

Is this war just?

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“We are fighting against something that is pure evil, but for something that is not pure good.” These are the words that George Orwell used to describe the situation in Europe during the World War II. In the sphere of ideas, that war was indeed a conflict between the Good and the Evil, where the Good succeeded to overpower the Evil. But, realistically speaking, that was a war with the Devil on one side but with no angels on the other too.

After October 7th, when the American military troops started their intervention on Afghanistan, the World was confronted with another kind of war. This is a war with no clearly defined enemies and with no strictly determined borders. The hot spot of this war could equally be Afghanistan and Pakistan, but also airport buildings, post offices, public squares in other countries, especially in the Western Europe and North America. In one word, today war is everywhere.

In the same time, we are in a situation where we are being told, by the leading western media that the western world, led by USA, is in fact the angel who has to confront with the Evil itself so that we could enjoy the prosperity of a blessed (justified) peace. That is a similar situation with the one of 1941. So, the main task of this work is to answer one, crucial question: Can this war be justified?

Theory of Just war or IUS AD BELLUM

When we talk about “Just war” or “Just cause”, we should remember the heredity of the political skills that the Ancient Greeks left to us, as well as the Christian tradition of the political thought whose roots are to be found in the works of St. Augustine in 4th century BC. So, the history of the political doctrines offers us the possibility to discover the criteria on which we could judge if a war is good or not. Even today just war is an actual chapter of the political thought, but we opened it again due to the declared war against the terrorism, which America has started. For centuries, people worked on the question of a justified war. It became clear that the following criteria should be filled out for a war to be legitimate:

1. Right Authority – which means that only a legitimate authority has the right to declare a war. The most important thing is to clarify what *authority* that is which institution can approve a military action against one or more countries. Many authors are of the opinion that this authority is the country or the corps where, the most important decisions are made within a country. Those corps usually are: the Government, the Parliament or the President of the country. If we accept this point of view that means that every war that a country declares to another is a justified war,

which certainly is not always the case. Further on, that means that in the global relations there would be no instance or corp, which would keep the World in order. In one word, we would be living in a total chaos.

Wishing to maintain the World in order, in 1945 the UN were founded and with their Charter it is predicted that the Security Council represents the only body which has the legitimate right to approve a military action against one country. In chapter VII of the Charter, it is said that the Security Council is directly responsible for the maintaining the peace and safety in the World and that before every military action, it is necessary to take all the other measures (which do not include military engaging) to accomplish the peace. In the article 42, it is said: "Should the Security Council consider that measures provided for in the Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security".

In the case of the American intervention in Afghanistan, the Security Council has not made any decision about a military action against the Talibans, nor approved a similar action against the terrorism in the way the USA started that fight. Also, the US Government has spent almost one month to react on the terrorist attacks, which means that we cannot speak about self-defence because the Security Council had enough time to take an action by sea, air or land forces if it wanted to take them. The only thing that Security Council really did, were two declarations on the events of September 11th.

The first Resolution (resolution number 1368) was adopted in September the 12th and it is important in so much as it is used to recognize the inherent right to self-defence, which leads us to find the justification for the intervention in Afghanistan in the article 51. of the Charter of the UN which says:

"Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security."

In the second resolution devoted to Afghanistan (resolution number 1373) adopted in September the 28th it is also stated the inherent right for individual or collective self-defence, but in it there are many supplementary articles which commit all the countries to take different measures against terrorism, which does not include a military engagement.

Finally, the last Resolution, adopted in November the 12th (resolution number 1377), informs us that the terrorist acts of September the 11th are one of the serious threats to the international peace and security, but the question of self-defence is not mentioned. In this documents all the countries are invited to intense their efforts as the threat of international terrorism could be eliminated.

So, it is a fact that the Security Council has recognized the right of self-defence and therefore called for the article 51. of the Charter. This would mean that all the interventions of the American forces should be justified.

But, what can be a problem when we talk about self-defence?

Actions taken in self-defence are possible and allowed only if the Security Council is not in the possibility to take quick measures to maintain the international peace and security. If we consider that the US started their military campaign almost a month after the terrorist attacks, that means that the intervention in Afghanistan was not an emergency. If we consider all those facts, we come to a conclusion that the Security Council had the needed time to take on the measures to create the conditions for a solution, which would make the international peace and security possible. Therefore, this action was not an emergency; there was time for the Security Council to respond according to the chapter VII of the Charter. If we consider that this resolution is in fact the only one brought after the beginning of the conflict, that we could easily deny the legitimacy of this action. That is confirmed by a non-calling of the article 51 in the resolution 1377, as well as the heavy campaign of the American forces in the field. This campaign is not aiming just the guilty, the one that can put in danger the US, but also on all people in Afghanistan that have not managed to escape in Pakistan before this conflict begun

If somebody tries to jeopardize my life and I cannot avoid his attack in any way, I can defend myself only by killing the attacker before he manages to kill me. Therefore, self-defence is a legitimate right and that's what the American administration is calling for when they try to justify their military intervention in Afghanistan. The problem at this point is the following: Does it mean that, thanks to the first two declarations which refers to Afghanistan and talk about the self-defence question and the article 51, America got the authorization to react, without taking in consideration any limits or means and for how long they will have the right to react in this way?

After more than two months of bombing, the Security Council brought the resolution 1377, where the question of self-defence has not been pulled out, or any military engagement has been approved. That should mean that the American intervention had one kind of legislation at the beginning, but it has been lost during the time. It has been lost, because it is obvious now that America in Afghanistan, it is not protecting now its survivor only. Also, after the Security Council has not appealed for the self-defence question in its last resolution, the American intervention remains without the support of the only Corp that is capable to do such thing. A question for itself is on which way America came to the recognition of the possibility of self-defence in the case of the terrorist attacks. What is the price that has to be paid after the Security Council admitted the right on self-defence in this case. That happened, after hard political argues, when the US permitted to China to treat Tibet as a question of terrorism and to Russia to treat the Chechnya question in the same way. Now a conversation about a Transformation of the Security Council could certainly begin, but that is another theme.

So, the Proper Authority, which is “capable” to approve such action, did not approve the current American intervention. That means that the first condition, which supposes a justified war, was not fulfilled.

2) Just Cause - which means that we are only permitted and may be required to use force if we have a just cause. The terrorist acts of 11th September cannot be justified in any way, nor could anyone be capable of finding the argument to support it. Those actions deserve the greatest sentence because, not only the symbols of the American power were destructed (the Twin Towers in New York and the Pentagon), but also immeasurable number of people died in it. We could hardly say that this action does not deserve the response.

There should be a reaction, there should be a response, but not by continuing the violence and by creating the conditions for a war of global proportions. So, the cause for this war exists, the cause for this war is justified, but the question still stands: Is that Just Cause enough for an intervention of global proportions where the victims will be uncountable and where the damage will be immeasurable?

Unambiguously, no one can dispute the current American military intervention by saying that there is no Just Cause. At the other hand, the question that was never seriously stated asked in the western world’s public and media is: What is the cause of Bin Laden’s action on September 11th?

What I want to stress is that we also cannot allowed ourselves not to think that maybe the terrorist actions in the USA, no matter how incomprehensive and disgusting could be to us, could be caused by the American Administration foreign, military and economic policy in the Middle East in last decades. This means that, instead of a war that will bring indescribable violence, it is necessary to start a dialog about the questions that are the cause of the conflict. It is needed to hear the arguments, the truths and the justice of both sides, because the truth, like justice, does not have only one face. *It is necessary to accomplish the peace that will be founded on mutual justice and mutual will to live in peace.* If we cannot justify the killing of thousands of people in America, we certainly cannot justify the death of the people in Afghanistan, people who know what hell they stand in, but do not know why they are in it.

3. Right Intention - The official position of the American administration, concerning the intension of a military engagement of its forces in Afghanistan, is that the terrorism is not to be tolerated and that it’s leaders have to be brought to justice. No man on this planet should live in fear of a terrorist action. “The only alternative to victory is a future of terror. So we will fight for victory”.

However when we consider “right intension” as criteria for entering the war, it is hard to say if the USA wants to accomplish a rightful peace in Afghanistan or if it is the need for revenge that is predominating factor in such an action. In the Western media it could be heard that the people in Afghanistan have been already in war for a few decades and that a new war is not something new and discouraging to them.

In the middle 70-ties the secretary of state at that time, Henri Kissinger said: “If you want to know the aim of the American foreign policy, do not listen our words, but watch our acts”. In this situation it is hard to divide black from white, but it is surely certain that besides the will to fight the terrorism, the American intention

is also to get vengeance for the victims of September 11th. From this opinion we can ask a cynic question: "How many people should be killed to establish a balance with the American victims of September 11th?" Or "How many people should be killed to satisfy the American thirst for revenge?"

Therefore it is hard to establish if the right intension really exists if an action of huge proportions is in course in Afghanistan. To be precise we should say that beside the intension to destroy the terrorism, there are certainly secret and undeclared intensions, which certainly wouldn't sound nicely to the ears of the public opinion. If this would be true, the American intervention would be, if not unjustified, than at least less justified.

4. Proper Means – which means that war must be fought by proper means. This criteria is completely problematic and this is the point we must take into consideration the Geneva conventions of August 12th 1949, which regulates the questions on how to treat the wounded and sick in armed forces in the field and at the sea, prisoners of war and protection of civilian persons in time of war as well as the Protocols additional to the Geneva Conventions signed on June 9th 1977. If we follow the official position of the American Administration the intension of this military operation is rightful, but many happenings in the field, like the bombing of a Hospital, property destroying and enabling the normal life to the people in Afghanistan, tells another story. But more information about this question is found in the part of the text devoted to the "IUS IN BELLO", which constitutes the next part of the text. It is important to mention that if in the American military action against Afghanistan, beside the destruction of the terrorist bases, also hospitals, children and innocent civilians get injured, than this criterion cannot be satisfied.

Beside the four basic criteria, a part of the political theory that refers to IUS AD BELLUM, offers us four supplementary criteria:

- a) *Action should be against the guilty.* If we accused bin Laden and the group al-Qa'ida for the terrorist acts that does not mean that all Afghani people should be held responsible for the actions of the accused ones. Also, we can logically suppose that behind the attacks in the USA hides a group of the so-called "outlaw countries", that suffer no consequences right now. Why it should be more convincing to believe that the attacks on the USA were coordinated only by bin Laden, rather than performed in the scenery of Saddam Hussein who has no less motives to fight the USA in this way?
- b) *The innocent should not suffer and also we must be confident that resorting to war will do more good than harm.* There is no such thing as a good reason that could justify the loss of hundreds and maybe thousands of lives anywhere, including Afghanistan. A great part of those people do not have access to the daily papers, do not watch TV, they are surrounded by poverty and they live in it. In those circumstances it is hard to find worthy arguments to support the attitude that they should suffer too because of bin Laden did it. In this case, it is impossible to

defend the position that the innocent will not suffer or get injured in this war.

A more important thing seems to be the question: What will be the consequences of the American military intervention in Afghanistan? This action would be justified in case that it could serve to successfully destroy the terrorist bases and minimize the chances of a new terrorist attack anywhere else in the World. It seems as if in this situation that will not be the case. We can only imagine what is happening in the heads of the children of those people who died or will die in the next period of time. Neither the buildings of the World Trade Centre in New York, the Pentagon in Washington nor the 6000 American victims will not exist for them; they will only know that they remained without a father, brother and they'll see for revenge. By killing one Taliban today, we will create two more terrorist tomorrow, who will hide on the mountains of Afghanistan; still, they will come down one day and continue the fight that their ancestors begun.

In fact, the way of fighting that the American administration chose to fight, makes the terrorism stronger and the people ready to fight against the West. On the contrary of what we are expecting from this action, we will get a bigger and wider terrorist organization whose main aim will be the revenge for all the people that disappeared in this war. That means that no home in America, Europe or anywhere else in the World will not be safe and sound.

- c) *Last Resort* –we may resort to war only if it is the only viable alternative. The intentions of the author of this text is to show that before the declared war there was no negotiating between the two sides and that there was no effort to come to a solution in a peaceful way. It is sure that the military action was not the only solution. In fact we should recall that immediately after the attacks of September 11th the Taliban Government asked for negotiation. This invitation was rejected by the American administration with the argument that there should be no negotiation with the terrorists. They should be destroyed. With this act the first chance to make this World safe was thrown away and instead of that, fear rules in every single citizen of this planet now.
- d) *Reasonable Hope and Relative Justice* – there must be a reasonable chance of success; we must have reasonable grounds for believing the cause can be achieved. The believe in the success of this mission certainly exists, but doubt exists also. If the aim of this intervention is Osama bin Laden, who certainly will not wait for the army to come and recluse him, but will hide in some of the many tunnels in Afghanistan or with a false name in some other country, than the success of this operation is doubtful. Nevertheless, it is to be supposed that if this action continues, the World will enter a real confrontation between religions, cultures and civilizations. In that case a peaceful way of resolving the problem will not be possible any more.

IUS IN BELLO

Two are the criteria that a country in war must fulfil to make such an action legal. Those are:

- a) *Proportionality* – you should not do anything that will break the proportion of what you have experienced;
- b) *Discrimination* – you should not kill civilians.

In fact, in the past wars, 90% of the victims were civilians. Wishing to help preventing armed conflicts, to accomplish a more human and fair treatment of the persons in the conflict are, to make the wars more “civilized” and to reduce the human victims, the countries of the world signed in 1949 the Geneva Convention. Within this convention special norms (standards) were adopted which are supposed to make wars more human, and in the same time those standards make some actions legal. To the Geneva Convention signed in 1949. a Supplementary Protocol was added which was signed in 1977. in Geneva. The USA is one of the countries that signed this document.

When we talk about proportionality, it is hard to tell if the victims in Afghanistan will be equal with the one in the USA. The American generals that are in charge of the actions in Afghanistan are not separating well the civilians from the soldiers, ordinary people and terrorists. It is not enough to say that in the current American intervention the targets were bombed with an unrecorded precision, and that it is enough reason to justify the continuing of the action. The US military engagement does not deserve a support, as long as there will be innocent human victims. Most of the people that get killed in Afghanistan probably do not even know what is happening to them. And what does the Geneva Conventions say?

“Civilian hospitals organized to give care to the wounded and sick, the infirm and maternity cases, may in no circumstances be the object of attack, but shall at all times be respected and protected by the Parties to the conflict...”

“No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited. Pillage is prohibited. Reprisals against protected persons and their property are prohibited.”

The article 35 of the Additional protocol says: “In any armed conflict, the right of the Parties to the conflict to choose methods or means of warfare is not unlimited.” The parts that are in conflict are not allowed to use means with which they can cause unjustified injuries or make people suffer. For the American intervention in Afghanistan it is especially relevant the chapter that talks about civilians and their protection. If we want to present our actions as justified and anti-terrorist, then we have to use other means. Regarding this, in the article 48 of the supplementary protocol of the Geneva Conventions it is said: “In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct this operations only against military objectives.”

Actions that do not make difference between soldiers and civilians are not allowed. Such actions are:

- a) Those, which are not directed at a specific military objective;
- b) Those which employ a method or means of combat which cannot be directed at a specific military objective; or
- c) Those which employ a method or means of combat the effects of which cannot be limited as required by this Protocol.

If we take in consideration that the American intentions are the terrorists and their military bases, the effects of this action tells us that the articles of the Geneva Convention have not been respected after all. We can also see that regarding this action; law was not submitted to force. The law standards which regulate the relations between the parts in conflict neither this time was respected, and that takes away the right from the Americans to call this action legal and moral.

If we add to this the following: "Among others, the following types of attacks are to be considered as indiscriminate:

- a) An attack by any methods or means which treats as a single military objective a number of clearly separated and distinct military objectives located in a city, town, village or other area containing a similar concentration of civilians or civilian objects; and
- b) An attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated." (Article 51, point 5).

Considering the fact that the US is also a signer of the Geneva Convention and the supplementary Protocol of the Geneva Convention that means that it is obligated to respect all the articles of this document. It is a fact that many key points of the Geneva Convention has not been respected, so we have enough reasons, in the juridical standpoint, to slow down the current action in Afghanistan

Summary

If we take into consideration the mentioned criteria and try to analyse the current American intervention in Afghanistan, we come to the following conclusion. America did not get the permission or authorization for a military action from the only Authority that can give such an authorization. So considering the first criteria, we couldn't approve the military action in Afghanistan. When we speak about the second criteria, the cause for the intervention certainly exists and it is sure that the terrorist acts of the September 11th allow us to say that the intervention that started in the beginning of October, is justified. So, there is a rightful reason for an intervention, but the dilemma still stands: Is that good enough reason for those kinds of interventions?

We can say with certainty that a clear intention of the American administration to fight the terrorists exists. Thou it is also a fact that the American

military engaging is not a pure effort to defeat the Devil; it is certainly a revenge for the victims of the terrorist attacks of September 11th. Further on, this war is not limited to the targets, which are presented to the public as an enemy, and there is no concern for the means that are used in it. This action is not targeted only to the guilty, but is effecting the others also, especially civilians which should, based on the Geneva Conventions from the 1949, be protected from such actions. The thing that we can only guess is will this war bring more good than bad.

All the consequences of the first real, huge war in the XXI century, we are still to experience. Nobody knows what will be the effects of this campaign. Nobody knows what are the chances of success. All in one, there is only one criterion that is completely fulfilled and on which bases we could say that the American campaign in Afghanistan is justified and rightful. That criterion is "Just cause", and there is no dilemma about it - a just cause really exists. But still remains the question: Is that reason enough for an action of such proportions? However, it is not enough to satisfy just one criterion for a justified military campaign. On the contrary, it is necessary to fulfil all four key criteria, considering also the supplementary four.

In the situation where there is only one founded criteria and beside that stands seven remaining unfounded, we couldn't stand in the defence of the bombing. So, if we follow this direction of the Christian political thought which starts in the 4th century AD with St. Augustine and continues with the consideration of the justified war all to our time, we can conclude that the war the Americans led against the Taliban and the Terrorists, is not founded on law, justice and morality. That is so, an unjustified.

Is there any alternative?

In the situation where we have a war in the field, the most important thing in this moment is to stop that war. The opinion of the author of this text is that there are chances to achieve that.

Here it will be brought out a suggestion on how to try and stop the war in Afghanistan. As we already know, this years Nobel price was awarded to the United Nations and to the Secretary General of the UN, Mr Koffy Annan. The Nobel price came in the hands of this organization in the moment of its highest weakness ever. But, we have to remained ourselves that the United Nations are the only World organization that gathers all the countries in the World and whose jurisdiction is the World safety and peace. Therefore, we should expect that, during the speech at the ceremony of the Nobel price awarding in Oslo at the beginning of December, the Secretary General of the UN Coffy Annan will call the sides in conflict to accomplish peace, tolerance and understanding. This call will be also directed to the representatives of all countries, all religions, non-governmental organizations, peace movements and the al Qa'ida network. That should be a conference similar to the one held in Helsinki between 1972-1975 (Conference on European Security and Co-operation) and which was ended with a document that was signed by all the participants and with all the sides committed on.

That should be a conference that could make possible the accomplishment of a justified peace, where all the countries should come upon their own will and discuss

about the future they would like to have for their children. The most important subjects of the summit should be : Considering the causes of the existing conflict in Afghanistan and the possibility to accomplish a rightful peace, but also the responsibility of the persons that created less safe and peaceful World with their actions. Besides those major subjects, the Conference should also have the Second Agenda, which implies a discussion about the transformation of the UN, especially the Security Council, and the way that the UN could be transformed in a more powerful and globally accepted organization that will take care about peace and safety in the World.

So, beside the key subjects as the terrorist question, responsibility for the current situation and the possibility of punishing the responsible ones and making normal life possible in the future ; this Summit should have other but not less important subjects, as the transformation of the Security Council, which has become a need. This conference should be led by Koffy Annan and a group of neutral persons, which enjoy a reputation in the World. For the members of this neutral group, we should chose some of the former Nobel Price winners and important persons from the Peace movements. Their task should be mediation and conference organizing, but it is to be expected from each member of the group that, with their acts, authority and charisma, help to end this Summit successfully.

At the same time, with the announcements and during the conference, we should motivate the support for the Meeting in a wide group of organizations, especially peace movements and the persons from all the countries, so that we could start creating together the glimpses of peace instead of war, tolerance instead of aggression, and love instead of hate.

The support of a large number of people should be motivated, as we all together could make the right conditions for peace. It still remains to work on what Kant set as the highest goal in the 18th century: making of the predispositions for an Eternal Peace, for a life with conflicts but without wars; for a man worth of life.

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