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Abstract

This paper concentrates on asymmetrical civil war, one common type of contemporary conflict. My aim is to articulate some of the normative *jus post bellum* guidelines that should be followed in ending this kind of asymmetrical conflict, and the ideal of just peace that should inform the development of such guidelines. I argue that questions surrounding the just ending and aftermath of asymmetrical conflict should be answered relationally, that is, by reference to the kind of relationship such efforts should seek to cultivate. Morally defensible political relationships, I claim, express the general moral values of respect for agency and reciprocity. It is these values, I claim, that processes for ending conflict must express and that inform the regulative ideal of just peace at the core of *jus post bellum*.

Keywords asymmetric conflict; *jus post bellum*; just war theory; reconciliation

Introduction

Jus post bellum articulates the criteria for a just transition from war to the post-war period and for just reconstruction of a war-torn community. In this paper I concentrate specifically on asymmetrical civil war, one common type of contemporary conflict. This is an important context for thinking about war generally, since the majority of contemporary wars occur in intra-state contexts.¹ My aim is to articulate the normative guidelines that should be followed in ending this kind of asymmetrical conflict, and the ideal of just peace that should inform such efforts. I

argue that questions that the ending of asymmetrical conflict raises should be answered relationally, that is, by reference to the kind of relationship such efforts should seek to cultivate. Morally defensible political relationships among citizens express the general moral values of respect for agency and reciprocity (Murphy 2010). It is these values, I claim, that processes for ending conflict must express and that inform the regulative ideal of just construction at the core of *jus post bellum*.

There are four sections in this paper. The first summarizes the key characteristics of the particular kind of asymmetric conflict on which I focus, entrenched asymmetric civil war or strife. The second provides an overview of the general questions at the core of *jus post bellum*. The third articulates the relational conception of just peace that provides the theoretical foundation for a relational conception of *jus post bellum*. The fourth uses the normative ideal in the third section to develop a set of guidelines of *jus post bellum* for asymmetrical civil war and strife.

Asymmetrical Conflict

Informing much historical and contemporary thinking about the morality of war and war's aftermath is the following model of warfare. Two sovereign nation-states go to war as a result of one sovereign nation-state invading another sovereign nation-state in an act of aggression. Combatants fighting on behalf of each side of the conflict do so in a public and transparent manner; combatants, for example, are clearly identifiable by their uniforms. The conflict ends when one side is completely vanquished. The treaty formally ending conflict addresses and

resolves all outstanding issues bound up with the conflict. In particular, the sovereign rights of the community initially invaded are reasserted.

Few actual contemporary conflicts have the character and follow this trajectory. (Coalitions of) states invade other states for humanitarian reasons and not to conquer new territory in an act of aggression. The morality of humanitarian intervention has thus become an important subject of discussion in just war theorizing (Holzgrefe and Keohane 2003). The language of self-defense is now invoked to justify invasions that precede an actual act of aggression by the state being attacked in the name of self-defense. The morality of preventive intervention is another topic of contemporary debate (Chatterjee 2013).

My interest in this paper, however, is on another set of differences between the paradigm model of warfare articulated above and many contemporary conflicts. Diversions from the paradigm for warfare articulated above stem from the fact that conflicts are increasingly asymmetrical, pitting a state against a non-state group or groups. Examples of such conflicts include the armed conflict between the African National Congress (ANC) and apartheid South African government, the conflict between the Revolutionary Armed Forces of Colombia—People's Army (FARC) and the Columbian government, the continuing strife between Palestinians and Israelis, and the current civil war in Syria between the Bashar al-Assad's government and the Free Syrian Army and Islamic Front. In such cases, the political objective of one party to a conflict may be the establishment of a new state from within the borders of an existing state (e.g., in cases of secession) or the control of an established state (e.g., in cases of civil war).

Asymmetric conflict raises complicated questions regarding the legal (Estreicher 2010; Ohlin 2015) and moral (Kamm 2004; Margolis 2004; Rodin 2004; Primoratz 2015) status of

actions committed by insurgent groups or the weaker party fighting in such conflicts. Combatants frequently do not wear uniforms, making them harder to distinguish and target in military operations. In cases of guerilla warfare, military operations by guerillas often entail strikes followed by the seamless merging of those responsible for the strikes back into the civilian population. Through these tactics, insurgents or rebels aim at “discouraging a counter-attack or, of even greater value to the cause, inviting a military response laying waste to civilian areas and their inhabitants. The latter is often the preferable outcome for the guerrilla fighters because, in the battle to win over local populations, civilian devastation at the hands of the attacker can be more valuable than directly causing losses to the attacker.” (Estreicher 2010, p.3) As this quote indicates, in the asymmetrical conflicts on which I focus in this paper there is support within a population for the insurgent group. Such support is affected by the response of a stronger party’s use of military force; “killing insurgents through harsh methods or dramatic fire superiority can have the effect of persuading more insurgents to their cause.” (Buffaloe 2006, p. 16).

Asymmetric conflicts are often characterized as intractable. This is somewhat unsurprising given the fact that competing sides enjoy support of a (segment of) a population within a political community. Many conflicts simmer for long periods of time, with flare-ups in violence at various periods. Conceptually how to appropriately characterize communities that are the site of asymmetrical conflict is difficult; the distinction between conflict and post-conflict periods is harder to demarcate (May 2012). When it becomes appropriate to speak of the ‘end’ of conflict has also become much more ambiguous. In cases of civil war or secessionist movements, there may be no clear vanquished or victorious party. This fact in term shapes the

terms of the settlement that may be reached in any given case, and the extent to which such settlement is viewed as final or acceptable to conflicting parties.

Scholars interested in asymmetric conflict have studied the obstacles – psychological, tactical, institutional, and relational - to successful resolutions of such conflicts (Maoz and Powell 2014). Predictive theories to explain the condition under which the weaker party in an asymmetric conflict will be victorious have also been proposed (Mack 1975; Arreguín-Toft 2001). My interest in this paper, however, is different. My focus is on the normative considerations that should guide efforts to end seemingly intractable conflicts. Just war theory is designed to provide normative guidance for the beginning, conduct, and end of war. In the next sections, I focus on the portion of just war theory known as *jus post bellum*, or justice after war. I examine what does it mean to try to wind down such conflicts in a normatively defensible manner and what is it towards which processes of reconstruction aim.

Jus post bellum

Jus post bellum concentrates on the requirements of justice after war. There are three sets of issues *jus post bellum* takes up. First, *jus post bellum* provides guidance on the morality of transitioning away from war. For example, what are the conditions, if any, that may be imposed to formally end conflict? (Orend 2000a, 2000b, 2002). Is disarmament, (un)conditional surrender, and/or amnesty permissible terms that may be included or imposed? The second set of questions concerns the appropriate way to deal with violations of *jus ad bellum* and *jus in bello* criteria (Orend 2002; Kellogg 2002). Key considerations in this context include determining who has the standing to deal with such violations and the appropriate form a response should take. The relative standing of individual nations and the international

community is at the core of discussions about the first issue; the necessity of punishment is at the core of discussions of the second. Finally, *jus post bellum* encompasses the morality of postwar reconstruction (Bass 2004; Bellamy 2008; Gheciu and Welsh 2009; May 2012). Who is responsible for cleaning up the mess that war inevitably brings in its wake? War destroys lives as well as livelihoods and the engineered built infrastructure of communities. Bombing levels buildings that serve a variety of purposes, and destroys roads that serve as pathways for mobility. With whom does responsibility for rebuilding communities out of the rubble that war leaves behind rest? And with what is the standard for successful reconstruction?

Jus post bellum has historically garnered less theoretical attention than either *jus ad bellum* (the morality of going to war) or *jus in bello* (the morality of conduct in war). Illustrating this general point, Jeff McMahan, begins an influential paper on just war theory in the following way: “The traditional theory of the just war comprises two sets of principles, one governing the resort to war (*jus ad bellum*) and the other governing the conduct of war (*jus in bello*)” (McMahan 2004, p. 693). One reason for this differential attention, in my view, is the belief among theorists that *jus post bellum* is simply entailed by the framework the other two sets of principles provide (Orend 2000a, 2000b, 2002; Bass 2004; Walzer 2015). That is, insofar as just cause is limited to the defense of state’s rights or to aid other states similarly defending their rights, permissible actions by states in the aftermath of war are constrained or set by such reasons. By implication, using victory in war as an occasion for expanding the territory of one’s community would be impermissible. While it may be permissible to demand compensation, such compensation should be limited by what was lost during conflict.

Rather than develop a conception of *jus post bellum* out of a conception of *jus ad bellum* and *jus in bello*, in this paper I focus directly on *jus post bellum*. I do so for three reasons. First,

it is far from clear that a satisfactory account of *jus post bellum* can be derived from *jus ad bellum* principles (Murphy and Radzik 2014). In fact, theorists of *jus post bellum* often appeal to broader moral and political principles when articulating this dimension of just war theory. Responsibilities in the post-war period may fall not just on those who fought justly and with just cause, but also on those who were victorious in a war that was unjust in a *jus ad bellum* and/or *jus in bello* manner. When a war fails to meet part of the criteria for just war theory, the reasons and values underpinning a decision to go to war and/or the values reflected in the conduct that occurred in war cannot serve as a guide for how such a conflict should be ended. Moreover, many theorists appeal to goals such as self-determination and to humanitarian principles to expand the scope of responsibilities of those who fought war in a just way. The appeal to broader principles is in part to avoid imposing on communities- even those responsible for aggression- sole responsibility for dealing with the devastation of war, when they lack the capacity to be self-determining or attend to the needs of survivors on its own (Schuck 1994; Wheeler 2000; May 2012).

Second, and more fundamentally, as Larry May points out, we fight war for the sake of a specific end, namely a just peace. Rather than starting our theorizing at the beginning of war, our theorizing should begin where war should end. Just peace should shape the reasons why it is permissible to fight initially, the permissible form such fighting may take, and the requirements for the just pursuit of an end to conflict and reconstruction. In his words,

Nearly everyone to have written on the subject of war would agree that the object of a just war is the achievement of a just and lasting peace... The proper moral answer to the question “why do we fight” must be “to achieve a just peace” and in this sense the questions of *jus ad bellum*, which concern the moral basis for

initiating war, must be intimately linked to questions of *jus post bellum*, which concern the moral basis for the end of war (May 2012, pp. 10 and 12).

May's insight, that theorizing should start with a consideration of where we hope war ends, is especially important in the particular conflicts on which I focus in this paper, which is the third reason why I begin from a consideration of just peace. In contexts of intractable asymmetric conflict, deeply entrenched opposing parties at conflict for years may lose sight of the ultimate end for which they fight, namely the possibility of a just peace, and, in the process, undermine the conditions that might make just peace possible.

Just Peace for Asymmetric Conflicts

In this section I articulate a relational conception of the just peace for asymmetrical conflict.² A relational conception of just peace is especially fitting for asymmetric civil war, because it conceptually emphasizes the fact that interaction, characteristically deeply and densely interconnected interaction, will continue after conflict ends. It is by understanding what kind of relationships we hope to see realized and maintained that we can best identify the kinds of threats that are serious enough to warrant unleashing the destruction that war by its very nature entails as well as the kinds of interaction that are beyond the limits of morally permissible conduct, even with those with whom one is in conflict.

The conflicts that are constitutive of war are political conflicts. Adverse parties in war have or claim the authority to represent and rule a given constituency. Moreover, parties to war are characteristically in conflict over political issues – such as conflicting claims to authority over a piece of territory or challenges to whether a particular government is appropriately

exercising its authority. Because warfare is political, the appropriate kind of relationship on which to focus in thinking about *jus post bellum* is a political relationship. Given my focus on asymmetric civil conflict, the particular political relationship at issue is among citizens of a state.

In previous work I have argued that there are two moral values that such political relationships should express: reciprocity and respect for moral agency (Murphy 2010). At the level of generality just specified, the moral values that I claimed should be expressed in political relationships are values that one might argue should be expressed in any relationship whatsoever; there is nothing distinctly political about them. To specify what these values mean for political relationships in particular, I appeal to three normative frameworks: the rule of law, political trust, and capabilities. Jointly, these three frameworks flesh out the institutional as well as attitudinal dimensions of political relationships and political interaction.

My argument for this ideal methodologically proceeded from the ground up: by providing a normative characterization of the ways that conflict and repression paradigmatically damage political relationships among citizens and officials of a single state who were emerging from a period of civil war and/or repression. Thus my argument took as its subject matter the descriptive dynamics of asymmetrical civil warfare and repression as identified by social scientists. It offered an explanation of the moral significance of many of the barriers to resolving asymmetrical conflicts identified in the literature on asymmetric conflict, such as distrust, (Moaz and Powell 2014) and lack of recognition of the rights of marginalized groups. Such groups in asymmetric conflict often “see themselves as unjustly neglected, excluded, and discriminated against –demand recognition of their basic rights (Moaz and Powell, p. 116).

Reciprocity recognizes the conditional nature of any demand we make on others: that the legitimacy with which we can enjoin others to act in certain ways depends on our willingness to

recognize and take seriously the demands that others make on us. Respect for agency reflects an acknowledgement that those with whom we are in relationships are not mere objects, but rather persons with goals, objectives and commitments. Agents are the kinds of creatures who are responsive to reasons and who act for reasons. Terms for relational interaction must be based on recognition of this agency (Murphy 2010).

The normative ideal of the rule of law is defined in terms set by legal scholar Lon Fuller (Fuller 1969; Murphy 2004). For Fuller, law has a specific function: the governance of conduct on the basis of legal rules. Fuller derives a set of formal requirements that the rules comprising a legal system must satisfy to achieve this function; these requirements are the requirements of the rule of law. In order for conduct to be governed by legal rules, legal subjects must be in a position to take legal rules into account in practical deliberation prior to acting. The possibility for this happening depends on legal rules being prospective, clear, non-contradictory, stable, not asking the impossible, general and promulgated. Absent these general characteristics, the demands of a legal system will not be able to be meaningfully taken into account by legal subjects as they deliberate how to act. To illustrate, knowing what law demands tomorrow does not help legal subjects deliberate today about what they should do. Nor can legal subjects take into account rules that are kept secret. Not only must legal standards for behavior have these characteristics, but also the standards for conduct outlined in legal rules must also be the standards used by officials to evaluate and respond to the conduct of legal subjects. Thus, congruence between declared legal rules and official conduct is required. Congruence demands that officials' reactions to legal subjects are guided by judgments of whether subjects have or have not satisfied legal requirements.

Trust draws attention to the significance of the attitudes with which we evaluate the actions of others. Within political communities, trust refers to an attitude of optimism about 1) the competence of fellow members and officials to exercise the responsibilities associated with their particular roles, and 2) their corresponding lack of ill-will. In this context, in viewing others as lacking ill-will we see them as basically decent, and so willing and able to refrain from inflicting intentional harm and willing to abide by the rules and norms structuring a political community. When trust is the default attitude taken towards citizens and officials, we presume this competence and lack of ill-will rather than demanding it be demonstrated. Trust also captures the anticipation that, if trusted, citizens and officials will prove trust-responsive, that is, when trust is placed in them, citizens and officials will take that fact into serious consideration in practical deliberation.

Finally, the normative framework of capabilities focuses on the extent to which there is relational freedom within political relationships. Capabilities are genuine opportunities, and genuine opportunities exist as a function of what individuals have and what they can do with what they have (Sen 2000 and Nussbaum 2001). A genuine opportunity to be educated, for example, requires an internal capacity for acquiring and retaining new information as well as legal rules that make attending school permissible and social norms that make such attendance a practical possibility. Relational freedom - the extent to which individuals are able to shape the terms of their interaction with others - is also a function of such conditions. If barred by law from participating in political processes because denied the legal right to vote or informally prevented from participating by a diminished social status, individuals will likely have a diminished opportunity to ensure they are free to choose where and how they live. Distinctly

relational capabilities include the genuine opportunity to be respected, to be recognized as a member of a political community, and to participate in political and economic processes.

Mutual respect for the rule of law, trust and capabilities express reciprocity and respect for agency. Mutual adherence to the requirements of the rule of law facilitates agency by holding citizens accountable to a standard of conduct they had a real opportunity to meet; officials react to the choices of individuals. The mutual restraint required by the rule of law manifests recognition of the conditional nature of our standing to make demands on others; if officials fail to pass rules citizens can in principle obey they cannot demand obedience to such rules. If citizens demand a standard of conduct that is public and clear, they cannot complain when officials hold them responsible for their success or failure in meeting the standard laid out in such rules. By adopting a default of trust, individuals presume of others the same decency and competence they likely desire others presume of them. When reasonable, trust itself acknowledges the agential capacities of citizens and officials. When relational capabilities exist for all citizens, individuals have a genuine opportunity to live as agents.

Asymmetric civil war is symptomatic of the failure of political relationships among citizens and/or among citizens and officials to satisfy to minimum threshold levels the normative requirements for political relationships. Instead, from apartheid South Africa to the historical Troubles in Northern Ireland, political relationships fail to be predicated on mutual respect for the rule of law, reasonable political trust, and robust relational capabilities to a minimum threshold level (Murphy 2010). Bolstering this point, Moaz and Powell (2014) note that many asymmetrical conflicts are struggles for recognition by a group that is marginalized within a state- culturally, politically and/or economically. That marginalization is reflected in reduced opportunities for participation in the economic and political realm as well as higher rates of

poverty. Marginalization is moreover both a product of distrust towards the marginalized group by the dominant group within a political community, and itself creates further distrust.

Marginalization is partially a product of distrust insofar as discriminatory views about the competence and loyalty (or lack of ill-will) of members of a suspect group leads to discriminatory treatment. Marginalization then enhances distrust by reducing the opportunities for interaction among divided groups within a community, which provides limited chances to humanize the members of a group being subjected to stereotypes. For members of marginalized groups, the experience of discriminatory treatment and erratic enforcement of legal norms grounds distrust towards government officials and members of the dominant group.

Asymmetric armed conflict exacerbates these problems with political relationships. Entrenched conflict solidifies distrustful views, further erodes the sense of restraint on the part of officials, which the rule of law demands as reflected in appeals by government officials for emergency powers that bypass normal processes and procedures, and further reduces relational capabilities. War erodes capabilities in multiple ways (Murphy 2010). For direct victims of violence, the consequences of violence include diminished physical capacities as well as traumatization. Families suffer the consequences of these effects as well, as the strain and costs of dealing with injuries and the reduced range is shared. Others who suffer from the threat of violence in virtue of their group membership have constrained opportunities, as a product of increased risks associated with political activism or visibility and as a product of the consequences of stress from living with a chronic threat in turn leaves diminished personal resources to pursue opportunities. The impact of conflict on political and economic institutions is often significant. Communities not only face increased cost burden for rebuilding destroyed buildings, roads and infrastructure, but bear these costs in a context where business

characteristically suffers and so where there are fewer economic resources generally available to deal with such increased costs. Similarly, the health care infrastructure of a community often suffers- with hospitals destroyed, supplies reduced and more difficult to procure, and health care staff displaced or fleeing when conflict strikes- precisely at the moment when greater health care needs are present (Ghobarah *et al.* 2003).

Against this background, the just peace towards which war aims is a peace predicated on mutual respect for agency and reciprocity, as reflected in systematic adherence to the rule of law, the cultivation of conditions that might make trust of members of previously antagonistic groups reasonable, and the (re-)establishment of basic capabilities to avoid poverty, be respected, be recognized as a member of a political community, and participate in economic, political and social processes. As I argue at length in Murphy (2010), underpinning such relationships are certain moral and social conditions. For example, the rule of law becomes possible only when there is faith in law on the part of citizens; absent such faith that legal rules actually shape official responses to action, there is little reason for citizens to restrain themselves in the way legal rules require. Trust is directed towards agents, and so recognition of the agency of members of an antagonistic group is required for trust to become possible. Part of such recognition entails recognizing that members of an antagonistic group act for reasons and are not simply driven by irrational anger. Cultivating sympathy is an important first step in the process of getting this recognition (Eisikovits 2009).

***Jus post bellum* for asymmetrical civil war**

In the previous section I sketched a conception of just peace towards which processes of *jus post bellum* in the context of asymmetric civil war are oriented. In this section I discuss some general dimensions of *jus post bellum* that draws on that normative conception of just peace. My primary focus is on the processes of winding down asymmetrical civil war so as to make intractable conflicts tractable. However, I begin with some brief remarks about the process of *jus* reconstruction and processes for dealing with violations of *jus ad bellum* and *jus in bello*.

From a relational perspective, just reconstruction is fundamentally about relational reconstruction. That is, the overarching aim of *jus post bellum* is to contribute to the repair of the relationships damaged prior to and during the course of war such that political interaction is based to a minimally acceptable threshold level on reciprocal agency. This means that just reconstruction is broader than a mere cessation of violence, since such cessation is compatible with non-violent interactions that remain predicated on distrust, insufficient adherence to the requirements of the rule of law, and very limited opportunities to be respected, avoid poverty, and participate in economic and political institutions. Nor is the just reconstruction aimed at restoring the *status quo ante* (Orend 2000a; Walzer 2015), since such restoration would simply replicate the conditions of marginalization that preceded conflict.

More specifically, the just reconstruction of a community torn apart by warfare requires rebuilding (a) the rule of law (May 2015) and (b) the conditions needed for relational capabilities, including a minimally functioning economy. Trust cannot be directly demanded, but by cultivating (a) and (b) and following guidelines for the just winding down of peace it can become reasonable. The reciprocal promotion of such just reconstruction requires parties to a conflict sharing in the processes of deciding what priorities will be pursued first and in jointly engaging in processes of reconstruction. Insofar as third parties get involved in asymmetric

conflict, they acquire obligations to contribute to such just reconstruction. For intervention to be morally permissible, it must be based on an aim of achieving the overarching objective that justifies going to war in the first place. Failure to contribute in a credible manner to just reconstruction would undermine the credibility of claiming a just aim (Bass 2004).

The ideal of just peace also provides some theoretical resources for determining the appropriate way to handle violations of the rules of war. Processes for dealing with violations of the rules of war must be reciprocal in the sense that they take seriously violations committed by all sides of a conflict. Thus, though controversial at the time, the South African Truth and Reconciliation Commission correctly included under its mandate violations committed both by South African government security forces and the African National Congress. Processes must respect agency in the sense that they are responding to what particular perpetrators were responsible for during a conflict; such judgments will be complicated given that asymmetric warfare characteristically involves collective wrongdoing. However, incompatible with respect for agency would be a sentence from a trial designed to send a message of condemnation that was disproportionate to what the particular perpetrator was implicated in. Respect for agency requires that processes for dealing with past violations adhere to rule of law requirements, even when such adherence undermines the likelihood of a conviction (Murphy 2010). Failure to adhere to such requirements makes the pursuit of justice vulnerable to the objection that trials are mere victor's justice. Responses to violations must also be attentive to the lives devastated by such violations, including offers of compensation that track losses as a result of such violations.

The above questions of *jus post bellum* do not become salient unless and until conflicts are wound down. Thus I focus in the remainder of this article specifically on the process of winding down conflict, such that the pursuit of a broader just peace and redressing of violations

from conflict becomes feasible. As noted in previous sections, many intra-societal asymmetric conflicts last for extended periods of time- in some cases for decades. In the face of what is regarded rightly as no simple task, normative guidance on appropriate ways to make the intractable tractable are especially needed. My discussion of the winding down of conflict focuses on the negotiations leading to a peace treaty and on the terms of a peace treaty or accord itself.

Prior to and during negotiations, it is important that parties to a conflict not act in ways that would foreclose the possibility of cultivating relationships predicated on reciprocal agency in the future. There may be a range of ways in which this possibility is foreclosed, and there is inevitably a context-specific character to the range of actions or statements that will have this impact. However, one general way to foreclose the possibility of cultivating relationships predicated on reciprocal agency is to violate or cross certain lines politically or militarily that, even in the midst of conflict, were respected before. The lines not to cross will vary across conflicts. Certain forms of atrocity or violence may be beyond the pale, even in a bloody battle. Intentionally killing children or preventing family members from collecting and burying the bodies of loved ones who die may be some examples. Other examples may be planning or committing genocide and/or the systematic and heinous rape of women and men. Politically, the lines not to cross may represent positions it is impermissible to take. Politicians advocating ethnic cleansing of an area to resolve conflict may be one such line. Rejecting longstanding and accepted positions on acceptable ways to end conflict could be another.

Crossing lines previously respected forecloses relationships predicated on reciprocal agency by foreclosing the possibility of trust or the possibility of certain relational capabilities. The violation of previously – implicitly or explicitly - acknowledged limits may erode the

possibility of conceiving members of the other side as lacking ill-will or being basically decent. Other violations, such as genocide, may practically foreclose the possibility of a group to conflict remaining part of a political community or being respected.

During negotiations, parties must also recognize that those with whom one has been in conflict are those with whom one will continue to live. Except in cases of complete genocide, total ethnic cleansing, or the perfect separation of a community, groups in conflict will continue to live political lives intertwined if and when fighting ends. Former combatants in Northern Ireland following the Good Friday Agreement or Belfast Agreement in 1998 faced the task of learning to live together as neighbors; employees and employers; and, at least in democratic contexts, potential political representatives and constituents of some politician. A continual awareness of the fact that lives will remain intertwined may temper the willingness of parties in conflict to cross certain lines, and bolster respect for the first guideline. Recognizing that relationships that continue - even with parties or groups most despised – can also temper an unwillingness to negotiate with certain partners or parties to conflict. For insofar as lives remain intertwined, opposing parties must find a way of interacting with those with whom they have been in conflict.

From the relational perspective, parties to the negotiations leading to any peace agreement should view the agreement as providing a starting point for the normative improvement on the terms for interaction. One basic minimum improvement in the terms of interaction is the cessation of violence. In the case of a ceasefire, the maintenance of a ceasefire, if conditional, should as a matter of reciprocity make conditional demands of both sides. To respect agency there must be an agreement of mutual restraint to refrain from actions that prejudge an outcome of a contested issue. To use a cessation of violence as an opportunity to

change facts on the ground that will alter practical possibilities for options to resolve issues at the core of a conflict is to fail to treat one's opponents as agents; for it is to use force, and not dialogue and mutual deliberation, to determine the resolution of issues of mutual conflict.

Peace agreements that specify terms beyond a mere cease-fire should not try to resolve and clarify all underlying issues of conflict. Rather, peace agreements should articulate a minimally normatively defensible framework from which resolution of outstanding questions can be resolved. Seeing negotiations and agreements that make possible the cessation of violence as only one step in the process of repairing relationships damaged before and through the course of war should temper inflexibility when it comes to insisting on the satisfaction of demands that are at the root or core of conflict in peace negotiations.

At the same time, for negotiations and agreements to be credible and conducive to the repair of political relationships they must acknowledge outstanding issues to be resolved, such as the defining of boundaries of a state or the reform of a police force or the rights of refugees. Reciprocity in negotiations requires mutual recognition of demands and grievances, at least some of which should be presumed to be normatively compelling. The value of reciprocity speaks against the permissibility of one party making unilateral demands on the other. Insofar as parties expect or demand that others with whom they have been in conflict take seriously and prove responsive to the demands they make, such parties need to exhibit a reciprocal responsiveness to the demands of others.

Finally, what is settled upon or committed to in a peace agreement— temporarily or permanently – no matter how robust or comprehensive, should not be presumed to be what must be settled upon or committed to in order to achieve a just peace. Agreements that are consistent with the values of reciprocity and respect for agency, in ways discussed above, may establish

some conditions for the reasonableness of trust. But peace agreements by themselves are not self-enforcing. Thus, adhering to the terms articulated in a peace agreement is required for the values of reciprocity and respect for agency to begin to characterize political interaction. Peace agreements often fall apart. In light of this fact an ongoing commitment to the terms of peace is needed before the conditions for reasonable trust obtain. Equally important, any obligation to continue to adhere to the terms of a peace agreement is always conditional on what the other parties to the agreement do or fail to do. Failure to adhere to the terms outlined in a normatively defensible peace agreement undermines the legitimacy with which a party can insist upon adherence to the terms of the agreement by others.

A just peace is a peace in which relationships damaged by war are repaired to some threshold level, and the damage that war brings cannot be repaired by a single peace agreement. To use but one example of the destruction conflict leaves behind, consider homes demolished or razed during conflict (Murphy and Radzik 2014). Even if compensation is offered by parties liable for the damage, the lost home itself is symbolic and serves as an ongoing reminder of the destruction parties to the conflict were willing to inflict on members of the political community in conflict, the vulnerability of members of a political community to renewed destruction, and the obstacles to the satisfaction of basic needs such as shelter that conflict imposes. Addressing the right violated by this destruction is insufficient to address the damage to relationships this damage created. Moreover, some conditions of just reconstruction cannot be established by treaty or agreement. Consider trust – the ability to see former combatants as competent to exercise the responsibilities associated with citizenship or holding an official position and lacking ill-will towards oneself and members of a group formerly targeted by violence – is only

an attitude that can be reasonably and feasibly cultivated with time. No agreement can by itself make this attitude reasonable.

Before concluding, I want to consider one objection to my analysis of the normative requirements for the winding down of asymmetrical civil strife. According to this objection, my analysis fails to acknowledge the fact that parties to most conflicts are not equally responsible for the damage that leads to war, for the damage in war, and thus for the moral burdens that must be borne in the aftermath of war. Some, but not necessarily all, groups cross lines beyond the pale during conflict. And sometimes parties to a conflict are sufficiently evil that they should not be negotiated with, or seen as having any standing to make legitimate moral demands on those with whom they are in conflict. To advocate reciprocity and respect for agency in the manner I did above fails to recognize the morally significant differences among combatants and the moral limits to the scope of application of these values.

In response, I want to grant the central claim the objection advances: not all parties to a conflict are equally responsible for injustice before and during conflict. However, my account above does not depend on this assumption. Consistent with recognizing the importance of being willing to take seriously the demands and claims made by one's opponents is recognizing that not all demands and claims are of equal weight and significance. Consistent with recognizing the general demand of reciprocity is differential moral demands being placed on different groups; reciprocity does not require equality of obligation. For example, the benefits gained from a previous unjust system may entail larger burdens being now assumed by a previously privileged group. Greater responsibility for past atrocities may require greater demonstration of demonstration of decency before trust becomes reasonable. Even with such variation, however,

reciprocity is predicated on a general recognition that others may place demands and burdens on me just as I may place demands and burdens on others.

One further point to emphasize is the following. There may in fact be conditions under which it becomes morally permissible – and perhaps even required – not to seek peace. It is not morally required to engage in peace negotiations with a group that denies the humanity of the group of which one is a part. Nor is it required to engage in negotiations with a group that is not willing to consider putting down its arms. However, what a reconciliation oriented theory does require is a presumption in favor of a willingness to try to seek a negotiated truce, even with a group that may at first seem unwilling or unable to put down arms, and an openness to the fallibility of one's own judgments about the intentions or character of the other side in a conflict. Too many civil conflicts persist in the face of asymmetrical or symmetrical stereotyping of members of the antagonistic group, in ways that impede recognition of the agency and humanity from such members. A willingness to counter the possibility of negotiations tempers the temptation to write off those with whom one is in conflict, a temptation that too often can lead to avoidable further bloodshed.

Conclusion

Asymmetrical civil war is a dominant form that contemporary war takes. In this paper I have sketched a relational conception of *jus post bellum*, which specifies guidelines for the winding down of conflict and for the process of just reconstruction by reference to the kind of relationship such efforts should seek to cultivate. Just peace is fundamentally relational peace. *Jus post bellum* requirements, when satisfied, contribute to the realization of that peace.

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Notes

¹ Call and Cousens (2008): “Between 1945 and 1976 a total of 85% of all wars occurred mainly on the territory of a single state and concerned mainly that state’s affairs (the number remained at 95% in 2005), in contrast to the period 1900 to 1945, when 80% of all wars were fought between states.”

² This account is thus akin to other relationship-centered approaches to questions of justice, including theories of restorative justice in criminal law and theories of moral reconciliation among individuals in the aftermath of private (i.e., non-legal) wrongdoing. See Johnstone and Van Ness 2007; Radzik, 2009.