

## **Just Intervention in Genocide: Extending the Theoretical Applications of Just War Theory\***

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### **Abstract**

For centuries, just war theory has provided the moral decision-making standard for war. In recent years, this traditional theory has been updated and adopted to address the issue of humanitarian intervention. In this paper, I utilize both of these traditions to tackle the important decision of whether or not to intervene in genocide. I find that the case of genocide is a unique one that requires additional theoretical adaptations. I address

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each of the seven major tenets of just war theory and significantly interpret and adapt six of them to the case of genocide. The major contribution this paper provides to the ongoing theoretical discussion is a new interpretation of the question of right authority as it applies to genocide, and a rethinking of the “burden of proof” required to justify military action. I argue that because of the uniqueness of the case of genocide, decision makers should err on the side of intervention.

“War is always an evil, though on some occasions it may be necessary in order to prevent worse evils” (Deane 1963, p. 156).

### *Introduction*

Does traditional just war doctrine have any theoretical traction in relation to more modern issues concerning the use of force? Can its principles provide justification for international intervention in domestic conflicts? The last few decades have seen a growing interest in intervention and the circumstances under which it can be justified. Indeed, there is a burgeoning literature that applies classic theoretical traditions, like just war theory, to the broad issue of intervention. Some authors have concluded that a prudent course would be to “legitimate external

humanitarian intervention only in worst-case scenarios (e.g., to prevent genocide)" (Regan, 1996, p. 72), while others have upheld the principle of sovereignty and rejected external interventions (Frost, 1996; Shermers, 1991). In this paper, my aim is to narrow the scope of the debate to just those "worst-case scenarios", namely genocide, and test the principles of the just war tradition to see if they are able to provide theoretical guidance for the conditions of just intervention in these cases.

The aforementioned "just intervention" literature is a useful starting point for this endeavor. However, there are some inadequacies and holes in its current application to this specific worst-case scenario that this paper will elucidate and fill. I address each of the seven major tenets of just war theory and significantly interpret and adapt six of them to the case of genocide. The major contribution this paper provides to the ongoing theoretical discussion is a new interpretation of the question of right authority as it applies to genocide, and a rethinking of the "burden of proof" required to justify military action. I argue that because of the uniqueness of the case of genocide, decision makers should err on the side of intervention.

### *Just War Theory in the 21<sup>st</sup> Century*

The question of just war theory's modern applicability is important because the world we live in is vastly different from the world of St. Augustine and Thomas

Aquinas, the founding fathers of traditional just war theory. However, the principles they established centuries ago have withstood the trials of hundreds of wars and thousands of analyses. This tradition is surely still valuable today. While atrocities were certainly a part of war in the Middle Ages, and killing for ethnic or religious reasons was common, there are two major reasons why genocide in today's world is different. First, knowledge of genocide is much more accessible. The capabilities of mass communication and global media are such that the major powers of the world can instantaneously know facts and see images from genocide-afflicted areas. Second, the world community has condemned genocide and the nations of the world have signed the Genocide Convention. The resulting modern situation renders the classic form of just war theory insufficient for dealing with this issue, and even the updated interventionist applications fall short. This paper aims to fill the final theoretical gap by applying just war theory to the specific case of genocide.

It would be inefficient to treat the principles of just war theory as though they were static and carry the same meaning today that they did centuries ago. Innovations like those mentioned above create a different world situation that requires rethinking. The same argument has been made regarding just war theory's application in the nuclear age (Bandura, 1991; Kavka, 1988; Lackey, 1985). The advent of nuclear weapons requires a reevaluation and possible adaptation of this classic theory, just as the modern problem of genocide requires their adaptation. In endeavoring to do

so, the words of James Turner Johnson (1999) provide invaluable guidance: “Carrying on a moral argument by engaging just war tradition is to contribute to the ongoing development of that tradition by entering into a critical dialogue with the wisdom it contains” (p. 39). Through this critical dialogue we can better understand how the just war tradition can be made more applicable in today’s world and, specifically, how just war theory can be adapted to apply to the case of genocide.

This paper begins with a discussion of just war theory because “In Western culture, the just war tradition is *the tradition* for addressing moral questions about when and how to use force” (Fixdal and Smith, 1998, p. 285, emphasis in original). After revisiting this important tradition, the conclusion is made that, in its present form, just war theory is insufficient to deal with the issue of genocide. The paper proceeds to specify shortcomings and recommend adjustments for each of the just war principles.

### *Jus Ad Bellum: Just War Theory in Its Original Form*

The history of just war doctrine goes back centuries and is firmly grounded in the Western, Christian tradition. St. Augustine was perhaps the first to discuss it, beginning in the fifth century. Paul Ramsey, a prominent just war scholar, describes Augustine as not so much a builder of just war theory as a “primary architect” (Ramsey 1961, p. 18). As such, Augustine has given us theory that is flexible,

malleable, and continually applicable. Because the theory is so flexible, it is pertinent to the case of genocide today, although this specific issue is not one that Augustine focused his attention on.

It was St. Thomas Aquinas, drawing heavily on the work of St. Augustine before him, who systematically laid out the early principles that make a just war. Aquinas (as interpreted in d'Entreves, 1959) said that for a war to be just, "...three things are necessary. First, the authority of the sovereign by whose command the war is to be waged;" this is the principle that came to be known as just or right authority. This principle of the just war tradition "sought to limit the recourse to war and to curb the easy resort to violence...by upholding the 'public' character of war and by outlawing 'private' warfare" (Coates, 1997, p. 125). Second, Aquinas says that the sword is only to be used against those "who deserve it on account of some fault." This is the principle of just cause. And finally, Aquinas said that force should be used for "the advancement of good, or the avoidance of evil" which is the principle of right intention.

These are the three most important aspects of just war theory and the ones that are most seriously considered when the decision about whether or not to go to war is being made. But these are not the only principles. It was St. Augustine who clearly developed the principle of just peace. His intent in dwelling on the issue of war was to decide if it was reconcilable with the life of a Christian. He concluded that "peace is not sought in order to the kindling of war, but war is waged in order that peace may be obtained" (quoted

in Deane, 1963, p. 159). Proportionality is another main point of traditional just war theory and in modern literature, the probability of success serves as subset of this principle. Finally, war should only be undertaken as a last resort. This is another principle that is more modern in nature, but is often included in this traditional list (Lackey, 1989).

These principles comprise *jus ad bellum*, the first half of just war theory and the principles that relate to the decision to go to war. The principles of *jus in bello* govern actions on the battlefield and make up the second half of the just war tradition. Due to restrictions of space, this paper will only discuss the first half of the just war theory: *jus ad bellum*.

### *Just War Theory Applied to Genocide*

Thus far, this paper has argued for the flexibility of just war theory and its applicability to genocide. However, other authors (see Frost 1996 especially) have argued against the applicability of the just war doctrine to events outside of war. Indeed, “there is a straightforward, almost pedestrian, sense in which *jus ad bellum* does not apply to humanitarian operations: they are not, nor are they intended to be, acts of war on the part of the intervening forces” (Lucas 2003, p. 77). The goal of an intervention in genocide is not to destroy or conquer in the traditional sense, but is often to protect, bring peace, restore order, and provide comfort. This is one reason why these principles must be *adapted* for use in the case of

genocide, not just *applied*. While every one of the just war principles may not apply directly and in the same way to intervention in genocide as they do to war, dismissal of the theory in its entirety is unmerited. The moral principles that make up the theory are centuries old and deeply ingrained in international norms. Their focus on moral decision-making provides an excellent starting point when thinking about the disaster of genocide.

Thankfully, many other authors agree with this assessment and have argued for the applicability of just war principles in arenas outside of war (Lang, 2003; Fixdal and Smith, 1998; Hoffmann, 2003; Brown, 2003; Ramsbotham and Woodhouse, 1996). Specifically, there is a growing literature about just intervention or just humanitarianism. These authors and their recommendations will be discussed as the paper goes on to outline a theory of just intervention in genocide. However, both classic just war theory and contemporary interventionist adaptations of it leave some holes that will be filled by genocide-specific recommendations. Table 1 provides an overview of just war theory in its original form, how it has been adapted by just interventionists, and the problems and solutions this paper proposes.

### *Right Authority*

The principle of right authority is meant to restrict the countries or institutions that can justly initiate action. Ramsbotham and Woodhouse (1996) propose two criteria



for judging right authority: 1) that the interveners have legitimacy, in that they are accountable to the international community, and 2) what they call “humanitarian approach” or acting impartially. The first criterion is useful for evaluating the authority of interveners in cases of genocide. Any country that intervenes in genocide should be accountable to the international community for its actions. The second point Ramsbotham and Woodhouse make, however, is less applicable. The issue of impartiality in intervention has been hotly debated with many authors recently siding against its necessity (Kaufmann, 2004; Walter, 2004; Rauchhaus, 2006). Forestalling impartiality is a much more ethical approach in the case of genocide because the situation is often such that there is a clear perpetrator and a clearly oppressed victim. A possible exception could be a protracted conflict like that in the Balkans in the 1990s, where ethnic cleansing was committed by many sides of the conflict. However, even this situation does not require that the intervener be impartial, but only that they not commit to defending only one side. Should the tide of genocide turn, the interveners need to be prepared to turn with it and confront the new perpetrators.

The problem with interventions in genocide, however, is usually not that the intervener fails to demonstrate why they have the right authority, but that no country wants to assume authority and the responsibility for action that goes with it. So the concept of right authority in cases of genocide is qualitatively different from that of traditional just war theory.

Table 1: Just War Theories

	Original JWT	Intervention Literature	Problems/Gaps in the Literature	Just Intervention in Genocide
<b>Right Authority</b>	Only rulers can take the country to war.	Accountable to international community and impartial (Ramsbotham and Woodhouse).	Impartiality isn't necessary. The norm in the international community is that no one wants the right authority.	Interveners must be ready to confront genocide from any side of the conflict. The Genocide Convention can alleviate the problem of shirking right authority. The Security Council is the most right authority, but GC signatories can act without them.
<b>Right Intention</b>	War is to advance good or punish evil.	Intentions should be pure.	Right intention has to be present, but doesn't have to be the only intention (Brown).	Proclaim motives (Lucas); multilateral action is best; other, relatively benign, motives are acceptable.
<b>Just Cause</b>	Use the sword against those who deserve it.	Use force only in self-defense, but this standard is flexible (UN Charter).	Defending the innocent is more just than self-defense and should be allowed (St. Augustine, Bishop Ambrose).	Stopping genocide is on a higher moral plane than self-defense (Donnelly). States have a responsibility to intervene if the other requirements are met (Regan).

<b>Proportionality</b>	Evil caused by war is less than evil prevented by fighting it.	Humanitarian means should be used (Ramsbotham and Woodson). Evaluate possible outcomes and worry but don't calculate (Walzer).	The evil of genocide is overwhelming and evokes considerations of proportionality in a different context.	Burden is on the potential intervener. Evil of not intervening must be greater than intervening (derived from St. Augustine). Err on the side of intervention. Intervening prevents future evil (St. Augustine and Deane).
<b>Probability of Success</b>		Don't go if you have little or no chance of winning (Cook).	This rarely applies to genocide; countries committing genocide are disorganized and many countries have the means/authority to intervene.	Rethink what "success" is. Lower probability of success is not reason enough to prevent an intervention in genocide.
<b>Just Peace</b>	Peace is the goal of any war or conflict.			
<b>Last Resort</b>	Primacy of peace over war.	Use all other options before military force (Regan).	In a genocidal conflict, traditional tactics outside of intervention are insufficient.	The onset of genocide signals a need for the last resort.

When dealing with international crises, there is sometimes a dispersion of responsibility effect. Countries are quick to say that the responsibility lies with the neighbors of the genocide-ridden country, or with the former colonizers, or with an international organization. Regan (1998) uses a decision theoretic model to determine when countries are likely to intervene. He finds a somewhat counterintuitive result that the more states there are that share borders with the country where genocide takes place, the less likely an intervention is. This finding lends support to the theory of the dispersion of responsibility. This is a serious problem for interventions, but a careful application of the principle of right authority can help to overcome it.

The Genocide Convention actually provides a clear basis for holding its signatories responsible for reacting to and intervening in genocide. Article 1 of the 1948 Genocide Convention provides that the parties will “undertake to prevent and punish” the crime of genocide, and Article 8 provides that “any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of the act of genocide.” Plainly, this document gives right authority to any of its signatories. The problem is that very few signatories are willing to claim that authority; so, can we consider the Genocide Convention binding?

During the genocide in Rwanda, a Spanish delegate thought so and stated: “The international community cannot stand idly by when faced with these facts, particularly in

view of the binding terms of the [Genocide Convention], which can be considered to form part of general international law" (UN Doc S/PV.3388 1994, 9). The Convention provides its member nations with a responsibility to *report* genocide, but the body that gives authority for action is the Security Council. Permanent members of the Security Council, who are all members of the Convention, are legally obligated to use their veto powers in good faith and "not to veto resolutions aimed at preventing genocide based solely on considerations of national interest" (Lepard, 2002, p. 362).

Thus, the UN Security Council is the most right of all authorities when it comes to authorizing intervention in genocide. This places it in a unique moral position. Kofi Annan said in his 2000 Millennium Report that where crimes against humanity occur and "peaceful attempts to halt them have been exhausted, the Security Council has a moral duty to act on behalf of the international community" (cited in Lepard, 2002, p. 263). Other authors (Lang, 2003; Lucas, 2003) agree that recognition by an international authority is an essential component of humanitarian intervention, including intervention in genocide.

So, the principle of right authority as interpreted for cases of genocide means that any signatory of the Genocide Convention has the responsibility to report genocide to the Security Council and the Security Council has the authority to authorize intervention. However, if the Security Council does not authorize intervention because of the veto of one or more of its members and clear evidence exists that genocide

is occurring, any signatory of the Convention has the right authority, and even the responsibility, to intervene.

### *Right Intention*

Although right intention is generally assumed when a country intervenes in genocide, one can imagine a situation where the intervening country supports the genocide, does not try to stop it, and may even facilitate it. Or, less terrible and more likely, a country could have alternative motives for intervening because of their desire to access natural resources or a hunger for power, and could use intervention as a guise to achieve these ends. Does this mean that purely humanitarian motives are the only acceptable reasons for intervention? Many members of the international community were disturbed by the French intervention in Rwanda because it was seen as stemming from a desire to continue to play the great power game in the area (Fixdal and Smith, 1998). But would preventing the French from intervening have been a better solution?

One problem is that it is difficult to ascertain ulterior motives before the fact. Therefore, it should not be requisite for interveners to have *only* right intentions; they may have some right intentions and some national security concerns. So long as the other just war requirements are met, those intentions are relatively benign. "The requirement of an intent to right a wrong does *not* preclude the existence of *other* motives" (Brown, 2003, p. 46; emphasis in original).

Humanitarian actions are rarely based solely on humanitarian motivations. Lucas (2003) recommends that intentions be publicly proclaimed before a humanitarian mission so the international community can ensure that the mission is progressing accordingly.

Another way to ensure that the mixed intentions of a single country do not corrupt the justness of the mission is to strive to undertake action in a multilateral manner. This is not a perfect solution of course, but it is more likely to result in the principle of right intention functioning as intended.

So in cases of genocide, right intention is met if intentions are publicly proclaimed and humanitarian motives are among them, even if all the intentions aren't completely pure. "The desire to live in a world in which gross violations of human dignity do not take place, and a willingness to help to bring this about" (Brown, 2003, p. 46) is a motive that is technically about self-interest, but it is one that the revised theory is willing to allow if it means that genocide is stopped. In this principle, as with all of them, this is the clear overriding motivation. Stopping genocide is such a just cause that the minimal unjustness of multiple motivations for intervention is relatively unimportant.

### *Just Cause*

In the text of international law and specifically in the UN Charter (Chapter VII, Article 51), the only acceptable reason for going to war is self-defense. However,

The practice of the Security Council since the collapse of the Soviet Union reveals an increased recognition that peacekeeping and peacemaking may involve a human rights component, and that large-scale violations of human rights to life may constitute a threat to the stability, peace, and security of a region and require enforcement action by the Security Council (Regan 1996, p. 37).

Although humanitarian justifications have not traditionally been considered appropriate reasons to use force, “world opinion is changing in this regard, and humanitarian reasons are *prima facie* just causes for intervention” (Regan 1996, p. 69).

Clearly, the standards of the UN Charter have been loosely interpreted through practice over the years, but they still represent one extreme on the spectrum of justifications to use force. However, this strict standard is not the one that is applicable when it comes to genocide. Just war theory allows for additional reasons for going to war aside from self-defense. Regan (1996) interprets the writings of the ancient just war theorists as justifying the resort to war “in order to defend the community and all its members, not to defend themselves as individuals” (p. 6). “Saint Augustine...thought that it was precisely this aspect of aid to one’s neighbor that justified Christian statesmen’s



resorting to war” (Regan 1996, p. 6). Ambrose, the bishop of Milan and a major influence on Augustine and his philosophies, considered actions “on behalf of the common good, to be instances of ‘courage’ and ‘wholly just’” (*On the Duties of the Clergy*, cited in Cahill, 1999, p. 59). So the just war tradition supports the defense of others, and even describes this motivation as more just than that of defending oneself.

Punishment for a transgression and righting a wrong are also just causes and “the classical tradition stresses defense of the innocent as a just cause” (Fixdal and Smith, 1998, p. 295). In fact, defense of the innocent, which is the case when a country intervenes in order to prevent the loss of innocent lives through ethnic cleansing, can be considered more just than self-defense. In genocide intervention, it is not the intervening country that has been attacked; they are not fighting to save their country or their liberty, but they are fighting for a higher cause: to save another person. Frankly put, “In Just War terminology, genocide is just cause for intervention” (Donnelly, 1995, p. 297).

There is a long tradition of moral goodness being on the side of the one who is willing to sacrifice him or herself to save another. Occasionally, stopping genocide may require this kind of ultimate sacrifice, but usually the sacrifice is a minimal one of money spent or troops deployed. Stopping genocide is the ultimate just cause because it is saving the lives of innocent human beings. This is on a higher moral plane than intervening for reasons of economic instability or a refugee crisis, although there are

times when intervention in these situations may be warranted. But what seems evident “is that a strong moral basis exists for external action to mitigate instances of acute human suffering that a territorial government is unwilling or unable to alleviate” (Falk, 1998, p. 23).

In fact, many authors take it a step further. Destexhe (1994, 1995) and Plant (1994) hold that human rights abuses not only provide moral permission to intervene, but also require a moral responsibility. This is a major departure from the classic just war theory. Traditionally, fulfilling the requirements for a just war meant that you were now justified in your actions should you choose to go to war, but doing so is by no means required. However, this paper takes the position that Regan advocated in 1996, that “Justice will be wanting not only if rulers resort to war when right reason indicates that they should not, but also if they do not wage war when right reason indicates that they should” (p. 11). If genocide is indeed happening and all of the criteria laid out here are fulfilled, then there is a just cause for stopping the genocide and any nation or body with the right authority is morally obligated to do so.

Thus, the just cause principle in this framework does not stop with simply allowing intervention; it requires it. Intervening in genocide is a just cause, but to not do so when the other requirements of just action are met is morally unjust.

### *Proportionality*

The burden of responsibility grows heavier yet with the adaptation of the principle of proportionality. Traditionally this principle has meant that the evil caused by going to war is less than the evil prevented by fighting it. The application is similar for intervention in genocide, but a better phrasing would be that the evil caused by *not* intervening is greater than if one intervened. The meaning is virtually the same, but the weight of responsibility rests on the head of the non-intervener. The decision to allow evil to continue to happen when one could have done something to stop it is morally unjust and not in accordance with the spirit of the just war principles.

Ramsbotham and Woodson (1996) advocate humanitarian means that are necessary, sufficient, proportional, and discriminate; thus invoking the principle of proportionality as well as a major component of *jus in bello*, discrimination between combatants and noncombatants. For the purposes of just intervention in genocide, it is important that force be "sufficient" as Ramsbotham and Woodson recommend, but it should not be overwhelming. The problem with using a cannon to kill a fly is that there is likely to be a lot of collateral damage. In a region where genocide is happening, the oppressor and the oppressed are likely to live in close quarters and an overwhelming amount of force may be uncalled for according to the rule of proportionality.

In Lucas' (2003) theory of *jus ad pacem*, he "demands that a reasonable evaluation of the likely overall outcomes...be undertaken before deciding whether to undertake the mission" (p. 90). This is an excellent starting place for decision-making. What is unique about just war theory as it applies to genocide is that once these considerations are complete, and if the results are that not intervening will result in more harm than intervening, the decision-making body has a moral obligation to intervene.

In talking about proportionality, Walzer (2004) said,

Certainly we want political and military leaders to worry about costs and benefits. But they have to *worry*; they can't calculate, for the values at stake are not commensurate—at least they can't be expressed or compared mathematically, as the idea of proportion suggests (p. 89-90).

"If statesmen need the absolute certainty of theoretical reason to justify war, they will never be able to do so" (Regan 1996, p. 12). Instead we require of them only practical reason, and this means having to judge proportionality.

This brings us to the second component of proportionality as it applies to genocide. The countries considering intervention should err on the side of intervening. This decision-making hierarchy is usually reversed in decisions about initiating a war or engaging in

humanitarian intervention, but in cases of genocide it is not just the lives of the oppressed that are at stake. Gelb (1995) said, "If democratic leaders turn away from genocide, or merely pretend to combat it, their citizens will drink the hypocrisy and sink into cynicism" (p. 6). When Clinton visited Rwanda for the first time in 1998, he argued that the lesson of Rwanda was that "each bloodletting hastens the next, and as the value of human life is degraded and violence becomes tolerated, the unimaginable becomes more conceivable" (quoted in Gourevitch, 1998, p. 351). Intervening in genocide sets a precedent with effects that cannot be measured by seemingly proportional body counts on a balance sheet. Sharp (1994) convincingly makes the point that not intervening is wrong because it is "setting an example to other rogue nations that might is right and genocide pays" (p. 54).

Somewhat surprisingly, a similar point is made by the original just war theorists, and quite powerfully:

Always, Augustine's central point is the same—war is evil and dreadful, and yet, like the work of the jailer and the hangman in any society, it is sometimes necessary if wrongdoing and rank injustice are not to be permitted to flourish (Deane 1963, p. 161).

Deane goes on to emphasize that wars are just when they restrain this rank injustice, not so much when they advance the cause of justice.

Deane's interpretation of Augustine implies that just war can serve as a punishment against the aggressive or avaricious state and that "other states then have not merely the right but the duty to punish these crimes" (p. 156). This punishment by the intervening state is seen as parallel to the roles of judge, policeman, and executioner within the state. The just war is necessary as a punishment to the offending state and as a deterrent to other states that might consider similar offensive action. Additionally,

the punishment of criminal men or nations is justified not only because it protects the innocent but also because it prevents the offender from continuing to misuse his liberty and from adding further crimes to his previous offenses (Deane, 1963, p. 165).

Thus, in cases of genocide, consideration should be taken when contemplating the appropriate amount of force to employ, decisions based on proportionality should err on the side of intervention, and the great and lasting evil that is perpetuated by genocide should bear heavily on the considerations.

### *Probability of Success*

The principle of probability of success goes hand in hand with proportionality in just war doctrine. Simple logic

tells us not to engage in a war we have little or no chance of winning. When considering any type of intervention, this logic must be considered. The intervener must have a reasonable hope of success. It can be much more dangerous to “follow the impulse to intervene, but to do so with such restraint and caution that we merely add damage to an already bad situation, with no reasonable hope of success in solving the underlying cause of the intervention” (Cook, 2003, p. 153). However, the applicability of this principle in the context of intervention in genocide is less evident. Of course, intervention in a case where one has very little chance of success is unwise, but this is not often the case when it comes to genocide. The combined power of the responsible signatories of the Geneva Convention is surely sufficient to intervene in a collapsed or collapsing state that is likely lacking a legitimate government. The chance of a less successful intervention is not an adequate offset for the chance of stopping genocide. The horrors of genocide require action, and a lowered probability of success is not reason enough to stand by and watch.

One reason provided by Regan (1997) for the lack of intervening powers in the case of Rwanda was that the perceived chance of success was too low. This tells us that there needs to be a fundamental rethinking of what success is. History has shown the United States and/or the United Nations could have sent in just a few thousand troops to deter the people with machetes and hundreds of thousands of lives could have been saved (Powers, 2001). This clearly would have been a success. In cases of genocide the

principle of probability of success should be given some consideration, but only after the other principles. It is not reason enough to prevent an intervention. If the chances for success are not high enough, a larger coalition might be needed, but intervention should not be abandoned.

### *Just Peace*

Just peace has to be the ultimate goal of a just war, and it is also the goal of a just intervention in genocide. Thus, according to this principle, governments can't pull out too early and leave the intervened-in-country weak and unstable. Additionally, intervening powers shouldn't stay too long and exercise any newly developed designs on the country (newly developed because we are assuming the country had right intention when it embarked upon the intervention). St. Augustine established just peace as the clear standard and it still applies today. He says that it is "with the desire for peace that wars are waged" (quoted in Deane, 1963, p. 102). And so it should be whenever a country decides to intervene in genocide: a desire for peace should guide the endeavor.

### *Last Resort*

In traditional just war theory, "the criterion of last resort underlines the primacy of peace over war" (Coates,



1997, p. 189). This principle means that all other options have to be exhausted before the decision is made to intervene. "Nations are not justified in resorting to war as long as they have reasonable hope that means short of war can prevent or rectify wrong" (Regan, 1996, p. 64). Hoffmann (2003) argues that last resort can be a tricky concept because opponents of force will never believe that absolutely every option has been exhausted and proponents of intervention will argue for an early entry in order to save more lives. Unfortunately, it is rarely or never the case that genocide can be stopped by means short of forceful intervention. There may be cases where genocide has been *prevented* without the use of force, but once the mass killing has started, any means short of intervention are not likely to be effective.

The principle of last resort has been criticized because it "creates a bias against using military force until all other options have failed" (Haass, 1999, p. 88-89). Because of this bias, last resort as it is currently understood is inappropriate for the case of genocide. It is unlikely that rogue governments, militias, or even ordinary and unorganized people, as was the case in Rwanda, are going to be willing or even able, to negotiate with the international community. Traditional bargaining tools like economic sanctions and international shaming are not likely to be effective when genocide is taking place. Sanctions and diplomacy will not work with these actors. It is the onset of genocide itself that signals the need for the last resort.

### *Practical Limitations*

While many of the principles recommended for this new adaptation of just war theory to genocide have been advocated by authors in the intervention literature, and are even supported by the original founders of just war theory, others remain hotly debated. The adaptations presented in this paper have some limitations that will be addressed presently.

The most important of these limitations is the theory's encroachment on state sovereignty. Sovereignty is one of the most enshrined principles of the modern international order. The UN Charter clearly reinforces its primacy (Chapter I, Article 2), but sovereignty must have its limits. As a former UN Secretary General said,

I have no doubt that a major challenge for the United Nations in the future will be to find the right balance in the disparate situations that will arise between respecting sovereignty and maintaining peace and the security of humankind...The view has become increasingly accepted that the principle of nonintervention in matters that are within the domestic jurisdiction of states cannot be regarded as a protective barrier behind which human rights can be systematically violated with impunity (quoted in de Cuellar, 1995, p. 167).

The theory advocated in this paper argues that if a state is committing genocide or is complicit in genocide, then it gives up its claim to sovereignty. This type of response is seen more and more in the literature. In fact, "there is a clear trend away from the idea of unconditional sovereignty and toward a concept of responsible sovereignty" (Falk, 1998, p. 14). When responsible sovereignty is lacking, and such is the case if genocide is taking place, then the international community has a right and even a responsibility to intervene.

Christopher Greenwood (1993) makes this argument quite powerfully: "it is no longer tenable to assert that whenever a government massacres its own people...international law forbids military intervention altogether" (p. 40). Schermers (1991) has made a similarly important argument:

The protection of fundamental human rights is no longer a matter solely within the jurisdiction of each individual State. The international community bears responsibility. The international responsibility entails a right, in extreme cases even a duty, to intervene when States severely infringe human rights (p. 592).

This paper proposes that there is no greater case for the duty to intervene than the horrors of genocide.

### *Conclusion*

The just war tradition has provided canonical wisdom to decision makers for centuries and its principles still hold true today. This paper has sought to adapt these principles to a relatively new problem for the international community: genocide. It is the widespread acceptance and flexibility of just war theory that allows for the new interpretations proposed. Additionally, the unique situation to which this adaptation applies validates the introduction of the new and untried ideas proposed here. The horror of genocide places our considerations about using force on a higher moral plane than other types of interventions or even war. In speaking about the failure of the international system in the case of Rwanda, Brown (2003) illustrates this point:

The sort of considerations of distance and the lack of a direct *material* national interest that might have been compelling in the case of a lesser crime have to be weighed against the awfulness of this particular crime...the kind of excessive concern for casualties that might be excusable in the case of an intervention without a clear purpose—such as that in Somalia in 1992/3—was out of place here, and

that the preservation of bureaucratic chains of command at the UN was no reason to allow nearly a million men, women, and children to be murdered (p. 48).

This paper has only considered the moral and legal legitimacy of force as a response to genocide. Once we consider the case of genocide in terms of the standards of just war theory, a number of other choices as to the nature of intervention in genocide open up. A forceful intervention may or may not be the best kind. While the question of the form intervention takes is an important and substantive one, it is beyond the central goal of this paper. I leave the task of evaluating the legitimacy and effectiveness of the various means of intervention to future research. Additionally, this paper has spent very little time discussing the relationship between just war theory and international human rights law. The extent to which just war theory is codified in international law, not just philosophical norms, is an important topic for future research. International law has the potential to validate and even enforce the moral recommendations made in this paper. Although, given the historical track record of agreements like the Genocide Convention, the power of international law is certainly limited.

This paper stops short of making a purely normative argument along these lines, but instead sets out to reexamine the classic principles of the just war tradition and ultimately concludes by reaffirming their importance and applicability

to a wide range of situations that require moral decision-making. These principles provided an excellent starting point for thinking about the morality of intervention in cases of genocide and their adaptation to this case leads to a clear moral conclusion: if genocide is happening, the only ethical option is to ensure that intervention happens also.

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