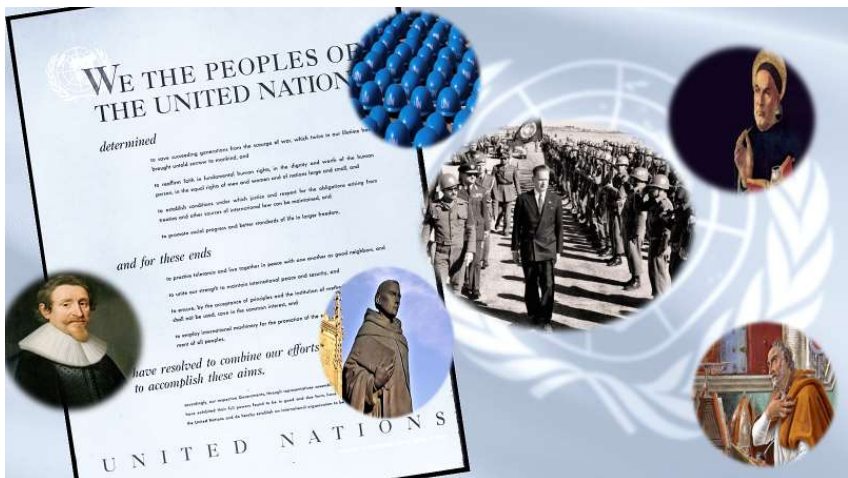


The implementation of the Just War Theory in peace operations

by:

2nd Lieutenant (Officer Cadet)
Adrien Aury



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Original title:

«L'application de la Théorie de la Guerre Juste aux opérations de paix»

Cover design:

Ted van Baarda

Cover image:

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U.N. Secretary-General Dag Hammarskjöld, who arrived in Gaza on 23 December 1957 to spend Christmas with the troops of the United Nations Emergency Force (UNEF), visited the Brazilian Battalion of UNEF, stationed in Rafah.

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Preface

This work is my final thesis for the Master's degree in Social and Military Sciences. It deals with the adaptation of the Just War Theory to peace operations.

I wanted to carry out this work under the supervision of the Chair of Philosophy in the continuity of my Bachelor's thesis (on military ethics and military operations other than war) in order to study in depth a facet of the subject that has been insufficiently developed until today, namely the ethical framework of peace operations.

First of all, I would like to thank Michaël Dewyn, my sponsor, for his support throughout this work, for his precious advice, for his pertinent remarks, and also for his understanding. This thesis would not have been possible without him. Secondly, I would like to express my gratitude to Valérie Hicorne, a long-time friend, for her precious help in proofreading this work, as well as to the 157th Social and Military Studies class for their support and help during these four years of study. The members of this class became friends first, before becoming a second family. Finally, my special thanks go to Margaux Ombelet, my partner, for her unfailing support throughout this work.

Introduction

This work is part of a thesis in Social and Military Sciences, with a view to obtaining a Master's degree. The aim is to study an aspect of military ethics, namely the Just War Theory (JWT), and to verify whether it could be adapted to or implemented as such in peace operations.

To begin with, and based on the Bachelor's thesis "Military Ethics and Military Operations Other Than War (MOOTW)," it will be necessary to define peace operations, among which four categories can be distinguished. This part also includes an explanation of the context in which these operations take place, what they entail, and the principles advocated by the states and organisations conducting these types of operations.

In a second step, the subject of the Just War Theory will be addressed. The basic concepts of this theory will be developed in order to better understand the point at issue. The principles it advocates will be explained in order to be used afterwards.

Secondly, the principles of the Just War Theory (JWT) will be compared with peace operations. In this part, it will be necessary to analyse how these principles can or cannot be applied to peace operations, and thus determine how best to adapt them in order to provide a coherent ethical framework for such operations.

The next chapter will address the requirements of peace operations that are not included in the JWT. In particular, the principles of impartiality, consent, best efforts and unity of effort will be highlighted in order to analyse their role in the ethical framework of peace operations and thus possibly fill a gap in the JWT.

Finally, the last part will address the vision of the Blue Helmet. The aim here is to analyse the ethical needs of the men

deployed in a peace operation, and thus to adapt these needs to the Just War Theory.

A conclusion will bring together all the elements of response in order to identify the missing or inadequate elements of the JWT in view of peace operations, and thus to suggest solutions to adapt them. The final objective of this work is to be able to answer the following question: 'How is the Just War Theory applicable to peace operations?'

1 Peace operations

When we talk about peace operations, we often think of UN peacekeepers. It is true that the UN is, of course, one of the main actors in peace operations, but peace operations are not limited to that.

Often referred to as Peace Support Operations (PSO), peace operations are first and foremost part of another, broader type of operation called Military Operations Other Than War (MOOTWs). They can be defined as ‘military operations undertaken by armed forces and distinguished from war by their principles and common characteristics. As they are very broad in scope, they can take place in time of peace as well as in time of armed conflict to ensure the security of a state or its citizens.’¹

Among these common characteristics, their pacifist objective is central. Whether the aim is to end a conflict or to rebuild an environment conducive to peace after a conflict, the issue here is not victory or dominance. Indeed, according to Trivelli, consent is often a key element in such operations.²

Secondly, although these operations are usually conducted by military troops, whether the troops of an individual state or under the aegis of a supranational organisation such as the UN, the use of force is very limited and often kept to a minimum. As a result, the rules of engagement (or ROEs) are stricter and set narrower limits for these operations.³

¹ Aury, A. (2020, 05 11), “Military Ethics and Military Operations Other Than War (MOOTW),” Brussels, p. 4 (unpublished).

² Trivelli, P. A. (1996, June 14), “War versus MOOTW: A matter of consent,” United States of America, p. 9 <archive.org>.

³ U.S. Marine Corps. (2005, February 17), “Marine Corps Tank Employment,” Chap. 8, p. 4 <globalsecurity.org>.

But peace operations are only one part of these MOOTWs. Although several definitions of these operations are available, it is possible to distinguish between four categories: peacekeeping,⁴ peace-making,⁵ peacebuilding⁶ and peace enforcement.⁷ The elements that make it possible to link an operation to one or the other category are mainly temporality and the degree of consent of the host nation.

First of all, temporality makes it possible to distinguish between peace-making and peace enforcement from peacebuilding and peacekeeping. The first two take place while the conflict is still ongoing. They are two tools available to the international community to put an end to a conflict. Peacekeeping, on the other hand, takes place when peace (or at least the beginning of peace) is already in place. Its aim is to build and maintain this peace.⁸ Finally, peace building can take place before, during or after a conflict.⁹

Second, consent marks the boundary between peace-making and peace enforcement. As the name suggests, peace enforcement operations take place when the consent of the parties is weaker. The aim is therefore to impose peace on these

⁴ “What is peacekeeping?” (n.d.), retrieved from United Nations: peacekeeping: <<https://peacekeeping.un.org/fr/what-is-peacekeeping>>

⁵ Noll, D. (n.d.), “What is Peacemaking?” retrieved from *Mediate*: <<https://www.mediate.com/articles/noll4.cfm>>

⁶ “What is peacebuilding?” (n.d.), retrieved from *International Alert*: <<https://www.international-alert.org/what-we-do/what-is-peacebuilding>>

⁷ “Chapter III: Peace enforcement,” (n.d.), retrieved from *Global Security*: <https://www.globalsecurity.org/military/library/report/call/call_93-8_chap3.htm>

⁸ Lucuta, G. M. (2014, April 25), “Peacemaking, peacekeeping, peacebuilding and peace enforcement in the 21st century,” retrieved from *Peace insight*: <<https://www.peaceinsight.org/en/articles/peacemaking-peacekeeping-peacebuilding-peace-enforcement-21st-century/?location=&theme=>>>

⁹ “What is peacebuilding?” (n.d.), retrieved from *International Alert*: <<https://www.international-alert.org/what-we-do/what-is-peacebuilding>>

parties, whether they agree or not. To do this, a greater use of force is sometimes required. According to the UN, the troops have the right to take measures within the mandate, such as imposing a cease-fire.¹⁰ Peacemaking, on the other hand, relies more on diplomacy and dialogue to put an end to the conflict. Mediation is a good example of a tool to be used in the peace-making process. Obviously, this requires a high level of consent from the different parties and a willingness to make peace.¹¹

The distinction between peacebuilding and peacekeeping lies in the method used. Both types of operations have the same goal, namely to lay the foundations for a sustainable peace with security. However, peacebuilding will focus on creating an environment conducive to peace, for example by making important structural changes to ensure a better start on a stable basis, by fighting corruption or implementing demining programmes.¹² Peacekeeping, on the other hand, focuses more on security, protection of civilians, respect for human rights, and disarmament.¹³

1.1 Principles

“To avoid a disastrous scenario and to follow a sound course of action, troops must comply with certain principles

¹⁰ Chapter III: “Peace enforcement,” (n.d.), retrieved from *Global Security*: <https://www.globalsecurity.org/military/library/report/call/call_93-8_chap3.htm>

¹¹ Noll, D. (n.d). “What is Peacemaking?” retrieved from *Mediate*: <<https://www.mediate.com/articles/noll4.cfm>>

¹² United Nations, (2000, June 3rd), “Comprehensive review of the whole question of peacekeeping operations in all their aspects,” UN doc. A/74/411/Add.1

<<https://www.un.org/pga/74/2020/06/15/comprehensive-review-of-the-whole-question-of-peacekeeping-operations-in-all-their-aspects/>>.

¹³ “What is peacekeeping?” (n.d.), retrieved from United Nations: <<https://peacekeeping.un.org/fr/what-is-peacekeeping>>

imposed by their state for all MOOTWs. For example, the US developed a doctrine for MOOTWs in 1995 in which six basic principles were laid down, namely, pursuit of a goal, unity of effort, security, limitation of actions, perseverance and legitimacy.¹⁴ The first three principles, adapted from the principles of war, show that there is a close link between combat operations and MOOTWs. The other three, on the other hand, are typical of such operations.¹⁵

“These six principles notably include coordinated action towards a common goal, control of all military and political options against the mission to ensure the safety of the troops on a permanent basis, intentional limitation to only those actions that serve the intended purpose (implying non-excessive use of force), maintenance of a genuine desire to fulfil the mission thoroughly, and some form of acceptance, whether by the host nation or by a supranational organisation such as the United Nations.

It is mainly the principles of action limitation, perseverance and legitimacy that give MOOTWs their special nature. These concepts are more than just guidelines to follow in order to achieve victory; they show that the merits of the operation have been subjected to serious consideration. Legitimacy implies that a state cannot act solely in its own interests, that military action must be perceived by the other actors as the right thing to do. This is partly in line with the principles of *jus ad bellum*, namely having a just cause. However, the need for legitimacy does not mean that the root cause of the operation has to be absolutely right, but only that it has to be perceived as such in order to gain the support of

¹⁴ U.S. Government. (1995, June 16), “Joint Doctrine For Military Operations Other Than War,” Chap 2, <JP 3-07 Joint Doctrine For Military Operations Other Than War (bits.de)>.

¹⁵ Aury, A. (2020, 05 11), “Military Ethics and Military Operations Other Than War (MOOTW),” Brussels, p. 9, (*supra*, footnote 1).

other parties. Limitation of actions refers, of course, to ROEs, but also ensures that the state undertaking a MOOTW does not seek to overshoot its objective in order to gain a strategic advantage. Implicit in the perseverance is that, as far as possible and even though MOOTWs may last over time, the operation will not cease until the objective is achieved. In the case of an operation such as HADR, this is a valuable contribution. Without these three precepts, MOOTWs would only be based on principles derived from those of war, making the line between the two concepts more elusive.

These standards are not universal, however, and other nations have established their own guidelines. This is the case of the People's Republic of China, whose more recent principles are the following: action according to law and regulations, rapid response and deployment, joint command and unity of effort, effective organisation and civil-military co-ordination, publicity management and morale maintenance, and adherence to United Nations principles.¹⁶

Actually, each state is free to create its own principles, even if it is also possible to adopt those of other states. The constant interplay of influence worldwide means that there is a certain recurrence in the principles of the various armed forces, such as unity of effort or adherence to the precepts of the United Nations.¹⁷

For both the United States and China, two of the world's greatest powers, the basic principles of MOOTWs demonstrate a certain link with politics. It is no longer just a

¹⁶ Gaoyue, F., & Char, J. (2019, February), "Introduction to China's Military Operations Other Than War," p. 2-8, <https://www.researchgate.net/publication/340129700_Introduction_to_China's_Military_Operations_Other_Than_War>.

¹⁷ Aury, A. (2020, 05 11), "Military Ethics and Military Operations Other Than War (MOOTW)," Brussels, p. 10 (*supra*, footnote 1).

matter of succeeding in the mission, but also of publicising it and being supported by the other actors. This highlights the importance of the political objective behind each operation.¹⁸

However, as peace operations are an even more restrictive category than MOOTWs, other principles are of course relevant. This is particularly true of the UN peacekeeping principles.¹⁹ There are three such principles, namely limitation of the use of force, consent and impartiality, which build a universal standard for peacekeeping operations. Several states have adopted one or more of these principles for their own doctrine, such as the non-use of force except in self-defence or defence of the mandate; this has been adopted by the United States in its principle of restraint of action.²⁰ Every state sending troops under the aegis of the UN is bound to respect these principles at all times. The 53 Belgian troops deployed for MINUSMA (United Nations Multidimensional Integrated Stabilization Mission in Mali)²¹ for example, must adhere to them.

The only one of these principles that has not yet been addressed is impartiality, even if it is a cornerstone of

¹⁸ Aury, A. (2020, 05 11), “Military Ethics and Military Operations Other Than War (MOOTW),” Brussels, p. 10 (*supra*, footnote 1).

¹⁹ “Principles of Peacekeeping,” (n.d.), retrieved from United Nations: peacekeeping:
<<https://peacekeeping.un.org/fr/principles-of-peacekeeping>>

²⁰ U.S. Government. (1995, June 16). “Joint Doctrine For Military Operations Other Than War,” Chap. 2, p. 7 <JP 3-07 Joint Doctrine For Military Operations Other Than War <bits.de>.

²¹ United Nations. (2021, 01 31), “Summary of Contribution to UN Peacekeeping by Mission, Country and Post: Police, UN Military Experts on Mission, Staff Officers and Troops,”
<https://peacekeeping.un.org/sites/default/files/04_mission_and_country_34_jan2021.pdf>.

peacekeeping.²² Actually, if UN troops take sides with one actor or the other, the whole operation loses its meaning. In this case it is no longer peacekeeping, but rather support to one actor in the conflict. This does not mean that UN peacekeepers should remain inactive; their actions are just limited by the mandate, which obliges them to enforce the rules for all actors. The importance of this principle should not be underestimated, as the legitimacy and credibility of the entire operation in the eyes of the international community largely rest on it.²³ The consent of the parties is also an important issue.

²² “Principles of Peacekeeping,” (n.d.), retrieved from United Nations: peacekeeping:

<<https://peacekeeping.un.org/fr/principles-of-peacekeeping>>

²³ “Principles of Peacekeeping,” (n.d.), retrieved from United Nations: peacekeeping:

<<https://peacekeeping.un.org/fr/principles-of-peacekeeping>>

2 Just War Theory

In order to judge whether an action is right or wrong, one must first establish an ethical basis for making this judgment. This is also the case when it comes to generally more violent actions, for example in war. This is where Just War Theory (JWT) comes in. In particular, it provides the possibility of making judgements about military actions. It is important to emphasise that this is an ethical-normative²⁴ theory, so it is above all compliance with the deontological rules governing an act that determines whether or not it is just. Some principles, on the other hand, are more consequentialist, since they provide a judgment based on the consequences of the act.

This theory includes three different parts, each with its own characteristics. The first part is *jus ad bellum*, the second is *jus in bello* and the last is *jus post bellum*. The *jus ad bellum* lays down the ethical basis for determining when a war is just or not, and especially according to which criteria its legitimacy can be assessed. The *jus in bello* determines which actions are considered just during a war and which actions are unjust and are or should be prohibited. Finally, *jus post bellum* addresses of post-conflict issues and determines what moral responsibilities are incumbent on the actors in this war. This part is still somewhat unclear today as no consensus has yet been reached on its content, making it the least developed part of the JWT.²⁵

The JWT can be defined as follows: ‘an ethical-normative theory that aims to formulate principles on the basis of which we can make a value judgment about such a war or

²⁴ Dewyn, M., & Ceulemans, C. (2020–2021), “Citizenship and military ethics I”, p. 69 (École Royale Militaire, Brussels).

²⁵ Williams, Jr, R. E., & Caldwell, D. (2006), “Jus Post Bellum: Just War Theory and the Principles of Just Peace,” in: *International Studies Perspectives*, p. 311, (Blackwell Publishing).

military action.²⁶ What is interesting is that according to this definition, this theory is applicable to wars or military actions. It is of course not intended to be used as such in peace operations, but some of the principles are relevant to such military action.

Peace operations, by virtue of the distinction made in the first chapter, can take place both during and after a conflict. Does this mean that peace enforcement and peacemaking operations, which by definition take place during a conflict, fall solely under the aegis of *jus in bello*? And that peacebuilding and peacekeeping are only governed by *jus post bellum*? Are all these peace operations expected to take into account the *jus ad bellum* in order to be carried out?

We will see later that these principles of JWT are also fairly relevant to these operations. Nevertheless, it must be taken into account that JWT does not provide all the answers, and obviously involves some limitations.

2.1 Principles

In order to know whether it is morally acceptable to use force or to go to war, one must first ask the question ‘why?’ The answer to this question is crucial, because the subsequent act can be considered morally acceptable only if the reason for the intervention is just. This is the just cause principle, which is generally defined as ‘*reparation or punishment of an injustice that has been committed, or prevention of an injustice that is about to occur*’.²⁷ This definition necessarily implies the presence of an injustice. Nevertheless, the perception of injustice is sometimes subjective. Cases where both sides think they are fighting for a good cause are not uncommon. For example, in the Iran-Iraq war, both

²⁶ Dewyn, M., & Ceulemans, C. (2020-2021), “Citizenship and military ethics I,” p. 69 (École Royale Militaire, Brussels).

²⁷ Dewyn, M., & Ceulemans, C. (2020-2021), “Citizenship and military ethics I,” p. 98 (École Royale Militaire, Brussels).

states were fighting for a cause that they believed to be just. In peace enforcement and peacemaking operations, this question of perception does not arise. The final objective of these military operations is clear: to achieve peace. The means employed may not be the same, but the cause is identical and by definition just.

However, this just cause is not enough to make a war or military action morally acceptable. Behind this just cause there must be good intentions. This principle goes hand in hand with the first principle and even reinforces it. It means that the intention behind an operation or war must be to pursue that just cause, not to use it as a pretext to cover up other intentions. In practice, the best example of good intentions is the pursuit of lasting peace. One must truly want to achieve peace, and not intervene to gain territory or some other advantage.²⁸

Secondly, a reasonable chance of success is necessary for military action to be just. Although the phrase is rather self-explanatory, ‘reasonable chances’ and ‘success’ are two concepts that are difficult to measure objectively. How far can the odds be considered reasonable? And how do you define success? Of course, given the difficulty of quantifying the chances of success of an operation or even its percentage of success, the JWT does not provide any numerical value. In order to be used, this principle needs to take into account all the factors that may play a role in the military action: the number of troops (of each conflicting party), the level of training, the available technologies, the element of surprise, the weather, and so on.²⁹

Proportionality can also determine the degree to which an operation is morally acceptable. This principle is special because it is not only part of *jus ad bellum*, but also of *jus in bello*.

²⁸ Moseley, A. (n.d.), “Just War Theory,” retrieved from the *Internet Encyclopedia of Philosophy*: <<https://iep.utm.edu/justwar/>>

²⁹ Coppeters, B., Ceulemans, C., and Fotion, N. (eds), *Moral Constraints on War*, pp. 87-99 (Lexington books).

In the first concept, it implies that the purpose of waging war must be weighed against the damage it will cause. Does the pursuit of this end compensate for the harm caused? Clearly, this principle is related to the others, as the aim to be achieved here is the just cause, and the reasonable chances of success are taken into account in defining the balance between the cost of military action and its benefits. The concept remains the same in *jus in bello* but is adapted to another level. The cost-benefit analysis is still relevant, which implies that it is necessary to keep losses to a minimum. This introduces the notion of unnecessary suffering, which emphasizes the need to limit the means employed to the achievement of the objective exclusively, thus avoiding unnecessary damage and suffering.³⁰

Linked to proportionality, the principle of discrimination is also fundamental. By definition, it is about making a distinction between someone who can be attacked and someone who cannot.³¹ This distinction is generally made through the concept of combatant or non-combatant. All individuals who participate in or logistically support the war effort are considered combatants. This definition can be confusing and open to interpretation because according to international law, *'all members of the armed forces of a party to the conflict are combatants, with the exception of medical and religious personnel'*.³² Therefore, persons who do not fall into this category cannot be the target of an attack.

Secondly, the decision to take military action cannot be made by just anyone, but must come from a legitimate authority. This authority must be the one best able to decide whether the

³⁰ Dewyn, M., & Ceulemans, C. (2020–2021), 'Citizenship and military ethics I,' p. 161 (École Royale Militaire, Brussels).

³¹ Moseley, A. (n.d.), "Just War Theory," retrieved from the *Internet Encyclopedia of Philosophy*: <<https://iep.utm.edu/justwar/>>

³² ICRC, "Rule 3. The definition of combatants," (n.d), retrieved from *Customary IHL Database*. <https://ihl-databases.icrc.org/customary-ihl/fre/docs/v1_cha_chapter1_rule3>

criteria for going to war are met.³³ The objective behind this principle is to make sure that the decision to go to war has not been made by an illegitimate authority, such as an unrecognised government. This principle is moreover a matter of dispute, as some authors advocate reconsidering this principle.³⁴

Finally, the last principle of the JWT is that of last resort. This states that military force can only be used when all peaceful means have been exhausted.³⁵ In practice, all peaceful means must not necessarily be put in place before military force is used, but they must be considered to see whether or not it would be useful to use them. In the context of peace operations, several questions arise with regard to this principle.

³³ James Childress, *Moral Responsibility in Conflicts. Essays on Nonviolence, War, and Conscience*, (Baton Rouge/London, Louisiana State University Press, 1982), p. 74.

³⁴ Braun, C. N. (2018), "Just war and the question of authority," in: *Zeitschrift für Ethik und Moral Philosophie* 1, pp. 221-236.

³⁵ Moseley, A. (n.d.), "Just War Theory," retrieved from the *Internet Encyclopedia of Philosophy*: <<https://iep.utm.edu/justwar/>>

3 Limitations of Just War Theory

As we have seen, the Just War Theory presents a set of ethical principles that can guide and serve as a reference point for those who have to make a decision about military action. Even today, it is a thoroughly relevant theory.³⁶ However, due to the increasing number of peace operations, the international community has come to realise that there is a certain ethical vagueness surrounding this type of military intervention. Although some of the principles of JWT are appropriate, others seem less suitable and have limitations that can lead to what Blocq calls “The fog of UN peacekeeping”.³⁷ In this chapter we will analyse these limitations and raise the questions they involve in an attempt to answer them.

3.1 *Ad bellum*

3.1.1 *Just cause and good intentions*

The first principle of JWT was that military action should be taken in response to an injustice.³⁸ But what about a peace operation in a just war? Is wishing to end a just war a just cause? Given that the cause of this type of war is to prevent, redress or punish an injustice, is it better to let the war continue or to try to end it with a peace operation? These questions make considerations more complex by raising the problematic of a war, but they are nevertheless essential because they prove that the

³⁶ “Just War Theory: More Relevant Than Ever,” (2003), retrieved from <<https://www.beliefnet.com/news/2003/03/just-war-theory-more-relevant-than-ever.aspx>>

³⁷ Blocq, D. S. (2006), “The fog of UN Peacekeeping: Ethical Issues,” *Journal of Military Ethics*, Vol. 5, No. 3, <tandfonline.com>.

³⁸ Bourgois, F. (2006), “The theory of the just war: a Christian heritage?” in: *Theological and Religious Studies*, pp. 449-474 <Cairn.info>.

just cause principle can be a real problem. Let us imagine that country A goes to war with country B in order to reclaim unjustly occupied territory. The cause pursued by A is therefore a just cause. Nevertheless, if the conflict persists, is wishing to put an end to the conflict still a just cause? Perhaps it would be better to wait for the injustice to be redressed before engaging in a peace operation. The question then arises: does the security of individuals take precedence over the benefit that redressing the injustice might bring? Depending on the answer to this question, judgement on whether the cause pursued is just or not could be made. However, it should not be forgotten that other tools are available to the international community to address this particular issue, like diplomatic or economic sanctions.

The defence of other people is the main interest of peace operations.³⁹ As the world we live in is changing, so is the nature of conflicts. Large-scale international conflicts are becoming fewer and farther between, and more regional or local. The majority of interventions by peacekeepers take place during or following conflicts in which the conflicting parties are not two states, but often a state and a non-state actor or two non-state actors. The aim is often to help or protect the civilian population. However, according to the JWT, helping a population in need is not strictly speaking a “just cause”. Indeed, providing aid to this population without trying to put an end to the reasons for their misfortune is not the same as redressing or punishing the injustice committed against them. Take the example of the UN intervention in Bosnia in the 1990s. The humanitarian aid provided by the Blue Helmets to the population was not a ‘just cause’ by its very purpose. Instead, the troops deployed to protect these peacekeepers were there to prevent an injustice from being committed, namely an attack on international troops.

³⁹ “Protection of civilians,” (n.d.), retrieved from United Nations - peacekeeping: <<https://peacekeeping.un.org/fr/protecting-civilians>>

Their operation was therefore motivated by a just cause. Is that paradoxical?⁴⁰

Furthermore, some of the JWT principles are normative principles, which means that they indicate a way of doing things and do not focus on the consequences of an act. It is the means that counts, not the end result. In peace operations, the opposite is true. The operation is carried out with a specific goal in mind, and may last for years. The objective is ending a conflict or peacebuilding, a goal that must be achieved. In JWT, the objective is only considered within the principles of just cause, good intentions, discrimination and proportionality. This shows that this theory lacks consequentialism. In addition to providing the ethical framework to refer to, why not include some consequentialism? In particular, it is in the principle of good intentions that an important part of this ethics comes into play. Given that the cause is right by definition, are good intentions really necessary? Consequentialism emphasises the pursuit of greater common 'net happiness', so as long as the operation makes it possible to put an end to a conflict, the goal is necessarily achieved. Let's take the example of country A intervening in country B to stop a massacre. According to the JWT, if country A has other intentions than stopping the atrocities (e.g., financial compensation from the population that has suffered from the violence), we cannot make the same value judgement as in the case it would intervene solely in the interest of the population in question. Why is this? From a consequentialist point of view, this act is ethically appropriate. Including a measure of consequentialism into JWT would allow for a new value judgement to be made about such operations. Of course, if the hidden agenda is harmful to the common good, the issue takes on a thoroughly new meaning.

⁴⁰ Dewyn, M., & Ceulemans, C. (2020-2021), "Citizenship and military ethics I," p. 109 (École Royale Militaire, Brussels).

In the Just War Theory, preventive action is also discussed. Walzer considers two extreme forms of it: one taking place just before an injustice occurs, which amounts to an act of self-defence, and the other taking place in order to maintain the existing balance of power, which is obviously much less legitimate.⁴¹ However, the preventive actions described in JWT are about war. It is therefore natural to argue that the use of war as a preventive measure against an injustice is only a way of instrumentalising and trivialising war. But what about peace operations? These operations do not have the same warlike character and have the advantage of permitting the prevention of an injustice in a peaceful way, without using violence to prevent another form of violence. Let's take the example of a peacekeeping operation whose aim is to prevent tensions in a certain area from escalating into conflict. Is it really advisable to wait for an injustice to be committed to protect civilians? Deploying a peace operation to prevent a conflict from starting would mean nipping the conflict in the bud, possibly saving lives. On the contrary, if one waits until an injustice is committed before deploying a peace operation, how can one morally justify the consequences of that injustice? This question may have a different impact depending on the operational situation.

Let us consider two different scenarios. In the first, the UN knows the situation in the field and knows that a conflict is likely to occur but decides not to deploy an operation until an injustice is committed. Later, a conflict breaks out and the UN decides to deploy peacekeepers in response to the injustice. In this situation, the question is the following: why wasn't a preventive peace operation deployed? This would have saved many lives. This situation implies that the UN has put the sovereignty of the nation where the conflict is taking place

⁴¹ Dewyn, M., & Ceulemans, C. (2020-2021), "Citizenship and military ethics I," p. 101 (École Royale Militaire, Brussels).

before the just cause. What moral judgement can be made about an operation that gives precedence to the sovereignty of a nation over the lives of its citizens?

In the second scenario, the UN knows the situation in the field and also knows that it is likely to develop into a conflict, but this time the UN decides to deploy peacekeepers and instruct them to act only when an injustice is committed. When the conflict breaks out, the peacekeepers intervene directly, thus saving many lives. But the question remains: why did the UN wait until the injustice was committed before reacting, while it knew full well what the risks were and had the means to prevent it? Here it is necessary to recall that this is a peace operation, and that the use of force can only take place in self-defence or in defence of the mandate.⁴² The pre-emptive use of force is then in line with Walzer's vision of the two extremes, and is therefore outside the framework of peace operations. On the other hand, the mere presence of peacekeepers in the field acts as a deterrent,⁴³ which may make it possible to avoid a conflict or other forms of violence without even having to resort to force.

3.1.2 *Legitimate authority*

According to the JWT, only a legitimate authority can make the decision to initiate military action.⁴⁴ In the context of peace operations, the highest international authority is the United Nations. The majority of peace operations in the world have

⁴² "Principles of Peacekeeping," (n.d.), retrieved from United Nations: peacekeeping:

<<https://peacekeeping.un.org/fr/principles-of-peacekeeping>>

⁴³ Perez, M. (2018, February 23), "The blues of the peacekeepers in Libya," retrieved from *Le journal du dimanche*: <<https://www.lejdd.fr/International/Moyen-Orient/au-liban-le-blues-des-casques-bleus-3578882>>

⁴⁴ Bourgois, F. (2006), "The theory of the just war: a Christian heritage?" in: *Etudes théologiques et religieuses*, pp. 449-474.

been set up following a decision by its Security Council. But is it a legitimate authority?⁴⁵ Considering its composition, this is not the case. Indeed, when decisions are made, the five permanent members (the United States, China, Russia, France and Great Britain) have a right of veto.⁴⁶ The consequences of this veto are not insignificant, as only one of these five countries can decide not to participate in a peace operation.

Considering the veto power granted to the major powers, does the Security Council really reflect the general interest or does it rather allow these states to use the UN to their advantage? On several occasions, this veto right, or at least the threat to make use of it, has prevented the implementation of peace operations. This was the case during the Algerian war, when the UN was unable to intervene because of the threat of the French veto.⁴⁷ However, the situation would have required the intervention of Blue Helmets, as many massacres took place.⁴⁸ The same happened during the Vietnam War, but this time because of the US veto threat.⁴⁹ In this context, can the UN still be considered legitimate? Solutions have been discussed in

⁴⁵ “United Nations Security Council,” (n.d.), retrieved from United Nations <<https://www.un.org/securitycouncil/fr/#:~:text=Le%20Conseil%20de%20s%C3%A9curit%C3%A9%20est%20comp%C3%A9tent%20au%20premier,et%20les%20termes%20de%20r%C3%A8glement%20qu%27il%20juge%20appropri%C3%A9s>>.

⁴⁶ “How does the UN Security Council work?” (2020, June 16), retrieved from *Le journal du dimanche*: <<https://www.lejdd.fr/International/comment-fonctionne-le-conseil-de-securite-de-lONU-3975362>>.

⁴⁷ Maurel, C. (2017, June 26), “The UN and UNESCO: (5) Should the UN veto be abolished?” (IHMC, Interviewer) <<https://www.youtube.com/watch?v=w57M2fbGT3c&t=2s>>

⁴⁸ Mauss-Copeaux, C. (2013), *Memoirs of a massacre: Oudjehane, 11 May 1956*, (Payot).

⁴⁹ Maurel, C. (2017, June 26), “The UN and UNESCO: (5) Should the UN veto be abolished?” (IHMC, Interviewer) <<https://www.youtube.com/watch?v=w57M2fbGT3c&t=2s>>

recent years, such as the suspension of this right in the case of mass crimes.⁵⁰ This decision would give full legitimacy to the UN Security Council.

However, in the context of peace operations, the UN does represent the global reference. But to intervene, the UN relies on the troops of UN member states. But what would happen if the states in question refused to send their troops for a peace operation? Should the states be forced to participate or would it be necessary to resort to other means, such as private companies?

Since the mid-1990s, there has been a debate about participation of private companies in peace operations. Some of these companies already provide security for ambassadors or diplomats abroad, as was the case during the withdrawal of US troops from Iraq in 2011.⁵¹ Some companies were also present during peace operations. Even if they did not replace the Blue Helmets, they still had a role to play. Take the example of Bosnia in the 1990s. The private company DynCorp was tasked to provide police trainers and advisors for the UN.⁵² Although these private companies offer several advantages,⁵³ the problem of legitimacy is still present and even more critical than for UN troops. Indeed, how can one justify the involvement of a particular company instead of another? Even if a company intervenes following a decision by the UN (which is a sovereign

⁵⁰ BBC News, (2015, February 25), “Amnesty calls on UN powers to lose veto on genocide votes,” retrieved from <<https://www.bbc.com/news/world-31617141>>

⁵¹ Browman, T, (2011, May 17), “As U.S. Military Exits Iraq, Contractors To Enter,” retrieved from NPR: <<https://www.npr.org/2011/05/17/136357821/as-u-s-military-exits-iraq-contractors-to-enter?t=1617380984833>>

⁵² Simm, G., *Regulatory Theory: Foundations and applications. 24: Regulating sex in peace operations*, (2017, ANU Press).

⁵³ Spearin, C, (2011, March 22). “UN Peacekeeping and the International Private Military and Security Industry,” <<https://www.bing.com>>.

organization), why should this company be more legitimate than another to intervene in this operation? Moreover, the use of these private companies raises other ethical problems such as the lack of control over the employees. This is not a trifling possibility, as there have already been incidents in the past which, in addition to being legal violations, call into question the validity of the whole operation.⁵⁴ Given that legitimacy is a basic principle of operations other than war and that any departure from this principle can lead to the failure of an entire operation,⁵⁵ it is necessary to review the framework and the way in which these private companies should be used before they can be employed.

Moreover, this is the same principle as the work of NGOs. While these organisations can operate in times of conflict to help the population and are even essential in the context of humanitarian aid (e.g. *Doctors without Borders*),⁵⁶ they generally do not have their own means of protection and are therefore dependent on governments or other organisations. Here again the use of private companies could take the burden off the peacekeepers, who would then have more means to carry out their missions.

Furthermore, how can the UN justify refusing to allow a private company to operate in an emergency? If the company has the means to act, if it acts in the common interest, if it puts itself entirely under the orders of the UN and thus adopts the UN line of conduct, is it absolutely necessary that the problem of legitimacy be resolved before authorising its intervention? Let us take the example of UNAMIR. Knowing that the lives of

⁵⁴ Simm, G, *Regulatory Theory: Foundations and applications. 24: Regulating sex in peace operations*, (2017, ANU Press).

⁵⁵ Aury, A, (2020, 05 11), "Military Ethics and Military Operations Other Than War (MOOTW)," Brussels, p. 8.

⁵⁶ "Our operations," (n.d), retrieved from *Médecins Sans Frontières*: <<https://www.msf.fr/decouvrir-msf/nos-operations>>

thousands of civilians were at stake, if a private company had been available and met the above criteria, should it have been allowed to assist the peacekeepers to stop the atrocities, or should it have been forbidden to intervene, even if it meant condemning innocent people? This is a difficult question, and one that requires prior consideration in order to provide an adequate response should this situation arise.

In conclusion, the principle of legitimacy should not be taken lightly and can make a peace operation easier or more difficult. As far as the UN is concerned, the right of veto poses a real problem and discredits the entire UN decision-making process. Therefore, this principle, although a real necessity and part of the MOOTW, is not applicable today. The problem does not lie in the JWT, because this principle is very relevant, but in its practical application. In order to be able to recognise the UN as a legitimate authority, a solution to this problem needs to be put forward, for example the suspension of the veto right in peace operations. Only once this point has been resolved can the UN address the legitimisation of the use of private companies, and thus get more latitude while retaining the necessary legitimacy.

3.1.3 Last resort

Another confusing principle of the JWT is that of last resort. It implies that military action can only be considered as a last resort, i.e., when all other peaceful options have been exhausted. But what about peace operations? Are they to be considered as a peaceful attempt before further military action, or as military action itself? Indeed, even if the aim is to make or preserve peace, the use of force is not prohibited. Two interpretations are then available to us. In the first, the peace operation is seen as a peaceful means to be attempted. This puts it on the same level as economic or political sanctions (coercive means) or rather than negotiations, mediation or arbitration (legal-diplomatic

means).⁵⁷ This option seems to match the missions of the Blue Helmets, namely to play the role of an arbitrator in the field. However, during peace enforcement operations, this no longer corresponds to reality. The characteristic of these operations is the low degree of consent of at least one of the conflicting parties, which implies a greater and sometimes even inevitable use of force.⁵⁸ Moreover, it is not the UN that is in charge of these missions but rather NATO, or even an international coalition.⁵⁹

This leads us to the second way of looking at it, which is to regard peace operations as military actions in their own right. Therefore, all other means should be used or at least considered before such operations. These alternative means give rise to several problems. One problem is having to choose which option will achieve the desired objective. Having to go through these means before considering the possibility of a peace operation could be detrimental to the situation, in the sense that the situation could be even more tense because of the implementation of an alternative means.

In order to make the best use of this principle, one solution would be to divide peace operations into two categories (at least when it comes to judging the implementation of this principle). The first category would include peacekeeping, peace building and peacemaking operations. They would be considered as a peaceful means and would not have to be used as a last resort in order to be considered just. The second

⁵⁷ Dewyn, M., & Ceulemans, C (2020-2021), “Citizenship and military ethics, I,” p. 132 (École Royale Militaire, Bruxelles).

⁵⁸ Chapter III: “Peace enforcement,” (n.d.), retrieved from *Global Security*: <https://www.globalsecurity.org/military/library/report/call/call_93-8_chap3.htm>.

⁵⁹ Chapter III: “Peace enforcement,” (n.d.), retrieved from *Global Security*: <https://www.globalsecurity.org/military/library/report/call/call_93-8_chap3.htm>.

category would include peace enforcement operations as military actions in their own right, thus limiting their use. This would mean that before any peace enforcement operation, operations in the first category should at least be considered to see if they would be sufficient to achieve the objective. Making this distinction would also permit the deployment of the necessary 'quantity of force' so as to be neither too flexible nor too strict in the measures taken.

3.1.4 Reasonable prospects of success and proportionality

The principle of reasonable prospects of success is also problematic in the context of peace operations. The purpose of this principle is to avoid putting lives unnecessarily at risk by using military force while one knows in advance that there is no prospect of success. But does this mean that it is better not to intervene in the face of a massacre when it is not certain that it can be stopped? It is clear that it is necessary to be reasonable about what can be achieved. There is no way to morally justify the sacrifice of dozens of people when it is easily avoidable. But what if civilian lives are at stake? When genocide is in progress, a lot of ethical issues arise. One is whether or not to intervene. Whether it is the UN in a peacekeeping operation or even NATO in a peace enforcement operation, there is always a risk of losing troops. But at what point does this risk become too great when weighed against the benefit to be gained? This question becomes even more problematic when you know that the means at your disposal are not entirely sufficient. It becomes extremely difficult to choose between sacrificing lives to save others and doing nothing and seeing innocent people die. This dilemma is similar to a basic ethical dilemma: is it better to kill one person or let five die? Except that in the case of a massacre, it is civilians on one side and the military on the other. In theory, soldiers are aware of the risks involved in a mission and they know that it can cost them their lives, which is not the case for

civilians. These risks are central to the analysis of proportionality *ad bellum*, a principle that remains relevant to peace operations. Indeed, the pros and cons of an operation should be weighed before deployment, regardless of the amount of force employed.

The doctrine of *Responsibility to Protect* (R2P) stipulates that when a state is unable or unwilling to protect its citizens, the responsibility falls to the international community.⁶⁰ The latter then has a moral obligation to intervene. This raises the question: who exactly has this responsibility? James Pattison mentions several solutions in his book,⁶¹ but it only concerns humanitarian operations and therefore does not take into account the dangers that peace operations may entail. This principle of reasonable chances of success deserves to be adapted to peace operations. At the very least, a distinction should be made between an emergency such as genocide or ethnic cleansing directed against civilians, or a conflict involving combatants. In both cases, the problems inherent in this principle would remain, namely the difficulty of estimating the chances of success and the definition of success. However, it would make it possible to define two different ethical frameworks depending on the situation. One cannot think in the same way when preventing military personnel from fighting each other as when protecting civilians.

There is no standard answer to these ethical dilemmas, only different schools of thought, each with its own point of view. Since this principle is basically a consequentialist principle, theoretically only the possible consequences of an intervention should be taken into account. Peace operations bring a new

⁶⁰ "What is R2P?" (n.d.), retrieved from *Global Center for the Responsibility to Protect*: <<https://www.globalr2p.org/what-is-r2p/>>

⁶¹ Pattinson, J. (2008), "Whose Responsibility to Protect? The Duties of Humanitarian Intervention," *Journal of Military Ethics* Volume 7, Issue 4 (2008).

element to this principle that is not taken into account in JWT: the quality of the people involved.

3.2 *In bello*

3.2.1 *Discrimination*

The principle of discrimination is first of all very interesting in the context of the use of force in peace operations, in that it determines who can be attacked and who cannot. It is this principle, together with the principle of proportionality, which makes it possible to limit the damage caused to people who are not targeted and thus to avoid inflicting damage on civilians. Therefore, it should always be used when employing force, even at the lowest level, regardless of the context or situation.

On the other hand, the purpose of UN troops is precisely not to use force except in self-defence or defence of the mandate. In the context of a peacekeeping operation, their role is similar to that of an arbitrator. However, before the troops are deployed in the field, they usually receive pre-deployment training during which the situation in the field is explained to them. If their objective is to protect population A from armed group B, the principle of discrimination is already applied at a higher level. Identifying the population to be protected describes it as ‘non-combatant’, while the armed group is identified as ‘combatant’. Of course, this does not mean that UN troops can shoot combatants on sight; as other ethical principles, the ROEs, the mandate and international law still apply.

Furthermore, making a distinction between who can and cannot be attacked goes against the UN principle of impartiality. To use the allegory of the referee in a football match, a referee has no right to consider players differently depending on their jersey. However, when a player plays foul, it is normal for the referee not to punish everyone equally but to make a distinction

between who can be punished and who cannot. This is where the complexity of the situation lies: when the peacekeepers intervene, it is because violence has already been committed or is about to be committed. In this case, should a distinction be made between the two situations? Is it morally more acceptable to classify someone as a 'combatant' only after violence has occurred? As long as no violent events have taken place, it is difficult to justify making a distinction between different groups. It would then be better to favour the UN principle of impartiality over the principle of discrimination. On the other hand, when an attack has taken place and it is known who is behind it, it is perfectly justified to act in accordance with the principle of discrimination, because it is then easier to categorise the different groups.

In the context of peace enforcement operations, however, the principle of discrimination gains importance. Since these operations are characterised by a greater use of force, this principle remains quite relevant. These operations take place in a very tense environment, as one or more of the conflicting parties usually oppose them. Therefore, impartiality takes a back seat and greater emphasis is placed on discrimination.

In conclusion, the latter principle is still relevant for the regulation of the use of force, regardless of its level, but it contradicts the principle of impartiality in peacekeeping missions where force is not used. Therefore, the importance of each principle must be adapted to the situation in order to determine which principle takes precedence at which point.

3.22 Proportionality

In the context of peace operations, the principle of proportionality is relevant. It can be linked to the principle of limitation of actions advocated by the US in the case of MOOTW. The former principle states that the damage caused by the pursuit of an objective should not be greater than the

benefits derived from it, while the latter stipulates that one should absolutely limit oneself to actions that can serve the objective.⁶² Both principles aim to limit the impact of military action on people not involved in the conflict, to keep the force used to a minimum and to avoid unnecessary damage.

The high political visibility of peace operations brings a new dimension to the application of these principles. It is no longer only necessary to respect them because it is morally more acceptable, but also because the slightest breach of these principles can have serious consequences. Recently, there was an incident between MONUSCO peacekeepers and a civilian, in which the military used force to arrest the civilian. A video was quickly posted on social networks and MONUSCO started an investigation. Although no deaths were reported, the incident is causing a stir. This is a good example of the importance of proportionality and limiting actions. The responsibility for this incident has not yet been established, but it is clear that the level of force used was considered too great.⁶³

This incident could have had terrible consequences on the whole operation. Given that the person arrested is a civilian, the fact that peacekeepers use force (even at a lower level) against the population could totally discredit MONUSCO. This demonstrates the importance of this principle in peace operations.

For operations where peace already prevails, a distinction should still be made. The issue is no longer cost-benefit analysis or even of limiting oneself to actions that can serve the objective, because the operation takes place in a peaceful context. It is therefore imperative to limit the use of

⁶² Aury, A, (2020, 05 11), “Military Ethics and Military Operations Other Than War (MOOTW),” Brussels. p. 9 (*supra*, footnote 1).

⁶³ “DRC: Incident between peacekeepers and a civilian, MONUSCO launched an investigation,” (2021, April 26), retrieved from UN Info: <<https://news.un.org/fr/story/2021/04/1094722>>

force to a strict minimum, or even to avoid it whenever possible. Why? Because since peace is already in place, the use of force may be totally counterproductive (even if it serves the purpose of maintaining that existing peace or is in keeping with a good cost-benefit ratio). In a war situation, this principle is intended to limit collateral or unnecessary damage, but in a peace situation its scope is even more extensive. Indeed, even if in the short term force can solve a problem in the field, its use can have serious consequences in the long term. If we take the example of the MONUSCO incident, using force to arrest the civilian has already been seen as wrong by many people. But what if the peacekeepers had shot him? At the time, the incident would have been resolved because the civilian would no longer have been a problem. On the other hand, it would have meant using much more force than necessary. The effects would have been felt in the medium to long term, as the whole operation would have lost much of its legitimacy. The local population might not even have accepted the peacekeepers any longer.

Thus, the importance of limiting the use of force should not be underestimated and is even more important than the principle described in the JWT, as its inappropriate use may have serious effects on the whole operation and thus undermine the objective. In other words, failure to observe this principle would be counterproductive and would discredit the principle of legitimacy, which was put in place to ensure maximum legitimacy for the operation.

3.3 *Post Bellum*

In the JWT, the *jus post bellum* is very little developed.⁶⁴ It is a vast and still unexplored field, but it plays a very important role in peace operations. Since peace-building and especially

⁶⁴ Dewyn, M., & Ceulemans, C. (2020-2021), "Citizenship and military ethics I," p. 166 (École Militaire Brussels).

peacekeeping operations take place after the conflict, they fall within the scope of *jus post bellum*. Unfortunately, this is a major shortcoming of the Just War Theory, which fails to provide the necessary ethical framework. In this context, should post-conflict peace operations also take into account the principles of *jus in bello* and *jus as bellum*?

Most of these principles are no longer applicable (e.g. the principles of reasonable chances of success or discrimination), but other principles will play a much more important role. This is particularly true of the principle of impartiality. Since the conflict is considered to be over, these operations take place in an environment that is still volatile and where tensions usually persist. However, the aim is not to judge who was responsible, but rather to maintain a situation of peace that is often unstable and to create the conditions necessary for the development of lasting peace conditions. In order to do this, it is crucial to remain impartial and not to hold either side responsible for what happened. Judging the actions that triggered the conflict and those that occurred during the conflict comes within the scope of (inter)national justice⁶⁵, not of peace operations.

This is also the case for consent, one of the three basic principles of the UN even if it is totally ignored by the JWT. It is on this basis that operations will be organised, and it is according to this degree of consent that the situation can become more or less dangerous for the peacekeepers. But what if a conflict comes to an end but the host states object to a peace operation taking place on their territory? In this case, non-intervention would mean taking the risk of seeing the situation escalate again and another similar confrontation break out. Conversely, deciding to intervene anyway would mean disregarding the sovereignty of the state, whereas this very

⁶⁵ “About the Court,” (n.d.), retrieved from International Criminal Court: <<https://www.icc-cpi.int/about?ln=fr>>

sovereignty makes the UN legitimate in its decision-making. To ignore the sovereignty of a state and intervene on its territory without its consent is to claim that the UN is more legitimate than state authorities on their own territory, and that this legitimacy prevails over consent. But what if civilian lives depend on it? And what if we know full well that without a peacekeeping or peacebuilding operation, the situation will turn into a new conflict in the weeks that follow, with many prospective victims? From a purely ethical point of view and taking into account that it is impossible to be 100% sure that in the absence of a peace operation the situation will evolve into a conflict, is it better to put the sovereignty of a state before the lives of its citizens? According to the JWI, a basic ethical principle is respect for the political and territorial sovereignty of a state. However, in the context of a conflict, it is common to see interventions occur on the territory of a state without its consent, as for example in the application of the R2P doctrine.⁶⁶ However, we are here talking about a case where the conflict has ended. Should the situation be allowed to evolve before a decision is made to intervene or not?

Another question that frequently arises on the subject of post-conflict reparations is the following: who has the responsibility to rebuild? This question falls more within the scope of peace-building operations. Opinions may of course differ, but two ways of looking at it are quite common. The first is that the responsibility to rebuild lies with the various actors in the conflict, whether they are the victors or the aggressors. The second view holds that the responsibility lies with the international community. But then how exactly does one

⁶⁶ “What is R2P?” (n.d.), retrieved from *Global Center for the Responsibility to Protect*. <<https://www.globalr2p.org/what-is-r2p/>>

determine who should rebuild?⁶⁷ This is a never-ending loop that brings us back to the same problem as R2P, i.e., who is responsible? In addition, other problems surface, such as the problem of state consent, which we have just discussed. Finally, there is also the question of whether the organisation or state that is designated as responsible for reconstruction feels legitimate. It is usually not just a question of reconstructing buildings, but also a political system, culture, everything that makes up a nation. From that point, the question becomes: who is both responsible and legitimate enough to interfere in the domestic affairs of a state? And just as with the sending of peacekeepers, what if that state or organisation does not want to intervene?

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⁶⁷ Pattinson, J. (2015), "Jus Post Bellum and the Responsibility to Rebuild," *British Journal of Political Science*, p. 635-661.

4 Peace operations requirements

As its name suggests, the Just War Theory (JWT) is not basically intended to provide an ethical framework for peace operations. It is therefore normal that this theory does not include the principles for this type of operation; at least, it was normal thirty years ago. But today, this type of military action occurs much more often than before, and it is becoming necessary to incorporate these ethical principles into the JWT.

4.1 *Impartiality*

Even if it is very important for the operation as a whole, the principle of impartiality is totally absent in the JWT. It is therefore necessary to analyse the ins and outs of this principle in order to determine how it can be related to the JWT in order to extend the latter's ethical framework to peace operations.

However, impartiality does raise some questions. First of all, does it have to be absolute? When it comes to ending a conflict between two or more states, it seems obvious that taking sides with one or the other would be counterproductive. But what if the conflict involves a state and a non-state armed group or even several groups between them? Does the international community have to remain neutral in order to end the conflict?

The UN compares this situation to that of a football match where the peacekeepers are referees.⁶⁸ In this case, they are obliged to point out the "fouls" committed by both sides and cannot take sides in any case. But should these referees also defend a player when he is attacked? In a football match, the referee should obviously not put himself in danger, but what

⁶⁸ "Principles of Peacekeeping," (n.d.), retrieved from United Nations: peacekeeping: <<https://peacekeeping.un.org/fr/principles-of-peacekeeping>>.

should he do in a peace operation whose aim is to end violent clashes? Blue Helmets can, of course, use force in certain cases, such as self-defence.⁶⁹ Self-defence/legitimate defence also involves the defence of others. But is defending someone in a case of legitimate defence temporarily taking sides? Considering that this “temporary partiality” would take place in favour of the other actor in the conflict if the roles were reversed, it cannot be said that impartiality is not respected.

On the other hand, take the example of ethnic cleansing occurring within a country, such as the genocide in Rwanda in 1994. If UN troops are deployed, it is mainly to end the conflict and protect the population. The perpetrators of the violence are then clearly identified, and it is against these same perpetrators that the UN must defend the population. What about impartiality then? Of course, peacekeepers have a moral obligation to protect civilian victims of violence, but does this go against the principle of impartiality? This depends on the point of view adopted. If the operation as a whole is seen as a peaceful action against the perpetrators of violence, then the operation, although non-violent, is not impartial. If, on the other hand, the entire operation is seen as one of legitimate defence, with the troops deployed as a ‘barrier’ between the two conflicting parties, then impartiality is respected.

Things get more complicated when you incorporate McMahan’s notion of a fair and unfair fighter. The relevance of this entire concept is questioned for the principle of impartiality. Wouldn’t refusing to take sides between a fair and unfair fighter be a backdoor way of turning a blind eye to the concept of justice? There is a well-known saying that not to choose is to choose. Even if the objective of a peace operation is to ensure that these

⁶⁹ “Principles of Peacekeeping,” (n.d.) retrieved from United Nations: peacekeeping:
<<https://peacekeeping.un.org/fr/principles-of-peacekeeping>>

two combatants cease hostilities, refusing to take sides and imposing an end to hostilities is tantamount to choosing to prevent the just combatant from achieving his or her cause, and thus standing in the way of what is just. Can impartiality in this case be opposed to the principle of the just cause?

In conclusion, the principle of impartiality, although already applied by the United Nations in its peacekeeping operations, needs to be interpreted in order to provide a coherent ethical framework. Firstly, it should be suspended when legitimate defence can be invoked, thus enabling peacekeepers to defend the population without taking sides. In the context of an inter-state conflict, between a state and an armed group or between several armed groups, the interpretation of the United Nations seems entirely adequate. As for the issue of opposing the just cause principle, it is the responsibility of the international community to decide on the prevalence of one or the other principle depending on the situation, while taking into account the fact that other means are available to redress an injustice

4.2 *Unity of effort and maximum effort*

Unity of effort is a redundant principle of MOOTW; yet it is totally absent in the Just War Theory (JWT). It implies that the different states and/or organisations that intervene must do so in a coordinated manner, with a view to achieving a common objective.⁷⁰ This principle, although derived from the principles of war, cannot be found in the JWT because it does not make it possible to judge whether a war is just or not. However, it brings a new dimension to peace operations. Unity of effort in this case would mean working together towards peace, rather than each working in a different direction and thus risking being

⁷⁰ Aury, A, (2020, 05 11), “Military Ethics and Military Operations Other Than War (MOOTW),” Brussels. p. 9 (*supra*, footnote 1).

counterproductive. The UN already implements this principle unintentionally, by bringing member states together under the UN umbrella. Peacekeepers have been symbols of peace for years, working together for security.⁷¹

However, an additional aspect could be added to this principle, mainly for cases of genocide, ethnic cleansing or other violence against civilians: the best effort principle. This would mean that all countries with the capacity to respond would have a moral obligation to intervene jointly to bring the conflict to an end as soon as possible. When we discussed R2P, we found that peace operations add the dimension of the quality of the people involved in a conflict (i.e., civilians or combatants). The best effort principle is then a response to the issue of intervention in cases of violence against civilians. It implies that nations and/or organisations with the capacity to intervene are morally obliged to consult each other in order to organise a common response and act together for peace (principle of unity of effort), but also to do everything in their power to achieve this objective (best effort). Another problem is solved here: the issue of private companies. If no state is able to intervene, then they can rely on private organisations to help them in their task.

These principles also imply a high degree of perseverance, a principle that is found in MOOTW. Since the objective of these operations is purely peaceful, the wish to achieve this objective at all costs is natural. Doing everything in their power to achieve the objective is not just a matter of deploying enough resources, but also of continuing the operation until a stable and lasting peace is achieved. Indeed, it would be difficult to justify an early termination of a peace

⁷¹ “The origin of the Peacekeepers’ Blue Helmet,” (2018, September 07), retrieved from The UN Blog: <https://blogs.un.org/fr/2018/09/07/l’origine-du-casque-bleu-des-soldats-de-la-paix/>

operation without good reason, especially when it comes to protecting civilians from genocide, as this would mean abandoning the pursuit of peace. But is it absolutely necessary to persevere, no matter what that means? It depends on what is at stake in the operation. Between a peacekeeping operation deployed to prevent the massacre of civilians and a peace-building operation, the short-term security issue is certainly not the same and this must obviously be taken into account.

However, it is clear that a state cannot simply be asked to give up its internal affairs and its own security in order to sustain a peace operation at all costs. This is where international organisations come into play, for instance the United Nations. Unity of effort implies that the various states must act together, and therefore one state alone cannot be expected to provide all the necessary means and to sustain the operation. If a nation no longer has sufficient means to sustain the operation, it would not be morally acceptable for it to be compelled to continue the operation if it means not being able to look after its own citizens any longer. Then the benefits of the operation should be weighed against the costs involved for the participating nation; this would amount to an analysis of proportionality *ad bellum*, bearing in mind that the damage is not directly caused by the violence of the conflict but by the costs involved. The application of this principle therefore depends on what is at stake in the operation, and there are certain limits to what can be demanded of a nation that cannot be exceeded; it must remain within the realm of the reasonable. For example, it would be totally ridiculous to require of a nation that it deploy all of its armed forces or even its entire population to sustain an operation when other nations could also be involved.

However, the notion of best effort must be qualified. Indeed, this principle should be understood as “doing everything possible and reasonable to achieve the objective” and not as “achieving the objective by all means”. This means that there are certain limitations to be respected and that in this case

the end does not justify the means. Achieving the goal is important, but this should not mean ignoring other ethical principles such as force limitation.

4.3 Consent

We have already discussed consent in the section on *jus post bellum*, but that was about the consent of the host nation. Another consent may also be necessary for the implementation of a peace operation: the consent of the local population.⁷² This element is missing in the JWT, as can be expected. Indeed, the consent of the local population is not something that is essential to assert that a war is a just war.

The UN emphasizes the fact that the consent of one party to the conflict does not guarantee or imply the acceptance of the local population,⁷³ which means that local consent is not necessary. When it comes to imposing a cease-fire, it is obvious that at least one of the parties does not consent. But what can we say when it comes to peacekeeping patrols?

On the other hand, this can be decisive in certain peace operations, namely peacekeeping and peacebuilding operations. In these cases, the consent of the state is necessary to ensure the smooth running of the operation. But what if the local population does not agree with the operation or even opposes it? Should the presence and assistance of peacekeepers be imposed on the population? For example, during peace building, important cultural or structural changes can take place in order to ensure a lasting peace. But what if the local population refuses these changes? Should these changes be enforced?

⁷² Aury, A, (2020, 05 11), “Military Ethics and Military Operations Other Than War (MOOTW),” Brussels, p. 8 (*supra*, footnote 1).

⁷³ “Principles of Peacekeeping” (n.d.), Retrieved from United Nations: peacekeeping:

<<https://peacekeeping.un.org/fr/principles-of-peacekeeping>>

Another example is that of UN soldiers patrolling to ensure the safety of a certain part of the population. What if the people refuse the help of the peacekeepers? Is it right to impose an international military presence on people if they object, in order to protect them? Imposing this aid on people who do not want it would be the same as imposing a blood transfusion on someone who does not want it (urged by conviction or otherwise) in order to save them. Then the issue is no longer the sovereignty of a state but of the people themselves.

5 The Blue Helmet's viewpoint

This chapter discusses the peacekeeper's perspective on the ethics of peace operations. Just War Theory (JWT), in its principles, is primarily concerned with the person or persons who make the decision to go to war or start an operation. But what about the point of view of the men in the field? Are their feelings too often neglected? If they do not perceive their action to be right, they will not support the operation as a whole and this cannot lead to positive results. Indeed, how can an operation be fair if those involved see it as unfair? Ethics concerns everyone, and to pass judgement on a military action as a whole without taking into account the outlook of the men involved is not right. This is why the next points will bring an additional dimension to the JWT: another level to be taken into account.

To really understand the perspective of the personnel in the field in a peace operation, this section will be based on existing testimonies as well as reports from past missions, such as the Rwanda Commission report following the events of 1994.

5.1 *The limitations*

One of the most important aspects of a Blue Helmets' vision is their ability to react to problems. These men are deployed with the aim of stopping violence or preventing further violence from happening. In order to do this, it is essential to provide them with enough resources to do so. Unfortunately, this is not always the case. Several operations are notorious for the problems that those personnel had to face. This is the case with UNAMIR⁷⁴ or

⁷⁴ Senate of Belgium. (1997), "Parliamentary Commission of Inquiry into the events in Rwanda," <senate.be>.

the Srebrenica massacre in 1995 (then located in a UN security zone).⁷⁵

A common thread that links these two events is the limitation of resources. In the case of the Srebrenica massacre, the peacekeepers felt totally powerless and abandoned by the UN.⁷⁶ Indeed, they were faced with a lack of assets to save the people they were supposed to protect, while they had been waiting for these assets for a long time. Rob Zomer, a Blue Helmet in 1995 during the Srebrenica massacre, says that the UN did not protect either the Bosnians or the Dutch peacekeepers present on the spot.⁷⁷ There were significant consequences, as 8,000 people were massacred as a result of the helplessness of the UN soldiers. Even if they were not personally responsible for the situation in which they found themselves, they were faced with a number of ethical challenges. More than twenty years later, these former peacekeepers are still afflicted by the events they witnessed. Some have committed suicide.⁷⁸

What value can be placed on an operation when the men who take part do not have the means to achieve their objective? Is it ethically correct to send and deploy personnel without giving them the means to carry out the operation? This question could also be asked in wartime, but it has a different impact in a

⁷⁵ “Srebrenica, 20 years on: a Dutch soldier remembers,” (2015, July 11), retrieved from YouTube:

<https://www.youtube.com/watch?v=hk87_dTR-EE>

⁷⁶ “Srebrenica, 20 years on: a Dutch soldier remembers,” (2015, July 11), retrieved from YouTube:

<https://www.youtube.com/watch?v=hk87_dTR-EE>

⁷⁷ “Srebrenica, 20 years on: a Dutch soldier remembers,” (2015, July 11), retrieved from YouTube:

<https://www.youtube.com/watch?v=hk87_dTR-EE>

⁷⁸ “Srebrenica, 20 years on: a Dutch soldier remembers,” (2015, July 11), retrieved from YouTube:

<https://www.youtube.com/watch?v=hk87_dTR-EE>

peace operation because civilian lives are at stake. In the case of Srebrenica, no peacekeepers lost their lives but about 8,106 civilians under UN protection were killed.⁷⁹ How can an operation be perceived as just when its conduct poses an ethical dilemma? When peacekeepers witness a massacre, they have a moral obligation to intervene, because it is the reason they were deployed and they should not let civilians be massacred without reacting. But what should they do when they do not have the means to react properly? Should they still try to prevent violence at the risk of their lives? From a deontological point of view, they have been deployed for the very purpose of preventing violence and it would then be morally justifiable to expect them to do everything they can to try to save civilians. But from a consequentialist point of view, what are the chances of success when they do not have sufficient means to prevent such violence? Expecting them to intervene would mean sacrificing their lives in vain, which is not morally acceptable. The issue becomes complex, and we have again the same pattern as when a state does not have the means to intervene or when the chances of success of an operation are very low or non-existent. The best effort principle can then be applied in different ways and at different levels. Firstly, as an *ad bellum* principle, in order to determine the means to be used for the operation, but also as an *in bello* principle, applicable down to the lowest level.

The situation in 1994 during UNAMIR was different, however. According to the parliamentary commission of enquiry into the events in Rwanda, UNAMIR took place despite a lack of preparation, coordination and means. First of all, the ROEs

⁷⁹ “DNA Results of the International Commission on Missing Persons Reveal the Identity of 6,186 Srebrenica Victims,” (n.d.); retrieved from *International Commission on Missing People*. <<https://www.icmp.int/press-releases/dna-results-of-the-international-commission-on-missing-persons-reveal-the-identity-of-6186-srebrenica-victims-dnk-izvjestaji-medunarodne-komisije-za-nestale-osobe-icmp-otkrili-identitete-6186-sreb/>>

were not entirely clear, and were open to interpretation. One particular point, Article 17, carries significant ethical weight. It states that UNAMIR is morally obliged to use all means to stop crimes against humanity.⁸⁰ However, according to the same commission of enquiry, the means made available to the Blue Helmets were not sufficient.⁸¹ In concrete terms, they found themselves faced with a threat against which they could not react. In the case of the ten Belgian para commandos, it was not only the people they were there to protect who lost their lives, but also themselves. This is another case in point: these men were deployed as part of a peace operation, but did not even have the means to protect themselves. So, what is the right thing to do? Despite the lack of means, did these men have an obligation to accept their mission? It is clear that peacekeepers do not choose the operations in which they are deployed, but is it morally acceptable to deploy them without providing them with the means to defend themselves?

The Srebrenica massacre and the events in UNAMIR are proof that peace operations require new ethical principles. In this case, the best effort principle implies that the UN should have deployed all necessary means to carry out the mission. This would have produced a different value judgement on these operations, which cannot be justified unless the personnel deployed have the means to protect themselves and the civilians.

Another problem is related to mandate limitation. Imagine that peacekeepers are deployed in a peace operation to protect civilians A against an armed group B, but only within a protected area. The mandate issued by the UN is only for the protected area, and the peacekeepers are not allowed to leave the

⁸⁰ Senate of Belgium. (1997), "Parliamentary Commission of Inquiry into the events in Rwanda," <senate.be>.

⁸¹ Senate of Belgium. (1997), "Parliamentary Commission of Inquiry into the events in Rwanda," <senate.be>.

protected area. When men from Group B try to attack civilians A in the protected area, the peacekeepers can and should defend the civilians. But what happens if civilians find themselves in danger outside the protected area? This is an ethical dilemma that peacekeepers in the field should face: what are they to do when the mandate prevents them from saving civilians? Is it better to put civilian lives first or to respect the mandate no matter what? This is a very sensitive issue, as operations other than war often take place in a complex political context.⁸² As a result, mandates and ROEs are usually more limited. But where do we draw the line between complying with the mandate and defending the civilians under our protection? Is it right to limit the scope of action (as long as it remains within the spectrum of peace operations and other applicable principles) on behalf of the mandate?

5.2 *A different aspect*

What also differentiates a war operation from a peace operation is the role that peacekeepers have to play. This is especially true for peacekeeping operations, as they take place in a context where peace usually already exists and must be maintained. The situation is not particularly clearer in all conflicts, as some conflicts involve many different actors, be they armed groups, rebels, the official army of a state, non-governmental organisations (NGOs), private militias or even civilians. However, in peacekeeping missions, a different problem arises. Since they do not occur in time of conflict but in peace time, a person who breaks the peace becomes a criminal.⁸³

⁸² U.S. Marine Corps, (2005, February 17), “Marine Corps Tank Employment” Chap. 8, p. 2 <globalsecurity.org>.

⁸³ Pfaff, T. (2000, September), “Peacekeeping and the Just War Tradition,” <<https://peacekeeping.un.org/fr/un-police>>.

However, Blue Helmets are troops sent by the various UN member states and are therefore soldiers by definition. Of course, the UN also has its own police force⁸⁴, but police forces have a very different ethos from armed forces. For example, the Just War Theory is not at all suited to police forces. These military personnel deployed under the aegis of the UN must then consider a peace breaker as a criminal, but still maintain their ethical military framework. Therefore, the JWT is not suitable for such situations.

In practical terms, this means that a soldier deployed as a peacekeeper faces the risk of feeling like a policeman, as if he was doing someone else's job, without having the appropriate ethical framework for his situation. Is it morally acceptable for the UN to deploy troops without even providing them with an appropriate ethical framework? And will these troops be able to apply the relevant principles to the situation if they do not know what the ethical basis is?

One solution to this problem would be to extend the ethical framework of police forces to peacekeepers, so that the latter have an ethical basis to fall back on when faced with a dilemma or stressful situation. But this solution is not fully satisfactory either, because the role that the UN expects its peacekeepers to play is not exactly the same as that of police forces either. For example, a soldier, even in a peace operation, must be able to distinguish very quickly between a peace situation and the beginning of a conflict. These peacekeepers are first and foremost deployed to protect civilians⁸⁵, and must be able to adapt their methods and actions to the context in the field. Moreover, police forces are usually part of the community

⁸⁴ "UN Police," (n.d), retrieved from United Nations: peacekeeping: <<https://peacekeeping.un.org/fr/un-police>>

⁸⁵ "Protection of civilians," n.d, retrieved from United Nations: peacekeeping: <<https://peacekeeping.un.org/fr/protecting-civilians>>

they work for. This is not at all the case for peacekeepers. They are often deployed to a country they have never been to in order to protect people they do not know.

In conclusion, there is a need to adjust the JWT to provide a more adequate ethical framework for the work that is required of peacekeepers in a peace mission. From the perspective of peacekeepers, therefore, there is a need for a new principle governing the use of all others: adaptation. At first sight, this may be a more pragmatic point, outside the scope of ethics. However, this principle can indeed provide a new moral judgement on an operation. How can an operation that is not suited to the requirements of the situation be right? This principle implies a transition from the thinking patterns needed for war to the thinking patterns needed for a peace operation. One should not have the same approach in peacetime as in wartime, and this also implies a change in behaviour, for example different reactions to a threat or a different relationship with civilians. The application of this principle would make it possible to adapt the ethical framework of the JWT to the realities in the field in peace operations. The application of this principle is therefore as follows: an operation cannot be just if the principles governing it are inadequate. It is a kind of 'final check' of the application of all other principles. Since some principles are only applicable to peace operations in certain cases or under certain conditions, it is important to provide the right ethical framework and not to impose principles that are not tailored to the situation if we are to describe an operation as a just operation.

6 Conclusion

When it comes to setting an ethical framework for war or military combat action in general, Just War Theory is still quite relevant today. It uses sound ethical principles to provide the basis for moral judgement. However, it is not entirely suitable for all operations of the armed forces, and peace operations are a very good example. We have seen that some principles remain adequate, while others require some adjustment or raise diverging issues. To the research topic ‘How is Just War Theory applicable to peace operations?’ there is no simple answer.

Indeed, to answer this question it is necessary to review each principle, as was done in the above chapters. Since the JWT is suitable for war, it is not necessary to modify it entirely. However, in order to include the ethical framework essential for peace operations that mark a war-ending process, avoiding war or rebuilding for a stable and lasting peace, a distinction must be made concerning the relevant principles between a combat operation or war on the one hand, and a peace operation on the other. We have also seen that there are different types of peace operations, which implies that the principles do not apply in the same way to each type of operation. Again, a distinction must be made where the application of the principle requires it.

First of all, the just cause principle. In the context of a peace operation, this principle is quite relevant and generally always applicable. Seeking to achieve or maintain peace is by definition a just cause, as it amounts to seeking to prevent or redress an injustice. However, this implies knowing where to place the priority between seeking peace and redressing injustice in a just war, a question that would require further reflection. Also related to the just cause principle, preventive action does not have the same ethical consequences for war as for a peace operation. Therefore, a preventive peace operation easily fits into the definition of a just cause.

The good intention principle, on the other hand, is not as suitable for peace operations as it is for war. Since the ultimate goal of such deployments is to achieve a lasting peace, it is not really necessary to know what the real intentions are behind a state's intervention. Indeed, as long as those purposes do not harm the common interest, what would be the point of declaring an operation unjust simply because a state is acting with other intentions? This principle evidences a lack of consequentialism; the latter is nevertheless indispensable.

Secondly, the legitimate authority principle is also relevant to peace operations. The basic idea of it is totally correct, because legitimacy is not to be underestimated in a peace operation. However, its implementation is not correct today. The right of veto granted to the permanent members of the Security Council discredits the entire UN decision-making process, which implies that the UN is not a legitimate authority today. Finding solutions to the veto problem is crucial in order to be able to apply this principle correctly. On the other hand, peace operations are an opportunity to bring a new point to the JWT: the use of private companies. The latter have several ethical advantages, such as a better capacity to protect civilians. On the other hand, there is still a need to find a way to legitimise the operation of such companies, for example through the approval of the international community. This complex issue, namely the impact of the use of private companies on the legitimacy of an operation, deserves to be a topic for future research.

The last resort principle requires two different interpretations of peace operations in order to be implemented. Indeed, it is not equally applicable to operations requiring the use of force and operations that avoid it at all costs. For this reason, I propose two different categories: peace operations that can be considered as a peaceful means to be attempted before the use of force (peacemaking, peace building and peace keeping), and those that are regarded as the use of force itself

(peace enforcement operations). For the first category, it is not necessary to try all possible peaceful alternatives before deploying these operations. They are precisely among the alternatives to be considered before the use of force. For the second category, however, the principle is applicable in the same way as in combat operations or war, as described in the JWT.

Nor are reasonable chances of success applicable as such to peace operations. Of course, the notion of reasonableness remains indispensable and is therefore relevant in all circumstances. But the basic principle does not take into account an important dimension for peace operations, namely the quality of the people involved. Ethically speaking, there is a difference between intervening to save civilians and to separate combatants, a difference that requires a different application of this principle depending on the situation. However, every operation carries risks, and it is the analysis of these that determines proportionality *ad bellum*. In other words, the *ad bellum* principle is an application to peace operations.

With regard to proportionality *in bello*, an adjustment is necessary. The basic idea corresponds to peace operations in the sense that the action taken must be proportional to the goal, but the importance of limiting the use of force is even greater for these operations. Consequently, in addition to the cost-benefit analysis required for each action, there is a need to restrict the use of force to a minimum in order to achieve the mission. The current high media and political visibility only accentuates this need for limits. For peace enforcement operations, however, the use of force is different. Therefore, the principle of proportionality seems to be well suited as described in the JWT.

It is when it comes to implementing the principle of discrimination that things get complicated. Indeed, this principle clashes with the principle of impartiality advocated by the United Nations. Once again, a separation between peace enforcement operations and other peace operations is necessary in order to best adapt the two principles. During a peace

enforcement intervention, discrimination remains more important because the use of force is more frequent. For other types of operations, the principle of impartiality is more important. In all cases, discrimination remains essential in any instance of the use of force, even of the smallest intensity.

In the field of *jus post bellum*, there is currently no consensus on the existence of ethical principles. On the other hand, the question of reparation is frequently raised, and this question falls within the scope of peace operations. This reconstruction is generally seen in two distinct ways: either as a responsibility of the various conflicting parties or of the international community. Further research into the content of *jus post bellum* is needed in order to further develop the question of responsibility for reconstruction, which is an important issue in the ethics of peace operations.

In order to best adapt the Just War Theory to peace operations, it is not only necessary to adapt the principles of which it is currently composed, but also to integrate other ethical principles. The latter are already implemented (willingly or not) by the United Nations in its peace operations. They really complete the ethical framework necessary for these operations. The first of these principles is impartiality. Already put forward by the UN, it implies not taking sides in a peace operation, but rather acting as a mediator. However, it needs to be interpreted before being applied. First of all, it is necessary to know whether the peace operation is a peaceful operation against a perpetrator of violence or rather an operation of legitimate defence of the victims. This interpretation can change the context completely. Things become even more complicated with the introduction of the peace operation concept in a just war, in which the principle of impartiality could come into conflict with the just cause principle. It would then be up to the international community to decide on the priority of one or the other principle.

A second principle proudly defended by the UN is that of host nation consent. This principle, which is important for

the stability and security of an operation, is based on the principle of the political and territorial sovereignty of a state. However, it is confusing when it counteracts an intervention that could save many civilians due to the lack of consent of the host nation. This is where R2P comes in, legitimising an operation when the host nation is unwilling or unable to protect its citizens. Nevertheless, the same problem also arises in a *jus post bellum* situation, with the difference that the issue is no longer to put an end to violence. In addition to the consent of the state, the consent of the local population may also be important for the troops deployed.

Finally, the last principles are unity of effort and best effort. They imply coordinated action towards an objective, using all possible and reasonable means to achieve that same objective. Unity of effort is implicitly applied by the UN, simply by the fact that the UN is an international organisation. The best effort principle, on the contrary, has often been neglected in the past, leading to terrible results. The goal behind unity of effort is to legitimise a peace operation by making it multilateral and avoiding the problems that different unilateral uncoordinated operations can cause. The best effort principle is intended to make it impossible to describe an operation as just when the means for self-defence or for the pursuit of the objective are insufficient.

These principles have also been developed from the perspective of a UN peacekeeper deployed on a peace operation. It is by putting oneself in their shoes that one can best determine what needs to be adjusted and what elements are essential in order to perceive an operation as just. In its current form, Just War Theory does not provide a sufficient framework for such operations. A final observation is the need for a principle of adjustment that would govern the use of other principles. Deploying men for an operation without providing them with the proper ethical framework cannot be just. The purpose of the adjustment principle is to ensure that there is an adequate ethical

framework for the operation, on a case-by-case basis. All the different principles should be considered in order to see which one is relevant for a particular operation. Too many operations have been carried out without a suitable ethical framework, and there is now a need for change in order to pass new value judgements on future operations.

7 Bibliography

À propos de la Cour (n.d.), retrieved from Cour Pénale Internationale: <<https://www.icc-cpi.int/about?ln=fr>>

Aury, A. (2020, 05 11), “L’éthique militaire et les Military Operations Other Than War (MOOTW),” Brussels.

BBC News, (2015, Février 25), “Amnesty calls on UN powers to lose veto on genocide votes,” retrieved from <<https://www.bbc.com/news/world-31617141>>

Blocq, D. S. (2006), “The fog of UN Peacekeeping: Ethical Issues,” *Journal of Military Ethics*, Vol. 5, No. 3, <tandfonline.com>.

Bourgeois, F. (2006), “La théorie de la guerre juste: un héritage chrétien?” in: *Études théologiques et religieuses*, pp. 449-474.

Braun, C. N. (2018), “Just war and the question of authority,” in: *Zeitschrift für Ethik und Moralphilosophie* 1, pp. 221–236.

Browman, T. (2011, Mai 17), “As U.S. Military Exits Iraq, Contractors To Enter,” retrieved from NPR: <<https://www.npr.org/2011/05/17/136357821/as-u-s-military-exits-iraq-contractors-to-enter?t=1617380984833>>

“Chapter III : Peace enforcement,” (n.d.), retrieved from *Global Security*: <https://www.globalsecurity.org/military/library/report/call/call_93-8_chap3.htm>

“Comment Fonctionne le Conseil de Sécurité de l’ONU?” (2020, juin 16), retrieved from *Le journal du dimanche*:

<<https://www.lejdd.fr/International/comment-fonctionne-le-conseil-de-securite-de-lonu-3975362>>

Conseil de Sécurité des Nations Unies, (n.d.), retrieved from Nations Unies:

<<https://www.un.org/securitycouncil/fr/#:~:text=Le%20Conseil%20de%20s%C3%A9curit%C3%A9%20est%20comp%C3%A9tent%20au%20premier,et%20les%20termes%20de%20r%C3%A8glement%20qu%27il%20juge%20appropri%C3%A9s>>.

Dewyn, M., & Ceulemans, C. (2020–2021), “Citoyenneté et éthique militaire I,” (École Royale Militaire).

“DNA Results of the International Commission on Missing Persons Reveal the Identity of 6,186 Srebrenica Victims,” (n.d.), retrieved from *International Commission on Missing People*:

<<https://www.icmp.int/press-releases/dna-results-of-the-international-commission-on-missing-persons-reveal-the-identity-of-6186-srebrenica-victims-dnk-izvjestaji-medunarodne-komisije-za-nestale-osobe-icmp-otkrili-identitete-6186-sreb/>>

ICRC, “Rule 3, The definition of combattants,” (n.d.) retrieved from Base de données sur le DIH coutumier:

<https://ihl-databases.icrc.org/customary-ihl/fre/docs/v1_cha_chapter1_rule3>

“Just War Theory: More Relevant Than Ever,” (2003), retrieved from <<https://www.beliefnet.com/news/2003/03/just-war-theory-more-relevant-than-ever.aspx>>

“L’origine du Casque bleu des Soldats de la paix,” (2018, septembre 07), retrieved from *Le blog des Nations Unies*: <<https://blogs.un.org/fr/2018/09/07/lorigine-du-casque-bleu-des-soldats-de-la-paix/>>

Lucuta, G. M. (2014, Avril 25), “Peacemaking, peacekeeping, peacebuilding and peace enforcement in the 21st century,” retrieved from *Peace insight*:

<[https://www.peaceinsight.org/en/articles/peacemaking-peacekeeping-peacebuilding-peace-enforcement-21st-century/?location=&theme=>](https://www.peaceinsight.org/en/articles/peacemaking-peacekeeping-peacebuilding-peace-enforcement-21st-century/?location=&theme=)

Maurel, C, (2017, juin 26), “L’ONU et l’Unesco: (5) Faut-il supprimer le droit de veto à l’ONU?” (IHMC, Interviewer)

<<https://www.youtube.com/watch?v=w57M2fbGT3c&t=2s>>

Mauss-Copeaux, C. (2013), *Mémoires d’un massacre: Oudjebane, 11 mai 1956*, (Payot).

Moseley, A. (n.d.), “Just War Theory,” retrieved from *Internet Encyclopedia of Philosophy*: <<https://iep.utm.edu/justwar/>>

Noll, D. (n.d.), “What is Peacemaking?” retrieved from *Mediate*:

<<https://www.mediate.com/articles/noll4.cfm>>

Nos opérations. (n.d.), retrieved from *Médecins Sans Frontières*:

<<https://www.msf.fr/decouvrir-msf/nos-operations>>

Pattinson, J. (2008), “Whose Responsibility to Protect? The Duties of Humanitarian Intervention,” *Journal of Military Ethics*, Volume 7, Issue 4 (2008).

Pattinson, J, (2015), “Jus Post Bellum and the Responsibility to Rebuild,” pp. 635-661, *British Journal of Political Science*, Volume 45, Issue 3 (2015), p.635-661.

Perez, M, (2018, février 23), “Le blues des casques bleus au Liban,” retrieved from *Le journal du dimanche*:

<<https://www.lejdd.fr/International/Moyen-Orient/au-liban-le-blues-des-casques-bleus-3578882>>

Pfaff, T, (2000, septembre), “Peacekeeping and the Just War Tradition,” US Army War College, <(globalsecurity.org)>.

“Police de l’ONU,” (n.d.), retrieved from Nations Unies: maintien de la paix: <<https://peacekeeping.un.org/fr/un-police>>

“Principes du maintien de la paix,” (n.d.), retrieved from Nations Unies: maintien de la paix: <<https://peacekeeping.un.org/fr/principles-of-peacekeeping>>

“Protection des civils,” (n.d.), retrieved from Nations Unies - maintien de la paix: <<https://peacekeeping.un.org/fr/protecting-civilians>>

“Qu’est-ce que le maintien de la paix?” (n.d.), retrieved from Nations Unies: maintien de la paix: <<https://peacekeeping.un.org/fr/what-is-peacekeeping>>

“RDC: incident entre des Casques bleus et un civil, la MONUSCO a lancé une enquête,” (2021, avril 26), retrieved from ONU Info: <<https://news.un.org/fr/story/2021/04/1094722>>

Sénat de Belgique, (1997), “Commission d’enquête parlementaire concernant les événements du Rwanda,” <senate.be>.

Simm, G. (2017), “Regulatory Theory: Foundations and applications, 24:” *Regulating sex in peace operations*, (ANU Press).

Spearin, C, (2011, Mars 22), “UN Peacekeeping and the International Private Military and Security Industry,” <<https://www.bing.com>>.

“Srebrenica, 20 ans après: un soldat néerlandais se souvient,” (2015, juillet 11), retrieved from Youtube: <https://www.youtube.com/watch?v=hk87_dTR-EE>

United Nations, (2000, August 21), “Comprehensive review of the whole question of peacekeeping operations in all their aspects,” <<https://www.un.org/pga/74/2020/06/15/comprehensive-review-of-the-whole-question-of-peacekeeping-operations-in-all-their-aspects/>>.

United Nations, (2021, 01 31), “Summary of Contribution to UN Peacekeeping by Mission, Country and Post: Police, UN Military Experts on Mission, Staff Officers and Troops,” <https://peacekeeping.un.org/sites/default/files/04_mission_and_country_34_jan2021.pdf>.

United Nations, “United Nations Peacekeeping,” (2021) retrieved from <<https://peacekeeping.un.org/en>>

“What is peacebuilding?” (n.d.), retrieved from *International Alert*: <<https://www.international-alert.org/what-we-do/what-is-peacebuilding>>

“What is R2P?” (n.d.), retrieved from *Global Center for the Responsibility to Protect*: <<https://www.globalr2p.org/what-is-r2p/>>

Williams, Jr, R. E., & Caldwell, D. (2006), “Jus Post Bellum: Just War Theory and the Principles of Just Peace,” in: *International Studies Perspectives*, (Blackwell Publishing).

The vast majority of military deployments abroad take place in a complex multinational framework, linking the parties to the conflict in different ways. Peace operations have become commonplace, ranging from peacekeeping to the evacuation of non-combatants. Nevertheless, this type of operation still does not have an ethical theory that can guide them, which reveals some contradictions as well as a moral vagueness. It is therefore appropriate to ask whether Just War Theory, once suited to conflict, is still relevant today. This research covers the *jus ad bellum*, the *jus in bello* and the *jus post bellum* before embarking on an analysis of the international conflicts of recent years in order to study the articulation of the different ethical principles.

The author takes the example of the genocide in Rwanda in 1994, where UN troops were deployed. He cites Jeff McMahan and his distinction between a just and unjust fighter. ‘Wouldn’t refusing to take sides between a just combatant and an unjust combatant be a roundabout way of turning a blind eye to the concept of justice?’ Aury asks. ‘A well-known adage says that not choosing is already choosing. (...) Can impartiality in this case be opposed to the principle of just cause?’ He concludes that it is necessary to consider the ethical needs of these operations.

This thesis has been awarded the second prize of the year 2022 in EuroISME’s annual contest for the best student’s thesis. For information about the contest, please visit www.euroisme.eu.

