

Exploring the Legitimacy of War: Legal, Ethical, Political, and War Measures Dimension

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Abstract: Various factors have contributed to a rise in the number of wars worldwide. As the number of international conflicts rises, the risk of war also increases. Through exploring the legitimacy of war from four angles: legal, ethical, political and war measures, to limit the use of force so that international peace can be maintained to some extent. This essay explores the legitimacy by finding the relevant articles and conducting a literature review. The number of articles about legitimacy is increasing in these years, but there is a lack of comprehensive explanation and understanding of how the legitimacy of war changes in the course of war. It's effective to the stability of the international order through providing suggestions for the definition of the nature of war and criticizing unjust wars. It is recommended that all countries strengthen international cooperation to maintain world peace and security on the basis of respect for the fundamental principles of international law. At the same time, it is also suggested that the international community strengthen the establishment of guidelines for the monitoring and evaluation of wars in order to ensure the legitimacy, legality and humanity of acts of war and to establish minimum legal guarantees for the building of a harmonious and stable international order.

Keywords: legitimacy of war, legal, ethical, political, war measures

1. Introduction

The aggressive instinct, resource crisis, trade protectionism, the pursuit of profits, imperialist control and many other reasons lead to constant international conflicts [1]. There is a typical example: Napoleonic Wars [2]. After the french revolution, the appearance of the French Republic caused the concern from other European countries that the influence to their national political system, and they collectively invaded France in an attempt to interfere in France internal affairs. So in the first half of the war, the Napoleonic wars was a just war against aggression. In the second half of the war, because Napoleon invaded other European countries, the nature of the war began to change and its legitimacy was challenged.

The background of exploring the legitimacy of war is that various factors including power politics, geopolitical conflicts, and political instability are escalating the risk of war. Meanwhile, numerous states seek righteous excuses or exploit loopholes in international law to legitimize unjust wars, despite the fact that a peaceful world is the common pursuit of most states. The goals of this exploration are to offer a clear illustration and guidance for identifying the nature of war, to limit states from starting wars and maintain peace by regulating the judgment of the legality of war, and to understand how countries legitimize war through war - related cases and consider improvement

measures to restrict their illegal actions. The meaning of exploring the legitimacy of war lies in its significance at legal, ethical, and political levels, as well as being a crucial factor for the international society to deal with war and maintain international stability.

2. Literature Review

2.1. Legitimacy of war form the legal dimension

For just war theory, traditionalist deemed that states can only start a war due to the request of national defense, protecting other states and humanitarian aid. Revisionists reckoned the range of national defense needs to be limited and advocates expanding permission for military intervention [3]. Article 2, part 4, of the Charter of the United Nations: All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations. This provision is in fact a general prohibition on the use of force, but due to the problem of the imbalance in the international balance of power and the influence of national interests, an absolutist prohibition could not continue to maintain relative fairness, so the United Nations Charter grants exceptions to allow for this: Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security [4]. This clause implies that the only legitimate war in today's international community is in self-defense. However, it is frequently employed by numerous countries as a rationale for unjust wars due to the lack of sufficient clarification regarding the conditions outlined in the clause. The legitimacy of anticipatory self-defense is currently not generally accepted in the international community, and limitations on the specific conditions of that legitimacy clause come mainly from the International Court of Justice. “ The ICJ emphasized the necessity to distinguish the gravest forms of the use of force (those constituting an armed attack) from the less grave forms [5].” The armed attack can only be classified when it achieved a certain scale and effect. This can reflect on Iran seeking damages from the United States for attacks on Iranian oil platforms [6]. Although the United States tried to use the right of self-defense to illustrate that its aggressive behavior is legal and Iranian requests is unreasonable, the ICJ deemed that there is not sufficient evidence to prove Iran has material armed acts, so the United States’s anticipatory self-defense can not be supported and its behavior brought Iran a great property loss.

2.2. Legitimacy of war form the ethical dimension

The tragedy of the two world wars made countries more cautious about war and made the legitimacy of war to be considered on an ethical level. This is mainly reflected in the fact that the moral legitimacy of war acts that cause large-scale civilian injuries and unnecessary property losses is generally not recognized, even though there is space for interpretation in law. On the other hand, there is the role of humanitarian intervention in war. In the case of mass atrocities such as genocide or ethnic cleansing, humanitarian intervention is a moral imperative. They hold the argument that the international community has a responsibility to protect vulnerable populations when their own governments are unable or unwilling to do so [7]. For instance, the case of South Africa v. Israel. On 29 December 2023, South Africa filed an Application instituting proceedings against Israel concerning alleged violations by Israel of its obligations under the Genocide Convention in relation to Palestinians in the Gaza Strip. The International Court of Justice, based on the tragic circumstances in the Gaza Strip and international law, ordered Israel to cease its military operations in the Gaza Strip; And provide humanitarian assistance to the people of Gaza [8]. But in practical, humanitarian intervention is used by some states to realize their own benefits so that exacerbating the humanitarian

crisis. For instance, the NATO intervention in Kosovo in 1999 was presented as a humanitarian effort but has been criticized for having escalated the humanitarian crisis it was intended to resolve [9]. The crisis can be primarily attributed to the fact that, while this humanitarian intervention is morally justifiable, it provides an opportunity for the hegemonic state to utilise force in contravention of the law. There are risks and opportunities that could help to limit the abuses of humanitarian intervention if it is permitted to progress from the moral to the new rule of law level. In a nutshell, while the term "humanitarian intervention" contains a fundamental contradiction, it does reflect the intricate relationship between moral imperatives and political realities. Such interventions gain legitimacy when humanitarian principles prioritize causing the least possible harm to civilian populations.

2.3. Legitimacy of war from the political dimension

Despite the criticism of war throughout history for its various consequences, including the cruelty to life and destruction of the economy, it is nevertheless evident that war plays a significant role in the formation and development of nations. From a political standpoint, an investigation into the legitimacy of a war enables an evaluation of its impact on the country's trajectory. This may encompass the consolidation of power, the necessity for leaders to enhance their administrative capabilities, the fortification of national unity, and other significant outcomes [10]. The legality of international war, from the perspective of global governance, means that the international community, based on shared values, rules, and democratic consensus, voluntarily recognizes the warlike actions of international actors such as states, aligning with the trend towards the development of good governance globally [11]. UN Secretary-General António Guterres mentioned in a speech: "The rule of law protects the vulnerable. It prevents discrimination, harassment and other abuses. It creates and bolsters trust in institutions. It supports fair, inclusive economies and societies. And it is the basis of international cooperation and multilateralism." A just war is one that is undertaken as a last resort, after all peaceful means of dispute resolution have been exhausted. The current international system for settling disputes includes: arbitration, negotiation, mediation, conciliation, enquiry, judicial settlement and resort to regional provisions. When disputes can't be solved by the parties, the United Nations Security Council can intervene. Nevertheless, the fundamental objective of investigating the legality of war is to restrict its occurrence and preserve peace. In light of the potential for international disagreements to evolve into armed conflict, it is imperative to enhance and refine the extant settlement system. To achieve that, we need to move our key point from dispute settlement to conflict prevention. On the one hand, this can significantly reduce costly and time-consuming expenditures in conflict areas, and on the other hand, acquire public trust through peace-building measures [12]. The peace's development prospects has tons of obstacles, but we need to keep a positive attitude to improve it. The peace's development prospects have tons of obstacles, but we need to keep a positive attitude to improve it. One of the key challenges in conflict prevention is the need to foster a culture of peace that transcends national boundaries and cultural differences. This involves promoting education for peace, encouraging dialogue among diverse groups, and supporting initiatives that build mutual understanding and respect. Moreover, the international community must invest in early warning systems and conflict-sensitive development strategies to identify potential flashpoints before they escalate into full-blown conflicts. By doing so, we can create a more stable and secure world, where the horrors of war become a relic of the past. The role of international organizations, such as the United Nations, is pivotal in this endeavor, as they provide a platform for nations to collaborate on peace-building efforts and to develop common strategies for conflict prevention. Ultimately, the pursuit of peace is a collective responsibility that requires the commitment and cooperation of all nations and peoples.

2.4. Legitimacy of war form the dimension of war measures

In light of the advent of the third scientific and technological revolution and the concomitant international arms race, the multiplicity of forms of warfare and the existence of weapons of mass destruction have rendered an analysis of the means of warfare an indispensable component of any assessment of the legality of war. War is a fight between armies of nations, and civilians should not be affected by war, which means a ban on indiscriminate weapons of mass destruction such as fragmentation bombs and biological and chemical weapons [13]. During the Cold War, the Soviet Union and the United States serve as illustrative examples. Despite both possessing weapons of mass destruction, the tragedy of the Second World War prompted both sides to exercise caution. The issue of the nuclear threat and arms rivalry has had, and continues to have, a significant impact on the stability of the global order. Limiting the means of warfare in order to reduce the danger of war represents a goal that international organisations such as the United Nations and individual countries must collectively pursue. The effect of military means on the legitimacy of war is growing into a major issue in today's global community. This is mostly because cruel forms of warfare can make a big impression on people around the world. To illustrate, in the context of the Russian-Ukrainian conflict, Russia has sought to justify its actions through the pretext of anticipatory self-defence and historical justifications, while simultaneously attempting to exert control over international public opinion by consistently offering protection to non-military Ukrainian armed personnel. How does international public opinion influence the conduct of countries engaged in armed conflict? It can result in the country's international notoriety, which in turn affects international trade cooperation and economic development, as well as the stability of the regime, due to the emergence of high domestic anti-war sentiments, among other factors.

3. Improvement measures to limit illegal actions

War, being an extreme form of international social conflict, has caused significant harm to human society. Although the justification of war involves a number of considerations, a series of measures should be made and strengthened to limit illegal actions.

Above all, from the perspective of the implementation of the principles of international law, the international community should strengthen the current monitoring and review mechanisms, optimise the implementation of and compliance with international humanitarian law by States, and enhance the accountability mechanisms for States that wage malicious wars. For example, international tribunals should maintain a strict stance and hold States strictly accountable for violating international norms on the laws of war. The international community can also explore ways to appropriately strengthen legal sanctions for war crimes such as crimes against humanity. In addition, in order to ensure that unlawful acts during war are dealt with effectively, independent investigative bodies and international tribunals should remain objective and impartial, and should not condone or tolerate unjust acts of war. At the level of domestic legislation, countries can build legislation on suspected war crimes and incorporate the responsibility for crimes against territorially related persons into their own criminal law systems, thus expanding their internal jurisdiction over war-related issues.

From the perspective of political cooperation, the international community should encourage multilateral diplomacy and strengthen dialogue among countries on an equal footing. Through peaceful means like consultation, communication, and dialogue, we should enhance understanding and reduce conflicts. Through international organizations and multilateral mechanisms, there can be more recognition and understanding among countries, creating conditions conducive to dialogue for the use of peaceful means to resolve conflicts and avoid war.

Beyond the legal system, ethics and morality have always been an effective means of support to strengthen the control of illegal acts of war. Humanitarianism and moral measurement play an

important role in limiting excessive conflicts. As members of the international community, countries should strengthen education on the ethics of war, promote a culture of peace and friendship, and cultivate a sense of responsibility and peace consciousness among citizens. In the era of popular social media, public opinion monitoring can also play a certain function in war assessment. Information disclosure on social media and other war transparency measures can enhance the public's supervision and prudence of war behaviours, and enhance the public's ability to assess war operations. At the same time, however, it should be wary of the exploitation and improper guidance of public opinion.

4. Conclusion

The question of the legality of war is a complex and significant issue within the international community in the present era. In examining this matter, it is imperative to examine the provisions of international law and the jurisprudence of the International Court of Justice, as well as ethical considerations at the moral level and the assessment of the political aims of the war. Additionally, attention must be paid to the use of weapons of mass destruction or other means of warfare that result in a significant number of innocent deaths and injuries. The establishment of world peace was a prerequisite for global economic development, and it required the collective efforts and recognition of all states. The pursuit of peace, however, is not merely a legal or moral imperative but also a practical necessity. The consequences of war, including the displacement of populations, the destruction of infrastructure, and the long-term psychological effects on individuals and societies, underscore the importance of conflict prevention and resolution. International organizations, such as the United Nations, play a pivotal role in mediating disputes and promoting dialogue among nations. It is through these collaborative efforts that the international community can hope to address the root causes of conflict and work towards a future where the legality of war is a matter of historical debate rather than contemporary concern.

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