

A MANIFESTLY UNJUST (BUT ALSO A MANIFESTLY JUST) WAR**

Hitler and Stalin rose to power in Berlin and Moscow, but their visions of transformation concerned above all the lands between. Their utopias of control overlapped in Ukraine.

Timothy Snyder, Bloodlands – Europe Between Hitler and Stalin

I. The Tragic Particularity of “Bloodlands”

The war in Ukraine has reminded us of evils we know about (loss of life; the trauma and overall horror of war, particularly for civilians; the collapse of organised and civilised coexistence; the destruction of infrastructure, especially in cities; devastating economic and social consequences; global instability, etc.) but has added, in my opinion, some new elements. This conflict exhibits certain singularities that at first glance render an objective assessment a challenging proposition. *Firstly*, the war is happening in our broader neighbourhood and was initiated by a power that is essentially European. We should not forget that Russia, despite its marked “eastern” characteristics (also linked to a particular perception of orthodox Christianity), a long tradition of tsarist and Stalinist despotism and Putin’s authoritarian and oligarchic regime, remains an integral part of European history and European civilisation.¹ The contribution of Russian music, painting, cinema and of course literature (but also science) to what we regard as our

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¹ Thinking in this context of Russia because it is the aggressor state should not make us oblivious of the fact that the same holds for Ukraine and other countries colonized by Russia. It should also not blind us to the fact that Ukrainians and other colonized peoples were equally isolated and trapped under the Soviet sphere of influence. I owe these important points to an anonymous referee.

common civilisation is immense. We must never forget that, however repellent the conduct of Putin's regime. We should not exaggerate it either. Perhaps the underestimation of the common history and culture by the architects or administrators of the new political reality that emerged after the collapse of the communist regimes played its role in the gradual political alienation that ensued. *Secondly*, the war is in a way a result of the realignments occasioned by the collapse of the Soviet Union and the divergent courses followed by Russia and Ukraine thereafter. It may also be regarded as a delayed effect of much earlier events that took place during the Second World War and even earlier. *Thirdly*, although the two countries involved in the war are both successor states to the Soviet Union, they represent, at least in principle, a different view of governance but also of foreign policy. *Fourthly*, this war is of major significance not only for Ukraine; it has serious political, economic and trade-related consequences for all of Europe and the world. It is not therefore a local war at a remote part of the world, which we could regard as not affecting us directly. As we are all bitterly aware, this has an impact on the strategy of the Russian aggressor but also on the capacity of Ukraine to defend itself.

These characteristics encompass the particular reasons for which the West displays, to a high degree, solidarity with Ukraine, and actively opposes Russia. However, these same characteristics can perhaps also give cause for a more sceptical approach, less condemning of Russia, or more pacifist. I would like us first to evaluate the facts of the war in Ukraine and examine whether and to what extent they provide reasons for war. Then, I would like us to examine whether the special features I outlined above can alter or modify our verdict. Let us then start at the beginning.

II. Illegality and Injustice of Aggression

The Russian invasion of Ukraine was an illegal act according to International Law. The Charter of the United Nations contains very clear provisions prohibiting so-called aggressive war (§ 4, article 2) and essentially permitting (subject to ch. 7) defensive war.² The Russian claims to the effect that the "military operation" in the Ukraine has a preventive character have absolutely no basis in fact; there was not the slightest threat that could conceivably

² Cf. James A. Green, Christian Henderson and Tom Ruys, "Russia's Attack on Ukraine and the jus ad bellum," *Journal on the Use of Force and International Law* 9 (1) (2022), <https://www.tandfonline.com/toc/rjuf20/9/1>: "There is no question that Russia's invasion – the largest military offensive in Europe since the Second World War – was a prima facie breach of the prohibition on the use of force, as enshrined in Article 2(4) UN Charter and in customary international law. Indeed, when tested against the non-exhaustive list of 'acts of aggression' in the UN General Assembly's Definition of Aggression, the operation pretty much ticks every box, involving, as it does, the invasion and occupation of another state's territory (Article 3(a)), the bombardment of another state's territory (Article 3(b)), the blockade of the port of Mariupol and the Sea of Azov (Article 3(c)), an attack against the land, sea or air forces of another state (Article 3(d)) and even the sending of armed bands, irregulars or mercenaries (including Syrian fighters or mercenaries from the 'Wagner Group') (Article 3(g)). It is worth recalling that the prohibition of aggression is widely considered to be a jus cogens norm, from which no derogation is permitted."

emanate from Ukrainian territory.³ Further, no humanitarian crisis was unfolding nor was there any threat of a mass violation of human rights to justify, even on the controversial grounds of a “humanitarian intervention,” the use of military force. If the region’s Russian speakers felt that their rights to their language and cultural heritage were being infringed, they could appeal to the European Court of Human Rights. The overwhelming majority of Ukrainians are not Russian, or at any rate do not perceive themselves as Russian, and Ukraine is an independent sovereign nation. Nor can anyone consider seriously the claim that the country is governed by a Nazi political regime. The Russian arguments about self-defence would have been well founded only if we accepted that Ukraine is part of Russian territory. Russian ultra-nationalists may harbour a deep-rooted conviction that this is so, but that is not an adequate justification.

However, beyond being *illegal*, the invasion of Ukraine was also *unjust* from the viewpoint of the theory of just war. The Just War Theory is a complex theoretical tradition developed since the Middle Ages with the purpose of articulating conditions for the justification of war.⁴ It thus emerged long before the theory and practice of international law. Despite its imperfections, the viewpoint represented by this theory provides a platform to criticise the actions of states even when their conduct appears to be in line with International Law. I should say here that for many centuries the criteria for an ethical justification of the use of force were, in a way, only addressed to the consciences of kings. There was no international law as we know it today. Further, in contrast to the medieval and scholastic tradition,⁵

³ Cf. Anthony Dworkin, “International Law and the Invasion of Ukraine,” *European Council of Foreign Relations*, February 25, 2022, <https://ecfr.eu/article/international-law-and-the-invasion-of-ukraine/>. As Dworkin points out, “Russia’s invasion of Ukraine is a clear act of aggression and a manifest violation of Article 2.4 of the UN Charter, which prohibits the “use of force against the territorial integrity or political independence of any State.” In his speech announcing the attack on Ukraine, President Vladimir Putin made various attempts to justify Russia’s actions. He pointed to what he described as Western violations of international law in Kosovo, Iraq, and Libya. But – leaving aside the differences between these cases – they have no bearing on the illegality of Russia’s moves. Referring directly to the UN Charter, Putin also argued that the invasion was an act of self-defence – one designed to protect both Russia and the separatist enclaves in Donbas from an assault by Ukraine and NATO. These claims are nonsense. Neither Ukraine nor NATO had launched or was about to launch any such attack. And, as the enclaves are not independent states (despite the fact that Russia recognised them as such), they cannot ask another state to defend them. In any case, in the run-up to the invasion, there was much more force directed outwards from the enclaves than against them.”

⁴ Cf. Konstantinos A. Papageorgiou, *War and Justice. A Political Philosophy for World* (Athens: Polis, 2008).

⁵ Ripstein aptly distinguishes between the scholastic tradition which, in addition to Aquinas, includes the great theologians of the School of Salamanca (Vitoria, Suarez), and the modern tradition of Grotius, Pufendorf and Vattel. One basic characteristic of the first was the acknowledgment of a type of a “universal jurisdiction” application of justice which (despite the attempts at its conceptual entrenchment by Vitoria and others) empowered the Spanish Conquistadors to hold themselves as the agents of justice around the world. A fundamental characteristic of the second tradition was the perception of the use of force as a means of unearthing justice and resolving disputes. See Arthur Ripstein, *Kant and the Law of War* (Oxford: Oxford University Press, 2021), 5–12.

political thought in the early modern period (Grotius, Pufendorf, etc.) did not restrict the right to resort to force to a few exclusive cases, such as self-defence or correcting an injustice, but left the issue to the discretion of states and their leaders – which is why Kant considers these philosophers “sad apologists” (“leidige Tröster”).⁶ This view essentially changed only after World War II.

So how would the Just War Theory assess the case of Ukraine? Let us examine one by one the standard conditions set in the law of war.⁷ Evidently, Russia’s war against Ukraine cannot be based on a *just cause* (*justa causa*); according to current thinking, just cause is legitimate self-defence or correction of a previous injustice (e.g. expulsion from illegally occupied territories). The legality of a defensive war is closely linked with the idea of an international system of law ensuring primarily the peaceful co-existence of sovereign nations. This just cause can be invoked by Ukraine, but not by Russia. And as we have noted, the claims forwarded by Russian officials about the deeper causes of the war (NATO encirclement syndrome, defence of enclaves, denazification, protection of the Russian-speaking population, Russian territory, etc.) are obviously a pretext. Therefore, what has been called *recta intentio* (sincerity of intention), the second condition of the just war theory, does not apply either. The objectives that Russia pretends it pursues, are different from the objectives it does in fact pursue. I will not discuss here the issue of *legitimate authority* (*legitima auctoritas*), which is the third condition. Being a sovereign nation, Russia has the formal authority to conduct war. The question of course, is whether a state governed by an authoritarian and anti-democratic regime which does not respect the rule of law and fundamental rights, is entitled in the first place to resort to force, even in the most obvious of cases such as the defence of its people’s legitimate interests. In my view this question has not been adequately addressed by either the just war theory or international law.⁸

One question that is raised for all wars is their *proportionality* in relation to the outcome sought. Even if we could, on any grounds, concede to Russia some “right” regarding its earlier political conflict with Ukraine (and the rest of the world), the means chosen in this case, i.e. war, should be in proportion to the outcome sought, let us say Russia’s “right.” But as we saw, no “right” justifies war other than legitimate self-defence. In other words, when it comes to Russia there is no right so important as to justify the loss of tens of thousands of lives on both sides and the immense economic, social and environmental catastrophe occasioned by this war. There is no proportionality here, from the outset, because the war has no just cause on Russia’s side and is manifestly unjust.

⁶ Immanuel Kant, “Toward Perpetual Peace,” in *Practical Philosophy*, trans. and ed. by Mary J. Gregor, general introduction by Allen Wood (Cambridge: Cambridge University Press, 1996), 326.

⁷ The order that I follow here is not common, and someone could certainly start out with the third condition, legitimate authority. Perhaps that would be more conceptually sound. However, the *justa causa*, just cause, forms the axis around which all other conditions must revolve.

⁸ Cf. Konstantinos A. Papageorgiou, “Legitima auctoritas, Krieg und Demokratie,” in the forthcoming volume edited by Armin Engländer – Frank Saliger, *Autorität und Autoritarismus* (Stuttgart: Steiner Verlag, 2023).

In Just War Theory, the principle of proportionality can also be invoked regarding the defending party. Is then the resistance of the Ukrainians proportional? Ukraine's defensive war is manifestly legitimate in ethical-political terms because there was no peaceful alternative option if it was to repulse Russia's illegal attack. Ukraine is entitled to do whatever is necessary in order to repel the Russian armies and liberate its territories. Even so, could we not suggest to Ukraine to accept a compromise peace deal, even if it entails the loss of some territories?⁹ I believe that Ukraine is not obliged to do so, even if we considered that such a course would be in its own interest or in the interest of the West or the whole world. No one is entitled to force a country that is defending itself to come to terms for the sake of peace – although it has as a sovereign country the right to opt for peace at any stage of the war if it believes it is in its interest. Some modern-day Just War Theory writers seem to favour such a course, balancing a nation's sovereign rights against the consequences of a war. This is an entirely erroneous approach that seems to ignore or underplay the fundamental importance of defending the rule of law in the international legal order. Forcing sovereign nations to come to terms corresponds to forcing an individual to agree in the suppression of his personal liberty and personal rights for the sake of general welfare.

It is considered that war must not only be an *ultima ratio* after all other options have been exhausted (without however this entailing an obligation to accept *faits accomplis*), but must also have a reasonable likelihood of success. Initially at least, no one believed that Ukraine would be able to withstand a massive Russian invasion. The resistance offered by the Ukrainians proved otherwise. And we should acknowledge here that even the sacrifice of soldiers and civilians is never without reason. The Ukrainians showed to the invading Russians that there is a cost for any act of aggression and that they themselves were willing to bear that cost. Indeed, one could say that the resistance of the Ukrainian people, as that

⁹ This is what Jeffrey Sachs ("Jeffrey Sachs: The West's Dangerous Narrative About Russia and China, and the Urgent Need for a Draft Peace Agreement: The Great Game in Ukraine is Spinning Out of Control," *Meta*, <https://metacpc.org/en/jeffrey-sachs-2/>) and others seem to suggest when they approach the Russian invasion as the continuation of a proxy war between the US and Russia and demand negotiations and the immediate ending of the war. Sachs attributes the war exclusively to American and NATO policies vis-à-vis Russia. But even if third parties share ante bellum political responsibility for a violent conflict, the fact does not per se diminish the injustice of an act of aggression and the right of an independent state and its people to defend themselves. What I find generally striking in Sachs's approach is his understanding of world politics as a conflict among big players, some of which (e.g. the US) happen to be more malevolent than others (e.g. Russia, China, Iran etc.). World peace will accordingly be established once the conflict reaches a certain point of equilibrium, in harmony with the geopolitical ambitions or fears of the big players. A serious shortcoming of this view is a total lack of a normative appreciation of the standing of smaller independent states and the rights of their peoples. These states and their peoples are factored in not as collectives to be respected but at best as humans to be protected. Cf. also Isaac Chotiner, "Jeffrey Sachs's Great-Power Politics, The Economist Discusses What the U. S. Gets Wrong About Putin and the War in Ukraine," *The New Yorker*, February 27, 2023, https://www.newyorker.com/news/q-and-a/jeffrey-sachss-great-power-politics?utm_source=onsite-share&utm_medium=email&utm_campaign=onsite-share&utm_brand=the-new-yorker.

of any people against a conqueror, constitutes irrefutable proof of their political existence and unity.¹⁰

However, the just war theory is interested in the legitimacy of war not only in principle (*jus ad bellum*), i.e. as to the decision to resort to armed force as such, but also as to the way force is used by the belligerents (*jus in bello*). Even if a war is in principle just – that is, justified as to its purpose – it must be conducted by rules that are morally acceptable and in line with humanitarian law and the four Geneva Conventions¹¹ (1949 plus the 1977 protocols). The most important point here, is the protection of non-combatants. From that viewpoint, the war that Russia has conducted is barbaric and unjust. Typical examples include ground and air bombardment of entire cities, the destruction of Mariupol being a case in point, and the targeting of hospitals, railway stations and other sites that are not purely military facilities. In this, Russia failed to respect the principle of distinction. Particularly aggravating are actions such as impeding the exit of civilians from cities besieged by Russian forces, and of course the execution of non-combatants in the city of Bucha. Any country in a state of war naturally tries to minimise its own losses, and air bombardment is one way to pursue that aim. A parallel here is the bombardment of Serbia at the time of the Kosovo conflict. However, the cost for civilians is excessively high; in value-based terms, disproportionate to the strategic aim. I believe that this disproportion is further aggravated by the fact that Russia is the unjust aggressor.

In recent years philosophical discourse has raised doubts about the classical distinction between the moral justification of the decision to go to war as such (*jus ad bellum*) and the moral evaluation of the way the decision has been carried out (*jus in bello*). This classical distinction (sometimes called “independence thesis”) has been forcefully defended by Michael Walzer in his seminal work *Just and Unjust Wars* (1977). The idea is that regardless of the justifiability of the initial decision to revert to arms (some wars are patently unjust), how the war is being conducted is also of moral importance. Soldiers have therefore an equal moral status (sometimes called “symmetry thesis”) regardless on whose side they are fighting, they are in this respect morally speaking neither better nor worse than any other soldier and they have insofar an “equal right to kill” provided they respect the rules of the laws of war. In other words, the *ad bellum* justice of a war has no impact on the *in bello* rights and obligations of combatants.

Some philosophers however, notably so Jeff McMahan, have recently argued against the classical reading. They claim that if a war is unjust in principle, as for example the war unleashed by Russia on Ukraine, then the aggressor’s soldiers cannot be considered equal to the combatants of those in defence. They too act unjustly. The lack of justifying reasons in principle for the war a country conducts against another country trickles down so to speak

¹⁰ Some philosophers call upon the idea of a people’s self-respect. See Saba Bazargan-Forward, “War Ethics and Russia’s Invasion of Ukraine,” in “Philosophers on the Russian Attack on Ukraine,” *Daily Nous*, <https://dailynous.com/2022/03/02/philosophers-on-the-russian-attack-on-ukraine/>.

¹¹ https://www.icrc.org/en/doc/assets/files/other/what_is_ihl.pdf.

to the level of individual acts. Far from being morally equal with combatants of a country that conducts a just war, those who fight on a side with no just cause, should be considered as “unjust combatants” and will have no justification in killing others, be it combatants or civilians. This reading of the status of soldiers on the aggressor’s side and their characterization as unjust combatants has some far-reaching consequences for the way we should understand the principles governing jus in bello.

This revisionist critique expresses a powerful intuition: the army of the state that wages an unjust war and its modus operandi cannot have the same normative standing as the army of a country defending itself. For instance, it seems right that at least the protection of the aggressor’s civilians can never be on the same plain, and even less so is that of its soldiers. We can see this when we examine the necessity for a military operation. No military operation can be considered necessary when its aim, let us say the conquest of another nation, is unjust. On the other hand, as Walzer himself conceded in discussing the carpet bombing of German cities in WWII the army of a country in defence may do whatever is necessary to avert an invasion or an unjust occupation. This seems intuitively correct, and is as a rule acknowledged by the peace treaties that cover unjust wars and the impact they have on the citizens of the unjust aggressor.

The asymmetry and dependence thesis which McMahan has launched coincides with a more general trend in the philosophy of international relations and the ethics of war. We can call it pure cosmopolitanism in war (PCW). According to this trend use of force in the international community should be understood in terms of the morality of individual action without acknowledging the fact that wars are, as a rule, conflicts between states. In fact, PCW conceives the constitution of international or global society through the prism of individual relations between moral agents without taking into account the fact that world society is constituted primarily by states and not by individuals. This moralistic twist promoted by PCW is in my opinion a philosophically problematic theory about the ethical-political constitution of the world but also a theoretical trend that instils erroneous views into international relations, international law and the foreign policy of many western states. Paradoxically, it ultimately advances the ideas of the realists because it favours an understanding and reading of International Law and Justice not as a necessary framework for the co-existence of nations, but rather as an ideological tool used by powerful agents to enforce their policies.

III. Injustice, Political Responsibility and World Peace

However, these reflections take us back to the second question we raised at the beginning, about the particular characteristics of the war in Ukraine. A subject often raised by analysts and media is how Russia was treated after the disintegration of the Soviet empire. This is not the place for a detailed account, but we may reduce the issue to one fundamental question: Is perhaps the West also responsible for the radicalisation of Russia? I think we could say that reasonably or not, the West was unable or unwilling to integrate Russia into a stable

and mutually beneficial framework of peaceful co-operation. The fact however that many states, formerly under the Soviet sphere of influence for decades, opted for self-rule and decided to pursue their own independent way, certainly intensified Russia's sense of isolation. The fact that Ukraine gained political independence and self-rule did not merely deprive Russia of a neutral buffer zone, but also established at its borders a social and political regime that is potentially opposed to Russian political standards and culture. But even if we accepted that "the West is to blame for this," would that change anything in relation to the war? Could we say that Russia was provoked and that the West is equally or more to blame for the injustice of the war? The answer is no. Even if we could attribute political responsibility to western powers and leaders, it would not alter the fact that from the viewpoint of international law and the just war theory the invasion was an illegal and unjust action. We can have no say about other peoples' personal choices regardless of whether they displease or perhaps offend us; we have no right to force them into behaviour that we consider agreeable. We could say the same about states, even when their choices are opposed to our interests – except if their actions infringe upon our rights.

There is however a counter-argument here. Is it perhaps the case that we are pointing the finger at Russia while we have acted in not dissimilar ways? Let us remember the United States and the enforcement of the Monroe doctrine by Theodore Roosevelt in 1904¹² or NATO's involvement in former Yugoslavia (not without sufficient reason, especially after Srebrenica) or the American and British intervention in Iraq in 2003 (without sufficient reason, as was incontestably shown later). Are we perhaps applying double standards when we condemn Putin or others for scorning the principles of international law and just war? Ultimately, are perhaps the rules of legality and ethics nothing but a smokescreen for consolidating state power? And if all behave so, why should we expect someone to do otherwise?

I think that this realistic argument is based on a misunderstanding. First of all, Russia itself tries to justify its actions in terms of legality, not power. It simply fails to convince. Kant has made a very perspicuous observation in his *Perpetual Peace*:

This homage that every state pays the concept of right (at least verbally) nevertheless proves that there is to be found in the human being a still greater, though at present dormant, moral predisposition to eventually become master of the evil principle within him (which he cannot deny) and also to hope for this from others; for otherwise the word *right* would never be spoken by states wanting to attack one another, unless merely to make fun of it, as a certain Gallic prince defined right: "It is the prerogative nature has given the stronger over the weaker, that the latter should obey him."¹³

¹² Roosevelt Corollary to the Monroe Doctrine, 1904, <https://history.state.gov/milestones/1899-1913/roosevelt-and-monroe-doctrine>.

¹³ Kant, *Perpetual Peace*, 326–27.

Furthermore, we must distinguish the issue of the objectivity and fairness of certain principles and rules that (should) govern relations between states, from the issue of their implementation. During the Second World War no one questioned the right of the Stalinist Soviet Union to defend itself against Hitler's armies, drawing its right from a perspective of peaceful co-existence of nations, even if it did so only if and when it found it convenient. Today Putin is behaving in terms that applied before the end of Second World War and it is not coincidental that the invasion was condemned by the overwhelming majority of UN member-states. The distinguished British journalist Hugo Dixon¹⁴ recently tried to classify arguments about the war in Ukraine as to whether they stand for fairness or for power and state interest. I believe that fairness in relations between states is in their interest, especially so of course when they wield less power, though an international system governed by fixed and relatively fair rules is also in the interest of large states, even of the superpowers. What Russia is doing in Ukraine is not only manifestly unjust but also against its own interests.

Perhaps the most difficult moral question concerns the stance of the West and of the European countries, which reasonably harbour feelings of solidarity for Ukraine.¹⁵ This stance entails some risk and comes at a high cost due to the sanctions imposed by the United States and the European Union on Russia. Let us set aside the purely political discussion about the necessity and effectiveness of these measures. The internal political consequences of the sanctions and the issue of energy security pose significant challenges, especially for the West. It is a parameter that must certainly be taken into account, but is not the primary concern. The morally significant issue is whether we have an ethical-political obligation to display solidarity towards Ukraine. The answer is yes, based on the idea that democratic states respecting the rule of law have not only the negative duty of not undermining the independence and sovereignty of other states, but also the positive duty of supporting states that are trying to defend and consolidate their freedom, by, for example, offering military assistance or imposing sanctions. It is their duty to pursue the development of relations of independence and equality of freedom between states.

It is of course an imperfect duty, because support is also related to the needs of the recipient. Therefore, assistance to Ukraine is necessary on the grounds of upholding a principle, even if other reasons also apply, such as stopping the expansionist policy of a revisionist power. The cultural features of Russia, but also of Ukraine, are not directly relevant in this case, nor is their history, even if we have reason to deplore the human catastrophe unfolding again in the same lands after less than a century.¹⁶ We do not help

¹⁴ For an intriguing side-effect of the war cf. "Hugo Dixon: War Boosts Need for 'Green Marshall Plan,'" *Reuters*, <https://www.reuters.com/breakingviews/dixon-war-boosts-need-green-marshall-plan-2022-03-11/>.

¹⁵ For a wise and sensitive account cf. Jürgen Habermas, "Krieg und Empörung," *Süddeutsche Zeitung*, April 29, 2022, <https://www.sueddeutsche.de/projekte/artikel/kultur/das-dilemma-des-westens-juergen-habermas-zum-krieg-in-der-ukraine-e068321/?reduced=true>; Jürgen Habermas, "Indignation. The West's Red Line Dilemma," *Reset Dialogues on Civilizations*, May 6, 2022, <https://www.resetdoc.org/story/jurgen-habermas-war-indignation-west-red-line-dilemma/>.

¹⁶ Cf. Timothy Snyder, *Bloodlands, Europe between Hitler and Stalin* (Vintage, 2015).

Ukraine because it is similar to us, nor do we oppose Russia because we consider it an oriental power, alien to western traditions. Such stereotypes are irrelevant for the appreciation of the (in)justice of the war. What is important is that a nation is trying to constitute itself into an independent and sovereign democratic state and is being violently prevented from doing so by a neo-imperialist, nationalist and revisionist power governed by an authoritarian regime. Free states respecting the rule of law have a duty to help Ukraine despite the cost that this may entail for their prosperity; in any case, it is in their own interest in the long term. Free states have the obligation to do whatever is in their hand to preserve peace but this may also entail going to war (or for that matter supporting a country defending itself) if there is no other way to protect the sovereignty and the rights of their peoples.

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Константинос А. Папагеоргіу. Вочевидь несправедлива (але й вочевидь справедлива) війна

Анотація. У статті оцінюється законність і справедливість війни в Україні. Це робиться для того, щоб відхилити аргументи Росії на користь вторгнення і довести право України захищатися від російської агресії, як з точки зору міжнародного права, так і в контексті теорії справедливої війни. На справедливу причину може посилатися Україна, але не Росія. Твердження російських офіційних осіб про глибинні причини війни, очевидно, були лише приводом. Але чи пропорційний опір українців? Оборонна війна України є вочевидь легітимною ще й тому, що не було мирної альтернативи для відбиття незаконного нападу Росії. Україна в принципі має право зробити все необхідне, щоб дати відсіч російським військам і звільнити свої території. Вона не може бути змушена прийняти компромісну мирну угоду, як деякі припускають, навіть якщо такий курс буде в її власних інтересах або в інтересах Заходу чи всього світу. Ніхто не має права примушувати країну, яка захищається, до згоди заради миру – хоча вона як суверенна країна має право обрати мир на будь-якому етапі війни, якщо вважає, що це в її інтересах. Ще одне складне моральне питання стосується позиції Заходу та європейських країн, які цілком резонно відчують солідарність з Україною. Така позиція пов'язана з певним ризиком і дорогою ціною через санкції, запроваджені Сполученими Штатами та Європейським Союзом проти Росії. Внутрішньополітичні наслідки санкцій і питання енергетичної безпеки створюють значні виклики, особливо для Заходу, і це параметр, який, безумовно, потрібно враховувати, але він не є першочерговим. Морально важливе питання полягає в тому, чи мають ліберальні політики морально-політичний обов'язок виявляти солідарність з Україною. Відповідь – так, оскільки демократичні держави, які поважають свободу та верховенство права, мають не лише негативний обов'язок не підривати незалежність і суверенітет інших держав, але й позитивний обов'язок підтримувати держави, які намагаються захистити та зміцнити свою свободу, наприклад, пропонуючи військову допомогу чи вводячи санкції. Це їхній обов'язок – сприяти розвитку відносин незалежності та рівності свободи між державами.

Ключові слова: агресія; справедлива війна; пропорційність; легітимність; відповідальність.

Konstantinos A. Papageorgiou. A Manifestly Unjust (but Also a Manifestly Just) War

Abstract. The paper assesses the legality and justice of the war in Ukraine. It examines only to dismiss the arguments of Russia for the invasion and argues for the right of Ukraine to defend itself against Russian aggression both on the basis of International Law and Just War Theory. A just cause can be invoked by Ukraine, but not by Russia. The claims forwarded by Russian officials about the deeper causes of the war were obviously a pretext. But is the resistance of the Ukrainians proportional? Ukraine's defensive war is manifestly legitimate also because there was no peaceful alternative option if it was to repulse Russia's illegal attack. Ukraine is in principle entitled to do whatever is necessary in order to repel the Russian armies and liberate its territories. It may not be forced to accept a compromise peace deal, as some have suggested, even if such a course would be in its own interest or in the interest of the West or the whole world. No one is entitled to force a country that is defending

itself to come to terms for the sake of peace – although it has as a sovereign country the right to opt for peace at any stage of the war if it believes it is in its interest. A further difficult moral question concerns the stance of the West and of the European countries, which reasonably harbour feelings of solidarity for Ukraine. This stance entails some risk and comes at a high cost due to the sanctions imposed by the United States and the European Union on Russia. The internal political consequences of the sanctions and the issue of energy security pose significant challenges, especially for the West and it is a parameter that must certainly be taken into account, but is not the primary concern. The morally significant issue is whether liberal polities have a moral-political obligation to display solidarity towards Ukraine. The answer is yes, since democratic states respecting freedom and the rule of law have not only the negative duty of not undermining the independence and sovereignty of other states, but also the positive duty of supporting states that are trying to defend and consolidate their freedom, by, for example, offering military assistance or imposing sanctions. It is their duty to pursue the development of relations of independence and equality of freedom between states.

Keywords: aggression; just war; proportionality; legitimacy; responsibility.

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