

Modifying Just War Theory:  
The Use of Special Operations within the Modern Battlefield

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Honors Thesis Proposal  
September 27, 2019

## **Purpose**

The United States uses different tools to intervene within many regional and world conflicts in order to influence the outcomes results these problems could potentially produce. The increase in US military intervention continues to rise as the world becomes more unstable. Yet, the philosophical framework behind the rules of warfare used by the United States are based around Just War Theory. Which, invokes specific principles to justify a nation to declare war and uses other criteria to produce ethical ways and means for conducting a war (Farrell 17, 2013). Ethical discussion about the use of military force continues as technology and capabilities evolve to meet the desires held by governments (Yarger 9, 2016). Resolving when and how to declare war requires setting boundaries on actors through the legal application of philosophical ideals the different parts of government in order to direct how these institutions should act.

Just War Theory address some of the specific motivations and limitations that should be placed on a government's use of military force. These limitations identify key aspects that contribute to possible ethical issues that arise when nations are forced to make a decision about the use of military force on other nations. But, these philosophical principles remain distinctly connected to direct military engagements between established governments (Lango 110, 2014). So, many modern scholars attempt to address the rise of unconventional wars that occur that involve situations and actors that cannot neatly the definition for how war was once fought. The evolution of war sparked the debate about how it can and should be conducted and scholars have modified Just War Theory to help bring modern conflict within the boundaries set by this philosophical framework.

But, even with all the changes to the current framework of how wars should be conducted, the issue of applying Special Operations to undeclared conflicts arises. And, specifically, how to philosophically justify the use of this type of military force within place not directly identified as zones of conflict. The main issue arises when the philosophical framework has not addressed the role for this type of action. Which results in the lack of legal boundaries to govern how these military units should operate within a complex world environment.

This brings about a need for identifying which parts of Just War Theory remains relevant and the production of an argument for the use of this type of force within modern conflict. So, the following questions need further analysis in order to rectify some of the discrepancies between Special Operations and Just War Theory. My question is: **what additional principles of Just War Theory should be created in order to use Special Operations as an ethically way of conducting war?**

## **Literature Review**

### Just War Theory

Just War Theory, as a whole, attempts to philosophically identify how to ethically start and conduct a war against another nation. The western version of Just War Theory began with Saint Thomas Aquinas and Augustine of Hippo (Reiner 2, 2018). The theory spread from the Catholic Church to secular institutions by being adopted by governments and the United Nations as a framework for justifying any military action against another state (Reiner 21, 2018; Lango 25, 2014).

The theory was split into two sections which cover how to justify the need to start a war and how to conduct one's military within open conflict. The principles within Jus ad bellum

cover how states can righteously declare war on other countries. And, Jus in bello address what specific principles should be used in order to ethically conduct a war against another country.

These principles will be covered in the following sections along with address the current theory surrounding the use of Special Operations by the United States Government.

### Jus Ad Bellum

The right to go to war with another country does not discount the fact that war is inherently a terrible act but the purpose of philosophy pursuit revolves around allow nations to conduct self defense. Thom Brooks explains that nations, like individuals, possess an inherent right to defend themselves against foreign aggressors (Brooks 1, 2012) The reason for framing the theory around defense is to limit other extemporaneous reasons for using war as a means to achieving other national goals. Jus ad bellum lists seven different characteristics by which, if met, a nation could obtain ethical justification for the use of military force. These criteria include the following principles: “Just Cause”, “Last Resort”, “Reasonable Prospect of Success”, “Proportionality”, “Right Authority”, “Right Intention”, and “Public Declaration” (Farrell 17-19, 2013). The use of all seven different principles create a strict barrier for justifying the use of military force but these principles provide different levels of scrutiny based on their assumed definition.

Many scholars argue on the degree in which these principles should be applied quarrels between states. Brooks asserts that if there exists “any likelihood” that a situation meets all seven criteria, the theory would deem it ethical to use military force on another nation (Brooks 90, 2012). But such probabilities of meeting these requirements mean that state would only used the loosest definitions of each criteria to justify the application of the military to different situations.

The problem with these principles comes from the lack of applying a specific standard or level of scrutiny to each criteria. A standard threshold would eliminate the use of war based solely on the likelihood of a situation to develop into war. The purpose for this philosophical undertaking is to make it difficult to justify war outside of a specific circumstances.

### Jus in Bello

Recognizing that a right to war does not mean that any kind of war permissible, the ethical use of military force includes regulating what kind of actions are and are not appropriate in a state of conflict. The ethical way to conduct war is outlined in 5 specific principles. These principles include: "Proportionality", "Noncombatant immunity or discrimination", "POW protections", "No mala en se means (banned weapon use)", and "Adherence to any other international obligations or treaties" (Farrell 19-20, 2013). These principles highlight areas where a just war can use unjust means. Just War Theory places limits on the level of horrible tools and methods that could be employed within combat environment. But, the restrictions placed on how to conduct war begs the question of what do with aggressors that do not follow ethical principles or fighting aggressors in unconventional situation?

The limits placed on conduct within war adequately allow participants to limit the horrific practices that can exist within war but some scholars see these principles as ineffective when dealing with unconventional combatants. The rise of unconventional conflicts strain the ability for nations to involve their military forces as a way to fix problems in the world (Dubik 8, 2016). Most scholars want to bring about alternative principles or a reconstruction of Just War Theory to address the philosophical issues that come about as war because increasingly complex. The limits within Jus in bello create problems with effectively ending the armed conflict with

aggressors that choose to use military violence in unethical ways. The problem seems to look for answers beyond Just War Theory when it comes to dealing with states that commit atrocities both on and off the battlefield.

### Cosmopolitan Just War Theory

The rise of cosmopolitan just war theory attempts to resolve issues with these types of combatants by restructuring the theory around human rights instead of state sovereignty. Reiner and others contest that their needs to be ethical means to intervene in situations like humanitarian crises (Reiner 10-11, 2018). The author emphasises the inherent obligation that people have to each other and that the original interpretation of Just War Theory needs to be rebuilt around a global community (Lango 25, 2014). The recent shift towards this cosmopolitan theory allows for more flexibility in dealing with security issues around the world but it raises issues about how to limit the use of military force to solve world issues, especially the application of Special Operations.

### American Theory of Special Operations

The government provides a doctrinal view of how the United States plans to employ Special Operations around the world and highlights a need to use specialized military force that can be applied at the strategic, operational and tactical level. Harry Yarger provides a series of 26 reasons for the use of Special Operations within all levels of foreign policy (Yarger 47, 2016). The author asserts that Special Operations provides a better solution to an increasingly more complex world because this type of force allows for change, adaptability and connectedness with an evolving situation (Yarger 50-51, 2016). These attributes create a force that can effectively handle security concerns in the smallest and quickest manner.

Yarger asserts that it is possible for Special Operations to fall within Just War Theory because this force can meet the stringent ethical requirements placed upon the use of military force. Yarger believes that American normative beliefs and values can adequately constrain the application of this type of military force (Yarger 50, 2016). But, the most concerning issue with this type of military force comes from their involvement in areas beyond declared conflict zones. The American Theory of Special Operations produces questions about how it can remain ethical with its extended influence beyond the declared battlefield. Because, this type of force frequently uses military force outside of a formal battlefield and possibly using military force within allied states. These issues bring up a need to re-evaluate the limitations that can and should be placed upon Special Operations in order to produce the most ethical use of military force.

### **Research Method**

The research question above will be answered through the following sections within the thesis: (1) the introduction and connection between the relevant topics, (2) identifying the weaknesses specific weaknesses with the principles of Just War Theory within modern conflict, (3) the creation of principles and arguments to rectify the issues between Special Operations and the Just War Theory and (4) a defense of the new principles and arguments with the use of modern examples within Special Operations.

The first part of the thesis requires a brief overview of the current scholarly literature on the topic with the ultimate goal of creating specific connections between the different subjects. The literature review creates connections between the different topics in order to allow for the reader to gain sufficient understanding of both the philosophical and theoretical purposes of Just

War Theory and Special Operations. And, the literature review provides enough information for the reader to engage specific principles that will mentioned in both fields.

The second part requires that an analysis of the philosophical strength of the principles within Just War Theory in relationship to modern conflict. The purpose of this section is to identify weaknesses within specific principles and to identify how these principles became irrelevant to producing ethical justifications for war. The section will allow for the creation of additional principles to help determine some of the ethical standards for obtaining the ethical right to declare war and establish humane practices while fighting a war.

The third section produces the principles that will allow for Special Operations to exist within the framework produced by Just War Theory. So, after the identification of weaknesses within Just War Theory, this section will introduce principles that will create ground by which Special Operations can ethically perform specific tasks for the security benefit of a state. This section will create new principles to be used in Jus ad bellum and in Jus in bello. These principles will have arguments that create a basic defense for the existence and use of the new criteria.

The third section will introduce the new principles that should be applied to Just War Theory and will involve re-evaluating the criteria of Last Resort and Proportionality within Jus ad bellum and the principles of Distinction and Proportionality within Jus in bello. Both sections within Just War Theory require new principles that can accommodate an appropriate response to unconventional threats to a state's security. The principles highlighted above create disputes over what role Special Operations can take within the battlefield. The new principles and associated

arguments will allow for the current security apparatus of governments to incorporate and, ultimately, regulate how these assets are applied in combat.

An example of an arguments for Last Resort is the following:

1. Every country has a right to self defense
2. But, the use of force is inherently bad
3. And, some countries try to use force on their counterparts in order to achieve a goal.
4. So, if premises 1-3 are true, there exists a principle that allows countries to use force in Self Defense.
5. The principle of Last Resort allows countries to use force as the last option to a given conflict.
6. So, the principle of Last Resort gives countries the right to use force only in specific situations.

This preliminary arguments demonstrate where and how these new principles can enhance Just War Theory. The introduction of these principles will occur within the third section.

One of the new principles will be Preventable, which incorporates the principle of Last Resort and Proportionality. Preventability consists of using the least amount of military force to influence certain situations and examining the second and third order effects of the situation. Preventability exists both in the short and long term. Which means that this principle regulates actions based on their near term results and the predictable course of events that follow. The purpose of this new principle is to limit the use of military force in events that can be fixed through noninterference and force governments to use other means as a tool to influence outcomes. It also eliminates the need for using these forces in other undeclared conflict zones by

removing the option of applying military force to situations that appear on the world stage rapidly but produces no long term impact on state security. This principle forces states to consider the use of force as a ripple effect through relationship and eliminates the belief that such actions can be isolated to their specific situation.

The other principle focuses on not using Special Operations outside established military campaigns. The Conventional War Principle eliminates the use of Special Operations in conflicts that do not delineate clear goals. Which means that the government needs to produce clear standards for when military violence begins and what specific result needs to occur for military actions to conclude. This principle would forbid the use of Special Operations in the War on Drug, the War on Terror and in other undeclared conflicts against anyone but an organized institution. This new principle forces governments to be more transparent about where and why they choose to use Special Operations. The principle creates a small set of situations in which Special Operations can be used as a military force.

There will be other arguments in order to establish reasons for how Special Operations can use military force within the philosophical criteria of Just War Theory. Questions like, “can self defense be preemptive”, “is there a difference between individual self defense and a country’s ability to defend” or, “can Special Forces even qualify as defensive military unit” will be answered and, through the use of the new principles, will provide obvious limits to the application of Special Operations. The new principles will be addressed in the fourth section for the purpose of providing context and limitations to the original principles within Just War Theory. The third section revolves around a basic introduction of additional principles to Just

War Theory and it will provide a philosophical space for the use of Special Operations within war. .

The fourth section will be the defense of those two principles and their accompanying arguments through reason and the use of examples within modern Special Operations. The examples are used to identify archetypical needs for the additional principles to help regulate how states start and conduct wars. And, the defense will cover a range of possible arguments that will test the validity and legitimacy of these principles within Just War Theory. The conclusion of this section will result in an adequate defense for the use of these principles as a way to govern the ethical employment of Special Operations within world problems.

The reasons will include references to specific Special Operations to illustrate how the additional principles would work within Just War Theory. The purpose of these references are to highlight reasons for improving Just War Theory through including new principles to the criteria for starting and conducting a war. The example will not be used as historical evidence to prove the existence of a principle. The answer to the research question occurs within the arguments and analysis for why these principles should be added, not based on facts about military operations. The goal for this section is to provide a defense for the philosophical space to allow Special Operations to be used within the context of Just War Theory.

The role of the conclusion will be to summarize the how Special Operations would be used within combat and propose addition questions about other similar topics that fall under the application of Just War Theory. The summary only provides conscision for the reader so that they can review the reason for introducing new principles to Just War Theory. The additional

questions section exists to expose other issues and need for future studies into different aspects of the issues mentioned in the previous sections.

### **Project Importance**

This thesis will enhance my understanding of the current philosophical framework by which the US military should operate when using force and helps me prepare for becoming a future officer within the United States Army.

The first reason for the project helps provide grounds for exploring and finding ways to help create a more compatible ground for using force within modern conflicts. Of the many issues plaguing the trust of the American public, some of the problems stem from the increased involvement of the United States within different regions of the world through small conflicts that are usually conducted by a form of Special Operations. The project explores the potential for an extension of modern justifications for these actions within the current premises that guide modern military law.

The other reason for this project, comes from the need to adapt philosophy in a way to provide an adequate framework to reference as states try to deal with an ever changing world. States keep apply philosophical frameworks that cannot address the rise of unique situations. The project seeks to update Just War Theory in a way that allows for Special Operations to find its place among the different types of military force that a country can employ in its own defense. The importance of this project comes down to finding a place for Special Operations to exist within current defense system established by countries.

### **Thesis Committee**

1. Faculty Advisor: Doctor Kendall Stiles

2. Faculty Reader: Doctor Ryan Davis
3. Honors Coordinator: Doctor Daniel Nielsen

### **Qualifications for Thesis Committee**

Doctor Kendall Stiles produces academic material in international relations and international law which will help provide context to ethics within war is constructed. Doctor Stiles produced publications on International Law and international relations between states which ties into how states interact with each other when both sides deem it necessary to go to war to resolve an issue. Doctor Stiles provides the expertise on how states implement Just War Theory within their decision making process.

Doctor Ryan Davis produces different academic material in analytical philosophy and understand the basic tenets of Just War Theory. Doctor Davis will validate the accurate use of Just War Theory within the paper and will help me answer questions about philosophical arguments involving the paper. Doctor Davis has provided philosophical references and understanding to help identify potential weaknesses within the third and fourth section of the thesis.

Doctor Daniel Nielsen provides an alternative point of view from the social sciences. The doctor can more effectively evaluate the persuasiveness and clarity of the subject because of his experience with other areas within Political Science. He also is the Honors Coordinator for the Department.

### **Project Timeline:**

September 27- Submit the Proposal

November 16- Finishing/Near Completion of the First Draft

January 6- Finished the Final Draft

March 8- Thesis Defense

March 13- Thesis Submission Form Turn In

### **Culminating Experience**

This project provides the connections between the valuable lessons learned within the Political Science and Military Science, which ultimately prepares for my entrance into the US Army after graduation. The thesis experience helps develop connections between what I have learned during my time at Brigham Young University and the demands of my future employer. The project helps provide perspective on the future decisions that I will have to make while conducting foreign policy the United States.

The goal, for personal reasons, is to be able to discover how people can go about unethical acts in the most ethical way possible. In no way does this project attempt to glorify war and its situations. But, it attempts to bring to light the modern situation in which politicians, bureaucrats and soldiers come to terms with specific methods of imposing a country's policy upon other people, at times, through the use of force. The project allows for some reflection on important questions that seem to not receive public answers.

### **Conclusion**

Thus, this thesis project culminates into an organization of a potential ethical framework which can be used to evaluate different situations and produce a more ethical solution to difficult situations. This experience begins the groundwork for developing a more lethal fighting force that, also, maintain high ethical standards by demonstrating respect, honor and professionalism

during war. Rethinking Just War Theory will allow for the use of Special Operations in a way that will not undermine the ethically purposes for conducting war.

So, the purpose of this thesis is to explore and identify other principles that can help provide philosophical boundaries for the ethical use of Special Operations while military conflict. These principles fix the issues involving the employment of a specialized military force in conflicts around the world and set up an ethical standard to evaluate the necessity for their direct application on the battlefield.

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