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## ***JUS POST BELLUM* AND GLOBAL RESPONSIBILITY FOR PEACE**

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**Abstract:** The article deals with the newly discussed set of principles that focus on various issues concerning the end of a war and the establishment of peaceful conditions for the society after a war ends. It also reveals some drawbacks of the *jus post bellum* principles and searches for its possible modifications into a more complex and applicable set of rules that should govern any post-war activities on both sides of the conflict. The aim is to reach its plausibility in a dynamic global society and thus argue that global peace is an attainable goal only when it becomes the goal of the global community.

**Keywords:** war; just war; jus post bellum; global peace

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### **Post-war considerations in the just war theory**

This introductory section deals with one major philosophical-ethical tradition concentrated around problems of conduct of a war and its possible justification. Wars have been present in our history since the beginning of societal life of man and have been fought mainly for resources, land and power. Politicians, philosophers and other scholars began to think about rules that will limit violence in warfare and thus making it more considerate towards ordinary people's lives and their suffering. As more societies and nations have been established, warfare has become a more complicated issue. Thus, the need for its limitations was not only needful but making wars less devastating became a social, moral and political imperative. What comes after a war is an important indicator of how the defeated society is being rebuilt and what peace is achieved.

Contrary to the last decades of the 20<sup>th</sup> century, the first two decades of the 21<sup>st</sup> century have been significantly violent<sup>1</sup> and according to some claims, it can be perceived as a renaissance of warfare and re-legitimation of a war with its origin in the perceptions of the Second World War as “good” (Shaw 2002, 343–344). These are indications of an unceasing need for a dynamic and flexible normative ethical theory that would cover the most imperious contemporary issues of warfare. Reflections of these issues have been discussed throughout the whole history of philosophical, political and ethical thinking as it has been sought predominantly to set certain rules and boundaries of what can and what cannot be done before,

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<sup>1</sup> Statistically, conflicts have increased sharply since 2010. This applies to battle-related deaths as well as to terrorist casualties. There is a more complex analysis on the websites of the United Nations Organization by Alexandre Marc who is the chief specialist for fragility, conflict and violence of the World bank (Marc 2017). The newest findings provided by Peace Research Institute in Oslo are that the number of state-based armed conflicts in the world declined from 53 in 2016 to 49 in 2017, but the number of non-state conflicts increased from 62 in 2016 to 82 in 2017 (Dupuy – Rustad 2018).

during and after times of conflicts and wars. Having at least some morally justifiable actions before and in times of a war has been a general imperative of mankind for centuries. The effort resulted in a dynamic concept of certain recommendations and rules predominantly concentrated around the idea of justice. These rules have become an origin for what we know as the just war theory and what later became a foundation of international law in this particular area.

The theory is primarily concentrated around two set of principles, i.e. *jus ad bellum* and *jus in bello* principles. Together, they constitute a general framework for evaluation of human actions before an engagement in a war as well as actions committed during wartime. The just war theory has normative power and serves as an origin for the further development of international law ensuring that justice is served universally and effectively. The theory stands between two, much more extreme, positions of (political) realism and pacifism. Brian Orend states that realism and pacifism are extreme positions that stand at the poles of our philosophical and ethical reflections of a war. They present absolute statements and thus do not make space for any other possibilities and solutions. Realism, when applied to questions of a war, violence and killing, holds the position that all is fair and that anything goes during the harsh times of a war. Thus, realism rejects any ethical values, norms or principles that might have any influence on war. During war, human nature is often reduced to an elemental level, i.e. the strive for survival and own benefits (when we talk about individuals and their actions) and preferences of one nation only (when we apply it to the international level). In contrast, pacifism in all of its versions stands in opposition to warfare. According to pacifists, a war is always wrong and that there is always some better approach to the problem than warfare. Realism lacks idealism, while pacifism is over-idealistic (Orend 2015, 99).

In between stands the just war theory trying to claim its place with its principles that have been developing through centuries and serving as a guidance towards more just war actions. But concentration around principles to be fulfilled before and during warfare is simply not enough. A relatively new category of principles called *jus post bellum* has emerged, but its role and importance are often marginalized and simplified. Despite indications that there have been certain attempts of the just war theoreticians to refer to actions and behaviour of war-engaged parties in the immediate post-war period, it was not until the idea of perpetual peace by Immanuel Kant who elevated the concept into being more systematic.<sup>2</sup> Its importance is visible mainly in the 6<sup>th</sup> article in his Preliminary articles from his *Perpetual peace: A philosophical sketch* written at the end of the 18<sup>th</sup> century: “No state shall, during war, permit such acts of hostility which would make mutual confidence in the subsequent peace impossible” and he subsequently enumerates acts such as assassinations, poisonings, etc. (Kant 1795, Act 6). Forbidding individual over-aggressive actions and horrendous crimes during the war should have a positive effect on future peace. If all sides of the war avoid using *dirty hands* practices, it should ensure that the mutual peace they might establish in the future is not only possible but might be long-lasting once these matters are settled.

In a book *Morality and War* (2011) by David Fisher, he states that “in a strict sense, there is no need for a separate *jus post bellum* condition, since ensuring that there is a just settlement, once victory is secured, is implicit in the other conditions” (Fisher 2011, 79). By other conditions he means the principle of right intention, which focuses on righting the wrong and restoring peace after a war. The problem is that the principle might, on its own, not be enough to settle things correctly. The post-war situation is often a very complex, complicated and delicate matter and

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<sup>2</sup> There were previous attempts to elaborate this issue, visible in the works of Saint Augustine, St. Thomas Aquinas, Francisco de Vitoria, Hugo Grotius and others.

it creates a whole array of possibilities for the establishment of a new set of principles that will deal with these issues profoundly.

Basically, *jus post bellum* principles include issues such as restoration of order and sovereignty, post-conflict reparations, the punishment of war-crimes and restoration of peace. In one of his latest books, Larry May opens the issue of *jus post bellum* and examines normative principles that should govern post-war practices such as reparation, restitution, reconciliation, retribution, rebuilding, proportionality and Responsibility to Protect (May 2012) The enumeration of issues dealt by *jus post bellum* demonstrates just how comprehensive the problem is. I will deal with some of these principles later on when I comment on the responsibilities of victors and the vanquished in terms of the post-war settlement. According to Paul Gilbert: The eruption of new wars raises three urgent questions: how to end them; how to resolve the conflicts that give rise to them; and how to produce the conditions in which they are unlikely to occur (Gilbert 2003, 134). There is a clear progression in these steps with an ultimate aim of a just peace, i.e. peace that does not establish unreasonable and unethical terms on the defeated country, but rather promotes its reconstruction with extensive help from international institutions and organizations on a global scale.

### **The relevance of *jus post bellum* and its connection to consequentialism**

The following section is about the importance of having a separate category for situations concerning the end of a war. Ending a war deserves a normative theory to the same extent as declaring and waging it. If we acknowledge that the need for such a category of principles is essential, we must reflect on what types of principles should be a part of such a category as well as their significance towards establishing just peace. Only after these steps are taken, we might be able to consider them being a part of the just war theory and the whole framework of principles concentrated on the conjunction of the sphere of ethics and warfare. Gary Bass writes that *jus post bellum* is connected with *jus ad bellum* i.e. “the declared ends that justify the war – whether stopping genocide or preventing aggression – impose obligations on belligerent powers to try, even after the conclusion of the war, to bring about the desired outcome” (Bass 2004, 386). It may also be connected with *jus in bello* because “there must be restraint in the goals on behalf of which the fighting is being done” (Bass 2004, 386). The actions of both actors, especially the victorious side, during wartime are important for chances of having peaceful negotiations. If the victorious side committed actions against basic principles of just war and international law, those chances are minimized, as the defeated side of the conflict would feel betrayed and humiliated. If such feelings and dispositions prevail, it is nearly impossible to create conditions for long-lasting peace and future prosperity of the country.

For many years, the just war tradition neglected the post-war restoration situation and only its active apparatus has been elaborated i.e. *jus ad bellum* and *jus in bello*. May observes that the issue of *jus post bellum* is under-theorized and that it usually becomes a part of another set of principles (May 2013, 315). While these two sets of principles appeal for direct actions that should guarantee that conditions for declaring a war and war itself are justified, the *jus post bellum* principles are being more “passive” and serve as obligations that should be preserved in order to avoid any future conflicts, wars or clashes. *Jus post bellum* principles are meant to set and consequently uphold peace and justice and therefore eliminate and avoid any possible evil actions caused by social injustice, anger, strive for power and/or religious intolerance. But when do we speak about post-war situations? What can be considered as being “post”? As May states, the “post” may refer to a period of time when serious questions of building peace start to occur, and this can only happen after hostilities have ceased and after there have been some peace treaties and/or truces. He calls for more dynamic understanding of the post-war situations

as there are many occasions where there are no peace treaties or no peacebuilding efforts yet surely there is an end of the war (May 2013, 317).

Even though *jus post bellum* principles are strongly connected with *jus in bello* and *jus ad bellum* principles, it is suggested that no war should be waged without reflecting its possible outcomes and consequences for future possibilities of establishing peace and justice. Its relevance dwells on the need to avoid certain moral values by establishing just and long-lasting peace. This goal must be achieved by means of obedience to pre-given principles of the just war theory. May points out a serious problem to these reflections, because “the end of a just and lasting peace is not of infinite value, and so we will need to know how valuable it is if we are to weigh its value against its disvalue to be produced by the particular means being proposed to accomplish this end” (May 2013, 320). The infinite value of peace, therefore, raises a question of proportionality among positive outcomes after waging a war and negative outcomes that might occur without starting any war at all. I believe it is crucial not to compare incomparable situations, i.e. the after-war situation once peace has been established with the pre-war illusive peaceful situation.<sup>3</sup> According to the principle of proportionality, which is an integral part of both *jus ad bellum* and *jus in bello*, the positive outcome must outweigh any negative outcomes that would have occurred without resorting to warfare. When it comes to *jus post bellum*, it means that actively restoring peace and establishing fair institutions is justifiable only if it would be an example of an unworldly aid for a nation to recover itself from the damages of warfare without any attempts to take advantage of any possible future consequences, i.e. economic extortion, exploitation, political and/or ideological manipulation etc.

*Jus post bellum* might as well be perceived as the most fundamental part of the just war theory. If conditions for peace exist, it means that the probability of declaring and waging a war against another state is minimized. Peacebuilding is not an easy process as it usually is in the hands of the victorious side. From the ethical point of view, the question is: *Does victory in war necessarily imply a moral obligation for the reconstruction of the country's society and institutions?* Michael Walzer, one of the leading personalities in just war theory research and its development in modern times, posed certain moral obligation in his *Arguing About War* (2004):

Once we have acted in ways that have significant negative consequences for other people (even if there are also positive consequences), we cannot just walk away. Imagine a humanitarian intervention that ends with massacres stopped and the murderous regime overthrown, but the country is devastated, the economy in ruins, the people hungry and afraid: there is neither law nor order nor any effective authority. (Walzer 2004, 20)

This is a strong consequentialist argument, which is also an argument in the ethics of social consequences as a form of non-utilitarian consequentialism. It takes consequences into account (as all types of consequentialism do), but in a much broader context and perspective. (Gluchman 2005, 13). Consequences are connected with responsibilities of their actors on two levels, i.e. moral agents are responsible for their actions and consequences that immediately follow these actions (immediate responsibility) as well as for consequences that might come up later or due to any future circumstances (Gluchman 1995, 88). When such an idea is applied to the issue of

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<sup>3</sup> A similar idea is presented by Philip Bobbitt in his *Terror and Consent: The Wars for the Twenty-first Century* (2008). When discussing the principle of proportionality, he warns against making Parmenides' fallacy, i.e. when one tries to assess a state of affairs by comparing it to a past, non-existent state rather than a possible future state of affairs (Bobbitt 2008, 208–209).

post-war settlements, it encourages the victorious side to bear responsibility not only for the (possibly innocent) victims of a war or the destruction of property but for the restoration of the defeated country's basic institutions and providing humanitarian aid for the devastated population. This responsibility is derived from previous actions of moral agents and should also be enforced legally by peace treaties, truces and conventions if necessary.

### **A reformulation of jus post bellum principles and its moral obligatoriness**

The global world inevitably needs a global project for post-war settlements that would be future-oriented and would focus on the prevention of evil, rather than on repressive punishment of war crimes committed. In this section, I will focus on the possibilities of reformulation of the traditional *jus post bellum* principles. Seth Lazar claims that *jus post bellum* theorists are focused on warfighting – assessing our adherence to those standards, remedying the wars done, punishing us for our breaches (Lazar 2014, 220–21).<sup>4</sup> He analysed three basic claims, or principles, of *jus post bellum* and he came up with three critical remarks and reformulations:

- a) that reconstruction rather than compensation should be a priority to the neediest regardless of which side they were on
- b) the construction of just and impartial judicial institutions must take priority over actual acts of punishment of unjust political leaders and war criminals
- c) not only are the states which launched justified intervention responsible for the devastated country's reconstruction, but they are entitled to expect multilateral assistance (Lazar 2014, 205–217).

He thus broadens the area of restoration activities for the victorious sides and the global community as well. It must not only be a matter of a state or a group of states reconstructing the devastated society and making decisions for its future, but it has to be a matter of global decision-making process. It is future-oriented towards peacebuilding and has strong moral motivation by following the values of humanity, human dignity and moral rights and justice.

The adherence to moral values is meant to set an example worth following in the future. It does not exclude the punishment of war criminals as such, it makes their punishment just and fair. This is achieved by building just institutions first and simultaneously ensuring their legal sustainability. Peacebuilding activities must prevail in a long-term manner and should be applied “as a fluid on-going process rather than a definite end-state” (Evans 2014, 36). There is a natural law of every nation to preserve its existence in terms of its society, culture and religion. The global community has to build its aid and take these variables responsibly, i.e. the aim is not to build a distinctively new nation and national identity, but to find its potential in becoming a relevant part of the global community sharing a set of common ethical values. Global security is guaranteed only if it is a global project with as many participants as possible.

Roxana Vatanparast warns against contradictions in the principles of *jus post bellum*. She mentions discrepancies between the general “economic reconstruction” principle and real economic reconstruction efforts that have failed at promoting development or peace (Vatanparast 2014, 143). I believe it is a logical flaw to compare the theoretical foundations of this legal framework with its practical consequences when applied to particular cases. The

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<sup>4</sup> He mainly criticizes these *jus post bellum* principles of Orend's: 1. Proportionality and publicity (the settlement should be measured and reasonable, as well as publicly proclaimed), 2. Rights vindication (the settlement should secure basic rights whose violation led to just war), 3. Discrimination (distinction between soldiers, leaders and civilians when it comes to punitive post-war measures), 4. Punishment 1 (punishment must be proportionate), 5. Punishment 2 (soldiers on both sides of the conflict are accountable to investigation and trial), 6. Compensation (financial reparation may be obliged), 7. Rehabilitation (reforms of institutions are acceptable, but they must be proportional to the level of moral destruction of the previous regime). (Orend 2006, 180-181)

functionality of principles promoting human rights and peace is definitely a desirable goal, but failures in reaching (or at least approaching) the goal are far too dependent on many external factors and variables. Having a considerable amount of negative experience when applying normative principles of *jus post bellum* does not and cannot discourage thinkers and scholars from improving this normative theory and possibly increasing chances of positive consequences in practice. If the principle is misused, it does not necessarily invalidate the theory. It simply creates an opportunity for its practical reformulation. Nevertheless, it is appropriate to mention that the majority of such efforts have been unsuccessful in bearing moral responsibility for the devastation (including economic collapse) of the country and ended with further exploitation and increasing poverty.

In my consequentialist view, there is an inclination towards distinguishing between two types of responsibilities – primary and secondary. The primary responsibility of applying the *jus post bellum* principles must be borne by the victors and the process of recreating the functionality of the society. In my opinion, the secondary responsibility must be divided between the defeated state, as it must contribute to all the processes inevitable to establish more peaceful and stable conditions of its existence and the global community which should be helpful and willing to provide aid for such situations.

The obligation to rebuild and provide help is a moral obligation. There is no legal obligation to do this, as claimed by Antonia Chayes. She writes that there might be some progress, yet unproven, as the legal path to the creation of a general obligation. She thinks that:

It may be more of an interesting historical trajectory that proceeds from a) to the victor goes the spoils, to b) the vanquished pays the victor, to c) the vanquished is not expected to pay an indemnity nor sacrifice territory; thus maintaining the *status quo ante*, to d) the victor pays the vanquished. (Chayes 2013, 294–295)

Our history is inwrought by many examples of indemnities being solely attributed to the defeated and vanquished. I believe that such an approach to post-war reparations is morally impermissible and wrong. As the global community of people broadens its moral circle, i.e. they apply certain (universal, in their view) moral standards to more people and societies around them, they simultaneously acknowledge the inevitability to treat these people and societies as human beings with human dignity, moral standing and rights. Such an unconditioned approach further creates a stronger inclination towards feelings of shared responsibility for their fates and thus providing necessary aid in order to make their lives bearable.

Chayes aptly compares attempts to rebuild the war-torn societies to the following of the Hippocratic oath and do no harm (Chayes 2013, 304). I would add that doing no harm is just a first step towards a more peaceful and stable society. From the perspective of a moral consequentialist, doing no harm does not produce any negative consequences, but is behind in producing positive consequences as well. Of course, there is a theoretical chance that positive social consequences are being produced even in times of doing no harm but doing no harm must not be understood as doing as little help as possible but rather establishing measures and activities that would try to benefit to the rehabilitation of the country. In case of failure, they would not cause consequences contradictory to what has been expected from the post-war settlement.

Creating a general obligation to adhere to *jus post bellum* principles is an uneasy task. A consensus sought must pay attention to existing values in a particular society and their anthropological, cultural, ideological and religious predispositions for change. The process of rebuilding a country devastated by war and conflicts has to be an example of fair, just and

delicate activities that would create a better and more stable society than it was before. A society in which basic human rights are not violated and if so, their violation is strictly punished and morally rejected.

There are still many problems and questions that arise daily and provide a testing ground for theoretical principles of just war theory and international law. But every conclusion may be too far from the truth as Eric de Brabandere argues that “certain conceptions of *jus post bellum* pose a danger to some very foundational principles of international law and it does not seem to add anything new to existing obligations, roles and responsibilities of actors in post-conflict settings” (De Brabandere 2014, 124). I think that *jus post bellum* carries a moral value within itself. This moral value is an addition to all normative foundations of the set of principles and provides justification for all actions that happen after the war has ended. My focus was primarily on an analysis of those additions and their normative force in shaping the conflict-free future. This normativity is placed within the war-torn society and its obligation arises from the mutual agreement of its abidance by all members for an indefinite amount of time and with the best will of doing so. Having *jus post bellum* means having a theoretical framework for very specific situations such as post-conflict settlements and adhering to basic moral values of human life, human rights, human dignity, tolerance, justice and solidarity. If *jus post bellum* is applied appropriately and dynamically to the situation, it has a much greater potential of creating a just peace that might last indefinitely.

### **Peacebuilding and responsibility to rebuild**

This part of the article presents some thoughts about the possible actions at war's end. I primarily confront the idea of bringing justice to society by its reconstruction to the image of the victors with the idea to let the nation and the domestic community of people develop their new own concept of justice based on moral values they abide.

*Jus post bellum* should bring results in the form of reconstruction of the defeated society. A decent post-war order should be produced, despite the fact that there still are doubts about the justice of pre-war conditions and/or wartime actions. Here, it is inevitable to evaluate selectively and if the principles from one set are not fulfilled it does not imply that principles from the other are violated as well. It is, at least hypothetically, possible to have an entirely unjust war in terms of evil motives for its start and dirty actions in its duration, but the actions concerning the post-war settlement might be perfectly just. And a more frequent case, wars which were just in terms of *jus ad bellum* and *jus in bello* very often fall short in *jus post bellum* principles. It is customary that the victorious side along with international agencies and local political powers have mandatory power for the restoration of the country and its political transformation. However, the transformation is done almost exclusively on the political level, i.e. inclination towards liberal democracy. Such enforced democratic constitutions will presumably not be in favour of the country's citizens. Democracy requires transformation on the level of values, norms, habits, cultural practices, etc. The act of transforming a country into a democracy in the post-war settlement is of a formal character. A regime change inevitably requires changes in people's minds and the way they think and perceive reality, and this has to be a gradual process of education. While changing a regime cannot be a just cause for declaring war and a part of *jus ad bellum*, it can definitely serve some purpose and be a part of post-war settlement and *jus post bellum* under specific circumstances. As Walzer claimed:

The existence of aggressive and murderous regime cannot be a legitimate occasion for war and does not constitute a just cause as it is our moral duty to respond to the evil that they are doing instead of the evil that they are capable of doing or have done in the past. (Walzer 1977, xiii)



There are occasions in which moral and/or legal retroactivity is permissible, but those mostly include appalling actions against humanity and human rights, but the capability of doing such horrendous crimes cannot be an argument for any war activities that would usually cause deaths and suffering of innocent people.

The desire of having everlasting peace is dependent on another factor, i.e. whether the post-war settlement should be determined upon an impartial judge (global community, security organization, etc.) or should be negotiated between both sides of the conflict. So far, I have mentioned that there have to be certain limits of international aid and assistance but let me elaborate on this issue. Paul Gilbert concludes:

For a settlement to be arrived at justly it must be one that the parties could in principle recognise as just in the circumstances in accordance with their own standards, and for that to be the case it must be a settlement they make between themselves. (Gilbert 2003, 138)

The proposed internal resolution of conflicts and its preferability over external settlements has certain advantages that should be further analysed and put to trial. There is a general assumption that parties involved in a conflict must acknowledge that something is valued to a certain extent by the opponent, who is prepared to fight for it. The post-war settlement is therefore based upon relatively just compromise between competing interests. A two-side conflict is mostly a conflict between different societies of people with, sometimes very dissimilar, social practices, cultural habits and understanding of moral values and principles (justice included). A third party (global community, peace organizations, etc.) subjects can enter the discussions and the process of peacebuilding, but only if they are capable of remaining neutral.

A just post-war settlement must contribute to global security in a great manner. One of the aspects is to leave the surrendering enemy in a position to recover their cultural and political identity by themselves. Nonetheless, there is a certain danger of leaving the people to self-govern themselves, but it can be less harmful in terms of a possible future violation of ethical values and human rights as their abidance is crucial for the future development of a country. Another aspect to be preserved is the social and cultural relations and structures. “A war-torn country has to be reconstructed not only materially but also with regard to its legal infrastructure and its societal fabric” (Hilpold 2015, 305). The destruction of these elements is not only prohibited in *jus in bello* principles but should be an emphasized aspect of *jus post bellum* principles as well.

The destroyed societies cannot be “left behind” and might need several forms of aid and neutral international support. It is questionable, even among the just war theorists, whether the victorious side is morally obliged to restore the defeated country. Moreover, the victorious side does never come out of the conflict unharmed and deserves a considerable amount of help as well. Tony Coady supports this idea of external aid with two claims: one is that many citizens of the defeated country will not be responsible for the war and deserve help in recovering. The second is that, after the war, civilian property, health and livelihood are severely damaged and this damage should be repaired (Coady 2012, 62). But the moral obligation for the reconstruction of the defeated country is limited to a certain extent. The influence and intervention of the victorious side have to be a direct approach towards particular aspects of the destroyed political, cultural and/or religious life of the defeated. However, it must not lead to a situation in which these aspects of people's lives are imposed, and the victorious side becomes the governor of the defeated country. There is a vast majority of such cases of imposition throughout our history in which the *jus post bellum* principles were either violated or fulfilled

only formally. Again, that does not lead to a conclusion that all third-party interventions in the post-war settlement processes are wrong and unjust.

Another question might be raised here: To what extent is an imposition of liberal and democratic values permissible. I believe the answer lies somewhere in the middle position between a strict, rigorous and absolute imposition of new (even liberal-democratic) values and institutions and between frivolous, uncontrolled and careless passivity of being an unconcerned observer. Every society is a complex mechanism of cultural, social, political, religious and moral relations, values and institutions. It cannot be changed overnight despite all atrocities its existence finally led to.

It is usually unclear whether previous conceptions of justice of the vanquished society are meant to survive. The post-war situation also challenges the victorious side to establish appropriate conditions at war's end. *Jus post bellum* poses a great challenge of creating the idea of justice mutually respected by the victors and the defeated. As a matter of fact, this distinction is no longer valid in post-war situation. According to Cécile Fabre:

A peace settlement is binding on its parties if, and only if, it meets the following two conditions: (1) the procedural justice condition, whereby (1a) the agreement is not secured by fraud, deception, or unjustified coercion, and (1b) parties who negotiate the agreement are competent to do so; (2) the substantive justice condition, whereby the agreement's clauses (2a) are justified vis-à-vis its parties and (2b) do not prevent the latter from meeting their overriding obligation of justice to outsiders. (Fabre, 2016, 37)

She develops the idea of the so-called cosmopolitan justice as a precondition for (global) peace. It is based on the assumption of cosmopolitanism that mere membership of human beings in a particular group (religious, political, national, etc.) does not affect their human rights (Fabre 2016, 4–5). It corresponds with Lazar's three critical remarks on *jus post bellum* principles mentioned above and it creates a vision of justice based on the moral subject being a world citizen. I think that there is a strong critical objection to cosmopolitanism because it lacks arguments for the justification of its own position and thus using human rights in connection with language of ethics and moral philosophy. On the other hand, cosmopolitanism does not suggest that countries have a special obligation to protect each other. In addition, “states must be strong as the best way to make sure that human rights are protected, and atrocities diminished if not prevented” (May 2012, 179).

Imposing democratic values and a new social structure to a country is an uneasy task. According to May “forced democratization is unlikely to work” (May 2012, 168). May concentrates his ideas around the responsibility to rebuild as the principle of *jus post bellum*. Its connection to *jus ad bellum* is undeniable as it could limit these considerations by forcing people to think beyond the traditional reasons for starting a war. If the rebuilding of the defeated society after the war ends is to be taken seriously, the efforts to start a war must be limited by avoiding massive devastation of the enemy's population. If there is a high probability of massive decimation of the defeated country or any other highly negative consequences, it is suggested that the war should not be initiated.

Moreover, such tactics might cause atrocities and dirty hands practices on the side of the enemy. It creates the possibility to justify such a response through Walzer's idea of a supreme emergency (Walzer 2006, 267–268). In order to avoid such extreme situations, one must not initiate a war if the outcomes are irreparable or only reparable in a long timespan. *Jus post bellum* principles are not to be taken separately because it would create numerous inner conflicts within the just war tradition. The implementation of post-war considerations should eliminate these conflicts and might justify the initiation of war as well. While the traditional

principle of proportionality in the just war theory aims at the good which has to be large enough to outweigh inescapable harm, loss of lives and damage, the newly reformulated principle should not neglect the possibilities of rebuilding the society and restoring peace. Charles Guthrie and Michael Quinlan write:

Military victory entails a grave duty also to recognise, plan for in good time and sustain responsibilities for what happens afterwards. The burden of such responsibilities can be very heavy – so heavy indeed, that its magnitude, and whether there is willingness and ability to shoulder its costs and difficulties effectively, ought often in prudence to be counted as a significant factor to be weighed in deliberations on whether to go to war at all. (Guthrie – Quinlan 2007, 26)

## Conclusion

The newly opened issue of *jus post bellum* is supposed to fill the gap in the current status of the just war theory as the most commonly appreciated theory for dealing with morality issues in times of war. The need for a complex and coherent approach to peacebuilding by creating a mechanism dealing with various types of post-war setbacks is strongly emphasized. “It is still unclear whether *jus post bellum* is a construct, a strand of research, or a sub-discipline of existing paradigms” (Easterday – Iverson – Stahn 2014, 5). I believe the taxonomy is of much less relevance than the constant critical discussion, reformulation and implementation of the principles in practice. Realizing the fact that the conduct of war is a primary subject to moral criticism as it has been through past centuries, leads to the assumption that the post-war conduct and reparations seem even more important and must be addressed by ethics and moral philosophy as well.

*Jus post bellum* is a specific and complex instrument for eliminating previous injustices that existed in society and most presumably led to aggression and unjust war and conflicts. It is mostly perceived as a normative set of principles that need to be interpreted uniformly. Its aim is to produce a society deprived of instability and insecurity. A conflict-free and self-governed society is the ultimate goal of *jus post bellum* and this also serves as a guarantee for future conflicts that might derive from injustices in people's cultural, ideological and religious lives.

Responsibility for peace must be recognized as a global project. Peace is not hostile to various conceptions of justice, while war is (Myers 1996, 129). Justice may only be served under the conditions of generally appreciated consensus on peace. It must not be imposed on society and it must not be a result of victory in an unjust war. Justice, in a way, must be a timeless phenomenon. This can only be achieved by eliminating all possible injustices that might influence the process of revitalization of justice in the future. The set of *jus post bellum* principles is a kind of a “safety precaution” ensuring that the new world they create is deprived of injustice and intolerance. Just wars should be followed by a just peace among peoples and with the people's present enemy. Consequently, peace will be just according to specific conceptions of justice. While it might be difficult for a society or a community to reach an agreement on what conditions to consider as just and how to establish justice, it must be a result of their convention and therefore it might constitute just conditions for long-lasting peace. Such an idea of justice and peace is immune to any external factors and other conceptions of justice and peace. The condition for its appropriateness is its legitimacy and orientation towards ethical values and principles. Just peace will therefore have a status of a locally applicable phenomenon to people who are directly concerned. Elevating such kind of peace to a global level is a delicate issue and deserves time for reaching a wider consensus among other comparable varieties of justice and peace around the globe.

Despite the fact that the whole concept of *jus post bellum* has gained attention, it is still an issue of strong discrepancies among various theories as well as scholars concerned with it. The presented paper has focused on some of these discords and elaborated on the relevance of the whole set of *jus post bellum* principles. It has also presented current trends in the research striving for a reformulation of the principles in order to make it more adapted to the ever-changing global situation. There are still many unresolved issues concerning its scope of application and /or interrelations of morality and legality within the concept, but it still remains a very useful tool for minimizing negative outcomes of warfare and restoring justice. A fair and just peace will aspire to ensure greater protection of humanity, human rights and human dignity.

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