

The Morality of Intervention by Waging Irregular Warfare

Col. Daniel C. Hodne, U.S. Army

Col. Daniel C. Hodne, U.S. Army, serves in the U.S. Special Operations Command. He holds a B.S. from the U.S. Military Academy, an M.A. from Louisiana State University, and an M.S.S. from the U.S. Army War College. His assignments include tours with the 5th Special Forces Group (Airborne) and the Joint Staff.

United States defense strategic guidance issued in 2012 establishes defense priorities to support U.S. security objectives.¹ Among the ten primary missions of the U.S. Armed Forces, the strategic guidance calls for capabilities to wage *irregular warfare*—defined as “a violent struggle among state and nonstate actors for legitimacy and influence over the relevant population(s).”² While the United States wages irregular warfare against enemies such as al-Qaida, policy options to achieve U.S. security goals may entail projecting U.S. landpower among other nonstate and state actors in volatile, complex, and ambiguous environments.³

Depending on the context, coming to the aid of nonstate actors, such as a group resisting oppression at the hands of its government, may be deemed prudent to advance, secure, or protect U.S. national interests. Where committing conventional forces may not be appropriate, policymakers still may decide to intervene with special operations forces; this decision would amount to choosing war by supporting a revolt. The intervention would be an initial strategic offensive.

Before the United States decides to initiate such an offensive, it must know how and when the intervention may be considered morally just, legal, and prudent. Establishing moral and legal justification is necessary because strategic goals, and the actions taken to achieve them, must meet the standard of legitimacy. The nature of irregular warfare could seem at first glance to

counter principles of justice of war (*jus ad bellum*) and justice in war (*jus in bello*). For example, the character of resistance movements, insurgencies, and revolutions varies considerably; sometimes a nonstate entity, such as al-Qaida, is seeking unjust ends using criminal and terrorist means.

Considering the just war principle that only a proper authority, usually interpreted as a nation-state, can wage a just war, how could the use of violence by any nonstate entity against a state be considered just? Moreover, how can one nation supporting—or fighting against—an insurgency or revolt within another sovereign nation be considered just war?

The respected theorist Michael Walzer, in his book *Just and Unjust Wars*, originally published in 1977, discusses just war theory from a 20th-century perspective.⁴ He makes what can be considered a logical case for the legitimacy of certain kinds of violent movements and for intervening to support them. Walzer’s ideas do not represent the only possible point of view on the morality of war. They can, however, provide a baseline for examining arguments justifying insurgencies and other violent movements against a government, and outside military support for them. This paper outlines some of Walzer’s key ideas and then goes further by proposing a model for deciding whether military support to a violent movement in another nation could be considered morally justifiable and prudent. The discussion focuses on the

moral justification for an initial strategic offensive in support of an organized violent movement.

It is assumed that U.S. strategic policymakers can assess if military actions are likely to support the nation's strategic goals. Nonetheless, they would not make decisions to intervene in another country based on national interest alone. Among other considerations, they need to understand the moral issues. They need a decision-making model that could help them determine if military intervention would constitute just war; this paper proposes such a model. In addition, military leaders need to understand both practical and moral issues from a military standpoint so they can advise policy makers.

Irregular Warfare and Unconventional Warfare

The dissimilar nature of the strategic purpose and character of the adversaries makes irregular warfare very different than traditional (or conventional) warfare.⁵ Joint doctrine describes traditional warfare as “a violent struggle for domination between nation-states or coalitions and alliances of nation-states.”⁶ When U.S. special operations forces organize, train, and support a nonstate group, it is known as *unconventional warfare*: “activities conducted to enable a resistance movement or insurgency to coerce, disrupt, or overthrow a government or occupying power by operating through or with an underground, auxiliary, and guerrilla force in a denied area.”⁷ Special operations forces, rather than conventional forces, conduct unconventional warfare because they are organized, trained, and equipped to do so; and its activities are likely to occur when and where use of conventional forces would not be appropriate. As unconventional warfare is a core task of U.S. Army Special Forces, the U.S. Army Special Operations Command takes the lead in preparing its special operations forces to conduct unconventional warfare.

When U.S. special operations forces conduct this type of action offensively, the United States violates the territorial integrity and political sovereignty of another nation. The perceived need to protect U.S. interests does not appear to justify the action morally. Nevertheless, other circumstances may justify going to war in this manner. The next three sections analyze traditional justifications for war articulated by Walzer as a *legalist paradigm*, key concepts of

legitimacy, and a theoretical moral basis for nonstate groups to use violence against their government and for other nations to intervene. Then, the discussion uses the proposed moral basis for intervention to develop a decision-making model designed to help U.S. policy makers integrate a timely moral analysis with policy decisions.

Walzer's Legalist Paradigm

Any list of just war principles contains the foundational idea that nation-states hold a monopoly on the use of force. According to joint doctrine, nation-states choose to wage war against other nation-states to satisfy a wide range of national interests.⁸ Walzer guides a nation-state's decision making when considering war as a policy option—up to a point.

While aggression is never justifiable, according to Walzer, two types of force can be justified morally: defense from state aggression, and support to another state that becomes a victim of aggression.⁹ Walzer describes a theory of aggression he refers to as the legalist paradigm, in which he assembles six propositions he considers widely accepted—if not always articulated—by the international community. Walzer's six propositions are excerpted here (minus the intervening paragraphs):

1. There exists an international society of independent states.
2. This international society has a law that establishes the rights of its members—above all, the rights of territorial integrity and political sovereignty.
3. Any use of force or imminent threat of force by one state against the political sovereignty or territorial integrity of another constitutes aggression and is a criminal act.
4. Aggression justifies two kinds of violent response: a war of self-defense by the victim; and, a war of law enforcement by the victim and any other member of international society.
5. Nothing but aggression can justify war.
6. Once the aggressor state has been militarily repulsed, it can also be punished.¹⁰

Finding moral justification for nonstate groups waging war—and especially for nations supporting them by waging war within another nation-state's boundaries—under this framework may seem difficult if not impossible. However, Walzer makes the case for several

exceptions he calls revisions. In addition to sovereign nation-states, Walzer recognizes that international society contains independent political communities, nonstate entities, and geopolitical conditions that at times may legitimately counter state or international order. His justifications for intervention can be paraphrased as—

- ◆ responding to imminent threat,
- ◆ assisting secessionist movements of legitimate political communities,
- ◆ balancing prior nation-state interventions in civil wars,
- ◆ rescuing those threatened by massacre, and
- ◆ applying prudence by limiting war aims.¹¹

Beyond these exceptions, Walzer discusses the exception of *supreme emergency*, but only under strict criteria of a danger's imminence *and* the nature of the threat.¹²

Concepts of Legitimacy

In addition to terms such as the legalist paradigm and its revisions, defining ideas such as *legitimate political community* and *self-help* helps clarify how concepts of legitimacy relate to the morality of war.

Legitimate communities and self-help.

According to Walzer, understanding what constitutes a legitimate political community within a nation-state can help another state determine when an intervention on a community's behalf is morally justified. According to his theory, a legitimate community passes what he calls the *self-help test*: "a community actually exists whose members are committed to independence and ready and able to determine the conditions of their own existence."¹³ For example, Walzer argues that intervening on behalf of a secessionist movement under the second revision of the legalist paradigm requires sufficient evidence that the movement has demonstrated forward progress in its "arduous struggle" for independence.¹⁴

Acceptable purposes for intervention. Just war theory prescribes that deciding when to intervene also requires knowing *the ends* for which a state has a moral right to intervene. The purpose of establishing democracies or liberal political communities does not meet just war theory's acceptable ends; only the establishment of independent communities does. Intervening states do not have the moral authority to

carry out their own political goals with respect to a political community they might be aiding. Moreover, Walzer says that "domestic tyrants are safe [from offensive action]," so long as they have no intent or designs on posing an immediate threat of aggression against another state in the international system.¹⁵ While domestic tyrants may be considered safe, from a moral standpoint, from other nations waging war to overthrow them, when communities within their states decide to revolt, and the revolt meets certain threshold conditions, then intervention by another state on behalf of that community may be justified.

Legitimacy of a political group as an acceptable strategic purpose for irregular warfare. I believe the threshold conditions set by Walzer's self-help test are too high. For instance, a resistance movement that represents a legitimate community committed to the cause of independence might not pass this test because it is not capable of carrying out its intent.

Attempting to morally justify resistance movements and insurgencies must begin with understanding their strategic purpose. State and nonstate actors wage irregular warfare "for legitimacy and influence over the relevant population."¹⁶ Policy makers should consider the movement's strategic purpose in any moral analysis.

A Moral Basis for Revolt and Intervention

Walzer's first four revisions to the legalist paradigm weigh the relationship between a nation-state and the rights of its people. These revisions allow that conditions within a state may provide moral grounds for insurgency, guerrilla war, and intervention by an outside entity.

Conditions within a state—a contract and protected common life. Walzer views the rights of nation-states as originating from the individual rights of their citizens. The state, therefore, has obligations to defend its citizens from outside state aggression and to protect their rights, lives, and liberties, or "common life."¹⁷ A state's failure to meet these obligations means relinquishing the moral justification for its own defense.¹⁸ This assertion lays a foundation for justifying revolt and intervention. By governing responsibly and protecting individual rights, states derive their legitimacy from their people. This represents a functioning



Figure 1.

contract and a protected common life. In contrast, governing oppressively causes a state to lose legitimacy in the eyes of its population; however, the state's ability to wield power and influence still enables it to enforce the contract, albeit without any guarantee that it will safeguard the common life of its citizens.

Such a circumstance may leave no recourse for the population other than forcibly changing the government or its policies. When a state becomes tyrannical and oppressive, a population's violent struggle against the state should be considered morally justifiable. In just war terms, a state's deliberate efforts to oppress and harm its citizens constitute a form of aggression that should justify an internal response to it.

Coercion as a form of state aggression. A prominent just war theorist named Brian Orend, author of *The Morality of War*, recognizes violation of human rights using coercion as a form of aggression. He concludes, "either states or nonstate actors can commit aggression, which we have seen is what roots a morally justified resort to war."¹⁹ Tyrannical governments might confront their citizens with a choice equivalent to state aggression: "your rights or your lives."²⁰ The citizens' attempt to compel a government to alter its policies through the use of force, even if it means overthrowing the government, is arguably a kind of independence movement.

A proposed sixth revision to the legalist paradigm. As our own nation arose from revolution, our values "give us the credibility to stand up to tyranny."²¹ Therefore, I believe there is room for exception in just war theory's treatment of domestic tyrants and suggest adding one more revision to the legalist paradigm.

This revision should allow for aiding violent resistance movements of peoples victimized by government harm and persecution, even if their political community has yet to fully gain the ability to determine its own existence. This means that intervention in a nation-state to stop its oppression of, or deliberate harm to, its citizens may be a morally prudent and justified policy choice.

Decision-Making Models for Choosing Just War

Walzer navigates between two moral extremes for choosing to wage war, either when it is never justified or when *survival* is at stake. The latter refers to responding to aggression or helping another state in its response to it, which are both the only morally justified reasons under the strict conditions of the legalist paradigm.

A decision-making model under Walzer's legalist paradigm. The decision model under the principles in the legalist paradigm may look like figure 1. The moral decision point for war becomes absolute under a national interest of survival or when coming to the aid of another state in its struggle for survival.

Walzer's first four revisions to the legalist paradigm allow some room between these two poles. For example, Walzer describes cases that justify outside intervention, such as when a state's violation of the rights of its citizens stands out as "so terrible that it makes talk of community or self-determination or 'arduous struggle' seem cynical and irrelevant."²² He also allows for humanitarian intervention and rescuing people from massacre where the goal is limited solely to rescue without any additional political objectives.²³

Decision making under Walzer’s revisions to the legalist paradigm. These kinds of cases for intervention are consistent with the core principles of *The Responsibility to Protect* as laid out by the International Commission on Intervention and State Sovereignty (2001)²⁴. Depicted graphically, the scale might look something like figure 2. The decision point becomes less absolute. While intervention may be morally justified and legal, national interests will determine whether or not intervention may be deemed prudent.

When a guerrilla war is considered just for reasons such as government tyranny, oppression, and deliberate harm to citizens, and when considering state-sponsored intervention in support of such a revolt, even with Walzer’s revisions the moral decision point comes too late. I propose a sixth revision that would establish a new decision point: Should one nation find it morally just, legal, and prudent (in that order) to intervene by coming to the aid of a violent resistance movement or guerrilla war in another nation, intervention may tip the scales towards that political community’s achievement of self-help status, thereby earning its legitimate political community rights.

A temporal decision-making model under the proposed sixth revision to the legalist paradigm. Wars of self-determination, civil wars, and guerrilla wars pose especially complex moral issues. From Walzer’s point of view, guerrilla war might only be considered justified if it passed a high threshold. Walzer refers to this as a “continuum of increasing difficulty.”²⁵ Within this continuum, at some point

guerrillas may acquire war rights. Conversely, at a later point, the government attempting to counter them may ultimately lose its war rights. Moreover, Walzer says that some of these endeavors will reach a tipping point, specifically when they garner the overwhelming majority of popular support and achieve the condition of *levée en masse*, or mass mobilization.²⁶ He asserts that when guerrilla war achieves that degree of backing, an antiguerrilla war can no longer be won; therefore, waging war against the guerrillas can no longer be morally justified.²⁷

Logically, Walzer’s tipping point appears synonymous with an insurgency or guerrilla war passing the self-help test. When insurgencies, resistance movements, and guerrilla activities emerge in response to government oppression and deliberate harm of its subjects, an outside state-sponsored intervention in support of these activities enables Walzer’s tipping point to be reached earlier. Therefore, should U.S. policy makers believe an intervention on behalf of an internal community waging war against a tyrant is morally just and in the U.S. national interest, deciding *when* to intervene may differ from deciding *to* intervene under Walzer’s first four revisions, primarily due to the requirements of the self-help test.

The proposed sixth revision accounts for the gap. Moreover, it seems consonant with Walzer’s “continuum of increasing difficulty.” The sixth revision also provides a moral basis for responding to an internal community’s suffering due to “deliberate state action” when there is not a “large scale loss of life” to trigger “the just cause threshold” described in *The*

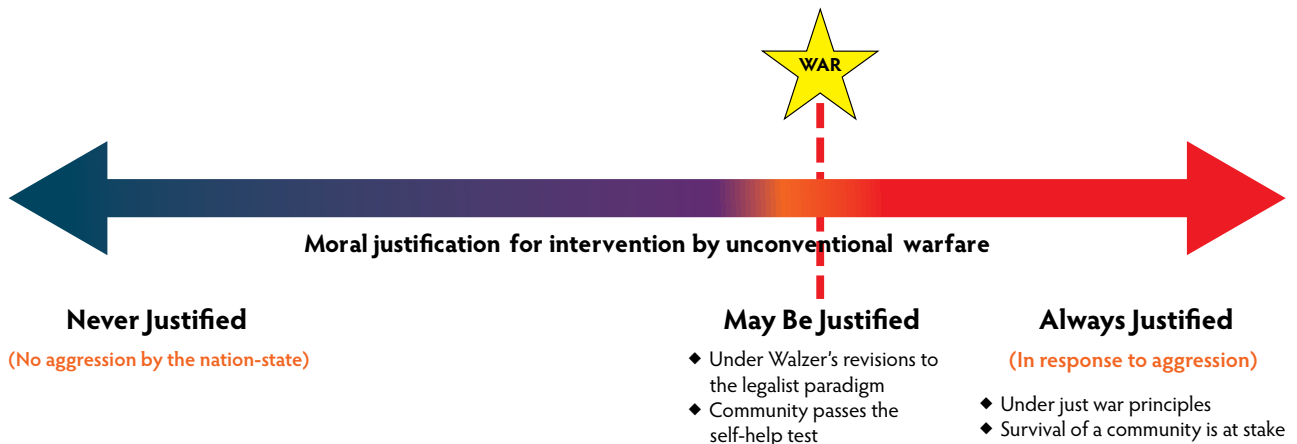


Figure 2.

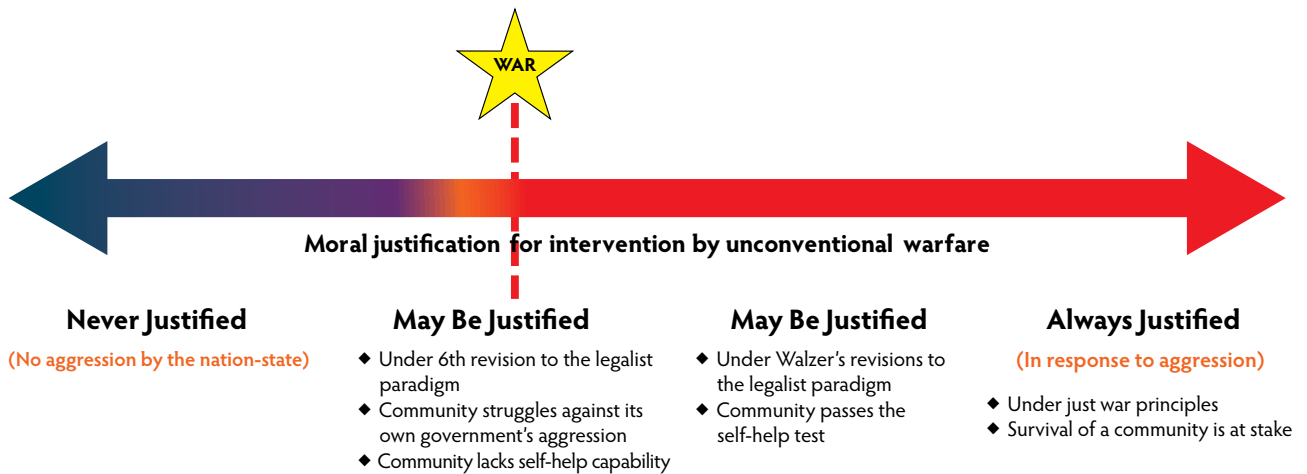


Figure 3.

*Responsibility to Protect.*²⁸ Decision making under this proposal might appear as figure 3.

It is within this space where I suggest that moral justification for state-sponsored unconventional warfare emerges. Of note, understanding *how* and *when* to determine moral justification for this type of irregular warfare policy option still requires adherence to strict just war theory criteria to sustain this validation and ultimately, *legitimacy*. The purpose of the unconventional warfare operation must be limited to defeating the military capabilities of the oppressive state, not imposing new political systems. After a political community rises from oppression through achieving military victory, its struggle for legitimacy is not complete, but it must build its *own* sovereign political identity.

The intervening nation would find no moral basis for pushing its own political agenda during this process. Doing so delegitimizes the key element of independent self-help and, consequently, places the legitimacy of the entire effort in jeopardy.

Choosing to assist a resistance movement requires a distinct decision-making process. Moral reasons alone do not justify intervention. The culture of the oppressed group *and* a practical assessment of its ability (with assistance) to carry out its intent to become independent must be considered. In addition, the joint force must be prepared to help assess the group's military capabilities so senior defense leaders can make informed recommendations to policy makers.

Opposing views. Critics might argue that a sixth revision to the legalist paradigm is a convenient way

to justify interventions meant only to achieve national interests—or even to mask their intent behind a façade of morally just language. They might insist that the proposed revision serves to justify preemptive wars and forcible regime change. Opponents might also say that the clandestine nature of unconventional warfare makes it morally suspect from the outset.

My response to these arguments rests on the legalist paradigm. Unconventional warfare is a means to support what should be regarded as legitimate communities in their violent struggles against government oppression and deliberate harm. The overarching moral intent is to foster a better future environment and better peace for them, and possibly for us.

Additionally, unconventional warfare methods emphasize economy of force with small special forces operational detachments helping indigenous resistance movements. In contrast, the larger scale of operations to be conducted by conventional forces to support such an undertaking would raise doubts about U.S. goals as well as the legitimacy of the resistance movement. Any resistance movement needs to struggle and achieve its own ends—legitimacy and influence—rather than having an outside military force do the fighting on its behalf.

The initial campaign in Afghanistan in response to the 9/11 attacks is an example of unconventional warfare. This campaign enabled the Northern Alliance to topple the Taliban government. It demonstrated the effectiveness of conducting unconventional warfare as an initial strategic offensive through the specialized landpower capabilities of the U.S. military.

Conclusion

National interests guide the choices of U.S. policy makers. When contemplating the use of the military instrument of national power to achieve policy objectives through war, either traditional or irregular, three considerations should remain at the forefront: moral, legal, and prudential. The questions resulting from these deliberations should be sequenced as follows:

- ◆ *Are we justified?*
- ◆ *Are we following the law?*
- ◆ *Can we actually do what is proposed?*²⁹

Reflecting on these questions also contributes to the moral, ethical, and intellectual development of the members of the profession of arms.

Moving forward in accordance with defense strategic guidance, the Army will continue to play a major role in the joint force's robust foreign internal defense, theater security cooperation, and theater engagement efforts. It should find itself well-suited for this effort. These capabilities should be augmented by maintaining the Army's unconventional warfare competency.

Ultimately, intervening by waging irregular warfare alongside an insurgency within and against another country would come with moral dilemmas for the United States and its military forces. As the Department of Defense builds its capacity to perform this primary mission against enemies such as al-Qaida, understanding what constitutes moral justification for irregular and unconventional warfare should be part of our joint and Army discourse. To be grounded in irregular warfare principles to the same degree as traditional warfare requires deeper understanding of irregular warfare's purpose and moral standing. Before establishing a policy of intervention or ordering the military to take action, U.S. policy makers would need to weigh the moral implications of intervention to ensure their rationale and the military's actions were legitimate. Otherwise, the United States could be violating the principles that help determine when an entity has a legitimate right to wage war. ■

Notes

1. U.S. Department of Defense, *Sustaining U.S. Global Leadership: Priorities for the 21st Century*, January 2012, 4, http://www.defense.gov/news/Defense_Strategic_Guidance.pdf.

2. Joint Publication (JP) 1, *Doctrine for the Armed Forces of the United States* (Washington, DC: U.S. Government Printing Office [GPO], 2013).

3. In Army Doctrine Reference Publication (ADRP) 3-0, *Unified Land Operations* (Washington, DC: U.S. GPO, May 2012), Army doctrine defines landpower as, "the ability—by threat, force, or occupation—to gain, sustain, and exploit control over land, resources, and people."

4. Michael Walzer, *Just and Unjust Wars*, 3rd Ed., (New York: Basic Books, 2000), 62. Walzer introduces this notion in the theory of aggression.

5. See JP 1.

6. *Ibid.*

7. *Ibid.*

8. *Ibid.*

9. Walzer, 62. According to the legalist paradigm, "aggression justifies two kinds of violent responses: a war of self-defense by the victim and a war of law enforcement by the victim and any other member of international society."

10. *Ibid.*, 61-62.

11. *Ibid.*

12. JP 1, 252.

13. Walzer, 93.

14. *Ibid.*

15. *Ibid.*, 94.

16. JP 1, I-1.

17. Walzer, 54.

18. *Ibid.*, 54.

19. Brian Orend, *The Morality of War* (Peterborough, Ontario, Canada: Broadview Press, 2006), 71. Orend also asserts that, "there is nothing, in just war theory or international law, which says that aggression can only be committed by states."

20. Walzer, 51.

21. Barack Obama, 2010, *National Security Strategy*, GPO, p. 10, http://www.whitehouse.gov/sites/default/files/rss_viewer/national_security_strategy.pdf.

22. Walzer, 90.

23. *Ibid.*, 104-106.

24. The International Commission on Intervention and State Sovereignty, *The Responsibility to Protect* (Ottawa, ON, Canada: International Development Research Centre, December 2001), XII.

25. *Ibid.*, 195.

26. *Ibid.*, 187.

27. *Ibid.*, 195.

28. The International Commission on Intervention and State Sovereignty.

29. Thanks to Lt. Gen. James M. Dubik, U.S. Army, Retired, for providing this insight and inspiring this paper.