

The Ethics of War and Peace: An Introduction to Legal and Moral Issues. By Paul Christopher. Englewood Cliffs. Prentice-Hall, inc. 1994.

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When Paul Christopher first presented the manuscript for *The Ethics of War and Peace* to the publisher, one anonymous evaluation offered the following appraisal: "Before reading these pages I was suspicious about the intellectual defensibility of just war theories. Upon completing the work I am even more suspicious." Christopher is understandably troubled by this response, since "it is the Just War Tradition that holds moral nihilism at bay and provides some guidance for when nations may resort to arms and how." Yet there are times when merely causing people to confront certain issues is no small victory. For in our age the preferred method of dealing with difficult questions is not to raise them at all, so much so that we may well wonder whether we have entered that phase of history predicted by Marx, where on the plane of socialized humanity "it becomes practically impossible to ask if there exists a being outside of man, a being placed above that of nature and man."

Christopher's intention is "to demonstrate that if the Just War Tradition is going to be a viable factor today and in the future, certain ambiguities in its formulation, especially as it is currently reflected in international legal documents, must be resolved." The modern documents of which he speaks, foremost among them the charter of the United Nations and the documents emanating therefrom, all bear the unmistakable stamp of one man, Hugo Grotius (1583-1645), the founder of modern international law whom Christopher places at the head of a tradition stretching from Plato and Aristotle to St. Thomas Aquinas. At the same time, Christopher cannot dispute the fact that "the Just War Tradition is a real oddity in our social world of moral and legal constraints." How is it that the western world has arrived at the point of manufacturing even more documents and precepts constraining the behavior of states on all points of the globe, even as it no longer finds the suppositions on which its rulings are based to be intellectually defensible?

The explanation for this schizophrenia lies in a crucial factor Christopher fails to appreciate in its entirety: Grotius bases his law of nations on natural law theory - as all of the major thinkers before him had - but his understanding of natural law breaks decisively with the tradition on matters of substance as well as method. We catch glimpses here and there of the revolution in the region of intellect effected by Grotius, such as when he denies to the individual any right of rebellion against tyranny, but reserves to the ruling elements the right to hand over an innocent citizen to an enemy power in order to avert conflict. But Christopher never quite grasps the radical significance of Grotius' work, even when he observes, "Readers will not find traditional natural-law values such as life, procreation and knowledge in Grotius' work." Nevertheless, Grotius assures us, the ethical constraints established by his system of international law would obtain even if, *per impossible*, there were no God - indeed, they are said to be binding on Him too. The contrast with the tradition of natural law is striking if we consider the position of Aristotle, the founder of the tradition, who insisted that the first principle of the natural law is the Prime Intellect, upon which "depends the heavens and the world of nature" (*Metaphysics* 12.1072b13.) In short, Grotius' reasoning on *jus ad bellum* and *jus in bello* prescind entirely from the

cardinal distinction American patriots such as James Otis were forever at pains to emphasize: "The supreme power in a state, is *jus dicere* only: - *jus dare*, strictly speaking, belongs to God alone. Parliaments are in all cases to *declare* what is for the good of the whole..."

Christopher does not see that if the just war tradition is no longer found probative, this is due in large measure to a theory of natural law which does not argue in the light of any ends of action commonly recognizable as natural in the sense of given, ends such as "life, procreation and knowledge." To take one example, Grotius' qualifies his categorization of persons who ought to be immune from direct attack in warfare, as Christopher points out: "Women, he adds, have immunity *unless they are employed as soldiers*." Whether or not Grotius understood the employment of women as combatants to be entirely natural or to be merely a perverse possibility is unclear. However that may be, the United States now seems determined to take the lead placing women in combat roles in the most advanced armed forces on the planet, and does so precisely on the grounds that service in such a role is a natural right. Somehow, the suppositions of our contemporary thinking appear to forbid any serious inquiry into the conformity of such a practice with the kinds of values that seem most natural to us, the ones with which Grotius and Christopher precipitately dispense. The crux of the matter regarding the placement of women in combat is indeed a question of principle.

Since the central thinker this book relies on is Grotius, we need to elaborate on some important points of argument Christopher mentions only in passing. Christopher writes that Grotius explains the laws of nature "in the same way a scientist explains phenomena concerning inanimate bodies in terms of the laws of physics... These universal laws are the first principles from which human reason deduces *moral truths*." Grotius also compares the natural law to mathematics. And like the principles of mathematics, those of Grotius' natural law are likewise clear and distinct: "The fundamental principles of the law of nature are as manifest and clear as those things we perceive through the senses." We would add that Aristotle too had compared the principles of the natural law to those of mathematics, but only insofar as both are fixed and inoperable; otherwise, he warned, the comparison is highly misleading. In the mathematical order, the definable nature first known in the logical order of our intellect is also the formal reason or principle of properties that may be deduced therefrom: in geometry, for example, the absolute nature of a triangle is both the logically first point of departure for constructive reasoning as to its properties - since we extend the base and so on to discover that it has interior angles equal to two right angles, etc. - and the sufficient formal reason for the properties predicated necessarily of the subject. This is exactly the mode of being Grotius ascribes to the principles of the natural law. Man's substantial nature is defined by him from an observed innate propensity for social grouping. The original acts of consent, the Grotian "pacts" by which we oblige ourselves in contractual submission to one another follow as moral requirements directed to the formation of ourselves as specifically human. Grotius deduces all secondary laws and precepts, including ultimately those of international law, on the basis of their expediency in relation to this very basic observation of man's essential nature as a social animal. By consent to the deductions of such reasoning, man thus gives himself the laws by which he becomes specifically human.

Christopher is scarcely aware of the grave consequences of the fact that the only identifiably natural element in Grotius doctrine is found, as in the study of inanimate phenomena by the new laws of physics, in the material and efficient causes by which man achieves his substantial nature as a rational animal, a social being. Every other mode of life becomes, as it were, an operable social construct related to this nature by expediency. The older tradition, in line with common sense, distinguishes in man that by virtue of which he is a man (his substantial nature) from that which he is in view of what he ought to be, since it is possible to be a man without being a good man. It is by natural virtues added to one's substantial being that one is said to be a good man absolutely, possessed of qualities which are acquired by action in accordance with our nature for the sake of ends known to be good. The ends of life are the true first principles for the sake of whom we codify ordinances of reason in laws, and in relation to which we know such laws to be good or bad. What is first in the order of logic, the substantial nature, is in itself vague and indeterminate in comparison with what is first and best in the real order of practical action: the exemplar, the perfect, the hero. Because of his truncated acceptance of the term "natural principle," Grotius is led to argue confusedly that life as such has priority over liberty. Grotius' doctrine thus ends its relation to nature at the point where the *Ethics* and the *Politics* properly begin: with an inquiry into man's nature in view of what he ought to be, where the ultimate end is first and best. The peculiar absence of "traditional natural-law values" Christopher mentions but does not explain is due to the fact that "to be" rather than "to be good" in the absolute sense is made the essential value, to which all other traits are related in a purely adventitious manner: thus gender itself, as well as the differing roles by which the perfection proper to each is realized, nowadays is spoken of mindlessly as a social construct.

We know our nature poorly indeed if our knowledge is restricted to the first logical principle by which we distinguish man from rest of nature, by the specific differentia "rational" in "rational animal." "Rational animal" is predictable of anyone who is any sense a member of the species. A more penetrating knowledge of what it means to be a rational animal in the ultimate sense requires us to seek all of the elements in nature by which a particular being is distinguished. For each of the characteristics discovered, we seek to know the active role whereby this potentiality is realized, as intended, with a view to its perfection. Honest inquiry understands that the reasons written into our nature from the beginning are not sufficiently accounted for on the basis of "manifest and clear" generalities presented to the first glance of the senses. The natural distinction between men and women is not beside the point in moral or political matters even though they doubtlessly share the essential trait of rationality, unless our desire is to ignore the intentions discoverable in nature for the simple reason that they are not our intentions, but those of "a being outside of man, a being placed above that of nature and man."

So it is that the trend towards androgyny, in the military and in society at large, is a sign of decline with which our contemporary ethicists appear unable to quarrel. In truth, man's real being is not a logical principle, but a complex composition in time, so that if procreation of the species is of any value, it should be clear from a basic biological standpoint that a woman cannot be both a good warrior and a good mother simultaneously. Obviously, what it is to be a real person in the proper and final sense, which includes such things as what a person should be insofar as one is a male or a female, entails much more

than elementary distinctions. Our postmodern mania for effacing distinctions at their root indicates less a desire to be informed, before we declare a natural world order intended to be realized, than a desire on the part of homogenized humanity to be the sufficient formative cause of a new world order, where man in his indeterminacy is the principle of all things humanly significant, which becomes the totality of significance. This latter preference assumes in our time the status not merely of a perverse possibility but of a moral imperative, before which everything natural must fall. Christopher is not a cognizant participant in this mission; but having given pride of place to Grotius in the center of his book, in the final chapters he is compelled to apply a fundamentally unsound doctrine to the major problems confronting international affairs today. Even so, because a journey is specified above all by the destination, Christopher's raising of certain principles, however tentative or incomplete, is of inestimable value as the point of entry to a just war tradition our new world order regards as something to be exorcized.

One of the crudest realizations of our time, placing women in combat arms, is a contradiction of every life-giving impulse of nature. When just war theory has nothing to say about employing women as combatants, or even leads us to the experiment, it is a sign that the just war tradition needs to be re-examined from the very beginning.