RECONCEIVING THE REASONABLE PROBABILITY OF SUCCESS CRITERION

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Abstract

The Reasonable Probability of Success criterion is widely considered one of six individually necessary requirements that must be satisfied for it to be ethically permissible to resort to war. For evaluations of this criterion success is understood to mean successful achievement of one's Just Cause. Modern Just War Theory narrowly defines Just Cause as self-defence or defence of others. Many contemporary just war theorists interpret this to mean mitigating or averting a perceived imminent threat. Such an understanding has generated a problem that has puzzled many just war theorists. Whilst there are clear moral reasons for requiring that the Reasonable Probability of Success criterion is satisfied, the demands of the contemporary understanding of this principle conflict with widespread, robust intuitions.

One case that elicits such intuitions is Belgium's decision to resist German aggression in 1914. In this case the relevant Belgium decision-makers knew that violent resistance could not mitigate or avert the imminent threat posed by Germany. Despite this they chose to defend themselves regardless. What transpired as a result is commonly referred to as the Rape of Belgium, with an estimated 30,000 casualties over the course of World War I. Resistance only managed to delay German forces for two days, and Germany maintained control of Belgium until the end of the war. Despite the fact that Belgium's decision violated the contemporary understanding of the Reasonable Probability of Success criterion, most commentators believe that it was ethically permissible for Belgium to resort to force.

This paper will attempt to vindicate these intuitions and solve the puzzle generated by the Reasonable Probability of Success criterion. It will argue that despite appearances, the Reasonable Probability of Success criterion could have been satisfied when Belgium resisted German aggression in 1914. It will contend that resisting aggression in such circumstances can achieve defence of others. This can be achieved by deterring the aggressor state, or other would-be aggressors, from invading one's own state, or other states, in the future. Crucially, it will be argued that this can be achieved even if the threat that is currently underway is not mitigated or averted. This will be linked to the importance of expressing an affirmation of the values of territorial integrity and political sovereignty. This paper will conclude by arguing that these consequences of resistance are both more likely to be brought about, and are of much more significance, given the anarchic international state system that exists.

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Reasonable Probability Of Success; Just War Theory; Political Philosophy; Applied Ethics.
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Problem For The Reasonable Probability Of Success Criterion

According to orthodox Just War Theory there are six individually necessary and jointly sufficient criteria that must be satisfied for it to be ethically permissible to wage war. These are: Just Cause, Legitimate Authority, Right Intention, Proportionality, Last Resort, and Reasonable Probability of Success. As the title suggests, the Reasonable Probability of Success criterion stipulates that it is not ethically permissible for a state to wage war unless it has a reasonable probability of achieving a Just Cause. Modern Just War Theory asserts that the only ends that can constitute a Just Cause for war are self-defence or defence of others. Most just war theorists believe that successful realisation of these aims can only be achieved by mitigating or averting a perceived imminent threat. The contemporary understanding of the Reasonable Probability of Success criterion is thus taken to require a state to

have a reasonable probability of mitigating or averting a perceived imminent threat for it to be ethically permissible to resort to war.

The moral rationale for requiring that the Reasonable Probability of Success criterion is satisfied is to prevent the likely gratuitous harm that would result from a state waging war when it does not have a reasonable probability of achieving a Just Cause. A state's decision to initiate hostilities typically causes combatants and non-combatants in both belligerent states to suffer harms. According to Just War Theory, realising a Just Cause is the only objective that can justify bringing about such harms. When a leader decides to subject combatants and non-combatants to likely gratuitous harms these harms constitute wrongs partly attributable to that leader (they may also be partly attributable to the adversary decision-making leader depending on the circumstances). An additional positive effect of including the Reasonable Probability of Success criterion in *jus ad bellum* is to force leaders to acknowledge and reflect on the harms that the decision to wage war will cause. It also provides a useful measure by which leaders can be held to account in the aftermath of a failed war effort.

Whilst there are clear moral reasons for requiring that the Reasonable Probability of Success criterion is satisfied, the contemporary understanding of this principle conflicts with widespread and robust intuitions towards historical cases. One case that elicits such intuitions is Belgium's decision to resist German aggression in 1914. Briefly, on the 2nd of August 1914 the German minister to Belgium delivered an ultimatum to King Albert and the Belgian government demanding unfettered passage through Belgian territory for German troops. German officials claimed that they had no choice other than to violate Belgian territorial integrity as they had purportedly received information that French troops were going to be deployed through Belgium (if this information actually existed it was erroneous). King Albert and the Belgian government promptly refused Germany's demand.

What transpired as a result is commonly referred to as the Rape of Belgium. It included 5,000 non-combatant casualties in August alone, and an estimated 30,000 over the course of World War I. Over 1,000,000 Belgians were displaced to foreign states, and 20,000 Belgian structures were destroyed. The resistance only managed to delay the German forces for two days, and Germany maintained control of Belgium until the end of the war. Even at the time of the invasion German officials acknowledged that what they were doing was unjust. From the outset the Chancellor of Germany declared: "This is contrary to the prescriptions of international law… We shall repair the injustice we are committing as soon as our military object is attained" (cited by Gerlache, 1915, p.24). Crucially, there is much evidence to suggest both that the Belgium decision-makers knew that resistance could not mitigate or avert the German threat, and that resistance had the popular support of the Belgians who would suffer the costs of war.

Belgian agents knew that their six divisions were hopelessly outmatched by the might of the German army. During the Crown Council meeting to decide how to respond to the German ultimatum, the Belgian Chief of Staff was asked "can our army fight a defensive battle alone with a chance of halting the enemy?" and "is our army completely ready to meet the attack?" He emphatically responded: "No, the war has caught us in the very act of reorganizing the army; our officer cadres, especially those in the reserve, are still inadequate, our field artillery is still below establishment; we have absolutely no heavy guns" (Steele, 2008, p.110). Belgian decision-makers were also not naïve of the costs that would be incurred by the decision to resist. Although there was widespread misapprehension across Europe prior to World War I concerning what contemporary military technology was capable of achieving, the brutal German policy of *Schrecklichkeit* was well-known and it was anticipated that Belgian non-combatants would suffer.

Evidence also suggests that the decision to violently resist Germany had the popular support of the citizens of Belgium. This is important because these were the people who would suffer most from hostilities. Writing at the time of the conflict, Maxweiler (1916, p.33) claimed that the "man in the street would have found himself in agreement with the Government as to that program, for it came from the very soul of the people." He continued that not "for one moment was there in Belgium any hesitation on the part of those who direct the policy of the country or on the part of the people, and nobody imagined that it would be possible to adopt the attitude of the money dealers in the temple" (1915, p.59). This is supported by the testimony of Gerlache (1915, p.27), who was also writing during the conflict. He observed that "it was our sole voice, the voice of an entire people, which rose, vibrating, in a single impulse of patriotism… as one man… its first thought and first care were to make ready for battle." Gerlache explained that this attitude remained even after hostilities had ceased. He wrote:

"There is not at the present moment a single Belgian family which has not been horribly tried by this war... All are mourning… Ask any Belgian, whether he be a minister or a modest clerk, a manufacturer or an artisan, a wholesale merchant or a small shopkeeper, a great stockbreeder or a poor tenant-farmer: ask the widow, or the orphan, or the parents who have lost one or several sons, ask any Belgian, no matter whom, be he Catholic, Liberal, or Socialist, if he does not feel to-day that it would have been better to have accepted the bargain which Germany proposed to us on the 2nd of August, 1914. There is not one who will not reply, without hesitation: 'No, we could not have done otherwise than we did, and if it had to be done again we should do the same'" (1915, p.238).

Despite the fact that Belgium decision-makers knew prior to commencing hostilities that they could not mitigate or avert the German threat, most individuals believe that resistance was ethically permissible (some even claim ethically praiseworthy). For instance, Fabre (2014, p.98) argued that "if any country ever had a case for going to war, Belgium in 1914 certainly did." Similarly, Steele (2008, p.15) declared that "even though Belgium's decision

contradicts… the just war 'reasonable chance of success' condition, few scholars or theorists would interpret the Belgian decision in normatively negative terms." Thus, there is a tension between the demands of the contemporary understanding of the Reasonable Probability of Success criterion and robust intuitions. This paper will resolve this tension by arguing that the contemporary understanding of the Reasonable Probability of Success criterion is mistaken.

Deterring Others By Reducing Their Capacity To Wage War

It is widely agreed that there are two key elements to achieve successful military deterrence of a potential aggressor. These work together to influence a state's expectations of what will occur if it pursues invasive policy. The first and most obvious is an assessment of a potential victim state's ability to respond with military force. For an aggressor, this takes the form of a comparison between the military capacity at their disposal and the military capabilities of the potential victim state. The second is an assessment of a potential victim state's will to respond with military force if attacked. Miscalculations of this second crucial variable have resulted in a large percentage of conflicts throughout history. It will be argued that states that resist aggression, even when they cannot mitigate or avert the imminent threat they face, can positively alter assessments of both of these variables for states contemplating aggression in the future. For this reason, states that cannot mitigate or avert the imminent threat that they face can still achieve defence of others through violent resistance, and can satisfy the Reasonable Probability of Success criterion.

The first way that defence of others can be achieved through waging a war that cannot mitigate or avert a present threat is by deterring one's specific aggressor from invading one's own state, or other states, in the future. Failed military resistance can deter an aggressor state by damaging its military hardware to such an extent that its leaders believe it does not have the capacity to successfully carry out future aggression. In other words, it will alter future comparative assessments made by one's aggressor of their own military capabilities and those of a potential victim state. The Reasonable Probability of Success criterion can be satisfied if it is believed that resistance will inflict sufficient military costs to prevent one's aggressor from harming others in the future. Crucially, achievement of this outcome does not require the victim state that is currently being invaded to mitigate or avert the present threat that it faces. Failure to recognise this possibility constitutes one way in which the contemporary understanding of the Reasonable Probability of Success criterion is mistaken.

This element of deterrence is only worth pursuing if it is likely that an aggressor state will pursue invasive policy again in the future. Sjoberg (2009, p.108) emphasised the importance of this calculation in her discussion of the Reasonable Probability of Success criterion. She believed that this criterion ought to be concerned with "not only whether or not the opponent will lose the war, but whether or not fighting the war would make it more likely that the opponent will behave in a way more conducive to justice in politics in the future… This part of success is crucial… war is… *a way to try and fix a problem*." According to Fletcher and Ohlin (2008, p.68), frequently an "attack is evidence of a hostile purpose and may be a prelude to a larger campaign against other countries in the region." This trend has also been observed by several just war theorists. McMahan (2014, p.154) has warned that if "the victims of lesser aggression capitulate without resistance, both the successful aggressor and other potential aggressors may be emboldened to engage in further aggression… in the hope of achieving a similar costless success." Similarly, writing specifically on the contemporary understanding of the Reasonable Probability of Success criterion, Lee (2012, p.95) warned that it "can lead to appeasement of aggressors, as was shown by the period prior to World War II in Europe, whetting their appetites and making the eventual war more costly."

To summarise this first form of deterrence, it has been argued that states can be dissuaded from initiating wars of aggression if their leaders believe that the military capacity at their disposal is insufficient to subdue a potential victim state. Wars of resistance can damage an aggressor's military capacity even if such resistance fails to mitigate or avert the present threat faced. For this reason, it is possible that a war of resistance can achieve defence of others even when it does not mitigate or avert the present threat faced. This has practical relevance because it has been widely observed that when states pursue invasive policy they tend to continue to act in an aggressive manner. Factoring in the harms that can be averted in the future entails that it is possible that the Reasonable Probability of Success criterion can be satisfied by a war of resistance that cannot mitigate or avert a present threat.

Deterring Potential Aggressors By Demonstrating A Will To Resist

The second way that defence of others can be achieved through waging a war that cannot mitigate or avert a present threat is by demonstrating a will to inflict retaliatory costs on an aggressor. Historical analysis has demonstrated the importance of this variable in relation to deterring aggression. Discussing the causes of the major conflicts of the twentieth-century, Fearon (1995, p.394) wrote that "Germany miscalculated Russian and/or British willingness to fight in 1914; Hitler miscalculated Britain and France's willingness to resist his drive to the east; Japanese leaders in 1941 miscalculated U.S. willingness to fight a long war over control in the South Pacific; South Korea miscalculated China's willingness to defend North Korea; and so on." Whilst each of these conflicts had many other contributing causes, it has been argued that they would have been prevented if the relevant actors communicated a strong will to resort to military force.

Further, Stranksy's (2011) detailed analysis of the Falkland's war revealed that the occurrence of this conflict can

be attributed to Great Britain's inability to effectively communicate its will to respond to aggression with military force. In the months preceding hostilities, Argentina engaged in a number of limited probes in the South Atlantic. These did not elicit a firm response from Great Britain. Drawing from this evidence, Stranksy (2011, p.510) argued that the "British government simply did not demonstrate a will to use force to protect the Falklands, which contributed to an escalation of Argentine aggression." This is supported by the testimony of Galtieri (cited by Stranksy, 2011, p.486), the President of Argentina, who acknowledged that: "though an English [military] reaction was considered a possibility, we did not see it as a probability. Personally, I judged it scarcely possible and totally improbable." Stranksy (2011, p.524) summarised that despite the fact that "Great Britain had the 'ability' to defeat Argentina with military force, it repeatedly failed to demonstrate the 'will' to do so, a key aspect of military deterrence." In other words, this conflict (that included 907 deaths) could have been avoided if Great Britain broadcasted their incentives for action effectively.

Basic game theory supports these historical interpretations. Game theorists have long employed the surprisingly complex game of *Chicken* to demonstrate that a player can deter their opponent by simply communicating a willingness to suffer costs. Briefly, the basic version of this game involves two players driving a car towards each other, with each of them having the choice to either continue driving straight or swerve out of the way. The three possible outcomes for each player listed in preferential order are to successfully continue driving safely, swerve and be a chicken, or continue driving straight and crash. Schelling (1960) maintained that the best tactic in order to deter your opponent from continuing to drive straight is to signal a strong willingness to accept the costs of not swerving. He suggested feigning irrationality, an effective tactic that does not actually alter the force at one's disposal. Paraphrasing Jervis (1989) and applying this logic to international conflict, Zagare (1996, p.376) summarised that "a leader could dramatically increase the probability of prevailing in a crises by 'making a commitment to stand firm.'"

Through violently resisting aggression a state demonstrates its willingness to forgo immediate harm reduction in order to inflict costs on an aggressor. This strengthens the credibility of any deterrent threat that that state may make in the future. Inflicting costs through armed resistance sets a precedent that aggression is costly. States that otherwise may have been tempted to instigate acts of aggression may be dissuaded after observing that the victim state tends to inflict retaliatory costs when attacked. Crucially, a victim state does not have to mitigate or avert the present threat that it faces in order to communicate its willingness to resist. In fact, Fearon (1995) has argued that this rationale actually explains why militarily weak states have waged wars historically when they knew that they could not mitigate or avert the threats that they faced. According to Fearon (1995, p.400), this was done "in order to develop a reputation for being hard to subjugate." He continued by explaining that "states employ war itself as a costly signal of privately known and otherwise unverifiable information about a willingness to fight" (1995, p.400), pointing to Finland's resistance to the Soviet Union in 1939 as evidence for this assertion.

It is not just one's current aggressor that may be deterred from resorting to force again in the future after observing a victim state resist aggression. Third-party states that may otherwise have considered invasive policy can also be deterred. Fishback (2016, p279) noted this possibility in his discussion of a domestic case whereby an individual responded to a threat of robbery by shooting some of the assailants. He maintained that by "threatening unjust harm, the four [aggressor] youths probably encouraged others to commit unjust harm, compromising deterrence." He continued: "Shooting the four youths probably protected others indirectly by generally deterring unjust aggression. Appeasement of conditional threats invites aggression, and standing up to conditional threats prevents aggression" (2016, p.279). The likelihood that any relevant third-party will receive this message is even greater in the international context given the exposure that all acts of war receive.

To summarise this second form of deterrence, it has been argued that an aggressor state can be deterred from employing invasive policy if that state's decision-makers believe that the potential victim state has the will to inflict retaliatory harm. Many international relations theorists believe that a large proportion of conflicts throughout history could have been avoided if the existence of such a will was known by the relevant parties. Through resisting aggression a state clearly communicates a will to inflict costs if attacked. Such a communication does not require the victim state to mitigate or avert the threat that it presently faces. Resistance not only communicates a willingness on behalf of the specific victim state that is attacked. It also conveys the broader message the victim states in general will inflict retaliatory costs when invaded. This constitutes a second mechanism by which states can defend others and thus satisfy the Reasonable Probability of Success criterion in circumstances when they cannot mitigate or avert the present threat that they face.

The Importance Of Deterrence Given The International State System

Resistance to aggression that cannot mitigate or avert a present threat can achieve defence of others by deterring future aggression. This can be achieved by inflicting sufficient costs on an aggressor to prevent them from harming individuals again in the future, and by demonstrating a willingness to resort to force. Deterrence is both more likely to be brought about, and of much more significance, when states resort to force (rather than individuals in domestic society) given the international state system that exists. Fishback (2016) has recently shone some much-needed light on the necessity of factoring the conditions of the international state system into any discussions concerning the ethics of war. A crucial difference between interactions in domestic society and interactions between states is that the latter occur in a context without reliable security institutions. The international state system can best be

described as a self-help anarchic society.

By describing the situation as anarchic it is not meant that there exists chaotic disorder. Rather, it is simply meant that there is no security apparatus or effective governing body to resolve disputes and protect vital interests. Balancing principles buttress the international state system and ensure that it remains relatively stable and peaceful. Hurrell (1977, p.xx) explained that "[c]entral to the 'system' is a historically created, and evolving, structure of common understandings, rules, norms and mutual expectations." One of the most important principles is that states will resist aggression and inflict costs on any state that disrupts the existing equilibrium. In other words, wars of resistance are prescribed as instruments for maintaining order and the balance of power in international society.

Not only do wars of resistance become critically important given the contemporary international state system, but wars of aggression become more damaging than aggression in a context that has a functioning security apparatus. Wars of aggression do not just threaten the individual victim state that is invaded. They also damage the entire international system itself. The precedent of aggression destabilises the balance of power and erodes security. This is especially the case if aggression is costless, and if it is witnessed by a wide range of actors (as any act of aggression on the international stage inevitably will be). Fishback (2016) aptly observed that this social aspect of resistance to aggression would also license a more permissive understanding of when resort to force is justified in domestic society, if it too lacked a reliable policing structure. He suggested that "confronting conditional threats and standing one's ground can be important to achieving deterrence and maintaining order… [in] anarchic situations, where necessity often permits citizens to inflict severe harm as a means to defeat and deter nonimminent threats because there are no less harmful means of achieving the same defensive end" (2016, p.283). To reiterate, the international state system is such an anarchic situation.

To summarise the relevance of the anarchic international system, given the fact that power is decentralised it is crucial that states take action to deter aggression. Any such action contributes to the stability of the international landscape. Resistance to aggression that cannot mitigate or avert an imminent threat can still have this positive impact. As such, it can achieve defence of others by decreasing the instances of violent aggression in the future. Significantly, this means that resistance to aggression that cannot mitigate or avert an imminent threat may still satisfy the Reasonable Probability of Success criterion. This entails that the contemporary understanding of this criterion is mistaken.

The Benefits Of Expressing An Affirmation Of Political Sovereignty And Territorial Integrity

A third way that resistance to aggression that cannot mitigate or avert one's present threat can achieve defence of others is through expressing an affirmation of the values of political sovereignty and territorial integrity. The benefits of such an affirmation can be linked to the importance of communicating a will to resist aggression, but they are also broader. Lazar (2010) provided a helpful explication of the values of political sovereignty and territorial integrity. He wrote: "Each of these are complex concepts, and I can define them only heuristically and stipulatively. Political sovereignty is, roughly, the ability of a group to exercise primary political authority over itself. Territorial integrity is the territorial expansion of this control. Neither sovereignty nor territorial integrity are binary concepts: each is composed of a range of different powers, and can be realised to a greater or lesser degree" (2010, p.18).

The fact that state-based aggression threatens these values was also highlighted by Lazar. He maintained that "[a]ggressors target not only lives and well-being, but also the state itself… and the international society of states of which it is part. Attacking an adversary's political sovereignty and territorial integrity amounts to an attack on the institution of the state. And any attack on one state is an assault on the society of states because that society is held together by a principle of non-aggression" (2010, p.25-27). It must be noted that there is a tendency to romanticise the concepts of political sovereignty and territorial integrity. Most contemporary territorial borders are the result of aggressive conquests, and many groups that exist within them feel alienated from their existing political sovereign. However, it is also clear that most times these values are threatened through military aggression individual lives are also threatened. It does not seem controversial to suggest that overall individuals would benefit from there being less frequent violations of political sovereignty and territorial integrity.

Expressing an affirmation of these values can have the positive effect of stabilising the international system. Walzer (1977, p.59) maintained that the values of political sovereignty and territorial integrity "must be vindicated, for it is only by virtue of those rights that there is a society at all… If they cannot be upheld, international society collapses into a state of war or is transformed into a universal tyranny… Resistance is important so that rights can be maintained *and* future aggressors deterred." Bull's (1977) work on international relations also discusses the importance of formulating norms (or rules) between states. He maintained that if political sovereignty and territorial integrity are to be reckoned as factors when states make decisions, then the significance of these values must be clearly communicated. Belief in the significance of these values can only be engendered by states behaving in such a manner that emphatically communicates a commitment to these values. Resistance to aggression can ensure the continued efficacy of these values, and the perception that they are of vital importance.

Expressing a commitment to these values can also achieve defence of others by generating circumstances in which the possibility of invading another state does not exist in a would-be aggressor states' choice-set. In other words, the very inclination to threaten these values will develop less frequently. This may result from states holding these values in high esteem. Further, affirming these values may also encourage victim states in the future to similarly

resort to force to defend their political sovereignty and territorial integrity. Such future resistance may actually be capable of mitigating or averting the threat faced, and at the very least it will again assist in promoting deterrence. This possibility was actually noted by Statman (2008, p.666) in his paper on the Reasonable Probability of Success criterion. He suggested that by "seeing an example of a victim rising up against evil and wrongdoing, other victims would be empowered to act thus themselves, thereby refusing to submit to domestic or other violence." Linking this idea back to the benefits of deterrence, Statman then noted that "the deterring and empowering aspects of resistance work together to reduce crime and violence" (2008, p.666). This is critical in the context of the anarchic international state system.

Several prominent just war theorists have contended that resistance to aggression can effectively express the values of political sovereignty and territorial integrity even if such resistance does not mitigate or avert the threat faced by the victim state. For instance, Childress (1978, p.437) argued that: "if a nation has a good reason to think that it will be defeated anyway, its vigorous resistance may preserve significant values beyond the number of lives and retention of territory or sovereignty." Coates' (2016) extended discussion on the Reasonable Probability of Success criterion also reinforced this idea. He stated that "when military failure or defeat seems certain, just recourse to war is not thereby excluded… A war that is fought to defend fundamental human values can be successful even though it ends, *predictably*, in defeat… In such a case war is thought to be worthwhile precisely as a vindication of values- a vindication that does not require victory in a military sense, a vindication that may in fact be more complete the greater the certainty of military defeat" (2016, p.198). It is telling that Coates believed that resistance to aggression that cannot mitigate or avert a present threat actually expresses a stronger affirmation of the values of political sovereignty and territorial integrity than resistance that can.

Whilst not explicitly mentioning the Reasonable Probability of Success criterion, some of Walzer's remarks are directly applicable to this discussion. Commenting on states that have practised appeasement, Walzer (1977, p.68) noted that "we feel badly in such cases, not only because we have failed to serve the larger communal purpose of deterrence, but also and more immediately because we have yielded to coercion and injustice… in international society appeasement is hardly possible unless we are willing to surrender value far more important." Concerning the idea that failed military resistance can effectively express the values of political sovereignty and territorial integrity, Walzer (1977, p.71) declared that there is "a natural sympathy for the underdog in any competition, including war, and a hope that he can pull off an unexpected victory… But in the case of war, this is specifically a moral sympathy and a moral hope… Our common values are confirmed and enhanced by the struggle, where appeasement, even when it is the better part of wisdom, diminishes those values and leaves us all impoverished." These statements support the claim that the values of political sovereignty and territorial integrity are affirmed through resistance to aggression.

Applying These Arguments To The Case Of Belgium In 1914

This paper has argued that resistance to aggression that cannot mitigate or avert a present threat can achieve defence of others. This can be achieved through inflicting costs on one's aggressor, through communicating a will to inflict retaliatory costs if attacked, and by expressing an affirmation of the values of political sovereignty and territorial integrity. It was asserted that these outcomes of resistance are both more likely to be brought about, and are of much more significance, when states employ force (rather than any other entity) because of the anarchic international state system. For this reason, resistance to aggression that cannot mitigate or avert a present threat can satisfy the Reasonable Probability of Success criterion. Recognition of these factors alone constitutes a significant shift in the way that this principle is understood. It will now be suggested that conceiving of this criterion in this manner can alleviate the problems that stem from intuitions towards historical cases. Belgium's decision to resist German aggression in 1914 will now be reconsidered.

It is difficult to assess whether or not Belgium's decision to resist German aggression successfully deterred any instances of aggression in the future. It must be noted that after supressing the Belgium resistance, Germany immediately continued on with its invasive policy. Further, Germany actually invaded Belgium again some 26 years later. However, as with any appraisal of deterrence when it comes to war between states, this does not constitute decisive proof that war was not deterred. An essential problem with appraising the success of deterrence is that when it succeeds nothing happens. Without attempting the fruitless task of analysing counterfactuals, it is impossible to verify whether or not Belgium's resistance did in fact prevent more conflicts breaking out than what actually occurred. However, there is evidence to suggest that concern for the safety of others constituted part of the Belgium decision-makers' reasoning when deciding to resort to war.

At the Crown Council meeting held to determine a response to Germany's ultimatum, Hymans (the Liberal Party leader) described appeasement as "a betrayal of our duty to Europe" (cited by Steele, 2008, p.103) He continued: "The army may be beaten, but we must resist an action that will revolt the world. We must say no and do our duty" (cited by Steele, 2008, p.103). In the same manner, the official reply to Germany referenced Belgium's "international obligations" (cited by Steele, 2008, p.104). This theme was also reiterated in a telegram from the Foreign Minister that was sent to all Belgian Ministers who were abroad when Belgium received the ultimatum from Germany. The telegram stated: "All necessary steps to ensure respect of Belgian neutrality have nevertheless been taken by the Government… The Belgian army has been mobilized and is taking up such strategic positions… They are intended

solely to enable Belgium to fulfil her international obligations" (Maxweiler, 1915, p.31). The Belgium decision-makers seemingly believed that their decision to resist aggression would have broader effects, even though it would not mitigate or avert the physical threat that they faced.

Further, some just war theorists who have considered Belgium's decision believe that it may have achieved defence of others through deterrence and through affirming the values of political sovereignty and territorial integrity. Fotion (2002) contended that Belgium's resistance may have had a deterrent effect not just on Germany, but also on other third-party states. He maintained that "[o]ne good thing in having the Belgians and their allies resist the Germans is to teach them a lesson that aggression is costly… The lesson will even apply to nations not involved in the war, but who are contemplating aggression" (2002, p.94). Significantly, Fishback (2016, p.290) also employed the case of Belgium as an example in his discussion of the anarchic international state system He declared that "even lost wars can achieve deterrence so long as they inflict harm, such as Belgium's resistance to Germany's invasion in the First World War."

Steele (2008) wrote at length on the valuable expressive function of Belgium's decision to resist German aggression in 1914. According to Steele (2008, p.96), the "Belgian case demonstrates that small powers possess the ability to influence the social structures of their community, or that, in short, the actions of such small states also have important societal consequences." The societal consequences he is alluding to notably includes reducing acts of aggression in the future. Adding to this empirical claim, Steele posited the normative point that "sacrifice is hardly unjust if it serves to strengthen community-based principles… suffering can be a useful method for demonstrating adherence to principles, especially when it acquires moral significance in the eyes of a community of observers" (2008, p.110).

Steele then summarised: the "fact that Belgium was so overmatched by the Germans, the fact that it was so materially incapable of defending territory but its agents chose to do so anyway, strengthened the *principles* of sovereignty and independence even more than if such principles had been ensured by one of Europe's 'great power' states" (2008, p.106). Whilst it is impossible to ascertain whether or not Belgium's resistance actually achieved defence of others, it is clear that some notable just war theorists believe that it did. More importantly, the evidence presented suggests that the leaders of Belgium (reasonably) believed that it could achieve this outcome, and this is all that is required for the Reasonable Probability of Success criterion to be satisfied.

An Objection To Broadening The Scope Of Ethically Permissible Wars

A possible objection to the views that have been asserted in this paper is that they are in danger of appearing insensitive to the overall goal of *jus ad bellum*. This paper has proposed a more permissive understanding of when resorting to war is ethically permissible. It has maintained that some of the wars that seemingly violated the Reasonable Probability of Success criterion could be ethically permissible because they could have achieved defence of others. If this view is widely endorsed, this will lead to more instances of war being deemed ethically permissible in the future than would have been if the contemporary understanding of the Reasonable Probability of Success criterion remains in force. This is despite the fact that the purpose of *jus ad bellum* is to limit the frequency of war. This field is meant to constrain agents and it advocates a strong presumption against resorting to force. For this reason, it could be argued that the prescriptions of this paper are contrary to the very purpose of Just War Theory.

The proposals of this paper also run counter to the general direction of the just war tradition in the last few centuries. Coady (2008, p.72) has summarised: the "history of just war theory has shown a distinct, though not altogether uniform, tendency to limit the right of war under the pressure of increasing scepticism about the motives of statesmen, the reliability of their calculations and the supposedly beneficial effects of war." In other words, there has been a progressive narrowing of the scope of Just Cause, which in turn has restricted what constitutes success for the Reasonable Probability of Success criterion. Almost all commentators take this trend to represent moral progress. Conversely, this paper has proposed a more expansive understanding of the Reasonable Probability of Success criterion in light of the fact that some wars that cannot mitigate or avert an imminent threat can achieve defence of others. Whilst Just Cause is still interpreted to mean self-defence or defence of others, this paper has advocated a reunderstanding of when this is achieved. Again, it may seem peculiar that the proposals put forward in this paper are not in line with the general development of Just War Theory throughout history.

In response, firstly it must be reiterated that this paper is not advocating the removal of the Reasonable Probability of Success criterion altogether. It is also not advocating a shift in the way that the Just Cause criterion is understood. For it to be ethically permissible to wage war one is still required to have a reasonable probability of achieving a Just Cause, and Just Cause is still narrowly interpreted to mean self-defence or defence of others. This paper is simply attempting to demonstrate that some wars of resistance that have traditionally been taken to violate the Reasonable Probability of Success criterion because they could not mitigate or avert the threat faced could have satisfied this criterion because they could have achieved defence of others. As such, the broadening of the scope of ethically permissible wars may actually be slighter than it seems.

In addition, it is crucial to note that the key variable of probability is still in play. There will be wars that cannot mitigate or avert a present threat whereby resistance will also not have the beneficiary effect of achieving defence of others. Civil wars, wars fought for religious reasons, and humanitarian interventions are some instances of war

where the deterrent and expressive value of resistance may not occur, or they may be minimised because hostilities will not impact the international state system. It is also conceivable that some wars of resistance fought between states will not achieve defence of others because they lack a sufficient audience of observers (this is true of many historical wars from the distant past, and will impact ethical appraisals of them), or because the costs that can be inflicted on an aggressor are too small to have a psychological effect on potential aggressors. It is only being asserted that *some* wars can achieve defence of others even when they fail to mitigate or avert the present threat.

It is also important to remember that the Reasonable Probability of Success criterion is only one of the individually necessary conditions governing the ethical permissibility of resorting to war. Each of the other criteria must still be satisfied. For instance, a state may find itself in the same situation as Belgium in 1914, but it will not be ethically permissible for it to resort to war unless it satisfies Right Intention. In this case, the intention of those resisting must be to achieve defence of others (rather than some sort of retribution or for punitive reasons). The Proportionality criterion is another requirement that will weigh heavily on a state's decision to resort to war when it cannot mitigate or avert the present threat that it faces. Although violent resistance may satisfy the Reasonable Probability of Success criterion because it is expected to achieve defence of others, such resistance may still be ruled out because the costs that will be suffered by the victim state will be too great.

It must also be emphasised that wars that satisfy each of the *jus ad bellum* criteria remain only ethically permissible. Actions can be taxonomised into four ethical categories. These are: actions that are ethically forbidden, actions that are ethically permitted, actions that are ethically obligatory, and actions that are ethically supererogatory. Very few just war theorists believe that it can be ethically obligatory for a state to wage war. Whilst it has been argued that moral benefits can be reaped when a state resists aggression (even when such resistance cannot mitigate or avert the present threat it faces), such resistance typically entails significant costs for the victim state. It is too much to demand that any state suffer such devastation. The decision-making leader of a state has an obligation to prioritise their own citizens' well-being. This is why it is important that the decision to resist has the (informed) popular support of the victim population in cases when the present threat cannot be mitigated or averted. A leader has not acted wrongly if they decide to preserve the lives of their citizens, even when this entails that more lives may be threatened in the future through appeasement.

Moreover, although the conditions required for war to be ethically permissible may be less stringent given the understanding of the Reasonable Probability of Success criterion that has been proposed in this paper, if the arguments that have been put forward are valid, then these conditions ought to arise less frequently if some of the newly permissible wars are fought. In other words, the overall instances of war should actually decrease. This idea was succinctly put by Walzer (1977) invoking the domestic analogy. He explained: "When people talk of fighting a war against war, this is usually what they have in mind… The domestic maxim is, punish crime to prevent violence; its international analogue is, punish aggression to prevent war" (1977, pp.62-63). When considered in this light, it should be clear that the proposals put forward in this paper are in fact compatible with the purpose of *jus ad bellum*, and of Just War Theory more generally.

Summary

It has been argued that resistance to aggression that cannot mitigate or avert a present threat can still achieve defence of others. This can be achieved by inflicting costs on an aggressor, by demonstrating a will to resist aggression, and by expressing an affirmation of the values of political sovereignty and territorial integrity. This is both likely to be brought about, and is of great significance, given the anarchic nature of the international state system. These considerations can alleviate the existing tension between the contemporary understanding of the Reasonable Probability of Success criterion and intuitive reactions towards historical cases of war.

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