What Makes a Just War Just?  
Towards more inclusive norms on authorizing force at the UN Security Council

The dominance of Western-centric Just War paradigms is harming the Security Council members' ability to cooperate, and the United Nations' capacity to prevent and intervene in global conflicts. It is essential to understand non-Western theories and perspectives on international security and humanitarian intervention. Drawing other countries closer into the discussion on guidelines for intervention and prevention will provide the potential to lift norms such as the Responsibility to Protect beyond excuses to justify military intervention. This essay will focus on China, a permanent Security Council member, aspiring responsible great power and ascendant developing country.

The ascendency of China and the continued military supremacy of the United States are indisputable realities for the foreseeable future. When it comes to the future of Security Council-led solutions to global conflicts, accepting this reality needs to be the starting point for change. Along with the EU, these two countries will remain the key actors when it comes to building the capacity of the UN to intervene in and prevent global conflicts. These three actors, unlike Russia, are global powers, not regional hegemons, with the ability to become constructive partners, rather than spoilers, when it comes to resolving global conflicts. Persuading China to move closer towards increasing cooperation with the US and EU will diminish the spoiler effect of Russia.

China increasingly pursues interests in Africa, the region which has featured more inter- and intrastate conflict since the end of the Cold War than any region on earth\(^1\). China has become increasingly active in terms of providing troops to peacekeeping missions - it is currently the sixth largest individual country donor, with the number of Chinese peacekeeping troops supplied having increased twentyfold since 2000\(^2\).

The initial Chinese commitment to the Responsibility to Protect (R2P) doctrine is yet another example of the way China has moved from being a defensive power of insecurity and bitterness to an ascendant power looking to take more responsibility and become recognized by outside powers as a responsible Great Power.

However, currently it seems like this trend has been reversed. China's opposition to what it saw as an aggressive use of power by the USA during the Iraq invasion in 2003, and the perceived overstepping of the bounds of its mandates by the allies in Libya in 2011 have resulted in diminished cooperation between the three potential global partners of US, EU, and China when it comes to humanitarian intervention, and friction and distrust within the Security Council.

At its core, this rift is caused by a Western blind spot when it comes to Chinese perspectives of international relations. As a result, Western-centric international norms are slow to gain traction. Despite being marketed as founded on universal principles, R2P, grounded as it is in (European) Just War theory, remains steeped in Western thought.

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Just War philosophy is central to the R2P doctrine. R2P campaigner David Evans, responding to critics of R2P in light of the developments in Libya and Syria, clarified the R2P framework by stressing five “stringent prudential criteria” which should precede the decision to intervene militarily:\(^3\):

(1) Seriousness of harm feared;
(2) genuine intent to address that harm;
(3) nothing less than military coercion likely to succeed;
(4) force application proportional to the harm feared;
(5) overall balance of consequences positive.

Just War theory (specifically jus ad bellum) still pervades the “new” doctrine of R2P, as evidenced when comparing Fixdal’s 8 criteria of Jus ad Bellum:\(^4\):

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Definition</th>
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<tr>
<td><em><strong>Ius ad Bellum (the Justice of Resort to War)</strong></em></td>
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<tr>
<td>Right authority</td>
<td>Only a legitimate authority has the right to declare war.</td>
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<tr>
<td>Just cause</td>
<td>We are not only permitted but maybe required to use lethal force if we have a just cause.</td>
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<tr>
<td>Right intention</td>
<td>In war, not only the cause and the goals must be just, but also our motive for responding to the cause and taking up the goals.</td>
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<td>Last resort</td>
<td>We may resort to war only if it is the last viable alternative.</td>
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<td>Proportionality</td>
<td>We must be confident that resorting to war will do more good than harm.</td>
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<tr>
<td>Reasonable hope</td>
<td>We must have reasonable grounds for believing the cause can be achieved.</td>
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Relative justice  
No state can act as if it possesses absolute justice.

Open declaration  
An explicit formal statement is required before resorting to force.

(1) Corresponds generally to “Just Cause”, given that serious harm (to civilians) presents a just cause; (2) corresponds directly to “Right Intention”; (3) is equal to “Last Resort”; (4) is the principle of Proportionality; (5) contains elements of “Reasonable Hope” and “Proportionality”.

The Just War tradition is generally seen as a Western concept, borne out of Christian thought. Lip service is often paid to non-Christian or non-Western concepts of “Just War”, in order to give the tradition the “universal” status which benefits its proponents, but a closer look at parallel Chinese traditions reveals important differences.

Two opposing philosophical traditions are currently influential within Chinese discourse on foreign policy and intervention. Confucianism is the most well-known philosophical Chinese tradition, although its power and relevance in modern China is sometimes overstated. Legalism is the second political theory which has greatly influenced statesmen and intellectuals in China, for the past two millennia.

The legalist tradition is rooted in the warring periods of Chinese history, when such writers as Han Fei Zin started to dismiss Confucianism, with its emphasis on moral guidance. Like Machiavelli in chaotic Renaissance Italy, Fei Zin found his inspiration in more (pre-)realist, pragmatic conceptions of warfare and the importance of the rule of law as opposed to moral considerations. This Legalist paradigm resurfaced with a vengeance in the 20th century, as a response to foreign intervention in China. Even Mao, in the wake of the Japanese and British imperial meddling with Chinese domestic affairs, used Legalist rationalizations for his actions. It is the Legalist paradigm, and the associated recent history of “humiliation”, which has determined the Chinese obsession with national sovereignty, and it is this tradition which lives on in the form of Chinese Nationalist intellectuals.

One of the core tenets of Confucianism, on the other hand, is the idea of “leading by example”. There are also other Chinese traditions which support the ideals of Confucius. Taoism promotes “the preservation of life and the avoidance of injury by advocating non-activity or non-intervention”.

The Confucian view of the world is utopian, with Tian Xia, the harmonious political order of global peace, to be attained through the spread of Confucian knowledge and ideas about order, rather than through military intervention or other forms of coercive power. Neo-Confucian scholars have recently started to translate these principles into a philosophy of cultural nationalism, contrasting Chinese ideals as superior to the Western, “Social Darwinist” project.

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A long history of Chinese skepticism of Western notions of human rights, caused by recent foreign subjugation and a resurgence of the idea of Chinese exceptionalism, have led to the continued importance of traditional theories of global in internal and external discourse. With the first of two competing ideologies advocating Legalism and the ultimate sanctity of national sovereignty, and the second promoting universal peace, but non-intervention, it is no surprise that the “liberal hawk”, the human-rights promoting, military humanitarian interventionist, is a rare species in modern China.

However, between these two extremes, a pragmatic compromise still exists. The influential Confucian scholar Mencius, who held the principled view of all wars as unjust, provided some leeway in his teachings. There is a particularly pertinent kind of “just war” which he condones, namely the “punitive expedition” against a tyrant.

Here we find the closest approximation of a fully developed Chinese equivalent of the Christian Just War theory. Mencius even identifies a number of conditions which need to be met before the punitive expedition/humanitarian intervention is justified, which are very similar to both the five “stringent prudential criteria” of R2P and the criteria of Just War theory mentioned earlier:

1) The enemy must be an oppressive tyrant
   a. An oppressive tyrant deliberately deprives his population of the means of subsistence
2) The oppressed people must signal their support of the punitive expedition, and this support must be long-lasting
3) Only virtuous rulers can lead punitive expeditions
4) The leader of the expedition must have a moral claim, and the support of the rest of the world

Interestingly, Mencius’ just war criteria place less emphasis on the potential success of the mission, proportionality, or the idea of “reasonable hope”, instead advocating that a just ruler who has the undisputed support of the population he intends to liberate has the mandate to forcefully achieve global harmony.

Mencian Just War theory still influences modern Chinese discourse. Confucian and Mencian philosophy was often applied as a form of Just War critique to the Iraq invasion, at a time when some American intellectuals and the US government attempted to defend the invasion based on R2P principles. One typical critic uses a Mencian metaphor, where the unjust hegemon is best exemplified by President G. W. Bush:

“A true king uses virtue and humanity, a hegemon uses force under the pretext of humanity and compassion’ ... [The Iraq invasion] is the best example of ‘using force under the pretext of humanity and compassion.’ Bush is today’s hegemonic king.”

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Besides revealing the modern applicability of Confucian theory, the quote also begins to reveal a big difference between R2P and Chinese Just War theory. The tyrant in Mencian philosophy does not equal the tyrant in Western Human Rights discourse.

Three important factors now surface: firstly, the need for long-lasting support for the intervention from the population under the tyrant. Secondly, awareness of the nature of social order in the country which is led by the tyrant. Finally, the support of the world at large.

Comparing these three distinct concerns to two recent interventions (and their aftermaths) where R2P was invoked - the Iraq invasion by America and its allies in 2003, and the support to the deposition of Libyan dictator Muammar Qaddafi in 2011, there are some interesting conclusions.

First of all, the Chinese, who initially supported the principle of R2P, strongly opposed the escalation of violence in both instances. Secondly, both interventions have subsequently been criticized for the violent aftermaths, creating post-dictator situations where much of the 'liberated' population was again under threat of being deprived of their means of subsistence. The Chinese explanation could be that:

1. the nature of the social order under the dictatorships was insufficiently taken into account - the breakdown of many subsequent governments in both Iraq and Libya and the inability to establish effective control in the countries post-liberation proves this point.

2. the nature of the support by the domestic population was not taken into account - the Iraq War planners had no strategy in place for post-war restructuring, and there was little awareness of the positions of different political, ethnic, and armed groups in either country. This again contributed to further instability as the violence escalated during and after the interventions.

3. both interventions faced increasing and broad opposition by other countries in the region - the Iraq war was notoriously unpopular, but the Libyan intervention also received opposition by many AU countries.

Thus there are several lessons that can be learnt from the Chinese perspective. In deciding on humanitarian interventions for the purpose of protecting civilian populations, the following calculation needs to be made - if the consequences of a successful intervention are the deposition of the leadership, will the subsequent political, social, and economic situation be more likely to cause the civilians a further deprivation of their means of subsistence?

If so, non-military interventions, at least initially, need to be given priority. If a leader uses force against his population with the aim of protecting the social order, this requires a condemnation and a solution, but it does not necessarily need to lead to military intervention, especially if the countries in the region and a majority of states worldwide do not support a military intervention.

It is important to gauge and create support amongst regional powers and the civilian population before military escalation takes place. Military interventions to protect civilians in immediate danger can be justified, but an escalation of the military intervention to overthrow the regime is outside the scope of the R2P.
The rich Chinese intellectual history on the topic of humanitarian is often overlooked. Instead, it is usually assumed that China will continue to act as an isolationist spoiler. As the Middle Kingdom continues to grow into a global power, it needs to be taken seriously as an equal partner in the intellectual and practical challenge of the Brahimi UN Security Council reform report recommendation: "the establishment by the Security Council of guidelines for future authorisation of the use of force drawn from classical “just war” theory adapted to modern conditions". These modern conditions need to account for the central place of China in the new international constellation of Great Powers.