

Review

The moral justification of war: An African case

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Abstract

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Traditionally, war has been understood as arms conflicts between nations or armed conflicts between two groups within a nation or armed conflicts between rival groups within a nation. However, war is not only physical, but can be psychological, spiritual or otherwise. In this paper, war is conceptualized as any form of conflict between individuals, groups, nations, institutions which in most cases end being physical as in arms conflict, tribal clashes, terrorism, conflicts over limited resources such as grazing fields, water sources among others. Due to the destructive nature of wars, be they between nations or within nations and institutions as is the case with civil war and industrial conflicts, they are considered as one of the worst evils in human experience. Since the destructions created by wars are costly, not only in terms of human life but also causes severe degradation to the environment as is the case with nuclear warfare and also to the infrastructure, both economical and physical, war may be unjustifiable. This is in line with the pacificists' view which holds that war should be avoided at all cost. However, there are those who consider war not only as justified but as a necessary evil. Between the two extremes, is a third position tenable? This paper endeavors to look at both the benefits and costs of war. The writers of this paper do not intend to go down the well-trodden road to pontificate the destructiveness of war, but shall try to look at the unifying elements of war when sentiments of patriotism are at their highest when a nation is at war. Secondly, since war is about acquisition of scarce resources, be they material or immaterial, it ensures acquisition of the same. Thirdly, war redresses injustices in society or in the world against the minority or against the down trodden. In conclusion, the writers of this paper are of the view/opinion that war though evil/destructive, may serve to redress the injustices in the world.

Keywords: Conflict, Democracy, Justice, Legitimacy, War

INTRODUCTION

In many instances, war is condemned because people have a negative conception of war as such. However, there are instances when war is justifiable because it remains the only option to address some social injustices, in which case, war becomes a necessary evil. In this latter case, it may not be completely understood from the negative perspective only, because it acts as a means to some good end (to address an injustice). Hence, when addressing the issue of war, it is important to consider both its negative and positive aspects in order to arrive at

an objective judgment on the justifiability or non-justifiability of war. This would reflect an instance of a stick which always has two ends, and each end of the stick should not assume it is the whole stick. People should not assume that war is only destructive and hence, totally negative, war can also have a positive meaning when its cause is meant to address some form of injustice in society.

War is strife (especially between countries) involving military, naval or air attacks; open hostility between

persons; or strong efforts to combat crime, disease, and poverty among others. In this paper, war is not only perceived in its narrow sense of destructiveness as defined above, but war can also have a right intention and hence be constructively understood. The right intention in this context is where war aims at peace, especially when it is waged to address an injustice in society. In this sense, then, its main objective is not to cause death, harm, destruction or suffering but to reinstate fairness and social equilibrium in society.

The justifiability or non-justifiability of war has traditionally been determined by use of some theories, for example, the Just War Theories. This paper will endeavor to critically discuss the Just War theories, but in addition, it will venture into other avenues by which war can either be justified or not justified in society. This may appear simplistic at first sight. But it cannot be reduced to a mere acceptability or non-acceptability of the normal procedure as it could be done in a football or basketball game. The authors will critically look at the rules governing the justifiability or non-justifiability of war according to the Just War theories. In doing this, the paper will benefit from the concrete African (the Somali, Sudan and Zimbabwe conflicts) and Kenyan instances (like the recent Mount Elgon and Kuresoi clashes) where war would be justified because it was, to some extent, in pursuit of justice. This contradicts the pacifist position which opposes even limited military action even when it may be justified. Hence, pacifism overlooks the nature of the threat to justice and is thus irrelevant to meeting the central challenge of restoring some sense of security and justice among the citizenry and in the world generally.

The paper, thus, will discuss the just war theory elaborating on its positive and negative contributions to the debate on justification and non-justification of war in the subsequent section.

The Just War Theory

Just war theory is the attempt to distinguish between justifiable and unjustifiable uses of organized armed forces. It is a set of conditions justifying the resort to war and prescribing how war may permissibly be conducted. It is the doctrine that a state or group of individuals may justly go to war for some restricted reasons, which are centrally those of self-defense, and the rescue of another state or individuals from an aggressor.

The just war theory is a western approach to the moral assessment of war that grew out of the Christian tradition. The tradition began in the ancient Greek society, and was later developed by a number of Christian theologians. However, the just war tradition includes a great variety of thinkers who advocate different ways of employing shared concepts (just cause, good intentions, proportionality, discrimination, among others) for purposes of ethical reflection and judgment about the use

of force, and the tradition has been expanded to include non-traditional forms of warfare, such as guerrilla war and humanitarian interventions. The just war theory, however, is not unique to the western world. It was and still is practiced in the African context. Traditionally, war in most African communities, was waged and conducted after very serious moral consideration and fought within a strict set of parameters. The war was only sanctioned by the community elders who were the legitimate authorities and custodians of the communities' culture, welfare and value systems. They also defined the parameters within which war was to be conducted. These parameters included: attacks against, and mistreatment of, non-combatants, wounded soldiers, and prisoners; genocide, whether of a people, nation or ethnic minorities; indiscriminate destruction of whole cities or vast areas with their inhabitants; destruction of both natural and human resources and that the ultimate objective of the war was to restore peace and harmony among warring communities.

Just War theory has grown to encompass modern political doctrines which promote the view that a specific *war is just* given satisfactory conditions. As "conditions" tend to be variable, open to interpretation, and otherwise subject to political obfuscation, the concept of Just War itself, even apart from any specific formulated doctrines, is controversial. The controversies may arise from the problem of deciding whether, for example, self-defense may be broadened from defense against actual attack, to defense against threats or against perceived threats, and whether it is permissible to make pre-emptive strikes. These kinds of controversies were even more evident during the Iraq war of 2006.

In the run up to the 2003 invasion of Iraq the question whether the war was a just war was posed. Many of those on both sides of the debate framed their arguments in terms of the Just War. They came to quite different conclusions because they put different interpretations on how the just war criteria should be applied. Supporters of the war tended to accept the US position that the enforcement of UN resolutions was sufficient authority or even, as in the case of the Land Letter, which the United States as a sovereign nation could count as legitimate authority. Opponents of the war tended to interpret legitimate authority as requiring a specific Security Council resolution.

While proponents of the just war theory claim that their views have a long tradition, their critics claim the application of Just War is only relativistic, and directly contradicts more universal philosophical traditions such as the Ethic of reciprocity as evidenced in retributive justice.

The Just War tradition is first of all a set of criteria that act as an aid to determining whether or not resorting to arms is the morally preferable course. On a more basic level it is a view that combines a moral abhorrence towards war and a readiness to accept that sometimes

war is the lesser evil. "It is an attempt to distinguish between justifiable and unjustifiable uses of organized armed forces. Just War theories attempt to conceive of how the use of arms might be restrained, made more humane, and ultimately directed towards the aim of establishing lasting peace and justice".

The idea that resorting to war can only be just under certain conditions goes back at least to Cicero. Augustine of Hippo, Thomas Aquinas and Hugo Grotius later codified a set of rules for a just war, which today still encompass the points commonly debated, with some modifications.

Proposed conditions for a just war vary in both number and interpretation. Accounts of just war typically require:

1. Just cause: an actual or imminent wrong against the state, usually a violation of rights, but sometimes provided by the need to protect innocents, defend human rights, or safeguard the way of life of one's own or other people;
2. Competent authority: limiting the undertaking of war to a state's legitimate rulers;
3. right intention: aiming only at peace and the ends of the just cause (and not war's attendant suffering, death, and destruction);
4. proportionality: ensuring that anticipated good not be outweighed by bad;
5. last resort: exhausting peaceful alternatives before going to war;
6. probability of success: a reasonable prospect that war will succeed;
7. proportionality: ensuring that the means used in war befit the ends of the just cause and that their resultant good and bad when individuated be proportionate in the sense of number four (4) above;
8. Discrimination: prohibiting the killing of noncombatants and/or innocents.

Hence, just war theory embraces principles about the way war may be conducted, generally ruling out gratuitous violence, assassinations, war against civilians among others. However, in some war situations, it may happen that some deaths occur though the intention of going to war was not essentially to kill, but to address some evil in society, for instance social injustice in the distribution of national resources which is important for the development and sustainability of democracy.

Democracy and equitable distribution of natural resources are irreplaceable requirements for peace and stability in any country. In the pursuit of democracy and social justice, some individuals may be forced to go to war in order to overcome dictatorship, tribally based politics, corruption and other social vices in their society. In the Third world, especially Africa, this situation has been witnessed in some countries such as Zimbabwe, Sudan, Nigeria and Uganda among others, where the civil societies and non-governmental organizations have rebelled against the governments of the day to agitate for positive changes such as recognition and appreciation of

social justice and other democratic ideals. In situations of this nature, war may be justified because its intention is not to cause destruction, but address some social anomalies.

Just war theorists have traditionally concerned themselves with the grounds for going to war in the first place and with questions about ethical conduct in warfare. But they should also be concerned that warfare is suspended and settled in ways that help to prevent more of the same. However, we must also concern ourselves with "Justice after War" as discussed below.

Justice after War

The tradition of just war theory and the international war conventions that emerged from it help us to see many of the ways in which the use of arms might be limited and controlled for the sake of international peace. In some ways, however, this tradition (as with every tradition) fails to provide us with complete, reliable guidance for contending with present and future political realities like the post war justice.

In recent years, some theorists, such as Gary Bass, Louis Iasiello and Brian Orend, have proposed a third category within Just War theory. *Jus post bellum* concerns justice after a war, including peace treaties, reconstruction, war crimes trials, and war reparations. Orend, for instance, proposes the following principles:

1. Just cause for termination: A state may terminate a war if there has been a reasonable vindication of the rights that were violated in the first place, and if the aggressor is willing to negotiate the terms of surrender. These terms of surrender include a formal apology, compensations, war crimes trials and perhaps rehabilitation.
2. Right intention: A state must only terminate a war under the conditions agreed upon in the above criteria. Revenge is not permitted. The victor state must also be willing to apply the same level of objectivity and investigation into any war crimes its armed forces may have committed.
3. Public declaration and authority: The terms of peace must be made by a legitimate authority, and the terms must be accepted by a legitimate authority. This was common in the traditional African context where the elders (legitimate authority) from the warring communities were to meet and declare publicly the cessation of war and eventual reconciliation and peace which was in most cases sealed through oath taking which as a covenant between the parties involved. Once this had been declared, the warring communities respected this decision.
4. Discrimination: The victor state is to differentiate between political and military leaders, and combatants and civilians. Punitive measures are to be limited to those directly responsible for the conflict. This applies equally

both in the traditional African and modern contexts of war where it is the legitimate authorities and the combatants who are held responsible for whatever happened during the war, and not the civilians and innocents.

5. Proportionality: Any terms of surrender must be proportional to the rights that were initially violated. Draconian measures, absolutist crusades and any attempt at denying the surrendered country the right to participate in the world community are not permitted. For example, in the African communities, after a peace pact had been made (i.e. through post-war cleansing ceremony), socio-economic and political activities between the formerly warring communities had to go back to normal without any conditions.

The just war theory is not an absolute and thus sufficient way of understanding war. Hence, there are other theories that have been advanced for the justification and non-justification of war. These theories are useful in this paper because they point to fact of their being relative, and thus, none of them can be used singly to fully address the issue of war. The other theories are discussed below.

Other War Theories

There are many other theories which have been put forward in an attempt to understand the phenomenon of war. Below are some of the theories that have been postulated by different scholars as far as war is concerned:

Militarism

Militarism is the belief that war is not inherently bad, but rather can be a beneficial aspect of society. For instance, as discussed earlier in this paper, war that is waged for the sake of justice and social equality may be justified. Such wars may be interpreted as militarism, for example wars waged by liberation forces to fight for some justice or for the restoration of peace and resources. Most of the conflicts in Africa can be understood from this point of view. This paper advocates for militarism to the extent that the war is waged for an objectively just cause, that is, to overcome an imminent social injustice.

Realism

The core proposition of realism is skepticism as to whether moral concepts such as justice can be applied to the conduct of international affairs. Proponents of realism believe that moral concepts should never prescribe, nor circumscribe, a state's behavior. Instead, a state should place an emphasis on state security and self-interest. One form of realism - descriptive realism - proposes that

states cannot act morally, while another form - prescriptive realism - argues that the motivating factor for a state is self-interest.

Just wars that violate Just Wars principles, effectively constitutes a branch of realism. Many ideologies agree with the tradition that war should be fought only if done for a just cause but reject most if not all of the other criteria of the tradition. The Marxist tradition can be seen as part of this category. For Marxists the only criterion is whether a war is "progressive" (by the Marxist historical-progression definition) and it is irrelevant how costly the war may be.

Unlike the realist position on the morality of war, in the African setting, war could be understood from the moral point of view to the extent that the intention of this war was to achieve the common good for the warring parties equally. Therefore, social morality was a central consideration in warfare in the African context.

Revolution and Civil War

Just War Theory states that a just war must have just authority. To the extent that this is interpreted as a legitimate government this leaves little room for revolutionary war or civil war, in which an illegitimate entity may declare war for reasons that fit the remaining criteria of Just War Theory. This is less of a problem if the "just authority" is widely interpreted as "the will of the people" or similar. Certain types of civil war are specifically mentioned in Article 1. Paragraph 4 of the 1977 Additional Protocol I to the Geneva Conventions of 1949, as covered by the international provisions of the Geneva Conventions namely those ... *in which peoples are fighting against colonial domination and alien occupation and against racist regimes* ..., this gives those fighting against such states the same status under international law and "just authority" as a legitimate government.

Revolutionaries and civil wars strike the position of this paper in the sense that behind the revolution, there is a good intention which is to bring about a common good for the society. Revolution is only justifiable when it is against an injustice. Once the injustice is defeated using the revolution and/or civil war, a common good will have been achieved.

Absolutism

Absolutism holds that there are various ethical rules that are, as the name implies, absolute. Breaking such moral rules is never legitimate and therefore is always unjustifiable. The philosopher Thomas Nagel is a well-known supporter of this view, having defended it in his essay War and Massacre. It is the contention of this paper that any form of absolutism is in itself a

dictatorship, and hence an injustice. Therefore, moral absolutism in the context of war cannot suffice, since it does not necessarily lead to the achievement of the common good.

According to the principle of causality, an effect is of necessity linked to its cause. Therefore, it logically follows that the effect necessarily reflects the nature of its cause. In this case, if moral absolutism, which is an injustice according to the above argument, advocates for a form of pacifism, then it is not for the common good because according to the just war theory, militarism and revolution and civil war theories, war can be justifiable if its intention is to address social injustice.

The above discussion on the different war theories notwithstanding, this paper contends that if justice has to be attained in any society, there is no alternative to the holistic war theory approach, whereby all the above theories are allowed their fair contribution to the understanding and judgment of war.

CONCLUSION AND RECOMMENDATIONS

In conclusion, the paper has discussed the various war theories and analyzed the pros and cons of these theories. The authors are of the opinion/view that there are situations when war can/may be justifiable particularly, when the intention for it, is for the common good; that is, it (war) is not intended to be destructive to society but to address social injustice.

As discussed above, just war theory is not a settled doctrine. It is a field of critical ethical reflection. That's why there are as many just war theories as there are just war theorists. So, rather than allow traditionally accepted (yet highly contested) theoretical principles dictate what is required to justify the use of armed forces, let your first lesson in just war theory be one which you teach yourself in a simple introductory exercise of reflection: Start by

thinking of a paradigm case or prime example from history which strikes you intuitively as being an instance of an ethically acceptable, or perhaps even laudable use of armed forces.

Today, for the first time in its history, humanity has the possibility of complete self-destruction with no possibility of survival. This potential self-destruction of our species has a triple dimension: material, biological and spiritual. The nuclear arms accumulated on the surface of our planet could destroy it many times over as if once were not enough.

Given these modern means of warfare, especially nuclear, biological and chemical, the crimes against humanity during warfare must be especially guarded against. In the end it is not enough to wage war to achieve justice without treating the underlying causes. Injustice, excessive economic or social inequalities, envy, distrust, and pride raging among men and nations constantly threaten peace and cause wars. Everything done to overcome these disorders contributes to building up peace and avoiding war.

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