

Just War, Genocide, or Necessity: A Critical Response to Jokic

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Jokic provides in his article, *What's a Just War Theorist?* a provocative exploration and critique of the recent conceptualization of just war theory reintroduced by the Princeton theorist Michael Walzer (1989) as this theory has been applied by some, justifying the US and NATO military involvement in the former Yugoslavia. He begins his discussion by chastising his fellow countrymen for awarding Michael Walzer "with an honorary doctorate from Belgrade University." The Jokic states that:

the ceremony took place not far from the remains of buildings destroyed by NATO in the center of the city. One may, then, rightly contemplate the meaning of gestures of this sort: What could tempt people, particularly the intellectual elites, to even consider honoring those who advocated aggression against their country.

One may indeed contemplate the meaning of such a gesture, without necessarily arriving at the same conclusion as the author. Could it be that these intellectual elites actually agreed with the idea that this genocide needed to be brought to an end? Is it seditious, or heroic, to celebrate the end of a perceived evil, even when that evil comes from your own country? Is it also possible that this event may represent a symbolic change of heart from the Serbian intellectual elite who helped to fuel the nationalist rhetoric that was in part responsible for the tragic events that followed the 1980's in the former Yugoslavia (Glaurdic, 2011). The author's focus on Walzer and his use of just war theory by which to legitimize the NATO military intervention in the former Yugoslavia seems to miss the point. The real concern here is not Michael Walzer, regardless his philosophical interpretation of this theoretical perspective on war. Rather, it is the question of genocide.

The author seems to believe that the US led intervention occurred as an unprovoked attack by militarily superior forces, which targeted Serbia for this random act of aggression. In fact, he asks his readers to ponder the fact that Serbia was attacked by NATO without ever having engaged in any offensive military actions directed toward any of the member countries of that alliance. Though his observation is certainly correct, it also conveniently fails to mention that this "military aggression" was a response to the practice of genocide that was arguably initiated by Serbian and Bosnian-Serbian forces beginning in 1992. However, the beginning of this current story doesn't begin in 1992.

With the death of Marshall Tito in 1980, various factions within the Yugoslavian republic began to demand greater political autonomy. These calls for greater autonomy were the result of the 1974 Yugoslavian Constitution initiated by Tito, which provided greater political voice to the non-Serbian members of the Yugoslav federation, which was intended to "de-centralize" political power within the republic. Though this move was supported by Yugoslavia's non-Serbian citizens, it was viewed by a Serbia and its Bosnian-Serbian allies as a direct assault on Serbian interests. Prior to his death, the former socialist leader of Yugoslavia had been able to hold together his ethnically diverse country, in part, through his willingness to allow a degree of controlled political autonomy. (Glaurdic, 2011) With his passing, it became immediately clear to Belgrade that the continued integrity of the Yugoslav state, and with it, the national interests of Serbia, were now in jeopardy.

The initial manifestation of this process that ultimately led to the disintegration of Yugoslavia actually begins in the autonomous province Kosovo in 1981, which is located in the southern part of Serbia and identified by many Serbs as "Old Serbia." In an attempt to achieve greater political autonomy from Belgrade, ethnic Albanian Muslims who made up a large portion of Kosovo, took to the streets in response to devastating economic conditions

that at the time were crippling that province. However, what was ostensibly an economic protest was quickly transformed into one of the prime rationales for the creation of an independent republic of Kosovo. In response, Belgrade issued a martial law decree and sent troops to the region to establish order with the hope of preventing the disintegration of the Yugoslavian state, and the loss of southern Serbia to ethnic Albanian interests (Glaurdic, 2011; Russell, 2009).

These calls for political autonomy became louder with the collapse of the Soviet Union in 1991, and came to a crescendo in 1992, marking the end of the Yugoslavian republic made up of Serbia, Montenegro, Bosnia, Slovenia and Macedonia (Russell, 2009). Beginning in 1992 in the aftermath of the collapse of the former Yugoslavia, Serbian military forces along with their Bosnian-Serbian allies initiated a strategy of ethnic cleansing that was intended to remove from Serbia and Bosnia all non-Serbian ethnic populations in an attempt to construct what was envisioned to be Greater Serbia. (Livanios, 2008; Russell, 2009; Simons, 2012)

The United Nations in 1992 responded with imposed economic sanctions and peacekeeping forces as an answer to numerous documented reported atrocities, the shelling of the Bosnian city of Sarajevo and the construction of concentration camps in an attempt to stop the killing. However, peacekeeping forces had little effect on the continued violence and were unable to prevent the infamous killings in Srebrenica in 1995, which claimed the lives of approximately 8000 unarmed men and boys killed over several days in what was portrayed as an act of vengeance for Serbian deaths at the hands of Muslims" (Simons, 2012, May 12); a historic animosity that dates back to the Ottoman Empire (Livanios, 2008; Vulliamy, 98).

By the time of the US led military intervention against Serbia and its Bosnian allies, well over a 100, 000 Bosnian Muslims and Croats had already lost their lives to the Serbian

campaign of ethnic cleansing. Repeated attempts had been made by the United States and the United Nations to arrive at a negotiated settlement to this conflict with little result and the killing of civilian populations continued. In the aftermath of numerous diplomatic failures, which sought to end the war in Bosnia, and after the atrocities which took place in Srebrenica, Zepa, and Gorazde were made public, the Clinton administration finally agreed with its NATO partners to begin airstrikes in the summer of 1995. By the fall of that same year, negotiations successfully concluded signally the end of the war with a formalized peace agreement known as the Dayton Accords (Daalder, 1998).

However, the settlement reached in the Dayton Accords was concerned exclusively with Serbia, Croatia and Bosnia, but did not include Kosovo, which for some was seen as the more significant concern and ironically viewed as the symbolic starting point of the break-up of Yugoslavia (McMahon, P., Western, J.; Russell, 2009). As a result, the Serbian-Kosovo conflict continued, which ultimately led to the resumption of NATO military involvement beginning in 1998. In March of 1999, NATO forces launched a massive campaign of air strikes intended to completely remove the Serbian military from Kosovo and to bring to an end Serbian human rights violations in that region. (Russell, 2009).

Perhaps the course of events that led up to the military response by NATO played some role in the desire of these intellectual elites to be tempted to honor Walzer in the way that they did, even if, such an "honor" provides, perhaps, more importance to the musings of a political philosopher than is appropriate for the situation. It is also somewhat puzzling that Jokic is more determined in his condemnation of Walzer and his application of just war theory as it related to the Balkans than he is of Serbian leader Slobodan Milosevic, and his Bosnian-Serb allies Radovan Karadzic, and Ratko Mladic for the course of events that led to NATO's military involvement in the former Yugoslavia. After all it was not Walzer that decided to violently suppress the desire of Bosnian Muslims to gain their independence from

Belgrade, it was these three Serbian leaders who were subsequently arrested and charged as war criminals for their activities in Bosnia. It is also at least plausible to argue that the overly zealous nationalist response significantly orchestrated by Milosevic and his allies in the mid 1980's, which swept him into power, also ushered in the chain of events that resulted ultimately in the very same conclusion they so feared: the breakup of Yugoslavia and the loss of Serbian influence in that region.

It is equally, true, however, that the Serbian people no doubt also directly suffered due to the realities of this war in both Kosovo and Croatia; but again, is this Walzer's fault, is it NATO's fault or is it the fault of those Serbian leaders who helped make the conditions for the broadening of this war possible? The image of those buildings destroyed by NATO aerial attacks, to which the author eludes, becomes for him proof of Serbian victimization; but they also become the image for those who see those same buildings as a type of vindication and as a symbol of defiance to an act of genocide.

It is also important to note that tens of thousands of Serbs were displaced from their traditional homes in Croatian Krajina and were at times themselves the victims of human rights atrocities directed by Muslim forces. In 1993, a mass grave located in Sarajevo, revealed the Serbian remains of victims of the Muslim warlord Caco (Vulliamy, 1998). It is from the historical background of these events that we can now move to discuss Jokic's theoretical critique of Walzer's position concerning just war theory.

Jokic begins this section of his article by offering his readers a brief history of just war theory and its various theoretical transformations and applications over the course of its development. His questioning of Walzer's skip "backwards over the singularly important contributions of the Enlightenment," speaks to an interesting underlying tension in the article related to the influence of the medieval Catholic Church and the secular authority of modernity. As such, Jokic evokes the notion of necessity as a modernist response to the

validity of the moral claims offered by the just war theory approach and indirectly the Catholic papacy as well. However, in the author's attempt to vilify Walzer and his use of just war theory to legitimize NATO's military intervention in the former Yugoslavia, he seems to ignore the reasons supporting that military action.

Jokic observes the following:

...Kant sees war as beyond the rules of good and evil; hence not a practice that can be just or unjust. It belongs to the domain of necessity, and the only imperative regarding war is to end it as soon as possible. Kantians cannot approve of the travail by the just war theorist as they view him as 'encouraging people to enter upon wars recklessly and then baptizing his own side with the holy water of justice. Every enemy can easily be made to look the aggressor.

It could perhaps be argued that the above description of just war applies to any manifestation of war, which for Kant lies more within the passions than judgment. In his discussion of the passions or affect, Kant offers the following. "For an affect is an agitation of the mind that makes it unable to engage in free deliberation about principles with the aim of determining itself according to them" (Kant, 1987, p.132). As such, any determination of the "justness" of war would fall victim to this agitation of reasoned principle or judgment. Kant (1987) sees this aspect of human nature as the manifestation of the struggle between what is dispensable and what is indispensable.

...given how the very possibility of such a scheme is hindered by the people's ambition, lust for power, and greed, especially on the part of those in

authority—there will inevitably be *war* (in which some states dissolve and split up into smaller ones, while other states unite with smaller ones and try to form a larger whole). (Kant, 1987, p. 320)

I am inclined to agree with Jokic's critique of just war theory. Just war theory is flawed as a moral rationale by which the pursuit and execution of war may be justified, for many of the reasons offered; however, Jokic's uncritical embrace of modernist moral philosophy, seems to provide little to his argument and seems to serve more as a distraction to the real issue: the genocide perpetrated by Serbian military and paramilitary forces in conjunction with their Bosnian-Serb allies, which amazingly never is discussed in this article. But be that as it may, let's move away from this glaring omission momentarily to discuss the Kantian concept of necessity.

I am much less inclined to see how the focus on necessity actually helps support the position he is attempting to argue. If the matter is simply to determine, which of these theoretical perspectives on war is more viable, than I would agree that necessity trumps just war theory, but this result denies the context of the actual conversation or debate. It seems a relatively easy theoretical matter to argue that the well-documented atrocities committed by a variety of Serbian military and paramilitary forces, does indeed rise to the level of necessity and seems to satisfy the Kantian imperative to end the conflict quickly. Within this context, necessity is evoked by those facts attributed to the murder and rape of civilians in Bosnia-Herzegovina, and Croatia and Kosovo. The eventual military response by US-led NATO forces seems very well suited to the parameters Jokic sets out via Kant's perspective on the necessity of war. Why then introduce the Kantian term of necessity or for that matter so flippantly disregard other examples of necessity formulated by such theorists as Carl Schmidt or even Giorgio Agamben?

What the author really appears to be arguing is that the complete “moral” justification of this war is predicated upon the ways in which Walzer has theorized his notion of the just war theory relative to this conflict and then seeks to reveal a variety of perceived contradictions that he finds in that position. Though he provides a sound critique of just war theory, this theoretical result is all his article is truly able to achieve. Do the obvious contradictions of just war theory invalidate the NATO response in the former Yugoslavia or simply show that just war theory brings with it a history of contradictions that threatens the moral foundation of any attempt to justify military conflict from this philosophical perspective?

Jokic’s conclusion seems to imply that the explicit contradictions of this theory result in the invalidation of its application in the former Yugoslavia, therefore invalidating any moral claim concerning NATO actions. As such, Jokic’s modernist logic rejects any possibility for the legitimate application of this theory given the presence of these logical contradictions that by definition categorically invalidate the whole of this approach. Though such a totalizing conclusion is likely incorrect, there is no question that this approach can be also used in the justification actions that are more clearly motivated by political or strategic interests than the pursuit of some ideal image of justice. So how then are we to understand this conflict? I will now turn to a brief discussion of Giorgio Agamben’s work on this topic, *The State of Exception*, to provide another possible reflection.

Agamben (2005) describes the state of exception as follows:

Indeed, according to a widely held opinion, the state of exception constitutes a ‘point of imbalance between public law and political fact’ that is situated—like civil war, insurrection and resistance—in an ‘ambiguous, uncertain, borderline fringe, at the intersection of the legal and the political.’

(p. 1)

Agamben (2005) continues by observing

In this sense, modern totalitarianism can be defined as the establishment, by means of the state of exception, of a legal civil war that allows for the physical elimination not only of political adversaries but of entire categories of citizens who for some reason cannot be integrated into the political system.

(p. 2)

Within this context the state of exception becomes that moment within a given society where the boundaries between the political and legal become blurred and creates a set of actions that appear to fall outside of the legal norm of that culture. But as Agamben (2005) also observes, the state of exception is always validated by the sudden emergence of necessity that provides the rationale and justification for this exception. It could be argued that such a necessity was witnessed in the call for autonomy by those emerging states that no longer wished to be aligned with Belgrade. The response of Serbian and Bosnian-Serb forces to this state of exception was the physical elimination of those groups that sought to create their own countries.

Exceptionalism, to put it differently, is a state in which law is suspended without ceasing to be in force. Precisely at the moment when the nomos completely blurs into anomic force does the exception assume its most lethal form as an unstoppable killing machine that, in its limbo, captures life and makes it possible to exterminate life with impunity. (Damai, 2005)

In turn, the consequences of this state of exception evoked another manifestation of necessity that sought to bring to an end the documented genocide that was taking place in the former Yugoslavia. Such a theoretical formulation seems to embrace to some degree the position offered by Jokic and his critique of NATO actions in Serbia, given that these actions simply become one more example of this state of exception. However, such a conclusion must be predicated on the way in which the notion of necessity is formulated. Though it is certainly true that the act of genocide and the act of military aggression on another sovereign country both seem to evoke within Agamben's perspective, the suspension and blurring of law with the political, predicated upon a specific conceptualization of necessity that resulted in the execution of very specific acts by both parties; such a conclusion does not make it impossible to choose between these events.

Regardless its relationship to just war theory, the genocide in Bosnia and Kosovo needed to be stopped for all in the violent cross-fire of that conflict. Does this action also make itself vulnerable to charges of hypocrisy, particularly when a similar type of genocide was taking place in Africa at approximately the same time and the Clinton administration and European countries stood shamelessly by while hundreds of thousands of civilians were butchered? Of course it does! Former President Clinton has admitted as much, calling the lack of US involvement in Rwanda one of the greatest failures of his presidency. Perhaps, even more shameful is the fact that he forbade his UN representatives from even using the word genocide in their official correspondences when describing the events in Rwanda, for fear that such a designation would require that the United States immediately respond to that situation. They did not and hundreds of thousands of Africans lost their lives. Hypocrisy? Of course!

Though the author provides a serious critique of alleged contradictions in Walzer's conceptualization of just war theory, he fails in any serious way to explore the reasons for

NATO's alleged "aggression against Serbia. Part of this rationale is implicitly present in his continued use of the name Yugoslavia to identify the area of conflict as late as 1999. It seems perfectly legitimate from a Serbian perspective to continue to embrace the name Yugoslavia, but it is equally legitimate to understand how others from that same region would not. The author's claim of "unprovoked" aggression against Serbia by a superior NATO military force led by the United States, is simply indefensible and seems to argue that Serbian violent oppression in Kosovo and localities in Bosnia-Herzegovina, and Croatia either did not happen or were in some way justified by the Serbian desire to thwart the political aspirations of these other countries from the centralized and Serbian controlled political authority in Belgrade.

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