:] I reject the positive judgement of this development. I believe that modern efforts to extend the criteria of justice to war are ethically confused. In practice, the pursuit of justice through war encourages unjust killing and destruction.

[new slide:] To try to explain that judgement, I will present three arguments in favour of wars that modern people would consider unjust. I believe that these arguments come together to present a more insightful, but more frightening, account of the ethics of war than any contemporary “just war” discourse.

[new slide:] I have already alluded to the first unacceptable argument for wars: that at least some of them are sacred, ordained by God or by the gods.

[new slide:] These days, few commentators have anything good to say about the idea of a Holy War. Catholics are ashamed of their Crusades. Military chaplains are not supposed to bless bombs. And the patriarch of the Russian Orthodox Church is widely mocked for saying that God wants political unity between Russians and Ukraine.

[new slide:] The historical novelty of this disdain is hard to exaggerate. The powers of heaven regularly bless and curse wars in the holy texts of the major non-Christian religions and in all premodern histories of kings and peoples. For example, in the Jewish Holy Scriptures (the Old Testament), the God of Israel, the Lord of Hosts, commands King Saul to *kill* all the Amalekites and their flocks. Saul loses the kingship because he allows his soldiers to take some of the enemy's sheep.

[new slide:] Holy Wars certainly did not disappear with the rise of Christianity. The religious and secular leaders of Christian countries were confident that God often ordained the destruction of enemies of the faith. Indeed, it is fair to say that Christian thinkers saw two types of war, those possibly blessed by God and those positively ordered by Him. The second sort received a brief mention in the 1566 *Roman Catechism* of the Catholic Church. It noted – without comment or excitement – that there are "'instances of carnage executed by the order of God".

[new slide:] Such a Holy War could not be unjust. On the contrary, there is nothing more just than doing the divine will.

[new slide:] This all seems to have changed. Believers – at least most of them – think that God always wants to minimise destruction. Believers, at least most of them, are almost as likely as non-believers to say that the whole idea of a Holy War seems obviously unjust.

[new slide:] Note the "seems". I am not persuaded that holiness has actually disappeared as an ethical justification of war. I will explain that frightening thought after introducing my other two arguments for unjust war.

[new slide:] After Holy Wars come what might be called historical wars.

[new slide:] The concept is developed by the early 19th century German philosopher G. W. F. Hegel in his dense lecture notes published as the *Philosophy of Right*. Wars, says Hegel, are necessary and ultimately helpful for what we would call historical progress. His own phrase is the greater manifestation of the Spirt, with an upper case S, or sometimes the Idea, with an upper case I. Justice plays no role in the Hegelian understanding of the role of war in human development.

What Hegel has in mind when he talks about war is directly connected to his totally comprehensive philosophical system. Fortunately, I do not need to sketch out his long path from the different between being and becoming to the goodness of war. The gist of this particular aspect of Hegel's thinking can be captured by looking at some fairly clear and relatively uncontroversial historical patterns.

[new slide:] Take Napoleon. Hegel explained that war was the precondition and the means of the Emperor's rise, triumph, and enduring influence. The civil and international wars of the French Revolution opened up the space for a new social and cultural order, and made Napoleon's rise possible. Napoleon's destructive wars and mass mobilisation created similar reconfigurations of most of the rest of Europe. For example, countries needed to become sufficiently large, united, and organised to raise and equip armies on the new, gigantic Napoleonic scale.

[new slide:] For Hegelians, the Napoleonic transformations are just one example of wars serving as the motors or drivers of history. Not only does combat develop the boldness, ambition, and desperation needed to change accepted practices, but wars' death and disorder inevitably incapacitate many structures that are fixed in peacetime. Both victories and defeats encourage or at least allow the flourishing of new ideas, new leaders, and new configurations of power.

[new slide:] In his lectures, Hegel traced the pattern of creation through military destruction over ancient and modern history. This reading of was as the motor of history can easily be extended to post-Hegel centuries. The 19th century wars of conquest of Africa and large parts of Asia eventually forced or allowed much of the world to accept more advanced European values. The first and second world wars in the 20th century reshaped much of the world in the more socially free American image. The mostly civil wars that followed the Russian and Chinese Revolutions replaced old class and economic structures with more modern ones.

[new slide:] For Hegel, war is not ethical or just in any contemporary sense of those words. His belligerent States (upper case S) do follow what might be called just rules of negotiations, truces, and so forth, but war necessarily brings vast, irrational, and unjust suffering. Hegel had no concern for petty matters of so-called justice, because he believed that governments could never fully understand the real – that is the world-historical – reasons for going to war.

From this perspective, military aggression was certainly not bad in the general way that contemporary just war theorists generally say it is, On the contrary, the countries or leaders that shape history had a historical duty to conquer and destroy. Cruelty in fighting (which is banned by the contemporary rules of *jus in bello*) is neither bad nor good – it is inevitable.

[new slide:] In this grand historical vision, many wars actually do little to advance history. Thinkers who are more soft-hearted than Hegel might say that the suffering brought by historically insignificant wars is unjust, but for firm Hegelians, the desire to fight is itself part of the drive of history, whether or not particular fights serve any historical purpose.

[new slide:] Hegel was dismissive of the hope of Immanuel Kant, his great German philosophical predecessor, that "the crooked timber of humanity" could be straightened enough to create a "perpetual peace" in Europe. Not so, said Hegel,

because peace requires a unity of will which separate States simply cannot have. On the contrary, the differences between States inevitably create conflicts that lead to war.

The differences will be abolished by the historical inevitability of wars that lead to the creation of a new and more advanced State, which transcends the differences of the formerly warring polities. The larger State then inevitability has difference with other, larger States, which will then surely be abolished through war and union, and so on until what some Hegelians think of as the unavoidable end of history.

[new slide:] Some philosophers might argue that ethical judgements are possible for inevitable Hegelian wars. However, such a moralising approach goes against the spirit (both lower and upper case S) of his argument. The Spirit of History becomes more manifest by overturning or ignoring the unavoidably limited notions of justice and injustice of the people who are acting out the historical drama. Complaints of injustice are irrelevant, because they miss what is truly going on, the forward march of freedom.

[new slide:] Hegel's explanation of the inevitability of war leads me naturally into the analysis of the French theorist René Girard (1923-2015).

[new slide:] Girard, whose thinking straddled literary criticism, philosophy, anthropology, and theology, admitted to being influenced by Hegel, but he confidently explained that his own theory of mimetic violence deepens Hegel's understanding. Although Girard's unlimited self-esteem led him to dismiss most other people's arguments unjustly (in my opinion), in this case he is probably right.

With one important exception that I will come to soon, Girard ignores Hegel's historical narrative. With one potential exception that I will come to at the end of this paper, Girard sees the goal of all civilisations, from the most primitive to the most advanced, as the control what he calls mimetic violence.

[new slide:] This is the violent expression of the universal human desire to have what my neighbour has. If my brother has a nice meal, a toy, an attractive wife, I will want to have what he has, just because he has it. I want to imitate him – that is the mimetic part of Girard's model. So I grab the desired object from him. My brother will imitate my violence, by grabbing it back. I will then want the object even more, so I imitate and expand his violence, perhaps by getting a stick to beat him until he gives it to me.

[new slide:] Mimetic violence naturally escalates. My brother imitates me by getting a bigger stick. And so forth until either one of us is killed or we find some way to turn our violent urges away from each other, onto some third person.

Girard has a fascinating explanation of how the enmity is turned away. The former rivals make peace by agreeing to blame a third party for their own violence to each other. This scapegoat is sacrificed, made sacred, and then treated as a God. The peace brought by sacrificial violence is always temporary, because the desire for mimetic violence is permanent. The sacred peace can only be maintained with the regular repetition of some sort of scapegoating ritual violence. There might be substitute

sacrifices, for example of animals or even of crops. Or the sacred enemy might be the enemy in a war.

[new slide:] The Spanish conquistadores whom I mentioned at the beginning of this talk saw Girard's idea acted out in gruesome fulness. The prime purpose of Aztec wars was to conquer victims who would appease the angry gods by having their beating hearts torn out of their bodies.

[new slide:] That is extreme, but Girard argues, persuasively in my judgement, that the various rituals and practices of war *always* amount to ways of directing violence outward, against enemy-victims who deserve to be killed, and in ways that ensure the peace-making god or gods will approve of the destruction of the other.

Girard's explanation of the nature of war runs into what many philosophers consider a serious problem: few modern warmakers think they are engaged in an essentially religious ritual. They prefer to think they are pursuing justice. The questions around such unconscious motivations are profound, but I will leave them aside. For what follows, I ask you to accept that the talk of justice *may* hide war's fundamental role in human society: to provide a ritual expiation, and controlled expression, of otherwise uncontrolled violence.

[new slide:] That claim has two implications for all analyses of just war: a distressing one and a terrifying one.

The distressing implication is simply that the just-war approach is pointless. Wars are not like legal disputes in which one side's case is just and the other's is unjust. Football matches are a much better secular analogy to wars than court cases. The two sides agree to join in a rule-bound ritual contest in which the play is in many ways at least as important as the outcome.

Girard's vision of the non-justice of wars is just as firm as Hegel's, but while the Prussian sees war as a path to something better, the French thinker sees war as a replacement for something much worse: total destruction.

[new slide:] That is distressing, so let me explain. In his last book, Girard explained that in modern war people have abandoned the search for ritual and religious expiation. Instead, combatants on all sides are convinced that they are fighting for a rationally justified justice. This conviction logically leads to as much destruction of the unjust enemy as is humanly possible. Modern technology ensures that the destruction is great indeed.

This is the important exception to Girard's ahistorical approach that I mentioned earlier. It is also the explanation for the doubt that I expressed earlier about the actual disappearance of Holy War.

[new slide:] The theory is simple enough. When war was sacred, there were always limits. The gods *could* be propitiated, at least temporarily. Indeed, in Girard's logic, well

ordered polities could often find gods who set rules that sharply limited the deaths in war. A few human scapegoats were enough. Obviously, the angry Gods of the Aztecs did not endorse such well-ordered polities.

[new slide:] However, when the enemy is defined as unjust rather than as a sacred victim, there is no propitiation. So, as societies gradually turn away from religion, they gradually lose the ability to control or even to stop war. They do not, however, lose the desire for mimetic violence, to become stronger than their brother-enemy. They simply claim that this desire is just.

[new slide:] In effect, modern war is a rationalised holy war. In our godless and technological age, the logical end of mimetic violence is a just war that ends in nuclear apocalypse. As proponents of a just and holy war against Communism used to say, better red than dead. That is terrifying.

[new slide:] As yet, such an apocalypse has clearly been avoided. However, the historical evidence supports Girard's argument that the conviction of justice encourages ever-greater mutual destruction. The leaders, fighters, and most of citizens on both sides of all the unprecedentedly deadly conflicts of the last 250 years were persuaded that they *had* to do whatever it takes to win, because they were fighting for a principle that could not be abandoned.

In the French Revolutionary and Napoleonic wars, it was the old order against the new. In the American Civil War, it was the Union against the States (or freedom against the "peculiar institution" of slavery). In the First War, it was Kultur against civilisation. In the Second, it was the new States against freedom. A primal terror of the apocalypse warded of an even deadlier fight of freedom against Communism (or of Capitalism oppression against socialist justice).

[new slide:] I think today's terrorism is best understood as expressions of the justice of a cause by groups that are not strong enough to annihilate their enemies, as justice demands. As Girard points out, the state opponents of terrorism invoke justice as they imitate and exceed the terrorists' violence, whether with invasions of countries or with drone assassinations.

[new slide:] If this argument is right, then my three arguments for unjust war, which are really arguments against efforts to make wars just, have come together. Holy War has been secularised and transmogrified into unrestrained and always escalating just war. The Hegelian progress through destructive conflict has developed into arguments for ever greater conflicts to produce ever more crucial progress. And Girard's model of war as sacralised and ultimately controlled violence has been secularised into war as quasi-sacred and as ultimately uncontrolled violence.

[new slide:] Is there no alternative to just war's rush to ruin? Obviously, there are various objections to my characterisation of Girard's theory, starting with rejecting it as nonsense. I will only mention Girard's own proposed path away from a just apocalypse.

That is the possible exception to the intimate tie of violence and civilisation which I mentioned earlier.

Girard argues that the promise of divine forgiveness in Christianity offers the only real alternative to the violent scapegoat mechanism. I will not go into his theological and anthropological argument. However, even if it is persuasive, it remains theoretical. Up to now, Christians have been just as dedicated to sacred violence as anyone else.

[new slide:] I certainly hope that Girard is wrong about the direction of history, as he did himself. Right or wrong, though, I do think that each of the three presentations of war I have given – as holy, historical, and civilisational – have greater explanatory power in the analysis of conflict than any analysis war that is based on concepts of justice.