

Presentation at the 2011 Meeting of the International Society for Military Ethics (ISME) (formerly the Joint Services Conference on Professional Ethics--JSCOPE) on January 25, 2011 at the University of San Diego.

TITLE:

'South Sudan Independence: Contingency Planning about Just Armed Intervention.'

PRESENTER:

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BACKGROUND

The 2005 Comprehensive Peace Agreement between the government of Sudan in Khartoum and the [South] Sudan People's Liberation Movement provided for an independence referendum for South Sudan that started on January 9, 2011, and finished on January 15, 2011.

Eric Patterson and I wrote a paper with the above title that was published in the Fall 2010 issue of the *International Journal of Applied Philosophy* (24:2, pp. 117-134). Last November -- about two months before the South Sudan independence referendum -- the paper was posted at the Philosophy Documentation website for free downloading: <http://secure.pdcnet.org/ijap/free>.

In the paper, we discussed especially the following key question: How may the just cause principle be used *prospectively* -- that is, from the temporal standpoint of August 2010, the month when the paper was completed -- to decide whether there *would be* a just cause for armed intervention *if* (i.e., in the event that) a renewed North-South civil war were to occur in Sudan

during the years 2010-2014?

The 2011 ISME meeting is scheduled for January 25-28, 2011 -- more than a week after the completion of the South Sudan independence referendum, and more than a week before the scheduled declaration of the final result of the referendum on February 7 or 14, 2011. From the temporal standpoint of January 16, 2011, the day that I finished this background statement, it would appear that the potential for renewed civil war remains. For example, the separate referendum that would allow the people of the oil-rich Abyei region to decide whether to remain part of North Sudan or to join South Sudan has not yet been held. An article about the Abyei region in today's *New York Times* -- "Roots of Bitterness in a Region Threaten Sudan's Future" (by Jeffrey Gettleman) -- reports the following prediction: "The coming conflict will be set off from Abyei," predicted Mohammed Hamad, a political science professor in Khartoum."

When I make my presentation at the meeting, a North-South civil war might be in progress, or South Sudan might be on a peaceful road to independence, or there still might be need for contingency planning. In my presentation, I will update the discussions in the published paper. In particular, I will discuss especially the following related key question: From the temporal standpoint of the end of January 2011, how may the just cause principle be used prospectively to make moral judgments about the ongoing case of Sudan? I hope thereby to illuminate the relevance of contingency planning for just war theory.

In what follows, I reproduce the Abstract and Introduction to the paper. The entire paper is available at <http://secure.pdcnet.org/ijap/free>.

SOUTH SUDAN INDEPENDENCE:**CONTINGENCY PLANNING ABOUT JUST ARMED INTERVENTION****John W. Lango and Eric Patterson****Hunter College and Georgetown University**

ABSTRACT: We investigate how the just cause principle is applicable to contingency planning about armed interventions in civil wars that are somewhat likely to occur in the future.

According to a 2005 peace agreement that formally ended a civil war between the Sudanese government in Khartoum and the Sudan People's Liberation Army, a referendum on South Sudan independence is to be held no later than January 9, 2011. Close observers of Sudan warn that this promise of an independence referendum might not be correctly fulfilled, and that a North-South civil war is somewhat likely to recur. Focusing on the case of Sudan, we discuss the following key question, from the temporal standpoint of August 2010, the month this paper was completed: How may the just cause principle be used *prospectively* to decide whether there *would be* a just cause for armed intervention in Sudan, *if* a renewed North-South civil war were to occur there during the years 2010-2014? To illuminate this question of application, we also discuss a question of theory. What is the just cause principle? A core thesis is that the deterrent threat of armed intervention is an essential tool for *preventing* such a civil war. By means of deterrent threats of limited forms of armed intervention -- for instance, the deterrent threat of imposing no-fly zones -- the balance of cost/benefit calculations by the Sudanese government about the

prospect of civil war might be tipped in favor of acceptance of South Sudan independence. We recommend that responsible actors in the international community should plan contingently about such armed intervention in Sudan, with the goal of preventing a renewed North-South civil war there.

INTRODUCTION

Just war principles may be used retrospectively to make moral judgments about armed conflicts that have happened in the past. More importantly, they may be used prospectively. First, they may be used prospectively to make moral judgments about armed conflicts that are imminent -- for example, when the 2003 invasion of Iraq was imminent. Second, they may be used prospectively to make moral judgments about armed conflicts that are presently occurring -- for instance, current U.S. military operations in Afghanistan.

In this paper, we discuss a third kind of prospective use of just war principles -- namely, to make moral judgments about armed conflicts that are somewhat (i.e., to some significant degree) likely to occur in the future. The qualification "somewhat" signals the need for contingency planning. How may just war principles be applied prospectively to armed conflicts as future contingencies?

More specifically, we investigate the question of how the just cause principle may be used prospectively to make moral judgments about armed interventions in civil wars that are somewhat likely to occur in the future. How may the just cause principle be applied prospectively to such future contingencies? Consequently, we are concerned with the following type of (roughly stated) moral judgment: There *would be* a just cause for armed intervention, *if*

(i.e., in the event that) a particular civil war were to happen in the future.

We focus on the case of Sudan. The 17 December 2009 'Policy Briefing' by the International Crisis Group -- *Sudan: Preventing Implosion* -- begins thus: 'Sudan is sliding towards violent breakup' (ICG 2009: 1). This sentence forecasts that a civil war in Sudan -- that is, a North-South civil war -- is somewhat likely to occur in the future.

An earlier civil war between the government of Sudan in Khartoum and the Sudan People's Liberation Army (SPLA) in southern Sudan lasted for twenty-two years, during which about two million civilians were killed and another four million were displaced. The political wing of the SPLA is the SPLM, the Sudan People's Liberation Movement. The political party controlling the Khartoum government is the National Congress Party (NCP). This civil war formally ended when the Comprehensive Peace Agreement (CPA) was signed by the NCP and the SPLM on January 9, 2005.

The CPA provides that South Sudan is to enjoy autonomy for six years, after which the people of South Sudan are to vote in a referendum on independence. This independence referendum is to be held no later than January 9, 2011. According to Pagan Amum Okiech, secretary-general of the SPLM, the choice of the people of South Sudan 'will most likely be independence, secession of southern Sudan[,] given the fact that unity has not been made [an] attractive' option' (Sen 2010).

In addition to this independence referendum, there are other 'likely triggers of renewed civil war' (Almquist 2010: 1). In particular, prior to the independence referendum, the border between North Sudan and South Sudan is to be precisely demarcated. A referendum is to be held that allows the people of the oil-rich Abyei region to decide whether to remain part of North Sudan or to join South Sudan. And terms for the sharing of oil revenues are to be negotiated

between the NCP and the SPLM.

We discuss especially the following key question: How may the just cause principle be used prospectively to decide whether there *would be* a just cause for armed intervention, *if* (i.e., in the event that) a renewed North-South civil war between the NCP and the SPLM were to occur in Sudan during the years 2010-2014? In other words, how may the just cause principle be applied prospectively to the future contingency of armed intervention in such a civil war?

This question has relevance for current U.S. policy about Sudan. A recent White House news release about the CPA asserted that “time is limited, the stakes are high, and there is much work yet to be done to secure a lasting peace [in Sudan] and prevent the resurgence of a deadly war” (White House 2010). In answering the key question, we argue that the United States, the UN Security Council, and other responsible actors in the international community should engage in contingency planning for armed intervention in Sudan. In particular, with the goal of securing a lasting peace in Sudan, we suggest that they should seriously consider making (explicitly or implicitly) the following (roughly stated) deterrent threat: *if* (i.e., in the event that) such a deadly North-South civil war were to occur, they would sanction armed intervention.

From the point of view of just war theory, such deterrent threats should be restricted to armed interventions that would satisfy just war principles. Accordingly, it should be realized that we are using the term *armed intervention* to encompass a broad range of forms of military action, from large-scale (e.g., massive aerial bombardments) to small-scale (e.g., the imposition of no-fly zones). Even if just war principles were to prohibit massive aerial bombardments of Khartoum, they might still permit the imposition of no-fly zones to prevent the NCP from using its air force to massacre civilians.

Before we discuss our key just cause question about the future contingency of a North-

South civil war, we discuss a comparable just cause question about the earlier North-South civil war. From the temporal standpoint of June 2002, how may the just cause principle be used prospectively to decide whether there is a just cause for armed intervention in that civil war? In addition to discussing this question of application, we discuss a question of theory. What is the just cause principle? Our purpose is to elucidate the key question.

[The remainder of the paper is available at <http://secure.pdcnet.org/ijap/free.>]