

**Just War Theory & Non-State Actors:
Political Violence in the Black Panther Party**

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I. Introduction

An unfortunate truth which many people, namely Black Americans, must confront is that American history continues to impinge on the rights of her Black citizens. Even following the social and civil advancements of the Civil Rights Era (1954-1968), Black Americans still faced unethical medical practices as in the case of the Tuskegee Syphilis Study (CDC 2022), medical experimentation (Savitt 1982), social and political exclusion (Alfred 2021), and police brutality (Wells 1970, 1969). Toward the end of the Civil Rights Era, however, a Marxist revolutionary group emerged that hoped to rectify many of the wrongs which Black Americans had faced; they were called the Black Panther Party for Self-Defense (or BPP or, simply, the Party).

The Black Panther Party is now commonly associated with violence; however, this was far from what they aimed to represent. The Party was aimed at total social and political reconstruction and, their larger point, creating an equitable society in which Black Americans could thrive. The criticism which the Party faced (and still faces) was through their use of “armed self-defense” and methods of political violence.

From a philosophical perspective, many interesting questions can be considered when evaluating the morality of the utilization of armed self-defense. In this paper, I will use Just War Theory to answer the question: can non-state actors be justified in their usage of violence against states? Specifically, I will claim that the Black Panther Party’s use of armed self-defense and political, physical violence was morally justified under an expanded just war theoretic. To do this, I will first analyze political violence and resistance to clarify how my account will understand the

two and their potential overlap. Next, I will clarify Just War Theory and provide thorough discussion of the “competent authority” criterion and argue that select non-state actors can be competent authorities. Finally, I will apply my expanded just war theoretic to the case of the Black Panther Party and their use of armed self-defense.

II. Political Violence as Revolutionary Resistance

I begin my analysis of the justification for political violence and armed self-defense with an examination of violence and resistance. I will rely on previous literature relating to violence, resistance, terrorism, and civil disobedience in order to form the conception of violence which will be used in my account.

Resistance – especially resistance to oppression – is not “one size fits all” in that each form of resistance can be applied in each and every scenario (Burgos 2021). Circumstances dictate that different forms of resistance be utilized when a given form’s prescribed limits have been reached. An account purported by Rosa Luxemburg, Eduard Bernstein, and many others details two forms of resistance: *reform* and *revolution*. Under this conception, reform is social change “defined by action based in intelligence, slow process, and methodical force” (Luxemburg qtd. Burgos 2021, 26) and “expresses the life of the society within the newly formed order, including its values, culture, etc.” (Burgos 2021, 27). Revolution is, then, social change characterized by action based in “feeling, fast progress, and spontaneous force” (Burgos 2021, 26) and produces a legal constitution under a new legislative order (27). Reform and revolution are considered resistance insofar as they both attempt to counteract the current way of thinking or going about political and social life. In this way, civil disobedience is an example of reformational resistance that aims at bringing attention to existing legal and political issues.

The use of violence as a means of resistance is often contested due to pacifistic tendencies among both philosophers and society at-large. Generally, to commit an act of violence against another is to take advantage of their innate vulnerability for an end (Liebsch 2013). The vagueness of this definition of violence seems to imply that violence can be manifested in many ways – after all, there is certainly more than one way to extort one’s natural vulnerability. Most commonly, we consider *physical violence* when thinking of violence. Under this conception, physical violence is to violate another’s innate physical vulnerability through physical attack. For example, consider two people: James and John. If John were to offend James, then physical violence may ensue through a punch to the face or other means which James may use against John with the aim of restitution for psychological harm done through words (another form of violence). This example shows how both an exchange of words and fists may constitute violence.

Thus far, I have considered violence and resistance to be separate. This is not the case. Just as resistance – either reform or revolution – seeks to change the *status quo* for political, legal, or social ends, violence may also be aimed at resistance. That is, the violation of another’s innate vulnerability can be aimed at reformational or revolutionary change. An example of violence as resistance exists in the slave narrative of Frederick Douglass. Far from becoming the orator and writer most know him as now, Douglass was a young man working on a plantation after having been sent to the “slave breaker.” During this time, under the ownership of a Mr. Covey, Douglass endured some of the harshest conditions recounted in his narrative. Douglass ([1845] 2012) recounts these harsh conditions leading up to a physical altercation with Covey in which Douglass refuses to be beaten. In this example with Frederick Douglass, it seems clear that when oppression is waged against individuals, violence can serve as resistance. In this way violence can be resistance to oppression given the right circumstances.

On my account, political violence constitutes a revolutionarily resistant and violent act made for political means. This act is revolutionarily resistant in, first, the aforementioned ways in which violence can serve as resistance, and second, by virtue of the spontaneity and forcefulness of violence. Such an act will be inspired by political means just as is standard through Burgos' (2021) characterization of Luxemburg and Bernstein's account of resistance.

III. Just War Theory & Non-State Actors

In one of the most famous books on war, Sun Tzu writes that “it may be known that the leader of armies is the arbiter of the people's fate, the man on whom it depends whether the nation shall be in peace or in peril” (Tzu 2021, 29). To Sun Tzu, commanders of armies maintain moral salience insofar as many interesting questions arise when you consider the moral obligations of one who leads others into situations in which they will most certainly die and take the lives of others. Recognizing this, the fifth century philosopher and theologian Saint Augustine of Hippo created a moral framework to analyze moral obligations and responsibilities in the context of war called “Just War Theory” (Silverman 2002).

Just War Theory (JWT) is a deontological and consequential framework that assesses the distribution of moral obligations and responsibilities during times of war (Lazar 2020; Lango 2014). Specifically, there are two relevant sets of criteria for considering the “justness” of a war: *jus ad bellum* and *jus in bello* (Wells 1969).

The first set of criteria, *jus ad bellum*, constitute the circumstances under which going to war is justified. There are four criteria included in *jus ad bellum*: just cause, just peace, competent authority, and necessity (Lazar 2020). Just cause, the first criterion, means that the war must serve an *end* (or *telos*) that is worth all the death and destruction that will naturally come about. Just

peace means that the outcome resulting from the war must be sufficiently tolerable that going to war is worth it. Competent authority refers to the idea that the war must be proclaimed by one legitimate authority against another – typically this is thought of as state actors. Finally, necessity means that war must be treated as a last resort only after all diplomatic options have been exhausted. Under JWT, these are the four criteria which must be met for engaging in a war to be justified.

The second set of criteria, *jus in bello*, provide the moral prohibitions on actions taken during war. First, non-combatants must not be the targets of attacks – this means that each party is not licensed to kill every member of the enemy party, only combatants. The second criterion is that civilians must be spared. This supports the first criterion in recognizing that killing civilians is worse than killing soldiers. Finally, proportionality must be maintained with respect to how parties attack. This element specifies that parties must respond in-kind to attacks and not severely escalate tactics.

Historically, Just War Theory has limited the component of competent authority to state actors. I argue that non-state, organized social groups can also be competent. Traditionally, states are thought of as institutions or sets of humanly devised constraints which organize a given society (North 1991). While it is true that state governments are institutions, it is also true that there are many other institutions which lend themselves toward the organization of society. For instance, North delineates two forms of institutions: formal and informal (North 1991, 97). The difference between formal and informal institutions can be told by looking to the enforcement mechanisms which that institution uses for constraining behaviors. States are an example of formal institutions since they use laws, fines, and prison sentences to constrain behaviors, while religions are an example of informal institutions since they use norms, traditions, and taboos (see Larson 2023).

Further, select informal institutions such as political movements may still use informal means of constraint while also having a centralized philosophy and power structure – in this way, they exhibit both informal and formal characteristics. As far “competency” is concerned, it generally refers to parties which have “the necessary ability, knowledge, or skill to do something successfully (*Oxford English Dictionary*, s.v. “Competent”). Insofar as an institution (formal or informal) is able to organize, form a coherent philosophy and power structure, and maintain strong constraint of behaviors to its doctrine, it would be unreasonable to not consider it competent.

Allowing non-state actors to engage in just war hardly changes much. Consider the Korean, Vietnam, or American Revolutionary Wars, for example. Under Just War Theory, room for these wars to be considered justified would not be allowed since they were between established states and rebel groups. The expanded just war theoretic I have provided would allow arguments for each of the aforementioned wars to be considered just or unjust.

IV. Applying Just Political Violence

The eventual turn of the Black Panther Party to a Marxist revolutionary group has caused many to ignore the genesis of the group. In fact, their original purpose was to patrol African American neighborhoods to protect residents from acts of police brutality (Duncan 2023). Over time, the group gained more traction and developed their own social and political philosophy akin to Malcolm X, Mao Zedong, and Frantz Fanon in his *The Wretched of the Earth* (National Archives 2021). Through both their anti-racist and pro-Marxist rhetoric, the BPP faced no shortage of opposition from police and society at-large.

Ex post facto critiques aside, usage of the BPP as an example requires recognition of their historical context. The Party itself was formed in the mid-1960s following the assassination of

civil rights icon Malcolm X (Duncan 2023). During this time, it was Huey Newton and Bobby Seale – two students at Merritt Junior College – who founded the Black Panther Party for Self-Defense, in 1966, in Oakland, California. The Party differentiated itself from other Black movements at the time through some of its philosophical and tactical features (Umoja 1999). For instance, whereas other groups identified all white Americans as racist oppressors, the BPP recognized the existence of both racist and nonracist white Americans (Duncan 2023).

The philosophical (and tactical) feature of the BPP which draws the most attention and objection is that for armed self-defense. Armed self-defense simply refers to the usage of firearms and other weapons to aide in self-defense when attacked (Duncan 2023). The BPP utilized armed self-defense as far as teaching members how to properly use and care for firearms and roaming predominantly Black communities to ensure the safety of Black community members. Members of the Party believed that their resistance would bring about the end of police brutality – one of the goals of the organization.

With the definition of political violence that I have provided,¹ it seems apparent that armed self-defense (as it was used by the BPP) constitutes political violence. Armed self-defense was resistant insofar as it was used to oppose the oppressive circumstances of police brutality; it maintained the *revolutionary* aspects of resistance by being based in action and looking for fast, spontaneous force. Finally, while individual armed self-defense is often not motivated by political means, the BPP was promulgating at-large to provide a new legislative order — the final condition of political violence.

Using the expanded just war theoretic that I have provided in the previous section, we can see that the BPP’s violent methods were justified. Specifically, I have advocated for the inclusion

¹ Recall that I have defined political violence as “revolutionarily resistant and violent act made for political means” (see Section II).

of select non-state actors in the JWT criterion of “competent authority.” The non-state actors that I argue are worthy of being called “competent” are those which are able to organize, form a coherent philosophy and power structure, and maintain strong constraint of behaviors to its doctrine, it would be unreasonable to not consider it competent. The Black Panther Party fulfills each of these criteria by virtue of being an organized social movement with Huey Newton, Bobby Seale, and Fred Hampton at the helm (Umoja 1999).

V. Conclusion

One of the most popular fields in philosophy is ethics. This is for good reason since it is in ethics that we find how to live our lives and how to live with one another. The more complex ethical questions rise from instances of disrespect and cruelty. One such question is the question of war. Questions associated with war include: When is war ethical? Is killing others during a war morally right? Is leading others into a situation in which they will certainly die moral? None of these questions have easy solutions, however, in this paper, I have proposed an answer to who gets to declare war.

Specifically, I have argued that the Black Panther Party’s use of armed self-defense was (and is) justified under a just war theoretic. More generally, I am argued that select non-state actors are able to act as competent authorities. Traditional theorists of just war consider only state actors to be competent authorities, however, by dissecting Douglass North’s definition of institutions, I have shown that both informal and formal institutions (or, specifically, the amalgamated political movements) can be competent authorities. From this, I applied the specific contexts of the Black Panther Party to show that they were justified in their use of armed self-defense.

VI. References

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