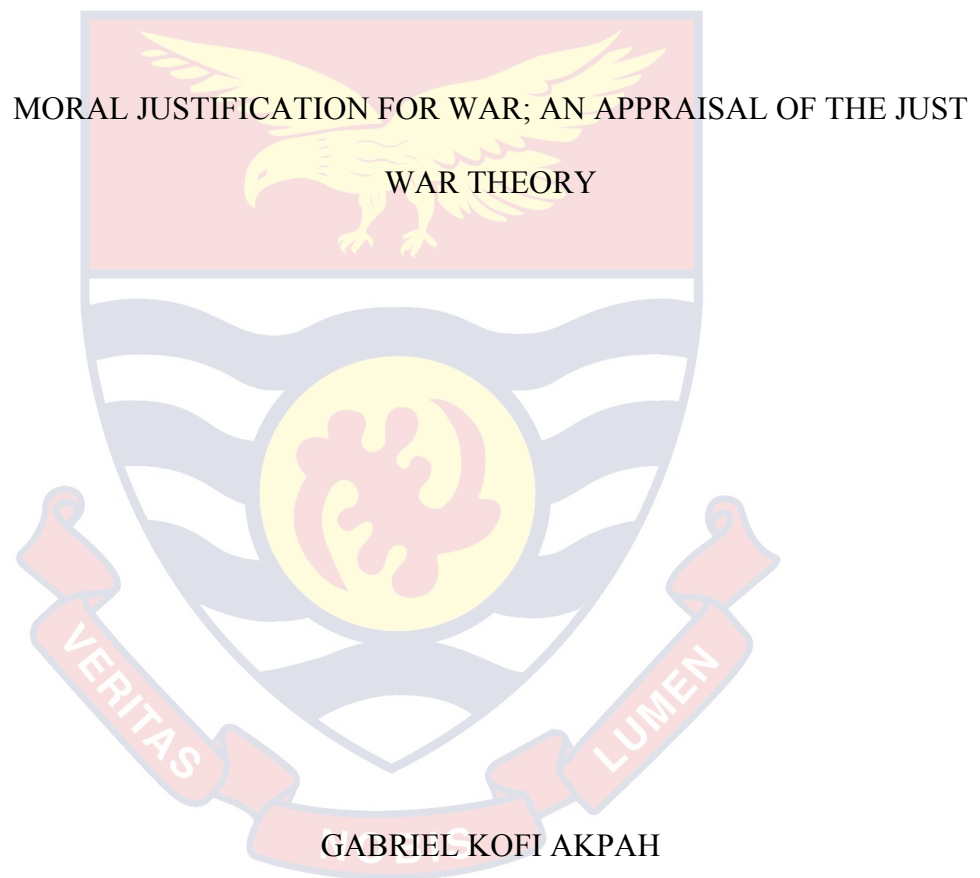


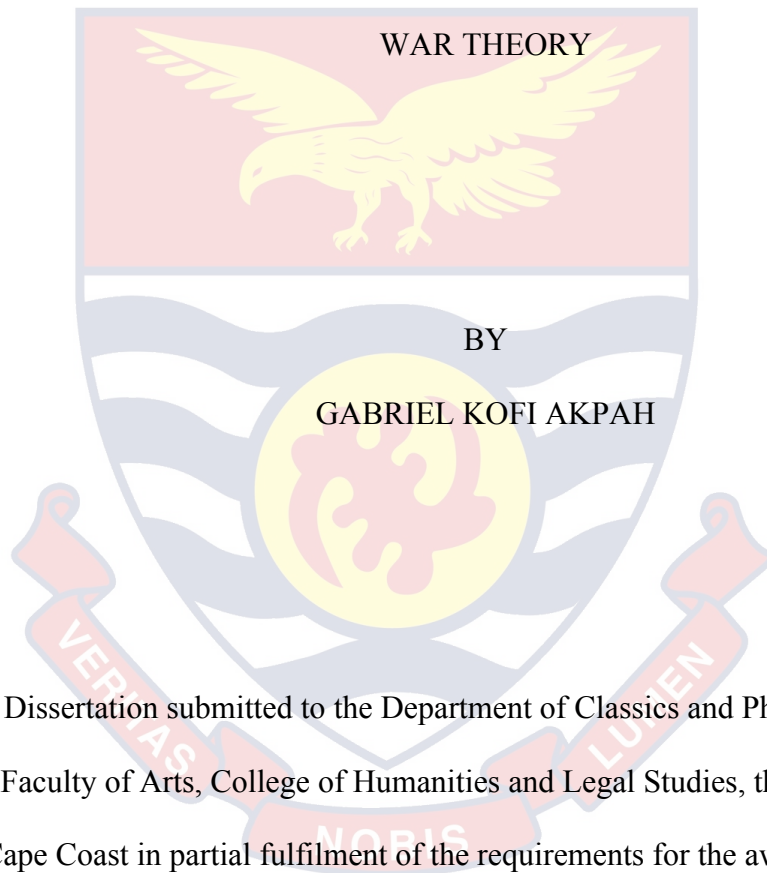
UNIVERSITY OF CAPE COAST



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MORAL JUSTIFICATION FOR WAR; AN APPRAISAL OF THE JUST



Dissertation submitted to the Department of Classics and Philosophy of the Faculty of Arts, College of Humanities and Legal Studies, the University of Cape Coast in partial fulfilment of the requirements for the award of Master of Arts degree in Philosophy.

JULY 2019

DECLARATION

Candidate's Declaration

I hereby declare that this dissertation is the result of my own original work and that no part of it has been presented for another degree in this university or elsewhere.

Candidate's Signature..... Date.....

GABRIEL KOFI AKPAH (AR/MPH/18/0001)

Supervisors' Declaration

I hereby declare that the preparation and presentation of the dissertation were supervised in accordance with the guidelines on supervision of dissertation laid down by the University of Cape Coast.

Supervisor's Signature..... Date.....

PROF. RAYMOND. N. OSEI

ABSTRACT

This dissertation seeks to critically examine the moral justification for war in order to have a deeper understanding of justice and morality of war. Unlike natural disasters, war is traditionally viewed as an extreme activity in human social failure. The prodigious majority of theorists addressing questions of the morality of war do so from within the moral framework provided by Just War Theory; a normative account of war that dates back over 1500 years in the Western Philosophical Tradition. Recent events in the conduct of wars around the world have, however, called into question the relevance and appropriateness of the just war theory for contemporary wars. For example, during recent wars, morality and virtue have no place in society. This work shall explore some of the major theorists in the history of Western Just War Theory (St Thomas Aquinas and Augustine) showing that the ancestors of Just War Theory did consider in particular the moral virtues and ethical principles to be of central importance to the morality of war. In this work I shall critically examine the notion of a just war with a discussion of various formulations of the realist's and pacifist's positions and argue that though the just war tradition provides a reasonable alternative to either of these extremes, its glaring deficiencies (inability of the theory to address the rise of non-state actors such as al-Qaeda, increasing availability of weapons of mass destruction, etc) ought not to be overlooked. Finally, I shall hold that the theory of the just war is today outmoded, unpractical, unrealistic and flawed especially if one wishes to preserve a moral constraint on war.

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DEDICATION

I humbly but proudly dedicate this dissertation to my late father Samuel Seth Korbla Akpah.



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CHAPTER ONE

GENERAL INTRODUCTION

This chapter introduces the subject matter of the study; moral justification for war, an appraisal of the Just War Theory. It discusses the background which focuses on the motivation for the choice of the topic and why it is of interest to the researcher. It also states the objective of the study, its significance, limitations, and delimitations. The scope of the study and the organization of Chapters are also discussed.

Background of the Study

Is there such a thing as a just war? Can the massive death and destruction of armed conflict ever be morally justified by Peace loving people? Must war always be part of human experience or can something be done to make it disappear? Is war an outcome of the unchangeable human nature or rather of the changeable social practice? Is there a fair and sensible war to wage? What are our rights and responsibilities when our own society makes the move to go to war? Killing people is, according to any morally sane person, among the very worst things we can do. There exist basically three widely accepted positions on the morality of war. The first is pacifism, which holds that it is always wrong for a state to resort to war and always wrong for an individual to participate in the war. The second is political realism, the view that war lies beyond and is unconstrained by morality. Political realists have apparently maintained that we are morally justified in disregarding moral considerations altogether in the conduct of international politics, and ought to focus instead on the single-minded pursuit of the national interest. Unlike

pacifism, this kind of crude political realism does seem to have some currency among ordinary people and policymakers, and may well have contributed to a great deal of unjustified killing in war. The third, which occupies the broad space between these opposing extremes, is that war is sometimes but not always morally permissible and that there are moral constraints on the conduct of war (McMahan, 2005). In the minds of many, this third position is often alluded to as the Just War Theory (herein after referred to as JWT). The Just War Theory maintains that resorting to war can be justified, provided that certain conditions are satisfied, the most important of which is that the cause for which the war is fought is just (Orend, 2006). Unlike pacifism, JWT is widely affirmed, and unlike political realism, many of its elements have even been codified in the laws of war. I am inclined to the Pacifists position as war's necessity does not imply requirements for its frequency and ferocity.

The philosophical and legal tradition known as Just War Theory traces its roots to Augustine (354 – 340 AD) and, perhaps more importantly, Aquinas (1223 – 1274 AD) (Brown, Nardin, & Rengger, 2002). Though it's true that both the Greeks and Romans had, in some sense, provided what could be called precursors to the tradition, it was Augustine's break with the longstanding and dominant pacifism of Christianity that developed the Just War thinking that still prevails today; in short defending, "with regret, the possibility that war may be justified if it is waged in defense of a common good and to protect the innocent from certain destruction" (Elshtain, 1992). The tradition is a long and complicated one and now largely secular in the modern context through theorists like Michael Walzer. It has been influential in the formation of the international laws governing war.

The JWT represents a century-long distillation of our considered moral and legal reflections about war and its practice. While it is debatable whether JWT has had significant success at ameliorating the frequency and ferocity of war, it is clear that JWT has had a significant influence on international law regulating warfare. The influence of JWT on international law in this regard is so strong that, insofar as we might judge current international law as correct with regard to war, we should also extend that judgment to JWT.

It is also imperative to note that the just war theory was conceived at a time when armies massed against one another along a front and when Christian morality provided a common ethical framework for the Western world. But neither of those circumstances obtains in the contemporary and technological environment of the twenty-first century, and while writers such as Michael Walzer and Oliver O'Donovan have made important contributions to updating just war thinking, it is clear that evolving technical and philosophic issues call for a radical re-examination of the ethical possibility of a just war within our contemporary world.

In this work, the researcher undertakes a critical examination of the just war theory and argue that in our contemporary, technologically advanced world, where asymmetric warfare looks to be the preeminent way wars are waged, just war thinking simply does not hold any longer. The researcher totally agrees with St Pope John Paul II when he said “Today, the scale and the horror of modern warfare, whether nuclear or not, makes it totally unacceptable as a means of settling differences between nations. War should belong to the tragic past, to history; it should find no place on humanity's agenda for the future” (As cited in Cameron, 1982 P. 2).

The researcher holds that just war theory has failed to address how technological issues have changed the calculus by which decisions to embark upon preventive or pre-emptive warfare might be necessary or justified. Also, the rise of non-state actors such as al-Qaeda coupled with the increasing availability of weapons of mass destruction has changed the picture dramatically for those who seek to distinguish just from unjust warfare. While thinkers from Grotius to Kant contemplated the construction of international institutions for the purpose of regulating state conduct and maintaining peace, and while the twentieth century saw the realization of those visions in the creation of a vast network of international institutions, such as the Hague Conventions, the Geneva Conventions, the League of Nations, or the United Nations (herein after referred to as UN), it is only at the dawn of the twenty-first century with the intensification of global interdependence that these bodies have begun to bring questions of multinational sanction into focus when states consider the just use of violence. The position of the UN on war to reaffirm the worth and dignity of the Human person is avowed in the preamble of its charter as follows:

We the peoples of the United Nations determined to save succeeding generations from the scourge of war...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...to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest...have agreed to the present Charter of the United Nations and do hereby establish an international organization to be known as the United Nations (Charter of the United Nations).

Though this thoughtful passage from the preamble of the United Nations Charter evokes ideas essential to the morality of war and the role of the international community as possessing some authority to legitimize the just

use of force (and to question the unjust use of force) by allied states, it raises questions about the sovereignty of nation-states. The possibility of a common frame of justice by which to judge state actions may increasingly depend more on the interest that appeals to an objective moral authority.

According to Barry (2011), the widespread and stringent constraint against intentional killing is based not only on the ill effects of this conduct to the targets of this violence, but also on the suffering this violence causes to the victim's families and those close to them, as well as the damages to the broader communities to which they belong. How might this be explained? Perhaps it is because people, especially those with the power to decide to engage in war, disregard morality and act instead for purely self-interested reasons. Or, it may be because those who do not disregard morality tend, often unconsciously, to interpret and apply their moral values in ways that will not threaten (and will instead serve) their own interests. For Barry (2011), the propensity to engage in unjustified war may also be due to the fact that people act without thinking, reason lazily about what to do, engage in motivated reasoning, and are prone to the weakness of will. All of these proposed explanations for the prevalence of unjustified wars are probably partially correct. However, these explanations may be complemented by a further explanation for the prevalence of unjustified wars: that the moral principles that have ordinarily been invoked in deciding whether resort to war is justified, or of various tactics that might be justifiably employed in war, are seriously flawed. This idea is disturbing it is horrible to think that people routinely kill and maim other people who cannot justifiably be attacked, while

all the while thinking that killing them is permitted and may even be morally required.

This research is thus motivated by the preamble of the United Nations charter with regard to warfare and the contemporary scenarios of war calling into question the usefulness, relevancy and the practicability of the Just War Theory.

Statement of the Problem

Numerous research papers, academic treatises, conference papers, academic presentations as well as books have already been written about the Just War Theory and its impacts (Nester, 2010; Walzer 2015). But in recent times, armed conflicts, terrorism among others have increased throughout the world, damaging severely the infrastructure and environment on which people depend for their livelihoods, and thereby enabling death and severe deprivation of peace-loving people. Though some of these vices do not occur rampantly as some alluded to, their destructiveness to life and environment in each respective location in the world is unacceptable to the human race. Since these serious morally regrettable outcomes occur routinely during the war, armed conflict between political communities among others, justifying war is very difficult and an extremely bad thing to do. The violent nature of war and controversial social effects has hence raised troubling moral questions for any thoughtful person. That it is hard to justify war is a commonplace. The essential problem this work address is the gap which recent events in the conduct of wars around the world have created hence called into question the relevance and appropriateness of the just war theory for contemporary wars.

Purpose of the Study

This research is undertaken against the backdrop of challenges the just war theory presents us within our contemporary era. The purpose of this dissertation is to look at what the Just War Theory is and how it came about, the arguments for and against a just war and to establish that in our contemporary, technological advanced world, where asymmetric warfare looks to be the preeminent way wars are waged, just war thinking is simply otiose. It has outlived its usefulness and does not hold any longer as a morally just framework to access war since actors in war do not obey the principles underpinning the Just War Theory. The researcher shall hold that the theory of the just war is today outmoded, unpractical, unrealistic and flawed especially if one wishes to preserve a moral constraint on war.

Objective of the Study

The researcher is driven by certain objectives to be achieved at the end of the research. The general and specific objectives of the study are as follows;

General Objective

The general objective of the study is to examine the relevance of the moral justification for War using the framework of the Just War theory in our contemporary dispensation.

Specific Objectives

The specific objectives of the study are to:

1. Examine whether or not war can ever be just
2. Examine whether or not the use of JWT is applicable in our contemporary time.

3. Assess whether or not our current situations, fit the definition of just war.

Research Questions

Below are some of the questions that the research will seek to answer in order to achieve the objectives of the study;

1. What is the Just War Theory?
2. What are the challenges of the application of the JWT in our contemporary era?
3. In what ways do our current situations affect the definition of the Just War Theory?

Significance of the Study

This dissertation will contribute to the quest for the avoidance of war in our post-modern era. This will be achieved through analysis of available literature on the subject matter. The study shall posit that the horrendous nature of war makes it totally unacceptable as a means of settling differences between the human races. It will also address a gap in the literature on the moral justification for war in our post-modern era.

Delimitation

The scope of this study includes a review of Just War Theory and its doctrine, statutes according to religious law, and acceptable organizational concepts, an analysis of the issues, problems associated with Just War Theory and literature review regarding possible solutions. The researcher wishes to do an assessment of currently adopted methods and beliefs on the Just War Theory and concludes with recommendations for prospective improvements.

Limitations of the Study

In conducting this research, the researcher anticipates the following challenges;

1. Constrain of time as the study was carried alongside academic work which made it difficult for the researcher to concentrate fully on this study.
2. Financial constraints, since the research is not financed, the researcher will encounter some difficulties in executing the research especially some important materials.

Research Methodology

The research method used in this dissertation is qualitative. Qualitative because it produces findings that are not arrived at by statistical procedures or other means of quantification. The study is largely library based. Primary and secondary scholarly works on the morality of War are collected and analyzed. The researcher adopts an evaluation of arguments to make a position approach.

Literature Review

There is a variety of views to take regarding the moral justification of war. Pacifism and realism both presuppose an unbridgeable gap between war and morality. Pacifism is a school of thought that argues against war ever being morally justifiable. The horrors of war, pacifists argue, are too great to be morally permissible. Typically, pacifism comes in two major forms: absolute pacifism, moral opposition to violence or killing of any kind; and contingent pacifism, which holds that although some wars might be morally

acceptable, the type of war we fight today, are not (Fiala, 2006). Ultimately, contingent pacifism reduces to a kind of JWT in which war is acceptable if the correct conditions are met. As Biggar (2015) notes, “such a broad definition embraces just war doctrine” (p 11). Thus, the researcher focuses here on absolute pacifism (the summary rejection of war as a means of achieving an end).

The most pressing question that arises when examining pacifism is simply what should be done in place of violence when we are under attack? Interestingly, there do not seem to be a clear-cut response to this question, at least on a global scale. Although Mohandas Gandhi, Martin Luther King Jr. and more recently Pope Francis suggested, non-violent protest and peaceful negotiations, it is difficult to see how the non-violence could today be effective in stopping another nation from militarily invading into another or how non-violence could force them to leave once they arrived. Negotiation, as put forward by Pope Francis, seems more plausible since even after the war, the parties still go into it. A further question to consider is whether, even if effective, such non-violence could be justified if it meant letting innocent people suffer and die, or letting injustice go without been resisted. The comment of US President Barack Obama in his Nobel Prize acceptance seems to ring true: “A non-violent movement could not have halted Hitler's armies. Negotiations cannot convince Al Qaeda's leaders to lay down their arms” (Obama, 2009). President Obama highlighted the problem of pacifism as national policy: even if small protest groups could achieve success by non-violence, a nation in his view cannot. The pacifists claim that violence, or the taking of human life, is never justified. They take the war to be an

irredeemably immoral practice-one that is never justified and always avoidable and I agree with them.

The realist, on the other hand, argues that states should, or at least usually do, pursue activities which will maximize their own self-interest (Orend, 2005). Orend distinguishes between “descriptive realism” and “prudential realism”. The former describes the international realm as a state of nature and claims that, as a matter of fact, this is the way states do act; the latter, on the other hand, is normative, suggesting that given the international state of nature, states ought to maximize their own self-interest. Whether prudential or descriptive, the realist will deny the relevance of ethical norms to the international sphere. As Machiavelli wrote in *The Prince*: “the fact is that a man who wants to act virtuously in every way necessarily comes to grief among so many who are not virtuous. Therefore if a prince wants to maintain his rule he must learn how not to be virtuous, and to make use of this or not according to need” (p 91).

Although there are different forms of realism, all are unified in the claim that “the character of foreign policy can be ascertained only through the examination of the political acts performed and of the foreseeable consequences of those acts,” measured through the lens of “interest defined in terms of power” (Morgenthau, Thompson, & Clinton, 1985, pp 4-5). Thus, the substantive claim of the realist is that moral considerations have no place in warfare. Concepts like right and wrong are of no use or relevance in the international domain. From a realist perspective, ethics ought only to be championed, enforced, or adhered to by a political leader insofar as it serves the interest of that leader’s nation. Realists like Hegel and John Boyd take the

war to be a necessary fact of human existence either because the realization of human freedom requires war, or because war is an instrument of Darwinian selection in the biological existence of humanity.

A middle position, often alluded to as the Just War Theory opposes the position of both the pacifists and the realists. The just war theorists have suggested that under certain considerations war could be justified. They view war as a deficient condition we must avoid if possible but, when unavoidable, maybe a justified pursuit.

It is imperative to note that the belief that wars can sometimes be justified sets apart the JWT from pacifism, and the belief that the decision to go to war and the methods of waging war are subject to moral scrutiny sets it off from realism, which considers war outside the scope of moral judgment. Within those limits, theorists working within the just war tradition differ among themselves not only on nuances of the theory but on basic points, such as whether a war can be justified by anything other than the need to defend oneself against an armed attack that has already begun. Despite been loosely connected under the JWT umbrella because of their agreement about the moral permissibility of war, JWT theorists have not agreed on everything.

Walzer (2008), argues fiercely for maintaining a vigilant commitment to Just War Theory but is acutely mindful of the need to provide security for individuals and, particularly, communities. For example, he argues for modifying civil liberties if they are incompatible with the effectiveness of necessary police work in the war against terrorism. But Jeff McMahan argues that the central tenets of Walzer's position on the norms of warfare are inconsistent with the norms of defensive force. In particular, McMahan seeks

to undercut Walzer's claim that the norms of warfare stand independent of the norms regarding the resort to war and are therefore the same for all combatants, regardless of the justice of their cause for war (McMahan, 2006).

According to Johnson (1986), we can think of just war thinking as the understanding of war to be sometimes legitimate, requiring of some rules governing restraints on what we are allowed to fight for and how we go about doing the fighting, both in a legal and moral sense. The renaissance, if it can be called that, of just war writing in the twentieth century was spurred on by events that transpired in every day political life that more or less demanded its application. The British bombing campaign of German cities during the Second World War sparked vigorous debate about legitimacy and proportionality, with opponents of the policy arguing largely in a language developed by the just war tradition (Rengger, 2002). The differing characteristics of the just war tradition through the centuries may seem on the surface to be overwhelmingly irrevocable. In an attempt to bridge the gap, James Turner Johnson points out quite correctly, the researcher thinks that the tradition has, over the centuries, revolved around a set of seven re-hashed principles: just cause, right authority, right intention, proportionality of ends, last resort, reasonable hope of success and the aim of peace (Johnson, 2001). For rules governing conduct in war (*jus in bello*), two central points of coalescence have remained more or less constant throughout the tradition: proportionality and civilian immunity. There are major differences still to deal with, including but not limited to the justification for war in the traditional, antiquated sense (e.g. punishment of evil, retaking of persons or property, etc.) to the same within our more modern context (e.g. self-defence, in some cases

retaliation, etc.). The modern context claims in various ways and forms to control conflict by limiting the circumstances under which war can be waged (*jus ad bellum*), and by controlling the ways it can be fought (*jus in bello*).

For Rengger (2002), it seems rather obvious on its face, that a tradition predicated on practical and moral reflection should be applied to circumstances such as these, as well as others like the debates on nuclear deterrence in the 1980s. But it's necessary to understand that Just War thinking in the late 20th century had developed into something totally different than how it was previously considered in its antiquated and medieval sense(s). Its dominant conception is now secular, and in the case of Walzer also somewhat amenable to the liberal tradition. This, in turn, marks the move away from thinking about just war in moral or ethical terms and instead sees the tradition interpreted by Western liberal states in principally legal terms: from moral reflection to the legitimation of international jurisprudence. Ironically, given the natural ambivalence of the liberal tradition to Just War thinking, it was the rise in the codification of human rights and international organizations that, by challenging the notion of state sovereignty like never before seen in the 18th and 19th centuries, gave room to the revitalization of the just war tradition.

According to Johnson (2001), the purpose of the just war tradition was originally always a particularistic or casuistically one to be deployed sparingly and in specific, confined contexts that seemed appropriate and reasonable. But in the 21st century, proceeding in this way has become incredibly hard, some argue impossible. In the modern world, where notions that extol global, universally applicable moral rules are most dominant, this sort practical and

moral reasoning has become more and more maligned and has perhaps pitted the field within an intellectual and practical framework unsuitable for its purposes. The problem of speaking in political or moral terms is that they can be used in ways that the people who first came up with them did not at all intend or anticipate.

Rengger (2002), reports that Walzer's original case study of the targeted killing of terrorist militants in Yemen illustrates this problem in the 21st century quite well: armed with new, highly technological weaponry, and the ability to carry on conflicts that began from a place of *jus ad bellum* (i.e. the invasion of Afghanistan), we have to wonder whether the tradition has reached the end of its tether. The case also works distressingly well within Ken Booth's first argument against the tradition: governments convince themselves and their people that they are fighting a just war, and therefore that can (and does, obviously) justify the escalation of conflict far beyond what could perhaps once be considered just (Booth, 2000).

With the obvious problems presented by the just war thinking in the 21st century, the researcher contends that Fr. Richard McSorley is essentially right when he wrote in his book *Kill? For Peace?* "The just war theory never worked in practice, there is no record of any nation ever using it. No nation today accepts it as national policy, it has become a theory used to justify every war that comes along, this theory is unrealistic and is today outmoded" (McSorley, 1970). Simply, the researcher agrees with others that in our contemporary, technologically advanced world, where asymmetric warfare looks to be the preeminent way wars are waged, just war thinking simply does not hold any longer.

Organisation of the Study

This dissertation is divided into four chapters. Chapter one serves as the general introduction of the work. This chapter aims to introduce the reader to the main idea and focus of the dissertation. The background to the study, statement of the problem, purpose of the study, the significance of the study and the literature review are the main areas of major highlights of this chapter.

Chapter two focuses on the concept of Justice and Morality of war. This is to help the reader to appreciate the historical development of Justice and morality and some ethical theories underpinning the choice of what is just and moral. The researcher then briefly traces the historical development of the just war theory. The purpose of this historical analysis is to help the reader identify those moral principles and arguments that inspired the development of various aspects of the Just War Theory so that these same principles and arguments can be used as a basis for evaluating some scenarios of war with the theory in light of modern tactics and technology.

The Concept of War is the main focus of chapter three of the work. The researcher outlines the definition of war, forms, and types of warfare and War crimes. The researcher has also provided an analysis of the application of the Just War Theory in some scenarios of war within the 21st century. This will help the reader in understanding the relevant source material backing this dissertation in relation to War.

Chapter four is the concluding chapter of the work. The researcher made a general evaluation of the dissertation from various arguments and made a position. The conclusion and the recommendation of the dissertation are provided to help the reader gain the knowledge created by this dissertation.

CHAPTER TWO

THE CONCEPT OF JUSTICE AND MORALITY OF WAR

The subject matter of this study is; moral justification for war, an appraisal of the just war theory. In the previous chapter, the researcher gave the general introduction including some relevant literature which focused on the various views of some scholars regarding the morality of war. In this chapter, the concept of justice and morality is introduced giving some ethical theories within which the concept of morality is evaluated (i.e. deontology and teleology). The researcher further introduces the dominant framework through which war is morally evaluated today, the Just War Theory. The researcher explore some of the major theorists in the history of the JWT, showing that the ancestors of today's Just War Theory did consider in particular the moral virtues to be of central importance to the morality of war.

The General Concept of Justice

The Meaning of Justice

Etymologically, the term justice is derived from the Latin word *jus* which means "right" or "law." From Its etymology, justice is sometimes viewed as fairness or tightness in the application of rules and laws in society. But the concept of justice is used in many different contexts to make a variety of moral and political points. Such a breadth of use has led some commentators and authors to think that the idea of justice has no substantive context, but is used rather as a general term of approval which can be applied to whatever phenomena one chooses (Miller, 1976). Although the concept of justice is considered fundamental to any ethical system in society, the

definitions of justice and what is just is widely disputed among ethicists, philosophers, and political thinkers. This is suggestive that the concept of justice can be viewed from both the subjective and objective perspectives.

From the subjective point of view, justice is based on the will to recognize the other as a person while from the objective point of view justice constitutes the decisive criteria of morality in the inter-subjective and social sphere (Compendium of the Social Doctrines of the church, 2004). Though difficult to define, various concepts of justice place its independence of a legal system. Besides, justice is considered as the foundation of any fair and peaceful society. It is the cardinal virtue that inclines us to give everyone his or her due (Jones, 1961). Being a virtue¹, it regulates man's will so that he wills for himself what belongs to himself and wills for others what belongs to them (Fagothey, 1981). Nevertheless, to have a sound understanding of the concept of justice it is imperative to explore the philosophical thoughts of some philosophers on the concept of justice right from the ancient times through the medieval, modern and contemporary epochs.

Greek philosopher in ancient times to talk about justice was Pythagoras. He considered justice to be a square number or a number multiplied by itself. Pythagoras conceived a square number to constitute a perfect harmony since it is composed of equal parts and the number of parts is equal to the numerical value of each part (Barker, 2002). Where justice is conceived as a number, it implies that, justice is based on the assumption that

¹ A virtue is a habitual and firm disposition to do the good. It allows a person not only to perform good acts but to give the best of himself. Human virtues are therefore firm attitudes, stable disposition, habitual perfection of intellect and will that govern our actions, order our passions and guide our conduct according to reason and faith. According to St. Thomas Aquinas a virtue is a positive operational habit while a vice is a negative operational habit.

any civil society will be composed of equal parts in terms of its citizenry and consequently a society will be just, so long as it is characterized by equality of its parts provided the equality of parts are preserved and maintained. Justice in this sense is the preservation of the equality of parts which represents the individual citizens, who make up the state. By this, “Any individual member who transgresses against another shall have all the profits of his transgression restored to his victim in its entirety in order to maintain an equilibrium of social equality” (Stumpf, 1983, p 70).

According to Socrates (as cited in Stumpf, 1983), Justice implies superior character and intelligence while injustice means deficiency in both respects. Therefore, just men are superior in character and intelligence and are more effective in action. As injustice implies ignorance, stupidity, and badness, it cannot be superior in character and cannot be intelligence. A just man is wiser because he acknowledges the principle of limit

For Plato justice has a spiritual content and a deeper truth. For this reason, Plato elevates justice to the level of a general virtue encompassing the virtues of the three classes of the state namely: The temperance of the artisans, the fortitude of the soldiers and the wisdom of the governors (Plato as cited in Composta, 1988). Justice in the perspective of Plato must be understood as an adjustment which confers reason, spirit, and appetite to the body politic of the state (Nyasani, 2010). Consequently, he saw justice as, a virtue establishing rational order with the proper functioning of other parts that is to say that justice must be seen as a personal virtue before it becomes a social obligation.

Aristotle following the footsteps of his master Plato went further to link justice with friendship. Justice according to him needs friendship in a

state of freely associated members in order to thrive. Thus, the Latin expression: *Ubi Justitia, Ibi Amicitia* (where there is justice there there is friendship) makes sense. Although Aristotle considered justice as a virtue just as his master Plato, he contends that justice consists in what is lawful and fair-fairness involving equitable distribution and the correction of what is equitable (Nyasani, 2010).

In the medieval period, St. Augustine following the footprints of Plato conceived of justice as the right ordering of all things according to reason. Thus, the cardinal virtue of justice requires that we try to give all people their due. Nevertheless, he stressed that Justice cannot be achieved by man except through God's intervention (St. Augustine as cited in Stumpf, 1975). In his multiple-volume masterpiece *Summa Theologica*, Saint Thomas Aquinas discusses the four cardinal virtues. Saint Thomas Aquinas offers us an Aristotelian definition of justice by contending that "Justice is a habit whereby a man renders each one his due by a constant and perpetual will" (*Summa Theologica* II.q.58a.1). Again, Saint Thomas Aquinas considers that "Justice is that rational mean between opposites sorts of injustice involving proportional distributions and reciprocal transaction hence, justice for Thomas comprehends together every virtue and is itself the maximum perfect virtue"(*Summa Theologica* II.q.58a.1). Accordingly, Justice is seen by Aquinas to be a virtue whereby a person is characteristically disposed to render to other persons and the community what is their due. In this respect, two forms of justice can be distinguished. First justice leaves to every man what is his own by right and attributes to what he really is. This form of justice has been termed attributive justice. Attributive justice includes the right to

one's person, to the property which one has acquired, to one's honor and merited reputation (Tillich, 2011). Second, justice renders to everyone what is his or her due by right, that is what he or she does not yet own but what he or she is entitled to receive as a remuneration, compensation or benefit or what he or she is also obliged to accept as a burden in the services of the community. This second form of justice is termed as proportional justice. Thomas Aquinas and for that matter, the scholastics, classifies proportional justice into four kinds namely, commutative justice, distributive justice, legal justice, and social justice.

Commutative justice is the aspect of justice which demands respect for the rights of others and the exchange of things of equal value. Commutative justice commands that the exchange of goods and services takes place according to strict equality of values, thus rights and claims of commutative justice are mainly based on contracts. Since rights and claims are based on contracts commutative justice is also called contract justice or a justice of exchange (Anyam, 2011).

Distributive Justice regulates the relations of a community with its members. It demands that benefits and burdens be distributed in the community according to proportionate equality. Distributive justice guides those in authority be it in the state, in the church, in smaller communities or even at home. "Insofar as individuals and groups are not equal in terms of resources, qualification and dedication to the common welfare, aids, grants, burdens, and honor must be distributed in proportion to needs, capabilities, and merits"(Anyam, 2011, pp 75-76). Distributive justice in all aspects, therefore, requires the fair or equitable distribution of the goods, privileges,

work, and obligations of a society to all the members of the society.

Legal justice is the converse of distributive justice and is a relation of the members to the community. It requires each man to contribute his proper share toward the community good and demands the observance of all laws aimed at the general good (Fagothey, 1981). Legal justice obliges the citizens within the state to comply with the just demands of the law. For example, paying of taxes, observation of legislation and doing military service or national service are the obligations of the law. Also, legal justice obliges those in authority to contribute to the common good by appropriate law. Within the framework of legal justice, the common good takes precedence over private interest and for that matter, the violation of any law directed towards the common good is the violation of legal justice. Legal justice in all aspects demands that the common good should not be sacrificed in any instance for the private interest of the individual (Omoregbe, 1989).

Social justice refers to the economic welfare of social groups. As such it demands a proportionate share of the social partners in the fruits of their economic co-operation (Anyam, 2011). More so, social justice concerns the social, political and economic aspects and above all the structured dimension of problems and their respective solutions (Compendium of Catholic Social Teachings, no. 201). "Society ensures social justice when it provides the conditions that allow associations and individuals to obtain what is their due according to their nature and their vocation" (Catechism of the Catholic Church (CCC) no.,1928). Furthermore, social justice demands a proportionate and equitable distribution of the wealth of a nation among the different classes in society. Thus, the concentration of a nation's wealth and land ownership in

the hands of a few extremely rich families while the majority of citizens live in poverty and misery offends against social justice (Pesche, 2011).

Coming to the modern era, Thomas Hobbes contends that Justice is an artificial virtue necessary for civil society, a function of the voluntary agreements of the social contract while for David Hume, Justice essentially serves public utility by protecting property (Stumpf, 1975). According to Immanuel Kant (as cited in Stumpf, 1975), Justice is a virtue whereby we respect others freedom, autonomy, and dignity by not interfering with their voluntary actions so long as those do not violate other's rights. This viewpoint has the Kantian categorical imperative as its foundation: *Act as if the maxim of thy action were to become a universal law of nature*

On his part, John Stuart Mill avers Justice is a collective name for the most important social utility which is conducive to fostering and protecting human liberty. John Rawls also in his famous book *The Theory of Justice* profoundly treated justice. He pounded on justice in terms of maximum equal liberty regarding basic rights and duties for all members of the society with socio-economic inequalities requiring moral justification in terms of opportunity and beneficial results for all (Rawls, 2013). For Miller (1976), justice is *suum cuique* (to give everyone his or her due). This definition implies that where two men are equal in their relevant respect (so that their dues are the same) they should be treated in the same way. Also, Gonsalves (2000) proposes that justice could be defined as that which “Inclines us to give to each his own, supposing at least two persons between whom there can be some sort of equality so that each person receives what really belongs to him by right”(p 20).

In addition, Anyam (2011), reports that the term justice can be defined within the domains of three theories namely: the positive theory, the social good theory, and the natural right theory. The positive theory defines justice as conformity to the law and thereby reduces justices to mere legality. The social theory defines justice as doing what is useful for the larger society. Thus, in this sense justice is wider than legality and obliges a man to do what promotes the social good prior to the demands of any positive law and even against it if the law should contradict the demands of the social good. The natural right theory holds that man has rights not primarily because he has received them from society but because of his nature as a human being confers rights upon him. Hence, natural rights are the ultimate basis of justice. More so, the term justice has many entrenched definitions in the doctrinal patrimony of most world religions. For instance, justice is a constant theme in the social teachings of the Church and according to the Catechism of the Church, “Justice is the moral virtue which consists in the constant and firm will to give their due to God and neighbor” (Catechism of the Catholic Church (CCC) no., 1807). Justice towards God is called the virtue of religion; whilst justice towards the neighbor, men, and women disposes one to respect the rights of each and to establish in human relationships the harmony that promotes equity with regard to persons and to the common good.

Considering the different conceptions of justice from the ancient times, one can infer that authors are not of one accord as to what justice as a concept entails. However, it is imperative to note that justice has been explicated by different authors and philosophers in term of fairness, in terms of what is deserved and in terms of entitlement (that to which one is entitled). These

conceptions, though different, all have something to do with what is due or owed throughout the historical evolution of the concept Justice.

The theme of justice comes forth in almost every social encyclical and document. In 1971, there was a synod of Bishops on justice resulting in the document *De iustitai in Mundo* (on justice in the world). It is heard daily on the lips of the Popes. It is the constant theme of the message on world peace day. There is also a whole council in Rome, *The Pontifical Council for Justice and Peace* instituted for it.

For the purpose of this work, justice shall be defined as a social norm that is a directive for guiding men in their actions toward one another and nations towards each other. This implies that Justice is a question of right relationships between people, between people and creation, between people and God, between nations and nations. The quest for justice is then an effort to build constructive and liberating relationships between all.

The Concept of Morality

The Meaning of Morality

Etymologically, morality comes for the Latin word *moralis* meaning customs or manners. Thus, morality is defined as the quality or value human acts have by which we call them right or wrong, good or evil (Gonsalves, 2000). Morality is also conceived as comprising a set of rules that determine how one ought to live. These rules tell us what is right or wrong. In analysing the way people live, we find lots of differences in what everyone sanctions and approves. Some people are of the view that it is for example, always wrong to kill, steal, lie, cheat; to others, it is acceptable to lie in some circumstances.

According to Wallace (2012), Morality is the quality attributable to human action by reason of its conformity or lack of conformity to the standard or rule according to which it should be regulated. This supposes on the one hand that human actions are voluntary and responsible and on the other hand there is a standard or rule by which human conduct can be measured. The terms moral and immoral mark the extremes of good and bad within morality. When moral and immoral are used in opposition to one another to describe human acts, each indicates that the act has a definite moral quality or value. An act is moral when it has the quality or value of being good; an act is immoral when it has the quality or value of being evil (Gonsalves, 2000).

Human morality has been categorized into religious morality, individual morality, and social morality. Religious morality refers to a human being in relationship to a supernatural being. Individual morality as an aspect of human morality refers to an individual code or morality which may or may not be sanctioned by any society or religion. It allows for a higher morality which can be found within the individual rather than beyond this world in some supernatural realm. Social morality concerns a human being in relationship with other human beings and is probably the most important category of morality in that it cuts across all of the others (Thiroux, 1977). There are also two important kinds of morality besides the categories of human morality mentioned earlier. The two important kinds of morality are conventional morality and natural morality. An act that is neither good nor bad of its own nature but becomes good or bad only because it is commanded or forbidden by some law or custom is said to have a conventional or extrinsic morality. On the other hand, an act that is good or bad of its own nature

independently of any command or prohibition is said to have a natural or intrinsic morality (Gonsalves, 2000). Conventional and natural morality are both varieties of objective morality since they do not ask about the state of the doer's conscience but about what makes that kind of act, whoever does it right or wrong. Natural morality has been prevalent in all cultures and the existence of conventional morality is evident for no one can deny the existence of laws such as the laws of the state or the unwritten law of custom which issues abundant commands and prohibitions rendering good or bad many actions that would otherwise be morally different.

The Morality of Human Action

A human act is said to be moral if it falls within the purview of behaviours that can be analysed by the use of the principles of right and wrong. Hence, a moral act is the one that complies with set standards or principles of good or right behaviour (Anyam, 2011). We cannot judge a man's action as wrong if he carries it out of duress, torture, the threat of death or insanity. Thus, the morality of a human act is specified by three determinants of the action namely: the object, the end and the circumstances (Wallace, 2012). The object is that which is actually done or projected as a possible human accomplishment. It is about which choice is concerned. The end is the purpose or motive for which the agent acts. An act though good might be vitiated by being performed for an evil purpose. In other words, an act that is evil by its object such as murder cannot be made good because the murderer has a good intention hence, the end does not justify the means. The circumstances are individuating conditions that though in themselves, they are not part of the nature of the action, nevertheless modify in some real way its

moral quality. Some circumstances affect the very doing of the action, that is when, where and how; others relate to the causes that bring about the action that is who, by what means, with whose help; and yet another how much, concerns the effect with regard to its quantitative aspect. In fact, the consequences of action normally do not affect its morality except insofar as they are known and willed and so become part of the nature of the act itself (Wallace, 2012).

Another relevant aspect of action from the moral point of view is the intention. The intention of an act is the anticipated result of action as willed and foreseen by the agent. There is however a difference between direct and indirect intention. The direct intention is the by-product of the action undesired in itself but permitted to happen as inseparable from the desired goal. There is yet another distinction between immediate intention and remote intention. The immediate intention is the first objective which the agent wishes to achieve by means of the action. The remote intention, on the other hand, is any subsequent objective which the agency hopes to achieve after the first objective (Omoregbe, 1989).

Moral Judgement

The concept of moral judgment can be viewed from two schools; the deontological school and the teleological school. The moralist from the deontological school considers certain actions as intrinsically wrong regardless of the intention with which they are carried out, the circumstances in which they are carried out, the circumstances in which they are performed or the consequences of such actions. They are wrong by nature and neither circumstances nor consequences can make them good (Omoregbe, 1989).

However, the teleological school maintains that one cannot pass moral judgment on any action without taking into account the circumstances and consequences of the action. Hence, for the teleologists, moral judgment is a posteriori while moral judgment for the deontologists is a priori (Omoregbe, 1989). Nevertheless, there is yet another theory that explains moral judgment. This theory claims that when we make a moral judgment about an action all we are doing is simply expressing our personal attitudes or feelings towards the action in question. Consequently, moral judgments can neither be said to be true nor false since by their very nature they make no assertions about actions themselves. This theory is known as subjectivism. It is imperative to note that subjectivism is not always accepted for it completely removes objectivity from morality and reduces it to mere subjectivism.

Contrary to this view, I contend that moral judgment is a factual statement which makes an assertion, which could be true or false about certain actions. To say that an action is morally evil is to assert that the action in question has violated an objective moral order and destroyed a value. It is true that there is a certain amount of subjectivity in morality since there are subjective elements in the morality of any action. Hence, moral judgment about any action must take subjective elements such as the intention, motive, voluntariness or involuntariness of the action and the psychological state or mental state of the person. But surely morality is not entirely subjective for there are also objective elements such as objective values, objective moral order, moral principles, circumstances and consequences which together with the subjective elements make up the morality of an action.

Historical Antecedent of the Just War Theory (JWT)

St. Augustine of Hippo's Theorisation (354-430)

Although Augustine was not the first to speak about the morality of war, the researcher begins the history of JWT with him because he is by far the most influential of the early just war theorists, and because many of the ideas of these earlier theorists are captured in Augustine's writings. When Augustine began to write about war, most Christians practiced pacifism: in Gethsemane, when Peter defended Jesus from arrest, Jesus rebuked him: "for all who take the sword will perish by the sword" (Matthew 26:52, The Holy Bible, (New Revised Standard Version Catholic Edition). Holmes (2014), speaking for early-Christian pacifism, notes that "it is difficult to read the New Testament with its emphasis upon loving one's enemies and turning the other cheek without suspecting that Jesus was opposed to war"(*War and Morality*, p 116). Augustine, however, recognized that if Christianity were to be seen as compatible with the political necessities of governance (and therefore be adopted by political leaders and states), it would need to accept war as a moral and practical reality. He thus set out to show how the imperative to love one's neighbour could be consistent with occasionally warring with that neighbour. Augustine is usually identified as the first person to offer a theory on war and justice. When it came to individual self-defence, Augustine contended that one's own life or property was never a justification for killing one's neighbour. Christian charity was the motivating force behind this statement. But when one speaks of rulers of nations they have the obligation to maintain peace. This obligation gives them the right to wage war. He says, "[t]he natural order conducive to peace among mortals demands that the power to declare and

counsel war should be in the hands of those who hold the supreme authority” (as cited in Langan, 1984, p 19). Those subject to the rulers must obey unless they command something against a Divine Law. For Augustine, the only reason for waging a war would be to defend the nation's peace against serious injury. For him, a just war won't be described as one that avenges wrongs, when a nation or state has to be punished, for refusing to make amends for the wrongs inflicted by its subjects or to restore what it has seized unjustly. The intention of the war is very important for Augustine. He says, "The passion for inflicting harm, the cruel thirst for vengeance, an unspecific and relentless spirit, the fever of revolt, and the lust for power, are all rightly condemned in war” (as cited in Langan, 1984, p 21). Augustine emphasizes the idea of the restoration of peace as the main motive of war. He says, "We do not seek peace in order to be at war, but we go to war that we may have peace. Be peaceful, therefore, in warring, so that you may vanquish those whom you war against, and bring them to the prosperity of peace” (as cited in Langan, 1984; p 21). So in Augustine's thinking, war should not be fought with hatred but with a desire to defeat evil and injustice.

In short St. Augustine's just war theory involves eight principal elements namely: a punitive conception of war, an assessment of the evil of war in terms of the moral evil of attitudes and desires, a search for authorization for the use of violence, a dualistic epistemology which gives priority to spiritual goods, an interpretation of evangelical norms in terms of inner attitudes, a passive attitude to authority and social change, the use of biblical texts to legitimate participation in war and an analogical conception of peace (Langan, 1984).

St. Thomas Aquinas' Theorisation (1225-1274)

St. Thomas Aquinas, in the thirteenth century revived St. Augustine's just war thinking. Aquinas' discussion of war are put forward in four articles, taking into consideration whether it is always sinful to wage war, whether it is ever lawful for ecclesiastics to fight, whether it is lawful to lay ambushes in war (that is, to deceive the enemy), and whether it is lawful to fight on holy days. When Aquinas discussed war, he situated the discussion within a broader discussion of the virtues, arguing it to be a vice against charity. However, he held that where war aims to restore a peace that is already broken, it may be just; on the other hand, where war acts against peace, it is unjust. Aquinas suggested that some wars are actually peaceful because they were manifestations of the virtue of charity, the virtue of love between persons which is based in love of God (Aquinas, 1948). However, charity is not just one of many virtues, but is what Thomas calls a "special virtue" (Aquinas, ST, II-II, Q. 23) – it is a virtue that relates directly to a particular species of love (Divine love), and therefore no true virtue is possible without charity (Aquinas, ST, II-II, Q. 23, Art. 8). This led Aquinas to call charity "the form of the virtues" (Aquinas, ST, II-II, Q. 29) because it directs men and women to their ultimate end, God. Peace is one of the special attitudes of charity; Aquinas called it one of the effects of charity, and it entails two separate things: first, Concord, the wills of various hearts agreeing together in consenting to the same thing; and second, what might be called inner peace, a harmony among one's own feelings, desires, and moral judgments.

Also, Aquinas emphasized Augustine's statements about war and added a little to them. He followed similar reasoning breaking up his argument

into three necessary conditions for a just war: authorized authority, just cause, and rightful intention.

In speaking about the first condition that is, about who authorizes war, Aquinas emphasizes that the sovereign has the responsibility for the common good of those committed to his care. Only he can declare war. Moreover, the sovereign has the lawful right of recourse to "the sword" to defend his people against internal strife by punishing those who do evil. Therefore it is his duty to defend the common good against external enemies by having recourse to arms. Aquinas further asserts that it is not the business of a private individual to declare war, because he can seek redress of his rights from the tribunal of his superior. In other words, no private individual can declare war, or gather people together in the way the legitimate sovereign must in wartime. In reply to the first objection he raises in the article of war, he says that war is forbidden because of the Lord's admonition that all that takes the sword shall perish with the sword (Aquinas, ST, II-II, Q. 29). Aquinas contends that while employing the sword for the private ordering of justice is forbidden; using it under the command of the proper authority ought not to bring condemnation or punishment. He concludes the Scriptural analysis by asserting that Christ's statement must be understood metaphorically, such that we see that those who make use of the sword are not necessarily slain with the sword, but they always perish with their own sword, because, unless they repent, they are punished eternally for their sinful use of the sword (Aquinas, 1948).

The second principle Aquinas addresses in the discussion of war are that a just cause must exist for any war to be legitimate. Therefore those who are attacked should be attacked because they deserve it on account of some

fault. The fault possessed by the enemy may be varied, and Aquinas suggests two faults, taken from Augustine's writings which are: “refusing to make amends for the wrongs inflicted by its subjects or to restore what has been seized unjustly” (Aquinas, ST, II-II, Q. 29). The concern for just cause is connected to the concern for the common good, and is central to Aquinas' response to the second objection he raises, that war is contrary to the divine precept- “But I say to you not to resist evil” (Matthew 5:39, The Holy Bible, (New Revised Standard Version Catholic Edition). With this scriptural admonition, Aquinas suggests that one should always be borne in readiness of mind, as indicated by St. Augustine, such that we are always prepared to obey them. Nonetheless, Aquinas insists that, “it is necessary sometimes for a man to act otherwise for the common good, or for the good of those with whom he is fighting” (Aquinas, ST, II-II, Q. 29). Thus, while self-defence as a response to an attack is a position that one might refrain from undertaking, one has to think otherwise when there is a connection between defence of self and either the common good or the particular good of the enemy, who might very well be in need of correction. To this end he again calls upon Augustine, who suggests that it is often necessary to treat people in a manner contrary to their will, for when we are stripping a man of the lawlessness of sin, it is good for him to be vanquished, since nothing is more hopeless than the happiness of sinners, whence arises a guilty impunity and an evil will like an internal enemy.

The third principle of the just war according to Aquinas is that “the belligerents should have a rightful intention, so that they intend the advancement of good or the avoidance of evil” (Aquinas, ST, II-II, Q. 29). It is possible, he notes, to have a situation in which war has a just cause, and is

declared by the legitimate authority, and yet is rendered unlawful through a wicked intention. Here, Aquinas again draws upon Augustine as a source for considerations of intention. Augustine is quoted as saying; “wars are waged not for motives of aggrandizement, or cruelty, but with the object of securing peace, of punishing evil-doers, and of uplifting the good” (Aquinas, ST, II-II, Q. 29) The right intention, then, requires the avoidance of the passions that might very well provide obstacles to a judicious assessment of the justice of the war and its prosecution. Thus, Augustine cautions, that the passion for inflicting harm, the cruel thirst for vengeance, an unpacific and relentless spirit, the fever of revolt, and the lust for power, are all rightly condemned in war. One can see here the difficulty in fulfilling the demands of just war, as it is routinely the passions noted here that are most difficult to keep under control, especially in the violent conditions brought on by wartime situations (Aquinas, 1948)

The objection against the justice of war states that nothing can be contrary to virtue, except sin, yet war is opposed to peace, and so war must be sinful. Aquinas' response to the charge is that it is rightful to assert that peace is a virtue, but that those who wage war justly aim at peace only, not at that evil peace which Christ Himself warned against (Matthew 10:34, The Holy Bible, (New Revised Standard Version Catholic Edition). Thus, following the footsteps of St. Augustine, Aquinas contends that "we do not seek peace in order to be at war, but we go to war that we may have peace.” (Aquinas, ST, II-II, Q. 29)

In sum, Aquinas' just war theory represents a much more systematic approach to the topic than Augustine's. He suggested a proper function for war

in the pursuit of both individual and community wellbeing, and a close relationship between the rules of war and the virtues as dispositions that help individuals to adhere to those rules.

The Just War Theory (JWT)

The Just War Theory (or *Bellum iustum*) was originally a doctrine of Roman military ethics and subsequently became Catholic doctrine studied by moral theologians, ethicists, and international policymakers, which holds that a violent conflict ought to meet philosophical, religious or political criteria. The Just War Theory deals with the justification of how and why wars are fought. The justification can be either theoretical or historical. The theoretical aspect is concerned with ethically justifying war and the forms that warfare may or may not take. The historical aspect, or the just war tradition, deals with the historical body of rules or agreements that have applied in various wars across the ages. The just war tradition may also consider the thoughts of various philosophers and lawyers through the ages and examine both their philosophical visions of a war's ethical limits (or absence of) and whether their thoughts have contributed to the body of conventions that have evolved to guide war and warfare.

There are three sets of principles of the just war tradition. They are: *jus ad bellum* (justice of war), which sets out the conditions under which an entity may resort to war; *jus in bello* (justice in war), which prescribes how soldiers may fight in war and a more recent addition the *jus post bellum*, (justice after war) which delineates the rights and duties which belligerents have vis-a-vis one another once the war is over. Also, the *Jus ad bellum*, or the justice of war, seeks to specify principles which define the right of one sovereign power

to engage in violent action against another. In contrast, *jus in bello*, (justice in war) specifies the limits of morally acceptable conduct in the actual action of a war, in support of the claim that it is not permitted to employ unjust means in order to win even a just war (Mattox, 2006).

Jus Ad Bellum

The *jus ad bellum* convention sets out the conditions under which an entity may resort to war and so there are six criteria, which have been suggested for a war to be just. The first three are deontological, while the last three are based on securing the best consequence. The first criterion is that war must have a just cause. The reason for resorting to war must be just. Traditionally just causes for any war included the following; the defense of the innocent against armed attack, the recovery of persons or property wrongly taken, or the punishment of evil (Mattox, 2006). Other examples of just causes include the defense of others from aggressive attack, the protection of innocent people from aggressive regimes, or corrective punishment for aggressive past action. All these involve the resistance of aggression and the violation of basic rights by the use of armed force. It can also be argued that only a legitimate state can begin a war with a just cause. To be legitimate here means a state must be recognized as legitimate by its citizens and by other states; it must not violate the rights of other legitimate states and it must respect the basic rights of its citizens.

The second criterion is that there must be a right intention for fighting the war. The internal motivation of the one going for war must itself be just. Evidence of right intention might include the pursuit of peaceful negotiations to avoid war, the avoidance of potentially unreasonable demands and many

others. A right intention would not involve the desire for territorial expansion, intimidation or coercion, and it would be devoid of hatred for the enemy, implacable animosity, or a desire for vengeance or domination. Any other intention, like material gain, undermines the justice of the war.

The third criterion is that the decision to go to war must be declared by a proper authority through a public declaration. This means that the decision to go to war can be weighed and declared only by that person, or body of persons generally recognized, by virtue of their position in the social framework, to possess the authority to make such a declaration.

The fourth criterion is proportionality. That is, the good a war will accomplish or the evil in total must outweigh the totality of suffering it will inevitably cause to all parties. It is morally wrong to make matters worse.

The fifth criterion is that a declaration of war can only be justified if the state can foresee a probability of success in resolving the conflict through war. This means that violence without likely gain cannot be justified. In other words, arms may not be used in a futile cause or in a case where disproportionate measures are required to achieve success. It is not right to wreak widespread havoc for a lost cause, even if the war is defensive.

The sixth and last criterion is that the declaration of war must be a last resort, following the exhaustion of all plausible alternatives means to resolve the conflict. That is to say that force may be used only after all peaceful and viable alternatives have been seriously tried and exhausted, especially good-faith diplomatic negotiations.

Jus in Bello

Jus in bello means justice in war or the rules of just conduct within

war. Traditionally, the *Jus in bello* has been concerned with the treatment of the enemy. The rules of just conduct within war fall under three broad principles; proportionality, discrimination, and responsibility. The principle of proportionality concerns how much force is morally appropriate and requires that violence and force be tempered to minimize destruction and casualties. The principle of proportionality also stipulates that the way wars are fought must be proportionate to the suffering and injury inflicted as a result of the war. That is to say that the goal of war should be in proportion to the offense. For example, it would not be proportionate to use biological weapons to solve a minor dispute. Another sort of proportionality to consider in war is whether the benefits of the war outweigh the harm it will do. This is necessary to ensure that states don't go to war if the harm done by the use of force is more than the good that would be achieved. In fact, the principle of proportionality is broadly utilitarian in that it seeks to minimize overall suffering (Moseley, 2011).

The principle of discrimination as an integral part of the rules of just conduct within war concerns who are the legitimate targets in war. The principle of discrimination mandates that distinction should be drawn between innocent civilians and those engaged in warfare; hence the lives of innocent civilians should not be taken. In waging war, it is considered as unfair and unjust to attack indiscriminately since non-combatants are deemed to stand outside the field of war. Besides, the principle of discrimination mandates the victor state in the war to differentiate between political and military leaders, and combatants and civilians.

The principle of responsibility which is the last aspect of the *jus in*

bello convention demands that an examination of where responsibility lies in war (among commanders bureaucrats and combatant troops) should be made. It also demands that agents of war should be held accountable for their actions. The principle of responsibility asserts that while it is readily accepted that the acts of soldiers killing other shoulders is part of the nature of war; when soldiers turn their weapons against non-combatants or pursue their enemy beyond what is reasonable, then they are no longer committing legitimate acts of war but acts of murder which are accountable (Mattox, 2006). In a more simplified way, the following six rules are a general summary of the *jus in bello* convention:

1. Weapons prohibited by international law must not be used.
2. There should be a distinction between combatants and non-combatants. Only combatants may be targeted. It is wrong to intend the deaths of non-combatants. Some philosophers argue that it is wrong even to intend the deaths of combatants, as only the minimum use of force is legitimate.
3. Armed forces must use proportional force that is proportional to achieving the end.
4. Prisoners of war must be treated well because once captured, they have ceased to be the threat to life and security.
5. No weapons or means of war that are "evil in themselves" are permitted. Examples include ethnic cleansing and mass rape.
6. Armed forces are not justified in breaking these rules in response to the enemy breaking these rules.

Jus Post Bellum

The aftermath of a war is integral to the *jus post bellum* convention and so it aims at restoring justice after a war. While some wars end with surrender, or with an armistice or with the victors occupying the territory of the vanquished or without a foreign occupation, some wars on the other hand end with a regime change or without. Again some wars are followed by continued resistance or unconventional war, some are followed by a complete cessation of violence and lastly, some wars end with the commitment of international organizations to build peace and some end without international interest (Mattox, 2006). Each of these conditions bears the question of how justice is to be done in the aftermath of war. The principles of justice or the rules of *jus post bellum* are therefore necessary and applicable to each situation so as to restore justice.

The rules of *jus post bellum* take into consideration the principles of *jus ad bellum* and *jus in bello*. Thus, the *jus post bellum* rules entail that: the principle of discrimination should be employed to avoid imposing punishment on innocents or non-combatants; the rights or traditions of the defeated deserve respect; the claims of victory should be proportional to the war's character; compensatory claims should be tempered by the principles of discrimination and proportionality and controversially, the need to rehabilitate or re-educate an aggressor should also be considered (Orend, 2005). There is little agreement on the rules of *jus post bellum*. However, applying a number of the values or principles expressed in *jus ad bellum* and *jus in bello* an outline of the rules of *jus post bellum* can be formed as follows:

- 1) The rights whose violation justified the war should be secured.

- 2) Just as the declaration of war must be publicly made by the proper authority, so must the declaration of peace.
- 3) Proportionality governs both *jus ad bellum* and *jus in bello*, and so it should govern the peace settlement as well. It should be reasonable, not a form of revenge which will likely fuel resentment and further aggression.
- 4) The discrimination between combatants (including political leaders) and noncombatants still apply when seeking punishment. Public and international trials for war crimes should be conducted.

Hugo Grotius on the Just War Theory (1583-1645)

About three centuries after Aquinas, Hugo Grotius offered perhaps the most comprehensive treatment of the ethics and law of war in the history of JWT. His project was in part aimed at developing a codified law of war that can be applied and enforced across nations. Indeed, he described his own project as being the development of a “jurisprudence” of war (Reichberg, Syse & Begby, 2006, p 386). Consequently, Grotius’ chief concerns, like Aquinas, were with deontological principles. However, Grotius held the view that virtuous conduct in war is beyond the purview of the law. Acting in conformance to the law is all agents need to do to avoid being punished, even if we would hope for more. The view of virtue as being supererogatory or superlative to the law is one that continues today and will be a subject of ongoing debate. As JWT has grown increasingly deontological in focus, moral virtues have come to be increasingly presented as being beyond the purview of JWT, which I disagree with.

Grotius' discussion of war began by noting that people generally approve of the use of force under certain circumstances. Societies do not reject all wars as immoral, "but only that use of force which is repugnant to society, that is, which infringes upon another's right" (Grotius, 1901 p 293). Following Augustine, he claimed that "[n]o other just cause for undertaking war can there be except injury received" (Grotius, 1901 p 293) He suggested that given all just wars are in response to an injury received, there are four types of just wars: "defence, recovery of property, and punishment [and] obtaining of what is owed to us"(p 294). Grotius' interested in developing a Law of War that could be used to govern nations, included punishment amongst the just causes for war. Not only do sovereign rulers have authority over their own citizens, but insofar as all nations are governed by the same laws, it falls to rules to enforce those laws. It is imperative to note that kings, and those who possess rights on a par with kings (supreme power), have the right of demanding punishments not only on account of injuries committed against themselves or their subjects but also on account of injuries which do not directly affect them but grossly violate the law of nature or nations (Grotius, 1901).

Here Grotius indicated his belief that there are certain responsibilities that political leaders inherit that extend beyond national self-interest or protection of their own citizens. Rather, political leaders are duty-bound to uphold, protect, and regulate the adherence of other states to the law of nations. The question of whether, and to what extent political leaders are required to intervene in response to the violation of international law by other states is a matter of on-going debate, but here – at the founding point of international law– Grotius stated his position. The law applies equally to all

political leaders but also relies equally on all political leaders to enforce it. Thus, it behoves political leaders to uphold and enforce international law, if necessary, with military force. Grotius argued that “we must distinguish between those who were responsible for war and those who followed the leadership of others” (Grotius, 1901 p 294). Insofar as political leaders have the responsibility to declare war, they are also culpable for the justice of the cause.

Beginning by considering the legally permissible (viz. that which is not liable to punishment), Grotius argued that that in war it is permitted to intentionally harm or kill one's enemies: often killing is called the right of war. This deviates from Aquinas' view that intentional killing in war cannot be justified, though some killing may be justified in acts of self-defence (Grotius, 1901)

Perhaps the most significant factor in justifying the intentional killing of others was, for Grotius, the moral good of the end being aimed at by the war. Those killings which are necessary to bring about victory in the war can be morally justified while those which are unnecessary cannot. The same goes for other forms of harm that might occur in war.

Following this section, the growing interest in law seems to have meant that only the legalistic aspects of Grotius' work have had continued influence today. Although the possession of moral virtues and good intentions is still desirable, the primary concern for just war theorists has been on deontological norms and violations of them.

Michael Walzer on the Just War Theory (1935-today)

Although in the 20th century several philosophers and theologians offered insights into JWT, the most substantial contribution was offered by Michael Walzer. His treatment of the morality of war was not only responsible for a revival in just war thinking but also provided a radically new way of discussing the topic. In fact, most of the major debates in JWT today are in response to the ideas found in Walzer's work. Walzer's vital contribution was to invite just war theorists to discuss their ideas in terms of human rights (Walzer, 2006). In moving the discussion toward human rights, Walzer aligned his work with the growing body of international law that was emerging at the time when his seminal work *Just and Unjust Wars* was published in 1977.

Like international legal scholars, Walzer sought to develop a theory that could apply across different communities and cultures. Aware that many norms are culturally sensitive and unlikely to change, Walzer recognized that an effective, universal morality of war would have to be formulated in terms to which almost all communities would assent (Orend, 2000). The distinction between culturally sensitive norms and universal ones is described in terms of "thin" and "thick" moralities. If Walzer contended, moral norms of war would be universally applicable, they would need to be based in "nothing more (nor less) than that core set of values we find reiterated in every substantive moral and political code." (Orend, 2000, p 32). That is to say that JWT ought to be a "thin" moral system.

The requirements of Walzer's thin morality are rudimentary and largely negative, and can generally be understood as being protective of basic

human rights like life and liberty (Orend, 2000). “Thin morality, in short, consists of those basic moral rules everyone believes in” (Walzer, 1994, p 10). These basic moral rules, Walzer contends, are best expressed in terms of human rights.

Walzer describes his theory of *jus ad bellum* in a section of *Just and Unjust Wars* entitled “The Theory of Aggression”, which provides a clear idea of the focal point of his theory. Walzer opens with the claim that “aggression is the name we give to the crime of war” (Walzer, 2006, p 51). War is a crime when it is imposed on people undeservingly and demands that they defend what should not need to be defended, their rights (Walzer, 2006). The crime itself is defined as “every violation of the territorial integrity or political sovereignty of an independent state;” (Walzer, 2006, p 52). That is any violation of the rights of another state. For Walzer, what makes aggression a crime is that “all aggressive acts have one thing in common: they justify forceful resistance” (Walzer, 2006, p 52). This leads to Orend's suggestion that “for Walzer, the only just cause for resorting to war is to resist aggression” (Orend, 2000, p 88). This includes aggression against my own nation or aggression committed against a third party nation. One instance in which Walzer demonstrates his understanding of morally permissible and impermissible acts in terms of rights and duties emerges in his discussion of an incident in 1943 where mercenaries fighting for the French in World War II were permitted to rape Italian women. He dismisses any argument that might justify the rape, instead of arguing that rape is always outside the deontological limitations determined by a universal morality. Walzer argues that if one fails to “fight well”, that is, fails to respect the laws of *jus in bello*,

then a war that was previously just (adhering to the rules of *jus ad bellum*) is rendered unjust (Walzer, 2006). Walzer's doctrine of *jus in bello* consists of three rules which have emerged from the standard, ongoing practice of war as articulated by laws, norms, and cultural practices – what Walzer calls “the war convention” (Walzer, 2006, p 44). These rules generally correlate to two principles described earlier: proportionality and discrimination, but Walzer adds another one – “armies are not to employ methods which are intrinsically heinous; they may not commit actions which 'shock the moral conscience of mankind” (Orend, 2000, p 111). This third addition makes sense given that Walzer views his work to be an interpretation of the existing moral beliefs of human societies. No society would approve of a deed heinous enough to shock the moral conscience of all of humanity. However, it is also true that many, if not all societies would prefer to have a heinous deed done than see their entire society destroyed.

In sum, it is imperative to note that when Augustine began to discuss the morality of war, he addressed two separate elements: the absolute moral law, and the virtues of the individuals who are forced to fight in the war. Adherence to the absolute moral law (divine law) ought to be motivated by the love of God and not be fear of his wrath. The love of moral goodness was preferred to mere obedience because the former demonstrates an understanding of the moral laws to which one commits. Thus, for Augustine, the perfection of morally good action lay in the virtues. Later, Aquinas developed a just war theory which assigned absolute moral law to a natural law ethics distinct from the divine law of Aquinas in the sense that believers and non-believers alike could be expected to know and understand it.

Furthermore, he suggested that war could be participated in with virtue and in a manner consistent with living a morally good life. Prudence and courage, in particular, are virtues inherent to the practices of commanding and soldiering respectively. But the contribution of Walzer marks the point at which consideration of the moral virtues has disappeared from JWT. Instead, JWT today is considered in the form of international law and Walzer's thin conception of justice – as its foundation. Michael Walzer thus developed a just war theory explicitly focussed on human rights.

My position at the beginning of this chapter was that for the greater part of the history of JWT, the theory was founded in the broader moral system of ethics and that there were good philosophical reasons for this. In fact, the move toward new conceptions of JWT is a testament to Walzer's influence that it has become so widespread. However, it is, the researcher believes, to the detriment of JWT. Concepts like rights and duties during war are no longer informed by deeper conceptions of virtue, wellbeing, and character. By surveying the history of JWT this chapter revealed that modern instantiations of JWT are generally focused specifically on discussions of law, rights and related notions which historically was not the case and in effect, called into question the relevance of the JWT today. In the next chapter, the researcher shall provide some scenarios of inter-state war within the 21st century and analyse it with the framework of the Just War Theory to show that actors in war do not follow the principles underpinning the JWT.

CHAPTER THREE

THE CONCEPT OF WAR

At the centre of this study is, is the moral justification for war; an appraisal of the just war theory. In the last chapter, the researcher provided the historical evolution of the JWT, giving the framework through which war can be justified. In this chapter, the concept of war, the meaning, and definition of war, forms, and types of warfare and War crimes are outlined. This will help the reader in understanding the relevant concepts and contemporary scenarios of war to better appreciate the position of this work. With an analysis of specific acts of aggression in the last 100 years providing reasonable source material, the researcher holds that Just War Theory today gives less guidance than it used to give as actors of war ignore the principles regulating a just war.

The Definition of War

Etymologically, the English word 'war' has its meaning from Frankish-German *werra*, which means confusion, discord, or strife, and the verb *werran* meaning to confuse or perplex. Whichever way, war certainly generates confusion. There is also a Latin root of war, which is *bellum*, it gives us the word belligerent, and *duel*, an archaic form of *bellum*. The Greek root of war is *polemos*, which gives us polemical, implying an aggressive controversy. The Frankish-Germanic definition hints at a vague enterprise, a confusion or strife, which could equally apply to many social problems besetting a group; arguably it is of a lower order sociological concept than the Greek, which draws the mind's attention to suggestions of violence and

conflict, or the Latin, which captures the possibility of two sides doing the fighting.

Some philosophers have also defined war from their own perspectives. According to Cicero, war is "a contention by force"; Hugo Grotius adds that "war is the state of contending parties, considered as such"; Thomas Hobbes notes that war is also an attitude: "By war is meant a state of affairs, which may exist even while its operations are not continued;" Denis Diderot comments that war is "a convulsive and violent disease of the body politic," for Karl von Clausewitz, "war is the continuation of politics by other means", and so on. Each definition has its strengths and weaknesses, but often is the culmination of the writer's broader philosophical positions.

Historically, war is considered to have been rare or absent in pre-historic times when mankind consisted largely of nomadic, foraging hunting and gathering societies and became more common when humans began to take up settled living, particularly at the agricultural revolution (Fry, 2007). Keeley (1997) also reported that before the dawn of history war likely insisted on small scale raiding. One of every ten people found in Nubian cemetery as early as 12, 000 years ago died by violent means; indicating that war was very common by then. Military activity and warfare has increased progressively since the rise of the state about 5,000 years ago and seems to have occurred in most places around the world. Also, the discovery of gunpowder and the acceleration of technological advancements in the latest two centuries have had an enormous impact on the conduct of warfare. In medieval Europe, for instance, the war was considered part of the set of seven mechanical arts Keeley (1997). The rapid increase in the proliferation of weapons and warfare

technology together with their destructive potentials caused widespread public concern especially after the end of World War II. Concerted efforts to bring greater understanding among the different nations of the world and the dynamics of war with the aim of reducing or eliminating wars yielded fruit in the formation of the League of Nations, and its successor the United Nations.

According to Anyam (2011), war is the act of applying the use of arms or violence in order to force an enemy to comply with one's will. Or a state of conflict between two or more nations carried on by force of arms (Walzer, 2006). Besides, war may also be seen as the employment of organized violence to kill, destroy property, and subjugate an enemy with the aim of having one's way politically, socially, or even religiously. In this light, Clausewitz has refined war as "An interaction in which two or more opposing forces have a struggle of will" (Von Clausewitz, 1976, p 77). By this he meant that in war, the belligerents try, by the use of force, to work on each other's wills such that the side with the strongest will or the strongest side has its way.

With such diverse conceptions of war, each with their own crucial assumption, it is not wise to choose among them. Nonetheless, no serious inquiry on war can proceed without making a judgment on some of the issues that the above definitions proffer. For the purpose of this work, Von Clausewitz's definition has been adopted as the operational definition of war. That is to say that war is usually meant to defend or acquire an interest.

Forms and Types of Warfare

War has been given a number of classifications from scholars using different criteria. Some were on the motives for warfare while others consider the terrain or theatre where the war is fought. Some also hinge on weaponry or tactics employed and others consider the relationship between the belligerents.

A cross-section of some of these classifications of warfare are; inter-state wars, conventional warfare, civil warfare, asymmetrical warfare or terrorism, chemical warfare and unconventional warfare. However, it is of great importance to note that inter-state, terrorism and civil wars are the most rampant warfare in this 21st century hence, an in depth look at Civil war, terrorism and inter-state war are considered in this work.

Civil War

This form of warfare occurs in the situation where the belligerents belong to the same nation or political entity vying for control or for independence from the nation or political entity. By definition, a civil war is a war that is fought internally within a nation between differing factions, religious groups or powers (Anyam, 2011). In some cases people consider any conflict to be a civil war when other nations recognize the claims of one or more parties in the conflict. Civil wars have marked human societies for centuries and have been very destructive to society. Although civil wars are very destructive in some cases such wars might restore the balance lower in a country, while in other instances they might result in a more oppressive government. More often than not people confuse civil wars with revolutions or insurrections. While a civil war involves distinct powers or factions, an

insurrection occurs when citizens start bonding together to oppose the government usually because they perceive it as unjust. In fact, a large scale insurrection may turn into a revolution, with a violent overthrow of a prevailing government in the interests of the people. In some instances, the aftermath of a revolution turns into a civil war because various factions may have emerged among the rebels to struggle for power. Civil wars can be efficient and well planned like coups and can last for decades often resulting in the death of thousands of people and the destruction of infrastructure. In this case, external groups or outside governments may step in to stabilize the region either because they are concerned about events in the country or they are dealing with an influx of refugees from the fighting.

Many nations of the world have experienced and suffered from the consequences of civil wars. In Africa for instance, civil wars became endemic after the collapse of colonialism (Fry, 2007). A typical example of a civil war in Africa was the conflict between the defunct Republic of Biafra and the Federation of Nigeria in the 1960s in which the Eastern part attempted to secede from the rest of the country due to political reasons.

Terrorism

The definition of terrorism is usually complex and controversial and because of the inherent ferocity and violence of terrorism, the term in its popular usage has developed an intense stigma. It was first coined in the 1790s to refer to the terror used during the French revolution by the revolutionaries against their opponents. Although terrorism in this usage implied an act of violence by a state against its domestic enemies, since the 20th century the term has been applied most frequently to violence aimed either directly or

indirectly at governments in an effort to influence policy or to topple an existing regime (Safra, & Aguilar-cauz, 2007).

According to Laqueur (1987), "Terrorism is the use or the threat of the use of a method of combat, or a strategy to achieve certain targets... it aims to induce a state of fear in the victim that is ruthless and does not conform to humanitarian rules."(p 143). For Schmid & Jongman (1998), terrorism is an anxiety-inspiring method of repeated violent action, employed by (semi-clandestine individual, group, or state actors, for idiosyncratic, criminal, or political reasons, whereby in contrast to assassination the direct targets of violence are not the main targets. The immediate human victims of violence are generally chosen randomly (targets of opportunity) or selectively (representative or symbolic targets) from a target population, and serve as message generators.

Also, the U.S. Department of State defined terrorism as a premeditated, politically motivated violence perpetrated against non-combatant targets by subnational groups or clandestine state agents. Again, the U.S Federal Bureau of Investigation (FBI) describes terrorism as, the unlawful use of force and violence against persons or property to intimidate or coerce a government, the civilian population or any segment thereof in furtherance of political or social objectives (Safra, & Aguilar-cauz, 2007).

In addition, the Arab Convention for the Suppression of Terrorism defined terrorism as any act or threat of violence, whatever its motives or purposes, that occurs in the advancement of an individual or collective criminal agenda and seeking to sow panic among people, causing fear by harming them, or placing their lives, liberty or security in danger, or seeking to

cause damage to the environment or to public or private installations or property or to occupying or seizing them, or seeking to jeopardize national resources (Arab Convention for the Suppression of Terrorism, 1998).

It is imperative to reiterate that, the definition of terrorism is usually complex and controversial and because of the inherent ferocity and violence of terrorism, the term in its usage has developed an intense stigma. There is no universally agreed definition of terrorism. At best, there is a most universally accepted definition of terrorism, which is, terrorism is the use of violence to create fear for political, religious, or ideological reasons. The terror is intentionally aimed at non-combatant targets (i.e., civilians or iconic symbols), and the objective is to achieve the greatest attainable publicity for a group, cause, or individual (Barnett, & Reynolds, 2009). Thus, in order to attract the attention of the world and to maintain the publicity necessary to generate widespread of fear, terrorists engage in increasingly dramatic violent and high profile attacks which include hijacking, kidnapping, car bombings and frequent suicide bombings. Terrorist acts are both *mala prohibita* acts and *mala in se acts*.² Again, it is worth noting that terrorism has experienced a transformation. According to Laqueur (1987), a prominent terrorism expert, there has been a radical transformation, if not a revolution, in the character of terrorism. The experts of terrorism contend that there has been a paradigm shift in terrorism that is, a shift from old terrorism to new terrorism (Carter, Zelikow & Deutch, 1998). Old terrorism and new terrorism are distinct in many ways hence they indicate the transformation that has taken place with regards to terrorism.

² *Mala prohibita* acts are crimes that are made illegal by legislation while *mala in se acts* are crimes that are immoral or wrong in themselves

Old terrorism is the terrorism that strikes only selected targets. New terrorism, on the other hand, is the terrorism that is indiscriminate; it causes as many casualties as possible. Another major feature of new terrorism is the increasing readiness to use extreme discriminate violence. Laqueur (1987), argues that the new terrorism is different in character, aiming not at clearly defined political demands but at the destruction of society and the elimination of large sections of the population. Supporters of the concept of new terrorism identify the strict compliance with religion and predominantly radical Islam, as some of its main characteristics. While old terrorism was mainly secular in its focus and drive, new terrorism works hand-in-glove with religious fanaticism. New terrorism rejects all other ways of life and advocates a categorical and inflexible worldview consistent with the belief of the religion (Laquer, 1987).

According to Martin (2010), the shift from old terrorism to new terrorism gave rise to four types of terrorism namely; classical terrorism, modern terrorism, and postmodern terrorism. Classical terrorism means that the terrorists' warfare is direct; it is aimed at specific targets with few casualties (e.g., assassinations) or wreaks havoc on "non-significant" facilities. The damage is fairly low because the terrorists' acts are perpetrated to achieve a specific political objective. In modern terrorism, a more indirect approach is used; attacks are more indiscriminate and destruction is much higher, inflicting hundreds of casualties. Although conventional weapons are used in modern terrorism, they are used to create mass fatalities. Postmodern terrorism has the objective of altering the reality of the conflict (with its enemy) by the very act of terrorism such as using CBRN (chemical, biological, radiological,

and nuclear weapons), or attacks against symbols of the enemy to materially demolish as much of their adversary as possible. The objective here is to eliminate the source of the conflict itself.

War Crimes

Attendant to the concept of war lays the concept of war crimes which presupposes that individuals can be held criminally responsible for the actions of a country or its soldiers. War crimes and crimes against humanity are among the gravest crimes in international law. They are considered so serious that there is no period of limitation for such crimes. Which means that those who commit them can be prosecuted and punished no matter how much time has elapsed since the crimes were committed (Anscombe, 1981). The concept of war crimes is a recent one. Prior to World War II, it was generally accepted that the horrors of war were part of the nature of war, and recorded examples of war crimes go back to Greek and Roman times. Before the twentieth-century armies frequently behaved brutally to enemy soldiers and non-combatants and whether there was any punishment for this, depended on who eventually won the war. There was neither structured approach to dealing with "war crimes" nor any general agreement that political and military leaders should take criminal responsibility for the acts of their states or their troops.

Consequently, World War II marked the beginning of a new attitude, when the murder of several million Jews by Nazi Germany, and the mistreatment of both civilians and prisoners of war by the Japanese, prompted the Allied powers to prosecute the people they believed to be the perpetrators of these crimes. These trials provide the main precedents for cases being heard by tribunals like the International Criminal Tribunal for the Former

Yugoslavia (ICTY) in The Hague (Anscombe, 1981). There are many acts that can be considered to be war crimes. Some crimes that are labelled as war crimes are crimes against peace and crime against humanity. In effect the planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances as well as crimes and offenses committed against any civilian population, before or during the war all considered as war crimes. It is of paramount importance to note that leaders, organizers, instigators and accomplices participating in the formulation or execution of a common plan or conspiracy to commit any of the crimes above are criminally responsible for things done by anyone in carrying out such a plan.

One cannot talk of war crimes without mentioning genocide. Genocide is considered one of the most severe crimes against humanity. It means the deliberate attempt to destroy a national, an ethnic group, a racial or religious group. Genocide is a crime under international law even if it is not a crime in the country where it takes place, and incitement to commit genocide is also a crime. The term was coined in 1943 by the Jewish-Polish lawyer Raphael Lemkin who combined the Greek word *genos* (race or tribe) with the Latin word *cide* (to kill) after witnessing the horrors of the Holocaust in which every member of his family except his brother and himself was killed. Raphael Lemkin, averred that genocide involved the disintegration of the political and social institutions, of culture, language, national feelings, religion, and the economic existence of national groups, and the destruction of the personal security, liberty, health, dignity, and even the lives of the individuals belonging to such groups. In a more subtle sense genocide means any of the

following acts such: Killing members of the group, causing serious bodily or mental harm to members of the group, deliberately inflicting on the group conditions of life calculated to out its physical destruction in whole or in part, imposing measures intended to births within the group and forcibly transferring children of the group to another group (Anscombe, 1981).

There have been a number of alleged genocides; some of these remain controversial as to whether or not the events in themselves amount to genocide. Typical examples of modern alleged genocides are: First, in Armenia between 1915 and 1923 the Armenians say about 1.5 million people were slaughtered by Ottoman Turks. On its part, Turkey rejects the term genocide with the view that the figure was closer to 300,000 Armenians who were killed among other numerous victims a partisan war raging in World War I as the Ottoman Empire collapsed; second, the Holocaust in Europe between the 1930s and 40s is another alleged genocide. The Holocaust involved the killing of numerous Jews, Roma (gypsies) and others by the Nazis. The last alleged genocide occurred in Rwanda in 1994 where 800,000 Tutsis and moderate Hutus were killed, and an unknown number forced to flee the country.

Some scenarios of Inter-State War

Russian Imperialism

In the late 19th and early 20th century, Western countries were fighting for territory, influence, and trade as Japan was emerging as a modern great power. Japan was intent on expanding its span of influence and had in the previous decade won wars in Taiwan, Korea, and China. In 1903, it had its

sights on Port Arthur in southern Manchuria. Japan declared it an absolute necessity to maintain control of the seas and the seizure of Port Arthur would give it a stronghold for mainland fighting in Russia and allow for expansion. (Pipes, 1974)

Russia was a great power and succeeded with its many Czars in claiming territory among the northern land edges of the world. Russia amassed a military force ten times that of the Japanese and was very competent at protecting the seas. But with the small victories propelling its confidence and its desire to be a great power, Japan launched an all-out attack on the people in and around Port Arthur for 24 months. Around the mainland, Japan drove ordinary citizens away from their homes into Port Arthur, which was surrounded by water on three sides. Japan then launched the first offensive mine fielding within the port so that no Russian ships could enter or leave. This brought widespread famine to the area, and the bombardment continued. Finally, in 1905, Russia surrendered to the Japanese.

Japan's victory and method of warfare were met with shock in the Western world and Asia. The world's major powers looked with condemnation at the atrocities created by the innovative evolution in maritime warfare. Never before had mines been used as an offensive weapon but this change would make modern naval warfare even bloodier and deadlier just nine years later in the muddy trenches of Europe during World War I.

World War I

During World War I, German war plans were still based on the tactics of Hannibal at Cannae (Dawson, 2018). That is to say, German war plans were developed on the foundations of order, merit, and circumstance. They did

not allow room for innovation and flexibility. This Great War, as it came to be known, showed scholars that the twentieth-century military experience was different; rendering the final blow to the ideal of ancient glory and bringing into question many of the earlier negotiated Hague Conventions (Howard, Andreaopoulous, Shulman, & Devries, 1995).

The first major act of the Great War came in August 1914 as Germany invaded and occupied neutral Belgium to gain strategic dominance and position over France for later in the war. But just seven years earlier, Germany sat as one of the drafting powers for the Hague Convention V on Neutrality in Land War, whose article posits that the territory of neutral Powers is inviolable (Orvik, 1971).

In 1915, a new weapon of war was used when Germany released asphyxiating gas from cylinders along a 6km front. All in all, nearly 100,000 troops died from gaseous weapons during the First World War despite the fact that Germany was a party to the 1899 Hague Declaration on Asphyxiating Gases according to which the Contracting Powers agree to abstain from the diffusion of asphyxiating or deleterious gases (Orvik, 1971). This was a clear violation of the Jus in Bello principle and one for which the Germans showed no remorse. The Germans used the gas once again in May 1915 in Poland and the allied forces used them in the Battle of Loos in 1915. There were land violations of war doctrine; naval violations of agreed warfare doctrine were also evident.

At the opening of the war, the world's most powerful Navy, the British Navy, exercised its might in declaring a maritime blockade that was as harsh as anything experienced during the Napoleonic Wars. A British declaration in

1914 labelled the entire North Sea a military area and that “merchant shipping of all kinds, traders of all countries, fishing craft and all other vessels, will be exposed to the greatest dangers from mines that it has been necessary to lay and from warships searching vigilantly by night and day for suspicious craft” (Letter of British foreign office to British ambassador in Washington, Nov 3, 1914, in Naval War College, International Law Documents (Washington, D.C.: Government Printing Office, 1945, 52). The British government justified this action by declaring it retaliation its own fishing vessels suffered on trade routes indiscriminately mined by merchant ships flying neutral flags.

In 1915, the German Navy followed suit, declaring it would indiscriminately destroy any merchant vessel in the North Sea around the British Isles (Orvik, 1971). And, since both parties, the British and the Germans, often flew neutral flags to sail incognito, neither country recognized neutrality for the duration of the war. The larger underlying factor was the disturbance of the trade routes; the German ambassador said: “my people are dying of starvation through the destruction of legitimate trade with foreign neutral countries” (Orvik, 1971, pp 54-55). In January of 1917, Germany declared unrestricted submarine warfare against all vessels in the North Sea to preempt further suffering. The ambassador went on to declare that “all ships met in this military zone will be sunk” (Orvik, 1971, p 55).

Innocent and neutral targets were attacked during this North Sea fiasco. In 1918, the hospital ship Llandovery Castle was torpedoed and sunk by German U-Boat 86, and there was additionally the murder of eleven survivors of sunken German U-27 by the British Q-ship Baralong in 1915 (Schwengler, 1982 as cited in Braun, 2006). Both these are examples of

violations of the principles of Jus in Bello as was the further development of strategic airpower in 1918.³ One starts to see the underlying theme develop that adherence to just war tradition had fallen to the wayside.

The German Air Force was ahead of its time in 1917 with development of a long-range bomber nicknamed the “Giant” which mirrored closely that of the World War II era B-29. With that development came another type of warfare that violated the tenets of Just War: untargeted bombing. In June 1917, the German Luftwaffe planned a raid on London docks, wharves, railways, government stores, and warehouses, but because the bombing technology was so crude, an East End council school was destroyed instead, causing the death of many students (Spaight, 1924). Twenty years on, history has repeated itself in World War II.

World War II

Pope Pius XII, in an address to the United Nations in 1952, said: “The enormous violence of modern warfare means that it can no longer be regarded as a reasonable, proportionate means for settling conflicts” (Tremblay & Rodrique, 2003, p 16). His concern at the time was the possibility of nuclear warfare. Without humankind exercising restraint, he argued, moral judgment ceases to exist. As was the case during World War II, atomic bombing set the precedent of war without limits. This could be a gross overstatement; however, as it can be argued that although the atomic bombing of Hiroshima and Nagasaki, Japan took a tremendous human toll, this bombing saved an even greater number of aggregate lives (Japanese and US combined) than had

³ It is very important to note that the flagrant disregard for Just War principles fed off itself and allowed opposing countries to continue to disregard the laws and instead set in motion a cycle of reprisals and counter reprisals that continued throughout the war.

this war been allowed to continue as it was being fought. There is another side though, one that suggests Japan was close to surrendering: “On May 5, May 12 and June 7, the Office of Strategic Services (the predecessor to the Central Intelligence Agency), reported Japan was considering capitulation. Further messages came on May 18, July 7, July 13 and July 16” (Alperowitz, 1995, p 16). Further, Alperowitz points out “The standing United States demand for ‘unconditional surrender’ directly threatened not only the person of the Emperor but such central tenets of Japanese culture as well.” (Alperowitz, 1995, p 36) Mr. Alperowitz concludes by quoting the Chief of Air Forces, General LeMay, “The war would have been over in two weeks without the Russians entering and without the atomic bomb. Press Inquiry: You mean that sir? Without the Russians and the Bomb? LeMay: The atomic bomb had nothing to do with the end of the war at all” (Alperowitz, 1995, p 334). In the end, on one day during the dropping of Fat Boy, according to U.S. estimates, 60,000 to 70,000 people were killed or missing as a result of the bomb. This example of war without limits provides further evidence that political leaders and war-fighting commanders have moved away from the adherence of Just War Theory. In fact, they are ignoring it altogether.

As part of the *jus in Bello* criterion, civilians are not to be the direct focus of hostility. WWII violated this norm in the pursuit of the greater good. According to Just War Theory, legitimate war is limited war (Hehir, 1995). This violation of limited war extends from Dresden (where hundreds of Allied bombers released a firestorm of bombs killing 135,000 people and demolishing 80 per cent of the city) to the firebomb raids on Tokyo. It is worth noting that the attacks on Tokyo were more demoralizing for the Japanese than

the actual fires, although also consequential. To know that the US could reach its soil and drop bombs was worse than the act of death by fire. East Asian studies suggest that, in the mind of the Japanese, saving face and honour are far more important than the outcome of a given conflict. The fact that Major Jimmie Doolittle and his Raider flying squadron reached the mainland in effect crippled the Japanese military's will to fight.

Many critics from the 1940s argue whether or not the atomic bomb should have been used to end World War II. They contend that any alternative was preferable to unleashing "Fat Man" and "Little Boy." Others assert that only the bomb, used in the way that it was, could have ended the war. Above all, they argue, it saved countless American lives. American GIs, who had been shipped halfway around the world to invade Japan after Germany surrendered, were elated. The bomb also precluded a Soviet invasion of Japan and gave the United States the upper hand in the post-war world.

It is important, for perspective, to point out that the total loss of life in World War II was nearly 44 million, of whom 11 million were citizens or residents of Allied nations. Nearly 300,000 American lives were lost in direct conflict, a little over 400,000 in all. The argument still exists among just war theorists that 110,000 deaths combined between Hiroshima and Nagasaki were far less than the human toll of allied and opposing forces had the war continued. However, there is still no evidence that all tenets of Just War Theory were adhered to, and again, this war was another example of an unjust war.

Persian Gulf

On the 2nd of August, 1990, after the Kuwait government had refused to forgive a debt of 80 billion dollars owed it by the government of Iraq, Kuwait City was overrun by nearly 150,000 Iraqi troops under the reign of Saddam Hussein. Iraq's withdrawal from Kuwait, completely, immediately, and without condition, *and* security and stability of the Gulf were the Charter imposed on Saddam Hussein by the Council of the United Nations the day after the siege.

In effect, the UN Council had demanded that Saddam Hussein withdraw his forces from Kuwaiti land and return to its own borders without negotiation. Declared by Legitimate Authority, the siege to oust Kuwait from the Iraqi Empire was supported by an unprecedented UN solidarity, based on the principle of collective self-defence, twelve Security Council resolutions and, on the ground in the Gulf, 28 nations from six continents. As a Last Resort, the US Secretary of State James Baker had more than 200 meetings, ten diplomatic missions, and six congressional appearances, and travelled over 100,000 miles to talk with members of the United Nations, the Arab League, and the European Union. There was a courtesy phone call between Secretary Baker to the Soviets one hour before the air war began, and President Gorbachev requested an additional hour to try the last chance effort to negotiate with Baghdad. Secretary Baker turned down the request and recalled in a personal interview that "it was too late" (US Department of State Dispatch, Feb 4, 1991 v2 n5 p. 67).

Militarily, there was no retreat. Ample time had been given over the course of 18 months for the Iraqi regime to adhere to the UN demands. A last

ditch effort through the Soviets was desperation at best. The 12 years after this war further validate that the Iraqi regime had no intention of negotiating with UN demands. These factors represent the many justifications in support of *Jus ad Bellum*. What follows are the results and violations of *Jus in Bello*.

A UN Study in 1991 found that 567,000 Iraqi children under the age of 5 died from malnutrition exacerbated by the sanctions imposed by the UN on Iraq since 1990 (Scheinin, as cited in Braun, 2006). Using high-altitude bombing from B-52 Stratofortresses, cluster bombs and 15, 000-pound “daisy-cutters”, the Allied action left in its wake the destruction of electricity networks and the devastation of water purification plants. In fact, a report of the UN envoy in 1991 disclosed Iraqi infrastructure has been reduced to the Stone Age (Achar, 1999). A Pentagon report stated, at least 5% of our cluster bombs failed to detonate on impact, and instead detonated after greater than a week and often when picked up by playing children.

In short, the Allies held others to moral criteria that they did not always follow themselves. They imposed risk on others but refused to accept the risk themselves; hence the high-altitude, high-variance bombing raids. The media played an important role in keeping information minimal, which is the opposite of the role most people expect it to play. They made no mention of bloodshed, wounds or casualties on television (Callahan, 1998). Even to this day, the media do not typically show the horrific nature of war. Specifically, in the first Gulf War, there is no documented video footage of Allied forces suffocating entrenched Iraqi soldiers by bulldozing tons of sand into and over their bunkers.

Just War Theory is prospective, not retrospective (Walzer, 1971). Other words, the tenets of just war ought to be planned for in advance of war and not simply argued after the fact. As it relates today, this doctrine focuses on causes, means, and ends of war. There are two points worth making about the first Gulf War:

1. It provides a provisional and limited endorsement of the Afghanistan war; advocating for the withdrawal and elimination of another warring state: Taliban is to Afghanistan as Iraq was to Kuwait; and
2. It reinforces prudential arguments for the extension of the Global War on Terror to other settings, most relevantly Iraq in 2003, clarifying that harbouring of terrorism is aggression under common-day definition (Falk, 2001).

Global War on Terrorism

Terrorists serve to undermine the basic foundations Augustine and Aquinas referred to infighting and waging war by removing the order, justice, and peace (Scheinin, 2001). The Terrorists in this Global War undermine the very notion of a moral code. Terrorism sees the Globalized world as its enemy and seeks to undermine any system or combination of systems that are against it. They have gone after Singapore and Hong Kong banks, which led the banks to implement retinal scan technology. Further, terrorists have struck Japan, UK, Spain, France, and the US, to name only a few. The new challenge now lies in the actions of rogue actors instead of aggressive states, and Kosovo represented the beginning of this new war. The concepts of victory and reasonable aspirations of success associated with countries laying down their

arms, surrendering on battlefields, and negotiating terms to end all hostilities have all but vanished in today's world. Aquinas and Augustine placed supreme confidence in rationalism and its ability to win over the irrational. This is simply not the case today.

Looking back at Saddam Hussein and the Persian Gulf War, the self-defence clause in *Jus ad bellum* was used as the rationale to invade Iraq nearly 12 years later. After using nerve gas on his own people and Iran, after invading another country and being ousted militarily, after agreeing to a truce that entailed following UN resolutions and an inspection regime, he had instead ignored the wishes of the international community and, for the four years prior to the Allied invasion in 2003, had been operating out of sight of federal inspectors. There is a counterpoint to the above justification however; social order as envisioned in the 16th Century no longer applies. There no longer is a heavenly (meaning religious affiliation, particularly Christianity) order to things as there was in the original drafting of Just War Doctrine. Instead, the United States and other Western nations are being asked by the non-globalized states to export hegemony of the Western lifestyle slowly to the rest of the world. The United States' own Declaration of Independence lays out the framework:

That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to affect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly, all experience hath shewn, that mankind is more disposed to suffer, while evils are sufferable than to right themselves by abolishing the forms to which they

are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security (The United States Declaration of Independence).

After September 11, President Bush II vowed to pre-empt instead of reacting to threats from abroad. For that reason, he began, with members of a coalition, namely the United Kingdom, to pursue rogue actors and those countries that harboured terrorists. In this new national security paradigm, four provisions of Just War Theory merit further discussion:

Right intention is prevalent. The intention on behalf of the western world is warranted in the securing of free trade and furthering international prosperity provided that denying safe haven of known terrorists, destroying existing training facilities, and demoralizing existing cells to promote the safety of participants in the global marketplace is the common theme. Free trade protects peoples' livelihood. In effect, the security of a nation or many allows it to compete in the global marketplace, thereby generating a greater good for that marketplace. But, in order to embrace that philosophy, nations and their citizens must feel safe and secure to operate. The counterpoint is that mere revenge for grave atrocities to demonstrate military might is not a worthy or morally acceptable motive for military efforts (Cook, 2001)

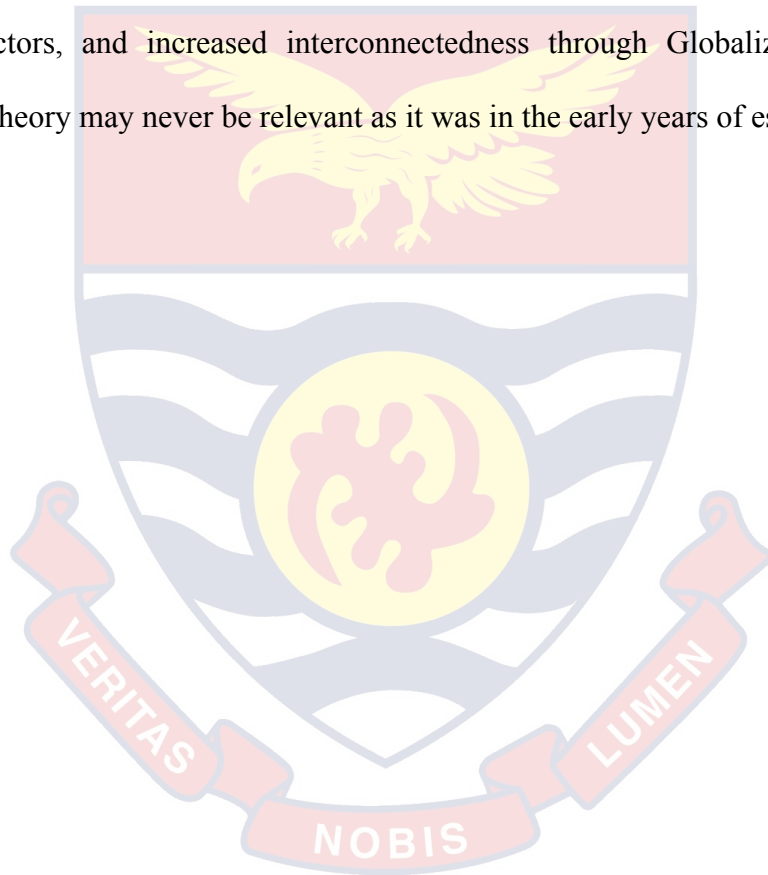
Justification in the Proportionality tenet of *Jus ad Bello* is violated. Prolonged high altitude bombings in the vast wasteland of Afghanistan as winter approaches prevent food and supply lines from reaching millions of civilians and ensure more deaths by malnutrition during the cold months in a land already struck with 4 years of drought and low crop production. A second point worth noting is that non-combatants must not be the direct targets of

attack. While it appears that great harm will come to the civilian populations, the loss of the few for the greater good of the masses will and can be an acceptable risk according to the Proportionality tenet.

Just Cause and Humanitarian Intervention is evident. This represents the classic insistence of Augustine that love may require force to protect the innocent. In a 1992 presentation to the global community, Pope John Paul II cited “conscience of humanity and international humanitarian law” and claimed that nations and the international community have not only a right but a duty of humanitarian intervention where the survival of populations and entire ethnic groups are seriously compromised. The counterpoint is that the international community is already upholding its end of this bargain and first did so during the Gulf War. The international community provided a safe haven for all the suppressed Kurds in Northern Iraq and Southern Turkey after Saddam Hussein’s genocidal campaign in 1988 that included weapons of mass destruction (Powers et al, 2003). Perhaps the gravity of the situation, e.g. risk versus benefit, and its possible effect on the United States and coalition partners is the reason that Sudan, Rwanda, Somalia, and others are not the first to be responded to by the international community. Further, the ability to choose one and not the other is additional evidence that nations have not satisfied all tenets of Just War Theory and thus, within the last 100 years, Just War has not existed.

In sum, I have attempted to demonstrate in this chapter with evidence from some scenarios of inter-state war within the 21st century (world war I and II, the Persian Gulf such as the Iraq war among others) that the *Jus in Bello* principles are most often not followed by actors of War as described by the

UN report cited earlier in this chapter. This is by far a very compelling argument that Just War Theory has ceased to be followed as originally written. In fact, during the analysis, a war that was fought justly according to tradition was not found. And, because Just War Doctrine decreed that in order for a war to exist justly, all tenets must be followed, this dissertation shall provide in the next chapter an evaluation that for the last 100 years Just War Doctrine has not been adhered to and with the changing dimensions of warfare, state, and rogue actors, and increased interconnectedness through Globalization, Just War Theory may never be relevant as it was in the early years of establishment.



CHAPTER FOUR

EVALUATION, CONCLUSION, AND RECOMMENDATION

In the last chapter, the researcher made an analysis of specific acts of aggression in the last century providing reasonable evidence that the actors in war (legitimate authorities) do not respect the principles regulating war. In this chapter, the researcher provides a general evaluation of this dissertation, a conclusion that the theory of the just war is today outmoded, unpractical, unrealistic and flawed especially if one wishes to preserve a moral constraint on war and a recommendation on the way forward.

General Evaluation

Some scholars posit that the truth about war must lie between the extremes of militarism and absolute pacifism (Nester, 2010; Walzer, 2015). That is war is always an evil to be avoided as far as possible, but that occasions can arise in which it is not only inevitable but justifiable. Human beings by nature are political, made to live not alone but in society and not only in the basic society of the family but in the larger organization of the political state. Since one of the main motives for political organizations is a mutual defence against enemies from without, there is no purpose to political society unless it can defend itself and its people. As an individual is allowed to use force in self-defence and also to recover stolen property or redress violated rights when recourse to a higher authority is impossible, so may the state for the same reasons. War in itself is a physical evil; it becomes a moral evil only when there is an injustice on the part of the one applying force. A state that would not wage war under any circumstances will condemn itself to political

death, loss of independence which is the very life of a state and to servitude under the feet of its aggressive neighbours. If morality demands this sacrifice, it would be giving only immoral states a moral right to existence. It would impose on people the moral obligation to organize politically and at the same time deny them the means necessary for attaining that goal. If a state cannot protect the lives and liberties of its citizens, it is failing in its chief function. If it cannot do so except through force it must have the right to use force (Gonsalves, 1989).

It is worth noting that there seems to be a fairly common opinion that the nation that declares war or makes the first attack is waging an aggressive war, whereas the nation against which war is declared or which is attacked first is waging a defensive war. Hence a nation is fighting a defensive war if its sole purpose is to protect itself against imminent aggression.

States must, therefore, be prepared to meet a surprise attack. The advantage of striking first is so great in modern warfare that no nation can afford to give this edge to the enemy. This seems to be what modern writers call pre-emptive strike or war.

It is worth mentioning that some people are of the view that the argument for the moral justification for war and for that matter the just war theory is inherently immoral while others suggest that there is no place for ethics in war. Still, others argue that the doctrine of the just war theory does not apply in the conditions of modern conflicts. Nevertheless, it is plausible to admit that there are many criticisms cited against the doctrine of the just war theory, thus, the just war theory or the argument for the moral justification for

war contains a number of weaknesses as well as strengths. Some of the weaknesses or arguments against the JWT are as follow:

There is no unifying principle in the just war theory. That is to say that all the principles that make up the just war theory do not all derive from one moral principle; there is no final or highest authority to which they all appeal. In other words, there is no one value at the heart of the just war, no single foundation to which the theory of just war appeals or which holds the theory together.

All wars are unjust and have no place in any ethical theory. Morality must also oppose deliberate violence and so the just war ideas which tend to make violence okay, rather than restrain it after meeting a series of conditions are not appropriate for use.

The existence of nuclear, chemical or biological weapons of mass destruction requires a different approach to the problem of war other than the just war theory. These weapons can only be used for unrestricted war and so the condition of proportionality as contained in the just war theory can't be met if they are used. Using these weapons guarantees civilian casualties, and thus breaks a basic rule of the conduct of the war; since these weapons can't be un-invented they render just war theory pointless.

Lastly the overriding aim of war should be to achieve victory as quickly and cheaply as possible. If the cause is just, then no restrictions should be placed on achieving it. The rules of conduct of war contained in the just war theory are mere camouflage because they are always over-ruled by military necessity (Neil McIntosh, 2014).

All the basic lines of objection to the just war theory arguments are based on three points: the pacifists thesis that the theory is theologically unacceptable and is incompatible with basic Christian values; the view that the theory effectively leaves out of consideration of some aspects of either the particular situation or the general character of modern warfare that need to be considered if a satisfactory and conclusive verdict on the morality of a given war is to be reached; and the view that the theory contains so many indeterminate elements and potentially contradictory considerations and so we should not be surprised that applying it does not yield a determinate result.

On the contrary, it is important to note that the just war theory though full of weaknesses also has immense relevancies and strengths. Some of the relevancies or strengths of the JWT are:

The just war theory specifies conditions for judging if it is just to go to war and conditions for how the war should be fought. By so doing the just war theory seeks to reconcile three things namely; taking human life is seriously wrong, states have a duty to defend their citizens and defend justice and lastly protecting innocent human life and defending important moral values sometimes requires a willingness to use force or violence.

The just war theory provides a useful framework for individuals and political groups to use for their discussion. The theory also aims at providing a guide to the right way for states to act in potential conflict situations.

The just war theory is not intended to justify wars but to prevent them, by showing that going to war is wrong and thus motivate states to find other ways of resolving conflicts.

In actual practice however, a perfectly just war is non-existent and a nation in one way or the other can be morally justified in entering into a war if it is unjustly and overtly attacked by an aggressor nation but only after all peaceful means to settle differences or stop aggression have failed. Unlike a natural disaster, war is wholly a human affair and no war taken as a whole can be justified.

In brief, the just war states that war must be waged under the aegis of a state's supreme power for a just cause worth the rightful intention and in a just manner.

Conclusion

Generally speaking, war violates the value of life by killing millions, most of whom are not combatants in the war. It causes a great deal more evil than goodness in most cases and usually distributes goodness and badness unequally. The Just War consists of three tenets: *Jus ad bellum*, *Jus in Bello*, and *Jus post bellum*. But the lessons of wars in the last century as demonstrated in the type and forms of war especially the scenarios of inter-state war in chapter three, repeatedly teach that Just War Theory falls apart mostly after *Jus ad bellum*. The evidence on *Jus in Bello* is a very compelling argument that Just War Theory has ceased to be followed as originally written. This is not actually a great surprise since all tenets must be satisfied for a Just War to exist.

It worth noting that this theory was created to make addressing, committing and ending the war the gravest of all man's acts, so severe in nature that there is no room for error. In fact, during the research of this dissertation, a war that was fought justly according to tradition was not found.

And, because Just War Doctrine decreed that in order for a war to exist justly, all tenets must be followed, this dissertation has provided considerable evidence that for the last century, the motivation which pushed the medieval and modern philosophers into propounding the JWT has never been met in any warfare within the Last century. The Just War doctrine has not been adhered to and with the changing dimensions of warfare by terrorists, state and increased interconnectedness through globalization; Just War may never be relevant as it was in the early years of establishment. The changing and fluid dynamics of today's asymmetrical threats raises the following question: How do you square the ability to fight a war justly when, as a matter of fact, you presuppose an international arena in which justice no longer makes any sense? I, therefore, posit that the theory of the just war is today outmoded, unpractical, unrealistic and flawed especially if one wishes to preserve a moral constraint on war.

Recommendation

With the obvious demonstration that the Just War theory, has outlived its usefulness, that it is otiose, unpractical, I am inclined to pacifism as the best solution to the problem of war. I believe that many of the requirements which have been set down for a war to be just cannot be met hence war will never be just. I agree with Pacifist's like Mohandas Gandhi, and more recently Pope Francis that negotiation should always be used as the sole means to settle differences or stop the aggressor.

Also, since war except in defense of innocent people against clear aggression, is immoral, no one should be required to participate in it. If a person can show by his life and his actions that he is opposed to violence on a moral basis, he should not participate in any war which he considers unjust

and for which he can give a logical argument to support his considerations.

The researcher therefore recommends that war should not be conducted for national prestige, influence or the desire for territory or power. Since wars are essentially immoral the sooner all destructive weapons of any magnitude can be eliminated from human culture, the better off humanity will be. Firearms of all kinds should be destroyed and the provision of constitutions which talk about the right to bear arms ought to be rewritten to state that no one has the right to bear arms including law enforcement people. All firearms and explosives hence should be banned. Some methods should be introduced to ensure that none of the firearms are ever again manufactured. This is, of course, an ideal which, the researcher feels, we must continue to strive for; in the meantime, the best we can do is keep attempting to reduce the armaments of war and do everything possible to ban wars themselves until the weapons can be eliminated. Perhaps it is not possible to stop all human beings from fighting each other, but if the most destructive means are no longer allowed to exist, then the intensity of such fighting must be significantly be reduced.

Finally, the researcher recommends a further study to examine whether or not war will always be part of human experience or can something be done to avoid it completely.

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