

**The Potential Value of the Adoption  
of an Aristotelian-Centred Communitarian Vocabulary:  
Facilitating a Character Turn  
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*Abstract*

This article sought to encourage the adoption of novel ethical approaches at the interstice between political and international relations (IR) theory, and character-based approaches in particular. It was argued that though the Fourth Debate has encouraged debate about the ethics of IR theory, surprisingly, character-based approaches have not been discussed, with communitarian and cosmopolitan performative ethics maintaining a conceptual hegemony. The concept of *Jus in Bello* was nominated for deconstruction since it has traditionally been understood cosmopolitan or communitarian manner based on performative ethic. An Aristotelian vocabulary was adopted in order to deconstruct the concept of *Jus in Bello*, with Jonathan Haidt's moral psychology, Lawrence Kohlberg's moral development psychology, Immanuel Kant's ethics, and social contract theory all being used to supplement the nominated Aristotelian reading of *Jus in Bello*. It was concluded that an Aristotelian reading of *Jus in Bello* is a viable alternative to and hence an Aristotelian vocabulary could be adopted when attempting to understand certain concepts and phenomena at the interstice between political and IR theory.

*Key words:* international law, *Jus in Bello*, IR theory, ethics, psychology

## **Introduction**

International relations (IR) theory has, arguably, come to be dominated by two ethical discourses, namely, deontological and consequentialist ethics, both of which are performative ethics, which have formed the basis for cosmopolitan and communitarian ethics<sup>1</sup>. Deontological and consequentialist ethics have essentially acted as the theoretical framework through which concepts and phenomena have been understood and conceptualized within IR theory<sup>2</sup>. The

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hegemony of deontological and consequentialist ethics has, however, led to conceptual confusion in understanding certain concepts and phenomena and, in general, theoretical stagnation within IR theory. It is essential that IR theory embraces character-based ethics – a type of approach to ethics that IR theory has neglected or simply ignored – if it is to remain dynamic. Aristotle’s virtue ethics or stoicism, to name but two ethical systems, could possibly revitalize, or at least augment, IR theory by allowing for the reconceptualization of certain concepts and reinterpretation of certain phenomena.

The Fourth Debate within IR theory, although seemingly purely epistemological, has also, as an effect of the post-positivist challenge to positivism, been an ethical debate.<sup>3</sup> The post-positivist challenge to positivism has opened the door to a yet-to-be-realized renaissance in the ethics of IR theory by allowing for the return of normative theory through the backdoor, as manifested in international political theory (IPT) and by the questions being asked in international ethics in general. However, rather surprisingly, the ethical debate which has arisen has largely ignored character-based ethics and has rather embraced consequentialist and deontological-based communitarian and cosmopolitan ethics in understanding IPT and theories such as neo-realism, neo-liberalism, critical theory, green theory, feminism, post-modernism, post-colonialism, et cetera.

The purpose of this paper will thus be to illustrate the importance of the embracement of character-based ethics within IR theory – at the interstice between political theory – through the deconstruction of the concept of *Jus in Bello* – a concept which has received significant attention due to the ‘War on Terror’. This deconstruction will be based on an understanding of *Jus in Bello* based on, as opposed to its contemporary cosmopolitan reading, Aristotle’s virtue ethics, as supplemented by social contract theory<sup>4</sup> and development and moral psychology.

Moreover, an attempt will also be made to illustrate the potential value – to both IR theory and political theory – of operating at the interstice between the two disciplines. This will be done by attempting to illustrate how a character turn in IR theory can benefit political theory by allowing for novel theoretical frameworks – or ways of understanding – certain concepts and problems which exist within the discipline of political theory.

## **‘Jus in Bello’**

*Jus in Bello* will be deconstructed due to the discussion surrounding it within IPT and also the domination of cosmopolitan and communitarian readings of it. *Jus in Bello* is perhaps the prime example of the conceptual confusion created by the hegemony of cosmopolitan and communitarian ethics within, at least, IPT and, to some extent, other theories of IR.

### **Definition**

Before an attempt is made to deconstruct the concept of *Jus in Bello*, a clear understanding of what *Jus in Bello* essentially refers to is required in order to understand what is being deconstructed. Thus, in the following paragraphs *Jus in Bello* will be thoroughly defined.

The concept of *Jus in Bello* essentially refers to the body of law which demarcates what is acceptable conduct in war or conflict<sup>5</sup>. In other words, *Jus in Bello* concerns the morality and, in its international humanitarian law (IHL) manifestation<sup>6</sup>, legality of the conduct of belligerents during war or conflict.<sup>7</sup>

*Jus in Bello* is constituted by three core conditions. The first of these is *proportionality*. This condition holds that some kind of proportionality must exist between military ends and means. There should thus be no unnecessary violence in the attainment of military goals; in other words, violence should only occur at a level of force that is proportionate to the achievement of military goals. The condition of proportionality, furthermore, also, as noted by noted just war tradition (JWT) scholar, Michael Walzer, implies a rejection of any means *Mala in Se* – that is, weapons or means ‘evil in themselves’ – such as mass rape, genocide, poison, the use of biological agents, and treachery, in the sense of, for instance, masquerading soldiers as Red Cross or Red Crescent staff. Thus, by virtue of the rejection of *Mala in Se*, the principle of proportionality further implies that prisoners of war (POWs) should be treated according to the principle of ‘benevolent quarantine’ – in other words, POWs may not be tortured, beaten, starved, or medically experimented upon, as stated in the Hague and Geneva Conventions.<sup>8</sup>

The second condition is that of *discrimination and non-combatant immunity*.<sup>9</sup> This condition decrees that an attempt must be made to discriminate between non-combatants, or civilians, and combatants.<sup>10</sup> Stated differently, non-combatants may not be intentionally harmed or killed. Enemy combatants, by virtue of engaging in combat, become legitimate targets that can be subjected to lethal force as all parties of the conflict attempt to facilitate and coerce the surrender of the opposition in order to achieve victory.<sup>11</sup> Since non-combatants do not attempt to

forcibly, or directly, impede the victory of any faction of a conflict, they do not need to be forcibly coerced as a requirement for victory, which makes it morally impermissible to intentionally harm or kill non-combatants.<sup>12</sup> This condition thus, as a supplement of the condition of proportionality, necessarily repudiates the use of weapons that are intrinsically disproportionate, such as chemical and biological weapons, thermonuclear weapons, and all other weapons banned by international law and which neglect to, or cannot possibly, distinguish between non-combatants and combatants.<sup>13</sup> Jean-Jacques Rousseau<sup>14</sup> illustrated the spirit of this condition when he opined that:

War is in no way a relationship of man with man but a relationship between States, in which individuals are enemies only by accident; not as men, nor even as citizens, but as soldier (...) Since the object of war is to destroy the enemy State, it is legitimate to kill the latter's defenders as long as they are carrying arms; but as soon as they lay down and surrender, they cease to be enemies or agents of the enemy, and again become mere men, and it is no longer legitimate to take their lives.

The third condition of *Jus in Bello* is that of *no reprisals*. This condition dictates that even if the enemy does not, or refuses to, adhere to the principles, or conditions, of *Jus in Bello*, there should be no retaliation in the sense of violating or refusing to adhere to the principles of *Jus in Bello*, not merely in order to prevent a spiral effect, but due to a concern for humaneness.<sup>15</sup>

*Jus in Bello* is hence concerned with limiting humanitarian costs and suffering within conflict and in no way tries to prevent conflict. It only takes effect when a conflict starts. It is hence not a pacifist notion.

### ***Deconstruction***

To initiate this investigation into the ontology of *Jus in Bello*, a statement by Fyodor Martens in 1899 should be considered. In 1899 Fyodor Martens<sup>16</sup> opined that:

(...) civilians and combatants remain under the protection and authority of the principles of international law derived from established customs, from the principles of humanity, and from dictates of public conscience.

This quote illustrates the core values of the concept of *Jus in Bello*; these values being *humaneness* – a notion which includes the recognition of, and respect of, the freedom, both physical and intellectual, of the ‘Other’ – and, by extension, *responsibility* – or the feeling of some kind of accountability towards the ‘Other’, especially as suggested by Levinas where one feels a selfless type of responsibility *vis-à-vis* the ‘Other’, which necessarily precludes the notion of honor killings. Moreover, *predictability* and *order* are two values that are central to *Jus in Bello* which naturally emanate from the values of *humaneness* and *responsibility*. *Jus in Bello* hence assumes that the nature of human beings conforms to the notion of *Homo Sociologicus*<sup>17</sup>, minus, as will be elaborated on in the following paragraph, the notion of human beings being born a near *Tabula Rasa*<sup>18</sup>, as opposed to *Homo Economicus*<sup>19</sup>.

The notion of *Jus in Bello*, both in its IHL manifestation and pre-IHL manifestation, if claimed to be based on the notion of human beings being born a *Tabula Rasa* would become a particular and relativistic concept. However, since adherence to certain manifestations of *Jus in Bello*, or at least the aforementioned values the concept is based on, have been observed universally, it is necessary to conclude that *Jus in Bello* cannot be based on the notion of human beings being born a *Tabula Rasa*.

As an extension of the previous paragraph, Quincy Wright observed that<sup>20</sup>:

Taken as a whole, the war practices of primitive peoples illustrate various types of international rules of war known at the present time: rules distinguishing types of enemies; rules determining the circumstances, formalities, and authority for beginning and ending war; rules describing limitations of persons, time, place, and methods of its conduct; and even rules outlawing war altogether.

The phenomenology of pre-eminent moral psychologist, Jonathan Haidt, expounds why there not only seems to be such an eternally prevalent and universal concern with limiting the humanitarian cost and suffering associated with conflict, but also why concepts such as humanity and the feeling of responsibility towards the ‘Other’ are universally and almost eternally present as well as the concepts such as predictability and order, as ensured by law and customs, which emanate from them.

Essentially, Haidt argues that human beings innately have an understanding of the following fundamental notions: care and harm, fairness and reciprocity, authority and respect, in-

group and loyalty, and purity and sanctity<sup>21</sup>, and this may lead to the conclusion, in the words of Otto Neurath<sup>22</sup>, that ‘No *tabula rasa* exists’, or that human beings are not born a *tabula rasa*. These notions act as the foundation for the formation of communal forms of living and hence, arguably, act as a basis for social contract theories<sup>23</sup>. To elaborate, communal forms of living require of its members a sense of humaneness and responsibility towards the ‘Other’, a sense which arises from the Greek notion of *Thymos*<sup>24</sup>; similarly, social contract theories in general either assume or require through habituation or authority, such as in the social contract theory of Thomas Hobbes, that its members conform to or are innately accustomed to the notions of humaneness and responsibility towards the ‘Other’. Predictability and order – in their manifestation as law and order – are constructed upon these values and also reinforce these values in a cyclical relationship.

Haidt’s phenomenology, encapsulated, firstly, explains why the vast majority of human beings, anarchists in general being excluded, desire to live and work in a society governed by law; secondly, provides an understanding which conforms to the conception of *Homo Sociologicus*; and, thirdly, can act as the basis for understanding the spirit of social contract theories – which is arguably composed of innate survival mechanisms and the way in which human being experience the world.

This linkage between *Homo Sociologicus* and social contract theories, in general, made clear by Haidt’s phenomenology as well as the identification of the core values of *Jus in Bello*, allows the spirit of social contract theories to enter the ontology of *Jus in Bello*. This naturally affects the ethics that *Jus in Bello* can be based on.

Currently three ethical readings of *Jus in Bello* dominate. The first of these is the cosmopolitan, as based on deontological ethics, reading<sup>25</sup>. Essentially, this reading holds that, within the Kantian spirit<sup>26</sup>, the lives of all humans should be valued equally, or at least valued, regardless of nationality or ethnicity, and that our moral conscience should thus lead us to adhere to *Jus in Bello*.<sup>27</sup> This reading, although primordially based on the stoic – a character-based approach – notion of a *cosmopolis*<sup>28</sup>, bases itself merely on the performative arm of stoicism and its universal emphasis, as was manifested in St Augustine ‘two cities’ doctrine and as well as the universalist elements of the natural law of St Thomas Aquinas in the Christian Middle Ages.<sup>29</sup> This reading of *Jus in Bello*, hence, essentially argued that, through an emphasis on the

universal, that outsiders should be treated in the same way as insiders<sup>30</sup>, and, in contemporary times, favors the notion of an international society over the idea of an international system.<sup>31</sup>

The second reading is the consequentialist one. This reading would either focus on the potential beneficial consequences of adhering to *Jus in Bello*, as in the case of the ‘War on Terror’ where the United States (US) has realized that the outcome of the conflict will be determined, or concentrate on a reading based on Jeremy Bentham’s utilitarianism or John Stuart Mill’s utilitarianism. The former reading, largely communitarian, essentially holds that, as noted in US Army and Marine Corps doctrine, by the ‘perceptions and the support of the people.’<sup>32</sup> In other words, the logic is that through humanitarian considerations, military operations can be enhanced.<sup>33</sup> This reading of *Jus in Bello* conforms most to communitarian ethics.

The third reading can fall within both the cosmopolitan and communitarian tradition, though it is derived from utilitarian logic. Classical utilitarianism can be understood as desiring ‘the greatest happiness of the greatest number’<sup>34</sup>, which would, necessarily, if applied on a global scale, lead to a cosmopolitan understanding of *Jus in Bello* akin to the first reading, and if applied to the citizens of a state only, lead to the a reading akin to the second reading. If this view is to be understood thoroughly, though, the distinction between direct, or act, utilitarianism and rule utilitarianism needs to be understood<sup>35</sup>, with rule utilitarianism being much more general and act utilitarianism very specific. *Jus in Bello* can be understood in terms of both.

If act utilitarianism is adhered to at a global scale, it would lead to a return to the cosmopolitan reading of *Jus in Bello*. Some of the principles of *Jus in Bello*, such as that of DDE (Doctrine of Double Effect) and PDI<sup>36</sup> (Principle of Double Intention), both of which essentially arise from principles such as discrimination and proportionality and non-combat immunity, are based on the logic of rule utilitarianism, which can be understood in both cosmopolitan and communitarian terms.

Our contemporary understanding of *Jus in Bello* is essentially a mixture of all three of the above readings, with some principles conforming more with utilitarian logic, others to deontological logic. The only real difference is founded within the distinction between the cosmopolitan and communitarian readings of *Jus in Bello*.

All three of these readings, however, fail to understand the ontology of *Jus in Bello*. *Jus in Bello*, by virtue of its foundation on the concept of *Homo Sociologicus* and the values this foundation implies – humaneness and responsibility and derivatives of these values such as, most

importantly, a desire for predictability and order – the embracement of a certain character with certain dispositions, such as towards legality, humaneness, and responsibility, implying that performative ethics can inevitably not allow for the ontology of *Jus in Bello* to be fully grasped, or, put differently, the spirit of *Jus in Bello* cannot be considered to be merely procedural and based on rational choice theory. This need to embrace a certain character implies that the ontology of *Jus in Bello* should be based on a character-based approach to ethics. This does not imply, however, that consequentialist and deontological, and cosmopolitan by extension, ethics do not form part of the concept of *Jus in Bello*.

Morality, and ethics by extension, cannot be merely declared to be procedural and dependent on rational choice theory, such as Immanuel Kant's categorical imperative and the utilitarian 'greatest happiness' calculus implies. Kant's categorical imperative, for instance, merely considers strict negative duties – in the sense of precisely-defined actions toward the self and specified 'Other' – such as not to commit suicide, not to lie, not to murder, and to be honest, and does not prescribe notions such as beneficence.<sup>37</sup> Utilitarian-approaches such as that of Bentham's, for instance, merely consider the happiness dynamic, not humaneness, and therefore cannot be considered to consistently prescribe humaneness; though it might be argued that Mill's utilitarianism considers other qualities not related to happiness in order to distinguish between different kinds of happiness<sup>38</sup> and thus, arguably, provides a framework that can possibly consistently prescribe humaneness. There is great irony in the latter assertion, however, in that considering other qualities not related to happiness implies that Mill's utilitarianism fails to be strictly utilitarian and, in a sense, borrows from the spirit of virtue ethics, or character-based approaches in general.<sup>39</sup> Character-based approaches, as opposed to procedural rule-based approaches, allow for and emphasize not strictly defined and positive duties – in the sense of undetermined actions toward the self and unspecified 'Other' – such as beneficence and the cultivation of talents, or the helping of others and the development of the self.<sup>40</sup>

Virtue ethics can perhaps be nominated as the most appropriate character-based ethics to understand the concept of *Jus in Bello* with, as seems to be suggested in *War Crimes and Just War* (2007). For the purposes of this article, Aristotle's<sup>41</sup> virtue ethics<sup>42</sup> and teleology, as understood by Michael Oakeshott, will be nominated<sup>43</sup>. Aristotle's virtue ethics is essentially concerned with the cultivation of character.<sup>44</sup> Aristotle posited that there are certain excellences, or virtues – or *Arête* – which pertain to the practice of being a human being. Aristotle argued that

human beings, like all other things that constitute the *Cosmos*, have a certain natural potentiality – or *Telos* – and that in order to fulfill this potentiality human beings need to achieve *Eudaimonia* – a state of having reached a type of non-subjective non-pleasure-based happiness defined by moral, prudential, and intellectual excellence and other virtues that are a mixture of the aforementioned three, such as moral courage.<sup>45</sup> Aristotle held that the virtuous character – the character which achieved *Eudaimonia* – is defined by attitudes such as, where applicable to *Jus in Bello*, empathy and compassion, forgiveness and understanding, temperance and moderation, responsibility and self-respect, and remorse, and that these values are learned and consolidated through habit – that they are habituated.<sup>46</sup> Importantly, this notion of potentiality is based on the assumption of freedom; in other words, only the existence of a state of freedom allows for the achievement of *Eudaimonia*.<sup>47</sup>

To link Aristotle's virtue ethics and teleology to Haidt's phenomenology, it is only due to an innate understanding of certain notions through which an initial understanding of the concept of humaneness is possible. Virtues cannot be formed if there is no understanding of the ingredients, so to speak. In other words, the development of virtues and the capacity to develop virtues is based on an initial understanding of certain basic notions. The major implication of this being that all humans are capable of developing a virtuous character and recognize their ability to do so, and thus *Jus in Bello* is not relativist and can also not be understood through pluralist morality, but, rather, it can be universally understood.

To return to Aristotle's virtue ethics and teleology before establishing the nexus with *Jus in Bello*, Aristotle contended that, like human beings, the *Polis*, or city-state, also has an intrinsic potentiality and the ability of human beings to fulfil their potentiality is directly correlated to the achievement of the potentiality of the *Polis*, which is dependent of 'justice', or *Dike*, which is, in turn, dependent on a life centred on the *Agora* and the spirit which it encapsulates, that of deliberation, which implies an effort to facilitate mutual understanding and the advancement of understanding<sup>48</sup> such as in the spirit of the Gadamerian dialectic<sup>49</sup>.

*Jus in Bello* functions on the assumption of human potentiality, in the sense of Aristotle's teleology, as captured by Kant's famous dictum in 1784 – in *Answering the Question: What is Enlightenment?* – that 'Enlightenment is man's emergence from his self-imposed immaturity'<sup>50</sup>, with which Kant could have been taken to mean that, if applied to the context of IPT and within the context of the categorical imperative, humans will only be free from self-imposed immaturity

when humaneness and the feeling of responsibility towards the ‘Other’ is applied universally, not only within certain groups, and is done so in a self-directed way.<sup>51</sup> It is important to note, however, that this Kantian understanding of *Jus in Bello*, as previously alluded to, closely conforms to the aspirations of international humanitarian law (IHL), and that a universal understanding of the values which *Jus in Bello* is based on does not imply that *Jus in Bello* needs to be universally observed, as has been made evident by the particular application of *Jus in Bello* within certain cultural groupings, but not to outsiders. The point remains, however, that *Jus in Bello*, whether applied universally or particularly, is based on the assumption of human potentiality, or the development of character.

The requirement of human potentiality allows for the realization that *Jus in Bello* on the surface – the source of confusion surrounding the ontology of *Jus in Bello* – functions according to, following Kantian logic, as described in the previous paragraph, and with great similarity to Lawrence Kohlberg’s psychology of moral development<sup>52</sup>, and his conception of the ‘immature’, a childhood conception of morality, where morality is enforced externally and is in a procedural form, such as the performative ethics previously mentioned. However, the ontology of *Jus in Bello* can be better understood as functioning on the hope that through external enforcement, habituation, of rules that these rules would be habituated, or socialized, to such an extent that an adult, or mature<sup>53</sup>, as can be explained by Kant’s logic of emergence from ‘self-imposed immaturity’ as well as the latter phase of Kohlberg’s development psychology, conception of morality becomes applicable, where morality comes from within, or is self-directed, and is based on virtue-centred normative ideals of what the virtuous person is and how a virtuous person should behave. *Jus in Bello* hence, in order to function properly, requires an eventual shift from the instrumental to intrinsic. This is indeed the value of consequentialist and deontological ethics - they allow for the fulfillment of what Aristotle’s virtue ethics wished humans to be, and in so doing substantially complements the character-based approach that is virtue ethics. A fully functional adherence to the spirit of *Jus in Bello* is, in other words, dependent on the fulfillment of *Eudaimonia* within a society or societies, through the enforcement of rules and principles which foster humaneness and responsibility. Moreover, the rules and principles of performative ethics would most probably not be consistently – since it would not always lead to benefit – adhered to by those who are not of virtuous character, unless constantly enforced externally, which would not lead to a fully functional adherence to *Jus in Bello*.

To reiterate, *Jus in Bello*, it must be realized, is not a pacifist concept. Rather, the idea behind *Jus in Bello* is to ‘civilize’ conflict through the introduction of humanitarian considerations<sup>54</sup> based on the notions of humaneness and responsibility.<sup>55</sup> *Jus in Bello* is hence inextricably tied to the concepts of warrior code and warrior ethos<sup>56</sup>, which are based on the assumption of a virtuous character who has an intrinsic disposition towards virtues such as honour, mercy and forgiveness, empathy and compassion, temperance and moderation, self-respect, and remorse – all of which constitute essentially an embracement of humaneness. In doing so, *Jus in Bello* defines itself by standing in opposition to the vices of revenge, remorselessness, and recklessness, to name but a few, which characterize the non-virtuous character.

However, *Jus in Bello* is not merely an actor-based concept, but also an institutional and organizational idea in that it requires the existence of the *Polis* in that the role of the *Polis*, as described previously, is to cultivate a virtuous populace, to place a communal and civil conscience within the citizenry. Only if a virtuous populace is cultivated will *Jus in Bello* be adhered to during conflict. The implication is thus that, where a properly functioning *Polis* – or state by extension<sup>57</sup> – does not exist or no *Polis* at all, a virtuous citizenry will not be cultivated and *Akrasia*<sup>58</sup>, implying that the behavior of certain NSAs (non-state actors) during conflict, in some such as disregarding the spirit of *Jus in Bello*, is, in some cases, a result of a *Polis* which is functioning improperly – which has achieved its potential yet – or the existence of no *Polis* at all. Essentially, the implication is that anti-social behavior in general can be explained by the failure of the *Polis*, and by extension the *Oikos*, or household.

In essence then, to conclude the application of Aristotle’s virtue ethics, *Jus in Bello* is based on a very Rawlsian-understanding<sup>59</sup>, as adapted to an Aristotelian reading of *Jus in Bello*, of how virtuous characters would like to see conflict be conducted<sup>60</sup>.

Importantly, *Jus in Bello* should be understood as a neutral concept<sup>61</sup>, not one biased towards states and the powerful, due to its humane *raison d’être*. Those who disregard it essentially display a lack of understanding and appreciation of the principles of humaneness, the foundation of communal living, which is a central characteristic of the archetypical criminal. It is thus when *Akrasia* dominates those with power and authority that *Jus in Bello* is not adhered to.

Moreover, due to *Jus in Bello*’s appeal to humaneness, it does not necessarily stand in opposition to practical considerations since the moral-practical nexus might actually lead to

greater success being achieved, as the US has realized in the ‘War on Terror’, as previously discussed.

***Application: Jus in Bello and ‘The War on Terror’***

*Jus in Bello versus Total War Doctrine: The Phronesis of Al-Qaeda*

‘War is hell’, reportedly said by General Tecumseh Sherman – and he destroyed infrastructure and burned to the ground the cities and farms of the civilians in Georgia on his march to the sea.<sup>62</sup>

Total war doctrine holds that during war nearly everything is permitted which might act as a means to victory, including the intentional killing of civilians, and that the enemy has forfeited the right to any consideration of humane treatment by virtue of being at war, which is based on the claim that war is inherently amoral and that the laws of the state are not applicable to belligerents and those who reside within the state or territory of the enemy. Those who adhere to this doctrine, typically realists, believe that IHL (International Humanitarian Law), and hence *Jus in Bello*, is simply an elaborate public relations scheme, the rhetoric of which is employed by states, and certain non-state actors (NSAs) when it suits their *Realpolitik*. Total war doctrine hence undermines the conditions of proportionality – that some kind of proportionality must exist between military ends and means – and discrimination – an attempt must be made to discriminate between non-combatants and combatants – by adhering to the notion that anything is a legitimate target in a state or, as is applicable here, NSA’s existential struggle.<sup>63</sup>

It could be argued that the massive asymmetrical advantage of the US – Al-Qaeda’s primary adversary – has due to its technological prowess exempts Al-Qaeda from any consideration of *Jus in Bello*, since any such consideration would be of a debilitating disadvantage to Al-Qaeda’s conflict against, primarily, the US since it would be impractical for Al-Qaeda to attempt to engage in a conventional war, or conflict, against a force that has such a massive asymmetrical technological advantage over it. Thus, since armed forces, in this case in its terrorist manifestation, are ‘learning organizations’ it should not be surprising that this massive asymmetry has, analogously, led to the use of tactics, strategies, and weapons – all manifested in the concept of ‘unconventional violence’ – which can counteract the colossal technological advantage of the US.

Uwe Steinhoff encapsulates the spirit of the previous two paragraphs, with application to the 'War on Terror', when he argues, in *On the Ethics of War and Terrorism* (2007), that *Jus in Bello* is not a neutral concept and is biased in favour of the strong and is state-centric, and due to this does not allow for revolutionary action by NSAs by not allowing them to protest things such as globalization, liberalism, capitalism, *et cetera*.

Al-Qaeda has, evidently, displayed no regard for *Jus in Bello* by violating both the principles of discrimination and proportionality.<sup>64</sup> Al-Qaeda has done this by, most generally, targeting civilians, not complying with the rules of the treatment of POWs (Prisoners of War), and by making its fighters indistinguishable from civilians – while the latter is not an outright violation of *Jus in Bello*, it is a deliberate tactic which defies the spirit of *Jus in Bello* by putting civilians in deliberate danger<sup>65</sup> – this despite Al-Qaeda's accountability to the concept of *Jus in Bello* by virtue of Additional Protocol II of the Geneva Conventions.

The question then becomes whether it is permissible for Al Qaeda to disregard *Jus in Bello* due to technological asymmetry and its desire to challenge what it perceives to be a US-led crusade against the Islamic world. To restate the aforementioned, the question is whether Al-Qaeda's strategy and tactics are justified because it faces the existential threat of being excluded and having its voice, and that of Islamic civilization, as Al-Qaeda perceives to be the case, muted.

The aforementioned stance, that of Al-Qaeda, and proposed question, if accepted, can be characterized as based on either moral relativism or the complete absence of ethics, such as is the case with the archetypical criminal or delinquent. Essentially, Al-Qaeda's disregard for *Jus in Bello* and adherence to total war doctrine amounts to an attack on the notion of humaneness. Therefore, encapsulated, what is being argued is that humaneness can be disregarded when certain practical considerations are that are deemed important by NSAs such as Al-Qaeda.

Thus, the determination of our perception on the justness of Al-Qaeda's actions basically boils down to the extent to which we value human life. Essentially, if a high value is placed on human life, then Al-Qaeda's actions can be deemed unjust by virtue of not being in accordance with social norms, as found within civil settings, as will be elaborated on later. What can be highlighted is that Al-Qaeda is failing to act in accordance to the perception within Abrahamic religions, of which Islam is a member, that God is the creator of all things and that all humans have a deep intrinsic value by virtue of being created in God's image, as Abrahamic religions

believe, regardless of where that person might have been born or of what religious persuasion, if at all, that person might be.

Indeed, the spirit of Abrahamic religions is akin to Kant's desire to see humans being freed from 'self-imposed immaturity'. The relativist basis of Al-Qaeda's strategy and tactics fails to be convincing since it acts against the spirit of social contract theories. It has become generally accepted that whatever theory of actions strive for the greater good of people is legitimate and acceptable, and those which do not are generally not acceptable – something which arises from the natural human impulse for a better life, which is indeed the basis of the humanities, as understood by Hans-Georg Gadamer and his emphasis on the concept of *Phronesis*<sup>66</sup>, and also, in a sense, can be understood in conjunction with Hegel's dialectic, as understood by Alexandre Kojève, and Richard Rorty's equation of civility with openness. Thus, condoning the actions of Al-Qaeda would amount to intellectual dishonesty.

Therefore, Al-Qaeda's anachronistic behavior should be identified as being alike to a criminal or delinquent's behavior within a state since Al-Qaeda has violated the spirit of social contract theories by violating the principle of humaneness and has thus indicated a lack of understanding and appreciation – or to a lesser degree – of the principle of humaneness, which is a central characteristic of the archetypical criminal. Accepting the stance of Al-Qaeda would amount to sacrificing humaneness – the foundation of communal living. Hence, a discursive ethics of inclusion is not applicable since Al-Qaeda has no interest in embracing the spirit of a Gadamerian dialogue, which is based on the *Horizontverschmelzung* of the *Weltanschauung* of participants, which would amount to sacrificing the core principle of humaneness for the sake of the inclusion of Al-Qaeda – an entity that refuses to, as fundamentalism in general is characterized by, recognize and attempt to combat its *Vis a Tergo*<sup>67</sup>.

Al-Qaeda's behavior can perhaps be best explained through Aristotle's understanding of the *Polis* – or city-state. In a sense the adherence to *Jus in Bello* depends on the state – understood as a collection of cities and other settlements – performing its partial responsibility and role of cultivating a virtuous populace, which implies that NSAs – such as Al-Qaeda – who engage in acts of aggression that can be considered non-virtuous are typically the result of the failure of their *Polis* to cultivate a virtuous character among its members. This implies that state failure can easily lead to extreme forms of anti-social behavior and to a relative absence of the understanding of the notions outlined by Jonathan Haidt.

*Jus in Bello and the Phronesis of the United States in the 'War on Terror'*

As this section will illustrate, the portrayal of war being a 'war of all against all' is utterly misleading. Total war doctrine is unrealistic, or impractical, due to its moral indefensibility. To appreciate this moral-practical nexus, consider the following statement by Jean Pictet<sup>68</sup>:

Making no claim that it can put an end to the scourge of war, humanitarian law aims to attenuate the unnecessary harshness of war. The reciprocal interests of the belligerents also impel them to observe certain rules of the game in the conduct of hostilities.

Although the notion that Hersch Lauterpacht<sup>69</sup> – undoubtedly inspired by Cicero's<sup>70</sup> proclamation that 'inter arma leges silent', or *in war the law is silent* – was right when he uttered 'if international law is the vanishing point of law, the law of war is the vanishing point of international law' – that either *Jus in Bello* merely exists nominally or it is underperforming and is thus not having the effect it should – continues to pervade public opinion due to the incidents which occurred at Guantanamo and Abu Ghraib has presented a powerful challenge to *Jus in Bello*.<sup>71</sup> This pervasive opinion is superficial, however. The US has taken great care in how it has conducted the 'War on Terror', and this is reflected in the relative paucity of reports which highlight *Jus in Bello* violations. Rather, much of the criticism against the US in its 'War on Terror' can be reduced to the notion that the US could have limited incidental harm to a greater degree.<sup>72</sup>

The 'War on Terror' has led to restrictions being imposed that have surpassed those prescribed in *Jus in Bello* through the favouring of the PDI over the DDE; or, rather, the evolution of DDE to PDI.<sup>73</sup> To elaborate, firstly, whereas the condition of proportionality forbids that the civilian population should be excessively harmed, as DDE holds, anti-terror doctrine, in accordance with PDI, holds that any harm done is counterproductive<sup>74</sup> secondly, the US has adhered to rules of engagement that are more than required by *Jus in Bello*; and, finally, the US has imposed authorization levels for strikes that may result in civilian harm – which implies a mammoth effort to avoid incidental harm to civilians – such as when senior Al-Qaeda members are targeted.<sup>75</sup> Moreover, the US had made a concerted attempt to train its soldiers in accordance with the spirit of *Jus in Bello*.<sup>76</sup> Essentially, the US has realized that the war against transnational terrorism in general and Al-Qaeda specifically is a war of ideas and perceptions and cannot be

won on the battlefield alone, and thus *Jus in Bello* must be adhered to, lest the US repeat the mistakes the Soviet Union made in Afghanistan, since the war against Al-Qaeda is being fought among the people and thus the outcome of the war will be determined by the ‘perceptions and support of the people’.<sup>77</sup>

The ‘War on Terror’ has thus led to the greater adherence to *Jus in Bello* by states – something which has been greatly enhanced by the globalized media. This is reflected by continued efforts contemporaneously to limit incidental harm through norms which disapprove of, *inter alia*, cluster munitions and explosive remnants of war.<sup>78</sup>

This is, incidentally, also why the logical implication of total war doctrine – a war of escalation – is not conceivable. The contemporary moral-practical nexus would not allow for it due to the contemporary *Zeitgeist* – or spirit of the times – at the current stage of development, understood in Hegelian terms. In the current setting, *Jus in Bello* can hence be considered to be a neutral social principle due to its humane *raison d’être*. Likewise, the modern *Zeitgeist* has not allowed the US to act internally as it desires, and thus, *inter alia*, the Patriot Act – which falls within the realm of internal *Jus in Bello*, or how a state behaves internally while engaged in a conflict – has come under so much criticism. As noted by Orend<sup>79</sup>:

Internal *jus in bello* essentially boils down to the need for a state, even though it's involved in a war, nevertheless to still respect the human rights of its own citizens as best it can during the crisis. The following issues arise: is it just to impose conscription, or press censorship? Can one curtail traditional civil liberties, and due process protections, for perceived gains in national security? Should elections be cancelled or postponed? May soldiers disobey orders, e.g. refuse to fight in wars they believe unjust? A comprehensive theory of wartime justice must include consideration of them, and not merely focus on what one may do to the enemy. For some of the worst atrocities in wartime have occurred within, and not between, national borders. Some states, historically, have used the cloak of war with foreign powers to engage in massive internal human rights violations, usually against some disfavoured group. Other states, which are otherwise decent, panic amidst the wartime situation and impose emergency legislation which turns out to have been complete overkill, and which they later regret and view as the product of fear rather than reason.

Indeed, the emergence of unconventional violence, primarily due to transnational terrorism, has led to a *Jus in Bello* renaissance through the consolidation of the spirit of *Jus in Bello* and the recognition that merely discarding *Jus in Bello*, in its IHL manifestation, can have an injurious delegitimising and alienating effect. *Jus in Bello* thus remains applicable as an ethics for behaviour during unconventional conflict – and the adherence to the spirit of *Jus in Bello* arguably even advances military interests, or complements them – and will continue to remain so during new forms of conflict which might arise due to the fundamental predisposition of humankind which arise from communal living.

### **Criticism**

There are a number of potential criticisms of this reading of *Jus in Bello*. The first that will be considered is David Hume's 'is-ought' gap – a criticism that is often employed against normative approaches or readings.<sup>80</sup> This criticism would presumably be aimed at notions such as beneficence and responsibility which underlie *Jus in Bello*. This criticism fails to be convincing though, firstly, due to Haidt's phenomenology and, secondly, since it is possible to talk about social and institutional 'facts', such as promise-keeping – to elaborate, it can be argued that a person made promise, there is an institution of promise-keeping in his or her society, and therefore the person ought to keep his or her promise.<sup>81</sup>

Secondly, the use of Michel Foucault's<sup>82</sup> power-knowledge nexus as a potential criticism of this reading of *Jus in Bello* through the identification of *Jus in Bello* as a biased – or non-neutral concept. Indeed, postmodern thought in general would challenge certain assumptions made in this article, particularly those associated with Haidt. It can, however, be proposed that even if the epistemology of these assumptions can be challenged, perhaps the emphasis should be on the *practical* – or, on what works – and hence certain epistemological challenges may possibly be disregarded. The supreme usefulness of an Aristotelian vocabulary should hence allow for certain postmodern epistemological challenges to be disregarded. Borrowing from Gadamerian thought, the humanities should be understood as deriving its *raison d'être* from addressing certain social issues and hence the importance of the practical needs to be appreciated. Furthermore, it is possible to understand Foucault's philosophy – as well as that of a number of other postmodernist thinkers – as a celebration of humanity, and hence not as entirely nihilistic<sup>83</sup>.

A third potential criticism, and the most legitimate of the three, is an emotive reading of *Jus in Bello*, as might arise from the Critical Theory tradition and related traditions such as Feminism.<sup>84</sup> An emotive reading would essentially emphasize the emotions of belligerents and the oppressed<sup>85</sup> and, *via* a focus on emotions, could lead to an understanding of why a character-based reading of *Jus in Bello* is not necessarily legitimate or complete. Though, it must be recognized that Aristotle's understanding of the role of the *Polis* in the formation of our emotions does explain why certain negative emotions come into being.

### **Conclusion & Recommendations:**

#### **Towards a Character Turn at the Interstice between Political Theory and International Relations Theory**

Through this alternative reading of *Jus in Bello* it should be evident that conventional explanations of the ontology of *Jus in Bello* are not adequate and that IR theory should embrace character-based ethics if the field is to further develop in terms of ethics. While social contract theory and psychology have been applied to issues within IR theory and other fields, more research into the applicability of character-based approaches, such as Aristotle's virtue ethics and teleology – or, if nothing else, the adoption of an Aristotelian vocabulary in cases where only specific aspects of Aristotelian thought is desired or useful – to issues within both IR theory and political theory is necessary.

A character turn in IR theory – which will be of some benefit to political theory – can be found at the interstice between IR theory and political theory. What is being posited is hence that a proper understanding is that IR theory, specifically, requires a move away from rules and one towards character. This does not imply that rules are not of importance. As the analogy between such a character turn and Kohlberg's development model has shown, there is an interplay that exists between rules and character. Hence, a character turn in IR theory specifically would recognize the interplay between rules and character – or their interdependence – and would thus not discard the value of rule-based approaches such as that of consequentialist and deontological thought, as manifested in communitarian and cosmopolitan thought.

This article essentially sought, furthermore, to emphasize that it is crucial to attempt to understand the character – here, within the context of this paragraph, understood as substance – of concepts and problems, as opposed to attempting to analyze these problems and concepts in a

merely superficial manner. Such an approach could prove invaluable as a framework for understanding, for instance, regionalism and regionalization<sup>86</sup>, inter-government organizations (IGOs), and certain NSAs.

What can be proposed as a framework that needs serious considerations is an understanding of the relationship between emotions and reason, as elaborated on by Aristotle and greatly developed by Professor Robert Solomon in his lecture series entitled *Passions: Philosophy and the Intelligence of Emotions*, which essentially held that the world is understood through emotions, and as opposed to Plato's emotion-reason dualism. Such an understanding could allow for the partial resolution of the Fourth Debate through the answering of certain epistemological and ethical questions through a reformulation of the understanding of emotions and reason within both Political and IR theory.

Character-based approaches should, moreover, be integrated into other areas which fall within the interstice between IR theory and political theory, such as African Politics. Aid donors could, for instance, benefit from an Aristotelian reading of the Korean development model and its applicability to sub-Saharan Africa through an Aristotelian reading, through the adoption of a specific Aristotelian vocabulary, of *Saemaul Undong*<sup>87</sup> and the 'One Village, One Product' Movement<sup>88</sup>, which would emphasize the role the *Polis* – here understood as the city-state and in the context of Aristotle's use of the word *Polis* in his ethics and teleology – plays in facilitating the achievement of *Eudaimonia* through the acquisition of skills and the transformation of feelings such as hopelessness and indifference to attitudes such as diligence, responsibility, and other attitudes associated with a progressive mentality, as well as the role the *Polis* plays in the embracement of *Phronesis* among society leaders and the heads of households<sup>89</sup>, all of which might lead to the fostering of the *Megalopsychos*<sup>90</sup>. Such a refocusing could be helpful since current models of African development fail to understand the centrality of emotions<sup>91</sup> and identity. Such a refocusing might greatly aid in, especially, the elimination of rural poverty and, in a much broader sense, the implementation of a spirit that is pro-development. It would certainly be much more constructive than the mere dependency-creating delivery of foreign aid. One of the worst implications of aid delivery is, arguably, that it creates dependency – and concurrently a spirit which does not strive for self-sufficiency – and at times in areas where self-sufficiency is not possible, such as certain regions in Sudan<sup>92,93</sup>.

Similarly, an Aristotelian understanding of the role of *Dike* in the *Polis* can be employed to understand why certain societies are dysfunctional. To elaborate, an Aristotelian vocabulary can be employed to understand that, like human beings, the *Polis*, or city-state, also has an intrinsic potentiality and the ability of human beings to fulfill their potentiality is directly correlated to the achievement of the potentiality of the *Polis*, which is dependent of ‘justice’, or *Dike*, and, hence, in a society where instrumental reasoning is employed without regard for justice, instrumental reasoning – such as utilitarian reasoning – is doomed to failure and risks societal degradation or even collapse. Stated differently, in a society where there is no perceived sense of justice, no properly functioning society can exist. The constructive potential of notions such as Affirmative Action or Black Economic Empowerment (BEE) can hence be questioned. It might be suggested that a number of social problems today exist due to the understanding of the individual as a being that exists isolated from of the community and communal context, as opposed the individual *within* the community – a notion that would undoubtedly be supported by Bernard Stiegler.

Moreover, the Aristotelian notion of *Eudaimonia* – and Aristotle’s virtue ethics in general – can be employed to understand the ethos of Critical Theory, as done by Neufeld in *The Restructuring of International Relations Theory* (1995), and deliberative democracy, and the potential destructiveness of, as suggested by Schumpeter, party politics. This kind of approach would allow for the creation of something akin to Rorty’s *Liberal Utopia* or which conforms to Ricoeur’s cosmopolitan communitarian vision. It would be able to act as the foundation, as might be suggested, of a type of society where dialogue is valued, in the sense of Peeters’s notion of *Originarity*, narrative identity, and his philosophy of language<sup>94</sup>, which implies that such a society would not be based on consensus-seeking models and hence would be more adaptable.

As a final point, Aristotle’s virtue ethics and teleology could possibly allow for a better understanding of the relationship of foreign policy to the state in an increasingly transnational, or even globalized, world. An Aristotelian understanding could, if nothing else, provide new insight into the debate. A proper understanding of the ontology of the *Polis* and its role, can, furthermore, allow for a deeper understanding of the ontology of the realist tradition, the liberal tradition, and other traditions within IR – constructivism, both within IR theory and foreign policy theory, and one of its core values, that of *Homo Sociologicus*, can for instance be better understood through an understanding of notions central to the *Polis*, such as communal living,

and how our interests are defined by our communal context, or our relation with the ‘Other’ or ‘Others’<sup>95</sup>.

## NOTES

<sup>1</sup> Books such as *International Relations Theories: Discipline and Diversity* (2007), *Theories of International Relations* (2009), *The Globalization of World Politics: An Introduction to International Relations* (2008), *International Relations Theory Today* (1995), and *International Relations Theory; Realism, Pluralism, Globalism, and Beyond* (1999), are all dominated by cosmopolitan and communitarian ethics that have a performative basis. Although, Neufeld’s first chapter in *The Restructuring of International Relations Theory* (1995), namely, *International Relations and the Aristotelian Project* hints at something novel if a certain reading is applied to it.

<sup>2</sup> IR theory is here understood as an extension of political theory, which implies that IR theory can also inform political theory.

<sup>3</sup> Meissner, R. (2004). ‘The Transnational Role and Involvement of Interest Groups in Water Politics: A Comparative Analysis of Selected Southern African Case Studies’, *Unpublished PhD Thesis*. Pretoria: University of Pretoria, pp.19-20.

<sup>4</sup> It is noted that Aristotle was in no way a social contractarian, but, for the purposes of this assignment social contract theory will be given consideration alongside Aristotle’s notion of how the notions discussed by Jonathan Haidt – something which will be elaborated on later – and the notions deduced from those can be understood as being internalized through *Polis* life.

<sup>5</sup> The focus of this article will be on external *Jus in Bello*, as opposed to internal *Jus in Bello* where the focus is on what happens within a state – naturally, a state which is not experiencing war or conflict within its own borders – during conflict or war and hence notions such as conscription, press censorship, cancelled or postponed elections, the curtailing of civil liberties, and the right of soldiers to not participate if they deem a war to be unjust (In Orend, B. (2005). ‘War’, *Stanford Encyclopedia of Philosophy*. Available online at: <http://plato.stanford.edu/entries/war/> (Accessed on 8 February, 2010).

<sup>6</sup> Namely, a universalized manifestation of *Jus in Bello* – something which has not always existed and is relatively novel.

<sup>7</sup> Lin, P., Bekey, G. and Abney, K. (2008). ‘The Laws of War and Rules of Engagement’, *Autonomous Military Robotics: Risk, Ethics, and Design*. Washington: United States Government Documents and Publications, pp.44. Available online at: [http://ethics.calpoly.edu/ONR\\_report.pdf](http://ethics.calpoly.edu/ONR_report.pdf) (Accessed 8 June, 2010).

<sup>8</sup> Lin, P., Bekey, G. and Abney, K. (2008). *op. cit.*, pp.49-50.

<sup>9</sup> Lin, P., Bekey, G. and Abney, K. (2008). *op. cit.*, p. 50.

<sup>10</sup> Lin, P., Bekey, G. and Abney, K. (2008). *op. cit.*, p. 50.

<sup>11</sup> Lin, P., Bekey, G. and Abney, K. (2008). *op. cit.*, p. 50.

<sup>12</sup> Lin, P., Bekey, G. and Abney, K. (2008). *op. cit.*, p. 50.

<sup>13</sup> Lin, P., Bekey, G. and Abney, K. (2008). *op. cit.*, p. 50.

<sup>14</sup> International Committee of the Red Cross (ICRC) (2002). *International Humanitarian Law: Answers to Your Questions*. Geneva: ICRC, p. 7.

<sup>15</sup> O' Brien, W.V. (1995). 'The Rule of Law in Small Wars', *Annals of the American Academy of Political and Social Science*, 541, pp. 45-46.

<sup>16</sup> International Committee of the Red Cross (ICRC) (2002). *International Humanitarian Law: Answers to Your Questions*. Geneva: ICRC, p. 7.

<sup>17</sup> Or 'social man' – a concept based on the notion of the behaviour – the interests, code of conduct, *et cetera* – of human beings being defined by society. Human beings are thus viewed as part of a society or community, which implies a disposition towards legality, humaneness, and responsibility. (In Boekle, H., Rittberger, V. and Wagner, W. (2001). 'Constructivist Foreign Policy Theory', in: V. Rittberger (ed.), *German Foreign Policy Since Unification: Theories and Case Studies*. Manchester: Manchester University Press, pp. 106-107.)

<sup>18</sup> Latin for 'blank slate' – it is essentially an epistemological notion which holds that human beings are not born with an innate understanding of the world and that understanding of the world is rather formed through experience and perception (In Hirsch, P., Michaels, S. and Friedman, R. (1987). "'Dirty Hands" versus "Clean Models": Is Sociology in Danger of Being Seduced by Economics?', *Theory and Society*, Vol. 16, No.3, p. 322).

Hirsch, P., Michaels, S. and Friedman, R. (1987). "'Dirty Hands" versus "Clean Models": Is Sociology in Danger of Being Seduced by Economics?', *Theory and Society*, Vol. 16, No.3, pp. 317-336.

<sup>19</sup> Or 'economic human' – a concept based on the notion of human beings adhering to rational choice theory, consequentialist reasoning, and being broadly self-interested and viewing themselves individually. (Boekle *et al.* (2001). pp. 106-107)

<sup>20</sup> International Committee of the Red Cross (ICRC) (2002). *International Humanitarian Law: Answers to Your Questions*. Geneva: ICRC, pp. 9. Wright's observation, where applicable, is corroborated by ancient texts such as the Bible, the Mahabharata, the Quran, and the Viqayet, traditions such as Ubuntu and those found in feudal Japan, and figures such as Francis Lieber, *via* the Lieber Code, Fyodor Martens, Henry Dunant, author of a book which inspired the founding of the International Committee of the Red Cross (ICRC) entitled *A Memory of Solferino*, and Hammurabi, and by philosophers such as Jean-Jacques Rousseau and Hugo Grotius, to elicit but a limited number of examples. (In International Committee of the Red Cross (ICRC) (2002). *International Humanitarian Law: Answers to Your Questions*. Geneva: ICRC, pp.7-9; Friday, K. (2005), 'Might Makes Right: Just war and just warfare in early medieval Japan', in T. Brekke (ed), *The ethics of war in Asian civilizations: a comparative perspective* (New York: Routledge), pp. 159-184., pp. 164-166). What is clear is that there has always been a perceived need, even duty, to institute rules which govern the way in which conflicts – either due to practical or morals considerations, or both – are fought – a notion which runs contrary to total war doctrine (ICRC. (2002). pp. 7-9).

<sup>21</sup> Haidt, J. (2007). 'The New Synthesis in Moral Psychology', *Science*, No. 316, pp. 999. Haidt's phenomenology also explains why, for instance, Kim Dae-jung (In Kim, D.J. (1994), 'Is Culture Destiny: The Myth of Asia's Anti-Democratic Values', *Foreign Affairs*, 73(6): pp. 189-194), in response to Lee Kuan Yew, was able to identify pre-Lockean liberal strands of thinking in the Far East, such as the ancient Chinese philosophy of *Minben Zhengchi* and the Korean religion of *Tonghak*; similarly, de Bary's (1983) *The Liberal Tradition in China* also acts as a testament of liberal thinking in the Far East. Moreover, realist strands of thinking could also be identified within the thought of China's Shang Tzu and Han Fei-tzu and India's Kautilya (Clark, 2001, p. 88). The significance of this point being that a concept

such as *Jus in Bello*, by virtue of its ingredients, put colloquially, is capable of being understood universally, and is not merely particular to a certain culture.

<sup>22</sup> Harman, G. (2003). 'Three Trends in Moral and Political Philosophy', *The Journal of Value Inquiry*, No. 37, pp. 417.

<sup>23</sup> Such as the hypothetical social contract theories of Thomas Hobbes, John Locke, Jean-Jacques Rousseau, and a Kant-inspired John Rawls, or even someone like Richard Rorty in his notion of the *Liberal Utopia*.

<sup>24</sup> An ancient Greek word which can be translated as 'spiritedness'; the word essentially expresses the human desire for recognition. (In Fukuyama, F. (2006). 'A Vacation in Bulgaria', *The End of History and the Last Man*. New York: Free Press, p. 162.)

<sup>25</sup> Pure Realist ethics cannot really be considered in understanding *Jus in Bello*. A realist understanding of the value of *Jus in Bello* would however conform closely to the consequentialist reading of *Jus in Bello*.

<sup>26</sup> Baylis, J., Smith, S. and Owens, P. (2008). *The Globalization of World Politics: An Introduction to International Relations*. New York: Oxford University Press, p.196-197.

<sup>27</sup> Baylis, J., Smith, S. and Owens, P. (2008). op. cit., p. 202.

<sup>28</sup> In the sense of the stoic philosopher Diogenes who labeled himself a 'citizen of the world' (in Baylis, J., Smith, S. and Owens, P. (2008). op. cit., p. 196).

<sup>29</sup> Dunne, T., Kurki, M., and Smith, S. (2007). *International Relations Theories: Discipline and Diversity*. Oxford: Oxford University Press, pp. 38-40.

<sup>30</sup> It should be noted that at times merely insiders were considered worthy of being treated in accordance to the spirit of *Jus in Bello*, as is evident, for instance, in the way Greeks treated each other during conflict versus the way in which Greeks engaged in conflict with 'barbarians', similarly in the way that Christians were expected to treat each other during the Christian Middle Ages, and how they could treat those outside of the borders of Christian Europe. The can, perhaps, be considered to be primitive conceptions of the notion of *Jus in Bello*. It is through these primitive conceptions, though, that the ingredients can be found for a universal application of *Jus in Bello*.

<sup>31</sup> Dunne, T., Kurki, M., and Smith, S. (2007). op. cit., pp. 37-43.

<sup>32</sup> Schmitt, M.N. (2009). 'The Vanishing Law of War: Reflections of Law and War in the 21st Century', *Harvard International Review*, Vol. 31 No. 1, p. 67.

<sup>33</sup> Schmitt, M.N. (2009). op. cit., p. 68.

<sup>34</sup> Dupre, B. (2007). *50 Philosophy Ideas You Really Need to Know*. London: Quercus, p. 69.

<sup>35</sup> To quote Dupre (in Dupre, B. (2007). op. cit., p. 70), 'According to direct or act utilitarianism, each action is assessed directly in terms of its own contribution to utility. In contrast, according to rule utilitarianism, an appropriate course of action is determined by preference to various sets of rules which will, if generally followed, promote utility'.

<sup>36</sup> DDE holds that excessive unintentional harm should not be done to civilians, while PDI holds that any harm done is counterproductive (Lin, P., Bekey, G. and Abney, K. (2008). 'The Laws of War and Rules of Engagement', *Autonomous Military Robotics: Risk, Ethics, and Design*. Washington: United States Government Documents and Publications, pp. 51-53; Schmitt, M.N. (2009). 'The Vanishing Law of War: Reflections of Law and War in the 21st Century', *Harvard International Review*, Vol. 31 No. 1, pp. 67)

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<sup>37</sup> Robinson, D. and Garratt, C. (2008). *Introducing Ethics*. London: Icon Books, pp. 40-44.

<sup>38</sup> Dupre, B. (2007). *50 Philosophy Ideas You Really Need to Know*. London: Quercus, pp. 68-70.

<sup>39</sup> Dupre, B. (2007). *op. cit.*, pp. 68-71.

<sup>40</sup> Robinson, D. and Garratt, C. (2008). *Introducing Ethics*. London: Icon Books, pp. 40-44.

<sup>41</sup> Although Aristotle might be viewed as a communitarian – especially if the Aristotelian notion of justice being rooted in ‘a community whose primary bond is a shared understanding both of the good for man and the good for community’ (In Gutmann, A. (1985). ‘Review: Communitarian Critics of Liberalism’, *Philosophy and Public Affairs*, Vol.14 No.3, pp. 308) is considered – this is not of particular importance in the context of what is being investigated and how it is being investigated, as well as the proposals that will be made. However, the point needs to be made that the strand of communitarianism that exists with IR theory is based on performative ethics, and thus Aristotle’s communitarianism, which is based on character, is critical to the proposed investigations. This paper essentially argues for a strand of communitarianism based on an Aristotelian departure point, or one that adopts certain parts of Aristotle’s vocabulary.

<sup>42</sup> There are numerous virtue ethicists, and hence specificity is required.

<sup>43</sup> It should be noted that an Aristotelian vocabulary will be adopted, which implies that it is recognized that not all aspects of Aristotle’s ethics and politics will conform to the logic *Jus in Bello*, with the emphasis rather being placed on specific aspects of Aristotle’s ethics and politics.

An Aristotelian vocabulary will be adopted due to its constructive potential, as opposed to the vocabulary of certain postmodernist thinkers.

<sup>44</sup> Oakeshott, M. (2006). *Lectures in the History of Political Thought*. Exeter: Imprint Academic, pp.121.

<sup>45</sup> Oakeshott, M. (2006). *op. cit.*, pp. 120-124.

<sup>46</sup> Oakeshott, M. (2006). *op. cit.*, pp.120-124.

<sup>47</sup> Oakeshott, M. (2006). *op. cit.*, pp.124.

<sup>48</sup> Oakeshott, M. (2006). *op. cit.*, pp. 106-110.

<sup>49</sup> A process of continuous *Horizontverschmelzung* – or ‘fusion of horizons, or a *Weltanschauung* (i.e. worldview) fusion – *via* open discussion through which human beings advance their understanding of the world (In Rosen, S.H. (1997). ‘Horizontverschmelzung’, *The Philosophy of Hans-Georg Gadamer*. Peru: Open Court, pp. 210-211).

<sup>50</sup> Kant, I. (1998). ‘An Answer to the Question: What is Enlightenment?’, in: P. Loftson (ed.), *Readings on Human Nature*. Peterborough: Broadview Press, pp. 121.

<sup>51</sup> Baylis, J., Smith, S. and Owens, P. (2008). *The Globalization of World Politics: An Introduction to International Relations*. New York: Oxford University Press, pp.196-197.

<sup>52</sup> Kohlberg argued that the most immature level, the preconventional level, could be described in the following way, ‘At this level, the child is responsive to cultural rules and labels of good and bad, right or wrong, but interprets these labels either in terms of the physical or the hedonistic consequences of action (punishment, reward, exchange of favors) or in terms of the physical power of those who enunciate the rules and labels’, the intermediate level, the conventional level, in the following way, ‘At this level, maintaining the expectations of the individual’s family, group, or nation is perceived as valuable in its own right, regardless of immediate and obvious consequences. The attitude is not only one of conformity

to personal expectations and social order, but of loyalty to it, of actively maintaining, supporting, and justifying the order, and of identifying with the persons or group involved in it', and the most advanced level, the postconventional level, in the following way, 'At this level, there is a clear effort to define moral values and principles that have validity and application apart from the authority of the groups or persons holding these principles and apart from individual's own identification with these groups' (In Kohlberg, L. and Hersh, R. (1977), 'Moral Development: A Review of the Theory', *Theory into Practice*, 16(2), pp. 54-55). Applied to the ethics of IR theory, pure consequentialism can be placed at the one end of the spectrum while virtue ethics can be placed at the other end, with deontological ethics being somewhere in-between.

<sup>53</sup> In the Aristotelian sense.

<sup>54</sup> Baylis, J., Smith, S. and Owens, P. (2008). *The Globalization of World Politics: An Introduction to International Relations*. New York: Oxford University Press, pp.196-202.

<sup>55</sup> Dunne, T., Kurki, M., and Smith, S. (2007). *International Relations Theories: Discipline and Diversity*. Oxford: Oxford University Press, pp.40-41.

<sup>56</sup> Rengger, N. (2002). 'On the Just War Tradition in the Twenty-First Tradition', *International Affairs*, Vol. 78 No. 2, pp. 356.

<sup>57</sup> If understood as a collection of cities and towns.

<sup>58</sup> Or the weakness of will, or self-control. (Dupre, 2007, p. 99)

<sup>59</sup> John Rawls coined the term, the 'original position', which referred to a state where people must design the basic rules of society behind a 'veil of ignorance'. Applied to IR, this session would occur between the representatives of peoples. (Baylis *et al*, 2008, p. 203)

<sup>60</sup> Although the observation might be made that in practice there is great similarity between the approach discussed and cosmopolitanism, this is beside the point since the purpose of this piece is to better understand a supremely pertinent concept in an alternative manner.

<sup>61</sup> Certain authors, such as Uwe Steinhoff in *On the Ethics of War and Terrorism* (2007), have claimed that *Jus in Bello* is not neutral and is biased in favour of the strong and is state-centric, and, by implication, does not allow for revolutionary action, and hence favours the *Status Quo*.

<sup>62</sup> Lin, P., Bekey, G. and Abney, K. (2008). 'The Laws of War and Rules of Engagement', *Autonomous Military Robotics: Risk, Ethics, and Design*. Washington: United States Government Documents and Publications, p. 47. Available online at: [http://ethics.calpoly.edu/ONR\\_report.pdf](http://ethics.calpoly.edu/ONR_report.pdf) (Accessed 8 June, 2010).

<sup>63</sup> Lin, P., Bekey, G. and Abney, K. (2008). *op. cit.* pp. 47-48.

<sup>64</sup> Schmitt, M.N. (2009). 'The Vanishing Law of War: Reflections of Law and War in the 21st Century', *Harvard International Review*, Vol. 31 No. 1, p. 66.

<sup>65</sup> Schmitt, M.N. (2009). *op. cit.*, p. 66-67.

<sup>66</sup> Or 'practical wisdom', or 'practical philosophy'.

<sup>67</sup> Literally translated as a 'spear from the back' – something which prods you in a certain direction without you having control over it; in other words, our prejudices, or pre-judgments.

This is not to say that progress is based on us all becoming postmodern liberals.

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- <sup>68</sup> International Committee of the Red Cross (ICRC) (2002). *International Humanitarian Law: Answers to Your Questions*. Geneva: ICRC, p. 35.
- <sup>69</sup> Schmitt, M.N. (2009). op. cit., p. 64.
- <sup>70</sup> Schmitt, M.N. (2009). op. cit., p. 64.
- <sup>71</sup> Schmitt, M.N. (2009). op. cit., p. 68.
- <sup>72</sup> Schmitt, M.N. (2009). op. cit., p. 68.
- <sup>73</sup> Lin, P., Bekey, G. and Abney, K. (2008). op. cit., pp. 51-53.
- <sup>74</sup> Schmitt, M.N. (2009). op. cit., p. 68. Lin, P., Bekey, G. and Abney, K. (2008). op. cit., p. 67.
- <sup>75</sup> Schmitt, M.N. (2009). op. cit., p. 67.
- <sup>76</sup> Schmitt, M.N. (2009). op. cit., p. 67.
- <sup>77</sup> Schmitt, M.N. (2009). op. cit., p. 67.
- <sup>78</sup> Schmitt, M.N. (2009). op. cit., p. 67.
- <sup>79</sup> Orend, B. (2005). 'War', *Stanford Encyclopedia of Philosophy*. Available online at: <http://plato.stanford.edu/entries/war/> (Accessed on 8 February, 2010).
- <sup>80</sup> Dupre, B. (2007). *50 Philosophy Ideas You Really Need to Know*. London: Quercus, pp. 48-49.
- <sup>81</sup> Robinson, D. and Garratt, C. (2008). *Introducing Ethics*. London: Icon Books, p. 92.
- <sup>82</sup> As a representative of postmodernism in general.
- <sup>83</sup> It can be argued that postmodernist philosophy in general, and hence excluding some exceptions, is not entirely relativist and that something concrete exists within the thought of the majority of postmodernist thinkers – something which even postmodern philosophy recognizes, whether it is in the form of prejudices or concrete commitments.
- <sup>84</sup> Calloni, M. (2005). 'War, Terrorism and Torture: Reframing a Humanitarian Theory on Justice as a Critique of Violence', University of Catania Department of Politics, pp. 1-2. Available online at: [http://www.fscpo.unict.it/europa/JM\\_humanrights/calloni.pdf](http://www.fscpo.unict.it/europa/JM_humanrights/calloni.pdf) (Accessed 15 February, 2010).
- <sup>85</sup> Calloni, M. (2005). op. cit., p. 10.
- <sup>86</sup> Such as in the case of supranational entities such as the European Union (EU), the African Union (AU), and the Southern African Development Community (SADC). A character-based approach can, notably, allow for a movement away from obsessive rule-based understandings of the behaviour and structures of these entities.
- <sup>87</sup> Translated as 'New Village Movement'. *Saemaul Undong* was a South Korean rural development movement which occurred in the 1970s. (In Douglass, M. (1983). 'The Korean Saemaul Undong: Accelerated Rural Development in an Open Economy', in: A.M. Lea and D.P. Chaudhri (eds), *Rural Development and the State: Contradictions and Dilemmas in Developing Countries*. New York: Methuen, pp. 189.)
- <sup>88</sup> A rural revitalization programme conceived of in Japan (in Knight, J. (1994). 'Rural Revitalization in Japan: Spirit of the Village and Taste of the Country', *Asian Survey*, Vol. 34, No. 7, p. 638).

<sup>89</sup> Which is essential if the devastating effect of the breaking down of the household, or the improper functioning of the household, is considered.

<sup>90</sup> The 'great-souled man', the archetype of goodness and virtue. (Dupre, 2007, p. 99)

<sup>91</sup> Models such as the Institutional Reform Model, the Power-Sharing Model, the Constitutional Politics Model, and the State Deconstruction Model (In Agbese, P. A. and Kieh, G. K. (2007), 'Introduction: Democratizing states and state reconstitution in Africa', in P. A. Agbese and G. K. Kieh (eds), *Reconstituting the State in Africa* (Basingstoke: Palgrave Macmillan), pp.14-19) all either neglect to consider the feelings and attitudes of the populace or the constructive role that something such as the *Polis*, perhaps in an adapted-*Saemaul Undong*, manifestation, could play.

<sup>92</sup> Barnett, A. (2005). 'Me Tarzan, Me Save Africa: Jeffrey Sachs, the G8 and Poverty', Available online at: [http://www.opendemocracy.net/globalization-G8/poverty\\_2645.jsp](http://www.opendemocracy.net/globalization-G8/poverty_2645.jsp) (Accessed on 24 May, 2010).

<sup>93</sup> Tupy, M. (2009). 'The False Promise of Gleneagles: Misguided Priorities at the Heart of the New Push for African Development', *The Cato Institute*, pp. 13-15. Available online at: <http://www.cato.org/pubs/dpa/dpa9.pdf> (accessed on 24 May, 2010).

<sup>94</sup> As found in Peeters, L. (2008). 'Taalvermoë en originariteit', *Acta Academica*, Vol. 40, No. 2, pp. 28-52.

<sup>95</sup> It should be noted that although Boekle, Rittberger, and Wagner (2001, pp. 106-107) do elaborate on how, as previously pointed out, our interests are formed by our social environment and hence our relationship with 'Others', which was not done with the Aristotelian vocabulary adopted here, but could possibly be done, such as in the case of the proposed application of an Aristotelian vocabulary to *Saemaul Undong*.