

Ending Wars Well: Order, Justice, and Conciliation in Contemporary Post-Conflict¹

Reviewed by Major Michael E. Korte*

*"I can't say if the use of force [in Iraq] would last five days or five weeks or five months, but it certainly isn't going to last any longer than that."*²

Introduction

While there was much discussion over the importance of going to war in Iraq, lacking in that discussion was a moral and strategic framework for making planning decisions for post-conflict Iraq. Eric Patterson,³ in writing *Ending Wars Well*, highlights this failure of U.S. leadership going into Iraq⁴ while noting that it is a failure shared worldwide. He seeks to change this. Patterson's overarching theme is that leaders need "a prudential, ethically sound framework for ending wars well because 'wars end best when they actually end.'"⁵ To meet this goal, he provides and defines a framework to end wars well: (1) Order, (2) Justice, and (3) Conciliation. He then sets out an ambitious goal to make his post-conflict advice a guide for an audience that includes students, aid workers, diplomats, soldiers, and statesmen.⁶

Patterson states that we are going into war more often but that post-war instability continues due to failures to anticipate common peace and security issues.⁷ To provide a solution, he proposes an "Order-Justice-Conciliation" model for a "moral, pragmatic, robust, and flexible approach to post-conflict policies" that uses a "new, just war thinking."⁸

Patterson's organizational structure in *Ending Wars Well* leads the reader logically from problems to solutions. In chapter two, he describes new just war thinking on post-conflict decision-making, reviews U.S. post-conflict mistakes, and provides several explanations. In chapters three through five, he develops the concepts of Order, Justice, and Conciliation, identifies successes and failures of the past through a scholarly interpretation of historical events, and supplies the reader with a framework for the future. Finally, Patterson pulls these *jus post bellum* ("justice after war") concepts together by comparing them to other approaches and looking to real-world 21st Century challenges to ending wars well.⁹

The goal of this review is to examine Patterson's effectiveness at providing a logical and practical framework to improve oft-overlooked post-conflict planning. Using the post-conflict failures that Patterson identified in the last two decades of intra-state and inter-state conflicts, this review then gauges the effectiveness of Patterson's "Order-Justice-Conciliation" framework for leaders in academia, politics, and the military.¹⁰

Ending Wars Well & Just War Thinking on Post-Conflict

The 2003-2011 Iraq war post-conflict failure was not an isolated event. Patterson asserts that the United States has carried out policies that are "weakening the historic inviolability of state sovereignty in favor of protecting human life."¹¹ The classic international law principle of "carte blanche sovereignty" has been superseded where "morally abhorrent states" that "are not legitimate authorities" threaten their own citizens.¹² Patterson paraphrases author Samuel Huntington's illumination of the difficulties of this policy shift vis-à-vis global humanitarian intervention.¹³ He further argues that just war tradition's

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¹ ERIC D. PATTERSON, *ENDING WARS WELL* (2012).

² *Rumsfeld: Saddam Would 'Like to See' Terrorist Attacks if U.S. Goes to War*, FOXNEWS.COM, Nov. 15, 2002, <http://www.foxnews.com/story/2002/11/15/rumsfeld-saddam-would-like-to-see-terrorist-attacks-if-us-goes-to-war>. The final U.S. Soldiers left Iraq nearly 105 months after the 2002 invasion.

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⁴ Patterson notes that even President Obama's Nobel Peace Prize acceptance speech, which discussed the merits of going to war, failed to discuss the post-conflict phase. PATTERSON, *supra* note 1, at 20.

⁵ *Id.* at 16.

⁶ *Id.* at ix.

⁷ *Id.* at 15. Patterson argues that the last thirty years have seen an increase in the number of international conflicts but that few peaceful and secure post-conflict scenarios have occurred quickly and without significant financial cost.

⁸ *Id.* at 2.

⁹ This review focuses less on other post-conflict approaches considered within and more on the Order-Justice-Conciliation model presented in depth in chapters 1-5, which best aligns with Patterson's thesis.

¹⁰ PATTERSON, *supra* note 1, at 2.

¹¹ These interventionist policies include those of Presidents Clinton (Bosnian War), Bush (Iraq, North Korea, Burma, Sudan, and Iran), and Obama (Libya). *Id.* at 11.

¹² *Id.*

¹³ Patterson notes that "the thrill of decolonization or conflict termination evaporates quickly when Western political institutions . . . fail to rapidly deliver Western-level economic benefits." *Id.* at 8-9 (citing SAMUEL P. HUNTINGTON, *POLITICAL ORDER IN CHANGING SOCIETIES* (1968)).

historic neglect of *jus post bellum* traces back to its original principles of sovereignty and non-intervention.¹⁴ Before the recent expansion of armed conflict and the piercing of *carte blanche* sovereignty, international politics did not concern itself with a state's actions in its own territory at war's end.¹⁵ Now it must.

After explaining the cause of the historical neglect of post-conflict planning, Patterson engages in a philosophical rescue-mission to save just war theory. After comparing the three main philosophies of war in Western tradition – namely, the theories of holy war, pacifism, and just war – Patterson argues that the just war philosophy remains the most rational of the three philosophies. First, he introduces the extreme views on warfare of both holy warriors and pacifists. He then contrasts those views with just war theorists, ultimately proclaiming just war theory the moral and pragmatic champion. Patterson notes that a holy war is often a reaction to threats to its warriors' basic ideals, such as Western cultural and political expansion.¹⁶ For a holy warrior, love for faith justifies actions of war, however severe.¹⁷ Patterson states the obvious challenge holy war presents to the just war model: holy wars can only end with either victory or vanquishment.¹⁸ In turn, pacifism is a commitment against violence, even in self-defense. Presented as holy wars philosophical opposite, Patterson claims first that his argument is not a pacifism critique but then quickly dismisses pacifism as a failed method for dealing with critical issues of national security or foreign policy.¹⁹ Just war theory is declared the middle ground between pacifism and holy war because just war theory seeks to avoid the costly and brutal effects of war while acknowledging that there are moral justifications to go to war.

Patterson next organizes recent just war thinking on war's end using the three dimensions of *jus post bellum*: Order, Justice, and Conciliation. He balances his recounting of recent scholarship on post-conflict with events starting in the 1990s, which he argues is when, after years of costly

neglect, just war thinking was first extensively applied to post-war operations.²⁰

Unfortunately, Patterson only briefly touches upon this scholarship. Patterson cites Michael Walzer, who coined the phrase “just occupation,” to argue that occupiers and the international community have a moral obligation to quickly provide order, establishing a government that is stable, authentic, autonomous, and legitimate.²¹ For justice, Patterson notes the scholarship of Doug McReedy and Davida Kellogg, who view tribunal punishment for aggressors as the pinnacle of justice.²² Finally for conciliation, he cites philosopher Brian Orend, who argues for long-term financial and political guarantees from the conflict victors.²³ As a whole, this section lacked development from these other authors.

Patterson identified the post-conflict flaws and their origins, absolved the philosophy of just war theory as the culprit of recent post-conflict neglect, and provided insight into the leading scholarship on Order, Justice, and Conciliation. Though his account of recommended post-conflict scholarship lacks depth, he dedicates the remainder of the book to developing the Order-Justice-Conciliation model for post-conflict decision-making.

Jus Post Bellum: The Primacy of Order

The U.S.-led Coalition that invaded Iraq in 2003 overpowered Iraq's armed forces within six weeks.²⁴ The victory was short-lived, as the Coalition leadership violated a fundamental principle by failing to preserve order. Lawlessness spread quickly, with troops watching the citizenry loot, assault, and kill. Patterson successfully argues that order is the first and most important principle of *jus post bellum*, and that stability and security are vital to end wars well.²⁵ A lack of focus on that requirement, before and during the “hot conflict,” led to post-conflict instability.²⁶

¹⁴ *Id.* at 34–35.

¹⁵ *Id.*

¹⁶ *Id.* at 22–24.

¹⁷ *Id.* at 23–24.

¹⁸ *Id.* at 24. This zero-sum game leaves little room for compromise, peace, or stability. Post-conflict “peace” after a holy war often includes totalitarian regimes that force “intolerant” political and social codes. *Id.* at 25.

¹⁹ *Id.* at 26–27. Ironically, Patterson uses text from a Nobel Peace Prize acceptance speech to criticize pacifism: “[M]ake no mistake: evil does exist in the world. A non-violent movement could not have halted Hitler's armies.” President Barack Obama, Nobel Peace Prize Acceptance Speech (Dec. 10, 2009), available at <http://www.whitehouse.gov/the-press-office/remarks-president-acceptance-nobel-peace-prize>.

²⁰ Events of the 1990s that spurred expanded scholarship on post-conflict just war theory include Bosnia, Rwanda, Congo, Kashmir, Sri Lanka, East Timor, Sudan, Haiti, and Somalia. PATTERSON, *supra* note 1, at 35.

²¹ MICHAEL WALZER, ARGUING ABOUT WAR 163 (2004).

²² Patterson declines the opportunity to develop McReedy and Kellogg's claim that war crimes tribunals are “the natural, logical, and morally indispensable end stage of just war.” PATTERSON, *supra* note 1, at 36.

²³ Orend assumes seven tenets of *jus post bellum*: (1) vindication of the rights of victims; (2) full public disclosure of post-war aims and all settlements; (3) principles of discrimination; (4) proportionality informing post-conflict policies; (5) punishment; (6) compensation; and (7) political rehabilitation. *Id.*

²⁴ *Id.* at 38–39.

²⁵ *Id.*

²⁶ *Id.* at 38–40.

Patterson begins his deeper analysis of Order, Justice, and Conciliation with a discussion on the primacy of order. He cites recent examples in Kosovo and Sudan to make a specific call to “slow down” and not take order for granted.²⁷ Before justice, conciliation, forgiveness, and the benefits of democracy can take hold, order must be established for basic security.²⁸ In the first section of the chapter, Patterson discusses the three dimensions to order: military (traditional security),²⁹ governance (domestic politics),³⁰ and international security conditions.³¹ He defines each, providing clear-cut, measurable standards for political and military leaders to determine whether order has been achieved.

Patterson notes that Order begins with stopping the killing, which allows for space to provide essential services and basic security. He relies on the historical literature of Aristotle, Augustine, Hobbes, and Grotius to argue that humanity can be “beastly” outside the rule of law and argues that it is impossible for domestic politics to flourish without Order.³²

Patterson uses the Iraq (2003) example to show the interaction among the three dimensions. Patterson cites Coalition Provisional Authority czar Paul Bremer’s decision to dismantle Iraq’s institutions and banish Ba’ath party members from roles in government, convincingly asserting that this decision weakened both governance and military security.³³

Patterson argues that the aftermath of the Kosovo War was a positive example of the international community patiently planning and executing an expensive post-conflict plan.³⁴ Patterson applauds the effort, which started with (1)

the North Atlantic Treaty Organization coordinating security; (2) outside actors monitoring the rehabilitation of legal institutions and a constitution; and (3) United Nations and non-governmental organization support of economic development and juridical proceedings against gross human rights abusers.³⁵ Patterson lays out the details of the significant expenses incurred to achieve lasting peace in the decade-long post-conflict period, a prerequisite for obtaining justice.

Jus Post Bellum: Justice Through Restitution and Punishment

Justice means incurring what one deserves, and, if successful, justice implements law and policy that reinforces and protects the fragile post-conflict order.³⁶ In this chapter, Patterson examines the application of post-conflict justice strategies in both civil and interstate conflicts that are designed to bring about the end of wars.³⁷ He successfully uses the Rwandan civil conflict and both international conflicts in Iraq (1991 and 2003-2011) as case studies in how just war theory either acts or omits to pursue post-conflict Justice.³⁸ Before analyzing the cases, Patterson first reflects on restitution and punishment, which serve as separate forms of Justice. Patterson provides a warning about the dangers of treating restitution and punishment as mutually exclusive concepts in post-war decision-making.

Restitution is a subset of justice, which is designed to hold aggressors accountable.³⁹ *Ending Wars Well*, citing Oliver O’Donovan’s *The Just War Revisited*, explicitly warns of its limitations and the calamitous risk of disproportionate post-conflict action:⁴⁰

[T]he victor must think of himself as a judge sitting in judgment between two commonwealths, one the injured party and the other the offender; he must not pass

²⁷ *Id.* at 40.

²⁸ *Id.*

²⁹ The military dimension of order requires all belligerents agree to the cessation of conflict, requires the absence of organized, armed spoilers or insurgents waiting to destabilize the peace, and requires leaders of all sides in the conflict support the new security arrangements and not challenge it militarily. *Id.* at 40, 46.

³⁰ The governance dimension of order involves the imposition and maintenance of the domestic rule of law. Its goals are achieved when a national entity exercises sovereignty over the legitimate use of force and political sovereignty in relations with its neighbors. *Id.* at 40, 47.

³¹ The goals of the international security dimension are achieved when the state no longer faces an imminent threat from foreign and domestic enemies and the state is no longer a threat to its neighbors. *Id.*

³² Aristotle declared that “just as, when perfected, a human is the best of animals, so also when separated from law and justice, he is the worst of all.” ARISTOTLE, POLITICS 1253a31-3 (Benjamin Jowett trans., 1983).

³³ Patterson notes the failures to provide basic public services in Iraq eight years after the invasion. PATTERSON, *supra* note 1, at 48.

³⁴ *Id.* at 49–50. Slobodan Milošević shuttered Albanian-language media and replaced the Kosovar government with Serbians. His campaign against Kosovo and ethnic Albanians escalated into military action, ethnic cleansing, and mass expulsion. After the NATO bombing campaign and

Serbian withdrawal, NATO and Russian peacekeepers began the arduous task of maintaining post-conflict order.

³⁵ *Id.* at 53–54.

³⁶ *Id.* at 69–70.

³⁷ Patterson rightly acknowledges the constant tension between post-conflict order and the desire for justice. Justice at war’s end should buttress political order, resulting in increased security and stability. *Id.* at 77.

³⁸ A lack of justice may lead to renewed conflict and may reignite long-standing grievances. *Id.*

³⁹ Reparations will not return loved ones to grieving families, Patterson argues, but they are still a just mechanism for enhancing peace, in part because they provide victims “vindication of their righteous indignation, suffering and loss.” *Id.* at 71–72.

⁴⁰ *Id.* at 73. Patterson offers Post-WWI Germany as the prime example of when a counterproductive reparations regime contributed to insecurity. The Treaty of Versailles ended the war but required Germany to accept humiliating war guilt, sacrifice lands to its neighbors, disarm, and pay reparations to the Allies. *Id.* at 75.

sentence as the prosecutor, but as the judge. He must give satisfaction to the injured, but as far as possible without causing the utter ruin of the guilty commonwealth.⁴¹

Restitution in the form of reparations, which involve payments to individual or government victims, puts a punishing burden on governments. Patterson aptly focuses the discussion on ensuring leaders do not use reparations as a mere substitute for punishment.⁴²

Jus Post Bellum: Conciliation

Patterson, having thoroughly advised on the importance of establishing order and justice, turns to conciliation as another means to establishing long-term post-conflict prosperity. Conciliation is coming to terms with the past. Within or between states, conciliation is an acknowledgment that the past cannot be changed and an understanding that the past need not define the present and future.⁴³ Patterson describes the conditions under which conciliation happens between the belligerents in both intra-state and inter-state conflicts and the relationship of Conciliation to Order and Justice. His style does not assume the reader is an expert on just war theory. To instruct, Patterson employs a style that defines the terminology, purpose, goals, results, and tensions using significant historical examples.

An essential conciliation tool, “conciliation events” are “costly, novel, voluntary, and irrevocable signals for peace.”⁴⁴ Patterson readily concedes that these events are rare, often only occurring decades after the conflict,⁴⁵ but he enthusiastically maintains their importance as a means to secure long-term peace. He expertly discusses conciliation in the context of Egyptian President Sadat’s Egyptian-Israeli public signal for peace, which led to official meetings and ultimately lasting peace.⁴⁶ Despite the historical challenges, Patterson succeeded in his efforts to promote conciliation events as a useful endeavor to end wars well.

Conclusion

Ending Wars Well is a concise and educational post-conflict book for political, diplomatic, and military leaders alike. Patterson synthesizes a variety of scholarly material to provide the answers to post-conflict questions that have not been asked in decades. He outlines and simplifies *jus post bellum* into the intimately interconnected Order-Justice-Conciliation model, with key concepts and real-world examples to provide a pragmatic framework for momentous philosophical discussion. The civil and international conflicts Patterson uses as examples are historically significant and culturally relevant. The background information and source development was abbreviated, much like a text book, but this sole deficiency did not significantly detract from Patterson’s overall thesis or support. Complete coverage of the topic would require further independent study into the sources cited. The book met its narrow, yet important, goal to be a relevant text on just war theory and *jus post bellum* for a diverse audience. Patterson’s scholarship and professional style is logical, consistent, and practical. *Ending Wars Well* excels as a guide in a long-neglected field. Politicians, military leaders, Soldiers, and diplomats ignore Patterson’s lessons and warnings at their peril.

⁴¹ OLIVER O’DONOVAN, *THE JUST WAR REVISITED* 55 (Cambridge Univ. Press 2003) (quoting FRANCISCO DE VITORIA, *POLITICAL WRITINGS* 327 (Anthony Pagden & Jeremy Lawrence eds. & trans., 1991)).

⁴² Reparations can and should be used in conjunction with punishment. PATTERSON, *supra* note 1, at 74.

⁴³ *Id.* at 107.

⁴⁴ *Id.* at 123.

⁴⁵ *Id.* at 106. See William J. Long & Peter Brecke, *War and Reconciliation: Reason and Emotion in Conflict Resolution*, 25(2) INT’L INTERACTIONS 95–117 (July 1999). Long and Brecke surveyed over 400 wars, finding only a few dozen reconciliation events and only seven that resulted in long-term peace.

⁴⁶ PATTERSON, *supra* note 1, at 118–24. Egypt and Israel had been at war, trading invasions of each other, from the 1948 Arab-Israeli War to the 1956 Suez Crisis to the 1967 Six-Day War. Remarkably, since the 1978 conciliation event and subsequent treaty they have maintained peace.