

## **Is War Just and Legal? An Ethical Review of the 'Just War' Theory**

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The history of mankind is beleaguered with periodic wars between nations and groups that resulted in massive devastation of human lives, property, environment and civilizations. The Second World War, for one, was the most destructive war ever recorded. In its aftermath, many scholarly thinkers and leaders began intense debate on the 'legal and moral' justifications of war, its prevention and the promotion of the just-war theory as an essential norm that regulates conflicts between modern states and other international actors. The theory is based on the spirit of righteousness of conduct, responsibility, proportionality of actions and the active promotion of peacemaking among groups in conflict. The main argument of this paper is whether the concept of 'just war' is feasible to provide an ethical and legal framework to understand the relationships between humans, groups and states in managing conflicts. To discuss the main argument, the article is divided into three sections. The first section delves into the ethical and legal debate over what constitutes a just war, especially drawing from duty-based and utilitarianism perspectives. The second part examines the interactions between humans (as subjects) and states (as authority), particularly concerning the perceived centrality of the state. The third part examines how the just-war theory is adapted and manifested in the globalized and interdependent world.

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War is the oldest, most common, and most pressing issue in international security. Humans have only been at peace for 268 years out of the last 3,400, or about 8% of recorded history. At least 108 million people were killed in wars in the twentieth century. The total number of people killed in wars throughout history is estimated to be between 150 million and 1 billion (Hedges, 2003). War could be described as a planned and lengthy military conflict between political groups motivated by primary contention in matters of governance. The Second World War is the most horrific war in human history in terms of destruction of human lives and property (Gelven, 1994). This description is in line with the claim made by Von Clausewitz that war is "the continuation of policy by other means," as the enemies are compelled to act as intended through violence (Von Clausewitz, 1995). War is associated with the acceptable use of violence, instead of peaceful measures, to address or attempt specific strategies. Conflicts between distinct groups or communities are known as civil or ethnic conflicts. However, conflicts amongst non-political entities such as individuals or gangs are not categorized as war (Orend, 2008). Certain fractions can initiate wars against political communities or state as a means to attain strategic and defense aims. Terrorist groups aspire to become states or

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influence states' development through violence (Moorthy, 2011). War disintegrates communities and families, as well as the socio-economic aspects of countries. Conflict causes long-term physical and psychological harm to children and adults. More people die and are disabled due to war than from any other cause. War also causes endemic poverty, starvation, disability, economic and social degradation, and mental disorder (Murthy & Lakshminarayana, 2006).

Realism is a long-standing international relations theory. It emphasizes the competitive and conflicting nature of international relations. Realists contend that the State is the most significant actor in global affairs and that survival of the state is of primary importance, with all actions geared toward ensuring survival. As such, the State's actions are judged by ethics of responsibility rather than moral principles. More recently, neo-realism or structural realism, a subset of realism, gained momentum to explain how states interact with one another and with other global actors. This theory emphasizes the importance of power politics in international relations, recognizes competition and conflict as permanent features, and sees limited scope for cooperation (Jervis, 1999). Countless modern wars fought in the last century were explained using Realist theories. The concept of statehood in realism is based on several fundamental principles; firstly, it asserts that states are the primary actor in international relations. The idea of centrality implores that all other actors are crucial, albeit secondary to the State. Secondly, states are tiered according to their power, typically measured in terms of military capabilities. According to the third principle, states conduct foreign policy to pursue their national interests. National interests are defined as the conservation of independence, territorial integrity, and control. Therefore, states will pursue their national interests by employing all optional strategies and utilizing all available measures, including war. The fourth principle asserts that state contention for power is enduring and pervasive (Moorthy, 2011; Moorthy & Sivapalan, 2010). Realism tends to advocate the use of force and war as the indisputable right of the state. Since the dawn of modern states, realism has significantly contributed to violent state behaviour. Realism became more scrutinized, especially at the end of the Cold War and with the ascendance of international systems.

To discuss this, the paper is divided into several sections. Section 2 explains the Just War Theory and its underlying principles. This is followed by a section on how just-war principles are manifested in relevant United Nations documents. The following section discusses the application of the just war principle in modern conflicts, specifically the conflicts in Palestine, Kashmir, and Afghanistan. First and foremost, these conflicts were chosen because they involved violent aggression by states and non-state actors for political and territorial reasons. Second, these conflicts have lasted for a long time and have resulted in significant tragedy for the local population, namely the destruction of lives and despair resulting from armed aggression. Third, foreign powers are involved in these conflicts, which exacerbates the situation and makes it more challenging to manage.

### **Just War Theory**

Just war theory is concerned with justifying the reasons and conditions for initiating wars. Just war theory can be approached from a theoretical or historical perspective. The theoretical approach is interested in the moral reasoning for initiating

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wars and the various kinds of warfare deployed. Meanwhile, the historical approach, known as the just war theory, examines the body of regulations or agreements used in different wars in the history of humankind (IEP, 2021). The moralistic justification of war was a hot topic in the post-World War II phase. As such, the post-war debacle on the good and bad of war emphasizes the immoral conflicts between state interests that are viewed as being narrow-minded and the fundamental human security fears culminating from the horrors of war. Therefore, it is not surprising that 'just war' principles are prevalent in post-war dialogues (Neff, 2005). The atrocities of wars have far-reaching effects on the immediate generation of victims and future generations. War memories are often invoked in historical writings and by politicians seeking to harness group support. For example, First World War (1914-18) and the Second World War (1939-1945) show no significant legal barriers that can dissuade states from fighting wars. Generally, wars not only impact the armed forces, the societies on both warring sides, but the economic, social well-being and the morale of the people are also equally affected. The impact of wars is extensive and often takes generations to heal (Moorthy, 2011; Moorthy et al., 2011).

While war is dreadful and undesirable, just war theory suggests that it is sometimes unavoidable in international affairs. The atrocious effects of wars and the immense social consequences they have raise a slew of troubling moral queries in the thoughts of any rational and considerate person (Cline, 2019). The just war theory's primary goal is to minimize the motivations for states to go to war by placing explicit moral norms, with the intention that these guidelines will significantly reduce the likelihood of military clashes. As a result, just war theory advocates ethics and helps in conflict resolution and peace promotion.

The just war theory, which evolved over many centuries, is the most prominent theory concerning the morality of war. It ascends based on the ideology of Catholic theologians such as Saint Augustine, Grotius, Suarez, Saint Aquinas, Vattel, and Vitoria. The origins of just war are a mixture of orthodox Greco-Roman and Christian values (Johnson & Weigal, 1991). The United Nations Charter, the Geneva Conventions, and the Universal Declaration of Human Rights are just a few international treaties and protocols that reflect the values and principles that arose from these traditions, both in spirit and as rules. These values and principles have influenced several other UN and multinational declarations.

Without a doubt, the just war theory has had a major effect on the legal and moral discourse surrounding war, particularly in the post-World War II period. This theory's premise is that war can be employed to mollify evil and promote goodness. The great debate over just war theory is centred on two conundrums. The first is about one's reasoning for fighting wars, especially when the war's very nature is anti-humanity. The second issue is determining whether some wars are morally superior to others. While these problems have been extensively contested over several decades, the theory presents many ethical principles to be observed by states before deciding to initiate war. Consequently, states that aim to engage in war will have to accept the responsibility to demonstrate that just war rules are adhered to. This theory seeks to dissuade conflict by

making it more complex for states to protect their option to engage in war if these principles are followed. The theory seems relevant and just, however not convenient to employ because of its intrinsic conceptual vagueness and inconsistencies with the state-centred value systems (Moorthy, 2011). The just-war theory is elaborated in three sections. Firstly, the *jus ad bellum* denotes the justifications provided by states for waging war. The second part, *jus in bello*, embodies justifiable acts initiated by states during the war. Whereas, *jus post bellum*, the third part, deals with justice issues in peace agreements and during the cessation period of war.

### **Principle of Jus Ad Bellum**

The concept of "*jus ad bellum*" refers to the situation in which a state could initiate war or employ a defense force. The limitations in the use of violence by states and the exemptions are the fundamentals of *jus ad Bellum*, as specified in the United Nations Charter of 1945. "*Jus ad bellum*" controls the acts of entities engaged in armed conflict. It aims to reduce the suffering of war by protecting and aiding the victims to the fullest extent feasible (ICRC, 2015). The most fundamental concept stipulated by this theory is having a "just cause" for conducting war. Violence and conflict should be the last resort after all other choices have been considered, and only if there is a righteous cause. Even when war is waged, those who call for war usually justify their action by providing reasons for war. The declaration is made to justify the pursuit of war in defence of justice, freedom and against oppression. As a result, going to war becomes a 'just and moral' ground. Indeed, no state has ever specified that war is initiated for selfish and wicked causes. Wars are waged only when just reasons are present, and all conflict resolution efforts are exhausted. The usual 'just causes' often cited are self-defence from foreign threats, defence of innocent civilians and non-combatants from hostile regimes, and punitive measures for some grievous transgressions (Orend, 2008).

Well before the state may legitimize its decision to go to war, certain just war conditions must be met. Firstly, the motivations for war must be morally justified, the State must have the right purpose to initiate war, and secondly, the decision-making authority must be legitimate. War can only be waged when the decision is carried out following the proper process. Thirdly, states should explore other non-violent options to resolve the existing conflict before declaring a war. Diplomatic negotiations and third-party intervention are common initiatives undertaken to bring warring parties to the negotiation process and seek mutually acceptable resolutions. Therefore, before opting for war, parties must consider all peaceful options for conflict mitigation. Fourthly, it suggests that the probability of success should be considered before going to war. States should refrain from war if it predicts that the objectives are unachievable, making war actions futile. Therefore, a country should not engage in a war that it cannot win. The fifth criterion is proportionality, which encourages governments to use good judgement when considering the universal benefit that might be expected from a choice to conduct war. The concept of universality is emphasized in the criterion since states frequently assess their predicted gains and costs, ignoring those going to the enemy (Cline, 2019).

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### **Principle of Jus in Bello**

The term 'jus in bello' discusses the moral restrictions on the acceptable and correct manners during a war of conflict. The premise is that after a war begins, international law can help determine its boundaries. These boundaries are manifested in the form of the jus in bello principle. It is the responsibility of states (by their military leadership) to defend this concept during times of war. History clearly shows that when war crimes happen and the jus in Bello principle is infringed, political leaders and military officials are impeached, such as in the cases presented in the International Criminal Court (ICC). This idea is divided into two parts: internal jus in Bello and external jus in Bello (Cline, 2019). The external jus in Bello delineates regulations to adhere to in war. It prohibits the use of weapons capable of causing widespread devastation, such as nuclear, chemical, and biological weapons. Soldiers must distinguish between combatant and non-combatant targets during military engagements. Third, according to the principle of proportionality, force may only be used in proportion to the goal being pursued. As a result, random bombings and the use of Weapons of Mass Destruction (WMD) are often considered as illegal military actions.

Fourth, the idea proposes compassionate quarantine for prisoners of war (POWs). As regulated by the Geneva Convention, POWs should be administered with proper treatments. When a soldier surrenders or is captured, they are no longer a threat. POWs should be treated with kindness, not malice. They should be moved to a secure location outside of the conflict zone. The fifth principle, Mala in Se, affirms that soldiers are not authorized to use weapons or malevolence, such as massacres, ethnic cleansing, poison and deceit, and biological and chemical toxins. The sixth principle is "no reprisal," which states that a government shall not react if an enemy state breaches its jus in Bello principle. The moral of this concept is that such retaliation may lead to an increase in atrocity and anguish. Internal jus in bello, on the other hand, refers to State responsibility, even though it may be at war, to protect the fundamental rights of its people.

### **Principle of Jus Post Bellum**

Jus post Bellum is a principle that addresses the ethics of the post-war period, particularly the compulsion to reconstruct the country or territory (Orend, 2000). It is associated with the justice of peace treaties and the end-of-war phase. The end-of-war period entails changing from conflict to peace, which commonly raises many legal matters, particularly occupations and human rights. The just war theory could provide some moral options in coping with such challenges. The notion of "rights vindication" discusses that peace arrangements must also assure the fundamental rights of individuals who committed war crimes. The primary purpose of a peace agreement is to encourage remedial in the post-conflict phase. Peace settlements must not appear to be a means of retaliation, as this could rekindle old animosities amongst former adversaries. Based on the principle of jus post Bellum, the aggressor state should be punished proportionately. Political and military authorities who allowed human rights breaches to occur must be held accountable through a free and impartial international court. Everyone who has been involved in war crimes should be held responsible through the trial mechanisms in the post-war. According to the jus post Bellum principle, the vanquished state(s) should undergo a rehabilitation process to rid its society of unjust elements and maybe re-

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institute structural reform. This step is essential for preventing the aggressor state from reverting to its prior behaviour. It can be argued that this stage may be the most contentious part of the Jus Post Bellum principle.

### **Just War Theory in the United Nations Documents**

Infringements of human rights happen pre and post-conflict. The United Nations and its agencies are important institutions tasked with resolving international conflicts and disputes. The United Nations has been engaged in numerous peacekeeping operations in many conflict areas since 1948. All over the world, the United Nations has been involved in conflict prevention and mitigation efforts. Involvement in these measures through traditional diplomatic avenues can be discouraging and less valuable, particularly in internal conflicts. The UN has established many conflict prevention strategies to manage such conflicts, which include alleviating poverty, corrupt practices and disparities reduction, governance reform and institution development initiatives, and the reform of the security sector (Sriram, 2010). These include unmediated measures to reduce and eliminate more direct causes of violence, as well as attempting to address frictions before they escalate into high tensions (UN, 1945).

Since the United Nations has emerged as the fundamental actor in conflict resolution, Chapters VI and VII of the UN Charter have permitted the organization the power to conduct conflict mitigation measures. The primary responsibilities enshrined in these articles are carried out by the United Nations Security Council (UNSC). However, if required, the UN Security Council has the right to use force, but only after all other nonviolent choices have been utilized (Cline, 2019). The essence of human rights is incorporated in the UN Charter's preamble. The concept of a just war reveals itself in the establishment of international human rights treaties. After WWII, human rights statutes were included in UN human rights instruments. The international community made a significant move to laying the groundwork for an international human rights framework during the 1990s. It included the creation of the International Criminal Court which impeached criminals of war. The United Nations and its agencies became key institutions tasked with resolving international conflicts in the aftermath of WWII. Since 1948, the United Nations has been engaged in numerous peacekeeping efforts in many war-torn areas in the world. Due to the frameworks provided for conflict settlement, various wars and conflicts in the post-World War II period have been evaded. The UN Charter's preamble emphasizes human rights, as it states – “determined to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small” (UN, 1945).

The principle of just war is demonstrated in several UN documents. The UN Security Council (UNSC) is in charge of carrying out the UN Charter's core tasks. Article 33.2, for example, urges the parties to resolve their disagreement through peaceful efforts, and Article 34 permits the UNSC to examine any potential for international conflict. Article 39 can decide what actions should be adopted when there is a danger to peace and security. The Nuremberg Charter paved the way for acknowledging "crimes against humanity," particularly in wartime. Human rights laws and bills of guarantee were steadily integrated into UN human rights documents such as the Universal

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Declaration of Human Rights (UDHR). Although UDHR is a non-legally binding document, member countries overwhelmingly supported it in the General Assembly. The support displays the significance of human rights to the global society.

### **Is Just War Theory Relevant to Modern Conflicts?**

Some believe that the just war theory is fundamentally immoral, while others argue that ethics has no role in war and does not apply in modern conflict situations. Opponents of this theory believe that all wars cause violence and suffering. Since this theory allows for specified amounts of violence, it is unjust and immoral, and cannot be considered a component of any ethical theory. They argue that, while just war aims to make it harder for nations to initiate war, the decision to wage war is usually determined by the states' realist considerations and relative military power rather than ethics. War and conflict disrupt societal norms of friendship, peaceful living and coexistence. In conflicts, these norms are infringed and therefore, become immoral.

Whereas, the supporters of this theory claim that there are several conflict resolution properties in this theory. For example, as parties in conflicts respect the culture, traditions, and the law of the defeated party, it facilitates confidence-building and help prevent future conflicts. The theory also urges parties to take serious initiatives to protect the war victims and their property, and avoid any excesses of war by eliminating any form of reprisal in the post-conflict period. The theory also proposes that even war is governed by principles and rules, and these must be adhered to strictly by all parties. Since war involves power-play between states, the theory argues that there should be moral integrity to exercise these powers. The cornerstones of decision making regarding the use of authority and force should be moral and ethical judgments. In essence, this theory upholds human pride as the core quest of this theory. We discuss how the just-war theory manifests itself in several conflicts around the world, including those in Palestine, Jammu and Kashmir, and Afghanistan, in sub-sections 4.1-4.3. Using the case-study method, the article investigates how just war principles manifest and develop in these conflicts. This method attempts to comprehend and explain broader and more general underlying dynamics by emphasizing one or a few case studies.

### **The Palestine Conflict**

The Israeli–Palestinian conflict is one of humankind's most prolonged conflicts, with the occupation of the West Bank and Gaza Strip by Israeli forces for almost six decades. Despite numerous attempts to resolve the conflict as part of the Israeli–Palestinian peace process, all of them have failed. This protracted conflict has resulted in violence and misery, particularly among the Palestinian people. The primary questions arising from the ongoing conflict in Palestine revolve on whether the warring factions' responses are consistent with the principles of just war, and if those responses are based on distinct understandings of natural law, justice, and sovereignty. The military occupation of territories has necessitated the development of new perspectives on the theory of just war. The politicization and weaponization are manifested by sporadic acts of open violence, either by Palestinian radicals opposing military takeover or by the Israeli forces defending its settlements. (Asad, 2010). By weaponizing the institutional order of these territories, each group try to assert their respective political legitimacy.

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There are different perspectives on this conflict. One view argues Israel's occupation of the territories mostly conforms to international norms, based on justified moral and legal grounds, albeit acts of violations (Kuo, 2008). Interestingly, these acts of oppression and occupation are within the structure of peace-war. Another perspective is Israel as an illegal occupier of Palestinian land and perpetuates aggression and suppression in Palestinian society. As a result, there is a need to reexamine the concept of force enshrined in just war theory from the standpoint of peace research. This reframe is necessary because the use of violence is sanctioned in the modern international system to defend existing sovereignty, not to dissolve or expand it. In the case of the Israel-Palestine conflict, military and police enforcement are critical because the occupations fall somewhere between interstate war and civil unrest. According to the just war theory, occupation and violence are legal because they enable Israeli forces to regain total security of the territories (Williams, 2012). However, rules of war must be imposed to provide legal justification for killing and destruction. In the midst of both sides' hostilities, the theory must address moral guidance to capture the complexities of force and power in conflict.

However, rules of war must be imposed to provide legal justification for killing and destruction. In the midst of both sides' hostilities, the theory must address moral guidance to capture the complexities of force and power in conflict. It can be argued that the Palestinian attacks on Israeli civilians may be predicated on different moral assumptions. Likewise, the same argument applies to the atrocities committed by the Israeli forces on the Palestine civilian population. On the other hand, the Israeli government justified excessive military force against protesting civilians, claiming that invasions were required to prevent Palestinian militants from killing Israeli civilians (McMahan, 2016). The infringement of *jus in bello* principle of the just war theory is apparent as it does not motivate either party to adopt moral judgment about war that could minimize war-time killing. Furthermore, Israel's pursuit of development that violates Palestinian territorial and sovereign rights may be interpreted as undermining *jus post bellum* measures. This could lead to even more oppressive and defensive actions on both sides in the future, further delaying any peace efforts. Even though both parties are fighting for just causes, it is clear that the conflict is subject to moral and ethical constraints and judgments.

Considering the complexity of territorial war and annexation, the authors propose that the principles of just war consider the context of the situation that is being judged. Factual context, such as the series of acts leading up to the attacks, the incentives of the fractions involved, and which party initiated hostilities, are critical in forming a complete perspective of the ethics, defense, and strategic environment. (Steele, 2011). Analysts might be able to establish an integrative evaluation of the exclusive truth of occupation if they had a broader perspective on these dimensions. Understanding and evaluating situations from multi-dimensional views can potentially reduce ethical and moral ambiguity that has emerged from this unique nature of occupation.

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### **Kashmir Conflict**

The Kashmir conflict is a territorial dispute over the Kashmir region between India and Pakistan, and China as a third party. The conflict has resulted in three wars between India and Pakistan, and several numerous other armed clashes over the decades. The disputed Jammu and Kashmir region is one of the world's most militarized conflict zones. The presence of military and paramilitary forces in the region has only served to threaten the region by inciting tension and violence. The conflict continues to strain the country's bilateral relations with these neighbours (Mukherjee, 2014). Some of the security issues that have engulfed the disputed territory include violations of human rights on both sides, terrorist cells linked to Al Qaeda, and India and Pakistan's nuclear capabilities.

The next question – “Is the act of aggression in Kashmir just and follow the just war principles?” From Pakistan’s perspective, the aggression perpetrated by the rebels is viewed as a freedom movement to liberate the land from ‘foreign’ aggressors. As such, the use of violence is justified as it serves the military objective of expelling invaders from an illegal invasion. The principle of ‘proportionality in war’ does not apply because these invaders are seen as evil aggressors seeking to uproot the local residents and change their way of life and beliefs, making it into a religious pursuit. For India, the Kashmir issue is an internal matter, and the foreign aided uprising in the region is seen as foreign encroachment into Indian internal affairs and a direct challenge to its sovereignty. As such, the use of just war principles has limited utility as it faces challenges from non-state actors.

From an international law perspective, any form of infringement of Kashmir's sovereignty is a breach of the UN Resolutions and the Shimla Declaration. Both countries may invoke the law to resort to force (*jus ad bellum*), the law on the conduct of hostilities and war (*jus in bello*) and the international human rights law to expose the atrocities committed against the people of Jammu and Kashmir (IPS, 2020). Further, the principle of *jus post bellum* here aims to provide moral guidance on the responsibilities of various actors in the aftermath of conflict. In the case of Kashmir conflict, structures such as truth commissions (to address the issues of reparation and transitional justice), construction of peace treaties (well-thought-out plans for the promotion of durable peace and confidence-building measures among the people and the warring factions), and reconciliation of states (mainly the primary stakeholders - India and Pakistan). In summary, the theory of just war entails addressing the actual elements of the conflict, which entails attempting to achieve justice, truth, peace, mercy, and, eventually, reconciliation (Lederach, 1997).

### **Afghanistan Conflict**

The Afghan conflict is a protracted one over several decades. The Afghan War in 1978-89 began with internal conflict between anti-communist Islamic guerrillas and the Afghan communist government (backed by Soviet troops), leading to the government's overthrow in 1992. However, the conflict analyzed in this paper is the conflict arising from the US invasion of Afghanistan of 20 years ago in response to terrorism and radicalization. This section discusses the relevance of the principles of just war theory in the Afghan conflict. The attack on Afghanistan was based on Article 51 of

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the UN Charter, which provides countries with the right of self-defense, including collective self-defense, in an armed attack. The US accused Afghanistan of harbouring and supporting terrorist elements within its borders, and on the attack on the World Trade Center twin towers in New York on 11 September 2001. As such, the US views its military response in Afghanistan as an act of self-defense. The US justified its invasion of Afghanistan by citing fears of similar deadly attacks in the future and the desire to pursue al-Qaeda, the terrorists accountable for the attacks. Occupation of any sovereign state by another State is impermissible under international law and norms. However, the US used diplomacy and the global system to get the endorsement to intervene.

Nevertheless, some scholars have argued that using violent measures against Afghanistan was not legal because simply harbouring terrorists does not rationalize the use of violence under Article 51 (Scholtz, 2004). According to Article 51, self-defense must be directed against the state, which was accountable for the armed attack if the territorial independence of that state is breached. Hence, US actions in Afghanistan have jeopardized its right as a State that has been attacked by terrorists to respond in self-defense against any State 'harbouring' them (Ratner, 2015). Furthermore, the US launched a military attack in Afghanistan despite other countries' insistence on Security Council authorization under Chapter VII. This has called into question the legality of the use of force. Consequently, the United States (US) and its coalition partners have violated *jus ad bellum*.

However, the US has stated its commitment to reducing human casualties and harm to civilian property since the inception of the conflict. As a fundamental principle of humanitarian law, the commitment supports certain basic *jus in bello* norms, such as the protection of civilians and prisoners of war. Despite this commitment, some civilians, not connected to any terrorist groups, were victims of US attacks. The US had to take the responsibility by expressing regret over such incidents. Further, the US also faced challenges regarding the treatment of prisoners of war, for not following the principles of *jus in bello* – responsibilities during war or conflict. A 'prisoner of war' is a non-combatant and that individual must not be subjected to any form of harassment or torture during captivity. According to the US, since these terrorist groups cannot claim statehood, principles enshrined in international treaties such as the Geneva Convention and Protection of Prisoners of War do not apply (Whitehouse, 2002).

The long-term consequences of the use of force require the US to incorporate and implement the principle of *just post bellum* in the post-conflict phase. Further to the legality of the Fourth Geneva Convention of 1949 (concerning the protection of civilian persons in time of war), and the Hague Convention IV of 1907 (respecting the laws and customs of war on land), the *post bellum* activities should be directed based on ethical reasoning. The post-conflict reconstruction is viewed as a military necessity and therefore, requires careful planning. Groundwork done with adequate diligence and due ethical consideration can restore order, heal hostilities, rebuild infrastructure, reestablish societal institutions and restore the environment. All these measures are undertaken regarding the legitimacy of the peace that follows after the conflict. Ideally, all personnel involved in the conflict should be well-trained in the *post bellum* operations. However,

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American military personnel have demonstrated less involvement in highly perceptive and specialized *post bellum* situations in Afghanistan (Iasiello, 2004).

### Conclusion

The persistent issue revolves on whether the just war theory, which is incorporated into UN documents, is adequate to prevent states from going to war with one another. The number of wars and conflicts in the post-World War II period has dramatically decreased. However, state warfare has been supplanted by conflicts initiated by non-state actors. The quantity and seriousness of attacks and conflicts by terrorists and civil unrest have amplified in recent years. Thousands of people have perished due to these attacks and conflicts, globally. For example, thousands of people have died in the ethnic strife in Sri Lanka, and the ethnic-cleansing massacre in the former Balkans and Sudan. Often, socially, economically, and politically disadvantaged and marginalized groups may openly express their dissatisfaction and engage in violent actions against other groups or even the State. The just war theory focuses on preventing states from initiating wars, but it appears insufficient and unsuccessful to lessen conflict among non-state warring parties. Non-state actors are not entities to international agreements on war and conflicts, and international rules of engagement. The just war theory has assisted in the administration of state wars, but it does not have the legality and authority to be adapted in non-traditional wars. The ethical dilemma we face is how to apply this idea to contemporary situations. The application of just war theory to non-conventional wars has numerous structural challenges.

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